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Transport (Buses, Taxi-cabs and Other Commercial Passenger Vehicles)(Taxi-cab Industry Accreditation and Other Matters) Regulations 2016

Regulatory Impact Statement, May 2016

# Summary

The proposed regulations are intended to replace the *Transport (Buses, Taxi-Cabs and Other Commercial Passenger Vehicles) Regulations 2005,* which are due to sunset on 27 June 2016. The proposed regulations also replace the *Transport (Taxi-cab Industry Accreditation) Regulations 2007* which are due to sunset 31 December 2007.

These regulations constitute an important element of the regulatory arrangements governing the commercial passenger vehicle industry. However, they operate within a substantially larger legislative and regulatory context, which is summarised in Section 2.1. The regulations establish requirements in relation to taxi and hire car drivers, vehicles, record keeping, operations and driver and passenger behaviour.

Three factors suggest the need for significant changes to be made to the sunsetting regulations. The first is the fact that limited changes have been made to these regulations over a period of more than two decades. Second, there has been substantial change in the Victorian government’s policy approach to the taxi and hire car industry since the Final Report of the Taxi Industry Inquiry was released in 2012. Third, the commercial environment facing the taxi industry in Victoria, in Australia and internationally is changing rapidly as a result of technological advancements and the emergence of ride sharing platforms such as Uber.

The proposed regulations represent a streamlining and updating of the sunsetting regulations.

The underlying concern in developing the proposed regulations has been to ensure that essential public safety and consumer protections remain in force, while providing a regulatory environment that enables the taxi industry to compete effectively in a rapidly evolving and more challenging operating environment.

The proposed regulations continue to address the fiver key areas covered by the existing regulations. These are:

* Drivers;
* Vehicles;
* Record Keeping
* Operational requirements; and
* Behaviour.

However, streamlining of the existing regulatory provisions is proposed in each of these areas. As a result, the expected costs of the proposed regulations are significantly lower than those that would follow from remaking the current regulations.

This RIS identifies and analyses three feasible options in relation to the future content of the regulations.

Option 1 would involve remaking the existing regulations without substantive amendment.

Option 2 would adopt a streamlined set of regulations, with changes in a range of areas. In particular, it would adopt a simplified security camera specification, incorporating a mutual recognition provision, and would eliminate a range of restrictions on driver and passenger behaviour that are considered to be unnecessary, ineffective and/or duplicative of other regulatory provisions.

Option 3 would further reduce regulatory costs by:

* abolishing the current requirement for annual inspections of all taxis and hire cars;
* not proceeding with the proposed update of the taximeter specification that was the subject of a RIS in 2015[[1]](#footnote-1)
* removing the current requirements for drivers to wear approved uniforms; and
* removing the requirement for taxi operators to seek approval from the TSC to operate a taxi in any colour (“livery”) other than Victorian Taxi Yellow.

Table S1, below, summarises the cost implications of each of the three options considered. It shows that both options 2 and 3 would significantly reduce regulatory costs, vis-a-vis the option of remaking the existing regulations without substantive change (i.e. option 1), although it should be noted that these cost differences reflect, to a significant degree, differing assumptions as to how the Taxi Services Commission (TSC) would exercise general powers in key areas, rather than differences in the content of the proposed regulations.

Table S1 also presents the costs of the various options in terms of their impact on the cost of an average journey by taxi. It demonstrates that the costs associated with the three options are equivalent to additional cost of between $0.18 and $0.32 per journey, or between 0.8% and 1.5% of the average $22 taxi fare.

It is important to note, however, that in a number of key areas the current regulations simply provide heads of power to the TSC to make administrative decisions setting out the specific requirements that will apply in particular areas. This includes, setting the standards applicable to security cameras and taximeters. It also includes requirements in relation to the inspection regimes to be applied to taxi-cabs and hire cars. It is proposed that these generic powers will be retained, except the requirements for security cameras are proposed to be included in the new regulations as a schedule.

Given this approach to regulation-making, the actual costs faced by the industry can change significantly as a result of administrative decisions made by the TSC. Accordingly, the costs identified in Table S1 below, and discussed in the body of this RIS, can be seen as indicative in nature. The specification of the three options incorporates, in each case, assumptions as to the manner in which the TSC would exercise these regulatory discretions. These assumptions differ in some key areas in order to highlight the impact on regulatory costs and benefits that would follow from the adoption of different approaches and thus assist stakeholders in providing targeted feedback in respect of these major regulatory cost-drivers.

In particular:

* Options 1 and 2 assume that the TSC will continue to manage the vehicle inspection program authorised by the regulations in a way that combines an annual inspection requirement with targeted and random inspection elements, while Option 3 models a move to replace annual inspections with an enhanced program of targeted and annual inspections.
* Options 1 and 2 assume that the TSC will proceed to declare a new taximeter specification along the lines discussed in its 2015 RIS, while Option 3 models the continuation of the existing taxi specification; and
* Option 1 assumes the continuation of the current security camera specification, while Options 2 and 3 are based on the replacement of this with a simplified specification (to be adopted as a schedule to the regulations) and a mutual recognition provision.

**Table S1: Relative cost of the feasible options**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Option** | **PV of costs (10 yrs)** | **Average cost p.a.** | **Cost per journey** | **% of average fare** |
| Option 1 | $90.6m | $11.2m | $0.32 | 1.5% |
| Option 2 | $79.9m | $10.1m | $0.28 | 1.3% |
| Option 3 | $53.5m | $6.2m | $0.18 | 0.8% |

The Department of Economic Development, Jobs, Transport and Resources (DEDJTR) believes that the great majority of consumers would regard the benefits conferred by the regulations as being of greater value than the per trip costs identified above. In particular, the taxi and hire car industry and the community benefits from:

* Deterrence of illegal behaviours (e.g. assault, robbery, etc) by both drivers and passengers, together with enhanced probability of effective prosecution where offences are committed, due to the operation of effective security cameras;
* Improved passenger and road user safety, due to the provision of powers to require taxis to be inspected regularly; and
* Financial protection for passengers, as a result of requirements for accurate meters to be fitted and employed and for the most direct practicable route to be taken by drivers.

While these benefits cannot be objectively quantified, there is confidence that the benefits of the proposed regulations outweigh the costs identified, meaning that the proposed regulations will result in net benefits.

Given that it has not proved possible to quantify the key benefits of the regulatory options in dollar terms, a multi-criteria analysis (MCA) has been used to determine the preferred option. Four assessment criteria have been identified. The first of these is the value of the costs imposed by each option. The remaining three reflects the regulatory objectives specified in section 4: ensuring driver and passenger safety, ensuring the financial protection of passengers and ensuring that minimum standards of service quality are met.

Because the current regulations are due to sunset, all the options are assessed against a “base case” in which no regulations are in force. The following summarises the scoring of the options.

**Cost**

All three options necessarily receive negative scores on this criterion, since no regulatory costs are imposed, by definition, in the unregulated base case. The scores allocated to each option are proportionate to the dollar value of the costs which they impose, as summarised in section 9.2, above. Thus, option 1 receives a score of -4, option 2 receives a score of – 3.0 and option 3 receives a score of -1.5.

**Driver and passenger safety**

Options 1 and 2 receive the same score of +8 against this criterion. This reflects the fact that they contain the same provisions in terms of the key safety related areas of vehicle inspections, security cameras and medical testing. Option 3 receives a slightly lower score, of +6, because it does not incorporate a requirement for annual vehicle testing. Notwithstanding that option 3 includes an increased level of random and targeted vehicle testing, it is considered that option 3 would result in a lesser degree of assurance that safety standards would be consistently maintained by the industry.

**Financial protection**

Options 1 and 2 again receive the same score against this criterion. Both of these options imply the adoption of the proposed new taximeter specification, as well as the maintenance of a range of existing provisions aimed at protecting consumers’ financial interests, including the requirement that the driver take most direct practicable route and for certain information be contained in all receipts. Option 3 scores slightly lower, at +6, because it does not include the adoption of the new taximeter specification. As noted above, one of the key benefits of the new specification identified is the provision of better information on fares and charges to consumers.

**Service quality**

Option 1 scores most highly on this criterion, with +8. This reflects the fact that it incorporates a range of provisions in relation to driver conduct that, while rarely the subject of complaints or infringement notices, are expected to have a positive impact on service quality. Option 2 scores slightly lower, with +7, reflecting the fact that a number of these provisions are not proposed to be remade. Conversely, in common with option 1 it contains important provisions in relation to service quality.

Option 3 scores lowest on this criterion, with +5. The difference between this score and that awarded to option 2 is essentially explained by the fact that option three does not incorporated the new taximeter specification. As discussed in section 7.2, a key benefit identified in respect of the new taximeter specification in the 2015 RIS is the expected improvement in the customer experience arising from improved confidence that they are being charged correctly and fairly.

Table S2, below, summarises the scores of each of the three options against each criterion. It shows that all three options receive positive scores, indicating that all are clearly preferred to the base case of not remaking the regulations in some form. However, Option 1 receives the lowest score, with +2. Both options 2 and 3 are preferred to option 1, essentially because they are able to achieve very similar benefits to option one at substantially lower cost. Option 2 scores significantly lower than option 3 on the cost criterion, reflecting the fact that it would impose additional costs with a present value of around $26.4 million over 10 years. However, it receives a slightly higher scores than option 3 across all three benefit criteria.

The key areas in which the proposed regulations depart from the existing regulations are summarised in Appendix 1. However, in terms of quantified cost impacts, the major cost reduction associated with adopting Option 2, compared with the current regulations, is the adoption of a simplified security camera specification, together with a mutual recognition provision, which will enable a wider range of cameras to be approved as compliant and reduce the average cost of meeting this requirement. The key areas in which the costs of Option 3 are lower than those of Option 2 relate to the removal of the requirement for taxi drivers to wear approved uniforms, removal of the annual vehicle inspection requirement and the continuation of the existing taxi-meter specification (in preference to the adoption of a new specification foreshadowed in 2015).

Given the MCA results, summarised below, it is proposed to proceed with making regulations described in option 2.

**Table S2: Multi-criteria analysis of the identified options**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Criterion** | **Cost** | **Safety** | **Financial protection** | **Service quality** | **Total** |
| *Weighting* | *50%* | *30%* | *10%* | *10%* |  |
| Option 1 | -4 x 50% =  -2 | +8 x 30% = 2.4 | + 8 x 10% = 0.8 | +8 x 10% = 0.8 | **+2** |
| Option 2 | -3.0 x 50% =  -1.5 | +8 x 30% = 2.4 | + 8 x 10% = 0.8 | +7 x 10% = 0.7 | **+2.4** |
| Option 3 | -1.5 x 50% =  -0.75 | +6 x 30% = 1.8 | +6 x 10% = 0.6 | +6 x 10% = 0.6 | **+2.25** |

**Evaluation**

Evaluation of the proposed regulations will necessarily focus to a significant extent on the three major cost drivers identified: the requirement for security cameras to be fitted, the requirement for taxi vehicles to be made available for inspection and the requirement for complying taxi-meters to be fitted and used.

In relation to security cameras, TSC will continue to monitor the number of requests for download of camera footage and to consult with Victoria Police regarding the use of this footage. A key factor will be to ensure that footage requested continues to be obtainable and of appropriate quality, notwithstanding the proposed changes to the specification that aim to reduce the cost of security cameras.

In relation to inspections, TSC will continue to use, and further refine, its iFACTS software, in order to maintain and enhance the effectiveness of its targeted and random inspection program. It will also explore opportunities to gather information on the nature and extent of faults identified through the privately-managed annual inspection program, in order to better inform itself as to the effectiveness of this element of the program.

Finally, in relation to taxi meters, the evaluation strategy outlined in the 2015 RIS in respect of the proposed new taxi-meter specification is expected to be pursued following the finalisation of that specification by TSC.

More generally, TSC continues to monitor a range of data relating to the performance of the taxi industry, some of which is relevant to other elements of the proposed regulations. This includes analysis of the number and nature of passenger complaints received.

***Stakeholder Questions***

Stakeholders are invited to comment on any aspect of the proposed regulations and/or the analysis presented in this RIS. However, the following questions relate to aspects of the proposed regulations which entail the largest expected costs or which have been identified in initial consultations as being of particular concern to stakeholders.

***Do you agree with the proposed retention of the regulatory requirement for drivers to wear approved uniforms? If not, why not? What benefits, if any, do you believe derive from the current uniform requirement?***

***Do you agree with the proposed simplification of the security camera specification? Do you believe that this course of action risks compromising any aspects of the functionality of the security camera system? If so, what aspects, and how might they be negatively affected?***

***Do you believe that the TSC should proceed to make a new taximeter specification? Why/why not? Do you believe that a smartphone based app could constitute a feasible alternative approach? If so, do you believe it would be superior to the continued use of a physical taxi meter?***

***How do you think the change to vehicle inspection arrangements suggested under Option 3 would affect vehicle safety? Do you think the cost savings associated with it would be significant? On balance, would you support this change?***

***The costs of roadworthy tests could be reduced by allowing taxis and hire cars to be tested by any party accredited to provide road worthy certificates instead of requiring taxis and hire car owners to use licensed taxi testers. Do you think this option is worthy of further consideration?***

***Do you believe the current regulation and administrative processes in relation to taxi livery should be retained, or removed? Please identify the benefits and costs that you believe would arise from retention/removal of these requirements.***

***A number of regulations are identified in this RIS as either duplicating other existing regulation, or being redundant and/or ineffective. As a consequence, the regulations summarised in section 9.7 are proposed to be removed. Do you agree that these regulations should be removed? If not, why not?***

***Do you believe that there is merit in investigation of the development of a driver rating or feedback system as an adjunct to taxi regulatory requirements? Do you believe that such a system could substitute for elements of the proposed regulations? If so, when do you think it would be possible to do without the proposed regulations (i.e. now, or at a point in the future when certain pre-conditions have been satisfied)?***

***Do you support changes to TSC’s powers to require taxis to be made available for inspection? If so, what changes should be made, and why? Are there other potentially more effective options for addressing the issue of ensuring ongoing vehicle safety in the industry?***

***Is there merit in considering alternative approaches to ensuring acceptable standards of behaviour on the part of drivers and passengers, as canvassed in Section 5.3? If so, which provisions do you believe should be preferred? Can any significant potential problems with the adoption of such approaches be identified?***

***Do you believe that there would be potential benefits in moving toward the use of a smartphone app to replace the current requirement for a physical taximeter? Would any significant problems be likely to arise were this option employed?***

***Do you believe that the continuation of the current complaints handling requirements will impose any significant cost on taxi operators or NSPs, beyond that which good business practice would imply? If so, can you highlight the specific requirements that would impose additional costs and provide estimates of these costs? Do you believe that these costs are justified by benefits in terms of improved customer satisfaction due to effective complaint resolution? If not, why not?***

***Taxis licensed to operate in the Melbourne metropolitan zone are require to have GPS units fitted, record GPS information when taxis are in use and make this information available to the TSC on request. Do you foresee any problems associated with extending the GPS requirements to all taxis or all commercial passenger vehicles?***

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# Introduction

The proposed regulations are intended to replace the *Transport (Buses, Taxi-Cabs and Other Commercial Passenger Vehicles) Regulations 2005,* which are due to sunset on 27 June 2016. The proposed regulations also replace the *Transport (Taxi-cab Industry Accreditation) Regulations 2007* which are due to sunset 31 December 2007.

These regulations constitute an important element of the regulatory arrangements governing the commercial passenger vehicle industry. However, they operate within a substantially larger legislative and regulatory context, which is summarised in Section 2.1. The regulations establish requirements in relation to taxi and hire car drivers, vehicles, record keeping, operations and driver and passenger behaviour.

Three factors suggest the need for significant changes to be made to the sunsetting regulations. The first is the fact that limited changes have been made to these regulations over a period of more than two decades. Second, there has been substantial change in the Victorian government’s policy approach to the taxi and hire car industry since the Final Report of the Taxi Industry Inquiry was released in 2012. Third, the commercial environment facing the taxi industry in Victoria, in Australia and internationally is changing rapidly as a result of technological advancements and the emergence of ride sharing platforms such as Uber.

The proposed regulations represent a streamlining and updating of the sunsetting regulations.

The underlying concern in developing the proposed regulations has been to ensure that essential public safety and consumer protections remain in force, while providing a regulatory environment that enables the taxi industry to compete effectively in a rapidly evolving and more challenging operating environment.

# Background

## Broader legislative context

The Transport (Compliance and Miscellaneous) Act 1983 (TCMA) is the primary legislation regulating the operation of commercial passenger vehicles. Commercial passenger vehicles are defined in the Act as any vehicle, other than a bus, which is used (or intended to be used) to carry passengers for hire or reward. This definition includes taxis, hire cars, restricted hire vehicles and special purpose vehicles. Part VI of the TCMA contains provisions relating to:

* the accreditation of taxi industry participants (including taxi licence holders, taxi operators and the providers of taxi-cab network services);
* the licensing of commercial passenger vehicles;
* the accreditation of the drivers of commercial passenger vehicles; and
* the operational functions and powers of the Taxi Services Commission (TSC).

Two sets of regulations made under the authority of the TCMA support the operation of Part VI and thus form part of the regulatory structure governing commercial passenger vehicles. These are:

* the Transport (Buses, Taxi-Cabs and Other Commercial Passenger Vehicles) Regulations 2005 – i.e. the current regulations which the proposed regulations are intended to replace. As discussed below, these were originally made as the Transport (Taxi-Cabs) Regulations 2005. They contain provisions in relation to drivers, vehicles, vehicle operations and driver and passenger behaviour. Most provisions relate specifically to taxis, though some cover other commercial passenger vehicles; and
* the Transport (Taxi-Cab Industry Accreditation) Regulations 2007, which contain regulations relating to the accreditation of taxi-cab operators and providers of taxi-cab network services.

The proposed regulations would replace both of these sets of regulations.

Various provisions of the TCMA and regulations also empower the licensing authority responsible for commercial passenger vehicles (currently the TSC[[2]](#footnote-2)) to make legislative instruments. The following legislative instruments have been made by the TSC and are currently in force:

* **Taxi-cab specifications**. Made under the authority of Regulation 12 of the *Transport (Buses, Taxi-Cabs and Other Commercial Passenger Vehicles) Regulations 2005*, the specifications set out the requirements that all vehicles used as taxi-cabs must comply with;
* **Advertising**. The TSC has established a specification setting out requirements in relation to any advertising material displayed on or in a taxi;
* **Determination of Taxi Zone Boundaries 2014**. This determination, made under section 143B of the TCMA, establishes the geographical boundaries of the four taxi zones established under the TCMA; and
* **Driver agreement implied conditions**. This instrument, made under section 162L of the TCMA, sets out certain conditions that are taken to be included in all agreements between taxi drivers and taxi operators, regardless of whether they are explicitly set out in an individual agreement.

## History of the current regulations

The current regulations contain regulatory standards relating to taxi drivers, vehicles and operations. These were previously contained in the *Transport (Taxi-Cabs) Regulations 1994*. The latter regulations sunsetted in June 2005[[3]](#footnote-3). Replacement regulations were made on an interim basis[[4]](#footnote-4), with a three-year sunsetting period specified, implying that they would cease to have effect in mid-2008. These replacement regulations essentially mirrored the substantive provisions of the former, 1994 regulations. The approach of adopting interim regulations was employed because a major review of all transport related legislation was underway, leading to a view that the future of regulations governing the standards required of taxi drivers, vehicles and operations would be addressed in the broader context of the adoption of new approaches to transport legislation generally.

The transport legislation review did lead to some important changes to taxi regulation, notably the introduction of a new accreditation scheme for taxi industry participants and commercial passenger vehicle drivers. However, detailed consideration of the appropriate approach to the regulation of taxi drivers, vehicles and operations had not been completed by mid-2008, when the interim regulations were due to sunset. Amending regulations were passed in 2008 which removed the sunsetting provision of the 2005 regulations. The effect of this change was to extend their operation of the Taxi-cab regulations for a further seven years, so that they would henceforth be due to sunset on 27 June 2015.

In March 2015, the Minister for Public Transport approved a further extension of the operation of the regulations, pursuant to Section 5A of the Subordinate Legislation Act 1994, so that they are now due to sunset on 27 June 2016. This extension of the operation of the regulations was intended to enable a more careful review of the impact of the taxi industry reforms initiated by the previous government, as well as extended consideration of the impact of significant emerging issues affecting the taxi industry, such as the role of ride-sharing services.

The result of the above developments is that the substance of the sunsetting regulations remains broadly unchanged from those first adopted in 1994. To the extent that changes have been made, they have focused on addressing specific deficiencies or gaps in the original regulations or giving effect to specific policy initiatives put forward by the governments of the day.

This history, of regulations remaining largely unchanged for a period of more than 20 years, necessarily implies that significant change to the substance of the existing regulations is likely to be required.

## Reform of taxi regulation

There have been very substantial changes in the operating environment facing the taxi industry since 1994 and, in particular, since the commencement of a major review of the regulation of the taxi industry in Victoria in 2011. Key changes to the operating environment facing the taxi industry, including emerging challenges, are discussed below.

### Taxi Industry Inquiry and subsequent regulatory reform

The TII was constituted by the previous Victorian government and represented the first detailed inquiry into the taxi industry and its regulation since the 1980s[[5]](#footnote-5). The Inquiry commenced in May 2011, released a draft report in May 2012 and produced its final report in September 2012[[6]](#footnote-6). The final report recommended a set of reforms focused on enhancing competition in order to achieve better outcomes for users of the industry’s services, as well as changes that would improve the position of taxi drivers. In particular, the TII recommended that taxi licences should be issued “as of right” to qualified applicants, subject to the payment of specified annual fees.

The then Government’s response, issued in May 2013, supported almost all of the 139 recommendations made in the final report. Implementation of reform was facilitated by two Acts passed in 2013 and 2014: the *Transport Legislation Amendment (Foundation Taxi and Hire Car Reforms) Act 2013* and the *Transport Legislation Amendment (Further Taxi Reform and Other Matters) Act 2014.*

The primary purpose of the Foundation Reforms Act was to enable implementation of key recommendations of the Inquiry aimed at increasing competition in the industry, notably including changes to licensing and zone boundaries for taxis. It also introduced caps on the level of service fee charged for electronic payment of fares for taxi services. The main purposes of the Further Reforms Act were to support the implementation of the regional and country zone price notification scheme and to reduce red tape on licence holders, taxi operators and network service providers through changes to accreditation requirements.

Implementation of the two major reform statutes required further changes to the *Transport (Taxi-Cabs) Regulations 2005*. These changes were given effect through the Transport (Taxi-Cabs) Amendment Regulations 2014 (the amending regulations) which commenced on 30 June 2014.

The amendment regulations facilitated implementation of the TII’s recommended reforms by—

* prescribing information requirements to be met in the context of the deregulation of maximum taxi fares and hiring rates in regional and country zones; and
* specifying records to be kept in respect of non-cash surcharges.

They also made a range of minor and technical changes to improve the regulation of taxi services in Victoria.

In sum, the implementation of the recommendations of the TII was expected to lead to significant change in the operations of the taxi industry. The recommendations were intended to greatly enhance competition in the industry, both by enabling significant entry to the taxi industry *per se* and by facilitating competition from the hire car industry.

### The emergence of ride-sharing services

The second substantial change to the operating environment faced by the taxi industry in recent years is the emergence of ridesharing services, which have effectively been enabled by smart phone technology. The most prominent of these, Uber, was founded in early 2009 and commenced operations in the Melbourne market in late 2014. Uber also operates in several other Australian capital cities and has continued to expand rapidly at an international level.

International experience with Uber and other ridesharing services indicates that they have, in most markets that they have sought to enter, quickly gained market share.

These challengers to the competitive position of the taxi industry have had substantial success even in jurisdictions where it has been clear that ridesharing falls outside the scope of the services permitted by existing legislation and where significant efforts have been undertaken by regulators to prevent their operation, or require them to conform to pre-existing regulatory models. International experience suggests that it is likely that the challenge to traditional taxi services posed by these “market disrupters” will continue to grow in the near future.

### Implications for taxi regulation

The above analysis suggests a number of key considerations in framing new regulations to replace the sunsetting 2005 regulations.

The first is that the design of replacement regulations must take account of the recent legislative and administrative changes affecting the taxi and hire car industry and must ensure consistency between new regulations adopted in this area and this broader context. This implies both identifying and addressing areas of regulatory duplication and overlap and ensuring that the policy objectives underlying the TII’s suite of recommendations is appropriately reflected in any replacements for the sunsetting regulations.

Secondly, there is a clear need to minimise the regulatory costs faced by the taxi industry. Taxi industry representatives have consistently highlighted the extent and complexity of the regulations with which they must comply and the substantial cost burdens they impose. Previous reviews of the taxi industry have indicated that the impacts of supply restrictions imposed over time, in conjunction with the adoption of increasing volumes of qualitative regulation, have led to a sustained, long-term decline in the market share of the industry as part of the wider transport services market[[7]](#footnote-7). The continuation of a model based on detailed, prescriptive regulation, in the context of the emergence of ridesharing services, would give rise to a substantial risk that this long-term decline in market share would not only continue, but accelerate.

In this context, some Australian State and Territory governments have already moved to address this issue of the impact of the existing regulatory structure on the ability of the taxi industry to compete in an evolving marketplace. In particular, the New South Wales government recently announced that it would remove a significant body of regulations affecting the taxi industry in order to enhance its ability to compete against the ridesharing sector[[8]](#footnote-8).

# Nature and extent of the problem

## Overview

Taxi regulation in general is largely concerned with the issues of safety and service quality[[9]](#footnote-9). In economic terms, much of the case for regulation arises from market failure caused by information asymmetry: that is, potential taxi customers are not readily able to acquire sufficient information regarding the safety, price and service quality performance of different taxi service providers to enable them to make informed choices. This problem is particularly acute in the rank and hail markets, where the consumer has little or no practical ability to choose between service providers. Thus, even if they were able to make judgements about the safety, price and quality performance of particular providers, they are poorly placed to choose preferred providers in these contexts.

Adding to these issues is the fact that governments in most jurisdictions have historically tightly restricted the supply of taxis. Supply restrictions have necessarily been accompanied by price regulation, as well as a range of consequent regulatory interventions, and have tended to reduce significantly the degree and potential scope of competition in the taxi market. This, in turn, means that market incentives for consumer demands in relation to safety and quality have been blunted to a significant extent.

## Scope of the current regulations

The existing and proposed regulations exist within a substantially broader framework of taxi legislation, as discussed in Section 2.1. Primary legislation sets out much of the framework for the particular approach adopted to regulation and establishes its underlying logic. Hence, the current regulations address the specific elements of the general rationale for regulation identified above within the context of this broader framework.

That said, approaches to taxi regulation, at least as regards safety and service standards, are broadly similar across a wide range of countries. This reflects the commonality of the market failures to which the industry gives rise in different countries. It also implies that it is not possible to observe, or infer directly, the size and shape of the problems that would arise in an unregulated “base case”. That is, the taxi industry has been heavily regulated in Victoria, around Australia and in all comparable countries over many decades. It is therefore not possible to observe the operation of an unregulated taxi market in order to infer the nature and extent of the problems that would be expected to arise in Victoria were the current regulations not to be remade[[10]](#footnote-10).

A further difficulty in defining an unregulated base case relates to the complex and inter-connected nature of the current system of taxi regulation. As discussed in Section 2, several other pieces of legislation, sets of regulations and other regulatory instruments address different aspects of the operations of the industry. Thus, even were the current regulations not to be remade, a substantial body of regulation would remain in place. That said, some elements of this larger regulatory structure would be rendered less effective without the continuation of these regulations. The following draws attention to these inter-relationships where possible.

Given this, the approach taken in this section is to provide as much relevant information as possible on the “residual risks” associated with the operation of the taxi industry – i.e. the harms that continue to exist in the presence of a long-standing and well-developed regulatory system. It can be inferred that, in the absence of these regulatory controls, the extent of these harms would in all cases be significantly greater than at present, albeit that the practical effectiveness of different elements of the regulatory system is likely to differ and there is necessarily significant uncertainty as to the precise size of the effects of the current regulatory arrangements. In broad terms, demonstration of the significant residual risks that remain in the industry is used to infer the necessity of regulatory intervention and, in broad terms, the likely extent of the benefits conferred by the current regulation.

The current regulations address five main areas. These are:

* **Drivers**. Provisions include requirements in relation to certification of medical fitness to drive, including visual acuity, the display of photographic identification and the provision, to regulators or police, of requested records as to who was driving a cab at a given time.
* **Vehicles**: Provisions include requirements for security cameras to be fitted and for any driver security screens to be fitted in an approved fashion, that taxis be made available for inspection on request, provision of powers for the regulator to declare specifications that all taxi vehicles must meet and provisions requiring the fitting of dome lights and any signage specified by the regulator.
* **Behaviour**: Provisions include requirements that neither driver nor passengers smoke in the taxi, that passengers do not drink in the taxi and that drivers are not required to pick up passengers who are behaving in certain ways.
* **Fare-setting and payments**: Provisions include a power for TSC to set certain specifications for taxi-meters, powers for drivers to require fare pre-payment in certain circumstances, provisions in relation to matters to be recorded on receipts and specification as to when certain fares and additional charges can be levied.
* **Operators:** Applicantsfor accreditation as taxi operators must consent to the TSC obtaining a national police check and must keep specified records and make these available on request. They are also required to ensure that metropolitan taxis are fitted with a GPS unit and that GPS information is recorded, kept and made available on request.

As noted above, while the current regulations include provisions that address these five key areas, other elements of the wider regulatory structure also address some of the same general areas. Of particular note is the fact that most of the requirements that address risks posed by drivers are contained in accreditation conditions authorised by Part 6 of the TCMA, while Section 132(2)(b)(ii) of the TCMA requires applicants for operator accreditation to provide evidence that they satisfy the requirements for accreditation[[11]](#footnote-11). Some additional vehicle requirements also exist outside the scope of the current regulations, notably including the age limit of 6.5 years for vehicles used as taxis and the requirement that safety screens must be available and fitted if requested by the driver. In addition, key issues in relation to fares and payments are established in other legislation or regulation, including provisions for the setting of regulated maximum fares.

Thus, it is important to note that the matters covered in the existing regulations do not constitute the only regulatory responses to the problems identified in general terms in Section 3.1 and discussed in more detail below. Rather, they constitute an element of a broader suite of regulation addressing these issues. This broader regulatory environment necessarily forms part of the context of the consideration of feasible options, since a substantial body of primary legislation effectively establishes the broad regulatory approach taken to these issues, with the current regulations filling in detail within this framework.

The following discussion focuses on the main problem areas in the taxi industry which regulation attempts to address. As noted above, these are essentially related to safety and service quality. The service quality provisions are considered in two parts – protection from financial loss and other elements of service quality. In each case, indicators of the extent of the problems identified are provided and the link between these problems and the provisions of the existing regulations are explored.

Importantly, these issues have been addressed in regulation, both in Victoria and in all comparable jurisdictions, over many decades. This inevitably means that it is not possible to observe the extent of the problems that would be expected to occur in an unregulated market. Rather, the extent of the identified problems must be understood as constituting the “residual risk” – i.e. the extent of the harms that continue to arise even in the presence of a long-standing and incrementally developed regulatory system. By implication, the extent of these harms would likely be significantly greater in an unregulated environment.

## Safety

Three sets of safety issues can be identified. The first is criminal in nature: the risk that drivers will commit assaults (including sexual assaults), robbery or other forms of aggression against passengers, or *vice versa*. The second involves the risk to the safety of drivers, passengers and other road users that arises if poor vehicle maintenance causes road accidents. The third is the risk to drivers, passengers and road users that arises if the driver is not fit to drive the taxi, whether medically or in terms of competence.

### Assaults and other criminal matters

As noted above, Part 6 of the TCMA establishes a requirement for drivers to be accredited, with the accreditation system including physical fitness, competency and character requirements. The latter essentially involve the completion of a police record check, which enables people who have committed “disqualifying offences” to be excluded from becoming taxi drivers. This system provides a significant measure of protection for passengers from being the victims of criminal behaviour on the part of drivers.

However, even in the presence of this wider set of regulatory requirements, the passenger has no way of ensuring that the driver of their particular taxi is appropriately accredited and has therefore been subject to the required criminal background checks. Moreover, without the driver identification requirements of the current regulations, the driver’s identity would not be known to passengers. Many vulnerable people use taxis, including people with disabilities, the very young and those who are intoxicated. This fact sharpens concerns as to the potential for sexual aggression and/or other offences to be committed by drivers. The mobile and relatively private nature of the taxi also means that there is likely to be limited potential for passers-by or police to intervene directly in the case of criminal offences taking place.

Similarly, passengers are not identifiable in cases of street hails and hires from ranks. This anonymity combines with the close proximity of driver and passenger to give rise to the possibility of assaults and other criminal offences being committed by taxi passengers. In addition, the fact that the driver will generally have some cash in the taxi from fares received also means that they are potential targets for robbery by passengers.

The data presented below provide indicators of the extent of the problem of assault and other criminal offences occurring in connection with the operation of the taxi industry, even in the presence of significant regulatory initiatives aimed at addressing these issues. While the numbers of offences revealed is small in relation to the number of taxi journeys undertaken, they represent a not insignificant proportion of the total number of some types of offences (e.g. around 0.6% of all assaults and almost 1.5% of all rapes reported in Victoria). It can be inferred that, in the absence of regulation, the size of this problem, as reflected in the number of offences recorded, would be significantly higher. This would be expected to have a significant impact on public confidence in the safety of the industry and, as a result, to reduce patronage, with negative implications for both industry revenue and the availability of transport options to the public.

Conversely, there are clearly market incentives in play that would suggest that, in an unregulated environment, taxi operators and/or Network Service Providers (NSPs) would voluntarily take steps to address these issues. For example, it would be at least theoretically possible for operators to attempt to require passengers to provide identification before boarding the taxi, thus providing a disincentive to criminal behaviour by facilitating the apprehension of when the taxi is hired in these circumstances. However, it is likely that there would potentially be a significant negative response to such an initiative from at least some consumers. Moreover, the fact that taxis are essentially regarded as part of the public transport system, broadly defined, suggests the unacceptability of excluding people who are unable to provide appropriate identification from use of the service.

Similarly, it is possible that, in the absence of regulation, operators could choose to require drivers to display identification in the taxi, as a means of improving consumer confidence. Such a scheme could be developed by the Network Service Providers (NSPs) with which most taxis are affiliated, and made a condition of affiliation, thus ensuring wide coverage. However, several factors would limit the effectiveness of such a market based solution to this aspect of the safety/security issue. These include:

* Lack of consistency. Different operators and/or NSPs would be likely to adopt differing approaches, with different degrees of reliability as to driver identification. Taxi passengers may be less aware of the identification provided or have lesser confidence in it and the impact of these initiatives may be limited as a result;
* Operators/NSPs would have limited ability to check and enforce compliance with the requirements on an ongoing basis, again compromising the effectiveness of such schemes. The continued issue of detection of unauthorised drivers by TSC enforcement staff (often associates of the authorised driver, to whom a taxi has been lent) in the regulated environment highlights the fact that NSPs would be ill-equipped to address this issue in a privately operated system;
* If, as would be likely, NSPs took the lead in this area, there would be a lack of coverage of taxis not affiliated with NSPs. With NSP affiliation no longer a regulatory requirement, it is likely that this group will form an increasing proportion of the taxi fleet; and
* Cost. The cost of having several NSPs and/or other parties developing their own schemes would be likely to be higher than that of a single scheme applied uniformly across the industry.

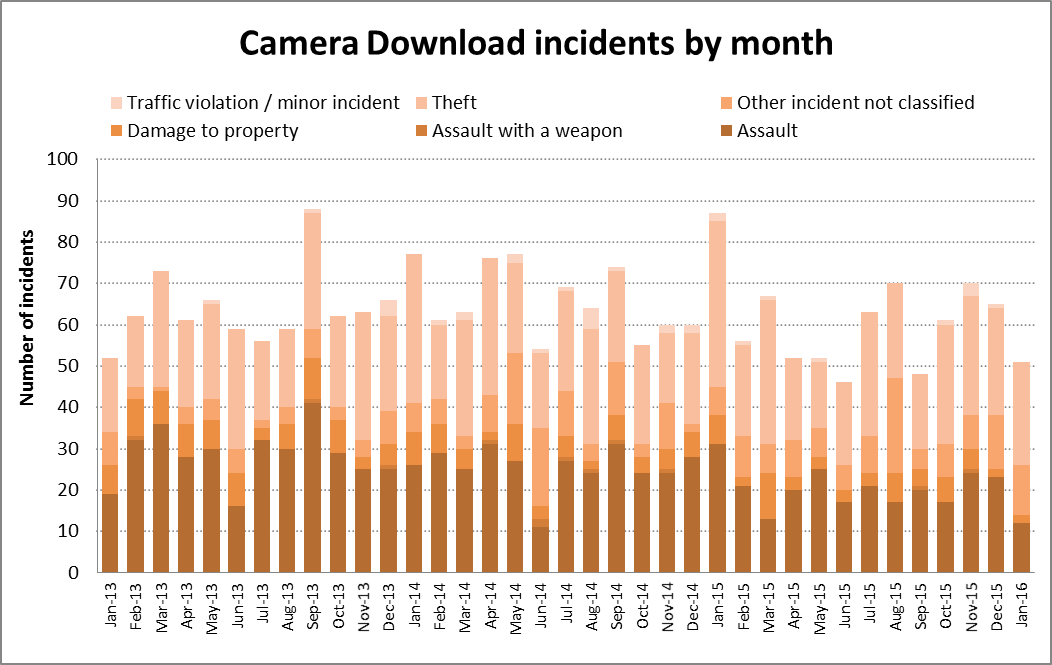
Similar comments can be made in relation to the issue of security cameras, which represent the other key initiative of the current regulations which aims to reduce the incidence of crimes against drivers and passengers. It would be feasible for operators to install security cameras on a voluntary basis, or to be required by NSPs to install them as a condition of affiliation, as a means of dissuading aggression against drivers (by facilitating the subsequent identification of offenders. The presence of such cameras could be used as a marketing tool by major NSPs, as they would provide enhanced confidence in taxi safety to passengers by deterring driver misbehaviour. However, there is significant doubt as to whether the size of the market incentives operating on NSPs/operators would be strong enough to ensure that fully-functional and reliable cameras would be installed that could reliably provide a high level of service as well as being proofed against tampering or theft. In addition, in the absence of regulatory requirements, police and taxi regulators would be likely to face practical difficulties in obtaining taxi camera footage to assist in the investigation and prosecution of criminal offences, thus compromising the effectiveness of such market-based arrangements.

**Data on criminal activity associated with taxis**

TSC data indicates a significant incidence of criminal activities in taxis. The current regulations require all taxis to have security cameras installed and operating at all times that the taxi is in use. Victoria Police and/or the TSC will request downloads of camera footage in response to complaints of an offence having been committed in a taxi, as well as in cases where taxi cameras may assist in the apprehension and/or conviction of an offender who has committed an offense elsewhere, but has been captured on the taxi camera.

Graph 3.1, below, shows the incidence of security camera downloads on a monthly basis over the last three years. The total number of downloads is broken down according to the offence alleged to have occurred.

**Graph 3.1: Camera downloads, January 2013 – January 2016**



**Source:** TSC

Graph 3.1 shows that there was an average of 63.4 camera downloads per month over the three years from January 2013, or an average of 760 camera downloads per annum. A total of 2345 camera downloads were requested over this three-year period[[12]](#footnote-12). The most common alleged offences leading to requests for camera downloads were assault and theft, each of which lead to approximately 900 camera downloads. There were 232 camera downloads due to alleged assaults recorded in the year to January 2016. By contrast, there were 39,255 assaults recorded in Victoria in the year to December 2015, suggesting that only around 0.6% of all assaults were connected with the taxi industry. The 31 camera downloads due to alleged rapes represents a somewhat larger proportion (1.45%) of the total number of these offences, when compared to the 2,144 rape offences recorded in 2013-14[[13]](#footnote-13).

As noted above, safety issues in taxis include both circumstances in which drivers are victims and those in which passengers are victims. Graph 3.2, below, provides a breakdown of camera download requests in these terms. It shows that, since 2012, the proportion of incidents occasioning camera downloads in which the driver was the victim varied between 44% and 60%, while those in which the passenger was the victim varied between 18% and 20%[[14]](#footnote-14). Thus, drivers are, on average, approximately 2.5 to 3 times more likely to be the victim of alleged criminal activity than are passengers.

**Graph 3.2: Breakdown of camera download incidents**



**Source:** TSC Annual Report (2014-15), p 19.

Table 3.1, (on the next page) summarises the proportion of camera downloads attributable to each of the major categories of alleged offence over the past three years. Offence categories are listed from most common to least common.

**Table 3.1: alleged offences leading to requests for downloads of security camera footage – January 2013 to January 2016**

|  |  |  |
| --- | --- | --- |
| **Offence** | **Number of downloads** | **Percentage of total** |
| Assault | 911 | 38.8% |
| Theft | 903 | 38.5% |
| Other incident not classified | 284 | 12.1% |
| Damage to property | 202 | 8.6% |
| Traffic violation / minor incident | 33 | 1.4% |
| Assault with a weapon | 12 | 0.5% |

**Source:** TSC

The numbers reported in Graph 3.1 and Table 3.1 arguably overstate the frequency of the identified offences in the taxi industry to some extent. The TSC advises that approximately one third of the alleged offences leading to security camera downloads do not occur in the taxi and do not involve interaction between the taxi driver and passenger[[15]](#footnote-15). Rather, police seek evidence in a range of cases where an offence has been committed in another circumstance and an offender and/or victim may have used a taxi before or after committing the offence. Nonetheless, it is clear that there is a significant incidence of criminal behaviour of various kinds in taxis.

A core issue in this area is that of anonymity: drivers and passengers are in close proximity but, at least in the rank and hail markets, do not need to identify themselves. This dynamic is significant in explaining the differences in regulatory approaches between taxis and hire cars, given that the latter are excluded from the rank and hail markets and, hence, do not have the same issue of anonymity as between drivers and passengers[[16]](#footnote-16).

Passengers may also frequently be in a vulnerable position for any of a range of reasons, including being a visitor to an unfamiliar city (or part of a city), being intoxicated or unwell.

The general regulatory approach taken by the current regulations in this regard is to act to deter criminal behaviour by increasing the likelihood that the offender will be identified and apprehended. This rationale underlies a range of provisions of the current regulations, notably:

* Requirement for emergency warning devices to be fitted, for activation by the driver **(Reg 14)**;
* Requirement for all taxis to have operating security cameras **(Reg 15)**;
* Requirement for the driver to display photographic identification **(Regs 6-8)**; and
* Provision for driver records to be made available to the police on request **(Reg 11)**.

As noted above, it would potentially be possible for taxi operators to take many of these steps in the absence of regulation. However, the limited extent of the private incentives that they face in this regard and the practical difficulties of determining what steps to take at an individual level, in a highly competitive environment, suggest that such market-based approaches would be significantly less effective than a regulatory option. A further issue in this respect is that a regulatory approach allows specific provisions to be designed in such a way as to be able to operate in effective co-ordination with broader law enforcement activity. By contrast, unco-ordinated private endeavours at the industry level would be unlikely to achieve the effectiveness benefits of such co-ordination.

### Vehicle-related safety risks

Taxis typically cover very large annual distances – estimated by the TII[[17]](#footnote-17) at 120,000 kilometres per annum. This is around 8.7 times the average distance of 13,800 kilometres per annum covered by the motor vehicle fleet as a whole[[18]](#footnote-18). This substantially greater intensity of use makes frequent maintenance essential if taxis are to remain in a safe, roadworthy condition. In addition, it is arguable that the standards of assurance of safety required in the taxi context is higher than in the case of private cars due to the anonymity of the relationship between taxi service provider and consumer; that is, because the driver/owner is unknown to the passenger, there is no relationship of trust as to their adoption of a responsible approach to vehicle maintenance (or, indeed, driving performance).

The taxi operator (vehicle owner) may only very rarely be the driver of the vehicle. In circumstances where this is the case, it may reduce the incentives for operators to maintain vehicles appropriately. Similarly, the fact that passengers will be unaware of many mechanical defects combined with their limited ability to choose between taxis (notably in rank and hail contexts) suggests that the operator faces quite limited market incentives to ensure the mechanical maintenance of the taxi at a high level. A third factor is that of externalities: to the extent that a poorly maintained vehicle is more likely to be involved in an accident, it clearly increases the accident risks faced by other road users, with which it may collide. In addition, the fact that taxis spend long periods on the road may mean that it is difficult to schedule timely maintenance and repair activity, while financial pressures on some operators may also give rise to disincentives for adequate maintenance to be carried out.

These factors suggest the need for regulatory intervention to ensure that taxis are maintained to appropriate standards. In line with this conclusion, vehicle standards and maintenance requirements are a core element of all systems of taxi regulation in developed countries.

It can be noted that the broader regulatory context is one in which Victoria Police engage in targeted vehicle inspections and issue defect notices where unroadworthy vehicles are found. According to one source[[19]](#footnote-19), around 48,000 such notices are issued annually, equivalent to more than 1% of the Victorian fleet of around 4.5 million privately owned vehicles. This substantial level of enforcement activity could be taken as suggesting that there is little need for an additional inspection program targeting the taxi industry.

Conversely, the data presented below suggests that, even in the presence of significant taxi-specific regulatory requirements, there is a relatively high incidence of non-compliance with vehicle standards in the taxi industry. Removal of the existing regulatory requirements could lead to a significant increase in non-compliance, given the attenuated nature of the private incentives operating in this sector, as discussed above. Conversely, it is likely that police and VicRoads currently give limited priority to inspection of the roadworthiness of taxis, given knowledge of the substantial inspection and enforcement program administered by the TSC. This suggests that, were the TSC to substantially downgrade its inspection activities, there would need to be an offsetting increase in activity by these other enforcement authorities, rather than a net reduction in regulatory cost.

Taxi operators also have a duty of care to drivers and risk prosecution under OHS legislation if this is breached. This duty could also be seen as providing a private incentive for operators to maintain vehicles to an adequate standard. However, the TII found that there is a low level of understanding of these obligations among operators, particularly due to the fact that they frequently do not regard bailee drivers as being employees. Thus, this dynamic is unlikely to be an important one in practice in the current environment, albeit that consideration is currently being given to legislative change that would remove doubt about the application of these duties to taxi operators in their dealings with bailee drivers.

The current regulations address this issue primarily through a requirement (**Reg. 19**) that operators must make the taxi available for a roadworthiness inspection on request by the police or the regulator[[20]](#footnote-20). Regulation 20 provides for a defect notice to be issued and a requirement that a taxi not operate until a further inspection finds those defects to have been rectified, thus ensuring that any defects identified at inspections are remedied immediately.

The TSC has used these powers, together with the power to require taxi operators to affix any specified signs of labels (**Reg 23)** as the basis for two separate inspection programs. These are:

* A requirement that all taxis and hire cars be inspected at least annually by an approved taxi inspector and display a label indicating the last inspection date; and
* An extensive program of targeted inspections that is based on the TSC-developed IFACTS software, which analyses the outcomes of all previous inspections and determines priorities for the current-year inspection program. Almost 13,000 inspections were conducted in 2014-15[[21]](#footnote-21) as part of this latter program. This total includes 814 full inspections conducted at the TSC’s Tullamarine Quality Assurance Centre (QAC), as well as a much larger number of roadside inspections.

Graph 3.3, below, provides a breakdown of the inspection activity undertaken by the TSC under the second of these programs.

**Graph 3.3: breakdown of TSC inspection activity**



Inspections coded as “ISI” are issues specific inspections, which are rapid inspections targeting a specific area of concern identified by the IFACTS system. The most frequent of these (3207 inspections) involve checking to verify that the required annual inspection of the taxi has been undertaken in the last 12 months, while the next most common involves checking the driver’s accreditation status. The remaining two issues specific inspections target taxi safety systems and tyres respectively. A total of 1837 full vehicle inspections were undertaken by the roadside, while 814 Directed Vehicle Inspections were undertaken at the Tullamarine QAC in response to intelligence generated by the iFACTS system. The other major inspection type is the Quality Validation Inspection (1243), which involves verifying that rectification of previously identified defects has been undertaken.

**Vehicle defects**

TSC data show clearly that the issue of inadequate vehicle maintenance continues to be a significant one in the taxi industry, despite the longstanding implementation of inspection and enforcement requirements, as described above. Again, this level of “residual risk” underlines the likely size of the problem that would be experienced in the absence of regulatory intervention. Table 3.2., below, reports the number of inspections conducted annually since the establishment of the TSC and the number of notices of various types issued as a result of non-compliance with legislative and regulatory requirements identified during these inspections.

**Table 3.2: Taxi and hire car inspections undertaken and notices issued**

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Inspections** | **Notices issued** | **As % of inspections** |
| 2012-13 | 22,875 | 7,320 | 32% |
| 2013-14 | 17,224 | 5,863 | 30% |
| 2014-15 | 12,944 | 4,137 | 32% |

**Source:** TSC Annual Reports (2014-15, 2013-14).

Table 3.2 shows that the number of notices issued (including penalty infringement notices, rectification notices, defect notices and official warning notices) has remained approximately constant as a percentage of the number of inspections undertaken over the past three years, with remedial action being required in around 30% of cases. However, the number of inspections carried out by TSC has declined significantly. Two key factors explaining this decline are the move to have annual taxi inspections conducted by accredited private inspectors and the move by TSC from a random inspection regime to a targeted regime, based on the iFACTS system. It is anticipated that the refinement of this system over time, resulting in better targeting of inspections, should lead to an improved ability to identify instances of non-compliance through this program.

Table 3.3, below, provides a breakdown of the total number of notices issued by TSC as a result of its inspection activity. It shows that the most commonly issued notice is a rectification notice, which accounted for 70.9% of all notices in 2014-15 and 63.2% in 2013-14. Official warnings accounted for 5.9% of the total (4.8% in 2013-14), while infringement notices, which are the only notice with a penalty attached, accounted for 22.4% of the total (28.7% in 2013-14). The most common causes of the issue of each of the two main types of notice are:

**Infringement notices:** Failure to present taxi for inspection, operating unsafe vehicle, installing unapproved equipment, operating a taxi without a functioning security camera, no photo ID displayed, unauthorised operating, interfering with approved equipment and operating a taxi before all matters have been rectified.

**Rectification notices:** Lights, tyres, panel damage, overdue vehicle inspection, electronic vehicle safety systems, camera head problems, boot struts, emergency boot release, windscreen wipers/washers[[22]](#footnote-22).

As is evident from the above list, both infringement notices and rectification notices are issued in respect of both safety and non-safety related non-compliance issues. The key difference is that non-compliance that relates to vehicle standards is addressed through rectification notices in the first instance. An infringement notice for operating an unsafe vehicle may be issued if a taxi is operated in defiance of a rectification notice, while infringements are also issued in respect of key taxi-specific aspects of the vehicle – notably having an inoperative security camera or interfering with the relevant equipment.

Vehicles that are overdue for an annual inspection will be issued a rectification notice if less than three months overdue and an infringement notice as well as a rectification notice if three months or more overdue. A further infringement notice will be issued if a taxi continues to operate without complying with the rectification notice[[23]](#footnote-23).

**Official Warning** notices may be issued as an alternative to an infringement notice where a taxi has received a “poor quality taxi” rating (score of 6) on the iFACTS system as a result of an inspection.

**Defect Notices** are issued where an immediate safety problem is identified, coinciding with an iFACTS score of 7 (“unsafe taxi” rating). Defect Notices are issued under the Road Safety Act and have the effect of prohibiting the vehicle from being driven. In these situations, the car is affixed with a yellow notice, which can only be cleared for driving by a VicRoads officer[[24]](#footnote-24).

As Table 3.3 (next page) shows, official warnings and defect notices are significantly less commonly issued than rectification notices and infringement notices, collectively accounting for 6.7% of all notices in 2014-15, slightly less than the 8.3% they accounted for in 2012-13.

**Table 3.3: Summary of notices issued by TSC, 2012-13 to 2014-15**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | **2014-15** | | **2013-14** | | **2012-13** | |
| **Notice type** | **Number** | **% of total** | **Number** | **% of total** | **Number** | **% of total** |
| Infringement | 927 | 22.4% | 1683 | 28.7% | 1624 | 22.2% |
| Official warning | 244 | 5.9% | 280 | 4.8% | 352 | 4.8% |
| Rectification | 2,933 | 70.9% | 3,703 | 63.2% | 5087 | 69.5% |
| Defect | 33 | 0.8% | 197 | 3.4% | 257 | 3.5% |
| Total | 4,137 | 100.0% | 5,863 | 100.0% | 7320 | 100.0% |
| Total inspections | 12,944 |  | 17,226 |  | 22,875 |  |
| Notices as % of inspections | 32.0% |  | 30.0% |  | 32.0% |  |

**Source:** TSC Annual Report 2014-15, p 19.

Table 3.4, below, highlights the most common defects detected in TSC inspections in the period 2009-2014. It shows that unroadworthy tyres were the most common defect identified, accounting for 15.5% of total defects. Inoperative handbrakes and airbags together account for a further 15.6 % of defects, while the remaining items set out in Table 3.4 are all clearly safety related.

**Table 3.4: Most common defects detected during taxi inspections**

|  |  |  |  |
| --- | --- | --- | --- |
| **Defect** | **% of total** | **Defect** | **% of total** |
| Tyre(s) | 15.5% | Brake Light(s) | 4.5% |
| Handbrake | 9.0% | Park Lamps | 4.5% |
| Air bag | 6.6% | Windscreen | 3.6% |
| Seat | 5.8% | Brake Pedal Pad | 3.2% |
| Seat Belt(s) | 5.7% | Windscreen Wiper(s) | 2.8% |
| Headlight(s) | 4.8% | High Mount Brake Lamp | 2.5% |
| Number Plate Light | 4.6% | Other | 26.8% |
| Total |  |  | 100.0% |

**Source:** TSC

**Conclusion**

In sum, the data on vehicle defects derived from the TSC inspection program indicates that there continues to be a substantial incidence of safety-related vehicle faults in the taxi industry. Notwithstanding the longstanding requirement for all taxis to be inspected annually and to have their compliance with the TSC vehicle standards certified as part of this process, the targeted/random inspection process undertaken in parallel with these annual inspections yields a 30% non-compliance rate, measured in terms of the proportion of inspected vehicles that are subsequently the subject of one or another kind of notice issued by the regulator[[25]](#footnote-25).

The data clearly indicates that a significant proportion of taxis are non-compliant with vehicle standards at any given time, giving rise to safety risks to taxi passengers and drivers. The extent of this risk is difficult to estimate, given the paucity of data on the number of accidents and injuries that are caused or contributed to by mechanical defects. As a general observation, considering the motor vehicle fleet as a whole, a 2000 literature review found that mechanical defects cause or contribute to more than 6% of vehicle accidents[[26]](#footnote-26), while the authors found that studies from the United States suggest that periodic roadworthiness tests could reduce the number of crashes caused by vehicle defects by about 50% “[[27]](#footnote-27). This suggests that periodic vehicle inspections could reduce accident rates by around 3% in the vehicle fleet as a whole - a small, but not insignificant, reduction in overall accident incidence. Conversely, other estimates of the potential for periodic inspection to reduce total accident rates reported in the same study varied widely, from near zero to 16%[[28]](#footnote-28).

Given the fact that taxis cover around nine times the average distance covered annually by private vehicles, the expected frequency of mechanical problems and, consequently, the potential benefits associated with a periodic inspection regime are *ceteris paribus* necessarily greater in the case of taxis than private vehicles. In addition, as discussed above, the TSC’s inspection regime combines periodic, targeted and random elements. This combination can be expected to yield a significantly larger impact than a periodic inspection regime alone. In particular, the use of the iFACTS system, as described above, enables TSC to focus closely on vehicles/fleets that have been found to perform poorly in terms of vehicle maintenance standards. Taken together, these factors suggest that the overall impact of the inspection requirements authorised by the current regulations could be significantly greater than the above indicative estimates based on the private vehicle fleet.

Finally, the issue of public confidence is significant in this regard. The fact that regulation underpins an extensive program of taxi inspections, undertaken by TSC and private assessors, is likely to have a significant impact in ensuring public confidence in the safety of taxi services and so contribute to the economic success of the industry. The context is one in which taxi passengers generally have no way of ascertaining for themselves whether a taxi has been adequately maintained, while also being conscious that taxis typically cover large distances.

### Driver-related safety risks

While the skills required to drive a taxi competently are essentially the same required of any driver of a private vehicle, the issue of the anonymity between driver and passenger, highlighted above, is also relevant in this context. That is, the passenger has no relationship of trust with the driver, as they would in the case of a friend or family member, which would lead them to take a responsible attitude to their driving. Arguably, the fact that the driving is done “for reward” also implies a responsibility to ensure a higher level of safety than in a private motoring context, including in relation to the medical fitness of the driver. A further issue is that taxi drivers routinely drive for long periods, giving rise to significant fatigue-related risks. These may be exacerbated where taxi-driving constitutes a secondary occupation. To this extent, taxi-driving can be seen as more physically demanding than driving a private vehicle; that is, the taxi driver must be capable of driving safely during regular, extended periods on the road, whereas this is not a requirement for private individuals.

The TCMA addresses these issues primarily through the requirement (contained in Part 6) for all taxi drivers to be accredited. Key accreditation conditions require drivers to present a medical certificate attesting to their physical fitness to drive a taxi and to consent to a police check being undertaken to verify whether they have been convicted of any disqualifying offences that would render them ineligible to drive a taxi on character grounds. The accreditation process thus address both the risks posed to passengers by criminal behaviour on the part of taxi drivers[[29]](#footnote-29) and the road safety risks potentially posed by taxi drivers being physically unfit to drive.

The current regulations address one of the identified sources of risk by giving practical effect to legislative provisions requiring that drivers obtain medical certification of their fitness to drive on a regular basis. Specifically, they state that only medical practitioners can provide the required certification of medical fitness, as well as specifying a particular (taxi-specific) visual acuity test (**Regs 4 & 5).** This is intended to ensure that the test is administered correctly and that the results demonstrate a high level of reliability.

Ensuring that only medical practitioners can implement the test provides a high level of assurance that it will be administered correctly and the results reliably reported, thus ensuring the integrity of this requirement. Data on the number of drivers who fail the visual acuity test are not available. This is to be expected, given that an application cannot proceed unless a successful test result is obtained.

## Safety performance of taxis

The above discussion addresses input related indicators of the safety performance of taxis. Data on the actual safety performance of taxis is scarce, however, a recent research paper published by the Monash University Accident Research Centre[[30]](#footnote-30) considered the safety performance of New South Wales taxis in relation to that of all cars. Table 3.3, below, summarises key findings of this paper.

**Table 3.3: comparative accident performance of New South Wales taxis (accidents per 100 million vehicle kilometres)**

|  |  |  |  |
| --- | --- | --- | --- |
| **Accident type** | **Taxis** | **All cars** | **Taxi odds ratio[[31]](#footnote-31)** |
| Fatal | 0.4 | 0.7 | 0.57 |
| Injury | 52.3 | 37.6 | 1.39 |
| Tow away | 88.6 | 74.8 | 1.18 |
| **Total** | **141.2** | **113.1** | 1.25 |

Table 3.3 shows that the overall accident rate of taxis is 25% higher than that of the passenger car fleet generally, even when the fact that taxis cover a substantially higher average distances is taken into account. As well as total accident rates being higher, the injury accident rate is 39% higher. Conversely, however, the rate of fatal accidents is 43% lower for taxis than for passenger cars generally. This latter observation may reflect the fact that a preponderance of the taxi fleet operates in urban areas, where average speeds are significantly lower and fatalities consequently less likely.

In sum, this research shows that, on a per kilometre basis, taxi passengers are at greater risk of being involved in an accident and of being injured as a result. This suggests that the issue of taxi safety is a significant one which is appropriately the subject of regulation. The data contained in this paper do not provide information on accident causality and therefore do not allow links to be drawn to the specific provisions of the current regulations.

## Financial protection

Governments have typically regulated taxi fares as a corollary of restricting supply numbers: to do otherwise would be to give rise to the likelihood of monopoly (or cartel) pricing behaviour arising. However, even in the presence of regulated fares, the risk of financial loss remains. Passengers are also at risk of financial loss due to being charged an incorrect fare for the journey. There are a number of aspects of this issue. A major one is that many taxi passengers are travelling in unfamiliar areas and have little information as to the length of the journey they are undertaken of the amount of time it should take. In such situations, there is a risk that taxi drivers will take a circuitous route in order to increase the size of the fare received for the journey. Such behaviour may pass unnoticed in many cases while, even if the passenger does realise that this has occurred, they are likely to have little practical opportunity to have it addressed. Secondly, even if per kilometre/minute fares are clearly displayed on a taxi, the consumer is at risk of fraud if the taxi meter is not accurate or is subject to tampering, or if it is not used appropriately by the driver.

To the extent that there is clear branding of different taxi groups in the market, reputational issues (i.e. the potential for consumers to avoid particular taxi groups due to concern that they will suffer financial loss due to these behaviours) will provide some private incentives for taxi operators or NSPs to try to prevent them. However, their practical ability to address the problems is likely to be limited. For example, a consumer must first be able to identify the correct entity to which to complain (potentially the operator or the NSP), while there must be adequate co-operation between NSP and operator to allow the complaint to be investigated adequately. Moreover, unless a significant incidence of complaints arises, NSPs or operators are unlikely to perceive strong market incentives (based on potential reputational harms) to address complaints seriously.

Given these factors, the issue of protection from financial loss is universally a part of the suite of taxi regulation in developed country markets. The current Victorian regulations address this issue by:

* Requiring meters that meet certain specifications issued by the regulator be fitted to all taxis and be tested periodically (**Reg 44**);
* Requiring that the meter be started as soon as the taxi is hired (**Reg 45**);
* Limiting and specifying the charges that can be levied in addition to the meter reading (**Reg 39)**; and
* Requiring that the most direct practicable route be taken (where the passenger does not specify a route) (**Reg. 29**).

TSC infringements data indicates that the behaviours which these regulations prohibit remain problematic in the industry to some degree, suggesting that enforcement of these provisions continues to be important to customer protection. Table 3.4, below, summarises the incidence of infringements relating to the above regulatory provisions.

**Table 3.4: Infringements relation to financial disadvantaging of passengers**

|  |  |
| --- | --- |
| **Infringement** | **Number (2009 – 14)** |
| Charing fare or additional charges exceeding amount permitted | 135 |
| Failing to start taxi-meter when taxi hired | 70 |
| Operating taxi without a complying taximeter fitted | 69 |
| Failing to give a legible receipt | 93 |
| Failing to offer and provide receipt | 18 |
| Failing to use electronic payment facility | 91 |
| Failing to take most direct practicable route | 22 |
| **Total** | **498** |

**Source:** TSC

Table 3.4 shows that almost 500 infringements were issued in the six years to 2014 for offences relating to the regulations that focus on providing financial protection to consumers. While this number – which is equivalent to an average of fewer than 85 complaints per annum – represents a small number in relation to the total number of taxi trips taken (estimated by the TII as totalling 26.3 million in 2011), it is likely that the number of formal complaints recorded represents only a quite small minority of the number of problems of this type experience by passengers[[32]](#footnote-32). Thus, this data suggests the continued need to have enforceable prohibitions on various types of driver behaviours that can financially disadvantage consumers.

## Service quality

The current regulations include a wide range of provisions that address aspects of service quality other than financial probity, seeking to establish minimum standards and requirements in several areas. In particular, these include requirements for drivers to:

* Use the air-conditioner if requested to do so (**Reg 18**);
* Refrain from smoking in the taxi (**Reg 46);**
* Assist passengers to enter/exit the taxi (**Reg 37);**
* Assist passengers with loading/unloading luggage **(Reg 37**);
* Carry an assistance animal (e.g. guide dog) if requested (**Reg 33)**;
* Refuse to carry other animals, unless to a vet (**Reg 33**); and
* Wear an approved uniform (**Reg 31**).

These provisions appear to have been implemented in part in response to past complaints (e.g. in relation to failure to assist with luggage and poor standards of dress and hygiene by drivers). However, consideration of the continued need for which such detailed regulatory provisions is required, both because an increasingly competitive taxi market is likely to be the best guarantor of standards of driver behaviour and because TSC data indicate that there is very little enforcement activity undertaken in these areas. For example, infringements data in relation to smoking in the taxi, drinking in the taxi, carriage of an unauthorised animal and failure to assist a passenger indicate that there has been only one infringement issued for each of these offences in the past six years. While there have been nine infringements issued for operating a taxi without an air-conditioner in working order[[33]](#footnote-33), none has been issued for failing to use the air-conditioner when requested.

It must be noted that the conduct of the driver accounted for 830 complaints to the TSC during 2014-15, the highest number of complaints of any individual complaint category. While no further breakdown of this data is available, it is plausible that a number of the behaviours currently addressed in the regulations are the subject of a significant proportion of these complaints. However, the lack of enforcement activity cited above suggests that the existence of these regulations – and any complaints made as a result – may have had only a limited impact on driver behaviour.

## Infringements data

The preceding sections have included data on the number of vehicle defects identified during taxi inspections and on the number of times security camera footage is downloaded in order to assist investigations into alleged criminal behaviour. Limited data on certain kinds of infringements is also included in Table 3.3, above.

Table 3.5, below, supplements this information by providing a broad summary of TSC infringements data. It demonstrates the extent of detected non-compliance with the current regulatory provisions and thereby provides evidence of significant ongoing concerns in the industry and, by implication of the continued need for effective administration and enforcement of an integrated set of regulatory arrangements to address the problems identified in this section. Table 3.5 summarises all infringements issued by the TSC, while those highlighted in bold text relate specifically to the content of the current regulations.

**Table 3.5: Infringements summary – Dec 2014 – Dec 2015**

|  |  |
| --- | --- |
| **Infringement** | **Number** |
| Unauthorised Operating (Vehicle With Seating Capacity Of Not More Than 12) (Natural Person) | 186 |
| Driving Commercial Passenger Vehicle Without Accreditation | 119 |
| Unauthorised Operating Seating <12 | 66 |
| Failure Of Holder Of Driver Accreditation Under Division 6 Of Part Vi Of The Transport Act 1983 To Comply With Condition Of Accreditation | 52 |
| Operating Outside Conditions Of Licence | 49 |
| Driving CPV Without Accreditation | 43 |
| **Operating Or Permitting To Be Operated Taxi-Cab That Does Not Comply With Vehicle Specifications** | **43** |
| Failing To Comply With Condition Of Driver Accreditation | 38 |
| **Use Vehicle That Is Unsafe Or Has Been Modified Or Does Not Comply With The Standards For Registration** | **22** |
| Breach Driver Accreditation Condition | 17 |
| **Driver Failing To Stay With Taxi-Cab** | **16** |
| **Failing To Take Passenger To Requested Destination** | **14** |
| **Failing To Produce Vehicle For Inspection** | **13** |
| **Charging Of Fare Or Additional Charges Exceeding Amount Permitted By Licence** | **11** |
| **Failing To Display Driver Photo Card In Vehicle** | **11** |
| **Failing To Give Legible Receipt** | **11** |
| Other | 168 |
| **Total** | **879** |

**Source:** TSC

Review of Table 3.5 shows that a large proportion of the infringements issued relate to failures to comply with regulatory requirements in relation to driver or vehicle accreditation, as well as operation of a vehicle outside its licence conditions. Other commonly issued infringements relate to the operation of a vehicle that does not comply with the relevant vehicle specifications and/or is unsafe or modified. The “Other” infringements item, totalling 168 infringements (or around 20% of the total) consists of a wide range of infringements that have each been detected fewer than ten times over the period.

Graph 3.4, below, provides a longer-term perspective on the issue of infringements, plotting total infringement numbers for the seven years from 2009 to 2015.

**Graph 3.4: Infringements issued, 2009 – 2015**

**Source:** TSC

Graph 3.4 shows that infringement numbers had fallen substantially from previous levels by 2011 but have stayed at broadly constant levels over the past several years, albeit that the data reveal significant year to year volatility. The 854 infringements issued in 2015 is equal to a rate of approximately 1 infringement for each 7 accredited taxis. That is, the operator or driver of around 14% of accredited taxis is subject to an infringement penalty each year, on average.

## Complaints

A further indicator of the need for regulatory intervention in the taxi industry is that of complaints made by taxi users and other parties. Table 3.6, below, summarises the total number of complaints received by the TSC over the past three years. The number of complaints received rose significantly in 2013 – 14, perhaps as a result of increasing awareness of the establishment of a new taxi regulator. Complaint numbers in 2014 – 15 were broadly similar to the previous year, declining by approximately 4.2%.

**Table 3.6: Complaints received by TSC**

|  |  |  |  |
| --- | --- | --- | --- |
|  | **2012-13** | **2013-14** | **2014-15** |
| Total complaints | 2,604 | 3,416 | 3,272 |

**Source:** TSC Annual Reports

These complaints numbers represent a significant increase over the number of complaints reported in the 2008 RIS in respect of the current regulations, which indicated that the then Victorian Taxi Directorate had received 2387 complaints during 2006 – 07. That said, the number of taxi hirings has increased from around 27 million in 2006 – 07 to around 35 million in 2015. On this basis the complaints rate of 93.5 per million hirings in 2014 – 15 represents only a slight increase on the complaints rate of 88.4 per million hirings recorded in 2006 – 07. The major causes of complaints during the past two years are set out in table 3.7, below.

**Table 3.7: Major sources of complaints**

|  |  |  |
| --- | --- | --- |
| **Complaint cause** | **2013-14** | **2014-15** |
| Driver conduct | 1230 | 830 |
| Hiring and trip experience | 1212 | 728 |
| Fair charging and payment | 928 | 453 |
| Compliance with road rules | 521 | 323 |
| Vehicle condition and appearance | 135 | 89 |
| Authorisation (driver and/or vehicle) | 135 | 324 |
| Concerns with operator | 30 | 136 |
| Presentation of driver | 83 | 35 |
| Complaints relating to the Knowledge | n/a | 212 |
| Other issues | n/a | 287 |

**Source:** TSC Annual Report 2014-15, p 24

Review of table 3.7 indicates that matters addressed in the current regulations are among the main causes of complaints to the TSC. Complaint causes in this category include:

* **driver conduct,** which is addressed by a number of the regulations establishing specific obligations;
* **fare charging and payment**, which is addressed via number of regulations dealing with taxi meters and information regarding fairs required to be provided to the passenger;
* **hiring and trip experience**, which is addressed through provisions relating to the route to be taken, the use of air conditioners and the like;
* **vehicle condition and appearance**, which is addressed through the vehicle inspection requirements, as well as aspects of the vehicle specifications; and
* **presentation of the driver**, which is addressed through the uniform requirement.

## Record keeping requirements

As indicated in the introduction, the review of the current regulations includes the review of the Transport (Taxi-cab Industry Accreditation) Regulations 2007 (“industry accreditation regulations”). The industry accreditation regulations specify record keeping requirements that support and enable compliance monitoring and enforcement of requirements specified in the Act, regulations and other subordinate instruments. Some information is also required to be collected, kept and made available to support strategic planning and resource planning by the TSC.

Specific regulations require:

* Taxi-operators to keep records of revenue earned, total kilometres travelled, number of hirings, driver details, details of driver agreements, etc (**Reg 7**)(Note: Hire Car operators are required to maintain equivalent records under regulation 11A and through licence conditions imposed by the TSC);
* Taxi-cab network service providers are required to maintain similar records for taxis that they provide networks service to (**Reg 8**)(Note: there are no equivalent requirements imposed on entities that provide network services to hire cars);
* GPS units to be installed in taxis licensed to operate in the Metropolitan zone and for GPS units to be operating at all times the taxi is operating in order to collect records about the the location of taxis by time of day (**Regs 21, 22 and 23**);
* Records to be kept for a specified period of time and in a form and format approved by the TSC (**Reg 9**);
* Records to be made available for inspection or for copies to be made and provided on request (**Regs 10 and 11**)
* Complaints handling systems to be established and for records to be kept about how complaints are investigated and addressed (**Regs 17, 18, 19 and 20**)

It is noteworthy that non-compliance with the record keeping requirements specified in the industry accreditation regulations is not identified as a problem in the preceding sections providing information on enforcement actions (e.g. infringements data). DEDJTR considers that this largely reflects the fact that most of the records that the regulations require to be kept would, in the absence of a regulatory requirement, be kept for business management and tax purposes by taxi and hire car operators and network service providers. Similarly, stakeholder consultation indicates that there are strong commercial incentives for taxi operators to have GPS units installed in taxi vehicles, particularly as a means of monitoring/verifying trip activity.

# Objectives of the proposed regulations

The objectives of the proposed regulations are to:

* Contribute to the achievement of high levels of passenger and driver safety in the commercial vehicle industry;
* Protect consumers’ financial interests in the course of their dealings with the taxi industry;
* Ensure that consumers receive minimum acceptable standards of service in a range of areas in the course of their interaction with the commercial passenger vehicle industry; and
* Ensure that regulatory costs are minimised, consistent with the need to ensure that the above objectives are met.

# Overview of feasible options

As noted in section 3, the current regulations cover a range of areas, including specific provisions relating to drivers, vehicles, record-keeping, behaviour and fare-setting and payments. It is possible to envisage options in terms of regulatory and non-regulatory approaches to the identified regulatory objectives in most of these areas that differ significantly from the current broad regulatory approach. However, in order to merit a detailed analysis of benefits and costs, each possible option must first pass the threshold test of “feasibility”. The following identifies some alternative options in the key areas covered by the existing regulations and addresses this threshold question of feasibility.

## Drivers

It is widely noted that ride-sharing services have developed rating systems for both drivers and passengers. Such systems provide incentives for appropriate behaviour by both parties as a poor rating is more likely to lead to a driver or a passenger refusing a job. Such a system could, in theory, be applied to the taxi industry. However, several practical problems arise. First, while app based booking systems are increasingly used in the industry, they remain a minority approach. The use of a rating system would be feasible in this context, but is not obviously compatible with the more traditional dispatch system. Even where consumers are given the rating of the driver allocated by an NSP and have the ability to reject the driver, the need to repeat the job allocation would add substantially to the transactions costs of the process and the time taken.

More importantly, the rating system would appear to have very limited applicability to the rank and hail market. While it would be possible to give the passenger the right to check a driver’s rating prior to entering the cab, the practical reality is that when taxis are scarce, consumers will have clear incentives to accept the driver, even if the driver has a low rating.

DEDJTR considers that these factors suggest that relying on a rating system as an alternative to the current system of driver accreditation (as authorised by Part 6 of the TCMA) and driver identification requirements (contained in the current regulations) is not an alternative that warrants further investigation.

That said, it is possible to envisage a driver rating system being used as an adjunct to the current regulatory arrangements for taxi drivers. For example, taxis could include signage requesting taxi passengers to provide ratings or feedback on their drivers (given that driver numbers are required to be displayed in the taxi), with this feedback potentially being used for one or more of the following purposes:

* Provision of feedback to operators as to their drivers’ performance, potentially allowing them to manage poorly performing drivers and, at the margin, to terminate their bailment agreements;
* Provision of feedback to the TSC, which could use this information to determine whether driver accreditation renewal applications should be granted, or potentially to require poorly performing drivers to undertake additional training or counselling;
* Development of bonus systems by operators, whereby better driver performance is positively encouraged via material rewards for consistent positive feedback.

As noted, these potential uses of ratings or feedback mechanisms could assist in improving the performance of existing drivers and identifying drivers that should be removed from the industry. However, their effectiveness would be predicated on the ability of the passenger to identify the driver – as required under the current regulations. Thus, they would appear to be a feasible adjunct to the current arrangements only, rather than an alternative. Similarly, these arrangements would not be able to substitute for the current driver accreditation arrangements authorised by the TCMA in ensuring only competent, physically fit drivers of good character are authorised to drive in the first place.

***Stakeholder question: Do you believe that there is merit in investigation of the development of a driver rating or feedback system as an adjunct to taxi regulatory requirements? Do you believe that such a system could substitute for elements of the proposed regulations? If so, when do you think it would be possible to do without the proposed regulations (i.e. now, or at a point in the future when certain pre-conditions have been satisfied)?***

## Vehicles

The current regulations essentially address vehicle safety in two ways. First, it empowers the TSC to set vehicle specifications. Second, it requires taxi operators to make their vehicles available for inspection when required by the TSC. These provisions seek to ensure, respectively, that the taxi is fit for purpose when first put into service and that it is maintained in a safe condition during its service.

**Specifications**

The current taxi specification is a detailed document that contains a number of provisions that are arguably either redundant and/or duplicative of other, more broadly applicable vehicle regulation. Indeed, in recognition of this fact, the TSC is currently working on a substantially simplified specification which is expected to focus largely or exclusively on fitness for purpose requirements for Wheelchair Accessible Taxis (WATs). This, in effect, involves taking the view that other, generally applicable vehicle regulation, plus commercial incentives, are collectively sufficient to ensure that taxi vehicles are of an adequate standard. Declaration of a simplified standard could also enable a wider group of inspectors to be authorised to conduct annual inspections on taxi vehicles – possibly embracing all those licensed to conduct RWC testing on private vehicles – since a substantial reduction in the number of taxi-specific specification would mean that a much smaller body of taxi-specific knowledge would be required to conduct inspections competently. Such a change could give rise to significant reductions in the cost of annual vehicle inspections.

Notably, however, the adoption of a streamlined standard does not require any change to the current regulatory arrangements, since current regulation 12 simply authorises the TSC to determine and publish a standard.

**Inspections**

A range of different approaches to undertaking vehicle inspections can be identified. One option, discussed in detail in Section 8.2, below, is that of eliminating periodic inspection requirements and instead relying on an enhanced system of targeted and/or random inspections. The existence of the iFACTS system and its potential for further development provide a sound basis for this approach. Secondly, operator maintenance performance could potentially be improved by regulating to establish a specific duty to conduct self-inspections of key safety factors (e.g. tyres, lights and brakes) and supplementing this with a regime of increased penalties in cases in which readily identifiable faults are found and it can be inferred that this duty has not been complied with. Other strategies could include publishing key areas of non-compliance identified through the TSC inspection program and warning operators of an impending inspection blitz focusing on these areas.

Notably, however, current regulation 19 is drafted in a general manner which simply requires operators to make taxi vehicles available for inspection on request. This implies that any of the above strategies can already be accommodated within the existing regulatory structure. Moreover, as discussed above, the TSC has progressively developed its approach to vehicle inspections issues over time, with the development of the iFACTS system facilitating a move toward the greater use of targeted inspections and potentially supporting the adoption of some of the other options highlighted above in the near future.

***Stakeholder question: Do you support the adoption of any of the above mechanisms for revising or supplementing the current use of TSC’s powers to require taxis to be made available for inspection? If so, which options to you favour, and why? Are there other potentially more effective options for addressing the issue of ensuring ongoing vehicle safety in the industry?***

## Behaviour

The current regulations regulate driver and passenger behaviour in a range of circumstances. However, data suggests that little enforcement activity occurs on many of these areas. This may, in turn, suggest that these issues are better left to private negotiation between drivers and passengers and that there is little case for regulatory intervention. This issue is addressed in the assessment of the three feasible options identified in the following sections: both Options 2 and 3 would substantially reduce the level of regulation in these areas.

To the extent that some attempts to constrain driver and/or passenger behaviour are considered still to be desirable, some alternative approaches could also be considered. One example would be a driver code of conduct, which could potentially have a quasi-regulatory status, so that evidence of a pattern of failure to uphold it could be considered by the TSC when an application to renew driver accreditation was being assessed. This could potentially be supplemented by notices displaying key elements of the Code or of any behavioural regulations retained in the taxi, so that passengers are informed as to the nature of the regulatory or other requirements in place. Alternatively, the option of driver rating systems, discussed above, could be considered an adequate alternative in this area.

Notably, however, no quantifiable costs have been identified in connection with the existing regulatory requirements in these areas (see Table 10.1), while DEDJTR and TSC are unaware of any substantive complaints regarding the operation of the current behavioural restrictions. This suggests that the current requirements in this area impose little, if any, burden.

***Stakeholder question: Is there merit in considering alternative approaches to ensuring acceptable standards of behaviour on the part of drivers and passengers, as canvassed above? If so, which provisions do you believe should be preferred? Can any significant potential problems with the adoption of such approaches be identified?***

## Fare-setting and payments

In terms of cost impacts, the key provision of the current regulations in this area is Regulation 44, which effectively empowers the TSC to set taximeter specifications by requiring that taxis can only be operated if fitted with (and using) a meter of a type approved by it. As discussed above, a RIS was released in relation to a proposed new taximeter specification during 2015. The options considered below compare the impact of proceeding to make a new taximeter specification, as foreshadowed (with amendments arising from the RIS consultation process) and retaining the existing regulation.

However, this is an area in which another potentially feasible alternative can be identified, with ride-sharing services adopting a different model. The ride-sharing model does not rely on a meter per se[[34]](#footnote-34), however, the fares charged are determined according to the same basic criteria of distance covered and time elapsed as those employed by taximeters. A key benefit for operators in the ride-sharing sector is that they are not required to purchase and maintain a dedicated taxi-meter, as the app gives access to fare calculation software via a smartphone.

It would appear feasible for a similar approach to be adopted in the taxi sector, with a smartphone app being approved by the TSC for use as a *de facto* taximeter. It is questionable whether the adoption of such an option would require any change to the current provisions of Regulation 44, with the question apparently turning on whether a smartphone app could be regarded as a “taximeter” for legal purposes in Australia.

More broadly, it can be noted that current Regulation 44 provides substantial discretion as to the specification of approved taximeter types to the TSC, thus enabling a range of alternatives to be assessed and changes made via administrative action (albeit with the RIS process needing to be followed). This discretion is expected to be broadened further under the new regulations, via replacement of references to a taxi-meter with reference to a “fare-calculating device”, or similar, thus enabling future consideration to be given to the merits of adopting smartphone apps or other such mechanisms to address fare calculation requirements. All three options discussed below would incorporate this change.

***Stakeholder question: Do you believe that there would be potential benefits in moving toward the use of a smartphone app to replace the current requirement for a physical taximeter? Would any significant problems be likely to arise were this option employed?***

## Record keeping

Given that there are already strong private incentives (e.g. business management needs) and regulatory incentives (e.g. through Australian tax law) to maintain the type of records required under the industry accreditation regulations it is reasonable to raise doubts about the continued need for the regulations. The fact that parts of the taxi industry that are not formally required to comply with key aspects of the regulations apparently do so voluntarily underlines this point. For example, the industry accreditation regulations only require GPS units to be fitted to taxis licensed to operate in the metropolitan zone, however, all taxis in the urban and regional as well as most country taxis are fitted with GPS units and provide quarterly data to the TSC in accordance with long standing data collection and transmission arrangements.

GPS information is critical to the management of taxis. It provides a means for taxi operators to remotely and cost effectively monitor the use of taxis by bailee drivers to ensure that drivers are, for example, working when they should be (in the interests of maximising the farebox); and using the taximeter for all hirings as required (instead of completing cash jobs “off the books”). For these reasons, GPS systems would almost certainly be fitted to taxis irrespective of whether required by regulation – as evidenced by the fitting of GPS units to taxis licensed to operate in the urban, regional and country zones.

In the future, given the growing importance and prevalence of smartphone based apps that use GPS information, the private incentive to have GPS information available for each taxi is likely to grow, rather than diminish. Equally, the private incentives for taxi and hire car operators to continue to collect and maintain the type of records that are required to be kept is not likely to change, so it is reasonable to consider removing such regulations.

However, a key factor suggesting the continued need to have such regulations in place is the compliance monitoring and enforcement powers made available to the TSC under Division 4ABA of Part VII of the TCMA. The right established in the TCMA for the TSC to inspect, seize or copy records in certain circumstances without a warrant extends only to records required to be kept under the TCMA or under the regulations. The specific powers provided under the industry accreditation regulations (Regulations 10 and 11) are similarly limited and constrained.

There is, in theory, the option to remove the limits on the TSC powers and consequently remove the regulations. However, this would only be possible through legislative change, which is outside the scope of this regulation review process. There would also be likely to be significant concern regarding such a proposed course of action, since the removal of such limits, could, for example, enable the TSC to request information that is not ordinarily kept and would need to be compiled by the regulated party at considerable cost.

A key consideration is that the costs that can be attributed to the record keeping requirements specified in the industry accreditation regulations is very low, as confirmed in two rounds of consultation undertaken with representatives of key stakeholder groups since the review of the current regulations commenced. Operators indicated that GPS units would have been fitted and all required records would have been kept even in the absence of any regulatory requirement. The practical effect of maintaining the record keeping requirements in the regulations is therefore largely limited to enabling the TSC to access information needed for compliance monitoring and enforcement purposes when required.

Given this, consideration could be given to the option of extending the current record-keeping requirement to include non-metropolitan taxis. As noted above, all urban and regional taxis and a large proportion of country taxis already have GPS devices fitted and, hence, collect the required information. Extending the regulatory requirement to keep these records would have the advantage of providing the TSC with an explicit power to require access to these records and would not appear to be likely to impose significant additional costs[[35]](#footnote-35).

Another option is to adopt a more outcome-oriented version of the record-keeping requirements, which would not specify the nature of the device to be fitted to the taxi but, instead, would simply specify the nature of the data that would need to be collected. This could facilitate the use of lower-cost smartphone based apps in the future, in preference to separate GPS devices.

**Stakeholder question: Do you foresee any problems associated with extending GPS requirements currently specified in the industry accreditation regulations to all taxis or all commercial passenger vehicles? For example, are there any additional costs or impacts of concern?**

**Stakeholder question: In order to enable technical innovation do you think it would be better to require GPS information to be collected and recorded without specifying how the information will be collected? (e.g. through smartphone instead of specific GPS unit).**

## Conclusion

The above discussion has highlighted a number of potential alternatives to key elements of the current regulatory approach, with options being considered at the level of the five key issues addressed by the current regulations – i.e. drivers, vehicles, record-keeping, behaviour and fare-setting/payments. It has been concluded that several of these possible options fall below the threshold of feasibility. Others are potentially plausible and are subject to ongoing consideration by DEDJTR and the TSC, but are capable of being implemented under the existing regulatory arrangements. These relate in particular to requirements in relation to taxi-meters, vehicle inspections, vehicle specifications and security cameras.

Given this, the following sections identify and analyse three feasible alternative options, all of which constitute variants on the current regulatory arrangements.

Option 1 involves remaking the current regulations without substantive amendment.

Option 2 involves streamlining the current regulations in a range of areas, with quantifiable cost reductions relating particularly to the adoption of a simplified security camera specification which also incorporates a mutual recognition provision.

Option 3 would further reduce expected regulatory costs, particularly by substituting an enhanced targeted inspection program for the current annual inspection requirement, retaining the existing taximeter specification and removing the requirement for taxi drivers to wear an approved uniform.

Notably, the first two of the changes incorporated into Option 3 can both be made administratively – i.e. without change to the relevant regulatory requirements. Thus, in a formal sense, there is limited difference between the regulations that would be made under Options 2 and 3. However, these options have been presented separately in order to clarify the implications of different decisions in these key areas which are major regulatory cost drivers and encourage comment from stakeholders on the preferred approach to these issues.

These three options can be seen as summarising the outcome of a detailed review and analysis of the current regulations undertaken by a working group comprising DEDJTR and TSC officials as well as external consultants. In practice, the relative merits of retaining, amending of removing existing provisions was conducted on a regulation by regulation basis, albeit that some interactions between regulations necessarily had to be considered in working through this process. Appendix 4, below, summarises the deliberations of the working group at the level of individual regulations, identifying the specific objective sought by each regulation, setting out the options considered and providing a brief conclusion explaining the rationale for the decision reached.

In this context, the three options discussed in Sections 6 to 8, below, can be seen as broadly summarising the different approaches that are considered to be feasible within the context of the larger legislative environment that currently regulates the operation of the taxi industry in Victoria. As noted, DEDJTR believes that changes in the operating environment facing taxis requires serious consideration to be given to a significant streamlining of the current regulations to reduce regulatory costs and facilitate competition. Options 1 and 2 thus highlight and contrast the implications of adopting a streamlined set of regulations with those of remaking the existing regulations, while Option 3 highlights the additional cost savings that could feasibly be achieved through adopting a more minimalist approach in key areas.

However, it is clearly possible for regulations to be made that differ from any of the discrete options presented below in specific areas.

***Stakeholders are invited to review the detailed material presented in Appendix 4 and provide comment in relation to the conclusions reached in respect of individual regulations.***

# Option 1: Remake the regulations without substantive amendment

## Description of the option

This option would involve remaking the sunsetting regulations with minimal amendments. The only significant changes that would be adopted under option 1 would be to restructure and renumber the regulations in the interests of legibility and transparency. The need for this change arises from the fact that the current regulations have been frequently and substantially amended in the 11 years since they came into effect. These changes have included both the insertion of substantial new regulations and the removal of a range of provisions. Amendments reflect both broader policy changes and, in particular, changes made in response to specific issues arising in the taxi and hire car industries over time.

## Expected benefits of Option 1

The key benefit of adopting option 1 would be that it would serve to maintain regulatory consistency and eliminate any transitional costs associated with the adoption of new regulatory requirements or the removal of existing requirements. As noted in section 2, the current regulations, when initially adopted in 2005, themselves largely re-made the previous 1994 regulations. However, they have been subject to a number of specific amendments during the past 11 years. Thus, while the sunsetting mechanism specified by the *Subordinate Legislation Act 1994* is intended to encourage and facilitate the periodic review and reconsideration of existing regulatory structures, the significant revision and updating of these regulations which has been undertaken over the past several years suggests that significant change may not be necessary in the current context.

It is also arguable that it is appropriate to avoid adopting substantial changes to the existing regulatory structure surrounding the taxi industry at the current time, in which significant change in the environment in which the commercial passenger vehicle industry operates is underway and significant uncertainty exists as to the future shape of the industry. In this view, remaking the existing regulations in broadly their current form would provide stability in the short term and enable consideration of appropriate future changes to occur in a context in which a better understanding of the changing dynamics of the industry was available.

## 6.3 Expected costs of Option 1

Table 6.1 (next page), summarises the quantifiable costs of Option 1. The methodology underlying these cost estimates is set out in Appendix 3 and is necessarily used in the assessment of the expected costs of all of the options discussed.

Industry costs, costs to the regulator (i.e. TSC) and costs borne by other government agencies are separately identified. The present value of the total costs associated with the adoption of Option 1 over a 10 year expected lifespan is $90.6 million. This is equivalent to approximately $13.2 million per annum. Industry would bear $76.0 million, 84.0% of these total costs, while the TSC would bear most of most of the remainder ($13.0 million, or 14.3%).

**Table 6.1: Expected costs of Option 1**

|  |  |  |  |
| --- | --- | --- | --- |
| **Item** | **Annual cost** | **PV over 10 years** | **% of total cost** |
| **Industry costs** | **$11,402,780.33** | **$76,043,241.05** |  |
| Photo ID requirement | $76,097 | $617,214 | 0.8% |
| Complying security cameras | $2,850,000 | $23,116,053 | 30.4% |
| Fitment of security cameras | $262,500 | $2,129,110 | 2.8% |
| Annual inspections | $2,012,500 | $16,323,178 | 21.5% |
| Inspections (time cost to taxis) | $93,750 | $760,396 | 2.3% |
| Time cost of annual inspections | $215,625 | $1,748,912 | 4.0% |
| Signs, stickers etc to be affixed | $378,542 | $3,070,312 | 0.2% |
| Fitting of stickers | $19,1677 | $155,459 | 0.0% |
| Dome lights | $218,500 | $1,772,231 | 2.3% |
| Fitting of dome lights | $57,500 | $466,377 | 0.6% |
| Uniforms[[36]](#footnote-36) | $1,863,720.00 | $15,116,438.68 | 19.9% |
| Taximeter specs - Cost of new meters | $2,300,000 | $2,211,538 | 2.9% |
| Taximeter specs - operating cost | $1,035,000 | $8,394,777 | 11.0% |
| Stickers displaying max. fare (regional/country) | $19,880.00 | $161,244.61 | 0.2% |
| **TSC Costs** | **$1,598,091.00** | **$12,961,949.55** |  |
| Security camera download cost | $140,000 | $1,135,525 | 1.5% |
| Vehicle to be made available for inspec. (TSC Cost) | $1,458,091 | $11,826,424 | 15.6% |
| **Other government costs** |  |  |  |
| Doctors only to administer eye test | $191,808 | $1,555,733 | 2.0% |
| **Total Cost** | **$13,192,679.18** | **$90,560,924.08** |  |

Table 6.1 shows that the largest single cost item incurred under option one is that of the fitment of complying security cameras, which accounts for slightly more than 30% of the total expected cost. The second largest cost item is that of annual vehicle inspections, which accounts for 21.5% of the total, while the cost of driver uniforms accounts for approximately 20% of the total. The other major cost item from the operator perspective is the costs involved in installing and maintaining complying taximeters, which account for 13.9% of the total costs incurred.

**Costs to TSC**

In addition to the costs borne by the taxi industry and its customers, the TSC incurs the significant costs in connection with the administration and enforcement of the regulations. These costs are primarily associated with the operation of its programme of targeted and random vehicle inspections which, as noted above, resulted in almost 13,000 inspections being undertaken during 2014 – 15.

This includes the costs associated with the Quality Assurance Centre which it established at Tullamarine during 2014 – 15 to replace its former inspection centre at Melbourne airport. The QAC provides a site to inspect commercial passenger vehicles to ensure they comply with taxi and passenger vehicle regulations and legislation.

The TSC has worked to minimise these costs through the adoption over the past two years of its “iFACTS” tablet-based software which is used to monitor industry trends and identify vehicles for inspections based on risk profile. Thus, the inspection regime has moved over this period from being a random inspection regime to a broadly targeted one. This has enabled the TSC to significantly reduce progressively the number of inspections carried out, and hence the cost of inspection activity, without any decline in the rate of non-compliance detected[[37]](#footnote-37). The move from a random to a targeted inspection program has meant the total inspection numbers have declined by around 43% over this period, from almost 23,000 in 2012 – 13 to 17,226 in 2013 – 14 and 12,944 during 2014 – 15. Notably, however, the current rate of inspection activity remains approximately twice as high as that reported by the previous regulator in 2006 – 07[[38]](#footnote-38).

# Option 2: Remake streamlined and simplified regulations

## Description of the option

Option 2 involves remaking the regulations in a substantially streamlined form, with a large number of regulations being allowed to lapse, while others are amended substantively. As discussed in section 2, a key driver underlying the proposal of Option 2 is that the taxi industry has, in recent years, faced an increasingly competitive operating environment. These competitive pressures are likely to become more pressing in the medium term. In this context, it is appropriate for careful reconsideration of existing regulatory requirements to be undertaken with a view to identifying and amending or removing unnecessary, ineffective and unduly costly regulation. The purpose of this process should be to maximise the ability of the taxi industry to compete in the wider commercial passenger vehicle market by minimising regulatory costs and impediments, while retaining an adequate degree of consumer protection.

Appendix 2 sets out in detail the changes to the existing regulations that would be made under Option 2. The following provides a general summary of these changes. As noted in section 2, the current regulations broadly cover five areas: drivers, vehicles, record-keeping, driving operations and behaviour. The following summary is organised under these five headings. Overall, 11 substantive regulatory provisions would be removed (i.e. would not be remade) under Option 2, while a further 9 would be substantially simplified and/or reduced in scope.

As noted above, the development of Option 2 focused on identifying aspects of the existing regulations that are duplicative of other regulation, or otherwise considered unnecessary, ineffective in practice and those that are considered to be unduly costly, having regard to the benefits that they provide. In broad terms, the regulations proposed to be allowed to lapse, or else be substantially simplified and streamlined, fall into the following categories.

***Regulatory duplication, or matters better dealt with via other instruments***

In several cases, existing provisions have been identified as either being duplicative of other, existing legislation or regulation or else as being more appropriately dealt with in other contexts.

**Reg 10:** requires licences to be returned and to the regulator if suspended or cancelled. This requirement can be addressed under administrative procedures, and this approach is considered more appropriate.

**Reg 22D:** requires that taxis rendered unsafe by damage incurred not be used. This requirement is already established through the road safety regulations administered by VicRoads, and is therefore considered redundant.

Allowing these two provisions of the existing regulations to lapse is not expected to yield any substantive reduction in regulatory costs for taxi operators or drivers. However, they are proposed under Option 2 as means of simplifying the proposed regulations and clarifying the requirements that apply by avoiding actual or potential regulatory duplication.

***Ineffective or redundant regulation***

A number of provisions of the current regulations are considered to be ineffective, either because adequate private or other incentives exist to behave in the manner required by the regulatory provision or because, while there is some merit in seeking to ensure that drivers and/or passengers do behave in the terms provided in the regulations, the regulations have proved to have little or no effectiveness in practice. This lack of effectiveness has been identified in terms of a lack of complaints of poor behaviour in these areas and/or a lack of effective enforcement action in respect of non-compliance. It should be noted, in this context, that the consequences of non-compliance with regulations in this category are generally small. Hence, another reason for proposing to allow these provisions to lapse under Option 2 is that significant doubt exists as to whether the harm which they seek to address can be said to cross the minimum threshold above which government regulatory intervention can be said to be required. That is, these provisions are arguably not consistent with the adoption of the principle of “minimum necessary regulation”. The following provisions are in this category and would be allowed to lapse under Option 2:

**Reg 5:** The current regulations contain two provisions in relation to a driver’s medical fitness to drive. The first specifies that a medical practitioner is required to conduct the test of visual acuity, while the second establishes a taxi specific test for this purpose. This latter provision would be removed under option two, as it is not considered that there is a need for a taxi specific test to be administered. That is, an appropriate standard of visual acuity is the same as that required for all licensed drivers.

**Reg 18:** requires that all taxis be fitted with an operational air conditioner. This is considered to be redundant, given that all vehicles of a type likely to be employed as a taxi already come fitted with air conditioners and that these are likely to be maintained in working order in part to ensure adequate working conditions for drivers, who would otherwise be likely to be the major complainants regarding this issue.

**Reg 26:** require tariff lights to be fitted to dome lights. This provision, which indicates which tariff is in effect to persons outside the taxi, is considered redundant as the taximeter displays this information.

**Reg 30:** Requires drivers to stay with their taxis at ranks. This provision is considered redundant, as drivers have private incentives to stay with their taxi in order to ensure they are available to accept a fare.

**Reg 34:** Requirements that drivers comply with passenger requests in relation to heaters, air conditioners and radios would be removed, on the grounds that this issue can be regarded as being reasonably within the scope of negotiation between drivers and passengers.

**Reg 35:** Requires drivers to pick up or put down passengers as close as possible to the place requested. This is considered largely redundant given the absence of complaints in this regard and the fact that this issue can be regarded as being reasonably within the scope of negotiation between drivers and passengers.

**Reg 37:** Requires drivers to provide assistance with luggage. This provision is considered as redundant, given that no infringements of been issued or complaints have been recorded for failure to comply with this regulation, while the issue in question is considered to fall reasonably within the scope of negotiation between the driver and passenger.

**Reg 38:** Specifies rules for behaviour at taxi ranks. As with regulation 30, it is considered that there are sufficient private incentives to ensure that taxis move to the next available position in the taxi rank, thus ensuring its efficient operation.

**Reg 43(1)-(4):** requires drivers to explain the fare and additional charges if requested, and to accept electronic payment if signage advises that such payment is accepted. It is considered that there are sufficient private incentives to accept electronic payment.

**Reg 46A:** prohibits passengers from drinking alcohol in the taxi. This provision is considered to be essentially unnecessary, given that there is no equivalent general provision on the consumption of alcohol in private vehicles. It is also reasonably open to negotiation between the driver and passengers.

***Regulations to be retained but amended***

Certain regulation is considered to require retention but is in need of revision to improve the balance of benefits and costs that it confers. This includes:

**Reg 12:** provides a head of power for the regulator to declare vehicle specifications. Considerable duplication with the Australian Design Rules exists, suggesting this material should be removed, while a recent TSC commissioned report indicates that there is no strong safety-based rationale for retaining taxi age limits. It is therefore expected that a revised vehicle specification will be a minimalist in nature and effectively restricted to setting out requirements for WATs, which are taxi specific.

**Reg 15:** Requires security cameras to be fitted. The current specification sets out similar functional requirements to those found in the equivalent NSW specification, but is substantially more detailed, particularly in respect of specific requirements to demonstrate compliance. The combination of minor differences in the functional aspects of the specification and the additional requirements in respect of demonstrating compliance has resulted in a situation in which only one camera has been approved for use in Victorian taxis, whereas eight cameras are approved as meeting the New South Wales specification. The cost of meeting the Victorian specification is substantially higher than that of meeting the New South Wales specification, with the cost of meeting the latter being the lowest in the country. Revision of the specification to more closely resemble that in effect in New South Wales would be expected to reduce the minimum cost of a complying camera to that currently ruling in New South Wales ($2400, fitted), a significant reduction in the current fitted cost of a complying Victorian camera of $4150, but one which is not expected to entail any appreciable reduction in functionality.

It should be noted that the current Regulation 15 simply provides a head of power for the TSC to declare a security camera specification. By contrast, Option 2 involves changing this arrangement by incorporating the modified camera specification into the proposed regulations as a schedule, thus ensuring greater transparency as to the requirements. Option 2 would also include a mutual recognition provision, enabling any camera approved for use in taxis in another Australian state to be used in Victorian taxis.

**Reg 16:** **Security screens**. Regulation 16 provides that if a screen is fitted to provide protection to the driver it must be fitted in a manner approved by the regulator. Protective screens, which are only fitted at the request of individual drivers, are very rarely used in practice in Victoria, while it is not clear that specifying a particular means of fitting them provides any significant benefit in terms of the degree of safety protection which they offer in practice. Hence, this provision would be allowed to lapse under Option 2. However, a new regulation would require a taxi operator to fit a screen if requested by a driver. A similar provision, requiring operators to have available a protective screen for each taxi vehicle and to fit it on request is currently adopted as a licence condition for all taxi operators. Hence, the inclusion of this regulation has two effects: it transfers the existing requirement from being a condition imposed on individual licences to one which is transparently included as part of the regulations and it removes the effective requirement for operators to have one screen per taxi, thus giving rise to some regulatory cost reductions over time.

**Reg 33: Animals:** A requirement that drivers not carry animals, other than assistance animals would be removed, enabling this issue to be negotiated on a case-by-case basis by the parties.

**Regs 44, 45:** empowers the regulator to set taximeter specifications and require that complying meters be used. While an RIS was published in respect of a proposed new taximeter specifications during 2015, modifications to the proposed specification intended to increase flexibility and reduce costs by adopting a more performance oriented approach are currently under consideration. However, the terms of this head of power itself would not change under option two.

**Regs 7 and 9 and schedules 1,2 and 3 of the industry accreditation regulations** require taxi operators and network service providers to keep and maintain records. The records that are required to be kept have been reviewed and streamlined (reduced) to reflect what TSC needs for compliance monitoring and enforcement purposes.

**Regs 17 – 20 of the industry accreditation regulations** require taxi operators to ensure that all complaints are investigated in a manner consistent with AS/NZS 10002:2014, but provide that this responsibility can be taken on by any Network Service Provider (NSP) with which they are affiliated.

## Expected costs of the option

Table 7.1, below, provides estimates of the quantifiable costs associated with the adoption of Option 2. The costing of the security camera requirement is based on the installed cost of the cheapest camera that currently complies with the New South Wales specification, given the proposed inclusion of a mutual recognition provision in the proposed regulations under Option 2.

In relation to the taximeter specification, the proposed regulation would simply establish a head of power for the TSC to set a specification, as is the case with the current regulations. The costing included is drawn from the 2015 RIS in respect of the TSC’s proposed new taximeter specification, as this represents the best available indication of TSC’s current view as to how they will exercise such a power in the short term. However, it should be noted that alternative decisions, with different cost implications, are also feasible given the continuation of a generic head of power in this area.

This is also the case in respect of the head of power enabling TSC to require vehicles to be made available for inspections. Option 2 assumes the continuation of current TSC practice in this area, with taxis being required to be inspected annually and these annual inspections being supplemented by both targeted and random inspection programs. However, it would be possible for TSC to change their approach in this area (as has occurred to some extent in recent years) without any requirement for further regulatory change. Should they do so, significant changes in the likely regulatory costs of Option 2 modelled below could occur.

No cost estimates have been included in respect of the remaking of a streamlined version of the industry accreditation regulations. This reflects DEDJTR’s view that the remaking of these regulations will not impose any substantive, attributable costs on the industry. The two key elements of these regulations are those relating to police checks and to record-keeping. The industry accreditation regulations also require taxi operators and network service providers to establish complaints handling systems that comply with AS/NZS 10002:2014.

The regulations permit network service providers to fulfil complaints management functions on behalf of operators that are affiliated with them. As a result, in practice, all complaints are managed by the networks. The costs associated with the requirement to establish complaints management systems that comply with AS/NZS 10002:2014 have already been incurred and the ongoing costs associated with implementing such a system are not materially different to those that relate to any complaints management system. Under the base case of zero regulations, it is reasonable to assume that network service providers would have established complaints management systems so it reasonable to expect that the costs that can be directly attributed to the regulations are not significant.

In relation to police checks, Section 132(2)(b)(2) of the TCMA states that applicants for accreditation as an operator must provide “evidence, as required by the regulations, that each relevant person in relation to the applicant, satisfies the requirements for the relevant accreditation”. The regulations provide that a police check constitutes the required evidence that an applicant has not been found guilty of any disqualifying offences. However, given that the Act itself requires “evidence” to be provided and that a police check constitutes the lowest-cost method able to be identified of providing such evidence, it is considered that the regulations, in specifying this particular form of evidence, does not impose any cost additional to that entailed by the Act – i.e. the cost of the police check is not properly attributed to the regulations. In any event, the police check requirement applies only to initial applications for accreditation as an operator. Thus, given that all existing operators have already complied with this requirement, only a small annual number of new applicants for operator accreditation are affected by this provision.

In relation to record-keeping, operators uniformly indicated to DEDJTR during its extensive recent consultations in relation to the remaking of the regulations that they believed that the record-keeping requirements contained in the current regulations imposed no substantive costs on them, beyond those that they would incur for commercial reasons in the absence of the regulations.

The quantified costs total $64.8 million in present value terms over 10 years. Slightly more than three quarters of this total ($50.3 million) would be incurred by taxi operators in the first instance, while the TSC would bear the bulk of the remainder ($13.0 million).

**Table 7.1: Expected costs of Option 2**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Item** | **Annual cost** | **PV over 10 years** | | **% of total cost** | |
| **Industry costs** | **$10,090,280** | **$65,397,690** | | 81.8% | |
| Photo ID requirement | $76,097 | $617,214 | | 0.8% | |
| Complying security cameras (includes fitting) | $1,800,000 | $14,599,612 | | 18.3% | |
| Inspections (time cost to taxis) | $93,750 | $760,396 | | 1.0% | |
| Annual inspections | $2,012,500 | $16,323,178 | | 20.4% | |
| Time cost of annual inspections | $215,625 | $1,748,912 | | 2.2% | |
| Signs, stickers etc to be affixed | $378,542 | $3,070,312 | | 3.8% | |
| Fitting of stickers | $19,1677 | $155,459 | | 0.2% | |
| Dome lights | $218,500 | $1,772,231 | | 2.2% | |
| Fitting of dome lights | $57,500 | $466,377 | | 0.6% | |
| Uniforms[[39]](#footnote-39) | $1,863,720.00 | | $15,116,438.68 | | 18.9% |
| Taximeter specs - Cost of new meters | $2,300,000 | $2,211,538 | | 2.8% | |
| Taximeter specs - operating cost | $1,035,000 | $8,394,777 | | 10.5% | |
| Stickers displaying max. fares (regional/country) | $19,880 | $161,245 | | 0.2% | |
| **TSC Costs** | **$1,598,091** | **$12,961,950** | |  | |
| Security camera download cost | $140,000 | $1,135,525 | | 1.4% | |
| Vehicle to be made available for inspec. (TSC Cost) | $1,458,091 | $11,826,424 | | 14.8% | |
| **Other government costs** |  |  | |  | |
| Doctors only to administer eye test | $191,808 | $1,555,733 | | 1.9% | |
| **Total Cost** | **$11,880,179** | **$79,915,373** | |  | |

## Expected benefits of the option

The benefits associated with Option 2 are expected to be broadly equivalent to those that would arise under Option 1 – i.e., the remaking of the existing regulations. As discussed in section 7.1, a significant number of the regulations that would be allowed to lapse under Option 2 are believed by the TSC, on the basis of its regulatory experience, to be largely ineffective in practice or else to duplicate other regulatory requirements and therefore offer no significant additional benefits.

As indicated in section 7.2, one significant quantifiable cost saving would be expected to arise if Option 2 is adopted. However, while regulatory costs savings are often accompanied by a reduction in expected benefits, there are strong reasons to believe that this would not be the case in respect of Option 2.

The key quantifiable cost saving associated with the adoption of Option 2 is a result of proposed changes to the security camera specification. A significant reduction in benefits could be expected to result, should the cost savings be achieved at the expense of a significant loss of security camera functionality. However, a careful comparison of the functional requirements of the current Victorian and New South Wales security camera specifications indicates that these are very similar and that most of the substantial current difference between the price of a camera that complies with the Victorian specification and the price of the cheapest camera that is compliant with the New South Wales specification appears largely to relate to the extensive detail incorporated in the former specification in relation to the demonstration of compliance.

Consequently, the adoption of a simplified specification which retains similar functional requirements is expected to enable less expensive cameras to satisfy the regulatory requirements and be brought into the Victorian market. The key functional difference between the existing and proposed specification is the removal of the current requirement for the camera to be water- and fire-proof, in the sense that images remain retrievable in the event of fire. This requirement has been removed as there is no evidence of a significant number of such incidents having occurred. Hence, little or no benefit is conferred by the inclusion of this requirement in the specification.

As noted above, the substantial streamlining in the requirements for demonstrating compliance that would result from the adoption of the proposed specification is expected to facilitate the approval of new, competing cameras and, by enhancing competition in the market, to assist in driving down average prices. Finally, a key aspect of the proposed specification is the inclusion of a “mutual recognition” provision, which would enable any camera approved for use in taxis in another Australian state to be used by Victorian taxis. This will ensure that lower cost cameras will be able to be used in the Victorian market, while also ensuring that such cameras meet similar technical standards to those specified in the Victorian regulations.

# Option 3: Make minimal regulations only

## Description of the option

Option 3 would involve adopting a minimal approach to the remaking of the current regulations. As such, it would involve a slightly greater degree of streamlining of the existing regulations than that proposed in Option 2. The three areas in which Option 3 differs from Option 2 are as follows:

**Vehicle inspections**

The largest single difference between Options 2 and 3 would relate to vehicle inspections. All three options would entail retaining a head of power for the TSC or police to require a taxi to be made available for inspection, consistent with current Regulation 19. However, the analysis of both Options 1 and 2 has assumed that this power would continue to be exercised in a similar manner to that currently employed by the TSC – i.e. via a combination of annual inspection and targeted/random inspection requirements.

By contrast, Option 3 assumes that this power would be employed in a fundamentally different manner, which is consistent with the general specification of Option 3 as the cost-minimising approach to replacing the current regulations[[40]](#footnote-40). Thus, under Option 3, the TSC, would move entirely to reliance on random and targeted inspections. That is, the annual inspection requirement for all taxis would be eliminated. However, as a consequence of this shift to a complete reliance on targeted at random inspections, activity in this area would be substantially increased. The costings presented below are based on a doubling of TSC expenditures on this program, however, the size of the expenditures required would necessarily be determined over time by assessments of the effectiveness of the random and/or targeted inspection regime adopted.

It should be noted that the current regulations do not specifically require annual inspections to be undertaken. Rather, this requirement has been established administratively, through TSC’s decision to use the head of power provided in the regulations to require annual inspections as part of its overall approach to this issue. Consequently, the adoption of this element of Option 3 does not actually require any change to the existing regulatory provision in this area, or that proposed under Option 2.

**Uniforms**

Regulation 31 requires taxi drivers to wear an approved uniform. This provision was initially adopted in order to require minimum standards of personal presentation to be met by drivers, thus contributing to ensuring minimum service standards for passengers. However, experience raises questions as to the extent of the impact of this provision in practice, as significant numbers of complaints continue to be made regarding driver appearance[[41]](#footnote-41). while it has arguably imposed significant costs. It can reasonably be argued that operators should take responsibility for the standards of presentation of their drivers, rather than this being the subject of regulatory intervention. Hence, given the “minimum necessary regulation” basis of this option, this regulation would be allowed to lapse under option three.

**Taximeter specifications**

As noted above, current regulations 44 and 45 empower the TSC to set taximeter specification and require all taxis to have a functioning meter that meets the specification. This requirement would be retained under all three options identified and analysed in this RIS, with the key change to be made (under all options considered, as noted above) being that the head of power would refer more generically to a “fare calculation device”, rather than a “taximeter”, thus potentially paving the way for alternatives based on new technology – such as smartphone apps – be specified as compliant in the future.

The proposed maintenance of a head of power for TSC to specify a fare calculation device effectively implies that the content of this specification can be changed from time to time via administrative action by the TSC[[42]](#footnote-42). It has been assumed, in analysing Options 1 and 2 above, that the TSC would proceed to adopt a new taximeter specification along the lines set out and analysed in the 2015 RIS on this issue.

By contrast, Option 3 is based on the assumption that the existing taximeter specification would be retained. This approach is consistent with the general specification of Option 3 as a minimalist, or lowest cost, approach to the replacement of the current regulations, consistent with the requirements of the broader structure of taxi legislation. Retaining the existing specification would mean that existing taximeters could continue to be used during the life of the regulations, rather than all taxi operators having to replace all existing meters in year one, as would be the case under Options 1 and 2.

## Expected benefits of Option 3

As Option 3 differs from Option 2 in only a limited number of respects, it is clear that the benefits of Option 3 are likely to be broadly similar to those of Option 2. As noted above, the largest single difference between the two options is that Option 3 would involve the removal of the current annual inspection requirement and an offsetting doubling of the current targeted and random inspection program[[43]](#footnote-43). It could also be expected that changes would be made in the direction of increasing the sanctions effectively applied in practice for non-compliance. A doubling of the expenditure allocated to the current targeted and random inspection program could potentially imply around 30,000 inspections being conducted per annum, with a large majority of these being targeted, “issue specific” inspections, as at present. Alternatively, the focus of this program could potentially be revised to include a larger element of full vehicle inspections than at present, in recognition of the fact that the annual inspection of all taxi vehicles would no longer be undertaken.

Given the ability of the TSC’s iFACTS software to target inspections toward poorly performing operators, it is likely that an expanded programme of targeted inspections could be as effective in minimising overall vehicle defect rates as would the continuation of the current arrangements (including the annual inspection requirement), particularly if it were to be accompanied by an increase in penalties for non-compliance. The iFACTS software provides a basis for identifying a range of indicators that can be used to better target inspection activity. That is, inspection data can be analysed in order to identify any characteristics of taxi vehicles that are correlated with higher levels of defects. For example, the data can be analysed to determine whether correlations exist between defect frequency and vehicle age, or between different types of defects. This information could also be used to drive associated publicity campaigns which would identify key areas of concern (i.e. those where high levels of non-compliance have been detected and which are safety critical) and indicate that these will be areas of particular focus, thus encouraging improved “voluntary compliance” activity by operators.

A particular consideration in assessing the likely effectiveness of this approach is that the feedback loops built into this software would ensure that TSC would be able to identify any operators who responded to the abolition of the annual inspection requirement by reducing the extent of their maintenance programs and would be able to ensure that these were adequately targeted for a high level of ongoing inspection activity.

Conversely, it was noted above that taxis cover approximately 120,000 kilometres annually, or almost nine times the average distance of a private vehicle. Given that all private vehicles are required to be inspected for roadworthiness on sale, so that most are inspected on average every few years, it is arguable that there is a public expectation that all taxis should be inspected on a periodic basis, rather than inspection being solely based on an algorithm that may not see a specific taxi inspected for an extended period of time. As noted above, vehicle defects are believed to contribute to around 6% of accidents, suggesting that ensuring that all taxis are inspected regularly is likely to have important safety benefits. To this extent, Option 3 is likely to yield somewhat smaller safety benefits than Options 1 and 2, albeit that the size of this difference cannot be quantified.

The second area in which Option 3 differs from Option 2 is that of taximeter specifications. By retaining the existing taximeter specification, the benefits of the proposed new specification identified in the 2015 RIS would be foregone. The 2015 RIS argued that:

*“In preparation of this RIS, the TSC consulted with a wide range of stakeholders to validate the benefits expected to be achieved. It was not possible to quantify these benefits, however there was widespread agreement that the relatively small cost of the new Fare Devices were more than offset by the benefits.”[[44]](#footnote-44)*

The RIS also assessed the new taximeter specification as being preferred to the maintenance of the existing specification, on the basis of a multi-criteria analysis which weighed the costs imposed against three types of benefit, namely:

* Customer experience: Passengers should have confidence that they are being offered quality service, being charged correctly and fairly;
* Safety: the ability to better monitor and analyse incidents; and
* MPTP competition: the consumer benefits of greater competition in processing MPTP payments.

These benefits would necessarily be foregone, should Option 3 be adopted in preference to either Options 1 or 2 (both of which would entail proceeding with the new taximeter specification)[[45]](#footnote-45).

Review of the expected benefits of the proposed changes to taximeter specifications which would be adopted under option 2, as discussed in the 2015 RIS, indicate that they involve relatively marginal improvements in the information provided to passengers and the provision of additional information to the TSC which, it is hoped, would support improved regulatory decision making over the medium term. These benefits would clearly be lost under Option 3, given that it would involve maintaining the existing taximeter specification into the foreseeable future.

Conversely, however, a key benefit of Option 3 is that it avoids imposing a significant year 1 cost on all taxi operators, via the requirement to install new and improved taximeters in the short term. The retention of the current specification in the medium term would also have the benefit of enabling greater consideration to be given to the potential to use other, more flexible approaches to the metering of taxi fares in the future, including smartphone apps equivalent to those now being used in the ride-sharing sector[[46]](#footnote-46). Were the current specification to be retained in the short term, it would potentially enable an effective fare device to be specified in the medium term at significantly lower cost than that identified in the 2015 RIS in respect of new taxi-meters that are capable of meeting the then-proposed specification.

Another significant regulatory cost reduction associated with adopting Option 3 in preference to Option 2 arises due to the proposed removal of the requirement for taxi drivers to wear uniforms. As noted above, while this provision was initially adopted in order to require minimum standards of personal presentation to be met by drivers, thus contributing to ensuring minimum service standards for passengers, experience suggests that it has had limited impact in this area, while the 2008 RIS indicated that it would impose significant costs. The costs attributed to the uniform requirement under Options 1 and 2 – and hence the expected savings due to its abolition under Option 3 – are based on the estimates included in the 2008 RIS. However, there is necessarily some doubt as to the actual magnitude of this cost saving in practice, for two reasons. Firstly, it is possible – even likely, based on consultation comments received – that many operators and/or NSPs will require drivers to continue to wear uniforms as a matter of corporate policy. To the extent that this occurs, the cost savings will clearly be lower than suggested in Table 8.1, below. Second, the cost savings highlighted above can be considered to be “gross” cost savings, in the sense that, while drivers may no longer be required to purchase uniforms, they will necessarily continue to incur some costs in providing alternative clothing to wear while driving.

## Expected costs of Option 3

Table 8.1, below, sets out the quantifiable costs of Option 3. It shows that the present value of the expected costs of Option 3 over 10 years totals $53.5 million, or approximately $26.4 million less than the expected costs of Option 2. In addition, the distribution of the costs involved differs significantly between the two options. Specifically, Option 3 involves the imposition of substantially lower costs on the taxi industry ($27.1 million vs $65.4 million), while the expected costs to the TSC are significantly higher ($24.8 million vs $13.0 million). In total, only slightly more than half of the total costs of Option 3 are borne by the industry, with the TSC bearing most of the remaining total costs.

This change in cost incidence reflects the fact that Option 3 involves an assumption that the TSC would choose to adopt a significantly different approach to vehicle inspection arrangements which, in effect, entails the TSC bearing virtually the full cost of all inspection activities. This, in turn, is a reflection of the fact that all inspections undertaken under Option 3 would be conducted on a targeted or a random basis and, consequently, it would not be appropriate or feasible to levy direct charges on vehicles selected for inspection. Conversely, under Option 2, the cost of the annual inspection program is borne by taxi operators.

**Table 8.1: Expected costs of Option 3**

|  |  |  |  |
| --- | --- | --- | --- |
| **Item** | **Annual cost** | **PV over 10 years** | **% of total cost** |
| **Industry costs** | **$3,535,493** | **$27,120,283** |  |
| Photo ID requirement | $76,097 | $617,214 | 1.2% |
| Complying security cameras (incl. fitting) | $1,800,000.00 | $14,599,612.40 | 27.3% |
| Inspections (time cost to taxis) | $187,500.00 | $1,520,792.96 | 2.8% |
| Annual inspections | $0 | $0 | 0.0% |
| Time cost of annual inspections | $0 | $0 | 0.0% |
| Signs, stickers etc to be affixed | $378,542 | $3,070,312 | 5.7% |
| Fitting of stickers | $19,1677 | $155,459 | 0.3% |
| Dome lights | $218,500 | $1,772,231 | 3.3% |
| Fitting of dome lights | $57,500 | $466,377 | 0.9% |
| Taximeter specs - Cost of new meters (current spec) | $172,500 | $1,399,130 | 2.6% |
| Taximeter specs - operating cost | $ 414,000 | $3,357,911 | 6.3% |
| **TSC Costs** | **$3,056,082.00** | **$24,787,562.60** |  |
| Security camera download cost | $140,000 | $1,135,525 | 2.1% |
| Vehicle inspections @ 30,000 p.a. (TSC Cost) | $2,916,082 | $23,652,037.19 | 44.2% |
| **Other government costs** |  |  |  |
| Doctors only to administer eye test | $191,808 | $1,555,733 | 2.9% |
| **Total Cost** | **$6,783,383** | **$53,463,579** |  |

Table 8.1 also shows that half of the total costs associated with Option 3 constitute the costs of conducting the vehicle inspection program, while almost 30% of the costs are associated with the security camera requirements. The other major cost under this option is that associated with the taximeter requirements (9.5% of the total).

# Conclusion

## Overview

All three of the options considered in this RIS are predicated on the remaking of some variant of the existing regulations. This reflects the fact that the current regulations constitute an integral part of a much larger regulatory structure governing the taxi and hire car industry and the consequent fact that the broad regulatory approach pursued under the current regulations is largely determined by the shape of the primary legislation authorising it and the other, complementary legislation and regulations which also regulate key aspects of the industry. However, within this broad context, a clear distinction can be drawn between Option 1, on the one hand, and Options 2 and 3, on the other. The distinction lies in the fact that while the former option would essentially remake the existing regulations without substantive change, both Options 2 and 3 would entail substantial simplification and streamlining of these provisions.

In determining the relative merits of the three options considered, it is necessary to consider both qualitative and quantitative factors. The following section undertake a detailed quantitative comparison. However, in qualitative terms the key differences between Option 1 and Options 2 and 3 lie in the fact that the latter options would:

* address areas of regulatory duplication and overlap; and
* eliminate regulations that have been found to be largely redundant or ineffective, or which seek to formalise and regulate in an unduly detailed way matters which are reasonably left to negotiation between drivers and passengers.

In fact, Options 2 and 3 adopt identical approaches in this regard.

Changes in these areas are needed in order to bring the existing regulations, the bulk of which date from more than 20 years ago, into line with current regulatory best practices. In addition, movement in these directions responds to the need to recognise the substantial and continuing changes occurring in the competitive environment within which the taxi industry, in particular, is operating.

## 9.2. Comparing the quantitative costs of the options

Table 10.1, below, compares the quantified costs of the three feasible options considered in this RIS. The table shows that the cost of remaking the existing regulations without substantive amendment would total $90.6 million in present value terms over the next 10 years. This cost is broadly similar to the cost of $67.8 million over seven years (in present value terms) that was estimated in the RIS published in respect of the current regulations in 2008 to coincide with the removal of the sunsetting clause that they had previously contained. However, the components of these total costs have changed over time, notably due to the removal from the current regulations of the requirement that all taxis be painted in “Victorian Taxi Yellow” following the adoption of the recommendations of the TII and, conversely, the adoption of a new taximeter specification.

Both Options 2 and 3 entail the adoption of a more streamlined set of regulations and, consequently, both entail significantly lower costs than Option 1. The estimated cost of Option 2 is $79.9 million, or $10.6 million less than under Option 1. The costs of Option 2 are therefore 11.7% lower than those of Option 1. Option 3 entail the lowest costs of all, at $53.4 million, or 41.0% lower than the costs of Option 1.

Of note is the fact that the costs that would be imposed on the taxi and hire car industry vary significantly more widely than these total cost figures suggest. Table 9.1 shows that these industry costs total $76.0 million for Option 1, $65.4 million for Option 2 and only $27.1 million for Option 3[[47]](#footnote-47). Thus, the costs to industry of Option 2 are 13.9% lower than those entailed in remaking the existing regulations, while those of Option 3 are more than two thirds lower than those of remaking the existing regulations. The latter result reflects, in large part, a significant shift in the cost of taxi inspections from the industry to the regulator (i.e. the TSC) as a by-product of a move to complete reliance on an enhanced version of the current programme of target and random inspections, as a substitute for continuation of the current, parallel programme of annual taxi inspections. That is, while taxi operators pay private inspectors in respect of the annual inspection program, the costs of the targeted and random inspection program are essentially borne by the TSC.

**Table 9.1: Cost comparison of feasible options – present values over 10 years**

|  |  |  |  |
| --- | --- | --- | --- |
| **Item** | **Option 1** | **Option 2** | **Option 3** |
| **Industry costs** | **$76,043,241.05** | **$65,397,690** | **$27,120,283** |
| Photo ID requirement | $617,214 | $617,214 | $617,214 |
| Complying security cameras | $23,116,053 | $14,599,612 | $14,599,612 |
| Fitment of security cameras | $2,129,110 |
| Annual inspections | $16,323,178 | $16,323,178 | $0 |
| Time cost of annual inspections | $1,748,912 | $1,748,912 | $0 |
| Random/targeted inspections (time cost to taxis) | $760,396 | $760,396 | $1,520,793 |
| Signs, stickers etc to be affixed | $3,070,312 | $3,070,312 | $3,070,312 |
| Fitting of stickers | $155,459 | $155,459 | $155,459 |
| Dome lights | $1,772,231 | $1,772,231 | $1,772,231 |
| Fitting of dome lights | $466,377 | $466,377 | $466,377 |
| Uniforms | $15,116,438.68 | $15,116,438.68 | $0 |
| Taximeter specs - Cost of new meters | $2,211,538 | $2,211,538 | $1,399,130 |
| Taximeter specs - operating cost | $8,394,777 | $8,394,777 | $3,357,911 |
| Stickers displaying max. fare (regional/country) | $161,245 | $161,245 | $161,245 |
| **TSC Costs** | **$12,961,949.55** | **$12,961,949.55** | **$24,787,563** |
| Security camera download cost | $1,135,525 | $1,135,525 | $1,135,525 |
| Vehicle to be made available for inspec. (TSC inspection costs) | $11,826,424 | $11,826,424 | $23,652,037 |
| **Other government costs** |  |  |  |
| Doctors only to administer eye test | $1,555,733 | $1,555,733 | $1,555,733 |
| **Total Cost** | **$90,560,924.08** | **$79,915,373** | **$53,463,579** |

## 9.3. Costs in context

Given that it is not possible to quantify most of the benefits sought by the proposed regulations in dollar terms, it is important to benchmark the identified costs against relevant measures in order to facilitate judgements as to the proportionality of the costs that would be imposed by the proposed regulations. A useful benchmark in this regard, which was adopted as part of the analysis contained in the 2008 RIS in respect of the current regulations, involves expressing these average costs in terms of an average cost per journey.

According to the Victorian Taxi Association (VTA) data[[48]](#footnote-48), 35 million taxi trips were taken in Victoria in 2015. The present value of the costs of the preferred option (i.e. Option 2) has been estimated at $79.9 million over 10 years. This is equivalent to an average annual cost of $10.1 million. Dividing this annual average cost by the number of taxi trips taken shows that the average cost of the regulations per taxi journey taken is equal to $0.29. Given that VTA data also show that the average taxi fare is currently $22, this indicates that the cost of implementing the proposed regulations is equivalent to approximately 1.3% of the price of the taxi fare paid by the consumer and little more than 1% of overall taxi revenue[[49]](#footnote-49).

By way of comparison, the 2008 RIS in respect of the current regulations estimated the cost per hiring of these regulations as being $0.30, expressed in 2006 – 07 dollars, equivalent to around $0.37 in current dollar terms[[50]](#footnote-50). The expected cost per taxi journey of the proposed regulations is therefore around one quarter lower, in real terms than that of the regulations they would replace.

Table 9.2, below, compares the options in terms of this measure of cost per taxi journey. It shows that the equivalent regulatory cost per taxi journey varies between $0.18 and $0.32 for the three options and that this is equivalent to between 0.8% and 1.5% of the average taxi fare of $22.

**Table 9.2: Relative cost of the feasible options**

|  |  |  |  |
| --- | --- | --- | --- |
| **Option** | **Average cost p.a.** | **Cost per journey** | **% of average fare** |
| Option 1 | $11.2m | $0.32 | 1.5% |
| Option 2 | $10.1m | $0.28 | 1.3% |
| Option 3 | $6.2m | $0.18 | 0.8% |

DEDJTR believes that the great majority of consumers would regard the benefits conferred by the regulations as being of greater value than the per trip costs identified above. Thus, it is confident that the proposed regulations would confer net benefits on the Victorian community.

## 9.4. Comparing benefits and costs

It is not possible to quantify the benefits associated with the current or proposed regulations. This reflects, in part, the fact that the regulations form an integral part of a much larger legislative structure, such that the specific contribution of the regulations to the achievement of particular consumer protection outcomes is difficult to identify within this broader context. It also reflects difficulties in quantifying the extent of reductions achieved in areas such as assault, theft and other crimes committed in taxis, as well as expressing the benefits of reductions in this crime rate in dollar terms.

However, it was argued in sections 7.2 that the extent of the benefits that would be expected to be achieved under Option 2 would be broadly similar to those available under Option 1 (i.e. the remaking of the existing regulations), while the costs incurred under Option 2 are significantly lower. This suggests that these streamlined regulatory options are clearly more cost-effective than the option of remaking the existing regulations. The costs associated with Option 3 are significantly lower again ($53.5m vs $79.9m in present value terms, or a 33.0% reduction in the costs of option 2), while there are only three substantive differences between these latter two options – the taximeter specification, the uniform requirement and the requirement for annual vehicle inspections[[51]](#footnote-51).

However, two key factors suggest that the reduction in benefits associated with adopting Option 3 in preference to Option 2 would more than outweigh the expected cost reduction. First, as noted in Section 7.2, the recent (2015) RIS in respect of the proposed new taximeter specification concludes that the benefits of adopting the specification are likely to outweigh the costs it would impose. This conclusion indicates that Option 3 is less preferred than option 2 in this regard. Second, the TSC’s requirement for annual vehicle inspections to be undertaken constitutes one part of a co-ordinated strategy that aims to ensure systematically that taxis are maintained in good mechanical condition, with the targeted and random inspections program constituting a complementary initiative. Removing the annual inspection program could lead to numbers of taxis not being inspected for extended periods, with potential negative implications for both vehicle safety and customer confidence.

## 9.5. Multi-criteria analysis

Given that it has not proved possible to quantify the key benefits of the regulatory options in dollar terms, a multi-criteria analysis (MCA) is presented below, as required by the Victorian Guide to Regulation.

### 9.5.1. Assessment criteria

Four assessment criteria have been identified. The first of these is the value of the costs imposed by each option. The remaining three reflects the regulatory objectives identified in section 4. Thus, these benefit related criteria address the three types of benefit identified in section 4, being ensuring driver and passenger safety, ensuring the financial protection of passengers and ensuring that minimum standards of service quality are met.

The cost and benefit criteria must necessarily be weighted equally. Therefore, the single cost criterion is weighted at 50%. The three benefit criteria are collectively weighted at 50%. However, the safety criterion is necessarily weighted more heavily than the remaining two criteria. Thus, the criterion of ensuring driver and passenger safety is weighted at 30%, while the remaining two criteria are each weighted at 10%.

Each option is scored against each criterion on a scale of -10 to 2+10. Given that the current regulations are sunsetting, the base case against which each of the options must be assessed is one in which no regulations are in place. Consequently, where an option scores less well than in the unregulated base case, it receives a negative score, and where an option performs better than in the unregulated base case, it receives a positive score.

### 9.5.2. Scoring the options against the assessment criteria

**Cost**

All three options necessarily receive negative scores on this criterion, since no regulatory costs are imposed, by definition, in the unregulated base case. The scores allocated to each option are proportionate to the dollar value of the costs which they impose, as summarised in section 9.2, above. Thus, Option 1 receives a score of -4, Option 2 receives a score of -3.0 and Option 3 receives a score of -1.5.

**Driver and passenger safety**

Options 1 and 2 receive the same score of +8 against this criterion. This reflects the fact that they contain the same provisions in terms of the key safety related areas of vehicle inspections, security cameras and visual acuity testing. Option 3 receives a slightly lower score, of +6, because it does not incorporate a requirement for annual vehicle testing. Notwithstanding that Option 3 includes an increased level of random and targeted vehicle testing, it is considered that it will result in a lesser degree of assurance that safety standards would be consistently maintained and that passengers would have confidence in these safety standards.

**Financial protection**

Options 1 and 2 again receive the same score against this criterion. Both of these options imply the adoption of the proposed new taximeter specification, as well as the maintenance of a range of existing provisions aimed at protecting consumers’ financial interests, including the requirement that the driver take most direct practicable route, that the make-up of the fares and charges being levied be explained upon request and that certain information be contained in all receipts. Option 3 scores slightly lower, at +6, because it does not include the adoption of the new taximeter specification. As noted above, one of the key benefits of the new specification identified is the provision of better information on fares and charges to consumers.

**Service quality**

Option 1 scores most highly on this criterion, with +8. This reflects the fact that it incorporates a range of provisions in relation to driver conduct that, while rarely the subject of complaints or infringement notices, can be expected to have a positive impact on service quality. Option 2 scores slightly lower, with +7, reflecting the fact that a number of these provisions would not be remade under this alter perspective. Conversely, in common with option 1 it contains important provisions in relation to service quality.

Option 3 scores lowest on this criterion, with +5. The difference between this score and that awarded to option 2 is essentially explained by the fact that option three does not incorporated the new taximeter specification. As discussed in section 7.2, above, a key benefit identified in respect of the new taximeter specification in the 2015 RIS is the expected improvement in the customer experience arising from improved confidence that they are being charged correctly and fairly.

Table 9.3, below, summarises the scores of each of the three options against each criterion. It shows that all three options receive positive scores, indicating that all are clearly preferred to the base case of not remaking the regulations in some form. However, Option 1 receives the lowest score, with +2. Both options 2 and 3 are preferred to option 1, essentially because they are able to achieve very similar benefits to option one at substantially lower cost. Option 2 scores significantly lower than option 3 on the cost criterion, reflecting the fact that it would impose additional costs with a present value of around $11.3 million over 10 years. However, it receives a slightly higher scores than option 3 across all three benefit criteria.

Given these results, it is proposed to proceed with making regulations along the lines described in Option 2.

**Table 9.3: Multi-criteria analysis of the identified options**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Criterion** | **Cost** | **Safety** | **Financial protection** | **Service quality** | **Total** |
| *Weighting* | *50%* | *30%* | *10%* | *10%* |  |
| Option 1 | -4 x 50% =  -2 | +8 x 30% = 2.4 | + 8 x 10% = 0.8 | +8 x 10% = 0.8 | **+2** |
| Option 2 | -3 x 50% =  -1.5 | +8 x 30% = 2.4 | + 8 x 10% = 0.8 | +7 x 10% = 0.7 | **+2.4** |
| Option 3 | -1.5 x 50% =  -0.75 | +6 x 30% = 1.8 | +6 x 10% = 0.6 | +6 x 10% = 0.6 | **+2.25** |

## 9.6. Transitional issues

As noted in Section 1, new regulations must be in place before the sunsetting of the current regulations on 27 June 2016. This implies that very little time is available to consider stakeholder responses to the key issues identified in this RIS, take further technical advice on key issues and develop appropriate provisions in key areas such as the proposed security camera specification.

It is therefore proposed to make interim regulations that effectively re-make the existing regulations (i.e. that reflect Option 1), which will sunset a maximum of 12 months after coming into effect. These regulations will be repealed and replaced during the course of this 12 month period by substantive new regulations which, subject to further consultation, will be generally consistent with Option 2, as outlined above.

## 9.7 Stakeholder questions

Stakeholders are invited to comment on any aspect of the proposed regulations and/or the analysis presented in this RIS. However, the following questions relate to aspects of the proposed regulations which entail the largest expected costs or which have been identified in initial consultations as being of particular concern to stakeholders. Comments are therefore particularly sought in response to these questions, as well as those posed in Section 5.

**Uniforms**

Options 1 and 2 would both retain the current regulatory requirement for drivers to wear operator-approved uniforms when driving the taxi. Conversely, Option 3 would remove this requirement, thus reducing regulatory compliance costs, albeit to an uncertain degree[[52]](#footnote-52).

***Do you agree with the proposed retention of the uniform requirement? If not, why not? What benefits, if any, do you believe derive from the current uniform requirement?***

**Security camera specification**

It is proposed to simplify the existing security camera specification to enable cameras to be more easily approved as compliant. It is anticipated that cameras which meet the specifications in place in other states, would be approved for use in Victoria, thus eliminating the current *de facto* monopoly on camera supply.

***Do you agree with this proposed simplification? Do you believe that this course of action risks compromising any aspects of the functionality of the security camera system? If so, what aspects, and how might they be negatively affected?***

**Taximeter specification**

All three options would retain a head of power for the TSC to set taximeter specifications (albeit in a modified form that refers to “fare calculating devices”. However, Options 1 and 2 assume that the TSC would proceed to adopt a new specification based on that set out in the 2015 RIS on this issue, having regard to the consultation comments received at that time. Conversely, Option 3 assumes the retention of the existing specification, pending further consideration of a wider range of future options for fare setting devices.

***Do you believe that the TSC should proceed to make a new taximeter specification? Why/why not? Do you believe that a smartphone based app would constitute a feasible alternative approach? If so, do you believe it would be superior to the continued use of a physical taxi meter?***

**Safe vehicles**

The RIS presents a discussion of the different options available to TSC to ensure that commercial passenger vehicles are maintained in a manner that ensures they are safe and fit for purpose. Specifically, Option 3 is based on the assumption that the TSC would choose to exercise its general power to require vehicles to be made available for inspection differently from its current practice, replacing the current \requirement for annual roadworthy inspections by accredited testers with a program of increased random and targeted inspections by TSC officers and suggests that the cost savings for vehicle owners following from such a change would be significant.

***How do you think the change to vehicle inspection arrangements suggested under Option 3 would affect vehicle safety? Do you think the cost savings associated with it would be significant? On balance, would you support this change?***

**Taxi livery**

Regulation 24(2) currently requires that a taxi can only be operated if it is painted a colour approved by the TSC. This replaces the previous requirement, operating since the early 1990s, that all taxis be painted “Victorian taxi yellow”. In practice, the only generally approved colour remains Victorian taxi yellow. The TSC requires operators who wish to operate taxis painted a different colour to apply to it for permission to do so and has established a set process to be followed in this regard[[53]](#footnote-53). It is proposed to retain the current arrangements, thus ensuring that the regulator is able to continue to exercise control over the approved livery of taxis. The taxi yellow requirement was originally adopted in order to ensure that taxis are readily identifiable, however, there are clear commercial incentives for operators to ensure that taxis remain readily identifiable in order to maximise their ability to obtain street hail work. Moreover, it is arguable that the requirements for taxis to have dome lights fitted and for these to be illuminated whenever they are available for hire provides sufficient identification for a taxi.

***Do you believe the current regulation and administrative processes in relation to taxi livery should be retained, or removed? Please identify the benefits and costs that you believe would arise from retention/removal of these requirements.***

**Complaints handling**

It is proposed to remake the provisions of the accreditation regulations that require operators to ensure that all complaints are investigated in a manner consistent with AS/NZS 10002:2014, while enabling this responsibility to be exercised by an NSP if the operator is affiliated with one. This provision is believed to impose minimal costs, both because there are clear commercial incentives for taxi operators and, in particular, NSPs to ensure that complaints are dealt with effectively and because the required systems are already in place, as a result of the operation of the current regulations. In practice, complaints handling is very largely carried out by NSPs, thus ensuring that consistent and streamlined mechanisms and approaches are adopted.

***Do you believe that the continuation of the current complaints handling requirements will impose any significant cost on taxi operators or NSPs, beyond that which good business practice would imply? If so, can you highlight the specific requirements that would impose additional costs and provide estimates of these costs? Do you believe that these costs are justified by benefits in terms of improved customer satisfaction due to effective complaint resolution? If not, why not?***

**Regulatory Duplication**

In several cases, existing regulations have been identified as either being duplicative of other, existing legislation or regulation and are proposed to be removed.

|  |  |  |
| --- | --- | --- |
| **Regulation** | **Summary** | **Duplication** |
| **10** | Requires licences to be returned and to the regulator if suspended or cancelled. | This requirement can be addressed under administrative procedures, and this approach is considered more appropriate. |
| **22** | Requires that taxis rendered unsafe by damage are not permitted to be used. | This requirement is already established through the road safety regulations administered by VicRoads, and is therefore considered redundant. Also duplicates licence condition specified in section 144(1)(a) of the TCMA. |
| **34** | Requirements that drivers comply with passenger requests in relation to heaters, air conditioners and radios | Addressed in service standards |
| **12 (industry accreditation regulations)** | Requires taxi operators to take reasonable steps to verify that the driver is of sufficient good health and fitness to operate the taxi. | Regulations effectively duplicates obligations implicit in application of occupational health and safety duties to taxi operators. |
| **16 (industry accreditation regulations)** | Requires taxi operators to take reasonable steps to ensure that taxi-cab is in a fit and serviceable condition. | The regulation duplicates the implied condition specified in section 144(1)(a) of the TCMA. |
| **19 (industry accreditation regulations** | Requires network service providers to have a complaints management system in respect of the network services it provides to taxi operators and taxi customers. | It duplicates the requirement to have a complaints management system that meets the Australian standard (i.e. regulation 20). |

***Do you agree that these regulations are effectively duplicated and should be removed? If not, why not?***

**Ineffective or redundant regulation**

A number of the current regulations (summarised in the table that follows) are considered to be ineffective, either because adequate private or other incentives exist to behave in the manner required by the regulations or because the regulations have been proved to have little or no effectiveness in practice.

| **Regulation** | **Summary** | **Reason why ineffective or redundant** |
| --- | --- | --- |
| **5** | The current regulation specifies that a medical practitioner is required to conduct the test of visual acuity, while the second establishes a taxi specific test for this purpose. | It is not considered that there is a need for a taxi specific eye test to be administered. That is, the appropriate standard of visual acuity is the same as that required for all licensed drivers. |
| **16** | Provides that if a screen is fitted to provide protection to the driver it must be fitted in a manner approved by the regulator | Protective screens, which are only fitted at the request of individual drivers, are very rarely used in practice in Victoria. It is not clear that specifying a particular means of fitting them provides any significant benefit in practice. |
| **18** | Requires that all taxis be fitted with an operational air conditioner | This is considered to be redundant, given that all vehicles of a type likely to be employed as a taxi already come fitted with air conditioners and that these are likely to be maintained in working order to ensure adequate working conditions for drivers. |
| **26** | Requires tariff lights to be fitted to dome lights. Indicates which tariff is in effect to persons outside the taxi. | Main person interested in the applicability of different tariff rates is the passenger. This information is provided to the passenger through the taximeter. External indication is outdated and unnecessary. |
| **30** | Requires drivers to stay with their taxis at ranks. | This provision is considered redundant, as drivers have private incentives to stay with their taxi in order to ensure they are available to accept a fare. It also duplicates no parking requirements applicable to taxi ranks under council by laws. |
| **35** | Requires drivers to pick up or put down passengers as close as possible to the place requested. | This is considered largely redundant given the absence of complaints in this regard and the fact that this issue can be regarded as being reasonably within the scope of negotiation between drivers and passengers. |
| **37** | Requires drivers to provide assistance with luggage | This provision is considered as redundant, given that no infringements of been issued or complaints have been recorded for failure to comply with this regulation. The issue in question is considered to fall reasonably within the scope of negotiation between the driver and passenger. |
| **38** | Specifies rules for behaviour at taxi ranks | As with regulation 30, it is considered that there are sufficient private incentives to ensure that taxis move to the next available position in the taxi rank, thus ensuring its efficient operation |
| **43** | Requires drivers to explain the fare and additional charges if requested, and to accept electronic payment if signage advises that such payment is accepted. | It is considered that there are sufficient private incentives to accept electronic payment, given that a majority of taxi fares would be paid in this way |
| **46A** | Prohibits passengers from drinking alcohol in the taxi. | This provision is considered to be essentially unnecessary, given that there is no equivalent general provision on the consumption of alcohol in private vehicles. It is also reasonably open to negotiation between the driver and passengers. |
| **14 (industry accreditation regulations)** | Requires taxi operators to ensure that drivers have successfully completed training in respect to the use of equipment in or on a taxi-cab (i.e. taxi-meters, distress alarms) | Taxi operator already has strong commercial incentive to ensure driver knows how to operate equipment. Taxi operator also needs to acquit other regulatory requirements (e.g. OHS duties) that implicitly require drivers to be properly inducted. |
| **15 (industry accreditation regulations)** | Requires taxi operators to ensure that taxi drivers are aware of their rights and obligations in relation to the equipment installed in or on the taxi-cab. | Taxi operator already has strong commercial incentive to ensure driver knows how to operate equipment and is aware of obligations to do so. |

***Do you agree that these regulations are redundant or ineffective and should be removed? If not, why not?***

# Statement of compliance with National Competition Policy

The National Competition Policy Agreements set out specific requirements with regard to all new legislation adopted by jurisdictions that are party to the agreements. Clause 5(1) of the Competition Principles Agreement sets out the basic principle that must be applied to both existing legislation, under the legislative review process, and to proposed legislation:

*The guiding principle is that legislation (including Acts, enactments, Ordinances or Regulations) should not restrict competition unless it can be demonstrated that:*

*(a) The benefits of the restriction to the community as a whole outweigh the costs; and*

*(b) The objectives of the regulation can only be achieved by restricting competition.*

Clause 5(5) provides a specific obligation on parties to the agreement with regard to newly proposed legislation:

*Each party will require proposals for new legislation that restricts competition to be accompanied by evidence that the restriction is consistent with the principle set out in sub-clause (1).[[54]](#footnote-54)*

Therefore, all RIS must provide evidence that the proposed regulatory instrument is consistent with these National Competition Policy obligations. The OECD *Competition Assessment Toolkit*[[55]](#footnote-55) provides a checklist for identifying potentially significant negative impact on competition in the RIA context. This is based on the following four questions:

* Does the proposed regulation limit the number or range of suppliers?
* Does the proposed regulation limit the ability of suppliers to complete?
* Does the proposed regulation limit to the incentives for suppliers to compete?
* Does the proposed regulation limit the choices and information available to consumers?

According to the OECD, if all four of these questions can be answered in the negative, it is unlikely that the proposed regulations will have any significant negative impact on competition and further investigation of competition impacts is not likely to be warranted.

The broad legislative structure governing the taxi and hire car industry includes very substantial restrictions on competition, which have been maintained over a period of several decades. However, the specific requirements of the current regulations have only limited anti-competitive impacts.

As discussed above, the proposed regulations would impose costs on the taxi industry estimated to be of the order of $0.28 per taxi trip, or around 1.3% of the average taxi fare. To the extent that these regulatory requirements do not apply to competing service providers (i.e. the hire car sector) they imply a negative impact on the ability of the taxi industry to compete in the market. The size of this negative impact is, however, evidently small. Moreover, the distinction made between the taxi industry and the sectors with which it completes in terms of the application of these requirements reflects distinctive aspects of the taxi market. In particular:

* the fact that a significant proportion of taxi work is undertaken as a result of rank and hail activity means that the passenger is anonymous, in contrast to the position in relation to the pre-booked work which constitutes the whole of the activity of the hire car sector. This anonymity means that disincentives to illegal and/or inappropriate behaviour that arise from the fear of detection and prosecution are significantly less pronounced in the taxi case. This factor suggests the need for security cameras, while the data presented in section 3 underlines the fact that there remains a significant incidence of problems of this type, in contrast to the position in competing sectors;
* taxi vehicles typically cover a substantially larger distance each year than hire cars, a factor which implies the need for a higher level of ongoing scrutiny of their mechanical condition to be exercised; and
* the fact that taxi fares are regulated (itself a product of regulated supply restrictions) and that these regulated fares have a complex structure gives rise to the necessity for a sophisticated metering system to ensure the financial section of taxi users.

Given these factors and the small size of the competitive disadvantage imposed on the taxi industry by the proposed regulations[[56]](#footnote-56), it is considered that the benefits to society of these restrictions outweigh their costs and that the proposed regulations are therefore consistent with the application of the guiding legislative principle.

**Security cameras**

A specific area in which a strong restriction on competition can be identified in respect of the current regulations is that of the security camera specification. While there is no limitation on the number of possible suppliers of security cameras, the adoption of a complex and demanding specification has given rise to a situation in which only one security camera vendor has been approved to supply taximeters. This has resulted in a situation in which the cost of a security camera to the Victorian taxi operator is now the highest in the country.

Conversely, the proposed regulations would entail the adoption of a streamlined and simplified security camera specification which is expected to significantly enhance competition for the supply of these cameras to the Victorian industry. Given that the approach taken will be broadly reflective of that adopted under the New South Wales security camera specification, it is expected that several cameras will be submitted for approval as complying with the specification and that taxi operators will henceforth have a choice of a number of suppliers and, as a consequence enjoy significantly lower compliance costs. Thus, the proposed regulations effectively worked to minimise an existing restriction on competition.

**Taximeter specification**

The 2015 RIS in respect of the proposed new taximeter specification identified potential negative impacts on competition in this market of the introduction of the proposed specification. In particular, it suggested that the very specific requirements of the specification could lead to exit from the market, with the risk of monopoly or duopoly pricing arising as a result. However, it was noted in this context that the TSC intends to ensure that adequate time is allowed to achieve compliance with the specification, including by staggering the introduction of various parts of the specification. It was concluded that these steps should be effective in minimising any potential anti-competitive impacts.

# Consultation

Two rounds of consultation with representatives of the taxi and hire car industry were undertaken prior to the public release of this RIS. Those consulted sit on the Taxi Services Commission's Stakeholder Reference Group (SRG). Representatives of the Victorian Taxi Association, Victorian Taxi and Hire Car Families, Victorian Hire Car Association, Victorian United Taxi Industry, Metropolitan, Urban and Regional network service providers, and driver rights advocates participated in discussions both through this mechanism and in individual consultations.

The first round of consultations, consisting of meetings with individual stakeholder groups, occurred in September and October 2015 and focused on identifying problems with the existing regulations or problems in the industry that potentially warranted regulatory intervention. The second round of consultation, undertaken in March 2016, discussed the merits of changes to the existing regulation then being proposed by the DEDJTR and the TSC. Progress reports on the development of the regulations have been provided to both the SRG and the Taxi and Hire Car Ministerial Forum.

Initial indications in September and October 2015 were that there was broad support for removing a range of regulatory requirements that were considered to be no longer necessary or to duplicate requirements specified in other State and Commonwealth laws. However, during further consultations undertaken in March 2016, some stakeholders represented on the TSC’s Stakeholder Reference Group indicated that, notwithstanding their continued strong support for deregulation in key areas, they were not confident of the industry’s ability to self-regulate effectively in some areas of service quality that are presently regulated, notably aspects of driver behaviour and presentation (including uniforms).

The feedback received in March 2016 has led to the revision of the regulations in some key areas. For example, an initial proposal to omit the requirement to taxi drivers to accept all fares when available for hire was rescinded. DEDJTR believes there is currently broad support among stakeholders for the adoption of regulations along the lines of Option 2, as set out in this RIS. Specific stakeholder questions have been posed throughout this RIS, in order to maximise stakeholder responses in key areas where there is uncertainty as to stakeholder views (on balance).

# Monitoring, enforcement and evaluation

## 12.1 Monitoring and enforcement

Under 2014 amendments to the Transport (Compliance and Miscellaneous) Act 1983 (TCMA)[[57]](#footnote-57), the TSC is required to develop, maintain and review a taxi industry monitoring, compliance and enforcement policy.  The first version of the policy was published on the TSC website in mid-2015.  The Act requires that the TSC review and update the policy at least once every three years (i.e. before 30 June 2018).  However, it is anticipated that TSC will review the policy in 2016-17 to take into account both the substantive changes reflected in the proposed regulations and impending Government decisions in relation to the regulation of ride sharing.

In general, compliance monitoring and enforcement procedures for both the transitional and proposed regulations will be the same as those in place in relation to the existing regulations.  This reflects two key factors. First, the TSC, as a relatively new organisation implementing a substantially reformed legislative structure, has only recently fully developed and implemented the current suite of procedures. Second, as is made clear above, the proposed regulations do not establish any new regulatory requirements and, instead, entail the sunsetting of various substantive provisions of the existing regulations. It is anticipated that this streamlining of the regulations will enable the existing resources of the Taxi Services Commission to be used more effectively to meet regulatory objectives.

## 12.2. Evaluation

The Victorian Guide to Regulation requires that all RIS incorporate an evaluation strategy, consistent with the government’s commitment to continuous improvement. The evaluation strategy is required to set out the form and extent of ex-post evaluations of regulatory activities that will be conducted, thus ensuring that they are effectively and efficiently meeting their identified objectives.

Evaluation activities should be proportionate to the costs imposed by regulations and the size of the expected benefits. As discussed above, the three key cost drivers in respect of the proposed regulations are the security camera specification, the vehicle inspection program and the taxi-meter specification. Evaluation activity in respect of these three key regulatory provisions is discussed in turn.

**Security camera specification**

The requirement to fit security cameras ultimately seeks to reduce the incidence of crimes committed in taxis. It is believed to contribute to this outcome by facilitating the investigation and prosecution of offenders and, by extension, providing a deterrent. TSC will continue to track the number of requests made for downloads of security camera footage as a primary indicator in this area: that is, the use of camera footage in criminal (and regulatory) investigations and prosecutions is a primary indicator of the effectiveness of this intervention.

The TSC is also engaged in continuous contact with Victoria Police in respect of camera download requests and will therefore receive timely notification of any issues that arise in relation to the use of camera footage (e.g. where camera footage sought is found to be unavailable due to problems with the security cameras). This will enable the effective monitoring of the impact, if any of the proposed changes to the existing security camera specification to occur over the medium term. In particular, it will enable any issues arising in terms of the effectiveness of new types of security cameras entering the market to be identified and addressed in a timely manner.

In the broader context, trends in the incidence and make-up of crime occurring in taxis can be tracked through the Victorian Crime Statistics Agency and/or Victoria Police and will be kept under review as required by TSC.

Bailee taxi drivers are deemed to be the employees of taxi drivers for the under the Accident Compensation Act 1985[[58]](#endnote-1). As a result, TSC collects data on assaults and other incidents resulting in injury to drivers. This data could be used to supplement crime statistics, however, compliance with the requirement for taxi operators to pay Workcover premiums and report incident data is a priority for improvement.

**Vehicle Inspection Program**

The Vehicle Inspection Program includes periodic, targeted and random elements, which are authorised by a general regulatory head of power requiring taxi operators to make their vehicles available for inspection on request. The latter two elements of the inspection program are essentially driven by the iFACTS software which the TSC has developed and implemented in recent years. This program enables specific taxi operators to be targeted for inspections, based on a history of poor inspection outcomes in the recent past, and enables particularly common, safety-related faults to be identified and used as the basis for random roadside inspection programs.

TSC will continue to use this data-driven approach to determine the direction and content of its own inspection activities and will continue to seek opportunities to refine the iFACTS model to further improve its effectiveness. TSC will also continue to track the number of notices issued as a proportion of the number of random and targeted inspections conducted, as this measure can provide insights into both the incidence and type of mechanical faults in the taxi fleet and the effectiveness of the targeting of inspections.

As noted, the annual inspection program is carried out by private inspectors. Information on the nature and extent of the vehicle faults detected and rectified is not currently reported to TSC, so that no substantive data is available to enable assessment of the effectiveness of this aspect of the vehicle inspection program in reducing the incidence of safety-related vehicle faults. Given the costs imposed by the annual vehicle inspection requirement, DEDJTR will explore, with TSC, the potential for future targeted data-gathering to be undertaken in this area. This would be likely to include sampling the records of approved taxi vehicle testers to obtain representative data on vehicle faults rectified as part of the program. However, it must also be acknowledged that a significant element of the impact of the annual inspections may lie in the incentive it provides for operators to identify and correct vehicle defects before presenting taxis for the initial inspection. This suggests the need to explore, in conjunction, the possibility of surveying taxi operators to seek information on the size of this effect.

In addition, in the context of the development of a simplified vehicle specification oriented primarily toward WATs, the potential for a broadening of the range of inspectors authorised to complete these inspections will be investigated and assessed by DEDJTR and TSC. Key considerations will be whether all licensed RWC testers would be competent to conduct these annual inspections, having regard to the various taxi-specific specifications, and, if not, whether the scope of annual inspections could be limited to general roadworthiness issues, with matters specific to the taxi vehicle specification being addressed exclusively via the random and targeted inspection programs. This investigation will also consider the extent of the likely cost savings to taxi operators of moving in these directions, particularly by virtue of the increase in competition that would arise and, potentially, via the reduction in scope of the required inspections.

In terms of outcomes, the taxi inspection program is intended to minimise the incidence of taxi accidents, injuries and fatalities arising as a result of mechanical faults. The Vicroads Crashstats database provides a mechanism by which progress against this objective can be measured over time and will be used by TSC to monitor the overall effectiveness of the inspection regime.

As suggested in the RIS’ discussion of options, the relative effectiveness of periodic, targeted and random inspections should also be assessed as far as possible. This may be achieved in part through further investigation by DEDJTR and TSC of the research literature and the experience of taxi regulators in other jurisdictions. Data-gathering by TSC to provide a better understanding of the nature and extent of faults being detected by private inspectors during the required annual inspections may also yield relevant data in this regard.

**Taxi-meter specification**

The proposed regulations will remake without amendment the generic power for TSC to declare a taximeter specification. It is anticipated that a new specification will be declared during 2016 that is based on the proposed specification set out in a 2015 RIS. That RIS sets out the evaluation strategy in respect of the proposed specification. This proposed evaluation strategy is expected to be pursued following the declaration of the new taxi-meter specification.

**Broader context**

The broader context for evaluation of the proposed regulations is given by the larger legislative architecture surrounding taxis and hire cars. As discussed above, the Victorian government is currently considering how it will respond to the emergence of ride sharing services in Victoria.  To the extent that significant legislative changes to the operating environment for taxis and hire cars arise from government decision making in relation to ride-sharing, it can be anticipated that further consideration would need to be given to aspects of the proposed regulations, as has occurred in recent times in New South Wales.  Hence, the regulations would be subject to a structured review immediately following any announcement of change in this broader regulatory environment.

# Appendix 1: Summary of recent changes to NSW taxi regulation

A package of streamlining and simplification of taxi regulation was adopted by the New South Wales government in December 2015, in the context of its announcement that it would legalise and regulate ridesharing operations. Key changes to the pre-existing New South Wales taxi regulation is that were adopted at this time are as follows:

**Changes to service operations**

Previous zone-based restrictions on where taxis and hire cars can pick up and put down passengers have been removed, so that any taxi or hire car can undertake booked work anywhere in the state. Hire cars will no longer be required to hold a hire car licence. Restrictions on the operations of wheelchair accessible taxis have been lifted, to enable “double shifting” to occur.

**Changes to taxi and hire car driver requirements**

As a transitional measure, existing driver authorities have been extended to 31 December 2016. Simplified renewal application requirements have been adopted, which remove geographical knowledge testing and most training requirements for drivers (except WAT related training), separate driver age requirements and verification of these status.

In addition, a range of provisions relating to the presentation and conduct of drivers have been abolished. These include requirements to wear uniforms, to ensure the vehicle is clean, to refrain from eating and drinking in the vehicle, to use an air conditioner if requested, to remain with the taxi, and to wait 15 minutes for a customer unless otherwise agreed.

**Taxi and hire car operators**

Operator accreditation is also extended to 31 December 2016 to facilitate the adoption of transitional arrangements. The operator accreditation fee has been lowered substantially (to $45) and several requirements for operator accreditation have been removed, including training requirements, provision of an accountants letter certifying financial viability, and provision of personal references. Other provisions relating to Corporations Law have also been removed, as have redundant reporting requirements in relation to the vehicle.

**Vehicles**

Regulatory specifications applying to taxis and hire cars of been greatly simplified and age limits on taxis have been removed. Maintenance requirements have been simplified, although inspections requirements have been maintained. Vehicle quality and comfort standards have been removed. Redundant vehicle related provisions such as an unused requirements for safety screens to be fitted have also been removed, while requirements in relation to the information to be provided in a taxi and the decals to be affixed to it also been greatly simplified.

**Network service providers**

Requirements for accreditation as a taxi NSP have also been considerably simplified, along similar lines to those set out above in relation to operators. NSPs will also no longer be required to report key performance indicators to the regulator, while regulations relating to communications procedures are also removed.

**Penalties**

As a corollary of the regulatory simplification undertaken, some fines and penalties have been increased in order to better deter safety breaches.

**Source:**

Transport for New South Wales Fact Sheet: Amendments to Passenger Transport Regulation 2007. See: <http://www.transport.nsw.gov.au/sites/default/files/b2b/publications/point-to-point-ammendments-passenger-transport-regulation-2007-fact-sheet.pdf>

Alternatively, see: Passenger Transport Amendment (Taxis and Hire Cars) Regulations 2015. <http://www.austlii.edu.au/au/legis/nsw/num_reg/pta2014ptaahcr20152015822l18d2015904.pdf>

# Appendix 2: Summary description of options considered

|  |  |  |
| --- | --- | --- |
| **Option 1** | **Option 2** | **Option 3** |
| Reg 3: GP prescribed as person to give medical certificate | Retain | Retain |
| Reg 4: Test of acuity of vision specified | **Remove** | **Remove** |
| Regs 6 – 8: Photo licence card required to be displayed in cab | Retain | Retain |
| Reg 10: Licence to be returned to authority if suspended etc, duplicate of lost licence may be issued | Retain | Retain |
| Reg 11: Records to be made available | Retain | Retain |
| Reg 12: TSC empowered to make compulsory vehicle specifications | **Amend** -reduced scope, dealing solely with WAT/HOV. More outcome oriented specification to be adopted. | **Amend** -reduced scope, dealing solely with WAT/HOV. More outcome oriented specification to be adopted. |
| Reg 14: Emergency warning devices to be fitted. Power for TSC to require additional warning devices to be fitted. | Retain | Retain |
| Reg 15: Security cameras required to be fitted. TSC empowered to specify camera requirements. | **Amend** - Simplified specifications to be included in regulations, with mutual recognition provision. | **Amend** - Simplified specifications to be included in regulations, with mutual recognition provision. |
| Reg 16: Protective screen may be fitted but must be fitted in a manner approved by TSC. | **Amend** | **Amend** |
| Reg 18: Functional air-conditioner must be fitted | **Remove** | **Remove** |
| Reg 19: Taxis required to be presented for inspection | Retain | Retain. Annual inspection requirement to be replaced by enhanced targeted inspection regime (administrative change). |
| Reg 20: Identified defects to be rectified & taxi reinspected before being returned to service. | Retain | Retain |
| Reg 21: Evidence of inspection to be provided if required. | Retain | **Remove** |
| Reg 22: Interference with taxi equipment prohibited | Retain | Retain |
| Reg 22B: Empower TSC to require signs, stickers etc to be affixed to hire car. | Retain | Retain |
| Reg 22C: Hire cars required to be made available for inspection | Retain | Retain |
| Reg 22D: Damaged hire cars not to be used until made safe | **Remove** | **Remove** |
| Reg 22E: Driver of hire car must not consume alcohol | Retain, until amendment to the Road Safety Act is made to oblige all drivers of commercial passenger vehicles to have 0.00 Blood Alcohol Content | Retain, until amendment to the Road Safety Act is made to oblige all drivers of commercial passenger vehicles to have 0.00 Blood Alcohol Content |
| Reg 23: Power to require taxis to display signs, labels, notices, etc. | **Amend** – obligation transferred from licence-holder to operator | **Amend** – obligation transferred from licence-holder to operator |
| Reg 23A: Required display of maximum fares include GST | Retain | Retain |
| Reg 24: Taxi to be painted in a TSC approved colour & display operator or NSP’s details | Retain | **Remove** |
| Reg 25: Require taxis to be fitted with a dome light | Retain | Retain |
| Reg 26: Require tariff lights to be fitted to dome light. | **Remove** | **Remove** |
| Reg 29: Driver required to take passenger to destination, using the most direct, practicable route | Retain | Retain |
| Reg 29A: Driver may refuse to carry passenger if displaying a “destination” sign for a different destination | Retain | Retain |
| Reg 30: Driver must remain with taxi vehicle. | **Remove** | **Remove** |
| Reg 31: Driver must wear approved uniform | Retain | **Remove** |
| Reg 33: Driver must accept assistance animals but must refuse other animals unless being taken to a vet. | **Amend** – to be limited to requirement to accept assistance animals | **Amend** – to be limited to requirement to accept assistance animals |
| Reg 34: Amenity. Driver must comply with passenger requests in relation to heating, air-con and music. | **Remove** | **Remove** |
| Reg 35: Driver must put down passenger as close as possible to destination, not interfere with other pick-ups/put-downs | **Remove** | **Remove** |
| Reg 36: Driver may refuse to carry violent or disruptive passengers | Retain | Retain |
| Reg 37: Driver must give reasonable assistance to passengers and their luggage. | **Amend** – to be restricted to assisting passengers. | **Amend** – to be restricted to assisting passengers. |
| Reg 38: Rules for the management of taxi zones | **Remove** | **Remove** |
| Reg 39: Specification of when additional fares and charges can be levied. | Retain | Retain |
| Reg 40: Multiple hiring not to be accepted except with passenger consent and if headed in same direction. | **Amend** – remove “same direction” requirement | **Amend** – remove “same direction” requirement |
| Reg 41: Capacity to pay & prepayment of fares | Retain | Retain |
| Reg 43: Explanation of fares and charges, payment by electronic means to be accepted, receipts. | **Amend**. To be removed except for 43(6)&(7), specifying information to be included in receipts | **Amend**. To be removed except for 43(6)&(7), specifying information to be included in receipts |
| Reg 44 & 45: Taxi only to be used if an approved taximeter is fitted and in working order | **Amend**. To be revised and simplified. | **Amend**. To be revised and simplified. New taximeter specification assumed not to proceed. |
| Reg 45A: Prescribed information to be notified to the TSC by taxis operating in the regional and country zones | Retain | Retain |
| Reg 46A: Drinking in the taxi or possessing opened liquor containers prohibited. | **Remove** | **Remove** |
| Reg 47A: Details to be included on compliance officer’s ID card. | **Remove** | **Remove** |
| Reg 47B: Records to be kept by persons that provide non-cash payment processing services. | Retain | Retain |
| Reg 47C: Authorisation to trade in taxi licences | **Remove** | **Remove** |
|  | 11 Provisions removed  9 provisions amended/simplified |  |

# Appendix 3: Summary costing methodology

The following summarises the calculations and assumptions underlying the tables of quantified costs incorporated in the main body of the RIS for each of the three options discussed. The same approach to cost calculation is necessarily used for each of the three options, while differences between the options in terms of the specific assumptions and cost items adopted are set out below.

## Industry costs

**Photo ID requirements (current regs 6, 7 and 8)**

The cost of photographs is estimated at $17 (standard Australia Post charge for passport photos), while 30 minutes of the drivers time is allowed at a rate of $15/hour, being an estimate the average driver income. This gives a unit cost of $24.50. There are 15,532 active drivers at present (TSC website), while the 2014 – 15 TSC Annual Report states that the turnover rate among drivers is currently 20%. Thus the annual cost of this requirement is calculated as:

$24.50 x 3,106 = $76,097

The total cost of this item is identical for all of the three options.

**Complying security cameras (current reg 15)**

Consultation with the one approved security camera supply indicates current cost of approximately $3600 for a sedan and $4100 for a WAT/HOV. An average price of $3800 has been adopted. It is assumed that security cameras have a seven-year lifespan, so that approximately one seventh of the 5250 metropolitan urban taxis in the fleet will need to purchase a security camera each year. Thus, the annual cost of this regulation under option one is

750 x $3,800 = $2.85 million

In addition, an estimate of the average cost of fitting these cameras of $350, again obtained from the sole approved camera supplier, is adopted. Thus the average annual fitting cost is:

750 x $350 = $262,500

Options 2 and 3 both assume that a simplified security camera specification will be adopted, based on the New South Wales model. Consequently, the cost of a security camera is estimated at $2400, being the price of the least expensive camera currently approved as meeting the New South Wales specification. Thus, the annual cost of security cameras under both options 2 and 3 is:

750 x $2,400 = $1.8 million

**Annual vehicle inspections (current reg 22C)**

All taxis are required to be inspected annually by an accredited private taxi inspector and certified as compliant with all relevant vehicle related standards. Advice from the TSC indicates that the average cost for these inspections is $350. In addition, a time cost of $37.50 is estimated, representing 1.5 hours and average fare box revenue forgone of $25 per hour. All 5750 taxis operating in all four regions are required to be inspected annually. Thus, the total cost of annual vehicle inspections is estimated as:

Inspection cost = $350 x 5,750 = $2,012,500

Time cost = $37.50 x 5,750 = $215,625

This cost estimate is used in respect of options 1 and 2. However, as noted above, it is assumed under option 3 that TSC would use its existing administrative discretion to abolish the annual inspection requirement and replace it with an expanded programme of targeted and random inspections. Therefore, no cost is included in respect of annual inspections for option 3.

**Fitment of signs, stickers etc (current reg 23)**

Current regulation 23 authorises the TSC to require any taxi to affix any sign, symbol, notice, label or fitting. Online research indicates a major supplier offering a full pack of the currently required signs etc. at a cost of $197.50. It is assumed that these are replaced on a three yearly cycle. Hence, the average annual cost of this requirement is cultivated as:

$197.50 x (5,750/3) = $378,542

This costing has been used for each of the three options considered.

**Dome lights (current reg 25)**

Online research indicates that dome lights are available from a major supplier for $190. It is assumed that these have a five-year lifespan. In addition, it is assumed that the average cost of fitting a dome light is $50 (i.e. one hour at $50/hour). The annual cost of the dome lights therefore calculated as:

$190 x (5,750/5) = $218,500

The annual cost of fitting dome lights is calculated as:

$50 x (5,750/5) = $57,500

This costing is applied to all three options.

**Uniform (current reg 31)**

An average cost per driver uniform of $120 is employed. This estimate was arrived at by applying CPI-based indexation to the figure of $109 used in the 2008 RIS in respect of the current regulations. It is assumed that each active driver requires one uniform per year on average. Thus, the average cost of the uniform requirement is calculated as:

$120 x $15,531 = $1,863,720

This cost estimate applies only to options 1 and 2, as option 3 excludes the uniform requirement. As noted above, this can be considered a gross cost, with the net cost imposed being likely to be somewhat smaller than this.

**Taximeter specifications (current regulations 44 and 45)**

The TSC published an RIS in respect of its proposed new taximeter specification during 2015. While a final decision on the implementation of the specification has not yet been announced, the costings set out in that RIS have been adopted for the current purposes in respect of both options 1 and 2. This reflects the fact that regulations 44 and 45 provide the head of power pursuant to which TSC is able to declare these taximeter specifications.

The 2015 RIS estimated that all taxis would need to purchase a new meter, at an average cost $400, in order to comply with the specification, since existing meters would be unable to be modified or reprogrammed to achieve compliance. The year one cost of installation of meters is therefore calculated as:

$400 x 5,750 = $2.3 million

The costs associated with the taximeter specifications under option 3 are calculated differently. As discussed in the above text, option 3 is predicated on the assumption that the existing taximeter specification would be retained in the medium term. Therefore, this costs associated with taximeters are calculated on a “steady state” basis. This involves an assumption that 10% of existing meters (i.e. 575 meters) would be replaced annually, at a cost of $300.

**Operational costs for taximeters**

The 2015 RIS identified the ongoing operational costs of complying taximeter is at $180 per annum. The total annual operational cost is therefore:

$180 x 5750 = $1,035,000

Again, however, the operational costs associated with taximeters is calculated differently under option 3. The 2015 RIS identified the current annual operational cost of taximeters as being $72. Thus, given that option 3 would entail the maintenance of the existing taximeter specification, the operational costs of taximeters included under this option are:

$72 x 5,750 = $414,000

**Stickers displaying the maximum fare (regional and rural taxis) (Reg 39)**

The 497 regional and rural taxis are currently required to display stickers advising of their effective maximum fare levels, pursuant to the move to far regulation in these zones and the consequent notification requirement. An estimated cost of $40 for each sticker set has been assumed (being approximately 20% of the cost noted above for the full signs and stickers pack). It is assumed that each sticker set must be replaced annually as a result of fare changes. The total cost is therefore estimated at:

$40 x 497 = $19,880

## TSC costs

**Random and targeted inspections (current reg 22C)**

The TSC undertakes a programme of random and targeted inspections in parallel with the annual inspection requirement. Three staff operating from the TSC is dedicated to Tullamarine Quality Assurance Centre are engaged full-time with this inspection program, while the Field Compliance Team, comprising a further 13 staff, are estimated to the vote 70% of their time to vehicle related inspection activities. Direct labour costs are estimated using the midpoint salary for the relevant classification level in each case, while an allowance of 75% of direct salary cost is made in respect of labour on costs and corporate and other overheads.

Table A1, below, summarises the costs to TSC of these random and targeted inspections.

**Table A1: cost of random and targeted inspections**

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **Classif.** | **No.** | **% attrib.** | **EFT** | **Unit cost** | **Total direct** | **Oncosts**  **(@ 75%)** | **Total cost** |
| **Tulla QA centre** | |  |  |  |  |  |  |
| VPS 4 | 1 | 100% | 1 | $80,006 | $80,006 | $60,004.50 | $140,010.50 |
| VPS 3 | 2 | 100% | 2 | $67,037 | $134,074 | $100,555.50 | $234,629.50 |
|  |  |  |  |  |  |  |  |
| **Field staff** | |  |  |  |  |  |  |
| VPS 4 | 1 | 70% | 0.7 | $80,006 | $56,004 | $42,003.15 | $98,007.35 |
| VPS 3 | 12 | 70% | 8.4 | $67,037 | $563,111 | $422,333.10 | $985,443.90 |
|  |  |  |  |  |  | **Total** | **$1,458,091.25** |

This cost is used for both options one and two. However, this cost has been doubled under option 3. This reflects an assumption that the TSC would substantially increase its level of random and/or targeted inspection activity as a corollary of any decision to abandon periodic (annual) inspections. This reflects the fact that option 3 is predicated on the elimination of the current annual inspection requirements, with an enhanced targeted and random inspection program being substituted in its stead.

TSC advises that the time cost incurred by taxis engaged in this random and targeted inspection program is minimal, since a large proportion of these inspections are undertaken in the field and typically take only five – 10 minutes, while vehicles required to attend the Tullamarine QA centre are typically able to do this by taking a short detour following, or immediately prior to, and airport fare.

Consequently, an average elapsed time of 15 minutes is used and a farebox cost of $25 an hour. This implies an average cost of $6.25 per vehicle. TSC’s annual report indicates that its current target number of inspections of 15,000 per annum. Consequently, these time costs are estimated as follows:

15,000 x $6.25 = $93,750

As above, this cost is applied in relation to both options 1 and 2, while a cost of $187,500 is used under option 3.

**Camera downloads**

TSC currently has 1 EFT staff member dedicated to downloading recordings from taxi security cameras in response to requests from police or within TSC itself. Direct salary costs are $80,000 while a 75% allowance for on costs and overheads is applied, giving a total annual cost of $140,000.

This cost is applied to all three options.

## Other government costs

**Medical practitioners to undertake visual acuity test (current reg 4)**

Regulation 4 specifies that the required visual acuity test to be undertaken as part of driver accreditation (including renewals) must be carried out by a medical practitioner. The unit cost of this requirement has been estimated as $37.05, being the Medicare rebate amount for a short GP consultation. It is implicitly assumed that these visual acuity tests will be bulk billed to the Medicare system. Given that driver accreditation is must be renewed on a three yearly basis, the total annual cost is estimated at:

$37.05 x 5,177 = $191,808.

This cost is applied to all three options.

## Present values

All present values are calculated over a 10 year period, using a 4% discount rate, as recommended in the *Victorian Guide to Regulation*. Calculations are generally conducted on a “steady state” basis, effectively assuming that the number of taxis and the number of active drivers will remain constant over the period. This assumption reflects the considerable current uncertainty regarding the future shape of the commercial passenger vehicle industry. While taxi licence numbers have increased significantly in recent years, particularly since the adoption by government of the Taxi Industry Inquiry recommendations in 2013, increasing competition from the ridesharing sector may militate against continued future growth.

# Appendix 4: Detailed discussion of options – individual regulations

| **Regulation** | **Description** | **Objective** | **Options** | **Conclusion** |
| --- | --- | --- | --- | --- |
| 4 | Specifies class of person that may undertake medical examination and provide certificate of medical fitness | * Public safety objective * Seeks to address information problem i.e. passengers do not know whether driver health poses a risk to them. * Supports the operation of section 167 of the Act * Ensures appropriately qualified persons undertake medical assessments | Merits of allowing different subsets of people who could assess medical conditions. For example:  1) GPs  2) Specialists  3) In-house staff/panel | Retain current requirement for GP to undertake the test as this is considered to provide the appropriate degree of expertise & objectivity at relatively low cost. |
| 5 | Specifies test for acuteness of vision | Ensure that visual acuity of taxi drivers is tested to an appropriate standard. | 1. Utilise the standard driver licence test. 2. Use heavy vehicle licence test. 3. Retain current taxi-specific test. | When considering tests applied in other areas of transport portfolio it became apparent that test applied to drivers of commercial passenger vehicles is more stringent than those applied to, for example, heavy vehicles.  It is not possible to justify a more stringent test in a lower risk environment.  Proposal is to remove this regulation because standard vision test should suffice. |
| 6, 7 and 8 | Taxi-cab drivers must display photo id with driver accreditation number in order to allow passenger to verify identify.  Regulations:   * authorise the collection of photos or digitised image of driver; * authorise the issue of id card by TSC to drivers; and * require cards to be displayed in-cab. | Objective is to provide public confidence that public safety measures (i.e. accreditation) have been complied with.  Provide passengers to verify that drivers are who they claim to be.  Also enables identification of driver after the trip has been completed (i.e. through public register). | 1) Default option is to display plastic ID card, alternative is to apply a outcomes based approach that permits electronically display or transmittal of driver details to customers as an alternative to have id card in –cab.   * The later can easily be complied with in respect to booked services but not feasible for rank and hail work performed by taxis. * If outcome based approach is chosen, then it opens up possibility of applying this requirement to other commercial passenger vehicles.   2) Alternative option is to improve accessibility of public register to include more driver details, including photographs so that identity can be checked by passengers if passengers consider it necessary to do so.   * Not all passengers have access to smartphone and, by implication, access to public register on the TSC website.   3) A range of different drafting options were also considered. | Retain the requirement for taxi drivers to display in-cab the driver identification provided to them by the TSC. |
| 10 | Requires licence holder to return licence to TSC if licence has been suspended, cancelled or revoked. | Supports compliance monitoring and enforcement activities for licensing requirements | Alternative is to rely on central records and remote access to those records by compliance officers in the field. However, advice is that licensing records are not kept in way that can be accessed remotely. | Retain regulation until administrative systems supporting compliance monitoring and enforcement activities negate the need to rely on paper records. |
| 11 | Operator of a taxi must provide records to a member of police force if requested to do so | Provides members of the police force with access to information that may be needed for general law and order reasons i.e. to identify and track the movements of person(s) suspected of committing crime(s). | 1) Members of police force tend to approach network service providers for records (not taxi operators). No known instance of network service provider refusing to provide the records requested. For this reasons, regulation may not be needed.  2) Alternative is for members of the police force to rely on general powers. For example, if network service providers failed to cooperate then a warrant could be obtained and served. | Subject to further consultation with members of the police force it is proposed to remove this regulation. |
| 11A | Record keeping requirements for non- taxi commercial passenger vehicles. Includes requirements to keep records of name, address and drivers licence of drivers. | Supports compliance monitoring and enforcement activities in relation to vehicle licensing and driver accreditation requirements.  The objective of the regulation is therefore generally to support achievement of desired public safety outcomes. | 1. Individual record keeping requirements reviewed with aim of limiting to those that are necessary for compliance monitoring an enforcement purposes. 2. Reviewed also period of time that records must be kept for. | Following amendment, the proposal is to retain record keeping requirements for commercial passenger vehicles (other than taxis)  [Note: record keeping requirements for Taxis are currently specified in the Taxi-cab industry accreditation regulations. These regulations have been reviewed and incorporated into the proposed regulations as a single set of record-keeping requirements]. |
| 12 | Provision of power to TSC to set specifications that all taxi-cabs or class of taxi-cabs must meet. Specifications may relate to the vehicle or equipment that is required to be installed in vehicles. Regulation also provides the capacity for TSC to provide exemptions | Specifications aims to ensure that vehicles are safe to be used as taxis in all relevant circumstances.  Power to set specifications have also been used in the past to set requirements for cabin space, boot space, etc which is not strictly needed to support public safety objectives. | 1. As an alternative to retaining the current regulations there has been consideration of whether there is scope to limit the breadth of the specifications power.  * TSC is supportive of eliminating specifications which relate more so to passenger comfort and luggage space, but there continues to be a need to set, for example, restraint requirements for wheelchairs loaded into wheelchair accessible taxis. * Furthermore, the existing power is relied on to set specifications for taximeters and security cameras. * Specifications for security cameras will not be authorised under this power in future, instead being addressed directly via a schedule to the proposed regulations). | Retain existing regulations, subject to some drafting changes.  No scope to limit power by reference to safety objective given that the power will continue to be relied upon to set specifications for taximeters (which are not safety related). |
| 14 | Requirement for taxi operators to ensure taxis are fitted with emergency warning devices approved by the TSC | Objective is to protect the safety of drivers. | 1. Remove the regulation.  * Device serves as a risk mitigation (i.e. enables response after incident). * Observation is that (a) driver has a strong incentive to insist on emergency distress device being installed and available for use and that (b) operators has obligations under occupational health and safety law to ensure that such risk mitigations are in place. * However, there is some doubt that taxi operators owe a duty of care to taxi drivers. The Taxi Industry Inquiry recommended putting this beyond doubt. | Retain existing regulation  Timing of removal of regulation may depend on clarification of OHS duties. |
| 15 | Require taxis to be fitted with security cameras | Public Safety objective   * Deters criminal and unsafe behaviours by passengers and drivers * Supports compliance monitoring and enforcement activities through, for example, the provision of evidence. | Option 1 – Retain the current regulation requiring all taxis to be fitted with security cameras & continue to rely on Regulation 12 to authorise the setting of a detailed camera specification.  Option 2– Retain the security camera requirement but include outcome based specification in a schedule to the regulations.  Option 3 – Use customer charters and codes of conduct to create an expected standard of driver behaviour as an alternative to the retention of the security camera requirement. | Include specification for security cameras as a schedule to the regulations  Remove requirement for cameras to be fireproof and waterproof.  Enable cameras approved for use in other Australian States and Territories to be used in Victoria. |
| 16 | Protective screens of a type approved by the TSC are required to be fitted in a manner approved by the TSC.  Regulation supports the implementation of licence conditions that requires licence holder to have a protective screen for each vehicle and requires that screen to be installed if requested to do so by the taxi driver. | Objective is to protect the safety of drivers  However, it is not clear that it is necessary to specify a manner of installation of screens to ensure their effectiveness, particularly as less than 5% of taxi drivers request that screens are fitted. | 1. Retain current requirement. 2. Replace current requirement with an outcome-based requirement that screens be fitted in a manner that ensures that they provide appropriate driver protection. 3. Remove requirements to fit screens in a specific manner. | Eliminate the current requirement to fit screens in an approved manner. |
| 18 | Taxis required to be fitted with an air conditioner that works | Objective is driver and passenger health and comfort. | 1. Remove regulation  * Regulation was drafted at a time when air conditioners were an optional extra in cars. Air conditioning systems are now a standard feature in all new cars and have been so for a number of years. * The driver already has a strong incentive to make sure that an air conditioner is fitted in the vehicle and is working properly. * While a small number of complaints have been received in the past about air conditioners that are not working the regulation has not been used to address these complaints. This is largely due to the difficulties associated with monitoring compliance and enforcing this requirement. | Remove this regulation on the grounds that it is either not needed or not effective. |
| 19, 20, 21 | Provides police and TSC officers with the power to require the operator of a taxi to make the vehicle available for inspection at or within a time specified.  Provides the power to issue defect notices that must be addressed within a specified period. | Ensure safety of vehicle for driver and passenger | Option 1 – Keep current regulations, as they provide ability to conduct random and complaints-based inspections, and provide integrity through independent vehicle testers.  Option 2 – Retain the current testing arrangements but, in the context of a simplified vehicle specification, broaden the pool of testers able to conduct annual inspections to include all licenced RWC testers. | Keep current regulations but consult on:   * the merits of removing annual inspection requirement in favour of more targeted and random inspections; and * the merits of removing the requirement to use a specifically licensed taxi tester (rather than a general RWC tester) when undertaking annual inspection. |
| 22 | Interference with equipment in or on taxi-cab | Equipment is required in taxis for the purpose of improving safety outcomes (e.g. security cameras, emergency distress systems) or to support implementation of regulation aimed at protecting consumers from exploitation of market power (e.g. taximeters).  This regulation is therefore aimed at ensuring these regulatory interventions are effective. | Consideration of whether potential instances of interference is covered sufficiently through other regulations or through offences specified in the Act or of law (e.g. Crimes Act makes it an offence to wilfully damage property owned by others).   * Advice from TSC is that this offence is called on regularly to support successful prosecutions of passengers and drivers. * Reliance on crimes act offences is not practical because TSC officers do not have authority to prosecute such crimes act offences. | Retain the existing regulation |
| 22B | Requires holder of licence for commercial passenger vehicle (other than taxi) to attach number plates , signs, symbols required by the TSC or by VicRoads | * Identification of a vehicle as a commercial passenger vehicle is necessary to support a range of compliance monitoring and enforcement activities. * Signs, notices and labels that are required in the cab or in the vehicle are also intended to notify passengers of their right and other address information gaps that may exist. | 1. Consideration of extent to which vehicle identification (other than number plate) is necessary in current environment where there is widespread use of automatic plate recognition by the police (and could be used by TSC)  * Assessment is that limitations on administrative systems i.e. lack of integration between VicRoads registration and TSC licensing databases means that this option is not feasible in the short term * In any case, there is a residual need to have a power to make information available to passengers if and when information problems emerge.  1. A range of drafting changes were considered to make regulation more clear and concise. 2. Consolidation with equivalent provision applied to taxis so that powers provided to the TSC and VicRoads to require plates, signs and symbols is sourced from one regulation | Retain the existing regulations, consolidate with equivalent provision relating to taxis and remove sub-regulation (2) so that there is not a specific discretion regarding the placement of the plates label etc. instead requirements is to locate in a way so that it is clearly visible at all times. |
| 22C | Provides the TSC with the power to inspect commercial passenger vehicles (other than taxis) and require defects to be remedied. | * Ensure safety of vehicle for driver and passenger | 1. Same options applicable to regulations 19, 20 and 21. 2. Combine with regulations 19, 20 and 21.  * The observation is that the powers to inspect and require defects to be fixed should apply irrespective of whether the vehicle is a taxi, hire car, special purpose vehicle or restricted hire vehicle. | Combine with regulations 19. 20 and 21 and make changes recommended following consultation on option to cease annual roadworthy requirements or, instead, remove the requirement for roadworthy tests to be undertaken by licensed taxi testers (tests will be undertaken by those licensed to do roadworthy inspections more generally). |
| 22D | Prohibits the use of commercial passenger vehicles that are damaged and become unsafe until the damage is addressed and the vehicle is safe to be used. | * Safety of drivers and passengers | 1. Combine with regulation that prohibits use of taxis in an unsafe condition.  * Safety requirement should apply irrespective of whether vehicle is a taxi, hire car, etc. * Requirement should be expressed in same terms whereas at present the drafting of the offences is different. | Combine with other regulation that specifies requirement for taxis to be maintained, repaired when damaged, etc so that they are safe to be used to provide services to passengers at all times. |
| 22E | Prohibits the driver of a commercial passenger vehicle (other than a taxi) from consuming alcohol during a shift in control of the vehicle. | * Require drivers of non-taxi commercial passenger vehicles to not consume alcohol for safety reasons i.e. safety of driver, passengers, and other road users. | 1. Remove the regulation on the grounds that all drivers of commercial passenger vehicles should have 0.00 BAC at all times  * Identified that section 52 of the Road Safety Act 1986 applies to taxis but does not apply to other types of commercial passenger vehicles | Do not remove until changes to legislation are enacted, requiring hire car drivers to have a 0.00 blood alcohol content at any time when they have a passenger in the vehicle. |
| 23 | Requires taxi operator to attach number plates, signs, symbols required by the TSC or by VicRoads | * Identification of a vehicle as a commercial passenger vehicle is necessary to support a range of compliance monitoring and enforcement activities. * Signs, notices and labels that are required in the cab or in the vehicle are also intended to notify passengers of their right and other address information gaps that may exist. | 1. Consideration of extent to which vehicle identification (other than number plate) is necessary in current environment where there is widespread use of automatic plate recognition by the police (and could be used by TSC)  * Assessment is that limitations on administrative systems i.e. lack of integration between VicRoads registration and TSC licensing databases means that this option is not feasible in the short term * In any case, there is a residual need to have a power to make information available to passengers if and when information problems emerge.  1. A range of drafting changes were considered to make regulation more clear and concise. 2. Combine with equivalent regulation (22C) that applies to hire cars.  * Observation was made that different requirements are likely to be applied to taxis and hire cars, but purpose of regulation is merely to provide TSC and VicRoads with the power to specify requirements. | Retain the existing regulations, consolidate with equivalent provision relating to hire cars and remove sub-regulation (2) so that there is not a specific discretion regarding the placement of the plates label etc. instead requirements is to locate in a way so that it is clearly visible at all times. |
| 23A | Requires taxi operators in regional and country zones to provide information in or visible from the outside of the cab regarding fares and hire rates | * Supports the implementation of the price notification scheme in regional and country zones   [Fares and Hiring rates are no longer regulated in the country and regional zones. Instead operates set their own rates but must be transparent with potential customers about what rates will be charged]. | 1. Changes to drafting has been considered to reflect some of the feedback received from operators following the first full year of implementation of the price notification scheme. | Retain the existing regulations with some minor drafting amendments |
| 24 | Requires taxi operators to (a) display on the outside of the taxi the name and telephone number of the network the vehicle belongs to; and (b) paint the taxi Victorian Taxi yellow. | * Supports accountability for service delivery at the network level * Makes vehicles clearly visible as a taxi that may be available to hail. | 1. Remove or retain the requirement for vehicles to be paint Victorian Taxi yellow  * Network of more than 9 vehicles can currently request to adopt different colour for vehicles. This administrative process enables TSC to retain a level of control over the livery of Victorian taxis, though most applications for approval of different colours are, in practice, approved. | Retain the requirement for taxi operators to obtain TSC approval to paint vehicle a colour other than Victorian Taxi yellow to retain regulatory control over approved livery. |
| 25 | Requires taxi operators to install signs on roof of taxis that is able to provide an indication that the taxi is available or not available for hire. | * Allow standardised means for customers to identify which taxis are available to hail. | 1. Remove the specification of when the sign should be turned off (to indicate when it is not available for hire) because the taxi driver already has a strong incentive to indicate it is available for hire when it is actually available. 2. Remove the whole regulation. This could reduce costs, however the costs are estimated as relatively low compared to other requirements, and this would create difficulties for some customers in identifying available taxis (e.g. for vision impaired customers). | Retain the regulation but remove the specification of when the sign must be turned off i.e. subregulation (2) |
| 26 | Requires taxi operators to not operate a taxi-cab unless two indicator lamps are fitted to the sign on top of the taxi-cab.  One lamp is to be lit when the taximeter is on. The other tariff lamp is to lit when a rate other than tariff one is being applied. | Allows people external to the vehicle to identify whether the taximeter is running and whether a special tariff rate is being applied.  Historically this was used as a mechanism for identifying when vehicles were being used without using the taximeter. | 1. Remove the regulation because visual inspection is no longer a practical method for monitoring use of vehicles.  * The primary reason for having the tariff lights relates to a commercial issue between the operators and the driver. There is no market failure to justify the use of regulatory powers to implement this monitoring method. | Remove the requirement to install tariff lights and the rules relating to when they must be used. |
| 29 | When the taxi is available for hire the regulation requires drivers to:   1. take all passengers attempting to hire a taxi to where they wish to be taken, unless authorised by the regulations to refuse. 2. take passengers to where they want to be taken using the most direct practicable route. | * Prohibits drivers refusing to take passengers in circumstances where it is not financially attractive (e.g. short fare). Arguably regulation is needed due to inflexibilities associated with regulation of fare rates i.e. symptom of regulator failure. * Protect passengers and visitors who are vulnerable to exploitation due to lack of knowledge about the most efficient and practicable route. | 1. Remove regulation that requires drivers to accept all fares  * Regulation has not been effective in addressing this problem. * Combination of pricing reform and education is more likely to be effective * Education is need to inform new drivers that short fare refusal (in hope of finding more lucrative fare) is, in practice, not a farebox maximising strategy. * Pricing reform is needed to improve incentives * Fare refusal is also not likely to occur in a context where there increasing competition for work.   AND   1. Retain requirement to take passengers to their destination using the most direct practicable route   OR   * 1. Use customer charters and codes of conduct to create an expectation for driver behaviour   OR   * 1. Rely on availability of technology to guide passengers as to whether the driver is taking the best route. | Retain regulation that requires drivers to accept all fares  Retain requirement to take passengers to their destination using the most direct practicable route |
| 29A | Driver of a taxi-cab may refuse to carry a person if showing a sign that the driver is heading to a particular destination and the destination is outside a 5km radius of where the passenger wants to go. | Manage health and Safety risks  Destination signs are often used when a driver finishes his/her shift and needs to return the vehicle to the operator or deliver to another driver. Facilitating change over can be important from a health and safety issue i.e. for example, if “change over” is delayed fatigue related risks can increase.  Destination signs enable driver to refuse a fare in specific circumstances  Regulation is needed as an exception to the rule to accept all fares | Need for regulation is explicitly linked to the regulation that requires drivers to accept all passengers when available for hire.  Given the conclusion reached in respect to Regulation 29, there is no need to provide for the destination sign exception to the rule. If change over is set to occur at a given time and at a given place, then the driver is not obliged to accept a fare that impedes change over from occurring. | Regulation is no longer needed given conclusion reached in relation to regulation 29(1) and 29(2). |
| 30 | Driver is required to stay with taxi-cab when standing at rank.  Driver is required to stay with the taxi-cab when the taxi-cab is on a highway unless attempting to locate a passenger, helping a passenger enter or leave etc. | Providing for efficient use of road side taxi ranks and short term parking and loading zones. | 1. Remove regulation on the grounds that it duplicates road rule and parking by law requirements specified by local governments.  * Taxis do not have any exemptions from road rule parking and no standing requirements and equally do not have exemptions from parking by law requirements. * Taxi zones are no parking zones and so by laws already require drivers to remain with taxi-cabs. * There is also a high level of self-regulation of conduct in taxi zones by drivers and their peers. | Remove regulation |
| 31 | Regulation requires drivers to wear the uniform specified by the operator of the taxi or the network the operator is affiliated with. | Provides for professional appearance  [No obvious market failure. As in most service industries choice of uniform is a commercial issue that complements branding. Proponents of government intervention in relation to uniforms argue that the decision by some to not wear uniforms impacts on other industry participants and tourism more generally i.e. an external cost argument] | 1. The alternative to retaining the existing regulation is to remove the requirement and rely on self-regulation to ensure professional standards are adopted and maintained.  * Regulation has not proved effective and has undermined the accountability of the industry to set and maintain professional standards  1. Other options involve a continuation of the role of the TSC in enforcing the wearing of uniforms  * Enforcement of uniform requirements is not a good use of TSC time. Time is better spent on enforcing safety requirements. | Regulation should be removed in favour of industry self-regulation in this area. |
| 33 | Require assistance animals to be carried by taxis when requested to do so by passengers.  Requires drivers to transport animals to vet with owner when animal is in need of urgent medical attention. | Supports improvements in mobility for people that are otherwise impeded from driving their own car due to disability e.g. blindness | 1. Expand the applicability of the requirement to carry assistance animals to all commercial passenger vehicles to ensure that all drivers are equally obliged to carry assistance animals when requested to do so. 2. Remove specific requirement that obliges drivers to take animals to the vet which require emergency medical treatment.  * Drivers of commercial passenger vehicles should be permitted to agree commercial terms for the provision of such services. * The transport of animals is distress can have consequences (blood, faeces and other bodily fluids as well as hair etc) that needs to be cleaned and drivers and operators should be compensated for this. | Retain regulation and extend to all commercial passenger vehicles but remove obligation to transfer animals to vet when animal is in need of urgent medical attention. |
| 34 | Driver of a taxi-cab must comply with a request from the passenger to turn off or on air conditioning, music system etc. | Provides public confidence that taxi drivers are obliged to provide a comfortable environment during transport. | 1. Remove requirement and rely on commercial imperatives to provide a quality service  * No evidence that a significant problem exists or would exist in the absence of regulation * Compliance monitoring and enforcement of requirements is difficult meaning that regulation is unlikely to be effective tool. | Remove requirement and rely on competition to drive improvements in service quality. |
| 35 | Driver is obliged to pick up and set down passengers as close as is practicable to where passengers wish to be picked up or set down | Service quality | 1. Remove the requirement  * No market failure. * No evidence that there is a significant problem * Not clear that regulation is or could be effective | Remove the requirement |
| 36 | Driver may refuse to carry or continue to carry passengers if passengers are violent, noisy or misbehaving, etc. | Driver safety  Regulation is needed as an exception to the rule to accept all fares | Need for regulation is explicitly linked to the regulation that requires drivers to accept all passengers when available for hire.  Given the conclusion reached in respect to Regulation 29, there is no need to provide for fare refusal in circumstances where passengers pose a threat to the driver. Instead the driver will have the capacity to refuse without any risk that refusal is later found to be unlawful.  In practice, at times where there is excess demand for taxi services (i.e. Friday and Saturday nights) taxi drivers are already filtering prospective customers by only responding to hails from people that outwardly appear to pose no threat to driver safety. | Regulation is no longer needed given conclusion reached in relation to regulation 29(1) and 29(2). |
| 37 | Requires the driver to give reasonable assistance to passengers entering and departing the taxi-cab with their luggage | Health and safety of passengers with impaired mobility | Option 1 – keep requirement to assist passengers into vehicle, ensuring that vulnerable passengers (e.g. the elderly, MPTP members, and those with injuries) can get into vehicle safely, but remove part (2) requirement to assist with luggage  Option 2 – Remove both parts of regulation, and allow social norms, consumer complaint mechanisms, and increased competition to meet the needs of passengers who require assistance | Keep requirement to provide reasonable assistance to passengers when entering or leaving the vehicle |
| 38 | Specifies rules that must be followed by drivers when making use of taxi ranks (referred to as “taxi zones”) | Providing for efficient use of road side taxi ranks and short term parking and loading zones. | 1. Remove regulation on the grounds that it duplicates road rule and parking by law requirements specified by local governments.  * Taxis do not have any exemptions from road rule parking and no standing requirements and equally do not have exemptions from parking by law requirements. * Taxi zones are no parking zones and so by laws already require drivers to remain with taxi-cabs. * There is also a high level of self-regulation of conduct in taxi zones by drivers and their peers. | Remove regulation |
| 39 | Regulation specifies rules relating to fares and charges and the use of taximeters e.g. must not charge any amount over that allowed under ESC fare determination, must not charge for part of journey delayed while taxi is being refuelled or repaired. | Supports implementation of fare regulation.  Fare regulation aims to protect consumers from possible use of market power in certain circumstance (e.g. when no other transport option is available and no other service provider is available. | 1. Retain regulation but redraft to more properly reflect changes to fare regulation goverance and remove parts of regulation that permit fees to be charged for the provision of credit.  * Fee for provision of credit is not part of the fare and is regulated under under Commonwealth laws. The regulations do not need to cover these matters. * There is no evidence that provisions have been used or complied with. | Retain regulation subject to removal of provisions relating to provision of credit. |
| 40 | Prohibits the driver from accepting multiple hirings unless the first passenger consents. | To protect vulnerable passengers from being unduly pressured or forced into sharing their ride or diverting from the most direct route without their consent. | 1. Keep part (a) as it provides the key protection for vulnerable passengers. Remove part (b), as it can be considered redundant if the passenger provides the consent related to part (a). 2. Remove the regulation entirely.  * There is no known problem that necessitates the regulatory intervention. | Remove the regulation. |
| 41 | Regulation provides drivers with the right to request prepayment or a deposit to prove capacity to pay. | To provide the driver with confidence in the passenger’s capacity to pay, and reassure their safety at night. | 1. Retain regulation but review and re-draft to simplify the regulation. 2. Remove discretion and require fare estimate and prepayment to be made at all times.  * Necessitates reconciliation process at end of hire for all trips, increasing administrative burden. | Retain existing regulation subject to some minor amendments. |
| 43 | If asked to do so by the hirer the driver is obliged to explain the fare on determination of the hiring. The driver is also obliged to accept payment by debit or credit card if a notice in the taxi-cab advises that this method of payment is acceptable. | Consumer protection by requiring information about charges to be accessible.  [regulatory objective of requiring electronic payment to be accepted if terminals installed is not clear. Reflects history of long delay to payment to drivers when electronic payment methods were used. This created perverse incentives for drivers. Lengthy delays to payment to drivers have since been removed].] | 1. Keep the regulation, but delete subreg 6A, delete part (6)(a), delete part (7)(ca), and re-word part (6)(a) to incorporate electronic transmission of receipts. 2. Keep the regulation and make the changes referred to above but also remove subregulations (2), (3) and (4)  * Taxi operators and drivers have a strong private incentive to ensure that different payment options are available to consumers so there is little or no need to have the subregulations identified.  1. Remove the regulation on the grounds that it duplicates requirements already prescribed in consumer law i.e. need to be able to explain fares and charges and need to provide a receipt, etc.  * Drawback of this option is that extra information about the number of taxi-cab and the driver accreditation certificate number would not be included on the receipt. | Retain regulation but make changes referred to in option 2. |
| 44 | Requires taximeters of an approved type to be installed and operating within taxis at all times.  Regulation also specifies that taximeter must be tested and programmed so that it accurately calculates fares in accordance with the tariff rates determined by the ESC. | Consumer protection: provides the passenger with certainty that the taximeter is operating properly and the fare is being calculated correctly | 1. Keep the regulation, but delete part (3)(c) and delete part (3)(d)  * Taximeters are now reprogrammed wirelessly so seals are redundant. * Location does not need to be precisely specified. More important to make to clear that it should be visible to passengers at all times. | Keep the regulation, but delete part (3)(c) and delete part (3)(d) |
| 45 | Specified rules in relation to the operation of taximeters in taxis. | Consumer protection: provide the passenger with certainty that the driver is using the taximeter correctly and not charging them an incorrect fare (information asymmetry)  Fraud avoidance: regulation prohibits the operation of the taxi-meter when the taxi is not hired. | 1. Retain regulation without amendment 2. Amend by deleting Subregulation (2) and Subregulation (6)(a). | Retain but make amendments. |
| 45A | Specifies information that needs to be included in the notice required to be sent to the TSC before new fares may be set and commence | Consumer protection through transparency of tariff rates to be applied by operators licenced to operate in regional and country zones | Information required was reviewed to ensure all are still relevant and necessary | Retain the existing regulation |
| 46 | Prohibits smoking in taxi-cabs | To protect passengers from safety risk posed by second hand smoke (externality) | 1. Retain regulation 2. Expand to cover smoking in all commercial passenger vehicles 3. Expand to also cover the use of e-cigarettes | Expand to cover the use of e-cigarettes and apply to all commercial passenger vehicles |
| 46A | Prohibition on drinking liquor in taxis | To protect drivers from the risk to safety and risk of damage posed by intoxicated passengers | 1. Remove the regulation  * Can be left to driver’s discretion * External costs limited to damage associated with consumption of any food and drink in vehicles | Remove the regulation |
| Transport (Taxi-Cab Industry Accreditation) Regulations 2007 | | | | |
| 5 | Requires applicants for operator accreditation to provide national police check information for each relevant persons put forward as a representative of the operator.  If a relevant person has been found guilty of an offence then the regulation requires details to be provided. | Supports the effective administration of legislative requirements that are aimed at protecting public safety. | TSC has now established a capacity to undertake national police checks on behalf of applicants, subject to receiving the applicants consent.   1. Option to redraft the regulation to provide the option to either consent to the TSC undertaking a national police check or separately obtaining and providing the national police check information when submitting an application for accreditation (i.e. the status quo) | Retain regulation and amend to provide applicants with the option to consent to TSC undertaking the national police check on behalf of the applicant. |
| 7 | Requires taxi operators to keep records of the type specified in Schedule 1 in accordance with the requirements specified in regulation 9. | Requires information to be kept so that it can be audited and inspected in support of compliance monitoring and enforcement purposes.  For example, records may be used to assess compliance with driver agreement requirements, driver accreditation requirements, etc,  Some information is also required to be kept in support of strategic planning and resource planning by the TSC. | 1. Review the need to keep the records specified in schedule 1 against the regulatory objectives and remove those for which there is not a clear purpose. | Retain the need to keep records to ensure that regulatory requirements specified in the Act and the regulations can be effectively administered and enforced.  Remove a number of record keeping requirements from schedule 1 because some of the information is no longer required to support compliance monitoring and enforcement. For example, records relating to:   * Days and times the taxi-cab is available for hire; * Kilometres travelled per shift; * Costs incurred from operations; and * The results of all inspections carried out by, or on behalf of the operator. |
| 8 | Requires taxi-cab network service providers to keep records of the type specified in Schedule 2 and 3 depending on whether the network provides services to more (metro and urban) 40 taxis or less than 40 taxis (regional and country) | 1. Review the need to keep the records specified in schedule 2 against the regulatory objectives and remove those for which there is not a clear purpose. 2. Review the need to have slightly different record keeping requirements for large (over 40 taxis) and smaller (under 40 taxis) network service providers. | Retain the need to keep records to ensure that regulatory requirements specified in the Act and the regulations can be effectively administered and enforced.  Eliminate differences between record keeping requirements for large and small networks.  Remove a number of record keeping requirements from schedule 2 because some of the information is no longer required to support compliance monitoring and enforcement or is duplicative of other requirements, for example:   * The specific requirement to keep records of telephone bookings duplicates general requirement to keep records of bookings * Item 3 requires records to be kept in relation to complaints handling, which essentially duplicates the requirement to implement a complaints handling system that complies with the Australian standard. * Similarly, Items 4-8 duplicate other requirements. |
| 9 | Specifies that records must be kept so they can be read or reproduced in English and kept in a format determined by the TSC for a specified period of time, depending on record type. | Requires information to be kept so that it can be audited and inspected in support of compliance monitoring and enforcement purposes. | 1. Consideration of option to remove discretion from TSC to impose requirement that records are kept in a particular form or format on grounds that discretion may be applied in a way that imposes unjustified level of burden. 2. Remove the requirement for records to be kept so that they can be read or reproduced in English in order to reduce the compliance burden on small scale operators that have English as a second language. 3. Consideration of whether it continues to be necessary to require different types of records to be kept for the specified periods. | Alternative to maintaining discretion is to prescribe in the regulations the form and format in which records must be maintained. This was assessed as impractical. So TSC discretion will be maintained.  Requirement to at least keep records in a way that can be reproduced in English should be maintained. Requests for information from individual operators in rare. In most cases TSC requests information in aggregated form from network service providers.  The observations are that most records that are required to be kept are also required to be kept for tax purposes and therefore required to be kept for a longer period than that specified. However, increasing the time period records are required to be kept in some cases (e.g. records not needed for tax purposes) may increase regulatory burdens so the conclusions is that time periods specified should not change. |
| 10 | Specifies a condition of accreditation to:   * make all of the records that are required to be kept available for inspection on demand; and * provide reasonable assistance when an audit or inspection is being undertaken | Supports and enables compliance monitoring and enforcement activities | 1. Rely on use of compliance monitoring and enforcement powers made available in the TCMA | Some gaps in powers made available under the TCMA means there is merit in maintaining this requirement. |
| 11 | Specifies a condition of accreditation to:   * Provide a copy of all and any records required to be kept to the TSC; * Except that a small accredited taxi operator is only required to comply with a request once every 3 years. | Supports and enables compliance monitoring and enforcement activities | 1. Rely on use of compliance monitoring and enforcement powers made available in the TCMA 2. Remove discretions provided to TSC in relation to specifying form, format, time period and interval frequency of information to be provided under the regulation 3. Remove the limitation on the use of power when undertaking compliance monitoring and enforcement in relation to small accredited taxi operators. | Maintain the condition of accreditation, however, remove the limitation on the use of power when dealing with small accredited taxi operators |
| 12 | Specifies a condition of accreditation of operator to take reasonable steps to verify that the driver is of sufficient good health and fitness to operate the taxi. | Occupational health and safety and public safety objectives | 1. Rely on public safety duty imposed on operator under occupational health and safety objective to cover such matters.   Noted that if recommendation 5.17 of the Taxi Industry Inquiry is implemented then the duty of care owed by taxi operators will be beyond doubt. | Remove regulation on the grounds that it duplicates occupational health and safety requirements. However, the removal of the regulation should be delayed until legislative change is made to put it beyond doubt that taxi operators owe a duty of care to drivers. |
| 13 | Specifies a condition of accreditation that obliges taxi operators to ensure that drivers have successfully completed training in respect to provision of services to persons in wheelchairs when operating a wheelchair accessible taxi | Safety of passengers that are mobility impaired and in need of special assistance when entering and departing vehicles. | Remove regulation on the grounds that it duplicates requirements specified under section 167 of the Act. | Maintain regulation to ensure that both the operator and the driver are obliged that training is undertaken before the driver is permitted to operate a wheelchair accessible taxi. |
| 14 | Specifies a condition of accreditation that obliges taxi operators to ensure that drivers have successfully completed training in respect to the use of equipment in or on a taxi-cab (i.e. taxi-meters, distress alarms). | Supports compliance with a number of different regulatory requirements (e.g. requirement to use taxi meter) | 1. Remove the regulation on grounds that:  * No course of training current specified under the Act makes the requirement redundant. * Taxi operator already has strong commercial incentive to ensure driver knows how to operate equipment * Taxi operator also needs to acquit (e.g. OHS duties) other regulatory requirements that implicitly require drivers to be properly inducted. | Remove the regulation |
| 15 | Specifies a condition of accreditation that obliges the taxi operator to ensure that taxi drivers are aware of their rights and obligations in relation to the equipment installed in or on the taxi-cab. | Is intended to ensure drivers are aware of relevant laws and requirements | 1. Remove the regulation on grounds that:  * Taxi operator already has strong commercial incentive to ensure driver knows how to operate equipment and is aware of obligations to do so. * Through joint responsibility for compliance in a number of key areas taxi operators already have an incentive to provide information during induction in order to evidence that they have taken reasonable steps to facilitate compliance, thereby limiting their liability in circumstances where there is non-compliance. | Remove the regulation |
| 16 | Specifies a condition of accreditation that obliges the taxi operator to take reasonable steps to ensure that taxi-cab is in a fit and serviceable condition. | Public safety | 1. Remove on the grounds that:  * It duplicates implied condition specified in section 144(1)(a) of the TCMA * Raises confusion in suggesting that taxi operators only need to take reasonable steps to ensure that taxi-cab is in a fit and serviceable condition rather than being accountable for ensuring that a taxi-cab must be kept in a fit and serviceable condition at all times. | Remove the regulation |
| 17 | Specifies a condition of accreditation that obliges taxi-cab operators to have a complaints handling system in place that ensures that complaints are investigated and addressed adequately. | Intended to provide a feedback loop that encourages improvements in service quality over time  Provides public confidence that complaints will be handled properly. | 1. Remove requirement because it is commercial issue that the industry has sufficient incentive to address. Such regulations are not needed in other industries. 2. Change the nature of the requirement imposed on taxi operators so that it is consistent with the requirement imposed on network service providers (i.e. compliance with the Australian standard). | Explicit complaints management system is needed to help track down and sanction drivers because individual drivers not reliant on repeat business and word of mouth as the case in other industries  Maintain regulation but amend to apply most recent version of Australian standard so that requirements imposed on taxi operators and network service providers are equivalent. This will make it easier for network service providers to provide complaints management services to taxi operators. |
| 18 | Enables an agreement to exist between a taxi operators and a network service provider to transfer accountability for complaints handling in respect to services provided by the taxi operator to be transferred to the network service provider. | Enables more cost effective compliance by levering off the complaints handling system of the network that provides booking (and other) services to the taxi operator. | 1. Avoid the need for agreements to be established and make network service providers automatically jointly responsible for implementing an effective complaints handling system in relation to services provided by taxi operators that it provides network services to. 2. Consequential to the decision to remove regulatory requirements for taxi operators to have complaint management systems in place, remove the regulation. | Retain the regulation without amendment. |
| 19 | Specifies condition of accreditation that requires network service providers to have a complaints management system in respect of the network services it provides to taxi operators and taxi customers | Intended to provide a feedback loop that encourages improvements in service quality over time  Provides public confidence that complaints will be handled properly. | 1. Remove requirement because it is commercial issue that the industry has sufficient incentive to address. Such regulations are not needed in other industries. 2. Remove the requirement on the grounds that it duplicates the requirement specified in regulation 20. | Remove the requirement on the grounds that it duplicates the requirement to have a complaints management system that meets the Australian standard (i.e. regulation 20) |
| 20 | Specifies condition of accreditation that requires network service providers to have a complaints management system that meets the Australian standard | Intended to provide a feedback loop that encourages improvements in service quality over time  Provides public confidence that complaints will be handled properly. | 1. Remove requirement because it is commercial issue that the industry has sufficient incentive to address. Such regulations are not needed in other industries. | Maintain the regulation, consequential to the need to have an explicit complaints management to help track down and sanction drivers because individual drivers not reliant on repeat business and word of mouth as the case in other industries. |
| 21 | Specifies a requirement for taxis licensed to operate in the metropolitan zone to be fitted with a GPS system that meets the specified standard | Enables the collection of information that is required to be kept so that it can be audited and inspected in support of compliance monitoring and enforcement purposes.  Some of this information is also required to be collected, kept and provided to the TSC periodically in support of strategic planning and resource planning by the TSC. | 1. Remove the requirement on the grounds that there is already a strong incentive for taxi operators to install GPS systems in vehicles so that they can monitor the operations of drivers to, for example, ensure that drivers are processing all fares through taxi meters.   It is evident that commercial incentives are sufficiently strong to motivate the operators of taxis licensed to operate in other zones to install GPS units in their vehicles despite not being required to do so.   1. Update references so that GPS units are required to comply with the most recent version of the standard. Transitional provisions will deem existing units installed in vehicles as being compliant. 2. Apply the requirement to all taxis, not just those licensed to operate in the metropolitan zone. | Retain the regulation but update reference to the applicable standard.  While it is reasonable to argue that strong commercial incentives already exist to have this equipment installed in taxis, this need not be the case in future if the industry looks to adopt a daily rate approach to bailment instead of farebox sharing arrangement. |
| 22 | Specifies that records generated by GPS units are required to be kept for a period of 5 years (Note: time period specified in regulation 9). | Required to be kept so that it can be audited and inspected in support of compliance monitoring and enforcement purposes.  Some of this information is also required to be collected, kept and provided to the TSC periodically in support of strategic planning and resource planning by the TSC. | 1. Review the need to keep the records for a period of 5 years 2. Apply the requirement to all taxis, not just those licensed to operate in the metropolitan zone. | Retain the requirement without amendment.  Records are required to valid fare receipts for tax purposes so need to be maintained for 5 years anyway. |
| 23 | Specifies that the TSC may give a direction in writing to taxi operator to provide the GPS information. | Information is required to be collected, kept and provided to the TSC periodically in support of strategic planning and resource planning by the TSC. | 1. Apply the requirement to all taxis, not just those licensed to operate in the metropolitan zone. | Retain the requirement without amendment.  No need to apply to other zones because despite the absence of a requirement to keep records and provide the information, operators and networks in other zones are already maintain records (for tax reasons) and are voluntarily complying with requests for information. It is noted that TSC has other powers under the TCMA to require the information to be provided. |

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1. As explained below, these requirements are established administratively by TSC, pursuant to general regulatory powers established in the regulations in relation to vehicle inspections and vehicle specifications. Option 3 is based on different assumptions as to how these administrative discretions would be exercised in practice. [↑](#footnote-ref-1)
2. The Transport Integration Act 2010 establishes the Taxi Services Commission as the regulator of the commercial passenger vehicle industry (see Division 3 of Part 5). [↑](#footnote-ref-2)
3. Under the terms of the Subordinate Legislation Act 1994, regulations are automatically repealed 10 years after they first come into effect. The 1994 regulations had their operation extended for one year, pursuant to the Subordinate Legislation Act, before sunsetting in June 2005. [↑](#footnote-ref-3)
4. As the Transport (Taxi-cab) Regulations 2005. [↑](#footnote-ref-4)
5. See the Foletta Report, published by the Victorian Government in 1986. <http://trove.nla.gov.au/work/11846786?selectedversion=NBD4837170> [↑](#footnote-ref-5)
6. The report was tabled in Parliament in December 2012. [↑](#footnote-ref-6)
7. See, for example, the National Competition Policy review of the Victorian taxi industry (KPMG Consulting (1999)). [↑](#footnote-ref-7)
8. <http://www.transport.nsw.gov.au/media-releases/new-transport-economy-consumer-choice-competition-and-downward-pressure-fares> [↑](#footnote-ref-8)
9. In practice, much taxi regulation can be classified as “economic regulation” and focuses on restricting the supply of taxis. This supply restriction, which the TII – in common with most recent academic research – found to have no sound public policy justification, has historically underpinned the high transfer prices paid for taxis. However, while significant, this aspect of taxi regulation falls outside the scope of the current discussion. The following discussion therefore confines itself to “quality regulation”, as distinct from “quantity regulation”. [↑](#footnote-ref-9)
10. It has been suggested in some quarters that the recent development of ride-sharing provides insights into the potential operation of an unregulated taxi industry, given that such services operate largely or wholly outside the regulatory structure in most jurisdictions. However, several factors militate against this approach. First, no reliable data is available on key aspects of the performance of ride-sharing, such as its comparative safety performance. Second, the ride-sharing sector more closely replicates the hire car industry than the taxi industry, in that only the taxi industry includes a significant element of rank and hail work. This work is at the centre of many of the problems that are the focus of taxi regulation. Third, the fact that the ride-sharing industry has been determined, in court actions to date, to be operating outside Victorian law makes it an inappropriate yardstick of comparison in the current context. [↑](#footnote-ref-10)
11. This includes evidence that they have not committed disqualifying offences. Thus, the regulatory provision requiring a police check to be undertaken simply specifies the most feasible and least cost means of complying with the requirement specified in the TCMA. [↑](#footnote-ref-11)
12. Graph 3.1 actually covers 37 months. [↑](#footnote-ref-12)
13. The latest official crime statistics available are for 2013-14. See: http://www.police.vic.gov.au/content.asp?a=internetBridgingPage&Media\_ID=72176 [↑](#footnote-ref-13)
14. Graph 3.2 also shows that, in up to 37% of incidents, either the offence is not an offence against the person or the victim is unknown. [↑](#footnote-ref-14)
15. These offences constitute a large proportion of the “not known/not against person” category in Graph 3.2. [↑](#footnote-ref-15)
16. That said, even in the case of telephone bookings of taxis, little or no identifying information will be provided in many cases, with bookings potentially being made under a partial name, or an incorrect one. [↑](#footnote-ref-16)
17. Taxi Industry Inquiry (2012) ***Draft Report***, p 470. [↑](#footnote-ref-17)
18. See ABS Survey of Motor Vehicle Use: http://www.abs.gov.au/ausstats/abs@.nsf/mf/9208.0/ [↑](#footnote-ref-18)
19. <http://www.vacc.com.au/Motorist-tips-advice/Unroadworthy-vehicles-and-defect-notices>. [↑](#footnote-ref-19)
20. Note that the wider legislative structure currently also includes a requirement that taxi vehicles be no more than 2.5 years old on entering service as a taxi and is no older than 6.5 years while working as a taxi. These age restrictions are intended as a supplementary means of minimising the probability of undetected vehicle defects. However, recent research commissioned by the TSC and undertaken by the Monash University Accident Research Centre (MUARC) indicates that there are very limited correlations between vehicle age and accident involvement. Hence, the future of this aspect of the suite of vehicle safety regulation is currently under review. [↑](#footnote-ref-20)
21. For details, see: <http://taxi.vic.gov.au/owners-and-operators/taxi-owners-and-operators/vehicles/annual-vehicle-inspection#67> [↑](#footnote-ref-21)
22. <http://taxi.vic.gov.au/drivers/taxi-drivers/penalties-and-enforcement/compliance-services> [↑](#footnote-ref-22)
23. <http://taxi.vic.gov.au/owners-and-operators/taxi-owners-and-operators/vehicles/annual-vehicle-inspection> [↑](#footnote-ref-23)
24. The decline in the number of defect notices issued in recent years (see Table 3.4) is believed to be largely due to the fact that the legislation creating the TSC as the successor to the VTD did not provide powers to issue defect notices to TSC officers. [↑](#footnote-ref-24)
25. Note that data on the proportion of vehicles that initially fail their annual inspections is not available, since these inspections are carried out by accredited private inspectors, rather than the TSC. [↑](#footnote-ref-25)
26. The report cites a Victorian figure of 8%, calculated from the Coroner’s Court database. [↑](#footnote-ref-26)
27. Reichnitzer, G., Harworth, N. & Kawadlo, N. (2000). ***The Effect of Vehicle Roadworthiness on Crash Incidence and Severity.*** Monash University Accident Research Centre Report No. 164. [↑](#footnote-ref-27)
28. More recent research from the United Kingdom reported a broad estimate of 3% for the proportion of accidents caused by vehicle defects in the UK, but highlighted the lack of recent research on this issue. It also indicated a lack of data directly connecting inspection frequency and accident rates but, based on a theoretical model, estimated proportionately small increases in accidents, fatalities and injuries would result from an extension of the time period between regular inspections. See: <http://www.dft.gov.uk/rmd/project.asp?intProjectID=12889> [↑](#footnote-ref-28)
29. As discussed in Section 3.3.1, above. [↑](#footnote-ref-29)
30. Symmons, MA & Haworth, NL (Date?) ***Characteristics of Taxi Crashes in New South Wales.*** Monash University Accident Research Centre. See: <http://acrs.org.au/files/arsrpe/RS050099.pdf> [↑](#footnote-ref-30)
31. i.e. ratio of taxi accident/fatality/injury rate to that of all vehicles. [↑](#footnote-ref-31)
32. That is, the relatively small size of the individual financial losses and as the cost in time and effort in lodging complaints imply that only a small proportion of passengers who have problems of these types are likely to make a formal complaint. [↑](#footnote-ref-32)
33. This is contained the taxi specifications, authorised by Regulation 12. [↑](#footnote-ref-33)
34. Recent court action in the United Kingdom resulted in a decision that the Uber app does not constitute a taxi meter for regulatory purposes. See: <http://www.theguardian.com/technology/2015/oct/16/uber-wins-high-court-case-taxi-app-tfl> [↑](#footnote-ref-34)
35. If country zone taxis were included in such a requirement, those that do not currently have GPS devices fitted would incur substantive costs in complying with the regulatory change. [↑](#footnote-ref-35)
36. Note that the cost estimate provided here, which is derived from that developed for the 2008 RIS, reflects the gross cost attributable to the uniform requirement. As noted elsewhere, it is at least arguable that the net cost of this regulation is substantially lower in practice. [↑](#footnote-ref-36)
37. The number of notices, of all types, issued as a percentage of vehicle inspections has varied between 30% and 32% during the three years in question. [↑](#footnote-ref-37)
38. The Victorian Taxi Directorate carried out 6407 inspections in 2006 – 07. See Regulatory Impact Statement: Transport (Taxicabs) (Amendment) Regulations 2008, P 40. [↑](#footnote-ref-38)
39. Note that the cost estimate provided here, which is derived from that developed for the 2008 RIS, reflects the gross cost attributable to the uniform requirement. As noted elsewhere, it is at least arguable that the net cost of this regulation is substantially lower in practice. [↑](#footnote-ref-39)
40. As noted above, the text of the proposed regulation would be the same under all three options, thus implying that different administrative decisions and different cost outcomes are possible under all options. The purpose of the modelling of different decisions under different options is to present three clearly distinguishable approaches to taxi regulation and clarify the implications of different choices being made in these areas, thus enabling stakeholders to focus on the implications of the different approaches and provide appropriate feedback. [↑](#footnote-ref-40)
41. The TSC Annual Report indicates that 118 such complaints were made in the two years to 30 June 2015. [↑](#footnote-ref-41)
42. Note, however, that any such changes would, if substantive, require an RIS to be prepared and released for public consultation. [↑](#footnote-ref-42)
43. As discussed above, there would be no change in the current regulatory head of power in this regard. Rather, Option 3 is based on modelling the adoption of a different approach being taken by the TSC to the exercise of this power, consistent with its “minimum necessary regulation” formulation. [↑](#footnote-ref-43)
44. Taxi Services Commission (2015). ***New Specification for Fare Devices: Regulatory Impact Statement***, p 32. [↑](#footnote-ref-44)
45. The TSC advises that the final shape of the taximeter specification remains under consideration, with some amendments being likely in response to the consultation comments received during the RIS process. [↑](#footnote-ref-45)
46. That is, this option would effectively amount to a deferral of the updating of the current taximeter specification pending greater consideration being given to the potential benefit of adopting emerging technologies in this area, as well as taking the implications of any government decisions regarding ride-sharing into account. [↑](#footnote-ref-46)
47. Note, however, that the industry costs totals under Options 1 and 2 include $15.1 million in uniform costs which are largely borne by drivers, rather than taxi operators. Moreover, as noted above, these can be considered gross costs and, to this extent, the estimated cost reduction associated with Option 3 is arguably over-estimated. [↑](#footnote-ref-47)
48. [www.vta.com.au](http://www.vta.com.au), retrieved 24 February 2016. [↑](#footnote-ref-48)
49. Taking into account that the taxi industry has other sources of revenue, including advertising. [↑](#footnote-ref-49)
50. CPI all groups Melbourne December 2015/December 2006 = 108.3/86.9. [↑](#footnote-ref-50)
51. Note that, of these three key differences, only one – that relating to the uniform requirement – would actually be reflected in different regulatory drafting. As discussed above, the current broad heads of power relating to the vehicle inspections and the taximeter specification would be retained under both options (indeed, the latter would be broadened slightly to refer to “fare calculation devices”, rather than “taxi-meters”, as discussed elsewhere. Option 3 is, however, based on different assumptions as to how TSC would exercise its discretions under these heads of power. [↑](#footnote-ref-51)
52. Given the above discussion regarding the distinction between the gross and net costs of the uniform requirement. [↑](#footnote-ref-52)
53. See: http://taxi.vic.gov.au/owners-and-operators/taxi-owners-and-operators/changing-the-colour-of-your-cab [↑](#footnote-ref-53)
54. *Competition Principles Agreement*, Clause 5. 1995. See: www.ncc.gov.au [↑](#footnote-ref-54)
55. See OECD (2011) *Competition Assessment Toolkit. Volume 1: Principles*, pp 8-9. OECD, Paris, 2011. [↑](#footnote-ref-55)
56. It is acknowledged that the current regulations operate within a larger regulatory context and that the cumulative cost impact of regulatory regimes can be significant in determining market behaviour. However, DEDJTR believes that the current regulations remain proportionate within this broader context. [↑](#footnote-ref-56)
57. See Part VI, Division 9A, Subdivision 5B. [↑](#footnote-ref-57)
58. [↑](#endnote-ref-1)