

National Competition Policy Review

of the

Passenger Transport Act, 1994

**FINAL REPORT**

November 1999

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## Contents

1	Executive summary and recommendations	2
2	Introduction	8
	Background	8
	Expected benefits from the Competition Policy Agreement	8
	The role of legislation	9
	How legislation can affect market behaviour	9
	Competition in markets	11
	Terms of reference	11
	Methodology	12
3	Overview of the Act	14
	Background to the Act	14
	Defining passenger transport	15
	Summary of the Act	16
	Implementation of the Act	20
4	The South Australian industry and competition	21
	Passenger transport and urban efficiency	21
	Competition and substitution	22
	Market segmentation	24
	Passenger safety and information asymmetries	27
	Industry entry costs and investment value	27
5	Market characteristics in South Australia	29
	Regular passenger services	29
	Large passenger vehicles	29
	Taxis	30
	Small passenger vehicles	30
	Accreditation services	31
6	Legislation review	33
	A summary of the intervention mechanisms of the Act	33
	Discussion of the intervention mechanisms of the Act	34
7	Identification of key competition issues for market segments	46
	Rail transport services	46
	Bus services	47
	Taxis	55
	Small passenger vehicles	63
8	Conclusions and recommendations	69
Appendices		
I	Passenger Transport Policy Objectives	
II	Issues paper	
III	Summary of submissions	
IV	Taxi Industry in Australia – interstate comparative analysis	
V	References	

# 1 Executive summary and recommendations

## Background

This review into the impact of competition on the Passenger Transport Act, 1994 has been commissioned by the Minister for Transport and Urban Planning as part of the requirements of the Competitive Principles Agreement. The intent of the review is to identify elements of legislation that restrict competition in the market and hence cause additional costs. The guiding principle of the assessment is that such legislation should not restrict competition unless it can be demonstrated that:

- The benefits to the community of the restriction outweigh the costs, and
- The objectives of the legislation can only be achieved by restricting competition.

Passenger transport is defined as all transport that carries passengers for a fare or other consideration.

There are a number of general arguments that support the need for regulatory control in the passenger transport sector. These include:

- Effective passenger transport systems are integral to the effective operation of urban systems and have significant externality and equity issues related to market failure
- The market is well segmented with some consumer groups having access to a range of transport choices while others are constrained in their selection; there are also significant differences in peak and off-peak demand for transport
- Issues of passenger safety and security, including risk to life and proper conduct
- General arguments about information asymmetries between the provider and the consumer and consumer search costs
- That entry into the industry is relatively easy, without significant investment costs

## Constraints within the Passenger Transport Act

The Passenger Transport Act allows the government through the Passenger Transport Board (PTB) to have significant intervention into the market. The mechanisms for this intervention, in order of severity, are:

- 1 The control of regular route services and the ticketing and fare revenue associated with the metropolitan public transport. Operators are unable to enter the market without government approval, and in effect route services represent monopoly services. Competition is encouraged through periodic tendering for contracts (s. 39)

- 2 The use of an accreditation system for:
  - Operators of passenger transport services (s.27)
  - Drivers of vehicles (s. 28), and
  - Providers of centralised booking services (s.29)
- 3 The requirement for licensing taxi-cabs (s. 45-52)

In addition to these three regulating roles of ticketing, accreditation and licensing, the specified functions of the PTB enable it to intervene in the provision of passenger transport services through:

- 4 The monitoring and inspection function which enables the Board to set safety standards for operation and an inspection and monitoring program for ensuring compliance (s.20 (g))
- 5 Infrastructure for the passenger transport network, such as signage and bus shelters, etc (s.20 (h))
- 6 Establishment of a mechanism to receive and respond to complaints (s.20 (k))

## **Review of services**

This review has considered each element of the legislation in turn and has then considered the main transport modes of rail, taxi and hire cars, buses and coaches to understand the competitive elements affecting each industry.

### Passenger rail services

Rail services are an integral part of the regular transport options in an urban area and are appropriately provided by the government through a monopoly contract in this state. Infrastructure costs and limited market size in South Australia make it prohibitive to consider other options. Other mechanisms to improve competitive forces in the delivery of services are not impeded by the Act, and enable tendering of the services if the PTB chose to do so. Note that this is a policy not a legislative issue.

### Bus services (metropolitan and country)

The Passenger Transport Act of 1994 and its subsequent revisions are consistent with the recommendations of the Productivity Commission regarding market reform for bus services. Where the legislation contains any remaining restrictions on competition, those restrictions are in the context of market justifications. The private sector bus industry and particularly the smaller operators in the charter market and in country areas presented strong arguments on the restrictions they faced to operate effectively. The arguments were often presented in terms of safety standards and quality of service and related to implementation issues surrounding the Act, rather than the Act itself. The questions were whether the requirements of the Act were being adequately monitored and controlled.

One issue of concern to both the metropolitan and country operators was the different requirement for accreditation of drivers based on the type of service being provided. The requirements are:

- Drivers of community or passenger services who are volunteers are not covered by the Passenger Transport Act and do not themselves need to be accredited, although the voluntary agency providing the service does need to take responsibility for the service
- Drivers of regular passenger services (e.g. route services) must be accredited by the Board as a fit and proper person and have appropriate skills to drive a bus
- Drivers of school bus services (normally in country areas) who are employees of the Department of Education, Training and Employment (DETE), only need to be approved by the school council concerned rather than the PTB. However, if drivers are not DETE employees, they need both PTB accreditation and school council approval.

This means that drivers can be either accredited twice, if a charter operator providing a school service, accredited once or not at all if driving as a volunteer. While this is outside the scope of competition, it is an anomaly that should be addressed.

#### Taxi services

Although the taxi industry appears heavily “protected” and competition severely restricted by the limited number of licences available, and while there is some difficulty in understanding arguments around what sustains the value of a taxi licence plate we would:

- Argue that protection of the industry is necessary because of the need for passenger safety, cost structure issues, demand structure issues and social justice implications
- Note that the actual extent of protection is limited in South Australia as 60% of services are directly competed for by the hire car industry through telephone booking rather than street hail arrangements<sup>1</sup>

Successive South Australian governments have taken action to achieve greater competition in the taxi industry. It is noted that other states have licensing systems in place for hire cars, and significant restrictions on numbers and operations<sup>2</sup>. There are sufficient dynamics in the South Australian environment for the taxi industry to be unable to hide behind the seeming protection of taxi licences. Under the current regulatory system, the taxi industry in our opinion will need to be innovative and resourceful to sustain a reasonable market share, and so there is no need to change the regulatory system as it currently exists.

The Passenger Transport Act allows the Minister to release up to 50 new taxi licences per annum, which represents 5% of the current market. The Productivity Commission argues that it is appropriate to increase competition through the release of more licences onto the

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<sup>1</sup> Information provided by the SA Taxi Industry Association

<sup>2</sup> Reference to come

market at a gradual rate of 10-15% per annum. We believe that given the slow population growth in South Australia, relative to the rest of Australia, combined with the direct competition provided by the hire car industry, that the rate of 5% per annum is appropriate. However, while the legislation allows these licences to be released, the practice since the introduction of the legislation has been to release under ten licences per year. This is an administrative matter and is beyond the scope of this review, which is to concentrate on legislation.

### Small passenger vehicles services

The key competition issues regarding the Small Passenger Vehicle-Metro (SPV-M) car sector are:

- The ability of SPV-M cars to compete with taxis
- The extent of competition developing within the industry itself and the business practices present
- The ability to accept Transport Subsidy Scheme Vouchers to serve people with some form of mobility constraint

There is a need to differentiate between SPV-M cars and taxis. The key distinction in South Australia is that SPV-M cars cannot ply for hire and accept fares off the street and this seems to be a reasonable distinction. The major complaint of the sector regarding competition is that the constraints placed on them by the Act regarding vehicle conditions are arbitrary. As with taxis, it is our view that industry dynamics and the nature of competition are so significant that the limited constraints will not be binding in the long term and will not be a serious deterrent to competition. Therefore, there is no need to change the Act.

## **Conclusion**

The passenger transport industry has significant arguments for regulation, namely:

- The existence of externalities in the services provided, particularly related to the effective operation of the urban system, and
- Information asymmetries that may exist, and the implications for passenger safety and service quality

However, the consultation and review process undertaken for this study suggest no need for major changes to the Passenger Transport Act. The justifications for this conclusion are that:

- A stable and effective urban transport system has extensive interaction with urban form issues - the externalities, cost structure, information and equity issues involved within passenger transport are extensive

- The Act is only five years old and competition principles were under consideration when the Bill was drafted. The Act is consistent with the directions proposed by the Productivity Commission in its review of Passenger Transport
- The Act has been reviewed recently on a more general basis<sup>3</sup>, and recommended changes have been implemented with a subsequent improvement in competition
- The regulations and legislation exist in a dynamic environment of technology change, and inherent market flexibilities. This means that the Act is not pivotal in constraining desirable levels of competition.

Many of the issues raised during the review process relate to implementation issues and more specifically to monitoring and control of the existing provisions of the Act. There is a need for these issues to be considered within the context of constraint of competition but this can be handled internally within the PTB.

## Recommendations

- 1 That the Passenger Transport Board have a single system of accreditation for drivers of buses which applies equally to drivers of regular passenger vehicles, charter vehicles, school buses and community services, whether these drivers be employed or volunteers.
- 2 That opportunities are taken to monitor and review accreditation procedures in other States with the intent of bringing the states into alignment so that there is mutual recognition between states with operators able to work between states.
- 3 That the Passenger Transport Board enter into discussions with local government to ensure that the practices followed for the licensing of taxis and accreditation of drivers in rural areas meet competition principles, and that clauses to this effect be inserted into legislation, if required. (This should apply to both taxis and Small Passenger Vehicles).
- 4 That the Passenger Transport Board ensure that in future contracting of regular route services, ongoing consideration be given to the size of the contracts to ensure that they include and treat equally all reasonable providers of the service.
- 5 That the Passenger Transport Board give consideration to tendering all or part of the metropolitan rail services.

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<sup>3</sup> Halliday and Coleman (1998) "Review of the Passenger Transport Act, 1994"

- 6 That the Passenger Transport Board make clear to bus and charter operators the rationale for designating a route as a 4A exemption to ensure that industry concern about the arbitrary nature of decisions about these routes and their impact on other operators be allayed.
- 7 That the current use of Transport Subsidy Scheme Vouchers with taxis only be reviewed to consider the implications of extending the scheme to enable passengers to use these vouchers with Small Passenger Vehicles- Metropolitan and Non-metropolitan.
- 8 That the Passenger Transport Board review on a regular basis the vehicle type and other conditions placed on Small Passenger Vehicles – Metropolitan to ensure that they remain consistent with industry expectations.
- 9 That the Passenger Transport Board note the concern of drivers of the Small Passenger Vehicle – Metropolitan industry that the booking services within this sector of the industry are acting unfairly, and that if the Office of Fair Trading substantiates these claims, take action to introduce non-regulatory procedures to eliminate this.
- 10 That the Passenger Transport Board investigate the claim that it is in breach of the s. 46 of the Trade Practices Act by prohibiting rooftop advertising on taxis, and if so, that it take remediating action.



## 2 Introduction

### Background

This review into the impact on competition by the Passenger Transport Act, 1994 has been commissioned by the Minister for Transport and Urban Planning. The Passenger Transport Act regulates land based passenger transport matters in South Australia. This review is a requirement of the National Competition Policy.

The Competitive Principles Agreement has arisen out of the Council of Australian Governments (CoAG) arrangements, negotiated and agreed in 1995. The Agreement requires the review and reform (where appropriate) of all government legislation by the year 2000. It represents a commitment by Australian governments to a consistent national approach to fostering greater economic efficiency and improving the overall competitiveness of the economy with a view to achieving higher rates of economic and employment growth.

The intent of the review and reform process is to identify elements of legislation that restrict competition in the market. The guiding principle of the assessment is that such legislation should not restrict competition unless it can be demonstrated that:

- The benefits to the community of the restriction outweigh the costs, and
- The objectives of the legislation can only be achieved by restricting competition.

This principle leads to a presumption that restrictions on competition are not in the public interest and if such restrictions are to be retained, they must be demonstrated to generate public benefits that outweigh their costs.

The Minister for Transport engaged the consulting team of Bronwyn Halliday and Associates with Economic Research Consultants to undertake this review.

### Expected benefits from the Competition Principles Agreement

The Competition Principles Agreement grew out of the 1993 Report of the Independent Committee of Inquiry into Competition Policy in Australia (Hilmer Report), the prime perspective of which was that restricted competition was harming the nation in terms of economic efficiency. The Hilmer Report, and the microeconomic reform program that has grown from that report presumes that there are many cases in which legislation and regulation of markets result in inefficiencies, and therefore economic loss to the community.

It was estimated that:

- Microeconomic reform could provide net economic benefits to the nation in the order of \$25 billion annually

- Reform of the collection of various licensing arrangements would nationally provide benefits in the order of \$300 million annually.<sup>45</sup>

In addition, CoAG undertook a joint commitment to achieving the benefits of competitive reform, with the Competitive Principles Agreement involving substantial revenues to the States, if the States abided by the principles. It is therefore critical for legislation within South Australia to be reviewed within this context so that South Australia can share in this additional revenue.

The South Australian Government has a program to review its legislation in compliance with the Competition Principles Agreement. The reviews have been coordinated through the Department of Premier and Cabinet and incorporate an accepted process of enquiry.

### **The role of legislation**

As almost all elements of legislation involve some restriction on market behaviour, it would a priori be expected that there would be restrictions in the Passenger Transport Act. Indeed the passenger transport industry, and specifically the taxi industry, has long been cited by some parties as anti-competitive and in need of reform. Generally, restrictions are introduced to compensate for ways in which an unrestricted competitive market would have failed to produce appropriate outcomes. Appropriate outcomes might include safe passenger transport or accessible passenger transport for all citizens. The Passenger Transport Act, like other legislation, is designed to produce certain community outcomes. It is noted that the current passenger transport legislation in South Australia was drafted in 1993 at a time when the Hilmer Report directions were known and being debated and it includes many elements that allow for competition. It must further be noted that an effective passenger system has extensive externality impacts - influencing the effective operating of the economy and community - and that there are clear benefits from appropriate coordination of the system, and that this generally requires some government intervention rather than completely open competition.

### **How legislation can affect market behaviour**

There are a number of ways in which legislation can restrict the free competitive operation of markets. The legislation can be focussed on "correcting" for the presence of one of a number of forms of market failure, including:

- the existence of externalities<sup>6</sup>
- the presence of a public good<sup>7</sup>

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<sup>4</sup> Industry Commission, 1995, *The Growth and Revenue Implications of Hilmer and Related Reforms*, p19 and Section A4

<sup>6</sup> Externalities occur where private decision makers impose costs or benefits on others in the community which are not compensated.

- the existence of a natural monopoly<sup>8</sup> or
- the difficulties of information asymmetries<sup>9</sup>.

Where restriction on competition is identified, the questions that need to be asked are:

- Does the underlying market failure still exist?
- Is it of such a scale to justify intervention to restrict competition (i.e. do the benefits of intervening outweigh the cost involved in restricting competition)? and
- Is the mechanism used still appropriate or are there alternative mechanisms to achieve the same end at less cost?

With this last question, there is often a range of solutions to market failure, including:

- Direct and indirect restrictions on firms and individuals from entering or exiting markets (e.g. accreditation schemes, licences)
- Quality requirements on goods and services (e.g. minimum standards of quality)
- Control on level of supply, and on the characteristics of products supplied (e.g. restricted number of licences)
- Geographic, market segment or timing issues of supply (e.g. legislation that prohibits sales to minors or sales in certain geographic areas)
- Advertising and promotional activity restrictions (accuracy of claims, timing etc.), and
- Restrictions on price or type of inputs into production (e.g. a specific tax on a given input).

While solutions to market failure involve restrictions on behaviour, these solutions will not always restrict the extent of competition. For behavioural restrictions to affect competition there must be a different impact across suppliers of similar or substitute products - that is the effect of the restrictions must be uneven. The effect or implication of the restriction may be such that it controls behaviour, or alternatively, that it imposes uneven compliance costs

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<sup>7</sup> Public goods are those goods or services which have two special characteristics: they do not diminish as more people use the good and it is impossible or unfeasible to exclude non-payers from using the good. Such provisions mean that market provision of the good is not possible. An example is fresh air or a scenic view.

<sup>8</sup> Natural monopolies exist if it is cheaper for a single firm to supply the entire market demand.

<sup>9</sup> Information asymmetries occur when buyers and sellers do not have similar information about the exact nature of the good or service being exchanged.

on suppliers. In this report we will look for evidence of a different impact across suppliers of similar or substitute products.

## Competition in markets

Competition is the process of independent rivalry between operators in a market. Rivalry is likely to be more intense when there are more rather than less competitors. Of critical importance for effective competition is the degree of difficulty operators have in entering and leaving markets. If entry is effectively blocked (e.g. by regulations on limited or restricted licences), the only restraint on the conduct of operators will be from existing market participants as the threat of new competition is not a disciplining force on the market.

## Terms of Reference

Given the above context, the following terms of reference were established for this Review of the Passenger Transport Act 1994 and associated regulations:

- 1 The Review will reflect the guiding principle that legislation should not restrict competition unless it can be demonstrated that:
  - (a) the benefits to the community of the restriction outweigh the costs
  - (b) the objectives of the legislation can only be achieved by restricting competition
- 2 The review of the restriction of competition will:
  - (a) clarify the objectives of the legislation
  - (b) identify the nature of all restrictions on competition
  - (c) analyse the likely effect of the restrictions on competition in the relevant market and on the economy generally
  - (d) assess and reach a conclusion on the balance of the costs and benefits of the restriction
  - (e) consider alternative means for achieving the same result including non-legislative approaches, and
  - (f) consider whether any licensing, accreditation, reporting or other administrative procedures are still necessary, or impose an unwarranted burden on any persons.
- 3 The Review will examine the legislation having regard for the Passenger Transport Policy Objectives (see Appendix I), and:

- (a) with reference to the Transport Policy Objectives of the State Government, recommend changes to the legislation which may be necessary to meet that policy, and
  - (b) recommend the positioning or repositioning of the various components of the legislation to be retained within a framework.
- 4 The Review will take into account national issues influencing the taxi industry and the South Australian Government's taxi/hire car industry reforms.
- 5 The Review will take into account the existing and projected circumstances in rural communities of services and population and the need to maintain viable public transport services in these areas.
- 6 The review will report on appropriate arrangements for regulation or otherwise taking into account the following:
  - (a) legislation/regulation should be retained only if the benefits to the community as a whole outweigh the costs, and if the objects of the legislation/regulation cannot be more effectively achieved by other means
  - (b) in assessing the above, regard should be taken of effects on the environment, welfare and equity, occupational health and safety, economic and regional development, consumer interests, the competitiveness of business and efficient resource allocation
  - (c) compliance costs
  - (d) legal liabilities of the State Government, and
  - (e) transitional costs.

## Methodology

The methodology used to review the Passenger Transport Act, 1994 was based on advice in a Department of Premier and Cabinet document, "*Guidelines Paper for Agencies conducting a Legislation Review under the CoAG Competition Principles Agreement*" which recommended the development of an issues paper and submissions in response to that paper. Our approach went beyond that suggested in the Premier and Cabinet document to incorporate industry workshops so that interested participants could hear and be part of the debate about the extent of competition available within the sectors of the industry. Our approach to reviewing the legislation is shown below. Note that our methodology did not include reviewing administrative processes or outcomes associated with Passenger Transport Board decisions.

February 14, 1999	<ul style="list-style-type: none"> <li>. Advertisement inviting submissions</li> <li>. Letters to stakeholders about the review</li> </ul>
February 19, 1999	<ul style="list-style-type: none"> <li>. Issues Paper distributed (See Appendix II)</li> </ul>
Week of February 22, 1999	<ul style="list-style-type: none"> <li>. Open meetings with stakeholders to discuss the review and issues of relevance</li> </ul>
Week of March 15, 1999	<ul style="list-style-type: none"> <li>. Workshops held for the bus industry, taxi industry and small passenger vehicle industry</li> <li>. Verbal submissions received</li> <li>. Visits to passenger transport sites</li> <li>. Meeting with Passenger Transport Board</li> </ul>
March 22, 1999	<ul style="list-style-type: none"> <li>. Closing date for submissions</li> </ul>
April 12-16, 1999	<ul style="list-style-type: none"> <li>. Draft report submitted</li> <li>. Additional consultation with stakeholders through separate workshops for the bus industry, taxi and small passenger vehicle industries</li> <li>. Additional meetings with key groups as necessary</li> <li>. Meeting with Passenger Transport Board</li> </ul>
May 30, 1999	<ul style="list-style-type: none"> <li>. Final report submitted</li> </ul>

The initial workshops held during the week of March 15 attracted over 70 participants. There have been 51 written or verbal submissions in total. A summary of the submissions is included as Appendix III. Over 60 participants attended the workshops to consider the finding of the review. These workshops were held in the week of April 12, 1999.

The consultants are required to lodge this report with the Department for Premier and Cabinet.

### 3 Overview of the Act

#### Background to the Act

One of the first decisions of the new South Australian Liberal government in 1994 was to introduce legislation about passenger transport.

In 1974, the government bought out private bus operators and placed them, together with the Municipal Tramways Trust and the metropolitan railways, under the newly created State Transport Authority. The government thus became a direct market participant in the provision of bus, metropolitan train and tram services itself. This strategy was cost effective for a short time, but by 1993 was very heavily subsidised and needed review.

In 1987, as part of the debate on passenger transport in South Australia, Professor Peter Fielding prepared a report recommending that the policy and service delivery functions be separated and greater use made of competitively contracted services. Professor Fielding also recommended bringing taxis under the administrative control of the same organisation. Dr Ian Radbone was then asked by the government to advise on how to deal with the conflicting policies relating to taxis, hire cars and mini buses. Dr Radbone supported the work of Professor Fielding and also recommended that the new authority have responsibility for passenger services in the entire state not just the metropolitan area. It was the findings of these two reports which influenced the new Liberal government in the development of the Passenger Transport Bill.

The Passenger Transport Act, 1994 introduced the following changes from the previous legislative framework:

- Competitive tendering by private and public companies for contracts to provide transport services (rather than provision of services by government)
- Establishment of a statutory authority, the Passenger Transport Board, to take responsibility for coordinating, regulating and promoting public transport in both metropolitan and rural areas
- Repealing the Metropolitan Taxi Cab Board and including its functions within the Passenger Transport Act so that all passenger transport is encompassed within one policy body
- Requiring all passenger transport operators and drivers to be accredited as fit and proper persons, with local councils in rural areas still able to regulate taxi services if they wished

The State Transport Authority continued to exist as a potential provider of transport services, based on successful competitive tendering, and was renamed TransAdelaide.

With the new legislation, regular transport services became governed by a service contract between the Passenger Transport Board and the operator winning the tender. The contracts cover matters such as service specifications, government subsidy, tickets, availability of concessions and fares, and exclusivity to the services on the particular route in question.

While the new legislation brought the taxi industry into the Passenger Transport Board, it deliberately did not comprehensively deregulate the industry. The reason for this was the government's concern for passenger safety and fare control. International experience of deregulation questioned whether customers benefit from deregulation, and at best the evidence was somewhat mixed. A number of experiences suggest that fares do not decrease; more cars chase the same number of fares; there are fewer customers per cab and so returns reduce which encourages drivers to increase fares; in reality fares go down for some and not others and the people for whom the fares do not reduce tend to be the tourists and the transport disadvantaged, i.e. the frail, elderly and those less able to negotiate fares and routes on their behalf.

The public expects a safe, comfortable trip for a reasonable fare and the government believed that this public right was greater than the need for deregulation in which none of these features could be assured. However, within the new legislation the industry was required to provide some self-regulation and developed Codes of Practice in conjunction with government. The companies providing booking services and radio networks needed to be accredited and to take responsibility for ensuring that their drivers abided by their code of conduct.

The new legislation defined taxis and mini-buses according to their rights rather than their size. Taxis have the right to ply for hire in the streets or a public place, have a taxi meter, can occupy taxi stands and can promote their service as a taxi service. Mini-bus operators can also have these rights if they apply for a taxi licence and accept the conditions of accreditation.

The government in preparing the legislation was aware that taxis receive significant competition from hire cars and mini-buses for radio bookings, but did not move to prevent this competition. However, the government did require hire cars and mini-buses to maintain a quality of vehicle better than that of a taxi. The expectation was that taxis would maintain their standards of vehicle, driver quality and responsiveness to counter the competition from the taxis. Similarly, the government did not prevent taxis from taking regular contract work from hire car or mini-bus operators.

In short the revised legislation introduced five years ago provided for a significant change in the competitive environment, by introducing competitive tendering in many market segments, by increasing the role of self-regulation, by making the controlling authority more independent of the industry, and by allowing, if not directly encouraging, development of substitute transport forms.

### **Defining passenger transport**

Passenger transport is all transport that carries passengers for a fare or other consideration, as defined in the Passenger Transport Act 1994. It includes public transport such as buses, trains and trams as well as taxis, small passenger vehicles (including hire cars), horse drawn vehicles and motorcycles.



The Passenger Transport Board (the Board or the "PTB") is a statutory authority established by the South Australian Government in July 1994 to plan, regulate and fund the State's land based passenger transport.

The Board's functions can be summarised as:

- Overseeing the creation and maintenance of an integrated network of services
- Fostering and promoting efficient and effective services
- Determining, monitoring and reviewing services and fares, and administering fare subsidies and concessions
- Accrediting operators, drivers and centralised booking services for taxis
- Establishing, auditing and if necessary, enforcing safety, service, equipment and comfort standards
- Facilitating the use of services by people with disabilities
- Providing information to the public about services
- Establishing a centralised system for receiving and dealing with complaints and compliments
- Initiating, undertaking, supporting and promoting programs for the development and improvement of services, and
- Establishing and maintaining various passenger transport facilities and forms of infrastructure.<sup>10</sup>

The Board does not operate passenger transport services itself.

The Act specifically does not include school bus services which are included in the *Education Act 1972*, s9(8). Country taxis are licensed by local councils under delegation from the Passenger Transport Act.

### **Summary of the Act**

A review of the Act under the principles of the Competition Agreement must be undertaken with respect to:

- General guiding principles (i.e. the objects)
- Policy and operational direction of the administrator of the Act (i.e. the Passenger Transport Board), and

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<sup>10</sup> Passenger Transport Board, *Annual Report 1997-98*, p4

- A review of the specific legislative powers of the Act.

### General guiding principles

Section 3 of the Passenger Transport Act states the objects of the Act or the general guiding principles.

"3 The objects of this Act are-

- (a) to benefit the public of South Australia through the creation of a passenger transport network that –
  - (i) is focussed on serving the customer; and
  - (ii) provides accessibility to needed services, especially for the transport disadvantaged; and
  - (iii) is safe; and
  - (iv) encourages transport choices that minimise harm to the environment; and
  - (v) is efficient in its use of physical and financial resources; and
  - (vi) promotes social justice; and
- (b) to provide a system of accreditation for-
  - (i) the operators of passenger transport services; and
  - (ii) the drivers of passenger transport services; and
  - (iii) the providers of centralised booking services within the passenger transport industry; and
  - (iv) in order to encourage and facilitate the observance of industry standards for passenger transport within the State; and
- (c) to require the licensing of taxi-cabs; and
- (d) to provide a new approach to the provision of passenger transport services by the public sector"

These objects have been widely upheld by members of the industry, as seen in "The Review of the Passenger Transport Act, 1994", undertaken by Halliday and Coleman in 1998. In that review, many submissions commented on the importance and relevance of the objects for their clear statements about the role of the Passenger Transport Board. In fact, the objects were wholeheartedly supported by the companies, individuals and industry groups involved in that review.

Item (d) of the objects allows the Passenger Transport Board to take a 'new approach' to the provision of passenger transport. This new provision took the form of tendering bus services and opening the market for small passenger vehicles to compete more closely with the taxi industry.

The Passenger Transport Policy Objectives, which are attached as Appendix I, make clear that the Passenger Transport Board's intentions of making competition fair and open, while concurrently ensuring the safety of quality of the service. The objectives include making information about quality of services more accessible to passengers, and thus acknowledge

the disadvantage faced by passengers when making decisions or judgments about the quality of service. When these objectives are considered within the framework of the legislation, the intent of the new Passenger Transport Act is clear: allow competition to the extent possible within concerns for public safety. The potential to allow more competition to the taxi industry exists within the Passenger Transport Act, 1994, S.47(7) through the granting of an additional 50 licences each year.

As this report is to consider the extent to which the legislation allows competition, it is out of scope to comment on whether the Passenger Transport Policy Objectives, are as open to competition as they could be.

### Policy and operational direction

The Act empowers administration of the Act to the Passenger Transport Board. The Passenger Transport Board was established by the South Australian government in July 1994 to plan, regulate and fund land based passenger transport in South Australia. Under the Passenger Transport Act, 1994, the Board took on the responsibilities of the Metropolitan Taxi Cab Board. The Board also assumed some of the responsibilities of the Office of Transport Policy and Planning and the State Transport Authority (now TransAdelaide) including public transport policy formation, planning and coordination.

The policy and operational direction to the PTB is provided in the Passenger Transport Policy Objectives.

### Legislative powers of the Act

Section 20 of the Act describes the functions of the Board. These functions are in effect the specific legislative powers of the Act.

"20 (1) The Board has the following functions, to be exercised in the public interest:

- (a) to oversee the creation and maintenance of an integrated network of passenger transport services including all modes of passenger transport by public passenger vehicles within the State (including to the extent that may be appropriate, an integrated fare system within that network);
- (b) to such extent as may be consistent with the objects and provisions of this Act –
  - (i) to determine, monitor and review passenger transport services within the State;
  - (ii) to determine, monitor and review the fares (or scales of fares) payable by members of the public who use passenger transport services (including, in relation to the determination of fares, the setting of maximum or differential fares);

- (c) to foster and promote efficient and effective passenger transport services, to encourage and assist changes in the transport industry to improve passenger transport services, and to encourage and oversee the provision and use of passenger transport services;
  - (d) to encourage best practices in the provision of passenger transport services and, as it thinks fit, to establish, audit and enforce standards for passenger transport within the State;
  - (e) to accredit the operators of passenger transport services, to accredit drivers of public passenger vehicles, and to administer the provision of various services;
  - (f) to administer a system of fare subsidies and concessions in appropriate cases;
  - (g) to establish, audit and, if necessary, enforce safety, service, equipment and comfort standards for passenger transport within the State;
  - (h) to establish and maintain facilities and various forms of infrastructure for the purposes of the passenger transport network;
  - (i) to facilitate the use of passenger transport services by people with disabilities;
  - (j) to provide information to the public on passenger transport services, to promote the safety, comfort and convenience of members of the public who use those services, and to establish appropriate procedures and mechanisms to enable members of the public to comment on those services;
  - (k) to establish a centralised system for receiving, and dealing with, complaints and compliments from members of the public in relation to the provision of passenger transport services within the State;
  - (l) to initiate, carry out, support or promote projects and programs for the development and improvement of passenger transport services;
  - (m) at the request of the Minister, to carry out inquiries in relation to passenger transport within the State;
  - (n) to report to the Minister on the operation of passenger transport services, and on such other matters as the Minister or the Board thinks fit;
  - (o) to provide advice to the Minister as may be appropriate;
  - (p) to carry out other functions assigned to the Board by or under this or any other Act, or by the Minister
- (2) The Board must not operate a passenger transport service."

The Passenger Transport Act is supported by a set of Regulations, the objects of which are set out in Schedule 1 of the Act. The Regulations are to provide the operational means to support the intent of the Act. In some instances, it is at this operational level that the constraints to competition are realised.

Schedule 2 of the Act incorporating the establishment of TransAdelaide was repealed in January 1999 and TransAdelaide established as a body corporate under the TransAdelaide (Corporate Structure) Act 1998 which established the conditions under which TransAdelaide operates.

### **Implementation of the Passenger Transport Act, 1994**

In 1998, Halliday and Coleman prepared a report entitled "Review of the Passenger Transport Act, 1994". This report was commissioned by the Minister of Transport and was required by legislation to review the work of the Board to 1 January 1998.

The Passenger Transport Act was proclaimed in June 1994. One of its early actions was to divide the metropolitan area of Adelaide into 13 service groups for competitive tendering purposes of bus services. The first tendering process for two areas closed in May 1995 with the new passenger bus service commencing in January 1996. Concurrently and after extensive consultation, a contracting process was developed for country areas to replace the route licence system for implementation in 1996 with contracts for all country bus services let during 1997-98.

In 1996, all centralised booking services for taxis had been accredited with improved standards of service for taxi customers. That same year, the *Regulations* to the Act were amended to clarify the distinctions between taxis and small passenger vehicles (or hire cars) to reduce the confusion by consumers about the types of services. The amendments required all bookings for service for a small passenger vehicle to be made through an approved booking office, all small passenger vehicles standing in a public street, road or place to clearly display a 'not for hire' sign, and restrictions on the use of roof signs on small passenger vehicles. The amendments also ended the provision for 'endorsed establishments' which allowed small passenger vehicle bookings to be made through some hotels, nightclubs and restaurants.

The Halliday and Coleman report concluded that the legislation works well with some concerns about the service contracts for passenger transport. The particular concerns about competition related to the size of the contracts (100 vehicles required) and the length of the contract (five years). Both matters were reviewed by the Passenger Transport Board and in 1999 new regulations were passed to remove the 100 bus limit restriction.

## 4 The South Australian industry and competition

The passenger transport industry has been subject to extensive debate on the extent of regulation and competition required. Both the Hilmer Report<sup>11</sup> and the Productivity Commission<sup>12</sup> consider it an area in which reform could achieve significant gains.

The arguments and counter arguments are comprehensive and involved. There is considerable dispute between high level policy makers, the policy implementers (at least in that some of their actions have resisted change) and the industry itself about to what extent the industry needs regulation. Most academic analysis and policy makers consider the area over-regulated and ready for substantial reforms. The implementers of policy, and the industry itself are more likely to argue that while there may be some inefficiencies, there are very important reasons why the industry is regulated, and that the community benefits in a net sense.

Given the extent and length of the debate, it is unlikely this report will provide clarity on the issues that have been so hotly in dispute. Instead it will discuss and summarise the claims and counter claims, and reference the underlying evidence.

However, before starting this analysis, it is useful to consider the contextual framework of the review. It should be noted that specific aspects of the contextual framework are also analysed using a different approach in section 7 of this report.

### Passenger transport and urban efficiency

The overarching objectives of the Act clearly indicate that the role of government in passenger transport is to encourage an efficient and equitable urban transport system, and adequate services to country areas. Issues such as congestion, pollution, externalities between road users, between the provision of transport options and other urban uses suggest that the government is justified in playing a significant role within the provision of passenger transport services.<sup>13</sup> **The question is not whether the government should play a role, but rather what that role should be.** The availability of effective passenger transport is essential for a city/region achieving economic and community objectives. It is requisite to get people to and from work and to keep the economy operating. It is essential for an effective tourism and service sector. It is essential support for social and community interaction.

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<sup>11</sup> *Report of the Independent Committee of Inquiry into Competition Policy in Australia, 1993*

<sup>12</sup> Industry Commission, 1995, *The Growth and Revenue Implications of Hilmer and Related Reforms*, p19 and Section A4

<sup>13</sup> Stretton, Hugh (1993) "Transport and the structure of Australian cities"

## Competition and substitution

The passenger transport industry is any vehicle arrangement that carries a passenger (i.e. not self-drive) for a fee. The industry itself is varied, and competition occurs not only within a single type of carriage, but also between types as well, offering the consumer choice between:

- Large buses - route service
- Large buses - charter service
- Mini-bus services
- Taxis
- Hire cars (defined in the Act as Small Passenger Vehicles-Metropolitan)<sup>14</sup>
- Specialised services such as horse-drawn vehicle.

However the consumer choice does not stop there - these services compete with a range of other options, including:

- Walking
- Cycling
- Private car (including options such as car-pooling)
- Car hire and self-drive
- Community buses
- Hospitality services (e.g. hotel cars, courtesy vehicles such as those provided by car dealers).

Another option is to use these services in combination (e.g. a walk to a bus-stop).

In making a choice between these services, a consumer considers:

- *Cost* - the direct and indirect costs of the option. Using a private car rather than a bus for a journey to work will include costs of travel, but also the costs of parking and car maintenance. For a social outing, the risk of being apprehended for drink-driving might be an issue.
- *Flexibility* - some options offer flexibility for changed arrangements at short notice

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<sup>14</sup> The principle difference between a taxi and hire car is that a hire care cannot accept a fare off the street (i.e. cannot be hailed). Therefore taxis can be described as for hail or for hire, while hire cars are only allowed to accept pre-bookings and are not available for hailing.

- *Time* – some options require longer time than others and so may not be suitable for people with limited time or tight timeframes
- *Health* - the walking and cycling options may be perceived as providing health benefits (as well as lower pollution outcomes).

Therefore the competition is not only between operators in the same segment but also within the segment, and across multiple transport alternatives.

In most markets in which a consumer has a wide variety of choices, the demand would be expected to be relatively elastic, making the cost to the consumer of any market deficiencies relatively small. It is recognised that some consumer groups do not have the same choices as others, but market theory suggests that prices are usually determined by the marginal customer (who would generally be the one with the most choices).

While most studies of competition in passenger transport services recognise that there are several choices available to the marginal consumer, and indeed in the consultation process the taxi industry suggested that its greatest competitor is the private car, formal studies suggest that the demand for individual passenger transport services is somewhat inelastic. If this is true, it would make market distortions a more serious issue from the view of the cost to consumers. In Adelaide it is noted that demand for bus transport (particularly urban) is dominated by groups such as schools where alternative choices are more constrained. However, in some market segments there appears to be a degree of choice available.

Given the above discussion, it is drawn to the reader's attention that the Passenger Transport (General) Regulations 1994 under section 5(1) specifically exclude:

- (i) the Department of Education and Children's Services, a Government school under the *Education Act 1972* (or a school council constituted with respect to a Government school) or a kindergarten under the *Children's Services Act 1985*; or
- (ii) a non-Government school within the meaning of the *Education Act 1972*; or
- (iii) a child care centre within the meaning of the *Children's Services Act 1985*; or
- (iv) a church or other form of religious organisation,  
to carry school students or pre-school children; or
- (a) a transportation service operated by an institution that provides tertiary education to carry students who attend that institution; or
- (b) a service that involves the use of a motor vehicle that is licensed by a council to operate as a taxi (not being a taxi that requires a licence under Part 6 of the Act) in an area that does not include a part of Metropolitan Adelaide.

The definition within the Act of "passenger transport service" also means that community



transport services which do not mean the following definition, are excluded from the control of this legislation. The definition states:

“passenger transport service” means a service consisting of the carriage of passengers for a fee or other consideration (including under a hire or charter arrangement or for consideration provided by a third party) –

- (a) by motor vehicle; or
- (b) by train or tram; or
- (c) by means of an automated, or semi-automated, vehicular system; or
- (d) by a vehicle drawn by an animal along a public street or road; or
- (e) by any other means prescribed by the regulations for the purposes of this definition,

but does not include a service of a class excluded by the regulations from the ambit of this definition.

## Market segmentation

Transport services are demanded by four distinct groups of consumers:

- *General public* (who in turn could be divided into journey to work, journey to school and other use); their requirement is for regular services to enable them to travel throughout the metropolitan area at any time of the day or evening
- *Special needs* groups such as the aged or community groups who might want to charter a service; their requirement is for a point to point service at a time stipulated by them
- *People with limited physical mobility* who need assistance in boarding and leaving transport; these people may suffer from permanent mobility problems or may have a temporary difficulty
- *Tourists* general services to enable them to travel between two points; this group could be considered a subset of the general public category although they cannot be assumed to have the same level of knowledge about the market as the “general public”.

These separate groups place different demands on the types of services to be provided such as the preferred mode of transport and timing. We again note that some of these groups have less choice than others.

One of the key issues to be considered in market segmentation is the pattern of the timing of demand and in particular the nature of peak and off-peak service provision. For example:

- Route buses – transportation to and from work or school are peak periods
- Taxis and hire cars - particularly Thursday, Friday and Saturday nights are peak periods as well as holiday periods or special events such as Christmas, New Year, Grand Prix, etc.

If entry is possible just for peak times, it may be detrimental to the underlying structure of the industry, either limiting choice and access in non-peak times, or alternatively resulting in over-supply at off-peak times.

This issue of peak and non-peak services was raised many times during the consultation as a significant issue for the industry, and particularly by the taxi industry. It was suggested that with fares regulated such that there are only minor differences between what could be charged in peak and off-peak times, there must be some limit to entry at peak times, if the industry is to have the capacity to provide appropriate quality vehicles and services 24-hours per day.

#### Other Market Structure Issues

As in all markets, the question of the degree of substitution and complementarity between products and services is complicated by a range of factors. Some factors have already been identified in the above, but it is necessary to consider a number of other issues as well, as follows:

- *Geographic factors and customer characteristics* - the ability of consumers to substitute between alternative forms of transport is affected by geographic considerations, and the supply options are also affected by the number of potential trips between areas. Route buses for example will work only where there are a large number of general potential trips between given locations (and therefore generally focus on trips to and from, or between, given urban centres - including interstate). Charter buses provide services to a "group" of customers all wanting to be delivered from one spot to another, and are not as geographically bound. Taxis and small passenger services provide services to individuals or small numbers of people, often with disparate destinations, and where time is a significant factor. Generally they operate on shorter distances because of the costs involved. This provides a distinct separation between regional and metropolitan markets in this regard. So taxis in regional areas need to be available in that area, and cannot easily jump between markets. Occasionally there are instances of operators working in a different geographic market - this can be because boundaries are not always clearly defined, or because there is the occasional need for cross boundary services. This causes some issues with respect to legislative and administrative frameworks - which are generally based on the major requirements of the geographic market.
- *Functional interdependence* - the consumer product of passenger transport can be considered to consist of two services - the ability to access the transport appropriately, and the undertaking of the trip itself. Operators have found various ways to co-ordinate and organise these functions, and they will differ dependent on the nature of the transport. Charter bus companies therefore operate a booking office, and at times may

co-operate in this regard. Metropolitan to rural centre (and interstate) route systems have booking offices and a transit location) again often in cooperation. Access to taxis and small passenger vehicles can generally occur in two ways - either as hail (hailing down a vacant vehicle in the street - or at a taxi rank), or as a hire (making a telephone booking). Information provided during the review suggested that some 60% of the taxi market are in the area of hire bookings, and the remaining 40% are hail activity. The current legislation prevents small passenger vehicles from participating in hail activity). The development of an effective hire industry depends on the communications - it would be impractical/unworkable for each market operator to have their own telephone contact, and as such the role of a centralised booking agency has been essential (a single telephone number for customers, and a radio system between operators to dispatch the service). This has also provided some information benefits for customers, and some self-regulation outcomes - booking agencies market their "member's" services under a single banner, and as such there are marketing implications for the agency in providing appropriate level of services.

- *Temporal Issues* - there are significant changes across time that have effected and will continue to effect the needs of the passenger transport market - the market is quite dynamic and being influenced by:
  - ⇒ changes in urban structure - the urban area of Adelaide has typically grown outwards - with most development in the last 10 to 15 years occurring on the fringe. However in recent years, there has been quite a shift towards urban renewal and consolidation (this has been driven by a combination of demographic changes, availability of land in appropriate areas, changing tastes in requirements etc.)
  - ⇒ changes in demand patterns - changes in industry structure and in consumer needs has also driven changes in transport needs. For example the decreasing employment numbers in manufacturing, the development of mega-region shopping and entertainment facilities, the increasing trend for consumer spending on service based activities rather than manufactured goods has changed patterns in urban transport - relating to declining numbers on regular passenger routes and increased demand (relatively) for more "ad-hoc" services. In addition (discussed further below) - the increased availability of smaller passenger vehicles (mini-buses, vans) has improved the options for providing these more specialist demand services (eg a service from a nursing home to shopping centre) and increased the contestability for the traditional suppliers (specifically taxis).
  - ⇒ changes in underlying private and commercial transport costs - petrol prices, and the real cost of motor vehicles has varied substantially over long term (eg the oil price rises over the 1970s, the real price decline since then, the reduction in tariffs on motor vehicles and the consequent) decline in real prices. The variations cause shifts in demand between the alternative options. Further there is considerably more choice in vehicle types which is changing the market - including development of vehicles for smaller groups, smaller bus options.
  - ⇒ changes in technology - communications and transport technologies have changed considerably over the past and will continue to do so, particularly communication. It has already been noted above that communications - the booking of passenger

transport options - is an important part of passenger services, and the technologies in this area are developing rapidly. Mobile phones for example mean that an operator is contactable by the general consumer at all times (eg through a call forward arrangement) which will potentially change the importance of the central booking agency - thereby changing cost structures and increasing flexibility for entry into the market. It also means that people are more likely to hire a vehicle as they leave the building rather than take a chance on hailing a passing vacant vehicle or waiting in line at a taxi rank. These hail options become much less attractive to busy people, who are time poor, but who have a telephone as close as their briefcase or handbag.

In short the degree of change in these areas is continually changing the dynamics in which the industry is operating. Therefore participants - to retain their market role - need to be watching carefully in order to be competitive with the other market participants. Entry into the market, and ease of exit has been increasingly facilitated by the technology and the market changes themselves, and some sectors are more competitive with each other - and with the option of the private car.

### **Passenger safety and information asymmetries**

A major reason for regulation in the industry is passenger safety. There are two elements which are relevant:

- Suitability and reliability of the vehicle - controlled by registration requirements, by inspection and monitoring
- Suitability of the operator or driver - that the vehicle booked will arrive on time, and that the driver will transport the customer safely and effectively between destinations, will behave appropriately, and the cost for the service will be predictable.

The key question is the extent to which these issues are controlled by the company providing the service, or by the industry, and to what extent government has a role. Because of the vulnerability of the consumer, most interested parties accept that it falls beyond the scope of normal industry controls, and that the government has a role in regulating the industry to assure passenger safety. The Passenger Transport Board has a role in monitoring vehicle and driver suitability and safety, and actively encourages passenger to comment on the service they receive. In this way, the Board is better informed about passenger safety and is able to take action to improve service quality and assist passengers with information and industry knowledge.

### **Industry entry costs and investment value**

One of the key factors involved in the question of competition is the ease of entry. The lower the entry costs into an industry the easier it is to enter the market. In the passenger transport industry, entry into an **unregulated** small passenger vehicle sector should be easy. While the purchase of a car is a reasonably significant investment, the economic effect

could be offset if the car is also available for private use, and there is a strong used car market. Industry specific training and awareness for drivers would generate some additional costs.

However, in the areas of larger passenger vehicles (mini-buses and larger coaches) the cost of entering the market is greater than for small passenger vehicles. However, there is a used vehicle market in some bus segments to offset a portion of the risk.

In the case of taxis, the licence price supported by the regulated system represents an additional investment cost that is needed to gain entry to the market. Further the legislative requirement of membership of a centralised booking agency presents a cost, but in the past this cost has been an integral part of doing business (akin to franchise arrangements). As such this has not been unduly restrictive on entry. This is covered in more detail in Section 7 of the report. Also, operators will offer "incentives" to get drivers to join them, thus reducing the costs dramatically as the operators themselves aim to meet the standards set by the Passenger Transport Board of time to respond to bookings. Thus the Passenger Transport Board is, de facto, making it easier for drivers to move between operators, as a result of the service standards it has set, and monitors regularly.

In addition in all market segments there are operator and driver accreditation costs imposed within the regulated system. The consultation process did not identify this as being perceived as a significant restriction on entry - and that the controls implemented are in the interest of public safety. The purpose and breadth of the consultation process was in our opinion sufficient such that if potential entrants believed that they had been disadvantaged or excluded from entering the market it should have surfaced in the arguments.

## 5 Market characteristics in South Australia

### Regular passenger services

Regular passenger services (i.e. bus, tram and train services) operate in Adelaide (metropolitan public transport), between regional towns (country bus services) and between regional towns and Adelaide (regional city bus service).

Metropolitan public transport services operate under contract to the Board. These contracts are determined either by competitive tendering or by negotiation. Although predominantly bus services, there are also train and tram services in some parts of the metropolitan area.

Approximately 45% of the metropolitan bus services have been competitively tendered with the remaining services provided through negotiated contracts. Negotiated contracts have also been undertaken for the provision of rail services and infrastructure and for tram services and infrastructure. Further competitive tendering is to take place in 1998-99 and 1999-00. Some metropolitan services are free services and account for just over 2 million boardings.

Country bus services are operated under contract to the Board by private operators on a commercial basis. These contracts are for five years and require operators to provide a certain level of service and also to introduce a charter of passenger rights and obligations.

Regional city bus services provide regular passenger services and school bus services. They are funded two-thirds of their operating deficit by the Board and one-third by their local councils. Over 650,000 trips were made on these regional passenger services in 1997-98.

In 1997-98, the breakdown of passenger journeys was:

<b>Mode:</b>	<b>Number:</b>
Metropolitan transport services:	
Bus and Tram	36,110,000
Train	7,980,000
Country bus services	1,141,000
Regional city bus service	652,400
<b>Total trips</b>	<b>45,893,400</b>

*Source: Passenger Transport Board Annual Report, 1997-98, pp 12-17*

### Large passenger vehicles

Large passenger vehicles (i.e. buses) primarily operate on Regular Passenger Services, Regulation 4A Exempted Services and non regulated Charter Services. Regular Passenger Services and Regulation 4A Exempted Services will be included in the Review.

## Taxis

Taxis provide 24-hour door-to-door transport services. Over 8 million taxi journeys are taken by passengers each year. The Board sets the fare structure for journeys. The number of taxi plate licences at 30 June 1998 was 1,047.<sup>15</sup> This included 920 general licences, 62 standby licences and 69 accessible vehicle licences.

All taxis are linked to a central booking service. There are six booking services for taxis in metropolitan Adelaide. The Board accredits centralised booking services which in turn are responsible for the maintenance of driver and vehicle standards. Schedule 10 of the Regulations is the "Code of Practice: Centralised Booking Services" which covers issues such as driver appearance, vehicle appearance, driver training and driver codes of practice and other issues relating to equitable treatment of bookings and drivers.

The Passenger Transport Board is responsible for setting taxi fares. In 1998, the Board revised fares to encourage more taxis onto the roads at times when customers are most dependent on them, namely at night, on weekends and on public holidays.

The average waiting time for a taxi in metropolitan Adelaide during 1997-98 was just under eight minutes. This figure includes waiting time for telephone bookings, hail and taxi rank trips. The Board has a prescribed performance measure for an average waiting time of 12 minutes.

The Board also operates an "accessible" taxi service using modified taxis to transport people who are permanently disabled or suffer temporary mobility problems. There is now 69 vehicles able to accommodate people in wheelchairs.

The Passenger Transport Act stipulates that the number of new taxi licences that may be issued in anyone year is limited to 50 (s. 47(7)). However, in recent years, the only licences available for tender have been for accessible vehicles.

## Small passenger vehicles

Passenger vehicles with up to twelve seats including the driver, are called Small Passenger Vehicles. They include what are often referred to as "hire cars" or "chauffeured vehicles" and may be:

- Mini-buses
- Stretched limousines
- Sedans (Ford, Holden, etc)
- Four wheel drive off-road vehicles

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<sup>15</sup> Passenger Transport Board *Annual Report 1997-98*, page 35

- Luxury or vintage vehicles (e.g. Rolls Royce, Mercedes, etc)
- Motor cycles, or
- Horse-drawn vehicles.

Small passenger vehicles provide a variety of services including pre-booked hire work, traditional chauffeured services using prestige or vintage vehicles for events such as weddings. There are 869 small passenger vehicles accredited in South Australia.

In November 1996 the Passenger Transport Act 1994 Regulations were amended to clarify the distinction between the activities of taxis and small passenger vehicles and to reduce customer confusion about the two services. The amendments required:

- All bookings to be made through a booking office approved by the Board
- All vehicles standing in a public area to display clearly a "not for hire" sign
- Restrictions on roof signs on all small passenger vehicles

The amendments also ended the provision for "endorsed establishments" which allowed small passenger vehicle bookings to be made through hotels, restaurants and nightclubs.

### Accreditation services

The Board maintains passenger transport standards through the accreditation of passenger vehicle drivers and operators and centralised booking services for taxis, and the issuing of taxi licences. The following table shows how many drivers and operators held Passenger Transport Board accreditation at 30 June 1998.

<b>Operators:</b>	<b>Number:</b>
Small passenger vehicles	728
Taxis	1,480
Large passenger vehicles	477
Horse drawn vehicles	20
<b>Total operators</b>	<b>2,705</b>
<b>Drivers:</b>	
Taxis	4,472
Large passenger vehicles	7,223
Small passenger vehicles	1,996
Motor cycles	134
Horse drawn vehicles	45
<b>Total drivers</b>	<b>13,870</b>

Source: Passenger Transport Board Annual Report, 1997-98, p34



The Board has also accredited five centralised taxi booking services. To gain accreditation, each operator has to satisfy the Board that they can meet prescribed standards. These standards are reviewed every three months and include:

- Time taken for a telephonist to answer a telephone call
- Arrival of a regular taxi
- Arrival of an accessible taxi.

## 6 Legislative review

### A summary of the intervention mechanisms of the Act

The main intervention mechanisms associated with the Act which can be considered to have a potentially significant impact on competition can be summarised as follows:

s. 39 and 40	<ul style="list-style-type: none"> <li>• The control of regular route passenger transport system, and</li> </ul> <p>The Passenger Transport Board contracts out the services associated with this revenue. In effect, this restricts entry into the market to only successful contractors with the Board.</p> <ul style="list-style-type: none"> <li>• The control of the ticketing and fare revenue associated with the metropolitan public transport system.</li> </ul>
s. 27, 28 and 29	<p>The use of an accreditation system for:</p> <ul style="list-style-type: none"> <li>• Operators of passenger transport services</li> <li>• Drivers of vehicles and</li> <li>• Providers of centralised booking services.</li> </ul> <p>It is illegal to provide or be involved in a passenger transport service without accreditation.</p>
s.45-52	<p>The requirement for the licensing of taxi-cabs.</p>

In addition to these three regulating roles of ticketing, accreditation and licensing, the specified functions of the Board enable its intervention in the provision of passenger transport services through:

s. 20 (g)	<p>The monitoring and inspection function</p> <p>Safety standards are to be met for the operation of services and an inspection and monitoring program exists to ensure compliance with regulations.</p>
s. 20 (h)	<p>Infrastructure for the passenger transport network, such as signage and routes.</p>
s. 20 (k)	<p>Establishment of a mechanism to receive and respond to complaints.</p>

While these six items are the major mechanisms by which the Passenger Transport Act can intervene in the market, there are other sections of the Act that could also be considered to impact on the level of competition. Each part of the legislation is considered in more detail in the following section.

## **Discussion of the intervention mechanisms of the Act**

The following tables consider each part of the legislation in turn. This discussion focuses on:

- Legislative requirement/restriction
- Purpose and implications of the legislation
- Alternative approaches
- Severity or costs of restrictions
- Value of public benefits
- Conclusion

Note that costs of restrictions can be considered at two levels - one is the administrative costs associated with enforcing and complying with the conditions of the Act (generally borne by the taxpayer, and affecting the cost structure of the industry), the second can be the broader implications of costs relating to consumer choice. While the administrative costs can be discussed in quantitative terms, the broader costs are discussed in qualitative terms. Similarly, the public benefits are difficult to quantify.

We would also note that there is an enormous amount of detail in the regulations of the Act. It would in our opinion be counter productive to go to a great level of detail - identifying the principles indicates any restrictions on competition.

**Legislative references - Part 1 Preliminary s. 1-5, Part 2 Passenger Transport Board s. 6-19, Part 3 Functions and Powers of the Board s.20-26**

Legislative requirement / restriction	Purpose and implications
<ul style="list-style-type: none"> <li>This section provides the framework for the operational and administrative features of the Passenger Transport Board, and defines its functions and powers.</li> </ul>	<ul style="list-style-type: none"> <li>The existence of a Public Transport Board and its defined functions and powers are an explicit recognition of the externality and information asymmetry issues involved within passenger transport. These sections of the Act have no direct bearing on competition within the industry other than empowering the Government, through the Board to administer the sections of the Act that do impact on competition.</li> </ul>
Alternative approaches	Costs/Severity of Restrictions
<ul style="list-style-type: none"> <li>There are ranges of alternative ways in which the functions of the Board can be administered. This is considered to be outside of the scope of this review in that it is an issue of governance, and will not influence competition in the industry directly. The major issue to be considered may include ensuring that it is the interest of the public that is represented, and not the interest of vested players (particularly where competition is being restricted).</li> </ul>	<ul style="list-style-type: none"> <li>The administrative costs of this element of the legislation amounts to a general cost to taxpayers rather than an industry cost.</li> <li>Broader costs may exist in terms of rent seeking behaviour by industry stakeholders. In given periods rent seeking behaviours by existing participants can result in significant costs (eg strikes or service breakdowns) but this is generally periodic.</li> </ul>
Value of public benefits	Conclusions
<ul style="list-style-type: none"> <li>The existence of the Board brings a number of benefits, including a focus on planning and consideration of the role of transport in urban development, in addition to the acting as a conduit for consumer and industry issues in terms of policy setting. The public benefits of an effective passenger/urban transport system are unequivocal, and must be considered throughout every segment of this review.</li> <li>Note that the Board members are not members of the industry and have no vested interests in its decisions.</li> </ul>	<ul style="list-style-type: none"> <li>Overall, the role undertaken by the PTB can be seen as essential. There would not seem to be any major competition issues involved in its current structure, or the general definition of its functions and powers. The importance to the community of having a legislative and administrative framework would outweigh the costs incurred. Rent seeking behaviour (and particularly resistance to change) is more likely to be an issue for those elements of the industry with substantial capital investments in the industry.</li> </ul>

Legislative reference - Part 4: Accreditation s.27-38

Legislative requirement / restriction	Purpose and implications
<p><b>Division 1:</b>  <b>S.27 Accreditation of Operators</b>                      (also covered in Passenger Transport (General) Regulations, Part 2 )</p> <p>Requires operators to be of "good repute" and to be a "fit and proper" person – referring mainly to financial capacity and criminal record</p> <p>Also requires PTB to check the capacity of the operator to meet <b>prescribed standards</b>, relating to:</p> <ul style="list-style-type: none"> <li>• Ability to provide the service</li> <li>• Safety of passengers</li> <li>• Service to passengers</li> <li>• Vehicles and equipment</li> </ul> <p>Obviously, the existence of accreditation is a barrier to entry. However, this barrier is in place to ensure that the operator can meet prescribed standards which have critical public benefits of safety and protection.</p>	<ul style="list-style-type: none"> <li>• To ensure the industry has the capacity to provide an appropriate level of service to its customers.</li> <li>• Provides information to the market given the existence of possible information asymmetries, particularly in relation to passenger safety and reliability of service. With respect to passenger safety, a key issue would appear to be the vulnerability of an individual passenger in a one on one hire situation – although this is primarily related to the driver (see next section) the operator also takes responsibility in the hire thereof. Accreditation requirements also involve the provision of information on hires, distance travelled etc to the PTB as required</li> <li>• Accreditation processes involve direct costs (fees to be accredited and to remain accredited) and indirect costs (time involved in applying for and reporting on appropriateness for accreditation).</li> <li>• The Act allows the PTB the possibility of setting numerical limits on the number of operators (which can control entry into the industry).</li> <li>• Enforced by fines, reprimands, and disqualification.</li> <li>• An issue that requires consideration is the restriction which state based accreditation implies for operations across state or regional borders. This is currently under review - with an objective of mutual recognition of accreditation between states</li> <li>• The regulations of conditions for Accreditation also are the place within the Act where standards of operation are prescribed (i.e. the accredited operator must agree to certain standards of operation.) Failure to meet those standards can result in fines, or removal of accreditation.</li> </ul>

Alternative approaches	Costs/Severity of Restrictions
<ul style="list-style-type: none"> <li>• The majority of industries establish industry codes of conduct, best practice guides and self-regulation to undertake this function. Note that Codes of Practice are covered under the Schedules of the Passenger Transport Act. The issue is that a bad experience by a customer (say for an owner driver in the case of hire cars or taxis) could well be detrimental for the firm, and perhaps the industry overall. Therefore, there is an incentive for the industry to ensure appropriate measures. The key question then is what is different for the passenger transport industry that requires regulatory based accreditation rather than self regulation? A possible response is:               <ul style="list-style-type: none"> <li>❖ The potential risk is the cost of a life and the safety of the passenger</li> <li>❖ Ease of entry and exit from the industry, can lead to false information being a consistent element of the industry</li> </ul> </li> <li>• An alternative, and less “intrusive” approach which may be considered is registration of owners. This would be a centrally prepared register or listing that would in effect allow follow up on the basis of poor service, or inappropriate behaviour by an operator (given that the PTB undertakes a complaints role as well). Again, the concern would primarily be related to passenger safety, and that in a vulnerable situation the passengers’ interests would not be sufficiently protected with a register.</li> </ul>	<ul style="list-style-type: none"> <li>• Administrative fee charged, both initial and annual (application and ongoing fees are set by Schedule 4 to \$221, plus in the area of small passenger vehicles \$1,000 per vehicle for metropolitan plates, \$50 for “traditional” or “special purpose, plates)</li> <li>• “Inconvenience” or time cost for potential participants. In an extreme case this may keep some appropriate participants from being involved in providing the service</li> <li>• Value of fines for failing to meet required standards</li> <li>• Because the legislation allows the PTB to limit the number of accredited operators, there is the potential of a consumer welfare cost if the number of operators is constrained to below what would be a market clearing number. This issue must be considered in the context of issues such as industry cost structures, and the issues discussed under purpose and implication.</li> <li>• An area of potential cost may be in cross border (i.e. between states) accreditation and the lack of flexibility that may induce.</li> </ul> <p>The evidence through consultation is that while the industry considered the administrative costs to be an issue, specifically in small passenger vehicles, accreditation was a relatively smooth process, with little concern expressed. The industry was not concerned that accreditation was being used to limit entry into the market, and if anything existing players suggested it could be tighter to ensure that appropriate safety and passenger security could be maintained. The industry is pleased with the restrictions to market entry, not because it can keep new players out, but because it imposes a standard of quality of service on the industry which benefits them all. The industry is quick to complain about operators not meeting the standards because of the transfer effect it potentially has on their own business, particularly as a larger proportion of hires are a result of direct booking with consumers using their information to select the company they want to use</p>

Value of public benefits	Conclusions
<ul style="list-style-type: none"><li>• The major benefits of accreditation relate to reduced consumer information search costs, reduced risks associated with information asymmetry and enhancement of passenger safety.</li></ul>	<ul style="list-style-type: none"><li>• In general, the costs of the current accreditation system can be considered to be small, both directly and indirectly, and the benefits reasonable. As such there was not strong evidence for either removing the requirement or strong suggestions for alternative mechanisms of control</li><li>• While in theory it is possible that accreditation as a principle can be used to substantially restrict entry into a market, there was no evidence presented during consultation that this was occurring in practice. The major issue identified was the annual fee of \$1000 for metropolitan hire cars and concern that this might increase to a prohibitive amount at the whim of the PTB. Given that the amount was introduced after considerable industry discussion, we consider it unlikely that an increase would be imposed without industry discussion of the arguments for and against such an increase. In general the conditions imposed by the legislation upon accreditation are concentrated in passenger safety, as is appropriate, rather than restriction of competition.</li></ul>

Legislative requirement / restriction	Purpose and implications
<b>Division 2:</b> <b>S.28 Accreditation of Drivers</b>	
<ul style="list-style-type: none"> <li>Requires operators to be of "good repute" and to be a "fit and proper" person- in general terms means police and medical check</li> <li>Also requires review of sufficient skills and responsibility to provide the service. It should be noted that while the Act incorporates this perspective in accreditation, the consultation process suggested that the emphasis in the process is on the fit and proper person</li> </ul>	<ul style="list-style-type: none"> <li>The arguments for and implications relating to accreditation of a driver are similar to those relating to operators, with even more emphasis on individual passenger safety.</li> </ul>
Alternative approaches	Costs/Severity of Restrictions
<p>As for Accreditation of Operators</p>	<ul style="list-style-type: none"> <li>The administrative fee associated with driver accreditation is set under Schedule 2 at \$65 (application and ongoing).</li> <li>Other cost issues are similar to those for operators. In general the operation of the accreditation system is not considered to restrict competition.</li> </ul>
Value of public benefits	Conclusions
<ul style="list-style-type: none"> <li>Again accreditation as a general principle has similar benefits with respect to operators, drivers etc.</li> </ul> <p>In the case of drivers, regulated accreditation also may reduce the responsibility of the industry itself (i.e. the operator) in ensuring that their hiring practices are sound. Therefore the issue is perhaps one of cost transfer (from the operator to the driver) rather than a significant difference in the underlying benefit</p>	<ul style="list-style-type: none"> <li>Again recognising the importance of information, and in the case of drivers the particular importance of passenger safety issues, there was no significant issue raised about the current system of accreditation - nor that the fees were excessive, or the procedures difficult.</li> <li>We conclude that accreditation of drivers is not, in practice, restricting entry to the market and is not an undue competitive burden. The information and safety benefits of the accreditation process outweigh the costs in this regard. It should be noted that this is consistent (and indeed less restrictive) with Productivity Commission findings with respect to taxi drivers which recommend that taxi drivers be required to meet given standards.</li> </ul>



Legislative requirement / restriction	Purpose and implications
<p><b>Division 3:</b>  <b>S. 30 Accreditation of Centralised Booking Services</b></p> <ul style="list-style-type: none"> <li>Requires operators to be of "good repute" and to be a "fit and proper" person</li> <li>Accreditation also requires specified standards of customer service</li> </ul>	<ul style="list-style-type: none"> <li>Most of the arguments relating to CBS's are similar to those for s. 28 and 29, but relate more to the ability to provide an effective service, in the context of the PTB's overall objectives. The nature of the taxi and hire car sectors particularly are dependent on reliability of the dissemination of booking – to ensure adequate response times etc.</li> <li>A specific issue here is that taxi drivers must "belong" to a CBS. Operators in other segments of the market have no such requirement.</li> <li>A further issue that arises is that accreditation requires participants to ascribe to standards of operation, which may have some cost implications</li> </ul>
Alternative approaches	Costs/Severity of Restrictions
<ul style="list-style-type: none"> <li>Again, the arguments of industry self-regulation and Code of Practice can be considered as an alternative here. However, given the critical role of information, and the implications for the effectiveness of the passenger transport network, there are arguments that consumers need to have the support of legislation</li> </ul>	<ul style="list-style-type: none"> <li>Administrative fee of \$552 (application and ongoing). This is a very small increment on the infrastructure costs of a booking service, and could not be seen as prohibitive.</li> <li>Again the potential exists for rent seeking behaviour on behalf of the incumbent service provider given the ability under the legislation to define numbers. There were no concerns raised as to undersupply of service providers in this area. Further the changes occurring in terms of communication options (eg mobile telephones) will further reduce the impacts of this restriction.</li> </ul>
Value of public benefits	Conclusions
<ul style="list-style-type: none"> <li>The benefits to the public from accreditation of CBS's relates to the reliability of service provision - that is that customers can hire a service and be assured that it will be provided. This is seen as a benefit with respect to the operations of the transport system as a whole, in that an unreliable passenger transport sector will lead to greater reliance on private cars, resulting in congestion of the system etc.</li> </ul>	<ul style="list-style-type: none"> <li>While there seems to be more of an argument for industry self regulation in this instance (given that the major issue is industry performance) it would appear that the costs of the regulation are minimal and so do not significantly impinge on competition, and the broader benefits warrant government involvement.</li> </ul>

**Legislative reference - Part 5 Regular Passenger Services, s39-44**

Legislative requirement / restriction	Purpose and implications
<ul style="list-style-type: none"> <li>This section of the act provides the parameters by which regular passenger transport services are run. In general, this is as a contractor to the Board (the PTB is the customer, on behalf of the general public)</li> </ul>	<ul style="list-style-type: none"> <li>Only contractors to the Board have the right to provide Regular Passenger Services (i.e. effectively bus routes).</li> <li>The contract controls the period of the service, the standards of service, the route of operation, and the remuneration of the contractor.</li> <li>The Board sets fares – and the Act does not require the fare and the fee paid to the contractor to be related.</li> <li>The conditions of the Act are set generally to recognise that there are substantial public good, externality and equity arguments which would suggest a commercially operating bus service would underprovide the relevant services, and would disadvantage low income groups of the community.</li> <li>The disassociation between fees paid and fare revenue raised is justified in community service obligation terms.</li> <li>Competition issues arise regarding the equity of process and long-term sustainability in letting contracts; there are questions as to whether they include and treat equally all possible providers across defined routes, particularly with respect to the role of TransAdelaide.</li> </ul>

Alternative approaches	Costs/Severity of Restrictions
<ul style="list-style-type: none"> <li>• Returning to a sole provider system as was the practice before the establishment of the Passenger Transport Act in 1994, rather than multiple contractors may be justified if it is seen that efforts to manage contracts are excessively costly.</li> <li>• Leaving provision to private operators, with the issues relating to market failures handled by legislation (e.g. ensuring sufficient access to Regular Passenger Services across the whole metropolitan area), and either: <ul style="list-style-type: none"> <li>❖ Payment to the contractor for the community service obligations; or</li> <li>❖ Payment of subsidies directly to the consumer.</li> </ul> </li> <li>• Either of these extremes could be seen to carry too much risk for the consumer, or for the development of appropriate networks. As a general principle, the process of competitive tendering for these services is seen to meet the objectives of competition principles and in fact is the reason for the PTB establishing competitive tendering</li> </ul>	<ul style="list-style-type: none"> <li>• The operation of a regular passenger transport system (i.e. buses, trams and trains) is enormously costly to the community, and specifically to the taxpayer as a heavily subsidised service. Where subsidised services exist for reasons of the broader benefits (note that this is not directly a legislative issue, but a financing one) the involvement of government is clear, and the system needs to incorporate accountability.</li> <li>• The contracting arrangements currently in place are consistent with approaches to providing the discipline of competition in services that are inherently categorised by public good and externality arguments. Contracting arrangements in practice need to balance the practical issues of accountability against the benefits of contestability. The most significant concern about the limitations of the existing system is that the large areas covered in the contracts prohibit the involvement of smaller operators. This is part of the balancing issue (although the smaller operators could put in joint tenders).</li> <li>• The current system has been in place for only a few years. The ability to assess the implications for costs of service provision is limited by that period.</li> </ul>
Value of public benefits	Conclusions
<ul style="list-style-type: none"> <li>• Communities generally accept that a subsidised passenger transport system is a critical part of the urban network, delivering benefits related to externalities and equity of access</li> </ul>	<ul style="list-style-type: none"> <li>• Given the acknowledged benefits of government involvement in the provision of regular passenger transport services, and the observation that the current move to contracting is consistent with recommended microeconomic reform processes, it would generally seem that the current form of market restriction is broadly warranted.</li> <li>• However, the key issue is that contract arrangements include and treat equally all possible providers across defined routes. This question is considered in more detail in Section 8. The legislative framework is sufficient to achieve appropriate contestability - this is an administrative issue.</li> </ul>

Legislative reference - Part 6 Taxis s. 45-52

Legislative requirement / restriction	Purpose and implications
<ul style="list-style-type: none"> <li>• This Part of the Act restricts the operation of Taxis to those who hold licences. This makes a clear distinction between a vehicle which calls itself a taxi, and other small passenger transport options (i.e. the hire car market - which must be recognised as an increasingly close substitute for taxis)</li> <li>• Specific enactment of the legislation is covered under Passenger Transport Act (General) Regulations - Part 3</li> </ul>	<ul style="list-style-type: none"> <li>• A licence is required for an accredited operator to advertise their services as a taxi; it is an offence to advertise as a taxi without the appropriate licence; it is not permitted to charge passengers based on a taxi-meter without the licence.</li> <li>• If a licence is issued, the operator/ driver/ vehicle <b>must</b>:             <ul style="list-style-type: none"> <li>- display the word TAXI appropriately;</li> <li>- charges fares as per the regulations; and</li> <li>- be fitted with the appropriate meter.</li> </ul> </li> <li>• Conditions of a licence can be varied at the Board's discretion via regulation (e.g. safety standards of vehicles); may also have temporary or grade licences.</li> <li>• Limits the number of licences on issue or issued in a given period; charges fees for licence application and renewal.</li> <li>• Role of the licence and accreditation process can be seen as overlapping, with the granting of a licence a more rigorous process, able to be applied to the vehicle as opposed to the driver/operator.</li> <li>• One of the conditions associated with licensing is the setting of a maximum fare (defined by Schedule 2 of the Act). The purpose of maximum fares is to ensure that there is no price discrimination in the market, to reduce information search costs, and to ensure that there remains a viable market in peak times</li> </ul>

Alternative approaches	Costs/Severity of Restrictions
<ul style="list-style-type: none"> <li>The issues surrounding licensing and the alternatives are discussed in more detail in Section 7. Given the above discussion of accreditation, the key issue with respect to alternatives is whether accreditation is sufficient to achieve the necessary objectives of passenger safety and required service levels, and information search costs.</li> </ul>	<ul style="list-style-type: none"> <li>Again direct administration costs required under the legislation are minimal and can not be considered prohibitive to entry (\$166 for a general licence, \$83 for a special licence)</li> <li>However the ability to trade licences has placed a value on them of \$150,000 – which most commentators would suggest represents an unnecessary cost to the consumer of up to \$2 per fare - a consequence of undersupply of licences. This also is discussed in section 7 in this report.</li> </ul>

Value of public benefits	Conclusions
<ul style="list-style-type: none"> <li>The public benefits from licensing can be seen in the role the taxi sector plays in the transport system. If it is accepted that a viable taxi sector is necessary for the broad level benefits, the question then is how licences fit in underpinning the viability and activities of the taxi sector. The key issues are it is commonly argued in dealing with peak and off-peak services, with ensuring the industry is characterised by committed operators</li> </ul>	<ul style="list-style-type: none"> <li>There is a general opinion that the undersupply of licences is a critical issue for the industry with significant costs to consumers. It is however accepted that licences play a role in reducing consumer search costs and providing other service benefits, but the opinion would favour that the current value of licences results in large part from restricted competition rather than simply representing these factors.</li> <li>That additional competition is to be encouraged is therefore unequivocal. However, it is noted that the Act allows the issuing of 50 new licences per year and does not prescribe a total number of licences, and further allows activity in the close substitute of the small passenger vehicle market. Using these mechanisms to encourage competition would seem to be consistent with recognising the context of arguments and history in the industry. The current legislation therefore is capable of accommodating increased competition in this regard if this is considered in the public interest. It is noted that the Minister has not exercised her right to offer the maximum number of licences in any year since the legislation was enacted.</li> </ul>

**Legislative reference - Part 7 Miscellaneous s. 53-65**

Legislative requirement / restriction	Purpose and implications
<ul style="list-style-type: none"> <li>• Inspections by authorised officers</li> <li>• Conditions of vehicle registration</li> </ul>	<ul style="list-style-type: none"> <li>• Enables authorised officers to monitor service and safety standards, and compliance with the Act (e.g. accreditation, licensing, and certificates of inspection etc). Purpose is to ensure that passengers are provided with a safe and reliable transport option, with the role of government seen to be necessary due to externalities associated with the urban transport system, and information asymmetry arguments.</li> <li>• Registered vehicles are required to carry plates of the colour approved by the Registrar and the Board</li> </ul>

Alternative approaches	Costs/Severity of Restrictions
<ul style="list-style-type: none"> <li>• Industry or indeed firm self-regulation, recognising that the quality of vehicle is part of the product</li> </ul>	<p>The imposition and enforcement of vehicle standards will involve:</p> <ul style="list-style-type: none"> <li>• administrative costs - the costs of employing inspectors etc</li> <li>• compliance costs - the vehicle time out associated with inspection</li> <li>• the potential that standards set will be above what customers would require, and that service provision would be “undifferentiated” (due to lack of flexibility in the standards) limiting customer choice</li> </ul>
Value of public benefits	Conclusions
<ul style="list-style-type: none"> <li>• The benefits again come down to having a safe, reliable and reputable transport sector to service the needs of the general public, the tourist sector and special needs groups</li> </ul>	<ul style="list-style-type: none"> <li>• If it is accepted that information asymmetries provide some limits to self-regulation, and that accreditation requires enforcement of some degree of standards, it would seem that the costs of enforcement are also necessary. Indeed the consultation process suggested that the issue was insufficient enforcement rather than the requirements being extreme. There was no evidence presented to suggest that inspections or standards represent a significant constraint to competition in themselves, although the “ignoring” of required standards did provide a cost advantage to those operators who chose to do so.</li> </ul>

## 7 Identification of key competition issues for market segments

This section focusses on competition in passenger transport in the context of the separate market segments, rather than in the context of the Act. While some issues appear in both discussions, this approach has identified additional aspects beyond those in the legislation that need consideration. In Section 6 of this report the discussion covers all aspects of the Act in a general sense. In this section we provide more detail on the specific areas in passenger transport where competition issues were questioned through the research process.

### Rail transport services

Rail transport is available in the metropolitan area. It is an alternative to other regular passenger services such as bus and tram services, offering the advantage to the passenger of not being a user of the road system (therefore avoiding congestion risks, and improving the time of travel), but more limited flexibility (smaller number of routes and less frequent services).

Rail is in both direct and indirect competition with the bus system. However, the PTB attempts to meet its broader objectives of an integrated network of services (S. 20(1) (a)) by encouraging the bus system to work in a complementary way to rail through the provision of feeder services. Despite this, the bus and to a lesser extent the tram service does compete directly with the rail service.

In the public consultations and submissions there was no comment on the issues associated with rail and competition principles, other than to ask the fundamental question of why rail services have not been put to competitive tender. Rail services are provided and operated solely by government through a negotiated contract in 1997-98 with TransAdelaide – a government monopoly - corporatised in 1999. It is recognised that rail is an integral part of the regular passenger transport system with almost eight million trips made by passengers in 1997-98.

The Productivity Commission review of Urban Transport criticises the operations of urban rail transport systems in Australia as “characterised by large financial deficits and poor operating efficiency”<sup>16</sup> and suggest that lack of competitive forces are a major reason for this. The Commission recommends that

“... the current moves to corporatise government rail authorities be continued and extended. As a minimum, rail infrastructure and different types of rail traffic should be operated by commercially autonomous business units. Where appropriate, existing urban rail networks should be divided into geographically-based business units. Looking ahead, State Governments should be open to other options for reforming urban rail in ways that promote greater efficiency, including the creation of a separate infrastructure authority, and the franchising of rail services. Seeking

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<sup>16</sup> Report no. 37, 15 February 1994, Appendix B1, page 291

expressions of interest from potential operators could be a way of generating information about the benefits and costs of pursuing these options.”<sup>17</sup>

The infrastructure requirements of the service generally dictate that government operation is a reasonable approach to service provision. In South Australia the system is managed by a corporatised entity, and as such is moving towards the recommendations of the Productivity Commission.

### Conclusion

The nature of the competitive restriction is that TransAdelaide is a single service provider with a negotiated contract to provide rail services. TransAdelaide has not had to compete for this contract having previously (although as a different agency) provided the service.

The relationship of this restriction to the objectives of the legislation is that rail services are an integral component of the regular transport options in an urban area. It is argued by the government that they are appropriately provided by the government as the infrastructure costs and limited market size in South Australia make it prohibitive to consider other options. The corporatisation of TransAdelaide under recent changes to the Act are consistent with Productivity Commission recommendations and with the legislative review of the Act undertaken by Halliday and Coleman in 1998.

Alternative mechanisms to improve competitive forces in the delivery of services are not impeded by the Act through s.3(d) “to provide for a new approach to the provision of passenger transport services by the public sector” and eventually could enable tendering out of the services. Note that similar arguments exist with respect to the tram service which is limited in South Australia to one line running between a beach suburb and the city. Therefore, we note that the Passenger Transport Board is legislatively able to competitively tender rail services and can choose to do so at any time.

### **Bus services**

Bus operations are discussed in the context of three segments of the market – metropolitan route services, other or country regular services and the charter market. The school bus market is a separate market and is the responsibility of the Department of Education, Training and Employment in conjunction with private schools, parent cooperatives and private bus companies serving private schools. It is recognised that in rural South Australia, operators need to participate in all sectors of the market to cover fixed costs and to keep regular and experienced drivers in full-time employment.

### Operations of metropolitan route services

The PTB is responsible for the provision of regular passenger services, including the collection of fares in the metropolitan area. Respondents to this review accepted the government’s role in overseeing the metropolitan bus services through the letting of

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<sup>17</sup> Page 317



competitive tenders and in meeting the objectives of an urban transport system. The Act requires under section 30 that service contracts should not create monopolies within metropolitan Adelaide, so that sustainable competition can be maintained. They agreed that it is an appropriate transport objective for all areas to receive an adequate service and sufficient services at appropriate times, with non-commercial services being appropriately subsidised. Overall the policy choice of the government is to subsidise significantly metropolitan bus services and this was not questioned.

To introduce competition into the provision of these services, management of the route services has been sub-contracted to private operators. Contracting is seen as providing competitive discipline on the management of the service through the knowledge that the contract will be open to competition when the contract expires. This is consistent with the recommendations of the Productivity Commission which supported

“... an immediate start to, or continuation of, the public tendering of exclusive franchises for bus services in cities, while governments retain the option of integrating and coordinating their public transport services.”<sup>18</sup>

The main question of competition that arises in this process is whether the contracting procedures are fair and equitable. Recent modifications to the Act (1999) have been introduced to corporatise the operations of TransAdelaide, and increase the fairness of the contracting system. In general, this issue did not receive significant attention in the consultations. This could be because it is the subject of earlier reports which found the processes appropriate.<sup>19</sup>

The contractual arrangements also incorporate a range of other restrictions, relating to service standards and fare levels (with respect to the latter - there are broader policy objectives - discussed earlier, which mean that full cost pricing is not implemented) and to accountability of contract operation (eg exclusive right to a route is required given the nature of the business, otherwise operators could cut into the peak or profitable parts of the market and limit services in non-peak and unprofitable periods), and non assignment of contracts (accountability objectives).

The main issues that arise with respect to the appropriateness of the competitive mechanisms are questions of balance, as follows:

- Was sufficient competition possible given the size of the areas into which the contracting was organised – did small operators have a reasonable chance to be a provider of services over a relatively large and well-populated metropolitan area? We have been told that forthcoming tendering process will not generate any local response as they cannot serve the market size.
- Is it appropriate that there be dual territory areas within transport boundaries, e.g. the Gawler area is considered metropolitan for train services but not for bus services, and in

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<sup>18</sup> Page 379

<sup>19</sup> Price Waterhouse (December 1995) “Appraisal of the PTB’s First Stage of Competitive Tendering of Bus Services”

the Adelaide Hills or Mt Barker area there are other tensions in the system over territory borders between metropolitan and rural. We note that this is addressed in the Transport Policy Objectives (see Appendix I).

- When government operations (TransAdelaide) compete with non-government operators for contracts, the assessment process has required whole-of-government costs to be considered (including implications for employment termination costs). This has increased the cost to non-government contractors but not for government as the termination costs would not be relevant. This complexity has meant that government and non-government operators have had quite different costs. However, it is noted that this difference has been removed now that TransAdelaide is a corporation.

#### Operations of other route services (country services)

Other regular routes (non-metropolitan) are contracted by the PTB, with fares set by the operator and agreed by the PTB with approval required from the PTB for fares to be increased. Again it is seen that the operator needs some "surety" in the market to allow for a "complete" service – to allow more profitable times and locations to provide some cross-subsidy to non-profitable services. As already noted, most operators in this area argue the need to be involved in other services (specifically the school bus market and the charter market) as well as non-metropolitan routes to meet their operating costs and to have a viable business.

A "*Review of Inter Town Services Report*" was prepared by the Standing Committee on Non Metropolitan Transport of the Passenger Transport Board in March 1996 in order to make recommendations relating to arrangements to replace route service licences under the Road Transport Act and to meet the requirements of the Passenger Transport Board. This review was undertaken within the context of the National Competition Policy, and concluded that a system of regulated limited exclusivity was the most appropriate model to replace route service licences in the non metropolitan area. The committee received submissions from the industry and, with the exception of two witnesses, concluded that "... the declining rural economy, population reduction, the need to prevent any further decline in services and recognition for the value of cross subsidisation of services were all given as supporting argument for maintaining a system of limited exclusivity."<sup>20</sup>

This report identified the following routes as being jeopardised in a deregulation environment:

- Cowell to Lock and Port Lincoln
- Port Augusta and Roxby Downs to Andamooka
- Daylight service to Ceduna
- Flinders Ranges services

- Adelaide to Clare and Jamestown
- Adelaide – Loxton via Murray Mallee
- Adelaide – Goolwa via Meadows
- Pinnaroo – Murray Bridge
- Nairne – Dawsley - Kanmantoo

The major questions that arise in regard to non-metropolitan services are:

- 4A exemptions allow variation from standard routes to provide transport access for the transport disadvantaged. The concern raised is that the interpretation of 4A by the PTB seems unclear, and that as a consequence 4A exemptions may allow variations to routes that cut across the market of other operators
- There is a conflict between the length of contract offered (generally five years with a three year extension) and the ability to purchase new vehicles and improve the standard of fleet and quality of services within this timeframe. A longer timeframe (i.e. 7 + 3 or 10) would provide more opportunity for smaller operators to tender for such services as it would enable them to cover the cost of improved services and better buses.

#### Issues for charter operators

The key competition issues suggested by charter operators include:

- *Route operators extending into the charter market* - the concern is one of unfair competition, based on a number of issues, including:
  - ⇒ operators of route services can charge for charter services and cover variable costs only, as fixed costs are covered by the route contracts. It is understood that consideration was given in the contract negotiations to the extent to which the contract bidder expected to undertake charter operations. Although this opportunity to charter was available under the former legislation it was not as prominent as it is now and so the bus industry is more aware of the affect of the route operators on the charter market
  - ⇒ economies of scale arguments as smaller charter operators do not have the capacity to advertise, or operate as a travel agent as do the larger route operators who can now extend into the charter and tourism market
  - ⇒ allegations that vehicle safety requirements are being ignored with examples of metropolitan route buses being used on charter operations and so not meeting charter standards which are higher than those of route service buses (e.g. requirements for spare parts, luggage compartment, etc.)

- *Role of other government operators (i.e. education and community bus services)*

The major aspects of this issue include:

- ⇒ community bus services are provided by local government and community organisations, and generally do not cover full costs (because of explicit subsidies or donated buses) and use volunteer drivers, who do not have to be accredited through the PTB (see below).
- ⇒ the decision of government agencies to operate free or subsidised services is not an issue for the Passenger Transport Act, but for activities of government agencies. The services offered by these free and subsidised services probably concentrate on areas that would not be competitive with the private market (in many cases it could be assumed that without the free service, the trip would not be undertaken), but there were suggestions that the service at times displaced opportunities for private operators. We note that the Productivity Commission strongly encouraged the development of community transport services (Appendix B5), suggesting they provided more flexible ways of meeting transport needs, and specifically:

“The Commission recommends that State and Territory transport licensing arrangements not be used to restrict the provision and development of community transport; community transport services not be restricted to people with special needs or to feeder services; where there are no existing bus or rail services, community transport operators be allowed to establish new services and to charge fares; and greater cooperation between local councils, welfare groups and bus and taxi operators be encouraged, for example, through the appointment of a community transport officer or broker.”<sup>21</sup>

We note that the Passenger Transport Act has provision for similar services to those identified by the Productivity Commission (defined as a “regular passenger service” under the Act). The PTB has encouraged the development of “Community Passenger Networks” and community transport services in collaboration with local government and on occasions with the Home and Community Care Programme of the Department for Human Services. These services assist the transport disadvantaged.

- ⇒ school bus service - the Department of Education, Training and Employment is a sole purchaser for its given service. As noted above, some country operators depend on access to the school bus market to help cover fixed costs. The argument expressed was that the monopoly purchasing position of the Department forces a “non-reasonable” return in the contract. This issue is not directly within the scope of the Act except in the issue of driver accreditation; drivers of school buses need to be approved by the school, and if not employed by the school to also hold driver accreditation through the PTB. It is claimed that this places local drivers at an unfair financial disadvantage as they need to bear the cost of accreditation which school employees do not have to meet. However, it is acknowledged that local drivers are likely to need accreditation for other work. Another anomaly is that local operators

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<sup>21</sup> Appendix B5, page 419

need to meet award payment conditions for their drivers which require a minimum of four hours work; school employees are paid on a kilometre basis which is likely to advantage school operators over local companies. During the course of this review we were informed that discussions are being held to attempt to resolve the competitive issues involved.<sup>22</sup>

- *Completeness of controls*

Some operators suggested that insufficient attention to the monitoring and enforcement of safety requirements and standards by the PTB meant that prices were being "dictated" by operators who perhaps did not consider the long-term interest of the customer. It was suggested that this has resulted in a lack of investment in the industry, and is not in the interest of public safety. That is to say prices being charged are artificially constrained and do not reflect a full cost in the customer's "best interest". It is claimed that this is occurring through the presence of operators willing to offer sub-standard and unsafe transport, thereby minimising their cost - but customers are ignorant of this because of information asymmetries. To the extent that this criticism is substantiated, it could put the customer at risk.

- *Accreditation of Volunteer Drivers*

There is a perceived competitive inequity in that since May 1996, volunteer drivers have not needed driver accreditation with the PTB to drive buses as a volunteer. Volunteer drivers are generally drivers of community buses or buses hired by a group for which there is a community benefit for the passengers served by that bus. In considering this issue it is noted that:

- ⇒ the Act does not absolve the need for volunteer driver accreditation, but places the responsibility with the organising group of the voluntary activity (Regulation 7 (f)(p))
- ⇒ despite this, in practice several examples were provided of volunteer drivers being accredited with the PTB - that is services using volunteer drivers not requiring accreditation choosing to have their drivers accredited (note that this may be a historical result of the drivers holding accreditation because of previous employment and subsequently volunteering to drive for a community group; alternatively we note that some organisations require their volunteer drivers to be accredited.)
- ⇒ the argument for non-PTB involvement in the accreditation of volunteer drivers and organisations is that the government did not wish to impose financial burdens on volunteer drivers providing a community service. However, safety concerns together with a perceived expansion in use of community services into charter services (e.g. use of the community bus by the aged care home to take residents to a concert) means that it is appropriate for volunteer drivers to be accredited by the PTB. As a minimum, the provider of the services should be fully aware of their responsibility to

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<sup>22</sup> Although this is outside the scope of this report, we note that the government provides free bus services to country students but not to metropolitan students. We also note that the school system has a large fleet to serve country schools and question whether this is more appropriately managed through the PTB.

ensure the safety of the passengers who they serve and ideally all drivers should be accredited for reasons of passenger safety. It may be appropriate for the PTB to remind operators on a regular basis of their responsibility in this area. The PTB could choose to reduce or waive the fee for volunteer drivers which would be an administrative decision and would resolve this dilemma.

## Conclusion

The Passenger Transport Act 1994, and its subsequent revisions are consistent with the recommendations of the Productivity Commission regarding appropriate directions for market reforms in bus services<sup>23</sup>. Where the legislation contains any remaining restrictions on competition, those restrictions are in the context of market justifications to ensure services to the community particularly in areas of low population. In short the benefits associated with a coordinated and subsidised bus service, with appropriate accountability are generally accepted as outweighing the costs involved. It should be noted that if the market were to be fully deregulated there would be a range of market failures and equity issues that would arise such as lack of services to areas which are not considered profitable or at times which are not considered profitable, increased journey to work costs etc.)

The private sector bus industry, and particularly the smaller operators in the charter market and country services, presented arguments about over-supply and competing not against like providers but subsidised route operators wanting some market share from the charter market. They generally argued for more regulation rather than less, in effect arguing about the ability to ensure a reasonable income and return in an industry being inhibited by reducing population and the peak and non-peak nature of demand. The arguments were often presented in terms of safety standards and quality of service and often related to implementation issues surrounding the Act, rather than the Act itself. It is noted that the Act does not inhibit competition in the charter market and that there is no material cost to the community requiring a restriction on the amount of competition.

In country areas, the PTB through its legislation is able to competitively tender route services. However, the PTB has chosen at this stage not to do so, not because of a desire to protect country operators but aware of the marginal nature of these services and the need as part of their social objective to ensure a service in country areas.

However, with the accreditation of bus drivers there are anomalies that should be addressed in the legislation. It must be noted that the industry and community accept that accreditation in general - while adding some costs to the industry - is warranted, because of the public safety benefits involved. The anomalies occur within the area of community buses. While the PTB has been keen to ensure that community buses can operate at minimal cost to their providers, by eliminating the cost of driver accreditation, there is a

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<sup>23</sup> The Commission concluded that it "supports an immediate start to, or continuation of, the public tendering of exclusive franchises for bus services in cities, while governments retain the option of integrating and coordinating their public transport services" Chapter B3, p 379. The report also concludes that "other passenger transport markets will be opening up as bus services are tendered out. Buses will have the opportunity to operate in direct competition with other modes. Additionally, new companies including some which have supplied taxi services or freight services in the past, will be free to compete with bus companies for route services".

community cost in doing so. This community cost is the uncertainty of the medical condition of the driver and the potential risk to the safety of passengers who would assume that the driver is "a fit and proper person" for the task of driving a bus. The alternative is for the PTB to reinstate the former condition of requiring volunteer drivers to be accredited. The PTB could choose to waive the accreditation fee, thus overcoming their concern that drivers required to pay a fee for accreditation may choose not to volunteer to drive resulting in the community being deprived of the service.

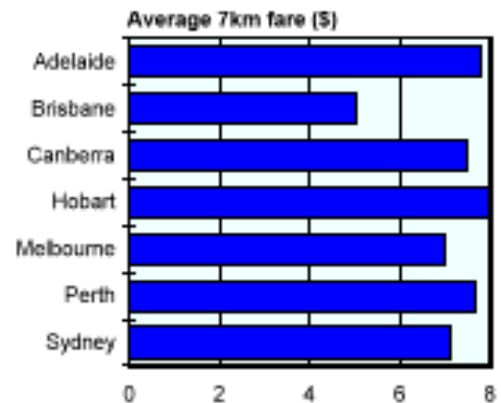
The argument for the PTB taking over the accreditation of drivers of school buses is also one of consistency and fairness. It may be possible for school employees to forego the requirement for a police check, as this would have been required at the time of their employment, but to meet all other PTB requirements for accreditation.

It is therefore recommended that the PTB review accreditation procedures for bus drivers with a view to making them consistent, regardless of the type of driver, i.e. employed or volunteer. We believe that one body should be responsible for the accreditation of all drivers and that this body should be the PTB not the Department of Education, Training and Employment or any other group. However, we recognise the right of operators to require additional attributes of their drivers or contractors, such as language skills or other expertise.

## Taxis

### The value of taxi licences

Licensing of taxis has been the historical precedent for government intervention in the industry since the 1950s. The principle of licences is by definition anti-competitive as it denies entry into the industry by imposing a substantial financial cost to enter. It is on this basis that licences have been heavily criticised. The consequent question is the value that is “voluntarily” placed on licences by the market. Licences currently trade in South Australia at a value in the order of \$130,000 to \$150,000. This voluntary value has been taken by analysts to reflect a cost imposed on the system that is “unnecessary” and is a cost borne by consumers. Generally fares in South Australia average some \$8 dollars per 7 km trip - and are the second highest of all states.



This perspective invokes considerable debate. There are a number of issues to consider:

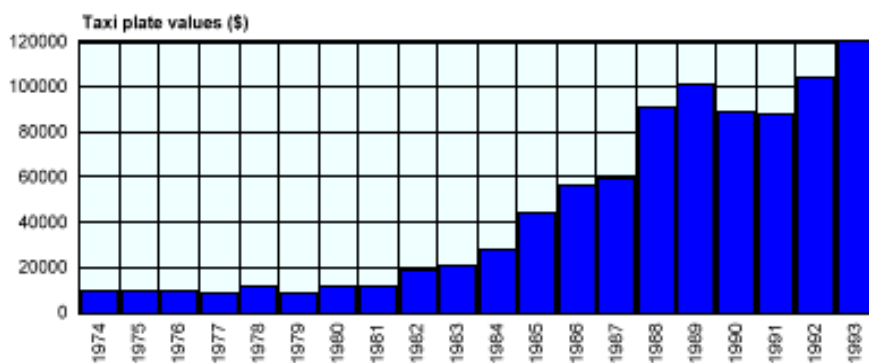
- It is unequivocal that the purpose of a licence is to restrict entry into the market. However it is argued by some that an “objective” of the restriction is to ensure that entrants are “serious” contributors to the industry, who have a commitment to issues such as service standards, and the longer term directions of the industry. Therefore it is argued, the use of a licence system confers benefits on the consumer in that it provides information to the consumer about the reliability of both the industry and individual taxi. This is particularly important in the management of the hail component of the services, and in the management of peak and off-peak demand *Productivity Commission Report on Urban Transport, Appen*
- “Taxi” is an international brand name and users of taxis worldwide expect regulation of the industry for passenger safety
- The industry has argued in many forums, including in submissions to this review, that “there is not a nexus between taxi fares and plate values” either across time or across states. The industry has taken this to infer that the value of a taxi plate is not included in the cost recovery of the industry and so there is no real cost to the consumer from licensing. The argument is generally presented in an “incomplete” form - it needs to be recognised that the return on the investment in a licence is only one element of the cost structure in operating taxis, and fares structures could be exactly the same in different states with different licence values if other costs are different, and if use profiles are different. Higher plate values in Sydney for example are more likely to be related to usage rates (i.e. the more general spread of demand) than to fares per se. Further, the variations in plate value across time need to be compared to changes in other costs as well as fares.

The following chart indicates the changes in plate values in Adelaide from the mid 1970s to the mid 1990s. In real terms the value of plates has doubled across the two decades.



Interestingly, across the 1970s plate values remained static. This was a period of very high inflation, suggesting a significant real decline in plate values. It could be noted that it was also a time of significant increases in oil prices (the operations of the OPEC cartel) which may have depressed the plate values.

Plate values in Adelaide



*Productivity Commission Report on Urban Transport, Appendix B4, Page 402*

- The question that then arises is - if as the industry suggests, it is not the implication of industry protection and regulation that supports the plate value, what is it that underlies it? The Productivity Commission argued that fares could nationally come down by \$2 on average if the market was deregulated.<sup>24</sup> In South Australia, it would be less than that because of the lower value of the licence plate. This would represent about 10-15% of the average fare. The industry argues that:

⇒ While fares could in theory reduce, consumer costs (search, risk and information) would increase

⇒ Evidence from overseas is that fares did not really decrease. However the Productivity Commission evidence is that with deregulation in some cases fares did come down, in other cases the quality of services improved. Since the relaxation of entry into the taxi industry in New Zealand, real fares have fallen, the availability of taxis has increased markedly, and substantial innovation and market segmentation has occurred. The New Zealand Ministry of Transport believes that reform has not only brought about better service; it has also led to increased consumer information and choice. Higher service levels are the result of organisations vying for greater market share and hence ensuring their drivers are more responsible for their actions. Real fares have remained constant in the United States since reform was introduced. However, the taxi industry has pointed out what it feels are negative aspects of reform in the United States, such as overcrowding and overcharging at airports and having to work much longer hours for the same or less money<sup>25</sup>

<sup>24</sup> Report on Urban Transport, Appendix B4, page 391

<sup>25</sup> Appendix B4, pp394-395

- ⇒ The investor market has created a speculative bubble in the price with investors leasing plates to drivers. A possible response to this argument is that while it is possible for investment markets to leave their fundamentals, this will generally be short lived. Further it should be noted that the rent paid by operators on leased plates actually represents a reasonable rate of return (rents are in the order of \$250 per week, which represents approximately a 9% tax free yield)
- ⇒ Driver wages are “unreasonably” low, and it is the wage that effectively subsidizes the plate value. Conversely, we were informed that the driver share of the fares (which have basically been increased in line with inflation) has increased from a third of the fare take, to one half over the last decade which means that the driver returns have moved in parallel with increases in licences.

An important component of the debate is that as a consequence of the protection offered by licences, the industry also accepts regulated fares, without being able to go above a set maximum. In our workshops, the taxi industry suggested this was a disadvantage to them as they cannot vary their fares at times of peak demand as hire car operators are able to. This certainly represents a constraint on the market, and would produce a consumer and producer surplus loss, in that there would be excess demand in the market at peak times, and excess supply at other times. It would also “prevent” potential entrants into the market to meet excess demand, and limit the “desire” of licensed cabs to service the market at peak times (however note that at peak times there is an extra return associated with reduced waiting times between paying fares etc.) Therefore it would seem that regulated fares and licences tend to go hand in hand. The community benefits of regulated fares are that:

- Knowing fares are regulated to a maximum presents consumers with lower search costs, and gives greater understanding of what they are buying. “Shopping around” would be a difficult concept within the taxi industry, particularly in the hail sector, and there is in an element of the possibility of customer hijacking in this regard.
- There are important equity or social justice implications in having a set fare that does not vary with the level of the demand (i.e. peak versus off-peak). Lower income customers - often those who have less choice over their mode of transport - would be constrained from use at peak times when fares could increase dramatically. There would at peak times be additional traffic on the road, a price incentive for drinkers to self-drive, and therefore a range of additional social costs.

The alternatives to this in unregulated fares, particularly at peak times, and market uncertainty for consumers, do not satisfy the objectives of the Passenger Transport legislation of accessibility, safety, and social justice. In many of the consultations it was suggested that unregulated fares cannot be sufficiently justified on competition grounds. That is - while there are economic costs involved in regulated/fixed fares, the benefits as discussed above are seen by the community as outweighing those costs. Again it is noted that for a range of reasons the Productivity Commission supported the concept of maximum fares for the industry<sup>26</sup>.

The issue of plate "investments" represents a substantial transitional issue in the consideration of deregulation opportunities. Most licence holders have made financial decisions on the basis of their investment in a plate, and some carry large debts in order to participate in the market (which has already been identified as a constraint on entry). Any deregulation process would need to recognise this issue - which may incorporate a substantial cost to general revenue. Note that deregulation in the Northern Territory (see below) involved a buying back of licences, but recouping this money by a substantial annual licence fee. The net result has been a significant payment to plate owners, but this payment is countered by a repayment by these former plate owners of an annual fee which paid over about a 10- year period, will nullify the payment for the licence and leave the owner with nothing. The barrier to entry that this has imposed on an annual basis can only be gauged as time passes.

Significant deregulation would deplete the value of plates and adversely affect the investor's financial position. While there is no guarantee attached to the value of a plate, and the plate holder runs the risk on value, it is apparent that government would have some responsibility for this outcome under extensive deregulation. In South Australia there are 1048 taxi licences (as at 30 June 1998) which carry a market value of up to \$150,000 per licence. The government is faced with two options in a deregulated market:

- 1 To compensate, either partially or fully, the licence holders for the value they would lose. This would require a commitment of up to \$150 million to fund the buy-out (\$100 per South Australian). The interest costs of this buy-out would be up to \$10 million per year or \$7.50 per South Australian per annum. (This could be funded by a levy on taxi fares).
- 2 To ignore the financial implications for the individuals concerned (perhaps arguing that many of the licences were not actually purchased at \$150,000 and so the loss is a paper loss only). While there would not be a direct financial cost to the government, in the short-term there would be significant disruption to taxi services and inconvenience to the community and the government.

However it is also possible that deregulation would bring niche vehicles and operators into the market. While this might be good in periods of peak demand, by allowing more vehicles into the market, it is argued by the taxi industry that such vehicles would reduce the opportunity for operators to mark a reasonable return as it is only in periods of peak time that the operation of their vehicle becomes viable. If this argument is correct, then the outcome of deregulating the industry would be less viability for all operators which in turn could result in operators leaving the industry. The issue becomes getting the supply and demand into a reasonable equilibrium.

#### Advertising on taxis

An issue raised in one submission is that the PTB restriction of advertising on the roof of vehicles is a competitive restriction which offers no public benefit whatsoever. Unlike New South Wales, Western Australia, Queensland and the Northern Territory, South Australia has expressly prohibited this advertising after customer consultation on the appearance of taxis and the capacity of a bystander to identify if the vehicle is available for hire. It is noted that advertising on the rear or boot of the vehicle is allowed, where it cannot prevent a bystander

from determining the status of the vehicle and so the principle of advertising per se, is not prevented on the vehicle.

This respondent argues that there is a market for external advertising, and in fact the PTB itself makes use of it on buses, and that Regulation 46a is in breach of s.46 of the Trade Practices Act. Of course the difference with the buses is that the advertising is on the side of the bus and does not impede the bystander's view of the bus route or if it is in service. It is argued that the prohibited taxi advertising can prohibit the bystander from determining if the vehicle is for hire. The only direct benefit to the public of this prohibited advertising being allowed is that it would bring greater advertising to the public. Given the alternative advertising approach of using the boot of the vehicle for advertising, and that those companies intent on advertising could use this alternative placement for their advertising, it is considered unlikely that the public is being disadvantaged because advertising is not allowed on the roof of the vehicle.

As this is not a competition issue but a Trade Practices issue, our recommendation is that the PTB investigate this issue and take the appropriate action to remedy the situation if it is in fact in breach of the Trade Practices Act.

#### Control of country taxis

There is a significant debate about the "place" of country taxis in the regulatory system. Part 6, Section 45 (2) of the Act exempts taxi services from holding a PTB licence for non-metropolitan taxi services if licensed by a Council. There were quite different opinions on this issue, with some operators arguing that the current process of local government responsibility for regulating taxis is appropriate, while others argued that controls should be in the hands of the PTB as the single regulator of all taxis.

There would appear to be less need for regulation and licensing in country areas based on information asymmetry - operator and driver reputations would be in a relative sense more wide spread or understood within the local community. The issue is more one of consistency of approach across borders. Generally we are of the opinion that responsibility should stay with local government as to do otherwise seems contradictory to the spirit of competition principles, and there are not significant arguments the other way. This would mean that the PTB would continue to delegate its authority through the PTB Act to local government to accredit drivers as fit and proper persons and to determine how many licences will be available in the area. This will require consideration in the draft Local Government Bill which is currently before Parliament. The view of local government on this matter had not been clarified at the time of writing this report.

We note that "hire cars" may well look at opportunities in country markets. At this time there is a gap in the legislation as it is silent on hire cars in country areas. It would seem that the same arguments for country taxis would generally apply to country hire cars - that is any control of hire cars would come under the jurisdiction of the local council if taxis were controlled that way. While this is outside the scope of this report, we would ask that the new Local Government Bill include reference to hire cars in country areas.

### Development of competitive free services

In the consultation process, the development of community passenger services was raised as a significant competitive concern to the industry. The arguments are very similar to those as explained under buses, and in general it is considered that this is not an issue of the Act. That is, government choosing to provide subsidised services does affect the market of private sector providers, but as long as the legislation treats the alternative suppliers equally there is no issue under the legislation to be considered. As noted earlier the major question in this regard is voluntary driver accreditation.

### Role of Centralised Booking Service

The government has accredited six centralised booking services. The consultation processes did not reveal significant issues with respect to competition in this area, although it is recognised that the role of a centralised booking service is critical in the operations of the taxi industry - its whole functioning is about customers being able to telephone a single point and have a taxi despatched within a relatively short period of time.

The Act requires accredited taxi operators to be a member of a centralised booking service and gives the booking service the power to demand certain quality standards in both drivers and vehicles. (Schedule 10 of the Regulations)

While this might seem to be a restriction on entry into the market, it was suggested in the consultation sessions that as there is a relative amount of freedom involved in the process and it did not unduly restrict competition. If an operator is dissatisfied with one service it is relatively easy to move to another and in fact some operators make a practice of changing services to take advantage of incentives to join.

It must be noted that technology is changing the environment with respect to the role of central booking services. The development of mobile phones (and message capability as well as voice communication), voice mail, fax and E-mail communications will continue to make it easier for smaller operators to "avoid" the centralised booking service which would be very difficult to police. This may have a negative effect on the quality of services.

### Other Issues

#### *Northern Territory Reform*

The Northern Territory Government introduced significant changes to its taxi regulations early in 1999. The key change elements can be summarised as:

- Licences could not be traded, carrying no "right" to operate on behalf of the holder. Instead licences were available as a lease from the transport authority
- Licences would be granted on demand - that is there was no limit on numbers - provided the applicant met standards similar to accreditation requirements

It must be recognised that the legislative change continues to differentiate taxis from the rest of the market (indeed that was one of the stated objectives of the legislation). Maximum fares were also continued.

The change involved a buy-out by the government of existing licences (the value of plates in Darwin was approximately \$240,000). This was financed by leasing these licences back to the industry at an annual fee in excess of \$10,000. (The actual fee depended on the location). It must be recognised that this annual licence fee is in turn a very high barrier to entry.

The Northern Territory experience is being pointed to by both the advocates for change and the opponents of it (the taxi industry has claimed that it has led to a very unsettled market). The experience remains relatively new, so full effects may not yet have settled. Further it needs to be recognised that the Northern Territory market is much smaller than other capital city markets and so will have very different implications relating to information and to usage patterns.

#### Other Restrictions

The Act also provides restrictions to the industry with respect to a maximum age of vehicle, and residence by operator/driver in South Australia.

With respect to the former, the arguments generally relate to the image and reliability of service (important with respect to the tourist market particularly). The legislation could therefore be considered to limit consumer choice (consumers cannot choose a lower price, lower quality service). There are additional arguments associated with encouraging older vehicles on the road (pollution issues), and this issue is perhaps balanced by the regulated fare condition. Age restrictions were raised as an issue in the consultation for the small passenger vehicle sector, but were not identified as a significant issue by the taxi industry. However, provided the vehicle is roadworthy and well-presented, there does not appear to be a strong reason to limit the age of vehicles other than for pollution reasons.

Local residence requirements would generally be justified on arguments relating to the regional nature of the industry (ie the product is produced and consumed within the state - it has a regional dimension). As such, the operation by a local individual will enhance information flows and increase efficiency in the provision of services. The local residence requirement was not raised as a constraint on trade in the consultation process, implying that the costs of the constraint are not significant.

#### Conclusions

While the taxi industry appears heavily protected and competition severely restricted by the presence of a set number of licences, and while there is some difficulty in understanding arguments around what sustains the value of a plate, we would:

- Suggest some degree of protection of the industry is necessary, because of passenger safety, cost structure issues, demand structure issues and social justice implications (it is essential that there be 24 hour services, 7-days per week to serve the community)
- Note that the actual extent of protection is limited in South Australia – the SA Taxi Industry claims that 60% of services are directly competed for by the hire car industry through telephone bookings rather than hail arrangements.

We note the recommendations of the Productivity Commission which propose the following options for reform.

- Option 1: Periodic sale of licences
- Option 2: Separate the taxi rank and telephone booking segments of the market
- Option 3: Tie taxi licence numbers to performance requirements
- Option 4: Cap the present value of taxi licences<sup>27</sup>

The Productivity Commission strongly recommends Option 1 but recognises that the taxi industry is against this option.

Successive South Australian governments have been active in steps to achieve both Option 1 and Option 2, to a small degree. The Act limits the sale of licences to a maximum of 50 per year which is 5% of existing licences. (The Productivity Commission recommended a 10-15% increases in numbers and we note that South Australia, with growth of 0.08% per annum is less than half that of Australia at 0.03% and so feel comfortable with a growth rate that is half that suggested for Australia as a whole). In practice the PTB has issued no new licences since 1997 other than for Access vehicles able to accommodate wheelchairs. These licences have been issued at market rates. PTB has achieved Option 2 through the accommodation of hire cars as part of its policy decisions. It is noted that other states have licensing systems in place for hire cars, and significant restrictions on numbers and operations. (Refer Appendix IV for interstate comparisons, and in particular to question 10). This has changed the dynamics in the industry, and there is a sense that taxi service quality has improved as a consequence. That the South Australian legislation is consistent with Productivity Commission recommendations is an important outcome. Neither is it a surprise, as the legislation was effectively drafted at the same time as the Productivity Commission research was being prepared. In effect this means that the Act is generally consistent with reform principles, and enables competition far more effectively than previous legislation, or indeed that of other states. The issue is that the Act allows for the issue of new licences (of a reasonable number - at least when the role of small passenger vehicles is taken into account), and so the legislation itself is set up to accommodate greater contestability in the market.

The calls do continue for further deregulation of the taxi industry to improve outcomes for consumers through the resultant increase in taxi licences onto the market. There are equally strident arguments that increased competition through the deregulation of hire cars is

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<sup>27</sup> Appendix B4, pp 400-405

causing problems to the taxi industry, and that further deregulation would cause significant problems associated with over-supply in the market. There are also those who suggest that there should be increased regulation because market failures continue to cause significant inefficiencies in operation of the sector.

We believe it is reasonable to consider that - in the context of the reforms that lay behind the current legislation - there are sufficient dynamics in the system and the environment for the taxi industry to be unable to hide behind the seeming protection of taxi licences. Communication changes will make access to alternative services more and more flexible in the future with the role of the centralised booking service becoming less critical for managing the industry, with options for payment (such as smartcards) changing the dynamics - and choices will be affected by changing price structures associated with the potential introduction of a GST (e.g. car prices should fall substantially). The operations of the small passenger vehicle sector is creating direct competition for the taxi industry, as is the mini-bus option (operating both commercially and as a public service). While change is a constant - the current period will be more effected by these issues than the past, because of the importance of communications systems to this industry, and because the existing legislation is substantially more open than previous legislation.

Under the current regulatory system, the taxi industry will need to be innovative and resourceful to sustain reasonable market share, and as such there is no substantial need to change the existing regulatory system. We note that the hire car industry is both resourceful and innovative and has become a major competitor to the taxi industry in a relatively short period of time.

It is noted that if this view proves true, there are potentially substantial implications for investors in taxi licences with the likelihood of a fall in plate values as investors fail to realise the returns they had expected. This will also affect owner-operators.

Despite the calls for deregulation of the market, we do not see that the Passenger Transport Act needs to be amended. It currently allows the Board to release up to 50 licences per year (which is 5% of the general licences) and allows unlimited entry of hire cars into the market. Both of these options are consistent with the Productivity Commission recommendations about appropriate reform in the sector. The PTB might consider whether there are competitive reasons for it to exercise its right to release more licences onto the market.

### **Small Passenger Vehicles**

Small passenger vehicles are a non-homogenous group of service providers and are historically special purpose vehicles used by the wedding and funeral industry and for special occasions. The big change in this sector in recent years has been the development of the metropolitan hire car – described as “blue plates”, and the accommodation of that sector in the Act. Relative to other states there is relatively free entry into this segment of the market, as seen in Appendix IV, pages 10-12 . The Act covers the general requirements of operation (accreditation, safety inspection) and also places different vehicle standard requirements on operators in different segments of the market through regulations (Regulation 7).



Given the diversity of this segment of the industry, there are very different perspectives on the role of government for this industry, with some operators arguing for regulation of the industry, and limited opportunities to compete with taxis, and others arguing that the existing systems are prohibitive. It is clearly an aggressive and dynamic industry, actively pursuing change and innovation. The major issues identified by the industry with respect to competition are:

### Restrictions to entry

As noted, small passenger vehicles comprise a range of service types. However, most interest is in the metropolitan hire car (known hereafter as "SPV-metropolitan") as the other elements are very specialist (horse drawn vehicles and motorcycles), and require little consideration. The main concerns are the general requirements of accreditation and vehicle standards.

In a competition sense, operating or participating in the SPV-metropolitan service is restricted by the Act. Accreditation of the operator and driver is necessary, and the accreditation requirements include restrictions on the vehicle (covered under the regulations of the Act - Part 2 - Small Passenger Vehicles, Regulation 7, Section (I)). Accreditation requires payment of a \$1,000 annual fee per vehicle. These restrictions on vehicles were discussed extensively with the industry. These recent regulations (1998) require that for accreditation an operator (a car owner/operator):

- Can accept only pre-booked fares (i.e. hire through a booking office, not hail off the street) and not advertise or pass itself off as a taxi
- Can operate an SPV-traditional vehicle which is a six-cylinder vehicle and has a wheel base of at least 2800mm, seat at least four people, is generally a higher quality class, must travel less than 40,000 kilometres in a year, must travel less than 320,000 kilometre in total and has a minimum fare of \$20. This category is to allow operators with limited operations a longer vehicle life than SPV-Metropolitan.
- Use a "metro" vehicle - must be six-cylinder and have a wheel base of at least 2800mm, seat at least four people, is generally a higher quality class, when introduced must be less than three years and six months old (note that Part 5 of the regulations also requires the vehicles to be less than six years and six months old as is the case for taxis which compete for pre-booked work in a similar market).
- Operate a SPV - special purpose - must be an approved vehicle, must travel less than 40,000 km in a year, must travel less than 320,000 km in total and has a minimum fare of \$20 (except for a motor cycle) (exemptions apply).

In general it was argued during the consultation process that these requirements represented an unnecessary and arbitrary restriction on operation and were there simply to "satisfy" the taxi industry. The counter argument is that it certainly allows for some, but in the bulk of the market, limited differentiation between what will be labelled a taxi and what will be labelled a "hire car", and that this differentiation is to the benefit of the customer. Most attendees at the workshops acknowledged the difference between a taxi and SPV-

metropolitan cars, even though there was clearly direct competition, and the need to ensure that the hail end of the market be to some extent protected to ensure access to vehicles seven days per week, 24 hours per day. The categories allow for recognition of different service types within a diverse service group. These restrictions do enable differentiation between taxis and hire cars and impose a cost on operators which is counterbalanced by their relatively cheap entry into the market when compared with the cost of a taxi licence.

In essence the issue came down not necessarily to the general need for guidelines on quality standards, but concerns about the basis for the standards imposed, and the inflexibility of those standards particularly on the traditional hire car, including:

- 40,000 maximum kilometres limited upset the economics of the traditional hire operator who could then choose to become an SPV-metropolitan operator
- that the minimum fare of \$20 was too restrictive (this is a choice made by the operator and affects the accreditation category)

Some members of the sector argued strongly for increased protection - including limits on the number of vehicles accredited. However, the Board does have the power under the Act to specify a maximum number of accredited operators although at this stage it has chosen not to do so and to keep the market open and not inhibit competition. (s.32) Industry focus seemed primarily to be on the SPV-metropolitan operator, and a concern that they are providing increasing competition on the traditional end of the hire car market. The basis of the argument was primarily that this was:

- *Undermining the economics of the traditional hire car industry.* More SPV-metropolitan cars meant that they sometimes competed in the market for traditional hire car services, limiting demand and making it difficult to cover fixed costs. Further, the restrictions imposed in order to "control" SPV-metropolitan cars brought unnecessary constraints to traditional cars.
- *Causing confusion for consumers,* in terms of the quality of car they expect. Consumers in calling for a SPV-metropolitan car service understand that to mean a high quality car, and they ended up with a standard vehicle. Owners of SPV - metropolitan booking services are differentiating themselves from taxis by their vehicles and uniformed drivers, and argued that they are competing directly with taxis and passengers are choosing them over taxis when needing transportation.

#### Access to Transport Subsidy Scheme Vouchers

Transport Subsidy Scheme Vouchers are a scheme by which mobility disadvantaged people (because of age, an infirmity or a temporary disability) are provided a subsidy in taxi transport. The PTB allows the vouchers to be used only with taxis. There was a strong argument put forward by SPV-metropolitan operators that this is anti-competitive, not justified and is restricting their access to the aged care, hospital and disabled market. It is also restricting the choice available to these user groups, many of whom would use telephone bookings rather than hail services.

The argument for restricting the use of Transport Subsidy Scheme Vouchers to taxis is that because of the controlled (maximum) fare in the taxi industry, there is greater certainty of the dollar value of the fare involved. It is argued that as SPV-metropolitan cars do not utilise meter boxes, the unscrupulous operator could inflate fares for this disadvantaged group, many of whom are unable to negotiate on their own behalf and protect their own interests.

However, while the metered fare argument provides some certainty, the regulations of the Act (Part 4 - Conduct of Drivers, Section 63) require consumers to be informed of the cost of the journey before the hire, and the basis of the cost calculation. To the extent that this is effective, there would not seem to be strong arguments to extending this to drivers of SPV-metropolitan vehicles when passengers are utilising Subsidy Vouchers. However, if this restriction is removed it is possible that the subsidy provided by government could increase.

We were informed during consultations that SPV-metropolitan cars are already taking innovative approaches to compete in this market, with a focus on customer service (to offset the price disadvantage). The thrust of the argument is that the lack of competition for the Transport Subsidy Scheme Voucher market has in some cases led to poor quality of service, which in turn has opened opportunities for SPV-metropolitan cars. Again, to the extent that this is true, it tends to suggest that constraining the vouchers to taxis may require continued monitoring, and removal. The Act does not need to be amended to enable the PTB to issue vouchers for use with SPV-metropolitan cars; PTB policy however does not need to be amended for such a change.

Given the government's concern that both the user receive maximum value for the subsidy provided, and that it also receive maximum value, and concern about the unscrupulous nature of some operators in providing a service to people who may not be able to negotiate successfully on their own behalf, there is a real need for some process to ensure that all parties are treated fairly and equitably. The PTB is urged to consider alternatives or additions to the voucher system. This might include mileage-based services which could be managed by institutions on behalf of their clients, or for service contracts for some parts of the market, or other options so that the SPV-metropolitan vehicle has some access to this market.

#### Role of booking services for operators of Small Passenger Vehicles–metropolitan

The accreditation requirements for Centralised Booking Services (CBS) for taxis is covered under Part 2 Division 3, Sections 12-15 of the regulations. The accreditation requirements set standards of operation that customers should be able to expect. A CBS is generally an operator (runs their own cars with employee drivers) and sub-contracts hires to other operators who pay a fee or commission to the operator for fares. In a general sense there is nothing under the Act that would appear to be anti-competitive in this regard. Independent operators are able to choose between CBS's, or to be independent as long as the fare is a pre-arranged hire. Indeed the act specifies no central booking service requirements for small passenger vehicles – it is silent on the issue.

During the consultations, significant issues were raised about the operations of booking services for hire cars. Owners of vehicles sub-contracting to some booking services expressed concerns about the relationships involved. The argument was that some booking services advertised for sub-contract operators, that in some cases misleading information was given to respondents about potential earnings, that a joining fee was paid to the booking service but after joining, sub-contract operators were often treated unfairly by the service - with more regular and more lucrative hires being allocated to employees and their own drivers. There was a suggestion that the booking service possessed too much power in the relationship, and could exploit the entrance fee. A group of drivers called for:

- Preventing a booking service from having its own cars
- Restrictions on the number of licence plates to change the practice of the booking service churning sub-contractors for the fee; there is currently no restriction on licences other than the financial ability of the booking service to meet the cost of the vehicle, the licence, driver accreditation and membership of a CBS
- Introduction of maximum hours and minimum guaranteed wages

We were made aware of pending legal suits with respect to some of the issues of the accurate information and appropriate treatment under the contractual arrangements. We note that the concerns of the sub-contract drivers is generally consistent with Schedule 10 to the Act - *Code of Practice: Centralised Booking Services* - which suggest that CBS's should "ensure that procedures are fair and equitable in the allocation of bookings and are non-discriminatory". The Code of Practice is incorporated in the industry's operating procedures by a requirement under the accreditation requirements that a CBS will provide on request a copy of the Code of Practice to a customer (Part 2, Section 13 (e) of the regulations). It is not clear whether the customer means the sub-contracted operator, or the eventual individual who takes the trip. It can be noted that the accreditation of operators, drivers and CBS each has this requirement for their respective Codes of Practice. It is possible that this Code of Practice could be extended to booking services for SPV-metropolitan but it would require recognition of SPV centralised booking services in the Regulations.

In general terms, it is recognised that the Passenger Transport Act is designed to protect the interests of consumers rather than operators in the industry. The key concern under the Act would be where practices in the industry are having a detrimental effect on the provision of services (either their efficiency, reliability, quality or the safety of consumers) under the objectives of the Act. Some of the concerns of the sub-contract operators are more valid under other areas of legislation - particularly Trade Practices, while issues of misinformation are also covered under other legislation.

### Conclusions

In summary, the key competition issues with respect to legislation of the SPV-metropolitan sector are:

- The ability of SPV-metropolitan cars to compete with taxis

- The extent of competition developing within this section of the industry itself and the business practices present
- The ability to accept Transport Subsidy Scheme Vouchers

There is a need to provide differentiation between SPV-metropolitan cars and taxis - and the key distinction in South Australia with respect to hire off the street seems to be a reasonable process - consistent with the earlier conclusions relating to the taxi industry. The most recent 1998 regulation (no.7) was introduced with the purpose of providing more differentiation between taxis and SPV-metropolitan cars to reduce the confusion in the minds of consumers.

The key complaint of the sector is that the constraints placed on them by the Act - in terms of vehicle conditions - seem to be somewhat arbitrary, and increase the costs of doing business. It is certainly true that given the specialty nature of some aspects of the business (traditional cars etc) there is a need to be flexible in exemptions such as annual mileage for country vehicles. Some constraints imposed upon vehicles may simply be consistent with the intended differentiation between SPV-metropolitan cars and taxis and may be to their benefit, but others do appear to be somewhat anomalous – e.g. the restrictions on mileage - particularly for country vehicles or for vehicles in fringe areas also serving country areas.

As with taxis, it is our general view that the dynamics of the industry and the nature of the competition are too significant for the relatively limited constraints to be particularly binding in the long term, and as such are not likely to be a serious deterrent to competition. Therefore there would not seem to be the need for a change to the Act.

In general we would consider that while there are some arguments for the current practice of denying SPV-metropolitan cars the ability to use Transport Subsidy Scheme Vouchers, it also does not seem to be consistent with the view that there should be competition with taxis in the hire end of the market. This aspect of the Act requires monitoring and review. More importantly, it is denying access to some consumers because of the limited availability of vehicles to provide a service to people with disabilities.

We also consider that if the complaints of drivers of SPV-metropolitan are upheld by the independent party examining the complaints, then the PTB give consideration to extending the provisions of the Passenger Transport Act for centralised booking services to the booking services used by the SPV-metropolitan operators.

## 8 Conclusion and recommendations

The Terms of Reference of this review are quite clear. They are stated in section 2 of this report. This conclusion will address the terms of reference and make recommendations on changes required to the legislation and or/to the management practices of the administrator of the legislation, the Passenger Transport Board.

The primary aim of this review is to determine if the Passenger Transport Act restricts competition, and if so, if this restriction is warranted because of the public benefit it provides.

The Passenger Transport Act has the objective of providing a network of passenger transport services which are customer focussed, accessible, safe, support transport choices which minimise environmental harm, is efficient and promotes social justice. In addition, the legislation allows for accreditation of operators, drivers and providers of centralised booking services, and the licensing of taxis.

In the context of a service or an industry that has significant arguments for why it requires regulation, namely:

- The existence of externalities in the services provided, particularly relating to the effective operations of the urban system - the provision of an effective and coordinated urban transport system is an integral part of an effective planning and development framework for a region/city, and
- Information asymmetries that may exist, and the implications for passenger safety and service quality

The consultation and review process undertaken in this study suggests that there is no need for major changes to the Passenger Transport Act. The key justifications for this perspective are that:

- A stable and effective urban transport system has extensive interaction with urban form issues - the externalities, cost structure, information and equity issues involved within passenger transport are extensive
- The Act is relatively new, and competition principles were under consideration in its drafting. The Act is generally consistent with the directions proposed by the Productivity Commission in its review of Passenger Transport
- The Act has been reviewed recently on a more general basis<sup>28</sup>, and recommended changes implemented with an improvement in competition resulting
- The regulations and legislation exist in a very dynamic environment, with many competitive options often available to customers. We believe that with technology change, and inherent market flexibilities and developing product substitutes, the Act is

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<sup>28</sup> Halliday and Coleman (1998) "Review of the Passenger Transport Act, 1994"

not pivotal in constraining desirable levels of competition, and in general must be considered to broadly accommodate the market.

We note that many of the issues raised during the review process relate primarily to implementation issues - and specifically monitoring and control of the existing provisions of the Act. As such the competitive concerns raised were not specifically areas of restriction under the Act or its objects, but rather administrative issues.

We conclude that the main areas in which competition is restricted are:

#### 1. Accreditation

The Passenger Transport Act requires accreditation of operators, drivers and centralised booking services. As a general principle, it can be considered that accreditation will limit competition because it restricts entry into a market. Accreditation can be justified if it provides the community with some form of benefit that is considered a public good. There is no doubt that the community is served by having these three areas of the transport network accredited as it means that there can be a guaranteed level of service and safety for the community (i.e. 24-hour, 7-day per week service). On balance the consultation process revealed that public benefits arising from accreditation processes (safety, security, quality of service) significantly outweigh the costs (which are seen as minimal).

Can the same ends be brought about by other means that do not required accreditation? Our conclusion is not within the confines of the objects of the legislation which require safety, accessibility, efficiency and social justice. The alternative to accreditation, open entry, would mean that business people would provide a service which offers a commercial return which is unlikely to be a 24-hour per day and 7 day per week service. Note that SPV-metropolitan services have open entry and these services are not 24 hour per day services, which means that the public cannot get this service on demand.

For driver accreditation, it is possible that the object of the Act that the passenger transport network be safe may not be met with the existing situation in which volunteer drivers do not have to be accredited by the PTB. Instead, they need to be approved by the organisation providing the service. This procedure, introduced to remove the cost of accreditation to the volunteer driver for providing a community service, is not in the best interest of the safety of the community and should be reviewed. We acknowledge that this is an administrative procedure but feel strongly that the safety of passengers is paramount and must not be jeopardised and would urge that accreditation be re-introduced for volunteer drivers. This will require an amendment to Regulation 7 (f)(p).

We would also recommend that opportunities be taken to bring each jurisdiction into alignment with its accreditation procedures for operators, drivers and centralised booking services so that it is possible for operators to work across states. Given that some states incorporate much more stringent accreditation requirements, this will need appropriate negotiation, and then transitions.

## 2. Licensing of taxis

The existing requirement that all taxis be licensed is a unmistakable restriction on competition. There will be continued calls from some quarters for significant deregulation. The options for deregulation of a licence system include:

- *remove the requirement for licences* - to do so would mean that some alternative method would be needed to deal with the issues of information asymmetry that exist in the industry, that issues of passenger safety would need to be addressed, and given the importance of the taxi sector for an effectively operating public transport system that service quality issues be appropriately managed. There is also the practical transitional issue of responding to the investment individuals have made in licences and how that would be recovered or dealt with without significant detriment to industry participants
- *increase the number of licences and increase the flexibility in their application* - much of the market power from licences arises from the limited capacity of the bureaucratic process to adapt to changing market conditions and needs. Rent seeking behaviour on behalf of the existing licence holders tends to pressure the system into a status quo situation. This approach to deregulation was considered the appropriate one by the Productivity Commission in the taxi industry.

The South Australian government has the power under the Passenger Transport Act to tender additional licences to a maximum of 50 per year. This is 5% of existing licences. We note that the option of more than 50 licences per year is expressly forbidden by the legislation. However, there is no restriction on the number of SPV-metropolitan licences which can be issued. This is having the effect of bringing more vehicles for hire into the market place. We note that 60% of taxi bookings is by telephone, and predict that this will increase with the advent of many more mobile telephones and the time poor nature of people's lives. This means that consumers do have a real choice between a taxi and a SPV-metropolitan vehicle and that competition already exists for the consumer.

Our conclusion therefore is that the restrictions on the taxi industry do not need to be lifted. The government is able to introduce 5% more licences each year, which given the stable nature of the Adelaide market, would appear reasonable, and there is open competition from the SPV-metropolitan vehicles. These options are consistent with Productivity Commission recommendations to enhance competition at a national level. The limit brings with it the benefit of some managed change without affecting dramatically the economics of the industry, as opposed to the structural change and significant economic impact on the industry that would arise from unlimited licences.

We note that the situation with taxis in country areas has not been resolved and would recommend that local government and the Passenger Transport Board determine what is in the longer-term best interest of country communities and then give licensing responsibility to the appropriate body.



## Other issues not requiring legislative change

Several other areas do not require legislative change but are impacted by the policy or administrative decisions of the Passenger Transport Board. They are:

- 1 The Local Government Act is being revised. As part of this revision, powers will be transferred from local government to PTB for take responsibility for taxis and hire cars in rural areas. It is likely that PTB will delegate this power to rural councils. It is important in doing so that competition principles are implemented within the context of safe and accessible services for rural communities.
- 2 The opportunity to contract rail services. The Act enables the Board to do this but it has chosen not to, preferring to negotiate a contract with the former government provider.
- 3 Accessibility of services - people with limited physical mobility are eligible to receive Transport Subsidy Scheme Vouchers for use with taxis. They also receive special assistance with buses through the provision of modified buses. However, they are not able to use their vouchers with SPV-metropolitan (hire cars) even those which have been modified for wheelchair access, as these vehicles cannot accept the government supplied subsidy vouchers. It is reported that the taxi industry has not been providing a reliable service for this customer segment<sup>29</sup> which suggests that the customer does not have the accessibility or the choice of other customers.

We recommend that Transport Subsidy Scheme Vouchers or an equivalent subsidy be available for use with both taxis and SPV-metropolitan vehicles. This is an administrative change and will not require amendment to the legislation. The PTB should investigate options for mileage based schemes and other alternatives to the vouchers so that SPV-metropolitan vehicles have access to this market.

- 4 The concerns of the bus industry about the arbitrary nature for decisions about routes being exempt under Regulation 4A are noted and it is recommended that the Board make clear its decision criteria to the industry.
- 5 The arbitrary nature of the restrictions on SPV-metropolitan appears to be nothing more than an opportunity to protect the taxi industry. This is particularly so with the annual fee of \$1000 for each vehicle. The two industry segments do compete and while the vehicle restrictions are reasonable and allow the SPV-metropolitan cars to be differentiated from taxis, the vehicle restrictions and annual fee should be reviewed for their relevance with the intent to make them less "arbitrary". It is noted that exemptions are possible and that this is important in country areas where distances travelled make an annual mileage limit of 40,000 kilometres difficult to sustain with a viable business.
- 6 We have also been concerned about accusation of unfair trading levelled at operators of centralised booking services for SPV-metropolitan services. We understand that this matter has been taken to the Office of Fair Trading and that court cases are pending, and we recommend that the Board note the outcome of these independent enquiries and

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<sup>29</sup> Newspaper references

if warranted, take appropriate action to manage this. We note that this may be outside the control of the PTB.

- 7 We are concerned that future contracts for regular route services may be let in such a way that they do not include or treat equally all possible providers of services and ask that the Board consider this when determining procedures for letting contracts.
- 8 Advertising on the rooftop of taxis is prohibited in South Australia. One respondent claims that this is in breach of s.46 of the Trade Practices Act. This should be investigated and if substantiated, should be remedied.

Despite these eight areas, our primary conclusion is that the legislation is robust, does not significantly impinge upon the potential for competition and does not need to be amended as there are no significant non-competitive practices. The scope of the Act allows the State Government to accommodate actions that will improve competitive pressure in passenger transport within South Australia.

## Recommendations

- 1 That the Passenger Transport Board have a single system of accreditation for drivers of buses which applies equally to drivers of regular passenger vehicles, charter vehicles, school buses and community services, whether these drivers be employed or volunteers.
- 2 That opportunities are taken to monitor and review accreditation procedures in other States with the intent of bringing the states into alignment so that there is mutual recognition between states with operators able to work between states.
- 3 That the Passenger Transport Board enter into discussions with local government to ensure that the practices followed for the licensing of taxis and accreditation of drivers in rural areas meet competition principles, and that clauses to this effect be inserted into legislation, if required. (This should apply to both taxis and Small Passenger Vehicles)
- 4 That the Passenger Transport Board ensure that in future contracting of regular route services, ongoing consideration be given to the size of the contacts to ensure that they include and treat equally all reasonable providers of the service.
- 5 That the Passenger Transport Board give consideration to tendering all or part of the metropolitan rail services.
- 6 That the Passenger Transport Board make clear to bus and charter operators the rationale for designating a route as a 4A exemption to ensure that industry concern about the arbitrary nature of decisions about these routes and their impact on other operators be allayed.
- 7 That the current use of Transport Subsidy Scheme Vouchers with taxis only be reviewed to consider the implications of extending the scheme to enable passengers to use these vouchers with Small Passenger Vehicles- Metropolitan and Non-metropolitan.
- 8 That the Passenger Transport Board review on a regular basis the vehicle type and other conditions placed on Small Passenger Vehicles – Metropolitan to ensure that they remain consistent with industry expectations.
- 9 That the Passenger Transport Board note the concern of drivers of the Small Passenger Vehicle – Metropolitan industry that the booking services within this sector of the industry are acting unfairly, and that if their complaints are upheld by an independent party, take action to introduce non-regulatory procedures to eliminate this.
- 10 That the Passenger Transport Board investigate the claim that it is in breach of the s.46 of the Trade Practices Act by prohibiting rooftop advertising on taxis, and if so, that it take remedying action.

## **APPENDIX I**

### **Passenger Transport Policy Objectives**

#### **Bus priority plan**

Includes:

- Physical measures (bus lanes and priority movements at traffic lights);
- Regulatory measures such as new rules for priority in traffic; and
- Increased penalties for other vehicles parking in bus stops.

#### **Bus services**

- Ensure all new buses are accessible and use environmentally friendly fuels.

#### **Charter and country buses**

- Aim to establish a "rating" system so customers can make informed choices;
- Investigate the extension of metropolitan public transport boundaries to include Mt Barker; and
- Enforce age limits of buses.

#### **Concessions**

- Seek to secure the cooperation of other State Governments to recognise concession entitlements for travel on public transport when interstate; and
- Provide tertiary students and people who are unemployed with concession entitlements on intrastate bus services.

#### **Passenger transport reform**

- Retain competitive tendering, with a negotiated contract option.

#### **Taxi and small passenger vehicles (hire cars)**

- Establish improved standards for vehicles and terms of operation to ensure fair competition and quality service delivery.

Appendix II

**National Competition Policy Review  
of the  
Passenger Transport Act, 1994**

**Issues Paper  
February 1999**

Prepared by  
Bronwyn Halliday & Associates with Economic Research Consultants

***Submissions can be sent to:***  
Competition Policy Review  
Passenger Transport Board  
GPO Box 1998  
ADELAIDE SA 5001

***Due date:***  
Monday, March 22 1999

**Contents**

- 1 Introduction 2
- 2 The review process 3
- 3 Context of the Competition Principles Agreement 4
  - 3.1 Background 4
  - 3.2 Expected benefits from the Agreement 4
  - 3.3 Implementation of the Agreement 5
  - 3.4 Terms of reference of this review 7
- 4 The Passenger Transport Act and Regulations 9
  - 4.1 Description of the market 9
  - 4.2 Summary of the Act 11
- 5 Key issues relating to competition and the Act 14
- 6 Invitation to respond 19

**Appendices**

- I Passenger Transport Policy Objectives

## 1 Introduction

This Issues Paper has been prepared to assist persons and organisations wishing to provide submissions to the review of South Australian legislation relating to the regulation and funding of land based passenger transport matters. This review is a requirement of the National Competition Policy.

The review has been commissioned by the Minister for Transport who has legislative responsibility for the Passenger Transport Act.

Bronwyn Halliday and Associates with Economic Research Consultants has been appointed to conduct this review as an independent group. A review report will be prepared based on the assessment of the issues raised by the terms of reference, which have been approved by Cabinet.

An essential part of this review is obtaining the views of stakeholders and other interested parties on the issues raised. While this paper provides some guidance, it should not be considered as definitive of these issues or as indicating any particular position or a likely review outcome.

Written submissions should be directed to:

Competition Policy Review  
Passenger Transport Board  
GPO Box 1998  
Adelaide SA 5000

Telephone: (08) 8303 0821  
Facsimile: (08) 8303 0829

Email: [tudini.daniela@ptb.sa.gov.au](mailto:tudini.daniela@ptb.sa.gov.au)

The consultants also invite verbal submissions.

Submissions must be received by **Monday March 22, 1999**.

## 2 The Review Process

The review process is following the guidelines set out by the Department of Premier and Cabinet. The process is shown in the table below:

February 14, 1999	<ul style="list-style-type: none"><li>• Advertisement inviting submissions</li><li>• Letters to stakeholders about the review</li></ul>
February 19, 1999	<ul style="list-style-type: none"><li>• Issues Paper distributed</li></ul>
Week of February 22, 1999	<ul style="list-style-type: none"><li>• Open meetings with stakeholders to discuss the review and issues of relevance</li></ul>
Week of March 15, 1999	<ul style="list-style-type: none"><li>• Verbal submissions heard</li></ul>
March 22, 1999	<ul style="list-style-type: none"><li>• Closing date for submissions</li></ul>
April 12, 1999	<ul style="list-style-type: none"><li>• Draft report submitted</li><li>• Additional consultation with stakeholders if necessary</li></ul>
April 30, 1999	<ul style="list-style-type: none"><li>• Final report submitted</li></ul>

Please note that this timeline can not be extended due to the requirement for all reviews to be considered by the government by 30 June 1999.



### **3 Context of the Competition Principles Agreement**

#### **3.1 Background**

The Competitive Principles Agreement has arisen out of the Council of Australian Governments (CoAG) arrangements, negotiated and agreed in 1995. The agreement requires the review and reform (where appropriate) of all government legislation by the year 2000. It is one of the most influential agreements influencing public policy at the state level at this time. The Agreement represents a commitment by Australian governments to a consistent national approach to fostering greater economic efficiency and improving the overall competitiveness of the economy with a view to achieving higher rates of economic and employment growth.

The intent of the review and reform process is to identify elements of legislation that restrict competition in the market. The guiding principle of the assessment is that such legislation should not restrict competition unless it can be demonstrated that:

- The benefits to the community of the restriction outweigh the costs
- The objectives of the legislation can only be achieved by restricting competition.

This principle leads to a presumption that restrictions on competition are not in the public interest and if such restrictions are to be retained, they must be demonstrated to generate public benefits that outweigh their costs.

#### **3.2 Expected benefits from the Competition Principles Agreement**

The competition principles agreement grew out of the 1993 Report of the Independent Committee of Inquiry into Competition Policy in Australia (Hilmer Report), the prime perspective of which was that restricted competition was costing the nation dearly in terms of economic efficiency. The Hilmer Report, and the microeconomic reform program that has grown from that report presumes that there are many cases in which legislation and regulation of markets result in inefficiencies, and therefore economic loss to the community.

It was estimated that:

- Microeconomic reform could provide net economic benefits to the nation in the order of \$25 billion annually
- Reform of the collection of various licensing arrangements would nationally provide benefits of the order of \$300 million annually.

The South Australian economy could be expected to achieve its share of these financial benefits if it shares in the commitment to reform.

In addition, CoAG undertook a joint commitment to achieving the benefits of competitive reform, and the Competitive Principles Agreement involved substantial revenues to the

States, if they abided by the principles. It is therefore critical for legislation within South Australia to be reviewed within this context.

### 3.3 Implementation of the Agreement

The South Australian Government has undertaken a program of reviewing its legislation in compliance with the Competition Principles Agreement. The reviews have been coordinated through the Department of Premier and Cabinet, and incorporate an accepted process as outlined above in section 2.

In order to undertake the review, consideration should be given to:

- The role of legislation
- The ways in which legislation can affect market behaviour
- A definition of competition

#### 3.3.1 The role of legislation

It is clear that almost all elements of legislation involve some degree of restriction of market behaviour and it could be expected that there would be some restriction in the Passenger Transport Act. Generally, restrictions are introduced to correct for ways in which a unrestricted competitive market would, at the time of the legislation, have failed to produce appropriate outcomes. Appropriate outcomes might include safe passenger transport or accessible passenger transport.

#### 3.3.2 Ways in which legislation can affect market behaviour

General reasons for legislation to interfere in the free competitive operations of markets include the existence of externalities, the presence of a public good, existence of natural monopolies, and the difficulties of information asymmetries<sup>1</sup>.

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<sup>1</sup> Externalities occur where private decision makers impose costs or benefits on others in the community which are not compensated.

Public goods are those goods or services which have two special characteristics: they do not diminish as more people use the good and it is impossible or unfeasible to exclude non-payers from using the good. Such provisions mean that it market provision of the good is not possible. An example is fresh air or a scenic view.

Natural monopolies exist if it is cheaper for a single firm to supply the entire market demand.

Information asymmetries occur when buyers and sellers do not have similar information about the exact nature of the good or service being exchanged.

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Where restriction of competition is identified the progressive set of questions that need to be asked include:

- Does the underlying market failure still exist?
- Is it of such a scale to justify intervention to restrict competition (ie do the benefits of intervening outweigh the cost involved in restricting competition)?
- Is the mechanism employed still appropriate or are there alternative mechanisms to achieve the same end at less cost?

With this last question, there is often a range of solutions to market failure, including:

- Direct and indirect restrictions on entry of firms and individuals into markets and exiting from markets (eg accreditation schemes, licences)
- Quality requirements on goods and services (eg. minimum standards of quality)
- Control on level of supply, and on the characteristics of products supplied
- Geographic, market segment or timing issues of supply (eg legislation that prohibits sales to minors or sales in certain geographic areas)
- Advertising and promotional activity restrictions (accuracy of claims, timing etc.)
- Restrictions on price or type of inputs into production (eg a specific tax on a given input)

While solutions to market failure involve restrictions on behaviour, they will not always be a restriction on the extent of competition. For behavioural restrictions to affect competition there must be a differential impact of the various restrictions across suppliers of similar or substitute products - that is the effect of the restrictions must be uneven. The effect or implication of the restriction may be such that it controls behaviour, or alternatively, that it imposes uneven compliance costs.

### 3.3.3 Definition of competition

Competition is best understood as referring to the process of independent rivalry between firms in a market, rather than in terms of the number of firms in the market. Rivalry is likely to be more intense when there are more rather than less competitors. Of critical importance for effective competition is the degree of difficulty firms have in entering and leaving markets. If entry is effectively blocked, eg by regulations, the only restraint in the conduct of firms will come from the market.

### 3.4 Terms of Reference

Given the above context, the following terms of reference have been established for the review of the Passenger Transport Act 1994 and associated regulations:

- 1 The review will reflect the guiding principle that legislation 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 legislation can only be achieved by restricting competition.
- 2 The review of the restriction of competition will:
  - (a) Clarify the objectives of the legislation;
  - (b) Identify the nature of all restrictions on competition;
  - (c) Analyse the likely effect of the restrictions on competition in the relevant market and on the economy generally;
  - (d) Assess and reach a conclusion on balance of the costs and benefits of the restriction;
  - (e) Consider alternative means for achieving the same result including non-legislative approaches; and
  - (f) Consider whether any licensing, accreditation, reporting or other administrative procedures are still necessary, or impose an unwarranted burden on any persons.
- 3 The review will examine the legislation having regard for the Passenger Transport Policy objectives (see Appendix I), and:
  - (a) With reference to the Passenger Transport Policy objectives of the government, recommend changes to the legislation which may be necessary to meet that policy; and
  - (b) Recommend the positioning or repositioning of the various components of the legislation to be retained within a framework
- 4 The review will take into account national issues influencing the taxi industry and the South Australian government's taxi/hire car industry reforms.
- 5 The review will take into account the existing and projected circumstances in rural communities of services and population and the need to maintain viable public transport services in these areas

- 6 The review will report on appropriate arrangements for regulation or otherwise taking into account the following:
- (a) Legislation/regulation should be retained only if the benefits to the community as a whole outweigh the costs, and if the objects of the legislation/regulation cannot be more effectively achieved by other means;
  - (b) In assessing the above, regard should be had to effects on the environment, welfare and equity, Occupational Health and Safety, economic and regional development, consumer interests, the competitiveness of business and efficient resource allocation;
  - (c) Compliance costs;
  - (d) Legal liabilities of the Government; and
  - (e) Transitional costs.

This paper is an introduction to the issues, and is not intended as a comprehensive review of the competitive nature of the Passenger Transport Act at this stage. Nor does it reach significant conclusions as to the extent that competition is constrained by the Act, or make recommendations for changes to enhance the level of competition. Its role is to provide introductory comments to allow interested parties to provide information and advice to the Consultants with respect to their perspective of the impact of the Act in this regard.

## **4 The Passenger Transport Act and Regulations**

### **4.1 Overview of the Act and description of the market**

Passenger transport is all transport that carries passengers for a fare or other consideration. It includes public transport such as buses, trains and trams as well as taxis, hire cars, horse drawn vehicles and motorcycles.

The Passenger Transport Board (the Board) is a statutory authority established by the South Australian Government in July 1994 to plan, regulate and fund the State's land based passenger transport.

The Board's functions can be summarised as:

- Overseeing the creation and maintenance of an integrated network of services;
- Fostering and promoting efficient and effective services;
- Determining, monitoring and reviewing services and fares, and administering fare subsidies and concessions;
- Accrediting operators, drivers and centralised booking services for taxis;
- Establishing, auditing and if necessary, enforcing safety, service, equipment and comfort standards;
- Facilitating the use of services by people with disabilities;
- Providing information to the public about services;
- Establishing a centralised system for receiving and dealing with complaints and compliments;
- Initiating, undertaking, supporting and promoting programs for the development and improvement of services; and
- Establishing and maintaining various passenger transport facilities and forms of infrastructure.

The Board does not operate passenger transport services.

#### **Regular passenger services**

Regular passenger transport services operate in Adelaide (metropolitan public transport), between regional towns (country bus services) and between regional towns and Adelaide (regional city bus service).

Metropolitan public transport operates under contract to the Board. These contracts are determined either by competitive tendering or by negotiated contract. Although predominantly bus services, there is also regular train and tram services in some parts of the metropolitan area. In 1997-98, the breakdown of passenger trips was:

Country bus services are operated under contract to the Board by private operators on a commercial basis.

Regional city bus services are funded two-thirds of their operating deficit by the Board and one-third by their local councils.

<b>Mode:</b>	<b>Number:</b>
Metropolitan transport services:	
Bus and tram	36,110,000
Train	7,980,000
Country bus services	1,141,000
Regional city bus service	652,400
<b>Total trips</b>	<b>45,893,400</b>

*Source: Passenger Transport Board Annual Report, 1997-98, pp12-17*

## **Taxis**

Taxis provide 24-hour door-to-door transport services. Over 8 million taxi journeys are taken by passengers each year. The Board sets the fare structure for journeys. The number of taxi plate licences at 30 June 1998 was 1,047.<sup>2</sup>

## **Small passenger vehicles**

Passenger vehicles with up to twelve seats including the driver, are called Small Passenger Vehicles. They include what are often referred to as "hire cars" or "chauffeured vehicles" and may be:

- Mini buses
- Stretched limousines
- Sedans (Ford, Holden, etc)
- Luxury or vintage vehicles (eg Rolls Royce, Mercedes, etc)
- Motor cycles, and

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<sup>2</sup> Passenger Transport Board *Annual Report 1997-98*, page 35

- Horse-drawn vehicles.

Small passenger vehicles provide a variety of services including pre-booked hire work, traditional chauffeured services using prestige or vintage vehicles for events such as weddings. There are 869 small passenger vehicles accredited in South Australia.

### Accreditation services

The Board maintains passenger transport standards through the accreditation of passenger vehicle drivers and operators and centralised booking services for taxis, and issues taxi licences. The following table shows how many drivers and operators held Passenger Transport Board accreditation at 30 June 1998

<b>Operators:</b>	<b>Number:</b>
Small passenger vehicle	728
Taxis	1,480
Large passenger vehicles	477
Horse drawn vehicles	20
<b>Total operators</b>	<b>2,705</b>
<b>Drivers:</b>	
Taxis	4,472
Large passenger vehicles	7,223
Small passenger vehicles	1,996
Motor cycles	134
Horse drawn vehicles	45
<b>Total drivers</b>	<b>13,870</b>

*Source: Passenger Transport Board Annual Report, 1997-98, p34*

The Board has also accredited five centralised taxi booking services.

## 4.2 Summary of the Act

A review of the Act under the principles of the Competition Agreement must be set in the context of three aspects of the Act:

- 1 General guiding principles (ie the objects)
- 2 Policy and operational direction of the administrator of the Act (ie the Passenger Transport Board)
- 3 A review of the specific legislative powers of the Act.

Each aspects is summarised below.



Section 3 of the Passenger Transport Act states the objects of the Act.

- 3 The objects of this Act are-
- (a) to benefit the public of South Australia through the creation of a passenger transport network that-
    - (i) is focussed on serving the customer; and
    - (ii) provides accessibility to needed services, especially for the transport disadvantaged; and
    - (iii) is safe; and
    - (iv) encourages transport choices that minimise harm to the environment; and
    - (v) is efficient in its use of physical and financial resources; and
    - (vi) promotes social justice; and
  - (b) to provide a system of accreditation for-
    - (i) the operators of passenger transport services; and
    - (ii) the drivers of public passenger vehicles; and
    - (iii) the providers of centralised booking services within the passenger transport industry,in order to encourage and facilitate the observance of industry standards for passenger transport within the State; and
  - (c) to require the licensing of taxi-cabs; and
  - (d) to provide for a new approach to the provision of passenger transport services by the public sector.

The Act empowers administration of the Act to the Passenger Transport Board. The Passenger Transport Board (PTB) was established by the South Australian government in July 1994 to plan, regulate and fund land based passenger transport in South Australia. Under the Passenger Transport Act, 1994, the Board took on the responsibilities of the Metropolitan Taxi Cab Board. The Board also assumed some of the responsibilities of the Office of Transport Policy and Planning and the State Transport Authority (now TransAdelaide) including public transport policy formation, planning and coordination.

More specifically Section 20 of the Act describes the functions of the Board as follows:

20 (1) The Board has the following functions, to be exercised in the public interest:

- (a) to oversee the creation and maintenance of an integrated network of passenger transport services including all modes of passenger transport by public passenger vehicles within the State (including to the extent that may be appropriate, an integrated fare system within that network);
- (b) to such extent as may be consistent with the objects and provisions of this Act –

- (i) to determine, monitor and review passenger transport services within the State;
  - (ii) to determine, monitor and review the fares (or scales of fares) payable by members to the public who use passenger transport services (including, in relation to the determination of fares, the setting of maximum or differential fares);
- (c) to foster and promote efficient and effective passenger transport services, to encourage and assist changes in the transport industry to improve passenger transport services, and to encourage and oversee the provision and use of passenger transport services;
- (d) to encourage best practices in the provision of passenger transport services and, as it thinks fit, to establish, audit and enforce standards for passenger transport within the State;
- (e) to accredit the operators of passenger transport services, to accredit drivers of public passenger vehicles, and to administer the provision of various services;
- (f) to administer a system of fare subsidies and concessions in appropriate cases;
- (g) to establish, audit and, if necessary, enforce safety, service, equipment and comfort standards for passenger transport within the State;
- (h) to establish and maintain facilities and various forms of infrastructure for the purposes of the passenger transport network;
- (i) to facilitate the use of passenger transport services by people with disabilities;
- (j) to provide information to the public on passenger transport services, to promote the safety, comfort and convenience of members of the public who use those services, and to establish appropriate procedures and mechanisms to enable members of the public to comment on those services;
- (k) to establish a centralised system for receiving, and dealing with, complaints and compliments from members of the public in relation to the provision of passenger transport services within the State;
- (l) to initiate, carry out, support or promote projects and programs for the development and improvement of passenger transport services
- (m) at the request of the Minister, to carry out inquiries in relation to passenger transport within the State;
- (n) to report to the Minister on the operation of passenger transport services, and on such other matters as the Minister or the Board thinks fit;
- (o) to provide advice to the Minister as may be appropriate;

- (p) to carry out other functions assigned to the Board by or under this or any other Act, or by the Minister
- (2) The Board must not operate a passenger transport service.

The Passenger Transport Act is supported by a set of Regulations, the objects of which are set out in Schedule 1 of the Act. The Regulations are to provide the operational means to support the intent of the Act. It is possible that it is at this operational level that the constraints to competition are realised.

Schedule 2 of the Act incorporates the establishment of TransAdelaide, and the conditions under which it will operate.

## 5 Key issues relating to competition and the Act

The main intervention mechanisms associated with the Act can be summarised as follows:

- 1 The control of the ticketing and fare revenue associated with the metropolitan bus system (covered under Section 5 of the Act - Regular Passenger Services).

The provision of services associated with this revenue is contracted out by the Public Transport Board. In effect this operation restricts entry into the market to successful contractors with the PTB, and would not for example accommodate an alternative bus company setting up in opposition to the contracted services of the PTB. It is noted that while the PTB cannot directly operate a passenger transport service, the Act (under Schedule 2) enables the existence of TransAdelaide) – a government owned corporate body to operate passenger transport services, and be a contractor to the PTB. The existence and functioning of TransAdelaide therefore requires some consideration within this review to assess that principles of competitive neutrality are being appropriately followed.

- 2 The use of an accreditation system for:

- operators of passenger transport services
- drivers of vehicles, and
- providers of centralised booking services.

It is illegal to provide or be involved in a passenger transport service without accreditation.

- 3 The requirement for the licensing of taxi-cabs

In addition to these regulating roles, the specified functions of the Board enable its direct participation in the provision of passenger transport services through:

- 4 The monitoring and inspection function
- 5 Infrastructure for the passenger transport network, such as signage and routes, and
- 6 Establishment of an accessible complaints mechanism.

While these six items provide a general summary of the mechanisms by which the Public Transport Act allows intervention by the PTB in the market, there also needs to be specific considerations of areas of the Act considered relevant to constraints on competition. These areas include:

Act reference	Legislative requirement restriction	Purpose and implications	Alternative approaches
<b>Part 4: Accreditation</b>	Division 1: Accreditation of Operators	<ul style="list-style-type: none"> <li>• To ensure the industry has the capacity to provide an appropriate level of service to its customers.</li> <li>• Provides information to the market given the existence of possible information asymmetries</li> <li>• Direct costs (fees to be accredited and to remain accredited) and indirect costs (time involved in applying for and reporting on appropriateness for accreditation) associated with process</li> <li>• Allows the PTB the possibility of setting numerical limits on the number of operators (which can control entry into the industry)</li> <li>• Enforced by fines, reprimands, and disqualification</li> </ul>	<ul style="list-style-type: none"> <li>• Industry self-regulation</li> <li>• Consumer education program</li> </ul>
	Division 2: Accreditation of Drivers	As above	
	Division 3: Accreditation of Centralised Booking Services	As above	

Act reference	Legislative requirement restriction	Purpose and implications	Alternative approaches
<p><b>Part 5: Regular Passenger Service</b></p>	<p>Service Contracts</p>	<ul style="list-style-type: none"> <li>• Only contractors to the PTB have the right to provide regular passenger services (ie effectively bus routes).</li> <li>• The contract controls the period of the service, the standards of service, the route of operation, and the remuneration of the contractor.</li> <li>• The PTB sets fares – and the Act does not require the fare and the fee paid to the contractor to be related.</li> <li>• The conditions of the Act are set generally to recognise that there are substantial public good, externality and equity arguments which would suggest a commercially operating bus service would underprovide the relevant services, and would disadvantage low income groups of the community.</li> <li>• The disassociation between fees paid and fare revenue raised is justified in community service obligation terms.</li> <li>• Competition issues arise regarding the equity of process and long-term sustainability in letting contracts; there are questions as to whether they include and treat equally all possible providers across defined routes, particularly with respect to the role of TransAdelaide.</li> </ul>	<ul style="list-style-type: none"> <li>• Returning to a sole provider system rather than multiple contractors (may be justified if it is seen that efforts to manage contracts are excessively costly)</li> <li>• Leaving provision to private operators, with the issues relating to market failures handled by legislation (eg ensuring sufficient access to regular passenger transport across the whole metropolitan area), and either: <ul style="list-style-type: none"> <li>❖ Payment to the contractor for the community service obligations</li> <li>❖ Payment of subsidies directly to the consumer</li> </ul> </li> </ul>

Act reference	Legislative require-ment restriction	Purpose and implications	Alternative approaches
<b>Part 6: Taxis</b>	Requirement for a licence	<ul style="list-style-type: none"> <li>• Licence required for an accredited operator to advertise their services as a taxi; it is an offence to advertise as a taxi without the appropriate licence; not permissible to charge passengers based on a taxi-meter without the licence.</li> <li>• If a licence is issued, the operator/driver/vehicle must:               <ul style="list-style-type: none"> <li>- Display the word TAXI appropriately</li> <li>- Charges fares as per the regulations</li> <li>- Be fitted with the appropriate meter</li> </ul> </li> <li>• Conditions of a licence can be varied at the Board's discretion via regulation (eg safety standards of vehicles); may also have temporary or grade licences.</li> <li>• Limits the number of licences on issue or issued in a given period; charges fees for licence application and renewal.</li> <li>• Role of the licence and accreditation process can be seen as overlapping, with the granting of a licence a more rigorous process, able to be applied to the vehicle as opposed to the driver/operator.</li> </ul>	<ul style="list-style-type: none"> <li>• Industry self-regulation</li> <li>• Community education</li> </ul>
<b>Part 7: Miscellaneous</b>	Inspections by authorised officers	<ul style="list-style-type: none"> <li>• Enables the appointment of authorised officers to monitor service and safety standards, and compliance with the Act (eg accreditation, licensing, certificates of inspection etc).</li> </ul>	
	Conditions of vehicle registration	<ul style="list-style-type: none"> <li>• Registered vehicles are required to carry plates of the colour approved by the Registrar and the Board</li> </ul>	

## **6 Invitation to respond**

Interested individuals and organisations are encouraged to respond to this review. To help with submissions, respondents may like to respond to the issues by considering the following questions:

### **Questions:**

- 1 What is the restriction to competition?
- 2 What is its effect on the market (suppliers and users) and on the economy?
- 3 What alternative approaches could be used?

(refer to pages 5-6 for discussion of these matters)

### **Areas for consideration:**

- 1 Accreditation of operators
- 2 Accreditation of drivers
- 3 Accreditation of centralised booking services
- 4 Service contracts
- 5 Requirements for licences
- 6 Inspections by authorised persons
- 7 Conditions of vehicle registration

(refer to pages 16-18 for discussion of these matters)

Respondents should not feel limited to these questions or areas for consideration and should include any other information which they believe will assist the Consultants.



## **Appendix I Passenger Transport Policy Objectives**

### **Bus priority plan**

Includes:

- Physical measures (bus lanes and priority movements at traffic lights)
- Regulatory measures such as new rules for priority in traffic
- Increased penalties for other vehicles parking in bus stops

### **Bus services**

- Ensure all new buses are accessible and use environmentally friendly fuels

Charter and country buses

- Aim to establish a “rating” system so customers can make informed choices
- Investigate the extension of metropolitan public transport boundaries to include Mt Barker
- Enforce age limits of buses

### **Concessions**

- Seek to secure the cooperation of other State Governments to recognise concession entitlements for travel on public transport when interstate
- Provide tertiary students and people who are unemployed with concession entitlements on intrastate bus services

### **Passenger transport reform**

- Retain competitive tendering, with a negotiated contract option

### **Taxi and small passenger vehicles (Hire cars)**

- Establish improved standards for vehicles and terms of operation to ensure fair competition and quality service delivery

## APPENDIX III

### Summary of submissions

#### Taxis and Small Passenger Vehicles

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<i>Ad-A-Cab</i> <i>(written submission)</i>	<ul style="list-style-type: none"><li>• Ad-A-Cab operates in New South Wales, Western Australia, Queensland and Northern Territory but cannot operate in South Australia because of government legislation</li><li>• Ad-A-Cab manufactures and supplies a taxi rooftop unit which provides passenger courtesy lamps, taxi hail signs, tariff lamps and illuminated advertising panels</li><li>• SA Government "carries on business" by selling advertising space on public transport and in public places</li><li>• SA Government has breached S. 46 of <i>Trade Practices Act</i> which prohibits the misuse of market power</li><li>• Regulation passed by the Passenger Transport Board which restricts advertising on taxis is contrary to guiding principle of Competition Principles Agreement between the Commonwealth and South Australia</li><li>• This restriction is not in the public interest as the State government has not demonstrated how this restriction generates public benefits which outweigh their associated costs</li></ul>
<i>Adelaide Impressions</i> <i>Chauffeured Services</i> <i>(written and verbal submission)</i>	<ul style="list-style-type: none"><li>• Facts about the different costs of running taxis and hire cars</li><li>• Hire cars are generally seen as a choice, not as a necessity, whereas taxis are seen as a necessity for their community service (hospitals, shopping centres, etc)</li><li>• Regulation relating to taxis being required to belong to a centralised booking service is anti-competitive</li><li>• Regulation relating to hire cars (regulation 7) re bookings, "not for hire" signs and other signs, advertising, kilometre limits are anti-competitive</li><li>• Access cab vouchers cannot be accepted by hire cars even if they have been modified for easier access</li></ul>
<i>Bridge Taxi Service</i> <i>(written submission)</i>	<ul style="list-style-type: none"><li>• Would like to see a uniform country taxi plate</li><li>• Some country vehicles do not travel very far and would like an extension of life to cars to at least 8 years</li></ul>
<i>Chauffeured Vehicle Association of SA Inc</i> <i>(written submission)</i>	<ul style="list-style-type: none"><li>• Restrictions on kilometres per annum for hire cars places an unfair burden on operators; emphasis should be on safety and cleanliness of vehicles</li><li>• Country operators face an unfair burden with kilometres as they may need to travel a long distance to collect or leave a customer</li></ul>
<i>City of Mount Gambier</i> <i>(written submission relating only to Mount Gambier)</i>	<ul style="list-style-type: none"><li>• Believes that licencing of taxis should continue with some control over hire cars</li><li>• The number of licences should be limited so that operators can make a reasonable living and can devote themselves to the taxi in a full-time capacity</li></ul>

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- City of Whyalla*  
(written submission)
- Continuing viability of a country taxi service requires that there be a ceiling on the number of taxi licences available
  - Councils should be the authority to set the limit on the number of taxis, based on a pre-determined formula
  - Councils should have the authority to limit hire car operators from operating within their cities
- 

- Claremont Consulting Services*  
(written submission)
- Concerned that a number of statutory and regulatory restrictions are applied to hire cars but not taxis which is unfair, eg:
    - Taxis have exclusive rights to taxis stand work and hail work
    - Hire cars are restricted to 40,000 kms but taxis have unlimited kms
    - Hire cars must meet minimum wheel base length requirements, taxis do not
    - Hire cars cannot accept Access vouchers
    - Hire car fleets cannot have an Access vehicle in their fleet but taxi fleets can
- 

- Co-operative Taxi Cabs*  
(written submission)
- Only four restrictions on competition:
    - Fare structure and level which is determined by the Passenger Transport Board
    - Exclusive rights of taxis to taxi ranks and hail work
    - Exclusive use of the word "taxi"
    - Only taxis are permitted to use a fare calculating device ie meter
- 

- DV Transport Consulting*  
(written submission)
- Rules established by the Passenger Transport Board on the hire car industry restricts them from competing with taxi companies and so is anti-competitive
  - Particular concerns with:
    - Access vouchers can only be accepted by taxis; drivers are willing to convert their vehicles to take wheelchairs but will not be able to accept the vouchers
    - Wheel base restrictions for hire cars but not taxis
    - Annual kilometre limit for hire cars but not taxis
    - Age limit on vehicles which prevents certain cars from being used for weddings
    - Minimum charge for limousines affects how the vehicles are able to be used
- 

- G A R and P L DeBondt*  
*K Rasmussen*  
*RP & LA Simpson*  
*MCC Simpson*  
*GM McDonnell*  
*AR & W Bell*  
*Bunora Partnership*  
*JF & MJ May*  
*J McDonough*  
*DM Vears*  
(written submission)
- Identical submissions from people living in Mount Gambier supporting the status quo for Mount Gambier
-

*Glen Muegge, Radio Room Supervisor, Progress Passenger Service*

*(written submission)*

- Concerned that blue plate vehicles cannot accept Access vouchers and receives many enquiries about using their service which are declined
- Cannot use vintage, convertible and other vehicles for weddings and special events because of the age limit restriction
- Minimum fee for limousines means that clients do not use them for short trips

*K Hagedorn*

*(written submission)*

- Taxi licence values are more a factor of licence rental value than profitability of taxis
- Need for regulated working hours for taxi drivers (similar problems as for those of long distance truck drivers; note the airline industry regulations)
- Taxi licence is property for stamp duty purposes but cannot form part of a deceased estate; can only be dealt with by permission of the PTB; What property rights exist in a taxi licence? What property rights pass on transfer or tender of a licence? Is the consideration paid actually purchasing anything? If so, what?
- Most taxis are on the road most of the time, and many are empty
- Sealed meters mean that there can be no price competition
- Taxi ranks customer choice as customers can only choose the first or second cab on the rank
- Movement of taxis between radio companies is expensive because of the radio equipment
- No ability to generate goodwill by offering higher service standards
- Should consider the repurchase by government of all taxi licences and lease back arrangement; use the Taxi Industry Development Fund to pay for this

*KA Mason*

*(written submission)*

- High service standards exist with average waiting times for a taxi in metropolitan Adelaide at 8 minutes
- Taxi licence fee is not reflected in taxi fares
- There is now a "defacto" taxi service through hire cars rather than a vibrant hire car industry
- Importance of standards within the industry both to protect the industry and to protect the public; the community benefits from regulations and they should not be removed

*Progress Passenger Services*

*(written submission)*

- Concerned that the 1994 regulations:
  - prohibits them from having "endorses establishments" which can sign an agreement allowing them to collect passengers from these establishments
  - require them to carry "not for hire" signs when they are available for telephone
- Concerned that the 1998 regulations:
  - Restrict the type of vehicles that can be used as hire cars
  - Restrict the age of the vehicle (regular and traditional)
  - Provide a minimum fare for traditional vehicles which reduces the work they can do
  - Provide a maximum annual kilometre limit
- Also concerned that only certain vehicles can accept Access vouchers
- All of the above affects the type of vehicle they can offer to clients, and does not apply to taxis

<p><i>Renaissance Limousines</i> (written and verbal submission)</p>	<ul style="list-style-type: none"> <li>• It is anti-competitive not to include hire cars in transport industry promotional material</li> <li>• Taxis should continue as a protected industry</li> <li>• Hire cars should be protected from unlimited entry</li> <li>• Chaffeuured vehicle industry also needs protection from unlimited entry</li> </ul>
<p><i>SA Taxi Association</i> (written submission)</p>	<ul style="list-style-type: none"> <li>• Believes that deregulation would be destructive and wasteful in a depressed economic environment</li> <li>• Believes that deregulation results in prices not falling, demand remaining static, service levels declining, driver and passenger safety being exposed to higher risks</li> <li>• Potential for alternatives to government regulation such as outsourcing administrative tasks to SATA, and possibly processing taxi driver and operator accreditation, monitoring and enforcement</li> <li>• Could look for co-regulation rather than deregulation</li> <li>• Country taxis should be regulated in a similar way to taxis in the metropolitan area</li> <li>• Further relaxation of entry into the hire car industry will damage the taxi industry without improving service on a 7-day, 24-hour basis</li> <li>• Believed that 55% of taxi licences are held by investors with little or no involvement in the taxi industry</li> <li>• Concern about hire cars accepting Access vouchers as they do not use meters to determine fares; also they do not offer a 7-day 24-hour service</li> </ul>
<p><i>Simon Darnell</i> (written and verbal submission)</p>	<ul style="list-style-type: none"> <li>• Need for rationalisation of the industry through decreased number of vehicles (taxis and hire cars) available for passenger transport</li> <li>• Hire cars charge the same as taxis generally, but without having to pay for a licence and yet can charge what the market will bear when they are busy</li> </ul>
<p><i>Smart Cars</i> (verbal submission)</p>	<ul style="list-style-type: none"> <li>• Hire cars should be able to accept Access vouchers as taxis cannot meet the demand for the service</li> <li>• Would like to be able to better service the aged population</li> <li>• Regulations for hire cars have enabled them to be positively differentiated from taxis</li> </ul>
<p><i>Suburban Taxis</i> (verbal submission)</p>	<ul style="list-style-type: none"> <li>• Hire cars have not satisfied any unmet need or generated a market but have taken market share from taxis</li> <li>• Inspection undertaken by Passenger Transport Board is not working to regulate or protect the market from inappropriate actions</li> </ul>
<p><i>Warren Wormald</i> (written submission)</p>	<ul style="list-style-type: none"> <li>• Could deregulate the number of taxis but keep the present regulations on how they operate (ie vehicle inspections, fare structures, driver accreditation, etc)</li> </ul>
<p><i>Yvonne Karpinski, , Progress Passenger Service</i></p>	<ul style="list-style-type: none"> <li>• Concerned about inability to accept Access vouchers</li> </ul>

## Buses and coaches

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*Ambassador Coach Lines*

*(written submission)*

- Specific concerns including examples of:
    - route service operators altering their routes to cater for special interest groups
    - transporting groups with luggage when buses are not designed for luggage
    - separate inspectors for route and charter services
    - route service operators undertaking advertised charter work
    - route operators underpricing private operators for charter work
    - essential requirements in relation to spare parts and tools for charter operators not required of route operators
    - operators registered in country area able to undertake metropolitan charter work
- 

*Barossa Adelaide Passenger Service*

*(written and verbal submission)*

- Country services have been affected by the deregulation of freight industry
  - Country areas need to be able to cross-subsidise services with rebates for the elderly and for tertiary students
  - PTB took control of certain country routes and offered them for a limited time to the existing operators, which has not allowed for any upgrade of services or assets
  - In country areas, operators, vehicles and drivers must be multi-purpose in order to survive but government restrictions (eg vehicles, subsidies) makes this difficult
  - "Market failure" should not be a measure used in rural areas
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*Bryley Coachlines*

*(written submission)*

- Concern about the detail required for accreditation particularly if the business is a partnership and so requires police and medical checks of all partners
  - Concerned that the business plan for the operator must be lodged for accreditation, giving many people access to commercial information
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*Bus and Coach Association*

*(written submission)*

- The true competitor of the bus is the private car
  - It is not expected that any private operator in South Australia will take part in the next round of competitive tendering of metropolitan route services as the size of the parcels will exclude them
  - Value of synergy with community buses has not occurred and has not enabled the performance of either the route operators or the community services to improve
  - School bus services in country areas are managed by the Department of Education, Training and Employment but tender prices are not viable for country charter operators, nor can they be competitive with departmentally operated services
  - Tendering of school bus services is managed by the Department which also operates a competing service
  - Volunteer drivers should be accredited in the same way as professional drivers, but the fee waived or reduced
  - Existing regulatory environment has many inconsistencies which mean that there is not a level playing field
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<p><i>Dale Constantine</i> (written submission)</p>	<ul style="list-style-type: none"> <li>• Concern about route service operators undertaking chartered work without meeting the requirements for charter work ,eg luggage compartments</li> <li>• Does not believe that competitive neutrality is being met with the current situation of route operators being able to compete for charter work but charter operators not able to operate route services</li> <li>• Specific concerns about country issues including environmentally friendly fuels, age limits on buses</li> </ul>
<hr/>	
<p><i>Dunn's Bus Service</i> (verbal submission)</p>	<ul style="list-style-type: none"> <li>• Concern about the inequity in letting of school bus contracts and the dual system of accreditation which operates for drivers of school buses if they are not teachers ( must be accredited by both the school and the Passenger Transport Board)</li> <li>• Concern about the accreditation system for volunteer drivers and that passenger safety can be at risk</li> <li>• Country services are becoming much less viable</li> </ul>
<hr/>	
<p><i>Enjoy Tours</i> (verbal submission)</p>	<ul style="list-style-type: none"> <li>• Concern about route service operators offering charter services with subsidised vehicles and fuel; also vehicle regulations are different for route services and for charter operators and yet route operators can undertake charter work</li> <li>• Councils are hiring their buses to community groups (who have their own driver) and thereby competing for charter work</li> <li>• Different modes of accreditation by Passenger Transport Board, councils and schools; system should be the same</li> </ul>
<hr/>	
<p><i>Hills Transit</i> (verbal submission)</p>	<ul style="list-style-type: none"> <li>• Needs to be a common system of accreditation of drivers whether the person is employed or a volunteer (but have a different cost structure)</li> <li>• Route operators pay higher labour rates, higher third party insurance and have a different inspection regime to that of charter operators</li> </ul>
<hr/>	
<p><i>Murray Bridge Passenger Service</i> (verbal submission)</p>	<ul style="list-style-type: none"> <li>• Country route service terms (5 years + 3 year extension) are not long enough for an operator to cover costs of investment in new buses</li> <li>• Freight deregulation has reduced the viability of many routes</li> <li>• Accreditation of drivers should be the same for voluntary and paid drivers (eg same level of health is not required for voluntary drivers as it is for paid drivers)</li> <li>• Goodwill of passengers is now meaningless as it is the Passenger Transport Board who make the decision about which company receives the contract</li> <li>• Different labour structure for school bus drivers (kilometre basis) and for charter operator drivers (award rates with a minimum of 4 hours) makes it hard for charter operators to compete for school bus work</li> </ul>
<hr/>	
<p><i>Premier Stateliner Coach Group</i> (written submission)</p>	<ul style="list-style-type: none"> <li>• Appropriate for country services to be regulated for limited exclusivity to ensure viability</li> <li>• Regular passenger services, particularly in regional areas, are becoming the preserve of the transport disadvantaged</li> <li>• Important for a clear distinction between metropolitan contracts and regional contracts (to ensure a service to rural SA)</li> </ul>

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- Rufus Bus and Coach*  
(written submission)
- Concern about unfair competition from government transport and other government subsidised operators, eg:
    - Government vehicles and drivers are exempt from a number of legal requirements such as signage, safety equipment and on-road inspections
    - Using unsuitable vehicles for charter work
    - Use of subsidised fuel, vehicles etc for charter operations
  - Council owned buses being made available at reduced rates for charter work
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- Southside Roadlines*  
(verbal submission)
- Uncertain of why route service operators can tender for charter work using their subsidised buses
  - Route service and charter buses have different safety and technical standards so should not be able to work in both areas
  - Aware of charter services being made into route services
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- Trans Adelaide*  
(written and verbal submissions)
- TransAdelaide is now a body corporate with Schedule 2 of the Passenger Transport Act repealed; s. 39 of the Act which referred to the "100 vehicle" limit has also been amended
  - S. 39 is clear about the conditions which apply for the letting of contracts; may be difficult to integrate passenger transport services
  - S. 41 may constrain competition based on how the Passenger Transport Board parcels up the routes to be offered for tender; some concern about the management of Regulation 4A exemptions with the potential for local government and others to impinge on operators' routes and thereby reduce service usage, eg special events
  - Need for consistent regulation of operators and drivers to ensure fair and equitable arrangements for both entry and ongoing participation in the market
  - Buses are allocated to operators by Transport SA which attempts to provide a balanced fleet to all operators; this can create an uneven distribution of costs based on the age and maintenance requirements of the fleet
  - Rail should be addressed as part of this review (refer also to the Rail Safety Act)
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- Transit Solutions*  
(written and verbal submission)
- Discussion of New Zealand situation where deregulation was proposed to improve competition but has led to fewer suppliers and lower consumption of services
  - Believes that the Passenger Transport Act meets the requirements of competition policy and should not be changed
  - Concern with the implementation of the Act and in particular the short-term nature of contracts which does not support the commercial risk associated with a major investment
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## General

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*Council on the Ageing*  
*(written submission)*

- Concern that in instances in which there is a government response to the ageing, eg kneeling buses, etc, the community sees this as an adequate response to all special transport needs which is not the case; ageing still need help with parcels, often cannot walk far, and value the door to door service
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*Department of Education, Training and Employment*  
*(written submission)*

- Drivers contracted by DETE for school services are required to have two forms of accreditation: that of the PTB and that of DETE; potential for an amendment to the legislation so that the PTB could exclude operators and drivers of school bus runs from accreditation when they apply for it
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*Dr Ian Radbone, Deputy Director, Transport Systems Centre, University of South Australia*  
*(written submission)*

- Generally, governments should avoid industry specific regulation in circumstances in which the market is reasonably competitive and customers have reasonable knowledge of what is being offered
  - Driver accreditation of vehicles other than taxis is not necessary – companies should be able to choose who they employ and to dismiss those who bring discredit to the company
  - Centralised booking services are able to report and discipline drivers but they are loathe to use these powers because of the competition for cars and drivers; they also have alternative approaches which are more effective and less cumbersome
  - Hire car regulations have been introduced to restrict competition on taxis and are contrary to the objectives of the Act (“serving the customer”, etc)
  - Breach of s. 3 (a) (ii) which requires the provision of “accessibility to needed services, especially for the transport disadvantaged” but PTB does not allow Access vouchers to be used on hire cars
  - Comparison with the London mini-cab sector which has fares approximately 25% less than that of taxis and passes these savings onto the passenger; taxis retain a significant portion of the market as a result of the “cruising” market and those who pay a premium for the government regulation ( and presumably tourists)
  - Could gradually remove restrictions on hire cars, decide to no longer issue taxi licences and reduce the cost of taxi licences
  - Customers wanted to use hire cars to such an extent that the government had to intervene to introduce restrictions
  - Need to reconsider the transport options available to wheelchair bound passengers so that at least two companies are able to provide the service rather than one; should be an immediate liberalization of policy on handling vouchers for those confined to wheelchairs
  - Why hasn't the rail service been opened for competitive tender?
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*Local Government Association*  
*(written and verbal submission)*

- LGA policy is that councils be involved in direct service delivery of community transport where appropriate
  - Country taxi licensing is a concern and a forum will be held for country Councils and the Passenger Transport Board
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*Office of Local Government*

*(written submission)*

- With the current review of the Local Government Act, the intention is to rationalise and transfer local government powers from that Act to the PTA
  - Under the Passenger Transport Act, Councils outside the metropolitan area currently have powers to licence taxis and their drivers
  - This review should consider the impact of the transfer of Local Government Act powers to the Passenger Transport Act and the potential for confusion, conflict and over regulation of operators trying to operate within and between Council areas, particularly metropolitan Adelaide and country areas
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*Passenger Transport Board*

*(written and verbal submission)*

- Volunteer bus drivers are required to meet minimum standards of accreditation with the onus for ensuring standards are met being shifted to the accredited operator.
  - The Department of Education, Training and Employment operates school bus services and its drivers are exempt from the need for accreditation because they must satisfy departmental requirements
  - All restrictions on the leasing of taxi licences were removed in 1991 as part of a package of deregulation measures
  - Benefit to the public of having a regular, safe and reliable form of transport 24-hours-a-day and seven-days-a-week
  - Substantial risks in deregulating the industry, eg less certainty of the availability of taxis, reduced ability to ensure quality and security for passengers
  - Could be argued that the cost of a license is an investment as it represents a bond to the industry and a commitment to maintaining the goodwill attached to it
  - Difficulty of achieving standard fares from hire cars (as they do not have meters) so difficult to operate the SA Transport Subsidy Scheme; also the centralised booking service for taxis provides an environment for establishing and monitoring service standards for users
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*Stop Transport Outsourcing and Privatisation*

*(written submission)*

- See transport as having an important social justice role
  - Concerned about the effect of competition policy on ecologically sustainable transport, the socially disadvantaged, economic and regional development, efficient allocation of resources
  - Need for Passenger Transport Board to develop a comprehensive set of community service obligations in consultation with communities and report accordingly to Parliament
  - Accreditation of bus drivers should not be required if they have a current licence and have been employed by an accredited operator
  - Range of other comments related to Passenger Transport Board management issues
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## APPENDIX IV

### Taxi Industry in Australia – interstate comparative analysis<sup>1</sup>

#### 1 Objectives for regulating taxis in each state and territory

Australian Capital Territory	New South Wales	Northern Territory	Queensland	South Australia	Tasmania	Victoria	Western Australia
<ul style="list-style-type: none"> <li>To provide a safe form of public transport</li> <li>To ensure that drivers and vehicles are of adequate quality</li> </ul>	<ul style="list-style-type: none"> <li>To provide an efficient, safe and equitable public transport network</li> </ul>	<ul style="list-style-type: none"> <li>To differentiate the taxis from the para-taxi market</li> <li>Broader considerations of safety requirements and operational controls</li> <li>PHC<sup>2</sup> objectives are to retain requirement for premium vehicles. Minimum standards and maximum ages and restricting PHCs to pre-booked work</li> </ul>	Not provided	<ul style="list-style-type: none"> <li>An essential public service</li> <li>Accessibility</li> <li>24-hour service with average response times</li> <li>For hire cars – negotiated fees; no obligation to provide same service as taxis</li> </ul>	<ul style="list-style-type: none"> <li>Reliable, high quality service in terms of vehicle and driver for sector of passenger transport market who wan this</li> </ul>	<ul style="list-style-type: none"> <li>Safe, efficient, equitable 24-hour passenger service through taxi networks with other forms supplementary to this, with an opportunity for innovative and competitive businesses to succeed</li> </ul>	<ul style="list-style-type: none"> <li>To ensure minimum quality and safety standards are met</li> <li>To ensure a given level of service to the public is achieved through price and/or quantity setting</li> </ul>

<sup>1</sup> As adapted from the *Compendium of Australian Taxi Regulation* compiled by the Passenger Transport Policy Branch of the Tasmanian Department of Infrastructure Energy and Resources (Transport Division)

<sup>2</sup> PHC is Private Hire Cars

2 How are licences issued and the numbers determined?

Australian Capital Territory	New South Wales	Northern Territory	Queensland	South Australia	Tasmania	Victoria	Western Australia
<ul style="list-style-type: none"> <li>Minister for Urban Services determined the maximum number for both taxis and multicabs (wheelchair accessible)</li> <li>To determine the optimal fleet size, an agreement is reached with industry; if service levels are below the agreed levels, more plates are issued by public auction with a usual reserve price of \$100,000</li> <li>No business, company or individual can hold more than 2 plates</li> </ul>	<ul style="list-style-type: none"> <li>No set procedure</li> <li>PTA<sup>3</sup> allows for any person to apply at any time and Director General determines whether the application is approved; applicant can appeal the decision or any conditions attached</li> </ul>	<ul style="list-style-type: none"> <li>Licences will be leased on demand, providing the applicant meets the requirements</li> </ul>	<ul style="list-style-type: none"> <li>Chief Executive issues taxi licences</li> <li>New licences are advertised for sale by public notice</li> <li>Licences are issued providing CE receives an acceptable offer and is satisfied that minimum conditions will be met or exceeded</li> </ul>	<ul style="list-style-type: none"> <li>Current policy is to issue 15 licences per year until 2001 for general taxi licences have conditions e.g. wheelchair accessible vehicles linked to Access Cabs (wheelchair accessible booking service) and must meet quota of wheelchair hirings; priority must be given to wheelchair hirings; may not ply for hire or work the ranks without the approval of Access cabs</li> </ul>	<ul style="list-style-type: none"> <li>Capped price of licences are set by the Transport Commission as price for a new licence in a taxi area</li> <li>Market price of licences are set by Commission every 12 months based on year's sales</li> <li>Where market price exceeds cap, Commission has discretion on making available unlimited licences at capped price; if market price is less than cap, pre-determined limited licences available</li> </ul>	<ul style="list-style-type: none"> <li>No conventional taxi licences have been issued for 10 years</li> <li>Looking at introducing 100 licences for high occupancy vehicles (6-12 people) which must be wheelchair accessible</li> <li>50 wheelchair accessible licences have been issued</li> </ul>	<ul style="list-style-type: none"> <li>Policy is for 1 licence per 1000 population</li> <li>Issued through tender</li> </ul>

<sup>3</sup> Passenger Transport Act of New South Wales

### 3 What types of taxi licence are available?

Australian Capital Territory	New South Wales	Northern Territory	Queensland	South Australia	Tasmania	Victoria	Western Australia
<ul style="list-style-type: none"> <li>• Perpetual ownership which may then be leased</li> <li>• Restricted licences for multicabs</li> </ul>	<ul style="list-style-type: none"> <li>• Licences are renewable, issued for term specified by DG of Transport; reduces expectation of renewal and no property value associated with licence (but there is in the market)</li> <li>• If a licence is transferred, renewal date does not change, so licences have a declining value as approaching renewal</li> <li>• Short-term licences valid up to 6 years and are transferable or renewable;</li> <li>• Maxi cabs seat 12-15 and charge standard tariff if hailed or ranked; negot. if pre-booked</li> </ul>	<ul style="list-style-type: none"> <li>• All licences now leased</li> <li>• Lease rate is viewed as a charge – no ownership or property involved</li> <li>• Available leases are for conventional taxis, multi-purpose taxis and some peak hour licences which are issued as exemption</li> </ul>	<ul style="list-style-type: none"> <li>• All licences are perpetual licences based on service contracts and meeting of minimum service standards</li> <li>• Licensee may have any vehicle on this licence e.g. luxury or wheelchair accessible</li> </ul>	<ul style="list-style-type: none"> <li>• General taxi licences</li> <li>• Temporary taxi licences (issued for a period of not more than 12 months and not renewable)</li> <li>• Special vehicle licences i.e. general taxi licence with special conditions, e.g. wheelchair accessible</li> <li>• Standby taxi licences to be used to replace a taxi that is temporarily out of service</li> </ul>	<ul style="list-style-type: none"> <li>• Perpetual licences are privately owned, plus temporary licences to accredited groups under Taxi Industry Act for limited periods with same effect as PTL</li> <li>• Prestige hire car licences under Traffic Act 1925 “owned” by Crown as public vehicle licences are renewable</li> <li>• Substitute permits for vehicles available for both</li> </ul>	<ul style="list-style-type: none"> <li>• Perpetual ownership</li> <li>• Multi-purpose (wheelchair accessible) taxis</li> </ul>	<ul style="list-style-type: none"> <li>• Most licences are perpetual unrestricted Perth metro conventional taxis; may operate at all times and have certain times (in ownership conditions) when they must operate</li> <li>• Peak period restricted taxi; may not go to airport unless they have a fare; can usually only operate as a taxi on Friday and Sat nights, or as specified</li> <li>• Wheelchair accessible vehicles called maxi-plus taxis</li> <li>• Have substitute taxi plates kept in reserve to replace a vehicle off the road</li> </ul>

**4 Are taxi fares regulated? If so, are they maximum fares or absolute fares? How are regulated fares determined and what process is used to charge fares?**

Australian Capital Territory	New South Wales	Northern Territory	Queensland	South Australia	Tasmania	Victoria	Western Australia
<ul style="list-style-type: none"> <li>• Yes, maximum fares are regulated and determined by Minister</li> <li>• Fare formula is used and increases in line with transport CPI movements</li> <li>• If deflation occurs no change to fares</li> </ul>	<ul style="list-style-type: none"> <li>• Yes, maximum fares are set</li> <li>• Industry looks at CPI and applies to NSW DoT for fare increase</li> </ul>	<ul style="list-style-type: none"> <li>• Yes, maximum fares</li> <li>• Set by negotiation with industry; have tried fare formulas but have moved away from that</li> </ul>	<ul style="list-style-type: none"> <li>• Maximum fares regulated for standard taxis</li> <li>• High occupancy vehicles and luxury taxis negotiate price</li> <li>• Used same base fare with allowances for operational cost increases since 1966</li> </ul>	<ul style="list-style-type: none"> <li>• Maximum fares are regulated</li> <li>• PTB has agreement with industry in association with ABS to develop a specific index; currently use transport CPI for Adelaide plus special circumstances</li> </ul>	<ul style="list-style-type: none"> <li>• Maximum fares are regulated</li> <li>• Industry determines an average fare with average fare indexed according to Hobart CPI</li> </ul>	<ul style="list-style-type: none"> <li>• Absolute fares are set within 80 km of base location of taxi; if journey is more than 80 km driver can negotiate a rate prior to trip</li> <li>• Fares are altered in line with Melbourne transport CPI; if deflation occurs then no change to fares</li> </ul>	<ul style="list-style-type: none"> <li>• Yes, taxi dispatch service applies for fare structure approval from Transport</li> <li>• Fare modelling system is used to set and alter tariffs</li> </ul>

5 Are there controls over the work that taxis can and cannot do?

Australian Capital Territory	New South Wales	Northern Territory	Queensland	South Australia	Tasmania	Victoria	Western Australia
<ul style="list-style-type: none"> <li>No</li> </ul>	<ul style="list-style-type: none"> <li>No</li> </ul>	<ul style="list-style-type: none"> <li>No</li> </ul>	<ul style="list-style-type: none"> <li>Taxi driver may not refuse a hire if the destination is in a taxi service area for which the taxi is licensed or is within 40 km of pick up point</li> </ul>	<ul style="list-style-type: none"> <li>Must take a fare in metropolitan area unless there is a genuine reason not to</li> </ul>	<ul style="list-style-type: none"> <li>Only control relates to areas; may not work wholly within another area</li> </ul>	<ul style="list-style-type: none"> <li>Taxis must operate through an approved depot</li> <li>Metropolitan M50s must use the central booking service for wheelchair work and may not stand on ranks unless given permission to do so</li> </ul>	<ul style="list-style-type: none"> <li>No</li> </ul>

**6 Do you specify which vehicles (makes and models) can and cannot be used as taxis? Maximum ages? Different between metropolitan and country areas?**

Australian Capital Territory	New South Wales	Northern Territory	Queensland	South Australia	Tasmania	Victoria	Western Australia
<ul style="list-style-type: none"> <li>• No</li> <li>• Not in regulations but in Service Levels Agreements – vehicles must be no more than 4 yrs old when first licensed as taxi and may not be used as a taxi past 8 yrs of age</li> <li>• No vehicle may be used as a taxi for more than 6 yrs</li> <li>• ACT is considered all one area</li> </ul>	<ul style="list-style-type: none"> <li>• Vehicles must meet minimum accommodation standards for driver + 4 passengers; also minimum requirement of 180 mm between the front of back seat and back of front seat</li> <li>• No maximum age to be first licensed</li> <li>• Maximum age to be operated as a taxi is 6.5 yrs after compliance date</li> <li>• Different standards for wheelchair vehicles</li> <li>• Considering increasing country age limit to 8 yrs</li> </ul>	<ul style="list-style-type: none"> <li>• No</li> <li>• When first licensed as a taxi, vehicle must be no more than 2 yrs and must be changed at 6 yrs</li> <li>• PHCs upper limit is 7 yrs for LTD, Statesman, etc 15 yrs for Mercedes and Jaguars and unlimited for Rolls Royce and Bentleys</li> <li>• Age limits are constant for metro and rural</li> </ul>	<ul style="list-style-type: none"> <li>• No, use the Australian Design Rules as much as possible</li> <li>• No first licensing age</li> <li>• All vehicles that may be standard taxis can be used as taxis until 6 yrs</li> <li>• Variations for country vehicles</li> </ul>	<ul style="list-style-type: none"> <li>• No, use Australian Design Rules except for people movers</li> <li>• Must be less than 3.5 yrs</li> <li>• Prior to Feb 1 1998 could be used as taxi until 8 yrs but now reduced to 6.5 yrs</li> <li>• Exemptions may be considered for country vehicles</li> </ul>	<ul style="list-style-type: none"> <li>• No but generally allow any make that can carry 4 passengers; others by approval</li> <li>• Metro areas – 5 years in, 8 years out</li> <li>• Country – 7 years in, 10 out</li> <li>• Para –taxi/LHC – metro 5 yrs in, 10 yrs out; country 7 yrs in, 12 yrs out</li> </ul>	<ul style="list-style-type: none"> <li>• Must meet ADR</li> <li>• Metro: vehicle must be less than 2.5 yrs from date shown on compliance plate when first used as taxi; may be used until 6.5 yrs</li> <li>• Country: may be used as taxis until 7.5 yrs of age</li> <li>• M50s may be used until 10.5 yrs; 2.5 entry rule is not applied to M50s</li> </ul>	<ul style="list-style-type: none"> <li>• No, transport specific dimensions and vehicles must meet standards set via ownership conditions</li> <li>• Prior to 31/12/96 a vehicle may be used as a taxi up to 8 yrs from date of first registration; if not always used as a taxi for 5 yrs from date of first registration as motor vehicle</li> <li>• Use ownership conditions to make exceptions in rural areas</li> </ul>



7 Taxi appearance: all one colour? Display of certain information

Australian Capital Territory	New South Wales	Northern Territory	Queensland	South Australia	Tasmania	Victoria	Western Australia
<ul style="list-style-type: none"> <li>No but industry requires all vehicles to be white with a blue and yellow stripe on each side</li> <li>Outside – taxi dome, maximum seating capacity</li> <li>Inside – fare levels and any other charges, no smoking sign</li> </ul>	<ul style="list-style-type: none"> <li>Not at present but from 1/7/99 all taxis must belong to a taxi network and must be painted in network colours and drivers must have a uniform</li> <li>Networks must only use one name e.g. not local names</li> <li>Outside – taxi dome with word “taxi” and amber “for hire” light; approved door detail</li> <li>Inside – fare levels displayed prominently as well as taxi driver authority card; Passenger Charter of Rights and Responsibilities which includes a complaints number</li> <li>No smoking sign</li> </ul>	<ul style="list-style-type: none"> <li>No set colour although this is being considered; present agreement is that all taxis are white except in one location where white is not practical</li> <li>Outside – taxi dome ; tariff lights, hire/not for hire signs</li> <li>Inside – fare levels, driver ID, no smoking sign</li> <li>There will be a requirement for a contact number to be displayed inside the vehicle</li> </ul>	<ul style="list-style-type: none"> <li>Colour is controlled by fleets; fleets given reasonable freedom to meet contracts hence a standard livery may change within fleets</li> <li>Outside – green distress light, hail light</li> <li>Inside – child restraint anchorage bolt, fare stickers provided but not compulsory, anything else is up to companies</li> </ul>	<ul style="list-style-type: none"> <li>Since 1/2/98 all taxis are required to be white</li> <li>Outside – top signs; advertising is only permitted on rear of vehicle</li> <li>Inside – fare levels, driver identification, door stickers giving graphical representation of contractual obligations of all parties</li> </ul>	<ul style="list-style-type: none"> <li>No requirement for taxis to be a particular colour</li> <li>Outside – taxi dome (top sign) illuminated; must have taxi plate visible</li> <li>Inside – tariff information, no alcohol consumption, occupancy stickers</li> <li>Also a voluntary code of practice which advocates showing other information including complaints, lost property information</li> </ul>	<ul style="list-style-type: none"> <li>“Victorian Taxi Yellow”, applied since 8/94</li> <li>Outside – taxi dome, tariff lights, hire/not for hire signs, external rear doors and bonnet must have “taxi” written on them; 4 digit plate number on rear doors and yellow and green strip that runs full length of vehicle under windows</li> <li>Inside – replica of 4 digit plate number on dash; fare levels in three places, driver ID including photo and expiry date, comments number, no smoking sign, taxi meter sealer’s sticker</li> </ul>	<ul style="list-style-type: none"> <li>No</li> <li>Outside – fare levels plus company policies</li> <li>Inside – fare levels, driver ID complaints number plus vehicle ID; complaints number is part of fare schedule</li> </ul>

**8 Taxi despatching organisations –are all taxis required to belong to an accredited taxi despatching organisation? What are the requirements for accreditation?**

Australian Capital Territory	New South Wales	Northern Territory	Queensland	South Australia	Tasmania	Victoria	Western Australia
<ul style="list-style-type: none"> <li>• Yes, all vehicles must belong to a network</li> <li>• The requirements of accreditation are set out in the contract between the industry and government; major consideration is to provide 24-hr, 7-day a week service, every week of the year</li> </ul>	<ul style="list-style-type: none"> <li>• If there is at least one taxi network in area then all taxis are required to join a network; if there is no network, as in small towns, then independents may work</li> <li>• Accreditation – must operate a booking service, can make registration of vehicles, training of drivers, safety factors, must have a broadcasting licence, booking telephone line, lost property line, must have a uniform for drivers and a corporate livery, must have GPS technology</li> </ul>	<ul style="list-style-type: none"> <li>• The Act “may require” this; but all taxis are required to belong to “communication networks”</li> <li>• S71(7) Act states “The Director may from time to time, require a person to whom under ss(1) is given to provide the Director with such information as the Director may require re communications network provided under the approval and terms and conditions under which the network is available to the operators of commercial passenger veh.</li> </ul>	<ul style="list-style-type: none"> <li>• All taxis must be affiliated with a 24-hour booking service</li> <li>• If the population of town taxi service is based in is greater than 10,000 then the company must have a service contract</li> <li>• If town is less than 10,000 operators do not have to be accredited but must still be affiliated with 24-hour booking service</li> </ul>	<ul style="list-style-type: none"> <li>• All operators must belong to a centralised booking service although some long term operators are exempt through transition arrangements carrying from introduction of Passenger Transport Act 1994</li> <li>• Accreditation – 2-way radio or telecommunications contact with every vehicle; 24 hr, 7-day week booking service, ability to meet emergency and customer service requirements as set by PTB; quarterly reporting requirements</li> </ul>	<ul style="list-style-type: none"> <li>• Taxis can be independent</li> <li>• Taxi Industry Act 1995 Part 5 plus Commission requirements not in Act</li> </ul>	<ul style="list-style-type: none"> <li>• All taxis must belong to a depot; independents are not allowed</li> </ul>	<ul style="list-style-type: none"> <li>• If service is advertised as a taxi, then must belong to a despatching organisation; smaller fleets use mobile phones rather than a radio network</li> </ul>

9 Drivers – “fit and proper persons”, who decides and what does it cover? What does it cost the driver to be accredited?

Australian Capital Territory	New South Wales	Northern Territory	Queensland	South Australia	Tasmania	Victoria	Western Australia
<ul style="list-style-type: none"> <li>• Yes</li> <li>• Registrar of Motor Vehicles is responsible</li> <li>• Medical, police record check, English language skills, local knowledge and customer service' this has been contracted out; provider offers a course based on Taxi Care program and includes issues such as OH&amp;S</li> <li>• No cost</li> </ul>	<ul style="list-style-type: none"> <li>• Yes, Act requires it</li> <li>• Passenger Transport Act covers who can decide if a person is “fit and proper”</li> <li>• Covers responsibility and aptitude to drive the vehicle; also medical, police records (which drivers will soon have to pay for), English language skills, local knowledge (road test by DoT) and customer service</li> <li>• Cost \$700-800 for the training course and \$75 for English course; training course is set by NSW authority and is nationally recognised</li> </ul>	<ul style="list-style-type: none"> <li>• Yes</li> <li>• RTS in line with national guidelines</li> <li>• Medical, police check, English language skills; language skills and customer service training are responsibility of training networks</li> <li>• Fee is nominal</li> </ul>	<ul style="list-style-type: none"> <li>• Term “fit and proper” is no longer used; drivers must be authorised and so must meet certain standards</li> <li>• Chief Executive of DoT decides</li> <li>• Covers national Commercial Vehicle Medical, English lang. Skills and local knowledge (companies do test)</li> <li>• Purpose of driver authoris. Is to ensure all drivers can safely operate the relevant type of vehicle; are aware of customer service responsibilities and conduct themselves appropriately</li> <li>• Driver pays \$42 pa</li> </ul>	<ul style="list-style-type: none"> <li>• Yes</li> <li>• PTB decides</li> <li>• Covers NRTC Medical Examinations for Commercial Drivers Standards, national police clearance, English language skills, local knowledge, customer service, must do PTB endorsed training program; PTB has standards to monitor this process</li> <li>• Appropriate driver's licence</li> <li>• Costs approximately \$400</li> </ul>	<ul style="list-style-type: none"> <li>• Yes drivers must be “fit and proper” persons</li> <li>• Decided by Registrar of Motor Vehicles</li> <li>• Covers medical, police check, driver history and driving test</li> <li>• No cost to driver</li> </ul>	<ul style="list-style-type: none"> <li>• Yes, VTD assess taxi drivers before issuing a certificate</li> <li>• VTD is responsible</li> <li>• Medical, police record, English language skills, local knowledge and customer service including numeracy conducted by TAFE; prerequisite of 40-hr training course focusing on special needs and customer service, includes a taxi driver certificate test; drivers must hold a full driver's licence; special exceptions may be considered in country towns</li> <li>• Driver pays around \$500</li> </ul>	<ul style="list-style-type: none"> <li>• Yes must be “fit and proper”</li> <li>• WA DoT decides</li> <li>• Medical, police record, English language skills, local knowledge, customer service</li> <li>• Must obtain t-class on driver's licence; must sit an aptitude test (conducted by a consultant), training from an approved training provider, can then apply for a taxi driver ID card</li> <li>• Costs approximately \$600-900</li> </ul>

10 Licensing of para-taxis – types of para taxis, what sort of licence is required, fare control

Australian Capital Territory	New South Wales	Northern Territory	Queensland	South Australia	Tasmania	Victoria	Western Australia
<ul style="list-style-type: none"> <li>Private hire cars, multicabs (wheelchair accessible) which are stretched Commodores</li> <li>Yes must be licensed</li> <li>No control over PHC fares; multicabs charge the same as standard taxis</li> </ul>	<ul style="list-style-type: none"> <li>Luxury hire cars, small charter buses, wheelchair accessible taxis, courtesy services, community services</li> <li>Yes, must have a licence</li> <li>No fare control, completely unregulated</li> </ul>	<ul style="list-style-type: none"> <li>PHCs, mini-buses, multi-purpose (wheel chair accessible) taxis, tourist vehicles in non-urban areas, motor omnibus</li> <li>Yes, must be licensed</li> <li>No fare control</li> </ul>	<ul style="list-style-type: none"> <li>Limousines (luxury hire cars), small charter buses (may not exist after 31/12/98)</li> <li>Licence is required to operate a limousine but not charter buses; any chartered passenger service must be accredited</li> <li>Fares – must be minimum 30% premium to taxi fares</li> </ul>	<ul style="list-style-type: none"> <li>Accreditation for luxury hire cars, small charter buses (up to 12 seats), novelty vehicles and traditional e.g. weddings, funerals</li> <li>Accreditation as small passenger vehicles</li> <li>Fares – If less than \$20 must have SPV – metro licence. These vehicles may charge any fare once they have paid the vehicle fee; Traditional and special purpose/novelty vehicles e.g. wedding cars have a min. single fare charge of \$20, other cars may charge what they wish</li> </ul>	<ul style="list-style-type: none"> <li>Prestige hire cars under Traffic Act 1925</li> <li>Yes, licences are required</li> <li>Fares – minimum hourly charge to be twice the taxi hourly waiting time i.e. \$40 ph</li> </ul>	<ul style="list-style-type: none"> <li>Special Purpose Vehicles are used for tourist groups and child care centres; restricted hire (vintage and veteran cars) which may be used for any purpose; 4 wheel drives for off-road travel</li> <li>Yes, must be licensed</li> <li>No fare control</li> </ul>	<ul style="list-style-type: none"> <li>Called Small Charter Vehicles</li> <li>No restriction on number of licences; may be any vehicle, no reference to special purpose cabs</li> <li>Must have a licence to operate</li> <li>Fares – must charge a minimum of 1 hr at minimum of 30% above maximum DoT approved taxi retention rate (\$29 per hr); May not charge individual passengers;</li> </ul>

11 What distinctions are drawn between work undertaken by taxis and by para-taxis?

Australian Capital Territory	New South Wales	Northern Territory	Queensland	South Australia	Tasmania	Victoria	Western Australia
<ul style="list-style-type: none"> <li>• Hire car does not ply for hire in a public street</li> <li>• Hire car is used for conveyance of passengers under a contract which gives hire exclusive use of the vehicle</li> <li>• No overlap so much as conflict between PHCs and small buses</li> </ul>	<ul style="list-style-type: none"> <li>• Very little distinction between the regulation of taxis and regulation of hire cars; hire cars must be pre-booked, may not use a meter or pose as a taxi and are licensed differently</li> <li>• Considerable overlap between hire cars and taxis</li> </ul>	<ul style="list-style-type: none"> <li>• PHCs must be pre-booked and may not use ranks, meters or ply for hire or be hailed</li> <li>• Considerable overlap which led in part to new arrangements regarding licensing of passenger transport vehicles</li> </ul>	<ul style="list-style-type: none"> <li>• May only rank at Brisbane International Airport</li> <li>• Must be pre-booked and may not ply for work on street</li> <li>• Overlap only in pre-booked passenger transport market; this tends to occur where there is not a good taxi service</li> </ul>	<ul style="list-style-type: none"> <li>• SPV – Metro cars and taxis compete for work almost directly; taxis may use meters and ply for hire, work ranks etc whereas SPV-metro must be pre-booked</li> <li>• All drivers of SPV – metro must be accredited; accreditation period is 5 years and fee is currently \$65</li> <li>• No overlap in theory but there is competition for work, particularly contract and pre-booked work (approx. 60% of taxi work is booked through booking service)</li> </ul>	<ul style="list-style-type: none"> <li>• None but para-taxis may not wait at taxi ranks or advertise as taxis</li> <li>• Both can do tours</li> <li>• Para-taxis normally do not do taxi type work as it is too expensive for hirer</li> <li>• Considerable overlap between taxis and para-taxis</li> </ul>	<ul style="list-style-type: none"> <li>• All except taxis must be pre-booked; licence conditions are used to make further distinctions</li> <li>• Not much overlap as only 8-10 metro hire car licences have been issued in past two years; hire cars may pick up fares away from their town base</li> </ul>	<ul style="list-style-type: none"> <li>• May only operate within and from Perth metro area</li> <li>• May not operate form taxi ranks, street market, tout or cruise on public roads for purpose of hiring</li> <li>• May not operate as RPT – prescribed route, timetable, set fares and stopping places for picking up and setting down passengers</li> <li>• Must maintain log books of times, dates of commencement and completion of journeys, make and licence plate of vehicles, etc</li> <li>• Much overlap</li> </ul>

12 Para taxis –types and ages of vehicles, special equipment, different acceptable means of gaining work?

Australian Capital Territory	New South Wales	Northern Territory	Queensland	South Australia	Tasmania	Victoria	Western Australia
<ul style="list-style-type: none"> <li>• Taxi age requirements apply to multicabs</li> <li>• No special requirements for equipment, etc</li> <li>• Multicabs may use mobile phones for bookings</li> <li>• PHCs may not ply for hire, must be pre-booked for point to point travel with a pre-arranged fare</li> </ul>	<ul style="list-style-type: none"> <li>• Vehicles are gazetted</li> <li>• No special equipment required</li> <li>• May not ply for hire or work from ranks, must be pre-booked</li> </ul>	<ul style="list-style-type: none"> <li>• No, must simply meet ADRs</li> <li>• No special equipment required</li> <li>• May not ply for hire or use ranks, may not be hailed and must be pre-booked</li> </ul>	<ul style="list-style-type: none"> <li>• Group A – Bentley, Rolls Royce, other vehicles approved by CE</li> <li>• Group B – BMW 7 series, Cadillac, Daimler, Mercedes S or E class, Lexus LS 400, other vehicles approved by CE</li> <li>• Group C – Ford Fairlane, LTD, Holden Statesman/Caprice, Volvo 960 and others approved by CE</li> <li>• No special requirements for equipment</li> <li>• Limousines may not be hailed, ply for hire or work ranks; must be pre-booked</li> </ul>	<ul style="list-style-type: none"> <li>• All Special Purpose Vehicles metro and traditional hire cars must have a wheel base at least 2800mm e.g. Statesman, Ford Fairlane, Mercedes SEL</li> <li>• Classic vehicles may be used, classified as SPV Special Purpose; SPV traditional has a 15 yr maximum age and 320,00 km limit; no entry age requirement but if age of vehicle is more than 6.5 yrs an age exemption is required; SPV- metro vehicles have a maximum entry age of 3.5 yrs and maximum age of 6.5 yrs, unlimited kms</li> </ul>	<ul style="list-style-type: none"> <li>• Vehicle ages are types are not included in legislation</li> <li>• No legal requirements for special equipment to be fitted although can be;</li> <li>• Para-taxis may not be hailed or use ranks, must be pre-booked, although they can operate through radio bases</li> </ul>	<ul style="list-style-type: none"> <li>• Fairlane, Statesman, with limit in metro area of 5 yrs, 8 yrs in country</li> <li>• LTD, Caprice with upper limit of 6 yrs in metro and 10 yrs in country</li> <li>• Stretched Fairlane, Statesman, Caprice, LTD with 12 yrs in metro and 15 yrs in country</li> <li>• Imported luxury vehicles range from 8 yrs in metro and 12 yrs in country to 25 or 30 yrs based on veh.</li> <li>• M50s required to carry fire extinguisher and wheelchair lifting, securing equipment</li> <li>• May not ply for hire, work ranks or be hailed</li> </ul>	<ul style="list-style-type: none"> <li>• Vehicles must pass a visual and mechanical inspection;</li> <li>• May not display identification that may misrepresent the vehicle as a taxi e.g. roof signs</li> <li>• No special equipment required</li> <li>• Charter is defined as not being publicly advertised, etc; this does not prohibit the licensee from advertising that the vehicle is generally available for hire; may not use taxi ranks or ply for hire</li> </ul>

## APPENDIX V

### References

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