

**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
COMPETITION COMMITTEE****Working Party No. 2 on Competition and Regulation****Taxi, ride-sourcing and ride-sharing services - Note by Canada****4 June 2018**

This document reproduces a written contribution from Canada submitted for Item 3 of the 65th meeting of Working Party No 2 on Competition and Regulation on 4 June 2018. More documents related to this discussion can be found at www.oecd.org/daf/competition/taxis-and-ride-sharing-services.htm

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Canada

1. Introduction

1. Canada's Competition Bureau (the "Bureau") is pleased to provide this submission to the Organisation for Economic Co-operation and Development ("OECD") Competition Committee Working Party No. 2 Roundtable on "taxis, ride-sourcing and ride-sharing services." The Bureau, headed by the Commissioner of Competition (the "Commissioner"), is an independent law enforcement agency of the Federal Government of Canada responsible for the administration and enforcement of the *Competition Act* (the "Act")¹ and certain other statutes. As part of its mandate, the Bureau participates in a wide range of activities to promote and advocate the benefits of a competitive marketplace.

2. Recognizing the need to advocate swiftly for fair competition and innovation in the marketplace, in November 2015, the Bureau published a White Paper (the "White Paper") calling for the renewal of Canada's taxi regulations to allow taxis and Transportation Network Companies ("TNCs") to compete on an even playing field.²

3. In the Bureau's view, municipal and provincial regulations governing the taxi industry need to be overhauled to ensure that taxis and ride-sharing services can compete equally. Key recommendations in the Bureau's White Paper include:

- Easing price controls, such as regulated taxi fares, to allow fares to be adjusted during periods of varying demand, such as weekends, evenings and bad weather.
- Eliminating restrictions on the number of taxi plates issued and moving to a system where additional qualified drivers may operate as vehicles-for-hire.
- Allowing all drivers to respond to street hails, regardless of whether they work for a taxi company or ride-sharing service, unless there is a compelling policy reason not to do so.
- Providing incentives to drivers to operate accessible vehicles in areas where consumers are under-served.

4. The Bureau's White Paper strongly promotes regulation that would allow TNCs to compete while relaxing the restrictions on traditional taxi services. Specifically, the paper recommends easing of the tight controls on fares and numbers of license plates permitted within the taxi industry and, where necessary, establishing regulations on TNCs.

5. By its direct impact on the development of regulations in municipalities across Canada, the White Paper illustrates the Bureau's commitment to respond quickly to market shifts for the sake of Canadian consumers and in support of fair competition and

¹ The Act is available online at: <http://laws-lois.justice.gc.ca/eng/acts/C-34/index.html>

² Providers of ride-sharing applications, which include companies such as Uber and Lyft, are generally referred to in U.S. jurisdictions as TNCs. TNCs form part of the sharing economy, in which peer-to-peer platforms connect people who own certain goods or skills (e.g. private vehicles) with those that wish to make use of them (e.g. passengers).

innovation. For example, the City of Ottawa's Report to Council³ regarding taxi industry regulation cited the Bureau's White Paper in numerous instances.

6. This submission contains excerpts from the White Paper that deal with regulation issues affecting taxi service markets. The full version of the White Paper can be accessed online at: <http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/04007.html>

2. Excerpts from 'Modernizing Regulation in the Canadian Taxi Industry'

2.1. Introduction

7. The source of the current friction in the Canadian taxi industry is the lack of an even playing field. Traditional taxi operators are constrained by regulations. In many jurisdictions, they cannot vary their prices in response to consumer demand. They must operate certain types of vehicles. Only a limited number of them can be on the road⁴. [...] But then you have new providers who do not follow similar rules.

8. Regulators need to allow the forces of competition to shape how the industry will move forward. This demands a re-think of existing regulations to provide an even playing field upon which ride providers can compete. Ultimately, regulations on taxis need to be relaxed, and regulations on new providers may need to be increased to ensure that legitimate policy objectives like public safety are met. What is central to this exercise is ensuring that regulations are no more intrusive than necessary, so the competitive forces can influence how the industry evolves and innovates.

2.2. Canada's Taxi Industry

9. Governments have traditionally regulated taxi services so that they are provided in a safe, predictable, and straightforward manner. To fulfil this public interest role, regulators generally create rules that govern taxi price levels, vehicle safety and insurance requirements, minimum quality standards for service, and entry restrictions in the form of limits on the number of taxi licences (also known as "plates" or "medallions") that are available within a jurisdiction.

10. Most municipalities do not issue new taxi plates every year, but rather conduct periodic reviews and issue them based on population growth or other policy considerations. While some taxi drivers may own their plate, others must rent from a taxi brokerage or other private party. In some cities, a substantial share of the available plates are held by owners who do not drive taxis themselves, but instead hold them for rental income or investment purposes.

11. When a limit is placed upon the number of taxis operating in a city, consumers of taxi services have fewer service providers from which to choose. This may lead to higher

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<http://app05.ottawa.ca/sirepub/cache/2/k1nd23pdcg15k45necy5npqi/35380304112018014051214.PDF>

⁴ Taxi owners also must pay for medallions (often at inflated "market" rates), insurance, and other costs not borne by TNCs.

prices⁵ and poorer quality of service, including long waiting times, unkempt cars, and unpleasant service from drivers. Taxis may be particularly difficult to obtain at certain times of high demand,⁶ including evenings and weekends, or periods of bad weather. Regulatory restrictions also reduce the incentives of taxi companies and drivers to find innovative ways to improve service for passengers. While municipalities have enacted regulations to address these difficulties, including prescribed rates and quality standards, the price and quality of taxi service has been the subject of numerous complaints from passengers over the years.⁷

12. Taxi companies and drivers have also worked to improve the quality of their offerings, ensuring cleaner vehicles and more timely and courteous service. They are, however, limited in their ability to compete with Transportation Network Companies (“TNCs”) on price, as they must charge prescribed rates set by regulation.

2.3. Principles for regulating transportation services

13. While TNCs provide a number of competitive benefits to consumers, they also raise legitimate regulatory issues. Taxi regulations play an important role in addressing market failures⁸ and ensuring the safe, orderly operation of ground transportation services and keeping drivers, passengers and the general public safe.

14. Regulations should not be designed or implemented in a manner that favours or protects certain industry participants over others in the absence of legitimate policy goals. Just as regulators should ensure that the regulatory burdens placed on TNCs are not excessively onerous and are strictly tied to achieving policy objectives, they should also consider whether regulatory frameworks governing traditional service providers are unduly burdensome or restrictive. When regulators contemplate how to resolve differences in the regulatory regimes that apply to different business models, they should first look at how the existing regulation can be overhauled, rather than solely imposing restrictions on new entrants.

⁵ For example, regulated rates are largely based on the average costs of operating a taxi. In this case, entry restrictions may allow more inefficient taxi operators to remain in the market, increasing the average cost and thus the regulated price.

⁶ City of Ottawa Taxi and Limousine Regulations and Service Review, “[Taxi Economics — Old and New](#)” (October 10, 2015), at page 5. See also City of Ottawa Taxi and Limousine Regulations and Service Review, “[Emerging Issues in the Taxi and Limousine Industry](#)” (October 22, 2015), (“Ottawa Taxi Review Emerging Issues”) at page 16.

⁷ See e.g. New York City Taxi & Limousine Commission, “[Taxi of Tomorrow Survey Results](#)” (February 2011).

⁸ “Market failure” refers to a situation in which free markets do not result in an efficient allocation of resources, resulting in a loss of economic and social welfare. Markets can fail for a variety of reasons, including the presence of a natural monopoly, large sunk costs, information asymmetries, and negative or positive externalities (where a private party’s production of goods or services leads to a cost or benefit for unrelated third parties). As an example in the taxi industry, there are information asymmetries between drivers and passengers, as passengers cannot reasonably assess how much insurance the driver has for his vehicle, or whether the vehicle is mechanically sound in all respects.

15. Regulations should be made and tested using empirical evidence wherever possible. Industry participants have an incentive to convince regulators to impose rules that favour and protect their own interests, rather than the public interest. To keep this process honest, regulators should demand and rely on empirical evidence to test the efficacy of any new regulation wherever possible. This evidence-based approach to regulation provides a more objective basis on which regulations should be imposed. Regulators should be able to demonstrate that a rule will have an intended result prior to implementation, and progress should be measured on an ongoing basis to assess whether the rule is having its intended consequence.

16. Particularly when considering industries that are subject to disruptive innovations and rapid change, regulators should continually question the effectiveness of current restrictions. Existing regulations may no longer be serving their intended purpose and may even stand in the way of desired changes, or may be overly burdensome compared to less intrusive alternatives. Using sunset clauses⁹ may help ensure that regulations are revisited once sufficient time has passed and data have been gathered to evaluate outcomes. At the same time, regulators should ensure that they allow appropriate time to pass between reviews.\

2.4. Avoiding overregulation of TNCs and taxis

17. The Bureau urges regulators to take a less intrusive and more balanced approach when designing and implementing regulations for transportation services, including regulations pertaining to the following issues¹⁰:

- Public safety and consumer protection;
- Quality of service;
- Licensing and training;
- Limits on street hails;
- Price controls;
- Entry restrictions; and
- Accessibility.

18. Regulators may find that designing minimally-intrusive regulations results in similar outcomes for both traditional taxis and TNCs. In such cases, regulators may consider designating both under a single classification, such as vehicles-for-hire, and subject them to the same oversight. If regulators determine instead that there are significant differences between TNCs and taxis, such that different rules are needed to achieve desired policy outcomes, they should design these rules to be no broader than necessary so that passengers will still enjoy the benefits of competition between TNCs and taxis.

⁹ A sunset clause refers to a provision in a statute or regulation to the effect that it will automatically expire by a particular date, unless it is extended by legislative action.

¹⁰ A discussion on each of these issues can be accessed in the full paper at: <http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/04007.html#sec05>

3. Conclusion

19. Competition should be an essential guiding principle in the design and implementation of regulations. Greater competition benefits consumers in terms of lower prices, higher quality of service, increased consumer convenience, and higher levels of innovation.

20. Competition is an effective means to ensure that consumers have access to the broadest range of products and services at the most competitive prices. Regulatory limits on competition should be based on the best available data, be designed to address legitimate policy concerns, and be no broader than what is reasonably necessary to mitigate those concerns. Regulations should also be subject to regular review to ensure that they are still responsive to market conditions and are still achieving policy outcomes.

4. Next Steps

21. The Bureau will continue to promote thoughtful regulation that addresses legitimate policy concerns. We will also continue to advocate that good public policy favours the public interest rather than any one company, individual or industry.