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**DIRECTORATE FOR FINANCIAL, FISCAL AND ENTERPRISE AFFAIRS  
COMMITTEE ON COMPETITION LAW AND POLICY**

**Working Party No. 2 on Competition and Regulation**

**REGULATION AND COMPETITION ISSUES IN ROAD TRANSPORT**

**-- Ireland --**

*This note is submitted by the Delegation of Ireland to the Working Party No. 2 FOR DISCUSSION at its next meeting on 27 October 2000.*

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## REGULATION AND COMPETITION ISSUES IN ROAD TRANSPORT

### Ireland

#### Road Freight Services

##### *The Regulatory Regime*

1.1 Road freight was, until the mid-1980s, subject to considerable restrictions. The Road Transport Act (1933) restricted the operation of road freight for reward, other than in small areas adjoining the major towns and cities, to persons providing such services prior the passage of the legislation. The Act also provided for the acquisition, by compulsory purchase orders if necessary, by railway companies of such hauliers. The Act was specifically designed to restrict competition in order to protect the railways.

1. Partial liberalisation of road freight began in 1971. Opposition from license holders delayed full liberalisation for more than a decade. The Road Transport Act (1986) provided for the replacement of existing carriers licenses, restricted road freight and road freight certificates by a new Carriers' Licence. The new licenses have no restrictions as to their area of operation, the type of goods carried and the number of vehicles which can be operated by a license holder. The new licenses were phased in over a two-year period with full liberalisation from 30<sup>th</sup> of September 1988. The number of licensed hauliers increased from 766 in 1985 to 4208 today.

2. Only operators wishing to engage in hire and reward are required to obtain a license, own account operators are not. Responsibility for aspects of the own account and hire and reward is split between the Department of Public Enterprise and the Department of Environment and Local Government. Within the Department of Public Enterprise the Road Haulage Division is responsible for road freight services and it operates at departmental level reporting to the Minister for Public Enterprise. The broad objective of the Road Haulage Division is to ensure regulatory compliance. Within the Department of Environment the Vehicle Standards Section deals with policy matters relating to all vehicles not just road haulage, it has a staff of seven and reports to the Minister for The Environment.

3. The sector database on licensed operators, held by the Department of Public Enterprise, is confined to the hire and reward sub-sector reflecting the current regulatory set up. Of significance is the fact that own account operators are not required to specify the nature of their business when registering vehicles. Thus, there is no check at the time of registration of whether such vehicles may be involved in unlicensed hire and reward actives. Another feature of the Irish regulatory system is that the consignors are responsible in law for ensuring that the hauliers are licensed but they are not responsible for overweight vehicles.

4. There has been significant investment by commercial semi-state bodies in aspects of the road haulage sector. In general, the market does not see competition from the semi-states as a threat, though this may no be the case in some market sub-sections. Irish Rail operates an express parcel services, a container service and a road freight service. An Post (The Post Office) operates an express parcel service.

5. The most important industry associations are The Irish Road Haulage Association, The Institute of Freight Forwarders, and the Chartered Institute of Transport in Ireland.

*1.2* The only recent regulatory development in this sector is the recent publication by the Department of Public Enterprise of a strategic review of the Irish road haulage industry, "A Strategy for the Successful Development of the Irish Road Haulage Industry". Amongst the recommendations made is a proposal to change the legal/regulatory/policy environment. While researching the report two aspects of the industry were raised again and again. One is the belief that there are a significant number of unlicensed hauliers who are engaged in hire and reward. Secondly, there is a widely held belief that non-compliance with weight restrictions is extensive. Both issues have implications for the credibility of regulation and for competition.

*1.3* Any organisation wishing to carry goods for hire or reward in a vehicle or combination of vehicles the maximum authorised weight of which is in excess of 3.5 tonnes must obtain a "Road Freight Carrier's License". If the organisation only engages in own account haulage a Carrier's License is not needed. A national road freight carrier's license entitles one to carry on a haulage business within the State only. This type of license lasts for five years and currently costs IR£55 (69.84 euros) plus IR£75 (95.23 euros) per truck. In addition, the organisation transport manager must have a certificate in professional competence. These licenses are not transferable.

6. An international road freight carrier's license comes with a Community Authorisation and a certified copy of the authorisation for each truck. International Licenses and Community Authorisation are issued for five years and currently IR£55 (69.84 euros) costs plus IR180 (228.60 euros) per truck. In addition, the organisation transport manager must have an international certificate in professional competence. These licenses are not transferable.

7. Applicants for a carrier's license must (a) be of good repute (b) satisfy professional competence and (c) be of appropriate financial standing. These are EC requirements and they must be satisfied at all times during the currency of the Carrier's License. Failure to satisfy any or all of the conditions can lead to the revocation or suspension of a Carrier's License.

*1.4* Other than the above conditions the market is relatively deregulated. The quantity of licenses is not limited, the Road Haulage Division does not take into account need or demand before granting licenses and incumbents have no role in the decision making process with regard to new licenses. No restrictions are placed on the provision of new services by incumbents or on the routes they can service. Furthermore, there are no constraints on the withdrawal from the provision of services by a license holder.

*1.5 & 1.6* There are no limits on the price or the quality of the service provided by hauliers. And there are no controls on foreign ownership of road freight companies. Nor are there controls over the provision of services in Ireland by foreign hauliers. We have no comments on the necessity to harmonise international regulations

## **Market Outcomes**

*1.7* The Competition Authority has not undertaken an examination of the road haulage sector. The Department of Public Enterprise's strategy document concluded that the Irish road haulage industry is operating in an environment that is characterised by a very competitive market with resultant pressure on margins. The reflect demand and supply side factors.

On the demand side:

- "Time" has become a critical issue in the management of organisations and places ever increasing demands on hauliers for improved response times
- Increased product ranges and product differentiation are leading to smaller and smaller shipments and higher frequency of deliveries.
- Rationalisation of the logistic chain and the need for specialist logistic services are also squeezing hauliers.

On the supply side:

- The ease of entry into the market reflects national and international deregulation, this one factor is of fundamental importance in understanding the competitive nature of this market.
- The Irish road haulage sector faces intense competition due from Northern Ireland based hauliers.
- Licensed hauliers in Ireland face competitive pressure from non-licensed/illegal hauliers.

8. These factors have resulted in a situation where freight charges are seen to have remained static despite the fact that input costs are on the rise. This would suggest that liberalisation of the market has created pressure towards greater efficiencies and eliminated monopoly rents.

9. There has been significant investment by commercial semi-state bodies in aspects of the road haulage sector. In general, most of the market does not see competition from the semi-states as a threat, but this may not be the case in some market sub-sections. It has been noted that this involvement ought to operate on a strictly commercial basis and measures are put in place to ensure that there is no cross subsidisation.

1.8 The road haulage market in Ireland was fully deregulated in 1991 and greater competition in the road haulage market followed as a natural consequence. Currently there are approx. 4000-licensed road hauliers in operation in the Irish market, in many cases operators may have only truck on the road. As was noted earlier the impact of deregulation was to improve the level of competition in the market to such an extent that price have remained static despite hauliers experiencing a rise in costs. Unfortunately, no records are kept on the impact of deregulation upon the share of own account transport or on the modal share of road transport compared with rail.

Number of licensed hauliers:

1985	1988	2000
766	1302	4208

10. The Central Statistics Office carried out the most recent Road Freight Transport Survey in 1994. At that time it was estimated that 84,587 tonnes of goods were move by road in 1994, with goods vehicles travelling an estimated 829 million kilometres. Total activity in terms of tonne-kilometres (the quantity of work done) was estimated at 5,258 million which corresponds to an estimated 6,410 thousand loaded journeys. Vehicles owned by Transport undertakings carried out 61% of activity in this sector measured in tonnes-kilometres. Alternatively one could consider the main use of vehicles classification which showed

that vehicles used mainly for own account carriage accounted for 35 % of tonne-kilometres. This measure is independent of the business of the owner of the vehicle. Looking at the analysis of length of haul it would appear that 46 % of tonnes carried in 1994 were on trips on less than 25 kilometres. Trips over 150 kilometres accounted for almost 10% of the total tonnes carried.

Length of Haul	Tonnes Carried 000's	Tonnes Carried %
Up to 10 km	16,846	19.9
11 – 25 km	22,214	26.3
26 – 50 km	17,190	20.3
51 – 150 km	20,027	23.7
151 – 500 km	7,620	9.0
Over 500 km	689	0.8
Total	84,587	100

11. Information is also provided on the unladen weight of vehicles. Goods vehicles in the 10 –12.5 tonnes unladen weight category carried out approximately 49 % of total activity.

Unladen Weight	Tonnes-Km Million	Tonnes-Km %
2 - 5 tonnes	337	6.4
5 - 7.5 tonnes	621	11.8
7.5 – 10 tonnes	903	17.2
10 – 12.5 tonnes	2,553	48.6
12.5 tonnes and over	845	16.1
Total	5,258	100

### ***Competition Law Enforcement***

*1.9 & 1.10* In Ireland competition law applies to the road freight sector without exemption. As with other sectors in the Irish economy the Competition Authority enforces competition law. The Road Haulage Division in conjunction with the Irish police force enforces sectoral rules. The two bodies are unrelated, as their roles do not overlap. The Competition Authority has yet to consider a merger in this sector which is not surprising given the number of licensed hauliers.

*1.11* The only case concerning this sector was in May 1997. The Director of Competition Enforcement began an investigation into a possible cartel in the road haulage industry following complaints that the Irish Road Haulage Association (IRHA) had written to various firms indicating that the IRHA members had agreed minimum rates for the transport of freight to and from Dublin Port and would not provide services to any customer at rates below these levels. On foot of this the Authority officers carried out a search of the IRHA offices on the 22<sup>nd</sup> of May 1997. In early June 1997 a large number of hauliers began a blockading sections of Dublin Port. The Authority applied for an ex parte injunction against the IRHA and a number of individual hauliers on the 6<sup>th</sup> of June 1997, because it believed that the blockade was intended to secure customers' agreement to the proposed rates. An injunction was granted and was subsequently lifted when the defendants gave undertakings not to engage in any further blockade, pending a full hearing of the case.

12. The Authority's case against the IRHA and other defendants began in the High Court on 20<sup>th</sup> of October 1998. The action was settled on the 27<sup>th</sup> of October 1998 when the defendants agreed to a Court declaration that they had engaged in a concerted practice to fix prices for road haulage services to and from Dublin Port between January and June of 1997. The defendants also gave undertakings to the court that they would not engage in price fixing contrary to Section 4 (1) of the Competition Act and they would not engage in the blockading of Dublin Port and the surrounding areas in order to achieve any increase in process for haulage services. The IRHA also agreed to an order for costs in favour of the Authority.

1.12 We have no experience of abuse of dominance cases in this sector, nor have we experienced cases of predatory pricing. We have not required access to an essential facility in this sector. Again, this is not surprising given the number of licensed hauliers in operation.

## **Road Passenger Services in Ireland: Municipal Bus Services and Inter-city Bus Services**

### ***The Regulatory Regime***

1.1 & 1.2 The Road Transport Act of 1932 is the main piece of legislation governing the regulation of bus services in the State. The Act provides for the control and regulation of bus services and created a monopoly for the State owned transport companies. The 1932 Act was designed primarily to protect the railways. In the six years following the passage of the 1932 Act 1,098 independent bus companies were eliminated, mainly by compulsory acquisition powers contained in the Act.

13. The Road Transport Act of 1950 amalgamated the railways companies and most of the remaining bus companies operating within the State into a single state sponsored company Coras Iompar Éireann (CIÉ). In 1986 CIÉ was restructured as a holding company with three subsidiary companies which operate transport services. The three CIÉ operating companies are:

- Iarnród Éireann (Irish Rail). Irish Rail is responsible for rail services through out the state.
- Bus Éireann (Irish Bus). Irish Bus operates inter-city bus services and municipal bus services in a number of cities except Dublin.
- Bus Átha Cliath (Dublin Bus). Dublin Bus operates bus services in the Greater Dublin Area.

14. Bus Eireann and Bus Atha Cliath are the dominant bus operators in the State. As CIÉ is fully owned by the State, the State is currently an indirect owner of Bus Eireann and Bus Atha Cliath. CIÉ is mandated with providing a universal transport service but it has the discretion to decide what level of service is required and where. CIÉ uses its protected position on profitable routes to generate revenues with which to cross subsidise non-commercial routes. At present Dublin Bus and Irish Bus cannot compete for business in each other's territory as they are prevented from doing so under the 1986 Transport Act.

15. CIÉ falls under the aegis of the Public Transport (Operations) Division within the Department of Public Enterprise and is answerable to the Minister for Public Enterprise. The broad objective of the Public Transport (Operations) Division is to implement policy relating to the road passenger transport market.

16. Under the Transport Act 1986, Dublin Bus is charged with providing ‘a passenger service by road for the city and county of Dublin and contiguous areas’. Generally speaking, the Dublin Bus zone correlates to the metropolitan area as defined in the Strategic Planning Guidelines for the Greater Dublin Area (essentially the built up area of the GDA). However there are some exceptions where Dublin Bus provides service outside that area. CIÉ does not require a licence under the 1932 Road Transport Act to provide its services.

17. The Road Transport Act of 1932 requires the Minister for Public Enterprise, in considering an application for a licence, to have regard to whether the proposed bus service “is required in the public interest having regard to the passenger road services and other forms of passenger transport available to the public on or in the neighbourhood of the route of the proposed service.” The Act does not prohibit the Minister from licensing transport operators other than Dublin Bus and Irish Bus to provide bus services both within and outside Dublin. In practice, however, it has been presumed that Dublin Bus provides an adequate service in the metropolitan area and Dublin Bus therefore operates a de facto monopoly in the provision of bus services. Only seven private operators currently hold valid licences for routes in the Dublin Bus zone.

18. Outside the Dublin Bus zone but within the GDA, Irish Bus provides services on a number of commuter routes. However, there are also a few instances where Irish Bus provides services on routes which would normally be considered to be part of the Dublin Bus network. Like Dublin Bus, Irish Bus does not require a licence to operate its services. Only ten private operators have been licensed in this part of the GDA, which means that Irish Bus effectively enjoys an effective monopoly in this area.

19. At present the DOPE is considering issuing further licences under the Road Transport Act 1932. Under the new approach, if an application is made for a route in the GDA which is in line with the network recommended by the Bus Network Review and which is not currently being serviced by either Dublin Bus or Irish Bus or a licences operator, then that license may be granted. Licences are to be restricted to one operator per route.

1.3 In general a “Road Passenger Transport Operator’s Licence” is required to carry passengers by road for hire or reward in vehicles that carry more than nine persons including the driver. Exemptions are made for schools, voluntary organisations and the like. Carriers who operate exclusively within the State need a national license while those who wish to carry passengers abroad must hold a community license. Applicants must (a) be of good repute, (b) satisfy the requirement of professional competence and (c) be of appropriate financial standing. A fee of IR£80 (€101.60) is charged per license application. CIÉ is exempt from the licensing procedure. The conditions governing this sector are, in the main, set out in the Road Transport Act 1932. There is no limit on the quantity of licenses. Need is taken into account before granting a license. There is no time limit within which a license must be granted or denied. The incumbent has an indirect role to play in the decision making process that leads to new entry as a license will not be granted for a route if the incumbent already services the route. Regarding inter-city bus services, if the proposed route is scheduled an hour or more away from the existing Irish Bus service the license will be granted. This is of concern as it puts Irish Bus in a position to block entry. Irish Bus has no input when the DOPE considers routes not serviced by Irish Bus. A separate license is required for each route but there is no limit on the number of licenses an organisation can hold. Licenses are non-transferable and restricted to individuals/organisations. Under the Road Transport Act 1932 constraints may be imposed on organisational form and operational form (terminal points, frequency, daily duration, number of vehicles, etc.) of the firm which holds the license. All licenses are issued and renewable annually. The 1932 Act does draw a distinction between scheduled and occasional services. An occasional service is defined as “a passenger road service which is carried on only one or more specified occasions”. Scheduled services require a license for each given route whereas occasional services only require a single license for a

number of specified services. This loophole in the main legislation has allowed for the formation of travel club which enable service providers to side step the 1932 Act. Given that Dublin Bus and Irish Bus are both owned by CIE co-ordination of services is achieved within the organisation.

1.4 The primary restriction on the provision of new services is that all organisations bar Irish Bus and Dublin Bus must seek a license for a new service. A license will be refused/granted on the following grounds:

- a) Where the Minister considers the proposed service to be inefficient with due regard to the requirements of the public.
- b) Where the Minister considers the existing service is not sufficient to meet the requirements of the public. ("Need" is taken in to account).
- c) Where the Minister considers the organisation making the proposal is not able to meet the conditions of the license.

20. Given that the 1932 Act allows the Minister to attach conditions to a license the quantity of services may be limited. Furthermore, the quantity of licenses may be limited. The incumbent does not have role to play in the decision making process that leads to the granting of a new license bar the one hour rule. No time limits are attached to the decision making process. The other provisions controlled by licenses are as outlined above. The license holder has no flexibility to change the service once a license is granted. There are no constraints on the withdrawal of services.

1.5 The primary regulatory controls on price and/or quantity of services are set out in the 1932 Act. The Minister may impose conditions with respect to "the frequency of a service including variations of such frequency on different days or at different periods of the same day" and "the daily duration of services". The Act also allows the Minister to impose a scale of maximum charges (a price ceiling). The DOPE must approve price changes. No other body has a role in the setting of prices. CIÉ has a virtual monopoly in the provision of bus services within the GDA and is dominant in the provision of bus services in the state. In the past competition was restricted as there was a presumption that once CIÉ serviced a route it was serviced efficiently. Today the situation is different, as that same presumption is no longer made as licenses may be granted on routes serviced by CIÉ. That said, there have only been a few licenses issued to date. CIÉ is subsidised by the State.

1.6 The primary controls on international trade in passenger services are as per domestic services. There are no controls on the foreign ownership of road passenger companies. The same conditions apply as per domestic operators. We have no comments on the need or otherwise to harmonize international regulations.

#### ***Market Outcomes: Municipal Bus Services***

21. The model currently applied in the GDA and other municipal areas of the State is that of a regulated monopoly, where a publicly owned company is charged with the effective operation of the entire system in each of the two market zones described. The only forms of competitive pressure are indirect i.e. each company can either compare its current performance with its past performance or it can benchmark itself with other bus operators. (No evidence has been presented that either Irish Bus or Dublin Bus has ever benchmarked its own operations vis-à-vis its sister company.) In any case, these forms of competitive pressures, being less direct, are less likely to incentives optimum efficiency.

22. Given that the overwhelming majority of public transport services in the GDA are provided by the three CIÉ operating subsidiaries, one would expect a high level of integration between the various services. Unfortunately, apart from some level of integration between Dublin Bus and Irish Rail, considerable scope remains for further co-ordination of services.

23. A recent DOPE document "Regulation of the Bus Market in the Greater Dublin Area" sets out the Department's vision for the future regulation of municipal bus services in Ireland, not just in the Dublin area. The report favours competitive tendering/franchising. This is defined as "limited competition" where the public authorities define the public transport service to be delivered and invite tenders for its provision by operators tendering on an equal basis. The winning tenderer will either make a payment to the State to operate the specified bus service on an exclusive basis or receive a subvention. Contracts or franchises grant exclusive rights for particular routes or geographic areas to the winning candidate and the contracts are for a fixed duration. Additionally, it will be important to ensure that any statutory restrictions, which unnecessarily inhibit the area of operation of the State-owned companies, are removed, once all operators compete for tenders on an equal basis.

24. At present, Dublin Bus and Irish Bus have a de facto monopoly in respect of municipal bus services in Dublin and other major cities. It may be that indeed providing the best possible service in exchange for the level of subsidy available. However, as the current model permits little or no competitive pressure to apply, it is very difficult for policy-makers to feel confident that this is indeed the case. Doubtless this situation is reflective of other municipal area in the State

1.7 & 1.8 The market is a de facto monopoly. The linkages between the firms active in this market and related markets have been set out above. There are no limitations on foreign ownership of licenses. There may be limits on the number of vehicles a firm can operate on a given route. Only modest liberalisation has been undertaken in the past ten years.

### **Market Outcomes: Inter-city Bus Services**

1.7 The situation in respect of inter-city bus services is rather different to that for municipal bus services. Irish Bus faces competition from only ten licensed small operators. However, this ignores unlicensed travel clubs who can compete effectively against Irish Bus on a large number of routes. It is accepted that private bus operators and travel clubs generally charge much lower fares than CIÉ. Since the 1980s private bus operators, taking advantage of the legal loophole, have emerged to provide growing competition for Irish Bus on long distance services. Today there are many private bus operators offering multiple daily services to and from Dublin, and linking regional centres with one another. No information is kept on market shares. Nevertheless, revealing data is kept on passenger journeys and the number of buses in operation.

Year	Passenger Journeys on Long Distance Scheduled Services <sup>1</sup> (000's)	Total Number of Buses Licensed
1987	43,879	3,519
1988	42,524	3,701
1989	43,060	3,834
1990	43,206	4,047
1991	43,860	4,388
1992	44,434	4,557

<sup>1</sup> This data includes only those travelling on Irish Bus and licensed operators services.

1993	44,618	4,835
1994	45,120	4,974
1995	44,452	5,267
1996	44,125	5,522
1997	43,189	5,842

Source: Statistical Abstract 1992 and 1998/9 by the Central Statistics Office of Ireland.

25. It is clear from the above table that since 1987 the number of passenger trips on long distance schedule service has remained fairly constant but the number of buses in service has actually increased. This is reflective of a growth in private sector operators offering non-scheduled (i.e. travel club) services in direct competition with Irish Bus as the above passenger number do not take into account travel clubs. More revealing still is the dramatic increase in the number of buses in operation with a seating capacity between 21 - 26 and 27 – 32. The number of buses in this category has mushroomed since 1987. Both Irish Bus and Dublin Bus have almost 900 buses each indicating that there are approximately 4,000 buses outside the CIÉ network. Taking the 1997 data it can be seen that there are almost 1,800 buses in operation with a capacity in excess of 21 passengers, an increase of 1,000 in ten years. It can be safely assumed that the vast majority of these additional 1,000 non-CIÉ buses are operating in the non-scheduled (i.e. travel club) services sector.

Year	Capacity 9-14	Capacity 15-20	Capacity 21-26	Capacity 27-32	Capacity Over 32	Total
1987	630	340	77	70	2,402	3,519
1988	717	422	101	61	2,400	3,701
1989	746	496	134	81	2,377	3,834
1990	788	559	168	94	2,438	4,047
1991	868	684	226	108	2,502	4,388
1992	901	772	374	112	2,498	4,557
1993	954	856	339	121	2,565	4,835
1994	945	877	440	129	2,583	4,974
1995	1,030	967	509	174	2,587	5,267
1996	1,049	1,043	587	181	2,662	5,522
1997	1,092	1,175	636	221	2,718	5,842

Source: Statistical Abstract 1992 and 1998/9 by the Central Statistics Office of Ireland.

1.8 Only modest liberalisation has been undertaken in the past ten years. However, a recent policy document from the Department of Public Enterprise set out the Government's vision for public transport. It is proposed that the public transport market will be opened up to private participation as a way of better exposing it to market forces, improving quality and efficiency, increasing attention to customer requirements and reducing the cost of service provision. Furthermore, financial support from the state will be provided on a contractual basis, specifying the payments to be made for a defined quantity and quality of service. Such contracts will be awarded by competitive tender wherever possible ensuring better transparency and allocation of resources.

### ***Competition Law Enforcement: Municipal Bus Services and Inter-city Bus Services***

1.9 & 1.10 Competition law does apply to the bus services sector but the licensing regime as per the Road Transport Act 1932 is exempt. As with other sectors in the Irish economy the Competition Authority enforces competition law. The Public Transport (Operations) Division of the DOPE enforces sectoral rules. The two bodies are unrelated, as their roles do not overlap. The Competition Authority has yet to consider a merger or concentrations in this sector.

1.11 & 1.12 Authority has not addressed concerns over horizontal arrangements or collusive tendering in this sector. A complaint has been made to the Competition Authority regarding abuse of dominance in this sector. The complaint is still with the Authority.

## **Public Services Vehicles (Taxis and Hackneys) in Ireland**

### ***Regulatory regime***

1.1 The Department of the Environment and Local Government (Central Government) has responsibility for developing policies relating to public service vehicle (taxis, limousines and hackneys) regulation. The local (licensing) authorities (Local Government) have responsibility for implementing such policies. The main industry associations are the National Taxi Drivers Union, The Irish Taxi Drivers Federation, SIPTU, the National Hackney Drivers Association and the Irish Cab Drivers Association. There is no ownership interest in firms providing taxi/hackney services by either national, state, regional or local government.

1.2 The Minister for the Environment and Local Government has always exercised overall responsibility for policy on small public service vehicles. From 1933 until 1978 the Garda (Police) Commissioner dealt with most aspects of the public service vehicle licensing system in accordance with the provisions of Part VII of the Road Traffic Act, 1933 or regulations made by the Minister under the Road Traffic Acts, 1961 and 1968.

26. In 1978, responsibility for deciding the number of taxis to be licensed in taximeter areas was vested in local authorities, who were given discretion as to the numbers of new taxi licences to be authorised. Prior to that no restrictions were applied to taxi licence numbers. By the early 1990's almost no new taxi licences had been issued by local authorities under the system.

27. In 1991, the then Minister decided to suspend the empowerment to Dublin Corporation to determine the number of new public hire vehicle licences which could be granted in the Dublin taximeter area. The Minister ordered that 200 new licences were to be granted. A criterion was introduced to be used by The Garda Síochána (the Irish Police Force) for the purpose of assessing applications made for the grant of those licences, and any licences to be granted in respect of other taximeter areas. This initiative saw the end of the open lottery system. It was also an attempt to give priority to drivers or those currently employed in the taxi business (other than holders of existing taxi licences).

28. In September 1995, Regulations (S.I. No. 136 of 1995) were made by the Minister which provided for the devolution back to local authorities of all the significant functions relating to the licensing of taxis, wheelchair accessible taxis and hackneys including:

- the grant and renewal of all licences,
- the creation of new taximeter areas and the alteration of the boundaries of existing taximeter areas,
- the determination of the number of taxis to be licensed in a taximeter area,
- decisions in relation to the maximum fares which may be charged by taxis and the fees to be paid for all licences,

- decisions not to issue hackney licences (moratorium)

29. Local authorities are responsible for determining the number of taxi and wheelchair accessible taxi licences which may be granted in their functional area, for monitoring the adequacy of the taxi service in their areas and for deciding on action to ensure that the demand for these services is adequately met.

30. Later a specific recommendation regarding identification of hackneys followed, some means of identifying hackneys was necessary to allow The Garda Síochána to enforce the public service vehicles (PSV) regulations in regard to hackney but also to act as a security measure for the identification of licensed hackneys by the general public.

31. The revised Action Programme for the Millennium made an explicit commitment to improving the Dublin taxi service through the introduction of measures to increase the number of taxi licences in Dublin as quickly as possible in order to ensure a better balance between supply and demand in the market. The Government determined that a sufficient number of new taxi licences should, as soon as possible, be issued to make good supply shortages in the Dublin taxi service. The proposed measures involve the offer of one additional taxi or wheelchair accessible taxi licence to each individual who held a licence at end 1999, as well as 500 further licences to be granted to applicants.

32. Court proceedings were initiated by a number of individuals in relation to the Government decision and a number of provisions contained in the PSV regulations. The Court has also granted an interim injunction preventing Dublin Corporation and Dundalk Urban District Council from granting taxi licences. Further implementation of the Government decision must await the outcome of the Court proceedings.

*1.3* The Road Traffic (Public Service Vehicle) Regulations, 1963 to 2000 provide for both the licensing of public service vehicles and of their drivers. Public service vehicles are divided into small public service vehicles (i.e. taxis and hackneys), which have seating accommodation for not more than eight persons excluding the driver, and large public service vehicles, which have seating accommodation for more than eight persons exclusive of the driver.

33. Local authorities are responsible for the granting of small PSV licences and the Gardaí are responsible for the granting of large PSV licences. A licence to drive public service vehicles, which apply in respect of small public service vehicles only, is granted by the Garda Commissioner.

34. Local authorities are also responsible for determining the number of taxi and wheelchair accessible taxi licences which may be granted in their functional area, for monitoring the adequacy of the taxi service in their areas and for deciding on action to ensure that the demand for these services is adequately met.

35. In the above regard they must publish a newspaper notice annually which includes a statement that they are satisfied that the number of taxis and wheelchair accessible taxis is adequate to meet all reasonable demands for such services or a statement of the action proposed to be taken by them to ensure that the demand for those services is adequately met. Operators in the market do not have any official role to play in the decision making process that leads to new entry. A separate licence is required for the operation of taxis, wheelchair accessible taxis, hackneys and limousines. There are no limitations on the number of licences which an individual or company can hold. Licences may be issued to individuals or firms and taxi licences are transferable. However, the transfer of such licences is only permitted within the taximeter area for which that licence was issued. The validity of taxi/wheelchair taxi/hackney/limousine licences is limited in time.

1.4 The primary regulatory restrictions on the provision of new services are contained in the Road Traffic (Public Service Vehicle) Regulations, 1963 to 2000 and the Road Traffic (Construction, Equipment and Use of Vehicles) Regulations 1963 to 1998.

36. In taximeter areas local authorities are empowered to make determinations in relation to the number of new taxi licences which could be granted, amend the licence fees and taxi fares set out in the Regulations, impose conditions on the operation of hackneys and at their discretion to apply a moratorium in relation to the grant of hackney licences. The regulations also provided that hackney licences could not be transferred. Local Authorities are required to publish an annual report on the operation of the 1995 Regulations which must include a statement that the authority is satisfied that the number of taxis and wheelchair taxis is adequate to meet all reasonable demands for such services.

37. In the context of certain functions, the Regulations require a licensing authority to consult with any other local authority whose area is included wholly or partly in the taximeter area. The functions concerned are the declaration of a taximeter area or the alteration of an existing taximeter area and the making of a determination for the grant of new taxi licences. In the case of an alteration to a taximeter area the agreement of the other local authority or authorities must be obtained.

1.5 At present, the taxi fare structure in Dublin is based on the single hire concept. The PSV Regulations provide that an individual "hirer" hires a taxi and that the taxi driver must, subject to certain conditions, comply with the instructions of the hirer (S.I. No. 191 of 1963 as amended by S.I. No. 273 of 1968). In addition, the fare structure is based on the fact that a single person hires the taxi and that additional charges are applied where extra passengers are carried (article 27 of S.I. No. 136 of 1995). However, local authorities are empowered to amend that structure. The maximum fares for taxi operations in Cork, Dublin, Galway and Limerick are set out in the Regulations. The fare is calculated by the time whenever the vehicle is standing or is travelling at not more than 7.5 miles per hour. The fare is calculated by distance whenever the vehicle is travelling at more than 7.5 miles per hour. Extra payments include; additional passengers, luggage, animals, unsociable hours, public holidays, pick-up-charge and a separate pick-up-charge when hiring is initiated at Dublin Airport.

38. Proposals by the two main taxi representative groups to introduce a taxi-sharing scheme in Dublin over the last Christmas period were not proceeded with. The report of the Dublin Taxi Forum, on which both of the organisations were represented, recommends that the Minister for the Environment and Local Government would consider amending existing regulations to allow for shared taxis. This work will proceed, inter alia in consultation with taxi groups. However, it involves relatively complex issues of personal safety, pricing, need to continue to accommodate single hiring, etc.

39. The criteria for determining the need for new licences are as follows:

- The number of vehicles under current licence as taxis and wheelchair accessible taxis in the specified area.
- The number of hackneys under current licences in the specified area.
- The size of the specified area to be served by taxis and wheelchair accessible taxis.
- Population of the specified area and the contiguous areas with an indication of the growth rate.

- Views expressed by public, by tourist and other interests and operators.
- The level of service available from appointed stands, both generally and at times of peak demand, bearing in mind that service can at any time be conditioned by weather and traffic conditions.
- Regular shortfalls in service at particular times or on particular occasions (e.g. race meetings, festivals, local functions etc.) having regard to the location of appointed stands.
- Tourist promotion.
- The availability of other forms of public transport.

1.6 There are no controls on international trade in PSV services. The same regulations apply to both domestic and foreign owned PSV companies. We have no comments on the need or otherwise to harmonise international regulations regarding PSV's.

### ***Market Outcomes***

1.7 The PSV market in Ireland is very fragmented with no firm holding a dominant position. No information is kept on the market share. That said, a clear indication that the supply of taxis is totally inadequate is the high price paid for the transfer of existing taxi licenses, which reportedly change hand for as much as £80,000 in Dublin. The high price for taxi license indicates that the business is divided up between a smaller number of suppliers than would be the case in a more competitive environment. In effect, taxi services are rationed and this manifests itself in consumers having to spend a long time waiting and, on occasions, not being able to obtain a taxi. It may be that individuals in the taxi trade are able to secure some share of the monopoly profits to be earned as a result of the restriction on competition. It seems more likely, however, that most of the gains would accrue to those individuals selling taxi licenses who have seen the capital value of the license rise over time as the demand for taxi services exceeded supply. In addition, the failure to increase taxi numbers has resulted in an on-going shortage of taxis at peak times and has led to friction between taxi and hackney drivers, as the latter have sought to take advantage of the shortage in taxi number by offering competing services. Legally, hackneys cannot ply for hire, operate from taxi ranks or use telephone or radio in vehicles to initiate or facilitate a hire while the vehicle is in a public place. In practice, many hackneys appear to operate freely in a number of taximeter areas in direct competition with taxis. The hire is initiated by way of either a personal or telephone call to the base, while the vehicle remains parked on private property close by. Taxis and hackneys are in direct competition with one another, indicating that it may be time to abolish the distinction between them.

40. There are no linkages between the firms active in this sector and firms active in related sectors. There are no limits on the number of vehicles a firm can operate outside of the regulations outlined above.

1.8 The liberalisation that was envisaged in the Action Programme for the Millennium sought to ensure a better balance between supply and demand in the market. However the court proceedings, which were initiated following the change in the PSV regulations, has stymied the liberalisation process.

***Competition Enforcement***

*1.9 & 1.10* Competition law does apply to the PSV sector but the regulatory regime is exempt. As with other sectors in the Irish economy the Competition Authority enforces competition law. The Road Traffic Section of the Dept. in association with the relevant local authorities of the Environment and Local Government enforce sectoral rules. The bodies are unrelated, as their roles do not overlap. The Competition Authority has yet to consider a merger or concentrations in this sector.

*1.11 & 1.12* Authority has not addressed concerns over horizontal arrangements or collusive tendering in this sector. Two complaints have been made to the Competition Authority regarding abuse of dominance in this sector. The complaints are still with the Authority.