THE AUSTRALIAN NATIONAL UNIVERSITY

The Role of the Public Interest in the Application of the National Competition Policy to the Australian Taxi Industry

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Table of Contents

Executive Summary

To promote enhanced competition in Australia the Government developed the National Competition Policy (NCP) and the National Competition Council (NCC) was established to oversee the implementation of this policy. With respect to the taxi industry the NCC identified the existence of two types of regulation for review, one relating to standards and the other to entry.

The NCC has taken the approach of publishing its annual assessment of individual jurisdictions' approaches to reviewing and reforming industries subject to regulation, including the taxi industry. From the nature of these assessments it could be concluded that they are weighted more towards an economic efficiency approach similar to that adopted by the Productivity Commission. This is despite the fact that in its 1997-98 Annual Report the NCC stated that in considering the impact of deregulation it gives social and environmental values no more or no less weight than financial considerations in determining where the public interest lies.

An interim report released by the Senate Select Committee on the Socio Economic Consequences of the NCP in 1999 identified significant problems with interpreting and understanding the public interest/public benefit test. The Committee's view was that there is a predominantly economic rather than multi-disciplinary approach involved in the implementation of NCP and in particular the public interest/public benefit test. This Committee was also critical of the Productivity Commission with respect to its lack of understanding of the public interest test. The recommendations relating to the public interest test, and the Government's responses, appear in Appendix 2.

As this study shows, overseas experiences with the impact of deregulation on productivity and public benefit issues has inevitably led to reregulation in one form or another. It is notable that where entry deregulation has taken place there have not been associated moves by the relevant authorities to enact measures to increase demand. One exception to this is in two New Zealand towns (Wanganui and Palmerston) where, following bus deregulation, taxis have been allowed to operate on fixed routes previously serviced by buses with some customers fares being subsidised by the local council.

In the overwhelming number of cases the lack of increase in demand has led to a significant decline in productivity and profitability. This has resulted in considerable flow-on effects to public benefit related areas including pollution, congestion, service quality and safety.

Reviews of the taxi industry by Australian jurisdictions have been completed with many of these concentrating on a narrow economic interpretation of the policy. This is despite clause 1(3) of the Competition Agreement giving guidelines for addressing public benefit issues. It is also notable that the NCC in its annual assessments of Government's progress in implementing NCP has not been critical of the lack of consideration by reviewers of public benefit issues.

Even though different Australian jurisdictions operate in different environments from the point of view of the taxi industry, (population density, traffic congestion, presence/absence of major airports, convention/special event centres, etc) in each case many of the relevant public benefit issues discussed in this study will be seriously affected by the deregulation of entry to the industry.

This study has reviewed a number of economic analyses which show that economic efficiency arguments, including supply and demand analyses, do not apply to the taxi industry in the case of the hail and rank sectors. (Notwithstanding that, many reviewers used exactly these arguments to recommend deregulation of entry). In its 2002 Assessment Report the NCC estimated that 40 – 60 per cent of the Australian taxi industry was in the rank and hail market. From this one could conclude that the economic efficiency approach is not applicable to 40 – 60 percent of the Australian market. This is before any public benefit issues are considered.

The one Australian state/territory to deregulate entry has been the Northern Territory (NT). As this study (and another undertaken by this author) confirms, the NT experienced similar outcomes to those experienced by those overseas governments/organisations who introduced deregulation. The dramatic increase in supply of taxis with no compensating increase in demand resulted in a dramatic decrease in productivity and profitability. The flow-on effects to public benefit issues including vehicle quality and safety, customer safety, driver quality, price-gouging, assaults, no-shows and fare refusals has resulted in the NT Government capping entry for a period of 6 months, which was then extended to 12 months to 1 January 2003.

The NCC's reaction to the NT experience was interesting and predictable. Its assessment (in June 2001) concluded that the only state/territory which they (the NCC) judged to have met their NCP obligations was the NT. It is clear that this conclusion was reached as a result of the NT being the only state/territory to deregulate entry into its taxi industry. With the ensuing changes which took place in the NT following that review (ie capping entry for 6 months – extended to 12 months, and the proposal to set up a Commercial Passenger Board to manage the industry and advise this Minister on a range of matters), in its August 2002 Assessment Report the NCC changed its overall assessment of the NT and is now re-monitoring that territory.

This outcome is surprising, the NT has assessed the impact of deregulation of entry with respect to productivity, profitability and public benefit issues, and determined that the negative impact of entry deregulation outweighs the gain. Following deregulation on 1 January 2003 the NT Government announced in early June 2003 that it was reregulating (re-capping) entry and was to conduct a full public benefit analysis.

In a recent media release (31 August 2003) the Queensland Government announced that it will defy the Federal Government's National Competition Policy requirements and maintain a regulated taxi industry. In rejecting deregulation the Government stated that it was prepared to 'wear the fine' rather than jeopardise a taxi industry which it recognised as delivering a first rate service to Queenslanders and tourists.

As a result of the analysis of public benefit issues affected by deregulation, from this study it has emerged that there is strong evidence to conclude that there has been insufficient emphasis placed on these issues by many review committees and the NCC and that in the Australian context the economic efficiency arguments used to justify entry deregulation are not applicable to 40 – 60 per cent of the market.

If the NCC was to act in accordance with its mission statement ‘To improve the well being of all Australians through growth, innovation and rising productivity, by promoting competition that is in the public interest’, it should recognise that deregulation of the taxi industry, and particularly deregulation of entry, will not result in rising productivity by promoting competition that is in the public interest. The Northern Territory experience is a significant case study which demonstrates the clash of economic theory and empirical reality and that entry deregulation has a major impact on public interest/benefit issues. The NCC should accept that it is in the public interest to maintain a regulated taxi industry in Australia.

1. Introduction

All Australian governments, in the first half of 1995, reached agreement on a plan to promote enhanced competition in Australia. The resulting National Competition Policy (NCP) is underpinned by three intergovernmental agreements: the Competition Principles Agreement (CPA); the Conduct Code Agreement; and the Agreement to Implement the National Competition Policy and Related Reforms (Implementation Agreement). The three agreements outline the reforms which governments undertook to put in place under the NCP process.

The National Competition Council[1] (NCC) was established by all Australian governments in November 1995 to act as a policy advisory body to oversee the implementation of the NCP. It is notable that the NCC does not set reform agendas or implement reforms; these are the responsibility of the various governments.

The Council has four main roles:

1. assessment of governments' progress in implementing the NCP reforms and recommendations on competition payments;
2. advice on the design and coverage of access rules under the national access regime;
3. community education and communication covering both specific reform implementation matters and NCP generally; and
4. other specific projects requested by Australian governments.

The Commonwealth Government makes NCP payments to the States and Territories (on a per capita basis), where they achieve satisfactory progress against the NCP and related reform obligations.

As the NCC website indicates, NCP payments are the means by which 'gains' from reform are distributed throughout the community. The payments recognise that, although the states and territories are responsible for significant elements of NCP, much of the direct financial return accrues to the Commonwealth Government via increases in taxation revenue that flows from greater economic activity. The NCC advises the Federal Treasurer on whether the states and territories have achieved satisfactory progress and so meet the conditions for receipt of payments. This is reported through the NCP assessments.

With regard to the taxi industry, the NCC states;

> 'Australia's taxi industry has been heavily regulated for many years. Generally, two types of regulation exist:
>
> (1) the regulation of standards covering matters such as vehicle age, roadworthiness and driver qualifications, with an emphasis on safety; and

[1] More detail on the National Competition Council and the National Competition Policy can be seen at www.ncc.gov.au.

(2) the regulation of entry to the taxi industry via controls on the number of new taxi licences issued. Fares are also regulated as a corollary of the restrictions on new taxi licences.

Taxi industry regulation, particularly the restrictions on new taxi licenses, is being considered under the National Competition Policy (NCP) legislation review process. This involves governments reviewing and, where appropriate, reforming legislation that restricts competition. Governments may, however, retain restrictions if they show that the restriction is in the public interest.

The role of the National Competition Council is to conduct assessments of governments' progress in implementing NCP'.

It is notable that Governments can retain restrictions if it can be shown that the restrictions are in the public interest. It is also of interest to note that the NCC's mission statement is:

'To improve the well being of all Australians through growth, innovation and rising productivity, by promoting competition that is in the public interest.'

In accordance with the Terms of Reference (Appendix 1), this report presents an analysis of the impact/potential impact of deregulation of the taxi industry, both overseas and within Australia, from the point of view of public interest issues. Many of those are identified under clause 1(3) of the Competition Principles Agreement (CPA) and in the NCC's mission statement.

2. The Public Interest Test

Clause 1(3) of the Competition Principles Agreement allows for Governments to assess the net benefits of different ways of achieving particular social objectives and states:

'Without limiting the matters that may be taken into account, where this Agreement calls:

a) for the benefits of a particular policy or course of action to be balanced against the costs of the policy or course of action; or

b) for the merits or appropriateness of a particular policy or course of action to be determined; or

c) for an assessment of the most effective means of achieving a policy objective;

the following matters shall, where relevant, be taken into account:

d) government legislation and policies relating to ecologically sustainable development;

e) social welfare and equity considerations, including community service obligations;

f) government legislation and policies relating to matters such as occupational health and safety, industrial relations and access and equity;

g) economic and regional development, including employment and investment growth;

h) the interests of consumers generally or of a class of consumers;

i) the competitiveness of Australian businesses; and

j) the efficient allocation of resources.

In its information booklet[2] the NCC states:

> The CPA states that these factors [in clause 1(3)] (and any others) may be considered in balancing the benefits of a particular policy or course of action against the costs, to determine the appropriateness or most effective means of achieving a policy objective. In this respect, subclause 1(3) provides governments with a consistent approach to assessing whether the commitments to reform contained in the intergovernmental agreements threaten desired social objectives. The inclusion of the subclause in the CPA reflects the desire of governments to make clear their view that competition policy is not about maximising competition per se, but about using competition to improve the community's living standards and employment opportunities.

A report on the socio-economic consequences of the NCP by a Senate Select Committee[3] identified throughout its hearings, and in submissions, the recurring difficulty with the NCP over the way policy had been implemented. Of particular mention were problems with interpreting and understanding the public interest/public benefit test. Issues identified included:

- a predominance of narrow economic interpretation of the policy;
- differing interpretations of the policy and public interest test between the States and Territories; and
- lack of appeal mechanisms.

[2] 'Considering the Public Interest under the National Competition Policy.' NCC. (November 1996)

[3] Competition Policy: Friend or Foe. Economic Surplus, Social Deficit? Interim Report of the Senate Select Committee on the Socio-Economic Consequences of the National Competition Policy. August 1999. (See: http://www.aph.gov.au/senate/committee/ncp_ctte/report/index.htm)

In discussing public interest and public benefit tests, in its report the Senate Select Committee states:

> 'The NCC also considers at length the issue of defining "public interest" noting it has been left by policy makers to be case-by-case assessment rather than be prescriptive. The NCC also considers the critical issue in considering the non exclusive list at clause 1(3) is the weighting governments can apply to the factors listed. The NCC continues on:
>
> > Of necessity, assessing the public interest will require examination of issues on a case-by-case basis. This is because a broad range of considerations will apply, and not all will be relevant in every circumstance. An important message is that systematic and transparent consideration of community benefits and costs through bona fide review is a central component of the competition policy reform process. Thus, before deciding to exempt an anti-competitive activity from reform, governments would need to assess the net community benefit of the restriction. However, where the net benefit to the community from a reform measure is clear, the Council does not see a requirement for governments to conduct a formal assessment of the public interest in terms of subclause 1 (3).
>
> The above clarification by the NCC has introduced the concepts of 'community benefits' and 'net community benefits' in addition to 'public interest'. In trade practices and NCP terms, community benefits are a new concept. The term could well be interpreted to be a community as a subset of the public rather than a public interest. The Committee is concerned that this lack of clarity has contributed to the incidence of complaints regarding a lack of direction over 'public interest' from a wide range of sources. This is a matter that should be further examined by the Committee.
>
> The Committee is concerned about the application of 'public interest' given the confusion that exists over what the term means or allows under NCP. The confusion, when combined with the administrative ease of simply seeking to measure outcomes in terms of price changes, risks an administrative response of application of a narrow, restrictive, definition. Perversely, such an outcome can result in 'public interest' being narrower than 'public benefit'.
>
> The Productivity Commission has also found a lack of understanding of the public interest test:
>
> > 'The manner by which restrictions on competition may be considered under NCP is not well understood by many people. This is consistent with a wider lack of communication about, and hence appreciation of, what constitutes NCP and how it is implemented.'[4]

[4] Productivity Commission, Impact of Competition Policy and Reforms on Rural and Regional Australia; Draft Report, Canberra, May 1999, Finding 4.1, p83.

The Senate Committee made 4 recommendations relating to public interest issues. These recommendations, and the Government responses, appear in Appendix 2.

It is in this setting that the public interest test has been considered as part of taxi industry reviews by individual states and territories, in line with the terms of reference listed in Appendix 1. While some industry reviews did consider the public interest in making recommendations, others took the narrow economic interpretation of the NCP approach and almost completely ignored public interest issues both during their reviews and in the formulation of their review recommendations.

3. Overseas Experiences

There is a massive literature on the regulation/deregulation of the taxi industry in many overseas countries, including the United Kingdom (UK), the USA, Sweden, New Zealand (NZ) and Ireland. Many submissions to State and Territory reviews, as well as review reports, have given excellent overviews which will not be repeated here. One of the more comprehensive is the submission of the Victorian Taxi Association Inc. by Hooper.[5] What will be done here is to review public interest issues which have been analysed/reported from overseas deregulation experiences.

From the mid-late 1970's with policy debates occuring in the USA and the UK about the deregulation of the taxi industry, much of the theory of regulation and competition in the taxi markets was developed. Since then economists have argued as to whether or not price and entry regulations are necessary.

Shreiber[6] argues that price and entry regulations are necessary in the taxicab industry to correct resource allocation due to lack of price competition in the unregulated industry, correct misallocation due to pollution and congestion externalities and to stabilise the incomes of those permanently employed in the industry. He also states[7]

> 'Supply and demand analysis is inapplicable to the cruising taxicab market. The conditions for reaching equilibrium, specified in supply and demand analysis, cannot exist in the case of taxicabs, and the point of interaction between the supply and demand for taxicab rides is not in an equilibrium position'.

Coffman[8] and Williams[9] were critical of Shreiber's analyses and conclusions. Over a six year period there was a significant debate between these authors which raised a

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[5] Hooper, P. (1999) Submission of the Victorian Taxi Association Inc. the Review of Regulation of the Victorian Taxi Industry.
[6] Schreiber, C. (1975) The Economic Reasons for Price and Entry Regulation of Taxicabs. *Journal of Transport Economics and Policy*Vol IX (3), 268-279.
[7] Schreiber, C. (1977) The Economic Reasons for Price and Entry Regulation of Taxicabs. *Journal of Transport Economics and Policy* Vol XI (3), 298-304.
[8] Coffman, R. B. (1977) A Comment on The Economic Reasons for Price and Entry Regulation of Taxicabs. *Journal of Transport Economics and Policy* Vol XI (3), 288-297.
[9] Williams, J. D. (1980) A Comment on The Economic Reasons for Price and Entry Regulation of Taxicabs. *Journal of Transport Economics and Policy* Vol XIV (1), 105-112.

number of issues which were reviewed and analysed by Dempsey[10]. Teal[11] has also made significant contributions to the analysis of the impact of taxicab deregulation in the USA. Cairns and Liston-Heyes[12] have conducted a theoretical analysis of competition and regulation in the taxi industry and conclude that deregulation of fares and entry may not be optimal. They find that the conditions of competition do not hold in the industry, even approximately. A model of search, where drivers and customers search for each other, is represented by the cruising taxi market. In such a market they conclude that equilibrium of a deregulated industry does not exist (confirming Schreiber's findings), price regulation is essential and entry regulation 'may be useful'.

Those supporting deregulation have argued that it would produce more taxi services and faster response times, create service innovations and service expansion to poorly serviced neighbourhoods, lower fares and reduce government costs (by eliminating management of the industry with respect to pricing, service and entry). These predictions have been based on free market economic theory but as Dempsey, Teal and others have argued through empirical studies, the taxi industry fails to reflect the perfect competition model described in the economics textbooks.

3.1 USA

Following a detailed analysis of the impact of taxi deregulation in the USA, Teal and Berglund[12], in analysing the results of their applied research conclude that:

> 'Taxicab deregulation cannot be demonstrated to have produced, in most cases, the benefits its proponents expected. Prices do not usually fall, improvements in service are difficult to detect, and new price-service combinations have not been developed. There is little evidence that consumers or producers are better off. The one important exception is new entrants to the industry, ….., Even for them, however, … Many have been unable to survive in the more competitive unregulated environment, and those who have survived are apparently obtaining low earnings.
>
> …… Those who expected, on the basis of simple theoretical models, that deregulation would produce significant consumer and producer benefits ….. have not adequately examined the market environment and industrial organisation for taxi service.' (page 54), and
>
> 'The emphasis placed by industrial organisation principles on actual conditions in markets (and on the distortions which monopoly power creates in real-world markets) proves more useful than simple micro-economic theory for analysing the impacts of taxi deregulation. Simple models of competitive behaviour involving atomistic producers selling to completely-informed consumers are often used, but these theoretical generalisations of ideal types

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[10] Dempsey, P. S. (1996) Taxi Industry regulation, deregulation and reregulation: an analysis of taxi markets. *Transportation Law Journal* 24(1), 73-120

[11] Teal, R. F. and Berglund, M. (1987) The Impact of Taxicab Deregulation in the USA. *Journal of Transport Economics and Policy* Vol XXI (1), 37-56

[12] Cairns, R. D. and Liston-Heyes, C. (1996) Competition and Regulation in the Taxi Industry. *Journal of Public Economics.* 59, 1-15.

provide no useful or interesting explanations for the results observed in the dominant taxi markets – telephone orders and cabstands.' (page 47).

A 1995 study by Price Waterhouse[13] (of 21 cities who deregulated) reached similar conclusions to Teal. They found that although the supply of taxis expanded dramatically, only marginal improvements were experienced by consumers. The supply of taxis increased by an average of 23 per cent in the first year. Because new entrants were independent fleet owners and small fleet owners most of their services were concentrated at already well serviced locations such as airports and major cab stands. Customer waiting times at these locations were already short but were reduced further. Response times in the telephone market were similar to pre-deregulation waiting times. Prices rose an average of 29 per cent in the first year following deregulation.

The study found that service quality declined. Indeed trip refusals and no-shows increased dramatically. There was a decline in vehicle age and condition, and aggressive passenger solicitations associated with an over-supply of taxis were characteristic of a worsening in service quality following deregulation. As a result of the failure of deregulation to produce consumer pricing and service benefits, coupled with its propensity to reduce carrier productivity and profitability, most US communities who experimented with deregulation of their taxi industry rejected it and re-regulated, wholly or in part. Of the 21 cities which deregulated prior to 1993, the experience with deregulation was so poor that only four of the smallest cities in the group retained a fully unregulated market. It is notable that the wave of reregulation was led by the largest cities with the most airport activity among the group that had deregulated.

Dempsey presents an overview and analysis of the 'collision of economic theory with empirical reality' in the case of the taxi industry. Rather than rely on theoretical assumptions of what unlimited entry will produce, Dempsey has analysed empirical results to assess what has been produced as a result of deregulation of the taxicab industry in 21 US cities before 1983.

Market imperfections in this industry, from the point of view of the public benefit, have been identified and include:

- The Absence of a Competitive Market.

In the cabstand market, the 'first in first out' rule severely restricts comparative shopping by consumers. In both the cabstand, and the cruising market, competitive shopping is impractical and the transaction costs to prospective passengers of finding the taxi with the lowest prices can be problematic.

- Imperfect Information and Transaction Costs

Consumers buying taxi services in a deregulated market often have little comparative pricing or service information since the opportunity costs of acquiring it are high.

[13] Price Waterhouse (1995) Analysis of taxicab Deregulation and Re-Regulation. Kensington, MD, International Taxicab and Livery Association.

There is obviously little incentive for price comparison for the irregular taxi user, as transaction costs (in time and effort) are high in relation to the potential savings.

- Externalities

In a regulated market taxis are required to provide service to low-density areas at nonpeak times without pricing discrimination. As a result dense markets cross-subsidise low-density areas and peak traffic cross-subsidises off-peak service. Unlimited or excessive entry causes owners/operators to gravitate to high-peak high-density traffic, predominantly at airport and cabstands (the more lucrative areas) and to avoid the low density markets. The increase in numbers at the high peak, high density areas results in a reduction in profits needed by those licenced carriers to cross-subsidise and sustain other required services

One of the common problems in all countries who have experimented with deregulation of the taxi industry has been the oversupply of taxis seeking fares in these more lucrative areas. This has led to traffic congestion and environmental pollution problems in these areas.

Dempsey's research has shown that the experiences of these cities reveal that taxicab deregulation resulted in:

- A significant increase in new entry;
- A decline in operational efficiency and productivity;
- An increase in highway congestion, energy consumption and environmental pollution;
- An increase in rates;
- A decline in driver income;
- A deterioration in service; and
- Little or no improvement in administrative costs.

Following extensive studies of the impact of deregulation in the US taxi industry Teal[14] concluded that:

> 'Taxi deregulation lost its potency as a policy in large part because it did not lead to significant benefits; it also resulted in well-publicised problems in some of the locales in which it was adopted. In the absence of compelling consumer benefits, public officials in other locales had no reason to embrace this policy, and the visible problems undermined support in the localities in which it was adopted. ….. it may be that taxi deregulation in the US has essentially run its course.'

The evidence based on the US experience is summed up by Dempsey who concludes:

> 'The fundamental question is not whether taxis should be regulated but how they might best be regulated. …… In the final analysis, the suitability of taxicab service and pricing is a peculiarly local issue, best tailored by local

[14] Teal, R. F. (1987) An Overview of the American Experience with Taxi Deregulation. Irvine, California, Halda Inc.

governments based on their unique populations, spatial densities, road congestion, air pollution, and airport and hotel traffic. …… In this area, the state and local governments should be left alone to foster the unique local public and private transportation system that suits it best.'

3.2 UK

Toner[15] and Kang[16] have addressed issues relating to the deregulation of the taxi industry in the UK. Since January 1986 the absolute discretion of local authorities to limit the number of taxis in their area was abolished. The 1985 Transport Act stipulated that an applicant for a licence could only be refused if there was no significant demand to justify the increase. This was more a system of liberalisation rather than deregulation; the changes in the Act have not resulted in all local authorities removing the restrictions to entry. As Toner reports, the results of three nationwide studies of taxi licencing policy since then indicate that entry deregulation has had only limited success. Toner summarises the outcomes of his research by stating:

> 'There is no evidence to suggest that increased competition in deregulated districts has led to lower fares. …… In deregulated districts, we generally see lower standards of quality enforcement and severe shortages of rank capacity. The focus of the current legislation on the single criterion of passenger waiting time as the determinant of regulatory policy is misguided. However, the evidence of entry deregulation already to hand suggests that the further liberalization , without concomitant requirements to ensure fares and quality requirements are set appropriately, is unlikely to yield significant benefits to consumers.'

London taxis have free entry conditions, but despite this they are regarded as amongst the most regulated in the world. Fares are determined by the government and the quality controls impose effective market disciplines on entry. As Hooper[5] points out, the situation with London's minicabs is in stark contrast. There was no quantity, and very weak quality, restrictions on the hire car (including minicabs) industry. As a result taxis found it difficult to compete and largely abandoned the suburban market to the minicabs.

Minicab vehicle and driver standards were highly variable and the worst cases gave rise to grave concerns about public safety. As Hooper reports, open entry with lax standards had produced a terrible record of performance. Many of the problems related to drivers with poor communication skills who sometimes were abusive and, at worst, violent. The critical situation was recognised by the fact that there was bi-partisan support for the Private Hire Vehicles (London) Bill during debate in the House of Commons. Public interest issues of concern included safety checks on vehicles being inadequate and difficult to enforce, lack of control over people who enter the industry, and the safety of passengers. A survey of 1,000 people who used private hire firms found that 20 per cent had been subjected to dangerous driving or

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[15] Toner, J. P. (1996) English Experience of Deregulation of the Taxi Industry. *Transport Reviews.* 16, 1, 79-94.
[16] Kang, C-H. (1998) Taxi Deregulation: International Comparison. MSc(Eng) Dissertation. Institute of Transport Studies, University of Leeds. UK

an assault in minicabs while 14 per cent said they knew someone who had been sexually or physically abused when travelling in a minicab.

The Private Hire Vehicles (London) Bill was passed in mid 1998 and introduced a large number of regulations, including the Secretary of State being empowered to issue licences for private hire vehicles, operators and drivers, with a large number of conditions being imposed. What had happened in the case of minicabs was that unrestricted open entry had resulted in standards being driven down to very low levels and 'London had not escaped the problems caused by open entry'. (Hooper[5] page 54). This has resulted is steps being taken through legislative changes to re-regulate the minicab industry in London.

3.3 Sweden

In Sweden the Transport Policy Act of 1989 allowed for the deregulation of the industry in 1990. In a staged deregulation process controls to entry were removed, followed by the removal of fare controls, the removal of the requirements that taxicabs had to belong to a radio booking centre, geographically restricted operating centres were removed and finally strictly regulated operating hours were removed. Regulations were soon reintroduced concerning the qualifications of drivers, as well as operators and drivers having to be assessed as to whether they were fit and proper persons.

Arninge[17] has presented an overview of the taxi industry in Sweden seven years after deregulation. Many cab drivers specialised in working solely at Stockholm's International Airport. There was significant cab traffic chaos at the airport, with drivers demanding highly inflated prices from newly arrived tourists and many drivers refused to accept credit cards. The rising number of complaints led to an investigation which was eventually shut down because it was too costly to identify specific taxi drivers and nothing could be done about the problem as the deregulation was a fact and the market was free.

In October 1997 following complaints against 'independent' taxi drivers overcharging, the City Council made an Order which determined that only the three largest taxi companies would be allowed to pick up at Stockholm Central train station. This situation led to rioting by independent drivers; the police became involved following a sit-down strike by the independent drivers. As a result the station has had to employ inspectors to ensure that only the correct taxi companies pick up at the station.

Garling et al[18] reported that following deregulation in Sweden, the number of taxis increased significantly, inflation adjusted fares increased significantly, demand for taxi services did not change and the productivity of taxis fell in cities of all sizes.

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[17] Arninge, P. (1998) Before and After Deregulation. www.taxi-1.org/sweden.htm
[18] Garling, T., Laitila, T., Marel, A., and Westin, K. (1995) A note on the Short –term Effects of Deregulation of the Swedish Taxi-cab Industry. *Journal of Transport Economics and Policy*. 29(2), 151-170.

Confirming these findings, Marell and Westin[19]reported that the number of paid trips per vehicle per hour decreased from 4.4 in 1990 to 2.6 in 1994.

3.4 New Zealand

The deregulation of the New Zealand taxi industry in 1989 occurred during a severe recession and high unemployment which were attributed to economic restructuring. As a result there was an immediate influx of drivers (and vehicles) who concentrated on rank and airport markets. This led the bigger taxi companies to target the business market. The impact of deregulation in New Zealand has been well documented in recent reviews undertaken by individual Australian states and territories (see, for example Hooper[6], and the report of the review committee of the Queensland Transport Operations (Passenger Transport) legislation[20].

With a large increase in taxi numbers productivity levels dropped sharply and drivers had to work longer hours. In New Zealand the deregulation of the bus industry resulted in demand for taxi services being increased in the sense that taxi-buses began to operate in Wanganui and Palmerston (see Baxter and Davis[21]). Vans capable of carrying up to 11 passengers serviced fixed routes and worked flexibly with conventional taxis as demand varied in bus and taxi markets. In these communities population densities were low and heavily subsidised bus services were withdrawn.

While a number of innovations were introduced, from a public benefit perspective there have been many problems. Passengers have been paying widely varying prices even under posted fare structures. There has also been price-gouging for short trips and of visitors and others who do not know their way around. Morrison[22] reports that the sudden increase in the number of taxis also created bottlenecks in key disembarkation sites. Fights broke out over the airport trade. Short trips after long waits resulted in some irate drivers refusing to service passengers who live close to sites such as airports, even though the legislation requires the acceptance by the driver of the first fare offered. The situation at major airports resulted in airport authorities re-regulating taxi operations, a move seen as being in the public interest. The airport operator, in approving taxi operators, considers issues relating to the fare structure, driver and vehicle standards and customer relations.

Morrison also indicated that in the Wellington region taxi fares increased in nominal terms, however they have fallen in real terms reflecting the consumer price index during 1990 - 1994. Gaunt[23] also reported that the four largest cities experienced

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[19] Marell, A. and Westin, K. (1995) Deregulation of the Swedish Taxi Industry: Vehicle Utilization. Paper presented at the 7th World Conference on Transport Research. 16-20 July 1995, Sydney. World Conference of Transport Research Society.
[20] Queensland Transport (1999) National Competition Review of the Transport Operations (Passenger Transport) Act 1994.
(See: http://www.transport.qld.gov.au/Home.nsf/index/Reportsandpublications).
[21] Baxter, B. and Davis, J. (1992) Passenger Transport Deregulation in New Zealand and the Emergence of the Bus-taxi. 17th Australasian Transport Research Forum. Canberra 2(3). 409-426.
[22] Morrison, P. S. (1997) Restructuring effects of Deregulation: the Case of the New Zealand Taxi Industry. Environment and Planning A . 29(5). 913-928.
[23] Gaunt, C. (1996) Taxicab deregulation in New Zealand. *Journal of Transport Economics and Policy*. 30(1), 103-106.

reductions in average fares, whereas urban areas with less than 20,000 people have experienced increases in fares since deregulation. As Kang[16] reports, there were few incentives to reduce fares further in the Wellington area since incomes of drivers and profits of companies were already down as a result of deregulation.

Because of the increased competition, owners were not able to afford to replace taxis on a regular basis, resulting in a fall in the standard of taxis. It has been reported that the bulk of taxis are purchased second hand and there is a large market in second hand cars imported from Japan to service the industry. There was also a sharp increase in passenger complaints, many of which involved sexual abuse. Declining standards were evident in poorly trained drivers with few communication skills and little local knowledge.

It is notable that in September 1992 New Zealand's Labour spokesman on Transport told the NZ Taxi Proprietors' Federation Conference that his party made a mistake in deregulating the taxi industry. Following the move by airport authorities to reregulate, the Government has tightened up driver licencing and introduced compulsory tests for drivers. Furthermore taxi proprietors have had to become members of approved taxi organisations.

3.5 Ireland

The Irish taxi industry was first regulated in 1978. In 1995 the Minister for the Environment devolved the powers for issuing licences to Local Authorities throughout Ireland. Following entry into the European Union, significant economic growth and a large increase in tourism there was a significant increase in demand for taxi services. Delays in servicing customers increased with much of this delay in Dublin resulting from taxis being seriously affected by traffic congestion. The peak hours got worse and all-day congestion appeared in some parts of Dublin. It has been argued by some that the problem in Dublin lay not with city's taxi service but with its entire transport service with the latter functioning very badly due to a combination of poor planning, under-investment and rapid economic growth.

In 1997 the Prime Minister acted by establishing a taxi forum which concluded in 1998 with a consensus agreement for improvements in the taxi industry. Delays in implementation resulted, in 1999, in the Minister offering an additional licence to each existing holder to reduce customer demand. This was challenged in the courts and found to be discriminatory. Without giving any notice to the taxi industry, on 21 November 2000 the Government deregulated entry into the taxi industry nationwide.

As a result, the number of taxis soared from 2,720 in November 2000 to 9,500 in February 2003 and at that date taxi numbers were reported to be still growing at a rate of 40 per week. Prior to deregulation taxi licences were being sold in Dublin for up to £85,000. After deregulation licences are obtained from local authorities for £5,000, resulting in significant capital losses and financial difficulties for many of those who purchased licences pre deregulation. While there has been a massive increase in standard taxi licences, only 582 licences for wheelchair accessible taxis (WAT) have been sold for £100 each.

The lack of demand for WAT licences highlights a major structural problem in the industry. After 12 months of deregulation, in a report in the *Irish Examiner* newspaper the vice-president of the Taxi Drivers Union estimated that between 600 to 700 WATs disappeared from the streets as drivers changed to standard plates. The reason for this was attributed to the additional cost of wheelchair accessible vehicles, combined with extra fuel and insurance costs.

Prior to deregulation, 85% of taxis were two driver operated. Post deregulation 99% of cars are singularly operated. Following deregulation approximately 25% of operators have two jobs or are part timers. A survey twelve months after deregulation showed that there was a reduction in waiting times with 48% of persons waiting less than 5 minutes in 2001, compared to 25% in 1997. However there were major shortages of taxis after midnight and during morning and evening rush hours. Many taxi drivers are not supplying services during the rush hours because of the effects of traffic congestion on their earnings.

The outcome of deregulation has been that many pre-deregulation operators have been forced into bankruptcy and many others have reported as having been unable to make a living with fares still regulated. Taxi vehicle standards and service standards have also been reported to have fallen considerably. Overall complaints are up 300% and the previous good order within the industry pre-deregulation has been absent post-deregulation.

The Irish Government has recognised the problems with deregulation and has agreed to appoint a taxi regulator who will be responsible for all aspects of licencing conditions, vehicle type, quality control etc, a move welcomed by the industry.

3.6 Overview

The overseas experiences demonstrate arguments that the conditions of competition do not hold in the taxi market, particularly in the hail (or cruising) and rank markets. Customers must search for taxis and this results in taxi drivers with some degree of spatial monopoly where the customer is prepared to pay more than the competitive market price rather than having to search for another taxi.

While open entry into the taxi market has resulted in reduced waiting times in general (often in busy locations where waiting times were already short), it is also clear that in many cases that there has been a noticeable reduction in the overall standard of vehicles, drivers and the service provided. With respect to fares, as the earlier discussions indicate, in New Zealand the experiences overall have been variable with fares being reduced in real terms in large cities but increased in smaller cities. They increased in the USA following deregulation while in the UK the fare differential between regulated and deregulated districts is inconclusive.

Airport (in New Zealand and the USA) and train station (Sweden) problems after deregulation have led to the reintroduction of regulations, including entry limitations, and requirements relating to standards, and service quality.

What has emerged from the overseas experiences is that the outcome of deregulation has been very much a collision between economic theory and empirical reality and as Dempsey[11] stated:

> 'In the final analysis the suitability of taxicab service and pricing is a peculiarly local issue, best tailored by local governments based on their unique populations, spatial densities, road congestion, air pollution, and airport and hotel traffic.'

Not only can drivers/operators be adversely affected by deregulation of the taxi industry, its impact on productivity and public interest issues (such as pollution, congestion and safety) can also cause major problems.

4. Application of the Public Interest Test

The public interest test was written into the NCP framework to allow *all* relevant factors to be considered when deciding whether restrictions on competition are warranted. The NCC has stated in its publications that the public interest test in clause 1(3) is neither exclusive nor prescriptive[24]. While providing a list of indicative factors a government could look at in considering the benefits and costs of particular actions, it also allows governments to take other factors into consideration.

The NCC's approach, as outlined in its 1997-98 Annual Report, gives social and environmental values no more or no less weight than financial considerations in determining where the public interest lies. That is, all public interest considerations intrinsically carry equal weight. The NCC states that it sees the challenge for review bodies and for governments to focus on outcomes that benefit the community as a whole, rather than providing special treatment for certain groups at the expense of others. The Council also recognises that the impacts of reform on individuals, regions and industries directly exposed to reform are taken into account.

It is recognised by the NCC that the process of measuring costs and benefits requires judgement and can include both quantitative and qualitative assessments. In addition both short term and long term factors have to be taken into account. The NCC noted the need for greater guidance in the practicalities of conducting public benefit assessments. It has been in this framework that individual states and territories have reviewed their taxi industries.

In August 1999 the Queensland Government produced a significant document[25] setting out the approach to be taken in undertaking public benefit test assessments for legislation reviews under National Competition Policy. The NCC specifically referred to the approach taken in Queensland, which includes comprehensive training programs for the conducting of reviews, and encouraged the wider use of this approach.

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[24] National Competition Council (1999) National Competition Policy. Some Impacts on Society and the Economy. Chapter 4 – The Public Interest Test.
[25] Queensland Government (1999) Public Benefit Test Guidelines. (See http://www.treasury.qld.gov.au/pdf/pbtfulldoc.pdf)

The Queensland approach outlines a methodology for the conducting of a public benefit test and a benefit-cost analysis. What has been emphasized is the recognition that public benefit test assessments should not be restricted to issues of economic efficiency, an approach which appears to have dominated taxi industry reviews in many of the states and territories. Assessments are also required to outline the likely distribution of impacts among individuals and groups of individuals within society and include the requirement of a Social Impact Assessment and an Employment Impact Assessment. This approach requires identifying and measuring the impact of change, whether it be positive or negative, on an affected individual or group of individuals, in addition to the determination of the net change in society's economic welfare.

To measure the overall economic impact of a proposed regulatory change requires a determination of how the change will impact on each of the likely affected groups, with some receiving net benefits, ie a positive change in economic welfare (utility or profit), and others incuring net costs, ie a negative change in economic welfare. Both benefits and costs are calculated from a base or reference point. The Queensland approach of producing public benefit test guidelines is reflected in the NCP Review of the taxi (and other transport) operations in that state.

5. State and Territory Reviews

All states and territories have reviewed their taxi industries in line with the NCC requirements, with the only government introducing full deregulation of entry into the market being the Northern Territory (NT).

In a recent media release (31 August 2003) the Queensland Government formally announced that it was rejecting deregulation of its taxi industry and was prepared to wear any financial penalties (imposed by the Federal Government) resulting from this decision. Their decision was based on their commitment to deliver better outcomes for passengers and standing up for the taxi and limousine industries. Rather than deregulate, the Queensland cabinet decided to look at initiatives to improve services and waiting times, while at the same time acknowledging that:

> 'Queensland cabbies are among the most courteous and efficient in the world, and they deliver a first rate service to Queenslanders and tourists.'

Submissions to reviews, review reports, and responses to review reports have been extremely variable with respect to addressing the public interest issues. What is evident is that in many cases such issues (including social, safety and environmental) have not been given the same weight as economic efficiency and financial considerations when making recommendations relating to deregulation, as was required under the NCP. Notwithstanding that, it is notable that only one government has gone down the path of deregulation of entry into the taxi industry, and has since reregulated.

A number of reviews took a theoretical economic efficiency approach (eg Victoria and the ACT) to argue for the removal of restrictions on entry into the taxi market. This is despite the fact that there are strong economic arguments supporting the premise that this approach is flawed, particularly in the rank and hail market (see Scheiber[7] and Cairns and Liston-Heyes[13]). Hooper[5] (p84) summarises the situation, stating:

> 'A review of the economics of taxis leads to the conclusion that it is difficult to reach any definitive conclusion as to whether regulation or competition is most likely to lead to maximum benefits to society. …… Nevertheless, we make the point that the type of analysis carried out by the Industry Commission and others suggests that fares will fall, demand will increase and consumer surpluses will be greater in a deregulated market are based on invalid premises. The theory about industry structure and conduct and actual observations about performance suggest the taxi industry is more complex than it appears at first sight.'

In its annual assessment[26] of Governments' progress in the implementation of NCC policy with respect to the taxi industry the NCC acknowledges (page 5.16) that for Victoria approximately 50-55 per cent of demand is for rank and hail services within metropolitan Melbourne; with 55-60 per cent of trips within Sydney being rank and hail. The NCC estimates that overall, the rank and hail services appear to constitute about 40-60 per cent of total taxi services in Australia. That is, theoretical supply and demand analysis arguments used by reviewers in many of the reviews are inapplicable to approximately 40-60 per cent of the taxi market.

Public benefit issues, including consumer protection, innovation, productivity, environmental and safety issues should play a major role in the analysis of the potential impact of deregulation in the taxi industry.

6. Productivity and Public Interest Issues

6.1 Productivity

The issue of deregulation of entry into the taxi industry has been argued on the grounds that with more taxis entering the market this increased supply will reduce fares and as a result demand will increase. Overseas experience indicates that this has not happened. It is noticeable that the responsible authorities (local councils, governments, etc) have made little, if any effort, to increase demand for taxi services as part of their deregulation process. The theoretical economists concluded that demand will increase as a result of the increase in the supply of taxis . This has not happened in general, the increase in the supply of taxis has far outstripped increases in demand, resulting in reduced productivity and profitability.

One exception reported earlier was in the case of New Zealand where with the deregulation of the taxi industry productivity levels dropped sharply and workers had to work longer hours. The poor returns in the taxi business and deregulation of the bus industry combined to create some innovative opportunities. Taxi-buses began to operate in Wanganui and Palmerston with vans capable of carrying up to 11 passengers operating on fixed routes and working flexibly with conventional taxis as

[26] NCC (2002). Assessment of Governments Progress in implementing the National Competition Policy and Related Reforms, Chapter 5.

demand varied in bus and taxi markets. The local councils supported the taxi-buses by providing financial support for concessions for young, elderly and disabled customers.

Garling et al[19] reported that following deregulation in Sweden, the number of taxis increased significantly, inflation adjusted fares increased significantly, demand for taxi services did not change and the productivity of taxis fell in cities of all sizes. As was noted earlier, Marell and Westin[20] confirmed these findings by reporting that the number of paid trips per vehicle per hour decreased from 4.4 in 1990 to 2.6 in 1994. Similar situations were experienced in the US with respect to productivity.

In the Australian context, the only state/territory to deregulate entry has been the NT. Following deregulation, as Nicholls[27] reported, the number of taxis increased from 138 in January 1999 to 186 in November 2001. This increased supply without a corresponding increase in demand led to a significant decline in productivity with drivers earning dramatically reduced. Press reports and letters to the editor of NT newspapers report driver earnings as low as $8.50 an hour for a 12 hour shift with some instances of drivers working for as little as $4 an hour.

When questioned in parliament the (then) Minister stated:

> 'There are now well over 120 taxi cabs operating in the Darwin area alone. Perhaps Darwin is over serviced in relation to taxis and perhaps there is not enough of the pie to go around. We are aware that, however, it will take time for that industry to settle down to a level where not only adequate service is provided, but those providing those services can get an adequate income from the industry.
>
> One would think the force of supply and demand will eventually lead to an equilibrium in the industry. ….'

The NT Taxi Council rejected the claim by the minister that the taxi industry would 'settle down' after the disruption caused by deregulation. The Taxi Council proved to be correct. What has emerged from the deregulation of the NT commercial passenger vehicle industry is a classic example of the collision of economic theory and empirical reality, as identified by Dempsey[11]. While the waiting time for a taxi has been reduced as a result of increased taxi numbers, productivity (driver incomes) has declined dramatically.

It is of interest to note the NCC's mission statement with respect to productivity:

> 'To improve the well being of all Australians through growth, innovation and rising productivity, by promoting competition that is in the public interest.'

In the case of the NT, the NCC's mission statement couldn't be further from reality. The deregulation of the NT commercial passenger vehicle (including taxis) industry led the Government to introduce a freeze, initially for a period of 6 months and

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[27] Nicholls, D. F. (2003) The Impact of Deregulation on the Northern Territory Commercial Passenger Vehicle Industry. Research Report to Australian Taxi Industry Association.

shortly after extended to 12 months, on entry into the taxi industry. This freeze was lifted in early 2003, only to have the Minister announce on 3 June 2003 that legislation was to be introduced during that month to re-cap taxi numbers in the Darwin region and Alice Springs for a period of 12 months, with the cap being supported by a public benefit assessment of the impact of deregulation of taxi numbers. The restrictions imposed on entry are such that:

- Taxi licence numbers in the Darwin and Alice Springs areas are capped at 1 per 900 Estimated Resident Population (ERP) for the Darwin and Alice Springs statistical areas defined by the Australian Bureau of Statistics.
- Control of taxi numbers will maintain the ratio of Multi Purpose Taxis at 10 per cent of the total regional numbers.

6.2. Ecologically Sustainable Development

As has been pointed out in the case of overseas experiences, deregulation leads to an increase in the number of taxis without a corresponding increase in demand. This leads to increased waiting times at ranks, hotels and airports. The reduction in vehicle productivity would be expected to be linked to an increase in vehicle emissions and energy consumption relative to passenger movements. Of course it would be extremely difficult, if not impossible, to quantify this in monetary terms. The increase in pollution levels at high density pick-up points such as airports could be significant. (There are reported cases of taxis waiting up to 4 hours at Auckland airport in New Zealand following reregulation).

6.3. Social Welfare and Equity Considerations

In a regulated market there is a cross-subsidy effect in that taxis are required to service customers where there is a significant amount of dead running time. Drivers are effectively offsetting these non-profitable fares from the rewards from the more lucrative fares such as airport and hotel customers. In a deregulated market, new entrants tend to concentrate on the more lucrative high density ranks (such as airports and train stations). As a result these pick-up points become less lucrative and so taxis are loath to pick up fares in more remote (low or non-profit) localities often associated with significant dead running time. Because of the time involved, there is also difficulty in getting timely service to the disabled when wheelchair accessible taxis (WAT) can compete with standard taxis. WATs have found it more profitable to perform as a standard taxi rather than as a WAT. This has resulted in the disabled being disadvantaged in the sense that they tend to have longer waiting times for a taxi service. Some states/territories have introduced a lift fee to encourage WAT drivers to pick up the disabled rather than concentrate their services at a busy rank.

One review report (Queensland) noted that while taxi companies generally supported universal provision of taxi services, the same level of support was not found amongst individual taxi drivers. Taxi drivers questioned whether, under a deregulated regime, they would still have to do work that is not profitable. Currently some taxi companies in Queensland were reported to be fining drivers who tried to avoid such work. It is difficult to see, in a deregulated system, how such a cross-subsidised scheme (between profitable and unprofitable jobs) could be sustained.

While recognising that taxis provide a personalised service to certain groups in the community, including the disabled and the elderly, deregulated taxis focus on heavy customer traffic generators resulting in reduced services to the disabled, elderly and those located in areas with high dead running time.

6.4. Occupational Health and Safety, Industrial Relations and Access and Equity.

As has been documented elsewhere in this report, deregulation of taxis has led to drivers incomes being driven down to very low levels, particularly given the hours worked . Drivers tend to be self-employed small business people. Consequently they have no access to holiday pay, sick leave or long service provisions. Both overseas and in the Northern Territory the increase in taxi numbers (from deregulation) has resulted in a dramatic decline in driver productivity. In many instances this has led to drivers taking on such a job as a second or part-time job to supplement other income. In Ireland since deregulation an estimated 25% of drivers are second jobbers supplementing other income. This has resulted in drivers in Dublin not driving the evening shifts and, in Dublin, traffic congestion has resulted in drivers also avoiding peak hours (business operators who were surveyed state that taxis are more difficult to get between 4pm – 6pm after deregulation than before). It has also been reported in the Irish press that there are now less taxis available at night than before deregulation, despite a massive increase in the number of taxi licences.

Where profits are inadequate, for example when taxis are deregulated, one of the major costs to be trimmed is vehicle maintenance. This then raises vehicle safety issues both from the point of view of the customer and the driver. It is notable that the deregulation of the New Zealand taxi industry has resulted in a market for second hand vehicles imported from Japan to be used as taxis. Following deregulation, in many overseas cities customer complaints increased dramatically and ranged from price gouging to poorly maintained vehicles to drivers refusing short trips.

Access and equity have also been issues with regulation often being required to assist disadvantaged groups, including the disabled and families with babies and small children.

6.5 Economic and Regional Development

The taxi industry plays a significant role in economic and regional development, particularly in the business, tourist, convention, hospitality and special events industries. The quality and efficiency of local taxi services can have a significant and lasting effect on visitors and event organisers. The negative impact of deregulation was so severe that in a number of US cities visitor and convention bureaus themselves pushed for reregulation. The tourism industry in Australia has clearly linked the quality of taxis to the competitiveness of Australia as an international destination. (This was confirmed during one-to-one conversations by the author with a number of state/territory tourism and convention bureaus). In a recent media release the Queensland premier stated:

> 'Rotary International rated this year's huge convention in Brisbane its "best ever" , and one of the delegates' lasting impressions was the friendliness of our cabbies.'

The potential damage to the tourism and convention markets in a deregulated environment could be enormous.

6.6 Consumer Protection and Safety Issues

When taxi markets have been deregulated, such markets have been characterised by falling standards relating to both drivers and vehicles, with significant concerns that consumer safety and personal security are at risk. There are many consumer protection issues which arise in an open entry market as a result of over-capacity and poor rewards.

The NT, the only state/territory in Australia to deregulate its taxi industry to date, has experienced similar problems to those already highlighted overseas. It is argued by the theoreticians that competition is good and consumers will benefit from deregulation. This has not happened. Excessive entry leads to declining productivity and, because fare increases fail to keep pace, declining profitability. Quality of vehicles and drivers decline and consumers suffer as a result. There is ample evidence to confirm significant post deregulation problems, including excessive fares, circuitous routings, refused service, no-shows, driver lack of knowledge of the city, and poorly maintained vehicles.

The quality of drivers' character is extremely important from a public safety point of view. In both the NT and overseas, following deregulation there has been a dramatic increase in the number of complaints against drivers, as well as an increase in fighting amongst drivers. This is a reflection of the fact that as a result of declining productivity there will be a resultant decline in the quality and actions of drivers. A taxi service must be such that passengers must feel safe at all times. The empirical evidence indicates that as a result of deregulation there has been a decline in passenger safety. As a result it has been necessary to reregulate the industry and as part of this reregulation introduce quality controls for both taxis and drivers.

6.7 Business Competitiveness

Both the business and tourism communities use taxis extensively. The problems caused for these sectors by deregulation has resulted, in many reported instances, in these users of taxi services to move to request the taxi industry be re-regulated. There is ample evidence that the tourism industry in Australia has clearly linked the quality of taxi services to the competitiveness of Australia as a tourist destination, as Hooper[5] points out. This has clearly been exemplified during major international events (such as the Olympic Games in Sydney in 2000) where the taxi industry was recognised as part of Australia's 'face to the world'.

6.8 Efficient Allocation of Resources

The Queensland Transport Review[20] argued that a taxi industry without any regulation is unlikely to achieve an efficient allocation of resources. This report points out (page 130) that it is possible that setting maximum fares and regulating the intensity of use of taxis will have positive impacts for resource allocation since by not doing so will result in the likelihood of oversupply and under utilisation of taxis. This has been clearly exemplified in the case of the NT where the oversupply of taxis following deregulation resulted in a massive reduction in productivity and profitability to the extent that owners had trouble hiring drivers. Cairns and Liston-Heyes[12] suggest that restricting the number of taxis will prevent oversupply.

As has been argued in the case of overseas experiences, putting more taxis on the streets rarely produces more patrons, resulting in stable or declining demand. This has led to increases in the number of empty taxis and the length of queues at taxi stands, resulting in a completely inefficient allocation of resources.

7 Conclusion

What has emerged from this study is that when deregulation has taken place the supply of taxis has increased significantly, but demand has not increased in line with supply. As a result productivity (and profitably) have both been significantly reduced. When deregulation has been introduced in general no real effort has been made by Governments/responsible organisations to introduce appropriate legislation to increase demand.

Both the overseas and NT experiences with deregulation have shown that there has been a significant adverse flow-on affect to public benefit issues, as has been documented in this study. That this is so is well illustrated by the fact that the NT Government has struggled with deregulation. It has deregulated, reregulated, deregulated and now decided to reregulate the taxi industry. The most recent announcement of the capping of taxi numbers, announced by the Minister on 3 June 2003, also included a commitment by the NT Government to undertake a public benefit assessment of the impact of deregulation of the NT taxi industry.

In its 1997–1998 Annual Report the NCC indicated that it gives social and environmental issues ‘no more or no less weight’ than financial considerations when determining where the public interest lies. Most reviews have concentrated on economic efficiency arguments to recommend deregulation entry to the taxi industry, an approach apparently supported by the NCC. This is despite there being significant evidence to show that economic efficiency arguments do not apply in the rank and hail taxi markets. By the NCC’s own estimate, 40 – 60 per cent of the Australian taxi market takes this form.

As was quoted in the Introduction, the NCC’s mission statement is to improve the well being of all Australians through, amongst other things, rising productivity, by promoting competition that is in the public interest. Overseas and NT experiences have shown that deregulation results in declining productivity and associated (public benefit related) outcomes that are not in the public interest. The NCC should give appropriate weight to the impact of entry deregulation on public benefit issues and accept that there is overwhelming evidence to support the arguments that the taxi industry requires regulation to allow for a productive industry that operates in the public interest.

Appendix 1

Terms of Reference

1. Identify and discuss the role of the “public benefit test’ in the application of the National Competition Policy as outlined in the National Competition Agreements, with particular reference to the taxi industry.

2. Review and report on the impact/potential impact of deregulation of the taxi industry, both overseas and within Australia (including the Northern Territory), from the point of view of public benefit matters identified under the public benefit test.

3. Evaluate the findings of this research to determine what evidence exists in order to conclude that it is in the public interest to support the regulation of the taxi industry and that a public benefit is only deliverable through regulation.

Appendix 2

Senate Sub-Committee Public Interest Test Recommendations and the Government's Responses

In its response to the Senate Committee report the Government responded[28] to the 4 recommendations relating to the public interest test. In reproducing the recommendations and the Government responses, it should be noted that COAG refers to the Council of Australian Governments.

'PUBLIC INTEREST TEST

Recommendation 1:	*For the purposes of measuring outcomes of the policy, a method of assessment be agreed by COAG which will provide a numerical weighting that can be attributed to environmental, social, and employment factors wherever possible.*

Government Response

The review of the NCP agreements is considering the application of the public interest test established by the relevant clauses of the CPA. However, the Government does not favour the application of numerical weightings to particular matters which may be taken into account in the public interest test. In practice, it would be difficult to agree on the relative numerical weight to be assigned to particular matters. Even then, it may not be desirable to constrain the weighting which a Government may consider appropriate in a particular case.

The CPA establishes that jurisdictions are free to consider a range of factors in examining various reform options. In addition to efficient resource allocation, these issues may include, but are not limited to, those associated with employment growth, regional development, the environment, consumer interests, welfare and equity. This provides for the full range of benefits and costs to be considered in establishing whether a particular course of action will provide a net benefit to the community as a whole. This process essentially embodies the public interest test. This flexibility provides that jurisdictions may apply different emphasis to particular factors contained within the public interest test.

Recommendation 2:	*That the NCC publish a detailed explanation of the public interest test and how it can be applied and produce a listing of case histories where the public interest test has been applied as a regularly updated service of decisions. This may form part of the information available through the proposed 'one-stop-shop' advisory service.*

Government Response

The Government supports the availability of detailed information regarding the scope and application of the public interest test.

It notes that the NCC released a publication entitled *Considering the Public Interest under the NCP* in November 1996. The Centre for International Economics and the NCC released a further publication outlining a general framework for conducting NCP legislation reviews in February 1999. In addition, a number of jurisdictions have documented their own arrangements. For example, Queensland released public benefit test guidelines in October 1999.

The application of the public interest test is described in each jurisdiction's annual report on the progress made in implementing legislation review commitments. This information is generally reflected in the NCC assessments of jurisdictions against scheduled reform commitments, which are

[28] Government Response to the Report of the Senate Select Committee on the Socio-Economic Consequences of the National Competition Policy. August 2000. (www.treasurer.gov.au/tsr/content/pressreleases/2000/download/084attach.rtf)

publicly available. Furthermore, at the Commonwealth level, the Office of Regulation Review provides an annual assessment of Commonwealth compliance with legislation review requirements. (See also the responses to Recommendations 5 and 19.)

Recommendation 3:	*That COAG agree on a standardised public interest test procedure to be used in cases where a review has implications across state or territory borders.*

Government Response

The CPA provides that where a review raises issues with a national dimension or effect on competition, or both, the party responsible for the review will consider whether the review should be undertaken on a national (inter-jurisdictional) basis. Where this is considered appropriate, other interested parties must be consulted prior to determining the terms of reference and the appropriate body to conduct the review. National reviews do not necessarily require the involvement of all jurisdictions.

The Government considers that the current arrangements for the application of the public interest test on a national or inter-jurisdictional basis are appropriate. Considerable work is undertaken through the COAG Committee on Regulatory Reform (CRR) in identifying and ensuring consistency of outcomes for those reviews with national implications. Governments have charged CRR with coordinating NCP legislation reviews that have national or cross-jurisdictional impacts. This provides for a consistent review process and, at a minimum, a sharing of information between jurisdictions undertaking similar reviews.

National reviews have been, or are in the process of being, conducted in relation to the mutual recognition agreements, agricultural and veterinary chemicals legislation, pharmacy legislation, food acts, drugs, poisons and controlled substances legislation and the regulation of architects.

At the Commonwealth level, the public consultation process associated with legislation reviews allows for contributions from any interested party, including other jurisdictions.

Recommendation 5:	*That a 'hotline' service be set up for organisations seeking information and assistance on how to use the public interest test and review processes. This service should be reviewed after twelve months.*

Government Response

It is each jurisdiction's responsibility to establish review processes and, as noted in the Government's response to Recommendation 1, to apply the public interest test in a manner that is appropriate to the particular circumstances in that jurisdiction.

While the provision of information about the public interest test and review processes is also a matter for each jurisdiction, the NCC currently provides assistance regarding the NCP review process. It is also able to provide a referral service to the various competition policy units within each jurisdiction.

At the Commonwealth level, the Office of Regulation Review advises on the conduct of legislation reviews. The model terms of reference for legislation reviews developed by the Office specify that the terms of reference should be made publicly available and include requirements to advertise the review in newspapers, consult with key interest groups and affected parties, to specify a reporting date (depending on the complexity of issues to be considered), and to publish the findings of the review.'