



Submission to the Commission for Tax Regulation on the National Review and Roadmap

Submission S/05/008

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The Competition Authority
An tÚdarás Iomaíochta

1. INTRODUCTION

- 1.1 The Commission for Taxi Regulation (the Commission) has undertaken a major review of taxis, hackneys and limousines in Ireland (the *Review*). The *Review* provides useful information to the Commission on the demand for, and supply of, cab¹ services which will assist the Commission in the pursuit of its objectives. These objectives, as set out in the Taxi Regulation Act, 2003 can be summarised as the efficient and cost effective provision of cab services to consumers, consumer protection, the health and safety of cab drivers and the pursuit of public policy objectives such as the accessibility of vehicles by persons with disabilities and the integration of cab services with the public transport system.
- 1.2 Based on the *Review* and following a wide consultation process, the Commission has published a *Roadmap* which outlines its proposals for the regulation of the cab industry. The Commission proposes a combination of radical sweeping changes - in particular in relation to quality regulation and fares - and gradual, or voluntary, measures such as a quality mark. A number of these proposals have the potential to impact negatively on competition in the market and ultimately on the efficiency and cost effectiveness of the provision of cab services to consumers. We strongly recommend the Commission to carry out a Regulatory Impact Assessment (RIA) of the proposed measures. Subjecting the proposals to a RIA is vital to determine whether
- The objectives pursued could be achieved by the market, or by policy interventions that do not stifle competition, and
 - The proposed policy interventions bring benefits that clearly outweigh the negative impact on consumers that could stem from measures restricting competition.
- 1.3 Overall, the *Review* found that consumers are generally satisfied with cab services but there is room for improvement in the provision of cab services for people with disabilities. It is against this background that the need for change in the regulatory framework should be examined. The Competition Authority's comments on the *Review* and the *Roadmap* are designed to aid the Commission in identifying potential competition concerns and to assist the Commission in its decision-making process.
- 1.4 The structure of this Submission is as follows:
- Section 2 sets out a model to assess regulatory proposals to avoid situations where regulation has a disproportionately negative impact on competition. The model stems from the Regulatory Impact Analysis (RIA) framework promoted by the Government White Paper *Better Regulation*².
 - Section 3 comments on potential competition issues emerging from particular proposals in the *Roadmap*.
 - An Appendix draws out the key findings of the *Review* in terms of demand and supply.

¹ In this Submission the term cab refers collectively to taxis, hackneys and limousines.

² This sets out a number of principles which should be met when deciding whether to regulate and how to regulate - necessity, transparency, accountability, proportionality, consistency and effectiveness.

2. EXAMINING THE IMPACT OF REGULATION THROUGH REGULATORY IMPACT ANALYSIS

- 2.1 In terms of assessing current regulation and formulating new regulations for cabs, the Commission's next step is the completion of a Regulatory Impact Analysis (RIA). The Commission has announced its intention to adopt this approach in its Strategy Statement.

What is Regulatory Impact Analysis?

- 2.2 RIA is promoted by the Government's White Paper *Regulating Better* to improve the quality of regulation introduced into the Irish regulatory environment. RIA is a practical tool used to ensure that regulation is only used when the rationale for regulatory intervention is well-established, the benefits of regulation are clearly defined, and the benefits outweigh the costs. RIA promotes the consideration of alternatives to regulation to achieve the desired policy objective at the least possible costs for consumers and the Exchequer.

- 2.3 The key steps of a RIA are as follows:

- a) Explicitly state the objectives that are being pursued or the rationale behind the possible policy intervention,
- b) Identify the various policy options or choices which are under consideration,
- c) Identify the costs and benefits of each option, determine their magnitude and to whom they are likely to fall,
- d) Conclude on the proportionality of the options examined to ensure that the option chosen generates the greatest benefits at the least costs to consumers, industry and tax payers.

- 2.4 The first step of a RIA is crucial. The reasoning and objective behind a proposed regulation must be stated explicitly. In particular, it is important to show how and why the market has failed and will continue failing to deliver the expected policy outcome.

- 2.5 Once the various policy options or choices are identified, the next step involves analysing the likely costs and benefits associated with the regulatory intervention. This requires identifying and quantifying both the direct and the indirect or hidden costs of the possible policy intervention to capture any potential negative impact on entry and rivalry into the industry – key determinants of the intensity of competition in the market.

- 2.6 Identifying the direct costs of regulation is relatively straightforward. Direct costs include:

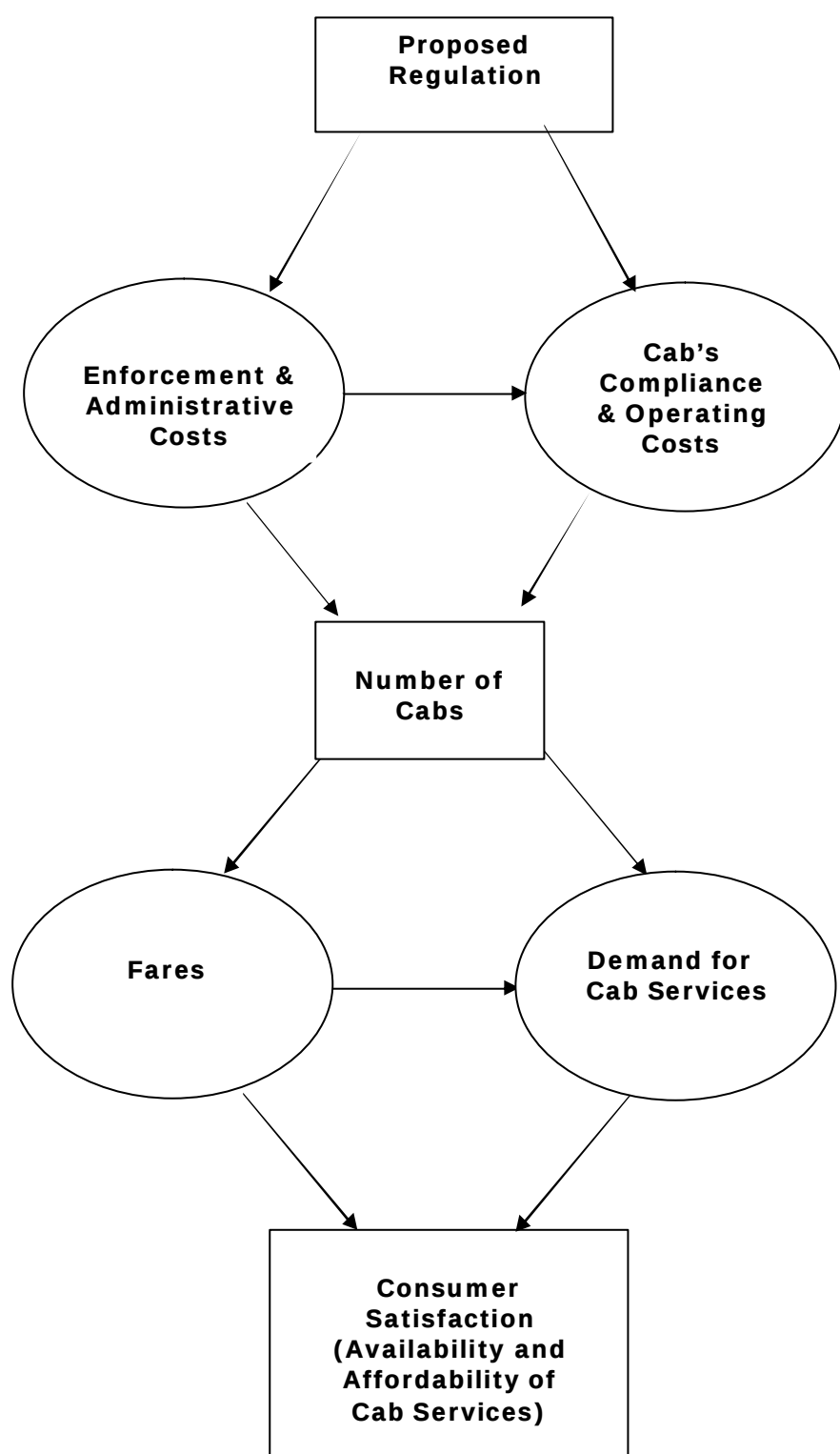
- Costs borne by the Exchequer to develop and enforce regulation (e.g. administration costs, costs of establishing and operating regulatory bodies),
- Costs borne by the industry to comply with the regulation some of which may be on a once-off basis while others will be on-going.

- 2.7 Identifying and quantifying the indirect costs is more difficult. The costs involved in entering the market and supplying a service will affect the incentive to enter the market and the scope for rivalry between service providers.
- 2.8 The proportionality test aims to ensure that the costs (direct and indirect) of the proposed policy intervention do not outweigh the benefits. The benefits and costs of each proposal must be compared to determine which policy intervention would achieve the policy objective at the least cost.
- 2.9 Carrying out a RIA in an open and transparent fashion – the approach adopted by the Commission to date - has many advantages. Transparency facilitates a better understanding of the rationale behind choosing one policy option over another and greater levels of acceptance for the costs of regulation by both industry and customers. It also facilitates the assessment of the effectiveness of the regulatory intervention by all parties involved. It can prompt and facilitate reviews of regulatory intervention when it becomes obvious that the rationale for policy intervention has become obsolete.

A RIA of the Cab Market

- 2.10 In the cab market, a RIA involves analysing the impact of possible regulatory interventions on consumer satisfaction in terms of the availability and affordability of cab services via the interaction illustrated in Figure 1 below.
- 2.11 Regulation impacts directly on the number of cabs via the enforcement and administrative costs associated with regulation and via the compliance and operational costs imposed on cabs. When regulation raises barriers to entry into the industry and barriers to rivalry between cab owners, the number of cabs will be artificially low. This will generate indirect costs for consumers in terms of higher fares, longer waiting times and less choice.

Figure 1: Interaction between Regulation and Consumer Satisfaction in the Cab Market



3. COMMENTS ON ROADMAP PROPOSALS

- 3.1 The following section provides the Competition Authority's comments on the following issues: quality regulation, accessibility and fare regulation.

QUALITY REGULATION

- 3.2 The *Review* has shown that overall CAB users are satisfied with the quality offered by CAB drivers and their vehicles.³
- 3.3 Minimum quality standards which are tightly defined and strictly enforced are essential in the cab market to guarantee the safety and security of passengers and drivers. In the absence of specific standards, free entry, intense competition and the incentive to cut costs may reduce vehicle quality. However, quality standards, if set too high, do not always benefit consumers as they can disproportionately impact on the number of operators who enter a market. Consequently, it is critical that minimum quality standards which restrict entry into the market are only introduced when they are strictly necessary to achieve a safe cab service to consumers at an affordable cost. Aiming for a *"first class professional service"*, as outlined in the *Roadmap*, will result in a cab service which only caters for those who can afford to pay first-class prices. Quality regulation must focus only on minimum standards to ensure safety and then allow competition in the market to provide different quality levels above this minimum standard.
- 3.4 The quality standards currently in place in the cab business are maintained through the licensing process and the associated checks and tests on the cab driver and the vehicle. Given these standards, the questions that the Commission needs to ask are:
- Whether these standards are adequate to achieve the desired objective,
 - What problems, if any, exist with the current quality standards,
 - Are these problems widespread or limited, and
 - How can these problems be addressed in line with the Better Regulation principles.
- 3.5 To foster these changes, the Commission is proposing a combination of voluntary and compulsory measures. Voluntary schemes are normally initiated by industry associations and can be viewed as a market-led approach to quality improvements. In the absence of a market-led solution, the Commission intends to initiate a number of voluntary schemes to raise quality standards in the cab business rather than through mandatory requirements. Such an approach has two significant benefits. Firstly, voluntary schemes involve no public enforcement costs. Secondly, the coexistence of voluntary quality schemes with minimum quality standards offers choice to customers - choice between first-class services and economy services which may or may not be reflected through differences in fares or in tipping practice by cab users.

³ 91.3% of CAB users agree that cabs generally provide a good service, 84.7% agree that drivers are generally helpful and friendly, 84.9% agree that cab vehicles are of good quality and 88% agree that cab vehicles are generally clean and tidy.

- 3.6 Interestingly, neither the *Review* nor the *Roadmap* investigates thoroughly the rationale for keeping the two distinct licences for taxis and hackneys. An examination of this issue by the Commission could have explored whether cab users perceive a difference in the service provided by taxis and hackneys and also whether taxi and hackney drivers perceive these as two distinct occupations serving different consumer segments and having different practices, working patterns and salary levels.

Standards for Cab Drivers

- 3.7 In terms of standards for cab drivers, the Commission should be congratulated for resisting industry pressure to limit access to the profession to full-time taxi drivers. While such a measure would have been virtually impossible to enforce, it would also have had detrimental effects on entry into the industry and consumers. Part-time cab drivers contribute immensely to the satisfaction of demand for cab services, in particular at peak times in the evenings and at weekends.
- 3.8 The *Roadmap* proposes the establishment of a compulsory Driver Skills Development Programme. While the *Roadmap* states that not all drivers operate to the same level of professionalism, there is no indication of the scale of the problem or how this problem manifests itself. The *Roadmap* also argues that Irish cab drivers are generally highly regarded by consumers and, according to the *Review*, only 6.8% of adults have ever made a formal complaint about cab services.
- 3.9 The introduction of a Driver Skills Development Programme has the potential to increase the entry requirements into the industry as drivers could face substantial costs in terms of programme fees and lost earnings while completing the course. Such a scheme should only be introduced if the Commission is of the view that the programme would bring benefits to consumers that outweigh the costs borne by both drivers and consumers. In examining alternative regulatory interventions, the Commission should consider a 'risk based approach', i.e. making the course compulsory for drivers against which legitimate complaints have been received. In this way, the threat of having to undertake a training programme would act as a deterrent for unprofessional behaviour among cab drivers. This system would target the problem, would not impose any costs on cab drivers who operate in a professional manner, and could therefore prove to be a cost effective solution to the problem.

Dispatch Companies

- 3.10 The important role played by dispatch companies in matching demand and supply is evident from the *Review*. According to the *Roadmap*, however, this does not always work as well in practice as it should in theory. This primarily stems from the relationship between taxi drivers and dispatch companies. When taxi drivers are affiliated to a dispatch company they remain self-employed as owner-drivers. As a result, dispatch companies do not have full control on the number of drivers on the road, the price or the quality of service offered.
- 3.11 To address this problem, the Commission proposes to foster the development of a quality scheme for dispatch companies. The Commission's role could be limited to acknowledging that a particular company has taken the necessary steps to ensure that a contract negotiated over the phone will be honoured. Alternatively, the Commission could licence dispatch companies. A RIA would assist the Commission

when deciding which of the options identified addresses consumers' needs in a way that complies with the Better Regulation principles. In particular the RIA will ensure that the Commission's intervention will not disproportionately raise barriers to entry and rivalry into the market.

Vehicle Standards

- 3.12 The *Roadmap* makes a number of proposals in relation to vehicle standards. One such proposal is that cabs should be no more than nine years old. The rationale behind banning vehicles which are over a certain age remains unclear. The age of a vehicle is not directly correlated with the level of safety it affords. Provided that the NCT is functioning correctly, this test will ensure that the specified safety standards are maintained. The high failure rate of vehicles (both cabs and privately owned vehicles) suggests that the NCT is functioning as it should and that the testing procedures provide a high level of certainty that vehicles that pass the test conform to safety regulations. An alternative way to ensure better compliance with safety standards would be to increase the frequency of the NCT once vehicles pass a certain mileage.
- 3.13 The *Roadmap* also proposes restricting the type of vehicle that can be used as a cab to those over a minimum size. As this proposal has the potential to increase barriers to entry into the industry, its rationale needs to be clearly stated and its proportionality needs to be assessed in light of consumers' willingness to pay for extra comfort and luggage space. To carry out this assessment, it would be useful to know which proportion of trips involve single passengers compared to several passengers, how many trips involve luggage and how passengers with luggage book cabs over the phone.
- 3.14 In terms of vehicle identification, the *Roadmap* proposes that all taxis and hackneys should be fitted with a permanent tamper-proof disk. If the tamper proof disk has been proposed as a means of ensuring that the vehicle that is being used as a cab is the same vehicle that has been through the necessary vehicle testing process, this rationale should be clearly stated. Also an indication of the incidence of such illegal activity should be provided. It would also be useful to compare this measure with alternative proposals such as making the existing taxi roof sign permanently attached to the vehicle. A RIA will factor in how each option would impact on drivers' decision to enter the industry and hence the number of cabs available.

ACCESSIBILITY

- 3.15 One of the Commission's overriding objectives is to make cabs more accessible to all segments of the population, especially for those who have mobility and sensory disabilities. In formulating its policy in this regard, the Commission has to balance the needs of a specific segment of the population against the affordability of the service for all cab users.
- 3.16 Conducting a RIA of its proposals on improving accessibility should assist the Commission when choosing the policy measures that achieve its objectives at the least possible cost. In particular, the RIA would ensure that the indirect costs associated with increased costs to enter the industry are taken into account. The RIA could show that improving wheelchair accessibility among cabs or introducing a front passenger swivel seat as a condition for obtaining a licence brings benefits that are not outweighed by both the direct and indirect costs associated with the policy.

FARE REGULATION

- 3.17 The Commission will soon acquire responsibility for fare regulation. In this context the Commission is considering possible changes in fare structure and rates, taximeter areas, the fare review process and the provision of fare information.

Rationale for Maximum Fare Regulation

- 3.18 Fare regulation in the taxi market sets maximum fares which are calculated by the meter. Maximum fares allow individual drivers to set fares below the metered level and offer discounts. It also gives consumers some bargaining power over fares as it leaves scope for consumers to negotiate rates below the maximum fare level. This maintains a degree of price competition that may be availed of by innovative companies who cater for specific market segments (e.g. business accounts, call-out business).
- 3.19 The rationale behind maximum fare regulation in the taxi industry is well-established. Firstly, maximum fares reduce the cost of shopping around for taxis, particularly in the case of street hires where there is the uncertainty of waiting for another taxi and the possibility that the next is more expensive. Secondly, maximum fares protect vulnerable customers who are susceptible to over-charging (e.g. tourists). Thus maximum fare regulation ensures that the taxi market works well for consumers and the *Roadmap's* proposal to retain maximum fare regulation is welcomed.
- 3.20 An efficient system of fare regulation should attempt to mimic what would happen in a well functioning market to ensure that supply meets demand and avoid situations where
- Fares are set too low at times of high demand resulting in too few taxis supplying their services, excessive queues at ranks and long waiting times,
 - Conversely, fares are set too high at times of low demand resulting in too many drivers supplying their services, long queues of empty taxis at ranks and idle taxis.

Fare Structure & Rates

- 3.21 One of the reforms proposed by the Commission relates to the simplification of the fare structure. While a simplified fare structure across the country will facilitate fare regulation by the Commission, the benefits to consumers in terms of their ability to compare prices is unlikely to be significant. Fare comparisons for the same trip or similar trips within a locality can be meaningful, however, it is not clear how meaningful fare comparisons across different localities can be. Operating conditions (demand patterns, speed of traffic, occupancy rate of vehicles, etc.) determine both consumers' willingness to pay for cab services and cab operating costs – key determinants of the demand and supply of cab services.
- 3.22 The Commission also proposes the introduction of a graduated tariff based on distance (i.e. higher per kilometre charges for longer distances to compensate taxis for running unoccupied on return journeys). This proposal has the potential to impact on the supply of taxis for long distance trips. At present, most people wishing to travel long distances

negotiate a fare with the driver/taxi company, in which case a graduated tariff is unnecessary. However, if evidence exists that customers who wish to travel long distances find it difficult to hire a taxi, the Commission's proposal may provide incentives to satisfy demand of this nature. An issue that would need to be addressed is how a long journey is defined and at what point the charge per kilometre should start to increase. In finalising its proposal, the Commission should also take into account that the design of a graduated tariff could reduce the supply of services to certain taxi users, e.g. trips which involve more than one passenger making more than one stop.⁴

3.23 In addition to reviewing the fare structure, the Commission also proposes a move toward a national fare structure and national fare rates and to modify the area of operation for taxis. As taxis offer a local transport service, taxi fares should be responsive to local factors. A national fare rate could have the effect of curtailing the supply of taxis in certain areas of the country resulting in harm to consumers. Ensuring fares are adapted to local conditions is vital to address the peaks and troughs in demand which occur at a local level. Before making its final decision in this area, the Commission should consider the following questions:

- Are supply and demand conditions homogeneous across the country? Is it possible to identify different zones where demand and supply display similar characteristics, e.g. rural areas, provincial towns and their hinterlands and the Greater Dublin area?
- What is the rationale behind the proposed tie between a taxi and a Licensing and Operational Area and is there any reason why taxis should not be permitted to provide services beyond the area in which they apply and receive their licence?
- Do the benefits of restricting the area of operation of a taxi outweigh the potential costs to consumers?

Fare Review Process

3.24 In terms of the fare review process, the Commission's proposal to carry out systematic fare reviews and the four criteria to be used in setting the formula for maximum fares are welcomed. These criteria are:

- a) Ensure value for money,
- b) Encourage taxi use,
- c) Provide incentives to assist in matching supply and demand, and
- d) Encourage drivers to increase productivity and efficiency.

3.25 The *Review* proposes that fare increases should be benchmarked to the average industrial wage, similar to the practice used in other regulated sectors of the economy. The problem with this proposal is that

- a) other regulated sectors of the economy are characterised by monopoly and not competition like the cab market, and
- b) a cost-pass through mechanism leads to inefficiency as it means that cab drivers will not have incentives to reduce the cost base (e.g. switch to more fuel efficient vehicles).

⁴ While this may increase the distance covered beyond a certain limit, the driver may not necessarily need to be compensated if the final stop is not located a significant distance from the starting point of the journey.

- 3.26 The availability of taxis as well as consumers' ability to negotiate fares below the maximum fare level should determine whether taxi fares should be increased/decreased. If customer surveys reveal that there has been a permanent increase/decrease in waiting time at taxi ranks, this should lead to an upward/downward revision of taxi fares as part of the fare review process.
- 3.27 The Commission proposes that a reliable system of information gathering to assist fare reviews will be developed. This should involve the use of regular customer surveys, the collection of detailed records of taxi usage and observation of taxi ranks. It would also be important to gather accurate data on waiting times at different parts of the day and days of the week, and also measure the extent to which actual fares are lower than metered, maximum fares.

Fare information

- 3.28 The Commission recommends increasing the information that is available to the public on taxi fares. The proposals made by the Commission involve the use of guides, public awareness campaigns and improved in-vehicle information (both in the front and back of the vehicle). The Commission states that this information will be clear and easy to understand.
- 3.29 These proposals will benefit consumers and the competitive process as information empowers consumers to make informed choices. However, it will still be important to examine whether these benefits outweigh the cost implications of the proposals and whether these benefits are achieved at the minimum cost.
- 3.30 The requirement for taxi drivers to provide a receipt will also benefit consumers. A written record of the fare charged and its components will enable passengers to become more aware of what they are paying for taxi fares and to query the fare if necessary. The benefit of this proposal could be limited if the receipt is not linked to the meter.

APPENDIX: DEMAND AND SUPPLY IN THE CAB MARKET - KEY FINDINGS OF THE REVIEW

- 1.1 The *Review* found that most cab users, including tourists, are satisfied with the quality of service they receive. Waiting times are low and when delays are experienced they usually occur at rush hour.⁵ Few consumers have ever made a formal complaint about cab services.⁶ The level of satisfaction with cab services is lower among people with disabilities.⁷ Cab use is lower among this group compared to the general population.⁸ Affordability of fares is a particular issue for people with disabilities.⁹ The technical specifications of wheelchair accessible taxis do not meet the needs of all wheelchair users, particularly in terms of safety requirements.¹⁰ Consumers' perceptions on value for money are mixed.¹¹
- 1.2 The *Review* found that demand for cab services displays strong fluctuations according to the time of the day and day of the week.¹² In Dublin, cab journeys are on average longer than those taken in other parts of the country.¹³
- 1.3 On the supply side, the *Review* found that there is wide variety of vehicles used in the provision of cab services in terms of size and age.¹⁴ Dublin cabs have the lowest average annual mileage.¹⁵ The vast majority of cabs do not pass the NCT first time.¹⁶ Although most cab drivers suggested that a partition between the driver and passengers would increase driver safety and security, only 1.6% of drivers actually had a screen partition in their vehicle. In terms of drivers' working patterns, the *Review* found that 10.2% of drivers have another occupation, 11.3% of drivers work 30 hours or less a week, the average shift is 9.7 hours and 44.3% of drivers work six shifts or more per week.
- 1.4 Finally, the *Review* highlights the critical role played by dispatch companies in ensuring that the demand for cabs generated by phone bookings is met. When taxi drivers are affiliated to a company they remain self-employed as owner-drivers. As a result, dispatch companies do not have full control on the number of drivers on the road, the price at which the service is offered or the quality of service offered.

⁵ 40.2% of cab users wait less than 5 minutes, with delays mainly occurring between 4-6pm.

⁶ Only 6.8% of cab users have ever made a formal complaint.

⁷ 59.4% of wheelchair users find that cab services are generally good against 91.3% of the overall community.

⁸ 47.8% of wheelchair users use cabs less than once a month compared to 23.6% of the general population.

⁹ 43% of wheelchair users cite high fares as the main deterrent for using cabs.

¹⁰ Only 52.4% of wheelchair users consider that the physical layout of wheelchair accessible vehicles satisfy their needs in terms of door width and ceiling height.

¹¹ 58.3% of cab users consider that they are getting good value for money, 26.5% do not.

¹² 69% of weekly trips occur on Fridays and Saturdays, and 28% of daily trips occur between midnight and 3.00 am.

¹³ 48% of trips in Dublin are over 5 miles compared to 29% on average in the rest of Ireland.

¹⁴ The average age of a taxi is 6.9 years, 7.5 years for hackneys and 7.4 years for limousines.

¹⁵ The average annual mileage in Dublin is 29,590 while the national average is 38,535.

¹⁶ 62% of cabs fail the NCT first time against 48% of private vehicles. When there are re-tested, 18% of cabs fail the re-test against 10% of private vehicles.

