

Legislative Council Panel on Transport

Measures to Curb Taxi Touting Activities

Purpose

At the meeting of the Legislative Council Subcommittee on Road Traffic (Temporary Reduction of New Territories Taxi Fares) Regulation 2003 and Road Traffic (Temporary Reduction of New Territories Taxi Fares) (No.2) Regulation 2003 held in July 2003, the Administration agreed to review and improve its measures against illegal taxi touting practices and consider introducing legislative amendments to address the current situation whereby passengers could ask for fare discount whereas drivers are not allowed to attract any person (such as by offering discount) to induce such person to make use of their vehicle. This paper presents the results of the review.

Legal Framework on Taxi Fares and Touting

2. The scale of fares for the hiring of taxis is specified in Schedule 5 of the Road Traffic (Public Service Vehicles) Regulations (Chapter 374, sub. leg. D) (“the Regulations”). Under regulation 47(2) of the Regulations, no taxi operator shall charge for the hiring of the taxi a fare exceeding the appropriate scale of fares specified in the Regulations.

3. Under regulation 40 of the Regulations, no driver or person acting on behalf or purporting to act on behalf of the driver of a public bus, public light bus or taxi shall in any manner attract or endeavour to attract any person in order to induce such person to make use of the vehicle. Offering fare discount by taxi drivers to attract passengers to use their taxis would be caught under the offence of soliciting. Upon conviction, offender is liable to a maximum penalty of a fine of \$10,000 and imprisonment for 6 months.

Taxi Touting Activities

4. Taxi touting activities could take the form of offering of discount to passengers direct on the spot in areas such as the Hong Kong International Airport and Hong Kong Macau Ferry Terminal where demand for long taxi trip is heavier. Taxi drivers or their agents solicit passengers to use their taxis through offering discount.

5. There are also touting activities conducted through distribution of name cards or leaflets to the public indicating that a discount will be offered in hiring their taxis. The taxi drivers perform the touting activities either individually or in groups. For activities performed by groups, the drivers concerned usually use unlicensed telecommunication or mobile phones to exchange information on hiring orders.

6. Another form of touting activities involves the use of illegal telecommunication equipment or channels by drivers to intercept hiring orders issued by taxi radio call stations. They will offer fare discount to passenger on the spot to attract them to use their taxis instead of those reserved through the radio station.

Actions Taken Against Taxi Touting

Direct Touting

7. The Police have stepped up enforcement actions against direct taxi touting activities, in particular at the problems spots. Uniform officers are deployed to patrol problem areas with a view to achieving a deterrent effect and taking enforcement actions when there is evidence to show that soliciting or illegal parking has taken place. The Police will also deploy undercover agents to collect evidence for charging persons engaged in touting activities. Moreover, the Police are maintaining close liaison with the Airport Authority and management agents of other problem spots. Such liaison enhances information exchange on taxi touting activities and facilitates the mounting of enforcement actions effectively and efficiently.

8. As a result of stepped up enforcement actions against taxi touting by the Police in the past months, the number of persons prosecuted for having committed the offence of soliciting increased by 64% from 22 for the first six months in 2003 to 36 for the latter half of the year. Detailed statistics on the enforcement figures are at Annex I.

Annex I

Use of Illegal Telecommunication Devices for Touting Activities

9. Touting activities that involve the use of unlicensed telecommunication contravenes section 8 of the Telecommunication Ordinance (Chapter 106). The section prohibits establishment and maintenance of any means of telecommunications unless under and in

accordance with a licence. Any person who contravenes this provision shall be liable on summary conviction to a fine of \$50,000 and to imprisonment for 2 years, and on conviction on indictment, to a fine of \$100,000 and to imprisonment for 5 years. Enforcement action is taken by the Office of the Telecommunications Authority (“OFTA”).

10. To enhance interdepartmental coordination in combating taxi touting through illegal use of telecommunications, Transport Department (“TD”) has set up a special task force with the Police and the OFTA in August 2003. With the establishment of the task force, OFTA has conducted more stringent enforcement actions and a total of 73 operations were mounted in 2003. The number of persons convicted increased by 57% from 84 for the first half of 2003 to 132 for the latter half of the year. Relevant figures on the operations conducted by OFTA in 2003 are at Annex II.

Annex II

11. To better regulate and monitor the use of telecommunication equipment in taxis in order to prevent touting activities through misuse of such equipment, OFTA has shortened the validity period of the licences for telecommunication device installed on individual taxis from 12 months to one month. As a preventive measure, TD, the Police and OFTA have staged publicity against touting and the use of illegal telecommunication devices from time to time.

Distribution of name cards or leaflets

12. Mere distribution of promotional materials for contact and marketing purposes is not an offence unless it is used as a means to solicit passengers to use a particular taxi. Evidence is needed to be established to substantiate the offence and members of the public might need to be identified to act as witnesses in open court.

13. Actions have been taken to collect name cards or leaflets distributed by taxis. Upon receipt of name cards/leaflets which are suspected to be related to touting activities, TD and the Police have taken follow up actions by posing as clients intending to hire taxi service. So far there is no confirmed case in which fare discount is initiated by the drivers or their agents. The two departments will continue with this operation.

Passengers Seeking Taxi Fare Discount

14. There is no provision in the Regulations which prohibits taxi passengers from seeking fare discount from drivers.

15. Experience during the economic downturn in the past few years is that some passengers would ask for fare discount from drivers, particularly on long haul routes. It would be up to individual drivers to decide whether or not to agree to such requests. Some taxi drivers have expressed concern that this would create an uneven playing field as drivers who agree to such requests would get the business at the expense of those who do not. They are also concerned that permitting passengers to ask for fare discount is not consistent with the legal provision that drivers cannot offer discount to induce passengers to make use of their vehicles.

16. On the other hand, there are views that allowing passengers to ask for fare discount would provide flexibility in taxi operation. The level of taxi fares, especially those for long trips, can be better aligned with public affordability and hence such flexibility provides greater business opportunity for the taxi trade in times of economic difficulty. Past experience shows that it is difficult for the taxi trade to reach a unanimous view on taxi fare reduction to cope with the market situation during economic downturn. If passengers are not allowed to ask for fare discount, there could be more passengers driven to travel on other transport modes, particularly on long trips. Besides, it would be up to individual taxi drivers to decide whether or not to agree to passengers' request for fare discount.

17. The taxi trade has raised their views on the issues of taxi touting and fare bargaining at the Urban and NT Taxi Conferences held by TD on 5 and 12 February 2004 respectively. TD has also consulted them on the matter through other channels. The taxi trade indicated that both the offering of discount by taxi operators and the fare bargaining activities by passengers have reduced due to the recent recovery of the taxi business. From the operating statistics compiled from data stored in the Data SIM cards of the taximeters in the past year at Annex III, it is observed that the taxi business largely returned to the pre-SARS level in the recent months. In general, the trade considered that there was a need to prohibit taxi touting activities as they would create an unfair operating environment for taxi operators who act in compliance with the law and do not engage in soliciting. The trade generally considered that the Government's enforcement actions against taxi

touting had an effective deterrent effect and urged the Government to continue to take positive steps to combat such activities.

18. As regards fare bargaining by passengers, views of the trade were mixed. Some trade members considered that fare bargaining by passengers would be unfair to those who do not agree to requests for discount. However, others opined that prohibiting fare bargaining by passengers would remove the flexibility for the trade in responding to market situation during economic downturn. They generally considered that public education on taxi fare charging mechanism should be strengthened to tackle the issue of fare bargaining by passengers. There was no consensus on making legislative changes to prohibit passengers from asking for fare discount.

19. In the absence of a consensus from the taxi trade and having regard to the considerations set out in paragraphs 14 to 18 above, we do not consider it appropriate to pursue legislative amendment at this moment to take away the flexibility involved. This would also avoid creating a situation under which innocent tourists might commit an offence by asking for fare discount if such a legislative amendment is made.

20. As requested by the trade, TD will step up passenger education. It will arrange publicity to advise taxi passengers of the taxi fare charging mechanism and their duty to pay legal fare. Publicity could include dissemination of advice through LED passenger information display panels, taxi service information plates at major taxi stands and distribution of taxi fare information flyers at the Airport and Lok Ma Chau Control Point.

Way Forward

21. The departments concerned will maintain their vigilance in combating taxi touting activities. The Police will continue to take active enforcement action including stepping up uniform patrol to achieve a deterrent effect through physical presence of the Police and conducting undercover operations. In addition, the Police and OFTA will further enhance their coordination and conduct joint operations against the use of illegal telecommunication by individual taxis.

22. The Administration will encourage the taxi trade to report any suspected taxi touting acts by means of distributing name cards or leaflets and will investigate reported cases. TD will also strengthen publicity to

remind the taxi trade that soliciting, including acts of offering discount to induce passengers to use their vehicles, is an offence under the existing Regulations.

23. As for passengers, TD will step up publicity to advise taxi passengers of the fare charging mechanism and their duty to pay legal fare and also monitor the situation.

Environment, Transport and Works Bureau
March 2004

**Figures on Prosecutions by Police against
Taxi Touting Activities in 2003**

Period	No. of cases regarding which prosecutions has been initiated	No. of persons prosecuted	No. of persons convicted
Jan to Jun 2003	19	22	19
Jul to Dec 2003	36	36	29
Total	55	58	48

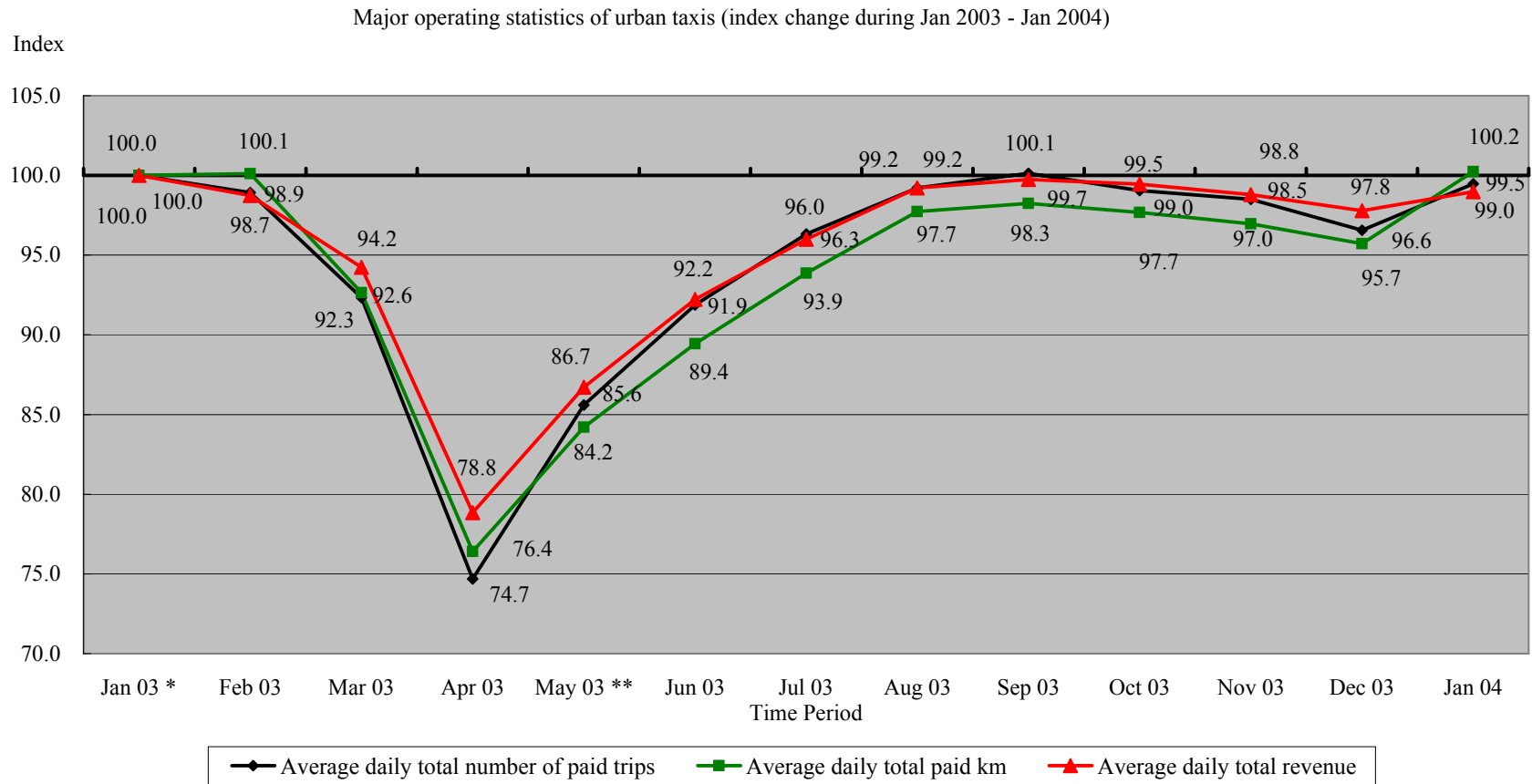
Note:

Six out of 55 initiated prosecutions are still under processing.

Figures on OFTA Operation
against Taxi Touting Activities in 2003

Period	No. of operations	No. of persons convicted
Jan to Jun 2003	32	84
Jul to Dec 2003	41	132
Total	73	216

Major Operating Statistics of Urban Taxis
(January 2003 - January 2004)



Note

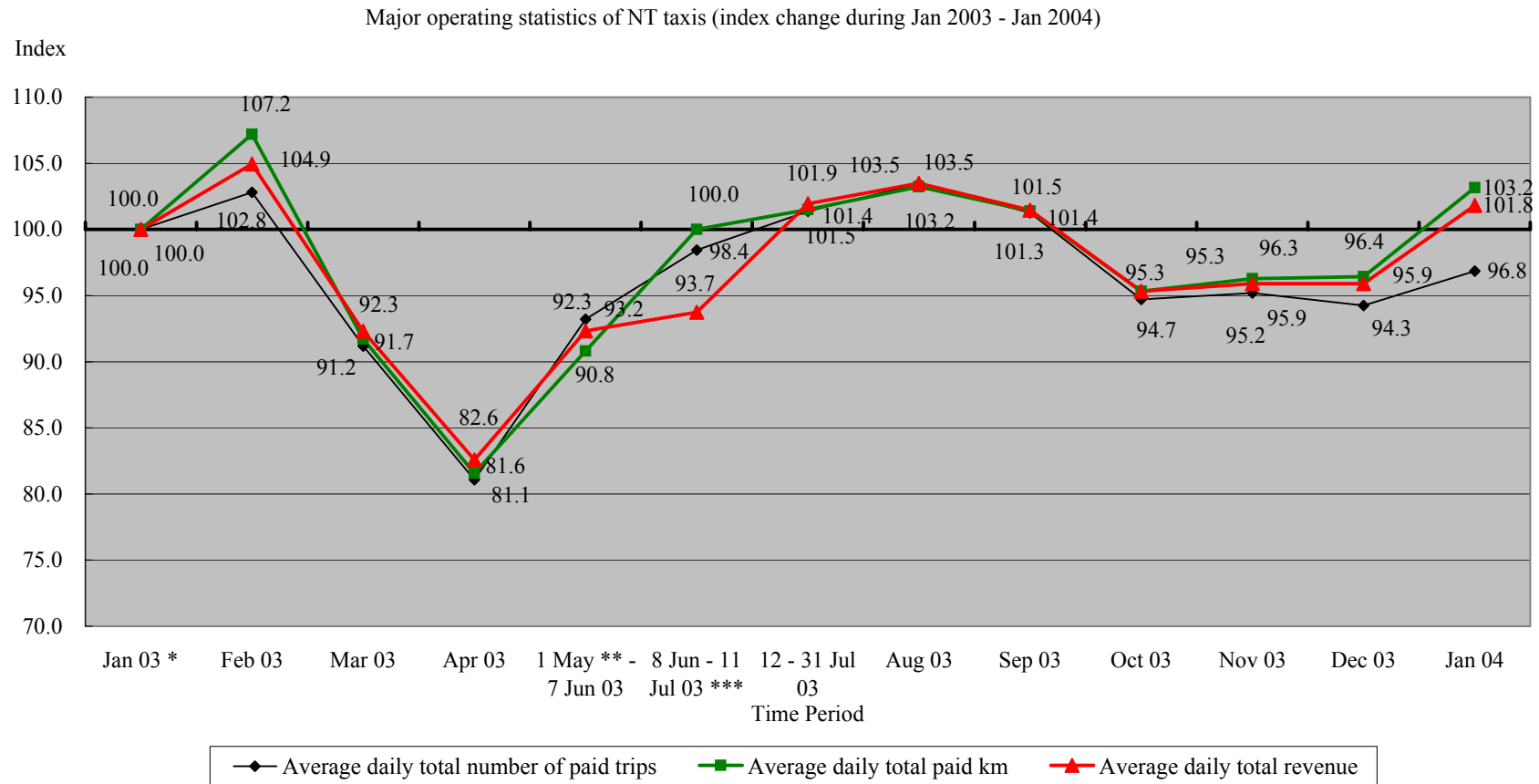
* Results for Jan 03 are set as the basis for comparison with a base index of 100.

** No-stopping restrictions were relaxed for taxis with effect from 1 May 2003 on a temporary basis.

Major observations:

- A continuous increasing trend was observed in all the three major operating statistics since May 03. As at end Sep 03, all of them have largely returned to the pre-SARS level.

Major Operating Statistics of New Territories Taxis
(January 2003 - January 2004)



Note

- * Results for Jan 03 are set as the basis for comparison with a base index of 100.
- ** No-stopping restrictions were relaxed for taxis with effect from 1 May 2003 on a temporary basis.
- *** NT taxi temporary fare concession period. The temporary fare concession was applicable to long trips only.

Major observations:

- A continuous increasing trend was observed in all operating statistics since May 03. As at end Jul 03, all of them have largely returned to the pre-SARS level. While slight decrease was observed since Sep 03, an upward trend was observed in late 03/early 04.