

**Subcommittee on Road Traffic (Public Service Vehicles)
(Amendment) Regulation 2008**

Information Paper on Taxi Fares

INTRODUCTION

This paper provides information on the existing legislation relating to taxi fares, and the measures taken by the Administration to tackle the issue of fare bargaining by taxi drivers and passengers.

EXISTING LEGISLATION

2. Under the existing legislation, no registered owner or driver of a taxi shall charge for the hiring of the taxi a fare exceeding the appropriate scale of fares specified in Schedule 5¹. Offender is liable to a fine of \$10,000 and to imprisonment for 6 months. Passengers should pay the legal fare chargeable under the regulation. Upon conviction, offender is liable to a fine of \$3,000 and to imprisonment for 6 months. Even if a passenger asks for a discount, the driver under the law can refuse to accept. No taxi driver and person acting on his behalf shall in any manner, such as offering a fare discount, attract or endeavour to attract any person in order to induce such person to make use of the vehicle. Upon conviction, offender is liable to a fine of \$10,000 and to imprisonment for 6 months. A passenger shall not use obscene or offensive language or conduct himself in a disorderly manner. Upon conviction, offender is liable to a fine of \$3,000 and to imprisonment for 6 months.

3. The above shows that legislative safeguards are already in place to protect both taxi drivers and passengers. The current legislation prohibits drivers from overcharging. On the other hand, it stipulates that passengers

¹ It refers to Schedule 5 to the Road Traffic (Public Service Vehicles) Regulations (Cap. 374 sub.leg.D).

shall pay the legal fare chargeable under the regulation and are prohibited from using obscene or offensive language or conducting himself in a disorderly manner.

BACKGROUND OF TAXI FARE BARGAINING

4. The taxi trade has been experiencing a lot of changes in its operating environment in the past decade. The competitiveness of the taxi trade in the transportation market, particularly in the long-haul sector, is encountering tremendous challenges. The development of new towns and major infrastructure projects in the remote area of Hong Kong has resulted in an increase in passenger demand for long-haul public transport service. Meanwhile, some public transport modes have continued to enhance their network coverage and service standard, as well as providing passengers with fare concessions for long-haul routes at times. In order to increase patronage, some taxi drivers solicit passengers through offering fare discounts. This has caused considerable concern in the taxi trade.

TRANSPORT ADVISORY COMMITTEE'S REVIEW

5. Against this background, the Administration invited the Transport Advisory Committee (TAC) to conduct a review on the mode of taxi operation, with a view to identifying feasible and appropriate improvement measures to broaden the taxi trade's business opportunities, and at the same time providing competitive taxi services to meet passengers' needs. TAC has conducted more than three months' consultation to widely engage the public and the taxi trade. It also studied the regulatory mechanisms and the modes of taxi operation in overseas cities. TAC released the review report in June this year. With regard to the taxi fare structure, TAC recommends changing the policy on the taxi fare structure from "front-loaded and the subsequent incremental charges being calculated at the same rate" to "front-loaded and thereafter on a varying descending scale for incremental charges". On the one hand, this can align the taxi fare structure with the fare structures of other public transport modes such as railways, franchised buses and green minibuses (GMBs) to increase the taxis' competitiveness. At present, for railways,

franchised buses and GMBs, the average fares of long-haul trips per kilometre are in general lower than those of short-haul trips. On the other hand, the taxi operators will be given a fair and transparent opportunity to propose fares for long-haul trips at competitive rate to suit market conditions. This could help restore a level playing field for taxi operators whose business have been affected by the discount gangs which offer discounts for longer-haul trips.

6. TAC has also considered carefully the desirability and feasibility of legislating against fare bargaining by passengers. On this, TAC emphasizes that taxi passengers should pay according to the meters to ensure order in the market. However, TAC considers that supporting this principle does not equate to concurring in taking the extreme course of action to enact legislation to impose penalty on passengers for fare bargaining for the reasons set out below:

- (i) Under the current legislation, taxi drivers can refuse to accept lower fares requested by passengers;
- (ii) under the law, taxi passengers are prohibited from using obscene or offensive language or conducting himself in a disorderly manner. Thus, the crux of the matter does not lie in enacting a new legislative provision. Rather, taxi drivers should be encouraged to report the cases to the Police when encountering such situations;
- (iii) TAC has sought the Police's advice on the feasibility of enacting legislation to forbid fare bargaining by passengers from the enforcement perspective. The Police is of the view that there will be difficulties in collecting evidence of such bargaining activities as without the driver's agreement and consent, a taxi passenger would not be able to obtain a discounted fare. Having a legislative prohibition against fare bargaining by passengers would therefore be difficult to enforce as neither a willing driver nor a satisfied passenger is likely to make a report to the Police. Likewise there might also be evidential problems if the taxi drivers agreed to give the discount and accepted the discount fares despite the fact that it could have been initiated by passengers. Unless there is admission by the "offenders", none of the parties (being willing participants) would testify against the other; and

(iv) TAC is concerned about suggestions that a mere verbal enquiring about fare discount by passengers should attract criminal penalty as this would seriously deter the public, including tourists, from using taxi services.

7. Taking into account the above, TAC does not consider that legislating against fare bargaining is a desirable and effective measure. TAC considers that its recommendation on the policy on the taxi fare structure may help to alleviate the problem of fare bargaining by allowing the taxi trade more room to adjust its fare structure to align with the actual market conditions.

8. TAC has also looked into the practices of a number of other major cities, including Singapore, Tokyo, London, New York, Shengzhen, Beijing, Shanghai, New Zealand, Vancouver, Toronto, Frankfurt, Netherlands, Melbourne and Seoul. Taxi drivers in these cities are forbidden to charge an amount exceeding the legal fares. In some of the cities (Tokyo, Beijing, Shanghai, Vancouver, Toronto, Frankfurt, Melbourne and Seoul), taxi drivers are forbidden to charge below the metered fare as well. In the above cities, the legislation against charging of fare higher or lower than the legal fare is enforced through regulating the taxi operators and imposing penalties on them. Even though some of the above places prohibit fare bargaining by taxi passengers, none of them enact legislation to impose penalty on passengers for fare bargaining. Rather, the legislation against fare bargaining is enforced through regulating the taxi operators.

9. TAC notes the current practice adopted in some overseas cities is to forbid charging taxi fares below the metered fares. However, TAC considers that this may not be practicable in Hong Kong unless the associated problems of this approach could be addressed and supported by the taxi trade. These problems include removing the flexibility for taxi drivers and passengers to agree on a lower fare when the driver uses a wrong routeing and agrees to accept a lower fare from the passenger; and overcoming enforcement difficulties as neither a willing driver nor a satisfied passenger is likely to report the case to the Police.

THE ADMINISTRATION'S POSITION

10. The Administration concurs with TAC's views. The taxi trade should have a fair and transparent competitive environment to ensure order in the market. As the problem of discount gangs has arisen mainly from changes in the market conditions, the most effective solution is to tackle this issue through the market mechanism by suitably adjusting the fare structure and level to bring them in line with market conditions. Many members of the taxi trade realize this and have put forward two similar fare adjustment applications proposing to raise short-haul fares and lower long-haul fares after lengthy and in-depth deliberation among themselves. Both applications are in line with the revised policy on taxi fare structure recommended by TAC. In considering the two applications, the Administration has taken into account and balanced all relevant factors, and adopted an arrangement that lies between the two applications. This would help to ease the taxi trade's pressure resulting from the increase in operating costs on the one hand, and may help to alleviate the problem of fare bargaining by aligning the taxi fare structure with the actual market conditions on the other hand.

11. We note that there are views in support of legislating against fare bargaining by passengers. Given the far-reaching implications and the various considerations involved, the Administration is of the view that care has to be taken in examining such an idea.

12. In considering whether a problem should be addressed by way of enacting legislation, we need to take into account the following factors:

- (i) From the **legal perspective**, is resorting to imposition of criminal sanction proportionate to the severity of the action concerned?
- (ii) Should a legislative provision be enacted to prohibit fare bargaining by passengers, consideration has to be given to **whether any penalty should be imposed**. Should we regulate the passengers or the taxi drivers? In this regard, in general the community would consider that the consumers' interest should be safeguarded and any such legislative provision should be considered in the context of regulating the taxi operators.

- (iii) **Feasibility of enforcing the legislation:** In actual practice, inside a taxi, there would only be the taxi driver and the passenger and hence there will be practical difficulties in collecting evidence of bargaining activities by passengers.
- (iv) **Practical issues concerning taxi operation:** Some have expressed the view that if legislation against charging fares below the metered fares by taxi drivers is to be considered in Hong Kong, consideration has to be given to whether the existing flexibility would be reduced. For example, when a driver uses a wrong routing, he may offer to accept from the passenger a fare lower than the metered fare. If it is rigidly stipulated in the law that charging below the metered fares is forbidden, this would remove the flexibility for drivers to handle such situations.

WAY FORWARD

13. Members and the Administration have listened to the views expressed by taxi associations at the subcommittee meeting held on 28 October 2008. The majority of those who spoke at the meeting maintained the views they held at the time when they submitted the applications to the Government and supported the new fare arrangement. While we understand that some members of the taxi trade have concerns, it should be noted that the urban taxi fare adjustment applications proposing to raise short-haul fares and lower long-haul fares were put forward by 30 taxi bodies after having in-depth deliberation among themselves. The TAC also supports the new fare arrangement.

14. The increase in the operating costs (including fuel) of the taxi trade has been exerting pressure on the taxi operators and affecting their livelihood. We therefore consider that there is a case for adjusting taxi fares in order to help the trade to cope with its operation difficulties.

15. Taking into account all relevant factors, including changes in the operating costs and revenue of taxis; public acceptability; and maintaining a reasonable differential between taxi fares and those of other public transport modes, the new fare arrangement has been submitted to and approved by the Chief Executive in Council.

16. For most public transport modes, the average fares of long-haul trips per kilometre are in general lower than those of short-haul trips. The new fare arrangement of “raising short-haul fares and lowering long-haul fares” would align taxi fares with the market conditions and enhance the competitiveness of the taxi trade versus other modes of public transport. In conducting the review on the mode of taxi operation, TAC has consulted members of the public and the taxi trade, and the views received are in general in support of lowering long-haul fares. In the meantime, the Police will continue to do its best to take enforcement actions.

17. The Administration considers that the fare adjustment for the urban and Lantau taxis approved by the Chief Executive in Council should be implemented first, in order to align the fare structure with the actual market conditions. This would help to enhance the competitiveness of the taxi trade in the long-haul sector, and reduce room for operation of discount gangs. The Administration will closely monitor changes in the operating environment of the taxi trade after the implementation of the fare structure adjustment, and will maintain liaison with the taxi trade to discuss with them feasible measures to improve its operating environment.

Transport and Housing Bureau
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