

立法會
Legislative Council

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Panel on Transport
Meeting on 21 February 2014

Background brief on
use of smart phones by taxi drivers while driving

Purpose

This paper provides background to the existing legislation governing the use of mobile phones while driving. It also summarizes the major views and concerns expressed by Legislative Council Members on the use of smart phones by some taxi drivers while driving.

Background

2. In January 2014, Hon WONG Kwok-hing and Hon Frankie YICK Chi-ming raised concern that some taxi drivers have fixed a number of smart phones onto the dashboard or air vents near the driving wheel of the taxis and operated them while driving. In view of the concern over the safety issues and the relevant regulatory legislation, members decided at the Panel meeting on 17 January 2014 that the Administration should be invited to discuss the matter at the Panel meeting to be held on 21 February 2014.

3. From 1 July 2000, drivers of all motor vehicles are prohibited from holding a hand-held mobile phone by hand or in between his head and shoulder, or holding the accessories including the microphone while the vehicle is in motion. Regulation 42(1)(g) of the Road Traffic (Traffic Control) Regulations (Cap. 374G) provides that a driver shall not, if a motor vehicle being driven by him is in motion –

- (a) use a mobile telephone while holding it in his hand or between his head and shoulder;

- (b) use any other telecommunications equipment¹ while holding it in his hand; or
- (c) use, while holding in his hand, any accessory² to -
 - (i) a mobile telephone; or
 - (ii) any other telecommunications equipment.

According to the Administration, if drivers violate traffic regulations or pose danger to other drivers or road users because they are operating smart phones while driving, the Police will take enforcement actions (for example, against offences such as careless driving) in accordance with the Road Traffic Ordinance (Cap. 374) and its subsidiary legislation to ensure road safety.

4. According to the Administration, the number of taxi drivers prosecuted for using mobile phones/telecommunications equipment while holding them in their hands when driving were 952, 880 and 960 in 2010, 2011 and 2012 respectively.

5. At present, there are over 18 000 taxis in Hong Kong, providing personalized, point-to-point and more comfortable public transport services to the public. The average daily taxi patronage is about 0.9 million. The Administration points out that it has been striving to assist the trade to maintain quality taxi services. The Police take vigorous enforcement actions against malpractices, and the Transport Department ("TD") reminds the taxi trade to abide by the law through close communication with them. TD also disseminates information to passengers through different channels.

Concerns raised by Members on the use of mobile applications by taxi drivers while driving

6. Due to the use of mobile application as a platform for hiring discounted taxi service, and the resultant impact on road safety, Hon Christopher CHUNG raised a written question at the Council meeting of 20 November 2013. The Secretary for Transport and Housing ("STH") advised that according to the "soliciting" behaviour prescribed under regulation 40 of the Road Traffic (Public Service Vehicles) Regulations (Cap. 374D), if any taxi driver or his/her

¹ "Telecommunications equipment" (電訊設備) means any equipment, apparatus or device, whether or not installed in a motor vehicle, which is designed to be or capable of being used to communicate with any person orally by means of radio waves or other electromagnetic means.

² "Accessory" (附件) means, in relation to a mobile telephone or any other telecommunications equipment, any accessory or fitting which forms part of the mobile telephone or other telecommunications equipment; or which is associated with, attached or connected to the mobile telephone or other telecommunications equipment in order to facilitate the use of the mobile telephone or telecommunications equipment.

representative in any manner attracted or endeavoured to attract any person in order to induce such person to make use of his/her vehicle, he/she committed an offence and was liable to a maximum fine of HK\$10,000 and imprisonment for six months. Having regard to the above regulation, any taxi driver who offered fare discounts on his/her own initiative to induce passenger(s) to make use of his/her vehicle would be engaging in "soliciting" activities.

7. STH further said that the Government was aware that mobile applications had recently been used as a platform for hiring taxi services. He advised that the Police were following up on whether any such applications were being used by taxi drivers to offer fare discounts. The question and the Administration's reply are in **Appendix**.

Relevant papers

<http://www.legco.gov.hk/yr13-14/chinese/panels/tp/papers/tpcb1-736-1-c.pdf>

<http://www.legco.gov.hk/yr13-14/chinese/panels/tp/papers/tpcb1-736-2-c.pdf>

<http://www.info.gov.hk/gia/general/201311/20/P201311200259.htm>

Council Business Division 1
Legislative Council Secretariat
17 February 2014

Press Releases

LCQ16: Combating the offer of discounts on taxi fares by using mobile applications

Following is a question by the Hon Christopher Chung and a written reply by the Secretary for Transport and Housing, Professor Anthony Cheung Bing-leung, in the Legislative Council today (November 20):

Question:

I have recently received a complaint from a taxi association, alleging that quite a number of taxi drivers offering fare discounts to passengers (commonly known as "discount gangs") are soliciting business by making use of taxi-call service mobile applications, which can be downloaded by the public for free. In this connection, will the Government inform this Council:

(a) of the number of taxi drivers convicted of offering fare discounts in the past five years, and the highest penalty imposed on them by the court; whether it has taken measures or actions to combat the business practices of discount gangs, so as to safeguard the livelihood of those taxi drivers who charge fares according to taximeters; if so, of the details;

(b) regarding the discount gangs' practice of using mobile applications as a platform for soliciting business, of the measures the authorities have in place to combat such business practice; and

(c) given that some members of the public and members of the taxi trade have pointed out that as the discount gangs often check the screens of their smart phones for messages and operate their mobile phones manually to reply clients' calls while driving, traffic accidents are prone to occur as a result of distraction, whether the authorities prosecuted any taxi driver of operating smart phones while driving in the past three years; if so, of the details; and whether measures are in place to curb using mobile applications by taxi drivers while driving?

Reply:

President,

Taxis play a key role in our public transport service network. There are currently over 18 000 taxis in Hong Kong, providing personalised, point-to-point and more comfortable public transport services to the public. The average daily taxi patronage is about 0.9 million. The Government has all along been striving to assist the trade in maintaining quality taxi services. In terms of legal framework, taxi operation is regulated by the Road Traffic Ordinance (Cap. 374) and its subsidiary legislation. The Police take vigorous enforcement actions against malpractices, and the Transport Department (TD) reminds the taxi trade to abide by the law through close communication with them. TD also disseminates information to passengers through different channels.

The reply to various parts of Hon Christopher Chung's

question is as follows:

(a) & (b) According to the "soliciting" behaviour prescribed under regulation 40 of the Road Traffic (Public Service Vehicles) Regulations (Cap. 374D), if any taxi driver or his/her representative in any manner attracts or endeavours to attract any person in order to induce such person to make use of his/her vehicle, he/she commits an offence and is liable to a maximum fine of HK\$10,000 and imprisonment for six months. Having regard to the above regulation, any taxi driver who offers fare discounts on his/her own initiative to induce passenger(s) to make use of his/her vehicle is engaging in "soliciting" activities.

Based on the information provided by the Police, the number of taxi drivers prosecuted for "soliciting" behaviour during the past five years is shown in the table below. The maximum fine imposed by the court is HK\$4,000.

	Year				
	2008	2009	2010	2011	2012
No. of taxi drivers prosecuted for "soliciting" behaviour	101	103	52	27	51

It is worth noting that after the implementation of the taxi fare structure that increases short-haul fares and lowers long-haul fares from late 2008, i.e. fare per kilometre for long-haul trips is lower than that for short-haul ones (for instance, an urban taxi journey of above nine kilometres is classified as a long-haul trip while that of less than nine kilometres is a short-haul one), the situation whereby a taxi driver would offer fare discounts on his/her own initiative has become less prevalent.

The Government is aware that mobile applications have recently been used as a platform for hiring taxi services. The Police are following up on whether any such applications are being used by taxi drivers to offer fare discounts.

In case of any suspected "soliciting" behaviour as described above, members of the public should take note of the date, time and location of the incident as well as the vehicle registration number, etc., and pass such information to the Police for follow-up and investigation. If it is confirmed that a taxi driver offers fare discounts on his/her own initiative to induce passenger(s) to make use of his/her vehicle, the driver may have been engaged in "soliciting" activities irrespective of whether such activities happen on a mobile application platform. The Police will take enforcement actions.

Meanwhile, TD maintains close communication with the taxi trade and reminds drivers not to break the law through various channels. They include regular publications of the Taxi Newsletters, distribution of promotional leaflets and regular meetings with the trade. TD also reminds passengers through, for example, posting notices inside taxi compartments that they should pay taxi fares according to the meter as required by the law.

(c) The table below shows the number of taxi drivers prosecuted

for using mobile phones/telecommunications equipment while holding them in their hands when driving in the past three years.

	Year		
	2010	2011	2012
No. of taxi drivers prosecuted for using mobile phones/telecommunications equipment while holding them in their hands when driving	952	880	960

If drivers violate traffic regulations or pose danger to other drivers or road users because they are operating smart phones while driving, the Police will take enforcement actions (for example, against offences such as careless driving) in accordance with the Road Traffic Ordinance and its subsidiary legislation to ensure road safety.

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