Guidance

Regulation of taxis and private hire vehicles: understanding the impact on competition

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About the Competition and Markets Authority

On 1 April 2014, the Competition and Markets Authority (CMA) became the UK's lead competition and consumer body. The CMA brought together the competition and consumer protection functions of the Office of Fair Trading and the Competition Commission.

The CMA has a statutory duty to seek to promote competition for the benefit of consumers. The CMA has an advocacy function, which involves giving information or advice to public authorities on the impact on competition of public policy.

As part of this work, HM Treasury has asked the CMA to consider how local authorities can support competition, and to challenge them when they do not.

The purpose of this guidance note

As part of our work on local authorities' impact on competition, the CMA has undertaken a review of taxi and private hire vehicle (PHV) licensing conditions.

The CMA recognises that taxi and PHV licensing conditions play a crucial role in ensuring the safety of passengers. Regulations on vehicle safety and driver suitability are clearly necessary to ensure safety.

This guide is designed to help local authorities understand the impact some licensing conditions can have on consumers and hence help to reach the right balance between ensuring passenger safety and avoiding consumers having to face higher prices or lower service quality.

The CMA has found that some licensing conditions are likely to restrict or distort competition in ways that may result in higher prices and/or worse service for consumers.

The CMA recognises that licensing authorities face competing pressures and tough decisions over how to strike the right balance.

The CMA's short report on the impact that licensing conditions can have on consumer welfare is available on request (advocacy@cma.gov.uk).

Competition and regulation

Competition is a process of rivalry between firms that benefits consumers. Competition can exert downward pressure on prices and upward pressure on quality, because greater competition means that firms must fight harder to attract and retain customers.

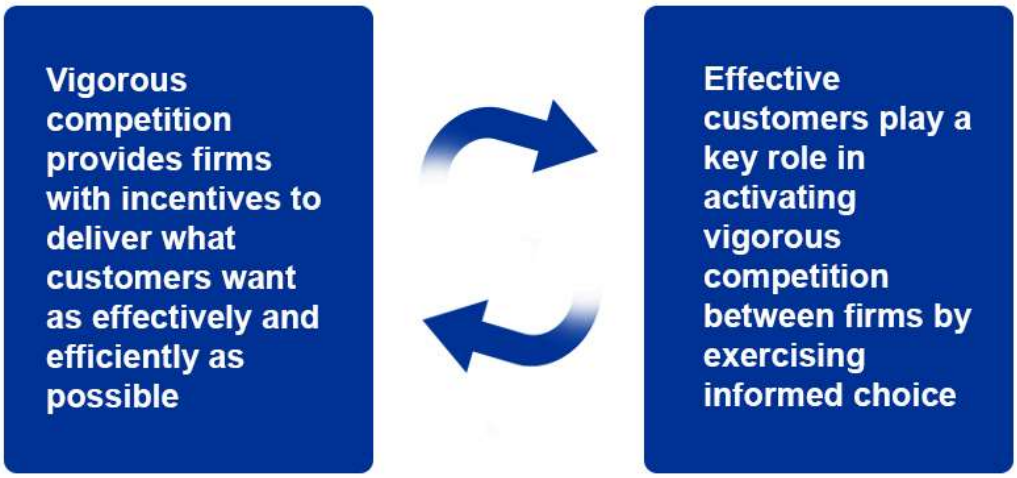

Diagram showing that effective competition depends upon both active customers and responsive firms

Effective and fair competition is underpinned by competition and consumer protection laws which govern how businesses can compete.

Government may impose additional regulations in a market where, for example, there are concerns around consumer safety.

The CMA's view is that competition should only be restricted by regulatory rules to the extent that is necessary to protect consumers.

This guide illustrates how some licensing conditions can affect consumers' interests, in order to help ensure conditions are targeted and proportionate.

Background

The CMA's understanding of the hackney carriage and PHV markets is informed by the OFT's 2003 market study and the subsequent impact evaluation in 2007, the examination of a merger between private hire operators in Sheffield and our recent evidence review and analysis of licensing conditions. We also considered the 2014 Law Commission report on Taxi and Private Hire services.

The OFT's 2003 market study found, among other things, that:

- Passengers are in a relatively weak position to compare offers and negotiate prices in the hail and rank (taxi) trade. There is therefore a need for fare regulation of taxis. This also provides a justification for greater regulation of service standards of taxis compared to PHVs.
- Quantity regulations on taxis are not necessary to ensure either the safety or quality of taxis, or that passengers are charged reasonable fares. However, quantity regulations may damage consumer welfare by reducing the availability and increasing waiting times for taxis.

As part of our review of licensing conditions, the CMA has written to several licensing authorities, including Transport for London (https://www.gov.uk/government/publications/cmas-response-to-tfls-private-hire-regulations-proposals) and Sheffield City Council (https://www.gov.uk/government/publications/taxi-and-private-hire-regulation-cma-letter-to-city-of-sheffield), to highlight where conditions may restrict competition and harm consumer welfare.

CMA view of taxi and private hire trades

The 2 tier system

Taxis' right to ply for hire necessitates different regulation for taxis and PHVs. Passengers are in a weak position to judge the quality or to compare prices of taxis; it is therefore necessary to regulate taxi fares (and service standards).

The scope for competition between taxis and PHVs, increasing with the emergence of app-based models, can deliver benefits for passengers. To

facilitate this, regulatory distinctions between taxis and PHVs should not go beyond what is required by legislation or necessary to protect passengers.

Private hire

Passengers are in a better position to assess the quality and compare the prices of private hire operators than they are with taxis. Competition can generally work well between private hire operators.

There is a need to ensure passenger safety, but licensing conditions that go beyond this may reduce passenger choice, and increase cost and prices.

Some conditions may also create barriers to entry, reducing the number of operators, and hence reducing competitive pressure on operators to reduce prices or improve service quality.

Hackney carriages

As noted above, there is a need to regulate the prices and service standards of taxis, owing to their unique right to ply for hire. There is also a need, as with the private hire trade, to ensure the safety of passengers.

Quantity restrictions are not necessary to ensure the safety of passengers, or to ensure that fares are reasonable. However, they can harm passengers by reducing availability, increasing waiting times, and reducing the scope for downward competitive pressure on fares.

The CMA takes the view that concerns around congestion, air pollution and enforcement costs can generally be addressed through measures less harmful to passengers' interests than quantity restrictions.

If the removal of quantity restrictions leads to increased waiting times for taxi drivers between journeys, this indicates that price competition which would benefit passengers is not occurring. Licensing authorities should monitor waiting times and consider adjusting the regulated fare cap to address mismatches between supply and demand. Addressing such mismatches is likely to benefit passengers.

Licensing conditions that can have negative impacts on consumers

The CMA's competition impact assessment guidelines (https://www.gov.uk/government/publications/competition-impact-assessment-guidelines-for-policymakers) can help those designing policy or regulations to assess their impact on competition and the interests of consumers.

These guidelines contain 4 tests which help policy makers assess whether their proposals will limit competition:

1. Will the measure directly or indirectly limit the number or range of suppliers?
2. Will the measure limit the ability of suppliers to compete?
3. Will the measure limit suppliers' incentives to compete?
4. Will the measure limit the choices and information available to consumers?

Considering these questions will help ensure local authorities are aware of the restrictions they may be introducing on competition and may encourage them to consider alternative courses of action where possible.

Examples of conditions that may harm the interests of passengers

Competition impact assessment test	Examples	Nature of harm
1. Limiting the number or range of suppliers	Quantity restrictions on taxis	Quantity restrictions may cause harm to passengers through reduced availability, increased waiting times, reduced scope for downward competitive pressure on fares and reduced choice. They also may increase the risk to passenger safety if they

Competition impact assessment test	Examples	Nature of harm
		encourage the use of illegal, unlicensed drivers and vehicles.
1. Limiting the number or range of suppliers	Restricting market development by: - Banning drivers from working for more than one operator - Conditions on vehicle signage that make it difficult for drivers to work for more than one operator	Such conditions make it difficult for firms to enter the market or expand by recruiting existing drivers on a part time basis. They may also encourage drivers to move to the largest operator. This may reduce the number of firms, thereby reducing competitive pressure to reduce prices or improve service quality.
2 & 3. Limiting the ability and incentives of suppliers to compete	Service provision is over regulated beyond passenger needs/wants: - Compulsory landline helpline, sometimes having to be based within the authority - Minimum number of days advance booking function - Extensive navigational skills assessments for PHV drivers	Private hire is a market where passengers are likely to be in a good position to trade off price and quality levels that best suit their needs. If sufficient numbers of passengers desire a high service standard, then it is likely that some operators will offer it. Over-regulation of service standards is likely to mean higher costs and therefore higher fares for passengers, especially those who would most value a low cost service. It may also create barriers to entry, thereby reducing the number of operators, and hence competitive pressure between them.
2 & 3. Limiting the ability and incentives of suppliers to compete	Introducing restrictions on business models or unnecessary distinction between conditions imposed	Restrictions on how PHV operators must operate are likely to reduce innovation that could reduce costs or improve the quality of service for passengers.

Competition impact assessment test	Examples	Nature of harm
	on PHVs and taxis: - Prescribing the method in which pre-booked fares should be recorded (eg written records) - Restrictions on advertising products on vehicles - Restrictions on where PHVs can park - Requirement to specify exact fare in advance - Approval required for any changes to operating model	Conditions that apply to PHV operators and not to taxis may increase, relatively, PHV operating costs. Such conditions may therefore make it harder for PHV operators to attract passengers who might otherwise use taxis, potentially resulting in passengers paying higher fares or receiving lower service quality.
4. Limiting choices and information available to consumers	Banning aspects of service valued by passengers: - Displays of vehicle availability in-app - Compulsory minimum waiting times between booking and journey start	Banning aspects of service that passengers might find valuable is likely to directly harm their welfare.

What to do if you are considering reviewing your licensing regime

Ensure your proposed measures are necessary to achieve your objective(s).

Consider the questions set out in the CMA's competition impact assessment guidelines (https://www.gov.uk/government/publications/competition-impact-assessment-guidelines-for-policymakers).

Where measures are likely to restrict competition and harm consumer welfare, consider whether alternative, less-restrictive measures could be employed to achieve your objective(s) and if not, whether the objectives really do necessitate the restriction.

The CMA's short report which contains further detail and information on our view on taxi and PHV licensing conditions is available on request.

If you would like to discuss these issues, including issues not addressed in this review, you can contact advocacy@cma.gov.uk for further advice.

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