



Future of small passenger services

Summary and analysis of submissions

Public consultation over 14 December 2015 – 12 February 2016



Ministry of **Transport**

TE MANATŪ WAKA

New Zealand Government

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Overview

The future of small passenger services consultation paper (the consultation paper) was released for public consultation on 14 December 2015 with five proposed options to reform the sector. Public consultation took place over 9 weeks, closing on 12 February 2016.

The submissions were received via the Ministry of Transport's (the Ministry's) online submission form, by email, or through the post. Thirty-four submissions were received through the online submission process, 40 were received via email, and 2 were posted to the Ministry.

This Summary and Analysis of Submissions has informed advice to Ministers on the Small Passenger Services Review (the Review).

Profile of submitters

There were 76 submissions received on the consultation paper. Out of these submissions, 12 were received from regional and city councils and Local Government New Zealand (LGNZ), 15 were from submitters that had an interest in disability issues, 17 were from taxi organisations and drivers, 9 were from submitters interested in emerging technology, 5 were from private hire/shuttle operators, and 18 were from submitters with varied interests.

The council submissions were received from: Auckland Transport, Northland Regional Council, Christchurch City Council, Environment Canterbury (ECAN), Waikato Regional Council, Horizons Regional Council, LGNZ, Taranaki Regional Council, Wellington City Council, Otago Regional Council, Hawkes Bay Regional Council, and Greater Wellington Regional Council.

Other submissions by organisations were from: Blind Foundation, CCS Disability, The Braille Authority of New Zealand Aotearoa Trust (BANZAT), Blind Citizens New Zealand, Office of the Ombudsman, Office of the Privacy Commissioner, Tourism Industry Association New Zealand, Appellation Central Wine Tours, Southern Lakes Limousines & Taxis, Sapphire Cars Ltd. et al, Automobile Association New Zealand, Bus & Coach Association, Motor Trade Association, IAG, BECA, Opus International Consultants, Uber, Chariot, New Zealand Taxi Federation, Wellington Combined Taxis, Corporate Cabs, and NZ Taxi Cabs.

A full list of submitters is attached at Appendix A.

Options proposed

The Review proposed five options, with option 4 being the review team's preferred option. Thirty-one submitters preferred option 4, while 23 did not answer or did not support any of the options presented. The remaining 22 respondents were split between the other 4 options, with 9 preferring option 2, 7 preferring option 5, 4 preferring option 3, and 2 preferring option 1.

Background

In early 2015, the Associate Minister of Transport asked the Ministry to undertake a review of the small passenger services regulatory regime. The Review was in response to the growth of technology within the sector. It sought to determine how New Zealand's regulatory environment for the sector can continue to be fit for purpose and flexible enough to accommodate new technologies.

The existing regulations establish clear distinctions between the types of services that operate within the sector (taxi, private hire, shuttles, dial-a-driver, and carpooling). These regulatory distinctions apply varying levels of compliance burden across the types of services. However, technology is challenging this system and alternative, technology-based models are beginning to enter the market. These are pressuring the established clear distinctions.

Retaining the status quo is not an option if the Government wants to ensure a dynamic and fully competitive small passenger services market that delivers benefits for consumers.

In the first half of 2015, the review team developed advice on the small passenger services sector and reported back to Government in the latter half of the year. In November 2015, the Minister of Transport and Associate Minister of Transport decided to seek further public consultation before proposing to Government a final policy on agreeing a future regulatory approach for the sector.

Substantive issues raised in submissions

Mandated in-vehicle cameras

There is strong support for the policy of mandated in-vehicle cameras, with provision for the NZ Transport Agency to issue an exemption from this when an operation is providing a similar level of record as a camera.

Currently cameras are only required for taxis operating in the 18 main urban areas specified in the Operator Licensing Rule 2007. Existing private hire operators and operators in smaller centres not currently required to have cameras (for example, Levin, Picton or Oamaru) do not support the extension of mandated cameras into their areas of operation. The review team consider it difficult to justify extending cameras to locations that are currently exempt based on a risk assessment which has not changed.

To correct this, the review team propose that this policy be amended so that mandated in-vehicle cameras would only apply to vehicles operating in areas currently required to have in-vehicle cameras. The review team propose to use the same descriptions for these areas as is currently contained in the Operator Licensing Rule. The proposed exemption criteria would remain unchanged.

Further consideration is needed on the proposal exempting existing private hire or limousine operators operating within the 18 main urban areas, for instance Queenstown. These operators would incur costs to either: obtain, fit and operate approved cameras, or change their existing systems to meet the grounds of the current exemption. The difficulty in addressing this is avoiding inconsistencies with the policy objective to have a single class. The review team will continue to investigate this matter.

Driver's duty to accept first hire

A number of submitters suggested that the above duty (which is currently in the Operator Licensing Rule and applies only to taxi drivers) needs a slight amendment to be able to operate effectively. This provision needs to take account of services carrying multiple hirers, such as shuttles or UberPool¹. In these cases, the driver will wait after the first hirer is accepted until more hirers have been accepted. In this case, the first hirer understands that there will be other passengers who they need to wait for, and in so doing they will all have a cheaper fare. The current wording of this policy suggests this may not be permitted. The review team proposed that the policy be clarified.

Fare accuracy

The review team are proposing that a fare, or the basis of a fare, should be negotiated between the driver and passenger before the journey commences. The Ministry of Business, Innovation, and Employment (MBIE) submitted that, in the interests of consumer protection, where a driver

¹ UberPool is a service that Uber runs in some American cities where riders can travel at a discounted rate with the possibility of sharing the ride with other passengers.

chooses to calculate that fare using distance travelled and/or time taken then the recording device (either a meter, the vehicle's odometer, or an app) should be accurate. MBIE suggests this could be achieved by specifying standards the device should be certified to.

The review team consider this is a reasonable step. However, at this stage it is not known how this could be achieved – whether consumer law would automatically apply or whether special provision would need to be made in legislation. The review team will continue to investigate this matter.

Third Party Facilitated Carpooling

Chariot is a carpooling app-based service. Chariot acts as a facilitator and manages the collection and distribution of money to cover cost-sharing, taking a fee for this. Currently this is an exempt service but it will be designated ridesharing rather than carpooling under the proposed system.

The main issue raised by Chariot is the proposed definition of the carpooling exemption. Under the proposed option 4, Chariot does not satisfy the criteria for exemption and would therefore be regulated under the same rules as ridesharing services, i.e. drivers using the Chariot platform would be required to have a Passenger (P) endorsement and their vehicles would need to have Certificates of Fitness. This will directly impact its business model and will not allow them to operate under it without added cost. Chariot also makes the argument that, within the carpooling exemption, commercial operators and councils are being separated arbitrarily despite fundamentally providing the same services.

The review team differentiates carpooling services, such as Chariot, and Council run services, based on whether revenue is being received by a third party. If there is (as is the case for Chariot) then licensing applies, however, the review team is further considering this issue.

Braille

Respondents were concerned that the removal of mandated signage would disadvantage users with disabilities. This applies particularly to the removal of mandated Braille signage. In the proposed single class system, continuing the mandated requirements for Braille signage would mean all vehicles would be subject to it. This has practical implications where vehicles involved in offering ridesharing services are not full-time passenger services, or in the case of wedding cars, the signage is likely to offer limited benefit.

The review team recognise that without the mandated requirement, many operators may choose not to have signs in Braille. However, changes are also occurring in the way people engage and use services. For blind passengers (and all passengers), pre-booking a trip by phone or through an app can make the trip safer as more information about the driver, company, time and details of the trip, are obtainable. In addition, technology allows other mechanisms for customers to capture the information that is currently provided through Braille signage. For example, using a smartphone app that exchanges information with the passenger and the driver could offer immediate audio information, as well as collecting and retaining information for future reference.

An option to address the concerns could be to have a requirement for Braille signage to continue as part of an operator's contract to participate in the Total Mobility scheme (the scheme). While this has the benefit of allowing a localised solution to the issue of what the signage should contain, it is recognised that this is not a perfect solution as some areas are not part of the scheme and not all disabled users use the scheme all the time.

The review team consider there is no need to change the signage proposals, also noting that the review team have been directed to monitor and report back to Government on whether the level of services to disabled users changes after the new regulatory model is in place. The review team have started gathering information to benchmark current service levels in anticipation of the changes.

It is in an operator's best interests to display signage, otherwise prospective passengers seeking un-booked rank or hail hires would be unable to identify that the vehicle is available for hire.

Accountability under the proposed system

The NZ Taxi Federation (NZTF) submitted that passenger service licences should be retained (the consultation paper proposes to remove these and replace them with an approved transport operator status). The NZTF is concerned that this will remove a level of accountability. Under the NZTF's proposal, a passenger service licence holder would operate through an approved transport operator. This would place the responsibility for compliance with the retained provisions (Certificate of Fitness, worktime and logbooks, P endorsements, and serious complaint reporting) at the highest possible level and assist the NZ Transport Agency by providing it with fewer operators to audit and manage. Drivers would also be prohibited from working for more than one approved transport operator.

The review team do not recommend retaining the passenger service licence as it will add unneeded cost. Most of the safety learning required for a passenger service licence relates to knowledge of the special rules, which will no longer be needed. The NZ Transport Agency will continue to hold an auditing role. While there may be more operators to audit than at present, the matters that need to be audited against will be far fewer.

An alternative to the single class system

Uber does not support any of the consultation paper's five options. It proposes its own system, which it considers the only means of supporting ridesharing. Uber proposes a three-class system of taxis, hire cars, and rideshare, with different rules and requirements for each. This system is based on risk to passengers and drivers.

Under Uber's proposed system, taxis would be the only service allowed to collect passengers from ranks or casual street hail and would operate under the same set of rules as at present. This type of work would have the highest safety risks due to drivers and passengers being largely unknown to each other, hence the more stringent set of rules.

Hire cars would include any small passenger service vehicle that was not a taxi or a rideshare. Hire cars would be prohibited from collecting passengers from taxi ranks or casual street hail, which is the current requirement. This type of service would have a medium safety risk and would therefore comply with the current private hire and shuttle rules.

Rideshare would only be allowed where both the driver and passenger were registered on, and connected through, Uber's platform. In Uber's view this has the lowest risk level, as both parties details are available to each other, they are able to see previous ratings of each other, and the fare is cashless and GPS-tracked. As a result, this class would have the lowest level of rules. A driver's conviction history would be checked by Uber, or an approved other party. The rideshare vehicle would only require a warrant of fitness.

Uber considers that this system would promote true ridesharing. This is because it has the lowest costs for a part-time rideshare driver, who, unlike a taxi driver, would only be driving in their spare time.

The review team does not support Uber's proposal. The proposal retains a similar hierarchical system as current. The review team are concerned that this three-class system would require Government intervention to establish what type of service a new entrant to the market was. The Review's aim was to create a system that allows change to happen – new entities would be able enter the industry, and operate with minimal compliance burden. The review team are also looking for a dynamic and flexible sector. Constraining the type of services by separate classes, as in Uber's proposal, would limit the flexibility of the regulatory regime to accommodate different types of services in the future.

P endorsement process

Uber were also concerned about the length of time and cost of obtaining a P endorsement. It considers that these actively discourage rideshare drivers. Uber proposes a more limited checking process.

The P endorsement system is a key component in ensuring public safety and confidence in the small passenger services sector. While the review team accept its delivery can be improved, this should not be at the expense of robust processes. The review team are not satisfied that Uber's suggestion will deliver the same level of robustness as the current P endorsement process. P endorsement delivery is being addressed to benefit all drivers.

Analysis of Submissions

The consultation paper highlighted 5 options and asked 29 questions in regard to those options. The following section sets out the responses received to each of the questions.

In questions 1 and 2 submitters were able to indicate as many of the listed factors as they wanted, as well as listing other factors that they thought were important. Questions 3 through 29 asked for an answer and also provided space for comment.

The review team's response to submissions are summarised in boxes below questions 3 – 28. These boxes show whether there was change recommended to the proposals in the consultation paper or not after analysis of the submissions.

Question 1: *What are the important factors driving the need for change in the small passenger services sector?*

Out of the 76 submissions received, 35 respondents thought that 'technology is changing the transport sector' was an important factor driving the need for change. Twenty-six respondents thought that 'the current rules are no longer fit for purpose and flexible for the future' and a further 26 thought that 'the need for a more innovative sector that delivers improved customer services' were important factors.

Selection	Answer
Technology is changing the transport sector	35
The current rules are no longer fit for purpose and flexible for the future	26
The need for a more innovative sector that delivers improved customer service	26
Other factors	19

Out of the 19 submitters who thought there were other important factors a variety of themes emerged. Submitters commented that safety for drivers and passengers was paramount as well as reliability and accessibility for all users. Increased competition to cope with increased prices was also noted.

Question 2: *What are the important features you would want to see from the small passenger services sector in the future?*

In the table to the right almost half of the submitters thought all six features to be important for the future of the small passenger services sector.

Selection	Answer
Responsive to supply and demand	35
The compliance burden is as low as it can be while achieving regulatory objectives	31
Transparent fees and charges	36
Effective choice so people can travel where they wish in a timely manner	33
Incentivises improved customer services	29
Mitigates safety risks for passengers and drivers	32
Other factors	18

There were 18 submitters who thought other factors were also important to a future small passenger services sector. One of the factors raised by a number of submitters, particularly those with an interest in disability issues was meeting the needs of the whole community, including the transport disadvantaged. Another submission noted that encouraging the widest possible range of services for consumers was an important feature.

Question 3: Which of the five options do you think will be best for New Zealand's small passenger services sector in the future?

Option 4 was supported by a majority of the submitters who expressed a view on this question (31 out of the 76 submitters supported this). Out of the 45 remaining answers, 2 preferred option 1, 9 preferred option 2, 4 preferred option 3, 7 preferred option 5, and 23 either gave no answer or did not like any of the options provided.

Selection	Answer
Option 1 - status quo modified	2
Option 2 - reinforce separate taxi/private hire markets and their regulatory burdens	9
Option 3 - drivers responsible under new single class system (reduced regulatory burden)	4
Option 4 – operators responsible for safety and compliance under new single class system (reduced regulatory burden)	31
Option 5 - existing taxi requirements apply to all operators (higher regulatory burden in new single class system)	7
No answer given	23

The 23 submitters who gave no preference for an option or did not like any options had a variety of comments. Some of the respondents were not happy with the proposed single class system in options 3 to 5, while others proposed new options entirely.

Uber proposed a new option with three classes of operator; taxi, hire car, and rideshare. This reflects Uber's perception of risk for passengers and drivers with each class having different rules and regulations. Taxis would operate as they currently do, while rideshare would only be able to operate on an app based booking platform. The review team considers that a single class system is preferable, because it ensures a competitive sector with a regulatory framework that is both fit for purpose to meet future needs and delivers maximum benefits for customers.

Respondents with an interest in disability issues did not think options 3 and 4 provided adequately for the rights of persons with disabilities. Further analysis of Braille signage is found in the response to Question 21.

No change recommended	The review team prefer option 4.
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Question 4: *Do you agree the exemption for carpooling should apply where: The people in the vehicle already know of each other (for example, they are friends, members of the same sports team or work for the same company). The driver and passenger may agree to share the responsibility of driving or the passenger will contribute money towards the driver's costs for the trip (that is, the operating costs of the vehicle such as petrol and depreciation, but not any payment for the driver's time).*

Nearly half of submitters agreed with this question, while a similar number did not answer the question, and only 8 respondents disagreed.

Some of those that disagreed focused on the definition giving free reign to drivers being able to offer rides without appropriate knowledge or ability. The review team's response to this point is that the driver licensing system is designed so that people can drive friends, family and neighbours in New Zealand without added licensing. In these situations people have sufficient information on the driver to make their own risk assessment. If the participants are outside of this relationship grouping then the normal requirements apply.

No change recommended	The definition of carpooling will remain.
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Question 5: *Do you agree the exemption for carpooling should apply where: The people in the vehicle (who may not know each other) are travelling to similar destinations at similar times and use a third party to connect them. The passenger(s) will contribute money towards the driver's costs for the trip (that is, the operating costs of the vehicle such as petrol and depreciation, but not any payment for the driver's time).*

Similarly to question 4, nearly half of submitters agreed with this question, while a similar number did not answer the question, and only 10 respondents disagreed.

The main issue raised here was by Chariot, which is directly affected by this proposed definition. It does not fall under the exception criteria and would therefore be regulated under proposed option 4. This directly impacts Chariot's business model. Chariot makes the argument that commercial operators and councils are being separated arbitrarily despite fundamentally providing the same services. The proposal differentiates this, however, based on whether there is payment retained by the facilitator of the carpooling.

No change recommended	Further work is being done by the review team in response to concerns raised.
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Question 6: *Do you agree the exemption for companies providing communications functions should apply where: A company (for example, a call centre company) providing back office communication functions for a completely unrelated small passenger service company. And would not include: A company providing technology or communications, but actually participates in the small passenger services market in a manner similar to other operators (this company would be required to comply with the relevant rules).*

Thirty-eight respondents did not answer this question, while nearly half agreed and 8 disagreed.

Most of those who disagreed with the definition of a transport network company (TNC) seem to have misunderstood the definition. The review team defines a TNC as a company providing a back office function only and not a company operating in a manner similar to other small passenger services. Some of the respondents were concerned that companies such as Uber would fall under this definition, which is not the case, as they are defined as ridesharing services under the Review, which are not exempted.

No change recommended	This definition will remain.
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Question 7: *Do you agree that the requirement for ridesharing services to meet the same rules as the rest of the small passenger services sector should apply where: Third parties (often a technology-based company using apps) connect people who are driving to a destination with other people who want to travel to a similar place. The third party that connects a driver and passenger receives revenue from the transaction, commonly by taking a percentage of the money paid by the passenger to the driver.*

In response to this question, over half of the submitters responded. Of those 10 did not agree.

Some of those that disagreed thought that ridesharing should be treated the same as carpooling and exempted from the regime. However, the review team differentiates these two services through the receipt of revenue from the trip. Ridesharing is also more similar to a commercial operation than carpooling.

Other respondents do not like the idea of a single class system and want taxi services and rideshare services to be under different rules and regulations. The review team do not think that separating taxis, private hires, and other services (shuttles, dial-a-driver, ridesharing, and third-party benefit carpooling) into different categories, as is the case now, best meets consumer expectation, embraces technology, or supports the range of services offered. The review team think the current proposal of a single class is more efficient and provides the right level of safety requirements.

Appendix B contains a table, which lists the changes to the rules applying to small passenger service drivers and vehicles under the current regime.

No change recommended	This definition will remain.
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Question 8: *Do you agree that the core requirements for passenger safety can be achieved through: P endorsement – all drivers would have to hold a ‘P endorsement’ issued by the NZ Transport Agency. A person applying for a P endorsement would have fewer requirements to meet than now. To obtain a P endorsement, a driver would have to pass a criminal record and driving record check, be medically fit to drive, and have held a full New Zealand driver licence for at least two years. A P endorsement identification card would have to be displayed in the vehicle.*

In response to question 8, half of respondents agreed with the P endorsement being the core requirement for passenger safety, while 15 disagreed and 24 did not answer.

Out of those that disagreed with the question, there were a variety of reasons given. Some thought that the requirements were too onerous and that a P endorsement should not be necessary. The review team’s response is that safety is a priority and there is an expectation that a small passenger services driver should be held to a higher standard than a normal driver licence holder.

On the other hand, some respondents did not think the requirements were enough and disagreed with getting rid of the current mandatory requirements such as the English language and area knowledge tests. These issues are discussed below under questions 23 and 22.

Some submitters also questioned the time it took between applying for and receiving a P endorsement. This is an issue that the review team is aware of. The NZ Transport Agency and the Police have been working together to address this issue and reduce wait times. More work is being progressed here by the review team, NZ Transport Agency, and Police, to investigate improving systems and reducing wait times.

No change recommended	The P endorsement will remain a core requirement for passenger safety. The review team will undertake further analysis of the individual components of the endorsement.
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Question 9: *Do you agree that the core requirements for passenger and driver safety can be achieved through: Work time limits – to ensure that drivers were not fatigued, they would have to comply with work time limits that set a maximum number of work hours and require rest breaks. Drivers would need to maintain logbooks covering all of the time that they worked. All drivers could work to the existing time limits for taxis, of up to 7 hours before a rest break is required.*

Forty out of the 76 submitters agreed with question 9 while only 6 disagreed, and 30 did not answer.

Out of those who disagreed a few questioned whether 7 hours was too long before a break. The review team proposed the change to 7 hours to standardise hours for small passenger services drivers. There is no evidence showing that 7 hours is unsafe for this group of drivers.

Other respondents raised the issue of managing compliance through logbooks. There is already an option available to apply to the NZ Transport Agency for approval to use electronic logbooks or records as alternatives.

No change recommended	Drivers will need to comply with worktime requirements.
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Question 10: *Do you agree that the core requirements for passenger safety can be achieved through: Reporting serious complaints to the NZ Transport Agency – to ensure a P endorsement holder remains fit and proper, the person or company responsible for providing the service would be required to notify the NZ Transport Agency of any complaints received alleging serious improper behaviour by a driver. The person or company responsible would also be required to support the NZ Transport Agency or the NZ Police in undertaking any regulatory or compliance action.*

Ten submitters disagreed with question 10, while over half agreed, and 24 did not answer the question.

The issue of retaining the current requirement for a complaints register was raised by several of the submitters. The review team do not see a complaints register as necessary as the aim of the Review was to lower compliance costs whilst retaining a safety focus. This is achieved by enforced reporting of serious complaints. The review team believe it is in the best interests of the approved transport operator to protect their brand reputation and deal with more minor complaints themselves.

No change recommended	Core requirements for passenger safety will be achieved through reporting of serious complaints to the NZ Transport Agency by approved transport operators.
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Question 11: *Do you agree that the core requirements for driver safety can be achieved through: Power to refuse to accept some passengers – this enables drivers to refuse to accept passengers if drivers consider that their personal safety could be at risk.*

Only 6 of the 76 respondents disagreed with question 11, while over half agreed and 31 did not answer the question.

Some respondents who did not agree with question 11 were worried that the power to refuse to accept some passengers provides an opportunity for discrimination. However this is not the

case, as drivers are only able to refuse to accept passengers in very specific circumstances, outlined in the proposal. Respondents with an interest in disability issues brought up examples of drivers refusing to carry guide dogs – this is not a valid refusal under the current rules, and no change to this is proposed.

No change recommended

Core requirements for driver safety will be achieved through retaining the power to refuse to accept some passengers.

Question 12: *Do you agree that the core requirements for driver safety can be achieved through: Duty to promote driver safety – this requires drivers (under option 3) or approved transport operators (under option 4) to make business choices from the range of mechanisms available to them. Such measures would be in addition to the mandated safety requirements.*

Thirty submitters agreed with question 12, whilst 37 did not answer and 9 did not agree with the question.

The concerns raised under question 12 generally centred around the lack of specification of safety requirements. Question 12, however, is dealing with additional safety measures that approved transport operators will have to promote driver safety over and above the minimum safety requirements identified in the Health and Safety at Work Act 2015.

Change recommended

As the duty to promote driver safety is already ensured by the Health and Safety at Work Act 2015, no further duty will be written into legislation.

Question 13: *Do you agree that the core requirements for in-vehicle security cameras can be achieved through: In-vehicle security cameras – all passenger service (all taxi, private hire, shuttle, dial-a-driver, and rideshare) vehicles would have to meet the existing rules for in-vehicle security cameras that currently apply to taxis.*

15 submitters did not agree with the requirement for mandatory in-vehicle security cameras. 40 respondents did agree and 31 did not answer.

There were a variety of reasons given by submitters who did not agree. One was that the expense of cameras may discourage new drivers from entering the market. Many of the concerns under question 13 are addressed in question 14, which details an exemption to the camera requirement.

Another group of respondents who were opposed to the camera requirement were private hire/shuttle operators who currently do not have to have cameras, but would not be covered by the exemption. This issue is discussed below in question 14.

The final general comment from those who did not agree focused on cameras being unnecessary. However, the review team's view is that safety is an important objective. Cameras are considered to be an appropriate regulatory response in the areas of New Zealand identified. Exemptions should only be awarded where safety can be ensured through other mechanisms.

No change recommended

The definition of core requirements for in-vehicle security cameras should apply.

Question 14: *Do you agree that the core requirements for in-vehicle security cameras can be achieved through: exemption from camera requirement – the NZ Transport Agency would exempt a vehicle from the camera requirement where a driver (under option 3) or an approved transport operator (under option 4) met all of the following criteria:*

- *providing services to registered passengers only – the service is only provided where the passenger is registered with company or driver*
- *collection of driver and passenger information – when registering with the company or driver, a passenger and driver must provide their name, photo, address, and phone number*
- *availability of driver and passenger information – before each trip starts, the company or driver makes the name and photo of the passenger and driver available to each other*
- *retaining a record of each trip – the company or driver keeps a record of each trip, including the start and end points.*

Question 14 had a high number of respondents who did not agree with an exemption for in-vehicle security cameras, with 26 submitters disagreeing. The same number, 26, agreed with the proposal and 24 did not answer.

Taxi organisations and drivers tended to consider cameras as absolutely necessary and that no exemption should be allowed. However, the review team's view is that while cameras are one excellent way of ensuring safety, there are other mechanisms which can also do this.

On the other end of the spectrum, some respondents who were interested in emerging technologies, thought that any mandatory camera requirement, even with an exemption, was going too far and was unnecessary to ensure safety. The review team considers the current proposed regime would still allow future consideration of viable alternative means of ensuring safety, while providing industry with clear parameters presently.

Another issue was brought to light by submitters from the private hire and shuttle sector, including respondent Sapphire Cars Ltd and 32 other signatories on their submission. They are not currently required to have cameras in their vehicles and it could be seen as too onerous and unnecessary to require this under the proposed regime, as the safety of such services has not changed.

No change recommended

The exemption requirement from in-vehicle security cameras should apply. However, the review team is considering ways that companies like the above could also be exempted from the in-vehicle security camera requirement.

Question 15: *Do you agree that the core requirements to mitigate driver fatigue can be achieved through: Work time and log books – current requirements permit taxi drivers to drive for up to 7 hours before taking a break, and the rest of the sector up to 5.5 hours before a break. The Review proposes applying the work time requirements for taxi services to the whole sector under the single class approach.*

Question 15 is similar to question 9 and only 8 respondents did not agree with it. Around half did agree and 33 did not respond.

The same issues arose under question 15, as with question 9, of 7 hours being too long a time to drive without a break and the potential compliance issue.

No change recommended

Drivers will need to maintain logbooks and can only drive for up to 7 hours before having a break.

Question 16: *Do you agree that the core requirements for vehicle safety can be achieved through: Certificate of Fitness – this is a general safety check. It is more robust than a Warrant of Fitness for private cars and is required every six months.*

Half of submitters agreed with the Certificate of Fitness (CoF) requirement, while only 10 did not agree. 29 respondents did not answer the question.

Out of the 10 that did not agree the main issue that arose was that a Warrant of Fitness (WoF) should be sufficient and that a CoF, as an extra requirement, was unnecessary. The main benefit of a CoF is that it is required every six-months. A WoF, for a vehicle registered after 1 January 2000, is required every twelve months. Given the greater distances travelled by most small passenger service vehicles compared with private cars (generally two to three times more distance than a private car), the review team consider a six-monthly inspection system preferable to a twelve-monthly one. As CoFs already have a six-monthly set-up, it is considered preferable to continue with the CoF requirement rather than incur the costs of setting up a new time frame within the WoF system.

No change recommended

A small passenger service vehicle will need to have a current Certificate of Fitness.

Question 17: *Do you agree that the core requirements for consumer protection can be achieved through: Agree the basis of the fare – drivers would have to agree the basis of the fare with the passenger before the trip starts. This could be a set fare or a per km rate. The fare could also be agreed between the passenger and the company at the time of booking.*

Fifteen respondents did not agree that agreeing the basis of the fare would meet the core requirements for consumer protection. 24 of the submitters did not answer the question and half agreed.

Respondents raised the possibility of a system, such as a mandatory online fare calculator. However, the review team considers that brand reputation will ensure that approved transport operators competently decide how they will agree the basis of the fare before the trip. Although an online fare calculator is one possibility, there are also other ways that approved transport operators could manage this.

No change recommended

Agreement of the basis of the fare prior to the start of the trip should apply.

Question 18: *Do you agree that the core requirements for consumer protection can be achieved through: Driver to take most advantageous route – this would require the driver to take the route that is most advantageous to the passenger (unless agreed otherwise for example where multiple passengers are going to different locations within the same trip).*

On the issue of the driver taking the most advantageous route, half of submitters agreed, 11 disagreed, and 29 did not respond.

Of those that disagreed, some of the respondents misunderstood the definition of advantageous. The driver having to take the most advantageous route, is the route which is most beneficial to the passengers taking into account the total cost of the fare, and not necessary the quickest geographically. If the passenger and driver agree beforehand to take a more scenic route, that is therefore the most advantageous route to the passenger and is the passenger's choice.

Some respondents linked question 18 to question 22, which deals with the area knowledge test. They commented that with the area knowledge test potentially being removed, drivers will have difficulty taking the most advantageous route, as there will no longer be a requirement for them to have area knowledge. This issue is dealt with in response to question 22.

No change recommended

The driver should be obliged to take the most advantageous route to the passenger.

Question 19: *Do you agree that the core requirements for consumer protection can be achieved through: Driver to accept first hire offered – this imposes a duty on the driver to accept the first hire offered (subject to exceptions for driver safety) so a driver could not refuse to take passengers only travelling short distances.*

More than half of respondents agreed with the proposal in question 19. Only 9 submitters disagreed and 27 did not answer.

The main argument raised against this proposal, was from shuttle and private hire operators whose services are pre-booked and cater to specific types of services (e.g. a shuttle with 12 passengers). In these cases the review team does not expect the duty to accept first hire offered to apply.

Another issue raised was about very short trips and drivers being forced to take them. However, most submitters did not seem to be aware that, as is the case now, drivers are able to surcharge for these trips (only if this is registered), as long as the passenger is aware of this before the trip begins and agrees.

No change recommended	The driver will have to accept the first hire offered.
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Question 20: *Do you agree that the following is no longer required? Registered fares – the Ministry of Transport’s Review proposes removing the rules governing pricing that require taxis to register their fares with the NZ Transport Agency, and charge using a meter. Instead, the Ministry of Transport’s Review proposes that all small passenger service drivers should have a duty to agree the basis of pricing with the passenger prior to the commencement of the trip or when the booking is made. This would mean the NZ Transport Agency would no longer have a role to intervene in fare disputes between passengers and drivers, and existing consumer protection law (Consumer Guarantees Act 1993 and the Fair Trading Act 1986) would be relied on.*

Less than half of respondents agreed with this proposal, while 20 disagreed and 29 did not answer.

The proposed removal of registered fares in question 20 works alongside the requirement to agree the basis of the fare in question 17. This addresses some of the concerns raised by submitters over how fares will be decided. This could be by agreement at the start of the trip or at the time of booking, and would operate according to existing consumer protection and contract law.

Another issue was raised by the Consumer Trading team at MBIE, who noted that there must be standards in place if approved transport operators choose to use meters or similar devices to calculate fares based on distance travelled or time taken. On top of this, consumer law puts the

onus on the driver to make sure their meter or device is working within accepted accuracy. The review team agrees with this advice but does not recommend that any additional regulation needs to be added beyond that already in place.

No change recommended	Registered fares will not be required.
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Question 21: *Do you agree that the following is no longer required? Regulated signage (including Braille) – the current rules set out specific signage requirements for taxi services that relate to the operator’s brand, taxi roof sign, contact details, and fares. We propose removing these requirements. Operators would be able to make a choice about what signage they used and the information provided in it. The current rules require information in Braille: the name of the taxi organisation, its contact telephone number, and the vehicle’s fleet number. The Ministry of Transport’s Review proposes removing this requirement. Blind passengers can use alternative ways to obtain the information currently provided in Braille, such as enquiring at the time of booking, and using smartphone apps that provide a record of the trip.*

Half of respondents did not agree with the proposal to remove mandated signage in taxis. 19 submitters did agree and 20 did not answer the question.

Of the 37 respondents who did not agree with the proposal, the issue was that taking away mandated signage would disadvantage users of small passenger services with disabilities. In the proposed single class system, continuing the mandated requirements for Braille signage would mean all vehicles would be subject to it. This has practical implications where vehicles involved in offering ridesharing services are not full-time passenger services, or in the case of wedding cars, the signage is likely to offer limited benefit and create a compliance burden.

There are approximately 12,000 people in New Zealand who are blind or have low vision. The Blind Foundation tells us that around 800 of their members use Braille signs. However, the review team do not know how many people rely solely on these signs to gain information about taxis.

The review team recognise that without the mandated requirement, many operators may choose not to have signs in Braille. However, changes are also occurring in the way people engage and use services. It is also possible that Braille signage could continue to be available as part of an operator’s contract to access the Total Mobility scheme.

Another issue raised by respondents who did not agree with the proposal, is that of being able to identify small passenger services if they do not have signage. While taxi top lights are no longer intended to be mandated, it is likely that drivers/operators will continue to use such signage. Otherwise prospective passengers seeking unbooked hail or rank hires would be unable to identify small passenger services who are available for hire and use their services.

No change recommended	Mandatory regulated signage will no longer be required
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Question 22: *Do you agree that the following is no longer required? Area knowledge – taxi drivers in urban areas are required to have passed an area knowledge test. The purpose of the requirement is to ensure that drivers are able to take passengers on a direct route to their destination. The Ministry of Transport’s Review proposes removing the area knowledge requirement and leaving companies to make their own decisions. Technology, such as GPS systems, provides alternative means to achieve the objective. Passengers are also able to use this type of technology to track the route that the driver is using.*

Out of the 76 respondents, 27 agreed with this question, 28 disagreed, and 21 did not answer the question.

The main issue raised under this proposal was that without an area knowledge test, drivers may not know where to go. This overlooks the fact that area knowledge tests are not about having a detailed knowledge of every street in an area. The area knowledge tests are limited in nature and do not ensure a driver has a detailed knowledge of their area of operation. The review team considers that area knowledge can be achieved through other means, such as GPS. In addition, drivers will quickly develop area knowledge as they continue to drive their areas of operation.

The review team does not think that GPS should become mandatory in place of an area knowledge test. It will be in the driver’s and approved transport operator’s best interests to be able to navigate effectively, and as mentioned above, the longer a driver drives in one area, the more experience they will gain.

No change recommended	Area knowledge tests will no longer be required.
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Question 23: *Do you agree that the following is no longer required? English language – taxi drivers are required to have a sufficient knowledge of the English language. The Ministry of Transport’s Review proposes removing the English language requirement and leaving companies to make their own decisions about the language competency of their drivers. The NZ Transport Agency considers that few drivers are currently tested.*

More than half of respondents (42) disagreed with question 23. Only 16 submitters agreed, and 18 did not answer.

Those who commented focused on drivers’ needing some command of the English language to interact with passengers and ensure their own safety. Respondents with an interest in disability issues also noted that people who are blind or who have low vision, are even more disadvantaged, as they are unable to rely on gestures like other people.

English language standards are assessed as part of the current area knowledge test assessment. An applicant must be able to answer some questions in spoken English. By removing the English language requirement, the review team do not expect any change in

drivers' ability to communicate with passengers in English. With the planned removal of the area knowledge certificate, this option no longer exists. Nevertheless it is in a driver's and business owner's best interests to be able to communicate with their passengers and to know the area they are operating in.

No change recommended | The English language requirement will no longer be required.

Question 24: *Do you agree that the following is no longer required? Panic alarms – currently, taxis are required to have in-vehicle panic alarms. There are no mandated driver safety requirements for private hire vehicle drivers. The Ministry of Transport's Review proposes removing the mandatory requirement for panic alarms. Drivers should be able to refuse to accept a passenger where they consider their personal safety could be compromised and passenger service operators should have a duty to promote driver safety. Passenger service operators should make their own business decisions on how they promote driver safety (which could include the use of panic alarms or other technologies).*

Question 24 elicited 22 respondents who agreed, and 21 respondents who did not agree. A further 33 submitters did not answer.

The issue raised against removing panic alarms was concern for drivers' safety. The panic alarm requirements are more suited to existing requirements for a taxi service to operate from a fixed location with 24/7 service and monitoring. In the future, the review team expect the sector to be much more diverse. The review team are proposing to remove the mandatory requirements about how and where an approved transport operator must work from. In line with the review team's views of how the future sector will operate, continuing to mandate panic alarms will not be necessary under the future regulatory regime.

The review team consider that the proposals to address driver and passenger safety and technology improvements, as well as the specific regime for in-vehicle recording cameras will be appropriate to manage safety. This approach does not restrict operators from making their own business decisions to implement panic alarm systems if their assessment shows that this is warranted.

No change recommended | Panic alarms will not be mandatory.

Question 25: *Do you agree that the following is no longer required? Passenger service licence (PSL) – regulatory compliance is currently managed through a range of mechanisms including approved taxi organisations, passenger service licence and driver obligations. The Ministry of Transport’s Review proposes requiring all passenger service operators to be an approved transport operator. A key responsibility of approved transport operators would be making sure all of their drivers had a P endorsement, worked within work time limits, and drove vehicles with a valid Certificate of Fitness.*

25 submitters agreed with this proposal, while 19 did not. A further 32 respondents did not answer the question.

One of the issues raised by respondents who did not agree, was that safety would be compromised by the removal of the PSL. However, the review team concluded that the PSL is not needed for safety training.

Other submitters were concerned that P endorsements and work time limits would not be checked, however these responsibilities will lie with approved transport operators under new requirements proposed.

No change recommended	The PSL is no longer required.
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Question 26: *Do you agree that the following is no longer required? 24/7 service – taxis are currently required to provide services 24/7 in large cities. There is no similar requirement for private hire operators (or carpooling or ridesharing). The Ministry of Transport’s Review proposes removing the regulatory requirement for taxis to provide a 24/7 service, and leaves operators to provide levels of service in response to their understanding of demand.*

Nearly half of respondents agreed that the 24/7 requirement is no longer necessary, while 17 disagreed and 26 did not answer the question.

The review team expects in the future that the sector will be much more diverse. It is proposed to remove the requirements about how, where, and when an approved transport operator must work. In line with the review team’s views of how the future sector will operate, retaining the 24/7 requirement is not a provision that is considered necessary to retain under the future regulatory regime.

The current 24/7 requirements impose significant cost on taxis. The review team consider that the proposals to address driver and passenger safety, as well as the specific regime for in-vehicle recording cameras, will be sufficient to manage safety. In addition to this, not requiring a 24/7 service in large cities will open up the market to other competitors, who were unable to operate under the requirement previously.

No change recommended	24/7 service will no longer be required.
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Question 27: *Do you agree that the following is no longer required? Restrictions on private hire services connecting with customers – currently, private hire services can only take pre-booked customers. Taxis can take pre-booked or hailed customers. Shuttles can only take passengers travelling between specific destinations. The Ministry of Transport’s Review proposes removing the restrictions on how passenger service operators can connect with customers. This will promote enhanced competition and improved customer service.*

Just under half of submitters agreed with the proposal to remove restrictions on private hire services connecting with customers, while 15 disagreed and 26 failed to respond.

One issue raised was how small passenger services will be identified under the proposed rules. The same point applies here, as it did above in question 21, with the signage issue. The review team concluded that a driver should be able to do whichever jobs they wished to do. It will therefore be in the best interests of approved transport operators to display signage showing that the vehicle is available for hire if they want to partake in rank and hail work. But it is not considered necessary for Government to mandate this.

Councils also raised issues around usage of taxi stands, busways, and child restraints, which the review team is looking into. The review team accepts that there will be some consequential changes around these issues to reflect the single class system.

Other submitters with an interest in emerging technology, raised the issue that there should be two separate types of services here – taxis which can partake in rank and hail work, and rideshares which can only do pre-booked trips. However, as noted above, the review team consider that the same rules should cover the entire small passenger service sector. The review team do not think that separating taxis, private hires, and other into different categories, as is the case now, best meets consumer expectation, embraces technology, or supports the range of services offered.

No change recommended	Restrictions on private hire services connecting with customers will no longer exist.
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Question 28: *Do you agree that the following is no longer required? Driver passed driving test in last five years – all P endorsement holders have to have passed a full licence test in the five years preceding their applying for their P endorsement. The Ministry of Transport’s Review proposes removing this requirement. A fully licensed New Zealand driver is deemed competent to be on the road without having to sit ongoing tests (certain circumstances excluded). The existing provision of having passed a test in the last five years imposes a cost on the driver, with little benefit.*

Almost half of submitters agreed with question 28, while 13 did not agree, and 31 failed to answer the question.

Those who disagreed tended to be of the view that drivers of small passenger services should be assessed more regularly and thoroughly than normal New Zealand licence holders. The review team's view is that the graduated New Zealand driver licensing system, sufficiently ensures safety and drivers' competency and ability to drive. In addition, a small passenger service will still be required to have had their licence for 2 years before being able to become a driver. This ensures that drivers have a certain level of experience before operating a small passenger service vehicle.

No change recommended

The requirement to have passed a driving test in the last 5 years is no longer required.

Question 29: *General comments on the proposals in the Future of small passenger services - consultation paper.*

There were a variety of general comments on the proposals, most of which were covered off in response to the other 28 questions. There were also a number of comments which expressed the respondents' general support for the preferred option 4 and the Review's process and aims.

One respondent specifically commented on the Review taking too long. The Review represents the most comprehensive evaluation of the sector's regulations in decades. Much of the existing regulation is outdated and imposes costs on the sector that can no longer be justified.

Another submitter was of the view that the Review was predicated on Uber entering the New Zealand market. However, emerging technologies were only one of the reasons for the Review. The review team considers that the proposed regime will result in increased competition (arising from lower compliance costs within a level playing field), more flexibility to accommodate new technologies, and enabling transport operators to make their own business decisions on a range of issues, while providing the fundamentals for safety.

The term 'sharing economy' was also mentioned by one respondent, who had an interest in emerging technologies. They were enthusiastic about companies such as Uber and AirBnB and were against any regime that is too prescriptive or compliance heavy. The review team agrees with such aims, however, as was aforementioned, driver and passenger safety is also a key objective.

Appendix A: List of Submitters

	Councils/LG NZ	Interested in disability issues	Taxi Organisations/ drivers	Interested in technology	Private Hire/Shuttle	Other
1	Auckland Transport	Don Mckenzie	New Zealand Taxi Federation	Chariot	Southern Lakes Limousines & Taxis	Douglas Pink (MBIE, Consumer Protection Team)
2	Northland Regional Council	Blind Foundation	Blue Bubble Taxis	IAG	Appellation Central Wine Tours	Kevin Gudmundsson (MBIE)
3	Christchurch City Council	Office of the Ombudsman	Wellington Combined Taxis	BECA	Sapphire Cars Ltd. et al	Tourism Industry Association New Zealand
4	ECAN	BANZAT	Corporate Cabs	Uber	Bus and Coach Association	AA
5	Waikato Regional Council	CCS Disability	NZ Taxi Cabs	Opus	Respondent 294 West Coast Shuttle 2007 Ltd	Office of the Privacy Commissioner
6	Horizons Regional Council	Mary Schnackenberg	Respondent 383 S Verma	Respondent: 330 Dave Ray		Respondent 401 Dan Gerard (Driving Instruction)
7	Local Government New Zealand	Paul Brown	Respondent 398 Cheap Cabs	Respondent: 311 Wayne Teutenberg		Stephen Wickens (Passrite)
8	Taranaki Regional Council	Clive Lansink	Respondent 412 NZ Cabs & NZ Taxi Cabs	Respondent: 297 Adam Hiron		Respondent 382 MTA
9	Wellington City Council	Blind Citizens NZ	Respondent 320 Alan Rogers	Respondent: 305		Respondent 348
10	Otago Regional Council	Respondent 439 Nicola Owen	Respondent 349	Lindsay Ferguson		Respondent 347 PassRite Driving Academy
11	Hawkes Bay Regional Council	Respondent 374 Jonathan Mosen	Respondent 344 Christine Pera			Respondent Posted 1
12	Greater Wellington Regional Council	Respondent 329 David Maclure	Respondent 314 Su-Wuen Ong			Respondent 335
13		Respondent 282	Respondent 279 Laurien Sutherland			Respondent Other 1 Jules Tapper
14		Respondent 267	Respondent 269 John Davies			Respondent: 323 Ellen Blake
15		Respondent 264	Respondent 275			Respondent 308
16			Respondent 261 BK Sharma (You Chooze It Ltd)			Respondent 299 Yasir
17			Posted 2 Wayne Branks			Respondent 266 Michael Meyers
18						Respondent 260 Jimmy
Total	12	15	17	9	5	18

Appendix B: Indication of future requirements

Requirements under the current system	Retained or not retained
Approved transport operator (taxi, private hire, shuttle, ridesharing, & transport network company)	Yes
Approved taxi organisation	No
Passenger service licence	No
Certificate of knowledge of law and practice	No
Driver a fit & proper person	Yes
NZ Transport Agency to be advised of serious complaint/allegation against a driver	Yes
Driver held licence for > 2 years	Yes
New driver has passed a practical driving test in last 5 years	No
Driver work time limits and log books	Yes
Driver is medically fit to drive	Yes
Vehicle has a certificate of fitness	Yes
Duty for driver to accept first hire offered	Yes
Duty to take route most advantageous to hirer	Yes
Duty to agree fare basis prior to start of trip	Yes
Use of meters regulated	No
Taxi fares registered with NZ Transport Agency	No
Regulated signage	No
Regulated Braille signage	No
Driver has area knowledge certificate	No
Driver has knowledge of English language	No
Mandated in-vehicle security cameras	Yes
Able to apply for exemption from in-vehicle security cameras	Yes
Mandated panic alarms	No
Power to refuse a passenger	Yes
Taxi services must be provided 24/7	No
Shuttles defined by specific regulation	No
Ridesharing defined – drivers are fit & proper person, work time limits, vehicle has CoF	Yes
Carpooling charging limited to cost-recovery	No