

**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
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Norway

1. Introduction

1. The Norwegian taxi industry must comply with a comprehensive regulatory framework and several different regulatory authorities. Entry is strictly regulated, not the least since the number of taxi licences available in each licence district is limited. New licences are issued subject to a “needs test”, which imply that the competent authority in a licence district limits the number of taxi licences to a number corresponding to the (assumed) demand in the respective district. New licences are only granted if and when an existing licence becomes available (due to death or retirement), or when a new licence is issued by the county authority. In addition, there are obligations on the licensees to contribute to secure supply of taxi services at all times. Moreover, licensees cannot - as the main rule - have other occupations than providing a taxi service. The consequence is high barriers to entry and inflexible supply of taxi services.

2. Taxi prices in rural parts of the country are subject to maximum price control. There are two major reasons for this. Firstly, in many rural areas, there has traditionally only been one dispatch centre (DC), effectively creating a local monopoly. In addition, and even if there is more than one DC, complex price structures and limited availability of comparable price information for a given ride has made price comparison difficult - especially in key submarkets such as the ride-hail market. In taxi-ranks the taxi-customers can - in principle - search for the cheapest alternative among the different providers in the rank, but this is not customary. In other words, for customers, there are significant costs to search for and find the cheapest provider. This information asymmetry has historically added to the argument for price regulation.

3. The regulatory framework must also be considered in light of certain distinct geographic challenges Norway faces, in particular low population density outside the major urban areas. The regulatory framework reflect that taxi services contribute to fulfil important policy goals related to the availability of public transport services in Norway, not the least the need to secure a satisfactory supply of services for transport of patients, elderly and disabled.

4. In addition, there are important policy concerns related to passenger safety that also must be safeguarded through appropriate regulations.

5. Thus, maximum fares and regulated entry with a right and a duty to provide services have been important policy tools for simultaneously guaranteeing supply of services and providing sufficient income to ensure that the drivers can make a living driving taxi as a fulltime occupation.

2. Key developments

6. A discussion of the regulatory framework for the taxi services must take into account important policy objectives for the services, such as supply in rural areas as well as ensuring passenger safety. Notwithstanding, there are several key developments that justify a reassessment and to question if historical justifications for the regulatory framework are still valid.

7. Most importantly, technological developments have changed the basis for regulation. People began to use mobile phones in their daily lives with the emergence of 2G phones about 25 years ago. In 2017, 91 per cent of the population in Norway have a smartphone, while in 2012 the corresponding figure was 57 per cent.¹ In other words, digital everyday life sets the basis for easy access to comparable prices where hard-to-reach pricing information previously limited the potential competition.

8. At the same time, the digital economy paves the way for the new players and business models. In the taxi market Uber is a notable example, challenging the incumbents also in Norway. However, in the fall of 2017, Uber decided to suspend its UberPop service awaiting new regulatory rules, after facing fierce pressure from traditional taxi drivers who accused it of unfair competition and supplying a passenger transportation service in conflict with existing licensing rules.²

9. In addition, the number of private cars per capital has risen significantly over time. Whereas there were 5 person per private car in 1970, there are now approximately 2 people per private car, i.e. almost 600 private cars per thousand people.³ Thus, today most families have access to a private car as a transportation alternative. Another notable development feature is that more areas get competing dispatch centres.

10. The regulation of taxi services must allow new players with new business models and innovative services to enter the market while safeguarding important and legitimate policy concerns. If the regulations are disproportionate in relation to legitimate policy objectives, for instance due to regulations not reflecting current technological possibilities or market realities, a lower rate of innovation, productivity and weakened economic growth will be some of the consequences that follow from the negative impact on competition.

11. A discussion of the framework for the taxi industry must be based on the premise that important policy objectives related to the industry's role in the overall public transport system and passenger safety remains safeguarded. The NCA has advocated that the requirements to obtain a taxi license first and foremost must be aimed at safeguarding passengers' safety requirements, both in terms of drivers and vehicle quality. At the same time, the Authority has emphasized the importance of competition between old and new service providers on equal terms. New and innovative service providers must compete based on their ability to be more cost effective and provide more value for money to the customers – not because they have new and innovative ways to avoid paying taxes.

12. This contribution first gives a description of the main features of regulatory framework for the Norwegian taxi market. Thereafter, the background and content of the NCA's major advocacy initiatives in this area is presented. Finally, the background for, and the content of the current government's signalled changes related to the regulatory framework is presented.

¹ Norwegian Media Barometer, Statistics Norway

² See <https://www.reuters.com/article/us-uber-norway/uber-suspends-unlicensed-service-in-norway-in-change-of-tack-idUSKBN1CE0BO>

³ Registered vehicles statistics, Statistics Norway

3. The current regulatory framework

13. The Norwegian taxi industry must comply with a comprehensive regulatory framework and several different regulatory authorities.

14. Taxi licensing authority is allocated to the 18 counties where the respective *county governments* are assigned the responsibility of managing the taxi market in their respective geographic area. The *local police* issue a professional driver permit.

15. The *Ministry of Transport and Communications* has the responsibility for the overall regulatory framework for the taxi services. In addition, the *Ministry of Trade, Industry and Fisheries* is responsible for the regulations on taximeters. Taximeters must be approved by the *Norwegian Metrology Service* (NMS) before use.

16. The *Norwegian Competition Authority* regulates prices apart from in the major urban areas, where prices became liberalised from 2000 provided the existence of competing dispatch services and that the conditions in general provide a basis for competition.

17. And finally, various *public authorities* procure taxi transportation services.

18. The current regulatory framework consists of three main elements, which will be described in more detail in the following:

- regulation of supply
- regulation of price
- regulation of quality

3.1. Regulation of supply

19. Supply is regulated in many ways to secure that the demand for taxi services is satisfied at all times and in all areas.

3.1.1. Taxi licence

20. For commercial transport of passengers in Norway, a licence is required.⁴ New operators of *taxi services* are required to obtain a *taxi licence* ("*drosjeløyve*"). A taxi licence gives the licensee a right but also *a duty* to provide taxi services.

21. The right refers to a single taxi. Thus, the licensee cannot use the right to provide a service with more than one taxi. The licensee can, however, be an employer for several tax-drivers providing services at different parts of the day using the same car, provided the drivers have the proper authorization, as described below. A taxi-driver with a license can, however, also use a spare license ("*reserveløyve*") to operate an additional car as a taxi at times of high demand according to plan by the DC, or in case the main taxi is in for service or repair.

⁴ The provisions in question are contained in the Norwegian Act on Professional Transport of 21 June 2002 no. 45 ("Professional Transport Act")⁶ and Regulation 401/2003 ("the Professional Transport Regulation").

22. As mentioned above, taxi licensing authority is allocated to county authority. The respective county governments are also assigned the responsibility of managing the taxi market in their respective geographic area, *inter alia* by determining the number of licenses, criteria for obtaining licenses, the division into licensing district as well as issuing licenses and corresponding criteria for dispatch centrals.

23. More specifically, the following rules and principles apply to new applicants seeking to obtain a professional transport licence according to the Professional Transport Act and regulations.

3.1.2. The “needs test”

24. All operators of taxi services are required by law to have a taxi licence. However, the number of taxi licences available in each licence district is limited. New licences are awarded subject to a “needs test”, which means that the competent authority in a licence district limits the number of taxi licences to a number corresponding to the (assumed) demand in the respective district. Thus, new licences are only granted if and when an existing licence becomes available (due to death or retirement), or when a new licence is issued by the authority.

25. In order to determine the right level of supply for taxi services in a licence district, the competent authority in that district must regularly carry out an analysis of the taxi industry. This analysis is undertaken with the intention of finding the right balance between demand and supply for taxi services in the licence district. Relevant factors to be taken into account in this analysis are the population in the licence district, statistics from the taxi industry with regard to earnings as well as changes in the demand for taxi services and the level of functioning of other forms of public transport services in the district.⁵ The analysis of the “right balance” is static in the sense that it does not provide a mechanism that allows new actors to challenge incumbents.

3.1.3. Issuing new licences

26. Provided the “needs test” show there is a need for new licenses, available licences shall be publicly announced. In the announcement, the criteria for awarding the licences shall be set out. Relevant criteria to be taken into account in this regard are the following: previous experience as a cab driver, gained seniority, connection with the taxi profession in general as well as geographical conditions.

27. In addition, applicants have to fulfil requirements which include, *inter alia* that the applicant must be of good repute, have a satisfactory financial standing, and have sufficient professional competence.

3.1.4. Redistributing existing licenses

28. In Norway taxi licenses are not tradable, and have to be returned to the issuing authority if the owner for various reasons leaves the market.

⁵ See Reasoned opinion by the EFTA Surveillance Authority regarding Norwegian law governing access of transport operators to the market for taxi services and their compliance with Article 31(1) of the EEA: [http://www.eftasurv.int/media/esa-docs/physical/Reasoned opinion Failure by Norway to fulfil its obligations under Art 31\(1\) EEA by maint a.pdf](http://www.eftasurv.int/media/esa-docs/physical/Reasoned%20opinion%20Failure%20by%20Norway%20to%20fulfil%20its%20obligations%20under%20Art%2031(1)%20EEA%20by%20maint%20a.pdf).

29. The competent authority of each licence district decides upon the substantive conditions under which new licence(s) shall be granted/allocated. The criteria for the distribution and the grant of existing licences envisaged in the regulations are the principle of seniority, i.e. more specifically that:

- Applicants with at least two years of experience as a full-time taxi driver within the licence district will be given priority to a licence which becomes available as a consequence of the death or ceased service of a previous licence holder, provided that the taxi driver was exercising the taxi driving as a main occupation.
- Applicants with the longest service as a full-time taxi driver within the licence district shall be awarded the available licence, if several applicants fulfil the conditions.

3.1.5. Main occupation requirement

30. Licensees cannot - as the main rule - have other occupations than providing the taxi service. In other words, providing the taxi service must be the main source of income for the licensee. The duty to provide a taxi service also implies an obligation to supply the service at the times decided by the licensing authority. This is referred to as a service obligation (“*kjøreplikt*”). The background for this obligation is to secure that the demand for taxi services is secured at all times.

3.1.6. Dispatch services

31. The county government also decides the number of dispatch centres (“*drosjesentraler*”) in a defined area, and require individual license holders to be member of a DC (often explicitly stating which DC) or alternatively define a primary area where the licensee is responsible for providing service.

32. If the licence is connected to a dispatch centre, the licence holder is obliged to be available according to a shift plan of that centre. In sparsely populated areas, licences are mostly connected to the licence holder’s place of residence.

33. County governments also approve the by-laws and rules governing the organization and operation of the DC, and can with a substantial degree of discretion assign obligations and rights onto DCs, license holders and drivers. These obligations can either be in relation to the public or the DC.

34. Mandating affiliation with a DC is assumed to, i) reduce the buyer search cost by operating with the same prices for all affiliated members, ii) efficiently utilize the taxi stock by co-ordinating trips as to minimize the amount of idle time and non-occupied transport time, as well as iii) promote scale efficiencies from technical equipment and processes needed to run a DC.

35. Finally, it can be mentioned that a licensee can hire qualified drivers to drive the taxi on behalf of the license holder. However, such hired drivers must still have the proper taxi-driver license issued by the local police (*kjøreseddel*).⁶

⁶ See description of requirements below.

3.1.7. Cabotage rules

36. The MTC also determines market access rules *across* county lines. Currently a taxi can, for instance, bring a customer to another county and subsequently pick up a customer on the return trip. A taxi cannot, however, start and end a trip outside the county it is licensed in, unless the taxi is ordered in advance.

3.2. Price regulation

37. The NCA has the responsibility for regulating maximum fares through the Regulation of Maximum Prices for Taxi Transport. The legal basis for this regulation is the Norwegian Price Regulation Act of 1993, section 1 of which gives the Government authority to regulate prices when it is necessary in order to further a reasonable price trend. The provision is generally rarely used, but it has been considered necessary to regulate prices in the taxi service industry.

38. The main argument for the regulation is the market access restrictions imposed by the county governments. Restricting the supply in a given market can give rise to local monopolies and excessive pricing. Another motivation for the regulation is that Norway faces certain distinct geographic challenges, in particular low population density outside the major urban areas. As such, it is less likely that effective competition is possible outside urban areas and other densely populated areas.

39. For the NCA, the two main tasks related to the enforcement of the Regulation of Maximum Prices for Taxi Transport is to adjust the maximum prices and to evaluate candidate markets for maximum fare exemption.

40. Regarding candidate markets, section 10 of the Regulation of Maximum Fares for Taxi Transport states that: “The Competition Authority can make exceptions to this regulation: a) if there are two or more dispatch services in an area and the Competition Authority finds that the conditions otherwise are conducive to sufficient competition...”. Over time, after five markets were exempted from maximum fares in 2000, the NCA has subsequently exempted additional areas. The NCA consider a number of factors before making a decision. For example, what are the geographic characteristics (population size and density, geographic size and spill over into/interaction with other markets) of the market? Are there a minimum number of two competitive and non-co-operating DCs present in the area? Which market access rules exist in the area related to DCs and licenses? Are taxi licenses mobile? Is there available price information in or outside taxis and the taxi ranks? Do the DC’s face capacity constraints? As such, the NCA is in an excellent position to gradually introduce competition in markets that display the appropriate features for achieving effective competition.

41. The maximum fares are normally adjusted annually. The NCA has developed a tool that calculates maximum fare adjustments based on the development of weighted average prices⁷ of a defined ‘average trip’ in the deregulated areas, taking account of the effects of general and sector specific inflation as well as outside costs borne by the industry (i.e., taxes, pensions, interest rates and fuel prices).

⁷ The prices of the different DC's are weighted according to their respective share of licenses in the area.

42. However, the NCA has noted that after partial deregulation and exemption from price regulation, taxi service prices in the partially deregulated area have a tendency to rise more than the general price level. This is a characteristic which will be alluded to below, and which in the NCA's opinion is caused by the continued restriction in market access and inflexibility in supply.

43. The NCA has in this regard identified some potential problems with the fare adjustment process: using price data from one-sided deregulated markets (free prices but regulated entry) might inaccurately reflect correct fares with the result that maximum fares may accordingly be too high. Additionally, in periods with large fluctuations in costs and fares in deregulated markets the NCA might not be able to adjust the maximum fares fast enough, leaving the maximum fares too high or too low for a certain period of time.

3.3. Quality regulation

44. The overall regulation of the taxi market is the responsibility of the Ministry of Transport and Communications (MTC) which amongst other things stipulates quality and safety requirements applying to the taxi license holders. Some important elements of quality control related to taxi license holders, taxi drivers and equipment are described briefly below.

3.3.1. *Quality requirements relating to taxi licence holders*

45. To obtain a taxi license, several quality requirements must be fulfilled by the applicant. These include criminal background check every five years, proving sufficient financial ability through a financial guarantee, a tax certificate as well as completion of a theoretical course approved by the MTC aimed to ensure sufficient professional competence.

46. A taxi license relates to a taxi, which the licensee can operate. However, the taxi licence also gives the licensee a right to hire drivers. To drive the taxi, a local professional driver permit ("*kjøreseddel*") is required.

3.3.2. *Professional driver permit*

47. The professional driver permits are issued by the local police. The requirement is *inter alia* a certificate of good conduct and a medical certificate. The police may also require a local knowledge test to be passed. Such knowledge tests exist in the major urban areas.

3.3.3. *Taxi-meter requirements*

48. As a measure to ensure correct payment for taxi customers and impede tax evasion and insurance fraud abuses in the taxi industry, the Ministry of Trade, Industry and Fisheries introduced new regulations on taximeters in 2010. The requirements were based on an EU-standard (Measuring Instruments Directive 2004/22/EC - MID) that most of the EEA countries have introduced, and which also covered taximeters. The rules imply that taximeters must be approved before they are sold. The current regulations contain detailed specifications intended *inter alia* to provide a high level of metrological protection in order that any party affected can have confidence in the result of measurement. The new regulations included the following requirements:

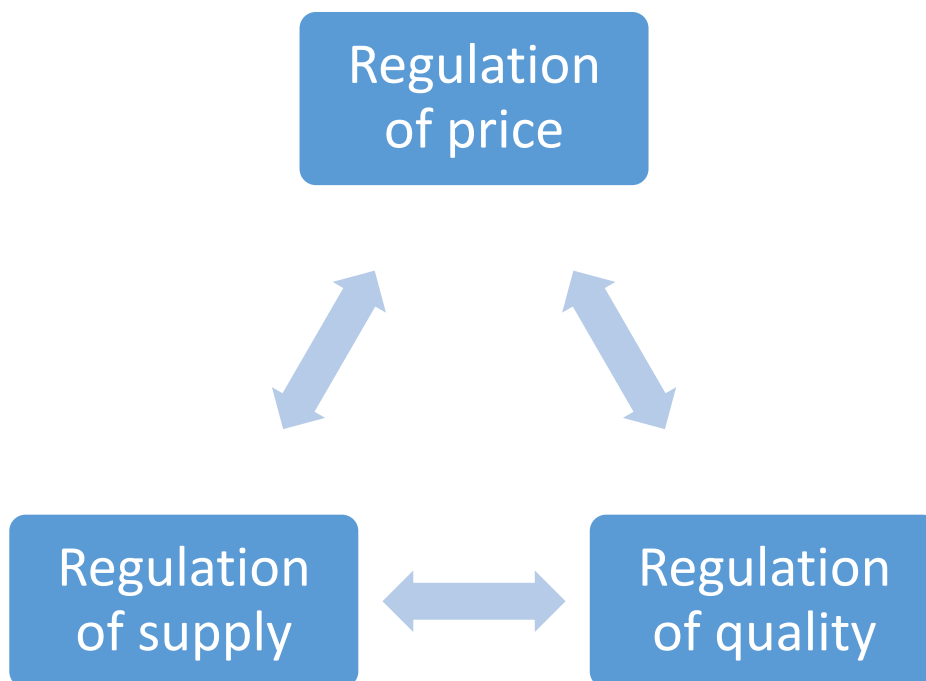
- The taximeter must be connected to the dispatch central
 - Critical components of taximeters have to be sealed to protect against tampering of the meter
 - The meter will continue to function correctly during temporary power failures
 - The data of the meters will be stored as long as it is to be used as the basis for financial settlement, tax and duty
 - Rules on the price and other information will have to be put on the display and receipt to make them easily readable both day and night
49. Moreover, there are requirements for connectivity, where *inter alia* the following devices shall be able to connect to the interface(s) of a taximeter:
- Printer
 - Taxi roof sign
 - Payment terminal
 - Communication unit for transmitting data
50. The taximeter shall be equipped with a real-time clock by means of which the time of the day and the date are kept; one or both can be used for automatic change of tariffs. The requirements for the real-time clock are among others that timekeeping shall have an accuracy of 0.02 per cent.
51. Taximeters must be approved by the Norwegian Metrology Service (NMS) before use. NMS also has the responsibility for follow-up controls and new approvals, for instance after change of tires as well as regular audits of the equipment.⁸

4. The NCA's general perspective for assessing the regulatory framework

52. When considering the regulatory framework for taxi services, it is in particular important to recognize that regulation of price, regulation of access and regulation of various quality aspects of the services are highly interconnected in the sense that changing the regulatory framework in one part of the regulatory triangle has an implicit consequence on the other parts. For instance, regulating prices will implicitly also have an impact and work as an indirect regulation on quality and access. Regulation of access will restrict competition and can imply higher prices. Regulation of quality will work as an implicit regulation of access. If a regulator disregards the interrelations in this regulatory triangle, the consequence can be a very bad market outcome.

⁸ See https://lovdata.no/dokument/SF/forskrift/2009-10-01-1226?q=taksameter* (in Norwegian).

Figure 1.



53. The taxi market in urban areas in Norway is a good example of the negative effects that can occur when done part of the triangle is deregulated while the regulatory framework in the other parts of the triangle is kept unchanged.

54. In urban areas, regulation of price can be removed provided competing DCs are present. Consequently, price regulation has been removed e.g. in Oslo, the capital, and in Bergen, the second largest city. However, all the elements in regulation of supply alluded to above (e.g. the "needs test", the service obligation and the main occupation requirement) are still in place.

55. The inflexible short and long term supply combined with deregulated prices and limited price competition between DC's⁹ resulted in a destructive price spiral.

56. The taxis experienced that rising prices led to declining demand. The declining demand led to fewer trips per tax. Fewer trips per taxi implied that prices had to increase so that the taxi driver got better paid per trip. The higher prices led to declining demand and again: fewer trips per driver. And prices were increased even further as a response. According to Statistics Norway, the number of trips did decline with almost 10 per cent between 2008 and 2015, whereas increased prices implied higher revenue per trip. That is

⁹ Due to characteristics of the market like asymmetric information (difficult for most customers to compare prices from different suppliers) and most customers hail first available taxi coming along or first in line in the taxi-rank.

the reason why the total turnover for the taxi services in the same period increased by 20 per cent.¹⁰

57. This seems contrary to standard text-book economic logic, but a consequence of the regulatory framework and the imbalance occurring in the regulatory triangle when one element is removed without considering the consequences of keeping the other elements unchanged.

58. Many taxis standing idle in taxi ranks, and drivers waiting or driving around looking for passengers is a waste of resources. In addition comes the negative environmental aspects. The new business models of the digital age are based on a flexible supply, prices presented (and comparable) at time of purchase while at the same time using prices to assure that more cars are on the streets at demand peaks.

59. Yet, society has strong and legitimate concerns related to vehicle quality and passenger safety. Self-regulation with driver background check combined with passenger feed-back are important elements to assure quality and safety among serious suppliers, but not a sufficient guarantee throughout the market.

60. This is framework for the NCA's advocacy initiatives related to the taxi-market, where the Authority has advocated that the present regulatory framework is reconsidered in light of the current economic framework and technological realities as well as proportional political goals, not the least relating to passenger safety. The NCA's main advocacy initiatives are presented below.

5. NCA advocacy initiatives

61. In assessing specific regulations and their impact of competition, the NCA find the OECD Competition Assessment Toolkit highly useful.¹¹ The checklist contains some main questions, i.e. to what extent the current or proposed regulation i) limits the number or range of suppliers, ii) limits the ability of suppliers to compete, iii) reduces the incentive of suppliers to compete or iv) limits the choices and information available to customers.

62. As seen from the description of the current regulatory framework for the taxi industry in Norway above, a 'yes' is the answer to several of the main question categories above.

63. The Toolkit then suggest that when a restrictive regulation is found, alternative less restrictive measures that can be used to achieve the relevant policy objectives should be considered. Such considerations must be based on an understanding of the rationale for the regulation, the broader regulatory environment and the technical features of the sector being regulated.

64. Major advocacy initiatives by the Norwegian Competition Authority the last decade are related to:

- Licencing policy by the county authorities

¹⁰ See <https://www.ssb.no/transport-og-reiseliv/artikler-og-publikasjoner/faerre-drosjekundar-gjev-hogare-prisar> (in Norwegian)

¹¹ See <http://www.oecd.org/competition/assessment-toolkit.htm>

- The need to reconsider the overall regulatory framework
65. Initiatives related to these two areas will be described below.

5.1. Letter of concern to county governments

66. The NCA can use its powers under section 9(e) in the competition law to point out anti-competitive effects of public measures and proposals. To the extent this power is used formally, it will be in the form of a letter of concern (*påpekning*) to the authority responsible for the restrictive measure.

67. The county governments have the ability - *not an obligation* - to restrict the number of licenses in the market. In January 2007, the NCA sent a letter of concern to the county governments with a follow-up letter later the same year, in part based on responses from the county governments to the letter sent in January, where a substantial number of county governments expressed that they do not find documented need for additional licenses in the market they are responsible for.

68. In its comments the Competition Authority proposed that the county administrations consider the importance of effective competition when formulating licensing policy, and it referred to several possible measures for achieving this. For example, the Authority pointed out that the county administrations can permit new taxi central dispatchers in a district; conduct an objective process for analysing the need for new taxi licences; determine upper limits for the share of licences in a district that can be linked to any single central dispatcher; require the provision of better price information and design taxi ranks so that customers have a real choice of taxi company.

69. The NCA also encouraged the county governments to not restrict the number of licenses. This is particularly important in markets with competition between DSs and no maximum fare regulation. It is assumed that the market will correct any potential oversupply of licenses over time, either through falling prices or by forcing ineffective licensees out of the market. Alternatively, an objective and independent analysis of the need for new taxi licenses should be undertaken by the county government, rather than relying exclusively on information concerning the need for new licenses provided by the dispatch services.

70. Moreover, the Authority pointed out the benefits of facilitating entry into the DS market. Having at least two competitive DSs in a given market is one of the prerequisites for exempting a new market from maximum fare regulation. Facilitating entry might include giving DSs from one market the ability to offer its services to license holders in another market. Avoiding minimum limits on the number of affiliated licenses would also ease entry, particularly in combination with increased license mobility between DSs. Increased mobility of licenses between various DSs would, on the one hand stimulate healthy competition between DSs in attracting the license holders. This would encourage dynamic efficiency, and as such, prevent the cementation of market shares often symptomatic of the taxi markets.

71. Increased mobility could be achieved by for example removing obligatory commitment times for license holders to a particular DS; make new or returned taxi licenses available more frequently; or as mentioned previously, make more licenses available, preferably not pre-assigned to a particular DS leaving the choice of DS to the license holder.

72. The Authority also suggested using maximum limits on the number of licenses affiliated to a particular DS. This would be particularly important if county governments decide to regulate entry more actively. This would prevent the situation where one DS obtain a dominant position. If a DS *already* has a dominant position, a situation which actually is common for many incumbents, one solution would be to actively redistribute licenses that are returned from licensees affiliated with the dominant DS. Using maximum limits were recommended instead of limiting license mobility, an approach commonly used in an attempt to prevent large-scale movement of licenses from smaller DSs to the dominant DS. Maximum limits would preserve the mobility of licenses between smaller DSs which would otherwise be lost through limiting license mobility.

73. The Competition Authority has evaluated the county administrations' follow-up of the issues identified. Some county administrations believe that long distances and a scattered population make conditions in their counties unsuitable for effective competition in the taxi industry. These counties did consequently not implement measures designed to promote competition. However, several other county administrations did make adjustments for increased competition in accordance with the NCA's comments. Several counties increased competition by permitting the establishment of several taxi central dispatchers in the same district. New central dispatchers were set up in Bergen, Ålesund, Tromsø, Nedre Romerike, Asker/Bærum and Stjørdal.

74. Some county administrations also introduced measures against dominant services by introducing limits on how many licences in a district may be linked to a single central dispatcher. Such arrangements have been introduced in inter alia Bergen and Stavanger. Several county administrations have also commissioned independent surveys to assess the need for new taxi licences, and the number of taxi licences is increasing in several areas.

5.2. Market study report on the taxi market

75. In March 2015, the NCA published market study report on the taxi market. In the report, the NCA argued that the Norwegian taxi market is overregulated, not the least due to the technological developments implied by the digital economy.

76. In the report, the NCA pointed out that there are several key factors that make it necessary to look at the regulatory framework for this market with new eyes. Firstly, it is clear that technological advances have changed the basis of regulation. Today, it is a reality that over 80 percent of the population have a smart phone, while only four years ago the corresponding number was just under 50 percent. Another, yet related aspect of the digital economy is disruptive innovators like Uber.

77. If regulation is disproportionate in relation to the objectives, or not reflect the current realities, weakened economic growth and lower rate of innovation and productivity will be some of the consequences that follow from the negative impact on competition. However, the regulatory framework must also reflect that the taxi industry has an important role in the overall public transport services in Norway. Moreover, there are important policy concerns related to passenger safety that also must be safeguarded through appropriate regulations. Thus, a discussion of the framework for the taxi industry must therefore assume that the policy objectives related to the industry's role in the overall public transport system and passenger safety remains safeguarded.

78. In the report, the NCA concludes that the time is ripe to abolish the counties power to issue new taxi licences based on an assessment of need and the requirement that

licensees must have taxi driving as their sole occupation. The time is also ripe to abolish regulated prices for the parts of the taxi industry operating outside the major urban areas. The NCA argues that a customized, flexible and modern regulatory framework will stimulate entry, competition and innovation to the benefit of taxi customers. The requirements for obtaining a taxi license must be oriented towards safeguarding passengers' needs for security, both in terms of driver and vehicle. Moreover, the regulatory framework must also ensure that competition can take place on equal terms between new and established taxi dispatch platforms.

6. The EFTA Surveillance Authority perspective

79. Above, a point is made that the regulation of taxi services must allow new players with new business models and innovative services to enter the market. If the regulations are disproportionate in relation to legitimate policy objectives, thus effectively prohibit actors with new business models, more innovative or environmentally friendly way of running the business to enter the market and compete with the incumbents, lower productivity and weakened economic growth will be the consequence.

80. A concrete case that illuminates this point is related to a complaint received by the EFTA Surveillance Authority (“the Authority”) concerning rules unduly restricting access to the taxi services market in Oslo. The complainant had tried, without success, to establish a low-cost and environmentally friendly taxi service (*Økotaxi*).¹²

81. The number of existing taxi licences in the Oslo municipality has remained unchanged since 2003 and all applications for taxi licences by new applicants have been rejected by the municipality.¹³ In a resolution dated 28 April 2016, the municipality Oslo decided not to increase the number of existing taxi licences in the Oslo licence district, inter alia on the grounds that existing licence holders should have an income that they can live by.¹⁴

82. The complainant argued that the licensing rule in question was a restriction on the freedom of establishment under Article 31 (1) of the EEA Agreement. The measures in question were the numerical limitation of licences, and the principles on allocation of licences and the obligation to be affiliated with a dispatch centre (“*drosjesentral*”).

83. According to the complainant, Oslo municipality had rejected, on different occasions, the application for a licence to establish a new taxi service. The complainant argued that in general, the number of available taxi licences in a district is limited and that applications by new entrants for a new licence are treated on the basis of a “needs-based” analysis, whereby the competent authority restricts the total number of available taxi licences corresponding to demand in a given district. Furthermore, the complainant claimed that the Norwegian rules in question require taxi drivers to be members of a taxi

¹² See <https://www.dn.no/nyheter/2017/02/22/1209/Samferdsel/esa-krever-at-norske-myndigheter-ender-drosjeloyveordningen> (in Norwegian)

¹³ See [http://www.eftasurv.int/media/esa-docs/physical/Reasoned_opinion_Failure_by_Norway_to_fulfil_its_obligations_under_Art_31\(1\)_EEA_by_mainta.pdf](http://www.eftasurv.int/media/esa-docs/physical/Reasoned_opinion_Failure_by_Norway_to_fulfil_its_obligations_under_Art_31(1)_EEA_by_mainta.pdf). The description in this section is largely based on this reasoned opinion, as well as other public sources of information.

¹⁴ According to the complainant, referred to in the ESA Reasoned opinion.

dispatch centre and to pay a fee for this affiliation. In this regard, the complainant contends that there are no objective criteria for assessing whether in a given situation there is a need for new taxi licences. In addition, the complainant submits that Oslo municipality requires independent taxi businesses to become affiliated with a taxi dispatch centres and to pay fees for this affiliation.

84. The complainant argued that the system in place limits the number of taxi licences and restricts new entrants, and, as a consequence, has led to disproportionately high prices for taxi services in Oslo. In the Oslo municipality, several taxi dispatch centres have been established and all taxi service operators are obliged to be affiliated with one of them. Both existing licence holders and recipients of a new licence in Oslo are free to choose their affiliation among the approved taxi dispatch centres, subject to the quantitative restriction that no dispatch centre can have more than 50% of the total available licences.

85. After having examined the complaint and having thus issued a letter of formal notice, the EFTA Surveillance Authority concluded with a Reasoned Opinion in February 2017 that the measures regulating the access to the market for the provision of taxi services do constitute a restriction on the freedom of establishment.¹⁵

7. New proposals

86. Some measures to improve the functioning of the taxi market of minor importance have been proposed by the Ministry of Transport and Communications the last few years.

87. Firstly, in December 2016, the Ministry proposed that a taxi licence no longer would be required for ridesharing. At the same time, the Ministry also proposed to abolish the requirement to be affiliated with a dispatch central.

88. Moreover, in July 2017, the Ministry proposed a requirement that the taxi driver should have an obligation to give a binding price offer for the ride to the customer uninvited before the ride. A taximeter will still be obligatory, and the lowest price would apply. The intention with the proposed change in the regulations for price information is to make the customers more concerned with the price for the ride and that the customers can choose alternative providers. At the same time, the Ministry proposed to abolish the requirement that the taxi licensee must have taxi services as his or her main occupation.

89. Measures of more fundamental importance are signalled in December 2017. In its response to the Reasoned Opinion from the EFTA Surveillance Authority alluded to above, the Ministry of Transport and Communications states that it is prepared to implement more extensive measures to improve the functioning of the taxi market. In the letter, the ministry acknowledges that the taxi market today does not work satisfactorily in all parts of the country.¹⁶ The Ministry also states that it recognises the emergence of new technology and new operators in the passenger transport market, in particular linked to the sharing economy.

¹⁵ See Decision No. 041/17/COL

¹⁶ See letter from the Ministry of Transport and Communications dated December 17, 2017.

90. The Ministry concludes that it will prepare a consultation paper proposing to remove the numerical limitation in the taxi legislation throughout the country. The removal of the numerical limitation will also entail a removal of the rules on the allocation of licences. The Ministry will also propose a removal of the obligation to be affiliated with a dispatch central. In preparing the hearing, the Ministry will assess how, without such an obligation, a satisfactory control of the taxi operator's income for tax purposes can be ensured. The Ministry also signals that the consultation paper will contain a proposal to keep the requirement for all taxi operators to hold a licence.

91. Moreover, the Ministry signals that the consultation paper will include a proposal that local authorities may compensate for public service obligations in the form of compensation or an exclusive right if the market does not provide the desired level of transport services on a commercial basis. The compensation or exclusive right would be granted as contracts, and would be time limited and awarded in line with relevant procurement rules. This is parallel to the system used in public transport, cf. Regulation (EC) 1370/2007, with the aim to ensure competition for the market where both established and new operators can participate.

92. The envisaged measures in the Ministry's answer to the Reasoned Opinion are fully in line with what the NCA has advocated with regard to an updated regulatory framework for the taxi industry.

93. However, the NCA has also advocated that such measures, which will give the necessary short and long term supply flexibility – combined with easily accessible price comparison tools, for instance via apps on smart phones – also will remove the need for price regulation in all parts of the country.

94. Notably, the need for price regulation and maximum prices is a part of the assessment performed by the government relating to how a satisfactory supply of taxi services can be ensured in rural areas.

95. In this regard it is important to note – and again with reference to the figure above showing how price regulation, supply regulation and quality regulation is highly interlinked – that a flexible supply side combined with continued price regulation with high probability will result in a market which is still in unbalance. Price regulation may result in too much quality or too little quality. It may result in too much supply, or too little supply. In times of high demand or unsatisfied demand, prices have an important function as a signal to increase supply. Continued price regulation with maximum prices will cripple the functioning of this important parameter in a well-functioning market.

8. Summary

96. A discussion of the regulatory framework for the taxi services must take into account important policy objectives for the services, such as supply in rural areas as well as ensuring passenger safety. In the NCA's view, there is still good arguments for regulation of driver and vehicle quality. Such regulatory requirement must be balanced and not go further than necessary to achieve legitimate societal goals. This is not the least important since such requirements implicitly will have an impact on access and prices.

97. However, there are several key developments that justify a reassessment and question if historical justifications for the regulatory framework are still valid. Economic and technological developments have changed the basis for regulation. Smartphones and

internet always accessible provide easy access to comparable prices where hard-to-reach pricing information previously limited the potential competition. Moreover, the digital economy paves the way for the new players and business models.

98. If the regulations are disproportionate in relation to legitimate policy objectives, *inter alia* due to regulations not reflecting current technological possibilities or market realities, a lower rate of innovation, productivity and weakened economic growth and will be some of the consequences that follow from the negative impact on competition. Under the current regulations, new players with new business models and innovative services are in practice denied access to the market due to license requirements and access regulations. The regulations result in an inflexible supply, which in areas with free prices have resulted in a price spiral.

99. The regulation of taxi services must allow new players with new business models and innovative services to enter the market. The NCA has advocated that the requirements to obtain a taxi license first and foremost must be aimed at safeguarding passengers' safety requirements, both in terms of drivers and vehicle quality. At the same time, the Authority has underscored the importance of competition between old and new service providers on equal terms. All suppliers of taxi services must comply with applicable laws and regulations. Thus, new and innovative service providers must compete based on their ability to be more cost effective and provide more value for money to the customers – not because they e.g. have new and innovative ways to avoid paying taxes.

100. The NCA welcomes the changes in the regulatory framework for the taxi services as envisaged in the letter from the Ministry to the EFTA Surveillance Authority; changes which accord well with the NCA's advocacy initiatives. In the NCA's view, such changes will pave the way for a well-functioning taxi market – provided price also is allowed to play the role it is supposed to in an effective market.