

POLICY PAPER

The Small Public Service Vehicle Market in Ireland: Regulation and the Recession

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Abstract: The small public service vehicle (SPSV) market in Ireland appears to have adjusted well to the changed economic circumstances since the onset of the recession. Despite this, a prohibition has been introduced since June 2010 on new taxi and hackney licences, while a series of measures are being introduced in 2012 and 2013 that are likely to limit the flexibility of the SPSV market to respond to changes in demand and supply, especially during busy peak periods, while at the same time obscuring market signals and making regulation more difficult. Taken together these measures mean that there is a real danger that when the economy revives and demand for SPSV services increases that there will be increased waiting times, as there were in the 1990s when taxi numbers were restricted, while fare discounting will end much sooner than it otherwise would. In this paper these issues are explored together with the implications for independence of the SPSV regulatory regime.

I INTRODUCTION

Virtually all sectors of the economy, including transportation services, will be adversely affected by the economic recession which started in 2008. In the case of small public service vehicles (SPSV), most of which are taxis,¹ the recession has led to a significant decline in demand for SPSV services, longer

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¹ For details see Indecon (2011, Table 3.2, p. 38). In Section II the definition and breakdown of the various categories of SPSV is presented.

hours of work and lower hourly returns.² When sectors are subject to such stress, firms and workers often seek government intervention to provide shelter and protection from market forces.³ Providers of SPSV services in Ireland, for example, demanded a moratorium on the issuing of new licences in late 2008.⁴ This paper provides a case study of Irish government policy towards SPSVs in the face of the recession. How did government respond to demands for protection? How did the government balance the regulatory aims of consumer welfare with producer driven demands? What methodology was used to evaluate these demands? Did the circumstances merit the policy prescription of the government? What are the wider lessons of the Irish experience?

The paper is divided into six sections. Section II provides an overview of developments in the SPSV market between 2000, when entry was liberalised, to 2008, the onset of the recession. In Section III how the SPSV market has adjusted to the difficult period since 2008 is analysed. The next two sections evaluate the policy response: the prohibition on the issuing of new taxi and hackney licences in June 2010 (Section IV); and, a package of measures designed to improve the quality of SPSV services and eliminate certain illegal practices, which are currently being implemented (Section V). Section VI concludes.

II THE SMALL PUBLIC SERVICE VEHICLE MARKET: 2000-2008

The term small public service vehicle (SPSV) refers collectively to taxis,⁵ wheelchair accessible taxis (WAT),⁶ hackneys⁷ and limousines.⁸ The vast majority of SPSVs are taxis (76 per cent in 2011), followed by hackneys (14 per cent), with the remaining two categories accounting for about 5 per cent each.⁹

² Goodbody (2009a) characterises the situation.

³ This issue is addressed in Gorecki (2012a).

⁴ The demands usually refer to taxi licences. For further discussion see Section IV.

⁵ A taxi is defined as “an SPSV licensed to carry up to eight passengers which can ply for hire on the street or stand for hire at taxi ranks or to be called out or pre-booked by a passenger” (Goodbody, 2009a, p. 5).

⁶ A taxi “which meets a number of additional vehicle specifications to allow use by persons using their wheelchairs” (*ibid*, p. 5).

⁷ A hackney is “... an SPSV licensed to carry up to eight passengers which must be pre-booked privately and cannot ply for hire on the street or stand at taxi ranks. The fare must be agreed in advance with the customer. Hackneys may not use the bus lanes.” (*ibid*, p. 4).

⁸ A limousine is “... an SPSV licensed to carry up to eight passengers which must be pre-booked privately and cannot ply for hire on the street or stand at taxi ranks. The fare must be agreed in advance with the customer. A limousine must be suited by its style and condition to be used for ceremonial, corporate or other prestige purposes.” (*ibid*, p. 4).

⁹ Indecon (2011, Table 3.2, p. 38).

Since quantitative restraints on taxis were removed in late 2000 as a result of a High Court judgment,¹⁰ the number of SPSVs has increased from 13,637 in 2000, peaking at 27,429 in 2008, before declining to 24,120 in 2011.¹¹ Since liberalisation taxis have grown at a much faster rate than hackneys, whose market share of SPSVs declined from 69 per cent in 2000 (Goodbody, 2009a, p. 35). The differing growth rates of taxis and hackneys reflects the fact that prior to liberalisation in 2000, quantitative controls applied to taxis,¹² but not to hackneys, as well as to the fact that a taxi is much more flexible in terms of, for example, where it can pick-up passengers.¹³

The regulatory regime for SPSVs has evolved considerably since liberalisation in 2000. A statutorily independent national Commission for Taxi Regulation (CTR) was established in September 2004, whose functions were subsumed into the National Transport Authority (NTA) on 1 January, 2011. The CTR took over regulation from the local authorities. The CTR (and NTA) is guided by a set of nine statutory objectives including "... to encourage and promote competition in relation to services (including fares) offered by" SPSVs and "... to promote the development of high quality cost effective services ... [by SPSVs] which meet a range of customer needs including those of passengers with mobility or sensory impairments."¹⁴ The CTR has wide ranging powers to fulfil its statutory objectives including setting maximum fares, vehicle standards, vehicle inspections, and the granting of licences to SPSV drivers.

The CTR introduced a national taximeter area and a national *maximum* taxi fare in 2006 to replace the existing 34 independent taximeter areas for which local authorities had previously set SPSV fares.¹⁵ The purpose was to "... establish a single, simple transparent system across the country" (PA Consulting, 2010, p. 3). The maximum fare has Standard and Premium rates with the latter reflecting unsocial hours (i.e., between 20:00 hours and 08:00 hours). The fare, which is reviewed every two years, is based on a number of factors including a cost index – the dynamic taxi cost index. In 2008 fares were

¹⁰ Murphy (2000). For a discussion of the situation pre-2000 see Fingleton, *et al.* (1998) and Kenny and McNutt (1998); for subsequent developments see Barrett (2003) and Goodbody (2009a).

¹¹ Indecon (2011, Figure 3.1, p. 36; Table 3.2, p. 38). The number of SPSV licences for 2011 refers to August 2011, while the data for 2000 refers to December 2000.

¹² These constraints were binding as demonstrated by the fact that taxi licences traded for substantial sums, peaking at IR£90,000 in 2000 (Barrett, 2003, Table 2, p. 35).

¹³ On the pre-liberalisation period see Kenny and McNutt (1998, p. 4) who point out that hackney licences were only restricted for a short time in 1991/92 when a moratorium was in place. Part of the increase in the number of taxis after 2000 is likely to be due to hackneys switching to being a taxi.

¹⁴ Section 9 of the Taxi Regulation Act 2003.

¹⁵ Goodbody (2009a, p. 14).

raised in line with this index. In the fare review for 2010, although the cost index had declined by 1.8 per cent, no change in fares was recommended by PA Consulting (2010, p. 32) and this was accepted by the CTR.¹⁶

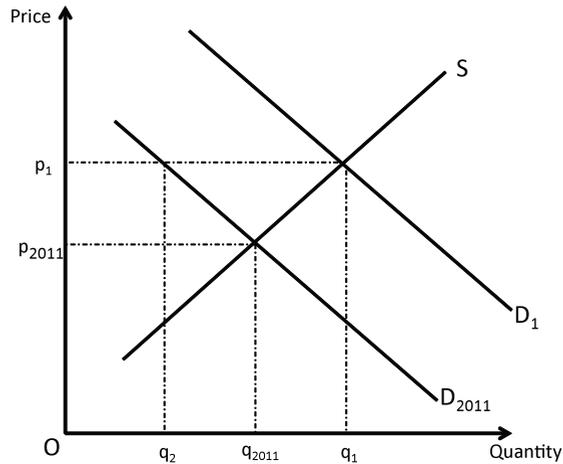
In 2008 the CTR commissioned a wide ranging review of the SPSV market that had the twin objectives of a "... review of the trends shaping the general environment in which the industry operates" and to "... assess the economic impact of liberalisation of the SPSV sector, in particular on the supply, demand and industry earnings" (Goodbody, 2009a, p. 6). The review carefully examined supply, demand, competition, service quality, regulation (including the rationale for regulation), and consumer benefits in terms of reducing waiting times. The review found that drivers were working longer hours and that earnings were below the average industrial wage. The review found that liberalisation had resulted in significant benefits to consumers, which was most evident in reduced waiting times, valued at €780 million (*ibid*, p. 84). The review did not consider that a moratorium on issuing new licenses was justified, although external costs associated with the SPSV sector in terms of congestion and environmental impacts were acknowledged (*ibid*, p. 85). In concluding the review argued that the market failure approach currently being employed matched that advocated by the OECD and World Bank in terms of the emphasis on "... the value of quality regulation combined with entry deregulation" (*ibid*, p. 88).

In sum, the liberalisation of the SPSV market, together with the introduction of a sector regulator, resulted in considerable improvements in service quality to consumers, but there were indications that SPSV operators were experiencing less favourable working conditions with the onset of the recession.

III A DECLINE IN DEMAND: MARKET ADJUSTMENT MECHANISMS

In general a decline in demand due to the recession will lead to a reduction in quantity supplied and/or a decline in price. For example, in Figure 1 if the demand curve shifts from D_1 , the pre-recession demand schedule, to D_{2011} , the recession level of demand, then the equilibrium price and quantity changes from p_1q_1 to $p_{2011}q_{2011}$. Of course, this is a very much a stylised picture. It says nothing about the adjustment process of moving between the two equilibriums. For example, there might be barriers to price declining or capacity exiting the market resulting in possible adverse market outcomes, such as low prices and excess capacity. We investigate these possibilities with respect to the SPSV market.

¹⁶ As noted in Section III below there was also no change in fares following the 2012 review.

Figure 1: *A Shift in Demand: Alternative Responses*

Source: See text.

3.1 *Quantity Adjustment*

If the quantity supplied cannot, for whatever reason, adjust in a timely manner to a decline in demand then this will result in excess or over capacity – there is too much capacity relative to available demand at current prices. Typically, when excess capacity exists firms reduce capacity through plant closure/mothballing and/or exiting the market, with the result capacity more closely matches demand. Hence, for adjustment to the decline in demand to be a problem implies that market forces are unable to achieve a reduction in capacity over a reasonable time horizon. In other words, there are barriers to exit. For example, the market might be characterised by large indivisible capital investments, which are long lived with few alternative uses and low marginal costs. Several of the cases where the European Commission has allowed restructuring agreements – which would otherwise be considered anti-competitive – to reduce capacity appears to be consistent with this characterisation.¹⁷

SPSVs are not, however, such a case.¹⁸ The ratio of variable or running (e.g. fuel, servicing, spares, tyres, cleaning) costs to fixed (e.g. insurance, car

¹⁷ These agreements included synthetic fibres, bricks, petrochemicals, and thermoplastics. For details see Whish (2009, pp. 600-601). In the case of synthetic fibres state intervention to keep plants open hindered the adjustment process according to Shaw and Shaw (1983).

¹⁸ All the data concerning fixed and variable costs of taxis is drawn from PA Consulting (2010, Table 4.2, p. 25 and Table 2.5, p. 25). The costs refer to 2008 and 2010. Estimating these costs was undertaken as part of the biannual review of taxi fares, referred to in Section II, undertaken since 2006.

purchase and fuel, radio rental, insurance, road tax) costs is 71-72 per cent for taxis. Many of the fixed costs are only fixed for a year or less such as insurance, road tax and radio rental and hence do not serve as durable barriers to exit. A notable exception may be car purchasing and financing, which accounts for around a third of fixed costs. However, there is a second hand market for cars so that some of the costs can be avoided.¹⁹ Admittedly the second-hand market for WAT/WAH and limousines may not be as efficient; however, these only account for a small proportion of SPSVs.

The proof, however, should be in the pudding. Given that there has been a decline in demand for SPSV services some exit would be expected. The total number of SPSV licences is presented annually for 2005 to 2012 in Table 1. Not surprisingly, as demand increased in the mid- to late-2000s as the economy expanded, the number of SPSV licences increased, but as the demand for SPSV services declined with the onset of the recession in 2008, the rate of increase in the number of SPSVs fell and then become negative. Since 2010, the number of SPSV licences has declined by 6 per cent a year in 2010 and 2011, and 3.4 per cent in 2012.

While markets are not by any means perfect, it is not clear such an adjustment path is too slow. One benchmark is to examine the change in the number of firms in industries with declining sales. For example, if we look at the decade 1970 to 1979 for those Canadian manufacturing industries that had sales declines of between 0 and -2 per cent, then the change in the number of firms was -16.6 per cent over the decade.²⁰ Another benchmark might be to examine the change in the number of business enterprises in Ireland, which is available for 2006 to 2010. This shows that since the onset of the recession in 2008 that there has been a decline in the number of enterprises of 4.5 per cent in 2008/9 and 5.7 per cent in 2009/10.²¹ Against these benchmarks, 3 to 6 per cent per year does not seem excessively slow or fast.

In deciding whether or not to exit the SPSV owner is likely to consider how easy it is to re-enter the SPSV market once demand increases as the economy recovers from recession. If entry is easy then the SPSV owner is more likely to exit. However, if it is anticipated that entry barriers are likely to be created in

¹⁹ Since taxis are likely to have high mileage and intensive use, the second hand value of such vehicles is likely to be at a discount to the average second-hand price for the same model of the same age.

²⁰ For details see Baldwin and Gorecki (1990, Table 3-3, p. 37). The data set refers to 141 4-digit manufacturing industries. Industries are compared in 1970 and 1979. In the industries experiencing a decline in sales the number of average number of firms in 1970 was 53.7, in 1979, 44.8.

²¹ These data are taken from the Central Statistics Office website. For further details see: <http://www.cso.ie/px/pxeirestat/Statire/SelectVarVal/saveselections.asp>. Accessed 24 September 2012.

Table 1: *Number of SPSV Vehicle Licences,^a Ireland, 2005-2012^b*

<i>Year</i>	<i>Number of SPSV Licences</i>	<i>Annual Change (%)</i>
2005	21,888	—
2006	22,580	3.2
2007	25,695	13.8
2008	27,429	6.7
2009	26,937	-1.8
2010	25,309	-6.0
2011	23,777	-6.0
2012	22,964	-3.4

^a The data refer to active licences (i.e. those that have paid the annual licence fee).

^b The number of licences refers to December of each year.

Source: Commission for Taxi Regulation (2011b, p. 10) and information supplied by the National Transport Authority.

the future with the possibility that rents will be earned, then SPSV owners will be discouraged from exiting the market to-day because of the prospect of future gains. These gains will be capitalised in the value of the SPSV licence. As discussed in Sections IV and V various quantitative and qualitative restrictions on entry have been introduced or are proposed by policymakers. This is likely to encourage SPSV license holders to remain in the market rather than exit.

3.2 *Price Adjustment*

For prices to adjust to the new equilibrium due to the decline in demand implies that prices are flexible downwards. However, if there is price rigidity or stickiness, due, for example, to regulation, then prices may not be flexible. The result, other things being equal, is excess capacity. In terms of Figure 1 suppose the regulated price is p_1 and prices cannot adjust downwards then the quantity supplied is q_1 rather than q_{2011} . The degree of excess capacity – $q_1 - q_{2011}$ – is the difference between the new equilibrium (if prices were flexible) and the actual quantity supplied.^{22,23}

The regulated SPSV price set by the regulator, the NTA, is, however, a *maximum*, not a fixed or floor, price. Hence SPSVs can, should they consider

²² It should be noted that the actual excess capacity measured would be $q_1 - q_2$, which is an overestimate of the actual degree of excess capacity derived from the difference between the two equilibrium quantities.

²³ This argument is developed by Indecon (2011, pp. 74-76), but for reasons set out in this section, this is not entirely plausible or sufficiently nuanced. Indecon (2011) is discussed further in Section V.

it in their economic interest, reduce prices.²⁴ The evidence suggests that SPSVs during the recession have reduced their prices by offering discounts off the regulated maximum fare in response to the changes in demand and supply. This author has received several mail shots from taxi companies offering reductions in fares for residents of South Dublin.²⁵ More systematic evidence also suggests that SPSV price reductions are not uncommon. Indecon (2011, p. 84) state, “[O]ne of the features of the current Irish market is the existence of discounts and the resultant downward pressure on fares. According to survey evidence ... 23 per cent of customers indicated that they had secured discounts on taxi fares.”²⁶ The *Review of the National Maximum Taxi Fare 2010* also commented that “... there is evidence from the survey of drivers that they are willing to offer a discount when they deem it necessary or beneficial” (PA Consulting, 2010, p. 31).²⁷ The sensitivity of consumers to prices is also consistent with the overwhelming rejection by the taxi industry of a proposed fare increase of 4 per cent as a result of the 2012 fare review by the NTA.²⁸

Fare discounts are likely to be especially important for SPSVs hired over the phone (61 per cent of SPSV hirings in 2010) as compared with hailed on the street or at a taxi rank.²⁹ The former are more likely to be informed consumers in a position to take advantage of the price discounts, than the latter, including for example tourists, who are more likely to pay the maximum regulated fare.³⁰ Hence, while fare discounting is likely to facilitate the equating of demand and supply, the fact that a certain portion of the market is likely to continue to be charged the maximum regulated fare means that this might lead to some continuing excess capacity. However, this does not reflect the fact that prices are inflexible downwards, but rather because uninformed consumers are in a poor bargaining position the SPSV supplier is able to charge the fare on the meter.

²⁴ Agreement amongst suppliers of SPSV services not to offer discounts and adhere to the maximum price would be a breach of the Competition Act 2002.

²⁵ For example, in February, May, August and November 2012, CAB2000 distributed via a mail shot eight coupons, each of which offered a discount (e.g. €5 off any pre-booked fare over €25).

²⁶ By 2012 it had increased to 38 per cent (NTA, 2012d, p. 15).

²⁷ In 2012 over 75 per cent of taxi drivers and 83 per cent of dispatch companies offered discounts to their customers (NTA, 2012d, p. 15). The difference between these percentages and that in the previous footnote may be “... that customers may not be aware of receiving a discount particularly if it relates to extra charges on the meter, or simply that passengers are not offered a discount unless they ask for one (*ibid.*, p. 15).

²⁸ For details see NTA (2012b, 2012c, 2012d).

²⁹ Indecon (2011, Figure 2.10, p. 21).

³⁰ One of the rationales for fare regulation of taxis is that the consumer has little bargaining power with respect to the fare (Goodbody, 2009a, p. 69). This is most likely to occur when a taxi is hired on the street or at the rank. Another rationale for regulation is that there are informed consumers (e.g. local persons) and uninformed consumers (e.g. tourists) and that regulation prevents the latter from being exploited. For a discussion see Sutton (2000, pp. 87-90).

In sum, it would appear that the SPSV sector should be able to adjust in a timely manner to the decline in demand through a combination of quantity and price reductions. However, this does not necessarily mean that there will be no excess capacity for two reasons: the regulatory-induced increase in barriers to entry, which discourages exit through the prospect of the creation of future rents; and the presence of a subset of SPSV consumers where suppliers will continue to charge maximum regulated prices.

IV PROHIBITION ON NEW TAXI AND NEW HACKNEY LICENCES

Taxi drivers did not react favourably to the Commission on Taxi Regulation's view that a moratorium on the issuing of new taxi licences was not justified. Taxi drivers mounted selected blockades of traffic in city centres³¹ and occupied the offices of the CTR³² in protest against the refusal of the Goodbody Review to countenance a moratorium. The CTR and a representative of Goodbody appeared before the Joint Oireachtas Committee on Transport on 25 March, 2009 to discuss the review. The Chairman of the Committee and several of the Members challenged the Goodbody Review's conclusions and methodology.³³ The Committee in July 2009 made a series of recommendations in relation to SPSVs including a three year moratorium on the issuing of new licenses. The Committee felt that such a moratorium would be the best way to deliver "... a higher quality, more efficient and superior service" (Houses of the Oireachtas, 2009).

In June 2010 the CTR instituted, via secondary legislation, a prohibition, not a moratorium, on the issuing of new taxi and hackney licences.³⁴ The prohibition did not apply, however, to three classes of SPSV licences: two existing classes, WATs and limousines; and a third new SPSV category, wheelchair accessible hackneys (WAH).³⁵ The prohibition was not time limited

³¹ In Dublin for example the airport was blockaded between 7 am to 11 am on 20 March and 1 April 2009. Based on statements by SIPTU, a union representing SPSV drivers, press reports and personal observation.

³² In March 2010 two individuals were the subject of a High Court order to leave the building in which the CTR was located. Based on press reports.

³³ For a discussion see Gorecki (2009, pp. 29-31). Note that the Committee comments did not appear to be based on a careful consideration of the evidence. For example, one elected representative relied on conversations with a small number of taxi drivers as compared to a survey of the industry conducted by Goodbody (2009a).

³⁴ The material in this paragraph is based on S. I. No. 250 of 2010, Taxi Regulation Act 2003 (Grant of Taxi Licences) (Amendment) Regulations 2010.

³⁵ A WAH is a hackney that satisfies certain conditions in order to be able to transport a wheelchair.

nor linked to any specific target (e.g., proportion of SPSV licenses that are wheelchair accessible). This was inconsistent with the Regulatory Impact Analysis (RIA), undertaken by the CTR to support this policy, that referred to “[S]pecific targets or timeframes would be set” (CTR, 2009a, p. 18).³⁶ At the same time the CTR prohibited the transfer of taxi and WAT licences issued after June 2010, while existing taxi licences can only be transferred on one further occasion and it must be to a vehicle that is less than three years old.

The impact of these changes is likely to reduce the supply of new SPSVs, raise the cost of SPSV services to consumers and reduce service quality, measured in waiting times. The price that the consumer pays for SPSV services, P_{SPSV} , can be expressed as follows:

$$P_{\text{SPSV}} = \text{Fare}_{\text{SPSV}} + W_{\text{SPSV}}(t) \quad (1)$$

where $\text{Fare}_{\text{SPSV}}$ is the fare that the consumer pays the SPSV operator and $W_{\text{SPSV}}(t)$ is the value of the time spent waiting. This way of characterising the price of SPSV services is common in both the theoretical (e.g., De Vany, 1975) and empirical (e.g. Fingleton *et al.*, 1998; Goodbody, 2009a for Ireland; OFT, 2003, for the UK) literature.

Wheelchair accessible vehicles have both higher fixed (65 to 91 per cent) and variable (27 per cent for fuel) costs compared to standard saloons.³⁷ The lower annual license fee for a WAT does not offset these higher costs.³⁸ In September 2011 limited funding was introduced to assist new licence holders to purchase a wheelchair accessible vehicle.³⁹ In entering the SPSV market a

³⁶ It is the case, however, at the time the prohibition was introduced the CTR referred to monitoring the entry into the SPSV market to ensure effective competition (CTR, 2009b), while reference is made to the rationale for the prohibition in terms of only seeking “to bring the stock of new vehicles over the next number of years to offset potential loss of numbers caused by the necessary introduction of new quality standards” (CTR, 2009c) which implies a much more limited objective and suggests that the prohibition on new taxis and hackneys is disproportionate.

³⁷ These cost comparisons are taken from CTR (2009a, Table 1, p. 9; Table 2, p. 10). For fixed costs the 65 per cent increase refers to a new car while the 91 per cent figure refers to a two year old car. In other words, retro-fitting a car is more expensive in relative terms.

³⁸ CTR (2009a, p. 11).

³⁹ The fund will devote €0.5 million for new applicants up to a maximum of €15,000 for a new vehicle and €6,000 to upgrade a vehicle. If the maximum is allocated each time then 33 new vehicles or 83 upgrades could be assisted (CTR, 2011a, p. 3). The evidence suggests that the cost differential between a wheelchair accessible and standard saloon were greater than €15,000 for a new vehicle and about €15,000 for a two-year old vehicle (CTR, 2009a, Table 1, p. 9). In the event in 2011, although 82 applications were made only 21 grants were awarded from the fund: 16 grants for new vehicles; and, 5 for conversions. The total dispersed was €239,003 or €11,381 per vehicle. (Based on information supplied by the NTA.) Not all the funding was “... drawn down principally because many applicants or interested parties were unable to obtain loan financing for the vehicle purchase (NTA, 2012e, p. 21).

firm will consider the likely return. For a WAT entrant with higher fixed and variable costs than a taxi, they are likely to defer entry until returns increase so that it is profitable to enter. At the present time the SPSV market is experiencing considerable price discounting by taxis. Hence, it would be reasonable to expect very limited new WAT/WAH entry.

The evidence is consistent with this prediction, as shown in Table 2, not only in absolute terms but also compared to limousines, the only other SPSV category exempt from the prohibition on issuing new SPSV licences.⁴⁰ Furthermore, if attention is paid to the net position (i.e. entry – exits) then the number of WAT/WAH licences *declined* by 206 between August 2010 and August 2011, while their share of all SPSVs *fell* from 5.7 per cent in August 2010 to 5.3 per cent in August 2011.⁴¹ To reach the CTR (2009a, p. 7) target of 10 per cent requires, based on August 2011 data, an extra 1,134 WAT/WAH SPSVs. To illustrate the time needed to reach this target, at the rate of progress recorded between May 2011 and April 2012, and assuming no exit of WAT and WAH, this implies, other things being equal, a period of 30 years!⁴² Certainly this is inconsistent with the CTR (2009a, p. 33) view that sees the prohibition as lasting over a “short timeframe.”

When the economy improves and demand recovers, however, discounting off the maximum fare will gradually cease and waiting times will start to rise due to the prohibition on entry of new taxis and hackneys. At some point in this process it will be profitable for greater numbers of WAT/WAH to enter. However, all users of SPSV vehicles, including the disabled, will be paying higher fares and experiencing longer waiting times, compared to a situation in which there was no prohibition on entry of taxis and hackneys.⁴³ The CTR (2009a, p. 19) in its Regulatory Impact Analysis (RIA) of the impact of the June 2010 policy thus concluded incorrectly that there would be no cost to users of the prohibition. In effect a new equilibrium price will be set geared to the return necessary for a WAT/WAH to enter to meet the 10 per cent target referred to above. At this price existing incumbent taxis and hackneys will be

⁴⁰ The fact that the entry of limousines continues at much the same rate before and after June 2010 suggests that these SPSVs are not good substitutes for taxis and hackneys.

⁴¹ All the data in this sentence are taken from Indecon (2011, p. iv).

⁴² The number of SPSVs in August 2011 was 24,120, of which 1,278 were WAH/WAH (Indecon, 2011, p. iv). The shortfall in WAT/WAH to reach the 10 per cent target is 1,134. Between May 2011 and April 2012 there were 38 new WAH/WAH (Table 2). $1,134/38=29.8$ years. An earlier period such as July 2010 to June 2011 would seem inappropriate as there appears to have an increase in the number of SPSV licences, perhaps in anticipation of a wider prohibition of new SPSV licences than just taxis and hackneys.

⁴³ However, in its RIA the CTR set limits to the policy in terms of a timeframe or a target level of WATs in relation to the overall number of SPSVs.

earning rents and hence will have an incentive to retain the prohibition on the entry of taxis and hackneys. It is true that there may be more WAT/WAHs than would otherwise be the case,⁴⁴ but that does not mean that such SPSVs will supply more services to wheelchair users, since the returns from servicing other users are likely to be higher, especially with the restrictions on entry of taxis and hackneys.

Table 2: *Number of SPSV New Vehicle Licences, by Category, Ireland, 2010-2012*

<i>Quarter/Year</i>	<i>Taxi</i>	<i>Hackney</i>	<i>Limousine</i>	<i>Wheelchair Accessible Taxi (WAT)</i>	<i>Wheelchair Accessible Hackney (WAH)</i>
Jan-Mar 2010	16	61	17	26	–
Apr-June 2010	8	46	24	44	0
July-Sept 2010	–	–	34	5	0
Oct-Dec 2010	–	–	22	1	0
Jan-Mar 2011	–	–	23	4	0
Apr-June 2011	–	–	35	4	2
July-Sept 2011	–	–	46	6	1
Oct-Dec 2011	–	–	26	14	1
Jan-Mar 2012	–	–	30	5	3
Apr-June 2012	–	–	52	9	4
July-Sept 2012	–	–	48	7	1
Oct-Dec 2012	–	–	34	7	3

Source: CTR (2011b, p. 11) and information supplied by the National Transport Authority.

In sum, in part perhaps due to demands of SPSV operators, in June 2010 the CTR prohibited indefinitely the issuing of new taxi and hackney licences, but with inadequate consideration of the impact on the consumer, how it would operate in practice and how it could be reversed once introduced.⁴⁵

⁴⁴ It may be, of course, that 10 per cent target is reached on a much reduced SPSV fleet with the result that the absolute number of WAT/WAH is lower compared to a situation in which there was no prohibition on the entry of taxis and hackneys.

⁴⁵ These points were made in the March 2011 Department of Transport's *Ministerial Brief* as issues that were not addressed by those advocating quantitative restrictions or measures. For details see: http://www.dttas.ie/upload/general/13086-MINISTERS_BRIEF_SCANNED_VERSION-0.PDF. Accessed 18 December 2012.

V LICENCE RESTRICTIONS, FULL- VERSUS PART-TIME SPSV DRIVERS, AND NON-COMPLIANCE

The issue of the appropriate response to the impact of the recession on the SPSV market was also addressed by the Taxi Regulation Review Group (TRRG), created as result of a government decision taken in June 2011. The TRRG was chaired by the Minister of State for Public and Commuter Transport (the Minister). The TRRG was composed of 18 other persons drawn from a wide array of SPSV interests, including producers, consumers, and regulators. The TRRG, in its December 2011 report, recommended 46 actions that envisaged "... the strengthening of qualitative controls of SPSV licensing, improved standards and effective enforcement" (TRRG, 2011, p. iii). The *qualitative* recommendations of the TRRG were designed to deliver a *quantitative* result of reducing capacity through encouraging exit such that demand and supply would be in better balance. These recommendations are being implemented, in part by the NTA,⁴⁶ but also through the Taxi Regulation Bill, introduced in December 2012.⁴⁷

5.1 *The Rationale for Regulatory Reform*

The rationale for many of the TRRG's recommendations was grounded in research commissioned by the Department of Transport, Tourism and Sport for the TRRG and undertaken by Indecon International Economic Consultants (Indecon) that, according to the TRRG (2011, p. ii), shows:

- "... on a national level oversupply is estimated ... to be in the range of 13-22 per cent of the current SPSV fleet";
- "... the level of oversupply is influenced by the impact of non-compliant operators in the sector";
- "and by the low levels of exit from the industry".

We consider each of these three key findings in turn.

⁴⁶ The NTA has formed a dedicated unit to implement the recommendations, For details see: <http://www.nationaltransport.ie/taxi-and-bus-licensing/taxi/taxi-review-implementation/>. Accessed 1 May, 2012.

⁴⁷ For details see: <http://www.oireachtas.ie/documents/bills28/bills/2012/10712/b107112d.pdf>. Accessed 17 December, 2012. It should be noted that the accompanying Regulatory Impact Analysis relied on the TRRG report. For details see: www.transport.ie/upload/general/13727-APPENDIX_2_RIA-0.DOC. Accessed 28 February, 2013.

5.1.1 The Level of Overcapacity

Indecon employed four different methods of estimating the degree of oversupply or excess capacity (column 1 of Table 3),⁴⁸ which in two instances resulted in more than one estimate of overcapacity in the SPSV vehicle fleet in 2011 (columns 2 and 3). Indecon's preferred estimates are present in column 2.⁴⁹ Caveats are included by Indecon along with these estimates. Reference is made to the fact that "... weaknesses in these approaches should be noted ..." and that all estimates "... involve some judgments and assumptions" (*Ibid*, p. iv). Nevertheless, having entered these caveats and qualifications, Indecon (2011, p. iv) state:

The results presented ... indicate that the level of oversupply has increased significantly in recent years, reflecting significant falls in demand. On a national level, oversupply is estimated to be in the range of 13-22 per cent of the current SPSV fleet.

However, a careful review of the methodology and the preferred estimate selected by Indecon suggests that, taken together, they are biased upward.⁵⁰ Hence, it seems reasonable to rely more on the lower bound rather than the upper bound estimates. That there should be a moderate degree of excess capacity is consistent with the discussion in Section III.

5.1.2 Non-compliant Operators

Indecon (2011, p. ii) state that the "... level of oversupply is influenced by the impact of non-compliant operators in the sector." Indecon (2011) does not, however, offer any evidence on the extent of non-compliance nor the competitive disadvantage suffered by compliant SPSV operators. In contrast, Goodbody (2009a) after stating that estimating the degree of illegal operation "is very difficult to gauge" comment that "[H]owever, Gardai and Commission [i.e. the CTR] enforcement activity such as spot checks have indicated very low levels of non-compliance" (*ibid*, p. 85). The TRRG (2011, p. 13) state that there are "... only a small percentage of drivers who are operating vehicles illegally,

⁴⁸ One method of estimating excess capacity is an examination of waiting times, particularly at peak times. If an extra SPSV vehicle adds nothing in terms of a reduction in waiting times, then this can be taken as an indication of overcapacity. Indecon (2011, p. 62) reject the use of waiting times as an indicator of oversupply on the grounds that "... merely observing a waiting time of X does not really tell us if there is an under or oversupply or the extent of oversupply." Nevertheless it is the case that waiting times can cast light on the issue of the balance of supply and demand. Furthermore, long waiting times were a major concern of consumers prior to the liberalisation of entry in 2000.

⁴⁹ These estimates are presented this way in the Executive Summary (Indecon, 2011, p. iv) and in the text itself, (*ibid*, Table 5.7, p. 87; Table 8.3, p. 127).

⁵⁰ Full details may be found in Gorecki (2012b).

Table 3: *Alternative Estimates of Overcapacity of the SPSV Fleet, Ireland, 2011*

<i>Methodology for Estimating Overcapacity in 2011</i>	<i>Indecon's Preferred Estimate of Overcapacity (per cent of SPSV fleet)</i>	<i>Indecon's Alternative Estimates of Overcapacity (per cent of SPSV fleet)</i>	<i>Author's Comments on Methodology</i>
(1)	(2)	(3)	(4)
Assuming the number of trips per SPSV in 2005 as a benchmark for 2011	21	1, 2.5, 12	The benchmark is likely to result in an upward bias to estimated level of overcapacity. No coherent justification is offered for the choice of 21 per cent. A simple average of the four estimates is 9 per cent.
International Norms	16	None	An unreliable guide to the degree of overcapacity since Indecon is unable to take into account many of the factors that result in differences between countries in the number of SPSVs.
Consumer Surveys	13	3, 8, 16	Doubts about validity of consumer perceptions of overcapacity. No justification for choice of 13 per cent. A simple average of the four estimates is 10 per cent.
Dispatch Operators	22	None	Serious concerns about the size and representativeness of the sample of dispatch operators. Estimates of overcapacity based on views of dispatch operators likely to be biased upwards.

Source: Gorecki (2012b) and Indecon (2011, various pages).

either while claiming payments to which they are not entitled from the Department of Social Protection or while being non-compliant with Revenue's tax requirements." Hence, the incidence of non-compliance does not appear to be widespread, although clearly more research is required to verify this result.

Non-compliant SPSV operators will, other things being equal, have lower costs than a compliant SPSV operator. With the new entry of taxis and hackneys prohibited since June 2010, non-compliant SPSV operators might just experience higher profits. On the other hand, such SPSV operators might

decide to discount fares, which is likely to result in some displacement of compliant SPSV operators and to some increase in supply of SPSV services. The impact of these effects on profits, displacement and supply depends, inter alia, on the cost advantage of the non-compliant compared to the compliant SPSV operator.

The cost structure of a compliant taxi driver was estimated as part of the 2010 review of the maximum national taxi fare (PA Consulting, 2010).⁵¹ The same running or variable costs would likely be incurred by both the compliant and non-compliant taxi operator. Such costs include fuel, servicing, cleaning, etc. (*ibid*, Table 4.2, p. 25). In contrast, in terms of fixed costs some of these would not be incurred by a non-compliant taxi operator (*ibid*, Table 4.3, p. 25). These might include: taxi vehicle license renewal, SPSV driver licence; meter verification; and meter calibration. However, in 2010 these costs amounted to only 2.5 per cent of the €10,165 annual fixed costs of a taxi operator, or 1.4 per cent of the €17,496 fixed and variable costs. In terms of taxi regulatory costs, these appear to be quite small in relation to other costs and hence, unlikely to offer the non-compliant taxi operator a cost advantage that will result in significant additional supply.

Turning now to the non-compliant SPSV operator who is in receipt of social welfare benefits it is not clear how this will affect supply. These benefit(s) are received irrespective of the amount earned from being a SPSV operator. The decision to become an SPSV operator will depend on the costs and the benefits of providing that service. It is not clear how being in receipt of these benefit(s) will affect that calculus. There may be an indirect effect in that the sum of the social welfare benefit(s) and the income from being a non-compliant SPSV operator increases the wage at which the individual will work in an alternative occupation. Nevertheless, steps have been taken to discourage persons claiming social welfare benefits and working as SPSV operators through the exchange of information between the CTR and the Department of Social Protection since at least 2009.⁵²

⁵¹ As noted above the CTR only sets fares for taxis not other SPSVs.

⁵² The CTR's (2010b, p. 20) *Annual Report and Financial Statements for 2009* notes, "[D]ata is exchanged between the Commission for Taxi Regulation and the Department of Social Protection strictly for control of fraud and abuse. All data exchanges take place using secure methods and any data that does not warrant investigation is destroyed. Information provided on approximately 24,500 licence holders resulted in 1,775 matched to Social Welfare claims. Details of matches were sent to the relevant areas in the Department of Social Protection for investigation. Information was also provided regarding approximately 1,600 multiple licence holders, which resulted in 83 matches to Social Welfare claims. Very substantial savings have been made from the activity, with indications of savings in excess of €1m to date." No mention of these efforts is made in Indecon (2011) while TRRG (2011, p. 13) refers to some information exchange taking place on a "limited ad hoc basis" between the CTR and the Department of Social Protection but provides no further details.

In sum, while the level of oversupply might be influenced by the impact of non-compliant operators, Indecon offers no evidence on either the extent of oversupply or its impact. The available evidence, albeit less than complete, suggests that non-compliance does not appear to be widespread or to provide the non-compliant operator with a decisive advantage over the compliant operator.

5.1.3 Low Exit Rates

Although Indecon (2011, Table 3.1, p. 37 and p. 80) is aware that the number of SPSV licences has dropped and that there may be a lag in adjustment (*ibid*, p. ii), they nevertheless state that there are "... low levels of exit, given the extent of oversupply (p. 81)" and that "... market forces on their own will not address the oversupply in the short term" (*ibid*, p. iv). However, Indecon do not address the issue that the level of oversupply they have identified will be removed within two/four (13 per cent overcapacity) to four/six years (22 per cent overcapacity) of 2011.⁵³ Is this too slow? What would be the optimal rate, especially given the widespread effects of the recession on the economy? Furthermore, given that Indecon's estimates of overcapacity are biased upwards this suggests that any overcapacity will be removed more quickly than these time lines suggest. Finally, of course, to the extent that the overcapacity reflects expectations concerning future rents then there may be a residual level of overcapacity that is unlikely to disappear. Indeed, the slowdown in the removal of capacity in 2012 could be a reflection of these expectations.

In sum, to the extent that the TRRG recommendations are based on Indecon's analysis, there are strong grounds for arguing that they rest on weak foundations. The extent of overcapacity is biased upwards, the issue of non-compliant operators appears to be substantially overstated, while the normal workings of market forces would appear to be able to deal with any overcapacity in a timely manner.

5.2 *The Taxi Regulation Review Group's Recommendations*

The TRRG's 46 recommendations (or actions) are organised under seven headings:

- Driver licensing.
- Vehicle licensing and standards.
- Accessible services.
- Compliance and enforcement.

⁵³ Based on the change in the number of SPSV licences in Table 2.

- Consumer and industry assurance.
- Fleet management and rental controls.
- Rural hackney service.

It is beyond the scope of this paper to comment on all of these recommendations, some of which are likely to have merit such as those relating to wheelchair accessible and rural hackney services. Instead we concentrate on the adverse effects of a limited number of TRRG recommendations that are likely to limit the flexibility of the market to respond to changes in demand and supply, especially during busy periods, while at the same time obscuring market signals and making the regulator's job more difficult.

5.2.1 The Dog that Didn't Bark: No Quantitative Restrictions

The reintroduction of quantitative restrictions, which had applied to taxis and been abolished in 2000, was not recommended by the TRRG (2011, p. iii). However, the TRRG do not comment on the fact that such controls were reintroduced in June 2010 on an indefinite basis for taxis and hackneys. In 2010, 90 per cent of all SPSV were taxis or hackneys, a situation that has not changed in 2012. In other words, quantitative restrictions existed for over a year prior to the TRRG report dated December 2011, but were not mentioned in the report. In view of the shortcomings noted in Section IV in the way in which these controls operate, it would have been helpful if the TRRG considered the implications of the prohibition on the issuing of new taxi and hackney licences.

5.2.2 Restricting the Transferability of SPSV Licences

A prohibition is recommended by the TRRG "... on the transferability of taxi vehicle licences such that after 1 October, 2012 all taxi vehicle licences will be unique to the person to whom the licence has been issued and cannot be transferred or sold to another individual (*ibid*, p. 17)."⁵⁴ The rationale for this recommendations is that the TRRG "... considered ... [it] necessary to move away from a system whereby a licence will have value in itself. A licence should determine a person's suitability to carry out a function and it should not have monetary value or be traded on the open market (*ibid*, p. 16)."

⁵⁴ Section 13 of the Taxi Regulation Bill 2012 contains a prohibition on the transfer of a licence. The SPSV Advisory Committee recommended to the NTA that "... an exemption be allowed for the transfer of an active licence to the next-of-kin following the death of the licence holder ..." (NTA, 2012a, p. 1). An amendment was introduced to the Bill at the Committee Stage in February 2013 allowing transfer on the death of a licence holder to a nominated person.

Preventing trading of licenses does not mean the license does not have value, rather it means that there will not be an open transparent method of determining whether or not it has value. A license will have value if there are binding quantitative and/or qualitative restrictions on entry and hence, its value provides important information to the taxi regulator, consumers and interested bodies such as the Competition Authority and the National Consumer Agency.⁵⁵ The discussion in Section IV, for example, suggested that the measures introduced in June 2010 prohibiting new taxis and hackneys, is likely to lead to such a license gaining value. Without a market in SPSV licences it will be difficult to determine whether this is the case or not.

Prohibiting the transfer of a license also limits flexibility in the SPSV market;⁵⁶ if part way through a year a person has to exit the SPSV market they are not in a position to sell the licence and hence, this may result in less entry, since barriers to exit can also act as barriers to entry. Finally, of course, effort – entirely socially unproductive – will be made to trade SPSV licences by circumventing the regulations if licences become valuable.

While policy often entails delicate balancing of the pros and cons of a policy change, none of these issues raised here were considered in the TRRG (2011) report.

5.2.3 Seeking Compliance with Working Time Legislation

The TRRG (2011, p. 14) recommend that part-time SPSV drivers be required to submit a form to their employer agreeing that being an operator of a SPSV is “... fully compatible with his/her other employment” (*ibid*, p. 14) in order to encourage better compliance with working time legislation.⁵⁷ No evidence is provided in the TRRG (2011) to demonstrate that part-time, as

⁵⁵ The value of taxi licences, prior to entry liberalisation in 2000, was one of the factors that led to calls for reform of the taxi licensing system (Barrett, 2003).

⁵⁶ However, it could be argued that prohibiting transferability increases flexibility. If SPSV licences are traded rents become capitalised in the purchase price; the new owner is likely to resist issuing of more licences since they would suffer a capital loss. On the other hand, if the licence is not transferable then, it could be argued, the original owner although experiencing a loss in income is unlikely to experience a capital loss and hence resist change less. This line of argument ignores the fact that the original owner is likely to have adjusted their life style to the higher income. For example, the SPSV license holder may have made certain quasi irreversible decisions on the basis of a continuous stream of rents, such as taking out a mortgage or buying a more expensive car. Resistance to change is thus likely to be just as intense compared to a situation where licences are traded. In both cases, in order to ensure flexibility the regulator needs to manage expectations by clearly stating policy with respect to SPSV licensing and taking measures to signal credible implementation strategies. In the case of the prohibition on new taxi and hackney licenses announced by the CTR in 2010, and discussed in Section IV, this was lacking.

⁵⁷ An amendment to the Taxi Regulation Bill 2012 was introduced at the Committee Stage in February 2013 for an “Obligation on applicant for or the holder of a licence to drive SPSV to inform licensing authority of any other occupation of his or hers involving vehicles etc.”

compared to full-time, drivers are more likely to work excessive hours, or that they do not already tell their employer.⁵⁸ No alternatives such as those cited by the OFT (2003, p. 39) which apply to both part- and full time SPSV operators are discussed or considered. Nor is there any attention paid to the proposal by the Revenue Commissioners (2011) and the Department of Social Protection (2011), in their submissions to the TRRG, for the use of taximeters that would not only record hours worked but also record fare revenue to assist in ensuring tax compliance.⁵⁹

There is no discussion of the possibility that insurance markets might already act as a deterrent to SPSV drivers working excessive hours. Driver fatigue increases with hours worked which, other things being equal, will lead to an increased risk of accidents and higher insurance premiums. Hence, drivers will take this into account and tend not to work excessive hours. The evidence is consistent with such a mechanism operating since in the UK accident rates were "... no higher in jurisdictions [i.e. local authorities] where the market was deregulated and longer working hours the norm," than in local authority markets where entry was regulated.⁶⁰

5.2.4 Distinctive SPSV Vehicle Branding

It is also proposed "... to introduce distinctive 'branding' of taxis (and wheelchair accessible taxis). This would take the form of a semi-permanent decal (vinyl adhesive material printed with a particular design) applied to the vehicle body, potentially to the doors on either side of the vehicle" (TRRG, 2011, p. 23).⁶¹ The TRRG argues that such branding "... will provide greater recognition of taxis, promote greater professionalism of the industry and reduce the potential for unlicensed vehicles to operate as taxis. Affordability for operators will be a key consideration in the development of this proposal" (*ibid*, p. 23). No evidence is presented that consumers have difficulty identifying taxis and WATs at present. While this recommendation is likely to reduce the presence of unlicensed vehicles there are other recommendations

⁵⁸ Indeed, the NTA (2012d, Figure 3.13, p. 13) record that 7 per cent of drivers work more than 75 hours a week or at least almost 11 hours a day.

⁵⁹ The Revenue Commissioners (2011) argued that "[I]t is Revenue's view that changes to the quality and detail of information stored on taximeters would improve the levels of tax compliance in the sector. In addition to improving tax compliance this information could also be used to police such areas as safe working hours for taxi drivers (p. 3)." The issue of taximeter was examined in Goodbody (2009b). It suggested that the Commission on Taxi Regulation announce that it was their intention to require non-resettable totalisers in the medium term (*ibid*, p. 49). Under the Measuring Instruments Directive, 2004/22/EC, all taximeters sold after 2016 have to be of this type.

⁶⁰ Goodbody (2009a, p. 81) drawing on OFT (2003, pp. 38-39).

⁶¹ This came into force on 1 January 2013 under S. I. No. 533 of 2012, Taxi Regulation Act 2003 (Taxi Branding) Regulations 2012.

that are likely to have the same effect. However, this recommendation may also reduce the supply of part-time taxis since it not only raises the fixed cost of entry but also limits the use of a taxi to the extent that the distinctive branding cannot be easily removed, something of much less concern to full-time taxis.

5.2.5 In-vehicle Security Cameras

A similar argument applies to a consultation process for proposals for mandatory provision of items such as “in-vehicle security cameras” and “... a partition separating the driver from the front seat from the remainder of the vehicle (*ibid*, p. 24).”⁶² No evidence is presented concerning the extent of robbery of SPSVs, whether it has gone up or down or the effectiveness of methods that are currently employed to prevent such assaults (e.g. a button that can be pressed by the SPSV operator alerting a central dispatcher who is able to track the SPSV via satellite).

5.2.6 Full- Versus Part-time Driver

The TRRG (2011, pp. 22-23) recommendations are explicit in relation to creating a level playing field between the part- and full-time SPSV operator:

... a key concern within the industry has been the opinion that the “part time operator” enjoys a benefit over the committed full time professional and that a more identifiable taxi would be of assistance in enhancing the overall professionalism of the industry. Given the varied fleet, a degree of “uniform branding” would serve to better identify the licensed vehicle to the consumer, while ensuring that the professional operator (be they full-time or part-time), make the same level of investment and commitment to the industry (*ibid*, pp. 22-23).

In part it also reflects a view that full-time SPSV operators should be favoured. This view is advanced strongly by the Chairman of the TRRG. In evidence before Oireachtas Joint Committee on the Environment, Culture and the Gaeltacht, on 29 February 2012, the Minister stated, “I am very much in favour of full-time taxi drivers. I think that they are the bones of the industry and they need to be supported. I said quite publicly that I believe we must create an industry that is worthwhile to work in, where a person can earn a decent wage for a decent days work.”

A number of points can be made concerning the preference for full-time as compared to part-time SPSV operators and the professional operator. First,

⁶² So far as the author is aware this has not come into effect.

the implications for the delivery of efficient, cost-effective and timely SPSV services to the consumer. The demand for SPSV services occurs at pronounced peaks. For example, Goodbody (2009a, p. 19) find that almost three-quarters of SPSV trips occur on a Friday and a Saturday, with slightly over half taking place between 6pm and 3am (*ibid*, p. 20). Furthermore, Goodbody also find that: “[P]art-time drivers are much more likely to supply services on days of peak demand than are their full-time counterparts. Therefore, part-time drivers make a valuable contribution to meeting peak demand (*ibid*, p. 7).” Second, why is it necessary to go beyond the biannual process of setting taxi fares based on considerations such as costs and fair return to favour the full time over the part time operator? Third, the regulations concerning the operation of a SPSV operator apply equally to the part and the full time SPSV operator. In other words, there is already a level playing field, but perhaps with a lower level of regulation induced costs.

Irrespective of the validity of the findings concerning the level of oversupply, the impact of non-compliant operators and the level of exit from the SPSV sector, it would have been helpful if the TRRG had carefully evaluated those of its recommendations which are likely to reduce the flexibility of the SPSV market, raise costs and thus fares, and lower service quality through increased waiting times. This does not mean, for example, that there might not be valid arguments for prohibiting the transfer of an SPSV licence, but the discussion of the TRRG (2011) report is partial at best.

VI CONCLUSIONS AND IMPLICATIONS

The evidence presented in this paper suggests that the SPSV market appears to have adjusted well to the changed economic circumstances. The reduction in demand for SPSV services has been met by a price and quantity adjustment. Prices are regularly discounted off the regulated maximum fare, while the number of SPSV operators has dropped by 3 to 6 per cent per year since 2010. Even if the available estimates of oversupply, albeit arguably biased upwards, are accepted, it would be eliminated by the end of 2013/2015 at the earliest, and 2015/17 at the latest. However, some overcapacity is likely to persist due to regulatory-induced barriers to entry, which hold out the prospect of future rents and so discourage exit, and the likely absence of fare discounting for a subset of consumers. Appropriate strategies appear to have been put in place to deal with non-compliance with social welfare and tax rules. In other words, given this record, there are not strong grounds for further intervention in the SPSV market to reduce excess capacity.

Nevertheless, policy has resulted in an indefinite prohibition by the industry regulator since June 2010 on the issuing of new taxi and hackney licences. However, there was inadequate consideration of the impact on the consumer, how prohibition would operate in practice and how it could be reversed once introduced. Subsequently, in a wide ranging review of the SPSV sector, the TRRG made recommendations in December 2011 that are likely to limit the flexibility of the SPSV market to respond to changes in demand and supply, especially during busy peak periods, while at the same time obscuring market signals and making regulation more difficult. These recommendations are being implemented by the NTA while several are included in the Taxi Regulation Bill 2012.

To the extent that the TRRG's recommendations relied on commissioned research, this paper argues that estimates of the extent of SPSV overcapacity are biased upwards, the issue of non-compliant operators appears to be substantially overstated, while the normal workings of market forces would appear to be able to deal with any overcapacity in a timely manner. However, even if the commissioned research findings were robust, the TRRG (2011) report presents only a partial discussion of the trade-offs involved in justifying its recommendations. Taken together the measures already introduced combined with those in the process of being implemented, mean that there is a real danger that when the economy revives and demand for SPSV services increases that there will be increased waiting times, as there were in the 1990s when taxi numbers were restricted, while fare discounting will end much sooner than it otherwise would.

The development of policy that has led to this state of affairs raises a number of issues concerning regulatory independence and the role of regulators charged with acting in the consumer interest. The CTR is an independent regulatory agency that was rolled into the NTA on 1st January 2011. The CTR developed an expertise in regulating the SPSV market. The vast majority of the issues addressed by the TRRG fall within the remit of the CTR and had been addressed, in varying degrees, in earlier CTR decisions and consultation exercises. Mechanisms exist to ensure that regulators remain independent while at the same time are responsive to the political system. The most important mechanism is a Ministerial Policy Direction under Section 10 of the Taxi Regulation Act 2003. Such Policy Directions are general and have to be followed by the CTR in the exercise of its functions, provided that the Minister gives reasons for the Policy Direction. A general Policy Direction to the CTR to examine the issues of oversupply, non-compliance and adjustment mechanisms and how they might inform CTR decision-making, would have preserved the independence of the regulatory process.

A number of the bodies represented on the TRRG have a strong consumer focus in their mandate, including the Competition Authority, which sees as its mission to "... ensure that markets work well for Irish consumers, business and the economy,"⁶³ the CTR, whose mandate was set out in Section II, and the former Chair of the Consumers Association of Ireland. However, these bodies seem to have accepted the recommendations of the TRRG and the Indecon report.⁶⁴ There were no dissenting views or minority reports questioning even one of the recommendations or the empirical evidence. If the arguments of this paper are valid then there are grounds for questioning much of the underlying research and several of the recommendations. However, because nobody spoke up, these recommendations are being implemented even though the impact, taken together with existing regulations prohibiting new taxi and hackney licences, are likely to be to the detriment of the consumer of SPSV services.

Finally, there is a large international literature on the impact of pressures to bring about more restrictive regulation in bad economic times.⁶⁵ This can be quantitative, as in the case of prohibition on new taxi and hackney licences, or qualitative such as the restrictions on part-time operators and measures designed to restrict the transfer of licences. Careful study of such attempts in what might be termed structurally competitive markets, such as trucking and taxis, often suggests that there is little justification for such restrictive regulation, which damages consumers to the benefit of producers.⁶⁶ Therefore, there needs to be a constant vigilance to ensure that such lessons are taken on board *before* policy is made, rather than relearned *after* the policy has been implemented and the results observed. It appears that SPSV regulation in Ireland is more likely to fall into the latter rather than the former category.

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⁶³ See Competition Authority website: <http://www.tca.ie/>. Accessed on 4 June 2012.

⁶⁴ This contrasts sharply with efforts at regulatory reform in pharmacy where there were several 'reservations' of the key stakeholders that constituted the Pharmacy Review Group (2003).

⁶⁵ Sometimes this takes the form of relaxing competition laws as occurred during the Great Depression in the US. For details see, for example, Cole and Ohinian (2004).

⁶⁶ See, for example, Kahn (1988, Volume II, pp. 178-193) concerning trucking.

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