

**Non-scheduled road transport passenger services:  
taxi, car-and-driver hire and technology mobility services**

*1. Purpose, object and structure*

The recent widespread use of information technologies applied in an innovative way to passenger mobility has had significant effects on both users' demand and behavior and the availability of non-scheduled local transport services, highlighting that it would be appropriate to regulate the technology platforms that mediate between supply and demand (herein referred to as "technology mobility services" or TMS) and remove some of the constraints associated with the provision of taxi and car and driver hire (hereinafter C&DH) services. In this regard the Italian Transport Regulation Authority (hereinafter the Authority) wishes to provide initial indications for the purpose of promoting competition and ensuring adequate levels of quality and efficiency for non-scheduled road transport passenger services.

The proposals described below were approved by the Board of the Authority at its meeting on 21 May 2015 in the discharge of its functions of reporting to the Government and the Parliament on the evolution of the transport sector and the legislative amendments which may consequently be required. The reporting activity is based on article 37, paragraph 2, letter m) of Decree-Law no 201 of 6 December 2011, converted, after amendments, by Law no 214 of 21 December 2011, establishing the Transport Regulation Authority and on article 2, paragraphs 6 and 12, of Law no 481 of 14 November 1995 providing "*Rules relating to competition and the regulation of public utility services. Establishment of regulatory authorities for public utility services*".

The proposed legislative changes resulting from the Authority's indications relate exclusively to Law no 21 of 15 January 1992 ("*Framework law on non-scheduled public road passenger transport services*"). If accepted, the related set of rules should also be amended. Further, the above provisions setting up the Authority should be revised with particular reference to the following functions and activities:

- definition of the criteria for taxi fare setting;
- adoption of measures aimed at ensuring that the levels of taxi service supply and the quality of the service provision correspond to the mobility needs of the travelling public ;
- monitoring of dynamic tariff adjustment mechanisms (so-called *surge pricing*) used by TMS and possible intervention with appropriate regulatory measures (including containment), and
- provision of an adequate transitional system which ensures the compliance with the current quotas in the first phase of implementation.

This document is accompanied by drafts of legislative proposals (Encl. 1) and a table comparing the current regulation and the regulation that would result from the adoption of the Authority's proposals (Encl. 2).

## *2. Regulatory framework and new regulatory requirements*

The above-mentioned Law no 21 of 1992 provides the regulatory framework governing taxi and C&DH services devolving the establishment of detailed rules and rules concerning the management of such services to regions and local authorities. Significant differences characterise the arrangements for market access in the two cases. Both services provide collective or individual passenger transport services, additional and complementary to scheduled public passenger transport services; both services are provided at the request of passengers, on an occasional or periodic basis, for a given duration and/or itinerary (article 1, paragraph 1). However, while C&DH services are not subject to public service obligations, taxi services fall very clearly into the category of local public transport services, albeit non-scheduled.

The public nature of the service implies mandatory performance, territorial and social coverage of the service provision and economic accessibility of the taxi service. The nature of the service, beside its mandatory performance, implies undifferentiated provision to any requesting passenger, strict public determination of service fares and procedures, parking of the vehicle used as a taxi in a public place and collection of the user or beginning of the service to take place within the municipal or district area.

The geographical nature of the service organization markedly characterizes the current regulation. By implementing Law no 21 of 1992, the regions identify the criteria to be observed by municipalities when drafting their regulations governing the provision of non-scheduled public road transport passenger services and devolve the administrative duties relating to their enforcement to local authorities. Municipalities, in turn, regulate the fees required for the service, the number of individual operators, the daily shifts, working hours, rules of conduct and safety conditions. Thus, when establishing the regulations governing the provision of non-scheduled public road passenger transport services, the municipalities shall specify: number and type of vehicles to be assigned to each service; procedures for the provision of the service; criteria for taxi fare setting; requirements and conditions for the grant of a license to operate a taxi service.

On the economic level and in terms of domestic market structure, the processing of data concerning ten regional capitals, directly provided by municipalities and those contained in the 2006 and 2014 Annual Reports of the *Agenzia per il controllo e la qualità dei servizi pubblici locali di Roma Capitale* (the Agency for monitoring and quality of local public services of Roma Capitale) reveals that the number of taxis in recent years remained substantially unchanged. With regard to taxi fares, the maximum rates are usually approved by the municipalities concerned and no price discount or customer retention policies are provided, except in rare cases. As for the structure, the fare consists of an initial fixed amount (2-3 euro) and a minimum amount for each journey. Two other components are added: the first depending on dwell

time or routes travelled below a certain speed (20-30 euro per hour) and a second component depending on the kilometers travelled (0.7 to 1.15 euro per km). The latter, in large Italian cities (Rome, Milan, Turin and Florence), increases with longer routes. The basic fare is supplemented by extra fares for night service (2-3.5 euro), holiday service (1.5-2.5 euro), radio-taxi service (0.6 to 3.5 euro), for each baggage (0.3-1 euro), number of passengers in excess of three, transport of small domestic animals, transport of skis, etc. In addition, fixed rates are charged for certain connections, typically to and from the airport. With regard to the fare dynamics, in recent years sample cities have recorded increases usually higher than inflation. For example, between 2006 and 2014, compared to an average price increase of 15% (source: ISTAT, the Italian Institute of Statistics), rates increased by 37% in Rome, 29% in Florence and 23% in Milan.

Moreover, while the fare levels do not seem related to the ratio between number of taxis and population density, there is, however, a positive correlation between fares and average income of resident population, indicating that the taxi service meets mainly the needs of certain segments of the non-scheduled local transport market: in particular, the demand of the population with upper-middle income, business users and, in part, that related to tourism. In this market segment, the complex nature of the fare, the different combination of its components and the amounts varying from city to city do not allow an advance estimate of the fare.

Against this background, Italy - as many other countries – is witnessing an increased use of technology platforms that provide TMS and allow to connect passengers, vehicles and drivers even outside the areas covered by current regulation (taxi and C&DH). While taxi and C&DH services meet a part of the mobility demand left unsatisfied by scheduled public transport, there are also systems based on the flexibility and sharing of resources attributable to the so-called sharing economy. These include both key enablers, such as TMS, and other innovative mobility systems, including bike sharing, car sharing and carpooling. With respect to these new systems, the widespread dissemination of highly competitive mobile technologies allowed to activate specific online and mobile service platforms that interconnect demand and supply of services and, thanks to geo-localization, identify and make available on demand the closest vehicles and other transport mobility means.

On the whole, these systems have significant effects on the supply of non-scheduled road transport passenger services; in particular, the TMS intercept a demand for services which are typically less expensive than those provided by taxi and C&DH and are available with different delivery modes. This points towards the creation of a new and specific segment of the non-scheduled urban mobility market other than that subject to public service obligations. In a wide-ranging policy perspective, it fits in with the development of sustainable "co-modal" and "technology-based" mobility systems and the pursuit of indirect deflation effects as for circulation and pollution reduction. Its diffusion requires to re-examine whether the current legal institutions and categories regulating this subject-matter are still satisfactory.

### *3. The Authority's survey. The complementary nature of regulated services and services provided through the use of new technologies*

Within the above framework, the Authority considered it appropriate to carry out a survey aimed at expanding on the knowledge and understanding of the above-mentioned services, their trends and implications in terms of economic regulation. All the major stakeholders were involved: associations representing taxi and C&DH service operators, new technology platforms operating in different ways in this sector, consumer groups, the National Association of Italian Municipalities (ANCI) and the Conference of the Regions and autonomous Provinces.

The survey highlighted the exponential growth in the last twelve months in the number of non-professional drivers registered on the platforms providing TMS and the corresponding increase in the number of registered users and journeys. With respect to fares, in some cases, the price of the journey is exclusively proportional, in whole or in part, to the "living expenses" incurred by the driver. In other cases, it covers other business costs. Other cases involve the application of dynamic tariff adjustment mechanisms (the so-called surge pricing) which is widespread in other transport sectors and requires a specific focus.

Based on the outcome of the Authority's survey, a general consensus was reached on the need to protect users with respect to the safety and quality of the services and the privacy of passengers. On the other hand, different approaches were taken into consideration as regards the Government intervention on the new platforms through authoritative and regulatory measures, also for the purposes of removing some of the current restrictions to market access and provision of services. In particular, it was pointed out that the regulation should orderly enhance the different ways of satisfying the mobility demand and support market segmentation, thereby reducing the risk of distortions.

Taking, for example, the carpooling, which consists in sharing a private car between a group of people to cover a route chosen by the driver at a price that allows exclusively to help cover its variable costs, it is necessary that regulation ensures both the functionality of the system vis-à-vis the objective of containing the negative externalities arising from the new approach in the mobility demand and the nature and purpose of the formula, which must not serve a business purpose and must not constitute a market with competing services.

The evidence gathered during the survey points to the need to promote with appropriate regulation the development of the supply of a number of road transport passenger services, to match the new segmentation of urban mobility demand produced by suitable and competitive mobile technologies and by the resulting change in users' consumption habits. The aim is to enhance this new market so that demand and supply of services can operate in a transparent manner and in compliance with the schemes governing business activities.

Not only is this not self-contradictory, but indeed requires the maintenance and development of the transport market activities characterized by public service obligations, which should be made more efficient and, where possible, developed with innovative forms of supply and delivery.

#### 4. The Authority's proposals

Moving from the foregoing considerations, the Authority wishes to supply some guidance on the economic and regulatory aspects of non-scheduled road transport passenger services and submit such information to the Government and Parliament so that it can be taken into account when defining the policy objectives concerning , *inter alia*, public order and civil and tax regulations, that exceed the Authority's remit.

The indications are briefly described here below and are reflected in proposals for legislative changes as per Annex 1. They have been developed taking into account the existing legislation in support of shared transport systems<sup>1</sup>, as well as recent legislative proposals in this field<sup>2</sup>.

In the first place, the proposals move from the assumption that taxi public services retain the current features ensuring the operation of the journey upon request and the provision of the service throughout the day. Taxi services are characterized as public services on the basis of the following requirements:

- identifiable vehicle;
- remuneration at regulated prices;
- free-of-charge access to equipped parking lots on public land and limited traffic zones and right to use dedicated bus lanes in urban centres;
- rebates on fuel excise duties;
- and any other benefits and incentives adopted by the legislature.

Furthermore, it is proposed to remove the constraints that currently prevent taxi license holders from granting discounts, making it possible to offer a wider range of services and promoting an increase in demand.

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<sup>1</sup> Article 22, paragraph 1 of Law no 340 of 24 November 2000 on "*Measures for deregulation and simplification of administrative procedures – so-called Simplification Law 1999*" refers to the carpooling among the instruments of Urban Mobility Plans of local governments. Similarly, article 2, paragraph 7 of the Decree of the Ministry of Environment of 3 August 2007 on "*Funding programme for air quality improvement in urban areas and public transport strengthening*", mentions the carpooling among the services ancillary to local public transport and worthy of specific public financing measures. In the same way, article 6, paragraph 1, letter l of Ministerial Decree of 1 February 2013 of the Ministry of Infrastructure and Transport on measures for "*Deployment of Intelligent Transport Systems (ITS) in Italy*", transposing Directive 2010/40/EU on the deployment of intelligent transport systems into national legislation, urges local authorities to encourage the deployment of carpooling among the smart mobility systems in urban centres.

<sup>2</sup> See Draft Law - Dell'Orco and others: "*Amendments to Article 23 of Decree Law no 83 of 22 June 2012, converted, with amendments, by Law no 134 of 7 August 2012 and other measures to promote the shared use of private vehicles*" (Chamber of Deputies Act 2436).

It would be also advisable to modify the legal form of the taxi driver activity in our country, which, unlike C&DH services, is currently excluded from the business activity and therefore should be regulated accordingly. This should be accompanied by the removal of the ban that prevents the enterprise operating taxi services from accumulating a number of licenses. Furthermore, the use of taxi services could be expanded, at least on an experimental basis and in return for adequate compensation, for the purpose of delivering flexible public services for targeted users or adduction to public transport lines where demand is weaker (for example, due to nature of the territory or certain time slots). In addition, it would seem necessary to implement the criterion referred to in Article 37, paragraph 2.2, letter m) of Decree-Law no 201 of 6 December 2011 and allow license holders greater freedom in the service organization, both to address with flexible shifts specific extraordinary events or periods of expected increase in demand, and develop new integrated services such as the collective use of taxis.

Finally, it is necessary to remove the existing constraints in certain municipal regulations and contractual acts of radio-taxi management services which require their members to acquire taxi rides only through reference cooperatives or consortiums and prohibit the simultaneous use of other radio-taxis or innovative systems not related to traditional radio stations. In this respect, also in consideration of the public service nature of the service provided by taxi drivers, these provisions which limit the matching of supply and demand are considered as unduly restricting competition, with negative impact on the users. For this reason, it is proposed to declare the invalidity of such provisions and consequently revise the rules contained in municipal regulations or in regional legislation that prevent taxi drivers from acquiring services from different and competing sources. Thus, it would be affirmed that the holder of a license to operate a taxi service or an authorization to operate a C&DH service can freely acquire rides offered by any radio-taxi or technology platform (see below). The provision should be applied also to the license holders' substitutes.

As for C&DH services, the Authority agrees on the need - already underlined by the Competition Authority - to reduce the differences among the various non-scheduled transport services to increase competition between taxi services and C&DH services and also reduce environmental costs. For this purpose it is proposed to lift the obligation providing that the holder of an authorization to operate a C&DH service must return to the garage after each service, since this constraint is limiting the economic and efficient performance of this activity.

The revision of the concept of "territoriality" is of paramount importance. In this respect it is suggested to entrust regions with the identification of the ideal areas for taxi and C&DH services management on the basis of the economic, cultural and tourist characteristics of the territories, as well as the administrative functions for the establishment of the number of cars. Essentially, the scope of the service management currently hinged on municipal areas should be expanded. The proposal is completed by providing that regions conclude mutual agreements for the inter-regional operation of taxi and C&DH services.

On the other hand, in the proposed approach, some emerging non-scheduled transport formulas - other than taxi and C&DH services - are subject to obligations which are totally new for them and relate to the service quality and safety. To this end, it is necessary to distinguish two cases in the aforementioned carpooling formula:

- on the one hand, platforms promoting forms of shared transport services of a non-commercial, "courtesy" nature, provided in a non-professional manner by drivers who share, in whole or in part, a predetermined route travelled with their own vehicle, with one or more other persons who get in touch through dedicated services provided by intermediaries through technological tools;

- on the other hand, platforms offering technology intermediation services on demand and for commercial purposes. In the latter case, even if the driver's activities are carried out in an unprofessional manner, the service is provided at a price that does not merely covers (or rather, shares) the cost of the travelled route, defined at the passenger's request, but also ensures a profit margin to platform and driver, albeit at an affordable cost.

Besides operating conditions to be made subject to provisions for law & order, and civil and tax purposes, with respect to the proposed approach and regulatory objectives, the commercial nature of the transport service should involve specific obligations related to intermediation services and driver's requirements. These obligations should not be imposed on non-commercial, "courtesy" services. In particular:

- a) "Intermediaries" could be defined those undertakings providing TMS which, through the use of a technology platform, connect passengers and drivers so as to provide on request a paid-for transport service in the national territory. Intermediaries are registered in the regions that, given the estimated inter-municipal - if not also inter-regional - nature of the service, should also carry out the related administrative functions, directly or through a delegated entity.

- b) Several people may be qualified as "drivers": holders of a license to operate a taxi service, holders of an authorization to operate a C&DH service and private drivers using their own private vehicle. In the latter case, the private driver should be a casual worker, required to comply with a maximum annual income and a limited weekly working time not exceeding fifteen hours (while shifts of professional drivers can reach twelve hours daily). All drivers should be enrolled in a special register established on a regional basis.

Enclosure 1      Proposed changes to Law no 21/92

Enclosure 2      Comparison between the current regulation and the regulation that would result from the adoption of the proposals

Turin, 21 May 2015