



EUROPEAN
COMMISSION

Brussels, 2.2.2022
C(2022) 529 final

Commission Notice on
well-functioning and sustainable local passenger transport-on-demand (taxis and PHV)

Commission Notice on

well-functioning and sustainable local passenger transport-on-demand (taxis and PHV)

I. INTRODUCTION

Passenger transport-on-demand, meaning transport services with a car and a driver, which happen on demand of the passenger, is and has been an important part of the mobility offer available to citizens. These services are usually carried out by taxis and/or Private Hire Vehicles with driver (PHV).

In recent years, passenger transport-on-demand markets have undergone substantial changes, notably due to technological developments and the emergence of ride-hailing. Ride-hailing refers to ordering a customised ride online, usually via a smartphone application, usually for immediate start of the service.¹ Ride-hailing companies, via websites and mobile apps, match passengers with drivers.²

Member States have been faced with the challenge of developing policies taking into account new ways of operating, new business models and new market players in the passenger transport-on-demand sector. They have also been faced with questions relating to employment status and social rights of drivers which emerged with the advent of ride-hailing companies. At the same time, the transport sector as a whole is striving to reduce its emissions and become more sustainable.

In its Sustainable and Smart Mobility Strategy³, the Commission has therefore announced that it will look into ways to ensure that passenger transport-on-demand (taxis and private hire vehicles with driver (PHV)) can become more sustainable and deliver efficient services to citizens while maintaining a smoothly functioning single market and addressing social and safety concerns.

To better understand the situation on the ground in different Member States, regions and cities, existing issues, the market players' interests as well as Member States' views and approaches to the challenges, the Commission held three workshops. It also held numerous exchanges with the main stakeholders. The workshops aimed at gathering relevant stakeholders to share experiences and best practices. The first workshop took place in 2019 and brought together different market players of the sector, notably ride-hailing companies, PHV and taxi associations. In 2020, the Commission organised a second workshop to exchange with Member States on the challenges in the sector as well as to encourage Member States to work together and to learn about the regulatory approaches of other Member States. In 2021, the Commission invited private and public stakeholders to discuss the questions and

¹ "Ride-hailing" is sometimes also referred to as "ride-sourcing". In contrast to this, the term "ride-sharing" will not be used in this text so as not to confuse with the activity of a driver taking people to the destination the driver has determined (shared use of cars by persons with similar travel destinations); this is also called "car-pooling". "Car-sharing" refers to the short-term rental of cars. This Notice will not address rules regulating ride-hailing companies as such nor car-sharing, but will focus on the rules on taxis and PHV.

² "Ride-hailing companies" are sometimes also called "ride-hailing platforms" or "TNC" (transportation network companies).

³ COM/2020/789 final; no. 38.

challenges related to passenger transport-on-demand. This document takes into account information gathered through the workshops, in the discussions with stakeholders and beyond.

In this Notice, the Commission provides recommendations regarding the regulation of taxis and PHV, aiming at ensuring adequate and safe local mobility for citizens, and improving the sustainability of the sector and furthering the objectives of the European Green Deal and the Sustainable and Smart Mobility Strategy. This Notice clarifies that the measures put in place by Member States (including by national governments and legislators as well as regional and local authorities) when regulating taxis and PHV need to be in line with the fundamental freedoms underpinning the single market. Rules need to be proportional to the objective they pursue. The Commission underlines that it is at the same time of utmost importance that Member States ensure that everyone active in the passenger transport-on-demand sector enjoys an adequate level of social rights and legal certainty regarding their employment status.

A. A quick history and recent changes

Over time, passenger transport-on-demand has significantly evolved, notably in the way it is hailed, dispatched and deployed. During the 20th century, before mobile communication had been developed, passenger transport-on-demand was carried out by strictly regulated taxis⁴ in many Member States. In parallel, many Member States allowed for passenger on-demand transport services by car, which were not subject to taxi rules, but needed to be booked in advance and were therefore limited to the pre-booking market. In the past, this was usually done by landline phone, fax or in person. Generally speaking, PHV services used therefore to be scheduled well in advance, often for longer distances than with taxis or for special occasions.

Member States generally attribute high importance to a well-functioning and accessible passenger transport-on-demand market. Taxis have often been considered to be part of the public transport system and/or have been attributed a public service function. The existence of a well-functioning taxi market is often argued to be of general interest. Taxis are generally much more strictly regulated than PHV and are often subject to rules on visual recognisability⁵ as well as to rules on fixed prices, taximeters⁶, and the obligation to contract⁷. Taxis have been serving the street- and rank⁸-hailing market as well as the pre-booking market whereas PHV, as mentioned, were limited to the pre-booking market⁹.

⁴ The term “taxi” is sometimes used as an umbrella term meaning “*a vehicle for hire with a driver*”, which includes PHV. Throughout this text, unless otherwise indicated, the term “taxi” is however used in its narrow sense, referring only to vehicles for hire with a driver meeting requirements set out in legislation, which often entails a number of rights and obligations (recognisability, taximeters, regulated fares etc.). Of course, details differ between legislations.

⁵ Such as taxi roof signs.

⁶ Fixed prices and taximeters aim at protecting the passenger against price-gauging.

⁷ Which means that taxis may refuse customers only under strict conditions.

⁸ A taxi rank is a place where taxis may wait for customers.

⁹ Being limited to the pre-booking market, a taximeter and fixed prices were not needed in PHV even before electronic hailing methods developed, since the potential passenger and the driver/operator would agree on the fare before booking the ride.

However, the advent ride-hailing companies have radically changed this situation, bringing taxis and PHV into increasing competition. Due to technical developments, notably smartphones, geo-localisation possibilities and ease of public access to internet, pre-booking has basically become “instantaneous pre-booking”, blurring the differences between taxis and PHV¹⁰. Also, traditionally, taxi fares were set by authorities and PHV prices were negotiable between service providers and customers. Today, when hailing a PHV on an online-app, it is generally the ride-hailing company which establishes the price for the offered service, usually through an algorithm.¹¹

With these developments and the ride-hailing companies’ success, local passenger transport-on-demand which used to be dispatched predominantly at a local level, now receives customers’ requests for transport services also from pan-European or global companies using sophisticated technologies and algorithms. Taxi services have since emulated this way of booking their services and are also operating with hailing apps, which function in a similar way as long as legislation allows it. Differences visible to the customer however remain, notably regarding pricing due to fixed fares.¹²

Smartphone based hailing-apps have generally increased the quality and efficiency of the ways in which taxi and PHV services are provided. Lower prices as well as the possibility to order PHV and taxis on-line, thanks to apps using geo-localisation services, have been welcomed by users and triggered an increase in demand. According to the recent Eurobarometer¹³, users perceive traditional taxi services and private hire vehicles to be a similar type of service, appreciating the availability and ease of booking as positive aspects of both.

B. Current challenges

The developments in the passenger transport-on-demand sector and emergence of new market players and business models have also led to tensions and to different legislative responses among Member States. There is no specific EU law on the matter. Whereas customers have generally welcomed the new services, taxi drivers and operators¹⁴ have struggled with

¹⁰ The 2020 report “Assessing the Environmental Performance of New Mobility” of the International Transport Forum (ITF) found that ride-hailing with PHV has mainly been used as a substitute for traditional taxi services and also public transport; to a lesser extent, it has displaced private car travel and has generated new trips.

¹¹ These algorithms take into account, among other factors, offer and demand, and they are usually considered business secrets. Furthermore, whereas the PHV-driver might not even be informed of the price before accepting to take the passenger, the potential customer may, on most current apps, only decline or accept the offer displayed on the app. In conclusion, on the current ride-hailing apps, the price is not negotiable between customers and transport service providers. The Commission initiative on platform work (see point I. B of this note) proposes measures to ensure fairness, transparency and accountability in algorithmic management (see explanation in footnote 15).

¹² For example, in many Member States, taxi fares are calculated by the taximeter during the ride and may hence not be established before the ride.

¹³ Special Eurobarometer 495

(<https://ec.europa.eu/commfrontoffice/publicopinion/index.cfm/survey/getsurveydetail/instruments/special/surveky/2226>).

¹⁴ “Operator” refers to the undertaker of the taxi- or PHV-business, which can be a natural or legal person. The driver of a taxi or PHV can be the operator at the same time (in case of a one-person undertaking) or working for an operator.

increased competition. Taxi companies feel disadvantaged in view of competitive advantages that PHV operating on ride-hailing apps enjoy, as these do not need to comply with the same strict rules as taxis. PHV in turn feel disadvantaged by rules which they consider as obsolete and see them as mere obstacles to efficient and sustainable operations.

At the same time, concerns are often raised about the working conditions of drivers and the employment status of people working through platforms, especially PHV drivers working on ride-hailing apps. Working conditions, social rights and questions of employment status are of high relevance and, at the same time, concern many kinds of different services provided through platforms, ranging from, for example, food delivery, IT services to translation services, platform-work hence warrants a specific initiative. The Commission will therefore aim to improve the working conditions of people working through platforms through another EU initiative.

This Commission initiative strives for better working conditions for a stronger social Europe by harnessing the full benefits of digitalisation in platform work. It includes a proposal for a Directive, which puts forward measures to improve the working conditions of people working through platforms. The proposal includes measures to ensure that people working through platforms have – or can obtain – the correct employment status in light of their actual relationship with the platform and gain access to the applicable labour and social protection rights, measures to ensure fairness, transparency and accountability in algorithmic management¹⁵ in the platform work context, as well as measures to enhance transparency, traceability and awareness of developments in platform work and to improve enforcement of the applicable rules for all people working through platforms, including those operating across borders. Legal certainty on the employment status as well as clarity regarding algorithmic management are truly essential for all stakeholders in the sector to prosper.

Besides the question of employment status, PHV drivers, operators and ride-hailing companies often face further legal uncertainty, as Member States struggle to find the appropriate policy and legal approach to these new players and new ways of operating. This lack of legal clarity and of predictability discourages business and investment and confuses citizens.

In addition to grievances and concerns expressed by market players, these new services also raise a number of other issues regarding the use of public space, road safety, liability, insurance, passengers' and drivers' security, as well as overall integration of different mobility services into a coherent urban mobility offer. In recent years, a number of studies and reports have shed light on the developments in the sector triggered by the success of ride-hailing companies, its challenges as well as its social, economic, urban and environmental implications, and have suggested policy approaches¹⁶. Such studies and reports have also

¹⁵ “Algorithmic management” is used to describe digital labour platforms using automated systems to assign tasks to monitor, evaluate and draw consequences for the people working through them.

¹⁶ The summary of the 2018 OECD roundtable on competition challenges related to taxi and ride-sourcing is focussed on competition aspects and can be found here: <https://www.oecd.org/daf/competition/taxis-and-ride-sharing-services.htm>. See also reports mentioned in fn. 15 and 16.

notably examined the impact of the emergence of ride-hailing companies on the volume of traffic¹⁷ and environmental impacts¹⁸.

C. The European angle of passenger transport-on-demand

Whereas passenger transport-on-demand has traditionally been a local matter, the international and EU aspects of passenger transport-on-demand have been increasing. International and European ride-hailing companies have expanded their activities across different Member States. Stakeholders argue that the panoply of different rules as well as the substance of some of the rules make it very difficult for market players to establish business in another Member State.

With international and European ride-hailing companies active in different Member States of the EU, with mobile European citizens expecting reliable, safe, good-quality transport services across the different cities in the EU, and with rising awareness of the contribution of the transport sector to climate change, the passenger transport-on-demand sector has developed from a local matter into a matter which has as well an EU dimension.

This increasingly European angle is reflected in a number of cases brought to the Court of Justice of the European Union. In these cases, the Court of Justice dealt with questions on the applicability of certain EU legislation to ride-hailing companies and therefore needed to assess if these specific companies qualified as service in the field of transport or information society services.¹⁹ The Court, however, has not assessed the rules governing the underlying transport activity, namely the rules directly concerning taxis and PHV.²⁰

¹⁷ Report of the Joint Research Centre (2019): The future of road transport – implications of automated, connected, low-carbon and shared mobility (<https://publications.jrc.ec.europa.eu/repository/handle/JRC116644>).

¹⁸ ITF-OECD, 2020, Good to Go? Assessing the Environmental Performance of New Mobility.

¹⁹ Judgment of the Court of 20 December 2017, *Asociación Profesional Elite Taxi v Uber Systems Spain, SL*, Case C-434/15, EU:C:2017:981; Judgment of the Court of 10 April 2018, *Criminal proceedings against Uber France*, Case C-320/16, EU:C:2018:221; Judgment of the Court of 3 December 2020, *Star Taxi App SRL v Unitatea Administrativ Teritorială Municipiul București prin Primar General and Consiliul General al Municipiului București*, Case C-62/19, EU:C:2020:980.

In the two cases concerning Uber (*Asociación Profesional Elite Taxi v Uber Systems Spain, SL, and Criminal proceedings against Uber France*) the Court ruled that Uber's services must be classified as 'a service in the field of transport' within the meaning of Article 58(1) TFEU (see EU:C:2017:981 paragraph 50: "...that an intermediation service such as that at issue in the main proceedings, the purpose of which is to connect, by means of a smartphone application and for remuneration, non-professional drivers using their own vehicle with persons who wish to make urban journeys, must be regarded as being inherently linked to a transport service and, accordingly, must be classified as 'a service in the field of transport' within the meaning of Article 58(1) TFEU. Consequently, such a service must be excluded from the scope of Article 56 TFEU, Directive 2006/123 and Directive 2000/31.")

By contrast, in the *Star Taxi App* case, the Court decided that the online intermediation service provided by Star Taxi App consists in an "add-on" to a pre-existing service, which is not essential for the provision of the underlying (transport by taxi) service and cannot be considered as an integral part of the underlying transport (by taxi) service: in that case, connecting professional taxi drivers with their customers was an information society service.

²⁰ In case *Crono Service scarl and Others and Anitrap – Associazione Nazionale Imprese Trasporto Viaggiatori vs. Roma Capitale and Regione Lazio* (judgment of 13 February 2014, Joined cases C-419/12 and C-420/12, EU:C:2014:81), the Court ruled that it did not have jurisdiction to answer the requests from an Italian court for a preliminary ruling on the compatibility of Italian rules on PHV with Article 49 TFEU and therefore did not rule on the substance of the case.

Rules governing the access to the profession of taxi- and PHV-services providers vary between Member States, between regions and even between cities. The same is true for rules governing the exercise of the profession. Examples of rules on the access to the profession are quotas on vehicle licences, required qualifications for becoming a driver and conditions to be fulfilled in order to be allowed to establish as an operator. Rules on the exercise of the profession include, for example, a “return-to-garage rule” and mandatory waiting times. Although cumbersome for players wanting to operate in different markets and under different legal frameworks, rules may of course be different and reflect different policy options, taking into account local traditions and circumstances.

It follows that, as EU law stands, it is for the Member States to regulate the conditions under which services are to be provided, in conformity with the general rules of the Treaties.²¹ Even in the absence of specific EU legislation on the sector, Member States must observe the Treaties and the fundamental freedoms granted by the Treaties.

Article 56 TFEU on the freedom to provide services is not applicable to transport services, as Article 58(1) TFEU provides that “the freedom to provide services in the field of transport shall be governed by the provisions of the Title relating to transport”.²² So far, however, there are no specific EU measures in the field of passenger transport-on-demand which have been adopted on the basis of the Treaty provisions relating to transport.

Transport services, however, are covered by the scope of the freedom of establishment enshrined in Article 49 TFEU. Article 49 TFEU precludes any national measure which, even if applicable without discrimination on grounds of nationality, is liable to hamper or to render less attractive the exercise by EU nationals of the freedom of establishment.²³ This means that some rules adopted by Member States and applicable to taxi and PHV drivers as well as to taxi and PHV operators may constitute restrictions on the freedom of establishment. Member States may nevertheless justify restrictions of the freedom of establishment in view of legitimate objectives (overriding reasons relating to the general interest), provided that the restrictions are non-discriminatory, appropriate for attaining the objective pursued and do not go beyond what is necessary for attaining that objective.²⁴

D. A need for market regulation

Member States’ regulatory frameworks should provide fair opportunities for all existing and new market players as well as for fair competition between market players. Today, PHV and

²¹ Treaty on the Functioning of the European Union (OJ C 202 7.6.2016, p. 47); Treaty on European Union (OJ C 202 7.6.2016, p. 13).

²² Judgement of the Court of 20 December 2017, *Asociacion Profesional Elite Taxi v. Uber*, C-434/15, paragraphs 44 to 47.

²³ See judgment of the Court of 21 September 2006, *Kraus v Land Baden-Württemberg*, C-19/92, EU:C:1993:125, paragraph 32, judgment of the Court of 1 June 2010 in *Blanco Pérez and Chao Gómez*, joined cases C-570/07 and C-571/07, EU:C:2010:300, (hereafter ‘*Blanco Pérez*’) paragraph 53. The notion of restriction covers measures taken by a Member State which, although applicable without distinction, affect access to the market for undertakings from other Member States and thereby hinder trade within the EU (see, to that effect, judgment in *Grupo Itevelesa*, C-168/14, paragraph 67, judgment in *SOA Nazionale Costruttori*, C-327/12, EU:C:2013:827, paragraph 45 and the case-law cited).

²⁴ See *Blanco Pérez*, joined cases C-570/07 and C-571/07, , paragraph 64.

ride-hailing compete against taxis, but rather than the market players themselves, it is the “PHV-system” that competes with the “taxi system”. As mentioned above, users perceive traditional taxi services and PHV to be a rather similar type of service. Their focus is on availability and on price when they need to go from A to B. As referred to earlier, taxis are generally much more strictly regulated than PHV and are often subject to rules on visual recognisability as well as to rules on fixed prices, taximeters, and the obligation to contract. PHV on the other hand are not bound to prices set by authorities, they may, depending on the rules in Member States, choose and refuse customers²⁵; however, in some Member States, they are obliged to return to garage after having provided a transport service or must wait a certain time between being booked and the start of the service.

Regulatory frameworks should allow fully reaping the benefits of digitalisation and other innovative technologies, which will lead to efficiency gains, such as better utilisation of the vehicle, shorter waiting times and reduction of the kilometres travelled without carrying a passenger. A number of Member States have already revised their systems and much can be learned from their experiences. Member States should review, engaging also sector representatives and social partners, their existing rules on passenger transport-on-demand, to ensure that passengers have access to sustainable, smart and resilient mobility services, which are available, affordable, accessible, reliable, good-quality, safe and secure, and that their rules are in conformity with EU law.

Finally, the passenger transport-on-demand sector’s potential to contribute to the objective of decarbonising transport and foster mobility needs to be fully exploited. Reducing carbon emissions and the environmental impact of transport is of essential importance. The passenger transport-on-demand sector will need to play its part. In short, there is a need for a “green” passenger transport-on-demand sector, which is integrated with public transport.

II. REASSESSING AND UPDATING RULES FOR BETTER REGULATORY FRAMEWORKS

In view of the above, it is important that Member States reassess their existing rules for the local passenger transport-on-demand markets to ensure available, affordable, reliable, good-quality, safe and secure transport services for citizens. Their regulatory frameworks should also allow for well-functioning markets which are open to new innovative business models and which provide job opportunities as well, including for those who might benefit from flexible working schemes. Given the imperative of climate targets, it is of the utmost importance that passenger transport-on-demand contributes to the mitigation of the environmental impacts of transport, by shifting towards zero-emission vehicles and facilitating the use of public transport as well as active mobility. Regulatory frameworks should facilitate that passenger transport-on-demand services are available without discrimination. Passenger transport-on-demand should be accessible to everyone, including

²⁵ The freedom to choose and refuse customers granted by Member States’ legislation needs to be distinguished from the question if PHV drivers are in some way discouraged by ride-hailing companies to refuse customers.

people without smartphones, e.g. the elderly, the illiterate, people without a credit card, as well as people with disabilities or reduced mobility. It is also important that transport can be booked early in advance, so that people can arrange ahead of time for different transport if no passenger transport-on-demand is available when needed (e.g. scheduled trip to the airport, to hospital etc.). Furthermore, regulatory frameworks and cooperation between neighbouring Member States should facilitate across-the-border local passenger-transport-on-demand between neighbouring Member States.

It should not be forgotten that taxi and PHV drivers –independently of whether or not working with a hailing app – need legal certainty with regard to their rights and obligations. In this regard, it is also important that rules and algorithms, including those relating to the setting of the fares, are transparent and comprehensible and used in a fair and accountable manner.

In the coming years, the sector will continue to develop. Regulatory systems hence need to be flexible and able to accommodate new developments; they need to stay open towards further inventions and innovative business models, while at the same time providing legal certainty for transport providers, drivers and users as well as for ride-hailing companies.

Member States' rules on taxis and PHV, be it on national, regional or local level, can amount to restrictions of the freedom of establishment as enshrined in Article 49 TFEU.²⁶ Restrictions on the freedom of establishment must be applicable without discrimination on grounds of nationality and must be justified by overriding reasons relating to the general interest. Furthermore, they must be appropriate for securing the attainment of the objective pursued and not go beyond what is necessary for attaining that objective.²⁷

In view of the key objectives of safeguarding sustainable and smart transport for European citizens, of mitigating the environmental impact of transport, and of ensuring the freedom of establishment in this sector, the following recommendations outline key elements of passenger transport-on-demand regulation.

A. Recommendations on access to the profession

Member States' rules concerning the access to the profession of taxi/PHV-drivers as well as taxi/PHV-operators, whether at national, regional or local level, such as requiring a licence and conditions to obtain the necessary licence, can constitute a market entry barrier and a

²⁶ See *Blanco Pérez*, joined cases C-570/07 and C-571/07, Paragraphs 53 et seq.:

“53 It is settled case-law that any national measure which, albeit applicable without discrimination on grounds of nationality, is liable to hinder or render less attractive the exercise by EU nationals of the freedom of establishment guaranteed by the Treaty constitutes a restriction within the meaning of Article 49 TFEU (see, to that effect, Case C-299/02 *Commission v Netherlands* [2004] ECR I-9761, paragraph 15, and Case C-140/03 *Commission v Greece* [2005] ECR I-3177, paragraph 27).

54 A national rule which makes the establishment of an undertaking from another Member State conditional upon the issue of prior authorisation falls within that category, since it is capable of hindering the exercise by that undertaking of freedom of establishment by preventing it from freely pursuing its activities through a fixed place of business. First, the undertaking may have to bear the additional administrative and financial costs which any such grant of authorisation entails. Secondly, the system of prior authorisation acts as a bar to self-employed activity for economic operators who do not satisfy predetermined requirements, compliance with which is a condition for the issue of that authorisation (see, to that effect, *Hartlauer*, paragraphs 34 and 35).”

²⁷ See *Blanco Pérez*, joined cases C 570/07 and C 571/07, paragraph 64.

restriction on the freedom of establishment; such rules hence need to meet the criteria for justification.²⁸

1. For drivers

➤ **Requirements on how to become a driver of passenger transport-on-demand services should be simple and not go beyond what is necessary**

Member States' requirements for drivers often relate to the possession of a driving licence and certain driving experience, to a criminal record check and a road safety record check, as well as to knowledge of the area, of electronic positioning systems, of first aid and the ability to provide services for people with disabilities or reduced mobility.

These requirements at national, regional and/or local level, both for taxi and for PHV drivers, should not go beyond what is needed now, and should not emphasise knowledge which was necessary in the past, without assessing its necessity today where app-supported booking and navigation exist, such as extensive detailed geographical knowledge. They should rather be adapted for what is needed today, such as handling routing apps. Such requirements should not go beyond what is necessary to provide safe and secure passenger transport services of good quality and should not be used to limit the number of available qualified drivers.

2. For operators

➤ **Requirements on how to become an operator of passenger transport-on-demand services should be simple and not go beyond what is necessary**

Member States requirements, be it at national, regional or local level, for becoming an operator, could amount to a restriction of the freedom of establishment. Requirements to qualify as an operator could, for example, relate to financial standing, good conduct, and fiscal compliance, provided that they are designed to achieve a legitimate objective and do not go beyond what is necessary in that respect.

Requirements relating for instance to the size of the fleet (minimum/maximum number of vehicles), the number of employees, the minimum/maximum number of licences an operator may hold, on office spaces, or the provision that only natural (not legal) persons may hold taxi/PHV licences may be harder to justify in this context with respect to the requirement of pursuing a legitimate objective and complying with the principles of necessity and proportionality..

3. Requirements for vehicles

➤ **Vehicle fleets for passenger transport-on-demand should become more sustainable**

Taxis and PHV usually drive more kilometres than private cars. It is hence important that vehicle fleets for local passenger transport-on-demand become more sustainable and move towards zero-emission-vehicles (ZEV). This could for example be done by linking new or renewed taxi and PHV licenses to emission requirements regarding the vehicle, by making

²⁸ See above, fn. 25 (*check before publication*).

additional licenses available for ZEV or by granting financial support to such vehicles and their charging or refuelling infrastructure.

Requirements relating to the size of vehicles used in passenger transport-on-demand should only require what customers need, for example space for luggage or children's seats. Currently, rules in some Member States require PHV to be luxury cars, hence bigger, broader and heavier than the average car. Especially in view of the European Green Deal and the objective to drastically reduce road fatalities and serious injuries, it is important to reassess vehicle criteria such as a minimum purchase value of the vehicle used for private hire while taking into account the advantages of smaller and lighter vehicles regarding congestion, energy consumption, environmental and road safety impacts.

Adapting vehicle criteria to the aim of mitigating emissions and congestion should certainly not weaken the pursuit of other important objectives such as passenger safety and the accessibility of passengers with disabilities or reduced mobility to passenger transport-on-demand.²⁹

B. Recommendations on exercise of the profession

As well as rules on the access to the profession, rules concerning the exercise of the profession of taxi/PHV drivers as well as taxi/PHV operators should be reviewed and, where appropriate, be simplified. The rules which need to be observed when carrying out local passenger transport-on-demand service may constitute a restriction on the freedom of establishment and hence need to be duly justified to be compatible with EU law.³⁰

1. Towards the abolishment of the strict “return-to-garage-rule”

➤ Rules on the exercise of the profession should not include a return-to-garage-rule

In many Member States, neither taxis nor PHV are allowed to cruise in search of potential passengers. Taxis may wait at taxi ranks, whereas PHV are often obliged to go back to their premises between journeys. PHV generally may not park in places with potentially high demand to attract passengers either. In some Member States, PHV may not park on public streets. Before the development of mobile communication technology, PHV drivers needed to return to their premises to be informed about their next order. Today, however, geolocation and smartphones enable instantaneous connection of potential clients and PHV drivers.³¹

Empty runs are inherent to passenger transport-on-demand-services, as approach journeys to pick up the passenger are inevitable. In case the new order has yet to come in, the journey to the place where the vehicle may wait for the next order, is inevitable as well. However, the obligation to travel back without a passenger to remote premises and back to pick up the next

²⁹ Furthermore, requirements relating to the recognisability of vehicles serving the street and rank hailing market could possibly be justifiable in view of passenger safety .

³⁰ See *Blanco Pérez*, joined cases C-570/07 and C-571/07, paragraphs 53 et seq.

³¹ Today, the return-to-garage-rule still exists in some Member States, albeit in modified versions. In its 2020 report, the International Transport Forum (ITF) of the OECD suggested reducing empty vehicle travel for improving the environmental performance of PHV.

passenger adds to empty runs (“deadheading”). In times of congested cities, pollution and climate change, the necessity to mitigate the environmental impact and the existence of mobile communication and geolocalisation, it may be appropriate to reconsider this rule.

Drivers should not be prevented to carry on with their activities by an obligation to return to their premises between clients as long as they are busy. For waiting time in between orders, cities could for example designate more central spaces where drivers may wait, with the objective of reducing, as much as possible, empty runs, which are an inefficient use of the vehicle and driver’s working time, and are detrimental to the environment, adding to congestion and emissions.

2. Allowing to take passengers on return trips from outside licenced areas

➤ **Rules on the exercise of the profession should take into account the need to reduce empty runs**

Licenses for taxis and PHV are issued for a specific administrative area. Therefore, drivers may carry passengers to destinations outside the area of their licence, but may not, in many Member States, take other passengers back from outside their area. The most prominent example are rides to and from airports, often situated outside larger metropolitan areas. This leads to empty runs, which reflect upon prices and lead to higher per passenger emissions. Allowing to carry passengers on return trips back to the area of their licence would help to reduce kilometres driven without passengers.

3. Enhancing capacity use of vehicles

➤ **Allowing for the “pooling” of passengers is encouraged to reduce the number of rides**

“Passenger pooling” refers to unacquainted passengers with similar origins and destinations sharing a hailed taxi or PHV. “Pooled” rides are usually cheaper, passengers however, depending on the service provider, either need to walk to pick-up area or accept that rides take longer for deviations for pick-up and drop-off of other passengers. Currently, many Member States (at national, regional and/or local level) allow only for the hiring of the entire vehicle and not an individual seat.

Enhancing capacity use (i.e. increasing the number of passengers transported per kilometre of vehicle travel) could lead to less taxi/PHV kilometres³²: for instance, two people sharing one

³² See on passenger pooling OECD-ITF, “Assessing the Environmental Performance of New Mobility” (<https://www.itf-oecd.org/good-to-go-environmental-performance-new-mobility>); Transport & Environment (T&E), Europe’s giant « taxi » company: is Uber part of the problem or the solution? (<https://www.transportenvironment.org/press/uber-adds-pollution-and-traffic-european-cities-too>); Shaheen, S., Lazarus, J., Caicedo, J., Bayen, A., To Pool or Not to Pool? Understanding the Time and Price Tradeoffs of OnDemand Ride Users – Opportunities, Challenges, and Social Equity Considerations for Policies to Promote Shared-Ride Services (<https://doi.org/10.7922/G2862DRF>); Schaller, B., Can sharing a ride make for less traffic? Evidence from Uber and Lyft and implications for cities, in: Transport Policy 102 (2021) 1–10, (<https://www.sciencedirect.com/science/article/pii/S0967070X20309525?via%3Dihub>); Diao, M., Kong, H., Zhao, H., Impacts of transportation network companies on urban mobility, in: nature sustainability (<https://doi.org/10.1038/s41893-020-00678-z>).

vehicle cause less kilometres driven (and the related emissions and traffic) than two people taking each a different car.

The “pooling” of passengers whereby taxis and PHV may collect passengers on the way towards similar destinations could help to reduce driven kilometres per person. At the same time, the safety and security of drivers and passengers should be maintained at all times.

4. Further operating conditions for drivers

➤ **Operating conditions for drivers must always be appropriate and proportionate to the objectives pursued**

a) *Taxi drivers*

In a number of Member States there has been a decrease in taxi drivers, whereas an increase in PHV can be observed.³³ Member States should reassess their rules for drivers in view of their objectives especially when they set apart taxi services from PHV services, and possible consequences. An example of rules relating to drivers is the obligation to only work full time as a driver. Such rules, which may amount to restrictions of the freedom of establishment, need to be in line with the criteria set out in the case-law mentioned above. Flexible working patterns, such as abolishing and/or easing mandatory long shifts, night and weekend shifts, allowing for part-time etc., could make the profession of taxi drivers more attractive, including for people needing to reconcile family and work, if combined with an appropriate level of job security and predictability.

b) *PHV drivers*

PHV drivers face different burdens. Examples are the ban on the use of smartphones for receiving customers’ requests, which makes it impossible for PHV to be booked on a ride-hailing platform, and the establishment of a mandatory waiting time between booking a PHV and the start of its service. Both rules prevent that the service starts right after booking and provide PHV with a comparative disadvantage. They lead to an inefficient use of PHV-drivers’ working time. Any such rule needs to be in line with the criteria set out in the case-law mentioned above.

5. Further operating conditions for operators

➤ **Operating conditions for operators must always be appropriate and proportionate to the objectives pursued**

Once established, taxi and PHV operators are subject to a variety of rules concerning the organisation of their activities, the purpose of which is often not obvious. Examples are: the requirement of a minimum or maximum number of employees, the obligation that the

³³ See for Brussels the study by Deloitte (2020) “Sociaal-economische studie van de sector van het bezoldigde personenvervoer in het Brusselse Hoofdstedelijke Gewest”: <https://mobilite-mobiliteit.brussels/sites/default/files/2021-02/Sociaal-economische%20studie%20van%20het%20bezoldigd%20personenvervoer%20in%20Brussel.pdf>; see for Berlin the article by Berliner Morgenpost newspaper of 18 February 2021: <https://www.morgenpost.de/berlin/article231594211/Zahl-der-Mietwagen-von-Uber-und-Co-nimmt-stark-zu.html>.

operator must work as a taxi driver him/herself, the operator may only employ full-time employees, the establishment of a minimum/maximum number of drivers for each licenced vehicle, the establishment of a minimum hire period at a minimum rate or the provision that remuneration of transport is only allowed after a client has received an invoice at his/her seat of residence. Operating conditions for PHV/taxi operators need to be in line with EU law and notably the freedom of establishment.

C. Recommendations on integration with public transport and active mobility

➤ **Passenger transport-on-demand should be integrated well with public transport and active mobility**

It is of high importance that passenger transport-on-demand, be it taxis or PHV, complements public transport (such as subways, busses, trams) as well as active forms of mobility (such as walking and biking) and do not become a mere substitute for these. For optimal integration it should be part of the local sustainable urban mobility plan (SUMP) developed in accordance with European guidelines³⁴. Passenger transport-on-demand, should ease and increase the use of public transport in taking passengers the first mile to or the last mile from public transport stations, making public transport an appealing and comfortable option and decreasing the need for private car use. This is especially important in areas where the public transport network is less dense, such as in the outskirts of cities or in suburban areas. It could contribute to make the use of public transport more attractive and the way to the station faster or safer. Adopting measures to enhance integration with public transport could be a way forward, for example by supporting “Mobility as a Service” (“MaaS”)³⁵ solutions, by incentivising passengers, and by exploring cooperation possibilities with ride-hailing companies. Service providers could be asked to also inform customers on available alternative active mobility options via appropriate channels.

³⁴ <https://www.eltis.org/mobility-plans/sump-guidelines>.

³⁵ “Mobility as a Service” (“MaaS”) is the integration of various forms of transport services into a single mobility service accessible on demand. To meet a customer’s request, a MaaS operator facilitates a diverse menu of transport options, be they public transport, ride-, car- or bike-sharing, taxi or car rental/lease, or a combination thereof. The MaaS integrator gathers and integrates data from mobility service providers. For the user, MaaS offers added value through the use of a single application to provide access to mobility, with a single payment channel instead of multiple ticketing and payment operations.