

**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
COMPETITION COMMITTEE**

Working Party No. 2 on Competition and Regulation

Taxi, ride-sourcing and ride-sharing services - Note by Hungary

4 June 2018

This document reproduces a written contribution from Hungary submitted for Item 3 of the 65th meeting of Working Party No 2 on Competition and Regulation on 4 June 2018. More documents related to this discussion can be found at www.oecd.org/daf/competition/taxis-and-ride-sharing-services.htm

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JT03431410

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1. Description of the situation – historical background

1. Ten years ago the regulation of the Hungarian taxi market was characterised by low entry barriers and under-regulation as far as market entry (taxis wishing to enter the market in the capital were not subject to strict technical requirements or examinations) and behaviour on the market were concerned. Regulatory intervention concerning tariffs only existed in the capital, and this took the form of maximum tariffs. In addition, regulation existed, and still exists today in some middle-sized cities concerning the use of taxi ranks. Besides the low level of regulation, the number of taxis was influenced by demand and supply – especially after the crisis in 2008 – which resulted in the creation of intense price competition in the capital due to a fall in demand for taxi services.

1.1. The main characteristics of the Hungarian taxi market in 2012-2013

2. From a regulatory point of view only taxi and other passenger vehicle transportation existed. “Passenger car transportation services with a driver” were provided by taxis¹. Other forms of passenger car transportation were only possible in a limited way – and were directly related to accommodation, tourism, sport, cultural and educational events, event organisation or transportation by bus, via railway, in the water or in the air. These other forms of passenger transportation were not qualified as taxis, and their drivers were not considered taxi drivers, and while no geographical restriction on their operation existed, permission to carry out the activities and basic chauffeur qualifications were necessary.

3. The market was fragmented. A significant proportion of the taxi drivers operated in the form of small sized undertakings and used passenger cars, which were also typically used for private purposes, thereby resulting in the cars not being available for clients 24 hours a day. None of the taxi undertakings employed their own taxi drivers and owned their own passenger cars. It was also possible in the entire chain that an undertaking acquired taxi licenses for its own passenger cars or cars of a leasing company, and then rented out these vehicles (usually in exchange for a daily tariff) to official drivers with a taxi license.

4. In the bigger cities taxi dispatchers also existed. They forwarded taxi orders received via phone or Internet to taxi subcontractors. The taxi dispatchers were typically independent market players, but there were also undertakings that were jointly owned by the taxi drivers (dispatch transport organisers).

5. The taxi dispatchers set their own taxi tariffs, which were typically applied by their subcontractors in the segment of pre-booking; however, in the countryside – in the absence of regulated prices – this was applied in all cases. This segment was oligopolistic in the medium-sized towns, with many players existing in the capital (there were more

¹ According to the rule resulting from Article 2 of the *Regulation of the Council of Ministers No. 89/1988. (XII.20.) on the services of public transportation and on the maintenance of public transport vehicles* there are only these two forms of operation possible.

than 10 big taxi dispatchers) resulting in intense competition. The firms, state institutions typically invited taxi dispatchers to submit bids for tenders, with the result that contractual prices were lower than administrative prices. In Budapest, in 2012-2013, pre-order tariffs were 20-30% lower than the administered maximum tariffs.

6. Independent taxi drivers typically used their own tariffs when providing any services. These prices were equal in Budapest to the maximum tariffs. In Budapest, the maximum tariffs concerning taxi ranks and the hailing of taxis were applied by taxi drivers contracted with taxi dispatchers.

7. Regulation concerning taxi dispatchers did not exist, and entering or leaving the market could be achieved by incurring relatively low costs (associated with creating and running the dispatch centre, network building and advertisement). Taxi drivers could change taxi dispatchers relatively often and with low costs since it was possible to distinguish between the different dispatchers usually through visible trade-markings.

8. The taxi drivers typically paid commission to dispatchers for delegating addresses – typically a fixed monthly amount – thereby eliminating any risk sharing between the dispatchers and the taxi drivers. Above this amount, the dispatchers set caution money and obligations on the drivers.

9. The passengers paid those taxi drivers with whom they were in a contractual relationship. Stating the tariffs in the car was typically compulsory. Transportation prices were to be paid based on the taximeter, except in those cases where pricing was not based on the taximeter (e.g. where fixed and zone tariffs applied).

10. The level of consumer protection concerning independent taxi drivers was low. The number of official inspectors was low, and the system of sanctions was not effective either. There were a large number of consumer complaints concerning excessive pricing, due to either the distance calculation or the applicable tariffs being manipulated, or due to cab drivers using longer routes, etc. A high number of complaints were received due to extremely excessive pricing (many times more) compared to the administered fixed tariffs in the case of passengers at the airport or railway taxi ranks, or when big international events were taking place (e.g. music festivals). As regards to the traditional ways of travelling by taxi, i.e. by attending a taxi rank or hailing a taxi on the street, market failure was typical due to the use of unlawful tools. The biggest anomalies hereby put a burden on the shrinking market segment of the traditional taxi usage.

11. The taxi dispatchers, concerned and constrained by a desire to maintain a good reputation and feedback, employed stricter control over their contractual partners. In the segment of pre-bookings the level of consumer protection could be considered satisfactory (while overpricing and other complaints also occurred here, though these are investigated with more presumption).

12. Concerning Budapest International Airport, after several years of chaos, a call for tender was issued for the first time in 2006 in order to grant exclusivity to use the closest taxi rank to the airport by the winning bidder. The winning taxi dispatcher was chosen based on the fact that it offered the most favourable consumer prices (under the maximum tariffs set by the authorities), and because it undertook to comply with extremely high quality obligations and to pay extra fees for using the concerned territory.

13. The proportion of taxi services being obtained via telephone pre-orders reached 80-90 per cent on the whole territory of the capital. This was due to a number of reasons: first, the tariffs charged were lower in this segment partly as a result of the intense

competition existing among undertakings; second, consumers felt more secure using this method and; third, orders made via mobile phones become more widespread. In this segment price and quality competition operated in a healthy manner.

14. All increased costs, uncertainties and risks were borne by the taxi drivers resulting from the nature of the undertakings (vehicle purchases, maintenance, examinations, number of trips undertaken, sicknesses and the condition of the driver).

15. It was likely that taxi drivers generated high revenues and hereby the proportion of tax avoidance was likely to be high too; furthermore taxi micro-companies typically did not pay added value tax either. There were a great number of self-employed taxi drivers who after amortising their cars could not stay on the market, or switched to taxi leasing in exchange for a daily tariff.

16. After 1990 taxi drivers did typically not work as employees and were therefore not covered by the social security system. There is no example of a case where the court settled a legal dispute and stated that a taxi driver could be considered as an employee of a transport dispatch service organiser or a taxi leasing company.

17. In 2013-2014, referring to the anomalies, first the capital², then the government³ decided to make the regulation of taxi services stricter.

18. In the capital it became compulsory that all taxis were painted yellow; furthermore, a number of other requirements were introduced as regards to the vehicles: the cars had to be bigger, younger and more environmentally friendly. In addition to the presence of a taximeter, an ATM, smart tools based on GPS used for issuing orders, and an online cashier had to be found in every taxi. In parallel, there was an increase in the number of inspectors, and the costs associated with this increase were built into the prices taxi drivers were charged for using taxi ranks.

19. The earlier maximum tariffs were replaced by even higher fixed tariffs by the capital. These tariffs had to be applied whenever transport services were being provided (for example, trips for undertakings, pre-orders, transport from or to the airport, etc.). The fixed tariffs were comprised of a basic tariff and a distance tariff proportionate to the route made, and also a minute-based tariff when there is slow progress on the road – slower than 15 km/hour – or when waiting. There were no separate tariffs for night journeys, holidays, or at the airports and there was no distance tariff degression when taking a longer journey.

20. In the report of the municipality degree by the Ombudsman, it was suggested that the legislative regulation relating to the introduction of fixed tariffs should be rethought on the basis that there were no legal grounds to justify the setting of fixed tariffs by the price regulatory authority.

21. On a governmental level technical requirements were made even stricter, with the introduction of an obligation to repeat examinations placed on taxi drivers through the adoption of geographical territorial restrictions, furthermore online cashiers that

² Budapest General Assembly Decree No. 31/2013 (IV.18.) on the services of passenger transportation by taxis and on the conditions of running a passenger transportation dispatcher, on the regulation of setting up and using taxi ranks and the fixed administrative tariffs of passenger taxi services

³ Governmental Decree No. 176/2015 (VII.7.) on public passenger transportation by passenger car in exchange of tariffs

forwarded data to the tax office were later required to be placed in taxis. The regulation was extended to taxi dispatchers too; stricter sanctions were introduced in connection to separate authority licences and financial guarantee requirements. The municipalities were empowered to determine further rigorous requirements relating to taxi drivers and taxi dispatchers, and the governmental decree did not restrict the way of the price intervention.

1.2. UBER

22. After the introduction of the high fixed administrative tariffs, in the autumn of 2013 UBER entered the market in the capital, with basic fees that corresponded to the level of the previous market-based tariffs for pre-ordering by phone. Uber intended to carry out its activities on the basis that its operation fell under the legal status of “other passenger transport by car”.

23. The competent regulatory bodies qualified Uber as an illegal market participant, since under the relevant Governmental Decree its activity was interpreted as constituting personal transport, for which Uber did not possess the required authorisation. The cars used to carry out the bookings made via the Uber application were characterised as taxis, even though they did not have taxi meters, were not painted yellow, were not subject to the same mechanical tests as taxis, were driven by drivers that had not been approved as taxi drivers, and they did not apply the set fixed administrative tariffs.

24. Uber became extremely well-known and popular very quickly. The number of passengers using Uber increased very quickly, due to its higher level of price transparency and certainty, and also due to the fact that its fees were much cheaper than those of the traditional taxis.

25. Beginning from January 2016 drivers of the traditional taxis organised several protests against Uber. In the summer of 2016 a number of legal changes were made resulting in the introduction of much more severe sanctions and signalling the prohibition of the Uber application in the near future. Consequently, at the end of July 2016 Uber suspended its activity in Budapest.

1.3. In the spring of 2018 the Budapest taxi market may be characterised as follows:

26. The taxis are a uniform yellow colour, they are much more roadworthy, younger and significantly more environmentally friendly cars are in service, and therefore the use of taxis is much more convenient than before.

27. The payment obligation of taxi drivers is much higher. For example, there are monthly fees for taxi dispatchers, fees for the use of taxi ranks, higher insurance fees for the better cars; furthermore, there are additional costs associated with replacing old cars for younger ones, having the taxis painted yellow, purchasing and maintaining new technical devices, repeatedly training drivers and paying for relevant exams, etc.

28. In 2016 the number of taxis decreased by 15 percent compared to the pre-regulation period⁴, but since then it has increased again. Annually, approximately 10 percent of all pre-bookings are rejected, due to a lack of taxis and the fact that capacity shortages are also more characteristic than before during the rush hours.

29. Taxi dispatchers also have additional expenses (e.g. related to the modernisation of address registering systems, financial guarantees, administrative authorisation, professional certification, etc.). In addition to these expenses, an increasing number of taxi associations have developed fee calculator systems, or their own mobile pre-booking applications (this was primarily characteristic of Uber's operation). However, this cannot be used for fee determination since Uber exited the Budapest market.

30. On the market of taxi dispatchers, the strong concentration has taken place and in parallel with this phenomenon the turnover and productivity of these taxi dispatcher associations have significantly increased.⁵

31. On average, travel costs have increased by 30-35 per cent for private passengers, and this relates to both airport transfers and pre-booked trips. However, it is also very likely that there has been an even greater increase of fees in relation to taxi services provided under contracts for organisations and businesses.

32. Extremely strong competition exists among taxis for well-placed taxi ranks (at railway stations, hotels, hospitals, theatres, night clubs, etc.), in order to be present at places where there is a high demand for transportation services (e.g. festival venues). It may be presumed that there is a higher proportion of illegal black services concerning non-private orders and that drivers may even physically threaten each other in order to gain a place at good ranks (evidence of this can be found on a number of taxi blogs and in the police news).

33. As ad-hoc on-the-spot checks have shown, a number of problems persist with passengers complaining of trips to railway stations and other special places being grossly overpriced, despite the existence of administrative control, which unfortunately cannot completely prevent these situations without great difficulty. This can be seen, in particular, in relation to "independent" taxis, which do not belong to any taxi dispatcher association and which rather operate as unlicensed illegal service providers.

34. Since 2015 a new undertaking (Greentaxi), which has its own electric cars and which employs its drivers as employees, has been operating in Hungary. The last balance sheet of the undertaking was negative, so it may well be that the firm will exit the market.

35. The Estonian company, Taxify, entered the Hungarian market in 2016. Having the necessary administrative licences it operates a taxi dispatcher and its contracted partners are taxi drivers. As regards to all of the conditions that must be satisfied in order for it to legally operate in Hungary – including the fixed prices – it meets the taxi regulations set by the capital.

⁴ There were 6077 taxis in Budapest in 2010 and 5230 taxis in 2016, but as one of the leaders of the taxi drivers' association announced, at the end of 2017 the number of taxis had once again increased to around 5600.

⁵ As the data of the Registry Court show, the turnover of "Főtaxi" (one of the taxi firms) increased by 75 percent between 2013 and 2016, while its profit before tax became 38 times (!) higher during the same period.

36. In the spring of 2018 the taxi interest representation organisations submitted an application to the municipality of the capital requesting an increase of the administrative fees. Depending on the distance travelled, the level of the increase would be 15-20 percent. The local government of the capital – in its capacity as the authority responsible for setting prices – has not yet made a decision about the request.

1.4. Another new development that might have an effect on the taxi market – the appearance of car-sharing

37. In the downtown of Budapest two new firms⁶ entered the market in 2016 and 2018, with both of their activities covering almost the same geographic area, and with both firms using almost identical registration systems that consumers use to access the service and both having almost identical service fees.

38. As a result of competition appearing on the market and the substantial expansion of the service – due to the entry of the second service provider, which is much more well-known, has a larger fleet, and offers greater bonuses – in the last few months both firms have seen an increase in the number of consumer registrations. Having joint membership at both firms offers advantages, so it is well worth registering at both service providers and using the services of the firm that has a closer car to the place of departure.

39. The Act on personal transport was supplemented in 2017 by rules on car-sharing schemes⁷. E.g. the Act now has a new provision, according to which the law may oblige the taxi dispatcher to set up and operate a car-rental system, provided that – based on the decision of the local government – it forms an integral part of the local passenger transport system. The Act provides the government and local governments with unlimited discretion and authorises them to determine detailed rules for such social car-rent systems.⁸

2. The GVH's competition supervision activity and its attempts to intervene

40. Before 2013, in a liberalised, competing-on-price situation, the GVH conducted several proceedings on the market of taxi transport services. The decisive part of these proceedings was related to the capital city's taxi market and concerned the competition restriction activities of taxi dispatch service providers (e.g. unified base fare-increasing cartel, bid-rigging, market share activities regarding the usage of taxi ranks at the airport etc.). Some proceedings and interventions affected the taxi ranks operated by the local government (e.g. the indirect limitation of the number of taxis when issuing permissions

⁶ In 2016, when Greengo started its service it had 45, and by March 2018, 168 electric Volkswagen Ups, while MOL Limo currently has 100 electric and 200 petrol-operated Volkswagen Ups. I.e. nowadays almost 500 cars offer car-sharing services in Budapest.

⁷ As contained in the Act on personal transport: “*social car-rental system*: a system allowing car-rental for a fee in the territory of Hungary for pre-registered users having a valid car driving licence. The service is continuous, administered via central telematics, and enables a car to be rented anywhere locally and used within the entire territory of the operating firm”.

⁸ Similar legal solutions have determined how hop-on-hop-off bus services are operated in the capital. The restructuring of the competition-based service into business operating under exclusive licence is in progress. In Budapest the tendering process has begun and there are other settlements where similar tendencies are appearing.

for land use). In addition, consumer protection proceedings – especially from 2008, during the period of increased competition – were also launched, which were based on some undertakings' advertising practices. These undertakings advertised their prices based on the tariffs applicable for pre-ordered bookings however these were lower than the tariffs applicable to consumers riding from a taxi rank or flagging a taxi on the street.

41. Since 1998 the Price Setting Act has provided authorisation for the setting of maximum tariffs⁹. The City Council of Budapest was the first municipality from among the municipalities in Hungary to regulate maximum tariffs. In 2004 the provisions of the Price Setting Act were modified on a motion to authorise – without prior consultation among administrative bodies – the municipality to set not only maximum prices but also to establish fixed prices.

42. In 2005 the City Council of Budapest prepared a motion in order to introduce fixed prices. The GVH tried to persuade the City Council via an intervention letter that the protection of consumers could be ensured by setting maximum prices. At this time, the GVH also emphasised that under the existing Hungarian regulatory environment consumers were not particularly vulnerable so far as pre-ordered and contractual rides were concerned; consequently, it remarked that softer rules were also appropriate (e.g. that there was no need for fixed prices approved by the municipality). In contrast, the GVH stated that more significant state interference could be justified in the case of rides taken from taxi ranks and flagged down taxis. At that time – also thanks to the actions of the GVH – the fixed prices were not introduced, but unfortunately effective solutions for eliminating the problems regarding consumer protection in this area were also not found.

43. In 2006 the City Council of Budapest modified its regulation on the usage of taxi ranks. The modification enabled a single bidder to win an exclusive right to use ranks closest to the exit of the airport for a fixed term in case of taxi rides from the airport. Given the fact that the situation concerning airport taxi services had been very confusing for a number of years (also forming the subject matter of several competition supervision proceedings dealt with by the GVH), the GVH did not oppose the introduction of the tendering; however, it must be noted that the GVH has never supported the replacement of the competition on markets with competition for markets. In order to clarify the provisions of the draft, the GVH made a number of pro-competitive, pro-passenger suggestions. The GVH also expressed its position on the draft to the tendering airport facility management regarding the exclusivity agreement in order to ensure its compliance with competition rules (transparent and open competition, the level of tariffs should be an outstanding aspect in the evaluation of tenders, exclusivity term should be no longer than 5 years, satisfactory passenger information on the spot, providing ranks for the pre-ordered taxis waiting for passengers). By the end of the 2000s in order to minimise the number of taxis operating without passengers, the exclusive service provider charged lower prices on routes from the city to the airport, than on routes from the airport to the city. This decision led to a significant fall in prices in comparison with the capital city's maximised prices and also with the competitors' prices.

44. In 2007 and 2008 the possibility of increasing the maximum prices in Budapest was once again raised, but the increase – having regard to the GVH's objection that the draft was unfounded – did not take place.

⁹ Act LXXXVII of 1990 on Price Setting

45. From 2008, due to weakened demand as a result of the economic crisis, competition increased among taxi companies. This was reflected in an increase in the intensity of advertising and in significant price reductions. The market became more segmented in relation to price and quality; the most prestigious taxi dispatch service providers operating better cars were applying higher prices, while service providers operating in the lower price category generally had lower quality cars. As a result of this, the scope of the passengers also expanded.

46. In 2011 the new Act on Passenger Transportation was adopted, which renewed the regulation concerning the sector. The Act distinguished between two types of passenger transportation services; namely taxi services and other car passenger transport services. The desire to subject these services to some form of administrative authorisation had not yet occurred. The GVH expressed its doubts concerning the three kinds of administrative authorisation (for taxis, for cars used as taxis and for taxi companies) on the ground that these solutions can prevent the flexible and more efficient operation of undertakings (e.g. making it more difficult for one taxi cab to be used by a number of taxi drivers). In its opinion the GVH indicated the necessity of abolishing the fixed prices approved by the municipalities, and also contested certain definitions which hindered the better differentiation of prices concerning different types of uses/rides (e.g. prescribing consumption under same conditions). The adopted Act did not take into account the remarks of the GVH.

47. In 2012 a draft regulation containing the details of passenger transportation by taxis and passenger cars was created. The primary purpose of the regulation was to significantly tighten the legislation in force. The draft that was distributed for comment contained detailed provisions aimed at making market access more difficult, increasing operational costs and restricting the competition (e.g. restriction of the operational territory, the validity period of the licences, prescription of new financial collaterals, administrative authorisation not just for drivers but also for taxi dispatch service providers, introduction of qualification requirements, prescription of further training, tightening the minimum requirements of the taxi cabs, etc.). In 2012 on two occasions the GVH made comprehensive proposals on the draft, as well as detailed observations on certain provisions. The GVH was unable to adequately influence the direction of the regulation.

48. The GVH primarily argued that the regulation did not tailor the rules to the specificities of the taxi market – on the basis of the existence of market failures and the grade of information asymmetries. The introduction of quotas – which would have been welcomed by the organisations representing the interests of taxi companies – was not supported by the ministry with regard to a previous decision of the Hungarian Constitutional Court.¹⁰ Numerous competition restrictive provisions were added, with which the GVH did not agree, and several possible resolutions were missing, which could have remedied the failure situations (e.g. regulation on crucial venues like airport and railway stations, etc.). The GVH identified, as a fundamental problem that the draft did not differentiate between the market of pre-ordered and contractual rides and the classical

¹⁰ No. 21/1994 (IV.16.) decision of the Hungarian Constitutional Court (Note: there is a newer decision of the Constitutional Court – 3050/2016. (III.22.) – which opens up the possibility for indirect quotas: the Constitutional Court did not find unconstitutional the regulation of a municipality, which regulated the number of permissions for land use in number of taxi ranks, while a taxi licence cannot be obtained without permission for land use.)

– from ranks, and flagging down – rides when determining the purpose and scope of the intervention (e.g. in relation to what services the price regulation was needed, where the restrictions were justified etc.). The GVH was of the opinion that pre-ordered passenger transportation should have fallen under the concept of other passenger car transportation (which is also subject to authorisation, but the requirements are less rigorous), and that classical taxi services (flagging down and from ranks) should have remained the exclusive right of taxis.

49. The GVH found the inclusion of several details unnecessary, claiming that they would have led to price increases, and due to the higher quality requirements prescribed by the draft, the new regulation could have resulted in a decrease in demand in some geographical areas, thereby causing the market to shrink. The GVH also objected to local governments being given unlimited authorisation to restrict service conditions and restrict competition. The GVH made several proposals to prevent competition from being undermined and restricted (e.g. that the regulation should not authorise the local governments to fix prices in the case of pre-ordered and contractual rides, or maximise the number of issued licences for taxi ranks according to capacity, or make it impossible for taxis leaving their authorised territories to pick up passengers on their way back etc.). The GVH found it necessary to clarify the details of the rules concerning consumer protection, namely clarifying the rules relating to the provision of information (e.g. stating tariffs on the sides of cabs, where there are fixed prices this information should be provided on the territory of taxi ranks; the taxi dispatch service providers' obligation to provide information and handle complaints etc.)

50. Finally, in 2012 the regulation was not adopted.

51. In 2013 a proposal was once again made to the Municipality of Budapest that it should consider introducing fixed administrative tariffs on the taxi market; furthermore, it was also proposed that it should consider tightening the operating conditions existing on the market. The GVH has repeatedly reasserted the arguments that it originally presented in 2005. The GVH stated that it could only envisage the introduction of fixed tariffs in taxi-hailing and taxi rank situations, while in the case of pre-booked and contractual situations, it regarded the introduction of such a measure as restrictive. The GVH found it particularly unacceptable that the fixed administrative tariffs – compared to market prices – would make a price increase of 30% obligatory. Furthermore, it also strongly objected to the fact that these administrative tariffs would also be applicable to airport travels which had been established through a competitive tender conferring a right of exclusivity. Given the fact that the proposed regulation included a number of other restrictive measures concerning both motor vehicles and taxi drivers, and that it also sought to make trip dispatching subject to administrative authorisation, the GVH provided a number of alternative solutions, also in relation to the detailed rules which aimed to reduce the anti-competitive effects of regulation and the adverse effects of market failures. The intervention did not yield any results.

52. In 2014 the Ombudsman for Fundamental Rights carried out an investigation on the basis of a complaint concerning the new rules applicable in Budapest. When preparing its report, the Ombudsman contacted the GVH in order to request the materials that were prepared by the GVH relating to the amendment of the regulation. The GVH handed over these materials, which included legal analyses and a damage assessment concerning disadvantages to consumers, the latter of which was prepared using a simple static calculation based on the data submitted by taxi organisations to the capital regarding the increase of tariffs. While the Ombudsman did not initiate a constitutional

review of the capital decree, in his report¹¹ he did suggest to the government that – since the law on prices does not contain any substantive guidance on what basis and how the fixed administered tariffs can be determined – it should consider rectifying the shortcomings of the regulation concerning administered tariffs and creating new governmental regulations.

53. In 2015¹² the government decree regulating taxi usage, providing for much stricter operational rules than the previously existing decree and containing a number of new competition restrictive elements, was published in accordance with the 2012 drafts and detailed rules. The observations of the GVH detailed in 2012 – and which were confirmed at the end of 2014 before the regulation was issued – were not accepted.

54. In 2016 – partly as a reaction to the taxi demonstrations following Uber's expansion – the GVH repeatedly contacted the ministry responsible for the regulation in order to influence the government's response to the demonstrations, pointing out the necessity for more competition friendly and more differentiated regulatory interventions. However, despite these efforts of the GVH, the legislative provisions of 2016¹³ have since been further tightened, and have significantly increased the risks and sanctions (large fines, making the application unavailable etc.) associated with engaging in unauthorised dispatch service organising and passenger transport services.

55. In spring 2018 the GVH learnt from the press that the organisations representing the interests of taxis in the capital (it should be noted that within these organisations taxi dispatchers possess the greatest influence) had initiated an increase of the fixed administered tariffs at the Municipality of Budapest. In response to the above-mentioned, the GVH once again sought to initiate more competition friendly interventions and therefore contacted the Municipality of Budapest by letter to suggest, in particular, the reduction of the scope of fixed administered tariffs. In order to reduce unchanged consumer protection anomalies concerning independent taxi drivers – working almost exclusively from taxi ranks or via hailing – the GVH has made a proposal that in exchange for payments for the use of land, the capital should not merely prescribe the use of taxi ranks but should also provide an application for taxi drivers which would not only be suitable for tracking routes but also for billing. If independent taxi drivers would only be permitted to operate if these changes were implemented, then it is likely that there would be a significant reduction in the amount of problems faced by consumers.

56. Based on previous discussions with the capital-based organisations, it is obvious that the municipality of the capital does not intend to change the system related to fixed tariffs and does not wish to make substantive changes to the municipal decree either. The request to increase tariffs has been received by the Municipality of Budapest and at the end of April the decision was taken to accept the submitted request. The extent of the increase of the fixed administered tariffs regarding call-out charges regardless of the distance travelled will be 55%, while regarding other elements of the tariff the increase will be 7.1% (in the last 5 years, the increase of consumer prices was 2.5% in Hungary.)

¹¹ Report of the Ombudsman for Fundamental Rights on case No. AJBH 3268/2013

¹² Government Decree 176/2015. (VII. 7.) on the transport of passengers by road in passenger cars in exchange for payment

¹³ Act LXXV of 2016 on the legal consequences related to passenger transport services without license

In view of the above-mentioned, in the case of rides between 1 and 10 km in Budapest, a price increase of 35-15% is expected, while over 10 km it will gradually decrease.

3. Studies, analyses

57. In 2014 a study was conducted in the Centre for Economic and Regional Studies of the Hungarian Academy of Sciences¹⁴ on the circumstances giving rise to the 2013 capital regulation. In the same year a study¹⁵ simulating the taxi market was undertaken as part of an educational competition announced for university students by the GVH. The subject matter of the study was the 2013 regulatory change in the capital.

58. The first study detailed the events leading to the regulation and the actual process that resulted in the formulation of the regulation. The process resulting in the formulation of the regulation was brought about by professional lobbying rather than regulatory impact analysis. Representatives of the consumer side were not sufficiently involved, so the process could not be described as one which was carried out with a fair balance of interests in mind. The study did not consider the possibility of regulatory failure.

59. The simulation study attempted to investigate the regulation of the taxi market in terms of market failures that reduce welfare by capturing the differences among different market segments (taxi dispatchers, taxi rank, hailing). In its examination of the taxi dispatchers, the study concluded, remarkably, that it may be justified to supplement the tariff regulation by regulating tariffs of taxi dispatchers as a lack of competition on this market leads to overpricing. The conclusion that there is a high risk of improper regulation due to a lack of accurate information on the demand and supply side also provides reason for caution.

60. In 2016 the Institute for Economic and Enterprise Research of the Hungarian Chamber of Commerce and Industry prepared a detailed analysis for its College on Transport and Logistics about the introduction of online cash registers to the taxi market. In this analysis – built on interviews with taxi market experts and taxi drivers – a detailed description is made public about the operation of the Hungarian and Budapest taxi markets.

61. While the GVH itself has not carried out such studies, it has, from time to time, analysed emerging situations. When doing so, in addition to certain materials of the OECD (round table of taxi market 2007, competition advocacy toolkit), it has also made use of the materials of counterpart authorities (OFT/CMA taxi sectoral inquiry). The main reason of this that information can be obtained more likely concerning taxi dispatchers market while about micro-entities – partly due to their company form partly due to the high level of tax evasion – there are no reliable data.

¹⁴ Réti Pál: Regulatory bargain in free market environment: the Budapest taxi market <http://econ.core.hu/file/download/mtdp/MTDP1421.pdf>

¹⁵ Németh Krisztián: Simulated responses on the regulation of the taxi market http://www.gvh.hu/data/cms1029531/Nemeth_Krisztian_1_hely_2014.pdf

4. The appearance of dispatch service organizing through application

62. The GVH was not aware of any competition concerns regarding the appearance of Uber on the market. The GVH assumed that if the liberalised regulation of dispatch service organising and the fixed administered tariffs remained applicable to taxi usage, then the possibility of booking taxis through the Uber application would merely provide a new technical solution on the dispatch service organising market, and would not, at least in the short term, have necessarily induced substantive competition. In the significant part of the Hungarian taxi market, similarly to the Uber model, the taxi has fulfilled a double function over the last 30 years (as both a family car and a tool for earning income). The practically VAT-free operation and the high rate of tax evasion have also remained characteristic features. Due to these characteristics a model which is based on lay (i.e. non-professional) drivers, the use of one's own car and an element of tax evasion, would have had a relatively low cost advantage compared to the taxi usage operating in line with the existing taxi regulations.

63. Furthermore, as regards to the vertical price fixings of taxi dispatchers that was necessary for the operation of an earlier model of regulation, the GVH did not consider this to result in a restriction of competition, as until 2013 there existed substantial price competition in the pre-booking, multi-actor market among the taxi dispatchers: a lack of competition within a brand (among taxis contracted to the taxi dispatcher) was offset by the lively competition that existed among the brands (taxi dispatchers). At that time the level of the dispatch organising tariffs was also significantly lower than today's level, which has resulted due to more limited competition. Consequently, the GVH did not consider the appearance of Uber before 2013 feasible, as based on the information obtained from the press the level of dispatch organising tariffs of Uber was considerably higher than the general taxi dispatch organising tariffs in Budapest, and given the evolution of the level of consumer's price on the taxi market at that time the Uber service could not have gone sufficiently under this tariff level in order to be able to dynamically expand. The introduction of set fixed prices and other tightening measures, coupled with high price increases, opened the door to the entry and rapid expansion of Uber on the market in 2013, bearing in mind that it also provided a loophole for those taxi drivers who previously worked in the lower price segment. The exit of Uber from the market primarily took place as a consequence of the intervention of the authority and the tightening measures adopted in response to the pressure exerted by the lobby of incumbent trip organisers and independent taxi drivers (who have always provided their services at the maximum price).

64. On the basis of the information available, Taxify, which "replaced" Uber on the market, has so far not exerted significant competitive pressure on the remaining taxi dispatchers. Due to its different (%) tariff structure, it may provide a more economical solution for certain taxi drivers compared to the monthly fixed pricing method of other taxi dispatchers, and this is how it has been able to acquire contractual partners. However, problems relating to VAT payment obligations have somewhat lessened the attraction of Taxify, as due to Taxify remaining an Estonian company, contracted taxi drivers are obliged to pay – in addition to the dispatch organising tariff – also the VAT on dispatch organising to the Hungarian State instead of Taxify. Since the number of Taxify's contracted partners is still relatively low, it has gained little recognition among consumers, although young people may be a good target group for Taxify.

65. In the short term – in the absence of known governmental intentions – it cannot be expected that significant changes will be made to the regulation of the taxi market,

changes which would make it urging to deal with theoretically existing problems in relation to the new phenomena, from the point of view of regulation or competition law enforcement.