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## **THE TALE OF TAXI REFORMS IN TWO CITIES: THE FAILURE OF CLOSED ENTRY**

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### **Introduction**

At times, the taxicab industry has come under attack, for service quality, control of supply, tariffs and the regulatory system. Examples of this are statements such as ... The local taxi service in Toronto was labelled as the worst in North America.[1] “Tight control on taxicab supply and government-set tariffs have resulted in consumers paying an exaggerated price for a stale and uninspired service.”[2] More recently one writer states “...Toronto’s taxicab industry is in a state of crisis... Public perception of the entire industry is low, the government appears to have little understanding of how to manage and regulate industry efficiently, and none of these issues show any signs of improving.”[3] The purpose of this paper is to examine the failure of closed entry taxi regulation.

The paper provides a comparative analysis of the regulatory experience in Toronto and Ottawa. The next section presents the historical background of the taxicab regulation and experimentation in Toronto. Subsequently, the same is done for the City of Ottawa. Opinions on why the cities failed to deregulate are offered in the penultimate section. Finally, a few concluding remarks are made.

### **Taxi Transportation in Toronto**

It is believed that the first horse cab in Toronto was operated in 1834. By 1885, at least 284 cabs were registered. Documents on cab driver infractions suggest that the industry was regulated to the extent that a licence was needed to drive a cab. Further, fares were calculated in zones, of which there were three.[4] The arrival of the first motorized vehicles is credited to the Berna Motors and Taxicabs, Ltd. They purchased French built Darracq automobiles and put them into service in 1909. Another company De Luxe Cab Ltd. was established in 1926.

By the depths of the Great Depression, the economic state of 974 licenced taxicabs was not well. This led to an inquiry resulting in the first official Report of the industry in 1932. The reason for the report was: the deplorable condition of the industry; the demoralization of drivers; the large number of cabs in use; the excessive labour turnover; and the low earnings for drivers and owners.[5] The recommendations of the Report led to three changes: dissolution of the zoned rates system; standardization of cab rates and introduction of taximeters; and limitation on the number of licences issued each year.[6]

In 1956, control of the taxi industry was assumed by the Metropolitan Licencing Commission (MLC) that was formed in 1953. The Commission issued licences that permitted taxis to provide service. At that time, licences could not be sold or leased. In 1963, the MLC allowed licences to be sold on the open market, and in 1974 it permitted the leasing of taxicab licenses. Leasing led to the use of middlemen-managers known as ‘designated agents’. Consequently, the structure of the taxicab industry consisted of the following participants: owner, designated agent, lessee, driver, and alternative driver. Twenty percent of the owners drove using their own plate, 60% hired a designated agent to operate the plate on their behalf, and the remaining 20% leased the plate to a driver directly, without a designated agent.[7]

In terms of numbers, 1,500 taxicab licenses in 1953 remained the same until 1961 because no new licences were issued. The number of licences increased to 2,105 in 1973, and 3,480 by 1993, with a pause until 1997 before increasing to 4849 by 2015. As of 2015, well over 10,000 licensed tax-cab drivers were on the road in Toronto; 3,451 standard plate taxicab owners; 1,300 Ambassador plate taxicab owners; 425 Toronto taxicab licence owners; and 29 taxicab brokers. In Toronto, the largest companies are Beck Taxi (1750 taxis), Co-op Cabs (900 cabs - including Crown Taxi), Royal Taxi (500 vehicles), Diamond Taxi Cab (400 cabs formed from the amalgamation of De Luxe Cab Ltd. and nine taxi-cabs - Diamond Taxi Cab Association), as of 2015 [information gathered from the internet].

The Toronto taxicab industry is regulated by the City of Toronto as provided for initially in the *Municipal Act* and By-Law 20-85. The specific authority of the Toronto City Council to enact by-laws for the licensing, regulating, owning and driving of cabs is contained in section 232 of the Act. It includes control over supply of licences and tariffs “The intention of the By-Law and the objective of the regulation is to serve the interests of the public, while offering a structure that can support the well-being of its participants. By-law 20-85 addresses provisions for quality and inspection of vehicles, enforcement, responsibility and accountability of industry participants, and training requirements.” The By-Law sets out regulations for the controls of the Toronto taxicab industry.

Changes in the issuance of new taxi licences (i.e. based on the taxis owned) in 1974 led to a dire situation (with regard to regulation and service). Against this background, the Emergency and Protective Services Committee Council established a Task Force to Review the Taxi Industry. The Executive summary stated “The creation of this Task Force was the culmination of a number of recent articles in the media and the concerns expressed by the public, taxicab owners and drivers, Toronto Licensing, the Board of Trade and the tourism industry respecting the state of the taxi industry in Toronto.” On October 1998, the Task Force released its report. A second review was undertaken in January 2014 and a third in September 2015.

*The 1998 Task Force Report:* The October 1998 report consisted of five parts: Introduction; Background; Incentives for Change; Best Practices; and Solution. It came to the conclusion that “over the past 30 years, the Toronto taxicab industry has suffered a gradual decline in service quality. The reasons for this trend are attributed to the structure of the industry and the regulations that govern it.”[6] It therefore proposed a comprehensive package of fifty recommendations that address the following concerns. 1) *Establishing the taxicab passenger bill of rights (TPBR)*. 2) *Establishing the ambassador class taxicabs (ACT)*. 3) *Improving training*. 4) *Improving the taxicabs*. 5) *Strengthening enforcement*. The Task Force concluded by indicating that “These solutions will, over time, adjust the structure and culture of the industry and introduce changes that will almost immediately, substantially improve the quality of Toronto’s taxicab fleet. This action will greatly diminish the risk of any taxicab serving the public and tourists, while in dangerous and unsafe condition.”[8] The Commissioner indicated that she believed that the solution meets the challenge of improving the quality of taxicabs for passengers and providing fair returns for drivers and owners.

*The 2014 Report:* The January 2014 report’s broad purpose was to: analyze Toronto's taxicabs for customer service excellence, affordability, safety and viability; and determine industry issues and opportunities and explore how to best resolve them. The recommendations were intended to achieve three basic goals: 1. Enhance customer service and consumer protection for residents and visitors; 2. Enhance health and safety of passengers and drivers; and 3. Enable a sustainable and economically viable industry that meets the needs of the City. The intention was that this package of recommendations would: advance the gains made through the previous reforms and facilitate improved customer service, including accessible transportation; enhance the public’s and driver's safety by enabling technology and processes; and reduce the economic cost of non-service delivery related expenses without increasing fares.

*The 2015 Report:* The September 2015 report provides an overview of the current state of the City of Toronto's taxicab and limousine industries, and the operations of Uber in Toronto. It outlines the results of the industry stakeholder and public engagement activities that were undertaken and provides a jurisdictional scan of regulatory models and approaches taken across the world. It makes recommendations to reduce regulations on existing taxicab and limousine industries, while creating a regulation to permit "private vehicles-for-hire", such as UberX, as a new type of ground transportation business that is distinct from the existing taxicab and limousine industries.

*Conclusion:* In response to the 1998 report the City of Toronto made changes to improve the quality of vehicles and drivers such as age limits on vehicles and mandatory driver's training for new licensees. The most important recommendation that it adopted was with regard to a new class of licences known as 'Ambassador' taxis. Its current by-law permits it to issue up to 100 Ambassador licences each year, in addition to the granting of accessible licences. Further studies were undertaken to establish criteria to be used in determining supply of taxis.[9] This action was to greatly diminish the risk of any taxicab serving the public and tourists, while in dangerous and unsafe condition.”[10] This ultimately led to a new By-Law in 2001.

In response to the 2014 report the important changes made by the City were: creation of a new licence (the Toronto Taxicab Licence (TTL) which is owner-operated, transferable and accessible); direction to issue 290 new taxicab licences to ensure accessible taxicabs for the Pan Am Parapan Am Games; permission to transfer Ambassador taxicabs (i.e. sale); operation of hybrid, low-emission or alternative fuel vehicle taxicabs (excluding those that are wheelchair accessible); permission for hybrid, low emission, alternative fuel and accessible taxicab vehicles to be 7 model years old; and consideration of changes regarding inspections, insurance and rates of operation.

In response to the 2015 report nine recommendations were made. The most important are: amending the definitions of taxicab broker and limousine service company to ensure that all technology-based brokerages are captured within the current regulatory regime; dropping the cost to enter the taxicab from \$4.25 to \$3.25 (i.e. the drop fee); reviewing the Taxicab bylaw with a view to reducing regulatory burden and increasing competitiveness; addressing the 23 outstanding City Council and Committee taxicab directives; reviewing the Limousine bylaw with a goal to update and modernize, while also considering the appropriate level of regulation and the interest of the public; and directing staff to undertake the development of regulation that would permit private vehicles-for-hire, including UberX, to operate (subject to proof of the availability of adequate insurance).

*Municipal Act / City of Toronto Act:* In Ontario, the taxi industry is regulated by their municipalities under their by-laws and the *Municipal Act* (see SO 2001 c. 25 and SO 2006, c. 11 Schedule A). Before the 2001 amendments to the Act, the specific authority to enact by-laws for the licensing, regulating, owning and driving of cabs was contained in section 232 of the Act [11] (see the 2001 provisions in s. 151 and s. 156 and after 2006 for the City of Toronto in the *City of Toronto Act*, 2006 s. 8(2), s. 86(1) and s. 94(1)). The provisions pertaining to licensing have a number of implications: It allows municipalities in Ontario to issue taxi licences and to continue to hold property interest in the issued licences. It also means that: the municipality may limit the number of licenses issued which in turn will create a street value if they are privately transferred; the municipality can prohibit the transfer of licences; the municipality is under no obligation to take the street value into consideration when making regulatory change; the municipality need not compensate licence holders if the street value is reduced or eliminated by virtue of regulatory action; and the municipality may also reduce the number of taxi licences which they issue by renewing a lesser number of licences than were issued in previous years. Besides control over supply of licences, the provision also includes control over tariffs.

*The new Toronto By-Laws:* The 2001 By-Law based on the recommendations of the 1998 Task Force is contained in the Toronto Municipal Code 545, which was amended in February 2014 by By-Law 503-2014 in response to the 2014 report. The provisions most relevant to the taxi industry in the amended Municipal Code are on: on licensing (s. 545-2); on taxi brokers (ss. 545-123 to 130); and on owners and Drivers of Cabs (ss. 545-131 to 193).

In sum, authority to regulate the taxicab industry in Toronto is derived from the municipal statute for Toronto, the *City of Toronto Act*, 2006. It permits municipalities to: regulate the industry through licences, control of supply and control of rates.

### **Taxi Transportation in Ottawa**

The City of Ottawa, through the Police Commission, began issuing taxi licences in the 1950's, a practice adopted by adjoining municipalities (Cumberland, Gloucester, Kanata, Nepean and Vanier) between 1970 and 1973. In 1969, the City of Ottawa took over this function of licensing from the Police Commission. Originally, taxi licenses were transferable but this was prohibited by the City when it passed its first by-law in 1971. Two years later, the City reversed its decision and permitted transfers which the adjoining municipalities also adopted.

In 1974, a recommendation was made to the Regional Executive Committee of the Regional Municipality of Ottawa-Carleton to create a single licensing body in the region but was not implemented as a result of opposition from the regions who wanted to maintain control over licensing. In the next two years, the Mackenzie Report and the Ottawa-Carleton Review Commission recommended regionalization of taxicab licensing but no changes were made.

In 1989, the Regional Municipality of Ottawa-Carleton prepared a report (Doug Cameron) and made several recommendations. Implementation of these recommendations did not occur as it required enabling legislation which was not granted by the provincial Ministry of Municipal Affairs. However, some of the adjoining municipalities made some improvements to licensing in response to the report. Subsequently, a number of developments occurred: in 1992 an Inter-Municipal Taxi Licensing Committee was established; in 1993 the Algonquin College Taxi Driver Training course was created and funded; and in 1993-1997 the area municipalities standardized area by-laws required new drivers to participate in a training course. By 2001, there were 1001 taxi permits, 1915 taxi drivers and 17 brokers in the six municipalities. In Ottawa there were: 586 permits, 1350 drivers and 2 brokers. The largest company is Blue Line Taxi. With Capital taxicabs, they account for the 586 permits. For Ottawa and the other municipalities Blue Line has over 60% of the 1001 permits. In 2015, Blue Line had 540 cabs and Capital had 200cabs.

Before the new City of Ottawa was established, the six municipalities of the region each had their own by-laws (four other adjoining municipalities did not have any by-law). The first By-Law governing taxicabs in Ottawa, By-Law L 6 came into force on October 1, 1971. This By-Law sets out regulations for the control for the taxicab industry in the City of Ottawa. It covers drivers, brokers and owners of taxicabs (in section 2) and provides details applicable to them (in its Schedule No. 19). The intent of the By-law from the schedule appears to be to serve the interest of the public by providing provisions for: a) quality of service - through requiring drivers to pass a written examination, carrying proof of insurance, maintaining their cab in good repair, displaying their licence and other information, limiting number of passengers that can be carried, etc; b) control of fares - through the use of taximeter, the tariff, etc; and c) control of supply - through the maximum number of cabs that can be licensed (1 per 540 residents), the application for licences, the transfer of brokers and drivers licence, the conditions for transfer of owner's licence, etc.

The six municipalities regulate: the taxicab licence owners, the taxicab brokers (individuals who provide a dispatch service and usually own a number of taxicab license plates) and the taxicab drivers. The taxi by-laws establish limits on the number of licenses that can be issued, and in most cases establish a formula to be used in expanding the number of plates. *Taxi Licence Owners* are the holders or owners of the taxi licenses issued by municipalities. There are three types of plate holders: holder operators; holders of a few plates; and holders of many plates. The latter are involved in leasing or renting of cabs. *Taxicab brokers* provide dispatch services matching customer demand with supply of taxi services. *Taxicab drivers* fall into three categories: owners, lessees and shift drivers. The owners own the plate and the cab. The enforcement of artificial zones, the limit on the number of taxicab licenses (resulting in escalating plate values), an aging taxicab fleet and a deterioration of the service standards ultimately led to a decline in the state of the taxi industry.

Against this background, together with the proposal by the Province of Ontario that the city of greater Ottawa be amalgamated into a single New City of Ottawa, the Ottawa Transition Board established the Taxi Project Team. It was “to evaluate and report on the opportunities to enhance the quality of taxicab service within the new City of Ottawa and ensure effective regulation and enforcement.”

Taxi Project Team released its preliminary report on September 8, 2000. It attempted to develop a model for the new City which would result in a world-class service. The key elements of the model were: A Taxi Commission; A Single Zone; An Enforcement Agenda; A set of Vehicle Standards; A set of Driver Standards; A Taxicab Dispatch Licence; and A review of Meter Rates. “...the Project Team concluded that there were really only two fundamental approaches that could be taken. Both options share common elements including one zone and licences extended to rural operators which have been previously detailed ... The two options are: Closed entry, continue to limit plates to those currently held, enforcing new standards for drivers and vehicles; or Open entry, elimination of the artificial and counterproductive barrier to entry for qualified drivers. ... It is the considered opinion of the Project Team that the second option offers the best and most feasible opportunity to attain improved customer service to the public in the form of better, safer vehicles and more highly trained and qualified drivers.”[12]

This report led to considerable controversy, protest and demonstration. On December 5, 2000, the Taxi Project Team released a final report in which it abandoned its option of open entry. The Ottawa Transition Board approved the Report with the intent of passing the recommendations to the new council for final decision on implementation. While the final report did recommend one zone and ‘controlled entry’ its impact on values was unclear, because how many plates would be issued under this system was not known. It also did not address issues of compensation and the desirable characteristics of the system - improved safety and quality of service. So the city commissioned a study by a consultant KPMG.

On May 24, 2001, the KPMG Report was released reviewing the Taxi Project Teams Proposals. It made a total of 38 recommendations (see number in brackets) after considering seven areas: A. Taxi Commission (3); B. Taxi plate types and numbers, “zones”(16); C. Vehicle Standards (6); D. Driver Standards (2); E. Driver Safety (1); F. Accessible cabs (6); and G. Enforcement Issues (4). The first two attracted the greatest attention, and they are briefly reviewed.

Given the accountability of the Council to clients and the industry, it recommended that responsibility for policy development with respect to taxi licensing be retained with the Council rather than be given to the Taxi Commission. It also recommended the creation of a Licensing Tribunal whose members were appointed by the Council and the establishment of a Departmental Consultative Group of taxi industry representatives.

The report reviewed: the current practice, the task force recommendations; the results of consultation; the compensation for changes; the zone systems; the number of taxi plates; the objective and options

considered; the recommended approach; the likely impact on the plate value; and the future growth in plate numbers. It recommended expiry of all taxi by-laws on January 1, 2006 and provided for a single zone. The new by-law should issue cab licences to a maximum of one per 668 residents.

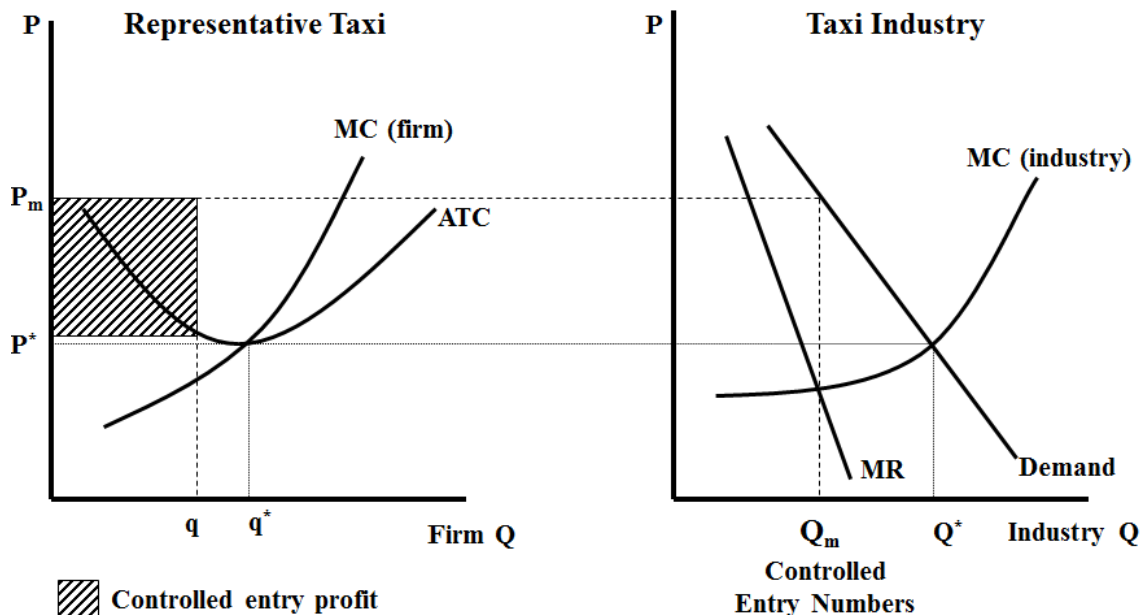
The City of Ottawa adopted many of the recommendations of the KPMG report including retaining control of supply of taxis but easing entry of new licensees through the Ambassador system implemented in Toronto. However, cab licences were to be issued to a maximum of one per 540 city residents. It also accepted phasing in of the boundary elimination that would ultimately have the effect of being one zone. This led to a new By-Law in 2000.

The enabling statute in Ontario providing the municipality with power to regulate the taxi industry was described earlier and the new By-Law is contained in By Law L6 -2000. Part II of the By-Law refers to licenses, and section 2 states that: "They shall be procured by (30) every taxicab broker; (31) every taxicab driver; (32) every taxicab owner..." Detailed regulations on each of these categories are described in Schedule No. 19 of the By-Law. The taxicab broker provisions cover: conditions for the issuance (i.e. age requirement - 18 or above, premise requirements - zoning, building and property standards and character reference); non transferability of broker license; record of trip (i.e., dispatch, time, place and destination) and ninety day retention of record; use of communication system (except by dispatcher within the city to licensed taxicab driver or owner) and restrictions on use of communications system (i.e., if taxicab driver or owner's license is suspended or revoked except under certain conditions); and general regulations. The owners and drivers of cab provisions are covered in the same schedule.

### The Failure of Closed Entry

In competitive markets (entry is assumed to be open), equilibrium output (the quantity of taxicabs) is determined where demand (i.e. average revenue - a downward sloping curve) equals supply (i.e. marginal costs equals average total costs). In the long run, competition results in an optimal level of taxi service (see figure in ref. 13, p. 774) and economic efficiency. Controlled entry regulation creates the classic cartel model of taxi regulation, as presented in Figure 1.

Figure 1 Theoretical Model of Controlled Entry Taxi (Regulated) Cartel



When entry into the market is closed, the quantity of taxicabs falls short of the equilibrium output at  $Q^*$ . Optimally, the cartel quantity is  $Q_m$  taxis where Marginal Revenue equals the industry's Marginal Cost. Limiting total taxi numbers to  $Q_m$  forces prices higher to  $P_m$ . This creates a loss in allocative efficiency and a transfer of consumer surplus to the taxi providers in the form of higher fares. At  $P_m$ , the higher prices received by the representative taxi firm is above its Average Total Cost. The taxi's lower output at  $q$  is no longer productively efficient, but the firm enjoys an economic profit (rent) as illustrated by the shaded square. Over time, this economic profit determines the value of the taxi licence. The economic profit becomes capitalized into the licence value based on the discount rates of new entrants and their expectations of change in the regulatory system.

The theory on competitive markets indicated above shows that closed entry brings with it a number of undesirable results: higher prices from a decrease in supply of taxicabs; greater inefficiencies or loss in consumer welfare; a worse allocation of resources (prices are further from marginal costs); and a worse service from a decrease in the supply of taxicabs. In addition, the costs of entry into the industry are increased for new entrants (supply curve or marginal costs or average total costs are pushed upward) due to capital costs of the licence and these costs are ultimately transmitted to the consumer in the form of higher taxi fares. It is for these reasons that the removal of economic regulation of entry is advocated.

The evidence on price, service, entry and public reaction indicates that closed entry has failed to serve the interests of the public.

*Price:* Higher prices have resulted when entry is closed. This can be seen from the prices in the Table 1 where prices are lower in US cities where competition from transportation network companies

**TABLE 1- Taxicab Industry Review, June 2013**

	Toronto	Ottawa	Vancouver	NY	Chicago	San Francisco
5 km		\$12.60	\$12.10	\$9.75	\$8.85	\$11.50
10km	\$21.50	\$21.90	\$21.10	\$17.55	\$14.45	\$20.00

(TNC) exists. This view also has been confirmed when the 2015 Toronto Review recommended dropping the cost to enter the taxicab from \$4.25 to \$3.25 in response to the entry of UberX in Toronto. This can also be seen in the rise of Toronto taxicab licence plate value from \$80,900 in 1998 to \$210,100 in 2010 (and in other cities, Winnipeg, Vancouver, etc).

*Service:* The failure of service is indicated at least on three counts. *First*, the 1998 Taxi Task Force came to the conclusion that over the past 30 years, the Toronto taxicab industry suffered a gradual decline in service quality and provided for a new class of licence `Ambassador` taxis together with a passenger bill of rights, and a requirement for training and improving taxicabs. *Second*, the industry did not provide for wheelchair accessible taxi service. Not surprisingly, the 2014 Review called for an accessible taxicab strategy. *Third*, the industry failed to ensure the improvement of service through the use of smart technologies leading to the entry of smart phone application taxi companies.

*Entry:* The closed entry model has not succeeded at least on two counts. *First*, in 2012 five models used to estimate the need for taxicabs in Toronto indicated that the market was undersupplied substantially despite the increase in the Ambassador class licences from 1995-2005. *Second*, despite the fact that entry was closed two companies, Hailo and Uber, began operating in Toronto using a smartphone application to connect passengers with municipally-licensed taxis. The latter then launched a new ground transportation service in Toronto called UberX, connecting passengers with unlicensed vehicles-for-hire. It now accounts for an estimated 17,000 trips a day and its operations have been embraced by the public.

*Public Reaction:* The reaction of the public has not been favourable to closed entry. *First*, in their view, TNCs create a convenient and efficient way to connect with taxicabs and limousines. Therefore there is a strong sentiment amongst Toronto residents that people should be able to choose whether they want to use TNCs (such as Uber) or licensed taxicabs. *Second*, a majority of residents (including the Mayor) feel that having both Uber and taxicabs provides Toronto with a competitive marketplace (though regulations to protect personal safety are needed). *Third*, TNCs have gained public acceptance in more than 400 cities in the world and are operating legally and have now gained permission to operate in Edmonton.

In sum, the economic rationale and the evidence do not support economic regulations (entry and price) in its present form. The emergence of new forms of service by Uber (riding sharing and access) and their price discounts will continue to put pressure on the closed entry and regulated price model.

## Concluding Remarks

The two cities approached regulatory reform differently. Toronto paid very little or no attention to deregulation whereas Ottawa was more receptive to the idea but rejected it after severe public reaction. The important issue is whether the **economic** reforms (supply and price) have been a success. The key recommendation of both cities was the creation of a new class of licences providing for ‘Ambassador’ taxis to improve service quality and then to increase the supply of accessible taxis. This attempt resulted in other problems leading the MLS to propose the creation of a new licence (TTL to include the 3 licenses). Shortly after the 2014 changes, the appearance of TNCs and entry of UberX created new problems. Finally, the evidence on price, service, entry and reaction of the public indicates that closed entry in the taxi industry has failed to serve the interests of passengers. Some writers are more critical of the situation. For example “Deregulation of taxi market access is long overdue in Canada. The excessive capitalization of taxi licences and ... rate increases ... means that ... [the market] is underserved, and likely overpriced.”[13] The rise of UberX and the views of the Toronto public provide testimony of it.

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4. *Id.*
5. See Reference 1, p. 2.
6. It also drew attention to a number of other issues: vehicles, types of services, cab premises, cab standards, cab drivers, cab brokerages, taximeters and insurance required
7. *Toronto Task Force to Review the Taxi Industry*, Report, October 1998.
8. *Id.*
9. *Id.*
10. *Id.*
11. Section 232 states: By laws may be passed by the council of towns, villages and townships and by police boards of cities:  
1. For licensing, regulating and governing ... owners and drivers of cabs ... used for hire or any class or classes thereof; for establishing the rates or fares to be charged by the owners or drivers of such vehicles for the conveyance of goods or passengers either wholly within the municipality or to any point nor more than five kilometres beyond its limits, and for providing for the collection of such rates or fares; for limiting the number of cabs ... used for hire, or any class or classes thereof; and for revoking any such licence.
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