CUTS International

Comments on

Draft Gujarat State on Demand Transportation Aggregator Rules, 2018

CUTS International welcomes the Government of Gujarat notification of draft Rules for On-Demand Transportation Aggregator (draft rules). On-demand transport aggregators are playing a crucial role in transforming the Indian urban mobility system. These aggregators have disrupted the transportation space with its unique product and services. Considering the disruption aggregator business model has brought to the conventional business models, it is imperative to create a facilitating environment for all variants/competitors and clear the regulatory ambiguities, with the objective of enhancing consumer welfare.

The draft rules attempt to bridge the regulatory imbalances between the conventional businesses of hire of motor cabs and delivery of such services through aggregator platforms. Set out below are CUTS' comments on draft rules, with the objective of making them more efficient and beneficial to all stakeholders, especially consumers.

Rule	Draft Provision	CUTS Comment
3	Limit for license: The aggregator shall not attach more than 20,000 vehicles under one license and only one license shall be issued to a company or an aggregator.	This rule appears to be restrictive in nature and such limitation is likely to create barriers to operate and expand in market. It appears that proposed condition has been introduced to mitigate challenges such as congestion, depleting air quality, and limited parking, however, it is not clear if such objectives will be met. Literature suggests that ride sharing through taxi aggregation aids in optimal asset utilisation, reduction in personal ownership, and other benefits. Conversely, the proposed limitation is may adversely impact employment, livelihood, and entrepreneurship opportunities in the state. It may further create artificial scarcity of taxis, resulting in increase in fare, contrary to consumer welfare. Therefore, it is recommended that this limitation on the fleet size could be relaxed and the decision should be left on market players to decide on the basis of market forces.
7. (i)	The applicant for seeking a license shall satisfy that he has a fleet of minimum 50 taxis either owned or through an agreement with individual taxi permit holders	The requirement to attach with at least 50 vehicles at the time of application might put undue restrictions on potential taxi aggregators and may impede the entry of aggregators. One understands the need to ensure the safety and security of consumers only genuine firms must operate in the market. However, such restrictions may be detrimental for the new start-ups in the urban mobility sector. Furthermore, the condition might hinder the attainment of objectives of the Central Government

Rule	Draft Provision	CUTS Comment
		campaign of Start-up India[1]. Therefore, it is recommended that such condition of attaching with a minimum number of vehicles might need to comply within a pre-defined timeframe from the date of grant of approval (such as one year from the date of grant of approval).
7. (ii)	The applicant for seeking a license shall satisfy that he has facilities for monitoring the movement of taxis with the help of in built GPS/GPRS based vehicle locating devices which are capable of calculating fare using already established process, display the fare through display panel, printing of the receipt and authenticate the driver using biometrics through one single unit.	It appears that objective of the Rule is to monitor the real time movement of taxis to ensure consumer safety and could be useful in mitigating congestion on the road as well. However, GPS/ GPRS like technology is been frequently used by the technology-based platforms to monitor movement but mandating a particular type of technology might restrict innovation in the sector. Several technological developments have happened in this field in the recent past. For instance, NAVIC positioning system indigenously developed by ISRO in India[2] could provide reliable position, navigation and timing services over India, and its neighborhood with greater accuracy. Therefore, it is recommended that the Rules should not specify the type of technology to be used for monitoring the movement of taxis, but should specify the standards, which the taxis associated with aggregators, could be required to comply with.
8 (iii)	Every taxi for the purpose of inclusion in a license shall be capable of being tracked continuously by using GPS/GPRS based facility in such a way that the device shall be securely fixed to the vehicle with a provision of a panic button for the use of passengers, capable of alerting the control room without any hindrance or interference by the driver. This device shall be a single unit that would be capable of calculating fare through an electronic digital fare meter, capable of generating- a printed receipt to be given to the passenger, a display board to display the route taken by the taxi, a biometric module to authenticate the driver.	*GPS/ GPS like device and panic buttons* Typically, taxis associated with on-demand aggregators install GPS/ GPS like devise and panic button in their mobile application. The presence of GPS/ GPS like device and panic button on the mobile application is more accessible to the consumers as compared to such button in the vehicle. Installation of GPS/ GPS like device and panic button fixed on the vehicle would be expensive and thus the operating cost for taxi drives associated with aggregators would increase. Such increase in cost might be passed on to consumers. In addition, GPS/ GPS like device and panic buttons, if fixed on the vehicles, can be easily tampered with and require regular maintenance. Also, existence of GPS and panic buttons on vehicles does not necessarily guarantee their functionality and effectiveness at all times. Consequently, such provisions may not prove beneficial for consumers but restrict new developments and innovations in the technology.
8 (iv)	Every taxi for the purpose of	

[1] https://www.startupindia.gov.in/uploads/pdf/imp_MPIncubation&StartupPolicy.pdf
[2] https://www.isro.gov.in/spacecraft/satellite-navigation

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	inclusion in a license shall be equipped with the electronic digital fare meter complying the provisions of the Standards of Weights and Measures Act, 1976.	*Electronic digital fare meter and printed receipt* Typically, app based aggregators provide a fare estimation to riders upfront (before the start of the journey) and also email the receipt with relevant details on riders registered email id. These processes are now accepted as common practice and in-line with consumer expectations. The need for digital fare meter fixed on the vehicle and requirement to printed receipts is not necessarily based on consumer demand, but perhaps based on perception about their utility in promoting transparency. These requirements have the potential to enhance cost of compliance for businesses, which may be passed on consumers, without any consequent benefits. Hence, it is recommended that in-app technology solutions must be strongly considered as an alternative to physical devices, buttons, and meters as they are transparent, reliable and have better accessibility with no extra cost. With most consumers carrying smartphones, accessibility and usability of such products and services have become easier over time.
16	*Electronic Digital fare meter in-built GPS, GPRS, Printer and biometric module:* The vehicle shall be fitted securely with electronic digital fare meter with in-built GPS/GPRS based taxi fare meter capable of tracking the vehicle at all times of communicate with the control center during the time of hire, display the route traversed by the vehicle, display the fare, calculate the fare for the distance travelled, print the receipt of the fare and authenticate the driver of the vehicle using biometric module	
9 (i)	Driver of a taxi shall be holder of a license to drive light motor vehicles (transport) and the older of a badge to drive motor cabs	As per the notification[3] *RT-1 1021/4412O17-MVL* issued by the Ministry of Road Transport & Highways (MoRTH) to principal secretaries and transport commissioners of all states and as per the order[4] of Supreme Court (Civil Appeal - 5826 of 2011) - Transport vehicles are not excluded from the definition of the light motor vehicle by virtue of Amendment Act No. 54/1994. In addition, transport license is required in case of medium/ heavy goods and passenger vehicles only. No other vehicle will require any separate endorsement, even if they are used for commercial purposes. Hence, light motor passenger and goods vehicles are exempted from the requirement to obtain the endorsement for commercial vehicles.[5] This rule is against the Supreme Court Judgement and would also restrict the employment, livelihood and entrepreneurship opportunities in the state. Thus, it is recommended that authorities should allow private license holder to operate taxis associated with aggregators.
9(ii)	Driver of taxi shall a minimum driving experience of two years	The requirement to have minimum driving experience may restrict entrepreneurship and employment generation, and thus may have adverse consequences.

[3] http://morth.nic.in/showfile.asp?lid=3196
[4] https://www.sci.gov.in/jonew/judis/43391.pdf
[5] Id

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		It appears that the objective behind this provision is to ensure that drivers possess expertise in driving and are familiar with routes. However, driving capability is tested while grant of driver license and knowledge of routes etc is no more crucial given the availability of GPS/ GPS like facilities. Consequently, it is recommended that this rule be done away with. Instead, aggregators must be mandated to provide regular training to drivers and ensure capable persons are able to attach to the aggregator platform.
11 (x)	periodically check and maintain a register regarding the details of all the documents of all taxies at his command.	As aggregators maintain the online database of important details of drivers and taxis, the requirement of maintaining physical registers may be redundant in nature and therefore should not be mandated.
11 (xvii)	ensure that the taxi fare shall not exceed four times to the 'basic fare' (Explanation: Basic Fare means the Minimum Fare fixed by the State Government from time to time.)	The Taxi Aggregators have a unique pricing model. It has been pointed out that it works on the principles of demand & supply. Thus, a price regulation prescribed by the Government might adversely affect interests of all relevant stakeholders including taxi aggregators, drivers, and riders. A base fare might exclude a section of consumers not in a position to afford such fare and a cap on fare might prevent a taxi from servicing a consumer in a position to pay such fare. Both situations have the likelihood to result in exclusions. The market forces ideally result in optimal fares, owing to competition, and the competition regulator, i.e the Competition Commission of India, is in a position to address concerns related to anticompetitive practices like predatory pricing. Consequently, the State Government should not prescribe any minimum or maximum fares. It can however, require the aggregator to suspend dynamic pricing in emergency circumstances to ensure customer interest is served. An article[6] written by Pradeep S Mehta and Udai S Mehta from CUTS International also highlights the relevance of surge pricing in taxi aggregator business.

[6] Light touch guidelines to control surge, available at: http://www.deccanchronicle.com/opinion/columnists/311016/light-touch-guidelines-to-control-surge.html

Way Forward

Comprehensive cost-benefit analysis to ensure regulations meet its intended objectives

Innovative and disruptive technologies such as web-based platforms and aggregators are changing the face of traditional sectors like taxi operators, retail sale, banking, hospitality, et al. These technologies provide immense value to consumers as they offer high quality services instantaneously and at affordable prices.

Consequently, such technologies need to be conserved and promoted and should not be subject to unreasonable burden which might hinder their growth. It must be realised that in order to provide level playing field between such technologies and traditional service providers, barriers to entry and operate faced by the traditional service providers need not be replicated in case of new services providers but they should be reduced from traditional service providers as well. Consequently, a complete overhaul in regulatory mindset will required while dealing with mobility market.

However, regulation comes with a cost and a sub-optimal regulation has the potential to increase the cost to stakeholders significantly. A recent study[7] 'Regulatory Impact Assessment (RIA) of Maharashtra City Taxi Rules, 2017' conducted by CUTS International suggests that if the Maharashtra City Taxi Rules, 2017 come into force, the per day cost to consumers and drivers may increase up to 40 percent and 93 percent, respectively. Therefore, it is imperative to assess the cost and benefits of regulatory proposals on different stakeholders to ensure maximum net benefits to the society at minimum cost.

RIA is a highly scientific and systematic process, which involves estimation and comparison of costs and benefits of different regulatory alternatives. It necessitates justification of regulation and consequently aids in avoiding adoption of unnecessary regulations. Adoption of regulatory impact assessment (RIA) framework could go a long way in designing optimal regulatory framework for such technologies. Thus, it is recommended that government should adopt RIA in rule making process. In particular, the Government of Gujarat will benefit from conduct of RIA on the draft rules.

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[7] http://www.cuts-ccier.org/RIA_Maha_City_Taxi_Rules_2017/index.htm