This note is submitted by the Delegation of Japan to the Working Party No. 2 FOR DISCUSSION at its next meeting on 27 October 2000.
Road Transport Regulations and Competition Issues

JAPAN

Omnibus and taxi businesses

Regulatory Regime

(1.1) Minister of Transport has the responsibility relating to omnibus and taxi businesses, which are regulated under the Road Transportation Law. This law is enforced at the Ministry of Transport at the national level, and at the local level, at nine District Transport Bureau, the Okinawa General Bureau, and the 47 of the Road Transport Branch Office located in each prefecture. The authority of the Minister of Transport is partly delegated to the Director of the District Transport Bureau and Road Transport Branch Office.

As the main industrial groups, the Nihon (Japan) Bus Association has been established for omnibus businesses, and the Japan Federation of Taxicab Associations for taxi businesses. Omnibus businesses are operated by private companies or by municipalities.

(1.2), (1.3), (1.4) In the Road Transportation Law, the term “omnibus business” is defined as transport services for general passengers by motor vehicles operating on schedule along specific routes, and the term “taxi business” is defined as transport services for general passengers per contract by chartering motor vehicles with a seating capacity of up to ten.

Any person who intends to engage in an omnibus business shall obtain a license for each route from the Minister of Transport. Any person who intends to engage in a taxi business shall obtain a license for each area from the Minister of Transport. In granting a license for these businesses, the Minister of Transport shall determine whether the application meets the following criteria:

1) Initiation of the proposed business is appropriate in terms of transport demand.

2) Initiation of the proposed business would not cause an imbalance between the supply and demand for transportation in the proposed operation route or area.

3) The proposed operation is backed by appropriate planning.

4) The applicant is fully capable of performing the proposed operation.

5) Initiation of the proposed business is necessary and appropriate in terms of public benefit.

The period necessary for the determination is generally three months for omnibus business, and four to five months for taxi.

A person who has obtained a license for omnibus business or for a taxi business (a “Manager”) shall perform his or her services in conformity with his or her business plans.

Business of omnibus or taxi business shall not be transferred to or received from another Manager unless such action is approved by the Minister of Transport. If a Manager violates the Road Transportation Law, or is found to be in a disposition pursuant to this law, the Minister of Transport may either order the Manager to suspend his or her business or may revoke the license for the business.
Following measures are taken for the purpose of ensuring the appropriate services in Tokyo and Osaka:

1) Registration of taxi drivers
2) Designation of taxi stands
3) Examination of the geographical knowledge as a requirement for registration, etc.

(1.5) Under the law, a Manager shall decide on the fares, charges and the terms of a contract when initiating their business with a prior approval of the Minister of Transport. The Minister of Transport shall grant according to the examination using the following criteria and using fixed amount:

1) The fares reflect a reasonable profit after compensating for a reasonable cost under an efficient business operation.
2) The fares do not discriminate against specific passengers.
3) The fares and fees are not likely to be too financially burdensome for passengers.
4) The fares and fees are not likely to cause illicit competition with other general passenger motor transport business operators.
5) The fares and fees, when calculated based on the distance rules, and when the formula is set by the Minister of Transport, comply with such formula.

Local omnibus transportation, which is essential for suburban residents, is subsidised under Cupertino of the Ministry of Transport and the municipalities.

(1.6) The Road Transportation Law does not discriminate against any foreigner or foreign companies in granting licenses of omnibus and taxi businesses.
Market Outcomes

(1.7)

Transition of the number of Managers

<table>
<thead>
<tr>
<th>Fiscal year end</th>
<th>Omnibus Privately operated</th>
<th>Publicly operated</th>
<th>Taxi Corporate</th>
<th>Individual</th>
</tr>
</thead>
<tbody>
<tr>
<td>1989</td>
<td>372</td>
<td>322</td>
<td>50</td>
<td>54,425</td>
</tr>
<tr>
<td>1990</td>
<td>377</td>
<td>327</td>
<td>50</td>
<td>54,344</td>
</tr>
<tr>
<td>1991</td>
<td>390</td>
<td>340</td>
<td>50</td>
<td>54,215</td>
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<tr>
<td>1992</td>
<td>393</td>
<td>343</td>
<td>50</td>
<td>54,250</td>
</tr>
<tr>
<td>1993</td>
<td>398</td>
<td>348</td>
<td>50</td>
<td>54,051</td>
</tr>
<tr>
<td>1994</td>
<td>405</td>
<td>355</td>
<td>50</td>
<td>53,657</td>
</tr>
<tr>
<td>1996</td>
<td>404</td>
<td>356</td>
<td>48</td>
<td>53,147</td>
</tr>
<tr>
<td>1997</td>
<td>406</td>
<td>358</td>
<td>48</td>
<td>53,872</td>
</tr>
<tr>
<td>1998</td>
<td>414</td>
<td>367</td>
<td>47</td>
<td>53,764</td>
</tr>
</tbody>
</table>

In fiscal 1998, the share of the transportation is 2.0% for omnibus and 0.9% for taxi.

(1.8)

Revision of the present regulation:
For the purpose of promoting competition, supply-demand balancing regulation for omnibus and taxi has been eliminated. The law is enacted in May 2000 and will enter into force by the end of fiscal 2001. Outline of the revision is as follows:

<table>
<thead>
<tr>
<th>Regulation</th>
<th>Omnibus</th>
<th>Taxi</th>
</tr>
</thead>
<tbody>
<tr>
<td>Entry</td>
<td>license for each route</td>
<td>license for each area</td>
</tr>
<tr>
<td></td>
<td>• license for each business (supply-demand balancing eliminated)</td>
<td>• license for each business (supply-demand balancing eliminated)</td>
</tr>
<tr>
<td>Price</td>
<td>approval</td>
<td>approval</td>
</tr>
<tr>
<td></td>
<td>• maximum tariff approval</td>
<td>• approval (revision of criteria)</td>
</tr>
<tr>
<td>Discontinuation</td>
<td>approval</td>
<td>approval</td>
</tr>
<tr>
<td></td>
<td>• notification (before 6 months)</td>
<td>• notification (within 30 days)</td>
</tr>
</tbody>
</table>

Road freight transport

Regulatory regime

(1.1)

Road freight transport regulation is carried out by Ministry of Transport and its branch office. Ministry of Transport has road transport bureau, and this bureau has cargo transport division. These bodies’ objectives are to carry out the proper evolution of cargo transport industry, especially, to
decrease traffic accidents. Major industry groups are All Japan Trucking Association, and Japan Freight Line Association.

(1.2), (1.3) (1.4)
Those who intend to engage in road freight transport business shall obtain a license. In granting a license for business, Minister of Transport shall determine whether the application meets the following criteria:

1) The business plan must be proper to ensure the safety of transport, for example, by prevention of over work.
2) The business plan must be proper to carry out the business
3) They (president and executives) must have proper ability to manage.

It takes about three to four months from application date to get a license. When an operator wish to quit their trucking business, they have to notify Minister of Transport regarding their retirement. Minister of Transport takes strict measure to keep the safety. Minister of Transport prohibits business for some period or dissolve license according to their breach of law.

When the Minister of Transport grants a license, it is required to have at least five trucks, parking lots, an office, a manager for safety and so on. There is no demand control and no time limit. Operators already in markets have nothing to do with new permission. License can be allocated to both individuals and firms.

(1.5)
Cargo transport business operators with trucks need to submit the tables of their charges to the Minister of Transport before initiating their business. When this submission does not meet the below criteria, Minister of Transport may order them to change their tariff.

1) There should not be an excessive profit
2) It must not be discriminating.
3) It must not trigger illicit business competition.

There is no subsidy to trucking business, and industry group has no commitment to fare setting.

(1.6)
There are no differences between a foreign company and a domestic company. There are no limitations on foreign ownership.
Market Outcomes

(1.7) In Japan, there are 50 thousands companies in cargo transport industry, however, small and medium sized companies (of less than 300 employees and less than 300 million yen in capital) account for more than 99.9% of the total number.

(1.8) Major liberalisation is the abolition of demand-supply management and price control. Due to this deregulation, there has been an increase in new entries.

Competition Law Enforcement

(1.9) The Antimonopoly Act ("AMA") applies to road transport sector such as road freight tracking, road passengers transportation and taxi businesses in principle. Exemption toAMA is the Road Transportation Law, which stipulates that AMA does not apply to the certain agreements between bus companies. Namely,

1) Agreements on joint operations aimed at securing means of passenger transportation indispensable for the life of local residents; and

2) Agreements on joint operations aimed at setting an appropriate bus operation schedule to ensure the convenience for passengers.

These agreements are exempted from the application of AMA provided that it does not unreasonably harm the benefits of passengers, not be unreasonably discriminatory, and to meet other requirements, after going through necessary procedures, such as obtaining permission from the minister for transport and consulting with the Japan Fair Trade Commission ("JFTC"). These agreements are exempted from the application of AMA from the viewpoint of increasing public benefit -- securing bus routes that are indispensable for the life of local residents and increasing the convenience of passengers by setting an appropriate bus schedule.

The Ministry of Transport is responsible for the enforcement of the Road Transportation Law and the relevant law that regulate road traffic business while JFTC administers and enforces AMA which is a competition law in this sector. The chairman and members of the JFTC are independent from sectoral regulator in executing their authority.

(1.10)

(1.11) JFTC has applied AMA to several projects with regard to regulations on the road transportation sector. The JFTC issued a recommendation to the Mie Prefecture Bus Operators Association with regard to fares authorised by the minister for transport in 1990. The Road Transportation Business Law at the time stipulated that chartered bus operators must obtain permission to change their business plans, such as fares and an increase in the number of vehicles in service from the minister for transport. Furthermore, the law stipulated that such companies could freely set their fares within the framework of the upper and lower limits calculated on the basis of the authorised standards. In order to cope with a decline in bus charter fares, the Mie Prefecture Bus Operators Association, comprising chartered bus operators and others:

1) set the minimum bus charter fare for large-lot customers; and
2) fixed the number of chartered buses that its members should apply for permission to increase, and forced its members to abide by the decision.

The action mentioned in 1) restrained price competition in the bus charter business for large-lot customers, and the action described in 2) unfairly restrained the functions and business activities of its member companies. Therefore, the JFTC concluded that the practices constitute AMA violations and issued a recommendation to the association (Decision on Feb. 2, 1990).

(1.12) There is a case related to an essential facility as follows ("Fukushima District Hire-Taxi Co-operative" Case). The Fukushima District Hire-Taxi Co-operative raised commissions for common taxi tickets imposed on two member companies that lowered their taxi fares, and urged them in a letter to refrain from using taxi stands in the compounds of JR Fukushima Station and other locations in Fukushima. JFTC warned the co-operative that the practices could constitute AMA violations (Oct. 24, 1997).