This note is submitted by the Delegation of Italy to the Working Party No. 2 FOR DISCUSSION at its next meeting on 27 October 2000.
1. Introduction.

1. The analysis of the legislative framework and the regulatory structure of the road transport sector in Italy is complex. This is due in part to the multiplicity of regulators which take part, at different levels, in the task of governing the sectors concerned, and in part to the fact that the regulatory reform process is far from being completed.

2. Regulatory Regime

2.1 National road passenger service

2.1.1 General rules

2. The law establishes that road passenger service providers must have a vehicle with a minimum capacity of 9 passengers\(^1\). Authorisations to provide the service can be granted only if the firms can prove that they are qualified from a moral, financial and professional standpoint.

2.1.2 The licensing regime of scheduled and occasional services

3. The provision of scheduled and occasional bus services on interregional routes is subject to a public-franchise system\(^2\). The franchise specifies the characteristics of the service (routes, timetables, tariffs). It also envisages what the possibilities are for the franchise holder to change terms and conditions of service provision and to withdraw from operating the service. It is granted by the Ministry of Transport upon request, following a public preliminary examination, which tends to ascertain, inter alia, whether the service is of public interest.

4. As far as the scheduled services are concerned\(^3\), the time limit within which a franchise must be granted or denied is 120 days from the request.

5. The franchise is not exclusive (even though, in practice, for most individual routes only one franchise contract is awarded). Before granting the franchise, the Ministry takes into account the interests of incumbent operators. The law does not envisage any limitation on the number of franchise contracts that each operator can be awarded. Service providers have to be granted new franchise contracts in order to serve additional routes, but incumbents have a priority right vis-à-vis new entrants\(^4\). Furthermore, for long-distance services, franchise operators of “neighbour” routes are given preference over other applicants.
2.1.3 Tariffs

6. The franchise contract determines the applicable tariffs for scheduled services on the basis of existing railroad transportation rates, whereas prices of occasional services are privately negotiated by the parties within a range set out by the Treasury Minister.

2.2 Regional road passenger services

7. The provision of scheduled and occasional bus services on regional routes is subject to a public-franchise system. Regions are responsible for regulating occasional road passenger transport services.

8. Scheduled regional services are franchised for a 500 km route where the potential service area includes at least 300,000 inhabitants. Otherwise, Regions may assign the service - through a public contest - to companies which qualify for providing occasional bus services. The Region takes into account “demand”, particularly with regard to commuters needs and the integration of different transport networks.

9. Regions are also responsible for authorising chartered services (with driver) over routes under their jurisdiction. Each single vehicle has to be granted an authorisation. There is no limit on the quantity of authorisations that each operator can be granted. However, these operators are not permitted to provide taxi services.

2.3 Local road passenger services

2.3.1 The legislative framework for local road passenger services: an overview

10. Law No. 142 of 8 June 1990 (Organisation of Local Powers), containing general administrative rules to be followed by local authorities, grants exclusive competence to local authorities (municipalities and provinces) regarding the supply of those public services defined as “having social objectives and aimed at promoting the economic and social development of local communities”. Services provided by local authorities include energy, natural gas, water, waste management, education, roads, public lighting, libraries, kindergartens, school cafeterias. Until 1997, local transportation was also included in such list. Legislative Decree 19 November 1997, No. 422 - as amended by Legislative Decree 4 August 1999, No. 400 - has partially amended Law No. 142/1990 by transferring to Regional and municipal authorities the regulation (also via Implementing Regional laws) of regional and local road passenger services. In particular, the Legislative Decree No. 422/1997 vested regional governments with decision-making responsibility over the planning and financing of local services. So far, only 13 Regions have adopted specific Implementing Regional legislation.

11. The national Government has maintained specific competence for: a) agreements concerning international passenger services; b) safety controls; c) adoption of guidelines to reduce pollution related to road transport. Furthermore, Regions can transfer to Provinces and Municipalities all those tasks which do not need be co-ordinated at the Regional level.
2.3.2 Organisation of local road passenger services and ownership of service providers

2.3.2.1 The current legal framework

12. As indicated above, Legislative Decree No. 422/1997 has reformed the local transport service sector. Yet, the implementation of the new system is far from being completed and the current organisation of local transport service still shows signs of the old regime under Law No. 142 of 8 June 1990. According to Law No. 142/1990 local authorities are entitled to perform their public interest functions with respect to the provision of local services in several ways.

13. First, they can provide specific services directly. A second alternative is to provide local services through enterprises wholly or partially owned. Different forms of such enterprises exist in the current Italian legislative framework. In particular, two main organisational forms, referred to in the law as “institutions” and “special enterprises”, are employed. Municipalities can also provide local services through consortia of enterprises (joint-ventures of several municipalities) or through enterprises with minority or majority shareholdings held by private parties. According to the law, these two kinds of semi-public companies can be assigned the task of directly providing the services for which they were incorporated, without taking into account any other possible competitor. Granting franchises to independent enterprises (“when technical, economic or public interest reasons arise”) represents an additional possibility for the supply of local services and, in the current scenario, a rather residual one.

2.3.2.2 The legislative framework established by the reform

14. The reform set out by Legislative Decrees No. 422/1997 - as amended by Legislative Decree No. 400/1999 - is going to change radically the above mentioned legal framework. Namely, Legislative Decree No. 400/1999 makes it compulsory to reorganise special enterprises and consortia of enterprises as public limited companies or co-operatives and establishes that service providers must be selected through a public contest. Anyway, it provided for an interim period (three years at most) within which current operators can continue providing services under the old regime.

15. Competitive public tenders shall take place according to EC and national rules on public procurement, as from the conclusion of the transitional period. The law neither explicitly sets out the organisational forms of the enterprises that can provide local services, nor specifies whether service provision is subject to a licence or a permit. However, it establishes that more than one operator can provide the service in the relevant territory.

16. Only commercial entities qualified from a moral, financial and professional standpoint may participate to a competitive public tender. Enterprises that either in Italy or abroad have been assigned the task of providing the services without any competitive tender are excluded from tenders. The contract is awarded at the most economically advantageous tender, upon comparison of the proposed plans with respect to:

− the development and provision of the services concerned;
− development of the facilities.

17. Regional and municipal authorities are responsible for defining minimum service requirements (to be paid for by Regions). It is worth noting that, so far, local services have been financed, to a large
extent, through transfers from the national budget as well as local taxes, rather than user charges. As a result, at present, incentives to economic efficiency and fiscal discipline play only a limited role. Furthermore, substantial differences exist across services with respect to the share of total costs that is actually recovered through direct user charges. For most services, indeed, revenues from direct user charges amount to less than 50% of total costs. Legislative Decree No. 400/1999 states that Regions, Provinces and Municipalities, in order to ensure the provision of adequate transport facilities, define public service obligations, and the public service contract between the licensing authority and the service provider sets out the corresponding economic compensation to be paid for by public administration.

18. Regional and municipal authorities are responsible for defining tariffs and intermodal integration. Legislative Decree No. 400/1999 sets out a price ceiling. In any case, the price charged to the public is defined in the public service contract between service operators and competent authorities. Price increases are permitted on the basis and within the limits of a price-cap review mechanism.

3. The Ministry of Transport

19. Unlike other public services sectors, in Italy no sector-specific regulatory Authority has been assigned the task of developing and implementing policies as regards road passenger services. The Law attributes this responsibility to the Ministry of Transport.

20. Yet, the above mentioned “Implementing Regional Laws” may provide for “Local Agencies for the Mobility” in charge of planning and co-ordinating the local road passenger services. So far, only the “Implementing Regional Law” of Emilia Romagna provides for the establishment of such an Agency.

4. Market Structure and Competition Issues in road passenger service

4.1 Market structure

21. According to the 2000 “Piano Generale dei Trasporti e della Logistica” by the Ministry of Transport, the road transport sector in Italy is a small market, even though its importance is growing. Private motorcars are the predominant means of transporting people on routes exceeding 200 km, rails amounting to 20% of all passengers transported, buses to 15%, airlines to 9% and maritime transport to 2.3%. According to a 1999 survey carried out by the National Association of the Local Public Service Enterprises (CISPEL), in Italy roughly 70% of all road transport takes place in high density urban areas.

4.2 Competition policy

22. In Italy, the Competition Act applies to all sectors and to all private and public enterprises (section 8(1) of Law 287/1990). However, competition rules do not apply to undertakings which, by law, are entrusted with the operation of services of general economic interest or operate on the market in a monopoly situation, only in so far as this is indispensable to perform the specific tasks assigned to them. In practice, however, this exception, which mirrors article 86(2) of the EU Treaty, has actually been applied only once, in a very minor case.

23. The Competition Authority has general jurisdiction over issues involving restrictions of competition, abuses of dominant positions and mergers, but has no sector-specific regulatory powers. However, the law grants the Competition Authority the power to notify Parliament, Government, single
Ministers and local authorities cases of particular relevance in which existing legal, regulatory, or general administrative provisions distort competition or the sound operation of the market, without being justified by considerations of general interest. In such cases the Authority may issue public reports and suggest the measures to be adopted in order to eliminate the identified restrictive effects. In addition, the Authority may also express opinions on draft statutes and regulations, as well as on competition and market-related issues, whenever it deems it necessary or it is requested to do so by government departments and agencies.

5.3 Competition Advocacy

REPORT ON MINIMUM TARIFFS FOR CHAUFFEUR-DRIVEN HIRED BUSES

24. In the Latium region, municipalities are required to hire buses with a driver for the provision of school transport services. The regional government is responsible for setting minimum charges for hiring buses with a driver, acting on a proposal of the most representative organisations of the vehicle hire market. The Authority highlighted the unjustifiable barriers to competition resulting from setting minimum administrative tariffs. Moreover, the regional legislation contrasted with the EC Directive 92/50, which provides for mandatory competitive tendering, for contracts above 200,000 Ecu, and prescribes two ways of adjudicating tenders, namely the criterion of the lowest price, or the most beneficial economic offer in cases where price is not the only issue at stake.

REPORT ON LOCAL PUBLIC TRANSPORT

25. In February 1998, the Italian Competition Authority submitted an opinion on Legislative Decree No. 422/1997 concerning the reform of local public transport services in Italy. Legislative decree No. 422/97 vested regional governments with responsibility for planning and financing expenditure decisions. The Authority emphasised that, in this context, competitive tendering was the most efficient mechanism for selecting service providers. It also recommended a less frequent use of public franchises for local transport services and advocated for a system of licenses or permits. Moreover, it suggested that in markets where competition is not possible, incentive methods be introduced, based on the regular comparison of performances of local monopolists operating in different service areas (s.c. yardstick competition). Lastly, it emphasised that the promotion of intermodal integration, fostered by Legislative Decree No. 422/97, should not lead to a strengthening of the dominant position currently held by the national railway company, Ferrovie dello Stato Spa (FS).

5.4 Competition Enforcement

FS SOGIN

26. In 1993, the Competition Authority initiated an investigation regarding the proposed acquisition of SOGIN (a regional bus company) by FS. As in Italy the rights to operate bus services in inter-regional and local markets are assigned by public franchise to a single operator, FS holds a dominant position in both rail and, to some extent, bus transport markets. The integration between bus and rail systems could be seen as a tool for achieving a greater internal efficiency by substituting bus for rail when load factors are particularly low. The Italian Competition Authority was concerned that the proposed acquisition would extend the dominant position held by FS in railways, as the markets affected by the merger (inter-regional and local markets) are geographically contiguous, as well as strengthen FS dominant position where bus and rail routes overlap. Furthermore, the presence of FS, directly or through agreements with other operators, could be extended to the entire logistic and freight sectors. In this case, the Competition Authority pointed out that the advantages of integration, such as the potential savings from service co-
ordination must be weighed against the risk of extending FS’s dominant position in railways to contiguous sectors. Therefore, the Authority authorised the merger, having FS taken specific measures to prevent the anticompetitive consequences of the proposed operation.

**AUTOBUS SCOLASTICI COMUNE DI ROMA - AGREEMENT ON THE SCHOOL BUS HIRING MARKET**

27. In 1996, the Authority carried out an investigation concerning some consortia and companies providing school bus services. It was alleged that they had agreed to share among them the school bus market in the municipality of Rome. The results of the investigation showed that the parties had initially refrained from bidding in a competitive tender for school transport services called for by the municipality of Rome, and subsequently had not competed against each other when contracts were being awarded through a negotiated procedure. It was ascertained that the parties had exchanged a great deal of information on costs and prices. Furthermore, the absence of competitive offers during private negotiations was a sign that each bidder knew other bidders’ intentions in advance. In consideration of the serious anticompetitive effects of the parties’ conduct, the Authority imposed fines, proportionate to the role played by each company in the collusive tendering conspiracy. CIPAR, the leading participant in the agreement, was fined 226 million lire, (2% of its turnover), while other parties were imposed fines of 1% of their respective turnovers.

**ROAD HAULAGE TRANSPORT**

1. **Regulatory Framework**

28. Until 1998 road haulage services were mainly regulated by Law, June 6, 1974, No. 298 which established, among others:

   - a national register of road haulage contractors for third parties;
   
   - a rate-band system, which provides “minimum” to “maximum” rates for merchandise transported by road.

29. Under the law, the task to develop and implement policies affecting road haulage services is attributed to the Ministry of Transport, which avails itself of the following committees:

   - a central committee, established by the Ministry itself, which sets up and updates the national register of road haulage contractors, and formulates proposals for determining transport rates; it is worth noting that such a committee is also comprised of delegates from industry associations in the road haulage transport sector.

   - provincial committees;

   - regional committees, which co-ordinate the activities of provincial committees.

30. On the basis of a projection of market demand, the Transport Minister determines annually, by decree, the total carrying capacity of the road haulage sector (after consultation with the Regions and the central committee) and establishes the permissible number of new authorisations for each province.
31. Those applying for inscription in the register of road haulage contractors must have (a) honour reference; (b) financial capacity; (c) professional competence (which includes a written examination administered by the provincial committees)\textsuperscript{39}. The committees, administered also by already authorised truckers, have 30 days within which to process an application and are obliged to justify their decision. A possible justification can also be a perceived lack in demand. The authorisations granted are issued with limitations on tonnage to each successful applicant\textsuperscript{40}, and have a 9-year renewable term.

32. Law No. 454/97 has established that the government must take specific measures in order

- to liberalise the sector, in particular: to reform the issuing of authorisations governing third party road haulage activities, in accordance with the existing European Community rules;

- to replace the existing rate-band system.

In particular, decree No. 85 of March 14, 1998, has:

- introduced a transition system of authorisations based on permits to be granted to corporations, rather than to individual vehicles;

- allowed the authorised operators to double the tonnage assigned on their 9-year term license (in order to favour aggregations).

2. Structure of the market

33. In Italy, road transport is the predominant means of moving freight, amounting to 74\% of all merchandise transported. 13\% is transported by sea, and 9\% by rail. The overall value of the road haulage market is about Lit. 93,000 billion, of which some Lit. 58,000 billion is generated by proprietor road haulage, and about Lit. 35,000 billion from corporate enterprises. According to a 1996 survey by CONFETRA (a confederation comprising representatives of third party road-haulage contractors), the active firms in the road haulage sector were approximately 145,000 of which 123,000 were individual truckers.

34. The bias in favour of road haulage in the transport sector is increasing due to the growing decentralisation of the corporate productive activities, and the reorganisation of the road haulage transport sector into effective logistic networks to service these diverse sources of business. These transport networks, known as the hub and spoke system, are growing. They use a centralised sorting facility, from which the merchandise is transported to/from outlying depots for end-point delivery. These logistic networks are structured country-wide. The firms with such networks have the required management infrastructure and financial means to implement them on a national scale. Given the different regulations in Italy and abroad, international operators are significantly obstructed.

3. Competition policy

3.1 The tasks of the Italian Competition Authority

35. The Competition Authority has general jurisdiction over issues involving restrictions of competition, abuses of dominant positions and mergers, but has no sector-specific regulatory powers.
36. However, the law grants the Competition Authority the power to notify Parliament, Government, single Ministers and local authorities cases of particular relevance in which existing legal, regulatory, or general administrative provisions distort competition or the sound operation of the market, without being justified by considerations of general interest. In such cases the Authority may issue public reports and suggest the measures to be adopted in order to eliminate the identified restrictive effects. In addition, the Authority may also express opinions on draft statutes and regulations, as well as on competition and market-related issues, whenever it deems it necessary or it is requested to do so by government departments and agencies.

3.2 *Competition Advocacy*

37. In 1993 the Italian Competition Authority submitted a report to the regulatory bodies of road haulage services stressing that there were no market failures in road haulage and there was no need for limiting entry. Furthermore the existing system of price control (identifying by decree the band for lawful trucking prices) did not serve any useful purpose and was even not respected by truckers.
T A X I

1. Introduction

38. In Italy, very strict legal provisions regulate entry conditions and pricing decisions in the taxi services sector. For these services, regulatory restrictions are imposed not only at the national level, but also by regional and municipal governments. Municipalities also have some discretionary power in deciding how much restrictive their regulation can be. The sector is also characterised by quantitative ceilings to the permissible number of licences. Lastly, regulations and statutory provisions establish minimum fares for the services.

39. In 1995 the Italian Competition Authority submitted to the relevant regulatory bodies, at the national and local level, a report on the regulation of taxi services. The report advocated for a review of existing regulations and statutory provisions, particularly those that were deemed to place artificial restrictions on price competition to the detriment of consumers. The Authority considered that there were valuable consumer protection reasons for administrative authorities to impose maximum charges, establish service obligations, and set professional standards for taxi drivers, but also argued that there was no justification, in terms of possible consumer benefits, to fix minimum taxi fares.

2. The Regulatory Authorities

40. In Italy, regulatory powers with respect to taxi services are entrusted with:

- the Ministry of Transport; as regards general aspects of the operation of taxi services;
- the Regions; as regards the criteria the municipalities must observe in drafting their regulations;
- the municipalities, as regards the control of taxi services provision within the municipal territory.

3. Regulatory framework

3.1 Licences

41. Law No. 21 of 15 January 1992 sets out the national regulatory framework for taxi services in Italy and provides, inter alia, for:

- the allocation of responsibilities between Regions and municipalities; and
- the conditions for the granting of licences; in addition, the Law establishes the general obligations on licence holders and the characteristics of vehicles.

42. In particular, the Regions identify the criteria to which municipal regulation must conform in order to ensure adequate co-ordination of unscheduled public transport within the local jurisdiction. Regional legislation provides that local governments control the operation of unscheduled public car
services by means of specific regulations, which may be harmonised with those of other municipalities for sake of greater rationality and efficiency.

43. Within these constraints, municipal regulations must ensure that the supply of taxi services within their jurisdiction is adequate, in both quantitative and qualitative terms, to meet and satisfy local demand; to this end, they grant licenses to operators who comply with the formal requirements established by law. The overall number of licences has also to be compatible with safety and environmental standards. Furthermore municipalities must establish, by means of appropriate regulations: a) the number and type of vehicles allocated to taxi transport; b) the characteristics of service provision (service standards and rules on advertising of rates and service availability, among others); c) the criteria for rate-setting; and d) the requirements and conditions for granting a taxi licence. Finally municipalities must ensure that the transport of individuals or small groups of persons is complementary to, and integrated with, the municipal public transport system.

44. It must be pointed out that the number and type of vehicles for taxi services is established by the Municipality after consultation with a “consulting committee”, whose members are mostly delegates from taxi-drivers associations.

45. Licences can only be granted, by municipal governments, to individuals; these individuals can associate in co-operatives or consortia. Each licence is granted for just one vehicle. Each person cannot hold more than one licence. Licences are awarded, through public contest. In order to be awarded a licence, the applicant must be registered in a List of drivers of vehicles allocated to unscheduled public car transportation services. The List is established by the Regions and held by the Chamber of Commerce. The criteria for inclusion in the register are established by the Regions themselves, and requirements usually include a certification of professional skills, as well as prior examination by the appropriate regional commission. Taxi drivers who have operated the service for at least six months as substitute drivers for a licence holder, are entitled to preferential treatment when new licences are being granted.

46. Entry is also possible through the acquisition of a licence from licence holders who cease to operate.

47. The licence is granted for an indefinite term.

48. For connections with airports, holders of unscheduled public service licences issued by the regional and provincial administrations, as well as by the municipality (or municipalities) where the airport is located, are permitted to offer the service.

3.2 Qualitative Standards

49. Law 21/1992 sets out some requirements regarding vehicles. Cars allocated to taxi service must be equipped with a standard taxi meter, where the corresponding payment is displayed. Every additional rate must be made known to the user through clearly legible notices placed on the dashboard of the vehicle. Under exceptional circumstances, in small municipalities cars allocated to the taxi service are exempted from the obligation to have a taximeter installed. Moreover, the same vehicles used for the taxi service are also permitted to be used for chauffer-driven rentals. Each car must be of a common colour and must carry a luminous sign on the roof on which “taxi” is written.
3.3 Regulatory Constraints on Service Schedules

50. Municipalities set standards for service operation. Each municipality can establish limits to the service schedule of individual vehicles or drivers, in general after consultation and upon agreement with the relevant taxi-drivers associations. Municipalities must set specific service conditions for the transportation of disadvantaged individuals, as well as establish the number and type of cars for the transport of individuals with particularly serious handicaps.

3.4 Price Control

51. Law No. 21/1992 establishes that taxi services are provided upon direct request by the person(s) transported, as well as upon payment of charges displayed on a standard taximeter, and based on rates determined by the competent administrative authority. Any additional charge must be made known to the user through clearly legible notices, placed on the dashboard of the motorcar.

4. Municipal Regulation: the case of Rome

52. The Municipality of Rome has recently introduced some flexibility in the regulation of taxi services. In particular, some recent Municipal Resolutions reorganised the taxi service reviewing, in particular, the rate and shift setting system.

53. As a result, fixed shifts were eliminated and substituted by a minimum service requirement of six hours. It has been recently established that working time (of each car, not of each driver!) cannot exceed nine hours per day. Furthermore, the Municipality of Rome has eliminated the system of fixed rates, while maintaining a ceiling for maximum applicable charges.

54. Finally the municipality introduced a new collective taxi service, the “taxibus”, something in between the collective service and the individual service provided by traditional taxis. The “taxibus” intends to supplement the existing public urban transportation network in order to more effectively face the ongoing increase in demand for mobility in the city centre (also in the light of new mobility needs: sport, shopping and so on). Tenders for the provision of taxibus services are restricted to (a) individuals registered in the List of drivers (taxi and car hire) also associated in co-operatives or in consortia; (b) enterprises holding charter bus licences or public-franchisees of public line service; (c) individuals, co-operatives and firms in possession of a licence for carrying out non line passenger transport service.

5. Competition policy

5.1 The jurisdiction of the Competition Authority

55. In Italy, the Competition Act applies to all sectors and to all private and public enterprises (section 8(1) of Law 287/1990). The Competition Authority has general jurisdiction over issues involving restrictions of competition, abuses of dominant positions and mergers, but has no sector-specific regulatory powers. Up until now no antitrust case has involved the taxi industry.
5.2 Competition Advocacy

56. The law grants the Competition Authority the power to notify Parliament, Government, single Ministers and local authorities cases of particular relevance in which existing legal, regulatory, or general administrative provisions distort competition or the sound operation of the market, without being justified by considerations of general interest. In such cases the Authority may issue public reports and suggest the measures to be adopted in order to eliminate the identified restrictive effects. In addition, the Authority may also express opinions on draft statutes and regulations, as well as on competition and market-related issues, whenever it deems it necessary or it is requested to do so by government departments and agencies.

ADVOCACY REPORT ON THE REGULATION OF TAXI SERVICES

57. As mentioned above, in July 1995, the Italian Competition Authority, upon request of the Municipality of Rome, submitted an opinion concerning the competition-restricting effects on the provision of taxi services in Rome, resulting from Law No. 21/1992, the regional implementing legislation, and the relevant Resolution of the Municipality of Rome.

58. The Authority considered, among others, that the framework regulation did not adequately take into account the demand for transport. The constraints on the number of licences, grounded on an inaccurate analysis of demand for transport, created an artificial scarcity, to the detriment of taxi users, both in terms of service availability and diversification, and with regard to price of service.

59. As to the imposition of maximum rates, the Authority deemed that this mechanism originates from the market power each taxi cab can exercise over its users because of the high search cost involved in searching for the most competitive rate. At the same time, however, it was emphasised that the imposition of minimum rates has no justification in terms of consumer protection. Nor were there any sound reasons supporting the provision laid down in Resolution n. 530/1994 of the Municipality of Rome, which prevented operators from offering discounts on the normal rate without prior authorisation from the municipality.

6. Effects of the Partial Liberalization in the Municipality of Rome

60. As mentioned above, recent Resolutions of the Municipality of Rome repealed the fixed rates system. At present, the municipality is exclusively setting maximum rates; each taxi driver can charge lower rates through conventions and discounts, as well as reduce fixed charges (surcharge and price at the beginning of the trip).

61. Regarding the new taxibus service, the Municipality of Rome has fixed the maximum rates for each area of its territory and has permitted individual operators to charge lower rates and to offer discounts. Further to the introduction of the “taxibus” service, overall supply has increased. While amendments to Law No. 21/1992 - so as to also permit an increase in the number of licences - remain desirable, taxibuses have nonetheless proved useful to address the growing demand for transport by individuals and small groups.
NOTES

1. See Section 1 of Ministerial Decree No. 448 of 20 December 1991
2. According to Law No. 1822/1939; see also Presidential Decree No. 369 of 22 April 1994; Legislative Decree No. 112 of 31 March 1998 and Legislative Decree No. 400 of 4 August 1999, which transferred to Regions and to local governments the task of regulating local transport services, completed the legislative framework for bus scheduled services on long distance routes. At EC level the liberalisation process is grounded on Regulations 1161/69, n. 2454/92 and n. 684/92.
4. See Section 5 of Law No. 1822/1939.
5. According to Law No. 1822/1939.
6. Law No. 21 of 15 January 1992
7. See Section 2 of Legislative Decree No. 400/1999.
8. See Section 16 of Legislative Decree No. 400/1999
9. According to Section 105(2), lett. (a), of Legislative Decree No. 112/1998 - (the Decree which has transferred to Regions and local governments some powers formerly within the competence of the State).
10. On the contrary, Municipalities are responsible for authorising chartered services over local routes: in particular, each single vehicle has to be granted a municipal authorisation.
11. The profession of driver is, in turn, governed by Ministerial Decree No. 488 of 20 December 1991.
12. The driver has to qualify according to Ministerial Decree No. 448 of 20 December 1999 (which implements EC Directive No. 438 of 21 June 1989 and Law No. 21 of 15 January 1992.). Furthermore, more specific requirements can be set out by municipal governments (See Law No. 21/1992).
13. See section 8.2 of Law No. 21/1992
14. In February 1998, the Italian Competition Authority submitted an opinion to Parliament and the Government about Legislative Decree No. 422/1997 on the reform of local public transport services in Italy. Legislative decree No. 422/97 vested regional governments with responsibility for programming and financing expenditure decisions. The Authority emphasised that, in this context, the invitation of public tenders was the most efficient instrument for selecting service providers. It also expressed its preference, from a competition protection viewpoint, for a less frequent recourse to the use of public franchises for local transport services in favour of a system of licenses or permits. Moreover, in markets where competitive equilibria are not feasible, incentive methods should be introduced, based on a regular comparison of the performance of the local monopolist with the performance of other service-providers elsewhere in Italy. Lastly, it was emphasised that the promotion of intermodal integration, fostered by the legislative decree No. 422/97, should not lead to a strengthening of the dominant position currently held by the national railway company, Ferrovie dello Stato Spa.
15. It is worth noting that Legislative Decree No. 400/1999 has adopted most of Authority’s recommendations amending some of the anti-competitive provisions of Legislative Decree Decree No. 422/1997.
16. In view of the municipalities’ limited incentives to cost minimisation (which led to substantial budget deficits and generally poor services), the government has recently proposed amendments to Law No. 142/90 (Bill of Law No. AC 7042) aimed at introducing greater competition in the supply of local services, particularly for services of “industrial relevance” (supply of energy, gas and water, road transportation and waste management services).
17. Legislative Decree No. 112 of 31 March 1998 has further specified the area of competence maintained by national government.

18. See Section 7 of Decree No. 400/1999.

19. As mentioned above, Law No. 142/1990 should be very soon amended by Bill of Law AC 7042.

20. Institutions can be set up for the provision of social services not having “entrepreneurial relevance”. These include, for example, the assistance to elderly and disadvantaged people and the running of some cultural events. Institutions do not enjoy financial autonomy, being totally dependent on their respective municipalities for funding.

21. Special enterprises enjoy financial and operational autonomy to a greater extent and are required to balance their budgets (with the municipality providing sufficient resources to ensure the proper fulfilment of social obligations such as universal service provisions).

22. See Section 22.1 lett. e, of Law No. 142/1990.

23. See Section 12.1 of Law No. 498 of 23 December 1992 and Presidential Decree No. 533 of 16 September 1996 which requires the adoption of a public service contract entered into between the competent authority and the transport undertaking in order to provide the public with adequate transport services.

24. In November 1997, the Authority issued a report on various provisions contained in a bill on the reform of local government (Report on local public services). In particular, local governments were required to choose the way in which they intended to manage services “of economic and entrepreneurial relevance” by comparing the following alternatives: a semi-public company, a franchise to third parties or a local public enterprise. Since there was no explicit indication of the criteria by which these three alternatives were to be compared, the Authority advised following "management cost-effectiveness" as the criterion to be adopted and to make any choice on the direct commissioning of services conditional upon demonstrating the benefits of the choice in comparison with an alternative procedure based on competition. The bill also provided that companies in which several local authorities constituted the majority shareholders could be assigned the task to provide the services for which they were incorporated directly, without any competitive tender. The Authority considered that these procedures should not be used for semi-public companies, which should be governed by the same rules as companies that have no relations with the local authorities. Competitive tenders should be submitted for managing the service and not for identifying the private shareholder in semi-public companies.

25. Section 18.3 bis of Legislative Decree No. 400/1999 states that, anyway, the interim period expires on December 31st, 2003. Meanwhile, the public franchisees may go on providing the services assigned; yet, they are obliged to assign some of the services currently provided through competing public tenders.

26. On this matter see also Bill of Law AC 7042.

27. Anyway, the license is fixed term (the permission cannot exceed 9 years).

28. On the contrary, law No. 142/1990 does not makes clear if “special enterprises” and controlled enterprises with minority shareholdings held by private parties can provide services beyond the municipal territory, even if section 24 of the law envisages agreements among local authorities in order to co-ordinate the supply of public services provided by each of them. However there are a number of decisions of administrative courts which held unlawful that a controlled enterprise provided a public service beyond the municipal territory. Differently, Bill of Law No. AC 7042 establishes that “institutions” and “special enterprises”, cannot provide services beyond the municipal territory. There is no similar regulatory restriction for other kinds of operators.

29. See Section 17.


31. See Section 14.3 lett. a of Legislative Decree No. 400/1999. As far as the intermodal integration is concerned, one can notice that in February 1998, within the above mentioned
opinion to Parliament and the Government about Legislative Decree No. 422/1997, the Italian Competition Authority emphasised that the promotion of intermodal integration, fostered by the legislative decree No. 422/97, should not lead to a strengthening of the dominant position currently held by the national railway company, Ferrovie dello Stato Spa. It is also worth noting that, up to now, only two Regions have defined a system of tariff integration.

32. See Section 19.3 of Legislative Decree No. 422/1997.
33. See Section 2.18 of Law No. 481/1995
34. See Ministry of Transport, “Nuovo Piano Generale dei Trasporti e della Logistica”, July 2000, para. 6(3).
35. Decision n. 1667, of 20 December 1993
36. The prescription period for credits arising out from the road-haulage transport activity is 5 years (on this subject see Law No. 162/93). This means that, within five years, a road haulage contractor can bring its counterpart before a Court in order to contest the fairness of the rate agreed upon in the contract.

37. The major industry associations in the road haulage transport sector are: UTI (Union of Italian Carriers), CUNA (Unitary Road Haulage Co-ordination), and CONFETRA (a confederation comprising representatives of third party road-haulage contractors).

38. See law No. 298/74.
39. See Legislative Decree No. 84 dated March 14, 1998.
40. Decree No. 85 of March 14, 1998, has allowed the authorised operators to double the tonnage assigned on their 9-year term authorisation.
42. See Ministerial Decree no. 572/1992.
43. These quantitative constraints on the number of permissible licences are established by section 5 of Law no. 21/1992
44. Legislative Decree No. 400 of 4 August 1999, which transferred to Regions and local governments the task of regulating local transport services, also provides some further obligations as regards taxi services (rules on pollution control, on advertising, and on connections with airports).
45. In view of the foregoing, local regulations can differ across municipalities.
46. The license holder who confers his licence to an association or a consortium retains the ownership of the licence (See Section 7 of Law no. 21/1992).
47. See Section 8 of Law no. 21/1992
48. Art. 6 of Law No. 21/1992 establishes that the inscription in the List of drivers of vehicles allocated to unscheduled public car transportation services is an essential requirement for all operators, including substitutes of licence holders.
49. See Section 14.8 of Law no. 21/1992.
50. See Section 12
51. According to Law no. 21/1992
52. See Section 14 of Law no. 21/1992.
53. See Section 13
54. See Section 14(2) of Legislative Decree No. 400/1999.
55. According to Section 14(5) of Legislative Decree No. 400/1999.
56. See Section 7 of law n. 21/1992
57. Provision of service requires motorcars with a maximum of 9 places including the driver.
59. See above note No. 1
60. Law No. 58 of 26 October 1993 of the Latium Region.