

Meeting of Joint Oireachtas Committee

30 May 2018

OPENING STATEMENT

Rickshaws – Addressing Concerns

This meeting is very timely in the context of rickshaws and I'm happy to take this opportunity to provide you with an update.

In recent weeks, I indicated that I would take a decision on the preferred policy approach before the end of this Dáil term. That is still my intention.

Public Safety

I have deep concerns about public safety with rickshaws on our streets. We have all seen them. Blocking footpaths and forcing pedestrians onto the road. Weaving recklessly in and out of traffic. Little or no heed for the rules of the road. Breaking red lights. Driving the wrong way up a one-way street. Transporting passengers with little care for their safety. Of course, there have been collisions. The NTA Survey revealed 57% of rickshaw passengers as reporting Accidents or Near Misses. This is a shocking statistic.

And there is more. While it is accepted that many in the rickshaw industry have no involvement in criminality, it is a fact that over the past 18 months 154 rickshaw drivers have been arrested in relation to Section 15 Misuse of Drugs Act - possession of a controlled drug for sale or supply - while operating as a rickshaw driver in the Pearse Street District alone. This is not acceptable. And I know that the Gardai are committed and focussed and doing great work to tackle drug-pushing and address the criminal threats. My Department also has an important part to play, as we decide the optimal regulatory approach for rickshaws in Ireland.

NTA Consultation

As you know, I asked the NTA to undertake a public consultation last autumn. My intention was that this would inform the Regulatory Impact Assessment

which must be undertaken in the context of developing new legislation. Over 4,800 responses were received, reflecting a keen level of interest.

The NTA consultation process reaffirmed many of the concerns that had been raised with me – issues like dangerous behaviour on public roads, lack of lighting, no insurance, illegal use of rickshaws in pedestrian zones, obstruction to buses as well as blocking taxis from taxi ranks.

There was also concern about the lack of a transparent fare structure - 44% of passengers in the survey reported issues with rickshaw charges. It seems that passengers are sometimes led to believe that one fare is to be charged. But when they arrive at their destination, it turns out that the figure quoted was per person, rather than for the journey. Such behaviour is unacceptable.

Deputy Munster's Amendment

However I am well aware that I am preaching to the converted here today. We all have the same concerns about safety on our streets and protection for our passengers. When Deputy Munster put forward an amendment to the Road Traffic Bill that would give suitable powers to the NTA to regulate rickshaws, the Dáil was in agreement and the Amendment was passed.

It was unfortunate that I was unable to commence that provision, now section 31 of the associated Act, but I felt it prudent to heed legal advice. The advice indicated that that there would be a risk attaching to any regulations made under that section. The risk was considered unacceptably high with a strong likelihood of the regulations being challenged and ultimately struck down.

Despite this setback, I have made it clear on many occasions in the Dáil that I have always shared the concerns relating to rickshaws and that I am actively taking steps to address these. The NTA Public Consultation was one important element.

I also instructed my Department to conduct international research and consider regulatory models in other EU Member States and cities. To engage with a range of stakeholders like the NTA itself, the RSA, An Garda Síochána, Dublin City Council and others in the local authority sector. Considering the legislative options was always going to be the most critical step.

Considering Legislative Options

It is clear to me that the choice is between a full and effective licensing regime and complete prohibition. Retaining the status quo is not an option. In relation to the public consultation, I'll have to admit that I was surprised when the majority– at 54% - supported an outright ban. Introducing regulation was favoured by less, at 38%. In any case, a full analysis of both options was needed.

Regulation

Any new regulatory regime for rickshaws would have to focus on public safety and consumer protection. To do this effectively, new legislative provisions would be needed in the areas of:

- driver and operator licensing,
- vehicle registration and licensing,
- rickshaw roadworthiness (involving an 'NCT' style test),
- motor tax,
- fares regulation,
- regulation in the standards of service, and
- offences and penalties to allow for proper enforcement.

All this would lead to better customer experience and an improvement in the management of safety for passengers, as well as for other road users. Rickshaws are arguably meeting a certain niche demand which is not being met by the traditional public transport services. 38% in the Survey want to retain them. Regulating could allow rickshaws to continue in operation, contributing a fun and vibrant aspect to city life.

However, significant resources would need to be invested. More admin and enforcement resources would be needed in the NTA and the Gardaí, possibly also in the RSA. Implementing a full licensing regime together with enforcement would come at a substantial cost to the State. All for a relatively small number of vehicles.

But perhaps the biggest concern for me is the challenge around defining the rickshaw vehicle in law.

The rickshaw is driven on the public road. This means - if we want to regulate them, we first have to amend Road Traffic legislation. Since there is extensive litigation under that legislation, we have to be very exact as to how we define a vehicle.

As we know, there are different types of rickshaw – some are pedal-powered and some have a motor. The NTA advises that pedal powered rickshaws can easily be converted to motorised. Within minutes in fact, by attaching a small motor to the back axel. The motor can be removed just as quickly.

All this means that any new legislation for rickshaws will need to be developed with extreme care. The new regime will bring benefits, of course. But it will be costly to implement. And it may well prove difficult to enforce in a meaningful way.

Prohibition

Allegations of dangerous driving by rickshaws, illegal movements in pedestrian zones and fears about public safety are growing all the time. A ban on rickshaws on the public road would deal comprehensively with these concerns. It would be a significant step forward in managing the risk for public safety.

New Legislation would be needed but enforcement of a ban should cost significantly less than implementing a full new regulatory regime. We would still have to define the rickshaw vehicle in law, and provide for detention powers. But this would involve a much simpler piece of legislation. Enforcement should also be less resource-intensive - the NTA would not need extra staff. And Gardai could be empowered to act decisively when coming upon a rickshaw on a public road.

After a transition period, it seems likely that rickshaws would disappear from our streets. I am aware that some members of the public would be inconvenienced. And it is true that with a ban - our cities could miss out on the sense of adventure and fun that rickshaws can bring.

I am conscious also that there are compliant people who earn a legitimate living from these services. And that a ban would have a adverse impact on them. A small number of operators reported in the Survey that they have invested in significant numbers of rickshaws. And there are also many drivers who work part-time in the industry. Impacts would all have to be carefully weighed.

Conclusion

I am very conscious of the intentions of the Dáil as expressed in the adoption of Deputy Munster's amendment. I share deep concerns about the continuing hazards arising from rickshaws. Regulation could be effective if implemented using comprehensive and tight controls, but this would come at a large cost. Given the very small proportion of the market being served by rickshaws, the preferred approach is to opt for an outright ban. It is believed it will achieve the desired outcome of improved public safety at a proportionate cost for the taxpayer.

However, this option is not entirely without obstacles. My officials are engaging with the Office of Attorney General to consider any blockages which might arise with the preferred approach, including how best to weigh and balance private interests in the context of the public good.

Legal advice takes an unwelcome amount of time, but it is essential. I know that I need to be clear – not only that the right decision is being made, but that it is being made in the right way. Once consultations with the Office of the Attorney General are complete, I expect to be in a position to finalise and announce my decision before the end of this Dáil term.

ENDS