

**MOVING WITH THE TIMES :
THE MINIBUS-TAXI INDUSTRY**

**A Submission to the
Competition Commission South Africa
Public Passenger Transport Market Inquiry**

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SUMMARY

MAIN SUBMISSION

The body of this submission describes how the minibus-taxi operates under the current system of 'regulated competition'.

It comments on two of the Commission's Terms of Reference as discussed in the 'Statement of Issues' (Sol) published by the Commission on 25 April 2018.

ToR 1 : Licensing, route allocation and entry regulation

The Sol rightly comments on the complexities and misalignment of the various parties involved in these aspects of 'regulated competition'. However, there appears to be no mention of the fact that when, with all its faults, decisions are made on these issues, they are very often completely ignored by the taxi operators in particular. This attitude is compounded by the apparent inability of the law enforcement agencies to take effective action.

This submission puts forward the view that taxi operators must be (a) required and (b) assisted to adopt management structures similar to those of the bus companies. The additional costs which will be incurred can be met initially by a combination of reductions in existing operating costs and modest increases in fares, together with some possible operating subsidy.

ToR 4 – Allocation of Operating Subsidies

The changes to management structure will allow the taxi industry to participate, in a way that it cannot now do, in the operating subsidy system administered and funded by government in order to reduce the cost of travel to the user, especially the commuter.

The submission comments on the implications for the operator, the commuter and government.

References

These are simply numbered in sequence in the body of the text. The detailed references are listed in the Reference page immediately before the Annexure.

ANNEXURE

The Annexure is an abridged version of a 2006 paper by the author of this submission. Entitled "The Paradox of the Minibus-Taxi", it describes why negotiations between government and the private sector on the one hand, and the taxi industry leadership on the other, so often fail to produce the intended results.

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1 ToR 1 : Licensing, route allocation and entry regulation

1.1 Legislation

The Sol rightly comments on the complexities and misalignment of the various parties involved in the administration of ‘regulated competition’, in particular the process by which in terms of the National Land Transport Act 2009 (1), Provincial Regulatory Entities receive and decide upon applications for Operating Licences.

However, there appears to be no mention of the fact that when, with all its faults, decisions (even “non-decisions” due to inefficiencies) are made on these issues, they are very often ignored by taxi operators; nor that efforts to enforce the laws appear to be wholly inadequate.

For evidence, we need only look at the way the taxi operates on our streets and, in a more sinister example, read in the media of taxi wars and killings arising from competition for routes.

This lack of enforcement makes a mockery of the huge efforts which go into the development of legislation.

In April 2013 the Department of Transport published for public comment a draft National Land Transport Amendment Bill (2). The Parliamentary Portfolio Committee on Transport (PPC Transport) began consideration of the Bill and the comments received. Some three years later, an Amendment Bill proper was published in the Government Gazette (3).

Once again, the PPC Transport engaged in detailed discussions and hearings. At long last, on 24 April this year (2018) the Bill was passed by the National Assembly (4). It has now been forwarded to the National Council of Provinces. It is hoped that the NCOP will later this year approve the Bill (with such amendments as it feels appropriate) so that it can be presented to the President for signature.

These admirable processes will therefore have taken more than five years of conscientious deliberation. It is disheartening to recognise that all this effort will almost certainly be rendered nugatory, at least in the case of the Operating Licence regulatory system. Unless some concomitant action is taken to ensure that the provisions of the relevant sections are enforced, then those at whom they are aimed, especially taxi operators, will continue to ignore them.

The ideal would be voluntary compliance. If every taxi owner kept to the letter of the many laws which apply to him or her, both as the holder of an Operating Licence and as a business owner and employer, and if the vast majority of drivers scrupulously observed all the rules of the road, the enforcement task would be manageable.

But that degree of voluntary compliance regrettably does not exist. There is a need for a 'stick and carrot' strategy.

1.1.1 The 'Stick' - the Operating Licence

The 'stick' is provided in the National Land Transport Act ('the NLTA').

Illegal Operators

One consequence of the practice of 'route allocation' is that a culture has arisen in which an association feels that as long as it has agreed to an application by a member and has issued a letter of support, then the requirements for issuance have been met. That, of course, is not the case, as the NLTA makes quite clear.

(The National Land Transport Transition Act 2000 included the following specific condition, under the heading "Operating licence is not a right" :

"34. (1) Except on the conversion of a permit to an operating licence, no person has a right to be issued with an operating licence."(5)

It might be thought unfortunate that a similar condition was not included in the NLTA)

A taxi owner who operates without the necessary Operating Licence for a specific route (or under an earlier 'Permit' which is still valid) is contravening the law. S/he is acting illegally, and enforcement action should follow.

The Sol might be thought to be inadvertently offering some encouragement to the practice by taxi operators of ignoring the legislation, in its comment :

".....a potential entrant into the industry who meets all the requirements for an operating licence may be confronted by either a moratorium on the issuing of new operating licences or a substantial backlog at the PRE. This has resulted in some potential entrants having to operate without operating licenses and thus ultimately leading to overtrading." (para 28)

A potential new entrant does not have to operate without an operating licence. The NLTA is very clear. Section 50 (1) of the Act states very firmly :

"No person may operate a road-based public transport service unless he or she is the holder of an Operating Licence or a permit.....issued for the vehicle concerned in terms of this Act."(6)

The very first element of a new approach must be for illegal operators, wherever and whoever they are, to be prevented from operating. This must not mean merely impounding vehicles pending payment of a fine and pound fee; this simply allows the operator to resume the illegal operations with little loss of net income. The vehicle, the means of carrying out the illegal operations and earning the illegal income, must be impounded for a period of time – say, three months.

Some would make the impoundment permanent. In Cape Town, for example, the city's media office issued on 17 April 2018 a statement which quoted the MMC for Safety and Security, Alderman JP Smith, as saying :

'Impoundment is a massive logistical exercise for us as the vehicle has to be driven to the pound by a traffic officer and the necessary documentation completed, which is time consuming. When one considers that the vehicle reclaim rate among public transport operators is 98%, it does make impoundment seem like a revolving door as the vehicle is back on the street virtually the same day or the next. We need to hurt errant operators where it hurts and that is permanent impoundment, but currently the law does not allow for this and the City simply enforces the law, we do not make it. We have been working with the Provincial Government to expedite the conclusion of the new Provincial Traffic legislation that would allow for more effective enforcement strategies, including impoundment of vehicles for traffic offences committed by public transport vehicles rather than issuing fines which are often evaded'. (7)

It is absolutely crucial to the orderly development (and economic transformation) of the taxi industry that the Operating Licence provisions are strictly enforced. Legal operators have so often entered into partnerships with government where the bargain has been : "If you, the taxi operators, agree to do what government wants, then we, the government will protect you from illegal operators". The registration process which followed the 1996 National Taxi Task Team is a case in point. Under such programmes as the 'Be Legal' campaign and the 'Special Legalisation' process, law-abiding taxi operators complied with the government's bidding. But the protection they were promised never materialised.

This submission suggests later in this section what for the legal taxi industry might be difficult changes. It is essential that government first deals effectively with illegal operators – and not just on a once-off basis, but with an ongoing process and commitment.

Legal Operators

On 10 October 2015, the then Minister of Transport, Ms. Dipuo Peters, issued an angry condemnation of the taxi industry. Her comments included these :

"The Minister.....is making a clarion call for extensive behavioural transformation and attitude adjustment in the taxi industry.....which has become notorious for violence, anarchy and bad service.

"Indeed, it is unacceptable and very unfortunate that taxi operators and drivers are taking their own clients – and other road users- for granted and ignore their fundamental right to life by driving recklessly and by using taxis without permits (*sic*).

"The Minister.....calls on the Provincial Governments to tighten the licensing regime by punishing transgressors and rewarding good behaviour on the part of compliant operators and drivers."(8)

The thrust of the message was clear – government would be taking firm steps to ensure that the Operating Licence provisions of the NLTA would be stringently enforced.

These are onerous.

Sec 79 (2) states that :

“.....the [regulatory] entity may at any time withdraw, amend or suspend the Operating Licence.....if the holder or employee of the holder (*present author's emphasis*) has been convicted of an offence under this Act or a law relating to motor vehicles or the regulation of traffic or occupational safety or labour relations.....” (9)

Motor Vehicles/Regulation of Traffic

The principal law ‘relating to motor vehicles or the regulation of traffic’ is the National Road Traffic Act 1996.

Sec 51 of this Act states that :

“Whenever any manager, agent or employee of an operator commits or omits an act which would have constituted an offence in terms of this Act if the operator had committed or omitted such act, the operator shall, in the absence of evidence-

(a) that he or she did not connive at such act or omission

(b) that he or she took reasonable measures to prevent an act or omission of the nature concerned

(c) that an act or omission of the nature of the act or omission charged did not fall within the scope of the authority of or the course of the employment as such manager, agent or employee

be deemed himself or herself to have committed or omitted that act and be liable to be convicted and sentenced in respect thereof.” (10)

Labour Legislation

The NLTA requires the taxi operator [Sec 62 (1) (c)] to sign a statement that he or she will comply with the requirements of the Sectoral Determination No 11 of the Department of Labour(11).

These requirements include *inter alia* that the driver :

- is given written particulars of employment
- does not exceed the maximum working hours and gets at least the minimum rest periods stipulated
- gets the stipulated paid leave (annual, sickness, family, etc)
- is registered with the UIF with the OL holder paying the UIF contributions

If these conditions are not met, the PRE may - and should - ask the OL holder why the Licence should not be suspended.

But – how can the typical individual taxi operator, owning perhaps one, two or at most three vehicles, comply with the complex requirements of the NLTA in respect of the duties of the holder of an Operating Licence?

Driver behaviour

Similar questions might be asked in respect of taxi driver behaviour in traffic.

Road traffic safety is a very clear case where government must take the lead in enforcement. South Africa has a totally unacceptable rate of road deaths, and only government has the capacity to enforce the rules of the road.

In its efforts to improve the situation, it must be able to reach every road user.

The challenge is made easier in the case of commercial transport operations, where there exists a substantial degree of self-regulation. Freight hauliers and bus companies implement (if only in their financial interest) practices which include ensuring that :

- their vehicles are regularly maintained and are inspected before every trip
- drivers are subject to careful recruitment tests, and then fully trained; and that after training they are carefully supervised and monitored in their day-to-day work, with remedial training being given where weaknesses become apparent.

The taxi owner - the holder of the Operating Licence - must adopt similar measures.

The potential driver, before being offered employment, must rigorously tested for such matters as eyesight, colour perception, ability to respond to emergencies, etc. Laboratories exist where such testing can be carried out by professionals.

Once employed, the work of the driver must be managed in accordance with the '3 M's' of HR best practice :

- Mentoring (training)
- Motivation, and
- Monitoring.

Minister Peters, in her 10 October 2015 statement, emphasised the importance of training :

"The Minister calls on the leadership of the industry to, with immediate effect, implement their skills training programmes to enhance good road use behaviour and respect for commuters and other road users.

"The Ministry and Department are ready, through the Transport Education and Training Authority, to support and enhance their industry-driven efforts." (8)

This is important. At present only a small number of taxi drivers have undergone training in accordance with the curriculum developed by the Transport Education and Training Authority. All existing taxi drivers must be provided with this training, and all new drivers must be similarly trained before being employed.

This, though, deals only with one of the '3 M's', that of Mentoring. Training itself is of no value unless the lessons learnt are applied in the driver's day-to-day work. The employer must in addition *Motivate* his or her employee (the driver) to practice what has been taught, but at the same time must institute *Monitoring* mechanisms to provide ongoing supervision.

Once again, it must be asked – how can an individual owner- operator of one or two vehicles provide this degree of management and supervision? The answer is that s/he cannot do so alone. The bus companies employ managers to ensure compliance. They employ 'spare' drivers to cover leave, sickness, and similar instances. The individual operator cannot afford to do this merely in order to ensure that the many laws and regulations are complied with.

The answer is to imitate the bus companies. They can justify the employment of managers and supervisors because they operate large numbers of vehicles – perhaps 200 or more. The members of a typical taxi association may own a similar number between them. If the operator-members of an association were to combine their operations, they would be able to provide services similar to those of the typical large bus company.

If stricter enforcement is 'the stick', then 'the carrot' should be assistance to the holder of the Operating Licence, the taxi owner, to meet all his or her legal obligations, in the form of an association-level Operations Management Unit (OMU).

The OMU will manage both vehicles and drivers on behalf of the operators who are the owners and employers. There need be no change to the existing individual ownership of vehicles and Operating Licences.

The OMU will make voluntary compliance the norm, and it will be a source of intelligence for those responsible for enforcing the Operating Licence system. This will enable the limited law enforcement resources to be used more effectively, especially in respect of illegal taxi operations.

1.2 The 'Carrot' - the Operations Management Unit

1.2.1 Government Strategy

Various levels of government have expressed the view that taxi associations should form companies so that negotiations would take place with a corporate body with the power to 'deliver' on agreements.

The 1996 White Paper on National Land Transport Policy was the first to make such a suggestion :

"Regulated competition will mean that the minibus taxi industry will have to be formalised and measures introduced to enhance its economic viability. Minibus-taxis could form legally registered businesses, for example, co-operatives or companies....." (12)

This suggestion was made in the context of a Policy which envisaged every element of public transport being planned by authority and contracted by way of competitive tender. That one-size-fits-all is today being widely questioned.

Nonetheless, the theme of corporatisation of associations is continued more than 20 years later in the Revised White Paper on National Land Transport Policy approved by Cabinet on 1 March 2018 for public comment. This says :

“The Government will investigate the feasibility of.....providing assistance to the [taxi] industry to consolidate its thousands of individual operators, each owning one or two taxis, into companies operating fleets of taxis on behalf of shareholders. This has many advantages for government and the industry, including the ability to introduce cashless fare collection, contract with government, and form a limited number of contracts instead of multiple contracts with each individual. The consolidation of operators will also reduce the burden of regulatory control, enable rights to be awarded to a network of routes instead of individual routes, and improve the imposition, monitoring and enforcement of service requirements.....”.(13)

It seems probable that this cautious (“will investigate the feasibility”) suggestion of restructuring may have been influenced by a report which was adopted by the City Council of Cape Town on 28 October 2015 :

“The City of Cape Town’s Council today, 28 October 2015, adopted a game-changing policy for the transformation of the minibus-taxi industry.

“Now that we have Council’s approval, Transport for Cape Town, the City’s transport authority, will have further engagements with the minibus-taxi industry in mapping the way forward. We will also embark on a process to assist the minibus-taxi associations in Cape Town to form taxi operating companies (TOCs) and it is our intention to approach the National Department of Transport for grant funding so that we can assist the taxi industry with capacity building and training in business management. This new approach will provide the minibus-taxi industry with financial security and stability and commuters with a much-improved service,’ said the City’s Mayoral Committee Member: Transport for Cape Town, Councillor Brett Herron.

“The intention is to establish association-based taxi operating companies (TOCs) where the TOC owns the operating licences and not individuals as is currently the case. Thus, with this model, the individual minibus-taxi operators must transfer their licences to the TOC in exchange for shareholding in the company. Furthermore, the TOCs will own the vehicles and employ and train the drivers and other workers,’ said Councillor Herron.

“Seeing that the profits in the new model will go to the TOCs as opposed to the individual operator, it will be in the TOC’s interest to curb illegal taxi operations and to self-regulate the routes that they are authorised to operate on in terms of their operating licences. It will also be in the TOC’s interest to ensure that the drivers comply with the rules of the road and that their vehicles are roadworthy. With this new business model, the TOC will also have significantly more bargaining power than the individual minibus-taxi operators when it comes to the procurement of new vehicles, or the servicing of a fleet,’ said Councillor Herron.”(14)

From the point of view of this submission, the significance lies in the claim that it will be “in the TOC’s interest to ensure that the drivers comply with the rules of the road and that their vehicles are roadworthy”. Not only will it be in the interest of the TOC; because they will own the vehicles and employ and train the drivers, they will have the managerial authority to ensure compliance to at least the same level as the formal sector bus companies.

This enthusiasm must, however, be tempered with a caution informed by the experience of government in dealing with the taxi industry, particularly since 1994.

The Revised White Paper says that government will consider providing assistance to the taxi industry to restructure into companies. It does not say that it has been asked by the taxi industry to consider such assistance (and no significant such demand has been observed) nor does it offer any view on what government might do if associations and operators were to reject the suggested corporatisation.

The October 2015 statement by the Cape Town City Council strikes a far more enthusiastic note. It refers to a ‘game-changing’ policy, and says that it will now “embark on a process to assist the minibus-taxi associations in Cape Town to form taxi operating companies (TOCs)”. There seems to be an axiomatic assumption that the taxi associations will embrace a change which, to government, seems to have such clear advantage for both parties.

What can be said is that in the 30 months since the Cape Town City Council approved the policy, there appears to have been no instance of a taxi association and its members making the change to that of a company which owns and operates the vehicles and employs the drivers.

Government bodies are frequently disappointed by the results of their negotiations with the taxi leadership. The reason, put at its simplest, is that government *ipso facto* uses formal sector thinking, whereas the taxi industry is firmly rooted in the informal sector with its quite different way of looking at commerce.

(The Annexure to this submission attempts to describe this dichotomy. It was originally written in 2006, but the present author (who is also the author of the Annexure) believes that the circumstances described have not changed in the more-than-a-decade since then.)

It is very probable that what government sees as an opportunity, taxi owners will see as a threat. It will appear to the owners that they are being asked to give up their assets (Operating Licences, vehicles) in return for a piece of paper that guarantees them nothing.

One of the big fears of the taxi operator is that of a third party intervening between him and the money he gets from his driver and in doing so, ‘skimming off’ an amount in the form of fees and other expenses. It is one reason why (as far as is known) not a single one of the many attempts to introduce a cashless ticketing system has lasted.

No matter how strong the argument that the net position will be better for the owner-operator, he is unlikely to be convinced.

The appropriate strategy is for the owner-operator to be offered a fall-back position : “Take the first step; if you are satisfied, we can move to the next step, if not, you can opt out”. If that fall-back position is available, it is very likely that most operators will be willing to take the first step, and having done so and found that the promises have been kept, be willing to consider taking the next step - ie, a shareholding in an operating company which owns the vehicles and directly employs the drivers.

1.2.2 The First Step

The individual owner-operator members of an association will ‘cede’ management of their vehicle(s) and driver(s) to the OMU. The individual will retain ownership of the vehicle and of the Operating Licence for that vehicle, and will continue to be the employer of the driver. He will receive all the income (less agreed charges) paid by passengers on his taxi.

The association will exercise oversight of the activities of the OMU, acting in effect as the Board of Directors.

1.2.3 OMU Management

The formation of an OMU at each association will provide a new career path for capable PDI candidates. Preference could be given to those who have connections with the taxi industry, especially the sons and daughters of taxi operators.

They will be trained with the support of TETA, and given ongoing support by a specialist unit at each of the provincial Departments of Transport, as support for the Provincial Regulatory Entity and the Operating Licensing system.. The specialist unit will also be responsible for assisting the local association with the communications programme which will be necessary to explain the new structure to the operator-members of the association, and to deal with what will be their very understandable concerns about the proposed changes.

1.2.4 Corporate Structure

Since the OMU will be handling large amounts of money on behalf of the operator members of the association, it must have a formal corporate structure, most probably a not-for-profit company (the former ‘Section 21’ structure).

The association Executive Committee will act as the non-Executive Board of Directors, possibly with up to two independent (external) non-Executive Directors. The Board will also be trained by TETA.

1.2.5 Meeting the Costs

The Operations Management Unit will ensure compliance by members of the Association with all the laws and regulations applicable to the holder of an Operating Licence.

This will inevitably mean increased costs. There will be the costs of the OMU itself and then the additional costs to the operator of the higher standards implied – from the selection and training of drivers to maintenance of the vehicles.

How will these extra costs be met, without reducing the net income of the taxi owner? There are two broad areas – (i) reducing existing operating costs and (ii) increasing fares income.

Reducing costs

Taxi Priority Lanes

One way is to reduce the costs of legally-compliant operation by the implementation of taxi priority lanes.

In her statement of 10 October 2015, Minister Dipuo Peters made this comment :

“It seems that in this very important industry, commuters are seen merely as a means to an end (making quick money), and other motorists are seen as impediments to that end.” (8)

The Minister’s statement that other motorists are seen as ‘an impediment’ is true . However, they are not merely an impediment to taxi operators making quick money, but also an impediment to taxi commuters having shorter journey times.

Throughout the world, public transport is promoted as the preferred way for commuters to travel in urban areas. It is more efficient than the private car especially when, as in the majority of cases, the private car is carrying a single individual. The taxi carries up to 22 passengers (in the case of a vehicle like the M-B Sprinter) but uses only marginally more road space than that of a single private car. Yet the taxi is required to share the road with the car driver.

It is perhaps not surprising taxi drivers regularly break the ‘rules of the road’ (even if that cannot be condoned) or that the resulting frustration sometimes leads to incidents including crashes.

In the period after the publication in 1999 of the Moving South Africa Action Agenda, there were moves to provide dedicated road space for public transport, in the form of priority lanes, ‘green triggers’ at traffic lights, and other techniques of that kind. By 2006, for example, the City of Johannesburg had developed and was about to implement its Strategic Public Transport Network (SPTN), which would provide such priorities for both buses and taxis throughout the city.

But these strategies were almost immediately superseded by the enthusiasm for Bus Rapid Transit, as the major feature of Integrated Public Transport Networks (IPTNs). That enthusiasm was given formal recognition in the Public Transport Strategy and Action Plan approved by Cabinet in 2007.

The result, ironically, has been dedicated public transport priority lanes from which the taxi is specifically excluded! (It may add insult to injury that in many cities special priority lanes are provided for cyclists.)

The benefits of IPTN/BRT systems have been limited because they have been so slow to be implemented. Almost a decade after the approval by Cabinet of the Public Transport Strategy and Action Plan, implementation has been limited to just a handful of lines in Johannesburg, Cape Town, George, Tshwane and Nelson Mandela Bay. The shortfall between the fares income and operating costs is causing doubts to be raised on the practicality of further IPTN/BRT implementations.

Meanwhile, the taxi continues to carry 65 per cent or more of public transport commuters in cities and towns throughout South Africa. It does so far more efficiently than the mass of single-occupant private cars which clog city roads in the peak period.

In the interests of those commuters, government must give serious attention to providing priority lanes and other measures, for use by all forms of public transport including the taxi.

Increasing income

There are three possibilities :

- a cashless ticketing system
- fare increases
- government subsidy

Cashless Ticketing System

The establishment of the OMU will make possible the implementation of a ticketing system which will ensure that all the fares paid by passengers are received by the taxi owner. Because there will be a formal management structure, and drivers paid in accordance with the Taxi Industry Sectoral Determination, such ticketing systems will have a far better chance of working properly than those systems which have been tried in the past.

This will significantly increase the income of the owner. Informal research indicates that in the order of 35 per cent of fares paid by taxi passengers does not reach the taxi owner. The ticketing system will provide at least some headroom for owners to meet the additional costs of full legal compliance.

It will also, together with the financial systems implemented by the OMU, enable the income and costs of the relevant taxi operations to be determined.

This in turn will show whether the additional gross income from the ticketing system is adequate both to maintain the net income of the operator and meet the additional costs of legal compliance and best practice.

Fare Increases

If there is a shortfall, then the obvious course will be for taxi associations, on the advice of their OMU, to recommend to their members that there should be an increase in fares – not for the usual reasons of meeting the costs of inflation, but to meet the additional costs of full legal compliance.

In this regard, one issue which will come to the fore is that of the Taxi Industry Sectoral Determination of the Department of Labour. When the Determination was launched in April 2005 by then Minister of Labour Membathisi Madladlana, the President of SANTACO at the time, Mr Tom Muofhe, made this comment :

“The Sectoral Determination will significantly increase the costs of operation. I speak here not so much of the minimum wages, but rather of the annual, family and sick leave, and the maximum hours of work. I must make it clear that we do not oppose these, but we do have to ask - who is to bear the costs?” (15)

In the absence of any other option the answer would seem to be the taxi passenger, in the form of higher fares.

That would be politically unpopular. Other road users (car drivers in particular) might be more than happy to see higher taxi fares, if that would mean an improvement in the standards of operation. Taxi commuters would almost certainly respond that, if the result of those higher standards is an increase in their fares, then let things stay as they are.

Subsidy

If the secured income from fares will not meet the additional costs, and if increased fares are to be avoided (or at least kept to a minimum), then consideration must be given to some form of subsidy.

2 ToR 4: Allocation of operational subsidies

The Sol records that :

“The main objective of public transport subsidies is to ensure that all South Africans, including the poor and unemployed, have access to affordable public transport.” (para37)

It then asks for submissions addressing a number of questions, including :

“40.1 What is the motivation by the government for extending operating subsidies to other modes of transport and not the minibus taxis given that the latter constitute the biggest mode of transport?”

2.1 Motivation

The motivation for the provision of operating subsidies to modes of transport other than the minibus taxi is largely a matter of history.

Rail

Publicly-owned rail services have, from the early days of SA Railways and Harbours, historically been supported by the government of the day. Commuter rail services became even more so as the policy of apartheid was implemented.

Bus

The need for transport for those relocated under apartheid led to the granting of monopolies to companies like Putco and others. Initially expected to be self-supporting, the need for subsidy was accepted in the early 1970s. It continues to this day. As the Sol notes, the monopoly contracts were supposed to be replaced (in terms of the 1996 White Paper) by a system of competitive tendering. That system has hardly got off the ground.

Taxi

When in the early-1970s the minibus-taxi began to make its presence felt, it was seen by government as a threat. In 1983 the Welgemoed Commission obligingly came up with the recommendation that it should be ‘phased out’, That did not happen, of course, but there was never a suggestion that the pre-1994 government had any intention of offering public funding to the taxi operators.

More recent transport innovations such as Gautrain and Bus Rapid Transit are financially supported because they are intended to form part of integrated public transport in our larger cities. The need for both capital and operating subsidies appears to have been taken as a given.

A full analysis of the historical motivation for public transport subsidies requires a separate paper. This can be provided if the Commission feels it will be of help.

2.2 Intention

What has been clear from 1994 is the inequity of a situation in which subsidy is provided to those commuters who use bus and train services, but not to those – the majority, and arguably among the poorest – who use the taxi.

Each Minister of Transport since 1994 has made the right noises about funding support for the commuter.

Minister Mac Maharaj

In 1995 Minister Maharaj set up the National Taxi Task Team.

It comprised representatives of government and the taxi industry, together with specialist advisors. It was formed in April 1995, and began its work with a series of 36 meetings with the taxi industry throughout South Africa.

Its report in August 1996 said this :

“Although a wide range of issues was raised at all the hearings, the issues that were raised more often, in greater detail, and with most passion, were the demands for the government to address the issue of Subsidy, to level the ‘playing field’ between taxi bus and rail; and the need for the industry to be properly regulated by addressing all the problems involving Local Road Transportation Boards and Permits.”(16)

So more than 20 years ago, the taxi industry at ground level placed the matter of subsidy right at the top of its list of concerns.

The response from Minister Mac Maharaj was the publication in December 1996 of the White Paper on Land Transport Policy. This said that public transport services would be planned by local authorities and offered to operators by means of tenders. Taxi operators, it said, would be able to compete for those tenders. There appears to be no record of the reaction of the taxi industry to being told that it should “compete” for the services it would consider had itself built up.

Minister Dullah Omar

On 5 August 2000 the Department of Transport published a report on a meeting which had taken place a few days earlier between Minister Dullah Omar and the nine provincial transport MECs.

It included the following :

“The issue of subsidies from which the bus industry benefits (but not the minibus taxi industry) was raised in meetings between SATACO [*nb : a predecessor to SANTACO*] and the Minister of Transport, Dullah Omar. In the Addendum to the Memorandum of Understanding between the parties, the issue of subsidies has been raised as matter which needs to be looked at afresh. Accordingly, joint groups will be set up to look at the question of subsidies and to see how they should be dealt with in future. This is not a matter which can be resolved overnight. This is a national matter and not just a provincial one.”(17)

The results of the deliberations of those joint groups have disappeared into the bowels of history. It is certainly true that the issue of subsidies was not one which could ‘be resolved overnight’. Almost 18 years later it has still not been resolved.

Minister Jeff Radebe

It seems that the joint groups set up by Minister Omar did not reach a satisfactory conclusion, because in June 2004 Minister Jeff Radebe had this to say in his budget vote speech in the National Assembly :

“As part of our initial plan to remedy the situation towards implementing an overarching development agenda in the transport sector, we have identified three main focus areas for 2004/05. Alongside day-to-day operations, these include completing the comprehensive review of the public transport system by September (2004), including the subsidy system.....

“Factors to consider include the mis-match between how the subsidies are allocated at the moment, the types of public transport used by commuters, and whether special category commuters like learners, the isolated, the infirm, aged, or unemployed are discriminated against. We also need to consider alternative means of delivery and payment.”(18)

Once again, it must be said that this review did not result in any change in the subsidy system.

Minister S’bu Ndebele

In his speech at the SANTACO National Conference on 4 May 2010, Minister S’bu Ndebele made his contribution to the subsidy debate :

“Three pillars form the basis for the economic empowerment of the industry :

- Refinancing of the taxi industry through the Taxi Recapitalisation Programme and integration into the subsidy system
- Corporatisation through formation of taxi co-operatives
- Capacity development through education and training programmes

“We have not progressed much on the subsidy front. The corporatisation of the industry is an important step in ensuring that the industry is a major player within our subsidy system.”(19)

So almost a decade after Minister Dullah Omar had started the process of reviewing public transport subsidy, one of his successors had to acknowledge that : “We have not progressed much on the subsidy front”.

Minister Ben Martins

In his speech at the launch of October Transport Month 2012, Minister Martins said this :

“The public transport sector is geared for a fundamental restructuring with the review of the existing bus subsidy scheme to include mini-bus taxis.”(20)

Minister Martins made a further reference to the review in a speech on 31 January 2013:

“The Department will also review the current public transport subsidies with a view to extend the benefits to other operators of public transport - in addition to the bus operators who have been receiving subsidies for many years.”(21)

There did, however, seem to be rather more substance to this latest effort. Six weeks later, on 19 March 2013, the Department of Transport’s Acting Chief Director: Public Transport Industry Development made a presentation to the Public Services Select Committee of the National Council of Provinces. His presentation was entitled : “National Road Based Public Transport Transformation Plan: from bus to public transport subsidisation”, indicating that there was indeed in being a ‘Transformation Plan’.

Minister Dipuo Peters

In her 10 October 2015 statement referred to earlier in this submission, Minister Peters said that :

“The Department of Transport will continue to support the [taxi] industry and it is working on an integrated commuter subsidy system.”(9)

Minister Joe Maswanganyi

The work on the integrated commuter subsidy system referred to by Minister Peters appeared to be bearing fruit some 18 months later. In his Budget Vote speech on 25 March 2017, Minister Joe Maswanganyi disclosed that :

‘We are finalising the much awaited Public Transport Subsidy Policy. The policy will focus more on subsidising the user than the operators, irrespective of the mode used. It is totally unacceptable that other modes, notably taxis are not included in the subsidy regime.’(22)

It was no doubt pleasing to the taxi industry to hear that the “much awaited” Public Transport Subsidy Policy was in course of being finalised.

Minister Dr Blade Nzimande

The recently-appointed Minister of Transport, Dr Blade Nzimande, seemed slightly less sure on this issue. In his Budget Vote speech on 18 May this year, he said :

“We will engage with the taxi industry regarding all matters that are of concern to both government and the industry, including the issue of subsidies for the sector.”(23)

It may well be that the Minister was indicating that the ‘engagement’ on subsidies would be in respect of the promised Public Transport Subsidy Policy.

* * * * *

As noted above, in March 2017 Minister Maswanganyi told Parliament that a Public Transport Subsidy Policy was being finalised. The reality, however, seems rather different.

Some six months earlier, in August 2016, the Department of Transport had issued a tender for “The Development of a Public Transport Subsidy Policy” (24). It would be reasonable for the Minister to announce this as the start of the finalisation process, even though by the time of the Minister’s Budget Vote speech in March 2017, the tender had not been awarded.

The award was never made. Some four months later, in July 2017, it was cancelled by Notice in the Government Gazette. In the very same Gazette, the tender was re-advertised (25). The tender appeared to be identical in all material respects to that issued almost a year earlier.

It is not clear what gave rise to the need for cancellation and re-advertisement. Some observers have noted that the original tender had been issued during the period of office of Minister Peters, but that it had not been awarded by the time Minister Maswanganyi took office. That is a matter of fact, but it can have had no bearing on the delay – a Minister cannot involve herself or himself in matters of Supply Chain Management.

What is also remarkable is that, as this submission is being prepared (May 2018) the tender still does not appear to have been awarded! Certainly, there has been no announcement to that effect in the Government Gazette. So almost two years since the first announcement of the tender, no service provider has been appointed.

This saga may be thought to cast doubt on the sincerity of the many proclamations about the importance of developing an implementing a fairer public transport subsidy system.

In some respects, however, the delay might prove to be valuable in that it offers the opportunity for government to act upon a critical recommendation of the 1996 National Taxi Task Team.

2.3 NTTT Recommendation

As noted earlier the National Taxi Task Team, in its report in August 1996, emphasised how strongly the taxi industry felt about the issue of subsidy :

“.....the issues that were raised more often, in greater detail, and with most passion, were the demands for the government to address the issue of Subsidy.”

it must be said that in the 20+ years since then, the taxi leadership appears to have made no attempt to put forward a strategy for taxi subsidy that would meet the needs of taxi users whilst recognising the constraints on government finances. The approach has been simply to point to the anomaly and then wait for government to put forward proposals. Not surprisingly, government has not rushed to develop a taxi subsidy formula.

Given the emphasis on subsidy which taxi operators made to the National Taxi Task Team (NTTT) some 20 years ago it is surprising that the conclusions in its final report have been so little remarked upon.

They included this :

“The historical inequitable distribution of funding, subsidy and support has contributed to the underdevelopment of minibus-taxi businesses. The NTTT considered the argument for subsidy in three ways; in terms of:

- a moral argument;
- a comparability argument; and
- a practicality argument.

“What is conclusive is the practicality argument. In the short term there is no practical means of opening the minibus-taxi industry to the present subsidy system. There is a potential delivery mechanism, but no mechanism for reception and distribution.

“The NTTT has concluded that there is no realistic prospect of the minibus-taxi industry receiving funds from the existing DoT subsidy system. The future system, in terms of the Green Paper on National Transport Policy, will be based on the tender/contract system. User-side subsidies may also be considered. The minibus-taxi industry is at present in no position to participate in either.”

“What is needed is to begin now with a development programme which will in as short a time as possible enable minibus-taxi operators to participate in the new forms of subsidy schemes.” (26)

The NTTT recognized that it would be impossible for government to make available public funds to an informal public transport operation entirely based on cash transactions, with no accounting system, and with standards of operation which were in many ways not acceptable to either the government or the public. A ‘development programme’ was needed.

In the ensuing 20 years there has been no attempt on the part of either government or the taxi industry to implement the taxi industry development programme so urgently advocated by the NTTT.

The taxi association Operations Management Unit proposed in this document will, together with its associated ticketing and management accounting system, provide a structure which can, to quote the NTTT, ‘enable minibus-taxi operators to participate in the new forms of subsidy schemes.’

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The Paradox of the Minibus-Taxi

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The Paradox of the Minibus-Taxi

Preface

The minibus-taxi is recognised as the genuine example of black economic empowerment. Taxi operators have built a R20bn industry in less than three decades.

But this huge business offers a paradox. It continually fails to respond to public sector efforts to enhance its standards of operation, and the private sector finds it very hard to develop sustainable commercial deals with taxi operators.

I have been working in and with the taxi industry for more than 20 years. This paper argues that neither government nor business understands the real nature of this informal sector industry. I describe what motivates the actions of taxi operators and their leadership – and what might be done to influence their decisions.

In doing so, I readily acknowledge that there are exceptions to every rule. I am quite sure, however, that what the paper describes is the situation in respect of the taxi industry as a whole.

Some criticisms are inevitably implied. These are personal views, though expressed following lengthy experience and what I hope is thoughtful analysis. None of the comments or criticisms is intended to imply bad faith on the part of any group, nor even poor judgement. I rather ascribe most of the problems to a lack of understanding between the formal and informal sectors.

References to the taxi representative structures are confined to the Council structure headed by the SA National Taxi Council (SANTACO). There are other pretenders, notably the National Taxi Alliance, but SANTACO is the government-recognised body, and the Council structure is undoubtedly the only representative and/or negotiating body which acts at national, provincial and regional (district) levels.

For simplicity, I have used the term ‘he’ and its equivalents. I know that there are many women taxi owners, some women taxi drivers, and even a few women members of Executive Committees; and I apologise to them up front if I have offended their sensitivities.

Paul Browning

25 July 2006

The Paradox of the Minibus-Taxi

1. The Nature of the Paradox

The word ‘paradox’ can be defined as :

“person of opposites: somebody who has qualities that seem to contradict each other.”(1)

By that definition, the paradox of the minibus-taxi industry can be described thus :

On the one hand :

it is rightly regarded as the example *par excellence* of Broad-Based Black Economic Empowerment, having developed almost from scratch a transport service whose owners have assets worth around R20bn and an annual turnover of the same amount, and in the process has captured 65% of the commuter market.

But on the other hand :

- of *its own accord*, it has almost completely failed to develop further from the position it reached some 15 years ago by diversifying into related activities which would increase both assets and income
- while at the same time being
 - unwilling to participate in *government* schemes for integrated transport, and
 - unable to participate successfully in *private sector* projects

both of which would help to increase income and in some cases, assets also.

In short, this thrusting example of entrepreneurship has stagnated for the past 15 years, and shows no sign of any forward movement.

Why is this? Why has such a prime example of entrepreneurship failed so spectacularly to develop and diversify? In particular, why has it not taken advantage of the opportunities presented to it by both government and business?

The simple answer is that the taxi operates entirely in the informal sector. Whether it be the street hawker or the taxi owner, participants in the informal sector represent a single-product business. They are comfortable with what they know. They are especially suspicious of, and resistant to, suggestions for change which come from outside.

On the other hand, government and business are in the formal sector. Their whole *raison d'être* is change. It is not surprising that the differences between the two sectors are huge, both in practices and, most importantly, in mindset.

Whenever the taxi leadership meets and discusses matters with either government or business, the two sides are talking past one another. A major problem seems to be that they do not recognise the fact!

2. The Real Decision-Maker : The Taxi Owner

Entrepreneur or Taxi Operator?

The popular belief is that the taxi owner is an entrepreneur. Definitions of 'entrepreneur' emphasise the risk-taking characteristic.

But the taxi owner does not actually see himself as taking a *business* risk. He is going into very familiar territory which the communal experience has for decades shown is a way to make money.

There is a very fiercely demonstrated desire to retain individual ownership of the vehicle. This is an obstacle to a transition to the usual kind of formal sector corporate structure, but it is critically important to recognise how powerful it is. The taxi is a means of earning income, but it seems also to be a visible symbol of wealth.

Given this, it is hardly surprising that the taxi owner is wary of suggestions by either government or business that he should do something different. The suspicion is not helped by the fact that he rarely knows anything other than the barest detail about what is being discussed at any level higher than that of his local association.

It is not a great concern to him, though. He is confident that when implementation of new systems is imminent in his area or on his route, he and his fellow-owners will know how to deal with it. And one thing he is sure of; no-one will tell him how he should operate his vehicle.

Operating and Business Practices

It is really easy to operate a taxi business. Just get a permit and a vehicle, arrange with your unemployed brother-in-law to drive the taxi, and you are in income-earning business.

The owner does not see it as his task to manage the on-the-road operations of his driver and vehicle. The driver makes all the on-the-road decisions, and he does what comes naturally in the quest to make as much money as possible.

Here is an extract from a newspaper article :

“Taxi owners know, without keeping books, how much their drivers could and do bring in, the running costs of each vehicle, when to scrap a vehicle and when to fix it. Rather, the culture that infuses informal business springs from necessity. The aim is urgent fulfilment of needs, the thinking is immediate, the process hand to mouth.”(2)

These and other practices are completely at odds with the planned and integrated systems envisaged in the NLTTA and Integrated Transport Plans – yet if this is where we are starting from, then we must recognise that and plan realistically to deal with it.

When we come to consider how the taxi can participate in formal, planned, integrated transport systems, it may be very difficult to change the mindset of tens of thousands of owner-operators. It will be even more difficult to equip them with the managerial skills to effect the change, especially when a very large number have a salaried job elsewhere. We must therefore ask – is it reasonable to try and do so, or is there another path?

3. The Representative Bodies : The Local Association/Regional Council

The local taxi association is the original grouping of operators in an area or on a route. Local associations are in turn grouped into Regional Taxi Councils to correspond with district/metropolitan municipalities.

The local association/Regional Council deals primarily with what it sees as threats from officialdom or competitors. There are historical reasons for this but once again, it does not engender the optimal circumstances for introducing concepts of change.

A taxi association is today predominantly route-based. This has brought with it a feeling of ‘ownership’. The association feels that it should have the right to decide who can operate on the route, and to control the ranks at either end. The NLTTA makes clear that the Operating Licensing Board will decide, in conjunction with the planning authorities, who will get licences to operate, and where. This may be the flashpoint that will bring to a head the different approaches of formal sector government and the informal sector taxi industry.

The local association is the only truly democratic grouping in the taxi structures. Members elect the Executive Committee at an Annual General Meeting. The member generally has a strong feeling of allegiance to and support for his association, and this tends to be carried through in modified form to the Regional Council

Funding for the local association comes from joining fees and annual fees paid by members, supplemented on occasion by income from commercial deals with local suppliers of goods and services.

The local association is a major influence on the actual decision-maker (the taxi owner-operator). It is the wish of government to engender more formal-sector attitudes and practices in taxi operations. A very good place to start would be the local association. It is the duty of the provincial Transport Registrar under the NLTTA to “assist in promoting their professionalism”. Those duties should perhaps be undertaken more effectively.

4. The Negotiators : The National and Provincial Taxi Councils

The Council Structure and Communications

A major difference between the formal and informal sectors is their respective attitude to communications. Government and business understand the essential need for internal communication to management and staff. The informal sector does not. Its actual operations are only at local level, where messages can be passed on in person.

At the level of national and provincial leadership, there appears to be no conception of a strategic two-way communications programme incorporating a variety of media, and applied in layers over a period of time to ensure that the message is fully understood and that feedback is made and received.

This gives rise to problems in two forms :

- during the process of negotiation, there is inadequate transmission of information from the top to the ground, and therefore similarly poor transmission of responses/input from the ground
- once agreement has been reached, the implementation plan (if there is one) is rarely properly communicated.

The Council Structure and Government

Tom Muofhe, Immediate Past President of the SA National Taxi Council :

“Officialdom does not understand what makes the taxi industry ‘tick’. It believes that taxi operators are just like a smaller, less developed, version of the formal sector bus company.

“There are two reasons. The first is a genuine lack of understanding by government officials. The second, and all too common, is that it serves government planners to believe that the informal sector is just a smaller version of the formal sector.

“If government found that it had to accept and acknowledge that the informal sector taxi industry is in fact a quite different animal to the formal sector bus company, then it would have to face the need for a lengthy and complex process of transition, before it could start on the implementation of its integrated commuter transport plans.” (3)

The Council Structure and Business

The private sector genuinely tries to understand the nature of the taxi industry. In its attempts to enter into mutually beneficial deals, it spends what must seem to a commercial undertaking an inordinate amount of time in discussion with taxi leaders. But eventually the deal is signed.

The company goes away and puts into motion its side of the bargain through its chain of managerial command and control. But the taxi leadership has almost no power or influence over individual owners about the way they operate their vehicles. It can only attempt to persuade, but the communications capability of the taxi industry structures is limited.

Even if the persuasion were to be successful, implementation usually fails because the individual owners do not have (nor do they usually want) managerial control over their drivers on the road.

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