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COMPETITION COMMISSION'S GROCERY RETAIL MARKET INQUIRY TRANSCRIPT

7 July

Competition Commission: Chair

1. Good morning everyone I would like to formally welcome you to this grocery retail market inquiry and public hearing. Let me commence by introducing myself, I am Halton Cheadle. I am Professor Emeritus at the University of Cape Town, and Chair this panel. My colleague Ms. Lulama Mtanga, is a competition law expert with extensive experience and through former roles at the Competition Commission and as a director of Law Firm, Bowman Gilfillan. We also have Ms. Louise du Plessis from the Competition Commission who's here in a capacity as the head of the technical team that supports the, the panel and is the evidence leader in the public hearings. She and a team of lawyers and economists, some of them are sitting in the front row are assisting the panel in soliciting evidence for the inquiry.

2. I think it's important just to note that this is an inquiry into the grocery retail market, it is as I've insisted throughout is, this is not a court of law, it's not an interrogation, it is simply an attempt for the panel to get evidence in order to make recommendations which will be contained in a report, which will then be submitted to the Minister and thereafter tabled in Parliament for debates.

3. I also want to you to state that, I and my colleague and Ms. Du Plessis may ask questions of clarification after you've made your presentation. We don't just accept questions or objections or from, from anyone else. But if you do have objections or you do have questions that you would want, that are raised by this particular presentation, you can submit them in writing to the commission at the address that you can get from Ms. du Plessis or members of the technical team. So that and then we will process those questions and clarifications and through to - and in this case to give to the Spar group. And with that, one additional point, there's going to be a further set of public hearings dealing with the large retail chains. And that that will take place, a date hasn't been set for it yet but is expected to take place sometime in September. And with that may I welcome you to the inquiry and I wonder if you could introduce yourselves and then make your public submissions.

4. Good morning my name is Jean Mayor and I am a partner with the law firm

Herbert-Smith-Freehills, you will hopefully be hearing very little for me today and will be hearing from the SPAR Representatives. With me is Wayne Hook who is a director of the Spar Group Limited. Mr. Nezi Nkwelo who is an independent retailer and Mr Dan Maluleko, who is also an independent retailer.

5. I wanted to make just one preliminary remark on behalf of Spar which is that you will be away at that at the question of Lease exclusivity is currently the subject of pending proceedings before the competition tribunal and is therefore subjudice and for that reason, although Spar is willing to express its views and will do so today, this is not a subject which they would want to go into in a great deal of detail today. Spar is as you know, answering much more detailed questions which had been provided to Spar by the panel and, and will engage further on that issue in due course. And with that preliminary remark at hand over to Wayne Hook.

SPAR Grop: Wayne Hook

6. OK Good morning everybody. As Jean said, I'm a director of Group, I am an ex-CEO of the Groups, stood down because my wife was ill in 2014. I wasn't fired. I'm still a director of the company and look after some of their International investments and the Build It group. Unfortunately, the current CEO is overseas but I've been in the group for 30 years, so I pretty much know how it works. If there are any tricky questions are going to couple of my colleagues in the audience in the cheap seats there. So, they'll help if I need it.
7. What I'm going to do is just try and quickly, firstly just to run through. What I've got there on the slide. Firstly, the structure of the group, a little bit about store formats, the independent retailers and the role they play in the group, touch on lease exclusivity, a little bit about the way we buy within the Spar group and how that all happens, house brands, community involvement and then just some comments on trading right now and some of the personal feelings about the competitive situation.
8. The two independent retailers will follow me and then just talk, talk about their own situation and give you some insight into the life of an independent retailer

in the Spar organization. The presentation has obviously been put together based on submission, so we presume that the two questions that have been asked before, so we assume that they would be irrelevant and answer to most of the questions. So, they've been put together by our team, I'm going to try and make the most of that and try and follow the train of thought that they've gone to in putting it all together. So, let me let me get cracking and then go through the presentation. It doesn't really come out very well on the overhead here.

9. But if I can just sort of explain how the Spar group works and starting on the left really not a good there but on the Left, Spar International is effectively an organization based in Amsterdam. Spar is in forty-six countries around the world, we in South Africa or one of those countries. And effectively what Spar is charged by International. It's a nonprofit organization effectively owned by the members of Spar.
10. SPAR International has no financial interest in the various countries. Its job is really just to grow the brand internationally spread the brand as it as it can, provide a forum whereby functional information is shared amongst that family so that we, we all learn from one another and then they have a small buying office which primarily operates for - in Europe because the countries are close together. Some of them are small countries and so it makes sense that they do some sort of let's say particularly when you're dealing with Spar brands, with your own house brands that you don't try and develop those in each of the countries we do not buy huge amount from that organization primarily because of the transport costs are prohibited.
11. So, and we are big enough here within the South African market to organize ourselves when it comes to Spar brands. I'll touch on that a little bit later. So, Spar International grant us a license to operate in a region and in our region it is South Africa, it is Swaziland, it is Botswana and Namibia, all our surrounding countries. We also have the rights to Mozambique where we have some stores, Angola we don't have any stores yet and recently we have acquired Spar in Zambia on a 50-50 J.V. So we're involved in Zambia as well.

12. So really the Spar organization as I say operates under license from Soar International. We got a grant of that loss and since 1963, so fifty four years ago and the SPAR group has grown from a small base to where we are today and we'll talk about some of those things just now. So far just trying to refer to my – I can't point down there, so, I'm going to have to just point here.
13. So, effectively Spar International there, the Spar group as a listed company and we effectively are the wholesaler, the wholesaler and distributor. And we have distribution centers around the country, six distribution spread. Why do we have six, purely for logistic reasons. The size of our country determines that we need to do that and we find that to be the most efficient way of doing so. We have a guild if I can point to the top section here, the Spar Guild of South Africa and effectively that Spar Guild because we are independent retailers and a wholesaler we have what we call a guild of which the wholesale and the retailers are members of that guild. And that guild is responsible for leading Spar together. And why do we have it? We have it purely because we're a wholesaler, we have independent retailers and together we need to decide how we take this group forward as opposed to saying as a wholesaler we have the license, boys jump on this bandwagon if you like it or not we find that by collaborating with our retailers we get a better solution. And it's a way Spar works internationally as well. So we have copied the formula that that works internationally.
14. So, effectively, that Guild there is a nonprofit organization. The retailers operate for their own, for their own, they have their own financial interest in their own business and the Spar group in our own business. So we have two separate financial entities or groups of entities and we work together just to lead, to drive and to promote the brand Spar. So that's what the guild is all about.
15. What also things that would fall under the guild would be things like promotions what are we going to promote? So, the retailers would give input and the marketing committee together with the wholesalers, will have a discussion would agree what products we're going to promote in order to be successful in

the market. So, there's a lot of collaboration and it all happens through this nonprofit entity, funds flow into it, retailers pay, advertising contributions into that fund, separately financially managed and that is responsible for driving the promotions etc of the organization as well as growing the brand Spar.

16. So if we were if we were to grant a member a membership, someone who applies to join the Spar family that body, the spar guild would decide whether we do that, not the Spar group. We would have input, the retailers would have input and that body would decide. Why do we do it that way? Purely because we want to retailer input into matters of retail interest.
17. Remember that we are effectively a club of retailers and it would be silly of us to just willy nilly from our point of view as a wholesaler we would love more and more members. But if we didn't have a system of regulating that properly we could open stores everywhere on top of existing members, they would want to belong to this club if that happened. As it is there is always issues and discussions with regard to that because we have to grow the Spar brand responsibly. But there's input from both parties to determine whether we go ahead whether we don't. That happens within each of the regions. So, there is six regional guilds, if anybody is unhappy with that the decision to grant a membership they have a right to appeal to the national guild where the thing will be looked at.
18. So just going back to the guild, effectively you've got Spar retail stores here. And those retail stores become members of this guild, on us on our side from the wholesale thought and I'm talking about from the Spar Group point of view we have distribution centers who supply them goods and we are also members of that guild, so that's how that happens. The brands that fall under that we have a number of brands. The brands that fall under the Spar Guild are all the Spar brands. So, Super Spars, Quick Spar, Tops. Tops is our liquor brand because in this country you can't have liquor, you can have wine in the supermarkets but you may not have the rest. So, we've had to create a separate brand for a liquor stores called Tops. We have pharmacy at Spar, it's a small group, it's a new initiative that sits under the Spar guild for convenience reasons.

One day once it's sufficient they probably will have their own guild because it's a separate business, separate and distinct from the food business and then save more which we'll touch on a little bit later but it's a for a small food store.

19. So that all seats under there. Build It is it operates on a similar system. But we have a separate quild for Build It because it's come of age is about 350 stores, a completely different business building materials and really nothing to do with SPAR. So, we have created a separate bill because otherwise we'd be have a lot of discussion about things that have no relevance to one another so that's the reason for having a separate Build It guild but it operates outside way. Build It retail members belong to that guild and ourselves as a Spar group are also members of that guild so. Hopefully that clarifies how we operate.
20. Just running down the right-hand side. So the Spar group is effectively a wholesaler and distributor of groceries. It says there, we do groceries, personal care items, general merchandise, chilled fresh produce, meat etcetera. A whole range of supermarket goods through our six distribution centers.
21. The distribution centers there's one per region that is KZN and South Rand Lowveld Eastern Cape and Western Cape I'll touch on those just now. And another point here was just to emphasize that we are largely an independent retailer organization, ninety eight percent of our stores are owned by independent retailers. We believe firmly in that model that we say independent retailers who got their livelihoods on the line. You will hear from some of them later and it's not all a bed of roses that that they will do a better job than just managers in the store. So you know we believe very strongly in the independent retail model and so we are different from the chains in that regard.
22. Ninety eight percent of our stores are independent retailers. Why do we own any stores? Well predominant reason for that if we have a store that gets into trouble and how we and we don't have a retailer, an independent retailer at that point in time to purchase a store but it's a strategic site for us we don't want to lose it to the Spar group we would then put that - I don't think I've got my mic

on have I? No. But are you hearing me anyway. Okay, good, I will turn that off it was just going to whistle at me.

23. Alright, so, ninety eight percent independent stores, we would only own stores if we really had to. So, we are trying to protect a strategic site we would, we would obviously own that store. In most cases we have done that over the fifty years and as time has gone on independent retailers have expressed an interest in buying those stores and we've sold them off. What tends to happen and sometimes the stores are maybe not financially viable in the short term and we build them up until they are and then an independent retailer willingly will take over from us. So it's really to protect the existing sites, also it provide us with an opportunity to test concepts in our own stores, new concepts and new ideas, so it provides a role for us in that respect.
24. And the last point independent retailers trade under the Spar brand and we call our trading system a voluntary trading group system, lets say. So, effectively what happens is the retailers join us voluntarily, they can leave us voluntarily. They'd they have to give us thirty days' notice and they could leave us. We do have a situation where we are we do have a three year initial period where they may not leave us. One of the reasons for that as we obviously invest a lot of time and money and effort in getting the scores going and we feel that we want to be have the opportunity to sell to them during that period to recover some of those costs but after that it's a formalized handshake. They can leave at thirty days notice.
25. And end from a buying point of view it's also a voluntary situation obviously we are into the retailers trying to get them to buy more from us on a day to day basis, but they are not obliged to buy from us. So, very much we believe we need to earn their loyalty as opposed to saying we've got a franchise agreement that says you must but we do put pressure on the retailers to buy from us because obviously otherwise our business is not going to survive. So it's got to make sense for them in the end. So, effectively we say we are different from the franchised system which has a five hundred page agreement you will you will you will. Ours is a three or four page agreement which says these are the

way the system works.

26. The bottom line is that our retailers are independent retailers, they traded their own financial risk. If they don't make it they lose the money not the Spar group. So, effectively, we believe that we are the little guys operating under a single brand with a support system that ensures the likelihood of success is greater than a little guy on his own trying to make it. So, it tries to deal with independent situation and give them support to allow them to be successful against the change. That's why Spar was born in the Netherlands and in 1932, the same thing happened the change started to grow, the wholesaler worked together with the independent retailers in order to try and be able to survive against the bigger guys.
27. So, we provide a service on goods, we provide advertising and promotions for the retailers I T. Systems, retail operations support to try and help them from a retail operations side, store design, a whole lot of system a whole lot of support services to allow them to do you have more chance of being successful against the big guys.
28. Okay, enough on that let me move on to some of our formats this is really and I really will just stick to the food side of it seeing that's what we focused on I'm not going to stop talking about Build It and liquor and all that sort of thing. I am just sticking with the Spar formats, we have effectively for full formats as you can see there. Super Spar or big stores approximately this is an average of three hundred twenty six stores about seven hundred square meters so they can sort of trade head to head against the big or the bigger, let's call them Shoprite, Checkers, Pick n Pay. Average turnovers are around R10 million rand a month.
29. And there, what they do is obviously because they're bigger, they, offer a bigger range of products and services that are priced competitively, very competitively and we will match effectively the big guys there, otherwise you can't compete in that market. And we have super Spars in the town areas but also in the emerging market areas, in the townships, out in the outlying areas where ever

we believe the volume is such that we can justify putting a big store. Remember it costs a lot of money to set up a store like this, probably a rule for 12 million to 15 million would be the for the probably good guys and spend over twenty million on setting up a store like that. But when we're talking about big money to setup one of those stores up. So we've got to be sure that the guy's going to do the turnover, we don't always get it right so the big stores there.

30. Spar stores let's call them neighborhood stores as we like it competitively priced they will be within a couple of two to three percent of the big guys but they won't be cent for cent with them because they're obviously doing less turnover. They can't afford to be at the same price on the stores doing 10 or 15 million or more so they would be smaller stores. The minimum I think at seven hundred fifty square metres roof where you 750 but the average starts our stores around 900. There is the turnover that they do around R4,5 million and we have about 345 Spar stores. So, that's where most of our history was the super Spar came about 10 or 10 or so years ago.
31. And then quick far smaller stores so real let's call them express shopping stores, smaller 500 square meters turnovers at about 3 million. We have about 125 of those. We even have another format here called Express which is I think got going in the course of the last year or so and they predominantly forecourt stores where we are we are getting going in the forecourt area. We all know that the forecourt stores are growing day by day and all of the opposition on getting into that segment.
32. And then Savemore is really again a smaller format it's not a Spar format directly although we supply them. And really, we see it as a nursery for Spar smaller towns where we can't justify getting a retailer to spend the sort of money that I've talked about in developing let's say a full-blown Spar store. But a nursery to get into the group where we will support them, we will give them a supply of goods. Hopefully one day seeing them grow into one of the other formats. So, as you can see smaller and we only have about twenty seven or probably these days just over thirty of these stores out there. So, it gives you a feel for what's going on from a format point of view.

33. If I move on to the next slide this is really just showing you from a regional point of view how we operate, how we break ourselves down. So we have a management team in South Rand, that distribution center is about a 60 000 square meter distribution center, supporting 245. We have a management in each of these regions. They autonomously managed. Obvious these guys all sit on the executive committee but they manage that business as if it was their own and if I can call it that autonomously with those retailers and what's right for that region. So, that's a distribution center in Jet park and Johannesburg.
34. North Rand has got about 112 stores in South Africa. They also look after and support Botswana stores, stores in Zambia etcetera. So, some of the Botswana up there. What else up there? Those are predominantly the areas so they supply a couple of stores outside of the country through this distribution center. Geographically it's best place to do that. So that's in [inaudible] sort of Midrand, towards Pretoria area.
35. Western Cape, 136 stores they look after they also look after Namibia so there's a few more stores there, they based in Cape Town. Eastern Cape, the distribution center is in PE. One hundred eleven stores. Lowveld that is in Nelspruit, and they also look after Mozambique they are 200 kilometers away from Maputo, so the logistics work best from Lowveld and then KZN is here based in Durban, hundred eighty three stores here are.
36. So, the group is about 823 Spar Stores. Let's forget liquor, there's about 650 of them and Build It another 350 of them. But let's just talk food side of their business, 823 in South Africa and is about another 60-65 stores in the surrounding countries that we support out of our South African operation, but seeing we're talking about South Africa, 823 is a relevant number here. Moving on.
37. Our store formats, effectively the different formats is as facilitated expansion into the whole of South Africa. So we represented probably the most widely represented of the group because we have a number of stores throughout the country. Probably about 55, somewhere around that percent in the town areas

or the metro areas and up and so virtually half off in the metro areas and the balance in the township, peri-urban, rural areas. We are very strong particularly in the outlying areas, so that gives you a sort of mix. We are not just a town based or Metro based organization. We have about 104 stores that are black-owned as we term it, previously disadvantaged people and those stores you will hear from some of the guys today.

38. 95% of the Spar stores and I take - we call Spar as a brand. And the overarching brand. When I say Spar, Super Spar, Quick Spar I'm talking all of them so 95% of the Spar stores are in centers that are smaller than 1 500 – 15 000 square meters. So, they might have 10 or 12 stores. We're not in the, we have very few stores probably Gateway is our only one where we have in center that's 75 000 and above. But 95% of our stores are what we call in other standalone sites or in strip centers where there might be as I say 10 or 15 stores. So, I'm not, we're not because we have all focused on being convenient to the customer than being in the big bomb a center. As you can see there is 5% of our stores over 15 000 square meter that's an estimate. I won't be far out. Spar typically freestanding or small developments as I've said.

39. All right, let's get on to some of the stuff here and I'll just try and pick up on the most important points that my team has put in here. Basically, the way we operate, independent retailers we can't conduct our way in the same the same method that the national chains would use. Effectively with our independent retailers, we can't control the retail prices that they charge. We do however have is a recommended retail price. And what we say to the retailer is, we will do the research, you guys can send people out in the market, understand what's going on the, competitive forces you've got to be retailing. So, let us understand what's going on in the market and let us set up a pricing, a guiding and then come up with a suggested retail and from that point of view you guys continue and focus on selling as what we would want you to do. Look after the retailers.

40. So, effectively they however have the right to change the prices to sell whatever. That we can't force them to do that, to sell at our recommended prices because

it's their own business and they've got to make those businesses financially viable. So, we give them a recommended price and we do not force them to sell at that price.

41. Spar stores may compete with each other, I mean the point there is really just to say that it's not a perfect science determining which stores and how we break up the market. So, there is overlap in markets and they are stores that compete with each other. For us the important thing is trying to, when we get an application for a new site to try and determine what we think the impact is going to be and you know you don't always get it at 100% right. That's why we involve the retailers with ourselves as the wholesaler as I've said before in adjudicating the granting of those memberships. But Spar stores are reasonably close to one another and certainly in the urban areas and so to some extent their markets will overlap. What we do is we say to our guys, our job is to protect you, we are fighting the opposition we're not fighting each other.

42. So if there is a situation where for example we bring a new store into an area where we say we are not capturing the bulk of the market we will protect their existing guys as much as possible so by supporting them, helping them, giving them undertakings to make sure that they don't take a big hit if we were to open another store. So we have got to do what I said before trying grow Spar responsible.

43. Okay, carrying on with independent retailers so that if three avenues for independent retailers to purchase products through firstly throughout drop distribution centres so effectively they will script an order in, just electronically, we will pick up that night and the truck will be on its way to them the next day and they will get goods in the stores. On drop shipment this is where there is a radar distribution infrastructure in place take Coca-Cola, take the newspaper people, take the milk people etc etc. They already have distribution where they supply the whole market. They say they will continue doing that because, I do that for the opposition stores so we will do what, we call drop shipment, so with those suppliers we will negotiate a deal with them. Effectively we undertake, we

undertake to take responsibility for the payment to those suppliers and we charge the retail as we have the benefit of bulk buying.

44. And the supplier has the benefit of being guaranteed a payment and for that we take a small commission for doing that and the retailer will get a better price than if he had to do it on his own. That's why he would support the system. So we have three avenues through the distribution centre on drop ship or direct. In other words if the retailer has a supplier down the road or fresh produce we would encourage him to support that supplier of fresh produce down the road because we believe in supporting our retailers, supporting those who are going to support them. I mean we obviously have to work well part of the community we need to support the community where we can so there are direct suppliers and there are other suppliers out there, hawking business and looking for it's one of one of our strengths and that our retailers have that flexibility. It's a weakness for us as a wholesaler because guys can snip at our businesses and what do they do, they pick on the big guys who got buying power and all the rest of it but be that as it may, it's the way our system works as a voluntary trading system so we abide by that.

45. We are not a hand or a wholesaler but we only supply our retailers and with the reason that we do that. As we say success was inexplicably linked, we dedicate ourselves to you and then make sure that we need to make sure that our retailers are successful in order for our wholesale business to be successful the last thing we want to be doing here as a Spar store and there's another store next to it and we supply goods to them that's not going to be very good for a guy wants to belong, they belong to this club because I need guys you can get it. We only supply Spar stores as opposed to just being a general wholesaler.

46. Okay, let's move on. Independent may support local suppliers are covered that. So on average 80% of the goods come through the system. So either through the distribution centres or drop shipment which we say is through the system and the balance of it, 20% which the value is about R15 billion in value we do about R75 billion in South Africa, when I say we, our retailers do about R75 billion in turnover in retail and about 20% of that they buy not from

ourselves as the primary wholesaler so that just gives you a feel for what is the bought outside of our system and from independent suppliers direct suppliers.

47. So we effectively have to compete with other wholesalers etc etc. Spar stores typically owned by the individual and as I say you will hear from someone today or a small number of individuals or sometimes you have a partnership of two or three guys who own a store or a couple of stores and just to give you a feel out of the 823 stores. I think we've got about 500 retailers. So you can see that there are I mean our biggest number of stores is about that one retailer well and it's probably 20 or 5, Rallph something like that yah in Botswana one and he's got a couple of stores in Namibia but by far and away the guys own about one store for two or three stores okay. You will hear from some guys and a couple more today but buying large it's owned by an individual or as I said two individuals or so.

48. Approximately just in terms of properties and how that works. About 20% of the properties that the store is housed in and they got operates from are owned by independent retailers. I mean in retailing you would have heard I'm sure over time certainly the Competition Commission people would have heard that there's always a, there's ways a between landlords and retailers and this is not an industry, it's across the board. I mean effectively everyone wants to try and make some money that's the bottom line.

49. So the retailers if they can would try and acquire the buildings 20% are owned by the retailer with, another fact about 25% of the leases from the landlord are held by Spar and we sublet them to the individual retailers. Why do we get involved in the process as the wholesaler? Often it's a landlord requirement. Okay, what will happen is that the landlord will come along to us and say well you guys want to come into the centre, my alternative is up with Shoprite and Pick n Pay and they come with a Blue chip with a corporate lease. You want me to sign with Joe so no chance, I rather go with one of them so we as the Spar group a listed company with a bit of financial clout are therefore that's how this thing started. So we got caught up in, we were reluctant to get involved in those leases in the initial stages and we had to, in order to secure those sites. I

mean obviously the benefit to ourselves is that once we sign that lease we secure that site for the Spar organization but it was certainly not an initial situation that the landlords often need a blue chip lease to secure finance from the banks in order to do the development so this thing rolls a couple of steps backwards.

50. The balance so 25 tell you about 75% of the lease as we are not involved and they help by the independent retailer. About 30% of the leases, I know exclusivity an issue about 30% of our leases contain an exclusivity provision that's our estimate of it because we don't have sight of every one of those independent retailers' leases. Some of them, we have looked at but we don't, I mean the retail is not obliged to show them to us as that his business. And having looked at it as this thing has become more of an issue, it's amazing that in some cases we have standalone stores with exclusivity clauses in the leases. Where the guys are just taking a stand in Spar lease and just used it. So it's a crazy situation where you know I need your only a Spar store there and you have an exclusivity lea.. an exclusivity clause but about 30% have exclusivity provisions there, we will come back to that little bit later .

51. Yah that exclusivity is to varying degrees. So in some cases you might have, it prevents another supermarket coming in and in other cases of will be a supermarket plus a butcher, a bakery, and fresh produce store coming into the business. And why are the reasons for extending that primarily because in the supermarket business that's where you make some money and are fresh in our service department and groceries more and more it's become more competitive more and more products are sold on promotion where you don't make margin so those service departments are crucial to the success of the independent retailers. So that's why some of the exclusivity clauses get extended.

52. As I said the figures are estimates because we don't have copies of all the leases but I won't be too far out on my estimates there. It's okay, we're going to talk a little bit about that exclusivity and these are primarily the points that have been made in various submissions that have already taken place and

Eugene has covered why we don't want to get into detail questions here but for transparency let me just cover what we what we can.

53. So, effectively, we've got independent retail and I've said to you that they livelihoods on the line. So they making a bet based on for example a feasibility that's done, it's not a perfect science. It's a guesstimate of what turnover he's going to do and how much profit he thinks he can make and when he's going to make it. So for the retailer, they're obviously risks and he's got significant investments to make. I think I will just to give you a feel as I said Super Spars might be 12 to 15 million Spar store, 10 million to set up, 10 million Quick Spar, around 6 million if my figures are not too far out of date Ralph.

54. I think that would be about the sort of numbers. So it is serious money that an individual is going to commit himself to and the reason that he wants some sort of exclusivity is that he can only have a say in what happens in his centre. He can't have any say in where other people put other centres and all of us or aware of what happens in the market . A centre opens across the road if this one's a successful, one centre opens across the road behind and in most cases you will see a Spar store with a Shoprite nearby or a Boxer or Pick n Pay or a Woolworths. We trade very close to one another as it. So we ca , we are having a say in the centre, but we can't have any rights of blocking centres that operate around us and that's just the way it is. And some cases of come around where a landlord is trying to get clever and try to build another centre right alongside his existing one. But that's a subject of another discussion.

55. So, the most important point is that, the retailer is at risk and what he did if he could not have exclusivity in the centre? Let's say we have not said most of them are 15 000 square meter centres. He's probably taking 3 000 square metres. If we're going to put another store in the same centre. He's going to say count me out, I don't want to be part of that. I'm going to halve my turn over overnight. I can control what happens across the road but among going in and I can't even have a say about what goes on here the chances of me surviving are negligible. I'm not in, I'll put my money in the bank rather so it's a simple as that.

56. So we are very different to the chains in that we have got independent retailers and those businesses who can't afford to take 4 or 5 years for a store to become profitable. They've got to become profitable pretty quickly otherwise they've gone and forgotten. So you know they don't have the same financial resources as the chains. So the time spent to become profitable is so much shorter. I mean for most of the guys if they're not making money in six months or they're not getting to a breakeven point that they're under pressure.
57. In some cases we have guys who've got a couple of stores, so he might have a little bit more leeway but it really is a it is a situation within the independent environment. And as you can see here the retailers have to pay the rent regardless of the success of the store. He has made a commitment, he's got to pay. The lease agreements, personal surety ships, they have performance clauses, they have performance clause meaning doesn't matter if you're losing money in that store you got to pay your rent. It doesn't you know it's not a case of well, if you're not, I mean of course we, if the store is not successful we'll try and talk to the to the landlord but landlords are not very open to negotiation. They've also made commitments and built a centre and so they've got payments to make to banks and that sort of thing.
58. Performance clauses for independent retailers are tough they can't just walk away from it and they can't actually just change the nature of their business. The supermarket's not working, so I'll try and put something else on it or I'll sub-let it to somebody else. It doesn't work like that. The landlord has restricted the use. He wants a supermarket in that centre because he needs an anchor tenant. So he doesn't want us to put something else in there.
59. So there are restrictions to what a guy can do when the situation doesn't work out and effectively the exclusivity is to protect the investment that he's made in the store as I described earlier. We can't control anything that happens around him. I mean he could potentially have a say and some landlords say no exclusivity in the centre, most of them because we're in small centres and does say I'm not giving up anything logic prevails and if I'm going to put a 3 000

square metre site, remembering that we need 3 000 square metres, with the back areas and all the rest of it and I'm putting a few thousand square metres to put another store in a small centre, I'm going to cause trouble for myself. The guy is not going to be able to pay at some point in time.

60. Time period for a retailer to break even varies wildly. I mean we'll have some situations Dan we'll talk about. We've gone on for five six years and more and we still haven't managed to break even and stores. Other guys are lucky that in 3 or 4 months they can and they do break even because it just happens to be the right location. So it's very difficult to sort of say that of the 3 years a guy in our independent retailer will break even or one year or whatever because it varies wildly and widely between the different situations.

61. And the other thing is that when it comes to exclusivity, retailers are going to continually reinvest. So it's even, if it's after three years he breaks even. Let's say for example and now he starts making in years 4 and 5 at the end of year five he's got to reinvest in that business. If he doesn't, he's going to be a tired old store and the competition around them are going to show him up. So we would be saying to independent retailers you gotta revamp your stores every five years. If you don't do that and upgrade your stores your turnover is just going to go like that and my members on the left of me will affirm that later but it is a situation where you don't invest once and then for 15 years you sort of back and reap the benefits of it. You've got to continually reinvest because new stores are coming up around you all the time. You've got to be with it, you've got to be continually innovating putting new concepts otherwise your business will slide.

62. So I mean and when I talk about reinvesting in a store if it cost R10 million to set up after five years the guy will be spending another R5 million probably to upgrade that store. It's telephone numbers and we're not talking about you know 500 thousand upgrade. So for us you know.

63. I know there's been discussion about determining what is an acceptable period of exclusivity. It is very difficult to come up with a fixed number and say you

know after 3 years or 5 years that I mean it doesn't work in our situation. If we had to say you've got to, you've got to as an independent retailer 3 years exclusivity, after that it's open season we will not have independent retailers going into retail store. We will just open it up for the chains. The chains can maybe take that sort of hit. Independent retailers just can't. It's just as simple as that.

64. Let's move on to buying. I'm sure we'll have some questions on that particular topic, procurement within Spar. I'm just talking about buying. The way we work is that Spar would negotiate, we deal with national suppliers and regional suppliers and as I say I retailers deal with their own suppliers, direct suppliers. So there's a whole range of different supplier arrangements and ways of getting stock into our stores. Where we talking the big suppliers, so we're talking the Nestle's the Unilever's the big multinationals who are a crucial part of the supermarket industry and you've gotta have their products in your stores otherwise because the consumer wants some, it's as simple as that.

65. So with the big guys we have national trading terms with those national suppliers that would determine the overall trading arrangements with the stores and then as I say at the end of that sentence within each of the distribution centres. So in the regions they would then negotiate trading terms with regional suppliers. So you might have a milk producer in KZN who just supplies KZN stores and therefore the KZN DC would negotiate some trading terms for that regional supply. So some is done on a national basis. Why do we do it on a national basis because we have the bulk buying power in order to try and I mean we dealing with multinationals that gets a power balance right for up from our point of view, so we would we would look at that a nationa.

66. The region, the regional guys with the regional suppliers. And then what we would do within each of the DC is, when they place an order they would then have a discussion with the supplier and say okay, if I buy 100 cases what's the or if I buy 500 cases what's the price and they will use the volumes in each of those regions to try and get a better deal because that's what we have to do, that's what we are trading against.

67. So each of the distribution centres would then negotiate a price and try get a better price based on a commitment that they giving in terms of volume, in terms of etc, etc. all sorts of whatever.
68. Spar does not have exclusive arrangements with suppliers including relating to Spar branded products. In other words a supplier is free to do produce and pack products for all parties. We do not say if you supply to Spar you may not supply the opposition, no agreements do we have where we have those arrangements in place and so I think that's important to note. Obviously where we ask a supplier to pack a Spar brand for us they can't supply that Spar brand to Pick n Pay, to the opposition, to independent retailers that would be crazy putting a Spar brand in a non-Spar store. So the supplier, no exclusive arrangements with them in other words if he packs a Spar brand, he can pack a Pick n Pay brand, a Metro brand whatever brand we don't restrict them from that point of view but we will not supply that Spar brand to anybody else and we will not allow him to provide that Spar brand to anybody else as well. He can't sell it to them, he can only sell it to us for obvious reasons.
69. Spar predominantly produce products from South African suppliers or companies that operate in South Africa. Less than 5% of our goods and I would guess that it's probably a couple of percent of the most are imported products. We might have some fancy Italian ranges that get imported but 95% of the product is from South African suppliers. And then then obviously the Spar Group potential to get one of the best possible prices in order that we can pass on those benefits to our retailers to compete with the rest of the market, that's what we have to do as I've said in the beginning. Our job is to put our independent retailers in a position to compete with the bigger guys out there.
70. Let me move on to Spar house brands. What do we do when we're looking for house brands, would be Spar brands or Save More brands and effectively 95% of it would be Spar brands. We would tend to look for secondary suppliers and not go to the big guys. Why do we do that, because we don't want to be in the hands of a Unilever or Nestle. If there's a shortage of supply is going to

obviously sort themselves out first before and I'm going to be the guy who goes out of stock of my house brands. We would rather have a smaller guy whose livelihood depends on the success of the Spar brand that he's packing for us. So that he treats us in the way we need to be treated and we make sure that we are in stock of that product better than we would otherwise be.

71. Spar has over 150 suppliers supplying house brands and then we would assist those suppliers to develop the product, the packaging. So we would tell them what specs we want, what we want the product to look like. We would supply recycled cardboard and plastic to him to enable him to have a more cost effective way of packaging the product because that would lend the price, lend the product in our stores cheaper. So we find all sorts of ways of working with our suppliers to make sure that that supply chain is efficient.

72. I'm getting to the end. Community involvement as I said before it's an imperative of Spar. And how the Spar organisation works that we have stores as part of the community in which they trade. And we want to obviously try and help and see what we can do to help develop those communities. So we get involved in the causes that we can help everyone. Obviously there's such a huge need in our communities these days, we can't help everybody but what we do is encourage just stores to be involved in the community and support those people who help us, who support us because that if they see that we are supporting good causes and their community logically they are going to want to shop and support the guys who do that, the Spar store who supports that. So that's central to the ethos of the Spar model. We are very much involved in the local community, whether it's a school or community, care centres feeding programs, growing programs etc, etc.

73. The next one was just a rural hub concept and this is really just as an example or one of the things that we are doing is setting up a JV between emerging farmers. It has been tried we're not the first guy to try this but we think that we're going to have some success because what we're trying to do is set up a joint venture with emerging farmers in the Giyani area right Kevin? And we've got a couple of other hubs planned but it's the first one we doing in merging farmers

with the retailers in the area. You've got to have the retailer support because they've got to commit to taking the product off emerging farmers and the Spar group involved with some funding.

74. We've got to set up pilots. So we're talking about fresh produce areas predominantly. We're gonna have a pack house which we've obviously put money into and the idea is that there'll be a tripartite J.V. where everybody has an interest in this business in order because we want it some point in time for this thing to be self-sustaining. So we will invest product. We've got funding from various bodies including the Dutch government etc etc. Our own government I think have been involved in supporting the project and a number of other organizations in order to try and make this thing successful. But the idea is to pilot the thing.

75. We've got a number of other projects planned and rolled out and we've given commitments particularly when you get funding from overseas. You've got to make these sort of commitments. So we have got Kevin as an example who looks after sustainability in our group and he's very involved in getting out there. We employed people like techno serve to help us to train the farmers to try and make sure that this thing is going to be a success. So we are 100% committed put in money beyond it and most importantly the money's one thing the most important thing when you do something like this is the time and the time that you're involved in them.

76. The money just giving money the thing is set to fail you've got to give your time and effort in managing, this business and in managing these different relationships. So that that's just an example. So where the local retailers would be sourcing produce from the farmers and that we would allow those farmers to grow from being subsistence farmers to hopefully being commercial farmers. Just the last comment from my side is really just a couple of general comments so that we don't finish there just on the trading side, retailing I mean everybody knows about it is really tough at the moment. The consumer is under pressure we all know what's happening. Political uncertainty, food inflation with the Rand having come under pressure. Volumes are, our volumes are down

on a year ago. And so it's a tough situation. We having more product being purchased on promotion and we know on promotion we don't make the same margin and everybody scrapping more for market share.

77. So I talk about competitive forces that's really where it is. There's a full on scrap between everybody out there to try and to try and get there. To get more than their fair share of the market. We you know that's really what it's all about and we have got players, we've got the big guys, we've got newcomers into the market. Some of them are big guys new into food and we've got new players that have come through from Botswana enter market. We've got forecourt stores that are growing. We've got small players particularly foreign trade is coming into our market some of them which don't follow the rules. So the competitive forces are coming from all sides and it's not an easy place to be in. I can assure you that nobody and none of these situations is there any collaboration that takes place between any of the players in the market. I put my hand on the Bible to that. I was a chief executive for 7 years and never met with any of the chief executives in any of those companies over that time, I met one or two of them in a social event and that was it.

78. Spar system supporting independent retailers just to finish off on that. Our success as a wholesaler with independent retailers are inextricably linked. We've got to work with each other in order for both businesses to work and as I said earlier we on the wholesale side only supply our stores nobody else so we need these guys to be successful otherwise we can close our six distribution centers and go home. I have said enough. I'm going to hand over to, Nizi, who is going to go next.

Nizibone Nkwelo - Independent Retailer

79. Good morning everyone. My name is Nizibone Nkwelo short for Nizi so so everybody in the panel can just know me as Nizi. Basically. I'm here to basically tell the story of our journey in retail and basically why we joined Spar and just give you a background on our business and to basically end on some of the some comments in terms of how we trading and the kind of market we sit in.

80. I'm basically from the Transkei in the Mtata area so of all of those that know Mtata we come from that part of the world. We buy. We are Spar retailers. We buy our stock or procure stock from the KZN DC here in Phoenix. I currently sit in the regional guild committee at the current moment. We basically started well when I say we, our family that means my mom and dad who are currently heavily involved in the business still, myself and my sister. At the time they started, my parents started the business in 1986 as a small independent retailers in the Transkei in a town called Tsolo which is about forty kilometers away from Mtata and obvious Mtata being the biggest town in the area.
81. In 1986 and obviously they grew the business acquired a property next door and built about a 500 square meter store which was the biggest store in town and away we went. In about 19... I mean 200, a Boxer was knocking in town and we realised that days of sole independent retail as what we traditionally knew in terms of what I talk about sole independent without being part of a bigger network of retailers was ultimately coming to an end. We needed to come to Big Brother and partner and be part of a bigger system of procurement so that we can be competitive with the likes of a Boxer that was coming into town.
82. And subsequently in 2007 my dad basically liquidated all his pensions put our house up put the house down and put R10 million towards a Spar store and off and away we went from where we were in 2007. We subsequently build that and in 2012 we paid off that store. And an offer came in 2013 to buy an existing store forty kilometers away from fifty kilometers away from us in a town called Maclear. It was an existing Spar store owned by owners is an existing Spar owner. We took over that store in in 2013. And in In 2014 another opportunity came up to buy a store that was under liquidation in the big catchment area in Lusikisiki and we obviously couldn't take, we couldn't forfeit the opportunity and obviously that took over that opportunity.
83. The reason why we decided to join Spar obviously is because traditional so called rural areas evidently became a sought after areas for your so called big

chains and us as independents obviously wouldn't really survive. The story behind, we are where we come from in Tsolo is that our customers were obviously travelling forty kilometers by taxi to a bigger center like Mtata or doing their groceries and basically using us as their basic spaza store so to say.

84. We were not really getting the bulk of your of the purchasing but with. So with the Boxer coming into town obviously they would capture the majority. They would basically capture the leakage that was happening and ultimately you know that will be us and there will be out of retail. Currently right now in the three stores we currently employ approximately 110,21 staff members in each store. Before we were before we converted into the Spars, into our first Spar store in Tsolo we had about approximately 60 staff members. Obviously because of the volume of trade and the increase in operational expenses and the need to basically have people ready available to provide a Spar service to to your customers you obviously need more people.
85. We need to also understand that although we were trading a small butcheries and small delis as independents, you know the requirement is that, you know if you're going to going to compete against a Shoprite, if you're going to compete against a Boxer you need to go industry standards. So obviously would have to employ more people for the areas for the for the services area saw stuff complement ultimately moved from 60 staff members per store to about 110, 115 staff members per store.
86. What I will also attempt to do to the Commission is just give a breakdown in terms of how each store basically trades. We just need to just bring light to the fact that each store trades in a very different market. Each store I mean trades in a different trading environment. So just to give you guys a background in each store. Tsolo store or being the biggest store. Obviously with Boxer of being the major competitor in terms of its chain stores.
87. We have a lot of, we've had since I could say post 1994 a big emergence of what we call independent traders as we know it today that means your Chinese, Pakistanis, Somalians, Eritreans those have been the biggest growth in terms

of independent trade as what we know it today. These guys obviously trade in about what I would call a 110 – 200 square meter stores largely commodity based .

88. They provide a convenience to the customer in the sense that they don't have to go customers, don't necessarily have to go to our stores where you know you have to go into long queues and more bigger a custom a pool than in one in one area. They can go into these smaller little spaza stores or smaller little cafes buy their bulk commodity products. What I mean by bulk is big bulk maize, bulk sugar. And basically get into the taxi and go home that is basically become that is in that particular town that has ultimately become our biggest, our biggest so-called threat from a market perspective.
89. I can also attest the fact that we weren't the only black retailers in town. Prior to us joining Spar. There were black retailers like us but subsequently you know retail is a lot of work. Retail needs a lot of effort. You put a lot of your time and investment in it and subsequently you know I think some people's seek greener pastures and went into procuring for government tenders and construction and other more lucrative businesses that would probably yield a better return for them.
90. Our Lusikisiki business on the other hand is a little bit low but it's probably our biggest catchment area from a market perspective. We've got about 200 000 customers coming through that store per month. However, we're trading on 800 square meters. We've got in town two Shoprites, two Boxers, a Rhino, a Check Out and a multitude of independents and when I mean independents, I'm talking about the what I did what I described as independents earlier on. In that town also we are the only black retailer in town which is the main traditionally South Africa retailer in town and I believe without the support that we currently get from the Spar system and the pool of retail independent retailers that we have at our disposal we probably wouldn't be where we are.
91. We currently get business from Flagstaff parts of Port St Johns and also a parts of the Thabankulu area that's how that's how big that market is. Maclaire

is a bit of a different it also different very different from the other two in the sense that it deals with the wider LSM customer which I mean as we deal with your traditional pension business but we also have a lot of farmers' wives and a lot of farming, I mean quite a big farming community there. So our offering needs to be a very balanced across all sectors and I mean that in my opinion is probably our most our most profitable business in the group.

92. Just to add a bit of light in terms of how our business is structured from a pricing perspective. Obviously we, Spar obviously, gives us what we call suggesters RSP which is suggested retail selling prices according to what Wayne has that alluded to earlier on. According to what they believe we should be selling coffee at today but because of our different stores are geographically located differently, we have to basically play the market for what it is for example in Lusikisiki we are dealing with two Boxers, to Shoprites, a Rhion and a Checkout and a lot of independents. Our pricing will be a little bit different to how we would price our Maclear for example. So I mean a lot of how we structure our pricing and our stores is highly dependent on how we trade, how we feel we should trade that particular market.
93. I believe if that system was not in place and it was a simple you know tick the boxes and this is current trading system that you're working in sorry we probably wouldn't survive and the entrepreneur flair and that ability to actually drive your competence in the market, as an independent retailer will probably be nonexistent. We currently procure a lot of our produce in the local, from local produce, from local produce supplies, purely because the fact that our Maclear store for example that of I mean that do a lot of potatoes for us, that do a lot of that is a cabbage, spinach and all those bare necessities for your day to day produce requirements.
94. Likewise in the other two stores, if a guy has got let's say 100 hectares and he feels he can supply a Spar store, our Spar with some cabbage now and then every two weeks or so we are more than willing to you know to give that guy business because he ultimately feeds his family and that customer ultimately stays loyal to our business and the overall effect of how our competence in the

market from a Spar perspective and from our involvement in the community is that much better.

95. We also do have, we took it upon ourselves to get involved a lot in the communities because you must understand with my sister, my mom, my dad being in the business. We have to be in the stores almost every day, like I mean every day. So community involvement ultimately becomes incredibly important so. I think it was 1992 my dad started one to realize that the scourge of crime was increasing, it was increasing quite drastically in the area and really then ultimately decided to put money away. It was about it was about R100 000 a year and we run a local football league together with together with South African Football Association and the municipalities and just to get the kids out of the streets and ultimately doing something now and then. We sponsor the schools netball, netball tournaments and extramural activities that guys do like for example in McClaer it's a big fishing it's a big the big fishing destination for guys that are coming from the KZN down that side so we do the local fishing tournament. There's a big bike trail that that moves from east London to Buckley East we sponsor that. The local bull auctions that happen there with the farmers we get involved in the catering side of that so we try and we try and do a lot of community involvement in all of that Spar and from a corporate perspective I mean does not does not does not get involved at all in that in that aspect.
96. Just in closing I just want to just basically just give a background in terms of where I feel some of the major challenges are from an independent retailers perspective in the markets in which we trade. We need to feel from our part is that the growth in what of what I've described, independent retailers as ultimately become one of our one of our major problems to deal with from a from a competence perspective. I have got there's the two sided story to this. I feel that those independent retailers are more than welcome to trade in the in the economies that we trade because obviously one day they get us out they make as if they make us more competitive they allow us to be on our toes every single day, to understand that markets are changing on a day to day basis.

97. However, I just think the biggest Achilles heel is making sure that we regulate the so-called independent trade. I mean, if a Pakistani guy comes into South Africa and decides to put up sorry to say decides to put up a trading store we need to be able to vet those guys and see whether or not are you are you here legally. Are you paying UIF, are you paying sectorial determination prices on your labor costs and so on and so on and are you procuring the stock correctly like everybody else and if I think if we could, if I mean, if more effort could be put in in terms of regulating that side of the business, I think a lot of what I feel is detrimental to my business as an independent retailers who has been in the Transkei well of the family in as an independent family in the Transkei for over 30-40 years if that can be regulated a little better, I think our trading environment and the growth of all that want to trade in in the areas that we're in, can actually be better thank you. Thank you.

Dan Maluleki - Independent Retailer

98. Good morning everybody. My name is Dan Maluleke. I am an independent Retailer from Gauteng. I'm going to tell you my story of how I became a retailer. Actually the business that I'm going to talk about here was founded by my father in the early 1960s. In a place called Wallmansthal where I was born. Wallmansthal, for those of you who would not know it, is in map .It's from a village 36km North East of Pretoria. So I was born in that village and my dad had actually bought a small farm there after he got injured in an accident and which paralyzed his left leg and he could not work anymore. So. He practiced what I would call s subsistence farming you know the support his family out of that farm.
99. As his harvest dwindled as a result of drought, he diversified into retail and he built a small store which he initially rented out to somebody else and when he negotiated higher rentals from that retailer, retailer couldn't pay rent. So he said I will take the store and run it myself. So he took the store and he started to run the store. But unfortunately he had not possess skill to run a store. And he was a community man he loved education, he loved the church, he loved many people. So he had thought he had a market what I would have called a captive market in our language today of teachers, Christians that were with him in the

church that were buying from his store. And the beauty about this is that every one of those customers had accounts in the store. But they were not paying their accounts. It was at the end of the month, at the end of the month when they get paid it would go to what I would call a distillation store down from us there which was owned by an Indian but when they know my money and then they come and use him to do this.

100. So every time a customer comes he forgets where he wrote him in that book, so he would open another book. So he had books like this that had got amounts owing of credit of his debtors who were owing him but he did not know how to do that. Every time he would fail to pay suppliers because money was not coming in. So that was the thing. So I actually grew up in that environment, I was educated in Wallmansthal primary school and then I proceeded to boarding school in Louis Tritchard because my dad said I would be naughty if I stayed there. So, I went to study Wallmansthal, I mean a high school call Lemana and then from that I proceeded to the University of the North West where I study for a Bcom degree and majored in accounting and the most important exercise that I did for my dad while I was a student was to try and understand why he was not making money out of that retail.
101. So I took all those books, I studied, I calculated all of the monies that he was owed and found that the monies that he was owed was three times more than the stock that he was carrying in the store and I said you know you can't run a business like that because you go to start by collecting the monies. So that you are able to pay and you go to limit credit and I said if I were you, I would never give credit to customers because I don't have the infrastructure to run the type of a business so that is what actually happened.
102. But in the interim Wallmansthal was expropriated in the early 1970s and it's communities were resettled in a township called Soshanguve. That is where I grew up in Soshanguve. So as part of the terms and conditions of the expropriation everyone in Wallmansthal who had a small business, he was promised similar business if it's possible, by the then government. So that is how my father qualified to have a store in Soshanguve . So the first store that

you see there on top there which is called Maluleke Spar was actually a company registered as Maluleke PTY limited which later became a close corporation for reasons which I would explain if I have time at the end of this.

103. I came into the picture because at the time when we relocated to Soshanguve I was still studying at the time and then the businesses in township in Soshanguve were more formal than there were in Wallmansthal. There was only one developer of business and that was what you called today business partners used to call it Cooperation for Economic Development they would obviously be able to locate the sites decide who should do what in there to. So my father was one of those who qualified for a business and was going to be an anchor tenant in a small little shopping center Wallmansthal, I mean in in that shopping center.

104. I mean in that shopping center. So when we went, when Reason arrived in Shoshanguve they were given a small house to trade in temporarily while the shopping center was being built. So when the shopping center was completed my dad went to meet business partner us and they said to capitalise that store it will cost you R23 000 and when we look at your age we don't think you would qualify because you already are retiring we would not want to take risk without asking, do you have children? and he said yes I've got children and they said where are they and he said my other child is a lawyer, so yah we need that one. And where is your other one. He says he is still studying at the University of the North by his completing. And they said yah you see if you can bring those two children of yours and then you register company a Pty limited and you give him the shares in that particular company so that you end up with a smaller share because you don't want to over-bargain you with a loan when you would not be able to pay us back. They said it's because we're going to lend you that R23 000 on the basis that we lending it to the company and that company would have shareholders and the shareholders themselves would take the risk. So they would take the risk in accordance with the age because they are younger. We're going to load them with risk, so your sons would take 30% each and then you got on top of that you would look for somebody else who who is either a family member and has got experience because all of you don't have

experience in running a supermarket. So you give him shares in that particular because he's gonna to take the risk. Fortunately we had a gentleman called Shibambu who was staying in a neighbourhood township who was already a successful retailer and he had a Spa store which was a Save More store trading in that particular time. So we indicated we're going to bring in the company and then that's how the company Maluleke Supermarket was formed.

105. I became its first managing director in 1976 if I remember it very well. So I'm going to take you through this history of this store that spent over 40 years of retail experience with each one of that highlighting the most important incident in terms of how it came about. Maluleke supermarket traded from a store that was 40 square meters and as an anchor tenant of that shopping center which is built by business partners. It was employing mainly family members. It has twelve staff members and when I came in I became the managing director. So I had to manage that particular store and I was managing family members and anyone of you would understand what management is all about the ethics in management. It is extremely difficult to manage your sister because you don't forget that she is you're sister at home and when you try to address her she becomes personal in the sense that when you go on the begrudging because they think you are up to other things which I don't want to talk about it was extremely difficult.

106. But I later on learn how to manage a situation like that because to me that was very important. I felt I had to take things very seriously. We're a tenant on that store we paid R23 000 back to business partners and in the process we grew, we extended the store three times until we could not extend any further because we've reached the boundary of the shopping center. And every time we did that when we went and borrowed money from them and then we pay. So that helped us build a sound track record in terms of the stakeholder who is business but us in terms of financing. So in 1980 I won a prize of businessmen of the year out of that little store and the prize was to travel and overseas for four weeks on a look and learn trip. I was extremely excited about that achievement and this is something that was a highlight in my life because it changed the way I perceived retailing because I thought retailing was one of those things which

done by an educated people and I thought I was not educated. I don't need to go in and work in a retail store and I know that my father and my brother fought very hard to convince me to change my program because I had actually wanted to be an accountant and I thought as soon as I finish my studies University I'm going to articles and become an accountant but that never happened and in the meantime I also got a job Legal Brothers. So I had to think, part of that job was to send me on an exchange program overseas for six months. So to me those two things to me were exciting than to look after a small store that employed twelve family members who keep on stressing you all the time (people laughing in the background).

107. So I felt I had a moral obligation not offend my parents and I decided that I'm going to manage that particular store but when I got this prize I felt I have arrived big time. I traveled overseas and with a lot of money just from OK Bazaar, from Checkers etc. who some of them I befriended in that trip because my graduation actually at Turfloop was supposed to have taken place in that period. So I decided to graduate in absentia because I liked that trip. So I went on that trip and then they throw me a very big party, someone was like a chancellor performing the ceremony of graduation in that particular day when I was graduating so I will never forget those guys. So they really looked after me.
108. So when I when I got back, I found that I have learned a lot about what I did not know that somebody could make a living out of retail business of the stores that I visited in those countries. And so I came back and my brother came to collect me from the airport and said what did you see. I thought I don't know but I'm sure we can do something but the store that we have is a very small store unfortunately we cannot do those things. We need to build a bigger supermarket because I want to see a store that has a butchery inside, there were no stores in the township that had that. I said I want to be the first person to have that store but the challenges were there.
109. One of the biggest challenge that we had was to get land as you know prior to 1994 if you were a black man you did not own land, Soshanguve was a trust land. The land belonged to the homeland of Buputatswana and the South

African government was holding in trust in order to accommodate those black people who were non Tswana's. So the best you could get was a 99year lease, so you don't have a leasehold, you don't have a title deed. So you cannot own a land as a result of that. So ours was headed by Spar to be honest with you because they had a gentleman called Peter Nel who came from Zimbabwe and he was my ROL at the time. So when I'm when I shared this idea with him, that I'd like to have a bigger store and I don't have money and have land, I don't know how to go about this he said look don't worry just identify a piece of ground we'll go to the appropriate offices and negotiate for that land.

110. So there was land just about 50 metres from our store and I said the reason why we need this land is because you don't want to relocate too far from the store that you have because you do not want to lose the good will each have worked for so many years. So it's important for us to carry our good will our customers will follow us. So we negotiated for that piece of ground it took us 3 years to get that piece of ground and those trips included going to see Dr Coren Hof who was the Minister of Cooperation and Development at that time in order to get that time. And Peter Nel was the spokesperson so he came to give this man an opportunity because he wants to go and create jobs for his own people, if you gave him that piece of ground he's going to small supermarket he can employ three times the number of people that he has there.
111. So on that basis to us but given to us by the second challenge we have no money to develop the land, so we had to go to business partners but it was an easy task, because business partners we already had a track record with them. So they said we will lend you the money but we would not give you the money won't be able to pay us we would develop and you rent from us and then we would give you right of pre-emption which means that when we want to sale you would have a first right to refusal as far as that land is concerned.
112. So that's how we we managed to move into a bigger supermarket that had a butchery, that had a fruit and veggie and it was employing three times, the number of people because our staff compliments was 36 people that were

working in that store. So I was extremely delighted that at least we had a store so all we spent out of 10 years in that particular store because in our days it was extremely difficult you expand even in the own township that you grew up there were obstacles. And some of the obstacles which I remember business partners had recommended me in Soshanguve for a store which they were building in a shopping center across the street in the same township but the municipality said no we cannot give these man another opportunity he has one store he must stick into that store so I was upset by that. But in 1994 when democracy was achieved in this country things became a lot bit easier and that's how we started to do that.

113. We had a store in Roseline which was recommended to us by business partners and we forgot the principles we did not do any feasibility study on that store because it was also trading as a Spar it had an owner and then we went to buy it on the back because business partners gave us the opportunity to buy the store buy. But that store was a total failure, it was a disaster and I will tell you what it's problem is, that that store was in an industrial area and industrial area hasn't got any residents market. So it's got no catchment area except workers when they come. You have to close the store earlier what most of the stores do, on Fridays you'd close at three o'clock because everybody is gone, over the weekend there is nobody there you close the business and you know that our business 60% of a business comes over the weekend so if you closed in that particular time when you're supposed to trade you would never have a successful business. So that was a failure and that store we lost it and it made me regret why I chose to become a retailer.
114. I said to myself I would never be a retailer again if I can get an opportunity, I am going into other things. But after 1994 I had an opportunity to set up another store in an area called Spruitview in Voslorus, and that was Spruitview we used to call and then we change into Mathambo. Mathambo is my name, I called it my name because I founded that store. So that store was actually closed when we got it because the owner got liquidated by a bank that he owed money, and the bankers decided to sell it to us. that store so we bought it for nothing. But the challenges was that the feasibility was not done properly and we found out

the turnover that we thought we were going to do on which the feasibility was based was less than half of what we supposed to achieve. So you all understand what it means if I say you're going to do a R1 million and you do less than R500 000 and you've geared all your expenditures, your expenses in that business to R1 million and that was what Wayne was trying to explain. The risk that you take as a retail, is that you would not be able to meet all your cash, you're commitment and it was extremely difficult.

115. So what was the plan B, plan B was because we had Maluleke which was trading successful in Soshanguve at the time and we use that store to cross subsidise the store until it could stand on its leg. So today's one of our best little looking store in terms of profitability. So we just want to emphasize the type of risk which a retailer takes by setting out business by going to borrow money, you must remember as independent retailers, you're not funded by shares. In other words I cannot go, we are not public companies. You cannot go to the JSE and raise capital there and you scripts to get money and pay dividend as and when you make a profit . You go and borrow today the bank wants you to start servicing the loan tomorrow and you have to service it otherwise you could go out of business. So that is where the problem is. And because you are borrowing depending on how your capital is geared and you could find yourself with a very big problem of not being profitable. So your capital gearing actually determines your breakeven levels in terms of your turnover that you have to achieve so that was a problem.
116. So when we opened Mathambo Spar in 1993 and we are trading at that store and in 1997 we got an opportunity again to get a store in Kathlehong. Kathlehong was in a shopping center called Letsogo next to the hospital in Natalspruit, it used to belong to Black Chain but it was closed due to the political upheaval that swept in the townships in the early time before the actual democracy. So it was closed for 6years when we got, we saw an opportunity we went into that store we opened it. It is one of our best store today because it has been revamped it's trading area has been increased by a 1 000 square meters it used to trade as a Spar. So we converted it into a Super Spar. It employs almost 180 people at the moment.

117. So in 1999 we went back to Soshanguve because there was an opportunity for us to do that. So we opened Soshanguve Spar which is still trading today. It was not a success story in a similar way as Spruitview. There were challenges in that the feasibilities were not done properly. We were not achieving the turnover that we hoped we're going to achieve from day one. So we took a long time, in fact even up to today it is still one struggling store. The reason why we there is because we now own the property because we did a deal with the developer when you could not develop is said to us it won't use us to go to lend money to borrow money from the bank and develop it for us, so we had a sectional title deed in as far as, this is a supermarket part of it, is owned by us land, so own the property and it is fully paid for because since 1999. So at least we've got an asset that that keeps appreciating even if the store is not making money but we have the property that make sure that our balance sheet looks okay.
118. So in 2005 we had an opportunity to do a store in Moloto, Moloto on the boundry of Gauteng and Mpumalanga province in what used to call the Kwa-Ndebele homeland. So that store was a major development of a shopping centre. I mean it was the regional shopping centre which was done and it was a pressing development because the government was going to develop a hospital next to it and it was also going to develop a transport node which would ensure that all the buses on the Moloto road, I'm sure you must have read about the notorious Moloto road etc which carries up the Putco bus service carries about now 90 000 passengers a day. So they were going to build a terminals at the shopping centre there which had obviously very serious influence in terms of the size of the shopping center and we also want to take a very big risk in the sense that instead of developing a standard 2 000 square meter store, we went in developed a 4 000 square metre store because we were anticipating that there was going to be a bigger market but when that did not happen we were saddled with a very big problem of making that very big store viable. It is extremely difficult would trade and extremely difficult circumstances, it involves us going to negotiate with landlord in terms of making sure that it is of paying rent a market related rent we pay, we pay what we call market rental.

119. We pay rentals according to the 10 over that we are achieving rather than because of the space that we occupy. So we surviving up to today. We have been surviving but we're not making money in that particular store because of that. And then again in 2005 we had an opportunity to buy Ebony park which is in Midrand next to a where I stay. Ebony park was a store owned by a retailer and it was a Spar store and our managed together because a friend of mine was a partner to the property development. We split the ownership of that store because they also own the shopping centre.
120. He came to me and said look we have a store we can sell it to you and the store is struggling because it's turn-over was less than R2.5 million a month and the owner wanted R6.8 million a week and we felt it was a lot of money and when we took his store for when we took the store for evaluation by the bank so that we can borrow money, the bank only put a value R1.5 million in the R6.8 million and it was extremely difficult for us to go and raise that.
121. So we asked Spar to help us in terms of underwriting that part of the loan through Wes Bank which was a company that is a joint venture with Spar in terms of providing finance for projects which was similar to this. So we did that and they helped us to borrow the rest of the money in spite of the fact that we couldn't provide security of our own. So we had a particular store, so that store today trades very successfully. I had a problem, my own problem because I brought in my other partners in another business to partner me in that particular store but because they were not retailers they did not understand exactly how the deal work, they would not wait for that long to have a store that was not making money to start making money. So it was very difficult for me to arrange again another loan to pay them what their share was in the business based on the valuation of the business then. And you know it was very difficult but somehow retailers have always had the opportunity to find ways of dealing with the problem. So we dealt with it and now we own that store as a family again.

122. Mamelodi Spar, was a in, it was a store that we bought from Pick n Pay we trading there and straight forward we bought that store from Pick n Pay we trading in there. Soshanguve crossing is a store that we opened in 2014 at the mall where we trading against serious opposition, it's trading extremely well. Katorus, it's a store trading at Volsorus opposite the big mall and we trading very successful there and we also own 50% of the shopping center which we developed together with a guy from Cape Town who is a property developer.
123. In Everton was also a store that was developed in Everton. It's a small little strip mall in Everton and we take very successfully out of that particular store, this stores were opened in the same year in 2015 so that's where we are. So all the stores that we have except Roseline which is that existing anymore are still successfully trading in the areas where trade. What I want to say is this whole exercise a little journey took us forty yes to our drive at where we are with those particular stores. We employed today out of the store that used to do a turnover of R40 000 month and it was employing 12 people we now employ in excess of 1 000 staff members in this particular stores and very proud that we are rendering as a service to the community. We also have an opportunity to do that regarding our social responsibilities we do have a school that was named after my dad in Soshanguve which we have adopted and we look after their needs 100% needs of that particular school because of the same store in Soshanguve Maluleke which is our oldest store we had the opportunity to look after the pensions needs. The pensioners us that paid to the community hall which shares the neighborhood with us at a particular store. So every time, it's a pension payout we give them like now in winter, we give them soup and bread and if you know once every December we throw, we slaughter two beast and invite all the pensioners at the community hall to celebrate the success of the year, so that's what we do.
124. In conclusion, I'd like to say just to redefine what the relationship between us and Spar is as retailers, as independent retailers. Spar is a voluntary trade organization where independent retailers and independent wholesalers in the past and I'm sure Will would have touched on that in terms of how Spar group came into being. It was a consolidation of many independent wholesalers that

became one business so that's ways definition has changed. It's a coming together of independent retailers and wholesalers in South Africa so that we put our efforts together and fight competition from the bigger guys so that's what we do. So it's retailer owns the store it is his effort.

125. What I like about Spar is that it does not stifle initiative in the same way as a franchise does. Many people seem to confuse franchising and voluntary trade organisation. This concept was started in Netherlands it was started by the Americans. It was started by a guy called Aton van Vel went to get the ideas and he sold it worldwide and it becomes a success story. It is the only democratic way of empowering small retailers which otherwise would be languishing under competition. So to us as retailers we found that if, for instance, I had not made a decision that I wanted to trade as Spar, which was a strategic decision that I made, in the sense that for positioning, I'd like to make sure I support wholesale business that not only is interested in selling me goods but it would also help me develop my business and my business acumen and skills that I need to be able to compete in a very competitive environment. Had it not been for that, I don't believe that this these would have succeeded that we did I think they succeed because of the fact that and there has been that that the joint venture in terms of sharing of ideas etc. And also the other advantages that we have is that if you buy from a wholesale group like Spar which is a logistic company you make sure that you limit the number of times that you must open your back door for receiving stock from individual suppliers I'm not saying we don't have we do have the reason why we have that is because, is because the proliferation of products in the industry in the retail industry ensure which Spar cannot pay because it's not economic for them because I develop a range of product that is compatible to each one of the stores that I have because I need to save the needs of that particular company I mean of that market etc. So there a lot of products that we buy from Spar today that brings diversion in terms of our loyalty to them.

126. And also other issues with regard to making sure that for instance you buy correctly what it says we have in loose arrangement in Spar in terms of where if I can prove that I can buy this product from outside at anything cheaper than

what Spar is able to provide that to me, I've got a right to do that and they cannot say to me and I cannot do that so that is why I said they initiate it as a businessman remains there. So you still have to exercise your entrepreneurial affair as a retailer, as a business to be able to run your business as successful as you can. We engage each other through the regional communities, through the Spar guild of Southern Africa which wind that. The retailers have a fair and representation in that guild in the sense that the retailers are elected by their own retailers to serve on their behalf in that particular committee so that Spar, the wholesale business cannot take a decision that can impact negatively on our businesses so we did it so that is what that is exactly where we are as a business.

127. So in conclusion, further if you will allow me some few time. I'd like to state that if we did not have wholesale businesses that are prepared to put extra mile in terms of making so, yes it could be Spar's strategy to market themselves better Spar group for instance to make sure that we do not just supply you with stock but also supply you with other things that would help improve you or your compatibility, your competitiveness in the marketplace, we would not have had stores that are as successful. Today this model is being copied by other chains in the market but they are doing it differently, they use franchising instead of doing it exactly that we do which is where the differences. Thank you very much for that.

Competition Commission: Chair

128. Thank you and thank you for wonderful stories. And you have any questions (asking his colleagues).

Competition Commission: Lulama Mtanga

129. Okay, I will start on Mr Hooke's presentation. You mentioned that the guild collaborates with the independent retailers to drive the brand. I just want to understand how in driving the brand how these stores identified especially in the townships, in the rural areas how does the Spar group or the guild

identify, who does that identification of a store before you identify the retailer. How does that happen?

SPAR Group: Wayne Hook

130. Well a number of different ways, new stores or the identification of stores comes from all sorts of sources. Some we have people who are focused solely on that new business development people, we have developers who come to us and a very strong proportion of our leads come back from come from our retailers who operate in the area nearby or whatever and they get to hear because their ears are very close to the ground. As you here the guys are in their stores, they know what's happening. A lot of these stores that Dan has got into and Nizi as well is because they know what's going on in their markets. So we have it from you know, our own people where they would hunt down areas and we would basically look at a map of the country and say ok we are well represented here, there are areas where we are not well presented we need a store so we might go to developers and say we're looking for stores in the following areas if you can find a site do so and come back to us. So we will send it so it could come from outside where we identify the gaps in the market, it could come from developers who already have a site eyed up and they would come back to us and say are you interested in the site. As I say a large number of the leads come from our retailers, so one of the three areas. Ralph have I left out other avenues , these I think will be the major, the major areas and that it would include the township wherever, wherever we identify as opportunities.

Competition Commission: Lulama Mtanga

131. Okay, and obviously when you go into a township or a rural area for a new store you would conduct a feasibility study, how is that process?

SPAR Group: Wayne Hook

132. Yeah again I think I mean again we would use a company that understands the demographics, all the census numbers and all the rest of it and we would try and build together a feasibility. Generally what's happened is a retailer has

been identified by that stage but we were trying to put together a feasibility that sort of says, okay this is going to work it looks like it's going to work we think we can do the turnover. There's is R30 million worth of turnover, there's R30 million worth of grocery turnover in this area and there is one Shoprite there who's doing R10 million, so there's an opportunity there. Obviously what we don't want to do is to say you know there's R30 million there and R25 million of it is being done by the existing guys already so the opportunities that big so we were trying to put together feasibility and based on that then move to the next level.

Competition Commission: Lulama Mtanga

133. Okay, when that feasibility, feasibility is conducted and again I'm still focusing on townships and rural areas. Does it take and does it consider or take into account the small independent retailers that operating in the area, informal traders operating in that area and how are those dealt with by Spar as it considers, when the decision is then taken that you would open the store? How do you take that, it can be general because I'm sure....

SPAR Group: Wayne Hook

134. Yah yah I mean first prize for us would be generally to say okay, who's the let's say we go into an area we sight an opportunity. We would say who's the, who's the leading retailer in the area, the existing guy who's doing the best job because he's a guy we would rather have in the organization. So let's say we went into an area, we had no retailer who would come along and say I am interested and we would go into an area which we believe that an opportunity would go to the best retailer and say to them do you want to join the group and you know with this so we would start a discussion going that way yah just to try and identify but if you if you, so for us there is an opportunity for the group and if there is how do we go about realizing that opportunity. Yeah I mean that's what we're doing. If you're sort of saying okay, there's twenty different existing businesses, what impact are we going to have on each and every one of those we tend to be looking at it on a basis saying

Competition Commission: Lulama Mtanga

135. What impacts do they have on you?

SPAR Group: Wayne Hook

136. Obviously, either way we look at it ,we would look at who the traders are and are we likely to survive whoever they are, small guys, big guys or whatever as Nizi explained I mean what's grown in the last couple of years are these small guys who operate under the radar and don't follow the rules. I mean that's a, it's an issue and I'm involved in the builder business and it's a big issue there. But in the grocery side and Spar as well where the guys they don't even always pay their VAT, don't even do these things on public forums it's a fact. So I think an issue from our point of view is, just is looking at who is there, who we trading against ,no matter what it is because we can't control who's there and how they trading and we can only control the bit that we do. Are we going to be successful and we would consider a big guys, small guys and what we're up against. I mean obviously from a logical point of view, if we're up against Shoprite versus all of the little guys our chances of success it would be greater if we were up against the little guys than the big guys but the situation has changed. We've got Nizi talking about because of the fact that someone don't follow the rules so we would consider the opposition wherever they might be.

Competition Commission: Lulama Mtanga

137. Okay, just so I understand that this exercise of identifying new stores would be conducted by the Spar group not the guild.

SPAR Group: Wayne Hook

138. No, we have people, we have people who would go and do that work for the Spar organization and then we would if we identified an area and a retailer .That retailer would apply for membership and then the guild would decide whether they granted or not. So we would need to do all our homework present to the Guild and the Guild which is that now the joint body as is the is where it's regulated so and the purpose for doing that is making sure that these elected representatives have their say because they can think very clearly with the retail hat on so even if we sort of say look we think it will do. They will come from the retail side and but what about this, what about that, think about your existing

retailer down the road, what is so you know, so it's it becomes a more balanced discussion because inherently we're a wholesaler we're looking to do more business. If we can, but we're also not stupid enough to sort of say we want to put stores everywhere because no one's going to want to belong to the club where we do where we behave in such a manner. So this is a body for regulating the granting of memberships.

Competition Commission: Lulama Mtanga

139. Okay, both Nizi and Mr Maluleke have spoken to, has spoken on the benefits of being, of forming part of being part of the Spar group and being part of the brand. I just want to understand, in fact, I had this as a note which I kind of battled with from the onset with the submissions as to what is the difference between Spar, what is the difference between your model and that of a franchise but then maybe just to put my question differently; now in view of what they've said here. I just want to understand, how does the Spar group make it's money out of this business?

SPAR Group: Wayne Hook

140. I mean, I think the reason the Guild is a non-profit, the Spar group makes its money from buying in bulk. So we will go and negotiate deals with the suppliers. We buy in bulk, we add a margin because we do massive turnovers. We will do R60 something billion this year and that comes out of the wholesale business. We add a margin for doing that and then we have the cost of these people to provide the services, the trucks to get the stock there etc, etc. So we make our money out of adding a margin, subtracting our costs and ending up with a net, so we will end up with a very small net but on a massive turnover number which comes to the three numbers at the so it's purely we add a margin to our cost.
141. So if we buy something for R1 might sell it for R1.05 to these guys. And then we've got to pay for the transport and the people and all the rest of it which will take away three of the cents to get us down to two cents in every rand or whatever that's sort of the margins that we work on.

Competition Commission: Lulama Mtanga

142. And how do you all retailers get things like signage is and whatever they have to do to have to conform who owns and sells?

SPAR Group: Wayne Hook

143. Yah we tell them what it's going to look like and they buy and pay for it.

Competition Commission: Lulama Mtanga

144. From who?

SPAR Group: Wayne Hook

145. So we don't we don't invest in retail. What we invest in, is trucks, distribution centers all that sort of thing primarily okay and the retailers invest in all that goes in the retail store. So putting a sign outside of his store costs him money and he wants to be part of this brand he happy to pay, not always happy to pay but they pay anyway. Anyway but so they're responsible for all of the costs that they place in the retail store and we're responsible for all the costs that place in getting the stock to them so the distribution centers the trucks the people all the rest of it. So there are two separate financial entities and their split pretty clearly down the middle.

Competition Commission: Lulama Mtanga

146. And who would be the supplier for signage and things like signage?

SPAR Group: Wayne Hook

147. We would, we would talk to signage people and we would, Ralph heads up our retail operations department and say he has got people who are go out there and say who can do the best job at the best price because these retailers they all want to know that they're getting the best price, they want the best quality but they want to pay the least amount for it. So we would tend not to, we would tend not to have one supply, would always have a couple so that we can make sure that there's healthy competition between the two but they would pay for i.t We would secure the suppliers and we would suggest strongly that they go with the suppliers to make sure that they that the thing looks right that it lasts and all

the rest of it and that if there's any problems with the supply we got clap with the supplier because we're a big customer of theirs you know.

Competition Commission: Lulama Mtanga

148. So there's no involvement by the by the Spar group in that aspect other than identifying the supplier themselves?

SPAR Group: Wayne Hook

149. That would tend to be hard work, if you ask me have I ever paid for retail a sign along the way of course I have, but the principle is that we separate that . I mean if we were converting a guy from the opposition and you it was a negotiation that took place or not and that we wanted to help the retailer because of the he was quite close to another Spar, so there's always a situation there but the principle is that he pays for all the retail stuff, I pay for all the wholesale stuff and I say the I, the Spar group and that's how it works.

Competition Commission: Lulama Mtanga

150. You also mentioned that, I think it's about 80% of the goods procured by the retailers will come from the Spar group and then and then the remainder they procure from whoever. That 80% is there, is that a fast and hard rule that you procure from us, is that the rule?

SPAR Group: Wayne Hook

151. Some are 90%, some of 50, some are all over the place. So it's different depending on what the, what they alternative sources of supply. Some guys is 97% because they believe blindly in the brand, other guys are buyers and we are dealers so they always looking for a deal from a direct supply where they can make another cent or something like that so it is not fixed. We do not say to our stores if you buy less than 50% we kicking out the group or anything like that but what we do is put pressure on them to buy more and understand why they're buying outside the group so that we can fix the problem inside.

152. I mean the difficulty is when you have big groups, let's say like Dan who has lots of buying power in his own right and you have a small supplier who goes

and talks to one man and he's got himself into 12 stores or 11 stores like that he would rather go there than go to one little guy doing who's got a small store and it's easy for him he knows he's going to get paid in that sort of thing but yah.

Competition Commission: Lulama Mtanga

153. You also spoke to procuring from the local community again in relation to townships and rural areas, can you explain more to what extent is a Spar involved in procuring from local producers in the area, especially? I would like to go further on this, we've had, I'm sure if you've been following the submissions that have been made even here to some extent. Local producers in the kind of trade that you would ordinary find in townships and rural areas all by historically disadvantaged persons before 1994 were bakeries, butcheries, I would say a bit of farming and in those kind of areas, to what extent is your business involved in preparing from procuring these kind of goods to keep the existence and therefore and help. We had serious concern about the decline of these suppliers, because they're not being considered by some of the retailers. I'm not saying specifically Spar.

SPAR Group: Wayne Hook

154. Yah, I think that up for us as I say the 20% is up to the 823 stores to decide who they buy from because Nizi's area is going to produce guy down the road it does cabbages. I don't want to send cabbages from Durban down to him it makes far more sense from a supply chain point of view to give you a better so so from their point of view the retailers decide where they are going to buy those. So that's the one sort of thing when we consider a supplier for the Spar group, it tends to be you know, in the regions we will have small smaller supplies but it tends to be that we need suppliers you're going to conform to certain things you know there's health and safety, there's a hell lot of things that we've got to check out in terms of the health of the food that's being produced so that's a consideration not an excuse.
155. And the second thing, is do they have the capacity to distribute to all stores if we're going to put it through our network you know for us to sort of have a guy

who has the ability to deliver to two stores doesn't make sense you know I mean we've got every guys because the distribution capacity due to distribute to at least the region you know so in KZN they deliver to the region then obviously it makes sense we could put it into our distribution centre and distribute to them.

Competition Commission: Lulama Mtanga

156. And you have such suppliers coming from the townships and rural areas?

SPAR Group: Wayne Hook

157. Oh yah, we have suppliers coming from all over the show if I was to answer you say I would say not a lot not a lot produce. I would say yes but if you're talking about manufacturing, Mike you would know better (Mike answers not a lot).

Competition Commission: Lulama Mtanga

158. You say fresh produce, yes?

SPAR Group: Wayne Hook

159. Yah because fresh produce you like delivering cabbages cost a couple of bucks or cents to send them from Timbuktu to Durban and to send them back to Timbuktu for I mean let's take the Makathini flat down to Durban and we distribute them back it's crazy, support the local guy because he's going to support you in your store but B because the transport in itself will kill you. It will start off costing two bucks and end up costing ten bucks and so yah the small suppliers it's not easy and that's why what we would tend to do. We have this happening every day and there's different people, I mean take water supplies, take I mean there are just thousands of guys there doing that sort of thing so what we would tend to do is to say and everyone's story is better than the last guy.

160. He's gotta to do this and he's waters got these vitamins in it and what we would tend to do is that if it was a small guy real small guy we would say your story sounds good and we might take some of them into the into the distribution center but generally would say let's try it in 5 stores locally. You're going to 5 stores put your product in a let's see what happens, let's see what the consumer

reacts. How are you going to drive your product because you're responsible for driving your product and growing the market you know.

161. We can help you with distributing it and giving you space on the shelf but you need to build your brand somehow. You don't just bottle water and suddenly plunk it on the shelf, it doesn't work like because you're up against all the big guys so yeah. So we would tend to at least in the Spar organisation there is the capacity to go direct to the stores and if a guy came and we said your story it sounds like you've got a good story try it in the stores around Durban let's give it 3 months and let's see what happens there. So he is the ability to go there merchandise the stores, drive it and many of our products have started that way and grown into being a significant brand. So we don't sort of say well unless you've got a 10% market share we won't even talk to you or whatever you know. Mike do I mean (Mike answers but he is far from the mic, therefore cannot capture what he is saying).

Competition Commission: Lulama Mtanga

162. Okay, is there any other than that, I know you spoke later on in your presentation on the farmer initiative that you've started, is there any strategy, any policy on how Spar as a group does this, in terms of producer supplier development for example? Is a supplier development program specifically suppliers coming from these kind of areas, In the areas that you are operating in basically townships and rural areas?

Mike

163. I think specifically around that rural concept, I think the important thing about that is that from a strategic and obviously fresh is an incredibly, an important part of it offering in a retail store. But beyond that, where we coming from strategically is the importance of addressing agriculture as a significant issue that we face in our country. And obviously the outcome of it recently around agriculture is the potential to address issues around poverty and nutrition, because obviously shopping supply chains which is what we trying to do with rural concept is obviously the cost are coming out of the system and

there obviously the opportunity for more affordable food in those various more habitual is clearly a benefit.

164. So from agriculture point of view strategically being a food company we have started making quite a conscious effort on trying to be involved in the development of farming and the farm we typically have a look at or farmers who kind of don't have access a market. They may have let's say for example to the street market or something like that. We try to and also the development of those farmers with regards to food safety issues, farming methods with the intention of the farmer being developed beyond an emerging farm. So they with access, that access to their own land. We do not want people leasing from a white commercial farmer. So that that that from a farming perspective is something which we take seriously. I think the big challenge that we might have to answer this morning when we go to other suppliers obviously clearly we understand that there is an area which is potential it's not easy.
165. There are brands out there , they are brands that people want as opposed sorry it isn't a branded product. So that it's not an easy issue but I think as an organization, we've understood that around procurement there is work to be done and specifically in the area of farming being approved business think that we've made some interesting inroads into that and we are looking at 3 of these hearts issues, the first one is in the Mopani District, and the second one will be just outside Malebane and the third one will be in KZN but it is are traffic trend that we are hoping we will take off and make meaningful contribution from an economic point of view in local areas.

Competition Commission: Lulama Mtanga

166. I know Mr Hook spoke to, so when you say we have started so you've been talking about the rural hub concept that he spoke to and the first one is in Giyani?

Mike

167. Sorry its actually in the Mopani District, it's just outside Tzaneen off Kholoko

Competition Commission: Lulama Mtanga

168. And when was that started?

Mike

169. We commenced operations about a year ago.

Competition Commission: Lulama Mtanga

170. Ok it's fairly new.

Mike

171. Yeah absolutely, we are moving into the pack house facility which is an important part of this. We are commissioning that to open probably in the next couple weeks because we don't have our own pack house. We've been sharing a pack house facility to start with as this business starts growing. And I think it's quite important. It's got a CSI initiative etc trying to develop a business to address certain bigger issues that affect. So yah we commissioned the pack house, will be done in the next probably by the end of July and we want in in an area called Malulani in an area called Ikwezi we are partnering with a black commercial farmer to develop a sector. It will hopefully come on screen within in the next 2 to 3 months . And the potential is to service per this hubs. We looking to develop 30 to 40 farmers and obviously the potential is to service a retail outlet, Spar outlets in that area, government feeding schemes etc the intention is to develop farmers yah.

Gentleman 1:

172. I just want to add to that. Remember we are a retailer not a manufacturer, is looking at development of retailers. Right now we've got 97 of hundred and four nature fleck with these environment. We were running a supermarket and that is what we need to sort of put a lot of focus, to try how we can improve that. That's a special on a smaller format on a sectoral format. That's where we are getting like in the olden days we had the Kwik Spars then these and these guys and most of our retailers they start as small stores because they don't have these big massive businesses. Unfortunately a lot of people don't want to start small these days but that is sort of our opportunity. We need to get back areas

coming into small businesses and grow to become the next Dan Maluleke and Nizi's of these world and our focus need to be we very much on that side not neglecting the manufacturers. If there's opportunities, the retailers they will go there but we need to focus on the retail side development.

Competition Commission: Lulama Mtanga

173. I was focusing on this question because not only in terms of the concerns that have been raised. It's not only the decline of the retail sector that has been pointed out to this inquiry, it is also that the decline of the producers in these areas with the entry off big players like yourselves, so that's why I want to, I wanted us to hear, I wanted to hear what initiatives Spar is involved in in terms of working with producers in the rural areas and townships? That's why I was asking the question but I do understand your focus is growing your retail business because you are a retailer.

Gentleman 1:

174. We are always very proud to be associated to plough back but please remember it's a small retail out there, it's an independent guy out there. Us as an organization, yes, it's big but the retail side it's a small and independent outlet and they're very much involved in their local communities as well. It's more difficult for them to get into big manufacturing businesses but if there's opportunities we will look at that but then the focus lies on retail.

Competition Commission: Lulama Mtanga

175. Can I ask perhaps Mr Maluleka and Mr Nkwelo to comment on this point. The extent to which really you work with local producers and how you do it both of you cause you from the Eastern Cape (madam chair gets interrupted)

Gentleman 2:

176. Can I add to that. You see there's a guy because probably in a story form there's a guy that that left Premier a couple years back when we started a Spar back in 2007 and the foot of the Drankensberg in under berg started hatchery and

obviously as a black so called egg producer. So to say was looking for business and obviously he went around looking for business obviously one of the people that he approached at the time was us and his company now is New Dawn Eggs. He's delivering his stock to our stores all of our stores but I can assure you that he never started like that. It was in the beginning heady that he probably had four bakkies and he's had three business and the stock was coming from under Burke into the Eastern Cape you know and this is the extent I mean we asked ourselves the question should we should we support Premier Foods who's got the new laid eggs in these big egg companies that are coming from Durban or should we support a local guy and the unanimous decision was that let's rather support a guy that we another fellow struggling businessman this trying to make a footing for himself and that was a call for myself. So what I'm trying to get to you is that although at times you know we might be seen to be only focusing on produce and agriculture and all of that it's quick, agriculture and some of those kind its quick turnaround type businesses, where guy can put up on the put crop on the ground within three four weeks understand he can now deliver to you. It doesn't cost them as much effort as setting up a plant and you have I mean and all of that and so a lot of a lot of the so-called emerging business people previously disadvantaged business people might have the might not have the access to finance to finding to give us the capacity in production that we need. But in those instances where you've got good stories of a guy like Mr Mthethwa in under Burke and another guy and Kokstad who partnered with local dairy farmers. I mean milk producers in the area who were sending milk to Clover. He then said any excess supply that you guys have got of milk please send it to me I'll produce mass.

177. He went and got funding from funding from Masizakhe funding which is part of Old Mutual Old Mutual Fund and he got his money and he started it and he came to us and approached us please can I supply you 750ml liter of maas, 2 litre maas and 5 litre maas and we said ok we've got 3 stores, I'll speak to other retailers in the area and let's give you business and fellow retailers like us independent Spar retailers like us we're more than willing to you know to support a guy like that and now he's supplying across the Eastern Cape.

178. So what I'm trying to say is that in instances where we can assist from a retail perspective we're more than willing to first look at local procurement with guys that are coming with initiatives and they can prove that we will be able to give you constant supply because you must understand there's nothing worse than putting a product on shelf you understand and automatically you get a big upheaval with your customers and everybody wants that and then you don't have the stock for the next two weeks so there are other there are prerequisites to you know to a manufacturer wanting to come and you know supply stock you've got to give us consistency because your product might be a winner and you don't want to be in a situation where we stocking a winner in our store that's going to draw feet and I mean two weeks of the month you don't have the stock because you don't have the capacity to continue to continue supplying us. So if a guys are committed to giving us constant supply and they're willing to work on their business as hard as we're working on our business but all means let's talk just that and that's and that's the general policy and with retailers at this stage.

Competition Commission: Lulama Mtanga

179. In fact, Mr Nkwelo, you spoke you know in your presentation and presentation I noted that in relation to my clear you'd be clear about it because it is a farming area and you spoke to the farmers that are do supply to you. And then what happens in Tsolo. You operate in Tsolo, you operate eMthatha what happens there similarly initiatives and I am asking this you may be viewing yourselves as independent retailers and appealing to us to see yourselves as such the community does not necessarily see Spar see you because you're a Spar they don't see you as a small player, so we putting you in the same category in terms of these questions that I'm asking you in the same at the same level as Pick n Pay and Shoprite so that's how the community that you operate in view you. So in Tsolo would you be doing the same considering producers in Tsolo, considering producers in eMthatha?

Nizibone Nkwelo: Independet Retailer

180. Correct we do it with the same thing you know have people come to our back door and will over willing to procure or give us a constant supply of product and your local your local your (Lusikisiki) same thing.

Competition Commission: Lulama Mtanga

181. Because you didn't speak to those you only mentioned Matli....

Nizibone Nkwelo: Independent Retailer

182. No same thing. I just obviously alluded to I mean those big success stories obviously if I go into detail in terms of how each story structure probably end up speaking for thirty minutes, but what I mean I would want what I wanted to really press on is the fact that you know local involvement from a retail perspective is highly prevalent within the market that are trading in and we tend to take that into more cognizance far more quicker than you know the big guys. Mr Maluleke I don't know if you would want to add?

Dan Maluleke: Independent Retailer

183. Thank you, I have always thought you know as a retailer you want to procure those things which have a market for because retailer does not have the infrastructure to advertise, to have that has a products except to put it on the shelf but we do have suppliers like for instance, I have many manufacture of toilet papers in my area. I also referred him to my D.C to see if you can get the bigger share of the market by listing as a preferred supplier because he supplied such a good quality product and at the reasonable prices and we are able to sell that product. I can vouch that particular supplier.
184. But like to talk more about empowering the smaller retailers in terms of procuring from us you know because our big risk today's had become a very busy with a whole community in terms of buying bread for selling into our store. When you have promotions for instance we have a lot of supporters who come to buy our products particularly the maize meal and the milk and the Spar milk and I usually raise this issue whether these retailers it would have a right to go and sell a private label product from the stores you know and whether we have got paid patent rights to refuse them to do that.

185. I know that it was discussed at the regional committees etc but it's something that you cannot prevent from happening, you cannot stand in the door and say you can only buy two units of this because if you're buying more than it means you're going to sell from your store and the biggest problem is that these very same retailers using their own skills they know that your milk is cheap probably now if they buy in huge quantities when you markup. They're going to sell and undercut your prices you know it happens, it's something that you cannot prevent, it's I think, it's becoming unique because our promotional program has become so predictable at the moment. They know that you going to promote maize meal, they know you going promote oil, they know you going promote milk etc.
186. So are the volume products that everyone who could sell at the competitive price will be able to sell regardless of the brand maybe at that level the product is taken as a generic not and not as a brand for instance it will be milk and UHT milk at affordable prices. I could have bought it from Spar and this also destroys the image that you are now very expensive in your own product but someone is not even a Spar is able to sell your Spar product cheaper than you can. And that is a very I don't know what Mike is going to say about it, but it becomes a bit of a problem.
187. But nevertheless would like to talk more about the products that we produce and help the communities to distribute in the township. The bread which we make, we making volume bread because we got a market for that and that market include the hawkers that buy and go sell at their spaza shops, so we do that. But we do not unfortunately, we do not have to many manufactures in our market maybe this is in the townships you know you don't have too many suppliers from our own previously disadvantaged local produces that can supply us with those products but this particular brand that we sell I even ask him to brand. And I also helped him because in the first place he produced a product that was unsellable and unsellable in that it cannot go through our retail systems because it was not scanning. It did not have a bar code. So I ask him to apply to SANA to be able to make sure that we can retail his product. So

today he supplies out of the stores that I have. I'm sure he supplies maybe 10 of my stores in that particular product and he is doing very well. I know that he has negotiations with Spar Northrand in terms of becoming a supplier because he was thinking of maybe requesting to be given the opportunity to manufacture the save more brand which is frequently produced etc, which would have helped him a lot if he could if he could get that.

SPAR Group: Wayne Hook

188. I think in summary, I mean numbers that we talked about in terms of you know, it's quite difficult to be specific about them but 20% percent of the product or a little supplies outside of the system whether their suppliers from the local township or I can tell you now, when it comes to produce and that because of what was being described that is where big portion of it, will be because it is easily more easily done than packer manufacturing but 20% of the product in the small organizations a significant number is about R15 billion that bought from the small suppliers. But that doesn't mean that previously disadvantaged general catchall. So it's quite big number which you wouldn't find in the chains because the chains wouldn't allow that obviously you have a whole list of products you buy from them but they also have independent retailers in some of the chain so that's how they operate.

Mr Dan Maluleke: Independent Retailer

189. Just to comment on that, I mean if you take fruit and veggie as an example fruit and veggie it is extremely difficult for DC to supply for fruit and veggie stores because in the past they didn't have that facility to do that and it was recommended by the regional committee that the stores must buy from local suppliers. And we if you lucky and your stores are located to farmers you are able to get fresher products at reasonable prices that you are able to retail at better prices too. So that is why the stores that are located close to rural area the performance of that particular service department is higher than in many other stores that battle to get the products of supply.
190. So we do have a supplier for instance, we have not acquired a truck because most of them produces is from the local environment but they don't have the

infrastructure to deliver to us, well so we collect from them. For instance, for things like cabbage, lettuce, spinach in particular which is very popular in my market, we shop around in terms of from farmers locally in our area. So I think those farmers that are able to produce actually getting a chance to their products marketed at stores like the Spar stores that we have.

Competition Commission: Lulama Mtanga

191. Okay sure, just you just to move on to a different point. Then you spoke about the impact of foreign traders what would be the exact impact of the foreign nationals on Spar's independent retailers for example I know Mr Hook also mentioned it.

SPAR Group: Wayne Hook

192. The issue obviously, it's a general, I can talk about it from a general perspective and I will be generally specific. General speaking, that the general feel is that obviously with their presence in the market because it's obviously taking away market share from existing business, from businesses that have right at it purely because I mean that's is a good and a bad thing but if we look deeper into terms of how it's going about it. When it's fact that it's fact that there's this undercutting of prices. They procuring it far cheaper prices than what we're getting and if you investigate that I don't have to, I don't have the proof of that obviously would need to go in and investigate but they're not paying VAT. They are not you know, they are not doing they aren't they there's certain statutory requirements that they should be, this they should be adhering to from a stat from an industry standard norm that they should be paying and they're not doing that and that from a general feel in the in the market is the biggest issue generally speaking. If I was to talk about how it is affecting me and other retailers like me in the market but to be to be specific, it's basically that the major effect is that they can they can they procuring a little cheaper on certain lines purely because of the fact that there's undercut theirs under-dealing that is possibly happening and that's it.

Competition Commission: Lulama Mtanga

193. My last point is on exclusivity which was Mr Hooke's presentation submission you mentioned that you kind of impress on your retailers to revamp you have the initial investments that you put in that you that you said warrants the exclusivity and then they'll be revamps. I just want to know, do you, does Spar either the guild or the group have examples of stores where the revamp did not occur and where you can directly attribute the decline in sales to the to a failure to revamp a store.

SPAR Group: Wayne Hook

194. We have examples at least.

Competition Commission: Lulama Mtanga

195. Would you be able to provide those to us a list of those?

Gentleman 1

196. Think what we can show you every year the turn-over of stores that hasn't revamp, we will show you an increase in turnover and a percentage of stores that has revamped. We will also show you are retailer who lost all the interest and we will sell that store onwards a new retailer comes in all he does is revamp that store and show you turnover.

197. So on a legal basis, a revamp in a revamp. I would have guaranteed your turnover of about 25% and now there's 11%, 10% without a doubt otherwise retailers would not invest either and they will go out of business with an investment. But you constantly need to reinvest in your businesses there's new trends, there's modern fresh stores coming out there so to be on the forefront of modern retailing you constantly need to do that.

Competition Commission: Lulama Mtanga

198. In fact when Mr Maluleke was presenting I was curious about your Maluleke Spar is to how many revamps did you have, where they every five years because we want to see this we want to see it . We are being told but we don't

know so I became curious as you are speaking it's an old old store in the township did require that revamping every five years.

Dan Maluleke: Independent Retailer

199. In fact we have just completed a revamp last year of that particular store and the growth was phenomenal as a result of that because you know customers get tired of seeing the same thing every day you know, they go to a new store and they expect your store to look exactly like that so if you don't revamp. In fact this is what Ralph is trying to say. If you don't revamp you might lose those customers forever so by putting in a new lease of life in that particular store it's like a revival in a store you begin to you know it's everything starts from the design. You redesign that store in such a way that it conforms to normal. I mean new modern retail so that customers feel the store is fresh, it's got a completely new look, it's a totally new type of a store that you'd like to see.

Competition Commission: Lulama Mtanga

200. You know in the interest of time I would be curious to see if there's been a decline as a result of lack of revamp and then or is that an increase of sales because you were then able to attract new customers when you revamp the store?

Gentleman 1:

201. We will be able to give you those figures by store, we will be able to give you the total spent by retailers so its five years year or year revamps, I will show you average increase group on the retail side and I will show the retail and increase on a store separately that has been revamped.
202. Also the five year thing that has been a strong rule in the past. We've changed it slightly. These days and we've started now believing in frequently revamps so sometimes every year the guy will do something different. You don't wait like when you buy a car you don't wait until five years. Now there's some guys that every second year they buy a new car ,the same with the retail side to make an impact of a revamp. After five years will cost you a few million you know rather spend every you know every year or every second year spend one or R1-2

million to keep you store fresh the whole time so you look at different departments and that's what we are trying to do these days with the retailers but I can send you that information.

Competition Commission: Lulama Mtanga

203. And when you do, it would also be nice to see the revamps that you've had or conducted in a store where there is exclusivity clauses and where there is none and we compare we see that.

Gentleman 1:

204. We can send you that.

Competition Commission: Ms Louise du Plessis

205. In the interest of time I'm just going to focus on one question for Nizi and Maluleke. The stores that you do have, which ones have the largest catchment areas and which ones have the smallest catchment areas and what are the main factors that determine the size of your catchment areas?

Dan Maluleke: Independent Retailer

206. I will take that question. If I could say Stradford has the smallest catchment area and Kathlehong has the highest catchment area. I hired to get these two location you know that's why in retail. It's location 90% of the success of the store depends on location. You know location takes into consideration and a lot of things like the demographics of your customers. How accessible is the store to customers? How visible it is that store to your customers and also in stores that tend to operate from malls.
207. Like instance I give you Soshanguve Crossing is another typical example of that tend to have more catchment area because you piggybank on the success of other popular brands that makes up the tenant mix in that particular store and you benefit by piggybank on that particular store so that is precisely. So we've learnt a lot that if you make a mistake in terms of locating the store that mistake would probably be at death nail on that particular store that because the damage that it could do to your investment is irreversible I mean you've got

stores that would never irrespective of how much money you can pump in terms of revamps etc you would never get customers to patronize that store because it's out of sight customers don't see it's not visible.

Gentleman 1

208. The 3 most important things in retail is location, location, location. A good retailer will do double the turnover so that location is crucial.

Dan Maluleke: Independent Retailer

209. Yah it is.

Competition Commisison: Ms Louise du Plessis

210. Thank you, that's all from my side.

Competition Commission: Chair

211. With that thank you very much for very enlightning presentation and we will obviously see you again in September. There are many questions that remain to be asked. And so but thank you very much.
212. With this, we're going to we have the municipality, are they present? Aah shall we have a quick adjourn for five minutes and then we will reconvene.

SESSION 2

Competition Commission: Chair

213. I want to, I would like to start please. Can people come back into the room. Thank you for coming. And waiting. Please won't you introduce yourselves. And then I gather you have submission, presentation today and we will be able to get a copy of this presentation, thank you very much.

Msunduzi Municipality: Nombuso Hlophe

214. Ladies and gentlemen. Good day I'm Nombuso Hlophe from uMsunduzi Municipality under the department: Sustainable Development and City Enterprises. Basically I've got my colleagues with me. I am under Economic Development and next to me is Mr Mandla Sithole who is responsible for business licensing and street trading there is also Mr Rishi Ramarak who is responsible for the development of the informal economy and also there is Mr Atkins Khoali who is the manager from town planning. Mr Ramarak will take us through the presentation and we will be happy to take any questions that follow after that, thank you.

Msunduzi Municipality: Rishi Remarak

215. Thank Commissioner ,thank you Ms Hlophe. A very good day to you all. In Msunduzi we have a business unit called the Sustainable Development Services and this unit covers amongst other things. All the areas of activity as listed from one to 7 that will include people registering businesses, licensing businesses. When it comes to street trading it's the management and the administration of it. And obviously around the table we have our representatives from the town planning department and also from the informal from the economic development unit.

216. In essence these are the tasks that are being or functions that are being done by the following units: Our licensing unit as I said earlier deals with registration of permits and granting of business licenses. It's also involved in the management and administration of street trading. Our town planning unit and I think what's relevant here its they deal with our the land use management and control and also spatial planning.

217. We all do know this competition for space when it comes to retailing activity. Finally we have our economic development services unit and what's relevant for this Commission is that its role is the development of the small medium and micro enterprise sector, cooperatives and the informal economy.
218. For the much larger businesses, we have a unit that deals with business attraction, retention and expansion. An overview of our City quite simply its name most of us know is Pietermaritzburg. We have a population of 682 000 that's according to the books but it's estimated that if we have to add the number of aliens, the lack of better term that number would be closer to a million.
219. In terms of formal business is we have just over 3000 registered formally businesses that are registered formally. In comparison to the number of informal traders which is as you can see 13 000.
220. Our economy is basically split up as follows and this is the value of agriculture contributes 3%, mining 1%, manufacturing 15% and so forth until you come to trade. Trade as you can see is 13% and in terms of its value we can see that it's second to community services and under that section of trade this is where our retailers normally find themselves located.
221. Our informal economy is quite broad. As you can see a total number of 27 000 individuals are functioning in the sector of the economy. Trade once again seems to supersede everything else with over 13 000 people involved. What helps us to guide and manage these issues from a municipal level are the function of the following policies in legislations or businesses are governed by the business Licensing Act. When we dealing with all issues of taverns which is of concern to the Commission we use the KZN Liquor Act. When it comes to town planning we look at the SPUMA or your Spatial and Use Management Act and are guided by that.
222. In terms of town planning policies and of recent our municipality has developed a policy specifically with regards to taverns, tuckshops, bed and breakfasts and

there is one more Nombuso, boarding houses, thank you for that and yeah so we have recently developed policy on that. Hopefully that will help level the playing fields and make a fairer place to play or work or do business. And finally other municipal policies and by laws that come from you environmental departments and your health departments and so forth.

223. This is a very interesting slide and it came in late last night but I think it has a lot of significance. Control the oil and you control nations. Control the food and you control the people. This was said by a man called Henry Kissinger .Personally, I don't really like him. He's been responsible for lots of things that we in the world today that we see are unhappy with and I'm going to give you an example of this that's what some forty five years. Ago. And we can see the impact of or the value of the statement when I'm saying the value let's just look at what it's done.
224. On the global market, 10 companies supply 80% of the world's food. This is what was said forty five some forty five years ago. And this is what's happening today. in South Africa what we find is that four or five suppliers control 80% or approximately 80% of the of the supply is really a cause for concern. Why is it a cause for concern?
225. Our understanding of the Competition Act is firstly to help the development of the local economy. Secondly, it allows people like us to have better prices, better product choices, be free of will. Thirdly, this whole approach or strategy is supposed to ensure that employment is promoted and the development of this sector of the economy must be for the greater social welfare as opposed to a few. It's to ensure that SMEs have equitable opportunities. And obviously finally to increase the ownership of previously and of previously disadvantaged individuals now looking back at what Mr Henry Kissinger has done or said and what has happened since that time till now, we find that these objectives have been negated or not actually achieved and it is a course for concern for us.
226. The challenges that we face. Point one, impact on malls in townships. In Pietermaritzburg we have approximately 10 sizable malls. Obviously these

malls came at a high cost. The municipality was involved in putting in infrastructure to make it viable. There are certain sectors of the business community they are querying should rate payer's money spent developing malls rather than developing SMMEs and that's a question or a challenge that we feel we have to face.

227. Some interesting figures in the mid 2000s there was a study done and it was found that R90 million per week was leaving a township called Edendale. From an economic perspective it is in our interest to ensure that money stays within the community that's helping the community itself to grow financially and economically. But in this case we see that going back to what Kissinger said and what WalMart does, we know that Walmart has presence in Pietermaritzburg but under another name we know it as Makro but we know what money came from our local townships is now ending up somewhere in America which is something that we, as a municipality needs to address.
228. National chain stores and multinationals are major beneficiaries when it comes to the development of these malls. And we can find that once again profits are not even located in the local area and for the city to succeed we need money to circulate within the economy but in this case we have money leaving the economy. The third disadvantage is that we found that in the malls there is obviously an issue of like when it comes to basic foods, we find that the pricing is controlled. I said earlier choice is controlled and we need to ask ourselves if we have to address the issues of the triple challenges of poverty, unemployment and equity. Is the development of these malls in the best interests of the city.
229. Lease agreements, in Pietermaritzburg we found that the CLA is definitely a barrier to entry into a competitive market. We have situations where by a local SMME, who traded in the city for about 25 odd years and ran a successful business tried to move into the mall to expand and it was found that the people that were trading in the mall force this is SMME out. When I'm saying forced, it wasn't physical obviously there's other methods to get people out when you want their money it had to do with price. I'll give you an example, a normal a

normal tekkie that you would have paid R700 for in Game or R800 for in Edgars this SMME was providing the very same product for R500. And you find that that store no more exists and obviously it had to do with the way the mall was run and the lease agreements and the relationship the developers had with the owners and the finances and so forth.

230. Competition the next point sorry the competition between local and foreign nationals, Yes, that does exist. We have a high number of foreign nationals in our city. To be honest we can't really quantify at this stage but if I have to give you a rough figure and looking at reports that came from South African police services that figure exceeds two hundred thousand. That's not on any of the books but the police service books.
231. And what we found that and at one stage in this was once again I think in the mid 2000s mid to late 2000s we found that \$5 million not Rands U.S. dollars was leaving Pietermaritzburg on a monthly basis. That is a cause for concern once again plugging the leaks. I you are I would like to add that you know in our policies and in Pietermaritzburg. When it comes pacifically to foreign nationals they are not discriminated against. If there is a site that made available and if the individual has a permit or a residence certificate, he is allowed to apply. He is not discriminated.
232. Even though the above situation hold true the City is like in keeping with national guidelines. Complaints from people small businesses they believe that legislation is hurdle when it comes to registering one's business and conducting one's business. Other than it being too costly and hence they did choose to remain informal. The last point on value chains, is quite simply this. People found that in Pietermaritzburg you can get a loaf of bread, same size, same weight same color obviously different names starting from R6, 50 to R16,50. And that's all within a distance of five kilometers. One one begs to ask the question what is going wrong specifically in Pietermaritzburg. What's of concern to the City is this, another figure that's not up on that slide is that we have a poverty people that live below the poverty margin is over 25%. Looking at other commodities is fine, but when it comes to food which is

part of poverty alleviation, then we do have a problem. When quarter of our people are living below the broad bread line and there's a fluctuation in price of bread which one could me consider being a staple diet. We'd like this commission to help guide on this one.

233. To conclude. We are thankful for this opportunity to submit and be part of this enquiry. What we would like is that this Commission at the end to submit to a communicate its findings to the municipality and that will help us conduct business hopefully in a better way . With that I would like to say thank you for listening to me and before we open up to questions of just like to ask my colleagues if there's anything that they would like to add that I think I've omitted thank you commissions.

Msunduzi Municipality: Nombuso Hlophe

234. Thank you Rishi, when we had a meeting on Tuesday with Mr Khumalo, I know that some of the things that we have highlighted in the presentation are not are things that we're not discussed at the meeting but specifically the things that he was looking at was issues around the zoning which means issues around town planning. The polices that we use as the municipality to ensure that businesses comply and also the consequences if business are operating illegally and also we are asked to look at licensing issues the legislation and how we conduct our business operations relating to do business registration and licensing so maybe I will hand over to Mr Khoali who is the manager at to maybe just highlight a few things relating to zoning and then over to Mr Sithole to highlight issues relating to business registration and licensing, Thank you.

Msunduzi Municipality: Atkins Khoali

235. Thank you very much Ms Hlophe. I think before I come to the issue of zoning let me come to one of the critical things the incentives, I think one of the challenge which is facing the informal SMMEs, is the issue of the incentives. I remember I think it was 3 years ago when there was some sort of a this fighting or when there was this issue of xenophobic developments in Pietermaritzburg.

- 236.** One of the reason why the small businesses were complaining about the so called foreigners was not that the foreigners were taking their businesses but when I did a research, I was told that these guys who are coming outside of South Africa, they've got some sort of a company that if they have to go and buy at Makro or in any or wholesale they will contribute some money. Let me say maybe if any member of the foreign national need a stock of about R10 000 then each and every small business will contribute maybe a R1000 each so that they will be able to buy in bulk. So I think that is one of the achievement why these guys are sustainable of why their business is sustainable, the foreigners.
- 237.** The local people from Pietermaritzburg, the problem is that if there are working individually. They don't work in co-op and I think with regard to the issue of the incentives it will be critical that I know that at municipality is providing assistance to the small businesses in terms of the advice but we don't have a proper incentives, tax revenue to provide small businesses to grow Then the second issue come into the issue of town planning the zoning. The challenge which is facing Pietermaritzburg, we know the history of South Africa. We know that with the promulgation of the planning and development Act now the Town Planning Legislation, the Spatial Plan and Land Use Management Act, then it is a must that a person must comply with those legislations. For example we find out a small person who stays in a small RDP house which is zoned for residential purposes then this person may be will want to open a small tuck shop or something like that but because I think Rishi mentioned that. The complex in terms of this planning and legislations most of people are trying to regularize small businesses, they are not complying because of these rigid legislations because the laws these town planning legislations clearly indicate that if you want to change from this zone to another zone you have to follow the processes and in most cases these processes are too expensive and they are complicated.
- 238.** You see the way these legislations were passed. Okay is a fact that we are a growing City but the way these town planning legislations were passed, they are more responding to western type of development. So we forgot that South

Africa is a part of African city. A person who come from a township who wants to regularize maybe a tuck shop or a creche , it becomes difficult for him to get compliance because of the issue of the zoning. So I think that is where we've got some sort of a short fall in order to help small businesses to grow in Pietermaritzburg. And the things that the consequences of these legislation is that if a person is failing to comply with the legislations, the consequences is that the end result is that legal action will have to be taken and I know that for example we know that Pietermaritzburg have got a vast rural area which is called Vulindlela area , which is under amakhosi.

239. I know there is this incentives which is coming from the Department of Social Development with regard to help the more especially creches but the problem is that in Edendale and Vulindlela area people are not complying to open tuckshops as well as creches. Although the national government is saying that guys we've got the money to help mall businesses like creches and tuck shop but when coming to the issue of zoning national building regulations, people are not complying so that they will be able to get a living.
240. I think that was raised in our meeting was you see for example if your property is on special residential you've got a small Kombi where you are taking students from schools then back home, you still have to comply in terms of the town planning scheme. I think that was an issue which was raised by our colleagues that this is very unfair. You've got your small bakkie or anything but if you're not using it for residential purpose or before for a single family you're using it just to benefit or gain some money you still have to do all these complicated town planning processes before you can be able to run a business. I think those are the challenges that we are currently faced with in Pietermaritzburg. Thank you very much.

Msunduzi Municipality: Mandla Sithole

241. As I have been introduced. I am Mandla Sithole from Licensing. I deal specifically with issues relating to trading, issue of businesses and registration of business. My colleagues have raised the issue of the red tapes if one may

use the word for the lack of it a better English word. In terms of the legislative requirements that is expected to traders in order for them to obtain a trading license. The municipality, Msunduzi Municipality has by laws in place. We are obviously enforcing the Peace Act, we are informed by the Peace Act in terms of issuing of these licenses. The Act is clear that no trader or not person is allowed to conduct any business without first obtaining a trading license.

242. The challenge is how many how many traders, how many are aspirant traders out there who are wanting to legalize their businesses. Unfortunately because of the piece of legislation there at the moment that cannot obtain their licenses. That's the challenge that we are facing as Msunduzi. Especially in the case of UMsunduzi Municipality where we have recently incorporated areas which previously were not part of our scheme.
243. One will ask a question as to why do you really need a trading license. Some have been saying, no the traders require just for the sake of making money. The Municipality is trying to make money out of trading license. However trading licenses is required in terms of creating order in the first place and safeguarding the interests of and safety of the public.
244. And license is only issues once there is compliance of all the relevant pieces of legislation. Basically the town planning, your building, your building regulation, your environmental health, your fire. In that any business that's issued has to comply with all these piece of legislation. In the case of anything happen at least we safeguard our self in terms of making sure that there is proper compliance.
245. Licensing as a complement of stuff. Inspect us that does inspection of businesses. I am talking about business that have been issued lessons is to make sure that the licenses that were issued by the municipality. Or the traders that are operating with our licenses are trading within the parameters of all within the conditions imposed on their licenses so that we don't have to issue a license today for a person to of consumption and then we come next to the person is got tables and his got his own consumption.

246. The license if it wasn't because of these cumbersome process for legislation, we will take in a normal situation, we will take within will take almost 15 days for the licenses to be issued. I'm looking at a situation where an applicant submit all the relevant documentation which complies with all the relevant units, town planning, fire and planning. Yes, our municipality has policy in place which guides as to how a license is issued and how a license is also refused in terms of where these no compliance.
247. A license can only be refused if a person is not complying. We cannot, a license cannot be issued to a trader was operating in a building that is about to collapse. A license cannot be issued to a person who is was operating a tavern in a residential area which might have effect on the neighborhood of the area. So those are a few of the item that I can mention at the moment in terms of the refusal licenses.
248. The entire municipality at this stage, we are sitting with plus minus 3 000 plus licensed businesses. I'm saying this very mindful of the fact that there is plus or minus maybe a 1 000 or 2 000 that are not licensed. They're operating without licenses. Some of them not because of their choices some of them because they cannot comply. I'm referring to businesses where in terms of the Liquor Act, where a person was operating a tavern for and he has been operating a tavern for ages now in terms of the new Liquor Act, he has to renew his license. In order for him to renew his liquor license he has first to obtain a business license. Unfortunately if this person is not complying. If this person isn't complying with our requirements, that person will not be granted the license. Then I can pause and a question asked hence I'm saying there are businesses are there that are willing to come up and that's the business but because of the piece of legislation which understandably. We cannot say we need to do away with those pieces of legislation but at some time again they're not doing justice to a person out there in the township or rural area who wants to regularize his business. Yes, That that's all for now.

Competition Commission: Chair

249. Thank you very much. You've identified by laws and policies that effect affect the granting of business licenses and zoning is part of that because you can only get a license if the zone permits you to do so. Those by laws and policies would you be able to give us copies of them.
250. Then. You say that the zoning creates the difficulty. Now what do you recommend? How would the, how would that challenge be resolved in your view? You've raised the issue that if it's zoned residential, you have to apply for rezoning of that particular property or erf in order to run a business from it. And now if you don't have that, then of course you can't regulate these areas at all, So how would you because you've been thinking about it, see it as a challenge . I think it's quite important to hear from you as to how you think one can retain zoning legislation which ensures that you know land uses, is properly regulated? But at the same time, how would you then deal with the concerns of the very small trader, the informal sector? What would your suggestion be? Let's say to your municipality because your municipality by the retains the constitutional power to determine land use. It's an exclusive functional area of a municipality.

Msunduzi Municipality: Atkins Khoali

251. Thank you very much, chairperson. Chairperson, let me just go back, you see in Pietermaritzburg for example in the former of townships like Soweto, like Sobantu and Edendale they used to have a town planning scheme before the Group Areas Act but during the Group Areas Act the town planning scheme within those township were rescinded so it means that in the former or the so-called black townships a person could do whatever he wants to do.
252. We all know that purpose of town planning is scheme is just to bring or to stop any ad hoc development is just to maintain the development or the use of the property. Chairperson, as I said earlier on is that I understand that we are a developing country and as I mentioned earlier on is that you know is that these town planning legislations there are good pieces of legislation and but the fact is that South Africa is a part of Africa so if you read those legislations they are mostly suitable for a first world country like America, Britain and so forth but we

know the history of South Africa where black people are coming from. We all know that because of three hundred years of apartheid so people did not know about these town planning legislations.

253. I made mention that we have received a letter from the Department of Social Development who is willing to help Creches you know like the small businesses to establish this tuck shops and Creches but because of the complex in nature of this town planning legislations people are not complying. Chairperson what we are saying is that I think is a way forward I am not saying that we need to break the laws. But to me as an individuals this as an individual I think the council needs to have some sort of a moratorium. For example maybe a municipality can grant an approval to established tuck shops, Creches and so forth then maybe those people will be given maybe a moratorium of a year for them to comply.
254. We know that many people won't comply but we are saying why do we deny the advantage to this small business to make a living because of these Western town planning legislations but what I'm saying Chairperson is that as an individual I think that if the municipality can give approval on condition that the those people who have got an approval will comply within maybe a year or something like that as I mentioned that some will be able to comply, some maybe we won't be able to comply you see because for example my colleague Mandla said that in terms of the KZN Liquor Act you need to you can't have a tuck shop, you can't have a tavern within five hundred meters for me from a church from a school and so forth but is it fair because I know many people who have taken their kids to universities who were operating in terms of the eighty nine legislation and those people are next to the schools the churches and something like that.
255. If you go to the Liquor Board here in Durban they were in there saying that about ninety percent or even ninety five percent of people who are applying to renew their licenses this have been refused because of the 2010 Liquor Act so, chairperson all in all not that we need to go forget about the legislation but

give people some time to comply because really these legislations are mostly suitable in the first world countries that is my plea chairperson, thanks.

Competition Commission: Chair

256. I mean but I mean...

Msunduzi Municipality: Nombuso Hlophe

257. Maybe just to add on what Mr Khoali is saying, I think maybe it's critical to understand that planning is more on organizing land uses to ensure that what is compatible is grouped together and what is not is taken away and it has been happening in our country for a long time but as it's been happening we are identifying short falls and as we normally say if we referring to a town planning schema, we say a town planning scheme in in cause of preparation because you can never say it's final there will be always be a new thing that comes. So whenever there are shortfalls the municipality has the power to review their policies in order to try and address the gaps.

258. What we are doing as a municipality? There are gaps that we've identified in our polices. We are currently reviewing the town planning scheme. It was initially extended to cover the areas that were previously are not covered but because of the diversity of those areas and what the town planning scheme is allowing presently there was a need for us to then go out and review that to cater for what is happening on the ground and over and above that as I indicated policies are not static documents, Council has the final say.

259. If really there are hindrances in how the economy's been developed in our municipality we can always recommend obviously with fact to council and they can take a decision whether to amend a certain piece of legislation or policy in order to address whatever has been identified as a challenge thank you.

Competition Commission: Chair

260. You say that you have reviewed, you are in the process of reviewing the town planning scheme having identified the gaps have you have you got a reports or memorandum that identifies these gaps? Because that would also

be very useful for us because you yourself these are the challenges that you picked up. And one of our consensus is, the enquiry's concerns is the manner in which regulations might constitute or by laws might constitute a barrier to entry. So do you have such a memorandum or report?

Msunduzi Municipality: Nombuso Hlophe

261. What we have. Firstly is the terms of reference which we as the municipality prepared because that's where we identify the issues in what we expect from the revision of the town planning scheme. What has happened is that its status quo analysis was really to gather issues on the ground but where we are in terms of that project is that we have the draft town planning scheme which we will be taking to the public soon for consultation and then through to Council for adoption. But what we can provide are the terms of reference and the status quo analysis.

Competition Commission: Chair

262. And when the draft is published or comment would you send us the draft. (yes) Then just in relation to the issue of trading licenses and business licenses. You said it takes fifteen days to try to get a business license. Is that fifteen days without having to go to all different departments and getting their agreement and is that the experience that traders, is that 15 days is that the experience of the traders that come to the municipality.

Msunduzi Municipality: Mandla Sithole

263. The Act gives us 21 days to issue licenses within 21 days. However my 15 was based on experience within our municipality that if an applicant has furnished us with all the relevant documentation, the circulation to all these four departments it takes a process of one week then obviously within a space of 15 days the license will be issued. We at Msunduzi we are very fortunate that the relevant units are within the very same department which is sustainable, building, fire and building town planning and environmental health it does makes it much quicker for us to do circulation.

Competition Commission: Chair

264. Could you just you don't need to do it now but would you give, itemize for us what documentation is required for a proper application and we would also like the application form. I would assume that it's attached to the by law but if it's not then the application form is quite important. If you would also give us the copy of the decision I would like to see a refusal and I would like to see an approval if you will just me, give us sorry an example of that.
265. Then you spoke of about a policy on how licensing are to be issued. Could you also supply us with that policy.

Msunduzi Municipality: Mandla Sithole

266. In order for one to apply for a business license. You fill up an application form, prescribed application form which goes in triplicate. Submission application form must be. An application must you need a copy of your ID, you attach the plan of property or building where you want to operate. You attach the lease agreement if you are leasing the propriety where you want to operate. If you own the property then you need to give us a proof of ownership that this is your property.

Competition Commission: Chair

267. Again, I think to be just very useful, I think just to, we would take a note of that but I, just, does the application form itself spell out what is required to be there?
268. What support do you give small businesses seeking or traders seeking to acquire a business license? Do you provide, does the municipality provide some support in helping him fill the form in so for example at the Commission at the CCMA, Commission for Consultation Mediation and Arbitration they have people and dedicated to assisting in individual employees filling in the form so that the form is in proper form when it's submitted? Does the municipality provide such as support for traders?

Msunduzi Municipality: Mandla Sithole

269. Yes, we do that chairperson, and but our form is such a user friendly that basically what makes it easier is that your attachment then then explain exactly

what is required. It's not as such complicated form. Yes, but we do assist where necessary.

Competition Commission: Chair

270. There was the study in relation to R90 000. I think, Ramarak you spoke about that study, I wonder if you could provide us a copy of that study as well are.

Msunduzi Municipality: Rishi Ramarak

271. I would very much like to do that, if I can locate the document as I said it happened in the mid late 2000s of the year 2000. It was then that stage housed in the planning department I will go and I will make attempts to actually find the document.

Competition Commission: Lulama Mtanga

272. I'm not sure if you mentioned this in your presentation but if you did I may have missed it. I just want to know which townships and which rural areas fall under Msunduzi, under the Msunduzi Municipality? . If it's a long list in fact mention the number.

Msunduzi Municipality: Rishi Ramarak

273. In fact we fall short on that side is because in our regional presentation we did have a copy of a plan of Pietermaritzburg. And in that we discuss in that plan it showed the old city. The newly incorporated peri-urban area and the rural area. A copy of that plan can be submitted. To answer your question, the old cities your so called old Pietermaritzburg. The largest township that can be classified as peri-urban is your Edendale ,and the broader or greater of Vulindlela area is primarily rural. Thanks.

Competition Commission: Lulama Mtanga

274. Any there any malls that have been built in these areas in the township and in the rural areas in the Vulindlela area for example. Is Vulindlela, does Vulindlela have a town.

Msunduzi Municipality: Atkins Khoali

275. Chairperson, I think for example in the former of township or Edenadla which is the township for Pietermaritzburg, there are two malls that were developed recently then we have recently approved application to establish another mall within Edendale.
276. In Vulindlela which is a rural area under ITB, under Ingonyama Trust Board there have been a lot of proposal to develop some malls. As I said that in your question as in a town does it have a town center no. There are small satellite like shops and something like that but there is no proper urban area in Vulindlela. But there has been a lot of interest to develop malls within this Vulindlela area . I know that there were about three proposals to develop two malls within the Vulindlela area.

Competition Commission: Lulama Mtanga

277. OkY, just to just to touch on the Vulindlela proposals. The 3 proposals that you received. Are those proposals in relation to an area where there's already a where there are already traders, informal traders, small and independent traders in the area or is it a piece of land where nothing is happening in that area.

Msunduzi Municipality: Atkins Khoali

278. One in what we call Taylors Holt within Vulindlela area is like this is not actually like an urban area but there are already existing commercial activities. There are shops, there are taverns, there are also some sort of a mixed use development which are taking place within that area. So that is the first mall which is being proposed in Vulindlela so that is the first mall which has being proposed in Vulindlela area.
279. There is another mall which is being proposed along the road is called.... I am not sure if you are familiar with Pietermaritzburg, there is another road which come from Eastern Cape from Boston. Okay let me say form a Bollard to Howick so that area is a rural area. So there has been an interest

to develop a mall within that area but there's nothing at this stage but I think the because is located next to that road which more from the KZN to the Eastern Cape. So I think the developer have shown some sort of and interest to develop that area for mall purposes.

280. There's another area in another place also next to Vulindlela where they also want to establish a mall. Even in that area is called Sweetwaters which is a part of Vulindlela that area is also rural in nature. So I think because of the population because most of the population in Pietermaritzburg are coming from Vulindlela which is a rural area. So I think people have seen that there is interests to develop those areas so that they will discourage people moving from Vulindlela to the so to the former TLC, Pietermaritzburg area.

Competition Commission: Lulama Mtanga

281. To the extent you can just maybe, I'm trying to think if you could be how specific can you be in your answer for this to this. To the extent that let's say when you get these proposals, you mentioned all 3 and where they are allocated, where there are existing traders, business; you did mention for example the first example, the first area that there is some commercial activity that's occurring there. To the extent that you have businesses or informal businesses that are registered, are these business ever consulted by the municipality when such a proposal is made to the municipality to have a mall.

Msunduzi Municipality: Atkins Khoali

282. Chairperson, in planning if there will be any development by law you have to consult people. First of all remember Vulindlela is under Ingonyama Trust. so it means the land is owned by inkosi. So if a developer has to develop that area he has to go to a nkosi and that nkosi maybe in his meeting will have to consult people. But chairperson, as I said that by law you only have to consult people who are residing hundred meters radius from the place where you want to develop a mall for example but. But through amakhosi people are aware that there will be a development which will take place within their geographical area. Thanks Chair

Competition Commission: Lulama Mtanga

283. OK, that requirement to consult where is it set out.

Msunduzi Municipality: Atkins Khoali

284. Look, as I said that in terms of the town planning legislation go to the Spatial Planning Land Use Management Act under the Kwazulu Natal Planning and Development Act it clearly stipulate that for any development which will take place you have to consult the ward do what council over that area, you have to consult people who are residing hundred meters radius from the application site. So those 2 legislations make that provision that there is a need of public consultation.

Competition Commission: Lulama Mtanga

285. Obviously we will have those legislations made available to us to consider. We would like to please. And in there where you mentioned the township is it Edenvale. (Edendale) Okay, in Edendale in a township set up like Edendale where there is a proposal for a mall what is the process there. Is it is it the same and how would you do the consultation where there's no chief for example.

Msunduzi Municipality: Atkins Khoali

286. Chairperson, remember the Spatial Planning Land Use Management Act is a National Act, it applies from corner to corner , from left to east, north to south. What I am trying to say is that it applies everywhere. Whether you are in an affluent urban area, in a township in a rural area the process are still the same.

287. The Planning and Development Act is a provincial Act which applies in the in Kwazulu Natal. So in the township, we all know that in the township you have got councilors so in terms of public participation, councilor or the relevant councilor where the mall is going to be developed has to be consulted and the people are residing hundred meters from the application site have to consulted. So as I said that the legislations now these two pieces of legislations applies throughout KZN, whether in Vulindlela which is a rural area or in Edendale

which is a township. So the process have to be the same in terms of public participation.

Competition Commission: Lulama Mtanga

288. Have you embarked in any consultation process as a municipality and how if yes how was that done?

Msunduzi Municipality: Atkins Khoali

289. In terms of the promulgation of the legislations?

Competition Commission: Lulama Mtanga

290. Yeah, no in terms of when there's a proposal to build a mall and then you consult the citizens within that 100 metre radius that you mentioned, which is in terms of the legislation. So, I want to understand how is that consultation. Have you as municipality, as Msunduzi Municipality ever conducted a consultation in compliance with this legislation and and how was that if yes, how was that done?

Msunduzi Municipality: Atkins Khoali

291. Chairperson, you see the law says that if you have not consulted then it means the process is flawed. So if a development is going to take place it is a must that we have to consult. Whether through advertising in the paper or calling a public meeting or there are many ways of advertising so there must be a proof that a public participation as has been undertaken.

Competition Commission: Lulama Mtanga

292. So have you as the municipality ever done any such consultation?

Msunduzi Municipality: Atkins Khoali

293. Exactly, yes, chairperson.

Competition Commission: Lulama Mtanga

294. And how have you done it, that's my question?

Msunduzi Municipality: Atkins Khoali

295. It has been done to through publishing the advert any type of development in the paper. So, as I said that in terms of the law you have to advertise in the paper. We normally advertise in the paper and serve a notice by a registered post within those people are residing within 100 meters from the application site and we also serve a notice to the relevant ward councilor for that area.

Competition Commission: Lulama Mtanga

296. Obviously the paper will be the paper with the biggest circulation in the area?

Msunduzi Municipality: Atkins Khoali

297. It must be a local paper.

Competition Commission: Lulama Mtanga

298. I think what I would like to see from maybe when you are in the documents that you submit to us, is also maybe you could give us a list of, are the proposals confidential for the mall, like the mall that you say are being built, the proposals that you already have, for example, the 3 proposals you referred to. Would those be confidential, the actually documents? We just want to see how this is, how the process unfolds.

Msunduzi Municipality: Nombuso Hlophe

299. And I think maybe what we can supply is documentation relating to applications already approved because the proposals are really not our property, at this stage they still belong to the developers. Only when they've been formally lodged to the municipality and they've gone through the processes can we then disclose that information but where there is approvals because they've gone through the processes, they were advertised, everybody knows about that information we can make available.

Competition Commission: Lulama Mtanga

300. Okay, it would be very helpful Ms Hlophe especially if also in that proposal you include all the processes that were undertaken and the consultation, the nature of their of the proposal, of the consultations as well as the reasons for the

municipality approving those specific malls that you approved ,that would be helpful for us.

301. And then you mentioned licensing and permit. What is the benefit of a permit to a trader not just from a regulatory point of view, not from a monitoring point of view, are there any benefits that you're able to sell to a trader that is actually good for you to have a permit because you can access this and this and this because you have our permits if you apply for a permit it will give you access to certain things, other permits being tools for to create for creating obligations for traders.

Msunduzi Municipality: Mandla Sithole

302. Thank you chairperson. Yes, as a municipality we offer upliftment trainings to the traders. These permits are our only tools of knowing exactly who are we dealing with in terms of our trainings as well as also. It's also a tool to assist us as a municipality to know exactly how many traders do we have in this city. What is that we need to do in order for us to develop the city, I'm talking in terms of creating off street markets for what it was our city cannot accommodate traders on the street any more. If you look at the number of traders that we have in our city the city cannot at this stage accommodate everybody.
303. So the permits are therefore our tool to assist us in terms of looking for alternative ways of trying to accommodate these people themselves.

Competition Commission: Lulama Mtanga

304. My last question is you know there's been a huge outcry about, on how land won't easily be made available to informal traders and yet it will be easily made available to a mall. So you're saying for example there's no land there's no space for them and yet there will be space for a mall. So how is that land suddenly available for a mall and yet not available to the persons who live in that community, who operating in that community, who are earning a have to make earn a living in that community?

Msunduzi Municipality: Mandla Sithole

305. Maybe my colleagues from planning would assist me but from where I come from, traders go where there is activity. (Yes) In other words you can identify a suitable place for informal traders. But they will not go there because there are no footprints. So therefore that is why I'm saying my colleagues from town planning might assist me because we tried to link the informal trading sites along those nodes where there is activity so it's a question of whether will they go or not.
306. We have identified certain places within Msunduzi and to date those areas are not fully utilized. It goes in fact even with the street because we allocate most of our informal traders on the street. Some of our streets if you are familiar with Pietermaritzburg you in Victoria road, you can allocate 35 sites but nobody will go there because the type of the activity that is taking place in Victoria road does not have much walking. So therefore the trading is not viable in that area.

Competition Commission: Lulama Mtanga

307. I won't take this further but can we, will probably be in communication with you because the point you have just made it's the point exactly because if you're identifying a site that has foot traffic for business and it's not the site you perceive it, it's the site as perceived by the traders themselves because traders will always locate themselves where they have identified the foot traffic and so therefore it is possible for example that you are identifying, you removing them from sites that are actually lucrative to a site that they know will not be lucrative but we can we can speak about this later thank you.

Competition Commission: Louise du Plessis

308. I also just apart from the proposals that you received to develop a mall have you done or commissioned any studies into the effects of malls on small businesses and also on consumers ?

Msunduzi Municipality: Atkins Khoali

309. Let me just respond to the later part of the question, if there were any studies that were done with regard to the development of malls, I think maybe my colleagues will answer the first question. In 2000, there was a study which was done by Professor Khan, the study is now called the Khan Report for Pietermaritzburg. So it identified certain areas which still have to be developed for mall purposes and that document is available or can even be provided to this Commission.
310. So on top of that I think you are familiar with it the guy called professor Khan, he used to be a town planner as well as a lecturer here at the University of Natal. So he did a lot of research about the developers of malls, I know in Durban and as I said that he also did something some studies in Pietermaritzburg with the retail centers most specially the malls so that document is available that has been done, chairperson. Then I think I will hand over to our colleagues to respond to your first question.

Msunduzi Municipality: Rishi Ramarak

311. In terms of, Okay, I have been with Msunduzi for quite some time now and I keep on referring to 1900s and 2000s but I do remember yes, there was a study done in early 2000s. And if my memory serves me correctly, the recommendations made in that report was that it was not advisable for Msunduzi to be erecting malls within the townships but that was at that stage.

Competition Commission: Louise du Plessis

312. Then with regard to some of the statistics that you've provided earlier In one of your slides. We've heard from a number of traders and I think there's a general, I think we take note of concerns with regard to the impact of malls and other issues on traders and the fact that they are unable to compete with large supermarkets in malls on price specifically, I know you gave an example of othe tekkies that was sold cheaper but generally the feeling from the public hearings that we've had here and in Gauteng specifically and in Cape Town is that smaller traders are unable to compete with the large supermarket chains. Because of the fact that they can't buy in bulk and they can't compete on price.

313. In your statistics, you have also said that 25% of the population in these areas live below the poverty line. So how in your view and I think this is a difficult thing that the inquiry said to it as well and generally but have you done studies or do you have a view on how to balance these because if people, 25% of the population is living below the poverty line, should they not have access to the cheapest products? And I think we do understand that you know those very people might be traders as well and must have an income as well but do you have any views on how to balance these two.

Msunduzi Municipality: Rishi Ramarak

314. I have a personal view that I think goes beyond the realms and boundaries of this Commission but if government is interested or should I say, I know government is interested but if government is serious about addressing the imbalances in society. Then in effects and putting a long story short you'll put your money where your mouth is. For example when it comes to basic groceries or food be it your bread, your maize and whatever is consumed on a daily basis or a month basis in every household it's in my opinion that should be subsidized. In order to start competing with mall and big city centers it's important for government to start now subsidizing tuck shops who sell basic common foods that will start creating a more balanced environment for a tuck for example a tuck shop that supplies maize. Is now getting the maize directly from a supplier as opposed to all the middlemen in between and it's government's initiative to start as opposed to giving support to formalized businesses big business and subsidies try and actually start formalizing with subsidizing your so-called tuck shops which then can be the distribution points for these essential foods which will address poverty.

Competition Commission: Louise du Plessis

315. Does the municipality provide any financial and non-financial support to traders not necessarily in terms of licensing but in other terms?

Msunduzi Municipality: Rishi Ramarak

316. Not financial but as it stands now in terms of non-financial support, yes. We conduct training in a number of aspects. In how to run your business, basic business basic literacy and numeracy. In some cases people that advance even computer literacy is because they have actually graduated from being from where they actually started off. So non-financial support is there. To be honest, it has been skewed and I think Commissioner made mention to it, if a developer comes in and wants to build a mall the land is prepared, the barriers are broken, councils are met and decisions are being taken that's how you will deal with your to your likes of big business but that's not the same approach when it comes to the informal trader.
317. I mentioned in passing to somebody from your commission that might really be interesting in Pietermaritzburg we have the Informal Economy Chamber. And this Chamber constituents of all traders. It's important to get their views because they might say something that might be a bit different to what we're saying here as you said if it's viewed from the eyes. Thank you.

Competition Commission: Louise du Plessis

318. Then just one issue of clarification and I apologize if it was mentioned and I missed it but is a liquor trader expected to hold both a business license and a liquor license?

Msunduzi Municipality: Mandla Sithole

319. For one to apply for a liquor license in terms of the new Act, of 2010 you need to have a business license in a nutshell, yes.

Competition Commission: Louise du Plessis

320. Thank you that's all from my side.

Competition Commission: Lulama Mtanga

321. I just want to find out, you aware of the initiative by the Department of Economic Development Tourism and Environmental Affairs Business Regulation division, they came to present here to us I think on Tuesday or Wednesday. And they were and they basically said they have been having

consultations with most municipalities, if not all municipalities in Kwazulu Natal, do you have, are you in touch with them and are you aware, know where all of the initiatives that they are embarking on in terms of addressing informal business these informal business concerns and issues that we raising here?

Msunduzi Municipality: Mandla Sithole

322. Chairperson, yes I am aware as Msunduzi we are in constant communication with the province in terms of their intentions (yes). However. One is skeptical in raising intention in such in sittings of this nature where we are still consulting so because then creates an impression sometimes wrong impression of what has been decided but yes as Msunduzi Municipality we are in consultation with the province.

Competition Commission: Lulama Mtanga

323. I personally am of the view that based on what was presented to us if what if what the business regulation the division or the department itself is planning to roll out in the province through municipalities is implemented by municipalities will go a long way in addressing some of the concerns that have been raised and that you also speak to here would you agree with that with my feeling about this.

Msunduzi Municipality: Mandla Sithole

324. Chairperson, I would fully agree it goes beyond what you are saying. There is what you call a Kwazulu Natal Business License Bill that is, we are going through consultation now. That Bill seeks to rectify the gaps created by the Business Act, (thank you) because as we stand today the Business Act only requires certain businesses to be licensed. Item one two and three and others like the hardware and others they don't require a license so therefore. Like I said chairperson, I was kind of skeptical in raising stuff that is under.

Competition Commission: Lulama Mtanga

325. So you know. I just wanted to see if you are in agreement as to the role that those that initiative may play may have on informal businesses.

Msunduzi Municipality: Mandla Sithole

326. Yes, I am in full agreement, yes if properly implemented by the municipality.

Competition Commission: Chair

327. Thank you. Okay, let's take this opportunity of thanking you very much for coming in, very informative and I hope that you can provide us with that material because to be quite frank we've not had the same cooperation with other municipalities that we've had with you and so I thank you very much.

328. We have another stakeholder is that correct. Yes or. No. We can't locate him. So we are going to close this public the public hearings in Kwazulu Natal and I want to thank everyone for many of you I see have come each day and I hope that the inquiry and the information that was produced is, was relevant and useful, certainly speaking for the two of us and the technical team we received a lot more information from than we expected in Kwazulu Natal, not than we expected but a lot more information than we got from in some of the other regions.