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**MARKET INQUIRY INTO THE  
LAND BASED PUBLIC PASSENGER  
TRANSPORT SECTOR.**

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**PRETORIA, DAY 4.**

**Thursday, 07 JUNE 2018**

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PLACE:

**(MANHATTAN HOTEL)**

## SESSION 1

**CHAIRPERSON:** Morning everyone. Welcome to the fourth day of the Commission's public passenger transport market inquiry. My name is Bukhosibakhe Majenge. I am the Chief Legal Council at the Competition

5 Commission and I will be the Chairperson of the panel. I am joined by two panel members, Ms Nompucuko Nontombana who is on my right, who is the Divisional Manager for the Market Conduct Division of the Competition Commission and on my left I am joined by Mr Thulani Mandiriza who is an economist here part of the panel in his capacity as the head of the inquiry's

10 technical team. Ms Nontombana is also an economist and I am a lawyer, an attorney more specifically. On my extreme left is Mr Itumeleng Lesofe who is a lawyer Mr Jabulani Ngobeni who is a lawyer, both from the Competition Commission. They will act as evidence leaders during these public hearings. They together with a team of the commission's lawyers and economists will be

15 assisting the panel in soliciting evidence for the inquiry. Before we start we will just like to restate the rules that will be applicable during the inquiry. The first is that the inquiry will be open to the public at all times, except when I make a ruling that part of the proceedings should be closed on the grounds of confidentiality or for any other reason that we will deem to be justifiable, but we

20 will try as much as possible to have an open session. All sessions will be recorded and will be streamed live, save for those sessions or parts of the sessions that will be closed. In order to allow for proper ventilation of issues, the Chairperson or panel members as well as the evidence leaders may pose questions to persons making submissions or to any witness. The Chairperson

25 will not permit any person, neither personally nor through a legal representative

to question any witnesses or any person making oral submissions during these proceedings, because these proceedings are essentially information gathering proceedings and are not judicial proceedings. In the event that a stake holder has an objection, comment or question in respect of any submission made during these proceedings, that stake holder may submit that objection, comment or question to the inquiry in writing and the inquiry will attend to that objection, comment or question at an appropriate time. Due to availability of time being limited, only one representative will be permitted to make oral submissions, except where arrangements have been made in advance to have different representatives addressing different topics. We are running a little bit behind time and we profusely apologise for that. We will first receive a submission from Intercape. Excuse me. Welcome gentlemen, to the inquiry and thank you for coming. If you could please state your full names and surname for the record.

15 **MR NELSON:** Thank you Mr Chairman. My names are Allen James Nelson. I am a senior advocate from Cape Town and I am here with Intercape.

**CHAIRPERSON:** Thank you.

**MR NORTJE:** Thank you. My name is Daniel Johan Phillip Nortje, I am the Operations Manager for Intercape.

20 **CHAIRPERSON:** Mr Nortje, can you please spell your surname, just for purposes of the transcript?

**MR NORTJE:** It is NORTJE.

**CHAIRPERSON:** Thank you very much. There is a piece of paper in front of you. You may take the oath or affirmation, as you wish.

**MR NORTJE:** Must I do it now?

**CHAIRPERSON:** You can go ahead.

**MR NORTJE:** The oath. Okay. I Daniel Johan Phillip Nortje swear that the evidence that I shall give, shall be the truth, the whole truth and nothing but the  
5 truth. So help me God.

**CHAIRPERSON:** Thank you, thank you Mr Nortje. I understand that you have prepared a presentation that you will like to project. You may go ahead with the presentation.

**MR NORTJE:** Thank you. We have forwarded it and it is on the board there.  
10 Our agenda that we will discuss today or present today. Our company overview, business terminal facilities, licences and entry regulations and then competition dynamics. I will present certain part of the presentation. Then there is, when we get to the point I will, Advocate Nelson will then address the rest of the presentation. Our company overview is the Johan Ferreira senior  
15 was born in 1934. After 18 years of a school teacher in Namibia, he decided in 1971 to start a passenger bus company with one bus only and call the business Central Bus Services. Over a period of five years the company expanded its business to five busses and also changed its name to Windhoek Bus Service. In 1979 Mr Ferreira started a second passenger bus company in Cape Town,  
20 South Africa and called it Intercape. At first the company operated a shuttle service between the Cape Town airport and city centre only. In 2008 Mr Johan Ferreira junior bought hundred percent of the shares of Intercape from the Ferreira Family Trust and took over the management of the company. Today Johan, together with a handpicked team of highly skilled and dedicated

professionals, make it their mission to provide a safe, dependable and affordable road transport service to passengers throughout South Africa. Intercap carries the message of hope on every luxury coach and it is our firm believe that God's purpose for our company is to be more than just the carrier of passengers. Our company overview. Intercap offers the following services. We do inter city services, charters and tours, cross boarder and we also have a parcel service. We partner only with world class chassis, Volvo, Skanya and MAN and body manufacturers Marco Polo in [inaudible]. Our fleet consists of 155 luxury coaches, which is a single or double decker configuration and then the map there is just our footprint as we have currently serviced the whole of Africa. Then the facility used by Intercap across the country. Intercap makes use of most of praza facilities in major cities. Where Praza facilities are not available, Intercap makes use of private businesses or field stations on the main roads with permission from either municipalities or the business owners. On the question what makes Park Station an important essential facility for Intercap. It is a very important facility which was developed years ago to serve as a hub for passengers from rail to busses and vice versa. Intercap loads, off loads on average 70000 passengers per month at Park station, taking into consideration that Intercap are only one of many operators using the facilities. To what extent would your business be affected if you were to operate without access to Park Station? Our answer to that or presentation to that is Intercap believes that Park Station being the hub from which most passengers commute and operate from, our business will most definitely be affected negatively. Also taking into consideration the average amount of passengers that embark and disembark from our coaches monthly at Park Station. Operating from any other

facility will have no benefit to the passengers, as they would have to commute from the station to the loading points at additional cost to them. On the questions posed to us are there any other facilities that can be used as alternatives to Park Station? Has Intercape attempted to find and use such alternative facilities? Our presentation, there are no other facilities with the required space and terminals available in the Johannesburg Metro with connecting transport facilities for passengers to and from the place at any time of the day. Intercape attempted with the cooperation of other operators, to develop a new facility at Ferreira's town, planning and negotiations went on for several years. However, due to financial input regarding the development such a facility was not viable and Intercape cannot execute such a project on its own. What are your concerns regarding access to Park Station? Our presentation says that the rates charts are not market related. Entrance to Park Station is problematic. Especially over weekends and peak periods due to unlawful loading in Luyt Street, that is the street leading towards Park Station. By taxis and cross busses as well as the exit into the street. This can generate up to two hours delay, especially in the busy times, and volatile instances like the recent strikes, long distance operators are not protected against the protesters. Access is denied to paying operators and preference given to protestors to intimidate and attack passengers and operators whilst loading and off loading in Park Station. That was in Park Station, Cape Town station, Durban and East London station premises. It is clear from the drafted plan that auto packs will receive superior access and ranking facilities subsequently it is clear the Praza will use its leverage as the landlord and competitor to secure the advantage to

self impregjudice opposition and we have forwarded a planning diagram to the committee before.

**MR NELSON:** Mr Chairman, if I may just add with your permission, if I may just add. You have rightfully it seems to me from the questions posed, identified  
5 the loading and off loading facilities at Praza as an essential facility in terms of completion law principles which it clearly is. One of the biggest problems is that Praza is also of course linked to Transnet and Translux, the national but transport operator and it is giving preference or intends to give preference to a very large and extremely large, by far the largest long distance bus passenger  
10 transport operator that competes with the private sector. It is our considered view with respect that this is something that the Competition Commission should look at very carefully, because it is even questionable with respect, given the amount of competition that exist over all of the long distance routes, but passenger routes, it is questionable that the state should be competing in that  
15 sector at all. It is expending vast amounts of public funds, of tax payers monies to place bus transport facilities in place. We know that those facilities are operating at huge losses, which the public through public funds those losses are made up and for example during the last strike, just before the strike there was a shortage of some 30 million to pay wages and salaries on our instructions. So  
20 we have a huge competitor to the private sector being propped up by the state with public funds and competing unfairly with the existing industry and if you examine the existing long distance bus transport industry and you look at the number of competitors that there already are, private sector competitors, there is with respect more than enough competition to ensure firstly the lowest

possible prices and the best possible quality and thereby achieving all of the requirements that are stipulated in the Competition Act. Thank you.

**CHAIRPERSON:** Ja, we will certainly take up this matters with the relevant stake holders, including the National Department of transport.

5 **MR NELSON:** Thank you.

**CHAIRPERSON:** Who will be presenting next. I hope they are here, I have noted what you have said.

**MR NELSON:** Thank you Mr Chair, perhaps while I am on the point. There is another issue that is of concern to the private sector and that is that Translux  
10 and Transnet are sitting with a mass of operating licences that they do not utilise. In terms of the act, those operating licences should be handed back to the authorities so that they can be distributed when the need arises. The problem is, the regulatory authorities are determining need with reference to the actual operators, and if Translux can just increase its infrastructure, its bus  
15 infrastructure at any moment in time, it can create a surplus that is completely unregulated. With these additional non-used operating licences that they have in reserve and that they should not be allowed to keep, with respect.

**MR NORTJE:** Thank you Advocate. On the question how has the introduction of paper use system at Park Station affected your business? Our operating  
20 cost increased with 13 million a year, just on parking fees. Intercape had no choice but to retrench the hostesses to try and recoup some of the additional cost. The paper use system does not only negatively impact the operators, but also the passengers. The facilities lack of toilets for staff, conditions of platforms and road surfaces, leaking roofs, sewerage systems is not kept up to

standard and maintained, even though the high fees, sorry for the lack, there was a line missing here because the ink is [inaudible] but I will just complete it. If you look at the high rates that is being charged, it is not being put back into the maintenance of the facilities. What steps have you taken to raise the above concerns with Praza and what were the outcomes of such actions? Various meetings were held with Praza management before the introduction of the paper use system. The outcome was clear. Accept the system or find another place to load. A case was made against Praza by six applicants of which Intercap was one regarding the paper use system and we also forward the court case and the outcome of it to the panel before. What would you consider as a solution to the above concern? It is our view that access fee is to be market related. For example if you look at the airport parkings. In paying public parking buildings that they have to charge rate per hour which is feasible and market related. There should be a choice for ranking facilities and not just one in the City of Johannesburg. Step up the security to look after the tenants and passengers loading on Praza property, especially in industrial action periods. I am just going to ask Advocate Nelson to present the following few points to you as well please.

**MR NELSON:** I have been acting as Intercap's legal advisor since 1979 and have been part of the growth of this business over the years. Both under the old Road Transportation Act and also now in terms of the new legislation that is coming to place in 201 and I would like to stress the year 2010. The current regulation of long distance bus passenger transport is in a state of chaos. The industry itself could be harmed beyond repair in the near future if something is not done to correct the situation. If I can perhaps just sketch the picture. The

National Land Transport Act envisages that for long distance inter provincial bus transport services, there will be what is called a National Land Transport Regulator. The act stipulates what the qualifications of that National Land Transport Regulator must be. The people that serve on it must be qualified.

5 Amongst other things in transport economy, in law, in accounting, in [inaudible] science and in the maintenance of vehicles, knowledge of vehicles, etcetera, etcetera. The PRE's have a far lower level of qualification required from the people that serve on that, on those bodies. The provincial regulatory entities of which there is one in every province are intended in terms of the act to deal with

10 inter provincial bus transport services. The National Land Transport Regulator is intended in terms of the act to deal with National Land Transport, i.e. inter provincial instead of intra provincial. Inter provincial. In other words transportation over long distances between one province and another. Despite the fact that ten years have gone by that National Transport Regulator has not

15 been appointed by the Minister to perform those functions. So whereas the legislator envisaged highly skilled, highly qualified people taking care of this incredibly important aspect of passenger transport for the public, that entity has not been placed in position to perform its functions. It gets worse than that, because with respect gentlemen, lady if you look at the provisions for example

20 of Section 21 of the National Land Transport Act, you will see that the national regulator is in terms of the act enjoined to set standard, to create a standard procedures manual for all applications whether at the level of the planning authority, the level of the PRE or itself or the transport appeal tribunal. So and that has not been done, so the standardised procedures that are an essential

25 element of the functioning of this whole act, do not exist, but that is not all. That

is Section 21(2). If you look at Section 21(6) it envisages that the National Land Transport Regulator will as soon as possible draw up an implementation plan for all of the entities. An implementation plan of how inter provincial transport is going to be regulated. It must in terms of that implementation plan, establish

5 the necessary entities to fulfil the envisaged functions and must equip them adequately to do that. None of that members of the commission, has been done. None of it. So how then you have to ask yourself is regulation being done currently? What the act envisages is that even in terms of long distance, inter provincial and intra provincial, that the planning authorities, in other words

10 the municipalities will monitor and give feedback in relation to the needs of the people for inter provincial and intra provincial transport. So they have just got to see and it is so easy if you think about it. If you go to Bloemfontein tomorrow, you will see that six busses arrive, seven busses at a particular time. Somebody must just walk onto those busses, see whether there are

15 passengers left behind, have a look at how many seats are available and then say there is clearly enough vehicles to satisfy the need and then give an instruction in terms of intra provincial to the provincial regulatory entity, not to grant additional operating licences or to the National Transport Regulator not to grant additional operating licences, because there is no need. That is not

20 happening. That function is not being performed by any of the planning authorities as far as I know. I think Cape Town gets the closest to all of the others. But nowhere else in the country is that being done. So the ability to have an objective mechanism to balance supply and demand, to see whether there is a need for a new service just is not there. It is not there. So the act

25 contains a provision which says that the regulatory entity can perform the

functions of the national entity, but clearly what was envisaged is that that would be on an interim basis whilst the National Transport Regulator was being established, but not with respect gentlemen ten years down the line. Ten years down the line we still do not have the critical bodies with the necessary powers and the necessary skills and the necessary qualifications telling people what they must do and how transport must be regulated over long distances intra provincial in this country. It is an extremely dangerous situation which could lead to the collapse of intra provincial long distance bus passenger transport, to the massive detriment of millions of South Africans. Intercape tried last year already, have addressed letters to the Minister. We have asked for meetings, we have asked for public meetings such as this that you are holding to address the situation and we have not even received a response from the Minister of Transport. So this is with respect gentlemen something that the commission must look to and give directions as a matter with respect of extreme urgency, because it is that dangerous. If I can just explain why I say it is so urgent. Inter provincial long distance bus passenger transport services are unique in a number of respects. The operating licences that are granted all compel the operators to leave at a particular time, to travel at a particular route, to stop at particular points on route at given times in order to pick up or discharge passengers. It does not matter if there is one passenger on the bus or 10 or 50, you have to do what the permit says you are entitled to do every single day. There is a great deal of competition in the market, if you investigate it. Especially long distance inter city bus passenger services. The competitors are competing vigorously for passengers. They are dropping prices vigorously in order to fill their busses to the greatest extent possible. To the extent that that

competition is very close to reaching a stage where it is going to be disruptive, because what has happened is you have got bus vehicles, luxury and semi luxury bus vehicles. With the pressure of competition coming down and down and down and down. They are now competing with the taxi services. The

5 minibus taxi services. I have personally sat in meetings where minibus taxi operators have said they will burn the busses. The food is being taken out of their mouths and they will burn the busses. That is how critical the situation is, and you have to understand Mr Chairman, members of the commission, that bus operators have certain fixed overheads. Whether they take one passenger

10 or 20 passengers. They have fixed overheads that they must meet on every single trip in terms of fuel, in terms of vehicle maintenance, in terms of tyres and I can go on. Labour, docking facilities, ticket offices etcetera, etcetera. So it can go on. So they have all of these massive overheads and often it is a difference between 80 percent utilisation and 82 percent utilisation that for

15 example will mean a profit or a loss for a particular operator. So they are operating on a knife edge. When that happens and the competition intensifies, what do you do? You start to cut on the facilities that you provide. Intercap has already taken hostesses off its vehicles for example, which it used to have for the comfort of passengers. That is not there anymore, but there are much

20 more dangerous ways in which operators are forced because of this intensive competition in circumstances where there is not proper regulation, to for example not replace tyres as frequently as they should do. Not to have the necessary safety checks on their vehicles as often as they should do and people's lives are at stake. A few years ago there was an operator and we

25 know of all the, and there is two files of accidents and deaths that were caused

because the person in question or the company in question was unable I think because of the competition that was excessive at that time to maintain their vehicles properly and a lot of people died as a result. So this is critically important. That transport be regulated properly as envisaged by the act. That

5 the planning authorities do what they have to do in order to objectively monitor supply and demand and needs, and when they feed in terms of the act, when planning authority says there is no need, the regulatory entity and the national entity are not allowed to issue operating licences. So that is how supply and demand was supposed to be regulated, but with planning authorities doing

10 nothing and there being none of these standardised procedural manuals and implementation plans in place, everybody is, nobody is doing what they should be doing. We have had a situation recently with the Gauteng PRE Mr Chairman, where one operator asked for 40, 20 operating licences. The Gauteng PRE granted him ten. Another operator who was second in line asked

15 for 40. The Gauteng granted him 20. Another operator, and they just grant half. It is so arbitrary. It is absolutely crazy, and the industry with respect gentlemen I must emphasise this and I think every single one of the operators in the long distance inter city bus transport business will tell you is on a knife edge at the moment. I thank you. So are the PRE's dealing effectively with

20 objections raised? Now Mr Chairman, I noticed in some of the documentation that I read based on the information that has already been placed before you, that you are concerned that some of the big operators are trying to keep the small operators out and are merely putting in strategic objections, if I may call them that. Now I think it is fair to say and every operator, big or small, in the

25 market, every one will tell you that the margins are small. Intercap for example

I know and you are welcome to investigate this, plough back every single cent that they earn out of the rendering of their services, back into their business to improve services and to stay in the market. So big or small, I think everybody is doing the same thing, and the objections are coming because everybody knows

5 that the market is in a very, very volatile and saturated situation. So may I get back to what I said in the beginning? The best way of ensuring that objections are not being filed for strategic reasons is simply to make sure that the planning authorities perform the responsibilities entrusted to them in terms of the act. They will be able to tell the regulatory entities and the national transport

10 regulator, but you know the vehicles are always full. Passengers are left behind. We have people in our town who complain that they cannot get to Johannesburg from Bloemfontein or to Bloemfontein from Cape Town or Durban from Cape Town or whatever, and in my experience Mr Chairman, members of the commission, in all the years that I have been operating, if there

15 is a shortage of services, if there are inadequate vehicles, it is the easiest thing in the world to get massive support for an application. From the schools, from the churches, from the political entities, from the community. It is very easy because people get unhappy if they cannot be served in relation to their transport needs. Imagine the situation if you cannot get to a wedding or to a

20 business meeting or to where ever. You will be the first to stand up and say what I have is not enough. The busses are not enough, we need more. So if the planning authorities do what they have to do and monitor what is happening in their areas, there will be no abuse, because they will feed through relevant and correct objective honest information to the regulatory entity so that they can

25 regulate properly. Then what impact does the PRE's failure to effectively deal

with the objections raised have on your businesses. The question should be what impact it has on the industry, and I think that is a valid point Mr Chairman. One should not look at this individually. The effect is that granting operating licences will become a free for all and the industry will have, in months to come, 5 have the exact problems that is currently in the taxi industry. The granting of operating licences must be done strictly according to the law as per the NLTA. Well, I would like to add to that as per the NLTA as it should be done. Hundred percent assurance that the applying operator fulfil all, on all of the rules and laws and most importantly that the operator would be able to provide a safe 10 service. Then next identify ways that can be utilised to balance the legal provisions in the NLTA of objecting with potential abuse of the objections. I have already dealt with that. The objection process should be managed and overseen by the relevant PRE's and I would like to add there the planning authorities and that the abuse of objection should not be entertained by the 15 PRE's. Expand on practices identified at paragraph 28 of your submissions as practices that distort and impede competition in relation to the allocation of operating licences. An entity applies for operating licences under a Sudo name, the PRE's are evaluating the application under this name. Objections are dealt with under the applying name. Once licences are approved, the licences get 20 uplifted and used under a different name. Operating licences which have not been cancelled and revoked by the authorities under the seizure of the operating business, this is the point that I raised in relation to Translux, but it also applies to some private sector entities. There are old operating licences that have been lying dormant for years, and then these are then sold 25 commercially and transferred to operators who enter the market without any

assessment of whether there is still a need for those services that have been discontinued long ago. Licences then may be utilised by other operators in the market without being properly regulated. These operators then directly impede on the business of the long distance bus and taxi operators. As mentioned in

5 the point above, new operators enter the luxury coach market with commuter busses and they do not go through the application process governed by the NLTA. Then expand on challenges caused by over saturation of routes and how this affects intra modal competition as per paragraph 34 and 35 of your submission. Over saturation of routes ultimately undermines the safety of

10 passengers due to the route specific profit margins that become constrained. I think I have dealt with that fully already. Which specific routes does Intercape consider as over saturated or over traded? Cape Town to Eastern Cape, Gauteng to Eastern Cape, Pretoria to PE, Pretoria to East London, Pretoria to Umtata, Gauteng to Durban and Mr Chairman, all of this will change if Translux

15 starts to use its old permits again, upon being bailed out by the government again, which I understand is on the cards and you should perhaps ask the representative from Translux what the position is in that regard, because we understand they are asking for millions and millions again to beef up their services, and then there will be severe over trading over all of the routes which

20 are very well, I think there is excess capacity most certainly at this moment in time on all of these routes. Then expand on the state of competition between busses, taxi's and rail as per paragraph 47 of your submission, with reference to the following. To what extent does each alternative mode of public transport compete directly with inter city busses? I think I am going to had over to my

25 learned friend.

**MR NORTJE:** Thank you. We are of the view that taxis were traditionally zoned for routes within townships to towns, cities, within certain municipalities. So taxis are also granted operating licences to operate long distance. They have encroached into the long distance luxury coach market with below market related prices. What I mean by that is if you, if you, if the operators now have to keep the utilisation of their coaches, they have to drop their prices in order to lure the passengers back to them. To be able to go on a luxury coach instead of a taxi. This is a direct impact on Intercape passenger totals. Intercape's operating licences do not allow to load or off load passengers anywhere on a route and the application process is also not allowed. Yet the taxi can still where ever, when ever in route on a long distance route. Lastly it must be mentioned that a 14 seater or a 22 seater minibus was not developed to transport passengers on a long distance journey such as we have in South Africa. Competition dynamics. Am I on the right pages? Yes. Please provide examples of routes where busses face direct competitions from each alternative mode of public transport i.e. taxis and rail. At this stage rail I do not think play a big role in competition with the busses but taxis yet, so safe and accept that Intercape faces direct competition in all its routes from especially taxis. The following routes should serve as specific examples. Durban to Eastern Cape, Cape Town to Eastern Cape, Gauteng to Eastern Cape, more specifically Pretoria to PE, Pretoria to East London and Pretoria to Umtata. That concludes our presentation sir.

**CHAIRPERSON:** Excuse me. Thank you very much Mr Nortje and Advocate Nelson. At this point I will invite our evidence leaders as well as the members of the panel to pose questions to you. Mr Lesofe?

**MR LESOFE:** Thank you Chair. Thank you very much for the presentation. Mr Nortje, yesterday it was put to Praza that Park Station is the only functional intermodal facility in the City of Johannesburg, and this is due to its characteristics and features, and in response to this proposition Praza stated  
5 that there are 10 to 12 bus terminal facilities that can be used as alternative, and it gave examples using Power House and Fleet Africa. Would you comment on that? Is that a fair response? Do you agree with the response and if you do not, please elaborate.

**MR NORTJE:** I would like to respond. The places they mentioned, Power  
10 House and where ever the other place is now, if the commission can go and have a look and investigate and see how these specific entities is being operated, I mean if you look at the capacity that Park Station can take in comparison with Power House can offer, if you can just single that one out, then I think it is extremely over used, there is not enough space and it is mainly being  
15 used by the cross border operators, not by inter city. It is mainly for cross border operators and it is mostly Zimbabwean cross border bus operators that operate from there. There is not enough space for them. It is totally cramped. To our view it is not hundred percent suitable for a bus operator to go there, because your passenger is standing in the street. There is huge traffic  
20 congestions in the street because of that. So that can definitely not be taken up or be given as an alternative. Definitely not.

**MR LESOFE:** Another proposition that was put to Praza was that hypothetically speaking if bus operators in particular inter city bus operators were to be prevented or denied access to Park Station, it would be extremely  
25 difficult for them to run their operations and Praza responded by saying, well it

does not agree with that proposition. May I extend the proposition to you and get your views?

**MR NORTJE:** Like we have mentioned before, historically if you look at how the Praza or the stations if you can call it that way, Park Station specifically was developed many, many years ago just for that reason. For the bus industry to connect with your passenger coming from your train or your rails and very close by is your taxi ranks as well, which has later on been developed as well, which is an easy and safe access for the passengers to be there. It is under roof, there is enough business inside there for the passengers waiting for a specific route or a coach to go and that is the only place within the Metro that is available and suitable for the operators. Yet, if you look at the access fees that has been charged, and you must remember this is negotiations taking quite some time, and I am talking under correction. About three years ago, four years ago, just before the December peek, in actual fact a week before December peek Praza decided now is the time to pay. Most of the operators did not plan therefore because we were still in negotiation phase. I mean if you look at the rates being charged just for our company alone we are talking in the first year was 13 million a year additional expense that we have to pay to be able to serve the public. So Praza you know, the bottom line is the negotiations was just straight forward, and in actual fact they actually started the pay as you use system to lure more transporters or bus operators to the station which did not happen, because if you look at your cross border operators or your smaller operators, they do not have the finances or generated finances to be able to pay for that type of service. Because they do not have offices there in the first place as well. So for you to be an operator in, to load at Praza you must have

an office with a lease agreement as well and that is the rule. So ja, that is how we understood.

**MR LESOFE:** We also asked Praza yesterday to estimate the replacement value or the replacement cost of Park Station and they estimated that that would be in excess of one billion. Would it be possible for Intercape if it were to be given an opportunity or let us say there was space and all the like, would it be possible for Intercape to raise over a billion, because you would need more than a billion you know, to have an infrastructure that is similar to Praza's. Would it be possible for Intercape to raise funds and invest in infrastructure of that nature?

**CHAIRPERSON:** Ja, in other words if I may come in. The question essentially is whether the Park Station facility is the type of facility given its location, given the investment that have went into the facility, is it the type of facility that can be duplicated, let us say in this case by yourselves?

**MR NORTJE:** Like we have said in our presentation before as well, where we have at one stage together with some other operators as well tried to develop an alternative. One thing that you have to keep in mind in actual fact to start off a business plan to make it a viable set up, is how is the passengers going to get to this new place. If you look at Park Station at the station, I mean I would say about 60 percent of the passengers being loaded or off loaded at Park Station is making use of the rail to go where ever they need to go from there. There is no other facility first of all or grounds big enough that can replace that. That is the first thing. The second thing Intercape on its own will never be able to generate that type of finances to be able to rebuild something like that.

**MR NELSON:** Sorry Mr Chairman, just from a competition perspective, if Intercap were to move away from Park Station and spend a billion which it definitely does not have, it would be so disadvantaged by that move that its business would go bankrupt probably within a week, because the passengers

5 historically, the hub of a hub and spoke system that draws the long distance passengers to a central point for transportation is Park Station. It has been there for so long that if you were to move five kilometres away, you would lose probably 90 percent of your passengers, because they are not prepared to incur the additional cost and the inconvenience and they have all got lots of luggage

10 etcetera etcetera. To get onto a minibus travel the [inaudible], they will just as well get onto other vehicles and we know what Translux will do. They will be abusing that essential facility to gain an unfair competitive advantage over all of the other operators that try to move somewhere else. So with respect I do not think there is any merit in Praza's arguments that this is not an essential facility.

15 I think it complies in every respect with all the definitions of essential facility that they are.

**MR LESOFE:** Thank you.

**MR NORTJE:** Sorry, if I can just add something onto that. I think you know, to develop another property within the town, you have to look at your road

20 structures, your access and exit routes towards this place. To plan it properly. Not to create additional, what do you call it? Traffic jams if you can call it that way. You know, it is not possible. Not with the way that the City has been laid out at this moment in time. So Praza is the best place and it can be approved, improved, sorry.

**MR LESOFE:** Thank you. In your presentation you submit that the pay per use system has a direct impact on passengers. Would you be so kind to elaborate on that?

**MR NORTJE:** If you look at the competition in the market, concerning and  
5 what we alluded to before. If you look at the price structures and what Advocate Nelson was referring to where the people dropped their prices in such a way that you actually start competing with your taxi rates, you know when the pay per use system is brought in place, the operators need to recoup that money from somewhere, okay. In our case we had to look at our plan very  
10 carefully and we had to get rid of or retrench all our hostesses. We still did not recoup all the money and we never will. The next thing is that you can also add a percentage to your ticket prices for the passengers, but a passenger will move from one operator to another one for five rand. So you know, for us to increase the price will increase the expense for the passenger at the end of the day as  
15 well, and the quality of service will go down, you know because they just cannot afford it. They just cannot afford it, and so we have to subsidise if you can call that then, within ourselves, our prices to make sure that we stay in business and make it a feasible set up for the passengers as well.

**MR LESOFE:** We also understand that on routes such as Pretoria to Durban  
20 there is intensive competition. Intramodal competition as well as intermodal competition. Meaning even competition from the minibus taxis, and as a result pricing it is operators essentially are forced to charge low prices. Some have described the pricing as some form of predatory pricing. Now do you agree with that? Is that your observation as well?

**MR NORTJE:** The easiest way to have a look at this whole setup is you know, is if let us call it the inspector can stand and have a look and see where the busses are stopped. See what is the capacity, how many passengers they have got on the coach first of all and secondly what is the rate they pay. Now in  
5 any business you have to establish what is your cut off or your breaking even point to make money, because all of us is there to make money, but most importantly is to provide a service, okay. A safe service with a maintained vehicle. Now there is no way that you can run from here to Durban for R100-00 a ticket, for argument's sake. Okay. Where let us say a break even point is  
10 R350-00 or R250-00 for that matter, depending on how big your fleet is. So that is definitely true. So you know, and the amount of vehicles that is running there you must look at the prices. Once the prices start to drop rock bottom which means there is not enough passengers. So they have to drop the price to lure the passenger.

15 **MR LESOFE:** Okay, and I just wanted to check to what extent then does that price war affect your ability to cover your cost, especially the additional cost that you know, additional cost that you are now incurring because of the introduction of the pay per use system?

**MR NORTJE:** Well, obviously the company, we as a company look at our  
20 financials and we plan accordingly and then there is certain things that you have to take away, because if you look over the years, luxury coaches used to give food on the coaches, they had hostesses on the coaches for the ease of the passengers. All those things have been taken away over the years because of rates dropping. So it means there is a huge loss of jobs that is obviously  
25 created by this, and you know there is certain things. In Intercape there is

certain things that we had to get rid of, but one thin that you cannot do which most of the other operators most probably cannot do, is to look and make sure that your maintenance on your fleet stay top priority. Okay, and we always from the way if somebody wants to go and investigate and see if the operator is  
5 doing a viable business, going to look at his financials, and the first thing they must look at is what do they spend on maintenance.

**MR LESOFE:** For the benefit of the panel, if you could describe very briefly the price setting system that was utilised by Praza before the introduction of the pay per use system and perhaps if you can, if you could also do a comparison in  
10 terms of cost, just to give a picture of the changes that have taken place since the introduction of the pay per use system.

**MR NORTJE:** Okay. Traditionally operating from Praza, obviously you have got a ticket officer there. We used to, the way that it used to be working was that if you have got an office, depending on the size, you pay for the office and  
15 for the office you are getting one or two or three parking bays included, okay and obviously you had your dedicated gate and at your dedicated gate you have got the office or waiting room or whatever for your passengers. So each of the operators had their own way of marketing and dealing with their setups to promote themselves. Since the pay as use system came in, all those things  
20 have been taken away. So you have just got an office which you pay separately for now. The waiting room is first come first serve and your gates is also supposed to be first come, first serve. Currently the operators operating from that gate, stays at the gate but looking at the rules of the set up you are supposed to be there on your time and if your bus is there then you can use the  
25 gate and it goes on, and on top of that now you have a separate contract that

you have to sign for your, what do they call it? Your ranking fees, and as we described before, we know what the additional cost allure to. So there was a huge difference, well it is a 13 million difference between what we used to pay if you can just take it straight forward like that, to what we use to pay compared to  
5 what we are paying now.

**MR LESOFE:** Thank you Chair, I have no further questions.

**CHAIRPERSON:** Mr Ngobeni.

**MR NGOBENI:** Just one question from me Chair. The Council spoke about the issue of dormant licences in your presentation on behalf of Intercape. I think  
10 the question that I have for you there is to try and understand why you know the mechanisms that are there in terms of Section 78 of the NLTA are not being employed in order to deal with the issue, given the fact that you are complaining that the you know, the fact that there are these dormant licences it also affects the manner in which you know the planning authorities go about you know,  
15 doing their duties in terms of planning and the issues that they need to take into account when they determine the need of whether or not a service is required. So the question there is you know, why we are not seeing any of those measures that are there in Section 78 being employed to deal with the issue.

**MR NELSON:** Mr Ngobeni, I think this is a question that should be posed to  
20 the PRE's and I think it has a lot to do with the fact that these strategic measures and implementation plans are not in place. It obviously is a very sensitive thing to say to somebody who has an operating licence and therefore an opportunity to render a service, you must forfeit that. It is taking away a right and you know how difficult that is. I think that there is just, it is an issue of a

lack of understanding and a lack of education and a lack of will and a lack of the necessary infrastructure to do what the act requires people to do. So that is certainly something that I think needs to be addressed very urgently. We have seen for example in the Western Cape operating licences fall out of the sky.

5 You look again and you see there is a new operator there. I think they have experienced the same thing here in Gauteng and then you make enquiries. Well, the person who held that operating licence is dead and they were in an estate and they have come to light again. This, what is that bus service where all the people died? There was a bus service operating. The company went  
10 bankrupt. The operating licence are still being held by the trustee of the insolvent estate. He is looking for buyers for the operating licence. Now for those operating licences to be re-introduced into the market on the basis of a sale, four years after the company was last seen, you can imagine the kind of disruptive effect that that has. So I think it is just a matter of it is a question that  
15 should be asked of the PRE's and I think what you will find is that there is no uniformity there either. This is one of the biggest problems. You have got these PRE's in each province, each acting in the manner that it thinks it should without proper guidance from above, and that is why you have the chaos in this industry that you have at the moment.

20 **MR NGOBENI:** Thank you Counsel.

**MS NONTOMBANA:** Thank you Chair, the follow up I have is on exactly the same issue, because we understood from the taxis for example that if an operating licence is not in use, they mentioned a period of six months. Then it expires and sometimes they are not even consulted. So I wanted to understand

whether this licencing process is different for busses and taxis with regards to whether an operating licence can expire or not.

**MR NELSON:** Unfortunately I cannot answer that question. I do not know anything about the taxi industry. So why, what is happening in the taxi industry  
5 I do not know. My experience is confined only to long distance bus transport services.

**MALE SPEAKER:** Thank you Chair, just one question. I think the pay per use system you say it has increased your costs and you say in your submission that it is not market related. Have you done any kind of benchmarking exercise to  
10 see what would be the market related price, because you are comparing moving from one system to the next system, but did you do any kind of benchmark exercise or utilise other terminals that are not Praza, so that at least you would be able to say the current system is not market related. I think that is my question.

15 **MR NORTJE:** We did not per say did a market related research. That is the one answer and the second thing to that is that Praza, Johannesburg Praza is the only one that has got the pay as you use system at the moment, but what we well did is if you have to compare and I have also reveal it into my presentation. If you look at the airport facilities for in case and their parking  
20 facilities they have got for the busses, you pay per hour and it is like your entrance fee is like R60-00. The bus is waiting and he is loading his tourists or whatever and it goes out. Praza is like R460-00 entrance and then after two hours or after an hour every minute they charge you another, I cannot remember now, R250-00 or something like that, and what we also did is if you

look at your, at the because the pay as you use system is the one part of the setup. Your office space that you pay for per square metre is like 60 percent more than you pay in Sandton, in one of the posh buildings for the same floor space.

5 **MR NELSON:** Mr Mandeleka, with respect sir. Surely another factor that must go into the pot here in order to determine whether an essential facility is being abused, is the fact that historically this infrastructure was paid of many years ago. I mean it is not a cost that has to be met by Praza by paying a bank back on a loan that it has over the facilities. It was paid for ages ago and so  
10 everything that is being charged, is clear profit. I mean and if you look at the nature of the infrastructure that is being provided and the absence of security services and proper infrastructure and maintenance of the infrastructure, it is just plain profit that is going into the pocket of Praza at the expense ultimately of the travelling public and that with respect is what is important from an anti  
15 competitive perspective.

**MR NGOBENI:** Just a follow up, I think in all fairness Praza's submission yesterday was that the change in the system managed to increase the number of bus operators that are currently operating there from I think they mentioned that it has almost doubled. The number of bus operators that are at Park  
20 Station. Is that a fair proposition from your own assessment?

**CHAIRPERSON:** May I just also add to that and perhaps try to give some additional context to Praza's submission. Praza's submission is that the old system resulted in a situation where there was a hoarding of loading bays by the incumbent bus operators, because obviously there are constraints in terms

of the current space that is available. So they say that the principle rational for introducing the new system was to level the playing fields between the incumbent operators as well as new entrants. In fact they made the point in their submission that the new system as Thulani, Mr Mandarisa correctly points out. The new system has enabled bus operators they say such as for instance Africa people movers to get stronger, and if I could just very briefly just set out some of the points which they made to us to give context to the introduction of this new system. They say that the system has enabled a smaller as well as larger bus companies to face similar trading conditions. It has also removed barriers to entry at Park Station and they say that it has also defused what they call monopolistic tendencies where larger companies they name them, they say larger companies such as Greyhound, they also named Translux and Intercape had dedicated waiting areas for their passengers, and the intention was to establish a system where all passengers can be accommodated in a general standard waiting area with the same seating type, same security, cleaning services and so on and they say that the system has also enabled the opening up of loading bay facilities for smaller bus operators, thereby optimising occupancy, as well as the usage rate of the loading bays and essentially they say that the system has replaced those dedicated loading bays which were previously enjoyed by larger operators, with now a system of shared loading bays in terms of which loading bays are then shared on a first come, first serve basis.

**MR NELSON:** Mr Chairman, members of the commission. Those are all very laudable competition law objectives, and with respect that sounds to me very much an access issue. In other words give people access to a limited facility,

and that would be in the public interest, I acknowledge that. But is it necessary in doing so to increase the price to such an extent that it bears no resemblance to a market related tariff? That still does not justify charging everybody, including the small operators, excessive prices for the use of the facility that you have. It is a completely different issue and I with respect obviously the information that you are being fed, has been fed to you by skilled and qualified competition lawyers, but there is the other side of the coin and that is the price, because that is where an essential facility effectively harms competition, because you increase the price ultimately to the public. Even on the busses of those smaller operators that you have now given access to. So with respect, I do not think it is a complete answer to the abuse of an essential facility by Praza.

**CHAIRPERSON:** If I may just seek clarity because PRASA said there are three components to the charge for the pay on use, for this pay on use system. Excuse me. The first component is the charge for the ticket office, the second one is the charge for the boarding fee and the last one is the access fee charge. Which of these you say is exorbitant?

**MR NORTJE:** All three of them is exorbitant prices. Like I said before, when an operator had the opportunity to lease an office and sell his tickets from, included of that price there was a dedicated space where you could book your passengers in which you also paid for, and for that you have got two or three, depending on how many people you had to load at that stage was bays being given to you which you have not paid for, which is included in the price. Now it is a lease agreement on its own for the office. It is a lease agreement on its own for the boarding place which is supposed to work on a first come first serve

as I said before, and then you also pay for your loading bays. Just to come back to you know, I cannot comment on what Praza says how did they get that increase the passengers and increase, they get more operators in. I am most certain that all the operators are going to get the opportunity at this forum, will

5 say the same things that we said concerning the loading bays and excessive price that you have to pay for that. The fact is as an operator, it is being regulated by your permit. You have got a time to load and you have got a standing time and the permit allows you for, depending on like Joburg station for instance or Praza, you will stand for 15 minutes to load. Maximum 20 minutes

10 to load then you must go, because your permit says so. Okay, and along the route your off loading and loading points is five to ten minutes. So you cannot go outside that, because you have got a time table that regulates you. So I do not know where the submissions was said you know, that before the operators were using the load bays for holding bays. It is not on because you cannot do

15 it. Your bus have to run on a time table. Thank you.

**MR NELSON:** I would also like to add if I may. You mentioned specifically the name of Africa People Movers. Praza did not give access or did not create Africa People Movers. It was in fact an empowerment initiative of Intercape who provided the funding and allowed Africa People Movers access and use of

20 all of its facilities, trained its staff, provided huge financial backing, even to the extent of suretyships by the managing director of the company and owner and they put this organisation on the map. Not PRASA. That is just completely incorrect to have that impression. Intercape did everything in order to place Africa People Movers on the map and it is a full scale holy owned, black holy

owned company that completes on an equal level with Intercape. So Intercape actually facilitated that, not Praza.

**CHAIRPERSON:** Ja, Praza told us that in respect of at least the access fee charge, this charge was reduced from about R600-00 per hour, which they say  
5 is what was initially recommended on the basis of the valuation report, and they reduced this charge to R480-00 per hour and they say it is a fixed amount.

**MR NORTJE:** That is correct. It is a fixed amount for the first hour. If you happen to, if you look at your Africa, specifically your cross border loading which is standing there longer than an hour because they are loading  
10 commercials and stuff on their trailers as well, then there is excess fees after an hour for every minute that you are standing longer there. So R480-00 is not a fixed fee whether you are standing there for an hour or standing there for three hours. You pay additional after the hour. The fact is the R480-00 is exorbitant for the time period you stand there, because a bus does not stand, the inter city  
15 busses cannot stand there for an hour, because they must run on a time table. Max they are there maybe 30 minutes due to traffic or whatever the case may be.

**MS NONTOMBANA:** Are you done? Can you just explain to what extent your costs have changed since the introduction of the pay user system, because we  
20 understood that, from Praza's presentation, that it is a small proportion of the over all costs of the operators yesterday, and also again to explain to what extent Auto Parks have been affected in terms of the changes for access into Park Station.

**MR NORTJE:** With respect I cannot think how can Praza say it is just a fraction of the cost for the company or for the operator, because they do not, they have got no insight to the operator's financials, okay. I have already mentioned the access fee since it came into place, only the access fee was to  
5 the tune of 30 million a year additional to us, to our operating cost.

**MS NONTOMBANA:** The second part of the question regarding Auto Parks, because you have said that they are getting preferential treatment.

**MR NORTJE:** Well, I cannot comment on, we have got a view, but I mean that is our view. I do not think it is the place for us to sit here at the public forum to  
10 say this and that. The fact is they are part of Praza and they are getting the benefit from Praza and like we said in our interview as well, we know that they are very soon going to upgrade the place where Translux and City to City specifically is loading. It is going to upgrade their facility and our view is that Auto Parks, to our view or to the market's view is bankrupt. I mean they do not  
15 have money to pay for their salaries and stuff. They have to get the government to do that for them and they have been bailed out. So there is no way that we can compete with that or any operator for that matter can compete with that.

**CHAIRPERSON:** Thank you. Thank you very much Mr Nortje and Advocate  
20 Nelson. We will certainly take the issues that you have raised forward as we have indicated with other stakeholders, but thank you very much for your time and for your submission.

**MR NORTJE:** Thank you very much for the opportunity.

**MR NELSON:** Can we be excused?

**CHAIRPERSON:** You are excused, thank you. We will now receive a submission from the National Department of Transport. Welcome to the inquiry and thank you very much for your patience and for coming. If you could please state your full names for the record.

5 **MS MANANA:** Okay. Good morning, I am Kiddie Manana from the National Department of Transport.

**MR PATEL:** I am Geoff Patel, also from the National Department of Transport.

**CHAIRPERSON:** There is a piece of paper in front of you, if you could take the oath or affirmation.

10 **MS MANANA:** Okay. I, Kiddie Manana, swear that the evidence that I shall give shall be the truth, the whole truth and nothing but the truth, so help me God. I, Kiddie Manana, solemnly affirm that [intervenes]

**CHAIRPERSON:** No, you do not have to, it is okay.

**MS MANANA:** Okay.

15 **CHAIRPERSON:** Just one. Ja. Mr Patel.

**MR PATEL:** I, Geoff Patel, swear that the evidence that I shall give, shall be the truth, the whole truth and nothing but the truth. So help me God.

**CHAIRPERSON:** Thank you. Starting with Ms Manana, if you could just indicate your current position within the department and how long have you held  
20 that position.

**MS MANANA:** Okay. I am currently the acting Deputy Director General, Public Transport, and I was recently appointed, the 1<sup>st</sup> of April this year, 2018.

**CHAIRPERSON:** Congratulations. Mr Patel?

**MR PATEL:** I am the Chief Director responsible for public transport regulation.

Thank you.

**CHAIRPERSON:** Thank you very much. I understand that you have prepared  
5 a presentation as well that you would like to take us through. You may go  
ahead.

**MS MANANA:** Okay. Firstly let me thank you as the department, National  
Department of Transport to come and make this presentation to this hearing,  
and secondly just apologise for the acting Director General. He would have  
10 loved to be here, but he has had to accompany the Minister to other matters, to  
deal with other matters. Our presentation today will largely deal with the broad  
overview of the NLTA. We have made, my understanding is, ja not my  
understanding only but I am also sure that we have made submissions to the  
Competition Commission already and we have even had a bilateral  
15 engagement with you, just to clarify, respond to issues that you raised. So  
today's presentation will not necessarily deal with our submission that we have  
made separately, but we will focus on the NLTA. Basically the contents of our  
presentation, as you will see we have got about I think about 25 sections of the  
whole presentation. It is a very long presentation. So we will not necessarily  
20 present every aspect covered within the presentation. Some areas we will just  
gloss over. We have added all that information so that it is additional  
information to the commissioners to clarify issues further. So can we move to  
the next slide? Okay. Ja. In terms of background the NLTA, the National Land  
Transport Act of 2009 it is a piece of legislation that basically seeks to provide

for a process that was started with the National Land Transport Transitional Act, and basically the process around transformation and restructuring of the National Land Transport landscape in South Africa and so it was then developed and secondly we also developed it to give effect to policy changes

5 that came about after the National Land Transport Transitional Act was promulgated. So the act effectively came into effect on the 8<sup>th</sup> of December 2009. Some sections on contracting and on the functions on the spheres of government came into, basically the ones on contracting came into effect on the 31<sup>st</sup> of August 2009 and basically the NLTA repealed the Transition Act 22 of

10 2000, and there were regulations developed to deal with various matters as is highlighted on that slide, and the contents of the act. Basically the act comprises of nine chapters and they are outlined there. The policy behind the act, it is largely the wide paper on national transport policy that was developed in 1996. It still applies today. Though currently we are busy reviewing it but I

15 believe that it will still apply and then the main policy or strategy that really also necessitated that we amend the act, was the Public Transport Strategy and Action Plan that was approved by cabinet in 2007 and basically what we want to highlight here largely is that the strategy was based on two thrusts or strategy thrusts. The first one, at that time when we developed a strategy the

20 department had embarked on the taxi recap program and we also had the rail plan and basically we then had to identify and recognise that those initiatives still needed to continue, but we also recognise that it was unlikely that with those two initiatives alone we would be able to hold the increase in car ownership and really improve the quality of public transport. So we came up

25 with a second thrust within the strategy that basically propose the

implementation of what we call integrated public transport networks. Basically the changes highlighted from the public transport strategy were that the existing public transport services needed to be incorporated into the integrated public transport networks. So for example your taxi services and your bus operators, 5 we were not aiming to exclude them in any way but we were aiming to include them in the IPT ends and actually make them better off and formalise them and basically deal with other objectives that we had with transforming the two industries. The key thrust as well, was we are moving from an operator planning system of net contracting basis to one where you establish a network 10 authority and the network authority then has got control over the planning and then it also plans the services and collect and keep the fares and then pays the operator on a rate per kilometre basis, and that basically is called gross contract system. The NLTTA, the one that was repealed by the NLTA led to various problems because there were different laws and procedures in each province 15 and therefore then we needed to basically streamline that and that is why we then came up with the NLTA and the NLTTA also had other institutional structures like the operating licencing boards, the registrars and the transport authorities. Now the new act the NLTA of 2009 created new entities as we have already heard and the national public transport regulator at a national 20 level, the provincial regulatory entities at provincial level and the municipal regulatory entities as well as the intermodal planning committees that exist at a municipal level and other institutions like the land transport advisory boards. In terms of the NLTA of 2009 the operating licencing function and existing contracts can be assigned to municipalities, but in terms of the new act that we 25 currently are, have just tabled actually on Tuesday at the NCOP were proposing

that only the operating licencing function should be assigned to municipalities and the contracting function should be only assigned based on whether the municipality meets certain requirements or criteria and this is in line with the Municipal Systems Act. Okay, and the operating licences would then be issued

5 in terms of the ITP's, the integrated transport plans, and would then also be valid for seven years instead of five years and it also provides for other services and then the key thing is that the act also propose an accredited system for tourist services. Then the NLTA basically sought to provide a uniform national system and provinces may make laws on public transport in terms of the

10 constitution and in terms of the constitution again, in case of a conflict the national law would then override if it applies to newformly regarding the country. Other relevant legislations, I will not go into that but the constitution is one. There is also the Municipal System's Act. There is also other legislations that we are custodians of as the National Department of Transport, the National

15 Road Traffic Act and the regulations and the cross border roads agency, that is on the next slide and then inter governmental relations. Can we go to the next slide? Frame Work Act is also relevant and then lastly the Division of Revenue Act. There is actually a Division of Revenue Act of 2018 that basically governs the two grants that we use in the transport sector for bus subsidies. That is the

20 public transport operations grant at a provincial level and the public transport network grant. It is no longer known as the public transport infrastructure systems grant. Okay, next slide. The NLTA also provides for new functions of the spheres of government. Basically municipalities are now given the responsibility to plan, to contract for public transport services as we said earlier

25 on, as well as issuing operating licences and implementation of the act and the

provinces remain responsibly for the existing bus contracts, but the function can be assigned to municipalities by the Minister. If a municipality deems that it is ready to take on the function, they can then apply to the Minister to be assigned that function. The operating licencing function stays with provinces, but can

5 also be assigned to municipalities by the Minister. The national sphere of government is responsible for various things, as highlighted there. I will not go into each one of them, but largely for setting up national transport policy and strategy as well as for coordinating between provinces, and also acting as a contracting authority where we may be required where the province is not able

10 to, and then the provincial the next slide just gives you the function that the provincial sphere is responsible for. Also provincial policy and strategy. Also capacitating municipalities and implementing the provincial integrated strategy and public transport strategy, but also at that level they also have to look at rural areas as well. Okay. So that information is there and then the next slide also

15 then focusses on municipalities. They also have to develop a transport policy and strategy for their areas at their level. They are also then responsible for preparing, implementing and monitoring their ITP's, financial planning for their areas or for areas within their jurisdiction and also for freight or movement of passengers and goods in those areas, and largely they also those municipalities

20 who have got rail corridors would have to enter into a service level agreement and also do service level planning for passenger rail in consultation with the passenger rail agency of South Africa. A new thing that we also introduced was integrated ticketing systems, as a function that would have to be performed at a municipal level and also they would then determine fare structures and fare

25 levels for gross contracts and also contract for public transport services. The

national public transport regulator is at a national level and it will largely deal with intra provincial transport, no longer concurrences and it also deals with tourist services and it must also monitor and oversee public transport in the country and also set national standards and procedures. There was an issue  
5 raised earlier on by the previous, Intercapex about whether the NPTR is in existence and I wanted to just clarify the incremental implementation of the NPTR.

**MR PATEL:** Okay, thank you. The national public transport regulator, yes. It was established around I think mid 2016. There were problems with regard to  
10 resources and capacity. So what we decided was that we should start off on a small basis, incremental basis and start with baby steps and therefore initially when we opened we had six people that were employed. Subsequently we added another six, so I think we have now 12 people employed within the space and what we have also said that as we move along we will then, so initially we  
15 took on the function of just the tourism transport services applications for operating licences and accreditation, but in time to come we will also take on intra provincial services that Intercapex was speaking about earlier as well, and as part of the process of redesigning the National Land Transport information system, we hope that once that is redesigned we would be in a better situation  
20 to take over those functions. At the moment, because we receive at least about 200 applications per month, we mainly add to more than those 12 that are there as well, as we proceed. Thank you.

**MS MANANA:** Okay. Can we move to the next, the provincial regulatory entities. These are specialised units established in the provincial department.  
25 The members of the PRE's can be sourced from outside the province and

basically they will deal with all operating licence applications for intra provincial transport services that is within the province and any applications, they also need to refer applications to the planning authorities. Basically municipalities, because municipalities have to come up with an ITP. Okay. Municipalities

5 where the operating licence has been assigned by the Minister, within the act we have effectively identified only 13 cities, and the 13 cities we are referring to are the ones that we are implanting integrated or we are piloting integrated public transport networks in, and these cities are a mix of Metro's, your emerging municipalities as well as your local municipalities. So at a municipal

10 level then it would also be a specialised unit, and it would also deal with operating licence, if that function has already been assigned to it, and it may also invite services on routes and publish that it will no longer consider applications on saturated routes in line with the act. The intermodal planning committees. These are established at the municipal level as I said earlier on

15 and basically they are also largely in those cities where, that are implementing integrated public transport networks or have significant passenger rail services, and they then consist of technical officials as well as representatives of rail and other public transport modes and the function really of the intermodal planning committee is to coordinate and make sure that public transport is planned and

20 implemented in an integrated manner and they are also responsible for service level agreements with the passenger rail agency of South Africa. I refer to the land transport advisory boards and these also can be set out by the municipality and they largely represent or are comprised of government as well as the private sector and ja, basically free to establish the land transport advisory

25 board. Intergovernmental relations. A province may agree with one or more

municipality to basically together or jointly exercise a function or can establish a provincial entity and I think we have such an example in Gauteng where you have got three municipalities. Tshwane, Johannesburg as well as Ekurhuleni participating in an IPT and Gauteng has, is seeking to establish such a provincial entity, but to make sure that there is integration across the three municipalities. Provinces may also undertake municipal functions in agreement with the municipality. If a municipality indicates that it does not have the capacity to perform that function then the province can do it on its behalf, and also adjacent municipalities may also agree on a joined exercise of functions and basically the legislation allows for that. Transport planning. The new act provides principles for transport planning and its integration with land use planning. This is a very critical issue for us in transport, because in terms of the RPT's special planning, you have people staying very far away from their workplaces. So in order for us to make sure that we develop residences along our corridors and integration of land use planning as well as transport planning is very important. In terms of the different plans that the NLTA is proposing, you have the National Land Transport strategy framework developed at the national level by the Minister. It gives an overview of what needs to happen in terms of national land transport, and it gives almost like your, not marching orders or, not marching orders.

**MR PATEL:** Five year thrust.

**MS MANANA:** Okay. A thrust that the provincial land transport framework should also be based on and so then the province then would also develop their own framework and that would be approved by the MEC but also submitted to the Minister for final approval and at a local level or municipal level, it is the

integrated transport plan that is developed by the municipality in terms of the minimum requirements that we have issued, and because of the different types of municipalities you have your comprehensive ITP which is more for the Metros and then a district ITP as well as a local ITP for your local municipalities.

5 Operating licencing applications must be based on ITP's. That is the relationship between transport planning, as well as the issuing of those licences and the integrated transport plan of the planning authority will dictate whether a new OLS will be issued or not, and if ITP shows a surplus of service on a route, then the authority has got the power to impose the moratorium on the route or  
10 give an operator an alternative route and what the operator will, what the authority would also do is firstly apply law enforcement to remove illegal operators on those routes that are already saturated. Funding. The act also provides for the creation of a Municipal Land Transport Act, sorry transport fund for each municipality that is establishing an IPTN and different sources of  
15 funding can go into this port of funding and the Minister or a province or the municipality may deposit money into the land transport fund and public transport user charges collected as well will also go into the fund and the fund is basically dedicated for land transport purposes. Okay. Contracting for public transport services. This in terms of this, appropriate cities must do integrated public  
20 transport networks, and this may or may not include the bus rapid transit systems, in line with the public transport strategy, and basically the negotiations for the contracts must include existing and bus operators, taxis as well as bus operators and that the contracts can be subsidised or commercial and I think we recognise that in transition they would have to be negotiated first for up to a 12  
25 year period and then thereafter they must then go out to tender, and that

negotiated contracts can be done to form ITPN's in order to promote small businesses or previously disadvantaged individuals. Other contracts will be for a maximum of seven years. Where a contract is awarded the operator is automatically entitled to an operating licence for the duration of the contract.

5 The existing contracts either operator agrees to be part of IPTN or they are then offered an alternative service or they are then also given compensation. All existing permits and indefinite, is it indefinite permits? Must be converted. This is what the NLTA was proposing because we had a system where taxi operators had these indefinite permits that had a life long existence and so the

10 NLTTA as well as the NLTA then proposed that we need to give life to these permits and then operators were then invited to come and register and so basically in terms of the NLTA they can then apply that these permits must be converted into an operating licence within a seven year period, and that the operating licence must be route based in case of minibus taxi type and

15 schedule services and that permits not converted after seven years will lapse with no compensation, and that indefinite payments must be converted to operating licences that are valid for a maximum of seven years. I think even though the act had said that we are giving people an allowance of seven years, we are now looking into extending that period through the NLTA amendment bill

20 to make sure that everybody gets on board so that we can then convert those permits. The act also provides exemptions. I will not necessarily go into them. Basically in terms of which services are then exempted from applying for an operating licence, those are listed under exemptions and then application for an operating licence. The act also just highlights what the planning authority must

25 do that an operating licence must be based on its ITP and then the ITP needs to

have indicated that there is a need for that particular service and that that is the process that would then have to be followed in applying for an operating licence. The regulating authority could also may refuse renewal of an operating licence and those are the conditions under which an operating licence may be  
5 refused renewal and that for example if the applicant is no longer a fit or proper person to provide public transport or there is a, they are convicted of an offence, then the regulating authority can withdraw and not necessarily renew the operating licence or there are also other conditions that are listed below that then justifies whether it should be amended, renewed or transferred. In an  
10 instance of transfer, a transfer is allowed in terms of the act as a result of if you are selling your business or for inheritance purposes, or if a holder of an operating licence permit dies or sells his business and then they must also apply to transfer the operating licence to the heir or new operator, and also you can apply as an operator for an amendment of a route on your operating licence  
15 to the MRE or the PRE. The act also covers metre taxi services and the metre taxis must have a metre and that must comply with standards set by the South African Buro of standards or the Minister, and the driver may agree on a fare that differs from the metred fare but must keep the metre running for information purposes. An operating licence for metre taxis may specify an area to pick up  
20 passengers and the taxi may leave the area if it returns empty or with the same passengers. So I will just [inaudible] information, and then the section on electronic hailing is a new section and basically this has to deal with your Uber and Taxify and which other one?

**MR PATEL:** Zebra cab.

**MS MANANA:** Zebra cab, okay and basically the amendment bill is proposing that we add a section, this is a new section and these are largely your app based services and basically the operating licence for a vehicle may allow you to provide other types of services and that the NLTA allows the Minister to make

5 regulations for e-hailing services and that also we could be making regulations for special markings for e-hailing services and that operators can operate with a metre or both, with a metre or an app or both. The act basically does allow them to do that. The act also caters for charter services and this is the capless driver service which basically consist of a prebooked party where the charge is

10 arranged beforehand and passengers are not charged individual fares. Okay. Let us move to the next one. Okay. Also the act caters for scholars, students, teachers and lecturers and this is largely for scholar transport where a contract must be submitted or a letter from the institution must be submitted in order for an operator to qualify to operate such a service, whether it be scholar transport

15 or for students or for teachers. I do not know if there is anything, there are all these other conditions that are listed there that must be met in order to qualify for that service. The act also makes provision for courtesy services and this is if the hotel like Manhattan Hotel has got minibus taxis and it operates that, the act basically allows them to operate about three vehicles. If it is more than that

20 then they need to apply for an operating licence. Okay. Then the act also makes provision for tourist transport services and this was really initiated between the Department of Transport and the Department of Environment and Tourism in 2006 to 2007 and basically no one will be able to operate transport services unless they are accredited by the National Public Transport Regulator

25 and that there are certain recommendations from the tourist authority that they

may need to comply with and then there are also other additional conditions that they need to meet like having a passenger liability insurance, but I think because of the currently the department is busy with the Road Accident Fund Act which basically requires that is introducing, it is actually the Road Accident

5 Benefit Scheme now. It is doing away with where an operator must prove that they are not at fault. We are moving to a no fault policy. Where then operators would not necessarily need to get a passenger liability insurance. Okay. Other operating licencing issues are listed under 21. I will not go into that. Even registration, basically the act allowed for registration of associations and

10 operators as a transitional measure, but the new act basically does not deal with the registration anymore and the new act also proposes that those two systems, the registration and administration system as well as the operating licence administration systems must be combined into the national land transport information system that Geoff referred to and that provinces have the

15 power to make laws on registration if they wish. Okay. The act also makes provision for cross border road transport. For example, if you are an operator and you are transporting passengers from South Africa to Lesotho or to Zimbabwe or our neighbouring countries, this however this act is looked at in relation to the other act, the cross border road transport act of 1998 and it also

20 then makes provision for permits that must be obtained from the cross border roads agency. The act also defines or rather makes provision for law enforcement and basically it highlights different groupings that are defined as authorised offices. These are inspectors, South African Police Services, provinces municipal as well as the road traffic management cooperation traffic

25 officers as well as cross border inspectors are allowed to undertake law

enforcement and that provinces and municipalities that have the operating licencing function may appoint inspectors for public transport. Terms of appeals. The National Transport Appeal Tribunal is the body that currently exist to hear appeal and that provincial appeal bodies no longer, are no longer  
5 provided for and that any appeal as I said earlier on or all appeals basically have to serve in the transport appeal tribunal. Okay, and basically that is that. I am not sure if Geoff wants to add anything?

**CHAIRPERSON:** You are welcome Mr Patel should you wish to add or maybe emphasise any aspect of the presentation?

10 **MR PATEL:** Thank you Chair, but I think we are covered. Thank you.

**CHAIRPERSON:** Alright. Thank you very much Ms Manana and Mr Patel. Perhaps before I invite the evidence leader and my co-panellist to ask questions, I just want to locate the role of the National Department of Transport in this public transport eco system or value chain. My understanding is that  
15 your role as the national department, it is mainly policy making as well as to provide for the over arching national legislative framework. Is that correct?

**MS MANANA:** That is correct. Largely we are a policy department, regulatory department as well as we do not implement anything. We facilitate implementation or coordinate implementation at the different sphere of  
20 government.

**CHAIRPERSON:** So essentially you are policy makers. Mr Lesufe or Mr Ngobeni?

**MR NGOBEN:** Thank you Chair and thank you Ms Manana and thank you Mr Patel. I think what I am going to do quickly, it is I am going to take you through

a couple of questions and you know, the first batch of questions is you know going to be geared towards looking at you know, some of the provisions that you have gone through in your submission and secondly what I am going to do is just to pose a couple of policy questions as they emanate from the presentation and various policy documents from government, and I think maybe  
5 to start with I think I should start with the question of the assignment question you know, and there I think the first thing that I want to understand is whether or not as the national department you have been approached by any municipalities who are prepared to you know, to accept the dual role that the NLTA envisages,  
10 which is you know firstly the role to become a planning authority and secondly you know the role to issue operating licences. That is the first question.

**MS MANANA:** Okay, thank you for that question. In terms of assignment, there is one city, the City of Cape Town that has approached the Minister and requested that the function be assigned to it and there was a process that they  
15 needed to satisfy. I think Geoff can expand more on that and so far I am not sure where the process is and maybe Geoff can also just update us how far we are with that assignment process.

**MR PATEL:** Thank you. The assignment, there are two elements in terms of the principal act. The contracting function and the operating licence function  
20 that can be assigned, but maybe let me just go back to the earlier question from the Chair about the DOT's role in public transport. It starts with the constitution. I just need to just clarify that very quickly. The constitution provides for two concepts, two terms. Public transport as a concurrent function and municipal public transport. Now in the transition act we define public transport in terms of  
25 the constitution that was across the three spheres. Municipal public transport

was not defined in the transition act. It is now defined in the NLTA as municipal public transport under Section 11C. So if you look at Section 11 of the act, 11(1)A is national level functions and 11(1)B are provincial functions and for the first time now we have defined what is exclusive municipal functions in terms of

5 the constitution under 11(1)C. Okay. So coming to the assignment of the functions, of these two functions. Yes, the City of Cape Town did apply to the Minister. There was, it is a requirement that you actually do a proper feasibility study and that all of these are, the assignment has to be in line with the provisions of the financial and physical commission act as well in terms of the

10 required capacity, financial capability and resources. I think what happened over there is and it is also [inaudible] guidelines on this, on how the assignment process should actually work as well. So all of these processes were actually undertaken by the City of Cape Town which is true, but I think in terms of their feasibility study and their needs, one of the things where I think the real

15 bottleneck came about was in relation to funding. The FFC act also requires that you, it should not only be ensuring that, of course the funding does follow function once the function has been assigned, has been moved from the province to the local level, but it is also of course we all know it is actually quite insufficient as well. So I think the differences actually arose where beyond the

20 MTF what happens to the sustainable aspects of that funding, and that is a requirement of the FFC act and I think that is where the bottleneck actually occurred between the Minister and the City of Cape Town. There was some engagements between the Minister and the Major of Cape Town on this matter, and I also do not know how much far that has gone as well beyond that.

**MR NGOBENI:** Thank you Mr Patel, and just to, just a follow up. So I think, am I correct to also assume that the same reasons that you have outlined you know, that one has to undertake feasibility studies, there has to be funding are the same reasons which might be contributing towards other municipalities not coming forward to request for the assignment of these powers.

**MS MANANA:** Look, I think it could largely be that. We, for example Etikwine was another city that was interested and they started to do a due diligence that was required, the feasibility study and then there was another smaller municipality, Rustenburg, that also had written to the Minister requesting the function to be assigned, but I think largely a lot of the municipalities realise that it is not easy to just take on the function. I think as Geoff has indicated, there are all these other requirements that have to be met. The FFC one where they need to demonstrate that it is not an issue that you are given funding for a function that you are taking. You need to show beyond reasonable doubt that you would be able to carry that function over a very long period, and I think that in itself becomes a stumbling block or a barrier for them to take up the function, and also I think it is a lot of work, because currently the functions are within the province and so for you to take on the function, it would mean that you would need to engage with the province and you need to come up with the transitional process and certain municipalities as it is now they are just struggling to just deal with planning of public transport. Now you are you know imposing all these other additional functions and so I think it becomes an issue that let us just bite what we can chew and over time we can then take on additional functions. Ja.

**MR NGOBENI:** I want to propose to you another reason that you know may be leading to this and maybe if you can just comment and advise me if I am correct in this. One of the functions would be the issuing of operating licences for an example and with your, I mean through your own submission you have indicated that the you know, the current system relies on what you refer to as the NLTIS system. Now I think through your own submission that we have, you have indicated that the system is outdated, and maybe before I proceed, how long has it been outdated for?

**MS MANANA:** Mr Patel says 2009.

10 **MR NGOBENI:** Thank you. So the, you know, so one of the reasons why, so what I am saying is that you have indicated through your own submission that the system is outdated and we have also heard from the you know, the PRE's which are currently the authorities which are tasked with this power of issuing operating licences, they also raise the same issue you know, that the system  
15 itself it is making life difficult for them. Now what I want your comment on and this is where I am saying I want to add an additional reason why municipalities are not coming forward, is with a system like that and with all of these issues you know being raised, why should a planning authority come forward you know, and seek assignment you know, with all of these problems. Could that  
20 be another reason why these municipalities are not necessarily coming forward to ask for the assignment of these powers? I do understand you know that they may be finding issues and all of that, but the proposition that I am putting forward is that there may be an additional issue you know, given the outdated nature of the system and given the fact that you know, the issuing of operating  
25 licences takes longer you know, given the nature of the system. That on its own

might be one of the things that is you know, leading to a situation where these planning authorities are not prepared to come forward and seek for the assignment of these powers from the national government.

**MR PATEL:** Okay, thank you. That could be one of the factors, as I  
5 mentioned there are various factors and as Kiebie mentioned, beyond the  
funding and capacity challenges is also the fact that they are also a bit  
overwhelmed. You will recall, I think the capacity problem is a problem at all  
three spheres of government. It is also in the big Metros. It is not as if our  
Metros have a full scale capacity and technical capability as well. So under  
10 those circumstances when they are undertaking new reforms as introduced in  
terms of the public transport strategy and action plan, now in the NLTA, in terms  
of developing the ITP's, the roll out that and the planning of that, it is actually a  
massive task. It is a highly technical planning process itself and then the roll out  
of infrastructure and the operations can be very time consuming. The type of  
15 negotiations that takes place and all. So I think at this point in time as she  
mentioned that also you know, they have a bit too much to chew right now. It is  
one of the key factors as well. City of Johannesburg indicated that very, very  
clearly. But yes, that information system could be one of the factors as well, but  
we as a department are currently in the process of redesigning that system.  
20 There were a whole range of funding problems and other problems related to  
why that could not be done. So that system yes, is in fact not even aligned to  
the NLTA. It is still aligned to the transition act in terms of the system right now  
and it would not make sense for them to take over that function. The other  
factor would be for example, when you take over an operating licence function,  
25 it is devolved from the province. You would also need to take over some of the

labour force from the province. So for example if you look at the City of Cape Town that had applied for this function, the Western Cape PRE currently employs something like I think 110 or 115 people to process operating licences for the whole province, and if the City of Cape Town takes over that, the

5 feasibility study showed that all of the applications, the total applications for the whole of Western Cape, if you break that down, it is about 70 percent of the total of the Western Cape applications are actually from within the jurisdiction of the City of Cape Town. So that gives you a very good idea of the kind of moving system in the province as a whole and the movement systems in the

10 very highly urbanised Metros. It is very significantly different and so therefore, they would have had to take on at least some maybe 30 to 40 percent of the staff. Transfer them from the province and that is a very lengthy process as well, because you would now have to engage in the labour relations process. You would need to have consent of the staff that affected the Employees that would

15 be transferred. It can be quite a long process.

**MR NGOBENI:** Thank you Mr Patel and maybe just to, one last issue on the assignment question. I mean and just to get your view on this one, you know whether or not the concern is valid. We have heard from the City of Joburg for example and they are saying in the assignment of those functions is the fact

20 that they do not want to be you know a player and a referee at the same time and this is because you know they operate a Metro bus for example and they are also a contracting authority for the [inaudible] bus rapid you know transit system. Would that be a valid concern? You know, just to get your view on that.

**MR PATEL:** Absolutely not. The way the legislation has been framed, if you look at the, it is in the, I cannot recall the section but the when you established an MRE, municipal regulatory entity, you have to ensure that you separate your planning staff completely from your regulatory staff. You have to create a  
5 dedicated unit within there. So it is a clear separation of functions. There is no interaction between, you cannot move staff from the planning section into your regulatory section and nor can you move staff from your regulatory sections into your planning sections as well. One of the reasons why and just to give a quick back drop on why the, whether it is a municipal regulated entity or whether it is  
10 an MPTR or provincial regulatory entity, why they were brought within the space of the department, within the administrative space, they previously went under the transition act, the operating licence boards were semi, they were autonomous bodies. They were adjunct of the provincial departments of transport. So they were independent bodies in that sense if you would like. So  
15 it was separate from the Department of Transport. There were arm's length bodies and therefore you could just apply over there and they had separate offices, separate staff, all those kind of separate systems as well. But one of the problems that we began to realise with the operating licence board as independent bodies, is that they, those regulatory bodies began to see  
20 themselves as so independent that they also did not see themselves required to even make themselves accountable for the administrative functions. Nobody is saying, what we are saying is that when they make a decision on an application and they adjudicate on that application, nobody can interfere in that space. The act provides for that. Very, very clearly so. Not even the Minister, not the MEC,  
25 nobody can interfere with that. The only way that decision of the, it is because it

is [inaudible] body, the only way that decision of that body can be challenged is if you take it to the Transport Appeal Tribunal which is a more cost effective way of doing so, or if you do not wish to do so, you can also take it to court directly or if you fail in the Transport Appeal Tribunal space, you then take it to court as well. So that decision process nobody is allowed. Not even the Chief Director that is a support function to the regulatory committee, should be allowed to interfere in that space and in the amendment bill we are actually making it much more clearer in that, because we have seen at a provincial level certain Chief Directors tend to interfere with the decisions of the regulatory committee at the provincial level. So we have even tightened that even further, and we have brought them in, into the provincial department to make sure that they are actually also accountable from an administrative point of view. So they must be able to say to the HOD that this is the number of applications we received in this quarter or in this month. These were the numbers that were for new operating licences. These were for renewals. These were for temporary operating licences etcetera. These are the reasons why or numbers that we have refused and these are the numbers that have been, the operator has decided to take to the TAT. It is a whole range of administrative issues, both financial and procedural administrative issues that they need to be accountable for. It cannot be that they operate so independent. Their independence is the decision making independence. It is not, they are funded by the department and therefore they still need to be accountable in that sense. Okay.

**MR NGOBENI:** Thank you Mr Patel, and I think maybe just to move to the next set of questions on, just to deal with one aspect on the amendment. I see you know through your submission you indicate [intervenes]

**CHAIRPERSON:** Sorry Mr Ngobeni, just before you move away from this assignment function. I just want to confirm that since the advent of the NLTA whether you have only received one application. That is since the act came into operation in 2009.

5 **MS MANANA:** For assignment.

**CHAIRPERSON:** Yes.

**MS MANANA:** To the Minister it was the City of Cape Town and the City of Rustenburg as I said. They wrote a letter to the Minister requesting assignment and Etikweni, I am not sure if they did a formal, I do not think it was, I think they  
10 were thinking of in our discussions with them, they were thinking of starting the process.

**CHAIRPERSON:** You may proceed Mr Ngobeni.

**MR NGOBENI:** thank you Chair. Just on the question of amendments and I saw you know through the presentation where you have mentioned the issue  
15 around e-hailing services and the work that the department is doing around you know around that process and how you are trying to regularise you know the process. I think one of the issues that has been raised with us through these public hearings, is the question that the manner in which you know metre taxis are treated as compared to you know, e-hailing services is discriminatory and  
20 this is in relation to the type of conditions that are attached you know, to metre taxis which are not necessarily applicable to e-hailing services. The question that I have is through this current process, this current amendment process and I understand you indicated this morning that you know, the bill has now been tabled at the, it has now gone to the NCOP on the 5<sup>th</sup> of June. Is the

department responsible for these amendments? Please clarify to the panel if the issue relating to the discriminatory manner in which conditions are attached you know to e-hailing services as compared to metre taxi services concerns that has been brought to our attention through you know this process.

5 **CHAIRPERSON:** Perhaps if I may come in there, maybe before we deal with the bill, because the bill is the future. Can we perhaps deal with the status quo currently. If you could just clarify what is the current legislative framework in relation to e-hailing service versus metre taxi operators.

**MR PATEL:** Okay. The principal act when it was promulgated in 2009 you did  
10 not have ad bay services at that point in time and I do not think anybody had foreseen that coming at that time. I think Uber entered South Africa around 2013, 14. It is an international company, and so at the time when the NLTA was promulgated at this stage yes, that was not that space, it was not there, but once they started operating in the country Uber was the first market entrant in  
15 that space. Since then there had been maybe five or six others that have entered the market. So what we did is that we said obviously the act says very clearly anybody who provides a public transport service for a reward has to have an operating licence. That is very, very clear in the act and that was also in the transition act. So we looked at the act and we said okay, which  
20 provisions over here would actually accommodate such type of service and hence what we did is that we developed a practice note and we can provide the commission with the practice note that we, I think we sent out in either 2013 or 2014 to all the provincial regulatory entities. To say this is how you must treat applications with regard to these type of services that are app based and we  
25 indicated to them the clause in the act dealing with charter services. Charter

services are prebooked services. Pre-arranged where you determine the origin and destination where you need to be picked up, where you need to be dropped off and the fare is also determined beforehand. Though a charter service can also be used for an organised party for example but there was that overlap  
5 there and hence that was the contents of that practice note that was sent out in terms of that. So that, we said for now issue them with charter services. That is what we had set out. There are some provinces who decided to rather issue them with metre taxi operating licences.

**MR NGOBENI:** And then I think maybe just in addition to the question that I  
10 posed to you earlier, the practice note that you issued you know, which was then meant to provide guidance to the PRE's and everyone else you know, faced with an application for operating licences from e-hailing services. Will you not please clarify whether or not the conditions which were attached in the practice note as a form of guidance to the regulatory entities which were making  
15 these decisions had similar conditions, because the question that I had initially is whether or not the conditions that were attached to those you know Uber partner drivers who were issued with metre operating licences for metre taxis you know, for under the meters as metre taxis, whether or not the conditions were the same or whether or not the conditions were different, because the  
20 question, you know the evidence that we have had through this process is that the treatment has been different and that has sort of like resulted in conflict between the two.

**MR PATEL:** Okay. The issue between metre taxis and app base services, when we send out a practice note we outline the rational, the whole legal you  
25 know basis. I cannot recall exactly if we had written any conditions that were

attached, because usually conditions are attached by the regulatory committee. They are not attached by the act itself or the regulations do not provide for what are those, those conditions are dependent on when a regulatory entity receives an application, the applicant says these are my needs, this is how I want to

5 operate you know, they need to be taking all those things into account. Like Intercap were saying they are forced to actually stop at certain stops and it has to be those particular stops and it has to be only for ten minutes and all that, but if they wrote in their application very clearly that we would like these stops over here, we need to stop there for at least 30 minutes for a comfort break for our

10 clients, you know passengers all of that, that the regulatory entity would need to take that into account and then that can be attached as a condition of the operating licence. Okay. So the regulations and the legislations do not define, because the conditions would differ, based on the type of operation the operator is running and the current needs that particular operator may have. So I do not

15 believe we actually attach any conditions to that, but it was a guidance kind of thing, but what has happened, I think the, the act says very clearly that metre taxis can be issued operating licences either as a ranking service or it can be a roaming service. Or it can be both kind of thing. So nothing stops you as a regulatory committee from actually issue a roaming type of service or operating

20 licence to the metre taxi operators as well, but I think because traditionally what has happened, if you look at the history of the metre taxi space, they traditionally, I mean they have been around since I think the 60's or so. For decades they have been around. Metre taxis. They used to rank at certain spaces where they thought they would be able to pick up passengers and that

25 is how that system actually started operating and they would then rank at for

example at certain train stations or they may be ranking somewhere outside, some of the luxury hotels or if it is you know for example where there are certain events taking place. Maybe a race horse event or other similar type of events, they would then rank at those type of spaces and so traditionally it had been a ranking space, but the act provides for them to be roaming as well. So I think quite often what happens with the regulatory committee is that they then just issue them with a ranking space because the operator may have applied for that in that manner. In other instances it is possible that the regulatory entity itself has not actually studied the legislation clearly or maybe the operator may not be aware as well, because the kind of exercise that we undertake, when for example the NLTA came into being, what we did is that we ran a road show throughout all the provinces, where we invited everybody. So we make arrangements with the provincial department together with the provincial regulating entity and others, to say invite everyone within your space. If you want to have a separate session with officials that is also fine, but if you want to invite both internal stakeholders as well as external stakeholders into one session you may do so, and that is how we were able to run that. We also created a simplified booklet on that space to distribute, but that is the amount of the that we have done. Maybe we have not done sufficiently as well, so there may be a gap in that type of space where the operator is not aware that they can actually also [inaudible] but now a days you do get metre taxi operators that both rank as well as roam. Okay, and now a days you already have metre taxi operators already having a metre as well as an app. The number of metre taxi operators within the ranks of Uber and also within the Taxify space but people over here might be able to answer some of that. Zebra cabs have also

incorporated metre taxi operators with an app as well. So that process is actually moving ahead.

**MR NGOBENI:** Thank you Mr Patel for the clarity and just to move you know to the next issue.

5 **CHAIRPERSON:** Sorry Mr Ngobeni, just before you move on. I have a follow up question on this issue. The reasons why the National Department of Transport decided to issue the practice note, was that in recognition of the fact that the current legislation has a gap because it does not provide for a mechanism to enable the provincial regulatory entities to process operating  
10 licences for e-hailing services. Is that a correct observation?

**MR PATEL:** Yes, it is a gap in the sense of it did not have a specific provision in the legislation that said electronic hailing. Remember, metre taxis are also hailed, but in a different way. It is a hailing service as well. You can hail a metre taxi by making your traditional phone call. You know, the handsets that  
15 you used to have on your table tops. You could do that. You could hail a taxi by like standing out, what you have in New York. Even in South Africa you can do that if you want to and you can hail a metre taxi by going to the ranking space as well. So there are different ways of, metre taxis are, those that form part of companies for example Rose taxis and others, there people tend to  
20 phone in to those companies and they make that pre-booking by making that phone call. So it is not completely new, but electronic hailing per say, digital hailing was not in the legislation. So as a very specified service, and that is where so that is why we use the provisions of chartered service in view of a

very specified thing and we have now brought that in, specifically in the amendment bill.

**CHAIRPERSON:** Okay. Now for purposes of the practice note, or maybe let me reframe the question and say that the metre taxi industry said to us that or  
5 submitted to us that they are required to have a metre installed in their vehicles. This does not apply to the e-hailing services. This is the regulatory differential treatment which Mr Ngobeni alluded to earlier. So that is the main criticism of the current regulatory framework from the metre taxi industry.

**MR PATEL:** You know, well when you apply to the operating licence board or  
10 the PRE now, you specify what type of service you want to run. If you want to run a metre taxi service, you say I am applying for a metre taxi service operating licence. You make that very clear, and therefore if you are going to run a metre taxi service, you have to have a metre, in order to inform your client or the user if you want to call it, the customer to say this is what is potentially  
15 going to cost you from here to there. The aim of the metre is to eventually have a final price, you can even negotiate that beforehand. So the price can be negotiated beforehand, but you have got to keep the metre running, whatever you may have negotiated even before hand. So the function of the metre is to say taking the distance and distance and time and all of those factors into  
20 account, this is what your final price is going to be. That is what the metre does. It is not fundamentally different from the app. That is what the app does as well, but it does it electronically. Time, distance, mapping, route, all of those things you know so it is not fundamentally different really. So conceptually they are about the same it is just different technology. Highly different technology  
25 through which that can be done.

**CHAIRPERSON:** You have also raised the issue of differential treatment in respect of the radius applicable to the metre taxi industry visa vie the radius that is applicable to e-hailing services.

**MR PATEL:** Okay. Yes. The, I do not know if there are any differences, but  
5 there may be. This is some of the conditions. It depends what you applied for. What is your need that you described in your application process. If you said that I want to operate within this radius over here, that is what your application should be saying. I want to operate within the City of Johannesburg only. If you are saying that I also want to roam where needed, because I also have  
10 customers that moves from Johannesburg to Pretoria and back, you must do so in your application, irrespective of the type of service that you are providing. So unless the, and these conditions as I mentioned earlier are actually attached by the PRE based on what you have applied for. So we do not actually govern that space directly. It is a [inaudible] body, but yes. If you look at the amendment  
15 bill, I will just come to that. The presentation that we did was only on the principle act. We just brought in two elements within the amendment bill with regard to e-hailing because it is now there and the contracting function which requires a different space now. But there are other matters there as well. So if you look at the amendment bill, the provisions that have been located over  
20 there, it seeks to create a completely level playing field between the two. Between metre taxi services and e-hailing. You have to, it is exactly the same.

**CHAIRPERSON:** Mr Ngobeni, you may continue.

**MR NGOBENI:** Thank you Chair, and just on the question, just to move to the question of operational subsidies. You know, as part of submissions that we

have received so far from the minibus taxi industry is the question of subsidies and I think there what I am more interested in, is the we saw an add in you know, from the department itself where the department is now you know seeking services from a specialist to assist the department in coming up with a  
5 subsidy policy which may ultimately benefit you know the minibus taxi industry and that was late, maybe in the second half of last year. So the question that I have there is will you please explain the current process and whether or not there have been engagements between the department and the minibus taxi industry on this proposed new subsidy policy that government is you know  
10 looking at.

**MS MANANA:** Okay. Is it okay if I ask one of our Chief Directors who actually is the public transport industry development person to come and clarify, because I am not sure if maybe they have been engaging with the taxi industry on this issue. Lesiba, do you want to just come and clarify whether there have  
15 been any engagements with the taxi industry on the public transport subsidy policy regime?

**CHAIRPERSON:** Ja, welcome. If you could, ja. Yes, yes I am afraid you will also have to state your full names for the record and also take the oath or affirmation.

20 **MR MANAMELA:** My name is Lesiba Charles Manamela. I Lesiba Charles Manamela, solemnly affirm that the evidence that I shall give shall be the truth, the whole truth and nothing but the truth.

**CHAIRPERSON:** Thank you very much Mr Manamela. You can go ahead.

**MR MANAMELA:** Thanks Chair. Just a quick background on the subsidies issues. currently as we speak, the modes that are subsidised as you would know is your rail and some busses through a contracting system. Those are the modes that we are paying operational subsidy. In terms of the taxis we only  
5 pay capital subsidy through the taxi recapitalisation program. Now the development of a subsidy policy is still underway. We have not yet started with the process. This is where we are going to look at the entire subsidy regime in terms of how do we subsidise in South Africa who should be subsidised and you know, the method of subsidisation versa vie the current model, because the  
10 current model is the model that is based on the previous, you know the old system that was applicable in the, during the apartheid era. It is more an old system. Now with the development of a policy, a subsidy policy, we are going to look at the entire public transport regime, both looking at other methods. For example you can use [inaudible] where you can benefit every person, because  
15 like we always say, there is a misconception that we are subsidising modes. Unfortunately operationally if we speak currently the users of the taxis are not involved or included in the operational subsidy. So we have not yet started engaging the role players because we have not yet started with the development of policy. It took long for us to start the process, but once the  
20 process is started we are going to engage all modes, because the subsidy policy is going to look at subsidy in general, across all modes where we will be engaging with the role players, the users so that we develop a model that will cover all aspects, but we have not yet started with that process at the moment.

**MR NGOBENI:** And maybe just to follow up are there timelines, how long is the process going to take? Are you willing to share your proposed timelines that you have, you know with the panel?

**MR MANAMELA:** The project is going to be for 24 months. We envisage to  
5 finish, as you know the policy making process takes time, because it has got to go through you know the parliamentary process and sometimes it is not a requirement, but we have to do the briefing, but we have targeted 24 months or less to have that policy approved by cabinet.

**MR NGOBENI:** Thank you Mr Manamela. I do not have any, I think we should  
10 move to the next one, unless if the panel has questions on the subsidy?

**CHAIRPERSON:** Ja. Mr Manamela, one of the submissions that we have received from the taxi industry in relation to the current subsidy framework that is in place, is firstly is the issue of the intermodal differential treatment in terms of subsidies, because there is currently, the current subsidy framework has not  
15 been rolled over to the minibus taxi industry. Notwithstanding the fact that by all accounts this industry transports by far the largest majority of commuters in South Africa, but there is no recognition of this in the subsidy. In the current subsidy framework. So that is the first point. The second point made by the taxi industry is that instead of the subsidy framework focussing on modes of  
20 transport, because the current system is geared at and focusses on particular modes of transport. The framework should rather be [inaudible] or reconfigured, to rather focus on subsidising the commuter instead of a mode of transport. I would just like your reaction to this. I think yourself, Mr Patel or Ms Manama can also react to this because it is a policy question.

**MR MANAMELA:** Thanks Chair, like I have already indicated that the subsidy is for the users. It depends on the model that you use to subsidise. When for an example regulated competition brings in the element of formalisation of the industry, how you pay. Although we, you see currently we are saying we are

5 paying busses and rail, but it is the users who are benefitting because of the method of subsidisation that we use in the country where you have to have a formalised kind of service, a contract that then governs how the money will flow. Yes, we agree that the taxi industry carries almost 68 percent of the current users. There are contributing factors there. The aim is always to benefit the

10 users, because when you look at the contract that you issue out for subsidisation for example, it end up with the fare that is going to be paid by the user being less, and unfortunately like I am saying, the history, the current subsidisation is based on the history, when busses because busses were more carrying commuters, the workers. You know, I think Ms Manana indicated that

15 the history of transport in South Africa is still steeped in the past where you had people who were moved to further places. Now that is where this history of subsidy came in, into being in South Africa where you had to bring those people into the cities for work and take them back. Now automatically [inaudible] it was used for that, and then that is what we are saying. Now we have to change it.

20 Though we are using the mode for now to benefit the users, but the concept of subsidy is still for the users. In future when we are looking at integrated ticketing system, then you will have people having a choice, but even in that case whatever mode that you are going to use, has to comply with the plans. It has to be a scheduled service so that we are able to account for the

25 subsidisation. Yes, the current users of taxis are not benefitting, but I think it is

the form that we are using. We are not paying the modes per say, we are paying subsidy through the current arrangements of modes which is what we are going to deal with when we come up with the policy. I do not know.

**MS MANANA:** And look, it could be said that you know in your integrated  
5 public transport networks, we are actually already subsidising your taxis. Even though the aim is to, they are included in those contracts. Yes, it is not at a wide scale as it should be, but in those [inaudible] that are already operating, like in the City of Cape Town and City of Johannesburg, in George Municipality, now Ekurhuleni has started some pilot services, Nelson Mandela Bay has  
10 already started as well. The aim has always been to include both the bus as well as the taxi operators in those particular routes. So to some extent we are starting to do that and I think with time as he said, hopefully we will find the most appropriate model. Whether we give passengers a ticket that they can then decide, and then that ticket must also then be utilised across the modes.  
15 You must be able to take that ticket and use it and bus, taxi or trains. It is not only about taxis. For us it is an integrated system and each mode must then play a certain role that is more appropriate. So I think ja. Going forward we do recognise that and it is a principle that we must target end users and that is what we want to do.

20 **CHAIRPERSON:** Mr Ngobeni?

**MR NGOBENI:** Thank you Chair, and I think maybe linked to the issue of operational subsidies and the policy issue there as well and I am now moving to the policy questions. Mr Manamela has alluded to [intervenes]

**CHAIRPERSON:** Ms Manamela.

**MS MANANA:** Mr Manamela.

**CHAIRPERSON:** Oh, Mr Manamela, sorry.

**MR MANAMELA:** Yes sir.

**CHAIRPERSON:** We are not suggesting [inaudible].

5 **MR NGOBENI:** I think what I was referring to is you have referred to you know  
some of the one policy issue you know which is referred to in the 1996 white  
paper. You know, the issue of regulated competition you know, that the  
industry must be formalised and hence the economic viability of the industry.  
The question that I have there and this was in 1996. With that at the same time,  
10 around the same time you know there was what was referred to as the national  
task team, the NTTT and if one looks at the documents then, one of the issues  
that the NTTT raised was the issue that at that time you know, it recognised that  
it will be impossible for government to make you know public funds to an  
informal public transport system, and in this case maybe referring to the taxi  
15 industry, and the question that I have is we are now sitting here more than 15  
years after the NTTT's recommendations and after the introduction of the white  
paper which spoke about regulated competition, and the question that I have is  
what measures have government taken you know, from then up until today to  
try and ensure you know, that those recommendations are taken on board  
20 because it was very clear from the NTTT document that there was absolutely no  
way in which funding could be given to an informal business with no accounting  
systems and all of those things, but we are now sitting 20 years down the line  
and the issue still remains, and if you look at the review that government is  
currently doing, you know the white paper is currently being reviewed and again

when you read that review the same issue is raised again. That government has to provide and consider providing assistance to the taxi industry. You know, in the form of making sure that the industry is formalised and is restructured into companies. So the question is you had a policy in 1996. The

5 NTTT gave its recommendation and it indicated you know, the need for an urgent intervention by government to ensure that this principle of regulated competition is introduced. We are back now in 2017. Government is now renewing the very same white paper and the same principles are introduced. So the question is, and I am asking this question given the fact that some of the

10 things we have to do as the authority is to come up with recommendations and we want to try and work out recommendations that are going to work in the market, but what we are seeing is a situation where government, and this is just my view. Government is struggling with this issue from 1996 up until today the issue is there. It was in the white paper in 1996. It is still in the review in 2018.

15 So the question is what has government done or what is it that is not working you know, and that has led us to the situation where we are today, because an argument can be raised you know, and I am not accusing government of anything here. An argument could be raised that some of the issues that we are seeing in the industry at the moment are issues which could have been

20 averted or which could have been prevented, had the taxi industry you know, the minibus taxi industry, if the taxi minibus industry had been assisted you know, to introduce some of the issues that we saw as recommendations in the NTTT and also in the 1996 white paper. What is your comment on that?

**MR MANAMELA:** Okay. Thanks. The whole issue around regulated

25 competition was introduced in the white paper and I think there were some

steps that government took. For example in 1997 we started with the contracts to, because regulated competition was about taking away the lifelong permits that we have spoken about, which is applicable to both busses and taxis. Even busses had lifelong permits. Now from 1997 in implementing that provision of the white paper, it was then decided that subsidy will be paid on the basis of a contract. Now those contracts were signed with busses. Remember, by then it was only busses and rail that paid subsidy. Now busses were then arranged into a contractual situation where they signed interim, what was referred to as interim contracts for, initially it was supposed to be three years. The idea was that the industry must prepare itself to enter into long term contracts which initially were going to be five years. Unfortunately, because regulated competition brought in an element of quality in the service, unlike in the past where people were buying monthly or weekly tickets and the services were not regulated. Now in the regulated competition, you sign a contract which then determine, specify the type of service you should provide, the quality, the bus, the type of busses and that increased the cost to government and unfortunately as we engage with treasury we always say yes, regulated competition was brought in, but it was not sufficiently funded. That is why in 2001 there was a moratorium on introducing the contract. Unfortunately as we speak only 34 percent of the current budget is paid to new contracts. There was a moratorium and we are sitting with 66 percent of the budget still going to the contracts that were signed in 1997 because we could not move because of funding. Now it was even worse to extend it to the other modes, for example the taxis because it was not sufficient. The funding was not sufficient to cover your originally subsidised mode, which was the busses. So as we speak, as there was an

element of trying to implement it, but funding just blocked us. As we speak now we are sitting with on the bus side, we do not even talk about taxis of 66 percent. If we get money which is what we are engaging with treasury, we should always bear in mind that not all subsidised trips are funded, subsidised.

5 That is the bottom line. Even currently in the bus section. Not all trips are subsidised. Not all trips are going to be subsidised. This is what we are going to clarify in the subsidy policy to say there are different reasons for subsidisations. Now we only subsidise for those two reasons. For example economic and social, and subsidy is also paid dependent on what the plan  
10 says. If a plan, for example the IPTS is done, those plans will dictate the type of vehicle that you can use. So it does not necessarily mean that even if you are going to introduce the NTTT provision which says the service must be formalised, we will subsidise them as they are, as taxis. We might say because of the numbers, demand and supply you need a bigger vehicle to operate, but  
15 you should give that contract to those affected. If it was operated by taxis, they will come into the fore, but operating bigger vehicles. So those are the things we will clarify in the subsidy policy which are currently being done in the [inaudible], where we are taking out taxis, putting in bigger vehicles. We give that service back to the taxis so it is still the operators who have been operating  
20 there who benefit from the subsidy. But I think the biggest thing for implementation has been funding.

**MR NGOBENI:** Thank you Mr Manamela, and I think maybe you know, with the current review that government is doing, you know to review the 1996 white paper, could it be possible you know that what government sees as an  
25 opportunity for the minibus taxi industry, it is seen as a threat by the minibus

taxi industry and I will tell you why I say so. We were in Johannesburg in the public hearings and one of the submissions we received, and this comes to the threat issue, is the question, it is a submission from SANTACO regional, Johannesburg where they indicated to us that they see their licences, operating  
5 licences as an asset. So the question there that I am asking is could it be possible that what government sees as an opportunity you know, through these good policies, could be seen by the industry itself as a threat you know, towards its livelihood.

**MR MANAMELA:** I think you are right. You are right. Their understanding it is  
10 obviously with good reasons. It is from a business side to say if I have got a, for example they used to have the lifelong permit it is regarded as a revenue generation. Now if you are going to take it, it is becoming a risk to them, but as we said we will engage. Engage the industry. From government's side for planning purposes, it becomes very difficult to plan when you have someone  
15 who will be having a life long permit that will say whatever, even if you want to plan and change anything, the person will not agree because it disadvantaged him, but from government's side, we will engage with them. But I think you are correct to say they do not read the situation we read it from government's side, but I think the engagement is critical.

20 **MR NGOBENI:** Thank you, and maybe just you know the last two questions and quick ones. Just as a follow up to that. You know if some of these you know policies are seen as a threat, what is government going to do you know if the industry were to reject the suggestions of corporatisation of the industry, if it were to be rejected by the industry.

**MR MANAMELA:** Meaning the, just the corporatisation or the formalisation?

**MR NGOBENI:** The formalisation.

**MR MANAMELA:** I think the act already covers that where we say a licence, an operating licence has a period. Now obviously we would want their support, 5 but if they are not going to support, for example if we implement a new service in an area, if the existing operator does not agree there are options. In the act they say we must give an option. If they totally refuse the option, the last option is that the licence is going to lapse and then they cannot operate, unfortunately.

**MR NGOBENI:** And if they approach government again, it will not be 10 renewed?

**MR MANAMELA:** No, if it lapse, you see that is why the whole term, the issue of an operating licence having a term comes into be, to say if it lapses, it lapses. You can only renew that if there is a demand, if there is a need for it to operate. That is why in the cycle of planning and the limited span of an operating licence, 15 makes an opportunity for planning authority to be able to adjust services based on the demand.

**MS MANANA:** Can I also add that, remember that [intervenes]

**MR NGOBENI:** I think when you add, maybe one last question from me because it is directed at you. On the slide, on your presentation you mentioned 20 the issue of the 2007 public transport strategy and then you mentioned the two pillars. One is model upgrading and the other one is the IPTN's. So I think the question there and the criticism from some of the submissions that we have received is that there has been too much emphasis from government on the

second pillar, which is your IPTN's and that the model upgrading has been forgotten. If you can just touch on that when you address the issue of, yes.

**MS MANANA:** Okay . I want ed to say that on the issue around the operating licences, also remember that there is not just only a transport requirement that  
5 we are trying to deal with and Geoff must just confirm this. For example, when they apply for an operating licence, we want to check if they are citizens that are above board. They are paying taxes so there are all these other considerations that we have been brought in. It is not purely you are going to operate a route and therefore it ends there. That is what I wanted to add. Then on the IPTN's.  
10 I do not think that, I do not think that you know the other [inaudible] has been forgotten. For example on the rail side, government is investing billions of Rands just to refurbish our trains, infrastructure you know, so and then on the taxi side we have just been back from cabinet. Cabinet have decided that the taxi recap must be a lifelong continuous process, and the scrapping allowance  
15 for example, it started at 30000 and now it is close to about 90 something thousand, so and I think with an allowance that it will be increased on a yearly basis or you know. So that program is continuing. So I do not necessarily think that the model upgrading thrust has been totally left. I think the only thing with the IPTN's is that it has received more attention because we, for us the model  
20 upgrading element is still part of the IPTN's actually, because within the IPTN's then if you are going to operate within the network, you are still required to demonstrate that you know your vehicle was scrapped and what have you and if it is not going to be used, it is then taken to the other parts of the IPTN network. So there is like increasingly there is that, we are trying to make sure

that we match the two and that the two are not seen as independent of each other. I do not know if I have answered your question.

**MR NGOBENI:** Thank you Chair, I have no further questions.

**CHAIRPERSON:** Thank you Mr Ngobeni. If I can give an opportunity to my  
5 fellow panellists to pose questions? Starting with Ms MS NONTOMBANA. Ja, I  
must say that there will certainly be a need for further engagement between  
ourselves, because lots of issues have arisen in the submissions that we have  
received and we would like to canvass those issues with you, but for present  
purposes we will just canvass some of the key issues. Not all of them. Some of  
10 the key ones.

**MS MS NONTOMBANA:** Just to start off. Yesterday we had a presentation  
from Gauteng Educational Transport Services and one of the things they raised  
is that there is a legislative gap or at least a different understanding among  
officials when it comes to the issuing of operating licences for purposes of  
15 scholar transport, and one of the examples that they used was that there is a  
requirement that they should have a particular type of vehicle as it would apply  
to taxi operators, when in fact that is not their understanding. So I wanted to  
just deal with that in terms of what the requirements are for scholar transport  
and to what extent do they differ to those that would apply to minibus taxi  
20 operators.

**MR PATEL:** No, they are the same. The requirements are in the act and  
further requirements are in the regulations. They apply to all forms of public  
transport services. Remember, it is a service provision that we are dealing with  
and they differ by whether you are providing a scholar transport service or

whether it is a courtesy service or whether it is a tourism transport service, whatever. But the service provisions does not necessarily mean that you escape. You have different provisions for different, only in certain instances like tourism where we said there will be accreditation process which is a more  
5 intrusive form of regulation. It is a much more deeper form of regulation, and if that accreditation works, that system works. We will then also know it in time to all the bus services as well, but that is the intention right now. But the requirements are spelt out in the act, for operating licences. They are the same.

10 **MS MS NONTOMBANA:** And then another question I had is that from the submissions we have received as well, it seems that indeed there are different practices across different provinces, in particular in relation to the coordination of services across the different entities of government as well as just in terms of the procedures or rules that would apply across provinces, so in relation to  
15 operating licences for example that if you go to Cape Town or you go to Mpumalanga, the processes that are followed would differ and I just wanted to get an understanding of why that is the case, because I think in the presentation one of the things that you referred to is that there is a need to streamline what is happening across provinces, and yet what we hear, that is not really happening.

20 **MR PATEL:** Some of this originates from the transition act. The transition act before it was promulgated, one of the things that the provinces indicated in the consultation process, which actually I am [inaudible], I was not around in transport that time, but given to understand that there was extensive consultation with the provinces, and the provinces wanted more powers in  
25 relation to the whole of the public transport space, and that is how the chapter 3

provision came about in the Transition Act, and then they could, a province could either utilise the chapter 3 provision for provinces, which [inaudible] public provincial transport or they could create their own piece of legislation, public transport legislation at the provincial level in line with chapter 3. So quite a few

5 provinces created their own legislation and regulations supporting it and that is where quite a lot of these processes and procedures began to differ. It was a similar thing for appeals. You had provincial appeal boards that time, and then, and each province differed in the way the appeals are lodged, the way the principles are applied, all of that. Therefore we have now you know created

10 more central provisions for all of that now. In the NLTA and the TAT also. We have moved it out of the provinces and single point of appeal, I think we indicate that in our presentation as well that there were separate processes. It differed.

**MS MS NONTOMBANA:** Then the last question I had was just in terms of the extent which the different modes of transport are being integrated, and an

15 example is the Gautrain busses via Metro busses, and this is in relation to the amount of subsidies that would go to these specific modes of transport, versus what is there already in terms of what is existing and to what extent there is some thought going into the efficiencies that could be realised from the public transport system.

20 **CHAIRPERSON:** If I may add to this question, because it came out quite sharply. It was a constant refrain in the submissions that we have received and we will share those with you, and what is emerging is that public transport seem to be organised on a differential basis currently in terms of commuter, class or income and it seems that because of this differential organisation of public

25 transport along class and income lines, there are difficulties in integrating all

these various public transport modes into, into a system that operate seamlessly. So that is broadly I think the, some of the things that are emerging in the submissions and specific reference as my colleague has alluded to. Specific reference then has been made to the [inaudible] that she has  
5 mentioned.

**MS MANANA:** Look, for the department, the policy principle is to make sure that there is integration across all modes, and I do not think the policies, the legislation that we have is a proponent of class differentiation in any way, but I think the issue becomes from implementation side maybe, there may be  
10 unintended consequences, but the policy and the legislation does not intend that. For example let us look at Tshwane. Tshwane, just to give more to what you are saying. Tshwane have got their own bus service. They have got Ariyeng, they have PUTCO, there is Gautrain. Which other one is there? And treasury always makes it a joke that outside of their window they see all these  
15 busses. They are all in Pretoria and I think as a national department what we do when we engage with provinces and with municipalities, we highlight the importance of integrating these modes, because it is a duplication that just does not make sense. We are wasting money. For example in Tshwane you have another unit that looks at Tshwane bus service and plans Tshwane bus service  
20 and then you have the IPTN unit that looks at [inaudible] and you could actually easily have all these people in one dedicated structure looking at all these services. So our intention in most instances is to say to them you need to plan together you need to integrate these services. You need to make sure that you know the other one feeds into the other. So ja, it is a general problem that we  
25 currently on an ongoing basis we try to get municipalities to look at, even when

they plan, we say to them you would submit to us when they come and present their network plan, we say we do not want a network plan that is only for [inaudible] or for Ariyeng. We force them to look at Gautrain, to look at Metrorail, to look at all these services. So what then happens on the ground is something else but it is an issue that we continuously need to engage with municipalities on.

**CHAIRPERSON:** Ja, I hear you Ms Manana, saying that it is not necessarily by design this issue, but it could be an unintended consequence. The Gautrain management made a submission to us that in terms of the pricing of the Gautrain service, the pricing is specifically targeted at motorists and they look at the costs, the cost that a motorist will incur on the freeway and what a motorist will incur on the train and that forms the basis of their pricing. They also said to us that in relation to the services that they provide to connect passengers to the airport, that service is priced on a premium. On a premium basis which is precisely why then these issues exactly arise. So it is within that context that the issues, it looks here that there is definitely that element in terms of pricing.

**MR PATEL:** Okay. The issue about class in public transport, the legislation does not provide for differentiation based on race, class, gender or any other stuff. It is not based on that. It talks about integration of services. So that is where we come from, but I think the, on a practical side of things, we need to look at that. The, as Kiebie was explaining earlier, that you just in Tshwane alone you have about five or six different types of services. North West, PUTCO, Ariyeng, a whole range of them. Rail services, all of that. What has happened over a period of time, is that there are different delivery strings within the public transport space that has come about through various mechanisms.

Each of those delivery strings, has been supported separately. So there is a different fiscal space. There is a different funding flow for each of these, okay and once you then develop a cilo base funding framework, it becomes very much more difficult to actually integrate. So what is actually as we move  
5 forward, my sense is that from a policy perspective is that we need to be looking at consolidation of the whole of the funding flows within the public transport space. Somewhere along the line. So therefore the act is very clear. For example if you go and set up for a Gautrain and I am not opposed to it, it is fine. It is actually catering for a particular sector, but it say, if you read the act very  
10 clearly it is about their services that they are supposed to provide post the train. Once the passenger comes out of the train, those services ought to have been integrated with metro bus for example in Joburg, the [inaudible] and other services over there. So you do not necessarily have to create a separate bus service for example, but I think they have argued otherwise and I think that is a  
15 matter you need to be taking up with the province that is responsible for that function. I do not think we can actually, but the point I am saying is that the whole of the funding flows is that area that I think needs to be restructured in the public transport space. I think that is the reason why there was all these other engagements also on the subsidy issues. On the subsidy issues I think  
20 we need to engage more. I think there is much more to it than what was actually debated over here. It is important.

**CHAIRPERSON:** Ja, indeed I think we fully agree. There are in fact a lot of issues that have arisen. Including there are also additional issues in respect of subsidies that have arisen, bus operators have raised all sorts of issues in  
25 respect of the current framework. The routes or the subsidised routes how

outdated they are and those kinds of issues. So all those issues have been raised. The taxi industry has also raised issued about how the current legislation framework does not recognise how the industry, the minibus taxi but industry is currently configured, leading to tension between the regulatory  
5 framework and the self-regulatory mechanisms that are applicable in the taxi industry. So there are all sorts of issues which I think we will definitely have to dedicate more time so that we can do a more deeper dive on those issues, but for now I think let us leave it here, but we would like to thank you very much for your time and for your assistance, and we certainly do look forward to further  
10 engagements with yourselves. I think your submissions have been quite detailed, and very helpful. Thank you very much. You are excused. I think we will now receive a presentation from, ja we will now receive a presentation from an organisation called Tshwane Women in Transport. Welcome to the inquiry and thank you very much for coming. I thought the name of the organisation is  
15 Tshwane Women in Transport and I see a gentleman. That is just a by the way point. If you could please state your full names for the record and switch on the mike.

**MS MOCHOBANE:** My name is Mavis Mhlanga Mochobane from TWT.

**CHAIRPERSON:** Alright, are you together?

20 **MS MOCHOBANE:** Ja, we are together but I will explain in the presentation.

**CHAIRPERSON:** Alright, that is fine. I think you can also state sir your full names for the record.

**MR MABEKE:** My name is Lungile Mabeke.

**CHAIRPERSON:** Alright, thank you. There is a piece of paper in front of you. If you could take the oath or the affirmation, starting with you Mr Mhlanga Mochobane.

**MS MOCHOBANE:** I, Mavis [inaudible] Mhlanga Mochobane swear that the  
5 evidence that I shall give shall be the truth, the whole truth and nothing but the truth. So help me God.

**CHAIRPERSON:** Thank you. Mr Mabeke, if you could also do likewise?

**MR MABEKE:** Yes, maybe just before I do that may I just confirm that I am here to support on technical matters.

10 **CHAIRPERSON:** That is fine. You can also take the oath.

**MR MABEKE:** I, Lungile Mabeke, swear that the evidence that I shall give shall be the truth, the whole truth and nothing but the truth, so help me God.

**CHAIRPERSON:** Thank you very much. If you could before you start with your presentation Ms Mhlanga Mochobane, just indicate your current role or  
15 position within Tshwane Women in Transport and how long have you held that position?

**MS MOCHOBANE:** Okay. The organisation Women Tshwane in Transport, it has started some few years ago, that I can say maybe three years. They are born out of, we are part of SANIT regional structure. SANIT is South African  
20 Network of Women in Transport. We realised that we need to do certain things with regards to the organisation. So we formed the Tshwane Women in Transport and then we have our own constitution and at Tshwane Women in

Transport I am the Chairperson and here today I came with my treasury. She is there at the back, Pretty. You can stand up so that they can see you.

**CHAIRPERSON:** Welcome madam.

**MS MOCHOBANE:** And I also have our assistant general secretary, Ousie  
5 Malinga.

**CHAIRPERSON:** Welcome as well.

**MS MOCHOBANE:** Okay, thank you and with me I have our legal advisor, the one who assisted us to put together our constitution, and also assisting us in legal related matter, who is Mr Lungile Mabeke.

10 **CHAIRPERSON:** Oh.

**MS MOCHOBANE:** With the knowledge of knowing that, my submission also have got act related issue or the law inside it, and I realise that I would not like to answer a legal matter not being a legal person. I have been working at the Department of Transport for more than 15 years. In Gauteng Department of  
15 Transport at the operating licence as a Manager. So my expertise in transport is not only with the Tshwane Women in Transport, it is also I have worked, I understand the industry for all the modes of transport. So when I see this invitation to come and say something or to represent the women, then I realise that it is an opportunity. I think you will be seeing our logo which it has  
20 Tshwane, City of Tshwane. We are not under City of Tshwane, and my legal advisor said to us maybe we need to remove it, because people might think that we fall under the Department of Tshwane. We use that emblem because Tshwane is the city and secondly City of Tshwane is also supporting us as women when we need venue to have our meetings, participate, workshop, even

when they have anything that is to do with Tshwane, they invite us. So we felt honoured to be part of this Tshwane region. I thank you.

**CHAIRPERSON:** Thank you very much. You can go ahead with your presentation.

- 5 **MS MOCHOBANE:** Okay. The first slide already, I have already indicated, and also I will I do not know, the lady who is assisting with the moving of the slides or should I read on what I have?

**CHAIRPERSON:** No, you can just indicate to her as and when you want to move to the next slide.

- 10 **MS MOCHOBANE:** Okay. We can move to the second one. Who is Tshwane Women in Transport? Tshwane Women in Transport is a regional structure of SANIT as I have already indicated and it is a non profit organisation that is made of women who are involved and interested in transport value chain. [inaudible] members open to all women residing to the City of Tshwane. I would  
15 like also to indicate that we also have youth, because the women who are part of this organisation, they also have children and even other youth that are not part of the women who are part of this organisation. TWT is pleased to be given the opportunity to make presentation in such a very important and long overdue public transport market inquiry. We view this process as allowing us to  
20 share knowledge and experience of our members as well as our professional advisor, as I have already indicated [inaudible] law advisor and consulted FOT engineering. FOT engineering is also assisting us with administration. For instance let us say we have a tender that we want women to be involve, they also assist. [inaudible] also assist us in putting together you know all those

document that needs and it is for free, we are not paying them. That is why they are our partners. Even coming today here, he has a meeting, but he said let me come and support you. So it is from the heart. It is not for money, because we are a non profit organisation. So they are supporting us. So even

5 FOT they are supporting us. If we need something as women in transport, engineering or transport planning or anything that needs to be done, they make sure that they go all out and assist us. Even financially they assist us. Thank you, we can go to page 3. I will continue while you are sorting out your IT.

What constitute mode in terms of the law. The law we mean the National Land

10 Transport Act. I am glad to see Mr Geoff around, because he is one of the people in the National Department of Transport. I understand that according to the documentation that I received the Competition Commission already had you know prescribed or described what is the [inaudible] that we need to focus on, but from my side I just want to indicate the understanding of the law or what I

15 have with me. Minibus taxi type service and metre taxi. The minibus taxi type is unscheduled operated by minibus and midibus or sedan. Sedan here we are not talking of metre taxi. We are talking, you know in a township language, city amaphela or four plus one. So that is the sedan, because they form part of taxi industry. While metre taxi service is equipped with a seal metre, the e-hailing is

20 part of the metre taxi service, procuring its customer through an app. Bus type services. In the National Land Transport Act there is no service that are defined as bus service, but busses are used for scheduled and unscheduled service. [inaudible]. It is a known fact that public transport is dominated by the historically privilege with the exception of the taxi industry. The taxi industry has

25 its own issues, including the fact that it is mainly a men's club. The value chain

include the downstream business, remain largely untouched. Access to infrastructure, terminal facility. Access to infrastructure and terminal facility is very crucial for accessing transport operations, especially the taxi bus operations. In the minibus taxi type service environment, the ranking facilities  
5 are mainly controlled by the taxi association. Government in all sphere is complicit in closing entry to the industry despite positive statements made in public platforms that government support growth and development of public transport. Contracting relating to bus operations. Long term contracts which have not been subjected to competition bidding for a long time. This is a very  
10 concerning matter, as since before 1994 the companies that benefit during apartheid continue to have a close market of mainly black South Africa with no exceptions. Unfortunately it is government that must be blamed, not operators. It is also the opportune time for the Competition Commission to review their model contracts for all the different types of contracts published by government  
15 for public passenger transport service. See also the model tender and contract document for public transport service published on 5 June 2013 and the number is there. Commuter experiences [inaudible]. Cost of public transport. Walking distance to public transport facility. With the exception of Gautrain, I say exception because Gautrain is more like a private type of service where it is  
20 expensive. You cannot expect an expensive service to be late for their customers. Time does not appear to have meaning in as far as operators are concerned. It is not just waiting time, but quality of vehicle and system used by the operators. Common sight for subsidy busses to fail on the road. Toyota taxi on the side of the road. Having lost a wheel. Praza commuter rail possibly  
25 the biggest contributor to job losses due to regular lateness. Price setting and

public transport costing may need to have its own inquiry as this is a serious problem affecting public transport access. Operating licence are not only a challenge to obtain and enforce, but the licencing authority appear to be sleep walking through their responsibilities. Even where moratorium on the issues of operating licence is concerned, some does not appear to be initiative of licencing authority but that of the operators who are already inside so as to block any possible new contracts. Now I hope our IT is right, because this coming slide I would like even the people who are sitting there to see. Facts. According to my thinking and my organisation when we discuss, that is why I say facts. All modes of public transport. Now you will see something. I started with the taxi and the busses, then rail. Now I am doing the opposite. Below is a slide. Will show the different mode excluding some, only concentrating on the usual suspect that are used daily by commuters. I am now going to start with the busses. There is bus PUTCO, and I hope 90 percent of people who are here, I used to work in Joburg for more than 15 years. Wake up, if I am late six o'clock going, I will see I stay in Montana. I will see bus, you know when you come from the side of Hammanskraal and the side of Mpumalanga line, immediately before the entrance to the freeway you see a broken down bus of PUTCO. You drive. Before you enter Menlyn it is the second broken down bus of PUTCO. You drive, you pass Centurion. Broken down of PUTCO. If I am lying. Go to the system. We have a new system now of Sanral. It will show you. You go to Joburg. Until I arrive in my office, I would have seen maybe three or five busses. Even now, there is no a day that you will drive without seeing a broken down bus of PUTCO and you see our own passenger, our own people in transport, waiting on the side, in the freeway. According to the law,

nobody is allowed to cross the freeway. Am I right? But you see them sitting there, standing on the side of the road. That is how bad the service is. Golden Arrows I have no much things about it. I just saw on the radio. I do not stay in Cape Town. I just put it there. It is one of the privilege busses like PUTCO.

5 But we look there at [inaudible]. Do you see what the difference is? That bus is in Joburg and it is a BRT bus. Everything is nice. You look at it, you go to Joburg and look where our own Atteridgeville busses park or here in Pretoria. We do not have this luxury, but when you look at it, I was fortunate enough because as I said already I work at the Department of Transport. Fortunate

10 enough to be doing the benchmarking for BRT. Well, I am not the final person who decide what is to be written or how the contract will go out. But when I look at it, according to me when I look at it 80 percent it is a waste of our money, because they do not represent what we benchmarked and see what we saw. Where is the public going to stand there when it is raining? Where are the

15 toilets? You know. When you go to the bus station at like here in Pretoria, there is a toilet there where the PUTCO bus stop and the other one for Praza. You know, when you want to go and relieve yourself and if it is raining, you can be under the shade. I have been driving, I think my licence is older than me because I took a licence while I was doing metric. Nobody, since I arrived in

20 Gauteng, no one has ever, I wanted to shoot that cop photo but I thought of it after. That guy stop us at Menlyn at night when you come from restaurant late. You will find the law enforcement. Tshwane, sometimes provincial. They stop next to you know, just outside the mall. He was driving. They ask, the first question was how are you sir. He said I am fine. Why are you greeting me in

25 my own language? Why do you not greet me the same way you greeted my

husband. He said sorry, I was just being polite. Then he said to him did you drink sir today, and he said no and he said are you sure. He said yes. Say okay, can you do the following. Show me your indicator. He did the indicator, you know all those normal things. They test and I was saying to him why are you doing this? He said madam, I am at work and then he checked the rear mirror, he checked the expiry of and then I was so surprised. Since I have been driving nobody else have ever asked me those question and they said stand out from the car. You have already ask him if he drink. He said I cannot take his word. Sir, will you mind if I test whether you have drinken or not? Well, I do not mind, I do not have a choice. So he went out and when he comes back he said that law enforcer, I think they have stop him sometimes. He took a wet wipe, he polished that thing. I was not tested, I do not know even how it looks like, and then he tested him and then he came back and I said why did I not take a photo. For the first time law enforcement enforcing that. While I was working I would before I was senior manager I was like assistant director research for the board and we used to go with law enforcement during festive season to check whether they comply. They will stop busses, they will stop this. But the problem is the law enforcement, they cannot differentiate between a licence, a passenger liability and a permit. That was my experience by then. Maybe now they have improved. That is why I am saying I was so surprised and regulatory authority must take control of all aspects regulating public transport, including pricing and monitoring. Transformation of the industry must be every role player responsibility and be implemented [inaudible]. Now this is the last slide. Before I say this last slide, I want to thank government, because the time I was working I able to go overseas and enjoy sleeping in a hotel and flying. What I

do not enjoy because whatever we were doing there according to me I have not seen it happening. So let me tell you what I saw and I think the Commissioner should take into account. To find out from the department if it is possible that the government can do that. In Singapore 2007 I was one of the people who

5 went to Singapore. I studied there for transport one week course for transport regulations. In our training they took us to the various, you know when you benchmark. Most of you you have been there on benchmarking. They take you to the various department and station where they do all these things. When we were there, I saw a very long queue and it reminded me when I was working at

10 the transport, the Department of Transport whereby you will see a queue for operators queuing for operating licence. Now I ask the person who was with us there, the people who were training us, I said why you have a lot of queue. He said no do not worry madam, they will be finished now. They are here to collect their certificates. I say operating licence. No, no, no the certificate for them to

15 go and apply for operating licence. I say why? He said because when you are an operator you need to know your regulation. You need to understand what you are applying for. He gave me example of a liquor store. That a liquor person understand that he operates during certain time and because there are not more people in that industry we do not necessarily train them. We just

20 make sure they have regulation, but with transport everybody who have money wants to own either a cab or a taxi or a bus. So I said but if you give them certificates it means they write exams. He said yes. He said they write exam. I said ja, but in our country it might be a problem, because some of these people they are not that educated, but believe you me, my experience told me most

25 taxi operators they are well educated, but some of them they are not. Then he

said to me no, what we do, we have got three types of training. We train those who can only write and read. We train them. We do an oral test. Then there is a part where we do those ones that are educated but they can read and write, but they cannot write, the medium of instruction is English and another language. So if those two they are not good, they use their own language. So they write and the third one is the ones that have got metric and above who can read and write. So we train them differently. We take their exam differently. I said but what if they do not pass? Then they do not get an operating licence, because he is the owner of the vehicle. Even if he is not the driver, but he is the owner of the business. He need to understand that how an operating licence operate, the regulation, all these changes. So you participate in the industry knowing. So I am saying to the Commissioner that that was the good experience that I think in South Africa if it can be practice, I know we have got a huge taxi industry, but one way or another so that they understand as well how public transport regulation and policy, and I will have to say there is this code by [inaudible] of Brazil. He said an advance city is not one where even the poor uses cars, but rather one where even the rich uses public transport. I thank you.

**CHAIRPERSON:** Ja, thank you very much for your presentation Ms Mhlanga Mochobane. At this point I will invite the evidence leaders to the extent that they have got any questions, as well as the panel to pose questions.

**MS MS NONTOMBANA:** I only have one question and it is in relation to a submission that you made previously where you said that bus operators when they apply for licencing it is easier for them compared to other modes of transport and I want you to just elaborate by what you meant on that?

**MS MOCHOBANE:** Okay. I will also allow my colleague to say something, but as I indicated that I was working for the Department of transport and luckily in the licencing department where operating licence were issued, with regard to busses their routes they are clear and they have already a contract like as they  
5 were explaining about the bus contract. So when you go there you already have everything with you. So it is easier for you to you know, just tender all the information as required with the additional requirement that the board needs. So it is easier that way, unlike the other modes of transport. Thank you. I do not know if Mr Mabeke would like to say something on that regard?

10 **CHAIRPERSON:** Alright. If you could be very brief Mr Mabeke, because we have to take the lunch adjournment and resume at two o'clock so we are running a little bit behind in terms of time.

**MR MABEKE:** Okay. Thank you Chairperson. In fact, one of the reasons why it is easier to apply for an operating licence if you are operating a bus, is  
15 because you mainly deal with the regulator you know. It is almost as you see it on paper, but if you are talking about minibus taxi or a metre taxi, the situation is different. In fact the regulator itself requires you to bring letters of support and approval from the taxi associations that will first require you to be a member or to pay certain monies that are not anywhere in law, that you did not even  
20 budget for you see. But if you are applying for a bus, where you get objections you will just get the formal objections as is the case and you will be in the position to argue that, but that is not the case with the other commuter modes.

**CHAIRPERSON:** Ja, thank you very much Ms Mhlanga Mochobane as well as Mr Mabeke. I think at this point we will take the lunch adjournment and we will

resume strictly at two o'clock. Thank you very much for your time as well as for your submission. The one thing that I did not hear you talking about Ms Mhlanga Mochobane, is what can be done to advance the role of women, especially in terms of ownership in public transportation.

5 **MS MOCHOBANE:** Thank you. I left that deliberately. Even the value chain I left that deliberately, because I thought your duty here is to ask questions and then I will answer. Thank you. I think firstly by engaging organisation like ours, I think it is very important, because then we sit down and map out the best way. Secondly, it is also looking at the issue of taxi industry. When you look at the  
10 taxi industry for women operators, they are suffering there. Like in our organisation we have few women who cannot even able to load for sometimes because they are women. You know, as I said it is men's club. So how do you advance? You have got a taxi that you cannot have passengers, according to like the men the way they do. So I think that it will be very much important as  
15 well to engage in that regard. Secondly in transport is not only about having transport. I am a consultant and there is a lot that we can do as consultants but we are not given that chances. The chances are given to big companies that government have been working with for long time, but the expertise that we have as women sometimes are not looked at, and the other thing, in the  
20 National Department of Transport, if you go to the planning department there is SANIT. I think you know of it. The advancement of that, it needs to be taken into account. As I said that we are all who are members of TWT are members of SANIT. So we would like to see more participation of women in most of the value chain as well as in the industry itself. Thank you.

**CHAIRPERSON:** Ja, thank you very much. I was raising this point because the National Department of Transport is currently working on a new subsidy framework and I think it is very important that organisations such as yourself should make submissions in terms of how that subsidy framework can be  
5 crafted in such a way that it is able to promote women empowerment, but thank you. So I thought that could be an opportunity to also advance the agenda of the organisation, in particular women empowerment. I think at this point we will take the lunch adjournment and we will be back at two o'clock. Thank you very much.

10 **END OF RECORDING**

## SESSION 2

**CHAIRPERSON:** Welcome back everyone, it is now after lunch, we are resuming with the hearing. I have been told that these sessions will be a closed session and only the following categories of persons that is the officials of Uber  
15 as well as the economic and legal representative staff of the competition commission, members of the media, and any other person that Uber has got no objection that such person could remain present. I am to that there are legal representatives of Taxify as well. But Mr. Dingley will indicate whether he has any objections to their presence. Maybe let me repeat what I just said. This  
20 session will be a closed session as requested by Uber. It will not be streamed live, there will be delayed streaming of the session. However, the session will be recorded and I have been told that the following categories of persons may be present at the hearing. Firstly, representatives of Uber as well as officials of Uber. Staff of the Competition Commission, and I understand that there are also

representatives or officials of Taxify who are present. And the legal representatives of Uber will indicate whether or not they have any objections to their presence. I also understand that members of the media are also allowed to be present as per the arrangements that have been made between Uber and  
5 the Commission. Mr. Dingley?

**MR. DINGLEY:** Thank you Chair. So, just by way of introduction just to say on behalf of Uber, we really do appreciate the opportunity to make our oral submission to you and to participate in these proceedings. As you also indicated, yes, if there is any confidential information that we are required to  
10 disclose pursuant to any questions from any of the evidence leaders or the panel, then we will indicate that to you. But we can say upfront in respect to our presentation that we are going to make today, there is nothing confidential in that presentation. And we have no objection to Taxify being present during that presentation. I would also just like to say Chair just by way of introduction that in  
15 terms of the statement of issues, we will be addressing 3 main themes in our submissions. The 1<sup>st</sup> issue that we will be addressing is the transformation issue. More specifically the impact that Uber has made on transformation in respect of the public transport value chain and we will also be indicating to you some public benefits that we believe Uber has contributed towards the sector.  
20 We will then be moving into dealing with some specifics around dynamic pricing, area restrictions and supply caps which also emanates from your revised statement of issues. And finally we will be dealing with the amendments to the National Land Transport Act. The individuals that we have identified to speak to these various issues, firstly, on my right is Jonathan Ayache, Jonathan  
25 is head of operations for Uber for sub-Saharan Africa and he will be addressing

you on those transformation issues as I said. We then have to his right, James Hodge who is very well-known to you. He is a director and an economist at Genesis. And he is going to be dealing with the pricing issues as well as the area restrictions. And then finally, not finally then with have Greg McCurdy.

5 Greg is also a director of Uber and he is in charge of competition globally and you know Greg has just to give you some background. He has been a Chair or of IBA anti-trust Committee, he has 15 years at Microsoft and has managed many of those anti-trust litigation against Microsoft. And he has been with Uber for approximately 3 years. We then have – and should I say in respect of

10 Jonathan, Jonathan has been with Uber since its inception, since it entered into South Africa in 2013. And then Michael Evans who is a partner at Webber Wentzel and one of my colleagues. He is intricately involved in the submissions of behalf of Uber in respect of the National Land and Transport Act, and he will take you through that section. So, in terms of process, as I said Jonathan is

15 going to start followed by James and then Greg will come up and finally Mike will come up and end off the session on the amendments to the act. We do appreciate that you do have some questions. We would really like it if you would ask the questions to the relevant individuals that are dealing with the section. And then perhaps if there are questions outside what we have submitted for

20 example that are more general in nature that we hold those over to the end so that we can get through everything that we feel that is necessary to say. So, without further ado and if you are comfortable with that process, I would like Jonathan to start and he will effectively be speaking to the slides that are up on the board.

**CHAIRPERSON:** Just before we start Mr. Dingley, if you could indicate in terms of how you intend to rationalize or ration the time because after your submission, we will also have to take a submission from Taxify which is going to be also an equally comprehensive and detailed submission.

5 **DORYL DINGLEY:** Thank you Chair, we have tried to stick to your hour and a half. So, everyone has got strict instructions on how long they can speak to each slide. And so, we will try and fit in with the hour and a half. Hopefully, Taxify will not object if we take a few extra minutes maybe of their time. But, we will certainly try to stick to the hour and a half that you have provided to us.

10 **CHAIRPERSON:** Thank you very much. Mr. Ayache, before you proceed, there is a piece of paper in front of you, if you could take the oath or the affirmation as you please.

**JONATHAN AYACHE:** I Jonathan Ayache solemnly affirm that the evidence that I give shall be truth, the whole truth and nothing but the truth.

15 **CHAIRPERSON:** Thank you, there is a so help me God part the you didn't read.

**JONATHAN AYACHE:** I took the affirmation.

**CHAIRPERSON:** Oh, you took the affirmation, I beg your pardon, sorry, sorry. I beg your pardon. Just before you go into your presentation, if you could just  
20 very briefly explain what your current role is within Uber and how long have you held your current role or position?

**JONATHAN AYACHE:** So, I currently look after the operations in Sub-Saharan Africa and that includes South Africa obviously. I previously was the General

Manager in South Africa. I have been with Uber for 5 years since we launched in 2013.

**CHAIRPERSON:** You can go ahead with your presentation.

**JONATHAN AYACHE:** Thank you Chair. Good afternoon, I know that you  
5 have got the slides in front of you and in the interest of time, I will not be going  
through everything in huge amounts of detail. I will try and touch on the key  
points. And if there are any questions, I am happy to answer them. So, looking  
at transformation and public interest. Uber was launched in South Africa in 2013  
and since then we have created economic opportunities for over 12 000 driver  
10 partners. We have drawn this from the broad labour markets which includes  
existing meter taxi operators, professional drivers and many individuals who  
have been previously unemployed. Something that distinguishes South Africa is  
that many of these opportunities are full-time equivalent, self-employment  
opportunities and not just supplementary income. Youth unemployment is  
15 something that is very problematic in South Africa and it is promising to see that  
over half of the driver partners that operate on behalf of Uber in South Africa are  
under the age of 34. Another important part of this opportunity is the flexibility  
that it offers. Which we know from our driver partners is something that they  
value very highly.

20 The next 3 slides are showing the growth in demand for Uber. The 1<sup>st</sup> one being  
in Johannesburg. So, the image on your left will show the demand for a specific  
in 2014, and the same window in 2018. So, what you can see is obviously huge  
amounts of growth. This next slide, this is Durban and I think there is another  
one that will show – this is Cape Town. So, what you can see is and I know it is

not incredibly clear, is how widespread the growth has been. Not just in one area, but across the metropolitan areas.

In addition to having direct economic benefit to the driver partners that operate on Uber, there has been other inputs that Uber has had on the value-chain. So, 5 the one thing that we realized very early on is the difficulty that many of our driver partners have in obtaining finance to purchase their own vehicle and we have partnered with many financial institutions to enable driver partners who were previously excluded from this credit market to obtain vehicles. Currently, we have over 100 million rand invested from these partners for driver partner 10 vehicles across the country. In addition to the, we have been able to reduce the risk for financial institutions and encourage rental leasing and other types of ownership structures. And many of these options are available to predominantly black-owned enterprises which is further enhanced transformation in the country.

15 We also have a very strong rewards programme. One example of the rewards that partner drivers have access to is a fuel rewards car. We have partnered with a business called Zemlin investments and drivers can swipe their rewards card at any service station and earn points towards fuel which reduces their cost. Zelmlin is also BEE level 1 enterprise. This is just one example of the 20 rewards that we offer.

According to the UN, one of the main critical rights that women are deprived of is the right to mobility. And I am proud to say that sharing economy has provided accessibility for women riders and drivers in terms of making more cost-effective, making it safer and increasing flexibility. 67% of female drivers

that operate on the platform indicate that the flexibility that the platform offers is one of the key attractions for them. Whereas 51% women riders cite that the fact that they are able to see the driver's details as being one of the main benefits.

5 Uber's technology has brought efficiency to our markets allowing the operators to charge lower rates which thereby increases demand, but at the same time ensures that they are able to have sustainable businesses. We have also been able to expand our service in particular to under-served areas. So, on the left you will see Gugulethu and Mitchells Plain in Cape Town, and you can see the  
10 demand that is generated there. And on the right hand side, you can see Soweto and Khathlegong. A study by Harvard has found that access to reliable transportation is the single biggest factor in determining whether someone can escape poverty. Providing transport opportunities for riders in areas which previously there were none is something that is very important to us and many  
15 Uber drivers actually live in these areas and so it also helps them operate and drive in the areas that they live and avoid to travel distances to generate business.

Our services are also very complimentary to public transport. Uber is part of public transport framework and makes existing public transport more  
20 accessible. We help integrate all modes of transport and are key to the 1<sup>st</sup> and last mile option making it viable for people to use public transport rather than their own private vehicles.

We also work very well with cities and regulators and have made our data available to them through our free Uber movement website. This allows

transport planners to use almost real time data to make key decisions that they need to in their everyday work.

Another benefit that we can offer because of the density and the efficiency of our network is providing next level service for people who have got a disability or next level mobility issues. So, we have a product called Uber assist which  
5 caters to these people and it allows them to get a driver who has received additional training and upskilling on how to handle these situations, often in less than 7 minutes.

We are always looking to improve how we operate across the region and  
10 offering 24/ service to almost 700 000 riders in our country, and we offer this service on average 3 minutes and 20 seconds.

Uber is not only good for locals, we have seen a huge growth in foreign tourists using the service, approximately 7% of our trips in Cape Town are taken by foreigners.

15 Rider and driver safety is something we take extremely seriously and technology has enabled us to build safety into the service from beginning to end. Before a trip starts, we have ensured that we are doing everything possible that this service is safe. And this goes over and above what is required by regulation. Before a trip starts, all drivers go through training, go through  
20 screening and are required to provide us with a professional drivers' licence permit. All vehicles have to go through a roadworthy test along with a vehicle inspection which is conducted by DEKRA for us in South Africa.

When you request the car as a rider you are able to see who is coming to get you, a photo of the driver, the name of the driver, the licence plate, the colour of

the vehicle as well as follow the journey on the map. For the driver, they are able to see the details of the rider as well. Another important point is that all communication is anonymized on the app between the rider and the driver while on a trip. That is electronically recorded to ensure that riders and drives always know that we issue trackability. Another feature that is important to both riders and drivers is they are able to share the trip with loved ones. So, they are never alone. They are always able to be monitored by someone else. Once a trip ends, there is a two-way rating system and this helps us monitor the quality of the service on an almost real time trip by trip service. Riders and drivers have access to 24/7 customer support. Riders have access a new features, riders have access to an emergency call back service if they do feel unsafe after a trip.

All rides are insured, so we have over and above the benefits of the road accident fund, we have taken out insurance for all riders on trips and we have got partnerships with security and law enforcement.

We are always looking for ways were we can use technology to improve the safety of our offering. If we can go back one slide. So, for example we do a lot of work listening to our driver partners and understanding the difficulties that they have. And a lot of these features that we have rolled out including rider verification being able to share their trip, and a new panic button app that we have partnered with an external company to provide come from that feedback.

On the next slide, I am not sure what is going on with the slides. But on the left one of the amazing feature that we are able to offer is facial recognitions and we always want to make sure that the person driving the car I real time is the

person who is registered on our system. So, we can check that with the facial recognition on the phone. We are able to monitor phone handling. So, we can see if someone is moving the phone around when they shouldn't be. We are able to notify drivers of speed thresholds and ensure that they are obeying the law. And we have also ensured that driving infractions are recorded and we share that feedback with the drivers so that they can continue to improve their driving while using Uber.

One more slide forward. I don't know if you can see it, it is the one keeping the rider safe by avoiding drowsy driving. Chair, I don't know if you have got it, but I will speak to it anyway. So, one of the features that we rolled out is called hour limits. We are trying to ensure that drivers using the Uber app do not drive for so long that they reach a level of fatigue and which results in unsafe diving. This is possible because of technology. So, once a driver uses 12 hours of use, the app turns them off for a 6-hour period. That is the end of my section.

**JAMES HODGE:** All right, I will begin with the affirmation as well. I, James Hodge solemnly affirm that the evidence I shall give will be truth, the whole truth and nothing but the truth. So, in the revised statement of issues, the terms of reference number 3 of relevance to taxis raises the question, what is the rationale for surge pricing by app based taxi services and whether such practices do not harm commuters by charging the high fares. So, that is the issue I am going to talk to.

I think before going into the detail of why in fact this pricing consumers rather than harm them. I think it is important to address misconceptions about dynamic pricing or surge pricing however you may wish to term it. So, the 1<sup>st</sup> issue is that

this accounts for a very small minority of trips on Uber. So, for this year it accounts for less than 5% of all trips on Uber. And the average multiple which prices go up during these periods of dynamic pricing is only 1.6 times. I think that is almost important to also note that is of the low fare base of Uber. So, as  
5 the original submission indicated research done by [unclear sound 0:23:36] had demonstrated the in fact the meter taxi prices are often 2 and a half times that of Uber and although they have come down in response to competition, they are still at the high-end of Uber pricing. So, it still in any event offers value to others.

10 I think the 2<sup>nd</sup> element is that the fare is entirely transparent. So, there may be older versions of the dynamic pricing when Uber started where it wasn't always clear upfront, but as of now, it is entirely clear. The exact amount that you will pay including that surge element before accepting the trip. So, it is not the scope for the kind of price gauging that was typical in some respects of  
15 customers being captured at a late hour and being forced to pay a higher price that might have prevailed with other taxi services. That is certainly not the case with an Uber service.

I think the other element to highlight is dynamic pricing is in fact common in transport and not just transport, vast amounts of the economy. So, if you want  
20 to fly SAFAIR in weeks' time from Durban to Johannesburg, you will pay more in peak periods than in off peak periods. And that is standard for airlines, it is not just SAFAIR. The reason for that is in fact they are trying to manage variations in demands with fixed supply capacity. In trying to signal to passengers that in fact not time sensitive to take a flight at a different time and

allow those that are time sensitive, usually business travellers to pay and get on the flight that they need to get on.

But it is not just airlines, it is also the Gautrain. Gautrain in fact has got 3 periods. It has got an ultra-peak period which operates at 06:30 in the morning  
5 to 07:30, a classic commuting time. It has a peak period of 6 to 8:30 and 15:30 in the afternoon to 6 and then an off peak. And if you go into that you obviously can't read that through that screen because it is too small. But typically, the peak period is about 25% higher than off peak and in fact, on the bus rail service, it uses 4 times that price. But this is again standard. They need to get  
10 more trains, more staff put at convenient times, and there are trains themselves that are not operating in-between when the service runs at less frequently, and that is the cost that they need to bear. And hence, the costs are higher to operate that capacity in peak.

So, the challenge in transport markets and this is going to be bus services, mini  
15 bus taxis, rail services and e-hauling is no different, is that you have large variations in demand over the course of the day and also in the course of the week. So, you typically have your commute times going in and out of work, and also going to school and coming back from school. But you will have that during that during the weekdays and a drop in demand on the weekends. For e-hauling  
20 I suppose the kind of peaks also include the kind of work commutes, but it also includes times in public transport isn't functioning or functioning at low frequency and there are large volumes of people to move. So, this maybe entertainment locations on the weekend or things like stadiums on the weekend and concerts and the like. So, if we look at Johannesburg and the variation in  
25 trips over the course of an average week, you can see exactly this sort of

pattern. Obviously, very low demand in the middle of the night, starts to peak up for the morning commute around 6am, drops off after the morning commute, peaks up in the afternoon to the evening commute. So, there is your sort of midday cycle. But you have the weekend and you have got big spikes in demand, let's call it that, around evening entertainment on Friday and Saturday nights. But I think the main point here is there are substantial variations in demand for transport and those have to be managed and have to be managed somehow. And that is really where dynamic pricing comes in.

So, we have looked and I apologize as an economist I might put some graphs in front of you and you are welcome to roll your eyes and ignore it. But if you look at this sort of classic situation. You have got the morning and evening commutes, so your demand which is that squiggly line goes up in the morning, drops off during the day and then rises in the evening. If you have a fixed supply and let's take taxis in this instance, over the whole period, then there are clearly during the morning and evening commutes, there is more demand. So, the line graph is above this sort of bar of yellow taxis. There is more demand than there is supply which obviously means that people just have to wait a lot longer to get a ride. But then also in the middle of the day, there is a lot more supply, a lot more taxis available and not much demand. So, drivers are sitting completely idle. And that is also inefficient because it means drivers are on shift with a vehicle doing rides, the utilization is low, they are not earning. It means that they have to make up for that time in lost earnings in the peak time. Which pushes up fares in general. So, that is the problem or one of the problems with the mismatch in the supply and demand.

Just to give you some flavour now, and this may be from New York and – but I am sure you can picture a very similar situation across the cities in South Africa as people queue for mini bus taxis or buses exactly at commute times. Having to wait considerable amounts of time. And if we look at the flipside which is that  
5 time when no one is travelling, a lot of drivers similarly are sitting idle. And again, I think if one goes to any of the taxi ranks at the off peak times, there is a lot of washing cars and fixing engines that goes on.

Now, I suppose this is when I will excuse everyone from paying too much attention from the economist, but in fact this can be presented – so, the  
10 economists can stop and listen and the legal minds can check their phone messages at this point. But the very simplest supply and demand graph that you get in 1<sup>st</sup> year economics can in fact explain all of this. So, in your normal period which is your top graph, you have supply and demand and at a particular fare level, let's call it [unclear sound 0:30:44] balance. So, those who are  
15 looking for rides are matched by a number of taxis that are available to provide rides. And so everyone gets a ride within a few minutes. And that is certainly what Uber and others are trying to achieve. If you look at the bottom graph, what happens when you get surge demand, so people come out of a stadium or people come out of the office and want to get home is in economic terms  
20 represented by the shift in the demand curve, an outward shift. And if price doesn't adjust, supply remains constant. It is exactly that picture I showed you a few slides ago of the flat supply. Which means that we get what we call excess demand. So, at that fare level there is a lot more people Q3 in this example versus Q1 that want a lift and they are willing to pay that fare to get a ride. They  
25 are actually willing to pay, but they are not getting serviced. And maybe in the

transport example that just means they wait. They wait until the provider is finished and the taxis come back to fetch them. But that is a cost to consumers. It may not be in price, but in fact it is a huge cost to consumers in terms of the value that they get in transport.

5 So, in the original submission in fact, what was interesting is there was a study done and I think it was quote in the Mail and Guardian article which said, if you look at the true cost to commuters in South Africa you know, for low income earners, it is probably about 30-40% and the reason for that is, although in monetary terms it makes about 12%, the amount of time commuting, the long  
10 commute in South Africa in fact means what you earn for a day spread out over 8 hours, but possibly spread out over 9, 10, 11 hours and so your effective wages is really a lot lower. So, people value having convenience. Also, the stats is saying National Household Travel Survey, and that was also for instance in the original submissions and you can go and have a look at it. If you look at  
15 what people say as the most important factor in choosing a travel mode, the top is in fact travel time. That is over 33%. Further down the line at 26% is affordability. And this Uber survey done by IPSOS in April last year confirms that. If you look at one of the top 10 things people, active riders say about what they value in Uber, yes, number 1 is safety, but very close behind is the fact that  
20 it is available 24 hours a day, 7 days a week. So, it is availability. Number 6 is you get a car within minutes because there is 1000s of cars available and number 8 is you can work around your schedule because your car arrives in minutes. Affordability is down there at number 7. People value convenience, and that is an important thing to understand in transport networks. It is not just

about the price, it is about the availability and service because no one wants to sit for a long time waiting for a ride.

We can actually demonstrate this and economists call this the natural experiment. So, this is a case New York, new year's eve probably peak time for  
5 people who do not want to be driving their own cars because they have had a few too many, and the dynamic pricing on Uber failed for 26 minutes. So, for 26 minutes, they couldn't use dynamic pricing. So, the 1<sup>st</sup> graph shows that the number of requests peak. So, they are going from under 50 per minute or so to up to over 200, quadrupling in requests. That is a massive surge in demand.  
10 But because drivers didn't respond because they weren't incentivized to get out and get there because it is an inconvenient time for them. So, unless they are getting paid more, they would rather be at home with their feet up. So, because of that that the expected time of arrival quadrupled. And those were for the people who were lucky to get a ride because the last graph is a completion rate.  
15 So, prior to this point everyone who opened their app and requested a ride, got a ride. That dropped to 25% during this period. So, that is an illustration of the real cost of not having supply adapted to demand. People wait longer and many of them don't get a lift.

So, how does cope with this peaks in demand? I mean, this panel will hear from  
20 all different transport modes through the course of its hearing and investigation. But very often with mass public transport, you do it as I said with the Gautrain. You put on more and more trains that sit idle for the rest of the day and employ staff to man those trains in the peak time and that is costly. And that raises the overall cost of service and you do charge for it like the Gautrain does it in peak  
25 times or you may not and spread that cost over, raising the price across the

entire day. With e-hauling, you have got an additional challenge, you can't just invest in more and more because in fact, there are driver partners who you don't directly control which you have to incentivize to get out and service the market. So, they decide when and where they wish to operate. But this flexibility

5 actually provides somewhat of an advantage as well. So, Uber is able to deal with some of the demand fluctuation. A large part because you can see by the low incidents of dynamic pricing under 5% of trips. But you also saw how the demand for Uber varied over that day and week in Johannesburg quite

10 substantiality. But drivers are incentivized to come out essentially at periods where there is more demand because it means they will get more or less an hour which means they can earn more while they are operating. So, it is a natural economic incentive for them to go to places of utilization. But in addition, Uber helps drivers in that regard by directing them to areas of high demand and times of high demand. And also warns them of upcoming events in the City in

15 which they operate where they might expect crowds forming at particular points in time, and this is outside of dynamic pricing. So, this is the ordinary calls normal standard pricing. And the result is that, well you saw, for over 95% of rise, there is no dynamic pricing. This slide shows you one of the sort of incidents where Ube informs the driver about were things are going to be busy

20 or very busy and in which suburb and were to head to. And it gets more granular than that as well. And on the website under the rider section you also have got the events of the week which drivers can go and identify you know when there is a Soweto Derby, maybe. You know people need to think about getting to FNB stadium around the right time. And they will get a high demand

25 for lifts.

So, dynamic pricing is a tool. But it is a tool for those rare major spikes in demand. Or at times when most drivers would not be operating like at midnight in Braamfontein. So, it is the exception and not the rule. But it's an important tool in that exception. So, in that small amount in times, what does it do? And I

5 am going to return to that supply and demand graph next. But let me just quickly explain it in lay terms. There is two effects. It slightly reduces demand, so be why pushing up price, the price signal says to people much like in the airline case who are not time sensitive, they can relax for another half an hour or hour happy to do so, have friends around, they will choose to in fact delay the trip.

10 They may take an alternative form of transport that is available to them. So, that slightly reduces demand, which helps. The 2<sup>nd</sup> factor is of course at a higher price, driver operators are incentivized to come out in larger numbers or move from areas where there is less demand to areas where there is more demand. And this is exactly a price signal, this is the market at work that pulls them there.

15 Which means supply increases. So, demand slightly increases and supply increases. And that enables you to return to an equilibrium where anyone who wants a ride gets it within a few minutes as you saw Jonathan put up, with a low wait time and in fact, fares return to normal much quicker than they would otherwise. So, we have seen how those queues can perpetuate around the City

20 and commute towns, well, when you increase supply address that, that queue goes quicker, which means you go back to normal operations. And again, supply and demand can demonstrate that. So, your 2 effects, if the price is allowed to go up in response to that shift in demand, then it means some people on the demand curve who in fact don't value getting the ride quickly drop off.

25 So, your demand drops off from that Q3 to Q2 in terms of the graphic, but also

the drivers are getting paid more per ride. They in fact expand the supply. That is a movement up the i-curve from Q1 to Q2. So, supply and demand then converge again at Q2. More people are served than they were beforehand because before without the dynamic pricing only Q1 customers got served. So, more people got served and they get served with low wait times. And as we saw before, people value that, consumers value that. And that is sort of reflected in your demand curve because people will only pay that if they are willing to. And as you saw, the transparency of the pricing means that in any case, you have to agree to it upfront before you get into the car and accept the ride. So, people have got that willingness to pay. I mean, one can add a layer on this sort of wellness consumer and producer welfare. But I will not do that now.

There are also other number of deeper benefits to dynamic pricing which may be interesting to note as economists and as well as the Competition Authority that has almost has a consumer welfare standard overall in its assessment. So, the one is in fact, price signal sort customers. I mentioned that with airlines price signals are important saying for leisure travellers who in fact can arrive at the beach a few hours later and get up at a more leisurely pace when they want to leave. It pushes them into the off peak period and creates some demand in that for airlines. But it means for business people who have to get down to Cape Town for a meeting and get back to their families in the evening do get a flight. They are willing to pay more for that convenience and as a result they get the flight. The alternative if there is queueing and a barn fight, then people who don't value getting there on time may end up 1<sup>st</sup> on the queue and getting on that ride whereas those that desperately value it are left stranded and are unable to do business. So, that is an important element. It sorts customers.

I think the other element is really about increasing utilization. You are moving drivers from areas of low demand where they may do one trip in an hour or something into areas where suddenly they can do 2 or 3 trips in an hour and relieve that congestion. That high utilization as the submission made clear is what ultimately supports low prices in the system because drivers need to earn a certain amount. You can either do that in a few trips at a very high price or lots of trips at a low price. So, effective utilization means that overall prices are lower. So, one may focus a bit on the multiple and surge, but one has to think about how this all affects the base price to begin with. And as utilization improves, as wait times come down, people get familiar that this is a service that they can rely on, demand expands for it. And that is that circle that was covered in the initial submission about generating demand on the rider side which supports more drivers, which makes riders come on board as well and overall keeps prices low.

Maybe just a last few things on dynamic pricing that I think also maybe some of the perceptions about Uber and dynamic pricing are historic. The technology has continually improved and Uber works hard to improve it for the reason si will come to because in a sense they are incentivized to keep prices low. That is the business model and surge can interfere with that. So, whereas maybe started off as demand doesn't matter in the entire Tshwane area, it is now bound to very small localized areas which are represented by little hexagonals. And so it can be incredibly focused on very specific areas, at very specific times and not have a broader effect. And that is in part why dynamic pricing is less than 5% of all rides. Also, the later versions have predictive elements. So, you know one of the delays in responding to a spike in demand is getting drivers to that area

where the predictive element, drivers are made aware that this is eminent and they can get across to those areas and address that surge in demand quicker and prices can return to normal levels much faster. From the driver side, what they tend to see when they open their app are again these smaller hexagonals  
5 with a sort heat map of where there is more demand or less demand and some of that heat may not even be at surge or dynamic pricing multiple in areas of demand. But also, Uber communicates with the drivers in the case where they are not seeing sufficient response. So, those who are offline at the moment and not operating, smsing them to say there is periods of high demand. You may  
10 want to get out because there is lots of earnings opportunities.

So, I think just rounding off on dynamic pricing. I think the important thing to understand is – and this is evident in the development of technology and the revealed evidence of the low incidences of dynamic pricing is Uber has every incentive to in fact limit this because its entire model is built on low prices to  
15 generate high utilization and that high utilization means that drivers can earn a decent income through being more efficient. Through having more trips per hour relative to other forms of transport. And the whole the is built around that. The matching technology and dynamic pricing is one of those pieces of the puzzle. Because if the norm was high prices then we would see a much smaller market,  
20 much smaller demand and in effect Uber or other e-hauling will be shooting themselves in the foot. And this is a sort of adverse or vicious cycle dynamic of higher prices tend to reduce demand, which means you need to put up prices even higher because you are not getting the lifts that you are required. So, to keep the cycle of lower prices being more demand which enables high  
25 utilization and giving you earnings is important. So, from my perspective, given

the incidences of dynamic pricing, it is probably not a big matter for the Commission and given its sort of incidences of peak pricing across the transport industry, it's also I think [unclear sound 0:48:32] unnecessary.

But it is also to the last slide, a warning against regulation and fare regulation.

5 So, the problem with fare regulation is we precisely have that flat supply graph the we saw for example in one of the earlier slides because if I get no better price when I am sitting up at midnight in my car cold in Braamfontein for example, versus sitting in the middle of the day and spend the evening with my family, why get out then. So, supply doesn't adjust to demand at the periods of

10 peak. But the mixture of the flexibility model that Uber has with dynamic pricing means one can actually address those peaks. And that just to return at one of those 1<sup>st</sup> graphics you can see the differences in demands during the course of the day and in fact, most of those can be accommodated without any dynamic pricing suggests a flexible model is far more efficient because it is using

15 capacity where it should be used. As I mentioned a lot of mass public transport throws money at capacity, but that cost has to be borne by consumers because they have to pay for the extra buses on the road throughout the peak times that sit idle outside of that. So, that throws another element to it that it is probably more effective at keeping fares at a standard level and addressing some of the

20 gaps in public transport system that Jonathan referred to. So, it does see peaks in demand at the commute times, supplementing either your private car usage or your 1<sup>st</sup> and last mile on your public transport system.

So, that is with dynamic pricing. And then I am going to start off talking about the 2<sup>nd</sup> statement of issue that is relevant to taxis in terms of 1, the question is

25 asked; is there regulatory framework between traditional meter taxis and app

based services in terms of aerial restrictions is different and if so identify the differences and the impact thereof on competition. I said that I am going to start. I suppose the short answer is they are not different. But I just want to deal more with why in fact area restrictions are inefficient and rather than something that

5 should be given consideration around in a regulating area restrictions and making sure that area restrictions are fairly applied, they in fact should be scrapped altogether. I then hand over to Greg McCurdy who has in fact just flown in from an ongoing OECD meeting and working group around precisely the regulation on meter taxis and app based services where the Commissioner

10 was also present and he can provide the latest feedback on the OECD staff paper and this and the OECD countries that provide papers on that. And then to Michael Evans who will talk about the actual regulations which is certainly not why area as that is legal. So, I think the simple answer to the question that the Commission has asked in its terms of reference is in fact, the e-hailing services

15 are granted meter taxi operating licences in terms of Section 66 of the NLTA. And in fact, distinction is drawn in terms of the area of operation type conditions. And these vary across the country as how they are applied. So, they are often an area of operation stipulated, this might be a municipal boundary. But they might in fact be a provincial boundary or even national. Cape Town has a radius

20 of operation, for many it's from City Hall with a 35km radius. But it can also be from the place of residence of the operator. But it has been noted for a long time and I think the source is hidden at the bottom of the slide cites a paper almost 10 years ago. Meter taxi operators have been permitted to roam within their designated areas and do street hauling from – whenever the legislation

25 was put in place. That has never been restricted. They have never been

restricted to operating out of ranks and they have never been restricted to taking phone bookings and then going on demand. They have always been permitted to roam. In fact, anecdotal evidence of the Commission is in a better position to get actual evidence of this during the course of the Commission. The

5 anecdotal evidence from former taxi drivers is in fact, often there are restrictions by the associations that go beyond what is in the licences that maybe associations will control certain ranks and drivers from other associations will be denied access to that ranks. But these are self-imposed, they are not regulatory imposed. And I think the Commission has already heard some evidence at least

10 on the fare setting as well to that effect.

So, if we look at area restrictions in general, and why I am covering this is, it is relevant to the Commission's question, but also the Commission's role in terms of advocacy and findings in terms of this inquiry because you have already been made aware that the NLTA is under the process of amendment and from

15 the terms of reference, it seems the Commission is interested on recommendations on how that should be done and maybe what position the Commission should take on that. So, I talked about I suppose that link through already the efficiency model underlying the e-hauling approach which is in fact you can call it the high road cycle of getting high levels of driver and vehicle

20 utilization and getting high utilization, you are able to sustain low prices while still giving drivers a decent earning. And that is achieved through minimizing let's say wasted time. So, while you have a rider in the car paying a fare that is utilization on sort of active fare paying trips. Outside of that when you are sitting idle, when you are not earning something your car is still a fixed cost, your time

25 is a fixed cost. And then you have got the time getting into the next trip and of

course then there is cost of getting into the next trip driving a distance that is far. So, if you have got to go to the airport and have to return empty, that is a substantial cost if you are coming from the centre of town. And the e-hailing applications achieve this by real time matching technology. As soon as you drop  
5 someone off, they are looking to find a nearby rider which limits your time 1<sup>st</sup> of all in finding another ride, but also your distance to get there. So, your idle time of fuel costs and other costs getting to the ride. So, you are eliminating that idle and fuel costs not fare generating time. The matching technology, dynamic pricing I have already talked about gets people to areas where there is demand  
10 so that they can have frequent lifts. But ultimately it is about achieving these economies of density. Many riders and many drivers on both sides of the market are out there looking for rides. So, if a rider knows that Uber is reliable and can get a ride within 5 minutes, then they can use it and that provides a demand support for many drivers out there. And when they drop someone off,  
15 they can find a ride very quickly if there is high levels of demand.

So, what area restrictions do they undermine all of these efficiencies. So, the net result can only be to increase fares in the long run or the short run in fact. So, what area restrictions typically do, it might not prevent you from taking a rider from outside your area because you have picked them up in your area, but  
20 they frequently prevent you from coming back with a passenger because that will involve a pick up outside your area or picking up a passenger outside your area and taking them to a 3<sup>rd</sup> area because that will also be. So, depending on how they have crafted, they may have different restrictions. But it is inefficient because ultimately you put some of those in as I mentioned as an example.  
25 Someone takes from here, drops someone at O.R. Tambo and has to return

empty because that is in a different municipality and they don't have a licence to do that. And so, fares must be high. You will want to recover in fact the return journey that is empty. That is a lot of petrol and time that is unutilized. So, your trip to make it profitable out there must be of a higher fare, whereas if you are  
5 bringing someone back, you can say well, in fact I don't need to recover that in the fare going back, the fare can be lower because I am getting a fare back. The alternative is it undermines good service. So, the typical complaint previously of the taxi industry was that someone sees where you are going and says either pay me more or I am not giving you a lift because I know that is not  
10 convenient to me. And that can't happen under an Uber, but certainly could happen under area restrictions.

I mean, we have had the dynamic pricing example too, area restrictions would prevent dynamic pricing. You have a peak in demand, use my example in the Soweto Derby as I saw the other night when Barcelona played Sundowns.  
15 There was a massive stream of people coming down to Tshwane obviously to support their team. But those are 2 different municipalities. If taxis are to meet their demand and their peak demand around there, then they are not going to be able to do it. So, if a peak demand in a municipality cannot be assisted and be relieved from taxis in other areas. And I think it is detrimental, not just to e-  
20 hauling, it is detrimental to meter taxis too, and that is clear. So, that is why it should be scrapped and not adjusted to cope with different examples.

Let me just round off with a couple of slides. So, one it is just a simple illustration. This is again what we would call a natural experiment type of example. But San Diego airport says that vehicles that don't meet certain  
25 emission standards so gas guzzlers to use that sort of term are not allowed into

the holding pen for taxis at the airport. So, if you drop a passenger off, you are not allowed at the holding pen to pick one up and come back with the passenger. So, that operates effectively like an area restriction. You can go there, but you can't come back. and the top line shows that 99. whatever  
5 percent of the times those non-compliant vehicles come back empty. That is exactly a wasted trip and the fares have to support that. But those who are complying can get into a holding pen and pick up a passenger. So, that is akin to not having area restriction. And yes, not everyone returns with a ride, but close to 40% do which supports lower prices overall.

10 Maybe a quick note that if you look at the rationale around regulation, area restrictions go hand in hand with supply caps. And that's why we are raising them in this context. And that is because supply caps are typically there under the false pretence of preventing over saturation, too many drivers in a particular area. And area restrictions are seen to almost reinforce that cap by not allowing  
15 drivers from outside the area to come in and saturate that area with drivers. So, that is why in a sense it goes hand in hand. Look, Greg is going to cover this in more detail. So, I need to say at this stage is as an economist these are typically protectionist when you try to impose supply caps and typically allow those who have the privilege of getting a licence to charge more of a poorer  
20 service. And that is certainly all the economic evidence on these sort of measures. But it sets in motion that negative, that vicious cycle that I talked about that by having higher prices, there is limited demand for the service which means in fact it reinforces the need for a cap. But that is a different business model, it is the old business model. The new business model that Jonathan has  
25 shown has massively expanded demand says let us look at the cycle, let us go

high utilization low prices which in fact stimulates demand and then you can employ 12 000 instead of a fraction of that and create opportunities and benefit consumers and benefit drivers ultimately.

**CHAIRPERSON:** Mr. Hodge, sorry to interrupt you, by supply caps, are you  
5 referring to operational permits.

**JAMES HODGE:** Yes, exactly. So, not only having a permit but actively limiting the number of permits. So, people may apply and they say no actually you know in the Cape Town area we only need 1000. But often those demand models, I think you have heard not only are broken at the municipal level, but they are  
10 often premised on a different business model, a historical business model. And that I think is the main point that I am trying to get across. And in the previous submission of Uber, there was some reference to local research around meter taxi industry. And one which was by former Chief Director of public transport at DOT went sort of bemoaning the taxi predicament of high prices and limited  
15 demand said, the key almost certainly relies on the density of taxis per square kilometre. Once a taxi service reaches a certain density, drivers will take opportunity to look for customers away from ranks and users will become accustomed to them being available to hail on the street. That saying there is a demand out there if we take the street hailing as the kind of model which app  
20 based services are able to do, then there is demand out there. There is latent demand which can be satisfied by greater number of drivers. Which means consumers have got a better mode of transport and also there is more economic opportunities. And that study also cited a more recent 2014 study in eThekweni municipality were the why they surveyed township areas and the  
25 general perception was that meter taxis were safer than mini bus taxis. But the

lack of availability and high fares put people off from using them. That again suggests there is latent demand. And I suppose some of those early graphs the Jonathan put up about how in fact demand has expanded in low income areas in these metropolises precisely reinforces that, that Uber has demonstrated what academics and department of transport people recognized a long time ago. That get out there, be available at low fares and there will be a virtuous circle that reiterates.

So, this last slide is just showing the growth in demand. I think Jonathan has made a more effective job with those graphics. But really survey shows that most of the people suing Uber, and this was a number of years ago. So, it is probably even more the case now. Over half never used the meter taxi previously, and of those that did use a meter taxi 85% never even used it frequently. So, there has been a massive this time probably in 2016, 3 times expansion demand was estimated. That is then 3 times as many jobs as well. At this point let me hand over to Greg to talk about the OECD panel which he has just come from.

**GREG MCCURDY:** Good afternoon Mr. Chairman, it is a pleasure to be here. My name is Greg McCurdy director of Global Competition law at Uber. I solemnly affirm that the evidence that I shall give will be the truth, the whole truth and nothing but the truth. So, you may wonder why is somebody coming from Uber headquarters in San Francisco to spend time with you. I hope I can add some perspective as somebody who has been practicing and I trust law for the last 2 decades and including a long time in Microsoft and being very involved in the international anti-trust conferences were I know your organization is very active in the ICM and the OECD. And as mentioned, I was

just in Paris for the OEC competition week which started out with a 4-hour hearing on taxi regulation and its impact on competition. And as you know your agency also submitted a paper, but agencies from around the world have submitted papers in which they have described various experiences in this area.

5 How they view taxi and ride sharing regulations and how that impacts consumers on pricing and riders and drivers. One of the things that was handed to you is a collection of advocacy papers that these agencies have produced and published over the years. It may be useful for you to review at some point when you have time. But there has been a lot of them. The agencies have been  
10 active in this area going back to the 1980s, the United States Federal Commission in the 1980s launched litigation and investigations against taxi companies in the United States from monopolization and including of course because they were highly regulated at the local level things like supply caps which were deemed anti-competitive. But even more recently as you know  
15 15 years ago before Uber, other ride sharing companies like Taxify came along, these agencies have been very active in investigating and advocating for liberalization and greater competition.

If we could go to the next slide please. So, you know there is a couple kinds of supply caps. There is the defector ones and the DE jury ones. DE jury is when  
20 the law says there can only be x1000 or x1000 licences and those obviously can be restrictive of competition. But there is also the defector ones. Some of those we see here in South Africa in certain jurisdictions, municipalities were the licences are applied but are never processed. They are never issued for whatever reason the administration is unable or unwilling to process them. So,  
25 that can be a defector restriction which has the same impact. Clearly, the OECD

staff paper which surveyed the submissions for many of the member countries, and they are really summarized in a nice way. And this is a paper going back to 2007. So, before Taxify even came around, they said that restricting a number of taxis is a welfare reducing regulatory intervention. Limiting the number of  
5 licences is not economically justified and is an anti-restriction on competition. They also noted that this could lead to very high licence values when they can be transferred freely on the market and that represents large monopoly rents that are accrued to the benefits of the licence owners, not to the drivers of course. But of course, these monopoly rents and those values are supported by  
10 the increased prices paid by consumers for rides. It also leads to lower supply, higher wait times. And of course, on the driver side, many fewer work opportunities for them.

You can go to the next slide please. So, the area restrictions as Michael mentioned previously, are a form of a supply cap because they limit drivers to  
15 operate in certain areas so they cannot be added to a supply in another area where they might be needed. And as you know given the daily commute patterns or events and what not, the demand for transportation varies a lot over time during the day, during the week from area to area. So, in order to efficiently address all of this, that kind of flexibility is very important. And the anti-trust  
20 agencies have recognized that and in particular they also address some of the justifications traditionally given for area restrictions. And I will go through these one by one now.

If you can go to the next one please. One of the justifications that have been given traditionally is that in different areas and municipalities, we need to restrict  
25 the taxis here so that they don't all go to the most profitable area such as in

New York City, they might all want to operate in Manhattan rather than going to Brooklyn or the Bronx. You know, but the anti-trust agencies have very much found that these restrictions are not required in this day and age with modern technology and business models. And that given the highly value nature of demand e-hailing services are much better able to balance the supply and demand and get those cars where they are needed as James mentioned using things like dynamic pricing you know, Jonathan and his operations team obviously communicate to drivers to where they are recommended to go and best address the kinds of needs that we know arise on a regular basis.

10 The other areas where these area restrictions can be harmful is in efforts to provide more transportation services to poor areas. And there, what we found is that frequently taxis don't want to go there because they are afraid they might not get a ride back, there is not that kind of business, so they might not want to leave the business district downtown and go to an outlying area. But with rides

15 hailing services, we can address that. And the OECD paper that was just published, I think 2 weeks ago and was presented at the meeting on Monday which your Commissioner attended, you know made the point that e-hailing services are very good at directing supply to those areas that needed it.

Then another justification given is the quality of service that taxis need to be able to provide. In order to have better quality, they need to have protection against competition of an area restriction. The OECD surveying the member agencies has certainly concluded that supply caps and area restrictions do not help and increase quality. In fact, in many countries they would say that the quality has been rather negative despite the regulation. Their quality is not as

responsive to consumer demands and they are not as responsive to consumer complaints as quality companies like Uber and Taxify which are able to do that.

Congestion is sometimes mentioned as a reason why we need area restrictions.

That is a reason again that everybody, all the taxis in New York will go to  
5 Manhattan and ignore the outlying areas. There may be similar arguments here, but again the OECD and agencies around the world have found out that those arguments are unjustified and are in fact cause higher wait times and more difficulties in obtaining rides.

Last of my slides, in conclusion I think the precedence from agencies around  
10 the world are very helpful and instructive in addressing the kinds of problems that your Commission is looking into right now. And in fact to just quote here, the traditional taxi operators have always bid in favour of extending the current regulation to companies providing ride sourcing services. So, they want us new model, different business model, different technology to have to operate under  
15 the old rules. However, this is not met with favour from the National Competition Agencies which usually think of taxi services as over regulated and the emergence of new market players is often seen as an opportunity for reform, not for total deregulation. Of course we acknowledge that regulation is necessary in the protection and safety and things like that. But it is certainly an  
20 opportunity for reform and things like that and we very much welcome your interest in this area. I think that is it from my part. Thank you.

**MICHAEL EVANS:** I solemnly swear that the evidence that I shall give will be the whole truth and nothing but the truth. Chair, I have worked with Uber since their arrival in South Africa and one of the 1<sup>st</sup> tasks the I took from Uber was to

look at the regulatory regime of e-hailing and almost the 1<sup>st</sup> thing that we did for Uber and that was in early 2014 was to draft submission s to the department of transport motivating a regulatory environment for e-hailing. So, this is something that has been on the Uber agenda since their arrival in this country. And they  
5 have fully supported a right that typically addresses the needs of e-hailing and I think that is important to say. Can I just ask, have you got a copy of the amendment bill in front of you or we can make one available?

**CHAIRPERSON:** I do have.

**MICHAEL EVANS:** The status that we have, the stage we are at, at the  
10 moment in terms of the Bill is that it has been passed by the National Assembly as you know. 2 days ago it went to the Select Committee of Economic and Business Development and it is now going to the provincial legislature for consideration. So, one of the requests from the Uber side is that we realized that what you are dealing with as a Commission is a huge amount of evidence  
15 and material that may require quite a lengthy period of time before you produce your report. But on the issues that I am going to canvas, the request from our side is that if you are with us on the proposals that we make in any way that you consider generating an interim report or a preliminary report. I am not sure what the language is, I am not a competition lawyer. That, that can be made available  
20 to the legislative authorities and so they can consider possible changes to his legislation before it is signed into law. We have got a very small window of opportunity and we are really encouraging your assistance and your participation in that if you are with us on some of the things we are raising today.

Uber has had 3 concerns about the amendment bill, one of them doesn't relate to competition issues at all and I am not going to discuss it. But the 2 that are going to impact on the Commission work is the area restrictions and you have had a lot of discussion on that and the punitive provisions in the Bill. So, those  
5 are the 2 I am going to discuss. And again, I am going to make 2 general comments. The one is that there is road support within Uber for the bill. So, although they have got these 2 major concerns, there is support that they are now moving into scenario where they are going to be regulated and e-hailing will be regulated. And secondly, and I think it is an important point as well. Uber  
10 is not seeking any favourable treatment for e-hailing services when compared to meter taxi services. So, almost everything that I say in terms of possible changes to the legislation particularly in relation to the area restrictions issue, Uber would be completely comfortable if the same changes were made in relation to the meter taxi situation. So, it is not a proposal aimed at scoring  
15 some sort of advantage.

It has been mentioned already that Uber drivers apply for and are granted licences as meter taxis. I think it was said there in one of the submissions that it was done by one of the directives of the department of transport. That directive came from the transport appeal tribunal which I think you got it through our  
20 original submission. I can explain the reasoning if you would like. But I think with the limits of time, I shouldn't do that. But essentially the transport tribunal confirmed and it was binding on provincial regulatory entities that Uber taxis did qualify for operating licences as meter taxis. As I said if you want me to explain it, I can.

Now, what is happening with the new bill you have got in front of you is that the new section dealing with e-hailing which is the new 66A, mirrors 66 which deals with meter taxis. It is almost been a cut and paste exercise from the meter taxi section into the e-hailing section. And it falls exactly into the trap that has been  
5 spoken about by Greg and James in their earlier submissions that in a sense what the legislative has done is it has taken an outdated provision in relation to meter taxis and is now applying it to e-hailing when it should – instead what they should have done is look at a new provision to e-hailing and update the meter taxis provision to bring it in line and bring it into the 21<sup>st</sup> century.

10 I don't want to go again through the logic on area restrictions because I think that has been fully covered by James. But essentially what Uber has proposed is a 2-part solution which will allow Uber and other e-hailing services like Taxify and potentially also meter taxi operators to operate more freely.

And the 1<sup>st</sup> proposal that doesn't require any amendment to the bill, but it would  
15 be helpful if it was supported by this Commission is the proposal that operating licences should be issued by the provincial regulatory entities even when that function is assigned to the municipalities. Now, as you know the whole philosophical underpinning of the NLTA is that a huge amount has to happen to be regulated at a municipal level. And that was a big shift when the NLTA in  
20 2009. What we are saying is that when it comes to e-hailing operators like Uber and Taxify. They should continue to receive their licences from the PRE. There is a provision on the bill that we have quoted on our slide, the new section 19 (1A), provides for applications to be made to the PREs where the services crosses the boundaries of a municipality. And exactly for the logic that was

discussed earlier, we say that, that is completely appropriate for e-hailing operators.

So, just coming to an example to illustrate the point. Under the section 66 at the moment and under the proposed new section 66 a 2b, if I am an Uber operator  
5 and I have got a licence entitling me to operate in an area of Johannesburg, and I have a passenger who requests me to take them to O.R. Tambo airport, I can do that. I am allowed to do that. So, I will take the passenger and drop them at the airport. I then want to pick up another passenger at the airport. I can pick up another passenger at the airport if that passenger is coming to Johannesburg.  
10 But I can't pick up a passenger at the airport if that passenger wishes to go to Pretoria which is outside my area or down to Benoni which is Ekurhuleni. I will be breaking the law if I do that. And that is the effect of the current restrictions in the act at the moment in section 66, and it has been replicated in the new provision. And we say that is a provision which fundamentally needs to be  
15 changed. And this is exactly an issue which goes to the amendment of this Commission. And we would request that you support us in the proposals we have made.

We have looked at the section and tried to look at a minimalist change to the provision, so we are not asking legislature or government to make major  
20 changes to what is there. So, what the provision at the moment refers to is the car can go out of its area, the wording is – if a ferry is pre-booked and passengers will return to such area. And we have given you on the slide 2 possible proposals to address that. We say that it could work if the vehicle can pick up passengers outside of that area of the trip is pre-booked. That will then  
25 allow our driver who is at the O. R. Tambo airport to pick up a passenger and

take them to Tshawane. An alternative option would be to say the vehicle will pick up passengers outside of that area if the trip is pre-booked and the vehicle will return to such area, in other words, will return to Johannesburg, but we added the words directly or indirectly. And that option of indirectly will then allow  
5 that vehicle to go back to Johannesburg ultimately, but to do so via Pretoria, via wherever before it returns to Johannesburg. So, on the face of it, they are relatively small changes, but they are hugely significant in terms of movement of Uber and other e-hailing vehicles. So, the is the 1<sup>st</sup> issue we would look for support.

10 The 2<sup>nd</sup> issue is an even more controversial one, and that is the new punitive provision in the bill which you would have seen in 66A (7)(8). The punitive provision says that a company like Uber or Taxify must disconnect its driver partners if they don't have operating licences. Now, the slide that is in front of you highlights some of the difficulties which I think this Commission is well  
15 aware of in relation to the licencing process. In eThekweni, Durban for example, we have placed a moratorium since 2010 with no justification market study as we understand it. In Port Elizabeth Nelson Mandela Bay since the end of 2017 there has been a moratorium in place. The time period in Johannesburg on the issuing of operating licences is approximately 9 months in terms of our  
20 experience. And in Cape Town applications from 2016 are awaiting the City of Cape Town support before the application can go to PRE.

These moratoria have got problems in terms of licences relate not only to e-hailing services, but also to meter taxis and in some cases to mini bus taxis as well. And I must say that this information I am relying on instructions that I have  
25 had from Uber.

And the concern that Uber has with regards to this new provision that it is obliged to disconnect is a 2-fold connection. It feels that this division is discriminatory because it is only e-hailing that are obliged to disconnect their operators and face a potential punitive sanction if their drivers do not have  
5 operating licences. But companies or associations that employ or contract with either meter taxis or mini bus taxis have no similar potential sanction imposed on them when their drivers are driving without operating licences. So, it's a very heavy and onerous sanction which applies only to e-hailing companies.

And then we say too that this new offence has been created is arguably  
10 irrational because you have a situation when the whole licencing system is not working properly. And we know that because there has been evidence before this Commission about that. So, you have a licencing system that is not working properly throughout the country, and yet you are told to disconnect drivers that do not have operating licences. That offence will be fine if for example the  
15 operating licence system worked on a 2-month basis and the PREs were required to issue the licences within a period of 2 months and they had to do that within a period of 2 months. Because then these e-hailing companies could live with a 2-month gap. But then a situation where I have got moratorium in place, where you have got slowness and ineptitude in place, that just doesn't  
20 work.

So, what we have said in response to this punitive provision and what Uber would request is that either a proposal is made to delete the provision all together. But that is not acceptable to the Commission and ultimately to the legislature, then a lot of pressure should be put on government to delay the  
25 implementation of this provision for a period of up to 5 years provided that

during that 5-year period, a huge amount of energy is put to improving the whole licencing system. And the new bill 93a, does allow for provision to be implemented on a staggered basis and to be delayed up to 5 years. And we still feel as well that what would assist that process is in terms of section 21.2 of the

5 NLTA, the National Public Transport Regulator is to play the role that it is supposed to play by providing the guidance and the necessary support to the PREs, to the municipality, to the bodies involved in the licencing process to improve their service. And in 5 years, if we had a 5-year period when the system was improved so that licencing can be allocated from start to finish on a

10 2-month basis, and then that provision will be manageable and be lived with.

Thank you.

**DARYL DINGLEY:** Chair, thank you very much that is our 4 submissions and you will see that we have managed to do that in 1 hour 18, so we have snuck in within the 1 hour 30. We are obviously now open to questions from the panel.

15 But I would appreciate it if you could give me some warning of the type of questions so that I can make the right individual is alongside me to answer those questions if I can't answer them.

**CHAIRPERSON:** Thank you very much gentlemen for a very detailed presentation. I am not sure Mr. Dingley whether we will be able to forewarn you.

20 But I think as and when the question comes, you will be able to direct it accordingly. And I think to the extent that a question might require or there is some confidentiality to it, you c provide an answer at a latter stage on a confidential basis. At this point I will invite the evidence leaders to pose questions. Mr. Ngobeni.

**MR. NGOBENI:** Thank you Chair. Thank you so much and I think maybe just to start with the issue around moratoriums and operating licences whilst you are still there. I think I just want to understand and I am getting confused, and please clarify ne here. Uber launches in 2013 right, and through your own  
5 submission you indicate that there has been a backlog since 2007 for operating licences for being processed by the PRE and that backlog has been there since 2007. Through your own submission, you then indicate to us that there has been various arrangements with various governments and there has been a decision by the transport appeal tribunal that allows Uber drivers to get meter  
10 taxi operating licences. Now, what confuses me here is – and then you say that there has been arrangements and Uber has been complying with legislation and all of those things. And at the same time you are saying while the system is not working and you now requesting that one of these proposed amendments that deals with the issue you know, the one that deals with punitive measures, you  
15 now have to disconnect if one of your driver partners does not have an operating licence, it should be delayed for 5 years. Now, what I am more interested in is for Uber to explain you know what sort of regulation it wants. I am getting confused. If you launched in 2013 and the backlog has been since 2007, and you are saying that there has been an arrangement throughout for  
20 Uber to be getting operating licences that are meter taxi related operating licences. What kind of operating licences, how have you been operating or how have you been getting these licences as a result of the backlog? That is the confusion I have. If you can just clarify that and I will move to the next section.

**MICHAEL EVANS:** Yes, thank you. That is a very good question. It is an issue  
25 that has been confronted not only by Uber but by meter taxis and everybody

else who is required to go through a licencing process. And it is the case that numerous Uber drivers. Taxify drivers, meter taxi drivers, even meter taxi drivers are driving without operating licences at the moment. That is the reality, it is the reality of the completely clogged up system. Now, what Uber has done, it has made an effort to put pressure on the municipalities and PREs to process licences as quickly as possible, but often without success. What it has also done is to ensure that all of its drivers meet every single requirement for an operating licence even if they haven't got the operating licences. So, obviously they all have PDPs, the professional driving, they all have insurance, they all meet the other requirements. And it even goes beyond the other requirements of the NLTA to what those drivers must fulfil. But it is a product of a system that is not working at the moment. And if I took the logic of this new punitive provision, and if Uber was required to disconnect all its drivers that currently do not have operating licences, in reality that could put Uber out of business, it could put Taxify out of business. Because the system is such at the moment that there are many drivers who aren't licenced who are carrying passengers, they have insurance, they have gone through the tests, they comply with the law in every single respect, but they do not have operating licences because the system has gone through a halt.

20 **CHAIRPERSON:** Mr. Ngobeni, there is a follow-up question.

**EVIDENCE LEADER:** I just want to get a sense of whether you know the proportion of drivers that still don't have operating licences within Uber, because this is one of the things that have been raised quite a bit.

**EVIDENCE LEADER:** And maybe before you proceed because that was going to be the next question. And maybe to rephrase the question and ask the question differently, when the slides were projected, the ones that were dealing with the issue on transformation, I think there was an indication at the beginning  
5 that currently there are 12 000 Uber partner drivers. So, the question there is of those 12 000 that you have mentioned, how many of those are operating with a meter taxi operating licence?

**DARYL DINGLEY:** Chair, can we give this evidence in camera?

**CHAIRPERSON:** Ja, I think that's okay. What I suggest that we do colleagues  
10 let's – so that Mr. Evans does not have to move up and down. Let's deal and exhaust the regulatory issues and then we can go to the next topic. Perhaps the next topic will be dynamic pricing. But let us just exhaust the regulatory issues.

**EVIDENCE LEADER:** Maybe just a follow-up on the you know theme. The question there is for example you are now saying that the proposed punitive  
15 measures should be dealt away with, the next question that I had there was what measures do you propose should be put in place you know, because there may be safety issues. I mean, we can't allow a situation where you know riders are transported by someone who doesn't have an operating licence. So, the question is, what are you proposing you know to deal with that issue?

20 **MICHAEL EVANS:** The proposal that Uber made to the National Assembly Portfolio Committee which wasn't accepted was that the provision should require operating licences to be processed from start to finish assuming the all the required documentation is submitted within a two-month period. And if it is not processed within a two-month period, then the driver is entitled to rely on

the receipt that they receive on the submission of the licencing application until the licence is processed. From Uber's perspective, if there is an efficient licencing in place, then there is no difficulty in the punitive provision. The punitive provision needs to be linked to an efficient licencing system. That is really what we are saying. And that is why I made that proposal about a 5-year delay. It is an optimistic proposal, hopeful government will be able to put in place an efficient licencing system within that 5-year period. But don't forget that there are still punitive provisions that apply to individual drivers. So, an individual driver who doesn't have an operating licence in terms of Section 50 of the NLTA can firstly be prosecuted criminally for driving without an operating licence, and secondly, they can have his/her vehicle impounded. So, it is not as if there are no provisions currently attached to those drivers when they are operating without a licence. They are operating with some measure of risk in terms of personal consequences of their action. They are also all have gone through the very rigid Uber testing in terms of their competence, in terms of their safety issues, in terms of insurance, their PDP and everything else. And as Jonathan said in his submission, there is very careful monitoring on the performance of drivers on the real time basis. So, that if a driver is not driving safely and has been scored badly by the passengers, that is going to be picked up immediately by Uber. So, there is almost kind of like a self-regulation by Uber that goes almost beyond the requirements of the operating licence when Uber monitors its own Uber drivers.

**EVIDENCE LEADER:** I think maybe linked to the question and I hear you mention the fact that the regulatory system is not efficient. And what I am more interested in when you mention that is I do understand that the process of

getting a meter taxi licence in terms of that step were you now have to engage and get directives from the planning authority, it does not apply to meter taxis.

Would that be correct to -

**MICHAEL EVANS:** To Ube taxis. It does. It happens differently as I understand  
5 it in Johannesburg and Cape Town. In Cape Town you lodge an application with the PRE, it then goes to the municipality that considers the application and considers a business plan if I am not mistaken. Sorry, Cape Town it goes to the municipality 1<sup>st</sup>, it gets considered and then handed over to the PRE. And that will be same for taxis, meter taxis, for Taxify and everybody else. In  
10 Johannesburg it is the other way around. But in each case it requires the municipality as the planning authority to consider the application and requires the PRE as the provincial directory entity to ultimately process the application.

**CHAIRPERSON:** If I may make a follow-up question on that. So, the applications which are made by Uber for operating licences would be the type of  
15 applications regulated by Section 69. Now an issue has been raised with us by the meter taxi industry that there appears to be a differential application of the requirements in Section 66 in the sense that they are required as the meter taxi industry to have a meter installed in their vehicles. Whereas that requirement doesn't apply to Uber. If you could comment on that. And they have also raised  
20 one additional requirements which they say applies to tem but doesn't apply to Uber, and that relates to the requirement around the radius, yes.

**MICHAEL EVANS:** Thanks Chair. On the 1<sup>st</sup> issue, Uber vehicles are required to have meters because they are applying – what we in fact did, I argued for Uber in that case in the appeals tribunal. You know, in any sense what the TAT

success was a bit of a square pig into a round hole. So, it is said that the legislation rightly said that legislation was wide enough to accommodate Uber within the meter taxi because the definition of a meter taxi refers to secured by roaming, hailing, telephone or otherwise. So, Uber fell in the category of otherwise. And the legislation of Section 66 says you don't have to charge the passenger based on a meter, you can charge them on an agreed fare agreed in advance. And because the Uber fare is agreed in advance we tick the box as well. That Section 66 says you have to have a meter, and Uber vehicles and Taxify vehicles are required to have meters even though those meters are not used at all. It's an example of a square pig in a round hole explanation. And if they are stopped by the authorities and they do not have a meter they can be charged for that because it is an infringement of the law and the licencing condition.

On your 2<sup>nd</sup> question relating to areas, that is the issue that was addressed earlier by James in his submission. There is no distinction. I have got in front of me in my file here licences issued to meter taxis and to Uber vehicles in 3 different municipalities and the area provisions are identical in both. So, my understanding is the there are times when the meter taxi associations impose their own restrictions or rank restrictions on the meter taxis. But as I understand it, the law and the permit conditions do not draw that distinction. There are some distinctions between the permits given to Uber and the permits given to meter taxis. But those goes to the provisions given to e-hailing. There is a definition of e-hailing in some of the conditions. The provision for example in some of the Uber permit conditions is that they are not entitled to rank because ranking is seen as being specific to meter taxis. Yes, there are some

differences, but I can't say there is any favourable treatment by any of the PREs of Uber or Taxify on the one hand and meter taxis on the other. There are some distinguishing factors, but on the key issues for example in relation to area, there is equal treatment.

5 **EVIDENCE LEADER:** And perhaps before you – perhaps a further follow-up on the last point the you raised. And I think Mr. Hodge also raised this issue in his submission in respect of I think Mr. Hodge referred to the self-imposed requirements in respect of ranking and associations. SANTACO has made a submission on behalf of the meter taxi industry as well as the mini bus taxi  
10 industry, that the current regulatory framework in the NLTA does not reflect how the taxi industry is currently structured. And they made the point that the taxi industry even though this may not be manifest, it may ne have been carried through in the legislative framework. But the taxi industry is currently structured in terms of local taxi associations even though there isn't any legal recognition  
15 of these associations in the legislative framework. And they say that this is what they realize at the heart of the problems that have arisen, not only in respect of mini bus taxis, but in terms of routes. But also in respect of the difficulties as well as the flare up of violence that has arisen in respect of the service that is provided by offer, as well as the services that are provided by them because in  
20 their case, in the case of the mini bus taxi industry, the reality is that they operate within those associations. And those associations have all sorts of rules and there is, there appears to be a system of self-regulation in place which may not be legally recognized, but that is the reality on the ground. Whereas that system of self-regulation obviously will not apply to Uber. So, they say this is

what actually is at the heart of the tension that we currently see between e-hailing services as well as the meter taxi industry.

**MICHAEL EVANS:** Yes, thanks Chair. I think that really does endorse what we have been saying that these restrictions that they allude are not governmental  
5 restrictions or PRE restrictions that are self-imposed. They are probably a product of a system that is an old system that is based on an old outdated model where taxis operate through their associations in a limited area from a particular rank. You can tell if a taxi operates from a rank in Camps Bay and someone who has a rank in the CBD in Cape Town goes to a rank in Camps  
10 Bay and sits there, they are going to be chased away. I can't really comment on that because I don't speak on behalf of the meter taxi associations. But to me that is a sense or a reflection of a model that doesn't meet the requirements of our current economy which Uber and Taxify has met where people operate on a wider scale and need to operate on a wider scale. If we were to have a similar  
15 situation applying to Uber and Taxify were they had to operate in very limited areas which are maybe self-imposed by the meter taxi associations, we will not have e-hailing in this country, it couldn't operate in that way. And I think there are a lot of Uber drivers, a huge number of Uber drivers are meter taxi operators. And Uber has encouraged meter taxi to enlist with Uber. And it  
20 doesn't mean that they have to stop doing their meter taxi, they can do both because they have a meter taxi licence. They can operate their meter taxi on a rank basis where they are doing their meter taxi work and they can do Uber work.

Uber has also engaged in a lot of negotiations and discussions with the  
25 associations for the meter taxi industry. So, some of the issues that you have

experienced up here in Gauteng, we haven't experienced in Cape Town, and there has been a memorandum of understanding which governs relationship between Uber and meter taxis in the Cape area. It is attached again in our original submission. So, I think we are in a scenario where you have an industry

5 that in some sense living in the past. It is almost what happened in the automobile came on to the scene in the early 20<sup>th</sup> century and the horse and cart industry just could not cope with this new innovation. And I think in some ways we need to see a shift in terms of whole underlying approach to this area of public transport. Where even the meter taxis start operating on a wider scale

10 basis or on a wider area where they have a scale where they aren't restricted by their own associations so that they can play a particular role. There is a role for them, but they need to operate within 21<sup>st</sup> century mind-set where there aren't area restrictions which they have self-imposed. And I think government has been one step ahead of them because as I said government hasn't been

15 imposing those restrictions, as you have suggested yourself, those are association restrictions that are often imposed.

**EVIDENCE LEADER:** I do hear you Mr. Evans, I think you are absolutely correct. But the reality is this is the current context and it cannot be wished away. So, the issue we are grappling with is – because this is the – we can't

20 think away the context, we may think about how the market should be structured, but this is the reality that we have to deal with. So, the situation is within the current realities because the meter taxi industry is saying that the problem is the non-legal recognition of the current structure. For as long as you have that non-legal recognition of the current reality or the current context, then

25 you will run into the difficulties that we have encountered. So, as long as that

has not been attended to, it will haunt and these difficulties will haunt the industry. So, those are the frank reflections and debates that we need to have and consider.

**MICHAEL EVANS:** Yes, Chair. I think the sad reality is until we have an  
5 efficient licencing system we are going to have these sorts of difficulties  
because we are going to have many drivers on the road that do not have the  
operating licences and that is going to cause this tension. I think it is going to  
help when the new bill comes into force which I am assuming will be next year.  
Because then the meter taxis will perceive there is specific provisions  
10 addressing e-hailing and the legal obligations imposed by law specifically on e-  
hailing. And I think they will probably support a scenario where the 2 are  
separated. I think they will probably be uncomfortable that Uber and other  
vehicles have squeezed through the meter taxi scenario and are operated on an  
area wide basis. But Chair, I think it is a sad reality that while our licencing  
15 system is not working, it is a very disjunctive system as well when you are  
dealing with it at a provincial level and you are dealing with it at a municipal  
level, you are dealing with the planning authorities who are ill-equipped on one  
of the major municipalities. There is a single secretary in her after hours time is  
required to process these applications. And as the planning authorities it is the  
20 municipality's role than the PREs, the PREs play a tick box role. But the real  
head space is applied by the municipalities and they are not equipped to do  
that. And I think whatever one can be done to encourage a new system, and I  
would like to see this National Transport Regulator you know. It was established  
by the Act in 2009 formally, but it only came into existence in 2016. And that  
25 type of body needs to be intervening and playing a role to try and improve the

licencing system so that we have all operators operating on a legal and lawful basis. That is the in-point that we want to get into.

**CHAIRPERSON:** I don't want to hoard the questions, we had issues of hoarding yesterday. Mr. Ngobeni, you may continue.

5 **EVIDENCE LEADER:** Thank you Chair. Chair, thank you, Mr. Evans I think on the questions of efficiency and the system, I think maybe just to be clear, I am not saying that the system is efficient at all. What I am trying to understand is you know, for someone who has been worked with the system, you know, you have been there. What I am trying to understand is you know, we have heard  
10 through these proceedings that one of the reasons why you know there is a backlog is because municipalities are not providing the PRE you know with their directives. So, the question that I had and this is linked to the efficiency question is whether or not for the service that you provide, the reason for the backlog in terms of the applications that you have sent to the PRE and you want them to  
15 be adjudicated. The question that I have is, at adjudication level where the PRE now has to adjudicate, it is a requirement for your service, I am not talking about mini bus taxis, I am talking about meter taxis and e-hailing services. Is it a requirement for the PRE to consider what the planning authorities are saying? That is the question I am posing.

20 **MICHAEL EVANS:** Yes, they are obliged to. I think the law I think Section 55 requires them to act on the recommendation of the planning authority. So, again the NLTA has be drafted 1<sup>st</sup> to areas and it refers to the quality and quantity. So, it is again, it has been drafted within the framework, the meter taxi framework where you look at quantity and again as James was saying, we need to shift

away from that potential. But it has been drafted in that way and the PRE is there to say is there a criminal record, have you got a PDP, have you got all the requirements? But the it is the municipality that is required to look at the provision of transport in the entire area, to look at integrated transport plan and  
5 to measure the need against the plan and that is often were the jam happens. Because the PRE can't act until it gets a directive. There is a provision in the act the says if the PRE doesn't get a response within a certain period of time, it can assume that there is an approval, I can go to the section if you wish me to. But, PREs don't do that. They wait for the municipality to come with their  
10 recommendation. And I think that is were a lot of the problems arise.

**EVIDENCE LEADER:** Thank you, just one or two follow-up questions. I think there is a quite a lot of evidence that was presented around area restrictions. So, I want to propose 2 questions. One of it is coming from your NLTA amendments were you are saying the responsibility of operating licences should  
15 remain with PRE. I think it sounds like a contradiction were you are complaining about the inefficiencies at PRE, and at the same time you want e-hailing services to continue to be approved by PRE. I just want to get a perspective of why the MREs if they get that designation, the assignment of that function, why couldn't they do a better job. The 2<sup>nd</sup> part of the question is the planning  
20 authorities as we understand, they are supposed to check whether there is demand for a specific service. And the evidence that has been presented here is that the law as it currently stands doesn't provide area restrictions. You are able to move around and meter taxis and e-hailing services are supposed to be able to move around. I am just trying to link how then can the planning authority  
25 be able to determine the need for a particular service in the current environment

for them to make a proper recommendation to the PRE in terms of availability of particular demand. Those are my 1<sup>st</sup> 2 questions.

**MICHAEL EVANS:** Thank you, on the 1<sup>st</sup> question about the PRE being utilized; as I said in the earlier question. A lot of the log jam happens at the  
5 municipal level and the planning authority stages is where the log jam happens. I think it would simplify the process if it was processed through the PREs. But the real reason for suggesting that is because the municipalities only have powers and jurisdictions only over their municipal area. So, if I am in Cape Town and apply for an operating licence, that municipality if it is the regulatory  
10 authority can only give me a licence to travel within my area and then on a limited basis to leave that area. But I might want a licence that allows me to travel between Cape Town, Stellenbosch and [unclear]. That is 3 different municipalities. The City of Cape Town will not be able to do that, but the PRE will do that. Even more significantly in Gauteng were there are joining  
15 municipalities, Ekurhuleni, Johannesburg and Tshwane. It would make sense for the Gauteng regulatory entity to give an Uber operator a licence and allow that vehicle to move freely between the 3 municipalities. I am sorry I forgot the 2<sup>nd</sup> question.

**EVIDENCE LEADER:** The 2<sup>nd</sup> question was if the PRE offers these licences  
20 and there is a role for the planning authority I think in terms of the act, they need to determine whether there is a need for a particular service. So, I was just asking, if the PRE offers, and is entitled as your proposal suggests, provides the issuing of these licences as opposed to the MRE, how is the planning authority going to be able to determine the demand so that they make the  
25 recommendation.

**MICHAEL EVANS:** It is a very good question. My sense of the NLTA is that they recommended the PRE to allocate licences on a multiple municipal basis, but didn't consider all the implications of that when it included that provision because the provinces at the moment probably do not have the resources to  
5 look at demand at a wider basis. But I think the PRE will have to start doing that then because they will then be looking at an application covering a multiple area, Tshwane Ekurhuleni and Johannesburg for example. And they would then have to ensure that they have the expertise to consider those types of issues on a wider provincial wide or multiple municipal basis. But they are not, currently  
10 the way the act is worded they are not planning authorities, it is only the municipalities that are planning authorities.

**EVIDENCE LEADER:** Sorry Chair, it is the last point on my side on these regulatory issues. I think Mr. Dingley, I am not sure if you have the NLTA in front of you because I just want to understand this because I am not getting  
15 clarity here. I thought maybe we should just look at the legislation and then get a comment from Mr. Evans. If you look at Section 55 and you would see there that on subsection 1 it says; before the PRE or before the MPTR considers an application right, and then under subsection 2 – what the planning authority is required to do is to indicate whether there is a need for the service on the route.  
20 Your service is not route based. That was the question I was asking. So, the question is whether or not the planning authority when it advises the PRE for purposes of adjudication whether or not the planning authority has to you know do the same exercise that it does when it considers as route based operating licences?

**MICHAEL EVANS:** Yes, it does. The section is whether there is a need for route or routes or area or areas. And so, they look at it whether it is a route based application such as mini bus taxis or whether it is an area based system. There are problem with the legislation and when it gets to questions of quality and quantity on the act, they refer only to routes and not to areas. But in terms of the provision that you refer to, that is both area based

**EVIDENCE LEADER:** I think that is where the confusion emanated from. Thank you for clarifying the point.

**CHAIRPERSON:** Ms. Nontombani.

10 **EVIDENCE LEADER:** The question I have is in relation to operating licences that have not been approved and whether there are specific reasons for those. If any.

**MICHAEL EVANS:** I am going to defer at the moment to Jonathan. I know in Cape Town where I stay, there has not been a single application that has been refused when it has been – so, there has been challenges, there has been objections. I think at one stage by – the objections have stopped but during 2015-16 we dealt with round about 180 objections and every single one was approved despite the objections. I can't comment on other cities.

**CHAIRPERSON:** In the interest of time. Colleagues may I suggest we move to the pricing issues and then wrap up to the extent that there are additional questions, we will follow-up with a further engagement. Any questions then on dynamic or surge pricing?

**EVIDENCE LEADER:** I think just one on my side Mr. Hodge. I think I did complain to you when I met you this afternoon about this dynamic pricing issue.

The question that I have there is just a clarity one. I am trying to understand whether there is this ability to vary these prices and this is what you refer to as dynamic pricing. You know, is there a mechanism where the rider, and I am now thinking for the consumer, is there a mechanism where the rider is able to see – where the rider is informed about the – so that they are able to decide whether or not they take the service or not?

**JAMES HODGE:** I am going to ask Jonathan to address this. So, I think this shows it fairly clearly. Before a trip is booked it will say, and I know it is very small on this one, but you have got the slides in front of you. But it will say the fares is slightly higher due to increased demand, and it gives the exact price of the trip that you are going to request. So, this is happening before the trip is booked. There is complete transparency. I think something that we didn't speak to, but even if after the trip happens there is an issue, there is a support mechanism that is available 24/7 that a rider can reach out with us and say I had an issue with the fare amount. And we can address it then.

**EVIDENCE LEADER:** I just -

**JONATHAN AYACHE:** Just to add, I think maybe as it has been explained to me, this technology improves all the time and the transparency improves. So, some of the dynamic pricing perceptions are built on the history, the old models when the technology wasn't as sophisticated. But it is certainly sophisticated now.

**EVIDENCE LEADER:** Thank you Chair, I have no further questions.

**EVIDENCE LEADER:** Thank you, at least this is the part that I enjoyed the most as an economist. I think maybe a couple of questions. The 1<sup>st</sup> one is what

is the rationale for dynamic pricing, I think you have gone at length to explain the efficiencies that come through with that. The only question that I have is that, so is dynamic pricing within the Uber pricing model? So, and you are only looking at your own partner drivers. So, I am thinking possibly you might have a  
5 few drivers in a particular area, but there might be lots for a competitor. I am not sure, I think I need your perspective, I think it is your model, you can speak for your own model. I don't know whether there is some kind of any data or whatever that can influence because of existence of competitor you know, drivers that are within that vicinity because it might also – is it dynamic in your  
10 own system or is it dynamic within a particular specified geographic area? So, I think I just want your perspective.

**JAMES HODGE:** So, I think it is with respect to our system in an area. I think an example of another example of an e-hailing operator is very similar to whether there is a train available or a bus available. Obviously, we can't see  
15 those things in our app. But behaviour is something that will be fed into the app. For example, if all of a sudden riders decide to use other e-hailing operators because there is more liquidity or there are more vehicles available on that platform, then the demand drops on the Uber system and the supply comes down. Similarly, if everyone decides hey, I am just going to use the train to get  
20 hoe, demand would come down. And if there wasn't availability on the train or on another platform and everyone tries to use Uber then demand would increase. But to answer your question we can't see what is not happening on the app.

**EVIDENCE LEADER:** I am happy that Craig was attending the OECD. I think  
25 you also saw in the commission's own paper that we had a case against Uber

that we reflected there. I think there is one key question that normally arises from what the evidence that we have got so far. It is around, it's because the pricing is done almost like at the back office through technology. I think there is always a suspicion of what are the key components of that pricing policy.

5 Maybe you can talk broadly around those issues without maybe disclosing confidential information, but mostly broadly.

**JAMES HODGE:** I think it is not any secret on how we calculate our pricing. If you can go to I think it is one of my 1<sup>st</sup> or 2<sup>nd</sup> slide, it is the grid on pricing by-product. So, I think while we show the actual fare that you are going to be charged, you are also able to see if you click a little bit further by-products, we have got products for example in Gauteng, we have a larger van option or UberBlack which is the luxury service which is slightly more expensive. But you can see how we make up that price. So, if you look at the graph, you will see the distance and we will use the maps in the background and I am and an engineer. So, I don't know how it is all calculated. But we will estimate the time and the distance based on the rates per kilometre. And for time, that is how that rates is made up. So, it is completely transparent both on what you are going to pay in the end and also how we calculate the fair.

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**EVIDENCE LEADER:** Thank you, we are just putting some propositions from the submissions that we have received. I think there is also submissions that we have received in relation to the promotions that Uber undertakes. And I think a few of those issues have been raised by the meter taxis that the promotional activities, it okay according to them are actually leading to some kind of predatory pricing. So, I don't know whether you have just a view in terms of promotional activities.

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**JAMES HODGE:** I am not sure exactly which promotions are being referred to. But I think if we can get specifics then we are happy to respond I writing.

**EVIDENCE LEADER:** Okay, it is almost like R100 off and the like. But I think we can deal with it externally, that is fine.

5 **EVIDENCE LEADER:** Just one last issue with Mr. Hodge. I just want understand where you dealt with area restrictions, the question there is with reference to what you referred to self-imposed ranking system that the meter taxi industry seems to have adopted. Are you suggesting that it is one of the reasons why traditional meter taxis might not be effectively competing with  
10 Uber?

**JAMES HODGE:** Well, I think the essence of the sort of Uber model is it achieves a high level of efficiency. So, I think and in part goes to the last question. But the initial suspicion is what is going on here and how can you be profitable at that price. But it is because you achieve this high utilization and it is  
15 a classic economic situation of a large amount of your costs are fixed and the driver time and the time that they are operating and the vehicle, although there are some variables to fuel and maintenance. So, the more you sweat that asset to use a business term, you know, you can earn a decent living and still have low prices. And it is that virtuous cycle of bringing in low demand. Now, if you  
20 operate in a manner that in fact reduces your utilization, you are inefficient and your costs are higher as a result. Which means you do think predatory pricing because you know, how can you meet it. But if you go past a Gautrain and you see meter taxis sitting idle for hours, well, that is why because they are not doing anything at the time. So, that is the problem of this self-imposed is to say I

think as it was explained and more or less confirmed is you know, if I take a passenger to the Gautrain station here and that is by another association and I am chased away, well, I get no return trip, I don't pick up anyone nearby and I have to come back to my rank area. So, it is inefficiencies that is pushing up  
5 costs and as a result those drivers will not earn a decent wage, they will have to push charges higher. But it is a vicious cycle, a negative cycle of high inefficiency and as a result high cost and high prices that doesn't serve the consumers.

**EVIDENCE LEADER:** Thank you Mr. Hodge, I have no further questions Chair.

10 **CHAIRPERSON:** Just one last question to you M. Hodge. If I heard you correctly, you said that this dynamic pricing or surge pricing kicks in during peak times, if I heard you correctly, and in fact it is the exception rather than the norm. The submission that you received from the City of Johannesburg was that actually within that City the demand for a public transportation essentially is a  
15 peak time demand in the City, essentially. And now I am trying to reconcile that with what your experiences as Uber are because the City of Johannesburg told us that Johannesburg is a services City, that is why the demand of public transportation is at peak times. So, I am trying to reconcile what the City of Johannesburg sees as demand patterns within the City and what you say is an  
20 exception rather than the norm. I am struggling to reconcile these 2 issues.

**JAMES HODGE:** So, I mean it is probably a terminology thing and that is probably where the problem arises and the confusion. I mean, you are right. I just put up the slide that shows the variations for demand of Uber in Johannesburg. And you do get the peak commute times you know, in and out. 1<sup>st</sup>, what I was

trying to say is because of the flexibility of the Uber model, it is in fact – and the communication with the drivers about where to expect demand and when so drivers naturally go out. So, those peaks to use that term accommodated within the normal flexibility of the Uber system and don't get subject to the dynamic pricing. It is when you get the exceptional spikes like that Friday night sort of element that you get that surge or the end of you know like I used that example the Sundowns and Barcelona game were you might get a massive flood of people. So, where Uber has been more effective than let's take the airlines and let's take the Gautrain is that in fact they have been able to accommodate some of those normal peaks of the daily commute within the standard pricing system and limited the dynamic to a very small limited of rides. If you looked at the Gautrain, probably you would find that the majority of rides are at peak times. And if you look at the kind of capacity of the Johannesburg-Durban route from an airline, most passengers are flying in at that peak time. So, in many respects the flexibility of being able to bring the capacity in and out is a benefit of the e-hailing that people even in Russia are getting standard fares. And maybe Jonathan can -

**JINATHAN AYACHE:** I think you have covered it. I think it is the flexibility that allows us to keep the pricing low for 95% of the time, and only if you put dynamic pricing for a very short amount of time and at very low multiples to other transport costs. I think just one other point, if you go back to one of my earlier slides on Uber movement, I think this is information that we are really open to sharing with cities and if they use that tool and it is available in Johannesburg, they are able to see through our data much more nuanced differences in supply and demand. It is much more detailed than a peak in the

morning and a peak in the evening, peaks throughout the day. that data is available through our network to these regulators and decision makers.

**CHAIRPERSON:** Thank you very much gentlemen. I think what is pretty much clear is that we still have a lot of ground that we need to cover. So, Mr. Dingley,  
5 I think there will be a need for a further session because we do have additional questions and there are also submissions of other issues that we couldn't canvas in the time available which has been raised by stakeholders. So, if you are amenable to that, we will definitely make a request for a further engagement. But thank you very much for your time and for what is clearly a  
10 very detailed and comprehensive presentation. Thank you very much. We will now take a very short break for 5 minutes and take submission from Taxify.

### SESSION 3

15 **CHAIRPERSON:** If you could please state your full names for the record and then take the oath and affirmation, as you wish.

**MR DOMINICK MOXON-TRITSCH:** I am Dominick Moxon-Tritsch, Director of Regulation and Public Policy for Taxify.

**CHAIRPERSON:** If you could please, Mr Tritsch, just for purposes of the  
20 transcript, just spell your surname.

**MR DOMINICK MOXON-TRITSCH:** M O X O N – T R I T S C H.

**CHAIRPERSON:** Thank you.

**MR GARETH TAYLOR:** My name is Gareth Taylor and I am the Country Manager for Taxify.

**MR DOMINICK MOXON-TRITSCH:** I, Dominick Moxon-Tritsch, solemnly affirm that the evidence that I shall give, shall be the truth, the whole truth and nothing  
5 but the truth.

**MR GARETH TAYLOR:** I, Gareth Taylor, swear that the evidence that I shall give, shall be the truth, the whole truth and nothing but the truth, so help me God.

**CHAIRPERSON:** Thank you. If you could please start just by introductions in  
10 terms of the position that you currently occupy within Taxify and how long you have occupied those positions.

**MR DOMINICK MOXON-TRITSCH:** Thank you very much, Mr Chairman. I have been with Taxify since October last year. Prior to that I was Head of Public Policy for Uber for Europe, Middle East and Africa throughout 2014.  
15 After that I moved to Europe's largest private hire car service called Addison-Lee and in this capacity I have advised the European Commission, the Government Serve, the UK, France and Germany on regulation in this sector.

**MR GARETH TAYLOR:** I have been Country Manager since February this year. Before that I was the Chief Operating Officer of the Awethu Project, a  
20 micro business incubator that specialises in providing business opportunities for individuals in South-Africa.

**CHAIRPERSON:** Thank you. I understand you have prepared a presentation. I think you can go ahead.

**MR DOMINICK MOXON-TRITSCH:** Mr Chairman, thank you very much indeed. With your permission, we would like to take a slightly different approach to the presentation you have had immediately proceeding. You have had nearly a hundred pages of written submissions from us in three instalments.

5 We don't propose to go back over what is in those pages, unless there is any points in there that you would like to specifically address. We also have death by PowerPoint either, I am pleased to say. My colleague here as the MD for Taxify in South Africa, we will give a very short oral presentation. And then we propose that this session be more discursive, should we say, more back and  
10 forth. We take the view that we are here to answer the Commission's questions, so we put ourselves at your disposal.

**MR GARETH TAYLOR:** Thank you, Mr Chair. So, just some context and background to Taxify. It started in 2013 and it was started by one of the founders, Markus Villig, who started with the intention of being able to enable  
15 meter taxi cabs to become more efficient, more effective and to be able to increase their earnings. In 2015 it started here in South Africa with a similar mission where we engaged with meter cabs in order to enable them to compete in the 21<sup>st</sup> century and try to entice them to join as a fleet on the platform. However, the growth that we experienced in upsurge from 2016 when we  
20 moved to the private driver model. I will now move onto, as my colleague alluded to, we are going to be focusing more on the Competition Act itself and the purpose of it. And our presentation will be focused on how that impacts our operations. So from the Act, the Competition Act is there to promote and maintain competition, obviously, and this is done to... Well, I am going to speak  
25 on each one of these points and then I am going to speak about how Taxify as

a business enables each of these and ensures each of these for South African Citizens as a whole. So, the first is that it promotes efficiency, adaptability and development of the economy. The second is that it promotes employment and it advances social and economic welfare. The third is that it is to promote  
5 greater spread of ownership, specifically ownership amongst historically disadvantaged individuals. It is also the purpose to provide consumers with competitive prices and product choices. And to ensure that small and medium enterprises have equitable opportunity to participate in economy. Obviously for yourselves as being the commissioner and chair and the evidence leaders, you  
10 know this, this is more for the rest of us who are here and also just to provide context. With regards to efficiency, as alluded to in the previous presentation, by enabling drivers who operating on using the Taxify platform, they are able to operate throughout the region and this enables higher rates of utilisation, which then results in better prices, more competitive prices for the consumers. One of  
15 the contentions about route allocation is demand and supply, as being discussed. So, if we were to allocate routes, for example, in the mornings if people in Soweto want to be able to commute to the CBD, whether that is Sandton CBD or Johannesburg CBD, there will be a large amount of demand in Soweto, for example, in the morning. If drivers were to be constrained to  
20 operate only within Soweto, this would mean that they would have one trip in the morning, then be constrained to come back after that trip, by which time peak would have ended and their vehicle would lie largely unutilised for the rest of the day. In the same way those drivers who were to operate in the CBD, would experience higher demand in the afternoon, traveling, taking their  
25 passengers back home. However, would experience high rates of un-utilisation

for the rest of the day. These lower rates of utilisation result in higher prices for the consumers, which ultimately does not fulfil the ambit of the Competition Act, which is what we are trying to achieve here at the end of the day. Adaptability, one of the items we spoke there, is also to promote adaptability. Within the

5 driver app for Taxify, the drivers are able to see where there is higher demand and where the higher demand is, the drivers then know that they can go to those areas in order to satisfy that demand, therefore enabling supply to be more adaptable, thus once more fulfilling the ambit of the Competition Act. It is also to develop the economy. Now, there are second and third tier results to

10 the Taxify business. Not only do drivers who are operating and using the Taxify platform to be linked to riders running their own business, often those drivers rent those vehicles from vehicle owners, which then means there are transport service providers who are the drivers, in addition to that there is another business, which is those vehicle owners who then rent those vehicles to drivers.

15 The second tier is then, well the vehicles need to be purchased from somewhere, so there is further development with the purchase of those vehicles and the insurance of those vehicles and the fuel required for those vehicles and the airtime that those drivers need in order to operate – all of these stimulating and developing the economy. The second point is to promote employment and

20 advance social and economic welfare. These drivers who are operating as transport service providers, are able to run their businesses and carry fare paying passengers throughout the country. As a result each one of these individuals are able to employ themselves, in addition to the downstream affects of the development of this economy. This results in a better livelihood for

25 themselves and for their families. However, there is also the advancement of

social welfare for individuals who otherwise would not be able to gain access to such efficient, affordable and reliable transport. In South Africa there are prohibitive barriers to entry for vehicle ownership, whether that is a lack of capital or a poor credit record as a result of mistakes in the past. Essentially

5 individuals who want to be able to experience the benefits of car ownership, are unable to do so because they don't have that capital upfront or they have a poor credit record. What Taxify essentially enables, is these individuals to have access to the benefits of private transport without those prohibitive expenses upfront. This results in individuals being able to gain safe transport to wherever

10 they may want to go, because they can be picked up outside their door and dropped off wherever they want to go. Where the alternatives often are public transport which do not operate past a certain time or they drop them off in a certain location which requires them to walk by themselves often at times and in areas that are often insecure, once more resulting in social welfare or social

15 benefits. The third one is to enhance and enable or to promote a greater spread of ownership, specifically amongst historically disadvantaged individuals. It is no secret that the majority of drivers who operate using Taxify platform, that the majority of them are black and historically disadvantaged as a result, per the definition. Each one of these transport service providers who are

20 private drivers or operators, essentially runs a transportation service provision business, therefore enabling them to own a business, which is an asset, which is what this aims to achieve. In addition there is obviously the owners of those vehicles as well, the majority of whom are also historically disadvantaged individuals as per this definition. At this point I would also like to point out that

25 the earnings of the drivers who utilise the Taxify platform, is three times the

hourly national minimum wage. So when there is a contention that these drivers are not able to earn a living, when we have a look at the evidence and the facts, they speak for themselves. The fourth is that the Act should provide consumers with competitive prices and product choice. Now, with Taxify

5 coming into the market, there are now two main players within the e-hailing space, which means that from a competition perspective, consumers and drivers benefit. Because consumers benefit from better prices and drivers will not be taken advantage of, because there are at least two players in the market. Therefore, resulting in competitive prices for consumers and better rates for the

10 drivers. Once more, by enabling e-hailing to operate and compete in the market, there is additional product choice for consumers as well. The last point is that it is to ensure that small and medium enterprises have an equitable opportunity to participate in the economy. As mentioned previously, both transport service providers, who are the operators, as well as the owners of the vehicles, are

15 SMEs, and as a result employment for the thousands of these operators who use our platform, is created for the most part through SMEs. Mr Chair, that concludes our presentation, holding to the specifics of the Competition Act. I am not certain if you would like us to answer some of the questions proposed to the previous presenters, so that we can maybe do that a little bit more

20 concisely.

**CHAIRPERSON:** I think by all means feel free to do that.

**MR GARETH TAYLOR:** Mr Chair, one of the questions posed was, have the drivers complied with operating licenses. In our experience, operating licenses are there to achieve three main things. so, if we go back to the purpose, that is

25 to ensure there is not an oversupply, to ensure that there is sufficient quality of

drivers, and to ensure that there is safety of the consumers using that service. Each of these is addressed by drivers and vehicles that are allowed to operate on the Taxify, using the Taxify platform. With regards to safety, every driver who, before he is allowed onto the platform, needs to obtain a PRDP and that

5 PRDP allows them to be able to carry fare paying passengers. In order to achieve that and obtain that PRDP they also need to go through a criminal background check. In addition to that criminal background check, which is done for that PRDP, Taxify runs an additional criminal background check, to ensure that none of those drivers have a criminal record and are not allowed to operate

10 on a platform, should they be [inaudible] to be so. In addition there are other safety measures such as ratings, where drivers are able to rate riders and riders are able to rate drivers. As a result, drivers are able to see the ratings of riders or fare paying passengers before they pick them up and are also therefore able to see through that rating, if there are any issues with that individual. In

15 addition, every rider who comes onto the platform needs to verify their cell phone number and thereby we rely on the RICA process, which requires individuals to provide their proof of identity, as well as proof of their residential. With regards to quality - The vehicles require an operator card or a double disk. And in order to achieve that, they need to go through a roadworthy, where the

20 vehicles have to go through a roadworthy inspection. In addition to this roadworthy inspection, Taxify requires these vehicles to go through a Dekra inspection, once more another layer of quality that we require. What's more, the rating system between drivers and riders ensures that we can maintain a live updated view of how well drivers are performing. And those drivers who

25 receive lower ratings, are blocked from using the platform. The third one is that

of supply. Last week in our meeting with the Gauteng Provincial Legislature, we had this discussion with them as well. And the discussion there was, how does one define oversupply. And in order to determine oversupply, we need to have a look at demand. Now, as I mentioned earlier, many individuals are utilising

5 the Taxify service, because they are able to enjoy the benefits of private vehicle ownership without actually owning the vehicle. What we're finding then, is that there is a trend where individuals are choosing not to buy a second vehicle or not to buy a vehicle at all, but rather to use a Taxify service. Now, if 5% of the vehicle owners in South Africa were to choose to use e-hailing instead of

10 owning their own vehicles, would there then be an oversupply? Our contention would be that wouldn't be the case, because it is relative to demand. Operating licenses are there to control supply when the demand is localised to a specific region. So if, for example, there is a specific rank or a highly defined area, as defined earlier where it is just this part of Soweto, operating licenses become

15 relevant and important to regulate the supply in that specific area. Our contention is that market forces regulate supply and demand in a far better fashion than regulation does. It is more efficient and more effective, because those providers, those operators who perhaps are part-time operators and have a full-time job elsewhere, if they are not earning sufficient income whilst

20 operating there, may seek other forms of employment. Those individuals who are full-time business owners and drivers on the platform, should they not earn sufficient income, because there is an oversupply, would rather seek alternative forms of business, therefore the market regulates whether there is an over or an undersupply. In these instances, because e-hailing offers individuals to enjoy

25 the same benefits as private vehicle ownership, we would contend that by

localising such a service, prevents it from being as great as it otherwise would be. We have spoken about surge pricing. Surge pricing is as a result of undersupply. During those specific times there is an undersupply. How then can we have a contention that there is oversaturation in the market, if surge pricing is evidence of undersupply in those specific times in those specific areas?

**CHAIRPERSON:** Mr Taylor, if that demand, the demand that arises from or which surge pricing seeks to respond to, is that not, you know, transient or temporal demand which arises, maybe created, for example by a specific event, such that that proposition then becomes too strongly stated?

**MR DOMINICK MOXON-TRITSCH:** I will assist my colleague there, if I may. I think you are right, there is certainly a temporal component to it and you see this in respect of events on a one-off basis, for example the football match that has been referred to earlier. I think you are right, but I don't think that is necessarily definitional. The reality is that you also see structural components to it as well and from the graphs presented to you earlier, certainly are demand profile, looks very similar. But I would consent that rather than being the temporal aspects that is engaged here, I would suggest that actually the relevant aspect is the geographic components. So looking to the MREs who assess demand on a municipal basis, particularly in the context of meter taxis, and control supply to ensure that there is a sustainable level of work for the number of meter taxi license [inaudible], that is absolutely right and for that segment of the market that is right and proper. But it becomes a question of market definition, because meter taxis enjoy particular privileges, specifically street tale [?] and working from ranks that ride hailing companies don't have

and rightly don't avail ourselves of, because we would say that we are addressing... [mic went off]... to access transport on the basis of walking up to a taxi rank, is participating in a different market to somebody using an e-hailing app. So this I would suggest is, it becomes round geographical and it becomes  
5 a market definition issue, rather than a temporal one. I hope that is of assistance.

**FEMALE SPEAKER:** A follow-up question is, whether you are able to give us a proportion of these rides that would be subjected to surge pricing, like Uber did earlier.

10 **MR DOMINICK MOXON-TRITSCH:** I don't think we have an average number of rides number to hand, we can certainly provide that subsequently in correspondence. What I can offer, though, is obviously surge pricing has the potential to create an unfairness for a consumer. So, again in the events of, you know the football match that has been discussed earlier, in the event that  
15 there hasn't been a sensible management of how surge pricing works, you can end up with runaway surge pricing. So, you can end up with the consumer being confronted with oh my gosh ten times the normal price I would expect to pay. Or worse, somebody paying ten times, not realising that that payment was going to be charged upfront. So, you know, one of the things that we are very  
20 proud to do is that surge pricing is capped at 2.3 times the usual fare throughout South Africa. So, I think you are absolutely right, I think there is a fairness question here. For us, this is self-regulating, this is a market finding equilibrium and we would suggest if you get burnt by an excessive surge charge multiple times on one platform, the chances are you are going to find another platform  
25 that doesn't do that.

**MR GARETH TAYLOR:** Thank you, Mr Chair. Moving on to one of the other questions was, metered cabs need to comply with having meters in their vehicles and this adds additional costs with regards to the cost of the meter, with regards to sealing the meter, etcetera. Once more I would like us to go  
5 back to the purpose of the meter. So, it is to ensure that the consumer is protected and to ensure that the rates are transparent. Before riders take a trip using Taxify, they are able to see the range of what the trip will cost them, and they are also able to see what those rates are. And so, the app itself fulfils the purpose and requirements to do so. In the Act, the Competition Act, it speaks  
10 about competition being protected and not competitors necessarily being protected.

**MR DOMINICK MOXON-TRITSCH:** I will come in on the taxi meter point, if I may, because obviously taxi meter is a term of art and one defined in law. I am not aware of a South African authority where the definition of taxi meter is  
15 challenged, it is understood to be a device that measures both time and distance. In 2016 the High Court in London litigated this point in excruciating detail, I think it is fair to say, under a reference by transport for London about what is a taxi meter. If it would be of assistance to the Commission, I would be happy to provide the text of that judgement to assist for your deliberations.

20 **CHAIRPERSON:** We would certainly appreciate that.

**MR DOMINICK MOXON-TRITSCH:** Happy to provide that.

**MR GARETH TAYLOR:** Mr Chair, one of the questions was, how should PRE  
[?] know whether to grant e-hailers licenses. As discussed previously, market forces within the e-hailing industry, play a significant role in ensuring the

matching of supply and demand. We have heard about a square pig being hammered into a round hole. In this instance we would contend, as my colleague Dabu, referred to previously that there are two separate markets here – there is a market for metered cabs and there is a market for e-hailing. And so

5 within the e-hailing with the market matching supply and demand, we would contend that should drivers who are operating using an e-hailing platform, wish to do so, that they be granted e-hailing licenses specifically. And best practice in the industry is that those licenses are granted within five to ten days. So our ideal ask would be that e-hailing licenses could be provided in a shorter period

10 a time as that. And my colleague will be able to give some more information on best practice in terms of international and worldwide that could be of assistance to the Commission.

**MR DOMINICK MOXON-TRITSCH:** I think on the narrow competition law point about market definition, I put it to the commissioners that there is not complete

15 substitute ability between the meter taxi market and the e-hailing market, because of the special privileges enjoyed by meter taxi, rightly so, as a result of their status and regulation, namely being able to do street hail and being able to do ranking work. E.g. somebody who wants to access ground transport via one of these means, is unable to use a pure e-hailing platform. Now this analysis is

20 slightly muddled by the fact that there are some e-hailing platforms that meter taxis use, I understand Cruise is a big one in South Africa, I think Zebra also has e-hailing capability. So there is a degree of substitute ability that the meter taxis enjoy, and should we say, in our segments of the market. But we would contend that we don't substitute into their segment of the market, because it is a

completely different use case and a completely different need that the meter taxis are addressing.

**FEMALE SPEAKER:** I would like to just follow-up on that specific point, because the presentation that we heard earlier from Uber was suggesting that, 5 in fact it is for the meter taxis to catch up with where the e-hailing services are. And if you speak to meter taxis, they will tell you there is a specific regulatory framework that everybody in the industry has to comply with, whereas your suggestion is that actually where the industry is, needs to catch up with where the demand is for the specific services that are provided by e-hailing services. 10 So, just please clarify your point in regard to that.

**MR DOMINICK MOXON-TRITSCH:** Absolutely and it gets to the nub of the question here. Look, the reality is that there is a business, I mean we strain every sinew to comply with every aspect of South African regulation both at municipal, provincial and a national level as well. The reality is that there has 15 been what has been described today as a log jam in the issuance of operating licenses, primarily at municipal level. But, I would suggest there is an additional regulatory bar for meter taxis to get over to enjoy the special privileges that they enjoy. Now these are not privileges that we seek to enjoy. We seek to allow them exclusive franchise in the area of choice, namely in a ranking, street 20 hailing and, you know, if they are going to come and compete on our territory and do e-hailing work, then so much the better, we welcome lively competition. And as my colleague, Gareth, has mentioned, when Taxify first came to South Africa, the intention was to offer the technology platform to meter taxis, who at that time felt that the special privileges that they enjoyed, meant that they didn't 25 need to access digital platforms in order to be able to be assured of a steady

stream of work. The reality is, and this is perhaps a stronger word than what I might have chosen in this setting, but we are on record in our written submissions as having described the meter taxis' way of working namely via ranks and via street hailing as archaic, because it is a very old-fashioned model  
5 which hasn't really changed in decades. In London the regulatory framework dates back to the late 19<sup>th</sup> century. So, I mean the reality is, the taxi industry has a long history, but has been resistant to change in order to defend, shall we say, what we would contend, the excess profit which they enjoy as a result of artificially constrained supply of licenses into that segment. Now what has  
10 happened is, consumer preference has changed. So to the nub of your question, the reality is that people no longer want to have to walk to a rank or rely upon an empty taxi driving pass when they need to access flexible ground transport. People are now accustomed to, you know, using their mobile phone as a remote control for their life and summoning a vehicle to where they are to  
15 take them to where they are going with all of the safety features that my colleague has described. I think there is always going to be a role for meter taxis in any flexible ground transport eco system, particularly clustering as it does now round transport hubs, such as Gauteng Railway Station or the Apple [?] for example. But the reality is that the price point the meter taxis are at, is  
20 one that consumers are increasingly resistant to pay, particularly given all of the inconveniences that go with that historical model. So, at the risk of agreeing with your question, I think change is sweeping through that segment of the market, driven by pressure from an adjacent market segment, namely e-hailing.

**MALE SPEAKER:** When you first came to South Africa, you offered meter  
25 taxis some form of partnership, right...

...[Problem with recording system]...

**MR DOMINICK MOXON-TRITSCH:** The meter taxi model, particularly the ranking model, is one where essentially the driver has a long wait for work, but then potentially a long journey as a result with a high fare. So, in that model, and it is for SANTACO and for the meter taxi associations to provide you with this data, but in that model typically a driver would do a small number of journeys in a day, but those small number of journeys would be quite high earning. Our model or our technology platform provides for the opposite, which is a large number of relatively short run journeys of intra urban short distance journeys earning a moderate fare for each journey, but doing an awful lot more of those journeys. So, I would come back to, you know my colleague evoking the South African Competition Act in the context of efficiency, I would question whether meter taxi fulfils that objective by having dozens hundreds of vehicles sitting empty waiting for their turn to work comes up, rather than a technology platform that enables thousands, potentially tens of thousands of vehicles, to work, you know, pretty much continuously. Certainly from a transport efficiency stand point, we would suggest that that fills the objectives of the Act.

**MR GARETH TAYLOR:** If I may add to that. I understand what you are saying about the similarities. So in order to address the similarities – yes, there are similarities in that there are fleets involved. There is a fleet of vehicles that meter taxis use and in the same way there are fleets of vehicles that access riders through the Taxify platform. And so the business then sought to find the largest fleet with the least amount of work. And so those fleets, which would be able to access different clients and different clientele. So, yes e-hailing enables drivers to have a lot more trips and as a result of that higher utilisation rate,

charge lower prices, which ultimately is to the benefit of the consumer, those lower prices. So, what would be great to see is if, we have heard in the previous presentation that the bars try to... NTLA tries to level the bars by limiting e-hailing to those privileges afforded to meter taxis. Our contention is

5 that this isn't in the best interest of the consumer. What would be better is perhaps they could be afforded the opportunity for metered cabs to provide a similar kind of service or the demand service, where consumers, clearly that is what they want from listening to the representations and the submissions of the metered cabs, they say they are going out of business. So, if consumers then

10 are saying this is what they are looking for, our contention would then be well, Government, please make way for these metered cabs to be able to operate. Maybe there is some sort of a recapitalisation program, maybe there is a way that they are able to finance vehicles to be able to access riders through the Taxify platform.

15 **MR DOMINICK MOXON-TRITSCH:** If I can just come in on that point. What my colleague describes as recapitalisation, I understand as a scrapitch [?] scheme. Look, I am going to be very candid with you and, you know, please forgive somebody who has flown in from London, offering views about the quality of the South African taxi system, but the reality is the vehicles that are

20 plying for higher, that are doing meter taxi work in South Africa, are older than you might find in comparably sized economies. The reality is that, you know, driving a taxi has always been a tough business and consequently that leads to the eking out of, you know, efficiencies wherever they can be found. What Gareth describes as a recapitalisation, in London, Transport for London and the

25 UK government implemented a program in which drivers of aged vehicles could

surrender their vehicle to a public authority in return for a grant or a subsidy for the procurement of a new cleaner vehicle. Now, obviously in the context of the UK, that was primarily in the context of pollution, because obviously London is much more polluted than Johannesburg. But consequently I suspect that, you  
5 know, from that program there may be lessons that can be learned for South African DOT, potentially even competition elements that can be gleaned from such.

**MALE SPEAKER:** Just a follow-up on this. in terms of meter taxi services, I think if you look at Cape Town, Cape Town's system is more organised in  
10 comparison to say, Johannesburg. Would your views regarding, based on how you have described the state of meter taxi services, would you hold the same views if you were to look at the meter taxi operations in the Western Cape, Cape Town in particular.

**MR DOMINICK MOXON-TRITSCH:** With your permission, I would prefer not to  
15 go much further down the rabbit hole of taking a view about the business of meter taxis. I think it is for them to speak to their segment of the market. We are really here to provide assistance to the Commission on the e-hailing market segment. I feel like I have probably ventured a little further than I should have on licensed taxis, but it felt like it would be of assistance.

20 **MALE SPEAKER:** Well I am asking you this question because you seem to suggest that, actually it is your contention that you operate in different markets and this was a follow-up to actually your assertion in terms of how you described the meter taxi services.

**MR GARETH TAYLOR:** Thank you, Mr Chair. If I may. the clients and consumers of the Taxify app, what they are looking for, convenient, affordable, efficient trips from one place to another. And it is what they have become accustomed to, whether it be from their home, whether it be from the shops, 5 wherever it may be that they know that within the cities that Taxify is available, they can get a vehicle within a few minutes – that is the service that they enjoy. Now, coming out of a shopping centre or coming from a restaurant, there is a habit of, because they are loyal customers, that that is the service that they choose. Anecdotally, from my friends, that is the experience and that is what 10 they choose to enjoy. Now, there are instances where there are ranks at some of those spaces and where there are some of those ranks, yes, I mean obviously there is an overlap between the two. However, in the same way there is also an overlap between taxis and trains and busses, where there is space for all modes of transport within the entire eco system, even when there is 15 overlap between those modes of transport.

**MR DOMINICK MOXON-TRITSCH:** It sounds to me awfully like it is a case that the MREs in Cape Town are doing rather better in terms of where they are situating their ranks. But, you know, I mean the reality is it is still, what, a nine month wait for the issuing of a license in Cape Town. So, let's not fall over 20 ourselves to congratulate that MRE too much. But they are clearly doing a better job with meter cabs than we feel like they are doing with our sector. That said, we feel this is a soluble problem and we are confident that it will be.

**MALE SPEAKER:** Thank you, Chair. Chair, just one question on my side, and this is the question that we are grabbing with, you know, as the Inquiry, and this 25 is the question which was posed to us, you know, during the submissions that

we have heard previously. And maybe let me put it like this... before we talk about and criticise the quality of meter taxi services, before we criticise the ranking systems, before we talk about the benefits, you know, that e-hailing services has to consumers and before we talk about the special privileges that you advance that the meter taxis have, and before we talk about the benefits of the surge pricing and all of those things, which are all good... and don't get me wrong, which are all good. The question that we are grabbling with and the question that has been posed to us and the question that you have not addressed is, whether it is legally and morally okay for an entity to earn profits and compete with a regulated entity. The problem here, it is not that any of these things that you are proposing are bad... the question is, there is an entity... you know there are people who are being regulated in terms of the laws of the country and there comes an entity which is not being regulated and it earns profit and it competes against a regulated entity – that is the question that is not being addressed. So the question here is, the question here is, before we talk about any of these quality issues, criticise the meter taxis... Because they are saying and they are saying to us, well bring all of those things that you are talking about, but the first thing that you need to do, get yourself properly regulated in terms of the rules and the laws of South Africa. That is the question. And then we will then talk about any of the special privileges and any of the benefits that comes with e-hailing.

**MR GARETH TAYLOR:** So, Mr Chair, if I may. The first one there, this stems from the assumption that those levelling this issue, all comply. We have seen from last week, the Gauteng Provincial Legislature that only 2 500 operating licenses have been issued in the whole of Gauteng and they cite over saturation

as a result of this. The assumption here about levelling those claims, is that they comply. Our contention is that if you have a look at the vehicles and the supply of the vehicles and you have a look at the operating licenses, the numbers seem to dispute that, which we would then say is, well, yes, let all

5 parties be held to the same account then, because what seems here is that, one side is saying hang on, this isn't happening, but then expects it not to be applicable to them. That is the one contention. The other is that, we have been running towards legislation, we have been collaborating and cooperating with the municipalities, the PREs, the legislatures, we have done whatever we can.

10 We have been running towards this regulation, we want to comply, but because of practice notes that at times seem to be against what other findings are, whether maybe it is an operating license, no it needs to be the charter permit, no there is oversaturation, no there is a moratorium... these are preventing many of these operators from being able to obtain those operating licenses. So

15 that is the one side that we contend. The other side is then coming back to, with regards to the Competition Act itself, is to say let us ensure that there are competitive prices for consumers. And that it seems like there are issues that are preventing competitors... We spoke about surge pricing. If all of these vehicles that didn't obtain operating licenses, were to be taken off straightaway,

20 everywhere we'd have surge pricing and there would be a large number of individuals who would not be able to enjoy the service as a result either.

**MALE SPEAKER:** I think, Chair, maybe to clarify, the question here is, there was a decision in the Western Cape and that decision was very clear, you know even though it was opposed by the meter taxi industry, but then what the THE

25 said is that e-hailing services can make use of the current regulatory framework

in order for them to apply for operating licenses. What I am not hearing from you is, whether or not Taxify has adopted the same route. We have heard from Uber and they said they have. So what I am not hearing from Taxify is, whether or not that process has been engaged upon and it is being met with various, 5 you know, regulatory issues, delays, you know, the system is not working, there is a backlog... I am not hearing you say that. What I am saying is, what we have heard from the industry, the meter taxi industry is that, they are regulated and there is an entity that is not being regulated and they are being forced to compete with that entity that is not being regulated. They want to compete with 10 an entity that is regulated with all the benefits that you mention, they are not afraid of that, but get yourselves regulated first so that the playing fields are levelled – that is what they are saying.

**FEMALE SPEAKER:** Before you respond, I would also just want to add that perhaps in your response, give us your recommendations in terms of what 15 would work, specifically given the challenges that we have in terms of the issuing of operating licenses. So, what is it that you could do regardless in order to comply with legislation?

**MR GARETH TAYLOR:** So, in order to speak to that, Mr Chair, we have met with the MEC for Roads and Transport in Gauteng, we have met with PRE, we 20 have met with various different parties, municipal and at the provincial level, and have received commitment to grant operating licenses to drivers who utilise the platform. However, the feedback that we are continuing to receive from drivers who are applying is that these licenses have a huge delay, one, or are not being granted.

**MR DOMINICK MOXON-TRITSCH:** If I can offer you reassurance on that point. You know we have strained every [inaudible] to comply with South Africa's regulatory framework and my colleague has given you fine detail to that effect. The reality is, NLTA 2009 is an act that has been overtaken by the  
5 development of technology and its, the phrase, hammering a square pig into a round hole has been used... it is quite difficult to attempt to sort of regulating e-hailing services, though it is a taxi service, because they are different things, they behave in different ways. On your point about have you tried to get regulated, yes absolutely. And there is an expectation in driver onboarding that  
10 drivers either have a license or they are in a process or they have met all the criteria and they are in the pipeline for doing it. So make no mistake, I mean, we have engaged with PREs in every place in which we operate and the reality is that, you know, there is a log jam in the system. So the absence of compliance is not by any absence of willingness on our part, but rather sort of  
15 an inability for the either MREs or PREs to actually be able to, if you'll forget the metaphor, put rubber on the road. But your overarching points about, you know, are you a good corporate citizen, are you acting in a respectful way to the country in which, you know, you are operating and in which your drivers are earning a living and providing for those families – I can't emphasise enough that  
20 the answer to that question is yes, this is something that we take very seriously.

**MALE SPEAKER:** Maybe just one last point, Chair. I think maybe on a confidential basis, I think, the request that we are going to extend, and this is the same request that we extended to Uber, do an audit – and this is just a request on my part – do an audit, give us an indication of the numbers that you  
25 have and give us the numbers in terms of who, you know, from the partner

drivers that you have, give us an indication of the number of those that are currently in possession of, and operating in terms of the current regulatory framework and there indicate the rest.

**MR DOMINICK MOXON-TRITSCH**: Absolutely.

5 **CHAIRPERSON**: I understand them to be transport service providers, from a Taxify perspective. Is there any difference? Because Uber uses the terminology of partner drivers and you use... is it just a semantic issue or is there something ...intervened.

**MR DOMINICK MOXON-TRITSCH**: It is pure semantics.

10 **CHAIRPERSON**: ...qualitative in terms of ...intervened.

**MR DOMINICK MOXON-TRITSCH**: It is pure semantics.

**CHAIRPERSON**: Alright.

**MR DOMINICK MOXON-TRITSCH**: But to the straight question that was put to me, yes, I mean obviously we have lodged a CC7 with the Commission.

15 Obviously, the request falls under the ambit of commercial confidentiality. We are happy to give you that information on each negotiated bit about things like collateral use and stuff, but it is not a problem to provide you with that information.

**MALE SPEAKER**: Thank you, Chair.

20 **CHAIRPERSON**: Ja, I think in an additional aspect, we have debated this with Uber. There is this additional regulatory aspect, which is self-regulation, because that is one of the complaints from the meter taxi industry, and you've heard the responses from Uber. We just want to get your view on this.

**MR DOMINICK MOXON-TRITSCH:** If I may, I will tell you the very briefest of stories, but when I was working for Uber, I met the German Federal Transport Minister and sang the song about deregulation and her face went whiter and whiter and she turned to me and she went, Mr Moxon-Tritsch, this will never fly  
5 in Germany because we take the view that self-regulation is no regulation. And this was an experience that made a very great impression on me. As my colleague has said earlier, look, we are running towards regulation not away from it. I don't think you will hear us argue for fundamental deregulation of the industry. We support the idea that, you know, platforms such as ours should be  
10 regulated and we support the contention that all of our drivers should be regulated and, you know, we are about to meet DOT to have a conversation to that effect. Are we calling for self-regulation – no. Are we calling for proportionate regulation – yes, absolutely.

**CHAIRPERSON:** Mr Taylor, I don't know whether there are any additional  
15 points you wish to cover?

**MR GARETH TAYLOR:** There is nothing further. Thanks, Mr Chair.

**CHAIRPERSON:** Any further questions from the panel? Ja, I think the last remaining issue is the one that has been raised confidentially. So, but otherwise thank you very much for coming here and for a very detailed  
20 presentation and for making the time. Thank you very much. We will adjourn for the day and resume tomorrow at 9:00 sharp. Thank you very much for your attendance.

**END OF SESSION**

