MARKET INQUIRY INTO THE

LAND BASED PUBLIC PASSENGER

TRANSPORT SECTOR.

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FRIDAY, 29 JUNE 2018

VENUE:

(DURBAN ICC, DURBAN)

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DURBAN, 29 JUNE 2018

Session 1

CHAIRPERSON: Good morning everyone. Welcome to the Competition Commission's Market Enquiry into the land-based public passenger transport sector. Today is the 29th June 2018 and this is the tenth day of the hearings, which started in Johannesburg about two weeks ago. My name is Bukhosibakhe Majenge, I am the Chief Legal Counsel at the Competition Commission. I will chairing the panel. I am joined by two panel members, on my left I am joined by Ms Nompucuko Nontombana who is the Divisional Manager of the Market Conduct Division at the Competition Commission. She is an economist. On my left I am joined by Mr Thulani Mandiriza who is also an Economist based at the Competition Commission. He is head of the Enquiry's Technical Team.

On my extreme left we have our two evidence leaders, extreme right rather, we have our two evidence leaders, Jabulani Ngobeni and Mr Itumeleng Lesofe. The evidence leaders together with the commission's team of lawyers and economists will be assisting the panel in soliciting evidence for the enquiry. Before we proceed to receive the first submission today, I would just like to recap the rules that are applicable to this enquiry, the rules of procedure.

The enquiry will be open to members of the public at all times, except with the chairperson rules that part of the proceedings will be closed, on grounds related to confidentiality, or for any other reason deemed justifiable in terms of the Competition Act.

All sessions will be recorded and will be streamed online on YouTube, save for those sessions or parts of the sessions which are closed. In order to allow for the proper ventilation of issues, the chairperson, the panel, as well as evidence leaders, may pose questions to any person making oral submissions or to any witness. The chairperson will not permit any person, neither personally or through their legal representatives, to question any witnesses, or any other person making submissions during this hearing.

In the event that any stakeholder has an objection, a comment or a question in respect of any submission made during this hearing, that stakeholder must submit such an objection, comment or question to the enquiry in writing and the enquiry will attend to the comment or objection or question at an appropriate time as soon as possible. We usually allow one representative of a group or entity to make submissions, but if prior arrangements have been made with us, we do allow multiple representatives to make submissions where the different representatives will cover different topics.

Once again, I would like to welcome everybody to the hearings and I do hope that, like we have done in previous hearings, we will have a very meaningful and robust engagement today about the issues in the industry. The industry is indeed the backbone of the economy, providing mobility to over 70% of the South African population. Thank you very much. We will now receive a submission, the first submission this morning from Africa People Mover, (‘*APM*’). Welcome lady and gentleman and thank you very much for your time and for coming.

We will just start with the formalities, there should be a piece of paper in front of you and you may take the oath or the affirmation.

MR KGABOESELE: I, Tumisang Kgaboesele swear that all the evidence that I shall give shall be the truth, the whole truth and nothing but the truth, so help me God.

TUMISANG KGABOESELE (duly sworn states)

CHAIRPERSON: Thank you very much Mr Kgaboesele.

MS SKHOSANA: I, Kanabo Skosana swear that all the evidence that I shall give shall be the truth, the whole truth and nothing but the truth, so help me God.

KANABO SKHOSANA (duly sworn states)

CHAIRPERSON: Thank you very much, excuse me Ms Skhosana, Mr Kgaboesele if you could maybe start by introducing APM and your role within APM and I understand then that you have a presentation, then you can take us to your presentation. Afterwards we will have an opportunity to pose questions to you.

MR KGABOESELE: Thank you Chair my name is Tumisang Kgaboesele. I am the founding, I am a founder and currently employed as a CEO of Africa People Mover, particularly known as APM. Prior to that, I was the CEO of Auto Pax Passenger Services and prior to that PRASA CRES Corporate Real Estate Solutions. APM was founded in September 2014 with the sole purpose of providing affordable quality transportation to the lower end of the long distance market.

So if you can allow me to take you through the presentation chair. I think from page 1 of my slide, I think the point that I really wanted to stress is that really, our presentation from a perspective of our experiences as one of the newer entrants in the long distance bus industry. I am making that … bottom of the presentation that what I am sharing with the panel today, these are not hearsay or whatever, essentially sharing with you the journey that we have been through over the past three years, so that's how we've crafted the presentation.

So APM was founded in September 2014 as I have already indicated, to take advantage of the poor quality, unsafe and expensive travel in the intercity coach market. We are managed by a team with extensive experience in the long distance bus industry and we are currently the only black owned and managed entity in the intercity passenger services with a national footprint or capability. It is important to stress here that we are in no way claiming that we are the only black owned operator, but I can maybe without contradiction, confirm that they were the only black operator with national capability.

We obviously compete with well established operators, such as Auto Pax which operates Translux and City to City, Unitrans which operates Greyhounds, Citiliner amongst many of the entities, Intercape, Eldo Coaches and many others. From a zero base when we commenced operations in December of 2014, we have been able to achieve the following: We currently employ over 220 people on a full time basis.

We operate… and when I prepared this slide, we have fleet of 30 coaches, but things are happening so we currently operating a fleet of 28 coaches. We have transported more than 900 000 passengers to date. We have 14 sales offices throughout South Africa. We average a year, a load factor of about 82% we have our own depot facilities in Pretoria, Industrial Pretoria West, housing our own admin and technical… well etcetera etcetera. We currently have a market share of around plus minus 8% and our ambition is to get to 20% in the next couple of years. And one of our highlights is that we have an artisan program in place where to date, we have taken over 20 youths through areas of coach maintenance, customer care and the operations. Notwithstanding the achievements that we have highlighted, we’ve had a fair amount of challenges since our operation and these challenges, if we do not manage them properly; they have the effect of negatively impacting our commercial sustainability in the long term.

I think most of the prominent challenges, the serious one, I mean have been the suspension of our services in Limpopo and Mpumalanga. It's basically Polokwane, Sibasa (inaudible) which we suspended during the early part of 2016, due to incidents of intimidation and interference by the taxi operators and from a rival, Intercity operators, basically Auto Pax, I mean I can say this because I have gone all the way to the Supreme Court of Appeal and it's there, it's on public record.

And then we have also highlighted the cost of accessing the price central model facilities, I am aware that this issue has been dealt with (inaudible) by the companies that I are presented before us. We have also highlighted that just the cost of running our operations, I mean the cost of tolls in South Africa equate to about 5% plus minus of our operational expenses. Then the most… also the issue of poor enforcement of applicable legislation. This really relates to the issuing of operating licences by the law enforcement agencies to ensure that all vehicles have the requirement operating licences and finally, the regular business interruption. I mean from… which has become prominent in recent days. Service delivery which happens on every other day that we cannot really freely move or render services and we also saw last week the damage of the blockade of the entry which has become a regular thing.

But I will go into detail with this presentation. Then what is our target market? I mean we… prior to commencing the business, we needed a scientific study on the type of market that we wanted to address, so that we can appropriately respond to the demands, so even as a business, that we regularly refresh our market survey so we will do this thing on an 18 month intervals.

So this slide talks to the profile of the travellers in this, in our low… in our segment I mean its parent with the child, there are (inaudible) is between 1 and 6 the travel time is sensitive. I am not sure whether it's function when you get to that, when you are a poor person in South Africa, you get used to being delayed and so you get to a point where, rightly or wrongly it's not an issue that people are used to being delayed in travelling between various cities. So the majority of our travellers are female, almost 60%. Then in terms of the racial classification, 92% of them are black, 4% Asian, 3% coloured, and 30% white.

Then I have highlighted two important issues that I will like the panel to, excuse me, to keep in mind throughout this presentation, that 48% of our travellers are going home, 15% going for holidays and 13% for business. So this starts talking to the cyclicality of our business that you don't have a certain number of travellers all the time. Then also it's a function of 92% of them also they purchase one-way tickets and this is also true in the case of commuter transportation and the research that we did during my time in the railways, was a function of a reliability, where they tell you that I am not going to buy a return ticket I case in the afternoon, there is no return transportation, so I am not going to take that risk, I prefer to buy a single ticket, then I will take my chance and procure the return date when it's time to travel. So that's give them an option.

So we have also seen thing at the lower end of the marketing in transportation. Then finally 46% of our customers only travel annually with 26% quarterly, 23% on holidays, and then the 3% weekly and fortnightly. So these are key in understanding the travel patterns of our industry. So just to confirm what does it take to run a sustainable long distance bus operation. I mean you cannot run or be in business and it starts talking to the reason why we are currently the only significant operator black operator in the market, because of ticking all the right boxes, I mean the first thing that you need is your infrastructure.

I mean we are thinking about your open depot, your own maintenance facilitates, here you have got coaches that are on the road on average of about 18 hours a day and they cover close to over 30 000 kilometres every month. So they have to be properly maintained, so that you will ensure that they can go on for many, many years and also for your safe operations. Then you need systems and IT distribution, I mean our service offering is like when you know, when you have a bus or a coach leaving Durban station now at 9.00 going through Pietermaritzburg to pick up people, you need to, apart from just monitoring the coach, you need to make sure that your reservation system, you need to know the number of people that are in the bus. You need to be able to communicate with those passengers, real life, so that's where the IT systems come in.

Sales distribution which is also key for our segment of the market that you need to interact with consumers, especially in the lower segment of the market, that we service and it also starts talking to the reason why we have been very successful because of our 14 sales offices that we have from Johannesburg all the way to Queenstown, King William's Town, Mthatha, Cape Town. Because the lower segment of the market, when you hand over your cash you need to interact with a human being.

So that's where we have, I think this need. The management experience obviously speaks for itself that you cannot achieve what you have achieved within a relatively short space of time if you don't have that management experience.

Then operational support, vehicles do break down. It's a reality of our operations so we always aim for certain, we call it '*the meantime before failure*' and also, which is very important, that you are not carrying cargo, you are carrying a human being. So its safety issues in South Africa that each time you have a break down at APM we give ourselves a 2 hour window to recover that service.

The worst thing that can ever happen to any passenger is to be stranded in the middle of nowhere, not knowing whether the service is going to be recovered or not. So that opens yourself to all sorts of risk, so that's why it's important that you have operational support when you are run long distance bus service. Then operating licence, obviously you have to comply with the legislation, you cannot just buy a coach and start operating without meeting certain things.

Then the fleet, this is one of our (inaudible) and it's something that we… I think the positives at APM… the impact that we have in the market, is that we are the first operator to have proper luxury coaches, the long distance market. Prior to APM coming into the market, you had other… most operators transporting the lower segment of the market with buses are not necessarily suitable for this market. I mean you start with things like seating configuration or you had that three seats to two seats or have three-two configuration where you had the coaches that did not have air-con, coaches that did not have ablution facilities.

So again I can say that we are the first to… and rightly so, we have seen over the past couple of years, even our competitors now starting to introduce the APM type coach in their operations, then finally, capital support. Having this survey out of why we are currently the only operator with the extensive fleet or operations that we have, that the average cost of a unit between is 4½ and 5½ million.

So you need a whole lot of them and the reality is that when you buy coaches, you buy them in pairs. When introducing a service, because you need a coach that leaves from one side, the other one that leaves on the other side so that they can cross. So that's the only type of service that you want to provide. Then a moving along, this is a high level analysis of the market. I mean I have used the (inaudible) to try and give the panel a sense of what we are faced with.

I mean the first one we start talking the threat of new entrance. I mean we have identified these things as low to moderate, obviously due to ticking all the boxes that operating licences, fleet and infrastructure. They should be low to moderate if as I say, if all things being equality fair, there was a proper enforcement of regulations, proper enforcement of applicable law.

Then I talk about the bargaining power of suppliers. I mean we are operating a specialist, speciality equipment, the coach, all of them are important. You don't… they are not produced locally and obviously you need spares to keep them on the road. So your ability to bargain with the suppliers is very limited. It's one of those, take it or leave it, type of an approach and I also feel for these guys that most of the year of the spare parts, that we require for our coaches, have to be imported from abroad, so sometimes they have no option especially with the fluctuating exchange rate.

The bargaining power of customers also this is low to high because of the seasonal demand, where you get people who only travel at certain times of the year so when it's off travel, I mean it's really what… you take what the customer is prepared to pay you. I mean we have had instances when we still went to

Sibasa or rather to Bushbuckridge, where I mean a person would move from APM to our rival for a R5.00 difference. Or a person would come and say that I've got R190.00 to go Acornhoek and not prepared to pay anything so as an operator you have to make a choice whether take the R190.00 or you have an empty seat going that way.

Then on the extreme end when it comes to peak season, where there are a whole lot of people that want to travel and there are fewer bus operators and this is where operators can charge whatever that they want. And the reason why operators charge whatever they want, is to recoup their losses that they have sustained throughout the year, so contrary to popular belief, it's not about exploiting the consumers. It's extremely expensive to run our type of operations.

Then is there a threat of substitute to our business, I mean it low to moderate, I mean this also goes back what I shared with your earlier on the slide on the profile customer that, if you've got a parent and child they are carrying luggage, there are safety issues and everything. So only a long distance or properly inspected coach can operate, can give that comfort of travelling with a child, luggage space etcetera.

Then rival among competitors, is extremely high and the primary drive of this is that our routes are overtraded. Now people can say whatever they want to say, but my experience also from my previous line, is that you know, with an economy that is not growing, is that the demand for public transportation is not infinite. The demand for public transportation tracks labour participation. I know that the economists in the room will understand that. If the economy is not growing, if people are not employed and unlike commuter transportation, long distance travel is always a luxury: People don't have to go home for holidays;

people can in fact skip six months or within a year or two years without going back home. So it's a function of affordability and everything.

Then if I can also go onto the next slide: What I've presented here is that you know the significance of the market is still controlled by companies that have been around on average of 30 years. So you will note that when I did this presentation a couple of months ago, I used the market, the market share figures that we get on a monthly basis from Computicket Shoprite, Checkers platform. At the time I mean we have around 8% of the market share, then you will see the Auto Pax group which is City to City, Translux, commanding just around 20%. Then the Unitrans group were around, just over 25%. Then you had Intercape at 28**%,** Intercity Xpress 4% and this public available information, and I know that people will be shocked when we get this information, but if you do your research and you if you ask the right people, this is information that you will get.

So what I also distributed there which I will talk earlier on, is the most recent market share information, that it shows how the market has moved in the past couple of months. But the aim the main purpose of this particular slide what that in the whole market, the market share that you have, less than… I mean I am talking about black African commanding less than 10% of the market share. So that's the point that I am trying to make.

Also, the second point that is worth noting is that to get to this significant market share, is that you compete with guys that have been around for over 30 years. I mean the… all the large operators who control, I mean close to 90% of the market share, I mean the Unitrans group, the PRASA *('Passenger Rail Agency of South')* guys through to Auto Pax , Intercity, Intercape rather, all these things are intergenerational business and also some of the operators.

Then what are the challenges that face our business? I've highlighted funding, I am going to cite with funding as one of the main one. Currently there is no incubator refunding in the industry and consequently commercial institutions offer preferential terms to existing and large organisations. I mean it's a function of your credit record that you have been there for a while and that's why you are going to be supported. If you are a new entrant you don't have a track record, you don't have a track record, you are not going to be supported.

Added to that, is that as a new entrant, you have to put up a significant deposit. When we started, we were required to put up to 30% deposit to purchase a coach, I mean 30% of R4.5 million for coach is a significant amount of money. Then I have also spoken to the fact that you know, this industry is also characterised by dominant OEM's so you have very limited buying power, while everyone might say that they are all in favour of supporting new entrances but it all about your buying power.

And also one thing that we have seen coming through over the past year or so, has been with the competition, especially amongst the three major OEM's to push sales that they have been giving extremely favourable terms to establish the companies where they can offer then 10 – 15 coaches with a deferred payment. So I mean if you offer a competitor of APM 15 coaches on the pros(?) that they are with air conditioner, that they pay after a year, I mean that's half of our fleet and it is something that we do not really benefit from.

I think time that we… one thing that is almost similar to this is that we only offered 1, but it was deferred payment of about two months or whatever. So you can never compete with these guys. So we are also making a point that no this free use, we call it '*free use*' because you've got that 12 years, 12 months where you have to generate income with those coaches, in the process you are killing smaller operators without paying anything.

So we've seen that with the struggle that we had. I mean in terms of our business plan I mean (inaudible) which should be around 40… we had hoped to be around 45 coaches today, but because we don't have the necessary funding, that's why are now stuck at around 30. And what does that mean for us? It means that there is a massive opportunity to cost where each time you start a route, your competitors will follow you, and they will flood that particular route with a whole lot of coaches and you are not able to compete. So we always refer to that as a lost opportunity.

Then linked to that I mean I call this thing '*the virtual cycle'*, I think most black operators will identify with this thing that you know, that you… to get… to finance I mean they tell you that you need the proof of concept and even people that go and apply for employment, they tell them but you don't have any experience so that's why we cannot give you a job. So the same things are also applicable in the situation that without experience or proof of concept you cannot get finance.

Interestingly, I mean we also had the same issue where in fact, a current issue where we are having discussions with one of the DFI's specifically SEFA, Small Enterprise Financing Agency where the guys, where the issues have always been that you know, to qualify for funding, you need surety and the surety is base on a balance sheet and the only thing that I will agree with, I think it was advocate Nelson from Intercape, where he made all sorts of claims about Intercape having assisted the APM was on the issue of surety; that they were able to provide surety for APM that SEFA wanted to start the business, but all the other stuff, our work relationship was based on shareholder following their rights and obligations in terms of the Shareholders Agreement. Then if I can move on now where I start talking about the challenges, some of the challenges that we face; I mean the first one that I said that my presentation is always going to be about my experience, our experience over the past 3 years.

I mean here I make an example of an OEM abusing power. Again this is in the public domain there, the case has currently been ventilated in courts where we had an issue where we had acquired coaches and there was a delay with the delivery of the coaches. We decided to take legal action against the OEM, then how they retaliated was that they refused to deliver the other coaches that we had bought from them before we abandon our legal action. So it’s one of those things that if you don’t have a proper legal advisor, you cannot, if you don’t have… in fact if you don’t have a budget for lawyers you cannot deal with that. So is a blatant… in fact the reason why the coach was finally delivered, was when we threatened the local director, the country manager of particular OEM with criminal charges and that’s when they decided to release the coach to us.

The second one, I am going to spend very little time on the infrastructure, ranking and intermodal facilities. I think this I will deal with when we are going to engage with evidence leaders that if you are not in any of the ranking or intermodal facilities in South Africa you are as good as dead. You might do you best to mitigate your risk but you need to be… for instance in Johannesburg you need to be in a Park Station, on the N3 you need to have access to Montrose. In Durban you need access to Durban Station, Mthatha you need access to Mthatha Station. So you get through different landlords and this is not the PRASA CRES or PRASA issue, it’s an issue throughout South Africa, it’s so integrated to the operations of long distance buses, that if you do not have access to where people congregate, where people get onto the buses, then you are as good as dead.

Then the next issue is in terms regulation and challenges. I think this is one aspect that they were particularly passionate about. Our interaction with the PRE's ('*Provincial Regulatory Entity'*) I mean has been on the balance, on the whole has been extremely positive. We appreciate that you know, post-democracy we have got this new Act, the National Land Transportation, is it the NTA? Ja, that's been rolled out and the PRE's are not at the stage where they should be, but we believe that on the whole they are doing their best to support the industry. Obviously before you start operating you need the required licence, you have to make the necessary applications and an important point that needs to be made, in fact, when we started the business, because of our experience from the transport, for what is in fact a major… most of the… some of the managers, I think the majority of managers were highly experienced in this thing.

In fact, we are commended by the Gauteng PRE as being one of the most comprehensive applications in the history of the PRE because our application was backed-up by market research. We had spent a significant amount of cash you know, doing the surveys in all the loading and the off loading points, interviewed people, and we were able to demonstrate the demand. So the issues of PRE is something that is… that can be improved but I don't think it's all hopeless.

And also Chair, the important point to note and if you allow me also to share my experience with… my prior experience. What is at the heart of the conflict between the various operators? It's first, obviously it's an issue of overtrading and there is an issue of operators not sticking to their timetables. I had too many fights with the taxi operators during my days at Auto Pax especially there in Pretoria area, Mamelodi at Denneboom, in Atteridgeville and also in the north.

Because what would happen at the time is that you get given buses to depart at certain times. So you just cannot have operators, bus operators operating like taxis that create the problem. So it starts again with proper law enforcement that if this is done, then we should see less and less of this conflict between various modes of transportation. So I believe it's called people need to stick to their lane then things should be sorted.

Then the… as I said that you know, sometimes the PRE's get it right, sometimes they get it wrong. The one case that I am also going to use that we had… which was also fortunate for us that the culprits(?) are gone. There was a famous operator, highly controversial, went under and now they are coming back under a different guys and they have just changed the name and everything, so it's an issue that we still fighting there. It's an issue about the PRE could, if the PRE could look beyond you know, the (inaudible) what is called the corporate bail and make sure that the decisions that they take are in the interest of (inaudible).

Then again we have a case here of another significant player using their financial muscle to stifle competition. We spent a good part of the late… to this year where we were trying to get additional permits to provide certain services that one of their… I mean there (inaudible) identity that it went all the way to the Transport Appeal Tribunal. The guys were simply frustrating our efforts so that they can protect their market share. And it's also I mean the nice thing about it is, it's a publicly listed identity, even their strategy in their website and there are strategies that I mean point 3, bullet point 3, in the slide there that (inaudible) strategies to operate in that (inaudible) that have high (inaudible) as to entry and regulated. So they are using regulation to their advantage.

And what was of a big concern to us was that here you have people that not only have a larger muscle, bigger muscle, financial muscle now you can now compete with them. But secondly is that some parts of their business or their group are paid for or funded by the tax payer because of their exposure to the commuter, contrast type of services and that they used their lawyers to try keep us out of business.

Then the next challenge is also I mean it's amazing at the lengths that competitors will go to keep us out of competition. Again also there is a case that I referred to when I started my presentation, is that we are in this issue with Auto Pax when we started operating, where they incited the taxi operators against us. It's the reason that we still have a valid permits for Mpumalanga and Limpopo which are going to expire I think it 2020, but we have not been able to operate because you know they've polluted the environment. The case went all the way to the Supreme Court of Appeal and the court, all four courts found in our favour that the guys were indeed interfering with our business.

So it's one of those things that you know, people call it competition but some of the things have to be done within the courts. Currently we are in the process of recovering damages from this particular operator because of the inability to operate. I mean the social impact that this had in the economy, is that, I mean we had about 4 sales offices that we had to close, Nelspruit, Bushbuckridge, Polokwane and Sibasa in the process, I think it was 16 people that we have to retrench because of this particular thing. So we don't operate there.

Then the next issue is all about the price setting mechanism. So our approach to setting of price is essentially got your cost per kilometre (inaudible) it's as simple as that. So we cannot provide a service at a cost lower than… at the revenue that… you cannot run buses for the sake of running buses because you have this infrastructure, expensive infrastructure. It starts… you go back… link this thing to ticking the boxes because of infrastructure, IT, coaches, training and whatever, so that you need to recoup those costs.

So essentially there is nothing magical about this thing. It's your ability to recover more than what it's costing you. So that's how the prices are set. And it also starts talking to over a 12 month period that's how much have you spent providing the services, how much income have you derived over that number of months.

Then the next slide also I apologise, it's not very clear but this was a screen shot that I took before, when I was supposed to do this interview, that you had operators charging about R140 – R160 to come to Durban. But I mean without contradiction, APM is probably one of the leanest bus operators in South Africa because of the number of coaches, the number of services and our experience that you know, our model is such that with our operation, you… anybody who charges less than R220.00 to come to Durban with an average load factor of about 80% they are not making money. That I can tell you for free.

So I know this, based on my experience at APM and also based at my time Auto Pax that I can pretty much tell what is at stake. And the most concerning thing about also this price war, is that it… I know that one of the operators also highlighted this that we had a taxi issue, last year where the taxis wanted to shut our operations, the long distance operations, Durban because of this thing.

That if you get to a situation where bus operators do not, or are unable to regulate themselves in terms of the price that they charge, you have a spill over into the taxis and it starts creating unnecessary issues for everyone. So it's an issue that perhaps it can be better regulated. Then finally I mean we've, again we have a another operator that for all intents and purposes, I mean the guys are… not only do they do illegal things but they… we call then (inaudible) operator where, on a monthly basis, they are kept afloat by government and it's an issue that you need to look at.

So I've also included… there is a study case. Then the final one deals with the recent bus strike. So how the industry is regulated, I mean we are all long distance buses…. members of SARPBAC, South African Road Passenger Bargaining Council. We are not members of the Bargaining Council but by ministerial determination, within Section 32 of the LRA is that once they agree, it gets extended to non-parties.

So the reason that most long distance operators are not members of SARPBAC is because of the nature of business, the size… we've got too many divergent interests at SARPBAC. I mean you have got guys that are funded by government, they've got different pressures from the guys that are not funded. So you cannot sit around the same table with them and the reason why even the strike, I think it was probably the longest bus strike in the history of long distance services that it went for almost a month.

And interestingly enough is that you know, even at APM we offered and implemented 9% increase in April. The strike started on 18th April, they settled around the 18th May I think, almost a month later or the 16th May. And they settled for 9% which we had already implemented, during the time that we were not operating, we could not operate because our coaches came under attack and you saw the files that we currently having the fight with one of the recognised, one of the unions on whether the strike was protected or not protected.

But the point that is worth making is that, an operator that is privately funded, that has to pay salaries, has to pay the finance costs cannot afford not to operate even a single day. It's a point that we also make that even beyond the strike, because the point that I make, prior that if you've got the trucks blocking the entry you've got service delivery protest. I think they always have them now, with regulatory, it's Katlehong to Durban before you get to Heidelberg that's where the bus gets stoned. Is that this unnecessary business interruptions caused a lot of harm to operations such ours.

So we are currently in discussions with… in fact we have made a demand that we need to establish a separate negotiating chamber for long distance where the likes of APM, Intercape you know all the guys that do seem that fair business can be in the forum and we are able to dissolve issues at that level.

I mean I have also included that where you know that even the strike notice that was given, there is the next slide that was given there was that it was addressed to the SABEA, South African Bus Employers Association and COBEA, Commuter Bus Association. So we had a strike that had nothing to do with us but it was enforced on us. So that's the issue.

Then inclusion Chair… so this in fact, these are the actual figures, I mean if you look at the strikes… at this chart is that you can start seeing that this is over a 12 month period where you start talking about, I mean the yellow part that's why you need two, that your break-even point where it's in yellow and you've got all this that deals about occupation around January but it's also talking to prices that you might have high occupation, but you are not generating enough to get your break-even point, I mean here you've got a no break-even point of R15.00 per kilometre, and in January you had about 10 bucks. February which is… I mean the worst months in our industry are always February and May where you are not making anything.

So it shows you that only three months in a year, I mean where you can potentially make something, I mean think about this is July around October, December. I think January now it started being one of the more... better months. So this starts giving context that you know, it's not again people wanting to charge ridiculous prices during the peak period because most… or 8 to 9 months of the year you are really bleeding, unless you have strong support, unless you have good relationship with your banks then you are deep trouble. So thank you very much.

CHAIRPERSON: Thank you, thank you very much Mr Kgaboesele. Mr Ngobeni, Mr Lesofe.

MR LESOFE: Thank you Chair. Thank you very much for the presentation. If we could start with your submission in relation to the P.R.E processes: In one of your submissions to the enquiry you identify Intercape and Unitrans as two operators who often make objections to applications for operating licences, is that correct?

MR KGABOESELE: If I can just clarify that I mean the reason why, in fact we've have never had issues with, we've never had a single objection from Intercape. I think this is in part due to the fact that we only started our operations, Intercape used to own 49% of APM until we bought them out about 2 years ago. So I think that has always, I think that was a… I think they were at the time before, prior to that, they were one of the operators that... in fact I can talk during my time at Auto Pax that they were notorious objectors but we've never affected by them.

So in the 3 years that we have been around I mean they only objected, that we have identified or come across has been the Unitrans group with our new permits to get into other routes.

MR LESOFE: Okay. In relation to, because you mentioned earlier that you were commended by the P.R.E. for submitting well motivated applications. Were objections filed even in relation to your specific applications?

MR KGABOESELE: To my recollection we did not have any objection but added to that, the reason why were able to, the PRE was able to deal with the objection from Unitrans was because of the homework that we had done. We were able to prove… I mean that's why we just love the market share report. We are able to prove to them that here you have got guys that are dominant and do these things, and yet they object to this thing. So that's where… that's how it panned out.

MR LESOFE: And particularly what are the grounds that are cited when objections are filed?

MR KGABOESELE: The one that is often used it's over-trading, an over-traded route and that there is often, what is that phrase… there is often legitimacy to that objection but it's now gained notoriety of being used as a normal objection even when you know… what some of these companies have is that they've got lawyers on retainer who sole responsibility is to object. So I would apply for a route let's say from Mafikeng to Zeerust and they have never been there. So we know… it gets done automatically. So that's why some of these things come into play.

MR LESOFE: And in terms of the impact, how does this affect your business? Does it affect for instance your ability to grow and expand? To what extend is your business affected by these kinds of objections?

MR KGABOESELE: Interestingly I mean this should affect because you've got a business plan and our… In fact the price across the industry that you are always looking for new opportunities, so it's no secret that the most overtraded route in South Africa in between Gauteng and Durban. So you get an opportunity to start applying your trade between Durban and the Eastern Cape and someone objects so there is always that opportunity because you are unable to quickly move your assets onto a route that you will have a higher RPK revenue per kilometre than it going to have (inaudible). It obviously affects your ability to service your finance costs, your ability to pay your staff etcetera etcetera.

MR LESOFE: Okay and just to understand and we've asked some of the operators this question. Would you say the problem is with the current legislation? In other words you say there are gaps in legislation which are then exploited by some of the operators.

MR KGABOESELE: There is nothing wrong with the legislation in my view. The problem with our approach is that the regulator has not fully grasped that they are responsibility goes beyond administratively issuing permits that they are economic regulators. That it's a process that you need to take, to give a thought to. That you know the example that I made earlier, that I often make is that you know, if a particular route, let's say, between Atteridgeville and Pretoria has 2 000 commuters.

If you go and grant 2 000 operators, are you suggesting that each taxi must carry 1 person? So that is what is at the heart of regulation in South Africa that the regulator does not fully appreciate the economic regulation aspect of it. That you have economy that is not growing; this things means that you know there is this… and also especially on the long distance side, (inaudible) discretionary spending.

So what is the point of allowing more operators than the market can sustain? I mean in my humble view, is that the market can sustain about 4 or 5 significant operators not more than that.

MR LESOFE: Okay and I think you've partly answered this question and this question is in relation to the PRE. Would you say they are effectively dealing with objections when they are raised? And you can also talk about the adjudicative body as well.

MR KGABOESELE: Our experience obviously it's… I mean my response should be based on my experience. So my experience with the PRE is that there is, as I say, it's a hit and miss, where there are instances where their decisions are rational, but in certain instances where their decisions are questionable. So they can be effective and they can also be ineffective in certain instances. So as I say in my view, there is nothing wrong with the legislation, it's a question of ensuring that you have properly trained people.

People that understand their role that you know, you cannot for instance you cannot occupy that type of position, if you don't have some sort of economic training. If you are not an economist or whatever because what are you going to… this is by all intents and purposes economic regulation.

MR LESOFE: Okay. And as my last question on this would be, overall, what kind of changes would you like to see? So in an ideal market what would work for you?

MR KGABOESELE: I mean for us and again it's things that we see on a daily basis, in fact interestingly we got a letter from one the municipalities yesterday, I think it was (inaudible) directing us that we are no longer allowed to stop where we currently are ranking, we must go to bus terminals and people don't understand that you don't just get up one day and decide that that is where you are going to stop. It's based on your operating licences.

So there such a massive disconnect between what the law says, what the regulations say and what the concurrences by local municipalities, local transport law enforcement is doing. And the experience that I have, even before my days at APM is that if people do not keep, do not obey the laws, then it creates all sorts of things.

So it's starts in making sure that when you assess a permit for an operator licence, this cuts across even to the taxi industry is that you need to make sure that the market can sustain X number of operators. There is no point in flooding the market with a lot of coaches when they are going to be fighting over 5 or 10 people. What we see on a… in fact on a weekly basis now with the services side Durban that you've got people now charging up to R120.00 from Cape Town… from Durban back to Joburg.

So it's an issue that if it's not properly regulated then that's where you start having issues. So what I would like to see in short is that, you need proper regulation and the market will take care of itself.

MR LESOFE: Okay. If we could talk about… we understand that there is an exclusive loading bay that has been allocated to Auto Pax at Park Station, would you confirm that?

MR KGABOESELE: No there is so much misinformation about that with respect, and I've been even disappointed from my ex-colleagues at Auto Pax that they could not adequately address this thing. So that loading bay was in fact financed by IDT, the Independent Development Trust; It was paid for by Auto Pax many, many years ago. So it even precedes the pre-dates of the establishment of PRASA CRES. I am not sure how well you know the history of PRASA that you know… I mean PRASA came into being in 2009. In 2009 it was still structured and the PRASA CRES was established soon thereafter around 2010, or post 2010.

So then it took over the facilities management you know, revenue for PRASA group. So it's something that we used to call it '*the crawl'*. So it's on the eastern of Park Station. So all the services that run out of that bay, I mean I am sure people are going to shocked that I am defending Auto Pax, all the services that run out that bay, it's not even a busy bay; it is specifically for services that we used, we used to call them the northern services. So that will be services, the city to city services that run from Johannesburg Park Station into Ntuli, Bop in Mpumalanga.

And I am surprised that even these guys I am sure, I mean this is also based on my personal experience when I used to be the CEO of Auto Pax. There is an agreement, the funding agreement where that thing was paid for. It was paid for by the then Auto Pax. So in fact it has not even been redeveloped so what the post to 2010, when we got the money for the redevelopment of Park Station a significant portion of it went into where all the major operators are.

MR LESOFE: And actually one of the operators expressed a view that Auto Pax has a stronghold in Limpopo and Mpumalanga. What is your view in that regard?

MR KGABOESELE: You know it's a transportation, it's what do you call it, it's a… people have grown up, especially from that part of the world, using City to City and Auto Pax and the reason why it still has that stronghold is that you know, when you are from your early years, you grew up using City to City and the reason why people have had difficulty in breaking to those, to that type of environment is because of that.

Even to this day, you have people that have been using some of these operators. I mean I can talk about Greyhound and the Intercape from when they were still little and it's always difficult for them to move to another operator. So we were… in fact we competed effectively with Auto Pax when we used to go to Sibasa, Acornhoek Bushbuck because we offered the customers at the time at that point in time a service that they lacked from Auto Pax, that's why Auto Pax resorted to underhanded tactics to make sure that we don't service those routes, but I think it's anyone can compete for any of those routes. So to blame Auto Pax for not going to Limpopo or not being able to complete, I think that will be unfair on other operators.

MR LESOFE: And the fact that they have this exclusive loading bay which caters for that market, would you say… doesn't this to some extent, disadvantage other operators?

MR KGABOESELE: Not in my view, I mean take for instance a shopping centre, you know where there is massive foot traffic and where the best place to be at Park Station that's where all the major loading bays are. I mean there is a direct service from the common waiting area where all the shops are, where all the amenities are you can walk into that area. So what we again and we call it '*the crawl*'. We used to refer to it as a '*crawl',* its right at back of Park Station where you have a whole lot of people and the facilities there are really… I haven't been there in a while, maybe it's been improved but the facilities there were sub-standard compared to where all the operators were loading.

So if you had to ask me whether Auto Pax is having that… whether it has an impact on our business. I would say that is has had a zero impact. People always compete for… you are tracked… people based on the quality of service that you provide.

MR LESOFE: Okay. Now in terms of Park Station itself, so PRASA's view is that there are alternative facilities that can be used in case operators do not have access to Park Station and they used two examples. They mentioned Power House as well as Fleet Africa. Could you comment on that?

MR KGABOESELE: You know this also starts talking to understanding of movement and town planning that you don't just get up. The reason why there is Park Station it's the intermodal nature of Park Station that you have on top of Park Station, the eastern of it where you have Breë Street, it is Breë Street? Noord Street taxi rank which caters for… which feeds people from a whole lot of places into that Park Station precinct;

You have your Metro Rail services that run underneath Park Station. I mean during my time, when I was responsible for the installation, you had about 500 000 people going through Park Station on a daily basis. Metro Rail accounted for about 150 000 because of the number of services that were running during peak, during the… Then the balance was between the people that were using Park Station as a thoroughfare from Braamfontein into the CBD. From Hillbrow to the CBD and also people that were there to board buses.

So you cannot overnight now start (inaudible) and think that you are going to have the same number people at Fleet Africa. I mean in my view Fleet Africa… not Fleet Africa there, Power House. Power House is an illegal ranking facility. I am not sure whether it has been regularised and I will tell you why. When I used to… when I was responsible for Shosholoza Meyl, for the long distance business of PRASA is that our offices are just down the road from Fleet Africa, from Power House. So because of the size of the facility, the size of (inaudible) is that we struggled to even have access to our offices because of how the thing was completed.

It's an old office block that has been converted into ranking facilities. So again its start talking to legislation that the City of Johannesburg and people that give permission to such things, do they really know what they are doing? So in short, I mean you cannot replicate Park Station, it's possible. I mean the world over, if you go to like what you called it, that central, this massive station in New York, or you go to Amsterdam. Anywhere in the world is that you have an intermodal facility. So you don't just get up and say that I am going to start my own intermodal facility somewhere. It's not going to work.

MR LESOFE: Okay and you've partly touched on this as well. If you were to be denied access to Park Station, how would that affect your business?

MR KGABOESELE: It's like an airline. If you are denied access to King Shaka I mean you might as well not operate. So you cannot just go around because of the size of the bus. I mean a bus is like 15 metres long and you need a specialist in especially infrastructure to make that business work. Without that infrastructure it simply cannot work. You might as well close down. And how we mitigated… I know that it took us over a year to get into Park Station. When we first started operating we could not get into Park Station, we were loading, we were using Braamfontein Station.

So what we used to do because even the size of Braamfontein is too small. So we will have, we used to shuttle customers from Park Station to the pickup point at Braamfontein Station so that we can take them. So that's how we sustain ourselves for a good 6 to 12 months of the business. So it's important… it was also important that there is additional cost that you incur in doing exactly that. But the bottom line is that people still congregate. They congregate at Park Station, from Park Station they need to get into other modes of transportation.

MR LESOFE: And that additional cost that you would incur, was it significant?

MR KGABOESELE: No it's significant cost, there is also a risk element that the distance between Braamfontein Station at the time and Park Station… we are talking about 3 or 4, 5 kilometres give or take. And you have a shuttle that can only take 16 people at a time. So when you have, let's say 50 people that are expected to board at Park Station, you can take them but you don't have space for their luggage so there are additional costs of moving those people and their luggage to the coaches.

MR LESOFE: Okay. And PRASA identifies APM as one of the beneficiaries of the introduction of Pay-pay use system. So they say because of the introduction of this new system, they have been able to accommodate new entrants such as APM. Would you comment on that?

MR KGABOESELE: A whole lot of the new operators have benefited from opening up not the Pay-pay system from opening up of Park Station and if I can just give you a bit of a history to this thing. We go back to 2009 at the time you faceless, you in a situation where you have got a couple of companies operating out of Park Station. They are leasing offices, they are leasing loading bays and we cannot accommodate additional operators. So that was the first imperative. The second imperative is that you have an operational cost, most important operational cost, not (inaudible) cost that were not covered so this will be the cost of maintaining the loading areas because the subsidy for Park Station, the capital expense, comes to PRASA CRES from the J.O.T.

So out of PRASA's total budget you get an X amount that is allocated from the tax payer's contribution for up-keep of all the stations. So the plan at the time and the reason why we introduced… in fact I was one of the architects of the system, was that lets have a situation where we level the playing field. You level the playing field by making sure that people can access the facility on equal terms.

But I can also add that there was never ever an intention to make money from the Pay-use system. I think if you… the model that is used anywhere, everywhere in the world, is that you know you always attract operators because they bring feet, they bring people and that's the situation that we currently have with… I mean outside Park Station or on the N3, one of the largest bus intermodal facilities, if I can use that, is not even intermodal, stopping areas is Montrose. Montrose area on the N3. And bus operators don't use, don't pay the guys at Montrose to use Montrose because of the number of people that they bring there.

I mean on an average APM because of our services going to KZN and the Eastern Cape, we on average, just under a 1 000 people of APM customers will go to Montrose and they benefit from us. And what we had agreed to at the time, is that you know, people if I can make this example, people don't go to Park Station to buy stuff then the use, then it's okay and then I will go to Durban. What people do is that they go, they go to Park Station so that they can on a bus to go to Durban then that's why… in fact the biggest beneficiary or the contributor of revenue for Park Station are bus customers.

These are the guys that Metro Rail customers are always in a hurry and I did that study many, many years ago. Is that they are always in a hurry to get into those platforms and go home. They don't have time to buy stuff; they don't even use those shops. So the guys that spend a lot of time at Park Station are bus operators and the model at the time was that, maybe we should even by creating a situation where bus companies bring a whole lot of people into Park Station, you can develop Park Station into a proper shopping centre where people start spending.

So I don't know how they got it from the PRASA somewhere down the line and they started identifying that no, maybe there is opportunity to make money from bus passengers, which is wrong. Because I mean you are essentially the lower segment, the lower end of the market that you are servicing, why would you charge bus customers to use Park Station when you are not charging the subsidised Metro Rail people. It's never made sense. That's where… I always say, that's where the plan went wrong somewhere.

MR LESOFE: So despite being one of the people who were involved in designing the system, currently do you have any concerns with the system as it applies?

MR KGABOESELE: The biggest concern for us is that you know, the charge out rate, I mean that is R480.00 to get into Park Station, it's just not sensible, I mean there is no science. I listened to the PRASA lady trying to explain… she was saying that no when the bus has 60 people then you take one person to… I mean what kind of logic is that. It does not make sense, there is no science behind that. So the issue at the time was that you know, create… let's get a whole lot of bus operators make sure that… and that's why we decided to instead of moving operators, lets rather have 30 operators going through Park Station that translates into increased feed for Park Station.

That translates into an increased turnover for Park Station. But they got it wrong. So there is no science behind this story of theirs, that you know, they did this and whatever. Apart from that I mean the upkeep of Park Station, the capital expenditure is provided for by the remittances that PRASA gets from National Treasury through the Department of Transport. There are (inaudible) spend. So it's like they are now taxing as some of my colleagues, my competitors said that you know, you have to recover the cost as received from our own customers. So why are they not charging Metro Rail to run their trains into Park Station? It does not make sense.

MR LESOFE: Okay. And then my last questions are in relation to dynamic pricing, right, and I think you've explained why you use that kind of pricing in the industry. I think you previously tried to use a different pricing model. Would you take us through that model and perhaps if you could also explain why the model was discontinued?

MR KGABOESELE: Okay when we started the business we attempted… you look at the 12 month period, excuse me. So we attempted to implement a same price throughout the year, with the hope that you know, at some stage whether to get rid of picks and drops in terms of pricing and demand that you will be able to get to a point where you break even. So it worked for a while but stopped working, when our competitors started matching our prices and going down, going below us.

So what that means that you lost in terms of your occupancy, our occupancy went down. So I mean it was simply mathematics that if you achieved an average occupancy of 72% at a fixed price, throughout the year, then you would be fine. So the issue then comes down… you've got your competitors matching your price going now, you are 72% it's now your average is 60% - 65% then you cannot sustain it. That's why you are forced now to go back to the traditional pricing methodology.

MR LESOFE: And for how long did you apply that pricing methodology?

MR KGABOESELE: It worked for I think for 6 months. I think we introduced it, it was around, in late 2006 and we discontinued it beginning of 2007 because of the significant losses in terms of revenue that we sustaining. In fact we even got counsel from our bankers in that why are you guys… it was good, in fact with the positive that indeed was to make people more aware of our service offering, attracted a whole lot of people to APM and that's the usefulness that it had onto our operations. But after that it became unsustainable. I remember even the guys from one of the banks called us and said that this is going to make your business unsustainable, you are not recovering enough to even pay for your finance.

MR LESOFE: And would you consider using the same pricing model in the future?

MR KGABOESELE: It doesn't work. I mean you need to recover enough to pay for your expenses. So unlike… again I am going to use an example of Auto Pax. Auto Pax does not have a lease payment for their buses. I mean this bus we got R900 million grant from government as part of the 2010 – 2012 to acquire the fleet. And out of that I think we only finance about R200 million or there about obviously and there were overtime paid. But with the private operator, where you don't have anyone giving you R100 million – R200 million to go and buy buses, you don't have that luxury, you have the capital interest repayment that you still need to make on a monthly basis and also you have your operating costs that you need to cover on a monthly basis.

CHAIRPERSON: 10 minutes remaining for questions.

MR LESOFE: Okay Chair.

CHAIRPERSON: Before we get to the next stakeholder.

MR LESOFE: And in your submission you identify Auto Pax as one of the operators that are behind the price war, or predatory pricing conduct. Would you confirm that?

MR KGABOESELE: The issue for me and again maybe I come from a position of having a fair advantage that I know they are operating structure of PRASA. I know what is possible and I know what is not possible. I don't even need to look at their books, I can tell you that if the charge that much to go Durban, they are not making money. So it does not make sense and that's why we have moved to a situation where we always challenge, even at that time it was, what is the true cost of running a company such as PRASA, running a company such as Auto Pax? Unfortunately even when I left at the time, I had been there, I was at the helm for about 2 years at Auto Pax, and we have not in fact even gotten near identifying what was our true cost per kilometre of running Auto Pax.

MR LESOFE: Okay and besides the Johannesburg – Durban route is there any other routes that are affected by the predation conduct?

MR KGABOESELE: It's now moving to the Eastern Cape. I mean two.. about a year, we were probably one of the few operators there, so having the profile that

APM has now, is that each time we open a new route, so we get followed by a whole lot of other operators start operating there. And the most effective way that these guys have or they effective to get us out of business is to undercharge us.

MR LESOFE: And overall to what extent is your business affected by this conduct. Are you affected by the conduct, does it affect your ability to compete effectively to expand, to grow…?

MR KGABOESELE: It's significant. What we have seen I mean fortunately we look at these numbers on a weekly basis that we are still averaging about 82% load factors in terms of occupancy. But in terms of our revenue per kilometre, I mean it's down year on year by about 30% because of the price, because of the yield that we are currently getting. That the prices have become so ridiculous that we might as well… and sometimes it's easier for us I think, not to run the service, cheaper for us not to run the service because you are not even recovering the cost of fuel.

MR LESOFE: Thank you Chair.

CHAIRPERSON: Mr Ngobeni.

MR NGOBENI: Just one question Chair. In your submission early this morning when you dealt with the question of objections and how they manifest themselves in leading to various… to entry in the market; You seem to suggest that one of the things that we seeing there is a question, it's how the PRE conducts its own business and you then mentioned an issue around you know, the fact that maybe what they actually you know… PRE is actually required to be doing is what you then termed as economic revelation. Now the question that I have is, you know, if there is a question of capacity within the PRE, if I am understanding what you saying to be a question of capacity, how can they be capacitated? Is it a question of manner in which they are you know, structured or are there things that came be done in order to you know, to remedy the situation in order to enable them to effectively perform their duties? Thank you.

MR KGABOESELE: Mr Ngobeni like in any organisation I mean you need qualified people. I mean that's the bottom line, it's like I will never take someone that has never driven a bus or has driven a coach, commuter bus and put them on a long distance, it's a recipe for disaster. So where we have come short, as government, if I may use that term, is to give responsibilities to people that do not have the necessary experience to discharge those responsibilities.

MR NGOBENI: Thank you Chair.

MR MANDIRIZA: Thank you chair. I just have a couple of short quick questions. The first one I think is in relation to operating licences. Have you applied for operating licences outside Gauteng?

MR KGABOESELE: Ja what we done is that all our services originate and terminate in Gauteng. So we have licences… in fact we have a licence to go almost everywhere in South Africa or anywhere in South Africa, on all the major routes because you know how the NLK is structured, is that this is what you need to do and I even alluded to it as part of my earlier submission, that all of them are backed by a comprehensive market study that we have done on all the routes.

MR MANDIRIZA: So you haven't applied?

MR KGABOESELE: No, we have applied.

MR MANDIRIZA: And what has been the experience to you know, in relation to those other provinces?

MR KGABOESELE: No, the issue with that is that because of our understanding of National Transportation Act that the PRE is acting on behalf of the National…

so they've got a competency. I mean you can go and apply as long as the route, what do you call, originates where your application is. So all the routes as I say, all the routes that the APM I mean from Pretoria going to Limpopo or Western Cape, Eastern Cape through Free State and whatever, they all originate in Gauteng, or even going to Cape Town, coming back, it's all originates in Gauteng, so all our applications have been by via the Gauteng PRE.

MR MANDIRIZA: Okay, thank you. Then in relation to the loading bays are they sufficient loading bays as a tuc(?) station for your operations?

MR KGABOESELE: Again, the loading, I think the loading bays are fine, if people kept to their operating licences and their timetables and everything. The issue with the loading bays happens especially at peak where again, I spoke to the issue of regulation; where you have a whole lot of these big operators and some of the medium operators where they start flooding the market with services that they are not necessarily licensed to do. They call it… they duplicate or they… so that's when you start having issues. But on a normal month and a normal weekend, Park Station has enough capacity to handle most operations.

MR MANDIRIZA: Because I think the evidence that we've got from some of the operators in Gauteng was that you know, they spend more than an hour, sometimes either queuing to get a loading bay which might end up increasing their cost from the R480.00 that is charged. So I think we… so our understanding is that there are other loading bays.

I think we want to ascertain whether in that particular instance, the loading bays that are currently exclusively made available for Auto Pax can't be utilised for that purpose because here we are looking at cost, right. The most efficient way of trying to deal with shortages in the loading bays that that is the context of the question.

MR KGABOESELE: Okay. The easiest way to deal with that is to separate the different types of services. My experience is that it takes longer to load a cross broader operator than a local operator. So the issues that we see this thing all the time in Pretoria where our loading bays next to I think it's Pioneer Coaches because they load not this massive 5 ton trailers. So to load an average intercity service in South Africa it will take a couple of minutes but the issue is that when you start combining a whole lot of services in one area, it's all about efficiencies.

So where I (inaudible) PRASA and what they trying to do at Park Station, they need to separate you know, the type of services. It's all about loading of luggage, I mean we have to… it is no different from operating an airport. That it can never have an infinite capacity, it's all about making sure that it's efficient. And there merit making sure that people load within their allocated time and move out otherwise they are going to clog the system.

MR MANDIRIZA: But from a bus operator perspective if you queue to get a bay and there are empty bays that are available, do you think that is an economic way of running an important, critical service like you say, it is OR Tambo of the buses.

MR KGABOESELE: You know the guys are queuing and I will tell you again that even where the '*crawl'*, let's call it the '*crawl'*, that's the official name of where City to City… it's on the other side of Park Station. I think it's on the back side of Park Station that's where not all the buses... There should be the congestion, the congestion starts on I think it's Smith Street, if you go past because of the cross boarder operations trying to… also it goes to traffic enforcement, law enforcement that if you do not have the JMBD or the City of (inaudible) metropolitan or Cape

Town, enforcing then free flow for traffic around Park Station that's where the issues come in. So it starts with the congestion outside the station, it starts with the congestion inside the station where now we have got people trying to load this massive trailers.

So maybe the most way of making it efficient will be that the people that operate trailers can use certain bays and people that… I mean at APM we don't haul trailers. So to load an APM bus it takes a couple of minutes. So the issue is always the luggage.

MR MANDIRIZA: Just a last question. I think you mentioned that, I think there is relationship between the IDT and PRASA, Auto Pax in terms of how they have procured that. As far you know… to your knowledge, is there an agreement governing this kind of relationship, that the first one? The second question I think we are now rushing in the interest of time, so the 'Pay-for-You' system you said it doesn't make sense but PRASA still has to recover, because they are providing a service, what do you think should be an economic value you know, or a economic price that they are supposed to charge because they can't run that service for free.

MR KGABOESELE: Okay on the IDT, it was a loan or a funding that had been provided by the IDT many, many years ago. And I know that the loan has since been extinguished so this we can put this into bed, there is no existing relationship. They had provided the funding for that thing many, many years ago and I think I know I have seen a copy of that, the Loan Agreement or Funding Agreement. So they provided funding and they since been repaid and that's how Auto Pax got to use that facility.

On the issue of how do they recover the costs: Firstly you have a national key point, Park Station which is fully paid for, or funded by the tax payer. So PRASA gets a capital subsidy on a yearly basis out of our tax payer to maintain transport infrastructure; Durban station, Cape Town station and Park Station. So there is component in there that is used for rail which is obviously all the… I think it's about 24 platforms under the station. There is a retail component where obviously people, they lease space and they get…

And here is a bus component. So the capital cost of that bus component has already been paid for and it's in terms of capital maintenance, it's part of the subsidy because there is such a… you cannot separate rail from the buses, you've got guys moving from city to city going to a metro to take them wherever. That's where intermodal comes in. So what we are trying to do at the time was that we had an issue, okay we were firstly trying to get more people into Park Station. Secondly trying to get the bus operators to contribute towards the cost of maintaining you know, the potholes there, the lights and whatever.

So it's a cost, I mean if PRASA came to me and said that we have done a exercise that it's costing us R1 million just to maintain, these are costs that we can identify specifically for the… and we think that we need to recoup some of these costs from the bus operators. I think that's a good starting point. This friend finder, thumb suck thing does not work.

CHAIRPERSON: Ms Nontombana.

MS NONTOMBANA: Just two questions. The first one is in relation to the changes to your operational costs as a result of the introduction of the PP use system. We understood from the submission from PRASA that it hasn't really changed in terms of the significance to the overall cost of operators. So I wanted to get a sense from you, of how has it changed from what you used to pay and since the introduction of the pay-use system?

MR KGABOESELE: In fact we paid pay-use from day one because they introduced it when we started, so as a continuation, I mean on average for APM it's costing us… we are a small operator it's costing us about, we run 15 services all our stations at some stage go through Park Station. So we run 28 - 25 services everyday currently, so each one of them will at some stage go through Park Station at R480.00. So you are looking at about, on a monthly basis, give or take about R500 000.00. For a small operator that is not sustainable.

MS NONTOMBANA: But proportion is it of our overall operational costs?

MR KGABOESELE: In terms of our operational costs we are looking at about, I would say probably about 6%.

MS NONTOMBANA: Then the other question I had was that in your submission you refer to the preferential treatment that Auto Pax has in comparison to the other bus operators. I wanted to find out whether you can give us a bit more detail given your experience there. We understood from what you said that there is parking bay which you have explained the history to that, but we also understood that in terms of rental fees... I don't know in terms of loading bays whether they would get preferential treatment, but if you can just elaborate on what you mean by the specific instances where this would apply compared to other bus operators

MR KGABOESELE: Okay. If I can refer you back to the slide about ticking all the boxes. So if you have to put the Auto Pax and APM side by side. So firstly on the infrastructure side, the infrastructure that Auto Pax currently operates their table(?) In fact let's say we start with their head office in ZASM building at the

Station. It is owned by PRASA so they don't have to pay rental, they are not paying rental of that thing. I can tell you about the systems. Their IT system is a shared services model where it's provided by the licences and all those things are provided for by the PRASA group, the corporate.

I can tell you about the cost of security, their security, they are being secured by PRASA Protection Services. I can go on and talk about their fleet. In fact some of the fleet what we did many, many years ago when we ran out of cash, in fact the fleet, most of the coaches we did sale and lease back to PRASA. So most of the coaches that Auto Pax currently operates, or some of them, a significant number of them, are not even owned by them. They are owned by PRASA because we needed to raise money for them.

Okay we sold to them to the group then out of their CAPEXsubsidy because they can use the CAPEX, they buy them then you get that cash injection and you are supposed to pay monthly rental, so that's not happening because they simply do not have enough money to generate that thing. I can talk about so many things, when you go through ticking all the boxes and when you dissect their business plan, you need to understand that you guys are paying for SAP licence, are you guys paying for your offices and you are going to soon realise that they are not .

So that's how the bus… that's why I call it an artificial business in a sense that, while I need to pay someone for the licences, I need to pay Stallion for providing me security; they don't have carry those costs. So that's why it is easy for them, even at the height of the strike that there were not operating for a good month but they pay their salaries around the 28th or 25th. Their employees still got paid because they can get a loan from PRASA to pay them as opposed to the guys like APM, where we need to push back salaries and request the shareholders to put in money so that we can pay our salaries. So that's the advantage that will always have. They don't have the same cash flow management pressures. They are supposed to have but they don't have them.

MS NONTOMBANA: So are you able to then say what is behind the losses that they incurred over the years, if they are able to have some of their costs absorbed within the group?

MR KGABOESELE: No, I mean, currently public available information. I mean you have a business that we acquired in 2009 and it was capitalised by over R900 million. The biggest issue and it was part of my turnaround plan at the time for Auto Pax was that you've a business that is over-capacitated. At the time you have 560 buses, the effective utilisation was about 200 buses so they only needed to maintain 200 buses. So I mean Intercape is at a point where I mean probably one of the most efficient businesses and probably in terms of operations, they are now on the same scale, on the same size with Auto Pax but they do that with half of the fleet.

So I was sitting in a situation where I had… I am talking about my time at Auto Pax, where I am sitting with 560 buses but I only need about 210. I have 1 600 employees, I only needed about 1 000, about 700. So you are carrying too many costs that you cannot incur. So have a business that… during peak Auto Pax will generate in a peak month, will generate about, the cost running Auto Pax at the time was about 3 years ago, was about R75 million. During the peak months we generate about R110 million. Off peak we generate about R30, between R30 and R40 and your salary bill is amount R30 million a month.

So it was the issue of a highly inefficient business but with all… with due respect to my ex-colleagues that you know, because this is government owned entity. You know the section, even selling a bus at Auto Pax, Section 54 of the PFMA is that you need the executive authority's approval. So their hands are always constrained in terms of what they can do to turn that business around.

But the issue of Auto Pax has always been that they are just carrying too much cost.

CHAIRPERSON: Do you a further question?

CHAIRPERSON: Just one question for me two last, last two questions. Have you assessed the impact on pricing of the introduction of the Pay-as-You-Use charges as to… that is the pricing before the system was introduced and the pricing post to introduction of the system?

MR KGABOESELE: What it did at the time and I can relate to this thing at the time I was still running Auto Pax. As I said to you that you know the cost of running Auto Pax was R75 million a month. So with the number of coaches that you are running, you had now an additional R15 million that you needed to cater for. So you are now moving from R75 million to about R90 million. I mean this was at the height when Auto Pax was generating lots of money. But the issues was that now that… it's not unsustainable and the impact from that, and I saw guys like the time in Intercape as a trade off so that they could pay for this thing. That's why Intercape I know that the Intercape laid off a whole lot of their… in fact they did away with their cabin crew.

So you don't have hostesses on Intercape as a direct response to the Pay-As-You-Use system. The guys… some of the operators because they have got commuter contracts and wherever and they are part of the larger group structure, they are able, they could absorb that thing. But when you are a lean operator like APM or some of the small operators is that you don't have anywhere where you can get… recoup that amount of money.

So how Auto Pax have done with this thing and I don't… we simply don't have the cash to pay for it. Is that they get billed for this thing and at the end of the year I mean they always get going consent issues. We used to get going concern issues from the Auditor General then we would get a letter, a letter of support from the shareholders saying that they are guaranteeing that we will still be around next year. So that's how I… these guys have literally stumbled from year to the other because of the support that they get from PRASA group.

CHAIRPERSON: And my second question is on one of your slides talking about or talking to the capacity, the capacity of Inter City coaches which you said is about R1 000.00, I mean sorry 1 000 coaches and the number of commuter buses in the market which you said is access of 20 000. Now I just want to understand what is at play in influencing the different levels of investment in terms of capacity between Inter City coaches as well as commuter buses. Is it because the Inter City coaches market is not an attractive business because it is a peak? It is a peak business and it's largely unsubsidised, whereas with commuter buses there is of course part of that market is subsidised. What exactly is…?

MR KGABOESELE: If you go back I think slide 4, where I talk about the packet market. One of the things that I have highlighted was that 46% of our… and this is an overall profile of the Inter City market, 46% of the travellers only do travel once a year. So that's where you start looking at capacity that we've got guys that only travel once a year, while on the commuter side, is that you've got people that travel on a daily basis, except Friday and Saturday.

So that's what starts talking to the market. And the issue with… and the reason why most of the black operators are in the commuter segment it's also the cost. You know to the infrastructure alone, I mean the cost of an equity contribution that you need for a company like APM, is about R30 million that you need to raise from your shareholders before you start talking about anything. That's what you need. So you get a guy that, you get the commuter market that is in high demand, it's subsidised and it's easy to do. So it's also a numbers game. There are fewer long distance travellers and it's a global phenomenon, it's not a South African thing. I hope I have answered your question.

CHAIRPERSON: Ja, then just a follow up on that. So is this market, this Inter City market because of the fewer numbers of travellers sustainable without some form of support, either for instance in the form of… I mean your main complaint part of the issues that have arisen, is this issue of the Pay-on-Use system. So is it an industry that is sustainable without some form of support?

Or it could even be support in the form of for instance, operational or even some form of capital subsidies, or even this soft form of support in the form of rebates for instance on access to the Park Station, in terms of the charges for the Pay-on-You system?

MR KGABOESELE: What has happened over the years is that with demise of Shosholoza Meyl you know you used to have… probably seen as one of the most extensive rail networks in the country where could get onto a coach onto a train and go as far as the northern part of the country. But now with the under-investment in rail, we have seen people moving into long distances. And the reason why I made this example that when I competed, when we competed against the City to City for the northern routes, I mean you go a place like Kaalfontein next to Tembisa.

It's a sort of a commuter road between… from Bushbuck Ridge coming to Gauteng. These are the guys that ordinary back in the times used to use rail and they simply cannot afford any other mode of transportation. So the support that could be considered is supporting the traditionally poor corridors which have suffered as a result of Shosholoza Meyl or long distance rail not operating. There are certain routes you know where, some of them… they also did a classification of affordability that we've got guys that can afford long distance travel that do long distance travel because of it's a… what do you call it… they need to go on holidays and everything.

But we've got other people that traditionally relied on rail to get to Gauteng and that rail does not exist anymore. So far as what I support in fact one of the turnaround plan, part of the turnaround strategy that I submitted before resigned from Auto Pax was that because… especially the northern routes, Limpopo, Mpumalanga, poor people, poor that don't have any other mode of transportation, why don't you then take a decision that seeing that Shosholoza Meyl has collapsed, take the subsidy that you used to get to give to Shosholoza Meyl. At that time it was about R450 million and take a decision as government that you are going to have a long distance thing that is supported. But obviously now you are getting into a whole lot of issues where the taxis are going to cry foul and all sort of… But it's something that needs to be looked into.

MR MANDIRIZA: Just one question. Would you consider entering into subsidised bus transport services maybe in the future because you now have the experience, I think the ability to bid tenders that would be coming out and then your future… is just a thought.

MR KGABOESELE: It has always been part of our business model that you know you start somewhere and it's all about trying to… you start a business you gain expertise, you… I mean it was the third leg of our business that you start with long distance. From long distance you start contracting, from contracting then you do commuter type of coaches. So to make that you have enough experience, see teams in place, is something that we will look at doing in the future.

CHAIRPERSON: Ja, thank you thank very much Mr Kgaboesele for a very illuminating and a very insightful I must say, presentation. Thank you very much for your time and also thank you, Ms Skhosana as well. You are excused.

We will now take a presentation from the KZN Bus Council we are running a bit behind in terms of time but we hope to be able to catch up.

PRESENTATION: KWAZULU NATAL BUS COUNCIL

Welcome to the enquiry lady and gentleman and thank very much for your time and for coming and for your patience as well, because we are running a little bit behind in terms of time. I think we will just start with the formalities if you could just take the oath or the affirmation. There is a piece of paper in front you.

MS ZONDO: I Zetsibile Zondo, swear that the evidence that I shall give shall be the truth, the whole truth and nothing but the truth, so help me God.

ZETSIBILE ZONDO (duly sworn states)

CHAIRPERSON: Thank you very much Ms Zondo.

MR SIBISI: I, Sibonelo Sibisi swear that the evidence that I shall give shall be the truth, the whole truth and nothing but the truth, so help me God.

SIBONELO SIBISI (duly sworn states)

CHAIRPERSON: Thank you very much Mr Sibisi. If you could first start by introducing the KwaZulu Natal Bus Council, what it is, what its functions are and just very briefly, explain your role within the council and how long have you held that role, then you can take us through the presentation, your presentation. Afterwards we will then have an opportunity to pose questions to you.

MS ZONDO: KwaZulu Natal Bus Council known as KWANABUCO is a representative structure for bus operators in the province of KwaZulu and my role within the organisation, I am one of the operators as well and holding a position within the provincial structure and today we are coming to do the presentation on behalf KZN Bus Council.

CHAIRPERSON: Mr Sibisi.

MR SIBISI: Okay thank you. Just to add on what Ms Zondo just alluded, the Kwa-Zulu Natal Bus Council as she said, it's a structure that is representing bus operators in the province but it is mostly presenting the previous city disadvantaged bus operators in the province. Yes, we do have the operators that are operating within the subsidised services in the province. But I would say over 90% of our members are operating without any subsidy. They don't really have contracts with the government, they are just operating on a cash basis with their own commuters.

Okay as I said, I Sibonelo Sibisi, I am the coordinator of the provincial office for the organisation.

CHAIRPERSON: Ja, I think you can then go ahead Ms Zondo with your presentation.

MS ZONDO: Thank you Chair. As I said KwaZulu Natal Bus Council is a representative structure for small bus operators in the province of KwaZulu Natal. The organisation was established in August 2006 by the Department of Transport and the province of KwaZulu Natal with the aim of creating a platform for bus operators where strategy issues, including transformation of the bus industry will be discussed.

KZN Bus Council is affiliated with the South African National Small Bus Operators Council that is the national side of it. Current allocations of subsidies are still based on routes that were subsided during the previous government dispensation. Newly development settlements are not catered for within these subsidies. For instance, Umzimkhulu which was moved from Eastern Cape to KZN is not allocated a subsidy but there are routes that were subsidised while it was under the Eastern Cape. Furthermore, we have seen major industrial and residential areas being developed since 1994, however, there are no public transport subsidies being allocated to these areas while the need for public transport is high.

Therefore, allocation of subsidies need to revised and be aligned with current residential developments. The fact that the subsidised bus tendering system has been put on hold from 2002, makes the system in this regard not competitive, thereby giving an impression that the government is not serious about uplifting previously disadvantaged operators, but rely on a few operators that have been given benefits for the past two decades.

In most cases the so-called merger operators protected by the government are owned by individuals who have never lived in rural areas or township areas where they operate. Subsidies have a negative impact on competition between modes of public transport since not all bus operations are subsidised, while they are competing with minibus taxis and other modes of transport. For instance, most subsidised bus operators have stopped or minimized their operations due to difficulties in revenue, since commuters resort or utilise minibus taxis which are much cheaper than unsubsidised buses.

Subsidies have a negative impact on competition between modes of public transport since not all bus operations are subsidised while they are competing with minibus taxis and other modes of transport. For instance, most unsubsidised bus operators have stopped or minimised their operations due to the decline in revenue, since commuters resort or utilise minibus taxis which are operating without schedules.

Government need to ensure that all modes of transport are catered for within the current transformation programs. For instance in KZN taxi operators seem to be more catered for while unsubsidised bus operators were left out during negotiations for transformation. Furthermore, the provincial Department of Transport need to motivate for increased budget for public transport subsidies with the aim of increasing the number of subsidised public transport routes.

Under transformation: Provincial Department of Transport needs to ensure that proper application of legislative frameworks and laws relevant to provincial of public transport and empowerment of previously disadvantaged individual during implementation of public transport, transformation applies. For instance, KZN Bus Council feels that KZN Department of Transport failed to follow Act No. 5 of Section 41(1) and (2) of National Land Transport Act of 2009 during the identification of beneficiaries for transformation projects.

KZN Department of Transport only identifies taxi operators and subcontractors and left out bus operators who are operating in the same area without any subsidy. We have bus operators who have been operating as subcontractors for the past two decades. They are still regarded as people with no expertise and no business acumen) to handle independent contracts. This lack of transformation is one of the factors contributing to the poor getting poorer and the rich or the main contractors getting richer for almost two decades.

Lastly government needs to subsidise more public transport routes with the aim of increasing the number of public transport operators who are benefiting and will further increase the number of commuters benefiting from the projects. With long terms contracts between government and bus operators the current duration of 7 to 12 years for subsidised contracts, poses a challenge to public transport operators who are not subsidised. It is difficult to operate for a period 12 years without a subsidy while competitor is subsidised. This leads collapse of operators who are not subsidised which will in turn be difficult for them to participate in the open tender process after the period of 12 years.

Competitive bidding on entry and expansion of bus industry will pose a challenge on historically disadvantaged individuals, however, government needs to ensure that transformation is within the law and thus benefits historically disadvantaged bus operators. Government needs to unbundle current subsidised contracts in such a way that they are manageable to emerging bus operators, which will further allow for an increased number of bus operators benefiting from public transport subsidies.

Licensing: Currently we are having challenges with the provincial regulatory entity which is known as PRE regarding application for convention of permits to operating licences. PRE issued a notice that permits need to be converted to operating licences and we follow processes but PRE is yet to finalise our applications.

In conclusion we have been having meetings on numerous occasions with the Department of Transport officials with the aim of ensuring that historically disadvantaged individuals or operators have a meaningful participation in the public transport subsidies but the Department of Transport officials failed to implement transformation of the public transport industry within the confines of the law. Thank you.

CHAIRPERSON: Thank you very much Ms Zondo. Mr Sibisi is there anything that you would like to add to the presentation?

MR SIBISI: Thank you but I think I will just… we will just take questions.

CHAIRPERSON: All right thank you, thank you. Just before I hand over to the evidence leaders, Ms Zondo, I just want to get a sense of the corridors or routes that are currently served by your members. Can you just give us a high level overview of the kind of areas that you are servicing?

MS ZONDO: Thank you Chair. As we have mentioned that we operate within the province of KZN, so I will say it's the whole of KZN because as an organisation we actually got 4 regions which is Durban, Pietermaritzburg, Zululand and Ladysmith. So we've got members in all those 4 regions and in those 4 regions, it's the formation of KZN.

CHAIRPERSON: Can you also give us a sense in terms of the fleet size that your members have just on average, just rough numbers and maybe perhaps the bus size? If you can just give us very roughly…? (intervenes)

MR SIBISI: In terms of our members, as I said before, we do have members who are operating the subsidised services and members who are operating unsubsidised services. And some members are only doing, the hire, the bus hire.

CHAIRPERSON: That is just the hunting.

MR SIBISI: Yes, they are only doing that. In terms of the size of the fleet for our members, it depends from 1 bus to 20 buses, depending on the operation of individual operators. Some operators do have 20 buses, some have just 1 bus. And unfortunately some members, who used to have buses, don't have buses anymore because they can't really compete with the taxi industry and the subsidised contracts.

Our routes are very diversified because you do have operators within the CBD area, Durban, Pietermaritzburg, Empangeni, Lady Smith and then we do have a lot of them in the rural areas as well. We have members in Umzimkhulu, Harding and we have members as far as Mkuze, Pongola. So we don't really have a specific type of route that we operate, there are different types of routes all around the province.

CHAIRPERSON: And roughly how may on a monthly basis, how many passengers do you carry as a collective, just very rough figures?

MR SIBISI: Okay it would be very, very rough because as a provincial structure, all we do is to care, to look after our members needs, we don't really take (inaudible), get into their businesses per se, but I would say because most of them at the moment, they operating with two buses, one in the morning and one in the afternoon; which means it's per month maybe it's about 1 000 passengers, but that is really rough, I can't really give you a proper number.

CHAIRPERSON: Mr Lesofe.

MR LESOFE: Thank you Chair. How many members do you represent, how many members does your organisation represent?

MR SIBISI: At the moment on our database we have about 250 members who are currently active on our system.

MR LESOFE: Okay. And you mentioned that it's extremely difficult for those who operate without subsidies to compete effectively with other modes of transport including the subsidised buses. Are you able to give examples of routes where some of your members were forced to withdraw their services?

MR SIBISI: Okay thank you. I will make an example in New Castle. New Castle has an area called Emmabori(?) where there is like a small industrial area and in that area there is a subsidised service which is Transnet and there are a number of our members who are operating as well without any subsidy.

And most of them have resorted on operating Scholar Transport instead of those routes because they cannot, it's not necessary failing to operate, but there are a whole lot of challenges including intimidation from the taxi industry and the fact that if you are operating a bus, even if it is not subsidised, but you tend to schedule your routes. So if I schedule my route and the taxi… and every morning at 7:00 I have a bus that is moving from township to the industrial area, then there will be two taxis in front of the bus and two taxis behind the bus. So I will end up, a 65 seater bus going the whole route with only 10 passengers. So those are the few difficulties.

Whereas if we were subsidised, for instance Transnet bus service which is subsidised, it's not as big of a challenge for them to do that because as soon as the bus runs on that route, there is some sort of subsidy that the route gets, unlike us, if you don't get passengers we don't make anything.

MR LESOFE: Thanks. And I think you also mentioned that some of your members also say these rural areas, and I think the rural dimension hasn't really… hasn't really come out since we have started these hearings. If you could perhaps take us through some of the challenges that your members encounter when they service, in servicing rural areas. And some of the challenges that commuters would also encounter in all rural areas?

MR SIBISI: Okay. Since we are representing the bus operators I will start with the challenges that are being experienced by the bus operators in the rural areas. For instance in Umzimkhulu in think it's part of our presentation there, in Umzimkhulu was part of Eastern Cape a couple of years ago then it was moved from Eastern Cape to KwaZulu Natal. While Umzimkhulu was in the Eastern Cape there were routes within Umzimkhulu that were subsidised. But when it moved KZN that subsidy was not really put in place so there were operators who are our members who are operating those routes and those operators, that's number one;

Number two, those operators are competing with taxi operators and the bakkies, because that's the… in rural areas that is another challenge, we get a challenge, you compete with the bus operators and the bakkies. And the biggest problem when you operating in the rural areas if you are operating a bus, in the morning you drive the route from the rural area to the small town that is going and that is your end of the route. When you take a bus in the morning you will get about 10 passengers, then everyone is using a taxi or a bakkie because it is not scheduled. They will just wake up go to the road and the next taxi that comes in they take it, they go to town.

But when they are town they will 50kg packets of cement or 50kg mielie-meal then there can't be, they can't use a taxi for that. Then they will come back to our bus. So we have go to town because you know they are going to come back, but only maybe month end during the days of the grant and stuff like that, that's another challenges.

And another big challenge is that in rural areas, the routes are not really conducive for buses, so we are forced to use old buses that we are able to repair by ourselves because it tends to be expensive to take the bus to proper… if you buy a bus from Mercedes and then you say Mercedes is going to maintain your bus, the springs are going to break every month then you going to have a problem.

In those rural areas the roads are very bad, and then as soon as the government improves the roads, then maybe we can… and the routes are tarred, maybe 50% of the routes are tarred now, then we will have a problem because we go… immediately we will compete with taxi industry. So that is one of our biggest challenges.

MS ZONDO: Through Chair if I may just add onto what Mr Sibisi has just said some of the challenges and difficulties that we face as bus operators within the rural areas. He just mentioned one of them which is roads being gravel. It tends to be very difficult because if there is a break down and you need to fix that bus, let's say for an operator who is having must one bus, and you've got a break down yet you have to put the service in place, now how you going to service those people with your bus being broken down. You need to do the maintenance on the bus and you don't have funds because you not subsidised.

And also like right now what the department is busy doing with the transformation it's taking taxi side, the taxi sector like putting it in as well or changing it with the mindset of being in the taxi industry, bringing them to the bus sector. And with that, it gives more of a problem for us because firstly, we were operating without subsidies, now if they bring people to the same routes that we've been servicing and we tend to be losing passengers or commuters because now we going to end up having that competition which we find it's unfair, especially because the taxi industry still keeps their taxis and for us it become lesser and lesser to service.

MR LESOFE: Okay thanks. My next question is just to assess the extent to which rural communities benefit from the subsidy system. I don't know if you can speak to that? So to what extent currently do rural communities benefit from the current subsidy system?

MS ZONDO: If I can just get in there. We believe rural communities can benefit because remember you governed if you are running a subsidised route. So you governed in a sense that at least you know by the end of the month there is something that you going to get and in that way, even with the phase it's not going to be a much because I myself, as Thembile, if I am running my bus, I would put on a price that I will see that at the end of the day it's going to benefit me whilst it is benefiting the community as well.

But now if I have got subsidy at least in that way, the community is going to benefiting because I won't be putting a price that is going to be hard on them as well.

MR SIBISI: If I can add in that, I will say the community especially the rural communities, I will not say the number that of the rural communities that is benefiting at the moment, I will say… I will say it is representative of the current rural areas in the province. Because there are a whole of lot areas that don't even have transport. Maybe there are taxis or the bakkies in this province. I think the number, the number of routes that are being subsidised in the province, it's not really representative of the demographics of the province.

And the biggest challenge regarding that, I think it's because most of the routes, if not all the routes that are being subsidised are still the routes that were subsidised under the previous dispensation. We haven't really seen the current government doing anything in terms of adding new routes, that would be subsidised in order to make sure we reach more members of the community and do benefit within the public transport grant.

MR LESOFE: And so would you say currently rural communities are disadvantaged.

MR SIBISI: Yes.

MR LESOFE: In terms of the subsidy system?

MR SIBISI: Yes.

MR LESOFE: Thanks. Are any of your members involved in the BRT system?

MR SIBISI: Thank you. Yes we have members who are involved the BRT, there is Mr Emphele(?) the chair and then there are parts of the community, we have in fact… (inaudible) BTM. We do have a representative committee within the structure that with the negotiations that they are doing at the moment. We do regular, we do get regular reports from the committee, so that's our representation at the moment. But in terms of identification of beneficiaries that process is as yet, to be finalised.

MR LESOFE: Okay. So it is still unclear whether your members will benefit from the system or not at this stage. Beside the fact that you are given updates in terms of the process, none of your members have been identified as potential beneficiaries.

MR SIBISI: Well as I said, there is, we do have members within the organisation who, we formed a committee of members within the region of the Durban region who are part of Go-Durban. So the other one who are making sure that our members will benefit within the BRT in Durban. Our challenge regarding that, if I can go back; The challenge we had in that, it was how people are being identified to benefit.

Well it's not necessarily the BRT only, it includes the transformation or challenge… when we looked at the National-land Transport Act, it will tell us that government can through negotiated contracts with the aim of readdressing the imbalances of the subsidy contracts and/or BRT or the public transport system. And then the clause(?) says when they talk about affected operators, they talking about operators within the area but then municipality officials and government officials will tend to say, but operators within the route, that was our first challenge which means a whole of our…

When we say taxi operators are being catered for more than us, we not saying that is wrong, we understand that the taxi industry has been running for years without any subsidy, but what we are saying is that we are not being included in those negotiations or in this new developments, because we think, we not saying it is what it is, but we think that the law has been interpreted maybe wrongly because it says operators within the area but only operators with the route are being identified as beneficiaries. That is our biggest challenge within this development.

<u>MR LESOFE:</u> All right. Do we still have time Chair? And then you've also raised an issue in relation to the conversion, conversion of some of your permits to operate, licenses right. I just wanted to get a sense in terms of when was this process initiated and for how long have you been waiting?

<u>MS ZONDO</u>: The process was initiated I think a year ago and since then there hasn't been anything that has happened as much as the filling in of the documentation and submitting everything, it's been sent through to the PRE but there hasn't been any reply as yet. So it's been going on for some time now.

<u>MR LESOFE:</u> And does that affect your members in any way. How does that affect your members?

<u>MR SIBISI</u>: Okay, thanks. This issue of conversion it's been around for… maybe for about 2 years now. It's just that when it came in it was more concentrating on the taxi industry and when we a got a notice at the bus industry that we need to convert our operating licence, our permits to operating licence as well, we started the process last year October. Most of my members started the process last year October. All the members who have conformed with the process did applications and they did everything; they haven't received anything.

Number one the biggest challenge we had is that when you submit your application, they don't allow you to pay for the application that R300,00 that you pay for an application and you get a receipt. They will say, when they need to capture the routes and your application and then they will call you to come and pay that R300.00 then you get a receipt. So now we don't have permits for our buses because of that, because they need original permits in order for them to do that. So that is a big challenge. Some of the members just wanted to do the change of vehicle. So if you are changing the vehicle of the permit, you need to convert an operating licence.

So now you have a new vehicle that needs to come in and the old vehicle is no longer there, but the new vehicle doesn't have a permit because you can't your permit from the PRE, that is our challenge basically, regarding this conversion thing. It is the time that has been going on without we getting anything from them.

MR LESOFE: Just to take you back to the Umzimkhulu case you mentioned that before Umzimkhulu was moved from the Eastern Cape there were subsidy contracts but after they moved, it appears that the operators lost their subsidy contracts, is that correct? Did they lose their subsidy contracts?

MR SIBISI: Yes, operators who were operating there, they lost their contracts because Eastern Cape will not really subsidise routes in KZN. So operators who are working there they lost their subsidy.

MR LESOFE: And what happened to their operations, did they continue providing the services?

MR SIBISI: They continued to provide the service and as difficult as it is, they continued providing the service but the service now is not as good as it was before because most of the operators are operating about 13 buses. I know one operator was operating 13 buses, now they only have about 2 buses that are operating, because of the challenge there that they have in terms of not having a subsidy and the roads have been improved, so there is a new taxi industry in those routes as well.

And there are bakkies, there are lots of bakkies as well that are competing with them. So that's not really as profitable as it used to be to operate a bus in that area now, especially when you are not subsidised.

MR LESOFE: And I assume they tried to involve the two different municipalities the Eastern Cape and KZN municipalities to resolve these issues, right?

MR SIBISI: Yes. As the KwaZulu Natal Bus Council we've… and our meetings with the Department of Transport, we've discussed these issues and the department for the past 3 years, we have been discussing these issues and the department has kept on saying they will get to it, they will sort it out, but people are continuing suffering on the ground for how we are waiting. We still waiting for the department to sort it out. We not saying they will never sort it out or when they will sort out, but every time we meet there with them, we do enquire about it but they have told us, as far as a I know, they did this, they did some sort of research in order to find out if those routes are still…if you can still subsidy those routes or not. So we still waiting on that if there is anything that's going to happen after that.

MR LESOFE: Thank you Chair.

CHAIRPERSON: Mr Ngobeni. Mr Mandiriza. Ms Nontombana.

MS NONTOMBANA: Just one question with regards to subcontracting that you referred to in your submission. I just want to get a sense of how that was done, because it seems that it has not really benefited the operators in the sense that you are saying that they are still considered as not sufficiently empowered, if I can put it like that for them to progress from just being subcontractors.

MR SIBISI: Okay if we can talk about the subcontracting. Subcontracting was not really implemented by the current operators. Before the kind of operators came in there wasn't transport that was operating all over the province. KwaZulu Transport gave 10% of… because the transport has different centres if I can put it that way. There is Durban, there is Pietermaritzburg, the northern parts of the province so they give 10% of different routes to their employees at that point in time.

That was the late 90's. So that 10% worked as… those employees they work as subcontractors within the transport. When KwaZulu Transport was liquidated then the new operators came in. When they came in they were forced to take over the subcontractors to continue the subcontractor as it is. So those people when KwaZulu Transport put them as subcontractors, it was some sort of empowerment in such a way that at some point they would be able to have contractors direct with the department.

But most of those people they are still subcontracting from that and that's the reason why we had a challenge regarding the transformation, because of that, because the government, what the government did in terms of transformation, the contracts that have been finalised. I won't say that they have been finalised but I mean that have been dealt with, in terms of transformation, the government took those people who were subcontracting for a number of years and they used them to… they identified them as beneficiaries of subcontracting in the bus industry. While there are others who are not subcontracting who are just operating, were not really identified. I am not sure if I… I am answering your question.

MS NONTOMBANA: And then in your view, if for example… (intervenes)

CHAIRPERSON: Mic please.

MS NONTOMBANA: Sorry. So in your view if there was to be transformation in the industry, so for example making subsidised routes available to various operators, do you think that there is capacity to take over contracts, if for example there were to be new tenders?

MS ZONDO: If I can answer that one. Yes, I think there is because in that way it will be meaningful for the disadvantaged operators that have been operating without subsidy to come into the industry and it would be meaningful for them as well in a sense that they will be having those contracts. In that way they will be able to get new buses and do their routes, the right way that they are supposed to.

The other thing that hence I mentioned before, that the other challenge that we face is that the routes that we service are mainly bad routes that can keep one going because you will find that most our members are operating within the rural areas, of which it's very difficult to operate on especially if you don't have a contract. And also, it will grow them as well because what we are saying is that at the moment, there are operators which are operating within different areas of KZN but we not saying that they need come out of the system, but we need them as well.

Hence they have been on the system already like to grow us and empower us in a sense that maybe we get our members to get a portion of it maybe you getting.. .we would like 2 or 3 buses but as long as that is subsidised and it will make benefit as well.

MR SIBISI: Can I please. Just to add on what Ms Zondo said. I will say that if maybe we have an open tender system that comes out for these contracts, for these commuter contracts, I think we might have a problem in competing with people that have been operating within the system at the moment. If our members had to compete with them on the tender system, we might have a problem with that. But operating on the ground, if our members are awarded contracts, they (inaudible) be able to operate. But competing within the tender system, in the bidding system that's where we might have a problem, because our members have not been benefiting and from this government subsidies thing.

That has given them... that is the biggest challenge. So now competing with someone who has been benefiting for the past 20 years, it's not going to be easy.

CHAIRPERSON: Ja, just a follow up question on that and this is really just about getting a bigger picture of what is happening in the province. Are your… is the majority of your routes mainly rural and perhaps a small component, will that be a correct characterisation of what is happening?

MS ZONDO: Yes Chair.

CHAIRPERSON: And then the urban routes, which are serviced by other smaller bus operators, these smaller bus operators will be members of for instance, the Newlands Bus Operators Association or the Durban Bus Operators Association. Is that what is happening in the province?

MR SIBISI: Okay thank you. Yes that is what is happening basically. We do have different associations within the major urban areas, and we have very small associations within very big rural areas. In these huge rural area where there is not really much that is happening there so maybe about 4 or 5 routes. So that means you don't really have an association for… a local association. Those people belong to a region or something like that. But in Durban where there is

Phoenix, there's Newlands, there's Inanda, there is south there is north so it's… there are different associations within the Durban area.

And then again within the Durban area, it's not only bus operators who are operating here we are being represented by KwaZulu Natal Bus Council. There are bus operators within the area who are under SABOA *('Southern African Bus Operators Association')*, who are under BOA(?). There are different bus representative structures within the area in Durban. But we do have a lot of members in Durban as well, especially in Durban.

CHAIRPERSON: Ja, no thank you, thank you very much Ms Zondo and Mr Sibisi for your time and for your presentation. You are excused.

MR SIBISI: Thank you.

CHAIRPERSON: We will now take a short break and we will be back at 11:45 to receive the next presentation from Nozulu Enterprise and Events. So we will be back at 11:45.

[HEARING ADJOURNS]

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Session 2

CHAIRPERSON: Welcome back, we will now resume the hearing after the short tea adjournment. Welcome sir, thank you very much for coming.

THEMBA NYAMENDE: Thank you sir.

CHAIRPERSON: There should be a small piece of paper in front of you. You may take the oath or the affirmation. Please switch on the mic.

THEMBA NYAMENDE: I, Themba Nyamende 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 Mr. Nyamende. If you could start by introducing Nozulu Enterprise and Events as well as your role within the organization.

THEMBA NYAMENDE: Thank you sir, I shall do exactly that. Like I said, my name is Themba Nyamende, the Director and Owner of Nozulu Enterprise and Events transport company.

CHAIRPERSON: You may go ahead Mr. Nyamende with your presentation. Afterwards, we will have an opportunity to put questions to you.

THEMBA NYAMENDE: Thank you sir, just a sec. I am still trying to open the presentation from here. Thank you, Nozulu Enterprise and Events hereafter referred as NE was established and registered in 2017 by myself. As part of an introduction, I am born in Soweto, Nozulu Enterprise is a 100% black owned business entity, both in Johannesburg and Durban station. Just, I mean for background reasons. Themba Nyamende is a graduate from a Technikon in Natal in possession of CCMA Commissioner accreditation certificate. He is an environmental health practitioner by profession. A former labour inspector, a former department of labour KZN provincial secretary, entity consultative forum. From a human resources practitioner, from a bargaining council employee, former chief negotiator and convenor of the taxi bus conflict resolution committee which was located in Johannesburg, between Johannesburg and Limpopo province. In 2008, Mr. Chair, I registered a business entity called Nyamende Events and Transport Services. This was after a result of an interest in the public transport industry. Subsequent to that interest, I approached the cross border SBRTA for the purposes of obtaining permits which were to allow me to start a business in the cross border. And the reason why at that time I approached cross border, it was because we had started a taxi business operating between Johannesburg and Blantyre in Malawi and it was that particular moment I then decided following burning of taxis by Malawi government on long distance operations, that is when I then approached CBRTA for the purposes of expanding the business. Subsequent to the operations, CBRTA did indeed grant us 8 cross border permits which allowed us to operate from between Durban, Johannesburg and Lilongwe Blantyre in Malawi. But now, I did not have the funds to actually buy 8 buses. That then led to me approaching companies like Eagle Liner and other bus operators for the purposes of obtaining buses so that I could kickstart with the operation. As a result, again of an interest within the public transport industry and also following some research that was conducted at the time, needs analysis study. I then approached the Gauteng Regulatory Authority for the purposes of operating licences for inter-provincial transport. I duly applied and was granted 24 operating licences for routes starting from Johannesburg to various destinations. Again, for the reason that having 24 permits, I mean operating licences meant having 24 buses, but there were no funds even after applying to various institutions to actually obtain the money to be able to obtain those buses. That again led to me going back to the one of Eagle Liner requesting some form of assistance for the purpose of starting inter-provincial business. At that particular time, I was now driven by desperation in ensuring that these operating licences do not end up nullified because in terms of the law if one is unable to uplift the operating licences 60 days after being granted, those operating licences are to be nullified. Now faced with that predicament, I fell back to Eagle Liner owner and tried to negotiate a business deal that would make sense and give substance to the operation kickstarting.

Now, next slide pleas. I will go further, I mean, I will expand on that particular point. The Commission as a given guide in terms of what these hearings are about and in my presentation, I have actually tried to stick the contents of this presentation to what was given as marching orders by the Commission. Now, bus industry is one of those multi-million rand in the country still unfortunately dominated by whites and Indians. There is very little if any transformation with specific reference to inter-provincial as well as cross-border operations. It is again unfortunately one of those industries where exploitation of black people is still very rife in the sense that the dominating operators or the big brothers of the industry they still continue to employ foreign nationals. Not that there is anything wrong with the employment of foreign nations, but if people are employed for the purpose of exploitation, then that is a problem. It is common knowledge that some of these large or big operators are still using employment agencies to the detriment of the employees.

Again Chair, when you look at the process to obtain operating licences, be it operating licences or cross border permits, the two are not the same. However, the process is more or less the same in terms of the requirements. For an example, you need the municipality to grant a letter saying that yes, place A is zoned for what you want to do and therefore they approve in terms of assisting you in obtaining your operating licences. So, it works more or less the same, internally within the country. Now the problem and this is where competition begins in my view. The Law affords us to approach regulatory entities for purposes of obtaining permits as well as operating licences. That process is fine. The problem begins as soon as you obtain the licence, now you need the funds to purchase buses. On average for a coach you are looking at about 4 million rand excluding VAT. But also, there are other costs like the registration of a new bus costs about R35 000. Every 6 months thereafter the bus must go for service depending on situations, you can end up spending about R17 000 per bus every 6 months thereafter. That excludes the operational costs. For argument's sake it costs about R7000 for a full tank for the bus to go to Durban and come back before you can refuel. That also excludes expenses on the part of the drivers and so forth. Now as a black person in South Africa, there is no way I will be able to compete pound for pound with the likes of Intercape and Unitrans when it comes to finances. Now whilst we have on one hand equal opportunity to participate in the business, on the other hand we have a challenge that we are competing with the very people who benefitted during apartheid. We are competing with the very people who during apartheid amassed a lot of wealth at the expense of a black person and that becomes unfair and it actually tilts the scale of business progress favouring whites and Indians.

Like I have said, the process to acquire cross border permits is at large similar to that of operating licences. The difference is that with the cross border permit, an operator may hire or lease a bus from whomever as long as that bus conforms with the minimum requirements as set out in the Act, but also as long as yes, there is a lease agreement. One is able to then attach a cross border permit to that particular bus. But now, you hire a bus from a company that also operate on the same route because there is no option. You then become a competitor with the very person who is giving you buses to operate. That then creates a situation which if it happens that my business is progressing, obviously I am going to eat on the market. Then owner of the bus decides that now my hiring cost is no more 20000 but it is 25 000. Now those are the challenges with leased vehicle from the very operator who is operating on the same route that you are operating. Now it says I then work for the operator in the sense that a large chunk of whatever that is generated as a revenue goes back to the owners of the vehicle. So, I become basically a manager for the running of that particular buses, then it doesn't make business sense. With again looking at next bullet there, whereas with the operating licences, okay, I have explained that part. If the operating licences obtained through provincial regulatory authority, one cannot attach the operating licences to a vehicle belonging to a third party per bus. Now, that on itself creates challenges in the sense that department of transport is undoubtedly part of the government. The government has come up with laws that tries to enable us to grow in business or establish businesses and so on including ownership of resources. But now, if I am sitting with an operating licences and not have assistance in terms of obtaining means to be able to buy the buses, then that particular paper becomes useless. That particular paper renders me a beggar because the only person thereafter I can go to, to try and start a business owns buses that also operate on the same route. So, this becomes a vicious cycle, it is a serious impediment in terms of the growth of us black people specifically in this particular industry.

Chairperson, again, I have heard mentioning of Fleet Africa, Power House, there is another place CHIGUBHU just next to Park Station, just before Power House there is that facility there used by cross border. These facilities, yes, they are located in Johannesburg and Fleet Africa, from what I know is managed or it is owned by the City of Johannesburg. But there is no way that any other operator who wants to run a proper business, will go to that place. It is a dilapidated facility, that place is full of Zimbabwean buses. Again, there is nothing wrong with Zimbabwean buses being there. What is wrong is the management part of it in terms relations. If for an example we were to operate from Fleet Africa, then there is going to be an operational problem in the sense that APM also mentioned this point, cross border uses, they pull 5-tonne trailers to be able to manoeuvre in that particular area. Secondly, cross border passengers in the main, they come with quite serious luggage issues. You will find that there is luggage almost every 10 metre from the other. And whenever the bus has to turn, somebody must fight to have luggage being removed. But also there are some of the buses who remains there for 2-3 weeks because of mechanical problems. Ablution facilities are certainly non-functional most of the time. So, whilst that particular place is there, unless it is upgraded, at the current form and shape it cannot be used. It is not at all suitable for the usage as a point of either departure or arrival by buses.

South African cross border buses, okay fine, this is another thing. I have decided to include this Chairperson for the purpose of indicating some of the issues which we have to compete with as small bus operators versus the so called dominant and big brothers in the industry. When our buses, I have practically experienced what I have contained here. When our buses crosses the border, our roads crosses via Beitbridge. The moment the bus enters into Zimbabwe, you have no control whatsoever. In Zimbabwe, almost 7km there is a roadblock and the roadblock is manned by one officer, this particular officer will stop 6-7 buses at once, confiscate all the permits for the buses going that way as well as the others going the opposite direction, that causes serious delays. It is happening on a daily basis it is happening like I am saying on an average of every 7km, it is worse during the day. Obviously, as a small operator I can't afford these delays because they impact on the turnaround. Companies like Greyhound and Intercape for example, they don't have that problem. So, one is not really sure what causes that kind of treatment to some operators and not to other operators.

Another form of harassment which hinders progress for us as black people, for example, there was an issue or an incident, a passenger died in the bus. It was just maybe about 57knm after Beitbridge, then I instructed the driver to go to the nearest police. When after that the driver calls me and tells me that no, the Zimbabwean police say take that corpse to Malawi, it is your corpse. That creates a very uncomfortable situation, you have passengers and a dead corpse inside the bus. Now that bus must travel more than a day to the actual destination. The bus arrives in Malawi with that corpse. The officials there tells the driver and the crew that, that person died because of you, you are going to bury that person and make sure that everything is done before the bus returns to South Africa. These are practical issues that affect us as operators. I am specifically talking about my operations because I have personally experienced those kinds of issues. But also, within the context of unfair competition in the sense that if these things are happening, they seriously hamper the smooth running of the business. The competitors are able to flow without any obstacles in their business. In this particular instance, the competitor we are talking about is a white competitor. So, that cannot be ignored. It is also important to say that again, I have heard one of the colleagues in the industry complaining about corruption and so on and so forth. Unfortunately, it is a problem. Around Limpopo, cross border buses are like manna from heaven. It is very rare that a bus will pass the road behind Peter Mkhaba stadium without being stopped by cops. Even if the cop was sleeping, when a cross border bus approaches, he will run like there is a leopard behind him to stop that bus. What then happens thereafter, you will have other buses especially the well-known big companies, they pass without problems. Now, I will explain why I put this because it is within the context of competition. These officers will become immigration officers. Then they will question, why overstay this and that and then they will instruct those passengers out of the bus. There is a delay of about 30-40 minutes depending on how quick that particular person is able to negotiate his way out or his way into the bus. Now this is happening, it is happening, it is just there. Now, that 45 minutes delay, Intercape has already gone past. We were about an hour or so ahead, all of a sudden, we are 45 minutes behind. When you arrive at Beitbridge, there is another 2-3-hour delay because everybody must go through immigration processes and so on and so forth. Now, these kinds of things one does not know whether they are done deliberately or there is something that needs to be looked at because it seriously hampers again the flow of the business and the turnaround and so forth. And also with that, if the bus arrives say at Beitbridge before 6, there is certainly one day additional because you do not drive in Mozambique at night. On Nyamapanda border, wait for the morning before you can proceed. That adds more expenses because the drivers must be accommodated elsewhere and the passengers as well, it is not their fault, they must be accommodated one way or the other. These are the kind of problems and challenges that we encounter as cross border operators. But within the context of the Commission premises versus what then happens to the competitors. Another delaying tactic which mainly affects us mainly as blacks, for an example in Malawi, a passenger will complain that I lost my cell phone or a bag of onion is missing. The police officers rush to the office, they even take the keys of the bus and tell the driver or the crew that unless you pay for that onion, this bus is not leaving. now you have a timetable which says you are departing on a Wednesday at 10 am, but now the bus is delaying because of a bag of onion. On the road you get fines for being late, behind timetable or ahead of timetable. These are the kinds of incurred expenses that I as a small operator cannot afford.

Again, another strategy, I am saying it is a strategy because it appears it is done to basically frustrate the small operators. The confiscation especially in Malawi, the confiscation occur over weekends and this will be on the basis of allegations that for an example the cross border permit produced is a fraudulent document. Now, the only way to prove that the document is not fraudulent is to contact CBRTA. But now at that particular time CBRTA they are not operational. Come the Sunday, you are then told no you can leave. The bus has been impounded between Friday, Saturday and Sunday morning. You were supposed to depart on a Saturday and now you are departing on a Sunday. The moment you cross the border from Malawi into Mozambique, you are going to be getting fines up until

Johannesburg and these are spot fines. Obviously as a small business operator, again I am affected because that hits directly in the pocket of a business which does not have money. It frustrates the intended growth of black business in the industry. Again, another problem is like if and when the bus for an example having a cross border permit in Blantyre and I have another bus leaving for Lilongwe, then along Mozambique one of the buses experiences mechanical breakdown, the law says, the cross border permit dictates where the bus is going, which is fine. Now what do I do with these passengers who are stranded in the middle of nowhere who are going to Lilongwe for an example. I cannot by law take those people and transport them to Blantyre or Lilongwe via Blantyre, because the moment the bus enters either border of Nyamapanda, I mean, the other border of Malawi. There is a spot fine of R10 000 or US$1000. Now obviously again this affects us as small business operators. Whether this happens to the bigger guys, that I do not know but it is something that at times raises suspicions.

Now I am coming to the inter-provincial operations. Yes, indeed it is a lucrative market hence the likes of Unitrans and Intercape are trying very much to prevent new entrants. Now, inter-provincial operations are a playing ground for bigger more financially stable operators. And I am going to say it openly without any fear. Intercape is notorious for preventing any meaningful growth or entrants for black people in the industry. I will explain later. Unitrans which is Greyhound, they also have the same tendency. They are trying their utmost best to ensure that they object to every application for either a new permit even for a transfer. By a transfer I mean for an example, I have Nyamende Events and Transport Service as a business entity, then I decide to start another business which is Nozulu Enterprise. Now, I want to transfer some permits from this business entity to the other owned by the very same person. Intercape objects, Greyhound objects. Then that defeats logic, these are not new applications, these are existing operating licences which are being transferred from one entity to the other. In this particular case, both companies are owned by the same person. Now, it was mentioned earlier on by my colleague in the industry that Intercape has gone to an extent of employing dedicated lawyers and advocates to ensure that because of the reason every Friday a new gazette comes out. They sit and wait for gazettes, every Friday there is a gazette. Monday or Tuesday or before the end of the week there is already an objection to that particular application. Now, that to me indicates anti-competitive behaviour on the part of Intercape in saying systematically they are blocking and frustrating the entrants of new operators into the market. Which is the reason why if I am to make an example, Johannesburg-Durban operations, there are about 12 bus operators. But if u dissect, look into the owners of those operators, you will find that one person owns 3 companies within the 12. Again, of the 12 operators there are only 2 blacks or Africans for that matter because black will also refer to Indian and Coloureds. But specifically, I am referring to Africans in this particular instance. And it is so unfair Chairperson that when you apply for operating licences, it is gazetted. It stays on the gazette for 21 days. Any interested party may lodge objections and so on and so forth. But now, that period comes and goes with an exception of Intercape and Greyhound, there are no objections. The PRE then grants. You get the bus to start operating. PRASA tells you that we do not have a space. How can you not have a space because these particular applications and the operating licences was granted on the basis of Durban station or Park Station being either a destination or a departing point. Now, I have a legal document which says you are operating from A to B. Now, A gives you an office, B does not give you an office. What then happens? It means you must operate from the roads, it means must be at fault with law enforcement agencies. Chairperson, at that particular point of being frustrated by growing the business, one is frustrated by attending meetings in the boardrooms to try and get an office space. It went to an extent that specifically in Durban station 5 months after, I had to cough out R47 000 to build my own office. Now, because I was desperate, I needed an office. Obviously, I had to sign on the basis that my business was being affected by not operating inside Durban station. And it was tiring for me having to pay fines with law enforcement. That's what happened. If we are treated the very way white owned and Indian owned companies, we are not going to be able to make it as a business, we are not going to be able to make it as Africans, as South Africans because the attitude of these other operators is that of ensuring that they maintain the status. It is their conceited attitude to ensure one way or the other even if it means raping the laws of the country. They are doing that. And why I am saying this Chairperson, for a company like Intercape, one will take it that Ferreira is responsible as the owner of the company. In their presentation they are saying that government continued issuing taxi of operating licences may lead to bus industry resembling the taxi industry. That is very wrong. That is a very wrong mentality, because it is the very mentality Intercape is applying to suppress black people. Now, Intercape by that insinuates that if government continues to give taxi industry operating licences he is most likely as a bus company to suffer consequences of market being overflooded, whatever that means. Hence, it is important for me to raise that issue because such a statement is unfortunate and especially considering that the taxi industry gave birth to the bus industry. There is no way that Intercape or Unitrans can come and claim that they are actually pioneers when it comes to the transport industry. That would be – there is nothing like that. We know that the taxi industry started way back before the bus industry. The only bus was railway. Now because of the reason that now I am in the taxi industry, that is unfortunate.

Another point contained on the points to be discussed is PRASA and the usage of the facilities. Usage of PRASA facilities in my view is very appropriate and very strategic in so far as land transport more so all of the facilities are zoned for the transport and the transportation of the people. I understand that at some point the known masters of objection put PRASA to court in order to stop the introduction of the new tenants and the introduction of African operators in particular. I think even presentation by Johannesburg Park Station Vuyokazi I think. She did make mention that Intercape and a group of whoever else took it upon themselves to the plans which were aimed at improving Park Station and also adding new entrants. But now that also display the attitude of Intercape and their friends towards the development of a black person. Fortunate enough they lost the case, PRASA continued and today I am a proud beneficiary of PRASA programme. I am very happy for PRASA. In this country we have got quite a number of laws, Black Economic Empowerment in this particular instance. It was good and fair for PRASA to allow us small operators into Park Station as operators, 100%. What I find missing or lacking is that PRASA being part of our government should have had a program that seeks to address Black Economic Empowerment strategies. Why I am saying this? We are given equal opportunities with Eldos, Intercape, Greyhound. We are told there is a field, go and play. How is the competition going to be fair if you have a situation where the person you are competing with has a muscle big enough of than that of a lion. You become a tadpole in a shark tank. There is no way, there is no practical way we can be able as small operators to pay exactly the fees that are charged by PRASA, we cannot be able to sustain our businesses with the current pay per entry system. That for me says while PRASA allowed us a privilege because it is a privilege to operate from Park Station. They should have been an additional clauses or additional programmes in place to assist. I am not let us be given handouts, I am not saying that. But what I am saying in line with Black Economic Empowerment, certain strategies and policies have to be put in place to assist us to grow. I 1st have to struggle to get operating licences, get 4 million to get a bus, struggle to pay rentals, I have to employ stuff and operational costs and overheads. Now all of those are very similar to companies that have been operating for donkey years. So, such a situation provides an environment or a field which is not equal when we strictly dissect the equalness in terms of being allowed space to breath and grow for an example, instead of being thrown in the same boat with the big guns. In line with the BBBEEE Act, it is our submission that PRASA should have put in place a programmes that I have already explained. There is a definite difference in terms of equal opportunity and equity and equity talks to BEE. You provide me with an opportunity, there is a law which say there must be programmes in place to assist me as a serious business person. That is the intention of the Black Economic Empowerment Act. That is why I am saying Chairperson that the absence of equity puts us as small business operators at a disadvantage because we are pushing, we are actually swimming upstream so that we are able to be on top with the very other operators that we are in the same boat with. So, that is unfair and that leads to some of us owing

PRASA rentals or loading bays and so on because we are unable to keep with that. It is not because we are failing, but the expenses become so much that one is unable to keep up with the required expenses. I mention on the presentation that the big operators are complaining against R480 per entry per bus at Park Station. The fact is that they can afford, that is a fact. And the reason for them to be able to afford is they have quite a large number of buses, the 450 per entry per bus to an established operator, yes, it is money because they have to take money from pocket to pay PRASA. But for such operators to say they can't afford, that is misleading. However, that is an issue we are also concerned about that. Suppose it is true, a small guy like me if those big companies say it is heavy o pay that money, it makes it impossible for me to pay that money. So, that is where we are having an issue in having that particular system in place.

Chairperson, I think that slide it has been, I have clarified. I believe it was a good idea for PRASA to do away with long-term leases. Yes, this is another strategy that white people used before. They will enter into long-term leases as a strategy to prevent any other entrant into the business. So, for PRASA to have done away with that particular arrangement, it deserves a round of applause. We find it inappropriate and unfair that the likes of Intercape and Unitrans which is Greyhound have been allocated offices next to each other as with the case at Durban Station. These white people are ganging up. They are ganging up in such a way that they position themselves as the only appropriate, capable operators. Now, if you look at one basic marketing strategy, you have Intercape for an example at Johannesburg Par Station Office number 1, Greyhound Office number 2 very visible. Then we call that particular area Saxonwold, except that there is no shipping. Now, if you move towards the right-hand side depending on how you are looking at Durban station, you will look at the ticket sales at cubicles, you will now begin to see the likes of Zonkesizwe, the likes of KwaMashu and so forth. The offices are becoming smaller and smaller, some operators are sharing cubicles. Whereas Intercape and Greyhound, you can see them 2km away. Then when you are looking for Nozulu, you need a microscope glass to see them. So, that is unfair because they are given preference. They are given preference during apartheid, they still have preference even today. It can't be fair. Now you are told when you raise these issues that they have a bigger fleet and so on. They were not born with a bigger fleet, I also want to have a bigger fleet. But now you are pressurizing me to remain in that corner which is unfair, it stifles my growth, but also it limits my participation in the development of the country as a black person and as an African. It is our submission Chairperson arrangements to empower small operators are required so as to sustain sustainability of up and coming operators. BEE is indeed is pragmatic growth strategies to realize the country's full potential by bringing the black majority into the economic mainstream. And we are saying that PRASA on top and above the good that they have done, they also need to realize the practical means that government's approach is to situate black economic empowerment within the context of the broader national empowerment strategy focused on the historical disadvantaged. For me, that is self-explanatory if one looks at the contents of black empowerment. It doesn't really help for us to have these kinds of acts but not put them into action. Current bus billing at Johannesburg Park Station is not flawless like any other human made programme or system. At the begin the beginning the entries were done manually and was open to abuse and at times buses will not be recorded as having departed from the facility. We have also received a bill on vehicles not belonging to us e.g. Falcon bus operators and a bus registered under our name and that created a challenge for us. With that, what we are trying to allude to is the fact that look, as much as there are systems that are put in place, one must accept the fact that PRASA and at Johannesburg Park Station, they have got responsibility to generate revenue. That cannot be argued, it is a business. And the issue is how that is attained or achieved and leniency on the part of PRASA will assist, one in terms of educating us as small business operators because I cannot claim to be a Fundi when it comes to whatever management issues within PRASA. I am a bus operator. We need at least PRASA to bring us along in terms of certain policies and principles that are contained within their programme. That is part of growing us and bring us to speed. In no way saying for an example that everything is wrong, that will be wrong for me to be saying that. What I am saying is that my plea is for PRASA will have these programmes in place so that we as black people and small business operators are able to understand things for what they are.

Another point Chairperson I wanted to express or briefly discuss, during the presentation, there was a statement to the effect that buses leave Park Station full and therefore there is no way that an operator will fail to pay 480, that is not true. Aa number of operators have alluded to the fact that look, in the bus industry, we have got 3 seasons which is December, Easter holidays, school closures. Those are busy periods for trading. Anything outside that period at times a bus will leave Durban station to Johannesburg with 22 passengers. Now those 22 passengers sometimes they are not even enough for fuel. There are those kinds of incidences or periods when the season is very dry. So, it is not necessarily correct or assumption that whenever the bus is on the road, it is full of passengers. So, I just needed Chairperson to clarify that part because that is one of the reasons that small operators find difficulty to maintain the payment of 480 per bus per entry. So, that is an issue that I felt I need to bring to your attention. Moving into licencing, operating licences. I think I did earlier on make mention that it is easy to obtain operating licences and I would assume that Commission heard quite a lot in terms of procedures and so on. I am not going into that. Sticky part here is abuse of law by Intercape and Unitrans, I don't even know who owns Unitrans, at least Intercape is owned by Ferreira. But those characters have got tendency of objecting all the time. Like I said earlier on, you are applying for a new route they are objecting, a transfer for operating licences they are objecting. Just for interest's sake Chairperson I have in front of me objections that I failed to deal with last year. Intercape, I have Unitrans. Now I have here a Johannesburg High Court matter. I am a small business operator, I can't afford advocates as Intercape and Greyhounds are doing. But, this is an indication of their attitude towards ensuring that you as African shall not progress while you are still here. And unfortunately, the law allows for objections from any person who has got objections. What kind of an interest, we do not know. It could be any interest, it could be frivolous, it could have substance. You know it is like saying to your loved one till death do us apart, but you do not say who is going to die. It could be my mother's death, it could be your death, I do not know. But it is the same kind of attitude that I understand that specific clause in the act could be saying. These two, actually Chairperson just from record purposes there are 3 objections from Intercape and 2 from Greyhound or Unitrans. Now, if for an example we have got weak-hearted aspiring business people who are black. These kind of activities, they actually drown you. They frustrate the daylight out of you. This is costly because it involves advocates. In one instance I paid R40 000 for the advocate, a matter was then withdrawn a few hours before it went to court. So, you cannot go to the advocate and say bring back my money because you did not represent. Now, one needs to understand that the nature of the beast that we are dealing with very huge and very canny and they use the law to frustrate. That is a fact. There could be very fancy explanation and right to exercise of law and so on. Fine, let's go to Black Economic Empowerment because that is the tool which allows me as a South African black African to exercise that right to establishing a business and be able to sustain the business. Now, that right is infringed in my view because of these kinds of tendencies because this is a tendency. If I was Julius, I will have a much more emphatic way of putting it as a tendency, but it is a tendency. Now, this tendency is allowed to continue perpetually despite the fact Chairperson we have officials employed in positions of influence who are supposed to be looking into these matters and dealing with them within the context of a mandate of that particular office. We seem to have a disconnect in the implementation of the existing laws which seeks to promote our existence and the development as black people. Now, it is unfair Commissioners that you would allow us to be under a pressure cooker as a result of these tendencies. They can camouflage whichever way, but the fact of the matter is that their actions serves nothing but to prevent or to frustrate the entrants of us into the market. But with that, we have got government bodies which any position like to give us finance to purchase buses and so on. You end up feeling like you are dealing with First National Bank or you are dealing with ABSA with what they end up wanting from you. Then you begin to say, but look, as much as government cannot just throw money, there is a business plan, there is proof of financial statements and what have you. But still, we do not get joy.

CHAIRPERSON: Sorry Mr. Nyamende, I cut you off unintentionally. It was not my it was not my intention, but you can switch on your mic. I just need an indication as to how long you will finalize the presentation. We also want to allow time for questions.

THEMBA NYAMENDE: 10 minutes sir. I have spoken at length concerning PRASA and the operating licences. The main issue there is that of the law being used to object new entrants. Can we go to price regulation please? Chair, the ticket prices in the industry is basically used by big operators to push small operators out of business. This was also confirmed by one of the operators at least. It is our submission that the ticket price actually exploits the consumer. Why I am saying this is because for an example again, you have a bus operator who charges R340 a ticket from Johannesburg to Pretoria in the morning and then midday or afternoon the very same operator charges 1 49. Now, why so much difference one may ask? Why when there is another operator on a same time you are loading you then drop your prices to below market? Others go as below a 120, but at the time slot where there is no other bus loading, the tickets shoots up. So, if it is not exploitation of our people, then I do not know what it is. I have went on to say as an example, poor South Africans are like dinner plates. You know at the restaurants you put a plate and then from there you are expecting food and the food becomes black people feeding these white companies.

On the transformation on the public transportation, transformation, it will also be expected that some sections of population are indifferent to issues of transformation and apply every trick in the book to stifle, hinder derail and even prevent substantive transformation. I have made points on that particular issue. Reasons for transformation in our country, I have already spoken about 12 operators between Johannesburg and Durban, we can pass that slide and that it is dominated by whites and Indians. We are saying that there is a need for government consider subsidizing small and black operators because being granted operating licences does not mean one will be able to buy buses at the cost of 4 million each. Some operators are swallowed by established operators on the basis that black operators are finding it extremely difficult if not impossible to obtain money. African operators are in the main forced to enter into compromising business transactions with unfaithful established operators who at a later stage, stage a hostile takeover especially when they notice a smaller operator is chipping on their market share. At times we are being told by established operators to ask money to buy buses or service debts from President Ramaphosa or offered positions as General Managers. Chairperson, this is very serious. I am saying serious within the context of competition because personally, I have been told that if you want money to buy buses go to Ramaphosa. And I objected to that but this particular person or operator insisted that there is nothing wrong. You want to compete with me, you want more buses go to Cyril Ramaphosa and ask him to give you money. So, the4se are the tendencies. And then secondly, you will be told like I was told that you have cross border permits, but they are nothing because you do not have buses. I have got buses. What I can do for you to survive, I will employ you as a general manager, I will give you the office you want, I will buy you and then you become my general manager, you become my face. If and when there are meetings of government and tender issues, then you shall become the face of Mr. Govender. And then I say no, I can’t do that. These are the kind of challenges because they then prevent growth and those people with muscle, they remain with their muscle and status quo continues.

Chairperson, it is misleading for anyone to even insinuate that taxis, I think I have mentioned taxis not meant for long-distance travelling. I find this statement insulting because for anyone taxis cannot operate long-distance, that person is either stupid or naïve, there is nothing like that. Taxis having been operating ever since some of us were young, we grew up in that particular environment. These bus operators who want to create a picture of saying taxi bus operators are a nuisance, that is not correct and that must be corrected Chairperson. I needed to raise that issue as explanation that it does not come from the industry. Chairperson, thank you very much.

CHAIRPERSON: Thank you very much Mr. Nyamende. I will only allocate 10 minutes strictly for questions so that we can take the lunch adjournment and hopefully we will be able to start much earlier with the next presentation from the provincial structure of SANTAM. Mr. Lesofe.

ITUMELENG LESOFE: Thank you Chair. Mr. Nyamende’s presentation is quite comprehensive, so I have very few questions. Thank you for the presentation Mr. Nyamende. My 1st question is in relation to the high court matter that you spoke about earlier. Can you give us some detail of what this matter is or was about and what is the status of the matter?

THEMBA NYAMENDE: Thank you Chair, allow me not to go very much into detail because the matter is still sub judicae. But the matter is around ownership of buses and also around the contract I signed with one established operator where after he decided to just withdraw or cancel the contract without following procedure to the detriment of the business.

ITUMELENG LESOFE: Thank you sir. In terms of the loading bays at Park Station, would you say currently there are enough loading bays for operators

THEMBA NYAMENDE: For me, the bays are enough. But what happens, you find one operator taking 6 or 7 buses at once. That then creates a problem because the other operators are unable to access some of the loading bays because they are being clogged by one operator. But the space if properly managed, it is reasonable. And allow me to continue to say that in so far as Park Station, the procedure and the standard through is that if you come as a new operator, your timetable will not be the same as an operator on a particular time slot. There must be a difference in time. Maybe one bus is there at 9:00, the other one is there is there at 9:30, something to that effect. So, if that is managed properly, the space properly then there is no problem.

ITUMELENG LESOFE: I also wanted to get your views in terms of the loading bay that is exclusively used by AUTOPAKS. I know they use it for different routes that you don't operate. But do you have any views in relation to that.

THEMBA NYAMENDE: Chairperson, that kind of arrangement with the explanation given that, that for an example it was a private arrangement between PRASA and IDT if I remember correctly. And that then becomes that kind of arrangement. So, for me to comment on the basis that it being appropriate or not, I request to reserve my comment.

ITUMELENG LESOFE: Okay, no problem. And then in terms of, because you have raised concerns about the price war or the price regulation conduct that seems to be affecting the Johannesburg Durban Route, I just want to get a sense in terms of the impact of the price war, to what extent are you affected by the price war? In one of your slides I think you reference or you identify Intercape as one of the culprits. Is it just Intercape or there are other operators who are behind the price war

THEMBA NYAMENDE: Okay, I will use Intercape as a practical example because there are facts to prove and also when you look at the timing of variation of pricing, it is common knowledge Durban station for an example, if and when there is competition on a particular time, Intercape drops the prices to below, like now I am told it is 120. You can't operate a bus from Johannesburg to Pretoria at 120 and expect to make business from such transactions. Now what that does, because of the reason that Intercape has more buses than Nozulu when we are operating, they then will be able to push more buses when they are operating. They will then push more buses so that this Nozulu bus ends up not leaving Durban station. that is the system. I have referred to it at some point as economic terrorism, that is what Intercape is applying together with Greyhound. Terrorism in the sense that their actions are frustrating the progress of the government. Remember terrorism, it doesn't have to be by definition be bombs and guns and so on. It could be a systematic conceited effort to frustrate. So, this is what is happening as a strategy. So, their system of fluctuating ticket prices, it works on us as small operators because I can't charge 120, that is far below the market. But, because of their financial muscle, they are able to do that, to frustrate us smaller guys.

CHAIRPERSON: You have 5 minutes Mr. Lesofe.

ITUMELENG LESOFE: My last question Chair and I am asking this question just out of interest. If you look at the commuter market right, government is trying to transform the market through the BRT system and so it tries to use taxi operators, so, it converts taxi operators into companies which are then required to run a commuter bus services. But one of the issues that has been raised is that taxi operators don't really have experience and expertise to run bus operations. With your experience, knowledge in the industry, will you be interested in being involved in the BRT operations to assist in the transformation.

THEMBA NYAMENDE: Okay, Chairperson in response to that, I am proudly a product of the taxi industry. I know taxi industry, I have been there. I left taxi industry, not because of war zone or anything like that. It was through discussion with my elders in the taxi industry itself. Now, it is one side correct to say taxi operators do not have a particular experience or skill. However, no one is born with experience. If the government is serious, then it means allow the taxi industry to identify people that can represent the taxi industry so that the realization of the BRT programme is actually much more understandable. But if it is imposed then that creates problems because surely being a product of a taxi industry, my father is a standard 3 drop out, so as many other prominent people in the industry. However, they have taken us to school. Some of the things we are able to understand better. Now there is a responsibility for the government to say okay fine, this is the problem that we are coming up with and the targeted group is these kind of people or calibre and then have a strategy which marries instead of frustrating. That will be my comment.

ITUMELENG LESOFE: Thank you very much Mr. Nyamende.

MR MANDIRIZA: I thank you for your presentation. I just have one question, I think it relates to objections. Currently, you have cited 2 operators that continuously object. I just want to find an impact. Let's say one of the operators decide that they will stop objecting for an example. Will that help you in any way or you need both. I just want to get a sense whether that will have a little bit of an impact?

THEMBA NYAMENDE: Chairperson, it will have an impact. Let's start this way. If one applies for one operating licence, there are costs, you pay whatever that is paid as per the PRE's or issuing authority and it gets gazetted. By the time it gets gazetted you have already spent money. Then comes X objecting. That then frustrates, you need to get money to pay the lawyer if you are paying the lawyer and so on. And it does have an impact in that particular space. Also, what is important is even if there is finance to buy a bus, I cannot buy a bus before I even have operating licences. So, I must 1st have operating licence and then I have 60 days to get a bus. Now, yes, absence of objections will then assist positively.

MR MANDIRIZA: My last question is on the objections that you currently facing. Did these two operators object on the same route, both of them at the same time or it was in different routes?

THEMBA NYAMENDE: Chairperson, one of two objections are of the same routes.

CHAIRPERSON: I think we will certainly obtain further details from you, but thank you very much for your time and for a very detailed presentation, we really appreciate. At this point we will take a short lunch adjournment and we will resume at 13:45 to receive a presentation from the Provincial SANTACO. So, we will be back at 13:45.

Session 3

CHAIRPERSON: We will now receive a presentation from the Provincial body of SANTACO. Thank you very much Sir for coming and welcome to the enquiry.

MR SHANGASE : Thank you Sir.

CHAIRPERSON: There should be a piece of paper there in front of you. You may take the oath or the affirmation.

MR SHANGASE: I, Sifiso Shangase, 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 Mr Shangase. I think you can just start with briefly explaining your position within SANTACO and then you can then take us through you submission, afterwards we will have an opportunity to put questions to you.

MR SHANGASE: Once more, greetings to everybody. My name is Sifiso Shangase. I am the Provincial Office Manager for SANTACO in the province of KwaZulu Natal and before I actually dwell much on the presentation itself, the leadership of KwaZulu Natal would like to convey its appreciation for this session and they also said I should basically apologise for them not being here today but by virtue of them sending us, it is a clear indication that they are supportive of the initiative.

CHAIRPERSON: Thank you very much Mr Shangase.

MR SHANGASE: Before then I go into the content and the gist of our presentation I would probably want to give you an outline of how SANTACO is formulated in the structure in the province of KwaZulu Natal.

SANTACO is having 242 associations in this province and we also have 16 regions and there is also a provincial Executive Council which is formed by Chairpersons of these associations in the province of KwaZulu Natal and there is a political office bearer composing of 7 individuals that are voted into the offices every 4 years and we also have a woman's desk in the province of KwaZulu Natal.

The achievements that we have been able then to ascertain as SANTACO in this province even though there are various challenges that we are faced with, SANTACO has got 12 freehold offices that are owned by the entity itself, we also have 34 "shlongonbela" vehicles that are ensuring that our roads and our mini bus taxis which are on the road are basically roadworthy and in terms of accountability within this structure itself, because we are a democratic structure, we have got standard meetings that are held by the PEC on Wednesdays to ensure that the programme of SANTACO is looked into as well as members are able then to account for the programmes that they are entrusted with.

Because we have a training academy in the province of KwaZulu Natal which is called KZN TCC, and this academy is intended to train the drivers as well as the operators within the province and they have adopted a train the trainer concept so that you are able then to fulfil our mandate as SANTACO in the province. And our facilitators are basically ex-teachers who are also within the taxi business.

We have recently conducted an audit of our own because the intention was to also improve the administration. We have ascertained that some of the challenges that we are faced with within the province is basically that administration itself in these offices that we owing and the gist of this audit was basically looking into the office infrastructure, the finances of the regions within SANTACO permanent staff because we would want to conform to the prescript of the law when it comes to Labour Relations Act as well as regional matters.

Coming to todays' presentation now Chairperson, we submitted a document to you. We as SANTACO strongly feel that any competition is good provided it is done in a just and fair manner. In order to achieve such a provision of fairness and justice it is imperative that all role players in the particular sector are treated the same which enables healthy competition which is based on how one's product is marketed providing a wide range of choice for the consumer. The focal point of our submission will be on the mini bus taxis. This land transport mode is used by the majority of commuters in South Africa, especially the black South Africans whose majority is poor and unemployed. 70% of these public passengers board our mini bus taxis to commute from home to work and vice versa.

In terms of operating licences it is basically the prerogative of PRE which regulates the issuing authority to the applicant who utilises the routes. The route authority that is being given to us is called an operating licence. The mini bus taxi operators are business individuals who are transporting individuals and they are also seeing an opportunity in any way or the other and when there is a development which is being done by Government, taxi operators then see an opportunity to commute commuters. During the past few years the Government has had a moratorium in the province and I think it was basically a blanket moratorium that has been issued by the Department of Transport, in fact in the entire South Africa. But in the province of KwaZulu Natal we went through the NLTA and we saw a loophole on that moratorium that was made by the department. It was saying, no issuing of operating licences in the province wherein to which the NLTA articulates how the moratorium should be instituted was totally different to what was done by the province because the province was saying we are having a blanket approach, no operating licences in the province hence the provision is not the same. It says the planning authorities are the one’s who are able then to determine whether the infrastructure is able to accommodate mini bus taxis and on those basis we engaged our Government and they did then adhere to our call because we were able then to remove this moratorium but the effects of the moratorium after it was initiated, the majority of our people had bought mini bus taxis because they themselves are entrepreneurs. If they see an opportunity whereby people have got to be ferried, they would purchase mini bus taxi to do so and at that particular time if Government is not issuing operating licences to authorise them to utilise those routes, who was then going to be playing that role and responsibility to ensure that communities are ferried to their respective destinations. We then took the opportunity.

Currently, we have with the Department of Transport, decided to have something called Phase 3. This Phase 3 is now trying to address the imbalances that were created by not issuing operating licences and so far Phase 3 is doing very well because we are not introducing new operators into the system but we are saying, those individuals that are currently having battles which were bought before the time when we agreed with the Government to institute Phase 3 should bring forward their vehicles with their registration numbers and these individuals should be members of current associations, not new members and we are dealing with this Phase 3 with the Department of Transport and it is basically yielding positive results. But the concern is the law enforcement agencies because there is this disjoint when it comes to various spheres of governance between the Provincial Government and the municipalities. We make decisions at a provincial level with PRE and then they are not properly cascaded to their constituencies which are these burning authorities which will then in their way frustrate the programme because some of them at local municipalities don't even understand what this Phase 3 is all about and then that on its own then puts taxi operators into a tight corner because they will find taxis that has been impounded. But currently what we have done now, we have agreed that there is going to be a master copy, a master copy for all those operating licences that are being processed through Phase 3 and they will be cascaded down to all these local municipalities. Sometimes you might find that some of the municipalities don't even have access to the master copy.

In terms of the requirements for one then to become a member in an association, there's all our associations have got basic constitutions that they operate within. These constitutions then enshrine and they basically explicitly put across the requirements. Some of those that I will probably mention is a person will be required then to have a title deed within the vicinity of the area where he is going to be operating. A person has got to get a support of an application from the current members because an association is the body that is ensuring that within the particular area, to minimise confrontation to be able then to put stability within the area of operation, we ensure that associations are there so that they basically play those roles. There is a specific joining fee that a person has got to pay. We also want to see a three months' bank statement so that we ensure that the various individual is the one who is purchasing the vehicle as well as the log books.

These are some of the things that we look for which are basic but then associations are also given their own discretion to be able then to add other requirements if the need arises. Well in a situation whereby you find that the routes overlap, there is basically a provision within the operating licence when one is applying, it is very much explicit then to determine that this particular association, (a) is required to drive through a particular route without picking passengers and then the other will be given an authority to pick up and then drop off passengers. In an other instance is we have operational agreements within and amongst ourselves as the taxi operators to ensure that there is smooth running and peaceful manner in to which the business is being run.

But now, there is this long distance phenomenon that is trying to come into our fore of the taxi industry and probably this is caused by the saturation that is in the industry itself whereby commuters in a way might be affected because if one is having a special trip you need to get a special permit from PRE. Certain people within the industry itself are now adopting a wrong philosophy and phenomenon to say if one obtains a special trip to go to a specific area with which he or she is not operating then it now starting to cause ruptures within and amongst the taxi industry because people are saying if you don't operate within along distance you cannot be then in a way be able to ferry your commuters on a long distance route. But the difference is in this particular instance, it is basically a special that has been directed to an individual on the basis of how that looks on the basis of how commuters strongly feel that they will be save if they use that particular vehicle for that particular individual.

In terms of price setting mechanisms, the taxi industry has a challenge in determining a fare that is profitable to the operators on a particular route. We are basically guided by expenses in care to run the business taking into account also the plights of poverty and unemployment that is faced by our commuters. There is no scientific formula that we are using to determine the fees. The fees are revised once a year on the 1st July in this province of KwaZulu Natal every year. Even if the petrol price fluctuates during the course of the year but the fares do not do so. They are basically revised as I have articulated and as this is per PEC resolutions. We would always call a structure which has been burnt now, it is the PTPA. This structure has been there for the past few years representing public transport passengers. We would always engage with them three months prior but it has been a standard practice that on July 1st here in KwaZulu Natal we have a fare increase. This fare increase is placed in a manner whereby the short distance operators are given a discretion to have a minimum increment of a Rand and then the long distance operators, they are also given an opportunity then to engage themselves as well as what various stakeholders to determine a price that is going to be suitable for them in reasonable in terms of the operation. I still reiterate that the above method is not scientifically justifiable within its nature and within the leadership itself there is a strong feeling that a scientific methodology has got to be adopted whereby we will have to use the expertise of individuals who are financial planners or individuals who are able then to determine finances or economist to be able then to assist us in terms of ascertaining of whether the current amounts that we are charging, are they really profitable or not but from our own assessment we could say that they are not profitable because the majority of our people's vehicles are repossessed on a daily basis because they business itself is becoming saturated and is not yielding the positive results of profitability so that it enables then to sustain itself.

This difference in pricing has a huge impact on competition between various mode. Our major concern is the mini bus taxi is that the majority of the commuters that are using other land modes of transportations, the commuters are subsidised and when it comes to us as the mini bus taxi with whom we are transporting 70% of commuters, there is no subsidy from Government and we strongly feel that this particular competition is very much unfair to us as a taxi industry.

In terms of transformation. Transformation within the taxi industry is at a slow pace. It has been realised that change is painful to others however, it is a painful need. The taxi operators across the province continue to voice the desire to real economic emancipation. Change requires concepts, effective strategies and money to deliver. The taxi operators need to unite in a common effort to bring new energy and ideas for the challenges facing the taxi industry and also engage in the outcomes of the industry's future.

The other important aspect to be able to achieve the above is the competency of our leadership. The leadership overall is lacking in skills and capacity. This extends to managerial, financial skills and technological skills which are extremely relevant during this transformation phase. And the informal nature of the taxi industry prohibits the taxi operators to enter into a range of business opportunities. This is due to the structure that is existing being a family business, running formally, lacking in management and financial systems. Fortunately we have been able then to identify such as the taxi industry ourselves and we have a training academy. These are the things that the training academy has got to address which means as a taxi industry in the province of KwaZulu Natal we are not saying Government should do this for us but what is it that we are doing for ourselves should be able then to empower our own but we will also need Government's intervention as well because there are certain other aspects within transformation that would want Government then to participate into so that we realise that this transformation that we are intending to have within the taxi industry. This then creates a fragmented structure which limits opportunities to explore and capitalise on business opportunities which would benefit the taxi industry as a whole while the top five inputs in the taxi industry as well as the suppliers of them are:

1. Fuel retailing and distribution by all companies
2. Automotive parts, retailing and distribution
3. Transport and logistics
4. Property development and management insurance

These are some of the areas we tend to think that if the industry is transformed properly and correctly, mini bus taxi operators should diversify and form part of those and be owners of those.

The fragmentation of the taxi industry makes it difficult for the industry to procure the opportunities that exist to explore develop and implement, the meaningful triple BEE deals and equity. Franchise arrangements in the commercial developments opportunities form an integral part of the public transport activities. The industry buying power could easily enable the industry to purchase service stations, spares required to support its own operations. Our industry is in the epicentre of this triple BEE, it’s the only 100% owned business in South Africa that one could say we are certainly sure it’s part of a triple BEE industry but it is the one that is basically suffering in terms of Government’s intervention and we say transformation is only not necessary but it is critical to be able then to sustain this industry for the future. When it comes to planning authorities and challenges that are faced there, Government has promulgated that 12 cities in South Africa have got to have an integrated, rapid public transport network which is called BRT. We know for a fact that transport planning is delegated to local municipalities to take responsibility for developing their own transport policies, strategies and plans based on provincial and national guidelines. The issue of concern is the capacity of the Government officials in these municipalities. The current national policy and legislation for public transport is mainly focused on the structuring and existing services. In urban areas, the Police and legislation pronounces on developing high capacity corridors to be serviced by bus or rail transport supported by taxi collect or distributor routes, serviced by taxi and/or bus transport. This restructuring implies that there is going to be an increased role for bus or rail operations with a reduced role for taxi services. The above clearly means that routes are competing with the new trunk route services that are going to be discontinued. This has a direct impact on many of the services operated by the taxi industry. This kind of a competition is indeed going to be unhealthy to us as taxi operators. As much as the provision says we are going to be compensated and with that compensation you are having three options, the first one is stipulated that you need, if you are interested, you buy shares in this bus operating company that is going to be created or you take your compensation and then you look for another business opportunity or you rather compete with the system but we strongly feel that we are not going to make it if we compete with the system.

Concerns that are raised by us on this RPTN or this integrated transport system is the duration of time when the operator participates in the new bus operating company. 12 Years is deemed too little taking into account the years that different operators have been operating. Another concern is the compensation model. There is no structured model. Different implementing cities come with their suitable models which in other cities disadvantages operators intending to exit the operation. Implementing municipalities have to ensure sustainability of the new bus company in order for such to happen effectively and efficiently, the only best way is to minimise competition and make as much profit, that’s logical. If then you try and compete with this, Government will renew you. They will have to remove their competitors so that the business is sustained because there are huge loans that they are going to incur. We strongly feel that enforcement agencies will also harass mini buses that are going to be trying to compete with the system, they will impound them and they will not even renew the rank stand permits. The renewal of operation licences has become a steep hill with various discretionary provisions added by adjudicators which then prohibit easy access to operating licences as an authority. In certain case scenarios due to inefficiency of the system to renew operating licences, the documents ending up expiring within PRE and eventually during adjudication an operator is told to bring along active documentation which is very much unfair for the operator because during the time when he was submitting all his documentation they were not expired but due to inefficiency within the PRE system and its own employees you will find that the documents expire within and then it now becomes the burden of the operator to go back and renew or get new documentation which is cumbersome in a way. You talk about SARS and I believe that some of my colleagues who have been before me here have mentioned some of these challenges that you are faced with.

Previously PRE was centralising the province of KwaZulu Natal, it was in Pietermaritzburg but fortunately with the engagement we have had with Government, we have been able now to decentralise PRE which has been good for operators because you would find that an operator will travel to Pietermaritzburg in order to find that there is one document that was missing and that particular individual was then referred or then returned back to his respective destination and that individual would have to travel about 360km going back for one single VIN but fortunately, our Government had heeded our call whereby now we have decentralised PRE, there are satellite PRE offices within and around KZN. We are basically now pushing for Durban to have its own PRE as the capitol of KwaZulu Natal because Durban has got about 102 associations in the province of KwaZulu Natal.

Service contracts, access to infrastructures and terminal facilities. The ownership of the rank facilities rest with the planning authorities. The local municipalities provide rank facilities and the associations using this facility manages them. This is one area where the taxi industry can be able to explore the opportunity to manage and service infrastructure. These services are normally outsourced to private entities whereas the taxi industry has a vast experience in this regard. Planning authorities do not have the data and the capacity of an information relating to these ranks. Some basically issue rank stands as a means of generating income for the municipality.

Contracting relating to bus operations. As part of empowerment we strongly feel that Government has done some part in terms of empowering our own mini bus operators because some of them have been empowered to own buses but we strongly feel that these bus contracts which have long expired and are extended on a monthly basis due to negotiated contracts between the Department of Transport and the service providers are in a way illegitimate and they are also unfair to other operators like for instance the taxi people who are intending then to form part of this bus operations. The rates have not been reviewed for a long time and new entrants to the service will not be able then to sustain such services with such rates and without proper finance muscle. The companies that are currently providing the service have monopolised the service. In terms of empowerment, taxi operations have been promoted to bus operations in certain contracts that have been negotiated with bus operators with the assistance of our Government. This is indeed a clear monopoly because these contracts have not been subjected to competitive bidding for a long time.

In conclusion, indeed competition is good if it is healthy, the above information paints a picture of unfairness and unjust competition directed to the mini bus taxi. The commuters boarding taxis are not subsidised whereas those using other land mode of transportation are subsidised. The effect of blanket approach moratorium has had a negative impact on the mini bus taxi services, the price setting mechanism is also a challenge for this taxi industry. There is no scientific formula to set prices for mini bus taxis. Transformation requires the leadership of the taxi industry to be capacitated in managerial, financial and technological skills which are extremely relevant during the transformation phase. The fragmentation of the taxi industry makes it difficult for the industry to procure the opportunities that exist. The industry buying power could also enable it to purchase services and spares required to support its operation. Transport planning and the current national policy and legislation is mainly focused on integrated public transport system. The capacity of Government officials is also a cause of concern for us when interpreting, applying the provisions of the law and that is the end of our presentation as KwaZulu Natal SANTACO of the province and we hope that if we had some repetitions, that is a clear indication that we are singing one voice with our colleagues who have been before the commission but then for us as the province these are the main points which we had applied our minds to put across to the competition commission. I thank you.

CHAIRPERSON: Thank you very much Mr Shangase. Mr Ngobeni?

MR NGOBENI: Thank you Mr Shangase. I think maybe let’s start with the question of the imposition of the moratorium and I just want to get your clarity because you indicate that at some stage there was what you refer to as an illegal moratorium in the province and that you worked with the Department and the moratorium has now been lifted. The question that I have there is how is the lifting of this moratorium working considering the fact that we have heard from SANTACO national in Johannesburg that with the recent congress where new leadership was elected, a decision was taken not to recruit new members, you know how to deal with this oversaturation problem that is currently being phased, you know in the whole South Africa. I am just trying to understand you know how you currently dealing with that aspect and especially considering this Phase 3 moratorium that you have explained. So I am just trying to understand how is it working considering the decision taken at national conference recently.

MR SHANGASE: Thank you very much for the question Mr Ngobeni. The moratorium has been lifted in KwaZulu Natal on the basis that we had two categories of operators in terms of how we are going to be able then to tackle the issue of the moratorium. We said first of all, no recruitment of new members and that is the policy that we are basically following. What is happening is that vehicles that did not have operating licences during the time of moratorium were the one's that have been brought to us. When the vehicle is then brought to us, what we do at a provincial level is, we verify the membership of an individual that is bringing forward whether that individual is an existing member or not. We have got RAS which assist us in doing so, we have got legitimise which assist us in doing so. If that person's name does not appear on those documentations automatically the first step of the requirement is kicking that individual out. If you fulfil that first step then you get escalated to the second step which is now conducted by the Department of Transport. What they do there is, they submit the names of those that qualify, they then vet the individual. The vetting looks into the number plate that has been given to us, whether it is indeed a mini bus taxi, when was it purchased and is the person an operator by the way. We have been enabled then to kick out so many vehicles because people were trying to hold spaces by bringing number plates of their own sedans. Others were bringing tractors number plates and so forth and so on and we are saying there is not any recruitment and this could either be one of the model that would have to be copied by even our national office in order to assist on this issue of moratorium and issuing of operating licences. And the second category with regard to the moratorium is saying, Government, you need to assist in terms of determining the feasibility profitability of our routes. Government has been able now to identify independent individuals with expertise in determining route profitability and in this province of KwaZulu Natal companies have been hired and they are doing so. And what is going to be happening in the near future is anyone who wants to become a taxi operator can go to PRE and apply but now it is not going to be the taxi operator or the association which would say we are saturated but on the basis of the study, the study is going to be determining how many operating licences can be issued for that particular route. If the route is saturated then the study itself and recommendations are the one’s that are going to be utilised. In a nutshell, moratorium upliftment has been a good story to tell for KwaZulu Natal even though there are certain glitches that we are encountering. The glitch is on the side of Government because there is one person that has been identified to deal with this because we are trying to minimise anyway corruption on this particular moratorium upliftment. There is one person who does verification within the department and that person is the one who is given the powers then to vet and he then gives back the feedback to us and then we communicate the results to our constituents as the provincial leadership.

MR NGOBENI: Thank you Mr Shangase and the next question is on transformation and I am more interested in you make a submission and it's some form of a complaint that the industry is not formalised and you then spoke about a training academy that has now been established to deal with the questions of formalisation. The question that I have is you know, this formalisation everyone has been talking about in the industry for a very long time, as SANTACO, why do you think why has it taken so long from your own point of view to introduce and to try and formalise the industry and that is the first part of the questions and the second part of the question is, I am more interested in, you have mentioned that this initiative that you have started the training academy there that SANTACO initiated, the second part of the question is, is SANTACO winning to embrace something different that may be emanating from Government in relation to be dealing with the question of formalisation. I fully appreciate that SANTACO has taken an initiative and then they are doing their own thing but the question is, Government might also be thinking of something which might be different from the plans that you currently have and the question there is, is SANTACO willing to embrace something different which may be coming from Government?

MR SHANGASE: Maybe Mr Ngobeni, people just elaborate what it is that you have in mind in terms of alternative proposal of models for formalisation. Do you have any examples?

MR NGOBENI: At the moment there are no plans from Government so I am just saying Government if you look at various documents from Government,

Government has also been talking about formalisation of the industry but there is currently, other than the old documents that we have, the NTTT documents long ago which talk about formalisation. Currently there isn't anything that Government has put forward so what I am saying is that Government may also be thinking of something to try and formalise the industry. We had in Cape Town one of the person, I can't remember the name, he seems to suggest what the industry considers as formalisation might be different from what Government is considering as formalisation and maybe that is where the problem is and maybe that is where there has been misunderstanding as to what type of formalisation the industry should take.

MR SHANGASE: Let me start with the second one. Our strongest belief that since there is this working relationship between SANTACO and Department of Transport. If there is any kind of transformation that Government is intending to put forward to us as SANTACO, we would appreciate that because we represent constituents that needs to be empowered but then we would have to apply our minds on the content of such and eventually we would also want to foresee the beneficiation going down to an operator who is basically paying premiums to commute commuters hence we are saying, we can be in a position to say there could be a challenge in terms of transformation and formalisation interpretation between and amongst stakeholders but I believe that dialogue and through presentations of those new concepts that Government is intending to put forward and to put across to the mini bus taxi, we could be recepting of those and we have currently been recepting of others like for instance, these negotiated empowerment bus deals that have been done by Government in partnership with us, we are appreciative of those. You will find that the bus operators currently, through negotiated contracts and operating buses who are taxi operators as well that is a clear indication you are receptive of transformation and change of the mini bus taxi operators.

Number two, formalisation wise it is taking so long, it's the question that we have been asking ourselves also long and we have been able to identify that some of the challenges are these critical skills that we have mentioned in our presentation that within and amongst ourselves we turn to want to do everything and anything hence the fragmentation as well has got an impact and we have been saying, since we have been able then to identify the challenges like managerial skills, fragmenting skills and technological skills, what is it that now we shall do to be able then to address those and most probably, if we are able then to address those, we could we able then to move forward with regard to our own destination that we would want to reach as the mini bus taxi in terms of transformation within the industry itself. But what is currently happening in KwaZulu Natal there are various programmes that we have engaged upon and you might find that when it comes to financial assistance because the majority of these deliverables, they need money. You might laugh but there is a memorandum of understanding that we have previously signed with ITALA to be able then to assist us in terms of exploring, in terms of going through this five inputs that I have mentioned. The document is still lying in our offices, we have been trying to persuade ITALA because there were deliverables that they had to do in terms of reference but unfortunately there is probably a red tape within and amongst them to be able then to deliver on those. I am not trying to renegade responsibility to other

Government sectors but it is a reality that we as SANTACO are prepared to see transformation taking place within the taxi industry in the province of KwaZulu Natal and I think I have been able then to touch base on as part of my response to the two questions that were posed to me.

MR NGOBENI: Yes, you have and just to follow up, is this training academy a national academy or is it just an academy based here in the KZN. So is it a SANTACO national initiative which has also been rolled out in other provinces or is it just your own initiative which is only applicable currently in the KZN province?

MR SHANGASE: We know for a fact that there is an academy which was initiated at a national level which might probably be called a white elephant which is based in Free State. This one which one we are referring to under KZN TCC is a provincial initiative, KZN provincial initiative, and we have been able then to train drivers, the current leadership that is now in office because we just come out of elections having trained through the academy currently we have got interns which the academy has also assisting, is accredited by TETA, is a provincial thing to respond directly to you Chair.

MR NGOBENI: Thank you and just on transport planning, the questions that I have basically is to try and understand are any of your members involved in the current C3 corridor BRT and if they are because I am more interested in understanding whether or not there has been discussions between you and the city on how this is going to affect your members in terms of compensation and what is their requirement in terms of compensation and what is their requirement in terms of opting in and those that are standing out of the system?

MR SHANGASE: Unfortunately the discussions when it comes to RPTN are actually based at a level of the implementing municipalities and the affected operators, that is the relationship that is there currently and what you know of is that the mini bus taxi operators have got advisors and we trust that their advice they are actually getting from there is the correct one but what is emanating from the programme itself is that we have been able to ascertain there is no consistency because in the province of KwaZulu Natal there are two cities that have been identified by Government to have such a programme or the initiative. It is basically Mzundusi Municipality and eThekwini Municipality and when it comes to the compensation model we have seen that and we have heard that at Mzundusi currently as we speak, there isn't anything that is tangible when it comes to the model served and what is of utmost interest was that we have got cities in South Africa at large that are currently implementing BRT. For now we should probably have a model to say this is the kind of a direction that the Government is taking when it comes to compensation model but we are not even there yet. Different cities are coming up with that different models based on probably the type of transportation needs within the particular city, we do not know, but there should be a framework which determines that if you go along this particular route and you need to be compensated, this is what you are looking for as Government to be able then to compensate you. And the minimum amount that probably you could put forward to the table for such a compensation is A,B,C,D. Thank you.

MR NGOBENI: The city said, I think in terms of effectiveness it said it is going to look at the point of origin where the route originate and where it ends and what I am referring to it's the Bridge City Pinetown route so the question is whether any of your members are, although they say it is in your corridor, so the question is whether or not they are involved in taking commuters from that point of origin and into where it is ending, Bridge City to Pinetown and I am trying to understand if any of your members are involved there so the question is whether or not there has been any discussions between any of your members and the city as part of implementing any of the things that they have in mind in that corridor?

MR SHANGASE: Yes, indeed. If we have 240 associations in the province of KwaZulu Natal, the affected operators that are using that Bridge City to town and so forth and so on, they are indeed our members. These is a steering committee that is formulated which is deliberating on that Bridge City and so forth and so on and our members are represented there. And in terms of the value chain and benefits, I will not be able then to dwell much on that because I do not sit on the steering committee to find out what are benefits that are given as the taxi industry within the value chain of the programme and in terms of rail as well because when you talk of integration, why do you have to integrate and you say you are integrating but you are only taking away the taxi industry and you are not putting our people to the these other modes of transportations which are being integrated but what I am saying to you as a direct response, yes, indeed we have members who are participating there. Yes indeed our members are in the forefront in terms of deliberations especially the leadership which is within the affected area. They are participating but what I cannot vouch on is the deliberations and the content of the discussions that are taking place. I cannot be able then to say anything to that because I don't form part of the delegation that sits there.

MR NGOBENI: Thank you, fair enough and just one question again on the BRT system, you are mentioning in your submission that the 12 years is too short considering the fact that operators have been operating for very long time and all of those things. What I am more interested in is to find out your views as to what then should happen when that 12 year period comes to an end say some of your members opt in and they became part of this new system. What in your view should then happen when Government is saying they are going to put it out on tender again and this is likely to affect some of your members. What do you think should happen after the expiry of that 12 year period?

MR SHANGASE: Well personally I strongly feel that the 12 years is very little. After the expiry of the 12 years it should be proper if the bus operating company that would have been operating at that particular time be given another 12 years or so but then we improve on the challenges that they probably would have had whilst they were still within these first 12 years because that on its own would be a clear indication that these individuals, the first 12 years was a learning curve for them then to be able to then deliberate because we do not want to see a situation where most of the time people would say when you give empowerment programmes then to the taxi individuals or black Africans, they are feeling then to sustain the first 12 years should be a learning phase for all of them and the second 12 years should be a productive year for them then to be able then to run with the programme. That is my honest action with regard to that and if Government strongly feels that they are doing a good job, let's negotiate and renew the contract on the basis of competency, on the basis of deliverables that would have been put before them and if they are able then to get 8 out of 10 out of the deliverables, renegotiate and extend the contract. Thank you Chair.

CHAIRPERSON: Mr Lesofe?

MR LESOFE: Thank you Mr Shangase. I just have to follow up on Mr Ngobeni's question in terms of the BRT. I think one of the things that we have learnt especially in the Western Cape province, when it comes to the implementation of this vehicle operating companies. It appears that some of the shareholders or taxi operators seem not to be very happy in terms of how these VOCs are operating in terms of management control, they allege that they are just rubber stamping things, that they don't understand how the business works and they actually feel that they should go back to the taxi industry. I think the question that I have from SANTACO's perspective, how are you engaging with the Western Cape maybe your counterparts in the Western Cape to make sure that the lessons that are coming from there, you are able at least to influence the discussions that you are going to have in a way the metro here? I think that's the first question whether do you have those interactions, do you have lessons that you know some of your members of SANTACO are part of these negotiations are.

MR NGOBENI: I think it's fine, let's deal with the first one because I will just like to add on the first question which is, does the fact that the implementing municipalities are negotiating directly with the affected operators. Does that inhibit the role which taxi associations could play in terms of supporting your members in those discussions along the lines that have been suggested by my colleague?

MR SHANGASE: The issue of interacting with our counterparts from Western Cape, it's basically an issue which has been dealt with in a sense that some of the visits have been conducted by individuals representing the affected operators within various cities. They have been to Western Cape, they have been to various cities to find out what is it that is basically happening when you talk of a BRT. And they are in constant contact with relevant individuals but what we are saying is, we need not then have a situation whereby challenges which were faced by our counterparts in these other provinces will also fall part to them hence we are encouraging those who are leading the discussions to have constant contact. But number two with regard to that, you know when you look at the service providers who advise us on BRT, you tend to find that the company that has been advising the majority of the taxi operators in South Africa, the fair chunk of their advice is one group of individuals that are advising and we tend then to think that the problems that we encountered in these other areas, they could be in a position then to assist in terms of reducing them as part of a plan to elevate such challenges because these people have been there, they have advised, they would have seen in terms of the advices where the problem comes from and they would have probably have now to come up with mitigating factors of those challenges that have been encountered in Western Cape. And as operators as well, in these rooms whereby they meet and discuss these issues, operators are given an opportunity to as well raise such issues but over and above that, this managerial skills, financial skills as well and technological skills are skills which are relevant and we need to identify individuals with those relevant skills rather than us ourselves intending to run at the business. If I don't have a business acumen when it comes to bus operation we are saying to our operators, no, let us give that to individuals who are competent because we have realised that some of this businesses have not been able then to succeed and be sustainable because we would want to become shareholders, we would also want to become managers without having the relevant expertise and that is one part which we have been able then to identify and it's one part that we are preaching to our colleagues who are intending then to participate on this programme that you cannot become a player and a referee. Let us give those that have competency to run with the business and become shareholders and wait for our dividends.

And then, the issue of prohibition, currently the model that is being utilised in a way does prohibit us as a structure to participate because it stipulates that only the affected members will sit around and discuss within the particular room with the advisors and then it closes doors for us as a structure but individuals that are within the structure could participate so long as they are also affected which then means only those who are affected could be able then to sit on this particular deliberations. We tend then to be closed, the door is closed then for us as structure but individuals can be able to participate and we also entrust the advisors that have been seconded to us to be able then to advise us accordingly.

MR NGOBENI: Maybe just a follow up before you go to the second question, that is one of the issues which has been flagged in the Western Cape as an area of potential problems, the fact that the associations are out of the picture in the BRT negotiations because according to those operators who took up shareholding in this bus operating companies, the dividends that they are earning from the vehicle operating companies are not adequate to sustain them compared to what they were earning before become part of this vehicle operating companies. As a result some of the shareholders of this vehicle operating companies have in fact re-entered the mini bus taxi industry therefore creating tension now because their colleagues are under the impression that they are now in the bus operating company and only to find themselves competing, sorry are playing this dual role creating tensions within so the fact that the associations do not seem to be playing a role in the negotiations is one of the issues that has been flagged in the Western Cape as this area of potential tension so I would just like to get your reflection on this?

MR SHANGASE: Chairman, the first point of departure for me is to probably get from you clarity in terms of an association when you are referring to an association because from our side we have an association, we have a regional executive and then we have a provincial structure which represents SANTACO and right now I represent the provincial structure and when you are referring to an association, you are referring to that latter part which is constituents of ours which is an association down there. And I would want to get clarity then on how is the association then denied the opportunity in a sense that they do not participate if they are fractured because I would believe that any affected association does have a role to play when it comes to BRT or RBTN.

CHAIRPERSON: The issue that you were raising was in relation to the provincial and regional structures, not necessarily the local association.

MR SHANGASE: Of course yes because the affected associations by virtue of the law are entitled then to participate because the programme will definitely affect them and as the affected association members they are able then to participate. I was basically referring to the top structures and those one's are prohibited then in terms of participation because they are not in any way directly affected.

CHAIRPERSON: No, thank you, thank you very much for that clarification is very helpful.

MR LESOFE: Just an additional question from my side, your submission seem to almost concede that the taxi industry has no option but to become part of the BRT because I think the options that we have said that you can't compete when BRT has been implemented. Am I correct to suggest that's my reading of your submission?

MR SHANGASE: Well we are not intending to impose any particular route to be taken by operators but by virtue of the programme itself, it's a clear indication that Government will have to enter into loans to be able then to purchase these buses and repayments of those would mean that bus operating companies have got to be able then to be sustainable, they need to make a profit and for that to happen, we need to ensure that competition is minimised and to minimise such, that is a logic I am making, I am not saying that is what Government is going to be doing. I might be wrong in terms of my own analysis of the situation but for Government then to be able then to make profit to sustain this particular programme, what they need to do is you minimise competition for you then to be able then to sustain because if the programme is not sustainable, how are you going to pay back the loans for these new buses that you are going to be having, how are you going to pay dividends, how are you going to then re-inject the money that has been given out as compensation then to operators who opted to leave the entire programme hence one is saying there could be stringent rules for those who would want to compete with the system.

MR LESOFE: Okay thank you because I think why we needed the clarification is because other cities seem to suggest that they still want to be allowed, if they don't want to opt in, they still want to be allowed to compete on the same corridors, same routes with the BRT on condition that when their licence or their permit expires, the planning authorities should be able to support the renewal of that licence that's why I wanted to get clarification because we have other submissions indicating that would be their preference because like they say they have been in the taxi business, that's the business that they know so they would want to be able to compete. That was the context of that question.

MR SHANGASE: Well, for me I think even the provision of the law does not prohibit them then from continuing but the argument says the Government did not literally tell you that now we are removing the operating licences on the basis that you are competing with us. What they will probably want to see is a roadworthy vehicle, being operational, competing with the system. You will know even if they have now decided to ensure that vehicles are removed from the road by virtue of stringent law enforcement which will remove them along the operation on the basis of being so-called un-roadworthy, being so strict because there are levels of strictness when Police are applying the law in the Police. But what one is saying is that the law itself does allow for people then to compete and that is what one deems as something that is going to be operational even when BRT of uses are in operation. But our concern is, let the competition still be fair because I don't foresee any reason why people would be removed and their operational licence is on the basis that they will be competing but I am basically drawing inference on something that might happen because the Government would have bought buses and they would want to see these programmes being sustained. If now there is an alternative which makes this not to become a success, how do you do, you look for ways and means which will ensure that this new concept becomes a good story to tell and we might become victims then, especially those who would not want to participate on the system. That is my own analogy of the entire thing.

CHAIRPERSON: Just to follow up on this before you come in Ms Nontombana. The C3 corridor. We have been told that this C3 corridor is in fact a new route, a newly constructed route from Bridge City to Pinetown but the corridor itself has been serviced by various other network of routes so it appears that the current thinking in terms of how BRT will be rolled out in the C3 corridor involve the elimination of this various network of routes which was servicing this corridor which seems to be making the C3 corridor model a very complex one because the current mini bus taxi operators are not operating directly on the newly constructed road but are servicing that area through a different network of routes. So if the intention then is to eliminate the various parallel routes so that they don't compete with the C3 routes it may make the model it seems very difficult to implement and may potentially result in, I just want to get to this point of when some taxi operators opt out and do not agree for various reasons to be part of shareholders in the vehicle operating companies wanting to service commuters through the competing parallel network of routes although not directly on the C3 newly constructed line. I just want you to help us in terms of just being able to identify what could really be the practical challenges especially in rolling out BRT route on such it seems to me a very complicated network because it is not straight forward route. One would understand if you are rolling out a BRT on an existing route but where you have this network of parallel routes it seems to be quite complex as to how this practically would happen.

MR SHANGASE: Well it's a good question but difficult for me to respond to especially because it's a programme that has been brought to us by an implementing agent which is the municipality and there has been consultants who have been participating on that and one would have believed that they had applied their minds in terms of coming up with such a concept to us and they have got practical resolutions when it comes to issues of additional authority especially for the mini bus taxis who do not want to participate in the whole BOC or VOC programme. But because it is something that has been raised, I think it is critical now for all of us to be able then to look for an amicable solution to such because eventually it's a new route as you are saying but it will have an impact on the operators who having feeders to the route itself and especially for a person who want to opt out of the programme who does not want to become a feeder but would want to continue the operation. That individual is the one that is definitely going to be affected by that and eventually would also mean now that individual would have to reapply for a route that is going to be utilised in order for him or her to ferry the commuters and is the Government willing now to actually open new routes for those individuals or are we saying they will have additional authority now for them over and above those that they had previously. These are the things that we need to look into but there is a solution eventually but one believes that one solution could be additional authority for operating licences that have been there because you might find that now he is going to be using another route which should be running parallel and the operating licence does not have that stipulation as we speak currently, then we need to amend the content of the operating licence for that individual than to be able to sustain his own operation as a taxi operator.

CHAIRPERSON: Ms Nontombana?

MS NONTOMBANI: I just want to ask a question for clarity. You mentioned that there is a need to integrate the taxi industry into whatever that Government is doing and I wanted to understand what you meant to mean that there is a specific role that the taxi industry should play or this is within the context of the transformation that you say is not happening as far as the taxi industry is concerned to the extent that you would want.

MR SHANGSE: I would say if Government is making policies, I know that it's an open door thing whereby the gazette and invite but taking into account the nature of our business, you might find that there are certain ways and means into which probably would propose that an entire action be done between Government and the taxi industry in order to convey information. We create transport forums whereby we all get represented there and we discuss issues that are pertinent to the operation and that is what one is reflecting to say we need to have an integration and that integration should involve our own representatives when it comes to deliberations of our public transport in South Africa.

CHAIRPERSON: Mr Shangase, thank you, thank you very much for your time and for your presentation. We will certainly take up the issues that you have raised with the relevant stakeholders as part of this process going forward. Thank you very much for your assistance.

MR SHANGASE: (speaking in vernacular).

CHAIRPERSON: (speaking in vernacular).

MR SHANGASE: I would like to say thank you very much to the gentlemen on the panel and the lady, thank you very much and we hope that everything that we have discussed here today will actually come to fruition and we will see positive results and also as you know that's our industry is a black owned industry so we need help and we would appreciate your assistance in all these matters so that at some point one day we also will say we have succeeded in what we had set out to do so that it is not only white people who succeed in everything that they do but also we must be counted amongst those who have succeeded. Thank you very much.

CHAIRPERSON: We will now receive a presentation from SAMTA. Welcome to the enquiry lady and gentleman. Thank you very much for coming. We will just start with small formalities. If you can just take the oath or the affirmation. Please switch on the mic.

MS FRIEDMAN: I, Faith Friedman, 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 Ms Friedman.

MR MOODLEY: I, Goven Moodley, solemnly affirm that the evidence that I shall give shall be the truth, the whole truth and nothing but the truth.

CHAIRPERSON: I didn't get your surname, is it Moodley?

MR MOODLEY: Goven Moodley yes.

CHAIRPERSON: Thank you Mr Moodley. If you can just start with a brief explanation of your organisation, what it is, what it stands for and your role within the organisation?

MS FRIEDMAN: We representing the South African Metered Taxi Alliance Association in South Africa. We represent a broad base of members from small to medium sized companies to smaller one-man operators and we have members throughout South Africa.

CHAIRPERSON: Thank you, can the organisers please switch off the aircon. I understand that you have prepared a presentation which you would like to take us through. You may do so.

MR FRIEDMAN: First of all, all of us in the metered taxi industry would like to thank the Commission for the in-depth investigation which has gone into this enquiry to date. As you know we have already submitted a written submission so this is an add-on to our written submission and we would also like to request at the end of this submission that we follow up with a further written submission to sum up what our members across the country have submitted and any components we might have left out.

We would like to thank the Commission for the transparent nature of this enquiry and availability of all the submissions on U-tube. It's been very informative and we have appreciated your knowledge. It seems that you have travelled with us and you are now experts on public transport compared to the first meeting we ever had, I think it was in February.

I think by now I am actually the very last person to submit so I think you have come to realise that the metered taxi industry in South Africa is in a real fight for survival. We have been in South Africa, my personal company, because I run a company that has been in existence for 70 years this year so we are not fly-by-nights, we have not just come onto the scene, we run professional operations, whether they are companies or whether they are small one-man operations and we find ourselves in a, it's a David and Goliath fight at this point. We have been around the longest but we now find ourselves fighting for survival. You have heard from my colleague, Mr Peter Leeman, how he lost two bona fide companies which were established over 20 years and 200 people have lost their jobs. Our other colleague in Port Elizabeth, Dennis Hurter from Hurter cabs was in existence for 70 years. His company has gone down and this is for no reason of our own. We find ourselves having to compete in an uncompetitive environment.

We are small and medium sized companies, we don't have the luxury of venture capitalists to fund us as you know and as is public knowledge, the e-hailing companies run at a loss but venture capital sustains them. When we run at a loss, what happened to Mr Leeman happens, we close down, people lose jobs and our companies, we are registered with CIPC, we pay our PAYE, we pay Workmen’s Compensation, we pay our taxes, we run bona fide legal operations in South Africa.

I would now like to respond to your statements of information that were sent and we are going to address first the licencing and route allocation component which is A1:

We are quite pleased to note that the amendment Bill has to define e-hailing cabs as a sub-section of metered taxis and as such they will be required to adhere to the same public transport compliances that metered taxis currently comply with. In terms of the current procedure with mini bus routes, we are requesting that the metered taxi industry is consulted regarding the number of e-hailing permits to be issued as e-hailing has bombarded our sphere and our space of operation with no consultation or consideration for the operators who have been operating legally for years. There was no consultation when e-hailing came into the country in 2014 and we and our members in Durban and Cape Town have sat with our local municipalities and asked and pleaded and requested for some action to be taken. Instead we were surprised to hear that the e-hailing companies managed in 2014 to lobby Government to actually make amendments to the National Land Transport Act whereas we have been sitting in meetings since 1996 almost. We had recommendations for metered taxis in 1996 that was Government funded that was a component of the National Land Transport Act, the NTTT. A lot of them haven't been implemented and those recommendations have not been brought forward to upgrade. Our whole purpose is to upgrade and make the meter taxi industry sustainable in the short term and in the long term.

In addition, we don't believe that e-hailing permits should exceed meter taxi permits which they do and our main problem at the moment is there are so many of these permits and no action has been taken against them. In Durban there has been a moratorium on all permits so we don't understand how there are thousands of these permits plying our streets and no action has been taken. We concur with our Cape Town colleagues that the number of permits issued must now reduce the income of the current operators which is currently happening. We would like to refer to the Vancouver model which we would like rolled out. Vancouver has ensured that the established meter taxi industry is protected, respected and consulted before e-hailing services are introduced. I quote their Transport Minister, Mr Todd Stone:

> "We are striking the balance between e-hailing and respecting an industry that has been with us for generations. We will get this right and we will protect existing jobs."

We are pleading with our own Transport Minister to do the same. Currently Vancouver only allows Uber ethnicity until a sustainable plan has been set out that will not destroy the existing meter taxi industry. Our request is that e-hailing operations are stopped until there is a decision as to how many permits are allowed and there is consultation within the meter taxi industry. The mini bus industry would never allow an international company to come four years ago and completely trample over their industry. There would be rivers of blood on the street. All we are asking is for consultation because this is our trading space. You have seen our members present here. We have complied and abided by the National Land Transport Act and the laws of the country. In my personal company in 2006 or 2007 I lost 17 of my permits when the PRE moved from Durban to Pietermaritzburg and their computer system crashed. I have been pleading to get those back, I have not got them back and I do not operate with those permits, I operate with the reduced number of permits so that I am sure to comply. So we the legal meter taxis who have abided by the National Land Transport Act and we have suffered losses, each one of us have suffered losses since e-hailing has bombarded our trading space. We would like compensation for the losses each one of us have suffered due to the unregulated manner this platform has entered the market with lack of consultation or consideration for longstanding and existing operators. We would like to see this compensation and this commission recommend a form of a surcharge to all e-hailing cabs. This has been applied in Australia and a number of American cities. This would go somewhere towards levelling the playing field between meter taxis and e-hailing vehicles and compensate our members for our losses.

In the Durban area as you know, two companies have lost their business, one company in PE and every single small operator is suffering from loss and struggling for survival. In addition we perceive that this surcharge could be used to fund the meter taxi industry implementing their own application that is linked to a modern meter thereby making every legal meter taxi available in a countrywide app that is developed and owned by the meter taxi and not have us subjected to international venture capitalist companies which we are at the moment.

I would like to just show an example of this type of situation that occurs overseas in America and Europe. There is a meter taxi, it's linked to an application, there is a cell phone there but that's not used to calculate a taxi fare so this is what we would like to implement. This is the reason why we are happy with some of the amendments that the National Land Transport Act has recommended. There are some areas that we still would like input.

We also perceive that the surcharge would be used to upgrade every taxi meter in the country to upgrade our meters to international standards which are IP capable and can link to a taxi here. Unfortunately, too many of our taxi meters in South Africa are very old South African models that do not have the capabilities that are required to move into the 21st century.

Taxi aggregation and GPS and cell phone technology are not 100% accurate. We refer to the economic times of India where e-hailing cabs have been required to use a taxi meter and not an aggregator to calculate the fare for passengers. We would like to see the same occur in South Africa an app linked to a taxi meter and even e-hailing cabs which they have now defined as a metered taxi we would like to see them. They have to have meters in their taxi. We would like to see them use that taxi meter, not just have it on the dashboard.

The meter taxi industry would also like compensation from the Government. As by Uber's own admission they have consulted with Uber since 2014 and entertained Uber's submission to change our National Land Transport Act without consulting the affecting industry which is the meter taxi industry. The meter taxi industry has been raising concerns with local provincial and national Government regarding the continuing proliferation of e-hailing cabs. They are around every corner, on every airport on every street. This proliferation is now even affecting their own drivers as you have heard. They cannot make a living as there are no too many vehicles on the platform for paying clients and they are facing the same dire consequence as meter taxis of rising costs and diminishing income. Uber refers to this as transformation. It's not transformation when their drivers lose their vehicles and have a bad credit rating and that is where it is going at the moment. We still don't understand why more and more vehicles are added to the platform when at least 70% of these vehicles are illegal.

In conclusion regarding the statement of investigation A1 in relation to e-hailing being defined as a public transport vehicle falling underneath the taxis we support this recommendation as long as the e-hailing vehicle numbers do not surpass meter taxis and enforcement occurs against all e-hailing and other illegal vehicles without permits with immediate effect, i.e. their numbers are curtailed and prices are according to real costs and existing operators are not undercut so that they cannot sustain their existing businesses.

Price surging is another illegal component in terms of the meter taxi. You can have different rates for peak periods. You can have tariff 1,2 and 3 and 4. The Gautrain has different rates, it doesn't have price surging. You can have different rates on a sophisticated meter which are sealed for the different peak periods that they refer to. Do you have any questions on A1 before I move on to?

CHAIRPERSON: No, I think it is fine, you can cover your entire submission and then we will ask questions afterwards.

MS FRIEDMAN: I am now going to go onto the statement of issues, B1. The cost structure meter taxis. These vary depending on the operation, the size of the vehicle, the number of staff in a company or individual employees and the kilometres the cab travels to complete a trip.

Unfortunately in the current environment where our numbers are curtailed and we are often not permitted to pick up where we drop off we have an average of a 50/50% paid to unpaid kilometres. This in itself creates unfair competition. I believe this has been raised. There are other cost factors such as wear and tear, maintenance of the vehicle, there is wages, there is petrol, there is insurances, there is taxes, there is training levies. Metered taxis currently are the only taxi modality that actual contributes to the training levies. We pay Workman's Compensation, we have the normal expenses that any company has. The rentals, electricity, rank fees, call centre costs, admin costs, marketing costs. So these are costs that affect how we structure our taxi fare.

Price setting in KwaZulu Natal. In the past the PRE did set a maximum rate per kilometre and each individual cab or company would apply a rate depending on their individual cost structure because obviously if you are running a Mercedes Benz your cost structure is going to be different to if you are running a Toyota Tazz. I think that ties up our cost structure component.

Transformation. The industry is transformed, it's 95% of the industry across South Africa is from previously disadvantaged communities. In addition we have supported empowerment of cabs, we are supporting currently cabs in the rural areas and we have supported cabs in the cities as well. In the 70's my own company Eagle Taxis went to Court to ensure we provided equal opportunity jobs for all race groups and since that time we provided equal opportunity. We dismantled apartheid long before 1994. I am coming almost to the end.

There are a number of issues that we would like answered. We would like to question how Uber registers each of its private partners for PAYE. Does it register under Uber or does it ensure that each partner is registered with SARS, that is a requirement. In addition, how is Uber taxed for the 25 to 30% it receives from its drivers partners in South Africa. Is it taxed on those monies and are they registered for VAT on that component. Uber's e-hailing has presented themselves as the answer to our public transport headaches in South Africa. If we just scratch the surface we will see that 2017 was a disastrous year for Uber. There were a lot of issues. It is well known that they have committed a number of serious transgressions and I am not going to go into them here because they are available in the public sphere. One huge transgression was a data breach in 2016 where 20 million names, phone numbers, email addresses, were exposed publicly. This was only revealed in 2018 and then it became common knowledge that Uber paid a hacker to prevent that breach from being exposed. So they presented they comply with all their requirements but if they did comply they wouldn't have lost licences in London. Okay, they have been granted licences for 15 months where they have had to improve on a number of their operations and they are being monitored so in conclusion on this component, my colleague will pick up on a few other aspects. We are asking the commission to look very carefully as to how the meter taxi industry has been affected by the proliferation of e-hailing vehicles and our huge question is why are there 12,000 drivers of Uber supposedly, there is probably more on the platform when we know that it is not possible that they have 12,000 permits. In Durban alone there is a moratorium as you know.

MR MOODLEY: Adding on to my colleague regarding licencing, route allocation and M2 regulations, with respect to A1. We have covered a lot of ground over the last few months but as we are aware there is currently no regulatory framework in place for our best companies. Our immediate cabs need to adhere to having a sealed meter. Branded vehicle their address and telephone number on it and in some instances metered cabs would have to display fares on the vehicle, have a rooftop sign box and some instances a light box, have an operating licence which is issued by the PRE and a display a certificate of roadworthiness disc on the windscreen by the relevant motor vehicle licencing authority. In some instances depending on the municipality you would have to apply for a rank stand licence which is a rigorous process and be issued this by the relevant municipality. In addition the drivers would have to register with the local municipality for a municipality metered taxi licence. Our base companies do not abide by the above, there may be some meter taxi operators who may join them and hence utilise their permits to be on the platform but in terms of the above which metered taxis have to abide by, ad base companies do not. Metered taxis are often subjected to law enforcement which is clearly visible and hence make it easy for authorities to conduct enforcement raids or checks on them as opposed to unmarked vehicles by ad base companies which we find get a lot of transgressions on the road and makes it very difficult for enforcement to take place.

The process of obtaining licences is also a rigorous one which we have covered in the commissioner’s covered but we have seen more recently that ad-based companies wanted to circumvent this and keep on using the excuse that there are inefficiencies in Government to be awarded these licences and to using a receipt which one gets during the application phase to conduct business. We do not do that, we are not allowed to do that. We feel though then that the effect of competition as huge as mini taxis would have to play by the rules and traditionally our SMME's and we don't have the backing of venture capitalists in this country which in venture capitalists the sector in this country is still in development phase as opposed to very developed markets in Europe and the US. Hence we are up against companies which with bottomless pits with large monetary venture capital behind them can offer huge amounts of discounts to the market and can readily affect the market as they are not following regulatory framework as opposed to mere accounts. I also want to make mention of the following.

When the famous ad-based company entered the South African market, initially the public were forced to let to believe that the offering would be utilising premium, luxury or chauffeur based driving services such as your Porsches, your 517C's, BM's, Mercedes Benz and payment were done by credit card. This has changed a lot, this has drastically caused the meter taxi market to be affected and over time we have seen that ad-based companies when originally were not meant to be entering the meter taxi market eventually went into the market seeing it as more lucrative given that it was not regulated. Initially the market was also let to believe that most meter taxis are filthy, crooked, had unreliable cars and overcharged. As a result meter taxis could not compete against large marketing budgets except by ad-based companies which had portrayed them negatively in the media. And once again with the backing of venture capitalist firms was board members quite influential. It was not difficult for ad-based companies to be able to convince South African financing companies or insurance houses or loyalty-based companies to partner up with them which for meter taxis is almost impossible. We therefore see this as a monopoly. The fact that the ad-based company as my colleague has mentioned has 12,000 vehicles but won't reveal how many are promoted in this country is indicative of how they have manipulated and monopolised the market. We therefore feel they have the displaced the meter taxi market in South Africa.

In terms of regulation, I would like to make mention of some of the countries that there have been problems abroad and we feel that if there have been issues abroad then South African authorities should look to these issues so that whatever were guidelines utilised by the countries abroad to regulate could be utilised here. I would like to make mention of an article in the Daily Sabah in Istanbul which was published on the 1st June 2018: “President Tayob Erdogan signalled on Friday that Turkey will join several other European countries that have banned the right hearing service saying that the Uber controversy is over. This Uber business that came and about is over, there is no such thing anymore”, Erdogan said at an ITFA programme for the Turkish Association of private buses. “We have a taxi based system”, he said, adding that a personal taxi system would not be allowed to destroy the business of Turkish taxi drivers. “We want to be the one’s to make the decision on Uber”, the President said and we feel, Commission and Chair, that in all the many months in the last two, three years, that the ad-based company have been dictating terms and conditions to Government in terms of forcing their upper hand or forcing their way into the country and forcing the way they are operating that the rest have got to follow. Turkey, according to the article is not the only place where Uber's push for global expansion was given a shift to local rules. They have been forced to leave markets in Bulgaria, Hungary and Denmark and has limited services in France where the constitution was amended to prevent them from operating Italy, Germany, Japan and Taiwan. We trust that with international controversy and international uproar that similar would be looked at in South Africa in terms of what happened abroad to look at the [indistinct] regulator in South Africa.

In terms of A2 with respect to price setting mechanisms the ad-based cab industries, they are fragmented, it is run by lots of one-man companies or driver operators and small SMME's. As such these types of companies don't have the funds to be able to afford the likes of economists that we have seen making presentations on behalf of the associations and at this moment in time a lot of these companies are barely surviving given that their cash business has been severely affected over the last few years. Given that the market has been flooded with Uber vehicles and now taxis were operating vehicles without permits we find that there have been instances of violence in Johannesburg and Pretoria and this was a concern which we had made mention quite some time ago when we submitted our first Competition Commission complaints via SAMTAM. We think that a lot of that could have been avoided had there been consultation at the very onset as supposed to trying to circumvent the system and avoiding having us around the table. Had we been consulted, had the industry been consulted at the onset, this probably could have been avoided.

In terms of pricing mechanisms once again, the Commission should ask the question of how would one be able to seal off and indicate a ad-base meter. In terms of a mere taxi meter you have heard that there are processes where the operator would have to go to the local authorities who then conduct a kilometre run to verify the rates. In terms of ad-based technologies there is no such ceiling of the cell phone and no such authentication of the cell phone to verify the different rates which should be verified in front of a law enforcement official and we feel that is also a loophole and every operator who has got an app providing a service should be subjected to this as well. In terms of C, transformation, meter taxi operators with the association has not been given preferential rates like the scales we have seen by the current motor manufacturers in South Africa which the industry cannot compete with and you will find that if you go over to a dealership in this day and age, you often get told that they have huge discounts for Uber and taxify but the same does not apply to meter taxis. Meter taxis, in terms of transformation do not have a large venture capital of funding once again to be able to afford the development of expensive applications and robust IT models. We cannot get analysis and get technologies which one is able to when you have few thousand engineers and you are supporting a large venture capital. Once again, big corporates don't easily partner up with meter taxis or the associations in South Africa as opposed to what you are seeing currently in the market. That's all from me to add to my colleague.

CHAIRPERSON: Thank you very much.

MS FRIEDMAN: I would just like to add before I take questions, I would just like to add one more component to my submission is that Denmark and the

European Union have come to the same conclusion as our Department of Transport regarding classifying Uber as a meter taxi. In Denmark all e-hailing vehicles are now classified as a meter taxi and they are required to have a taxi meter that is turned on. In fact, they have gone a step further. They have also required that you have a seat switch so that when the passenger gets into the vehicle the meter automatically turns on. As soon as this came into operation, Uber actually left Denmark out of their own choice because they felt that they couldn’t comply. A quarter of the European Union has also classified Uber as a meter taxi so across the board, in the early days, Uber tried to get around a lot of these regulations by indicating it was an IT company. It is a public transport company and it needs to abide by the rules of public transport. Running a transport company I can assure you is no easy matter. It takes years, my drivers are professional, they have been trained, they have been with me, on average most of my drivers have been with me on average 5 years plus. They have received the relevant training and we as a transport company, we know what it entails to run a transport company. If you have these young kids that come out of school they don’t actually know and they go into this, they think they are going to make a lot of money. They realise that the costs are high and your mark-ups are minimal. If you are making 10% of your turnover you are very very lucky. It is below 10% so these youngsters that come into the market, they have an accident, their vehicle is off the road, they can't earn, they can't meet their repayments, there are all sorts of very complicated components that go into running one vehicle or many vehicles. So this hasn’t been thoroughly investigated, it’s fine to sit on the other side of the planet and take 25 to 30% of turnover and have none of the responsibility or the aggravation of running a transport vehicle or company.

<u>CHAIRPERSON</u>: Thank you very much Ms Friedman and Mr Moodley. Mr Lesofe.

<u>MR LESOFE</u>: Thank you Chair. Just two questions Ms Friedman. Just to try and understand from the members of your organisation, I am trying to understand because we heard from the evidence of Mr Leeman yesterday that he has literally exited the market and I am trying to understand how many of your members have suffered the same fate because of the introduction of this e-hailing services in the provinces and specifically to you. What is it that you are doing differently that has led to the situation where you still limping along?

<u>MS FRIEDMAN</u>: I am still limping along and I am barely standing thank you, good question. As you heard from Mr Leeman, it’s Mr Leeman’s two companies. Well he took over one of our long standing members the big cabs and she sold to Mr Leeman when she couldn’t make ends meet. And as I mentioned my member in Port Elizabeth, I think at the moment everybody is just trying to make ends meet. From my own company’s point of view I have cut my operation and cut my cost according to the cloth in the hope that things will approve and I think we haven't put our prices up in the last five years just so that we can compete on some level. Now we are forced to put our prices up by 5%. That doesn’t cover the costs that we have to bear and a number of the small operators have now gone onto the platform because they can't survive so we are in the precarious situation at the moment and we are hoping that there is going to be some change so that everybody who is exiting the market can come back that's why we are asking for compensation and we can revive. This is a longstanding tradition in South Africa. Meter taxis have been around a long time in every single city so on the company side there is the three that I know of, the two in Durban, the one in Port Elizabeth and I know that there are a number in Cape Town and then you have the smaller operators who have chosen to possible go onto the platform but they are also finding it difficult now because the platform is also overloaded so nobody is making any money. I think you have heard from our previous submissions in Cape Town and Johannesburg.

MR MOODLEY: To add to my colleague through the Chair, what we have seen in terms of the company that have been limping along, is that due to safety issues and considerations and the negative reports that you would have heard or seen abroad and quite a few in South Africa, we have had lots of single female travellers that have decided to come back to meter taxis and hence we get those calls and there is a large percentage of the population though it's diminishing that would still utilise normal telephones to call in, elderly parts of the community that do not use mobile phones to make a booking and those bookings tend to keep business going in addition to some longstanding customers. Thank you.

MS FRIEDMAN: To add to that, you see our company and our service offers a very personalised service. With Uber if something happens you are not going to get hold of somebody for 24 hours and with our companies there is somebody at the end of the telephone and as much as people are using the apps, people still want that personalised service and as my colleague said, we love the elderly, they are very loyal, there still is a group that like to pick up a telephone and want to speak to a person and if something goes wrong, they have got the number of the vehicle, they have got identification on the vehicle, that's another thing that we really requesting, identification on the vehicle because one of the things that we have been sitting in the municipality, one of the reasons why our local metro say they cannot charge Uber is that they don't know that they are Uber. That was one of the excuses they used way back in 2014. Well it's now come to our attention that actually Uber was communicating with our transporting authorities as way back as 2014 so that obviously was an excuse but we are also requesting identification and that's one of the reasons why we do still have a loyal company base. My particular company has a brand way back when Uber entered, of course they called everybody. I wasn't interested because I could see that if you join the platform I will destroy an industry that we have spent a lifetime and two lifetimes and three lifetimes building up. Your brand gets diminished, well we have established brands and we have a clientele that appreciate that personalised service that we give.

MR LESOFE: Thank you, just one last question, you have made a proposal that the e-hailing permits should not exceed the meter taxi permits. What I am interested in finding out is are you proposing that that should be legislated or are you saying as part of what the planning authorities do when they consider the need, that is where the limitation should arrive when they make recommendations to the PRE or are you saying that it should just be legislated.

MS FRIEDMAN: Well, we would like consultation with the PRE and the local municipalities before hundreds of permits are issued like what has been happening in Cape Town. Cape Town is now the good model for us, there have been a number of problems which you have heard so we don't want to go down the Cape Town model route but certainly as an established industry that is affected, we want to be part of the consultations so we know how many permits we have in our client base and how many permits they have but we do not want a situation that we have now where we are completely drowned out by the number of vehicles they have on the road so they might have more but we need consultation depending on a needs analysis.

MR LESOFE: Thank you Chair.

MR MOODLEY: Through the Chair. To add on, one of the recommendations we would like to suggest upon is this issue of not utilising vehicles on the platform which do not comply with regulations hence if you do not have an operating licence one shouldn't be operating and we find that by the ad-based companies refusal to answer how many vehicles are properly regulated or in terms of the operating licences and not making mention of how many vehicles there are which are properly licenced, it gives us an unfair platform, unfair environment because we have to abide by the rules but they don't and if one of the recommendations can be that they do not have vehicles on the road which do not have permits, then that will make a big difference towards the survival of meter cabs in this country.

MS FRIEDMAN: And just to add to that, along the same lines, we would like them to curtail their operations so that they are only operating legal vehicles. In Vancouver they are not operating at all until there is an agreement between the traditional meter taxis that have been around generation after generation, their Department of Transport and the e-hailing vehicle so we are absolutely dumbfounded as to how they are operating so we want them to stop, certainly stop the number that are illegal, those need to be pulled off the road. I know they have a number of meter taxi permits, if they are legal we don't have a problem but they need to stop operating and our biggest gripe is that they push themselves into the market when they were illegal and then they try and change the law to suit them. I mean we even hear they still want to change the law with recommendations. We don't understand how an overseas company can come into South Africa in 2014 and have the strength and ability to change our laws. We don't have that ability, we sit in meeting after meeting since 1995. There are certain components of the PRE that we are not happy with because certain components actually relate to mini bus industries. We have submitted our objections, they're ignored so we are absolutely dumbfounded as to how a company that is not South African can come and has the ability to change our law and that's what they have done.

MR MANDIRIZA: Just one question for me. So I hear I think and I now understand so the first part of the e-hailing services is about regulations so I just want to maybe put a proposition and then get your response. Let's say all of them get registered and they operate legally, they are legal entities, they operate, they comply with all the requirements and NLTA and still charge the same kind of prices that they are charging at the moment. Would you have a problem with that?

MS FRIEDMAN: Yes we would have a problem because first of all there is too many of them so what we are saying we need to be consulted as to how many so all of them get registered we have a problem with that. The pricing structure is also a problem as you have heard. You have even heard from their drivers that they cannot make a living at the current pricing structure so there needs to be fair pricing structure taking into consideration what it takes to run a public transport company. Its not just vehicles and insurance, there is all sorts of taxes and Workman's Compensation and other requirements so there needs to be consultation with the industry before all of these permits are issued and we have a problem with the pricing.

MR MOODLEY: Its common knowledge now that they have displaced the South African meter taxi market. If you look at the airline industry in South Africa. You cannot simply go and put an airline into this country without getting proper permission and that they have admitted in recent hearings that they are not compliant with the law and yet they still go and flood the market what they call is indicative of how they have disrespected the South African system but given what my colleague has said, there are so many vehicles that one could put onto the market to take care of the current clientele. With 12,000 vehicles and they think they are projected to go even more we are not sure that it will be sustainable and the only reason why their rates are so low at the moment is surely because they do not abide by the laws and that they have huge funding available to be a lost leader in a country like this because they don't have infrastructure, the infrastructure is then provided by the drivers who have to bear the risk and if after a few years, the vehicles do not comply they get taken off the platform and somebody else comes on so akin to a pyramid scheme you always somebody coming on to the system with no cost to the platform, because the platform would only have to take care of IT maintenance costs as opposed to having to provide infrastructure costs such as the vehicles in itself. That is why they are able to charge low rates. We also wanted the Commission, I am not sure if you have mentioned it before, to look into the tax status of the company because we know that there were problems abroad with authentication when you pay by credit card, the money doesn't hit our Reserve Bank here in South Africa and those abroad so we are not sure whether South African Reserve Bank the laws have applied and whether the South African Government in terms of taxes are receiving adequate taxes.

MR MANDIRIZA: Maybe just a follow up I just need to understand exactly the let's say another proposition, let's say they register and they charge the same price as the meter taxis but because they are using a platform, would you be able to compete with them and then maybe a follow up question to that, currently as the meter taxi industry we know that there are other apps that have been developed by the meter taxi industry. I just want a perspective of the uptake on how successful it has been and what are the impairment for you to grow in terms of the critical mass?

MS FRIEDMAN: Okay I am going to possibly answer the last question first. Let me go to the first one. Can you just repeat the first component.

MR MANDIRIZA: The first component is the e-hailing service gets registered properly and they charge the same price as the meter taxis, would you be in a position to compete given the brunt and all of these other things that they have already attended in the market?

MS FRIEDMAN: You see, one of the problems and that's also why we submitted our first submission is the playing fields are now level so if we had as many vehicles on the platform and if we used meter taxis all around the country and we didn't have a dead leg of mileage, so we have to be competing on the same level. Currently, as I indicated earlier, our cost structure is a 50/50, 50% of our kilometres are what we would call unpaid so if we were competing on the same level and we have said this to our authorities, if nobody has to comply we don't have a problem. If we don't have to pay taxes and if we don't have to submit Workman's Compensation and if we don't have to have licences and I mean, we cannot even stay too long to pick up a client on the streets. We can't park anywhere, there are all sorts of things that we can't do but they can do so we won't have a problem if the authorities decide once and for all there's either no legislation and everybody abides by that or everybody complies by the legislation and the playing fields are levelled and as long as we both working on the same amount of kilometres per charge, we don't have a problem but once again, there has to be consultations. Look at our industry, how can we upgrade our industry? Your second question went on to we have been looking at the technology. It's really expensive. I have looked at how to integrate, I personally use international meters, I use hail meters which have the ability to link to an application, they link to a computer system, they link to your fleet management system, we need to go one step higher, we need to integrate our application to a call centre and to our taxi meters. Okay, the cost on that are astronomical to get to the level and even the cost that Uber has venture capitalists, you know, funding them. Yes, we would love to have that venture capitalist funding us and then we will certainly be on the same playing field. It is not like we don't know our industry, we know our industry back to front. We know what it entails but we need funds. That's why we are also requesting a surcharge on all e-hailing vehicles that go towards really empowering our industry so that every single meter taxi in

South Africa is on a platform but is legal, it is linked to a taxi meter and then the customer has choice. It can use a local company that has the same conveniences or it can use the international company. So don't know if I answered your questions.

MR MOODLEY: So Chair, we feel that it would completely destroy the industry if you bring more on board ad-based vehicles. At the moment the 12,000 in the industry and what we said that it is hugely detrimental to the industry, we also think that e-hailing shouldn't be any different to how a normal meter taxi company is regulated in this country. The very fact that e-hailing came about was because there was no consultation with the industry in the first place and the Act speaks of being able to book a vehicle by telephone. Telephone now is known as mobile phone as well so the Act shouldn't be changed to accommodate e-hailing, surely because e-hailing suits a few large corporates that operate out of South Africa. We think that the Act can be amended to take care of the changes in society with respect to radii but bringing on more vehicles and regulate and providing more permits for their vehicles on their platform, only suits the companies that are abroad and it won't suit the industry in itself. It won't actually mean that prices may come down, it would actually mean that you have either the monopoly because it will only be one or two companies that held the funds to be able to run these ad-based companies. The reason why ad-based companies in South Africa have not been so successful is surely because of the funding. It is one aspect to be able to run an app on an IT platform so you needs huge amounts of capital to be able to market the app to be able to take care of other hidden costs which as start up in this country may not be able to do so purely because they don't have the venture capital funding which is available in developed countries you find in Europe and the US. So we don't think that more prominent vehicles on the platform would be good for the industry.

MR MANDIRIZA: Thank you. Remember just to provide context also to the questions I think we know the amendment is already at the NCOP and this enquiry is supposed to end some time maybe May 2019 so I am already anticipating that maybe by that time we are done with in a way the enquiry. Okay, no, that's fine, I will leave it here.

MS FRIEDMAN: I think that's quite useful information because yes, the amendments, there are amendments and as I indicated we are quite happy with some of them that the fact that e-hailing vehicles are now defined as metered cabs' sub-sector so because of that we will be pushing that they meet the requirements of meter taxis. So there are some components of the Act that we quite happy with. There are some that we would probably oppose and we certainly would oppose a blanket expansion of e-hailing permits more than what they have flooding the market and we would like them to remove the one's that are currently illegal and we certainly would oppose all of their vehicles that are currently on the platform becoming legal and then we need to be given the same opportunity of increasing our operations, so it's interesting, I appreciate your time frame to know that we have from June 2018 and you still have almost a year to continue with your enquiry and I think there will be a lot of movement in this space of legislation in the next twelve months.

CHAIRPERSON: Ms Nontombani? Ja, thank you very much Ms Friedman and Mr Moodley for your presentation and for your time. In particular I would like to thank you for agreeing yesterday to make the presentation only today.

We would like to thank you for your understanding. Thank you very much. We will certainly take up the issues that you have raised with the relevant authorities as the enquiry goes along so we will certainly wait for the finalisation of the process.

MS FRIEDMAN: Yes and thank you and as we mentioned in the beginning we would like to do another submission just to tie up the areas that we touched on here.

CHAIRPERSON: You are more than welcome to do so, so there will be an ongoing process of engaging stakeholders even before the final report is published.

MS FRIEDMAN: Thank you.

MR MOODLEY: One more point before we close up, just that the Commission Chair, thank you, considers in line with changing technology where the one company is allowed to monopolise the space in so far as what we have seen up to this day because even with others that are wanting to come into the country will be detrimental for competition. Thank you.

CHAIRPERSON: Ja thank you very much. We have now come to the end of the Public Hearings in KZN. We would like to thank all the stakeholders who have taken time to make their submissions. We really appreciate all the submissions which have been made. We would also like to thank our interpreters for a job well done for providing very good and excellent interpretation services. The next round of Public Hearings will be in Mpumalanga in Nelspruit on the 10th and 11th July this year. Thank you very much.

MS FRIEDMAN: Thank you, we would like to once again thank you for your in-depth understanding of our industry as time has gone by and your very pertinent questions. We really appreciated that as we watched some of the other submission. Thank you.

CHAIRPERSON: All right, thank you, thank you.