

**PUBLIC PASSENGER TRANSPORT MARKET INQUIRY
BY COMPETITION COMMISSION**

**SUBMISSION BY PUTCO (PTY) LTD IN SUPPORT OF
ORAL PRESENTATION ON STATEMENT OF ISSUES**

28 MAY 2018

OPERATING LICENCES

Question 1:

How can provincial government determined routes be responsive to the changing needs of commuters?

1. Changing needs and expectations of commuters

The needs and expectations of public transport users have changed dramatically since the dawn of the new democratic South Africa in 1994 and the signing of the interim bus contracts in 1997. These changing needs, not only refer to new geographical areas that require public transport services due to urbanisation, densification and in-migration, but it also relates to the changing expectations of modern users of public transport services. This is evident in the rise of consumer activism and the availability of a plethora of social media platforms, where commuters can instantly share opinions and complaints, with hundreds of thousands of other users. The introduction of the Gautrain and Bus Rapid Transit (BRT) systems, further heightened the expectations of bus users who demand a modern bus service of similar quality and standards in terms of buses, service standards and infrastructure, from the traditional Public Transport Operations Grant (PTOG) bus services and municipal bus services.

2. Characteristics of a responsive public transport system

In order for the public transport system to be responsive to the changing needs of commuters, it must demonstrate three characteristics. It must be:-

- **dynamic** (defined as '*a process or system characterized by constant change, activity, or progress*')
- **relevant** (defined as '*being connected or related to the current situation or reality*'); and
- **flexible** (defined as '*able to be easily modified to respond to altered circumstances*')

3. Evaluating the responsiveness of the current public transport system

If we evaluate the current bus contracting system against these criteria, the following picture emerges:-

- a) No new bus tenders have been awarded during the last 17 years, since a moratorium was placed on the bus tendered contract system in 2001.
- b) All the subsidised bus contracts have expired more than a decade ago and have been extended multiple times, some as many as 130 times.

- c) As these bus contracts have not been updated or refreshed since they came into existence 21 years ago, they have not kept up with the population and demographic developments and new travel patterns of commuters.
- d) The cost indices of these contracts are outdated and are no longer relevant or accurate.
- e) The government policy on PTOG bus contracts have been in limbo for 17 years, with the policy directions wavering between tendered contracts and negotiated contracts.
- f) The reality on the ground has changed dramatically in the last 20 years, in terms of land use, development of settlements/residential areas, and the expectations of commuters.
- g) The bus contracts are inflexible and rigid. Operators are unable to respond to increased passenger demand on existing or new routes and cannot introduce additional trips, as this must first be approved by the Provincial Department of Transport. Due to the funding problems, no significant additional routes or kilometres have been approved since 2012.
- h) The market share of the bus industry is artificially restricted and bus operators are prevented from growing and expanding their businesses by the capping of subsidies and the inability of the bus contracting system to fund new routes or additional scheduled kilometres.
- i) Bus contracts are severely underfunded due to the non-adherence to subsidy escalation formulas in bus contracts. These subsidy escalation formulas were designed to ensure that annual increases in subsidies are in line with increases in major input costs such as fuel, labour and maintenance, as is the practice worldwide. Instead bus subsidies are increased in accordance with the annual increases in the PTOG in the Division of Revenue Act (DORA). This has been the subject of litigation on a number of occasions.
- j) Due to the subsidy underfunding problem, bus companies are struggling to survive. Increases in major cost items such as fuel, labour and maintenance are much higher than increases in subsidy revenue and passenger fares. As a result operators experience severe cash flow and profitability problems, which negatively affects the ability of bus companies to maintain buses to the required standard. This in turn, results in problems with bus availability, bus reliability and bus renewal programs.
- k) The quality of the PTOG bus services is affected by these underfunding problems which results in unhappy and dissatisfied bus users.
- l) The option of rationalisation of services (trips and kilometres) to ensure viable subsidy rates per kilometres have not been applied in Gauteng (despite several requests and proposals from operators), whilst it has been proven as a viable solution in some other provinces.
- m) The development of integrated public transport plans (ITP's) is a legal requirement for progress in public transport contracts. Despite this, the lack of development of ITP's has been one of the main reasons for the inertia in bus transport contracts over the last two decades.
- n) The tool of commercial service contracts (unsubsidised contracts) as provided for in the National Land Transport Act, has not been used to grow the provision of public transport services to new areas that required public transport.

4. Conclusion

Based on this analysis, our conclusion is that the provincial government determined routes are not responsive enough to the changing needs of commuters.

5. Recommendations to improve the responsiveness of the public transport system

We wish to make the following recommendations to improve the responsiveness of the public transport system to the changing needs of commuters. :-

- a. The root causes that resulted in the paralysis of the bus contracting system (as identified above) must be faced, addressed and resolved. We need to get the contracting system going again, with a system of regular contracts being put on tender or being negotiated, in all areas serviced by public transport contracts.

- b. If services are put on contract on a regular basis, the services (routes, trips, timetables, areas to be serviced, etc.) should be updated prior to these services being put out to competitive tender/negotiated contracts, via public transport service designs by the authority.
- c. Should the need arise to adjust services (routes, timetables, areas to be serviced, etc.) during the lifespan of a contract (e.g. within the 7 or 12 years), the mechanisms provided to alter or amend services provided for in the Model Contract Documents, should be utilised to adjust the services, to keep it relevant and updated.
- d. The concept of *flexible contract kilometres* can be utilised to shift existing contracted services (contract kilometres) to those areas where the greatest demand for public transport exist.
For example if operator A has been contracted to render 100 contract kilometres in Area A, but 20% of the passenger demand shift from area A to Area B due to new demographic changes, some of the contract kilometres (e.g. 20 of the 100) can be moved to area B to serve the new demand. The operator still provides 100 contract kilometres with 80 kilometres in area A and 20 kilometres in area B).

Question 2:

What are some of the issues you have encountered regarding the operating licence application process administered by the PRE?

Company Answer:

1. Contract extensions and renewals of operating licences

With the ongoing contract extensions over the last 15 years, we experienced consistent difficulties with the renewals of permits and recently, operating licences. The PRE in Gauteng, refuse to extend operating licences beyond the period for which bus contracts have been extended. The consequence of this, is that all operating licenses on the whole Putco fleet expire on the last date of the previous contract extension. Because the contract extensions have been done late, and in some cases even after the expiry date of the previous contract extensions, bus operators in Gauteng often experienced serious administrative problems with the mass expiry and mass renewal of operating licences. The PRE in Gauteng does not have the administrative and logistical capabilities and capacity to issue sufficient operating licences within such a short time period.

For example, our current interim and tendered contracts expired on 31 March 2018 and were extended by only six months to 30 September 2018. As at the end of May 2018 we are still awaiting in excess of 450 operating licence renewals for the 31st of March 2018 expiry date, despite having complied with all the required application procedures. Our operating licences are now only issued for 6 months, to 30 September 2018, to coincide with the contract extension period. With all our operating licences expiring on the same date (30 September 2018) the problem will repeat itself as the Gauteng PRE is not able to issue sufficient operating licences within such a short period of time.

It should be noted that other provinces, such as Mpumalanga, issue operating licences for a period of 6 years and operators in those provinces do not experience this problem.

2. Different interpretations by law enforcement authorities in different provinces

The inability of the Gauteng PRE to renew operating licences fast enough, result in operators incurring fines and having buses impounded by traffic authorities. In Gauteng, the traffic authorities accept the receipt of application to renew an operating licence, as long as it is

displayed in the window of a bus. In Mpumalanga, the traffic authorities do not accept the receipt of application for an expired operating licence and they discontinue all buses which only display the receipt. This disrupts the bus service as buses are taken off the road, fines are incurred and passengers are inconvenienced. Despite all efforts by individual bus companies and the Southern African Bus Operators Association (SABOA) to address and resolve this problem, it still continues year after year.

3. PRE systems offline on regular basis

To compound this problem, the computerised system at the PRE is offline at least two to three times a week. This causes serious delays and frustrations in the process of receiving the operating licences in time.

4. Unnecessary cumbersome and impractical administrative requirements.

Putco operates more than 1,300 buses. The PRE requires an individual application for each operating licence renewal for Putco and each application must be accompanied by an originally signed proxy letter, a certified copy of the identity documents of the proxy, a certified copy of the Company Registration Certificate, and an Original Tax Clearance Certificate from SARS. Getting all these documents for 1,300 buses to be certified by a Police Station, is cumbersome and difficult and most Police Stations simply refuse to certify such a large volume of documents. This onerous requirements make the process of applying for operating licence renewals slow and cumbersome, resulting in unnecessary delays.

5. Slow processing time

The PRE indicates that it takes 4-8 days to process an Operating Licence application from the date of receipt, but our experience in practice shows that it take approximately 4 weeks.

6. Recommendations

We recommend the following to improve the situation:-

- a. That the Electronic System that is used to issue the operating licences be upgraded to speed up processing time and reduce down time.
- b. That the application procedure for large fleet operators be simplified
- c. That the duration of operating licences be lengthened to avoid all operating licences of large fleet operators expiring on the same date.
- d. That the staff that support the functioning of the PRE, be given appropriate training to ensure the smooth running and the efficiency of the PRE.

PRICE SETTING MECHANISMS

Question 3:

Describe in detail your firm's price setting policy including how the policy has evolved over time and the reasons for such evolution.

1. Fare Increase Process

The processes to be followed when increasing bus fares are set out in the Interim Contract Document and the Addendum to the Interim Contract Document.

In summary, the provisions are as follows:

- a. *The Operator shall increase the fares charged to the passenger as set out in the Specifications (Part 3) at least annually, after consultations with the commuter associations and subject to the approval of the Employer, which approval shall not unreasonably be withheld or delayed.*
- b. *The fare increase shall be effective on the date set out per contract, each year.*
- c. *The Operator shall, by no later than five (5) months prior to the proposed date of the fare increase, commence consultations with the commuter associations.*
- d. *The Operator, after its consultation with the commuter associations, shall submit the proposed fare increase to the Employer by no later than three (3) months prior to the proposed date of the fare increases.*
- e. *The Employer shall, within thirty (30) days of submission of the proposed fare increase, communicate in writing, its approval or rejection of the fare increase. If the fare increase is rejected by the Employer, the Employer must, at the time of this rejection, furnish reasons for the rejection. Where the fare increase is rejected, the Operator may refer the matter to the expedited arbitration process in terms of the expedited arbitration procedure in clauses 3.4.5.1 – 3.4.5.7.*
- f. *The Operator shall provide the passengers with twenty eight (28) days' notice of any approved / determined fare increases.*

2. Factors taken into account in determining fare increases

The factors that are taken into account when determining fare increases include the following:

- a. Year on year increases in major input cost items such as fuel, labour, maintenance, tyres, etc.
- b. Increases in bus subsidies in terms of the subsidy escalation formula in bus contracts.
- c. Increases in subsidy in the Public Transport Operations Grant (PTOG) in the Division of Revenue Act.
- d. Passenger demand and trends on specific routes and contracts.
- e. Alignment with strategic business priorities.
- f. The outcome of fare increase consultation processes and submissions made by commuter organisations.
- g. Financial stability and cash flow position of business units and the company.
- h. The quality of services rendered.

3. Pricing policy

The main factors that will determine the price or fare of a bus service or route includes the following:-

- a. **Cost component** – In order to operate profitably and sustainably, revenue must cover input costs and provide an acceptable return on investment or profit, to the shareholders of the business. The cost structure is broken down into fixed and variable costs, which will affect pricing decisions on specific routes or services.

- b. **Subsidy component** – The level of subsidy that is applicable on a specific route or group of routes, will influence the pricing decision. The higher the subsidy that is received the lower the passenger fare can be.
- c. **Ridership component (demand)** – The number of passengers making use of a service is an important factor in determining the pricing strategy. On a route with high passenger demand (high passengers per trip), high population densities, high service frequency, long peak periods and short off-peak periods, the unit price (fare) can be lower, compared to a route with very low passenger demand (low passengers per trip) low population densities, low service frequency and short peak periods and long off-peak periods.
- d. **Price flexibility & affordability component** – The typical bus user in South Africa comes mostly from very poor communities that spend a high proportion of their disposable income on public transport to get to and from work and home. If you are unable to offer a price (fare) that is affordable to your target market, they will not be able to afford the service. This emphasises the need for efficiency and effectiveness in bus operations to keep prices as low as possible.

Question 4:

What is the impact of pricing on competition between the different modes of public transport on the routes where the different modes compete?

Company answer:

The 2014 National Household Travel Survey for Gauteng lists the following three factors influencing household choice, as far as public transport is concerned:-

- Travel time (36.1%)
- Travel cost (25%)
- Flexibility (9.7%)

From this, it is clear that pricing is an important factor in determining the travel choices made by commuters, but it is not the most important factor influencing travel choice.

Other factors listed as influencing travel choice include:-

- Safety from accidents
- Comfort
- Reliability
- Distance from home to transport
- Security from crime, and
- Drivers attitude

When comparing the percentage of respondents in Gauteng that expressed dissatisfaction with fares, the following comparison can be made between modes:-

- Taxi users 54.7%
- Bus users 29%
- Train users 10.9%

Question 5:

In your view, how can the price discrepancies between the different modes of transport be addressed?

Company answer:

When considering price discrepancies between different modes of public transport, one must however take cognisance of the fundamental differences between the different modes which affects fares and price discrepancies.

The commuter bus industry is a formalised industry while the minibus taxi industry represents an informal industry. Bus companies are required to meet a number of statutory and other legal requirements and standards, associated with a bigger and formalised business, which is not applicable to the minibus taxi industry. The following table lists some of the fundamental differences between the bus and taxi industry:-

Differences between formalised commuter bus industry and informal taxi industry	Formal commuter bus industry	Taxi industry
1. Prescribed timetables	Prescribed timetables have to be adhered to, irrespective of whether the bus is full or not	There are no prescribed timetables and operators operate only when vehicles are fully loaded
2. Routes	Many non-profitable routes have to be operated based on the social needs of the population	Services focus on profitable short-distance peak and off-peak services
3. Period/ time of operations	Services are mostly in the peak period	Services focus on profitable short-distance peak and off-peak services.
4. Monitor	Contracted services are independently monitored for contract compliance	There is no independent monitoring of services
5. Fares	Fares are prescribed in contracted services	There is no fare control in the taxi industry – this is self-regulated and controlled via route associations
6. Labour conditions	The industry is highly unionised and labour rates and conditions of employment determined by SARPBAC and enforced	Labour agreements e.g. working hours and minimum wages are extremely difficult to enforce, if at all
7. Working hours	Working hours are governed and enforced	Labour agreements e.g. working hours and minimum wages are extremely difficult to enforce, if at all

8. Training	Companies spend significant amounts on training and training facilities	Government/TETA generally sponsors any training activities
9. Infrastructure	Companies invest in infrastructure such as office space, depots and maintenance facilities	The taxi industry does not have a large commitment to infrastructure developments relating to their operations
10. Vehicle maintenance	Vehicle maintenance and replacements are regulated by means of the contracting system requirements	Vehicle maintenance practices are not effectively controlled and enforced by the authorities
11. Road-worthy tests	Road-worthy tests are compulsory every six months	Road-worthy tests are only required once per annum
12. Effect of exchange rate	The industry is highly vulnerable to exchange rates as all bus chassis are imported	Most minibuses are sourced from local suppliers thus cushioning the industry against exchange rate volatility
13. Subsidy	Services are subsidized to reduce the economic fare to commuters	No direct subsidy

ALLOCATION OF OPERATIONAL SUBSIDIES

Question 6:

Comment on the effectiveness of subsidised modes of public passenger transport on the provision of public passenger services to the poor and the majority of South Africans;

Company answer:

The effectiveness of the subsidised modes of public transport is hampered by some of the systemic problems being experienced, which include the fact that:-

- No new tenders or bus contracts have been awarded since 2001.
- The contract bus services (routes, time tables, trips, origins and destinations) have not been updated or refreshed since 1997 when the interim contracts were concluded.
- Operators cannot respond to new demand for public transport that develops due to demographic developments, because of the restrictions on funding and the approval required from the contracting authority.
- Bus contracts are old, outdated and severely underfunded, which affects the financial sustainability and feasibility of these services
- The bus industry is restricted from growing its market share and from benefitting from population growth and in-migration, because services are capped based on contract kilometres.
- Vast differences exist between the subsidy rates per kilometre of different PTOG contracts and also between PTOG contracts and the subsidy rates paid to BRT services and the Gautrain.

Based on the 2014 National Household Travel Survey for Gauteng, buses transport approximately 16% of all users of public transport, while taxis transport 68% and trains 20.3% of public transport users. If the bus sector was not artificially restricted and prevented from growing due to the capped contract kilometres (since 2009), buses would enjoy a far bigger market share.

Question 7:

Are subsidies benefiting the majority of the poor given that the subsidised services have limited accessibility compared to minibus taxis?

Company answer:

The 2013 National Household Travel Survey reflects the market share of the different modes of transport as follows:-

- Minibus taxi 68,8%
- Bus 20%
- Rail 12,2%

As the minibus taxi industry is not directly subsidised, one cannot claim that majority of the poor benefit from subsidies. If government wanted to ensure that majority of the poor benefit from subsidies, it will have to allocate enormous additional amounts of subsidy funding towards public transport.

Question 8:

What is the impact of subsidies on competition between different modes of public transport?

Company answer:

The purpose of subsidies, is to enable bus operators to offer lower fares to commuters than what they would have paid if no subsidies were applicable. Most bus users are unable to afford taxi fares and without subsidies, many of these bus commuters would not be able to afford to use public transport.

TRANSFORMATION

Question 9:

How best can meaningful participation of historically disadvantaged individuals be achieved in the industry?

If the bus contracting system is functioning as it should and new or updated contracts are regularly awarded (tendered or negotiated), it creates opportunities to increase the participation of historically disadvantaged individuals in the industry. Conversely, such opportunities for participation in a static system that has been in limbo for 20 years, are severely limited and leads to frustration on all sides.

In a tendered contract scenario, opportunities for participation of historically disadvantaged individuals can be created through minimum tender specifications on ownership, BBBEE status, joint ventures, SMME empowerment etc.

In a negotiated contract scenario, the involvement and participation of historically disadvantaged individuals and SMME's can be a condition of the conclusion of negotiated contracts.

LONG TERM CONTRACTING BETWEEN GOVERNMENT AND BUS OPERATORS

Question 10:

What are the impediments to the competitive bidding process by government?

In our view there are 5 main impediments to government reintroducing the competitive tendering system:-

1. High cost of tendered contracts

As far back as 2001, research on the tendered contracts awarded at that time, showed that the subsidies required by the new tendered contracts, were on average 25% higher than the subsidies that were paid to Interim Contracts prior to the services being placed on tender. One of the main reasons for this, is the high specification levels in tendered contracts as far as new buses, ticket equipment, and other support services (e.g. call centres, vehicle tracking and monitoring, etc.) were concerned. With limited funding available and an already underfunded system, the reality is that new tendered contracts will require a significant increase in subsidy funding.

2. Labour Issues

The tendered contract system brought with it a myriad of problems associated with labour standards, remuneration and conditions of employment. Despite extensive discussions and agreements concluded at the time, including the Tripartite Heads of Agreement (HOA) signed between the government, operators and organised labour, the tendered contract had severely negative effects on job losses and conditions of employment of employees. This was one of the main reasons for the moratorium being placed on complete tenders in 2001. Many meetings, workshops and indabas were held in an attempt to address and resolve these complex problems, but without success. The burning question of whether or not S197 of the Labour Relation Act, dealing with the transfer of contracts of employment, applies to bus tenders, is an additional problems that arose since 2001.

3. Transport Plans

The lack of integrated transport plans and the lack of funding and expertise to develop proper integrated transport plans, remain one of the biggest stumbling blocks for tendered contracts and negotiated contracts.

4. Integrating the minibus taxi industry

A competitive tendering solution implies a winner-takes-all solution, which leaves very little room to ensure the effective integration of bus and taxi services. Especially in the event of existing taxi routes and services forming part of the public transport services that are being placed on competitive tender, this approach becomes problematic.

5. Contracting authority

The long outstanding question as to who the actual contracting authority should be, has been one of the main reasons for the lack of progress in tenders in recent years. Initially contracts were concluded with operators by the National Department of Transport. Thereafter, this function was devolved to the provinces. In terms of the Constitution, the municipalities should be the contracting authorities. A lack of capacity and uncertainty about adequate funding for bus contracts, made municipalities reluctant to simply accept this responsibility. This issue remains uncertain with municipalities being hesitant to commit to taking over the full responsibility of being the contracting authority, but at the same being reluctant to sign away this function and the associated power, influence and funding allocations.

Question 11

The impact of the lack of competitive bidding on entry and expansion of bus operators, especially the small operators.

Company answer:

The fact that no new bus tenders have been awarded in the last 17 years, since a moratorium was placed on the bus tendered contract system in 2001, had a severe impact on bus companies and their ability to grow and expand. As these contracts have not been updated or refreshed since they came into existence 21 years ago, they have not kept up with the population and demographic developments and new travel patterns of commuters. The bus contracts are inflexible and rigid. Operators are unable to respond to increased passenger demand on existing or new routes and cannot introduce additional trips, as this must first be approved by the provincial Department of Transport. Due to the funding issues no significant additional routes or kilometres have been approved since 2012. The market share of the bus industry is artificially restricted and operators are prevented from growing by the capping of subsidies. This also limits the ability of small operators to enter the market or to increase their participation in subsidised bus contracts.

COMPETITION DYNAMICS

Question 12

You indicated in your submission 11 October 2107 that PUTCO feels that there is generally an absence of fair competition between the different modes of transport. Kindly elaborate on this point.

As mentioned earlier in question 5, a formalised commuter bus industry is forced to compete against informal taxi industry. Taxi operators do not have the same statutory and legal obligations that more formalised bus companies are required to fulfil. In addition, the bus industry is precluded from expanding subsidised bus services to newly developed residential areas in need of public transport. The minibus taxi industry do not have these limitations and they are free to enter and serve these new markets.

As far as the commuter rail industry, where it competes against the commuter bus industry, difficulties experienced are:

- Major passenger fare evasion impacts on commuter bus patronage as passengers opt for rail where less control exists over fare -paying passengers
- The fare differential between commuter bus and rail commuter fares is substantial. It is estimated that commuter rail passengers only pay one third of the typical commuter bus fare over the same distance
- Commuter rail infrastructure is subsidized by the state – for example, train yards, stations, maintenance facilities etc.
- The rail deficit subsidy system does not encourage rail efficiencies – in the commuter bus industry the subsidy is dependent on the production of kilometres and passengers loads
- Independent service monitoring does not take place (The Rail Safety Regulator does however investigate rail accidents/incidents)

The **Bus Rapid Transit Systems** has an unfair advantage over traditional PTOG bus services for the following reasons:-

- BRT services are a gross contract where the operator does not carry the revenue risk, as PTOG operators do on net cost contracts.
- The rate per kilometre paid to the BRT services, is multiple times higher than the rate per kilometre for PTOG contracts
- The BRT services perform only the operating of the bus. All other functions are outsourced to other service providers e.g. ticket selling, security, operational control, bus maintenance etc. The PTOG services must perform all these functions themselves for a much lower subsidy rate.

Question 13

You indicated that, a formalised commuter bus industry is forced to compete with an informal taxi industry, what in your opinion should be done to address this issue?

In our view, the most important step needed at present, is to break the 17 year long impasse in the bus contracting system. The root causes that paralysed the bus contracting system for the last two decades must be faced, addressed and resolved. The bus contracting system must get going again with regular contracts being put on tender or negotiated contracts, to render bus services to existing and new areas that require public transport. The old, outdated and stagnant bus contracting system must be re-energized to become dynamic, flexible and relevant so that it can respond to the changing transport needs of the country and the citizens of South Africa.

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