

**COMPETITION COMMISSION  
PRESENTATION**

**COMPILED AND PRESENTED BY:**

**SANTACO – KZN**

**DATE: 29 JUNE 2018**

**TIME: 16:00**

**VENUE: DURBAN ICC**

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## **INTRODUCTION**

Competition is good for any business sector, provided it is done in a fair and just manner. In order to achieve such a provision of fairness and justice, it is imperative that all role-players in a particular sector are treated the same. This 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 Minibus Taxis. This land transportation mode is used by the majority of commuters, especially black South Africans, whose majority is poor and unemployed. 70% of public passenger's board minibus taxi's to commute from home to work and vice versa.

## **MINIBUS TAXIS**

This mode of transport is regulated through NTLA. In all provinces there is a legislated Provincial Regulatory Entity, that regulates the Minibus Taxi industry.

PRE regulates the issuing of authority to the applicant to utilise the routes. The authority that is issued is called an Operating Licence. The Minibus Taxi operators are business people and where there is a transport related opportunity, they grasp it with both hands. Government enables conditions to be fertile for investment and development. Once new factories are built or established, workers will need transport to go to their respective destinations. A new housing development is established, also creates an opportunity for the public transport.

During the period of a moratorium on new operating licences, developments occurred and Minibus Taxi operators continued to render a public service of transporting commuters without the operating licenses. This blanket approach moratorium was never tested on the applicable NTLA provisions, to verify the legality and its legitimacy as well as the inputs from the specific Municipalities allerring to be affected. Although the intention of placing a moratorium on new operating licenses was a positive move, however, it was illegal in a manner that it was applied. The provision of the Act does not allow for a Provincial blanket approach moratorium, but it requires a thorough process that looks into the rank facilities, rank stands and vehicles. This focussed on Individual Municipality's Infrastructure and comments. The Provincial Moratorium was illegal because there were no route feasibility studies conducted. We are grateful to announce that the moratorium was repealed in KZN. The Province is currently addressing the issue of Operating licences that were not issued because of a moratorium imposition.

Whilst Taxis Commute Passengers, Law Enforcement Agencies enforce the Law and Commuters suffer. The Minibus Taxi Entrepreneurs, who have identified a business opportunity created by the developments, also suffer due to the blanket approach imposed moratorium. The Association is required to make an application of the Additional Authority to PRE. PRE will have to gazette the applications for Public Scrutiny. If there are no objections, then the application will be granted. There are various timeframes allocated for this process.

The requirements to become a member of the Association are enshrined in the constitution of the Association. The standard requirements are:

1. Title deed
2. Support of an application from current members
3. Joining fee
4. 3 months bank statement
5. Log book

Routes tend to overlap but the provisions of the operating Licences are explicit in terms of the operation. Minibus Taxis can operate in a route that overlaps, however, others will be allowed to drop off along the route but would not pick up passengers, whereas the rightful operators will be at liberty to do both. A penalty is imposed on the driver who violates the provision. In other instances operational agreements are signed between Associations using the same route.

### **PRICE SETTING MECHANISMS**

The Taxi Industry has a challenge in determining a fare that is profitable to the operators on a particular route. The Taxi Operators are guided by expenses incurred to run the business taking into account the plight of poverty and unemployment faced by commuters. There is no scientific formula to determine the fees. The fares are revised once a year on the 1<sup>st</sup> of July every year. Even if the petroleum price fluctuate during the course of the year, but the fare is only revised once, as per the PEC resolution. The Provincial Executive Council would always call the PTPA then to its meeting to inform them of the anticipated increment. This engagement will then begin discussions at all levels of transportation forums to make commuters aware. In certain instances representatives for the commuters, are the ones who call community members to inform them about the increment. This process is consultative in its nature.

The above method is not scientifically justifiable in its nature. The PEC would only agree on a value in rand as a basis for the fare increment. This value is reasonable for Local Operations, however, for Long distance operations, Operators meet with Community structures to determine a reasonable amount of money that would be affordable as well. This shortfall will have to be breached by the industry, because it would enable a formula that would provide an objective justification of the fare increment not just thumb suck. The request to even subsidise the commuter would be easily substantiated by a formula, which will indicate whether the current taxi fares are high or low and whether they sustain the business or not.

The difference in pricing has a huge impact on competition between various modes. In most cases the rail and bus commuter obtains a subsidy to board that mode at a reasonable fare, which then places a burden on the Taxi Operator to charge a fare that will not be profitable but would allow for the payments of operational costs with no profit, in order to survive.

Other routes in the Taxi industry are no longer able to even pay for operational costs due to the unfair competition, which leads to intra disputes amongst members trying to make extra cash from fellow operators. Vehicles end up being repossessed and in other scenarios vehicles end up being on the road without insurance covers, and others are serviced by non-reputable mechanics and their workshops. This also compromises the safety of passengers.

## 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 Provinces continue to voice the desire for real economic emancipation. Change requires concepts, effective strategies and money to deliver. The Taxi Operators need to unite in common effort, to bring new energy and ideas for the challenges facing the Taxi industry and also engage in the outcomes of the industry future.

The other important aspect to be able to achieve the above is the competency of the Leadership. The Leadership overall is lacking in skills and capacity. This extends to Managerial, Financial skills and Technological skills which are extremely relevant during the transformation phase.

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 family businesses run informally, lacking in management and financial systems. This then creates a fragmented structure, which limits opportunities to explore and capitalise on business opportunities, which could benefit the Taxi industry as a whole.

The Top Five inputs in the taxi industry as well as the Suppliers of them:

- Fuel retailing and distribution by Oil Companies
- Automotive parts, retailing and distribution
- Transport and Logistics
- Property Development and Management
- Insurance

The fragmentation of the Taxi industry makes it difficult for the industry to procure the opportunities that exists to explore, develop and implement meaningful BBBEE deals and equity, franchise arrangements in commercial development opportunities forming an integral part of the public transport activities. The industry buying power could easily enable the industry to purchase services and spares required to support it operations. Our industry is in the epicentre of BBBEE for economic growth and development thus, transformation is not only necessary but critical to a sustainable future.

## **TRANSPORT PLANNING: Challenges in the implementation of IRPTN**

Transport planning is delegated to the local Municipalities to take responsibility for developing their own transport policy, 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 restructuring existing services. In urban areas the policy and legislation pronounces on developing high capacity corridors to be serviced by bus or rail transport, supported by taxi collector 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 are discontinued. This has a direct impact on many of the services operated by the taxi industry. This kind of a competition is indeed unhealthy.

The other concern raised by the Taxi Operators on this integrated transport system is the duration of time when an operator participates in the new Bus operating company. 12 years is deemed to be too short, 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.

The Implementing Municipalities have to ensure sustainability of the new bus company. In order for such to happen effectively, the only best way is to minimise competition and maximise profit. Remove your competitors from operating, in a systematic manner. The law enforcement Agencies will have to harass minibus taxis, impound them and do not even renew the rank stand permits. The Renewal of Operating licences has become a steep hill with various discretionary provisions added by Adjudicators to prohibit easy access to operating licenses. 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 documentations.

The centralisation of PRE was a challenge, however, with the new satellite PRE offices, Operators are no longer required to travel long distances in order to make applications.

If there is indeed true integration of the modes of land transportation, a platform is supposed to have been created where all the representatives of the affected services discuss the nature and the extent of participation and ownership possibilities in restructured transport systems.

### **Service Contracts: Access to infrastructure and Terminal Facilities**

The ownership of the Rank facilities rests with the Planning Authorities. The local Municipalities provide rank facilities and the Associations using the facility manages them. This is one area where the taxi industry can be able to explore the opportunity to manage and service the infrastructure.

These services are normally outsourced to private entities, whereas the Taxi industry has a vast experience in this regard. The Planning Authorities do not have the data and the capacity

information relating to the ranks. Some are basically issuing rank stands as a means of generating income for the Municipality.

### **CONTRACTING RELATING TO BUS OPERATIONS**

These Bus contracts have long expired and are extended on monthly basis, due to negotiated contracts between the Department of Transport and the service providers. The rates have not been reviewed for a long time and new entrants to the service will not be able to sustain such services without proper finance muscle. The companies that are currently providing the service have monopolised the service. In terms of empowerment, Taxi operation have been promoted to bus operations, in certain contracts that have been negotiated with the bus operators.

This is indeed a clear monopoly because these contracts have not been subjected to competitive bidding for a long time.

## CONCLUSION

Indeed competition is good if it is healthy. The above information paints a picture of unfairness and unjust competition directed to the Minibus taxi. The commuters boarding taxis are not subsidized whereas those using other land mode of transport are subsidized.

The effect of blanket approach moratorium has had a negative impact on the Minibus taxi service. The price setting mechanism is also a challenge for this taxi industry. There is no scientific formula to set prices for Minibus 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 operations.

Transport planning and the current national policy and legislation is mainly focused on integrated public transport system. The capacity of the government officials is also a cause of concern, when interpreting, and applying the provisions of the law.