

COMPETITION COMMISSION WRITTEN SUBMISSION



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1. BACKGROUND

The taxi Industry was before the year 2000 not sufficiently or regulated. In 2000 the democratic government intervened and passed into law the National Land Transport Transition Act, 22 of 2000 (NLTTA) which has been repealed by the National Transport Act 99 of 2009. These legislations were an intervention mechanisms to take forward the transport policy which seeks to transform the public transport industry, in particular the taxi industry. The government recognised the fact that the taxi industry is the only black owned business industry in the country and move over 60% of the country's public transport users on the daily basis. The taxi industry is truly the heartbeat of country's economy and hence the regulatory framework intended to take its existence and sustainability to greater level.

The intention of the legislature is clearly articulated and provided for in the preamble and section 2 of the NLTA, which provides;

- I. For the furtherance of restructuring and transformation of the land transport initiated by the NLTTA,
- II. Giving effect to national policy,
- III. Prescribing national principles, guidelines, requirements, frameworks and national norms and standards that must be applied uniformly in provinces and matters provided for in section 146 (2) of the Constitution, and
- IV. Consolidating land transport functions and locating them in the appropriate sphere of government.

It is therefore, against the above this background that the land transport restructuring and transformation should be assessed for the progress made since 2000 to date and how we could move forward from such an assessment.

It is important to note that due to the fragmentation of the Taxi operators structures a decision was taken to establish SANTACO as a legitimate Taxi structure that represent the broader taxi operators in South Africa.

2. Licencing, Route Allocation and Entry requirements

- 2.1. The function relating to licensing, route allocation and entry requirements rests with the Provincial Regulatory Entinties and the National Public

Transport Regulator (NPTR), established in terms section 23 of the NLTA and given powers by section 24, while the NPTR in terms of sections 46 to 49.

- 2.2. The functions stated above in paragraph 2.1 must be performed having regard to chapter six of the NLTA, which compels the licensing authorities to consider. This includes development of integrated public transport plans, funding strategy or policy or economic viability of routes to ensure sustainability, under or over bearing of routes and thereafter monitoring and evaluation.
- 2.3. Therefore the national, provincial and local government are compelled in terms of the NLTA to do certain things as applicable in various jurisdictions in the furtherance of the public transport service and regard must be had to these provisions of the NLTA when dealing with the regulation of the taxi industry.
- 2.4. To date the government is dismally failing to comply with chapter six as a result the majority of public transport users are without operating licenses or permit.
- 2.5. Municipalities are contributors as they have failed to develop integrated transport plans which the PRE and the NPTR must consider when assessing the applicants' applications. Though the act requires provinces alternatively the department of transport to take over the function where the municipality or province as the case maybe failed to comply with chapter 6, such has not happened.
- 2.6. Where applications approved for operating licenses or permit such is done on the basis of reports developed by PRE officials who have no capacity or skills in transport economics and planning thus leading to conflicts.
- 2.7. You have a situation of oversupply, saturation and non-viable routes leading to conflicts and increased non economical competition.
- 2.8. If the NLTA and the National Transport policy were implemented were fully the taxi service and operators would be in a better position than is at the moment as we see a deteriorating service since the development of the policy and the promulgation of the NLTA.

- 2.9. The NLTTA sought to regulate local taxi operations by establishing associations and yet the NLTA disestablished same but did not provide any other mechanism.
- 2.10. The allocation of routes is largely based on thumb suck philosophy and not based on any legal process to state the least.
- 2.11. The entry requirements should be based on the integrated transport plans which at this stage do not exist except in few municipalities especially the metros.
- 2.12. Routes overlapping causing conflict between associations. This issue lies with the PRE refusing to issue licenses and proper allocation of routes.
- 2.13. "Associations" allocate routes themselves in their vicinity of the area in which they are operating and are custodians instead of obtaining proper licensing for operating on that route.
- 2.14. The placement moratorium by government on the issuance of licences and permit which is imposed affect the operators negatively not only in Gauteng but the whole country. It ensures that taxi operators are victims of the law enforcement.
- 2.15. When an operational licence or a permit expires, it is automatically removed from the system, which is not fair. Licenses used to be indefinite and that system worked for minibus taxi operators. Nowadays if a license is not in use for 6 months, it is withdrawn. As per section 78, there is supposed to be an inquiry as to why it has not been in use, but that is not done, license is just withdrawn without warning which violates the rules relating to natural justice and is arbitrary.
- 2.16. Reapplication is made impossible after the licence has expired which is a problem because these licenses are an asset to operators and sometimes an inheritance to their families should the operator of Minibus taxi's pass on.
- 2.17. The application process requires an individual to go to the association and present their ID and any other required documents as well as a joining fee. Once the person becomes a member they then receive a recommendation letter from the association to apply for a permit.
- 2.18. The taxi industry still organise themselves in taxi associations and membership of new members is guided and regulated and the code of conduct of all members in accordance with the association's constitution.

The NLTA is silent on the associations unlike the NLTTA which specifically provided for such and their powers.

- 2.19. SANTACO has decided not to take any more members in order to control saturation of the industry. This decision was also taken in order to maintain growth for the existing members. SANTACO, through this decision, will help families and employees of minibus taxi operators to be able to grow within the industry by virtue of inheritance.
- 2.20. The industry remain unsubsidized and only a few bus operators and white operators are subsidized which makes competition unhealthy and threatens the very existence of the industry despite the obligation created by the NLTA.

3 Price Setting Mechanisms

- 3.1. Fare pricing is guided by the market. The price increases are “as and when” but as CBO’s we cannot increase without consulting SANCO and/or various unions.
- 3.2. Revision is based on inflation, but the minibus taxi industry always tries to keep their prices below inflation.
- 3.3. Unfair competition due to the fact that the bus and rail sector are subsidised which is why the taxi industry is struggling.
- 3.4. The taxi industry has no uniform policy on price setting mechanisms save for doing so based on the prevailing circumstances, for instance vat increases, inflation and cost of living standards.

4 Transformation

- 4.1. As stated in paragraph 1 and 2 herein above the transformation strategy of the taxi industry propagated a move from self-regulation to being regulated by policy and the law.
- 4.2. Clearly and is apparent that the failure of Government to implement the transformation agenda in terms of the transport policy and the NLTA has

worsened the economic standing of the transport operators and clearly the collapse of the industry.

- 4.3. The operators could benefit from public transport infrastructure development if the Government could properly consult on infrastructure development and town planning and focusing on the BBBEE empowerment.
- 4.4. There is no financial support of any form from the government yet other modes such as buses, trains and SAA receives huge financial and technical support. Government conflicting itself by granting other modes of transport support but not minibus taxi industry.
- 4.5. There is no or limited taxi infrastructure which is only limited to taxi ranks, road dedicated lanes, lay bay's and proper inclusion for public events.
- 4.6. There is no proper government support and protection of minibus taxi's.
- 4.7. Value Chain Ownership is compromised.
- 4.8. Government support: Subsidy only given to other modes but taxi industry thus hindering minibus taxi industry from competing appropriately.
- 4.9. Government support: No developmental funding.
- 4.10. Government failure to recognize Minibus taxi industry as a leading mass transporter in SA economy and failing to incentivise the industry accordingly.
- 4.11. Government marginalising taxi industry.
- 4.12. The taxi industry is not consulted or included recognition in decision-making that affects industry or the provinces they govern. The representative structures are not recognised in decision making process on any matter of interest or policy.
- 4.13. Lack of support from financial houses and government causing operators to depend on high interest rate charging companies due to lack of credibility.
- 4.14. Uber/ Taxify being able to operate on routes without licences or route allocations.
- 4.15. SARS charging operators VAT but not allowing them to claim it back.

5 Competition Dynamics

- 5.1. The bus, air and rail transport are subsidised and receive all necessary support from government, as well as bail outs when in financial crisis due to bad management and collapse of governance structures.
- 5.2. Taxi infrastructures falling apart due to lack of government maintenance or lack security.
- 5.3. The condition of the taxi fleet/ Minibuses ages quickly due to the fact of high operating costs.
- 5.4. The price charged by the taxi industry is not sustainable due to the fact that the majority of the users are the labour force of our country who are also heavily hit by the high cost of living standards such as vat, food prices and other basic life necessities.
- 5.5. The stiff competition and environment as created by the government results in taxi violence and violence involving other modes.

6. CONCLUSION

The assessment regarding implementation of the transformation agenda in terms of the public transport policy and the NLTA and the regulation of the taxi industry must be done with a sense of urgency in order to develop a well plan of action for the development of the taxi industry.