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Concerning:

**ORAL SUBMISSIONS FOR PUBLIC HEARINGS *RE* PUBLIC PASSENGER
TRANSPORT MARKET INQUIRY**

CASE NO.: **2017MAY0001**

RE: SUBMISSION IN ASSISTING ORAL SUBMISSIONS AT THE PUBLIC
HEARING OF THE PUBLIC PASSENGER TRANSPORT MARKET
INQUIRY

TAXIFY'S SUBMISSION IN ASSISTING ITS ORAL SUBMISSIONS

INTRODUCTION

1. These submissions are made at the Commission's request per its letter dated 27 April 2018 to assist in the preparation for oral submissions at the public hearings of the above inquiry focussing on:

- 1.1 licensing, route allocation and entry regulations;
- 1.2 price regulation and price setting mechanisms;
- 1.3 transformation; and
- 1.4 commuter experiences,

which shall seek to deal with the matters raised at paragraph 9 of the statement of issues (“SOI”) (where applicable) and paragraph 5.A and 5.B of the Commission’s letter of 27 April 2018.

LICENSING, ROUTE ALLOCATION AND ENTRY REGULATIONS

Structural features in pleading effective competition

2. It appears that the metered taxi industry alleges that the absence of regulatory scrutiny on e-hailing services creates an uneven competitive environment between traditional metered taxis and e-hailing services.
3. It is presumed that this contention made by traditional metered taxis is premised upon the fact that in terms of regulatory provisions:
 - 3.1 they are compelled to incur the extra costs of operating licences;

3.2 they may be limited to designated areas (or ranking facilities).

Most effective remedies to counteract structural features which may impede effective competition

4. Section 66A of the proposed amendments to the National Land Transport Act 5 of 2009 (“NLTA”) proposes to place the e-hailing services on the exact same footing as that of traditional metered taxis with regard to the above allegations of traditional metered taxis.

5. Accordingly, if amended, such amended legislation shall *prima facie* put an end to the traditional metered taxis’ complaints. We deal with this issue later herein again.

6. However, that being said, the allegations of the traditional metered taxis is misconceived for the reasons set out below.

7. Firstly, whilst Taxify welcomes enabling regulation that will entrench a level playing field through the requirement of operating licences to be issued to independent drivers/owners *noting that:*

7.1 unless operating licences are purely instilled so as to ensure the necessary background checks and safety checks with regards to the vehicle operator and the vehicle, respectively, real time rating by consumers is a better form of quality control;

7.2 The current practice of Provincial transport authorities to de facto regulate the market supply of taxi services or traffic congestion through operating licences is archaic and does not serve the interests of consumers who are looking to exercise their choice for the best deal in the market based on price, affordability, accessibility, safety and efficiency. If the concerns of Provincial transport authorities are to avoid traffic over-congestion and route over-supply, this is much better achieved through leveraging the advantages of modernised solutions such as app-based technology, giving operators better market information as to where there are opportunities and demands, so that any specific area isn't oversaturated. Ultimately, consumers derive the benefits of access to predictable and accurate real time fare estimates provided via app-based technology. This ensures that fair market forces of supply and demand best achieves that there isn't an oversupply or that traffic congestion isn't negatively impacted. It is better and fairer competition and to the advantage of the consumer, entrepreneurs and the development of the economy;

7.3 the limitation of areas for picking up passengers is unfeasible, anti-competitive, and detrimental to the public and consumers. These areas present public and personal safety hazards and challenges to consumers especially in lower income areas,

who, in the absence of private vehicle use and alternative affordable public transport that is reliable, benefit directly from app-based technology such as Taxify and its focused on servicing lower income segments of the population.

8. Secondly, the traditional metered taxis do not have the communication media and technology available at the convenience of the consumer passengers and the proposed amendments to the NLTA does not address this.

9. Thirdly, the limitation or specification of an area for picking up passengers or commuters and limiting the route effectively by the proposed Section 66A(1)(b) read with (2) of the NLTA would:

9.1 inhibit fair competition;

9.2 be detrimental to the development of the economy, entrepreneurship, empowerment and transformation;

9.3 pose a risk of creating conflict should the same area be designated at which traditional metered taxis would operate from, alternatively even if different areas are designated, such areas would be identified or identifiable and so too e-hailing drivers, placing them and the passengers at risk of violence from irrational and unreasonable traditional metered taxi

operators.

10. Fourthly, as already recognised at paragraph 33 of the SOI, metered taxi associations or individual operators in any event determine their fares despite the presence of a regulatory framework and there is thus no reasonable prospect, in the absence the State's assured enforceability of the regulations equally and fairly, and further assurance of safety, that the proposed regulatory amendments would result in equal competition. The opposite is true, same will result in e-hailing services being intimidated and unduly excluded thereby unnaturally influencing the market relating to unfair competition and an increase in pricing of traditional metered taxis to the detriment of entrepreneurs, the economy, transformation and the public consumers.

11. Fifthly, the proposed regulation of e-hailing services shall not create a supposed "*even competitive environment*" between traditional metered taxis and e-hailing services because the e-hailing services caters for a different market than traditional metered taxis. As indicated in previous submissions, e-hailing services are aimed at a higher income market, which would include persons with their own private modes of transportation or access thereto. It is the technological advancement, convenience and security that e-hailing services provide to public consumers which traditional metered taxis cannot do, and hence the proposed regulatory framework shall not

address the traditional metered taxis' perceived concerns.

12. Sixthly, should designated areas or designated routes be allocated to e-hailing services, not only would consumers be materially prejudiced and South Africa not continue to progress and develop along with the rest of the world to its own economic prejudice – which it can hardly afford, but traffic congestion and pollution shall increase significantly, together with increased waiting times and travel times of passengers again translating to a loss of economic productiveness of such passengers. Moreover, designated routes will create an artificial distortion in the market, that will be to the detriment of consumers, especially low-income consumers who already lack access to reliable and affordable public transport services, coupled with the effects of inherited unequal apartheid spatial planning. It is also unclear and uncertain how route designation of this nature will be monitored, policed and enforced. This disproportionately adds to the burden of low-income consumers and denies the opportunity of access to affordable alternatives that have the potential to improve their mobility, access to socio-economic opportunities and amenities. Specific categories of consumers may be especially disadvantaged by such distortions, which curtail their consumer choice. For example, new labour market entrants, first time job seekers, students and domestic workers.

13. It is respectfully suggested that a much more effective remedy, at

least insofar as it relates to the traditional metered taxis' allegation that e-hailing services do not operate within designated areas, is concerned, is to either enlarge the areas within which traditional metered taxis are allowed to operate, or alternatively, to remove such a limitation placed upon them. More critically, is that the evolution currently underway in passenger transport makes such restrictions both irrational and a disproportionate burden which cannot be justified on the grounds of public policy concerns and does not serve the realisation of policy objectives in respect of access to transport services. This evolution is driven by an open-ethos market trend that is geared toward expanding access and consumer choice. Equally, so state-led transport public policy objectives is fundamentally aimed at increasing, not decreasing and curtailing consumer access to as many modes of affordable, safe, legal and regulated passenger transport services.

14. The further remedy, of course, lies with the traditional metered taxi services themselves, in that (provided their vehicles meet the necessary standards), they may also render taxi services on e-hailing platforms.

PRICE REGULATION AND PRICE-SETTING MECHANISMS

Structural features including effective competition

15. The SOI does not record any particular allegations pertaining to the differences in pricing mechanisms which would impact on competition between traditional metered taxis and e-hailing services.
16. It must be remembered that the financial impact to acquire a motor vehicle to render transport services and obtain the necessary operating licence would be borne by the independent driver/owner of the vehicle employing the app-based taxi service.

Most effective remedy to counteract structural features impeding effective competition

17. Taxify submits that the requirement of operating licences to be obtained by app-based taxi drivers adequately addresses any possible impediments.
18. That being said, the Commission is respectfully reminded that the main purpose of fair structures or regulation is the protection of consumers and the Commission's attention is, in that regard, respectfully drawn to, for example:

18.1 Section 11(1)(a) and (b) of the Gauteng Transport Framework

Revision Act 8 of 2002 which provides to the effect that the transport authority may, subject to the legislation applicable to municipalities, perform the function of negotiating fair structures, fair levels and concession fares for special categories of public transport passengers and periodic adjustments thereto;

- 18.2 Regulation 9 of the Gauteng Provincial Meter Taxi Regulations, 2008 (promulgated in terms of the Gauteng Public Passenger Road Transport Act 7 of 2001) which provides that *“The board may determine the maximum fares in terms of section 8(2) of the Act.”*
19. Price regulation would be obviously anti-competitive and to the detriment of the consumer. To the extent that there are inefficiencies in the price-setting mechanisms provided by various forms of legislation and regulation, this is a matter for the various branches of the executive in the different tiers of government to resolve and to ensure that same become efficient and enforceable.

Rationale for surge pricing by app-based taxi services

20. In addressing the question posed at paragraph 36.3 of the SOI, Taxify submits that *“dynamic pricing”* is fair, reasonable, justifiable and does not harm commuters for the reasons set out below.

21. The surge in pricing by app-based taxi services is premised on:
 - 21.1 supply and demand; and
 - 21.2 the practical effect of peak traffic periods on independent drivers/owners.

22. At peak times, there is an increase in demand which must be met. That increase in demand is more likely to be met by an increase in supply, if the commensurate payment for such supply increases.

23. It is necessary to put a carrot before the suppliers to meet the increased demand as at that time, there is obviously more congestion meaning that the independent drivers/owners are limited to the amount of trips that they can undertake during that period and also that the amount of traffic increasing on the roads at that time increases the risks of accidents and the like. Toll fees on certain roads are also higher for which the independent driver/owner is liable during that time. It is accordingly commensurate with the risks and rational.

24. Consumers with who are willing and able to pay for increased rates during peak times are free to do so. If the consumer is more price sensitive, they too are free to arrange their day so as to take advantage of off-peak rates. The rates are in any event not exorbitant

and capped accordingly, bearing in mind the target market being commuters with higher income and thus is economically acceptable and viable alternative for such commuters. Had it not been, they would have reverted back to acquiring and using their own vehicles.

25. It may also be mentioned that this practice is not only in line with international trends, but local trends as well with regard to, for example, the rates at which vehicles are tolled on the e-tolling highways whereby it is at a higher rate during peak times as opposed to travelling outside of peak times. Similar principles apply in the telecommunications and information technology fields.

TRANSFORMATION

26. With regards to the Commission's question with respect to what the existing bottlenecks for transformation across the taxi industry value chain is and how to best meaningfully ensure participation of historically disadvantaged individuals to be achieved is concerned, Taxify makes the submissions set out herein below.
27. At the outset, the traditional reasons for lack of transformation throughout the value chain, as a general proposition arising from the history of South Africa is well known and need not be repeated here.
28. Any person who wishes to enter into the value chain as recorded at

paragraph 47 of the SOI would require financing and the necessary skills.

29. Both the issue of financing and the development of skills are general responsibilities of the State, however, must be, as far as possible, supported by the private sector and civil society.
30. To that end, it is suggested that tax incentives are to be provided for private business or civil society to create bursary funds for skills development of previously disadvantaged individuals and also tax incentives or favourable conditions pertaining to the rendering of finance to previously disadvantaged individuals.
31. To this end, app-based technology platforms such as Taxify provide drivers with compliant vehicles, and an opportunity to become self-empowered. To access this opportunity enabled by the private sector, obligates and requires the State through the Provincial transport authorities to process and issue licence applications in a timely, efficient and predictable manner for those who meet the qualifying criteria. The inability of Provincial transport authorities to do so, works against and undermines the transformative potential of such app-based technology and its ability to modernise and revolutionise the passenger transport market. To do otherwise makes Provincial transport authorities complicit in artificial control of supply in the market to the benefit of incumbent providers and to the detriment of

would-be market entrants and consumers alike. The effect hereof, allows Provincial transport authorities to throttle demand through inefficient processing, adjudication and issuing of operating licence applications. This amounts to an unjust and inequitable administrative action that cannot be justified on the grounds of public policy concerns (i.e. regulating the market supply of taxi services or traffic congestion through operating licences), when there has not been due consideration to fully evaluating the impact of available technology platforms and solutions in the market to address these concerns, whilst still enabling greater access to consumer choice.

COMMUTER EXPERIENCES

32. The commuter experiences have been dealt with comprehensively in the previous submissions by Taxify and it serves to only highlight hereat the following:

32.1 The commuter market for e-hailing services is a higher end market whereby individuals generally have the financial ability to purchase their own private motor vehicles and rather make use of the e-hailing service when their vehicles are not available, offers a more efficient and convenient alternative or if they propose to partake in alcohol or the like. It may also be a financially more acceptable to rather make use of e-hailing services than incur the capital outlay and running costs of

their own private vehicles – but it is highly unlikely that prior to the introduction of app-based taxi services such consumers would ever have used traditional metered taxis as an alternative.

32.2 Commuters find e-hailing services of exceptional convenience because the service is not limited to designated pick-up areas and is available at the touch of their smart phones.

32.3 Commuters find the safety that e-hailing services provide significant as they are aware that only a certain standard of vehicle would be allowed to provide an app-based taxi service by e-hailing service app providers and also that information of the driver that is recorded thereat as well as the vehicle is known to them beforehand and may be shared with third parties with live real time tracking available. A further safety measure is the rating of drivers.

32.4 It is important, in this context, to also note that the same safety is afforded to independent drivers/owners in that passengers, that is users of the app-based taxi services, may also be rated.

32.5 Similarly, the route may selected to be predetermined and displayed by the consumer and any deviation therefrom may

be monitored by the passenger or the third party with whom such information is shared at the instance of the passenger him- or herself. In addition, there is an upfront accurate price indicator and there is also a price disclosure and review function available to the consumer if the consumer feels that the independent driver/owner had taken a longer than necessary route. Taxify has a customer support team which would review such a trip and if found to be with merit, Taxify compensates the consumer the difference between the optimal route and the longer route.

- 32.6 It is conceded that no system is infallible and of course there has regrettably been instances where the safety protocols did not result in ensuring the safety of either a passenger or an independent driver/owner. Although one incident is one too many, with regards to the volume of trips done, these are, fairly rare. Both passengers and independent drivers/owners are able to further ensure their own safety by requesting a pick up point and drop off point where there is a greater public visibility.