



*competition*commission  
south africa

# **MARKET INQUIRY INTO LAND BASED PUBLIC PASSENGER TRANSPORT**

## **MAIN REPORT**

# **NON-CONFIDENTIAL VERSION**

**19 February 2020**

## Table of Contents

Table of Contents .....	ii
List of figures .....	iv
List of Abbreviations .....	v
EXECUTIVE SUMMARY .....	1
1. MARKET INQUIRY PROCESS.....	1
2. BACKGROUND TO THE PUBLIC TRANSPORT SECTOR IN SOUTH AFRICA .....	9
3. REGULATORY FRAMEWORK.....	26
4. PUBLIC TRANSPORT AS AN INTEGRATED SYSTEM.....	41
5. SUBSIDIES IN THE PUBLIC TRANSPORT SECTOR.....	61
6. THE RAIL SECTOR .....	91
7. SUBSIDISED BUS CONTRACTS IN URBAN AREAS .....	126
8. RURAL TRANSPORTATION AND RURAL BUS CONTRACTING .....	166
9. BUS RAPID TRANSIT SYSTEM IN SOUTH AFRICA .....	178
10. MINIBUS TAXI INDUSTRY .....	224
11. INTERPROVINCIAL BUS OPERATIONS .....	263
12. COMPETITIVE DYNAMICS IN THE PUBLIC TRANSPORT SECTOR .....	290
13. PUBLIC TRANSPORT SAFETY .....	300
14. STATE OF TRANSFORMATION IN THE PUBLIC TRANSPORT INDUSTRY .....	316
15. CONCLUSION AND RECOMMENDATIONS .....	328
16. ANNEXURES .....	339

## List of tables

Table 1: Key milestones during the Inquiry.....	5
Table 2: Linking the ToRs to Chapter layout .....	7
Table 3: Public transport usage.....	20
Table 4: Overview of the regulators in the public passenger transport sector .....	27
Table 5: Transfers and subsidies to PRASA from 2014/15 to 2018/19 .....	69
Table 6: Transfer payments to Gautrain from 2014/15 to 2017/18 .....	71
Table 7: Urban rail commuter operating subsidy per passenger 2017/18.....	71
Table 8: Share of public transport funding for infrastructure vs operations, 2018/19 .....	80
Table 9: Public transport related subsidies 2014/15 to 2018/19 .....	83
Table 10: Long distance routes operated by Shosholozha Meyl.....	98
Table 11: Railway network coverage per region.....	103
Table 12: Properties of railway operations and railway infrastructure .....	113
Table 13: Metrorail business express vs Gautrain – travel times and fares .....	120
Table 14: Current status of bus subsidy contracts.....	131
Table 15: Allocation of funds per province, 2015/16 .....	134
Table 16: Allocation of funds per province, 2016/17 .....	134
Table 17: Sample of routes serviced by Algoa .....	141
Table 18: Sample of routes serviced by AB350.....	142
Table 19: Districts of Limpopo - the extent of subsidisation in the province .....	145
Table 20: Features of BRT system.....	182
Table 21: Summary of current BRT/IRPTN implementation .....	191
Table 22: Summary of progress of IRPTN implementation.....	199
Table 23: Summary of selected route related conflicts in the period 2016 -2019.....	234
Table 24: Proportion of minibus taxis financed by each credit provider (%).....	240
Table 25: Extracts of taxi associations’ oral submissions .....	243
Table 26: Market share for developmental credit advanced to minibus taxis (%).....	245
Table 27: Provinces where moratoriums have been imposed .....	251
Table 28: Company profiles for selected bus operators.....	264
Table 29:Top 10 bus operators in arrears for the use of bus terminal facilities at Park Station as of June 2018 .....	280
Table 30: Autopax financial performance 2013-2018 .....	285
Table 31: Fares charged minibus taxis and Metrorail .....	294
Table 32: Minibus taxis points of origin and destination in Gauteng North.....	295
Table 33: Ownership patterns of financial institutions servicing bus and minibus taxi industry .....	317
Table 34: Level of transformation at bus manufacturing level.....	319
Table 35: Transformation at the commuter bus level.....	320
Table 36: Implementation plan for Public Transport Market Inquiry recommendations .....	329

## List of figures

Figure 1: Modes of land based public passenger transport in South Africa .....	9
Figure 2: Mode of transport used for school and work 2013-2016 .....	19
Figure 3: Households use of public transport (per cent) per province (2016).....	20
Figure 4: Spending as a share of total household spending (selected countries) .....	22
Figure 5: Monthly household income per capita spent on public transport to work by geographic location .....	23
Figure 6: Monthly household income per capita spent on public transport to work by sector.....	24
Figure 7: TRP participation rate by minibus taxi operators from 2006/07 to 2018/19.....	76
Figure 8: PTOG expenditure and estimates from 2014/15 to 2020/2021 (R “000) .....	77
Figure 9: Public Transport Network Grant from 2016/17 to 2017/18 (R'000) .....	78
Figure 10: Ridership 2015 vs subsidy allocation 2017/18.....	79
Figure 11: Subsidy transfers for Gautrain and Metrorail from 2015/16 to 2018/19 (R'000) ..	94
Figure 12: Metrorail annual passenger numbers per region .....	96
Figure 13: Shosholoza Meyl route network .....	99
Figure 14: Corridors serviced by Gautrain.....	101
Figure 15: Annual passenger trips for the GPS and APS from 2010 to 2018.....	102
Figure 16: Metrorail and Gautrain routes.....	115
Figure 17: Gautrain expansion new routes.....	117
Figure 18: Map of municipalities in Gauteng .....	135
Figure 19: Map of municipalities in the Eastern Cape Province.....	139
Figure 20: Municipalities in Limpopo .....	146
Figure 21: Municipalities in the Western Cape .....	148
Figure 22: Municipalities in the Free State .....	149
Figure 23: Municipalities in KwaZulu-Natal.....	152
Figure 24: Municipalities in the Northern Cape.....	155
Figure 25: Municipalities in Mpumalanga .....	156
Figure 26: Municipalities in the North West .....	159
Figure 27: Comparison of Rea Vaya BRT with South American cities .....	185
Figure 28: Comparison of urban density.....	186
Figure 29: Number of average weekday bus rapid transit passenger trips per year .....	198
Figure 30: Application process .....	230
Figure 31: Route allocation process .....	231
Figure 32: Average interests rates charged by financiers 2013- 2018 .....	243
Figure 33: Routes operated by interprovincial bus operators in South Africa.....	265
Figure 34: Application process for obtaining a public transport operating licence .....	269
Figure 35: Exclusive sitting area reserved for Autopax's City to City passengers .....	282
Figure 36: Exclusive loading bays allocated to Autopax's City to City operations .....	282
Figure 37: Office tickets allocated to Autopax's City to City operations .....	283
Figure 38: Crimes involving PRASA's rail assets .....	305
Figure 39: Breakdown of assassinations per category .....	310

## List of Abbreviations

APM	Africa People Mover
BBBEE	Broad Based Black Economic Empowerment
BEE	Black Economic Empowerment
BOC	Bus Operating Company
BOCA	Bus Operating Contract Agreement
BRT	Bus Rapid Transit
DORA	Division of Revenue Act
DFDS	Dedicated Feeder & Distribution Services
DOT	National Department of Transport
DRD	Department of Rural Development
ETA	eThekweni Transport Authority
FNB	First National Bank South Africa
GABS	Golden Arrow Bus Services
GBTA	Greater Bloemfontein Taxi Association
GPG	Gauteng Provincial Government
GPS	Global Positioning System
GPRE	Gauteng Provincial Regulatory Entity
GMA	Gauteng Management Agency
HDI	Historically Disadvantaged Individuals
IPTS	Integrated Public Transport System
ITP	Integrated Transport Plan
IRPTN	Integrated Rapid Public Transport Network
KZN	KwaZulu-Natal
MEC	Member of Provincial Executive Council
MPLS	Mainline Passenger Services
MRE	Municipal Regulatory Entity
NTA	National Taxi Alliance
NHTS	National Household Travel Survey
NLTA	National Land Transport Act
NLTIS	National Land Transport Information System
NLTTA	National Land Transport Transition Act

NPTR	National Public Transport Regulator
NTA	National Taxi Alliance
OEM	Original Equipment Manufacturer
OECD	Organisation for Economic Co-operation and Development
PFMA	Public Finance Management Act
PRE	Provincial Regulatory Entity
PRASA	Passenger Rail Agency of South Africa
PRASA CRES	Passenger Rail Agency of South Africa Corporate Real Estate Solutions
PTISG	Public Transport Infrastructure Systems Grant
PTIG	Public Transport Infrastructure Grant
PTNG	Public Transport Network Grant
PTOG	Public Transport Operations Grant
PUTCO	Public Utility Transport Corporation
RSR	Railway Safety Regulator
RSA	Republic of South Africa
SABOA	South African Bus Operators Association
SAMTA	South African Metered Taxi Association
SANCO	South African National Civic Organisation
SANTACO	South African National Taxi Council
SANSBOC	South African National Small Bus Operators Council
SATS	South African Transport Services
SMEs	Small and Medium-sized Enterprises
SMMEs	Small, Medium and Micro Enterprises
TAT	Transport Appeal Tribunal
ToRs	Terms of Reference
TRP	Taxi Recapitalisation Programme
VOC	Vehicle Operating Company

## EXECUTIVE SUMMARY

1. On 10 May 2017, the Competition Commission (the Commission), in exercising its powers under Section 43B of the Competition Act No 89 of 1998 (the Act), published a notice that it would conduct a Market Inquiry into land based public passenger transport sector (the Inquiry). The Terms of Reference (ToRs) for the Inquiry were also gazetted on the same day. The Commission has identified the public passenger transport sector to include road and rail based public passenger transport, as relevant to this Inquiry. The modes of transport covered in the ToRs are buses (excluding cross border services), taxis (minibus, metered taxis, e-hailing) and commuter rail (excluding tourist rail).
2. The Inquiry was initiated because the Commission was of the view that there are features or a combination of features in the passenger public transport sector that were distorting or inhibiting competition. The Commission made this assessment based on several complaints in the industry as well as complaints lodged with the Commission by some stakeholders. In addition, transport sector is one of the priority sectors of the Commission. South Africans spend a significantly high proportion of disposable income on public transport (over 20 per cent) against a benchmark of 10 per cent for developing countries. Over 73 per cent of rural workers spend more than 20 per cent of their monthly household income per capita on public transport, while in urban areas the percentage is 60.1 per cent and in metros 54.7 per cent. The implication is that any resolution on identified impediments in the public transport sector may have benefits in the long run.
3. Public transportation is also key to sustainable economic growth in any country. Developing and maintaining transport infrastructure, and providing an effective and efficient public transport system, can create employment, improve efficiency across the economy and ensure sustainable development by reducing carbon emissions from private vehicles in congested urban spaces.
4. Government has also dedicated Outcome 6 to promote “an efficient, competitive and responsive economic infrastructure network”. Transport related infrastructure and mobility of commuters contribute to the achievement of Outcome 6. Different spheres of government play a role in pursuit of achieving Outcome 6 as will be elaborated in this report.

5. The ToRs identified the central role of public transport in providing meaningful mobility for most of the population in pursuit of economic participation. The ToRs identified the following broad themes as the rationale for initiating the Inquiry:
  - 5.1. Price setting mechanisms: Analysing different price setting mechanisms for all modes of public transport and their impact on competition;
  - 5.2. Price regulation: Examining applicable price regulations and their impact on competition;
  - 5.3. Route allocation, licensing and entry regulations: Assessing the impact of regulations, including route allocation, licensing and entry requirements on intermodal and intramodal competition;
  - 5.4. Allocation of operational subsidies: Assessing the impact of operational subsidies on some modes of public transport and its impact on both intramodal and intermodal competition;
  - 5.5. Transport planning: Evaluating the impact of government's transport planning framework on dynamism, efficiency and competition; and
  - 5.6. Transformation: Assessing transformation issues, including ownership patterns in the public transport industry.
6. Following the publication of the ToRs, the Commission published the Stakeholder Participation Guidelines (the Guidelines) and Call for Submissions on 13 July 2017. The Commission also held public hearings across the 9 provinces between June 2018 and August 2018. Oral and written submissions were received from over 200 stakeholders. All submissions and transcripts of public hearings are available on the Commission's website (<http://www.compcom.co.za/public-passenger-transport-market-inquiry/>)
7. This report provides the provisional findings and recommendations of the Commission with respect to all modes of transport (except metered taxis and e-hailing services).

### **Rationale of separating the reports**

8. This report (main report) focuses on the traditional markets which are largely static in nature (i.e. minibus, bus and rail) whilst the second report has a specific focus on e-hailing and metered taxi services. The Commission is of the view that the dynamics of competition between the metered taxis and e-hailing services are driven largely by technological developments. The innovation and digitisation of the markets are referred to as the fourth industrial revolution (4IR or Industry 4.0). Competition assessment and regulatory scrutiny in these evolving technology or platform markets require special attention given their dynamic nature.



9. This report therefore focuses on the traditional markets which are largely static in nature. The Commission is not in any way downplaying some technological developments made in the traditional markets, but the innovations do not disrupt the way the industry generally operates on a broader level.

#### **Invitation for stakeholder comments**

10. The Commission invites stakeholders to make further submissions and provide comments on both the provisional findings and the recommendations contained in this report by **31 March 2020**. This deadline for submissions will be strictly enforced in order to ensure the Inquiry can be finalised timeously. Submissions can be made electronically and sent to the following address: [ppt@compcom.co.za](mailto:ppt@compcom.co.za)

#### **Overview of public transport in South Africa**

11. For the purpose of this Inquiry, public transport implies land based public passenger transport consisting of three main modes, namely; taxi, bus and rail. Public transport in South Africa includes buses (provincially contracted buses, unsubsidised buses, municipal buses), taxis (minibus taxis, metered taxis, e-hailing operators), and rail (Metrorail, Shosholoza Meyl and Gautrain).
12. Statistics South Africa (2015) highlights that minibus taxis are the commonly used mode of public transport in South Africa accounting for 66.5 per cent of households who use public transport. The bus and rail modes account for 23.6 per cent and 9.9 per cent respectively.

#### **Is public transport in South Africa considered as a network or system**

13. The Constitution of the Republic of South Africa provides that public transport is a concurrent function between national and provincial spheres of government. Municipal public transport is assigned to local government. The 1996 White Paper on National Transport Policy indicated that land passenger transportation planning should be carried out in an integrated fashion covering all modes. This planning should be done at as low a level as possible and by the relevant transportation authority. The same observations were made in the subsequent legislation (National Land Transportation Transition Act, 2000 (Act No. 22 of 2000); and the National Land Transport Act, 2009 (Act No. 5 of

2009) which added details regarding the role of local government as planning authorities and its interface with provincial and national government.

14. The NLTA defines an Integrated Public Transport Network (IPTN) as a system in an area that integrates public transport services between modes using various mechanisms such as ticketing systems, network and infrastructure sharing with the ultimate objective of ensuring travel is done in a seamless manner. The Commission did not find any evidence of integration among various modes of transport except for Gautrain buses which are coordinated with the timetables of Gautrain. Integration is an integral part of any successful public transport network. With integration, competition between or among modes is eliminated to achieve efficiencies.
15. Despite the NLTA coming into effect in 2009, a decade ago, public transport in South Africa is still not considered as a network or system that facilitates easy connection between different transport modes. This contrasts with experiences from developed countries where public transport is integrated, and commuters can connect seamlessly between different modes. One of the reasons for lack of integration is the fragmentation in the roles of each sphere of government in the provision of public transport. While the NLTA clearly clarifies the roles of different spheres of government, ineffective intergovernmental relations have resulted in uncoordinated operations creating inefficiencies. For instance, transport planning is the responsibility of local government, but provinces are the contracting authorities for subsidised bus contracts and these buses operate within municipalities. In addition, some metropolitan municipalities also have metro bus services as well as Bus Rapid Transit (BRT) both serving different objectives. Duplication of transport services by various modes on some routes has also been identified as one of the inefficiencies as a result of the lack of coordination.
16. Despite the envisaged role of municipalities as planning authorities, public transport in general is not prioritised by local government given its competing mandate of providing other basic services (a few metros are an exception). By extension, public transport planning is therefore not given adequate focus and attention as most municipalities do not have dedicated units dealing with public transport. In circumstances where the municipality has people dealing with public transport, the skills in that department are not commensurate with the tasks required. For example, some municipalities have traffic enforcement officers attending to issues of transport planning. Some cities only started recruiting personnel when funding was made available during the roll out of the BRT system.

17. The lack of capacity is also a major inhibiting factor in transport planning and integration, with municipalities lacking the necessary human capital and skills. The Department of Transport (DOT) states in its 2017 Revised White Paper that the lack of capacity at the municipal level is a major inhibiting factor in municipalities preparing transport plans. DOT appointed some transport planning experts to assist a number of municipalities to develop Integrated Transport Plans (ITPs) given the lack of capacity at local government level. Submissions from stakeholders indicate that there is lack of capacity in municipalities (and sometimes provinces) to prepare meaningful transport plans thus leading to the slow or inadequate implementation of such plans which effectively limit the prospect of integration. Some provinces lack capacity but can attract skills if resources are made available. Given the lack of priority for public transport and lack of capacity within local government, provinces or Provincial Transport Authorities should be better equipped to deal with these functions if adequate resources are provided.
18. The Commission finds that the lack of integration in the public transport system is worsened by the persistent inequality between modes (i.e. minibus taxi and BRT) and within modes (i.e. Gautrain and Metrorail). The stark differences in infrastructure investment, service levels and quality standards in the modes is an impediment to integration. The differences in service levels further deepens the socioeconomic divide in the society as public transport is now catering for different classes.
19. Another example of the lack of integration is in the provision of rail services by both Metrorail and Gautrain in Gauteng. This is not an efficient utilisation of limited government funding as both services are subsidised. International experience suggests that rail operations exhibit natural monopoly characteristics and therefore should not be duplicated. Metrorail is operated at a national level and Gautrain at a provincial level and ideally commuter rail should be provided by one entity to derive economies of scale and foster integrated planning.
20. While Metrorail and Gautrain indicated that consultations between the two services are done, this is not an efficient way of integrating public transport as the outcomes of intergovernmental consultations may not have binding effect. International experience and policy documents from DOT such as Revised White Paper on National Transport Policy support the devolution of rail and public transport in general to lower levels of government. Devolution is envisaged to improve accountability as well as effective

response to local needs. Decentralisation of rail operations may improve decision making process and remove unnecessary bureaucracy.

21. Integration of transport modes has not yet been achieved in South Africa and this is further exacerbated by the way subsidies are transferred to the different spheres of government. Consolidation of transport planning and public transport operations under a single transport authority may provide the necessary efficiencies.

### **Impact of spatial planning on public transport**

22. The system of apartheid in South Africa left a legacy of social segregation which resulted in black people settling far away from economic hubs. Spatial planning problems are still lingering in the democratic South Africa because of limited land available closer to economic opportunities. In order to promote mobility, governments across the world use public transport subsidies to achieve economic, social and environmental objectives. The apartheid government was no exception, as it made provision for public transport subsidies to ensure that blacks could access affordable public transport and participate in economic activities. The public transport subsidies in South Africa were then targeted at bus and rail operators to ensure mobility between work and where people live.
23. This was the genesis of the urban public transport system that we see today which relies on government subsidies to ferry people to places of work. Subsidies more broadly assist workers to reach places of work and this has inherently created two peaks periods in the day – morning and evening peak with idle capacity during off-peak. Unfortunately, with respect to peak periods, nothing has changed from the apartheid period – the two peaks periods still exist for both bus and rail operations. The problem with only two peak periods in a day results in inefficiencies in the subsidy framework as the assets are idle during off-peak periods. What would have been ideal is that mass movement of commuters by rail and buses during peak period would be complemented by minibus taxis during off-peak. This would only happen if South Africa's public transport system was integrated. Public transport system is not integrated in South Africa as evidenced by duplication of routes by subsidised modes, for example, bus rapid transit (BRT) routes and Gautrain bus routes.

### ***What informs the current subsidy regime?***

24. Government currently does not have a subsidy policy which provides justification for some modes of transport being subsidised while others are not. It appears that the

apartheid subsidy framework was taken over by the new government with some adjustments. Government has been able to introduce new transport infrastructure grants in response to the transport needs. The introduction of the new subsidies may be considered as isolated intervention without comprehensively reconfiguring the subsidy framework. The Commission notes the effort by government to change the subsidy framework in response to specific needs, but these interventions are still largely uncoordinated.

25. For example, the introduction of Gautrain was premised on the need to induce a modal shift from private car usage to public transport by providing an attractive offering in terms of travel time, cost savings over vehicle operating costs and reduction in traffic congestion. Based on this need, government funded the construction of the Gautrain through a Public-Private Partnership. It is therefore clear that government responds to specific needs that arise because of the absence of a formal subsidy policy that should be a guiding document to inform decisions on future infrastructure investment.
26. Different subsidies are allocated to different spheres of government and given the intergovernmental coordination failures, value for money is compromised (from duplicated effort due to lack of integration) and economies of scale from planning perspective is lost. Several subsidies have been introduced over time to cater for urban transportation needs and address new challenges as highlighted above.
27. The main objective of public transport subsidies is to ensure that all South Africans, including the poor and unemployed, have access to affordable public transport. In South Africa, different types of subsidies are allocated to different spheres of government and to different modes of transport. For example, there are designated subsidies for passenger rail services provided by Metrorail a division of Passenger Rail Agency of South Africa (PRASA) and Gautrain, municipal bus services provided by various metropolitan municipalities, contracted commuter bus services provided by private operators who have entered into contracts with respective provincial governments and BRT/ Integrated Rapid Public Transport Networks (IRPTN) provided by various private operators through contracting with local government.
28. Public transport integration has been a challenge, and this is further exacerbated by the way different subsidies are allocated to the different spheres of government. The subsidies are often standalone interventions. Consolidation of planning functions and subsequently operating public transport under a single entity or transport authority may

provide the necessary efficiencies. Subsidies should ideally be allocated to this single entity to promote integrated planning. The transport authority will determine the appropriate mode of transport to deploy based on the needs and efficiency considerations.

### ***The current subsidies***

29. A total of 13 cities have implemented or are in the process of implementing BRT/IRPTN. The introduction of BRT/IRPTN was influenced by (i) the 2010 FIFA Soccer World Cup, (ii) availability of capital grants by national government to municipalities for infrastructure spending for IRPTNs of which BRTs were a significant component, (iii) the need to transform and empower the minibus taxi industry and (iv) the need to reduce travelling costs and time for commuters to offset inefficient apartheid spatial planning.
30. Given the availability of funding, the majority of smaller cities did not conduct feasibility studies to identify the need for an IRPTN system in their respective municipalities. This is especially worrying where some IRPTNs are set to be implemented on routes where there are existing public transport providers. This results in duplication of services and inefficiencies as experienced by the Cities of Johannesburg, Tshwane and Cape Town. The inefficiencies that have been identified with the current BRT/IRPTN model are: (i) increasing under-recovery of revenue leading to increasing subsidies, (ii) low ridership due to poor selection of routes, (iii) unnecessary (uneconomic) infrastructure roll out, and (iv) lack of capacity and mismanagement of the Bus Operating or Vehicle Operating Companies BOC/VOCs.
31. The Commission finds that the IRPTN system in its current format has led to several inefficiencies due to low passenger numbers. This results in under-recovery of revenue. In some instances, wrong corridors were chosen for the first phase of the implementation of the IRPTN system. The chosen corridors had low density routes, and low passenger volume. In some cities, it is evident that no feasibility studies or needs assessments were conducted to justify the implementation of the system. The IRPTN system is therefore not the most suitable model to address South Africa's public transport challenges and if no review is conducted urgently, no tangible economic benefits will be derived.
32. For contracted commuter bus services, provinces are entrusted with the responsibility to manage the contracts. These contracts are administered based on conditions set out

in the Division of Revenue Act (administered by National Treasury and the Act provides for the equitable division of revenue among national, provincial and local government). During the transition from the apartheid regime, government continued with the bus contracts. As a provisional measure, before the finalisation of the contracting system, government signed interim contracts with bus operators that were already part of the subsidy system. These contracts were to serve as a bridging mechanism between the lifelong permit system (which existed during the apartheid era) and the tendered contracts (which were meant to be implemented). Government's plan in this regard was to have all subsidised bus services on tendered contracts by end of 2000. Given the purpose and circumstances that led to their introduction, interim contracts were meant to be effective for a period of one to three years. However, these contracts have now been in existence for over 21 years. Negotiated contracts were concluded (instead of tendered contracts) between 2000 and 2003 due to labour challenges (if an incumbent bus operator lost the tender, there was no clear way of dealing with employees and the assets, therefore a negotiated settlement was reached) and lack of adequate funding to implement a tender system.

33. As a result of this, no new contracts have been concluded since 2003. The bulk of interim contracts, which are now renewed on a short-term basis and account for more than 60 per cent of the subsidy budget, have not been converted to tendered contracts as per initial plans.

### ***Subsidies have limitations***

34. The roll out of subsidies encountered several challenges. For contracted bus services, the Commission finds that the commuter bus subsidy system, in its current form, prevents competition between commuter bus operators and serves as an artificial barrier to entry, especially for small bus operators. The extension of the current subsidy contracts in perpetuity has had unintended consequences of creating de facto monopolies on subsidised routes. The situation is exacerbated by the fact that competition in the provision of subsidised commuter bus services only exists at the contracting phase and not on the routes (competition for the market). The lack of competition along some of the subsidised routes has created inefficiencies to the detriment of commuters. While the Commission understands that competition for the market is important, the persistent lack of new tendered contracts has resulted in the incumbent operators being inefficient. These inefficiencies include the provision of poor-quality services by some of the subsidised bus operators.

35. Subsidised routes, schedules and timetables are old and outdated, and consequently, do not adequately respond to the needs of commuters. While there is flexibility in some of the provinces, which allows the review of schedules and timetables from time to time, this does not exist in all provinces, such as Gauteng. This lack of flexibility compromises the quality of service provided to commuters.
36. Furthermore, the allocation of bus subsidies does not adequately consider challenges and costs incurred by bus operators, especially bus operators that service rural communities. In rural areas, poor road infrastructure serves as a major barrier in the provision of public transport. In this regard, rural communities appear to be neglected. Small bus operators have been relegated to providing commuter bus services in rural areas where conditions are extremely bad.
37. Commuter rail is subsidised across the world for economic, social and environmental reasons. In South Africa, Metrorail services are considered a social service and thus provided in the interest of the public. Metrorail is inefficient in the provision of urban rail commuter services - there are several challenges that constrain the quality of the service, including continuous breakdown of trains, unreliable services, and fare evasion by passengers. Metrorail experienced a significant decline in passengers as a result of the poor performance, late arrivals and deteriorating service standards (even though its prices are the lowest in the industry). The system has been vulnerable to threats such as passengers who have been avoiding paying fares. Metrorail highlighted that the “open system” results in easy access to the railway, facilitating illegal activities such as cable theft.
38. Contrary to the social service provided by Metrorail, the main objective of the Gautrain was to reduce traffic congestion in Gauteng, thus providing an alternative for private motor vehicle users. Gautrain provides a superior service that benefits a smaller proportion of the commuters, despite significant subsidies provided by government. Rail (both Gautrain and Metrorail) accounts for around 9.9 per cent of commuters yet receives substantial support from government.
39. Commuter rail in most countries is viewed as a natural monopoly where duplication of the rail infrastructure is not ideal given the high fixed costs. The high fixed costs include costs of laying tracks, building a network, as well as the costs of buying or leasing the trains. These costs are prohibitive and deter the entry of a competing or complementary



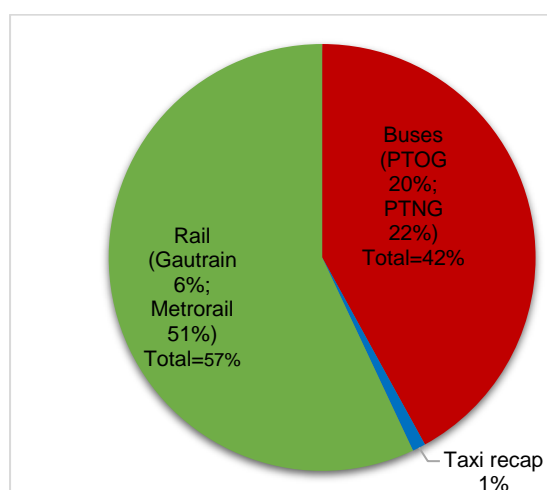
rail service. South Africa is among a few unique examples in the world where two government funded rail operators provide a commuter service in one geographic region, i.e. Gauteng. The question that arises, is whether it is socially desirable and efficient to have the two operations in Gauteng, even if the service offering is different. Consolidation of rail operations will yield efficiencies and economies of scale over time. Planning for expansions would be better coordinated if only one entity was responsible for rail operations. The Department of Transport's draft White Paper on National Rail Policy advances the position that rail internationally is best served by local government with clear understanding of the local dynamics and needs. However, given the interconnectedness of the metros in Gauteng province, it would be ideal for the entity to be at a provincial level.

40. From a design perspective, Gautrain and Metrorail operate on different gauges. Metrorail operates on a Cape gauge (1067mm between tracks) while Gautrain operates on a standard gauge (1435mm between tracks). It is therefore not technically feasible for the rail tracks to be used interchangeably by the different train sets. The draft White Paper on National Rail Policy concluded that South Africa will implement a standard gauge technology going forward given its efficiencies compared to the Cape gauge. In addition, the African Union has also declared the standard gauge as the ideal technology for Africa.
41. Current subsidies in public transport respond to specific needs in an uncoordinated manner as subsidies are distributed to all spheres of government. Consolidation of subsidies may provide the necessary efficiencies.

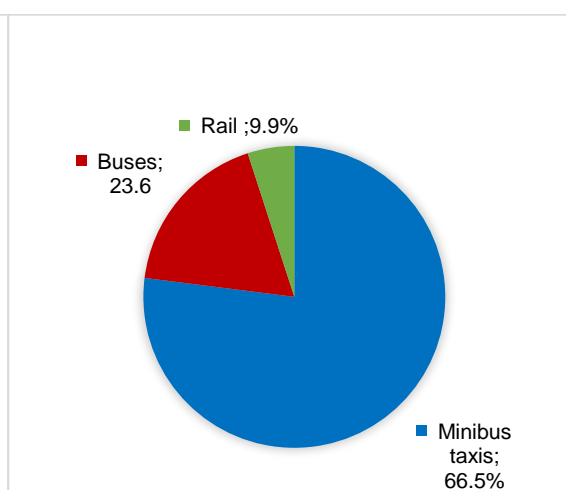
#### ***Breakdown of subsidy allocation***

42. The minibus taxi industry accounts for approximately 66.5 per cent of commuters, buses 23.6 per cent and rail 9.9 per cent. There is a skewed relationship between ridership levels and subsidy funding. Despite the investment by government in the form of subsidies, commuters still prefer the unsubsidised mode of transport (minibus taxis) for several reasons. The taxi industry has been resilient over time despite limited support from government.

### Allocation of subsidies 2017/18



### Ridership 2015



Source: National Treasury and Statistics South Africa

### Minibus taxis and unsubsidised bus services

43. Given the shortcomings of the subsidised bus and Metrorail services, minibus taxi operators have managed to enter and expand in the market. On the other hand, unsubsidised bus operators in the commuter bus market find it difficult to compete effectively in the market without subsidies. In most instances these operators provide services in rural areas where they often encounter challenges with poor road infrastructure, frequent breakdown of buses and high maintenance costs. As a result, some unsubsidised bus operators have resorted to providing scholar transport where they compete with other unsubsidised buses.
44. The minibus taxi industry is relatively informal and as a result, information on its size is difficult to find. However, it is estimated to be worth between R60 billion and R90 billion. There are 150 000 minibus taxi owners/operators operating an estimated 200 000 – 250 000 minibus taxis in the country. The minibus taxis are estimated to be conveying around 15 million commuters daily. The industry is responsible for employing 300 000 drivers, 100 000 rank marshals, 100 000 car washers and 150 000 informal traders at taxi ranks.
45. Minibus taxis have proven remarkably effective and efficient in providing public transport services, particularly over shorter routes. They are the only mode of public transport that does not benefit from any form of operational subsidy and only received 1 per cent of the total subsidy in the form of capital subsidy (taxi recapitalisation). The minibus taxi industry is responsible for transporting 66.5 per cent of households.

46. Given the significance of the minibus taxi industry to the entire public transport sector, any impediments, whether regulatory or competitive, have a detrimental impact on the proper functioning of the public transport sector. The minibus taxi industry is undoubtedly the major player in public transport. It is in this context that the Commission assessed the regulatory impediments to the minibus taxi industry and tried to find solutions to the issues given the resilience of the industry.

*Regulatory failures compromising minibus taxi operations*

47. The top concern from the taxi industry is that subsidies skew competition in favour of the subsidised services. The Commission did not find sufficient evidence to conclude that subsidies impede competition given the inefficiencies observed in the subsidised services. Despite some of the concerns by commuters, the minibus taxi industry is the preferred mode of transport by the majority of the commuters due to its reliability and easy access to commuters.

*Route allocation*

48. Approval of operating licences on routes is primarily the responsibility of the Provincial Regulatory Entities (PREs) with the directives from municipalities (planning authorities). In terms of making its recommendation to the PRE, the municipality is required to assess whether there is a need for public transport on a particular route, based on its Integrated Transport Plans (ITPs). Various stakeholders submitted that municipalities take a long time to provide their directives to the PRE, resulting in a backlog of applications which has led to some operators being on the road illegally. Public transport function is not prioritised by planning authorities and is often not well capacitated. The backlog of applications in Gauteng can be traced back to 2007. The general time period for the issuing of operating licences is approximately 9 to 18 months in some provinces, as opposed to the stipulated 60 days in the National Land Transport Act No. 5 of 2009. PREs are empowered to make decisions on applications without the directives from planning authorities but are reluctant to do so.
49. One of the major challenges in issuing operating licences timeously is the heavy reliance of PREs on the National Land Transport Information System (NLTIS) for the processing and issuing of operating licences prior to the adjudication of applications. The Gauteng PRE indicated that this system has not been functioning dependably for at least ten years, resulting in inefficiencies.

50. Conflict over routes has plagued the minibus taxi industry for many years. Submissions from the industry indicate that there is currently no framework to guide planning authorities and the PREs in the allocation of new routes arising from the development of new residential areas or shopping malls. Ordinarily, this should rest with the planning authorities, however, in instances where the new developments are adjacent to routes serviced by two or more taxi associations, problems are bound to happen as it is difficult to assign routes. This lack of a framework results in inefficiency in the allocation of routes and also duplication of routes. In some instances, both the municipality and the PRE are not aware of the existence of these new routes and the minibus taxi operators develop the routes based on identified needs. Submissions received indicate that in most cases, taxi operators deviate from the routes specified in the operating licence to service demand experienced as a result of a new developments. This has often led to conflict between taxi associations in instances where the new routes overlap on existing routes operated by two associations.
51. Moratoria on operating licences occurs in instances where the routes are overtraded or oversaturated. Overtrading reduces profitability of routes and normally escalates tensions within the industry. Four provinces have declared moratoria on new operating licences for minibus taxis. Illegal operations continue despite the moratoria and it seems there is no credible plan by government to address illegal operations. Submissions received indicates that public transport law enforcement is very limited and not prioritised by municipalities and provincial governments.

#### *Access to and cost of finance*

52. Minibus taxi operators are of the view that the cost of finance is exorbitant. The minibus taxi industry has argued that SA Taxi Finance is the only developmental credit provider servicing the minibus taxi industry. As such, the minibus taxi industry is of the view that SA Taxi Finance is charging excessive interest rates. One of the reasons advanced for the high interest rate charged by developmental credit providers is that they access cost of capital at relatively higher rate compared to commercial banks. The Commission has observed that the structure of the minibus taxi financing market is not conducive to promote effective competition. SA Taxi Finance has no real competition and the Commission has reason to believe the interest rates charged for the provision of credit to finance minibus taxis may be exploiting minibus taxi operators. The Commission is further concerned that potential competitors in the developmental credit market (commercial banks) have chosen not to participate effectively in this market, yet, these commercial banks extend credit to SA Taxi Finance.

### **Interprovincial bus services**

53. Interprovincial bus services entail the provision of scheduled bus services linking all the major cities and towns in South Africa. The market for interprovincial bus services has seen some gradual expansion over the years, with new operators coming into the market. Among others, the new entrants face barriers including regulatory (objections from established operators) financial, and access to terminal facilities.
54. The Commission finds that certain practices in the provision of interprovincial bus services limit, distort and/ or prevent competition between bus operators. These practices are enabled by, among others, ineffective implementation and application of the current regulatory framework. The current regulations relating to applications for operating licences are open to abuse and exploitation as large established bus operators object to applications by new and existing players that try to expand. The abuse of this process creates an artificial barrier to entry and inhibits the ability of bus operators, especially small operators, to grow and expand. This practice also entrenches the position of bus operators that are prone to raising frivolous and vexatious objections. While any bus operator is entitled to object to applications for operating licences, the abuse of this process distorts and, in some instances, prevents effective competition in the provision of interprovincial bus services.
55. The depth and severity of this problem is best described by the Gauteng PRE which indicated that most of the objections are meant to create barriers for new entrants. Incumbent operators have financial resources to go through the litigation and appeal process. Some applications get delayed by two or three years and potential new operators do not enter the market.
56. Interprovincial bus services require access to terminal facilities. PRASA manages most of the terminals in the country and provides access to these facilities through its division, PRASA CRES. The intermodal terminal facilities managed by PRASA CRES include Park Station (Johannesburg), Pretoria Station, Bloemfontein Station, Polokwane Station and the Cape Town Railway Station. PRASA is vertically integrated in that, over and above owning and managing most of the bus terminal facilities in the country, it is also active in the interprovincial bus services through its subsidiary Autopax Passenger Services (SOC) Ltd (Autopax). Autopax operates two brands, City to City and Translux.
57. PRASA's presence in both the provision of intermodal terminal facilities and the provision of interprovincial bus services is undesirable. Interprovincial bus operators

have expressed concerns over the fees charged by PRASA CRES at terminal facilities, especially at Park Station (pay-per-use system). Bus operators have raised a concern that Autopax is getting preferential treatment as it does not pay terminal fees and has been allocated exclusive loading and off-loading bays at Park Station. Though PRASA submitted that the only relationship between the two entities is that of a lessor and lessee and no preferential treatment is extended to Autopax, evidence gathered by the Commission shows the contrary.

58. Between March 2017 and July 2019, the Commission received five complaints from interprovincial bus operators concerning allegations of, among other things, excessive access fees charged by PRASA for access to loading bays at Park Station. The complainants also alleged that PRASA grants favourable trading terms to Autopax by affording it extended payment terms for the use of bus terminal facilities and allocating it (Autopax) exclusive loading bays at Park Station. Such favourable trading terms create a competitive advantage for Autopax.
59. The Commission duly investigated the complaints and found that PRASA has contravened sections 8(1)(c), 8(b) and 8(a) of the Act. In particular, the Commission found that the bus access fee, which was introduced by PRASA through the Pay-On-Use System, is unreasonably high and has significantly increased the operating costs of interprovincial bus operators. The Commission also found that PRASA is reluctant to demand payment from Autopax for bus access fees and rentals for leasing office space at Park Station. Furthermore, PRASA has allocated a large exclusive area to Autopax at Park Station, while not providing access to loading bays to several interprovincial bus operators that have applied for access to Park Station. Based on these findings, on 07 February 2020, the Commission referred the five complaints to the Competition Tribunal for determination.
60. Based on the information gathered during the Inquiry, the Commission finds that:
  - 60.1. Autopax has the largest debt compared to other operators. While there are other bus operators that have defaulted in making payments, Autopax is a perennial defaulter with no concomitant action by PRASA CRES to recover the debt, other than issuing letters of demand. As at February 2019, Autopax owed PRASA CRES R77.9 million nationally. PRASA CRES has submitted that the reason Autopax has the highest debt is that it has the largest bus fleet compared to other operators. However, during the Commission's public hearings, Autopax pointed out that while

it has 519 buses, only 160 buses were fully operational and in November 2017 only 90 buses were running. Moreover, PRASA CRES does not seem to provide a convincing argument why no action was taken for non-payment of services for 19 months. Recently, PRASA CRES attempted to recover the outstanding amount from Autopax, but the effort was not supported by the PRASA Group EXCO. This indicates that the PRASA Group is involved directly in the affairs of the entities even if these entities have separate boards.

- 60.2. The Commission has established that Autopax's semi-luxury brand, City to City, has been allocated an exclusive loading area and ticketing office, by PRASA CRES, at Park Station. This arrangement commenced in 2000. City to City used the allocated space based on a developmental lease agreement that was entered by Autopax (when it was still part of Transnet) and PRASA CRES. PRASA submits that Autopax developed the leased area and effected numerous improvements using its own CAPEX. When Autopax leased the area, it was the only operator allowed to use this area at Park Station. The developmental lease agreement was continuously renewed until June 2018. Although the lease agreement has since terminated, Autopax continues to use the exclusive area. Given the importance of access to terminal facilities by interprovincial bus operators, the exclusivity granted to Autopax is unjustified. Moreover, Autopax is not consistent in paying for use of such facilities.
- 60.3. The Commission finds that PRASA constantly provides financial support and bailouts to Autopax. For example, when Autopax failed to pay salaries to its staff in April 2018, PRASA Group CEO confirmed in a press release that PRASA had continuously supported Autopax as a business and would continue to do so. He further mentioned that at the end of March 2018, PRASA had forwarded Autopax a loan of R50 million. PRASA's provision of financial support to Autopax creates distortions in the competitive environment. Autopax has been a consistent underperformer (loss of R28.5 million, R212.5 million and R304.6 million for 2015/16, 2016/17 and 2017/18 respectively). Further losses are anticipated in the 2018/19 financial year. Evidence also shows that Autopax's total liabilities exceed its total assets by {**CONFIDENTIAL INFORMATION**} (as at 30 April 2019). The most revealing observation is contained in both PRASA Group and Autopax's strategic documents which highlight that Autopax's underperformance is attributed to, among other things, personnel without relevant technical expertise (no core

technical skills) and Autopax's management team lacks relevant experience in the bus industry.

61. PRASA's ownership of Autopax creates perverse incentives as PRASA always tries to safeguard and protect the interests of Autopax even in instances where it is not economically justifiable to do so. The interprovincial bus services market is competitive and the continuous protection or bail out of Autopax seems unjustifiable. This concern is exacerbated by the fact that Autopax is inefficient and has been underperforming for years. PRASA's protection of Autopax distorts, limits and/ or prevents fierce competition between Autopax and other bus operators.

### **Rural Transportation**

62. South Africa is largely dominated by rural provinces such as Eastern Cape, Limpopo, North West, Free State and Mpumalanga. Several factors contribute to the inadequate provision of public transport services in South Africa's rural areas. The DOT's Rural Transport Strategy (2007), together with the submissions received by the Commission, highlight several rural specific characteristics as key challenges in rural public transport:
  - 62.1. Rural areas in general are sparsely populated which makes provision of public transport infrastructure costly and difficult;
  - 62.2. High incidence of poverty and levels of unemployment in rural areas make the demand of public transport uneconomically viable for unsubsidised operators; and
  - 62.3. Road conditions in rural areas are horrific to the extent that buses can get stuck during rainy seasons. As a result, operators are faced with low economies of scale which lead to high operating costs which are not catered for in the design of subsidised contracts for buses.

### **Violence in public transport distorts competition and impacts choice of passengers**

63. Safety influences the choice by commuters of the mode of transport irrespective of whether that mode is the most efficient and economic. Unsafe modes of transport with high incidences of crime, violence and conflict negatively affect consumer welfare in the transport sector. The safety and security challenges present in public transport are partly a result of bigger socio-economic problems such as unemployment and lack of service delivery in South Africa. This leads to community protests and vandalism of public



transport vehicles and infrastructure which has a negative impact on the provision of safe and reliable public transport.

64. The fragmentation in law enforcement in public transport makes it difficult for effective enforcement. Enforcement agencies includes SAPS, Metro police, Rapid Rail Unit, provincial traffic police, municipal traffic officials, officers deployed by PRASA and Gautrain and other private security companies. A common strategy to deal with violence in the public transport industry is required.

## **Transformation**

65. The ToRs have a specific objective to track the extent of transformation in the land-based passenger transport industry. One of the objectives of the Competition Act is the promotion of a greater spread of ownership, in particular, of historically disadvantaged individuals (HDIs). In accordance with the ToRs, the Commission identifies, firstly, the critical inputs required by operators for the provision of transport services and secondly, considers some of the initiatives put in place by government and its impact on transformation.
66. The Commission's findings in relation to transformation are:
  - 66.1. There is no or limited transformation within the public transport industry across the value chain (financing, manufacturing, fuel supply etc). Upstream levels of the value chain such as financing and manufacturing are not transformed;
  - 66.2. At an operational and ownership level, the minibus taxi businesses are majority black owned;
  - 66.3. There are long standing bus subsidy contracts between government and large commuter bus operators that limit the ability of historically disadvantaged persons and small bus operators to participate competitively within the commuter bus industry and this subsequently hampers transformation;
  - 66.4. Frivolous objections to licence applications by established bus operators is an impediment to transformation in the interprovincial bus industry as it disadvantages small bus operators owned by HDIs; and
  - 66.5. The roll out of the BRT/IRPTN was established to transform and empower the minibus taxi industry, by forming Vehicle Operating Companies (VOCs) or Bus Operating Companies (BOCs) which will run the BRT/IRPTN system. The implementation of the BRT/IRPTN system requires the elimination of any form of competition on the targeted routes. The affected modes of public transport

(minibus taxis and commuter buses) were invited to form a single entity which would then take over the affected routes, under the auspices of the BRT/IRPTN system for a period of 12 years. The requirement that minibus taxi owners forfeit their taxi operating licences when opting to be part of the VOCs/BOCs without a guarantee in the continuation of their contracts creates an uncertainty that impedes on the empowerment of these former taxi owners. Experiences from other VOCs/BOCs indicate that former taxi operators are not involved in the strategic management of the VOCs/BOCs and there is limited skills transfer.

## **PROVISIONAL RECOMMENDATIONS**

67. The Commission has identified provisional recommendations which will improve the functioning of the public transport.
68. The relationship between PRASA and Autopax raises several concerns for the interprovincial bus industry. It is recommended that Autopax be separated from the PRASA Group and become a separate state entity. As a separate state entity, Autopax will manage its business activities independent of the PRASA Group and report directly to government and not through the PRASA Group.
69. It is recommended that PRASA Cres, which currently operates as a division of the PRASA Group, be incorporated as a new and independent state entity outside of the PRASA Group to eliminate conflict of interest and perverse incentives. The new state entity will manage all intermodal terminal facilities currently under PRASA Cres and other ranking facilities in partnership with municipalities.
70. The perpetual extension on subsidised bus contracts without going on tender inhibits competition. Where contracts are put on tender, government (provincial transport departments or the DOT) should consider breaking some of the contracts into smaller contracts in order to create opportunities for new entrants and smaller bus operators. Small and local bus operators should be given preference given the incumbency advantages enjoyed by the existing large bus operators.
71. To promote the use of public transport as an integrated system and improve coordination, the Commission recommends:

- 71.1. Establishment of dedicated transport authorities at provincial level (Provincial Transport Authorities) in each province. This is premised on the fact that public transport is not prioritised by local government. Dedicated transport authorities at provincial level can attract skills and can service local municipalities effectively. An example is the Gauteng Transport Authority which was set up to improve coordination and amalgamate transport related functions in Gauteng.
  - 71.2. DOT to promote an integrated public transport ticketing system. The DOT in its revised 2017 White Paper indicated that this integrated ticketing should comprise a single system with inter-operability across modes, facilitating participation by all banks and cardholders.
  - 71.3. DOT to urgently develop a devolution strategy within 12 months to guide the devolution process. Devolution of functions such as rail to lower levels of government will promote integration of public transport services.
72. The Commission notes that government, through the DOT, is currently in the process of developing the subsidy policy. The Commission recommends that the subsidy policy be finalised and consider the following:
- 72.1. In light of public transport being considered as a system and planning to be conducted at a provincial level, subsidies should be allocated to the provinces who will decide on the most appropriate transport mode and allocate the subsidy accordingly. Existing bus subsidies and Metrorail subsidies (Gauteng, Western Cape, KwaZulu-Natal and Eastern Cape) to be transferred to the Provincial Transport Authorities.
  - 72.2. National government through the DOT should only manage the Shosholoza Meyl grant funding.
  - 72.3. Infrastructure grants should be prioritised (as opposed to operating grants) especially improving access to marginalised areas. Resuscitation of previously decommissioned rail network and expansion into high density corridors should be prioritised.
  - 72.4. To support integration, the Department of Transport to fast-track roll-out of an integrated ticketing system for various modes of transport;
  - 72.5. The DOT to promote the use of a card or electronic system in the public transport sector in preparation for the use of an integrated ticketing system.
73. While the subsidy policy is being developed and in order to ensure stability especially in the commuter bus industry, the current contracts should only be extended on a short-

term basis. Given the timeframe required to finalise the subsidy policy, to support and empower small bus operators in the interim, the subsidy policy should:

- 73.1. Prescribe the conclusion of negotiated contracts (as opposed to tendered contracts) with small bus operators in all the provinces. The negotiated contracts awarded to small bus operators should account for a minimum of 30 per cent of all contracts and progressively increase over time; and
  - 73.2. The minibus taxi industry be subsidised through increased funding for the Taxi Recapitalisation Programme.
74. With respect to the BRT/IRPTN implementation, the Commission recommends the following:
- 74.1. Municipalities, with the guidance from the DOT and the National Treasury, should do a complete review of the BRT/IRPTN model taking into account the following:
    - 74.1.1. long-term fiscal and financial sustainability;
    - 74.1.2. suitability of the model in smaller cities; and
    - 74.1.3. inclusion and participation of the minibus taxi industry.
  - 74.2. The DOT should consider reviewing the 12-year BOC/VOC model or undertake a study to evaluate if the 12-year model promotes transformation and empowerment.
75. To facilitate proper functioning of commuter rail services, foster coordination in the rail sector (especially in Gauteng), and improve efficiencies through economies of scale, the Commission recommends immediate devolution of rail operations (based on the preliminary assessment of the provinces' readiness) as follows:
- 75.1. To Gauteng: the Gauteng province in conjunction with the metros will be responsible for both Gautrain and Metrorail. This function will be carried out as part of the Gauteng Transport Authority which will amalgamate transport planning functions.
  - 75.2. To Western Cape: the province in conjunction with City of Cape Town and other municipalities will be responsible for Metrorail after the devolution of the rail functions from National government.
  - 75.3. The DOT to develop a rail devolution strategy within two years and set out the criteria that provinces (KwaZulu-Natal and Eastern Cape) must meet for devolution to take place. The preliminary readiness assessment indicate that

KwaZulu-Natal and Eastern Cape will require more time before devolution can take place.

76. To deal with fragmented law enforcement in the public transport industry, the Commission recommends that a specialised division within SAPS be created to deal with all public transport related matters.
77. On backlogs at PREs, the Commission recommends the following:
  - 77.1. An overhaul of the issuing of operating licence regime and removal of quantity restrictions. This would mean that operators will still be required to apply for roadworthy permits, but their operating licence applications will not be denied based on supply and demand. In addition, the Commission recommends that all pending applications should be processed and finalised expeditiously. This will free some capacity at the PREs to consider new applications and address existing backlogs.
  - 77.2. PREs and planning authorities to increase capacity to deal with existing backlogs;
  - 77.3. Planning authorities and provinces to enter into Memorandum of Understanding (“MoUs”) to jointly exercise their respective powers and functions as contemplated in Section 12 of the NLTA. This joint exercise or performance of their respective powers and functions may be regulated by an agreement between the parties, but this exercise would still require both spheres of government to be sufficiently capacitated.

## **SUBMISSION GUIDELINES**

The deadline for all written submissions is **31 March 2020** and should be directed to:  
[PPT@compcom.co.za](mailto:PPT@compcom.co.za)

## 1. MARKET INQUIRY PROCESS

- 1.1. On 10 May 2017, the Competition Commission (the Commission), in the exercise of its powers under Chapter 4A of the Competition Act 89 of 1998, published a notice in the Government Gazette that it would conduct a Market Inquiry into the land based public passenger transport (Market Inquiry). The Commission initiated the Market Inquiry in order to understand the general state of competition in the land based public passenger transport industry and to determine whether there are any features that lessen, prevent or distort competition within the industry.
- 1.2. The Terms of Reference (ToRs) identified the following broad themes as the rationale for initiating the Market Inquiry:
  - 1.2.1. **Price setting mechanisms:** Analysing different price setting mechanisms and their impact on competition in the land based public passenger transport industry;
  - 1.2.2. **Price regulation:** Examining applicable price regulations and their impact on competition in the land based public passenger transport industry;
  - 1.2.3. **Route allocation, licensing and entry regulations:** Assessing the impact of regulations, including route allocation, licensing and entry requirements on intermodal and intramodal competition in the land based public passenger transport industry;
  - 1.2.4. **Allocation of operational subsidies:** Assessing the impact of operational subsidies granted to commuter buses, Metrorail and Gautrain on intramodal and intermodal competition in the land based public passenger transport industry;
  - 1.2.5. **Transport planning:** Evaluating the impact of government's transport plans on dynamism, efficiency and competition in the land based public passenger transport industry; and
  - 1.2.6. **Transformation:** Assessing transformation issues, including ownership patterns in the land based public passenger transport industry.
- 1.3. The discussion sets out a summary of the process followed in conducting the Market Inquiry.

## **Launch of the Market Inquiry**

- 1.4. The Commission engaged with key stakeholders such as National Department of Transport (DOT), South African National Taxi Council (SANTACO), South African Bus Operators Association (SABOA) and other stakeholders as part of the pre-launch consultations. The purpose was to inform the stakeholders about the Market Inquiry and solicit views of the scope of the Market Inquiry. The pre-launch consultations were held between March 2017 and April 2017.
- 1.5. On 10 May 2017, the Commission published a notice in the Government Gazette announcing the launch and scope of the Market Inquiry. Following the publication of the ToR, the Commission published the Stakeholder Participation Guidelines (the Guidelines) and Call for Submissions on 13 July 2017. The Guidelines essentially provided a fair opportunity and a transparent process for all stakeholders to participate effectively in the Market Inquiry. The guidelines outlined (i) who could participate in the Market Inquiry and how they could submit information; (ii) the treatment of confidential information; (iii) the activities of the Market Inquiry; and (iv) the powers available to the Commission, among other issues.
- 1.6. The call for submissions was an initial invitation to all stakeholders to respond to the issues raised in the ToRs. The response was to be made through formal written submissions which allowed further engagements with stakeholders. The call for submissions was also important for the Market Inquiry to assess if there were additional issues that may be considered.

## **Phase 1: Evidence gathering**

- 1.7. In collecting information for the Market Inquiry, the Commission received over 200 submissions from stakeholders operating across the public transport industry value chain. Interactions with stakeholders occurred in different forms, namely (i) Meetings; (ii) Site visits; (iii) Teleconferences; (iv) Responses to calls for submissions; (v) Information requests and (vi) oral submissions from the public hearings. Details of each type of interaction, and a list of the respondents, follow.
- 1.8. **Calls for submissions:** The Commission published a call for submission document inviting all interested stakeholders to make formal submissions. The initial call for submissions, published on 7 July 2017, provided a list of questions related to the issues identified in the ToR as the rationale for the Market Inquiry.

Stakeholders were advised that their responses need not be limited to those issues but could extend to other matters that might be relevant to the Market Inquiry, including the impact of the identified issues on the state of competition in the public transport sector.

- 1.9. Based on the information received by way of the responses to the initial call for submissions, the Commission identified specific factors that could have an impact on competition.
- 1.10. **Meetings, teleconferences and site visits:** The Commission engaged in face-to-face meetings across all provinces with key engagements with the Provincial Departments of Transport, selected municipalities, taxi associations and bus operators. The purpose of the meetings was to obtain a broader understanding of functions and responsibility of each stakeholder (regulatory aspects) as well as the functioning of the public transport sector in general. These engagements also served to encourage stakeholder participation across the value chain. Tables detailing the stakeholders contacted are included in **Annexures A to C**.
- 1.11. **Information requests:** After receiving submissions from the initial call, the Commission issued a first round of information requests to selected market participants from August 2017. The purpose of the information requests was to obtain detailed information from the various market participants within each mode of transport and across the value chain in the public transport sector. Information canvassed through the requests covered business operations, regulatory issues, state of competition, identifying key suppliers to the sector, among others. The information submitted by stakeholders assisted the Commission in understanding the pertinent issues in the public transport sector, the interactions between or among market participants, the regulatory environment and impact of government policies (transport planning and subsidies) on competition (both intramodal and intermodal).
- 1.12. From October 2017, the Commission issued a second round of information requests to a narrower selection of market participants. These information requests focused on key issues identified by the Commission as warranting further examination. The minibuses were probed on issues relating, *inter alia*, to the influence of bus subsidies on price setting mechanisms, nature of conflicts arising



from route allocation and moratoria in the industry. Stakeholders in the bus industry were requested to provide pricing information contrasting peak and off-peak periods and the justification thereof, details about the procurement of buses and the number of routes operated by some of the large long-distance buses, types of subsidised bus contracts, its coverage and views about the contracting system. With respect to rail, information requested revolved around the underlying reasons for decline in passenger numbers, challenges faced by PRASA in providing a safe and reliable service to commuters. Regulators such as the Provincial Regulatory Entity (PRE) were questioned about the regulatory requirements in place for the public transport sector and the rationale in implementing various regulations. The role of the spheres of government was also interrogated.

## **Phase 2: Information Gathering – Public hearings**

- 1.13. Phase 2 of the Market Inquiry was continuation of evidence gathering through oral submissions in public hearings. The Commission appointed three panel members and two evidence leaders from its staff to preside over the public hearings. The Commission had public hearings in all the 9 provinces which were conducted over 24 days between June and August 2018. Over 200 submissions were received during the inquiry. The Market Inquiry held additional hearings at the Commission offices in October 2018 to cater for some of the stakeholders who could not participate during the first round of public hearings. The complete list of the stakeholders who made oral presentations in the nine provinces and at the Commission's offices are provided in **Annexures A to C**. The Market Inquiry has also received several submissions from stakeholders who elected not to make oral presentations. A range of analytical techniques, both qualitative and quantitative, was applied to understand and draw conclusions on the nature of competition in the sector, and the impact of any feature or conduct observed within the sector.
- 1.14. The Commission's activities in this phase involved receiving submissions on: (i) Evidence on how the public transport sector operates; (ii) Competitive dynamics on intramodal and intermodal competition; (iii) Impact of subsidies on competition; (iv) Impact of the implementation of BRT/IPTNs on the minibus taxis and broad transformation objectives; and (iv) Addressing the Market Inquiry on any matter relevant to its ToRs.

### Phase 3: Assessment of the state of competition

- 1.15. Phase 3 of the Market Inquiry involved an assessment of the state of competition in the transport sector based on the information received from market participants. A range of analytical techniques, both qualitative and quantitative, was applied to understand and draw conclusions on the nature of competition in the sector, and the impact of any particular feature or conduct observed within the sector.
- 1.16. The Commission's activities in this phase included: (i) Establishing a competition assessment framework for the different modes of public transport; (ii) Describing the historical perspective of transport in South Africa; (iii) Describing relevant product and geographic markets to the possible extent; (ii) Assessing competitive dynamics in the defined markets; (iii) Assessing whether regulations and broader government policy act as an impediment to competition; and (iv) Drawing conclusions regarding the state of competition in the public transport market.

### Phase 4: Reporting – preliminary findings and recommendations

- 1.17. Following the assessment referred to above, the Commission will publish its preliminary findings and proposed remedies and invite interested stakeholders to provide input on the recommended solutions and/or actions. The input received from stakeholders will be assessed and incorporated into the analysis to enhance the outcomes of the Market Inquiry process. The final phase of the Market Inquiry will involve the drafting of the final report on the state of competition in the transport sector and publishing the report in the *Gazette*, as per Section 43B of the Act.

**Table 1** summarises the milestones.

**Table 1: Key milestones during the Inquiry**

Key milestones	Date
Gazetted Terms of Reference	10 May 2017
Stakeholder participation guidelines	07 July 2017
Inquiry commenced	June 2017
Published call for submissions	07 July 2017
Received responses to call for submissions	21 July 2017
Introductory stakeholder engagements and site visits	July 2017 to August 2017
Issued first round of information requests	August 2017
Analysis of responses to first round of information requests	August 2017 to October 2017

Key milestones	Date
Issued second round of information requests	October 2017
Ongoing consultation with market participants	August 2017 to March 2018
Published statement of Issues	May 2018
Conducting public hearings	June 2018 to August 2018
Review of the Information from public hearings for follow-ups	September 2018
Targeted meetings with additional stakeholders	October 2018
Drafting report and consultations with stakeholders	January 2019 – November 2019
Preliminary findings and recommendations for public comment	19 February 2020
Review and analysis of feedback from stakeholders	April to May 2020
Finalisation of the Market Inquiry	To be confirmed

1.18. During the Market Inquiry, the Commission placed several documents on its website. These included the ToR, participation guidelines, a statement of issues (SOI), submissions from stakeholders, and transcripts from the oral evidence from the public hearings.

### Chapter outline in relation to the ToRs

1.19. The ToRs identified the following scope for the Market Inquiry: impact of price setting mechanisms, price regulation, route allocation, licencing and entry regulations, allocation of operational subsidies, transport planning on competition dynamics in the public transport industry.

1.20. Given the peculiar differences among the modes of transport (taxis, buses, rail), the Commission decided to have separate chapters focusing on each mode of transport, where possible. This approach provides a clearer understanding of the dynamics within each mode of public transport. An assessment of competition dynamics within each mode (intramodal competition) is conducted in the respective chapters. The assessment of competition dynamics between or among modes (intermodal competition) is conducted in one chapter to minimise repetition. The intermodal competition assessment is conducted after the discussion of each mode of public transport. Cross-cutting themes such as subsidisation, transport integration and transformation are considered under a single chapter.

1.21. The report is broadly organised in themes. Firstly, it deals with subsidised public transport (commuter rail and contracted bus services). Historically, this was the genesis of public transport in South Africa arising from the apartheid system. The second theme focuses on the emergence of private players in public transport (minibus taxis and unsubsidised buses) to cater to the shortcomings of the subsidised system. Interprovincial bus services are then considered, followed by cross-cutting themes such as transport integration and transformation.

1.22. **Table 2** demonstrates how the ToRs have been addressed in each chapter of the report.

**Table 2: Linking the ToRs to Chapter layout**

Terms of Reference	Mode of Transport		
	Taxi	Buses	Rail
Price setting mechanism	Chapters 10	Chapters 7, 8 and 9	Chapter 6
Price regulation	Chapter 10	Chapter 7, 8 and 9	Chapter 6
Route allocation, licensing and entry regulations	Chapters 3 and 8	Chapter 6, 7 and 9	Chapter 8
Allocation of subsidies	Chapter 5	Chapters 5, 7 and 8	Chapter 5 and 6
Transport planning	Chapter 4	Chapter 4	Chapter 4
Transformation	Chapter 14		
Competition dynamics - intermodal	Chapter 12		

### **The rationale to subdivide the report**

1.23. As indicated above, the final phase the Market Inquiry involves the drafting of the preliminary draft report with findings and recommendations. In relation to this phase, the Commission has decided to subdivide the publication of its draft report for public comment into two parts. The first report has specific focus on e-hailing and metered taxi services and will be issued separately. The Commission is of the view that the dynamics of competition between the metered taxis and e-hailing services is driven largely by technological developments. E-hailing companies

utilise a platform to connect drivers with commuters. The innovation and digitisation of the markets is referred to as the Fourth Industrial Revolution (4IR or Industry 4.0). Competition assessment and regulatory scrutiny in these evolving technology or platform markets require special attention given the dynamic nature of these markets.

- 1.24. This report (second report or main report) focuses on the traditional markets which are largely static in nature (i.e. minibus taxi, bus and rail). The Commission acknowledges some of the innovations in these traditional markets, but the innovations did not have a disruptive impact compared to the entry of e-hailing services.

## 2. BACKGROUND TO THE PUBLIC TRANSPORT SECTOR IN SOUTH AFRICA

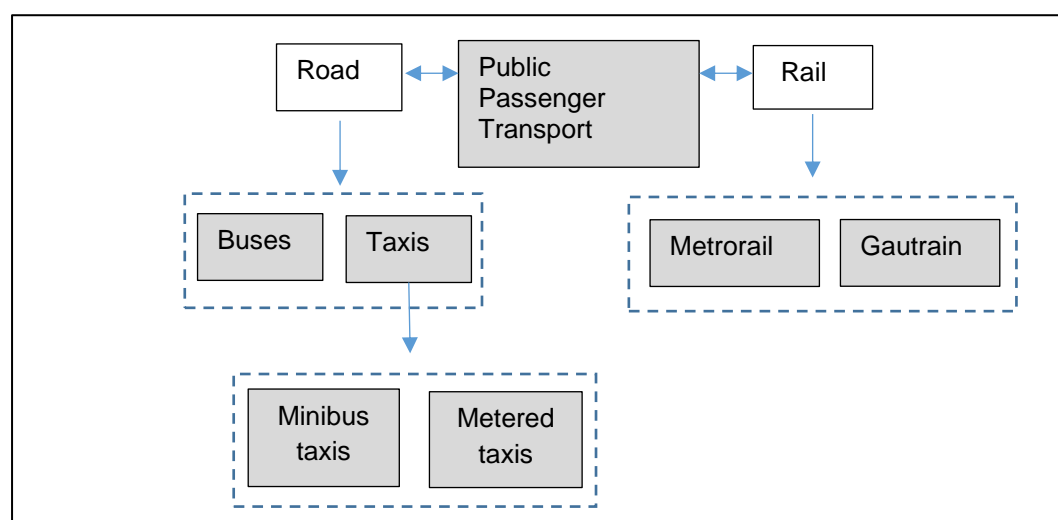
### Introduction

2.1. This chapter provides a background and overview of public transport in South Africa. For the purpose of this Inquiry, public transport implies land based public passenger transport consisting of three main modes, namely; taxi, bus and rail. The chapter begins by providing an overview of the key features of public transport and then provides a discussion of the main public transport modes in South Africa and the commuter trends in each transport mode. In addition, the chapter outlines the proportion of income spent on public transport by comparing rural and urban areas. The chapter concludes by highlighting waiting times for various modes of public transport as a proxy for quality of service.

### Overview of South Africa's public transport modes

2.2. Public transport in South Africa includes buses (contracted buses, unsubsidised buses, municipal buses); minibus taxis, metered taxis, e-hailing; and rail (Metrorail and Gautrain). Statistics South Africa (2015) indicated that taxis are the commonly used mode of public transport in South Africa accounting for 66.5 per cent of households who use public transport. The bus and rail modes account for 23.6 per cent and 9.9 per cent respectively.<sup>1</sup> **Figure 1** below shows the different types and modes of public passenger transport.

**Figure 1: Modes of land based public passenger transport in South Africa**



Source: Commission's own research

<sup>1</sup> Statistics South Africa. 2016. "Measuring household expenditure on public transport." Technical report (2015), Report Nr 03-20-11.

## Rail industry

- 2.3. The railway sector was established to facilitate the country's industrial revolution and to accelerate economic growth and development, by rapidly networking significant places through the fastest most reliable freight and passenger transport.<sup>2</sup> Thereafter, it largely focused on servicing the mining and agricultural sectors.<sup>3</sup>
- 2.4. Over the past years, the rail sector has been under government control and shielded from competition. In late 1980s, the deregulation of the road public transport introduced competition to the rail industry.<sup>4</sup> A total deregulation of road transport was implemented through the promulgation of the Transport Deregulation Act in 1988, and this led to rail losing market share.<sup>5</sup> Subsequent to the Transport Deregulation Act, 1988 (Act No. 80 of 1988), the Legal Succession Act of 1989 (Legal Succession Act) was introduced. This Act replaced the South African Transport Services (SATS) dispensation and corporatised what is today called Transnet.<sup>6</sup> PRASA was established in terms of Section 22 of the Legal Succession to the South African Transport Services Act, 2008 (Act No. 38 of 2008) (as amended).
- 2.5. The White Paper on National Transport Policy, 1996, proposed, among others, to improve the safety, security, reliability, quality, and speed of transporting people.<sup>7</sup> The White Paper seems to have led to the introduction of the National Railway Safety Regulator Act, 2002 (Act No. 16 of 2002). Prior to 1994, there was no explicit policy governing the rail industry<sup>8</sup> and in 2017, the government developed the National Rail Policy with the intention of placing rail on a sound footing to collaborate and compete against the other modes of public transport.<sup>9</sup>

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<sup>2</sup> South Africa, Department of Transport. 2017. *National Rail Policy: Draft white paper*. Pretoria.

<sup>3</sup> Cronin, J. 2011. "The Future of Rail." Opening address at the Railways and Harbours Conference. 6 April 2011. Johannesburg.

<sup>4</sup> Buthelezi, SB. 2014. "Public transport policy failing the South African taxi industry." <http://www.thesbu.com/blog/entry/public-transport-policy-failing-the-south-african-taxi-industry> (Accessed on 14 May 2019.)

<sup>5</sup> Cronin, J. 2011. "The Future of Rail." Opening address at the Railways and Harbours Conference. 6 April 2011. Johannesburg.

<sup>6</sup> South Africa. 1989. The Legal Succession to the South African Transport Service Act, 1989 (Act No. 9 of 1989). Government Printers.

<sup>7</sup> South Africa, Department of Transport. 1996. *National Transport Policy: White Paper*. Pretoria.

<sup>8</sup> South Africa, Department of Transport. 2017. *National Rail Policy: Draft White Paper*. Pretoria. Printers. PRASA Corporate Office. Oral submission by Ms Lubbe, Gauteng hearings, 8 June 2018. Page 89.

<sup>9</sup> South Africa. 2017. Draft White Paper on National Transport Policy. Pretoria: Government Printers.

- 2.6. Rail has been identified as the backbone of public transport in South Africa<sup>10</sup> and operates in four provinces.<sup>11</sup> Metrorail transports over 2 million passengers per day in the four provinces and in Western Cape over 40 per cent of the population use rail.<sup>12</sup>
- 2.7. The National Railway Safety Regulator Act, 2002 (Act No. 16 of 2002), established the Railway Safety Regulator (RSR). The primary legislative mandate of the RSR is to oversee and enforce safety performance by all railway operators in South Africa including those of neighbouring states whose rail operations enter South Africa. All operators are, in terms of National Railway Safety Regulator, 2002 (Act No. 16 of 2002), primarily responsible and accountable for ensuring the safety of their railway operations.<sup>13</sup>
- 2.8. PRASA, previously known as the South African Rail Commuter Corporation (SARCC) was established in terms of Section 22 of the Legal Succession to the South African Transport Services Act of 2008 (as amended).<sup>14</sup>
- 2.9. The passenger rail sector consists of two types of rail services, namely Metrorail and Gautrain. Metrorail is a conventional rail transport service which is operational in Gauteng, Eastern Cape, KwaZulu-Natal and Western Cape. Gautrain is an 80 km long mass rapid transit railway system that links Johannesburg, Pretoria and OR Tambo International Airport. Gautrain provides two types of services: (1) General Passenger Services (GPS) and (2) Airport Passenger Service (APS). The Gauteng Legislature approved the Gautrain Management Agency Act, 2006 (Act No. 5 of 2006) and it was promulgated in December 2006. The objective of this Act includes, *inter alia*, to provide for the establishment of a Gautrain Management Agency as a provincial public entity to manage and oversee concession agreements for the Gautrain Rapid Rail Link Project.<sup>15</sup>
- 2.10. Detailed discussion of the rail industry is reflected in **Chapter 6**.

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<sup>10</sup> Metrorail. 2018. Oral submission by Mr Hattingh, KwaZulu-Natal hearings, 27 June 2018. Page 43. eThekweni Transport Authority. 2018. Oral submission by Mr Woyisana, KwaZulu-Natal hearings. 27 June 2018. Page 112. Metrorail. 2018. Oral submission by Mr Walker, Western Cape hearings. 20 June 2018. Page 87.

<sup>11</sup> Western Cape, Eastern Cape, Gauteng, KwaZulu-Natal.

<sup>12</sup> PRASA Corporate Office. 2018. Oral submission by Ms Lubbe, Gauteng hearings. 8 June 2018, page 89.

<sup>13</sup> Railway Safety Regulator, Annual Report 2015-2016.

<sup>14</sup> South Africa, Department of Transport. 2017. National Rail Policy: Draft white paper. Pretoria.

<sup>15</sup> South Africa. 2008. Gautrain Management Agency Amendment Act, 2008 (Act No. 6 of 2008).



## Bus industry

- 2.11. The bus sector comprises various types of bus services such as commuter bus, interprovincial, cross border, tour and charter, scholar bus, special hire or private hire bus and commercial contract bus services. Commuter, scholar and interprovincial buses make up a largest portion of the industry.<sup>16</sup>
- 2.12. The commuter bus industry's roots can be traced back to the apartheid era during which successive pre-1994 governments used public transport, and more specifically commuter bus services, as a policy instrument to give effect to separate development.<sup>17</sup> Spatial planning was a mechanism used to expedite segregation and the commuter bus system was seen as intrinsically linked to the policy of separate development. Subsidised commuter services were introduced to lessen the financial burden borne by most people who incurred high transport costs as a result of being forced to travel long distances from their places of residence to their places of employment. Commuter buses, by definition, are buses which are assigned for short distance travel and are mainly utilised by the working population.<sup>18</sup> With time commuter buses became popular and in 1982 the industry recorded the highest ever market share of public transport.<sup>19</sup> However, the evolution of the mini-bus taxi industry in the late 1980s led to a substantial decline in the commuter bus industry. The bus industry is said to have lost approximately 50 per cent of its customer base largely to the taxi industry.<sup>20</sup>
- 2.13. When the 1996 White Paper was accepted, which legalised the 16 seat minibus taxis, commuter bus operators began to make losses and the commuter bus subsidy system was thus developed to incentivise commuter bus operators. As the minibus taxi industry grew, there was a greater need for the financial intervention of government in the commuter bus industry. As a result of many bus operators failing, competitive tendering was introduced which was later suspended due to lack of funding.<sup>21</sup>

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<sup>16</sup> Walters, J. 2014. "Public transport policy implementation in South Africa: *Quo vadis?*" *Journal of Transport and Supply Chain Management*, 8(1):1-10.

<sup>17</sup> Ibid.

<sup>18</sup> South Africa. 2009. National Land Transport Act, 2009 (Act No. 5 of 2009). Pretoria: Government Printers.

<sup>19</sup> Naude, L. 2003. "The people and customer effects of bus reforms in South Africa." Paper presented at the 8th Thredbo Conference in Rio de Janeiro, 14–18 September. Page 5.

<sup>20</sup> Ibid.

<sup>21</sup> Naude, L.J. 1999. "An evaluation of the impact of the South African public transport policy on the restructuring of the commuter bus industry." Doctoral dissertation. Johannesburg: University of Johannesburg.

- 2.14. The post 1994 policy initiatives embedded in the 1996 White Paper were to transform the commuter bus industry. The recommendation of the White Paper, in as far as the subsidised commuter bus services were concerned, was to reinstate the process of competitive tendering. The adoption of the National Land Transport Transition Act, 2000 (Act No. 22 of 2000) (NLTTA) gave a legal status to the contracting and the acceptance of negotiated contracts of commuter buses under specific circumstances.
- 2.15. In 1997, interim contracts with subsidised commuter bus operators were entered into as a transition mechanism to competitive tendering. There were, however, challenges with the competitive tendering system and the second-best option was for the government to enter into negotiated contracts. A number of these interim contracts were concluded between 2000 and 2003 and when these contracts reached their end-of-term they were extended on the same conditions.
- 2.16. There was a further development in 2009 when the contracts were converted to kilometre based. Although interim contracts were foreseen to be a three-year transition mechanism, some of these contracts have continued to this day. Even though it remained the government's policy, under the NLTA, to tender and negotiate subsidised commuter transport services, there have been no significant changes in subsidised commuter bus contracts.
- 2.17. There are approximately 25 000 buses in South Africa of which 19 000 are involved in formal public transport activities while the other 6 000 are found in commerce and industry and government institutions where they are mostly used for in-house purposes.<sup>22</sup> Furthermore, buses that are involved in public transportation provide direct employment to about 34 200 people throughout the country with about 171 000 people being indirectly dependent on the industry (or directly related to employment in companies).<sup>23</sup> The industry also supports a large number of suppliers, such as bus and chassis manufacturers, fuel and tyre companies, that are in some way dependent on the industry for employment. Commuter bus operators undertake approximately 912 million passenger trips per annum.<sup>24</sup>

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<sup>22</sup> Kneale, L. 2016. "The minibus taxi and bus services industry." <https://www.whoownswhom.co.za/store/info/4474>. (Accessed on 16 April 2018.)

<sup>23</sup> *Ibid.*

<sup>24</sup> *Ibid.*

- 2.18. Commuter buses provide scheduled services travelling a short distance of around 100 km or less, on a particular route in accordance with a timetable prescribed by government. The provinces manage, subsidise and determine fares of commuter bus services. Public Utility Transport Corporation (PUTCO) which operates about 1 307 buses on subsidised bus contracts<sup>25</sup> is the biggest commuter bus operator in the country operating mainly in the Gauteng and Mpumalanga (Kwa Mhlanga) regions. Golden Arrow Bus Services (GABS) is the second largest bus operator in the country with a fleet of 1 100 buses servicing 2086 routes in the Western Cape.<sup>26</sup> The other large commuter bus operators include North West Star SOC Ltd (Gauteng and North West), Algoa Bus Company (Pty) Ltd (Nelson Mandela Bay), Great North Transport SOC Ltd (Limpopo), Buscor (Pty) Ltd (Mpumalanga), Interstate Bus Lines (Pty) Ltd (Free State) and Metro Group of Companies (Pty) Ltd (eThekweni and Zululand).
- 2.19. Within the commuter bus industry there are also several small bus operators who either operate subsidised or unsubsidised bus services. Most small bus operators belong to the South African National Small Bus Operators Council (SANSBOC) which also has provincial structures in all nine provinces.
- 2.20. The City of Johannesburg (Metrobus), Tshwane Municipality (Tshwane Bus Service), eThekweni Municipality (People Mover) and Buffalo City Metropolitan Municipality also own and operate commuter bus services. In Gauteng, the Gautrain's bus services cater mainly for the commuters who use their train services, as a feeder system.<sup>27</sup> The Gautrain buses operate on certain routes between the Gautrain stations.
- 2.21. The coach operators are active in long distance scheduled services between cities (interprovincial or intercity), cross border services, as well as charter services in the country. These services are unsubsidised, and the government does not prescribe routes to the operators of these services.<sup>28</sup> The biggest players in the coach service market segment include Intercap, Translux, City to City, Greyhound, Citiliner, Eldo Coaches, Eagle Liner, Africa People Mover, Nozulu Enterprise and others. These long-distance coaches differ from conventional buses in that they provide comfort amenities such as toilets and air conditioning, among others.

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<sup>25</sup> PUTCO. 2017. Submission by MH Heyns. 11 October 2017. Page 1.

<sup>26</sup> Golden Arrow Bus Services. 2017. Submission by Bowmans (GABS' lawyers), 2 November 2017.

<sup>27</sup> <http://join.gautrain.co.za/Buses.aspx>

<sup>28</sup> Meeting with Unitrans Passenger. 5 September 2018.

2.22. The newest bus service in South Africa is the bus rapid transit (BRT) system which was approved by government in 2007 through the adoption of the Public Transport Strategy.<sup>29</sup> This strategy proposed, among others, the implementation of Integrated Rapid Public Transport Networks (IRPTNs) in various phases in order to achieve sustainable, equitable and uncongested mobility in cities and districts.<sup>30</sup>

2.23. The Institute for Transportation and Development Policy defines BRT as a high-quality bus-based transit system that delivers fast, comfortable, and cost-effective services at metro-level capacities.<sup>31</sup> BRT buses operate in dedicated lanes, with bus ways and iconic stations typically aligned to the centre of the road, off-board fare collection, and fast and frequent operations. Furthermore, the BRT system has features like those of a light rail system, which makes it much more reliable, convenient and faster than regular bus services.

2.24. Detailed discussion of the bus industry is reflected on **Chapters 7, 8, 9 and 11.**

## **Taxi industry**

2.25. Taxis<sup>32</sup> in the form of sedan cars have been commonplace in the black townships since at least the 1930s, although they had a minimal impact on the bus and rail sector during the period; acting as feeders to bus and rail termini. Bus services became increasingly integral part of the structure when the apartheid system became extended during the 1950s and 1960s. During this period, commuters were a captive market to be overloaded into as few bus and train coaches as possible.

2.26. Despite subsidies being provided to bus and rail modes to drive down the costs to commuters, commuters increasingly began to switch to taxis during the 1970s, although the taxi industry was still small in comparison to bus and rail services. The increase in the passenger numbers encouraged taxi operators to increase their vehicle capacity, ultimately leading to the passing of the 1977 Road Transport Act, 1977 (Act No. 74 of 1977) allowing for the current form of the taxi industry that currently exists.

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<sup>29</sup> South Africa. (not dated). Bus Rapid Transit System (BRT). <http://www.gov.za/about-government/government-programmes/bus-rapid-transit-system-brt/>. (Accessed on 5 June 2019.)

<sup>30</sup> Public Transport Strategy. March 2007.

<sup>31</sup> Institute for Transportation and Development Policy. "What is BRT?" <https://www.itdp.org/library/standards-and-guides/the-bus-rapid-transit-standard/what-is-brt/>. (Accessed on 5 June 2019.)

<sup>32</sup> For ease of reference, by the term taxis we refer to the minibus taxis in this chapter. The other types of taxis such as metered taxis and app-based services are explicitly differentiated by their respective full definitions.

2.27. Like other developing countries, the minibus taxi industry in South Africa caters for most public transport commuters. This sector is known for recurring deadly confrontations (commonly referred to as “sporadic taxi violence” or “taxi wars”) between competing taxi operators and drivers, and other public transport operators such as bus operators.<sup>33</sup> Despite the sporadic taxi violence and operational flaws vocalised by passengers and transport authorities such as lack of safety and comfort, unreliability, unpredictability, erratic driving, “unhealthy competition” with formal public transport modes and “destructive competition” among themselves, taxis remain the preferred mode of transport in South Africa.<sup>34</sup>

2.28. There have been several attempts by regulators of the transport industry to formalise the taxi industry. In response to the taxi industry’s plea for financial assistance, the 1996 National Transport Task Team recommended some degree of formality in the taxi industry before financial assistance could be made available to the taxi industry through a standard constitution and formal registration of operators and their associations. The definition of formalisation in the 1996 White Paper on National Transport Policy implied regulated competition so the minibus taxis would have to form legally registered businesses – where they operate in terms of permission by the Provincial Transport Board (currently known as the Provincial Regulatory Entity) to operate on a route or network based on the demand determined by transport plans, and that minibus taxis may compete for the awarding of contracts by transport authorities. The 1996 White Paper indicated that, subject to these changes, financial and technical assistance would be offered to minibus taxis to improve their economic viability and to enable them to obtain permission and/or contracts either in partnership with bus operators or on their own.

2.29. The NLTA defines various taxi types as follows:

2.29.1. **Minibus taxi** – means unscheduled public transport service operated on a specific route or routes, or where applicable, within a particular area, by

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<sup>33</sup> Lomme, R. 2008. “Should South African minibus taxis be scrapped? Formalizing informal urban transport in a developing country.” In Proceedings of the CODATU XIII Conference. Ho Chi Minh City.

<sup>34</sup> Lomme, R. 2008. “Should South African minibus taxis be scrapped? Formalizing informal urban transport in a developing country.” In Proceedings of the CODATU XIII Conference. Ho Chi Minh City.

means of a motor car, minibus<sup>35</sup> or midibus<sup>36</sup>; and it can carry 16 to 35 passengers.<sup>37</sup>

2.29.2. **Metered taxi** – is a public transport service operated by means of a motor vehicle contemplated in Section 66 which—

*(a) is available for hire by hailing while roaming, by telephone or otherwise;*

*(b) may stand for hire at a rank; and*

*(c) is equipped with a sealed meter, in good working order, for the purpose of determining the fare payable, that is calibrated for such fare or complies with any other requirements applicable to such meters.<sup>38</sup>*

2.29.3. The National Land Transport Amendment Bill [B7 D-2016] defines e-hailing services as:

*“1(c) ‘electronic hailing service’ or ‘e-hailing service’ means a public transport service operated by means of a motor vehicle, which—*

*(a) is available for hire by hailing while roaming;*

*(b) may stand for hire at a rank, and*

*(c) is equipped with an electronic e-hailing technology-enabled application, as contemplated in Section 66A;*

2.29.4. **Tuk tuk** – These are small three-wheeled vehicles that can carry up to three passengers. They are considered an inexpensive alternative to metered taxis or e-hailing services. Tuk tuks have grown steadily in popularity with commuters travelling short distances through the suburbs of Johannesburg. They are not subject to price regulation and thus set their own fares and fees. They charge a minimum of R20 for a trip and increase according to distance. Section 50, 55, 54 and 70 (1) of the NLTA provides that tuk-tuks may be used for public transport services where relevant transport plans allow for this. Where a tuk-tuk is to be used, the operating licence must stipulate the urban route, road network or area on or within which it must

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<sup>35</sup> Motor vehicle designed or modified solely or principally for conveying more than nine but not more than 16 seated persons, including the driver.

<sup>36</sup> A motor vehicle designed or modified solely or principally for conveying more than 16 but not more than 35 persons, including the driver, and for the purposes of the National Road Traffic Act is a type of sub-category of bus.

<sup>37</sup> South Africa. National Land Transport Act, 2009 (Act No. 5 of 2009). Pretoria: Government Printers.

<sup>38</sup> South Africa. National Land Transport Act, 2009 (Act No. 5 of 2009). Pretoria: Government Printers. Section 66 (before amendments).

operate, as shown in the relevant integrated transport plan, and a maximum speed of operation.<sup>39</sup>

2.29.5. **4+1 Sedan** – these are sedan vehicles designed or modified solely or principally for transporting not more than 4 seated persons, including the driver, offering unscheduled public transport services operated on a specific localised route or routes, often in townships. The 4+1 sedan taxis were the originators of what became the minibus-taxi industry and they operate in a similar way as the minibus taxis. Passengers are charged a specific fare for a particular trip.

2.30. Minibus taxi operators are required to apply for a route-type operating licence which allows operators to provide services only along a certain route between two points or areas. Metered taxi operators and e-hailing operators are required in terms of Section 66 of the NLTA, to apply for area-based permit. A detailed description of the route or routes (or radius) as well as allocated taxi ranks, terminal, pick-up and drop-off points must be specified before obtaining the operating licence. Detailed discussion of the taxi industry is reflected in **Chapter 10**.

### **Trends in public transport usage by mode**

2.31. According to Statistics SA's National Household Travel Survey (2013), 10.1 million of the 14.2 million South African households used public transport as their main mode of travel, while approximately 3 million households used private transport and 306 000 households used non-motorised transport as their main mode of transport. Further findings were: 66.5 per cent of the South African households use taxis services daily, 23.6 per cent make use of bus services, while 9.9 per cent make use of rail operations.

2.32.

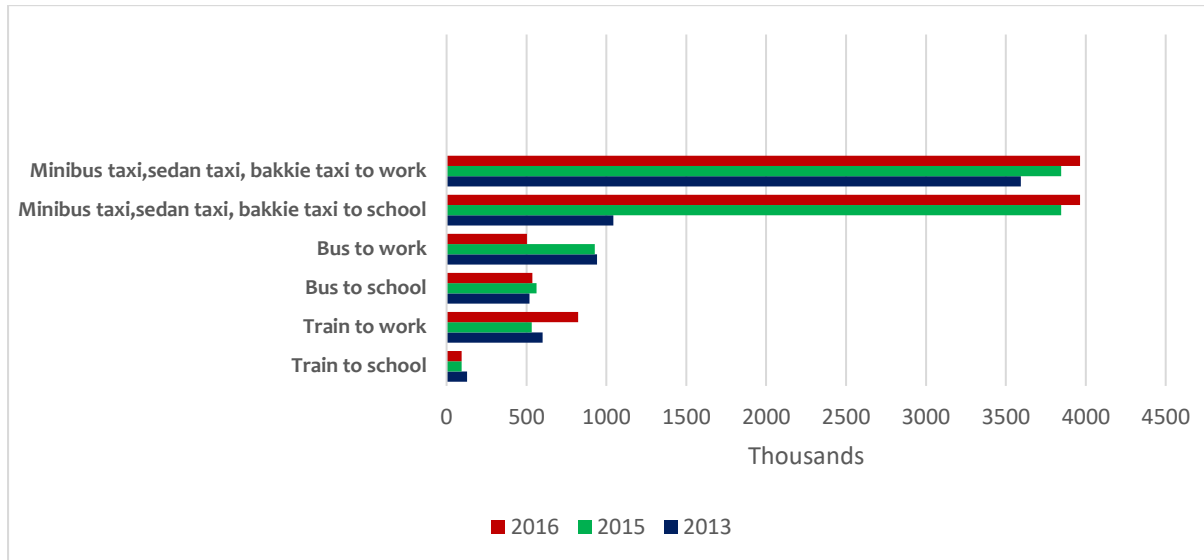
2.33.

2.34. **Figure 2** shows that most households frequently use public transport when going to work and attending school.

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<sup>39</sup> South Africa. 2009. National Land Transport Act, 2009 (Act No. 5 of 2009). Pretoria: Government Printers. Section 70 (2).

**Figure 2: Mode of transport used for school and work 2013-2016**



Source: Stats SA-General Household Survey (2013, 2015, and 2016), statistical release P0318.

- 2.35. Taxis remain the dominant mode of transport compared to buses and train. The trend usage of taxis has been increasing over time from 2013 to 2016 both for work and attending school. The use of buses has declined over time. The use of train as a mode of public transport has shown a positive increase in 2016 for commuters travelling to work but declined with respect to learners travelling to school.
- 2.36. According to a Public Opinion Survey known as “The State of Transport Opinion Poll South Africa” about 73.1 per cent of the polled people used taxis 4-7 times a week and 85.4 per cent of the polled people revealed that they never used the Gautrain. The results are summarised below.

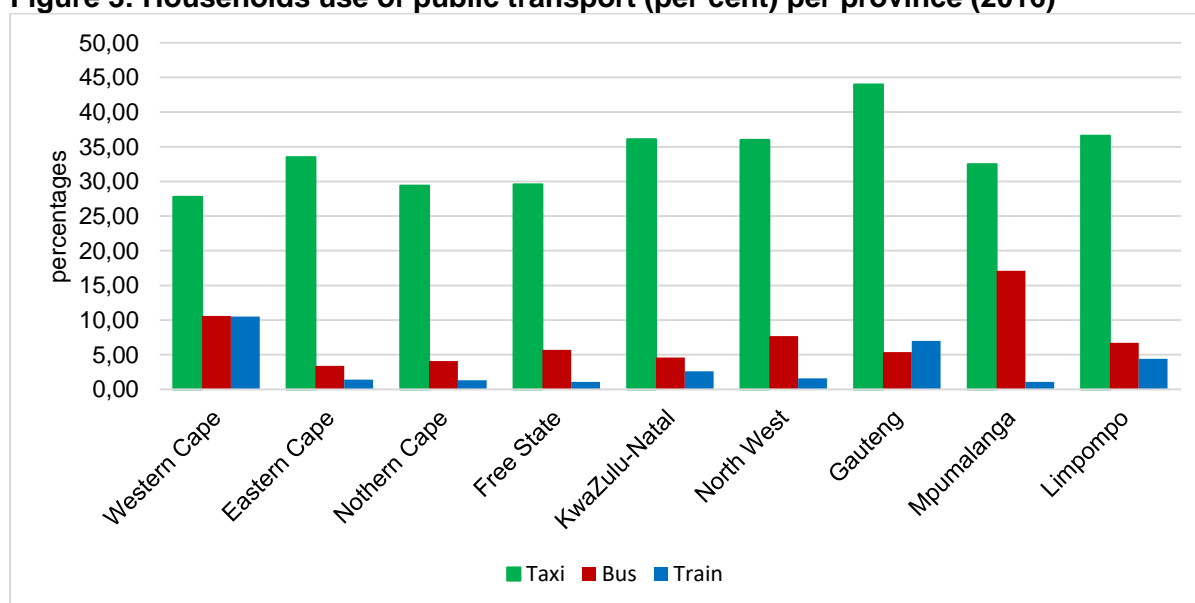


**Table 3: Public transport usage**

Public transport usage	Taxi (%)	Gautrain (%)	Train (%)	Bus (%)
4-7 times a week	73.1	1.0	8.4	17.5
2-3 times a week	57.9	4.8	14.4	22.9
Once a week	39.2	5.4	17.5	38.0
Once every two weeks	27.1	7.0	27.1	38.8
Once a month	16.7	13.0	24.3	46.1
Less than once a month	10.1	19.4	32.1	38.4
Never use	13.8	85.4	64.8	40.2

Source: Public Opinion Survey (2012), known as The State of Transport Opinion Poll South Africa (STOPSA)<sup>40</sup>

2.37. **Table 3** shows that of all the public transport users, taxis are clearly the most dominant mode of transport followed by buses. The same trends on the usage of different transport modes discussed above can be observed at a provincial level. The usage of taxis is high in Gauteng province, followed by Limpopo province as shown in **Figure 3**. Western Cape has the highest usage of trains compared to other provinces. After taxis, buses are dominantly used in Mpumalanga, and least used in the Eastern Cape.

**Figure 3: Households use of public transport (per cent) per province (2016)**

Source: StatsSA-General Household Survey 2016, statistical release P0318.

2.38. **Figure 3** also shows that 36.6 per cent of South African households had at least one household member who used a minibus taxi/sedan taxi/bakkie taxi during the week preceding the survey. Provinces with the highest levels of use of minibus taxis were Gauteng at 44 per cent, Mpumalanga at 39.3 per cent North West at 36 per cent, and KwaZulu-Natal at 36 per cent. It is notable that 17.1 per cent of households in

<sup>40</sup> Luke, R and Heyns, G. 2013. "Public transport policy and performance: The results of a South African public opinion poll", *Journal of Transport and Supply Chain Management* 7(1), Art. The State of Transport Opinion Poll South Africa (STOPSA), on transport conducted by the Institute of Transport and Logistics Studies (Africa) across South Africa in 2012.

Mpumalanga used the bus. The use of trains was most common in Western Cape at 10.5 per cent and Gauteng 7.7 per cent.

### **Money spent by each consumer on public transport**

2.39. Transport expenditure indicators are one of many instruments that can be used to measure the performance of a transport system over time. This can be helpful to inform decisions on subsidisation. Studies suggest that transport spending represents between 10 and 20 per cent of total household spending worldwide.<sup>41</sup> In developing countries, high transport expenditures are of concern because they can compromise a poor household's ability to access services and livelihood enhancing opportunities.<sup>42</sup> The poor are the most vulnerable to transport cost shocks and this suggests that an increase in the cost of transport may lead to low income households to be socially and economically excluded from opportunities.

2.40. The South African Government uses a household spending benchmark of 10% of income spent on public transport as an indicator of transport affordability.<sup>43</sup> This is informed by the 1996 White Paper which envisaged that less than 10% of the commuters' disposable income should be spent on transport. The 10% benchmark rationale can be traced back to the 1987 World Bank Technical Paper by Alan Armstrong-Wright and Sebastien Thiriez. The authors conducted a study on bus services and concluded that in developing countries, the reasonable level of household expenditure on bus travel should not exceed 10% of household income.<sup>44</sup> This has been the generally acceptable benchmark across all modes in South Africa.<sup>45</sup> Based on the World Bank Household Consumption Survey that was conducted in 2010, Brazil and South Africa spends significantly more on transport compared to other developing countries as shown in **Figure 4**.

2.41. Countries with the highest expenditure on transport are Brazil and South Africa, whose households spend 24 per cent and 18 per cent of their total household income on

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<sup>41</sup> Gandelman N., Serebrisky T. and Suárez-Alemán A., Household spending on transport in Latin America and the Caribbean: Understanding transport expenditure patterns

<sup>42</sup> Gwilliam, K.M., 2002. Cities on the move: World Bank urban transport strategy review. The World Bank.

<sup>43</sup> DoT (Department of Transport), 2006. National Land Transport Strategic Framework 2006– 2011. Government Gazette no. 29307. Government Printer, Pretoria.

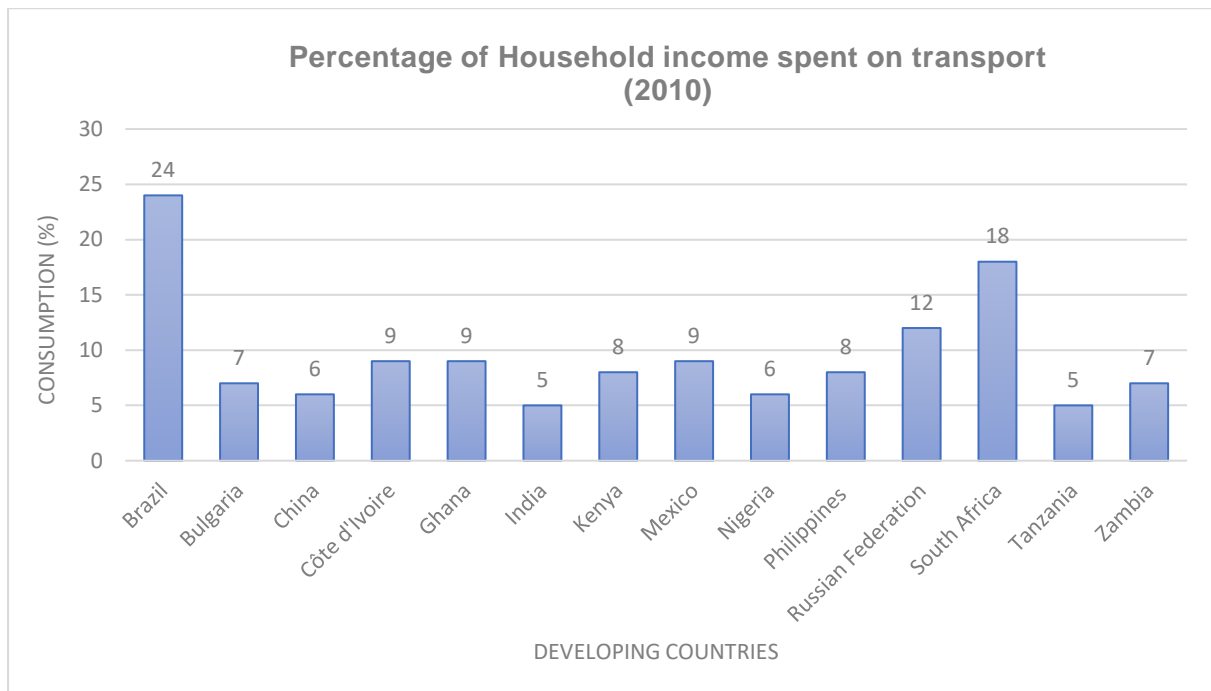
<sup>44</sup> Armstrong-Wright, A. and Thiriez, S. 1987. Bus services: reducing costs, raising standards. World Bank technical paper no. WTP 68. Washington, DC: The World Bank. Accessed at <http://documents.worldbank.org/curated/en/572491468764379405/Bus-services-reducing-costs-raising-standards> on 21 August 2019

<sup>45</sup> Department of Transport. 2007. Public Transport Strategy. accessed at [http://www.cityenergy.org.za/uploads/resource\\_191.pdf](http://www.cityenergy.org.za/uploads/resource_191.pdf) on 23 August 2019

transport respectively. Other developing countries range between 5 and 12 per cent which is not significantly above the 10 per cent benchmark.

2.42. In Europe, the 28 EU member countries in 2010 had an average of 12.8 per cent and this increased slightly to 13 per cent in 2017.

**Figure 4: Spending as a share of total household spending (selected countries)**



Source: The World Bank<sup>46</sup>

#### *South Africa's focus*

2.43. According to the Measuring Household Expenditure on Public Transport Report, more than 66.6 per cent of South Africans spend more than 20 per cent of their monthly household income per capita on public transport.<sup>47</sup> These percentages can be as high

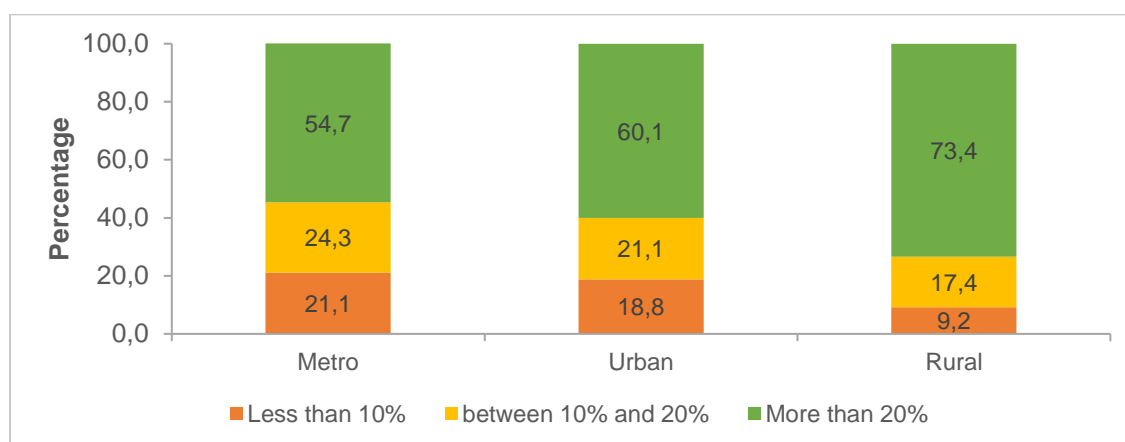
<sup>46</sup> <http://datatopics.worldbank.org/consumption/detail>

<sup>47</sup> Statistics South Africa. 2015. "Measuring household expenditure on public transport." Media Release. <http://www.statssa.gov.za/?p=5943> (Accessed on 05 March 2018.)

as 31 per cent in the rural areas.<sup>48</sup> The average per capita monthly household travel cost is higher for the households in the highest income quintile at R404 and R136 for the households in the lowest income quintile. Taxis are the most expensive mode of travel with an average per capita monthly cost of R254, followed by trains at R248 and buses R231.

2.44. **Figure 5** shows that 73.4 per cent of rural workers spend more than 20 per cent of their monthly household income per capita on public transport, while in urban areas the percentage is 60.1 per cent and in metros 54.7 per cent. This provides a basis for a critical examination of the rural public transport dynamic given the high proportion of households spending more money on public transport.

**Figure 5: Monthly household income per capita spent on public transport to work by geographic location**



Source: Stats (2013). SA Measuring household expenditure on public transport. Technical report Nr 03-20-11.

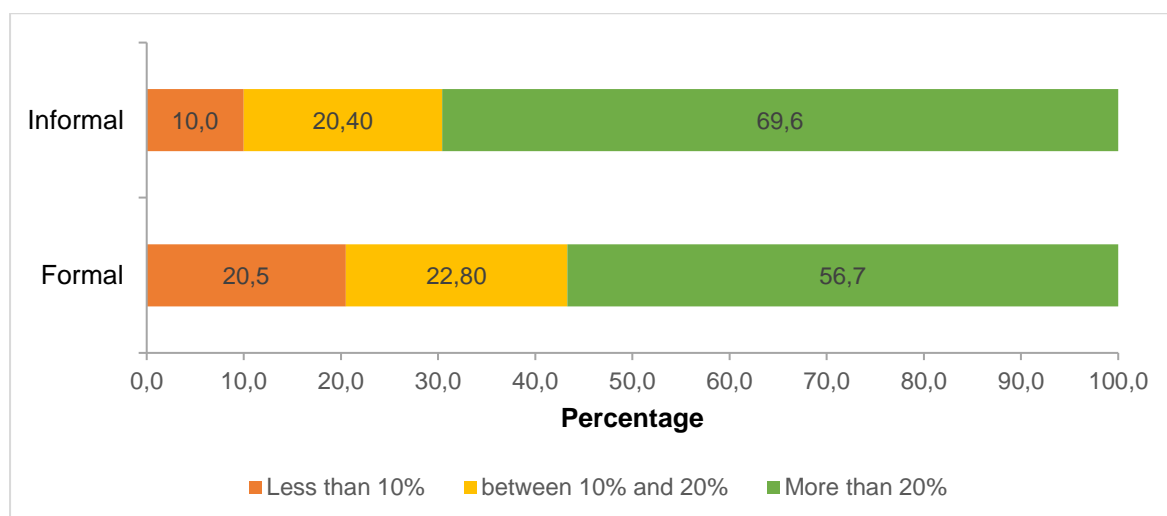
2.45. The NHTS (2013) reveals that in many cases poorer households pay more (in absolute terms) for public transport due to their poor location in the urban periphery and a high dependence on informal transport modes with unsubsidised fares.<sup>49</sup>

2.46. **Figure 6** shows that 69.6 per cent of informal workers were more likely to spend more than 20 per cent of their monthly household income per capita on public transport compared to 56.7 per cent of formal workers.

<sup>48</sup> Petterson, D. 2016. "Improving public transport, improving lives." <http://www.infrastructurene.ws/2016/07/12/improving-public-transport-improving-lives/> (Accessed on 06 March 2018.)

<sup>49</sup> Statistics South Africa. 2015. "Measuring household expenditure on public transport." Technical report. Nr 03-20-11. Pretoria: Government Printers.

**Figure 6: Monthly household income per capita spent on public transport to work by sector**



Source: Stats SA (2013). *SA Measuring household expenditure on public transport. Technical report Nr 03-20-11.*

## Waiting times for public transport

2.47. Waiting times for public transport may be used as a measure for reliability, efficiency and quality service. NHTS 2013 findings in relation to the workers waiting times for their first transport varied between provinces and per mode. Nationally, at least 58.6 per cent of workers waited 5 minutes or less. In the Eastern Cape (75.7 per cent), Western Cape (63.5 per cent) and Northern Cape (58.4 per cent) workers were the most likely to wait for 5 minutes or less. Only 10.3 per cent of workers waited for more than 15 minutes for the first public transport nationally. While workers who waited for more than 15 minutes was higher in Gauteng (13.0 per cent) and KwaZulu-Natal (11.8 per cent) but lower in North West (9.2 per cent).<sup>50</sup>

2.48. In terms of waiting times per mode of transport, NHTS 2013 shows that the waiting times for taxis was much higher in Gauteng and KwaZulu-Natal than in all other provinces. At least 39.7 per cent and 27.5 per cent of the commuters using taxis in Gauteng in KwaZulu-Natal respectively waited for longer than 15 minutes. In contrast, only 28.0 per cent of the users of bus services in Gauteng and 12.7 per cent in KwaZulu-Natal waited for longer than 15 minutes. The waiting times for trains are higher than other public transport modes with 73.7 per cent of train commuters in

<sup>50</sup> Statistics South Africa. 2014. "National Household Travel Survey 2013." Statistical release. (P0320) Pretoria: Government Printer.

Gauteng and 18.0 per cent in Western Cape waited for more than 15 minutes for their trains to arrive.<sup>51</sup> The waiting times are largely influenced by the two peak periods.

### *Comparison to other countries*

2.49. In comparison to other countries, South Africa's waiting times are within the norm. In Rio de Janeiro, Brazil commuters wait 19 minutes at a stop or station for their Light rail, Metro, Train, Bus, Ferry, Gondola & Funicular line on a weekday. At least 35 per cent of commuters wait for over 20 minutes on average for their transport line every day, to and from work.<sup>52</sup> In Hong Kong, commuters wait 14 minutes at a stop or station.<sup>53</sup> In Moscow, Russia the average waiting time at a stop or station is 11 minutes on a weekday. At least 11 per cent of commuters wait for over twenty minutes for the transport to and from work.<sup>54</sup> In Berlin, Germany commuters wait for 10 minutes at a stop or station and at least 10 per cent of commuters wait for over twenty minutes for the transport to and from work.<sup>55</sup> In Barcelona, Spain commuters wait for 10 minutes on a weekday and at least 9 per cent of commuter wait for over twenty minutes for the transport to and from work.<sup>56</sup>

2.50. South Africa has a lower average waiting time than the countries mentioned above but the difference is that most of public transport in South Africa is unscheduled. The popularity of the minibus taxi in South African led to a reduction in the average waiting time as the minibus taxis carries more people to and from work than the available schedule service. However, the average waiting time for scheduled services is higher in South Africa than in countries mentioned above.

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<sup>51</sup> Ibid.

<sup>52</sup> MoovitInsights. Facts and usage, statistics about public transport in Rio de Janeiro Region, Brazil. Available [https://moovitapp.com/insights/en-gb/Moovit\\_Insights\\_Public\\_Transport\\_Index-322](https://moovitapp.com/insights/en-gb/Moovit_Insights_Public_Transport_Index-322) ( Accessed on 21 August 2019).

<sup>53</sup> MoovitInsights Facts and usage, statistics about public transport in Hong Kong, China. Available on [https://moovitapp.com/insights/en-gb/Moovit\\_Insights\\_Public\\_Transport\\_Index\\_China\\_Hong\\_Kong-2741](https://moovitapp.com/insights/en-gb/Moovit_Insights_Public_Transport_Index_China_Hong_Kong-2741)

<sup>54</sup> MoovitInsights Facts and usage, statistics about public transport in Moscow Russia. Available [https://moovitapp.com/insights/en-b/Moovit\\_Insights\\_Public\\_Transport\\_Index\\_Russia\\_Moscow](https://moovitapp.com/insights/en-b/Moovit_Insights_Public_Transport_Index_Russia_Moscow) (Accessed on 21 August 2019)

<sup>55</sup> MoovitInsights Facts and usage, statistics about public transport in Berlin, Germany. Available [https://moovitapp.com/insights/en-gb/Moovit\\_Insights\\_Public\\_Transport\\_Index\\_Germany\\_BerlinBrandenburg-1663](https://moovitapp.com/insights/en-gb/Moovit_Insights_Public_Transport_Index_Germany_BerlinBrandenburg-1663) (Accessed on 21 August 2019)

<sup>56</sup> MoovitInsights. Facts and usage, statistics about public transport in Barcelona, Spain. Available [https://moovitapp.com/insights/en-gb/Moovit\\_Insights\\_Public\\_Transport\\_Index\\_Spain\\_Barcelona-362](https://moovitapp.com/insights/en-gb/Moovit_Insights_Public_Transport_Index_Spain_Barcelona-362) Accessed on 21 August 2019]

### 3. REGULATORY FRAMEWORK

#### Introduction

3.1. This chapter provides an overview of the regulatory framework for public transport in South Africa. The chapter begins by providing the historical context of regulatory framework and then introduces the regulatory entities, its mandate and the empowering legislation. The key features of the regulatory framework are then discussed with focus on the NLTA.

#### Evolution of regulatory framework post-1994

3.2. The 1996 White Paper played a crucial role in initiating the process of transforming South Africa's land based public transport sector. The 1996 White Paper introduced various changes in the regulation of public transport in the country which culminated in some of its policy pronouncements forming part of the National Land Transport Transition Act, 2000 (Act No. 22 of 2000) (NLTTA) and the NLTA respectively.

3.3. The NLTTA came into force in 2000 but it was transitional in nature and had to be implemented for a period of five years while the NLTA was being put in place. The NLTA was promulgated in 2009 and repealed the NLTTA. While the 1996 White Paper remains relevant, the main policy behind the NLTA is the Public Transport Strategy and Action Plan approved by Cabinet in 2007. The strategy has two major thrusts: (i) modal upgrading - the current initiatives to improve public transport system; and (ii) implementing high quality, integrated, mass rapid public transport networks. These thrusts formed the basis of the NLTA which is the current legislation governing all key aspects and players in the public transport sector.

#### Regulators in the public passenger transport sector

3.4. Public transport is a function that is legislated and executed by all three spheres of government i.e. national, provincial and municipal government. In addition to the three spheres of government, there are other regulatory bodies that assist in giving effect to some of the legislative provisions and regulations. **Table 4** summarises the various regulatory bodies and their mandate in the public transport sector.

**Table 4: Overview of the regulators in the public passenger transport sector**

<b>Regulator</b>	<b>Regulation mandate</b>	<b>Enabling legislation</b>	<b>Comments</b>
Department of Transport (DOT)	Oversee and monitor public transport in South Africa.	National Land Transport Act, 2009 (Act No. 5 of 2009).	The DOT is mandated to regulate interprovincial public transport and tourism services and monitor and evaluate the implementation of the public transport strategy and the National Land Transport Act.
Provincial government	Planning, coordination and facilitation of land transport functions in the province, co-ordination between municipalities with a view to ensuring the effective and efficient execution of land transport in the province	National Land Transport Act, 2009 (Act No. 5 of 2009).	The provincial government is tasked with formulating provincial transport policy and strategy within the national policy and strategy framework; and planning, coordinating and facilitating of land transport functions in the province. Section 23(1) of the NLTA requires MECs of transport within their jurisdiction to establish Provincial Regulatory Entities which must then carry out the powers assigned to it in terms of Section 24 of the NLTA.
Local government	Promulgating municipal by-laws, managing the movement of persons and goods on land within its area, developing land transport policy and strategy within its area based on national and provincial guidelines.	National Land Transport Act, 2009 (Act No. 5 of 2009). Municipal Systems Act, 2000 (Act No. 32 of 2000).	Municipalities are mandated to promulgate municipal by-laws, manage the issuing of permits and operating licences. The specific powers are in terms of Section 11 of the NLTA
Railway Safety Regulator (RSR)	Issuing of safety permits, conducting inspections and audits, investigating railway accidents, developing regulations and safety standards, issuing notices & imposing penalties of non-compliance.	National Railway Safety Act, 2002 (Act No. 16 of 2002). National Railway Safety Regulator Amendment Act, 2008 (Act No. 69 of 2008).	The mandate of the RSR is to oversee safety in the railway transport industry, promote the use rail as a mode of transportation through improved safety performance in the railway transport industry.
National Regulator for Compulsory Specifications	The NRCS' mandate includes promoting public health and safety, environmental protection and ensuring fair trade, NRCS' stakeholders	National Compulsory Regulator for compulsory Specifications Act, 2008 (Act No. 5 of 2008).	NRCS is appointed by the national department of transport as the inspectorate of manufacturers, importers and builders in terms of the National road Traffic Act, NRCS administers compulsory



Regulator	Regulation mandate	Enabling legislation	Comments
	include the South African government industry and citizens.		specifications for the fitness of vehicles offered for sale for use on public roads, as well as off road and specialised vehicles.

3.5. As summarised above the regulatory entities that are legislated by the NLTA are mainly the three spheres of government which include: The national sphere (the DOT), National Public Transport Regulator (NPTR); the provincial sphere (PRE); and the municipal sphere (MRE). The NLTA allocates functions to each of the regulators as summarised below:

*The National Department of Transport (DOT)*

3.6. The functions of the DOT are set out in Section 11 1(a) of the NLTA<sup>57</sup>. Some of key functions include:

- 3.6.1. formulation of national transport policy and strategy;
- 3.6.2. national strategic transport planning and coordination;
- 3.6.3. coordination between provinces and to address arrangements between the three spheres of government and public entities with a view to ensuring the effective and efficient execution of the land transport function;
- 3.6.4. capacitating and monitoring provinces and municipalities that lack capacity or resources to perform their land transport functions;
- 3.6.5. regulating interprovincial road transport;
- 3.6.6. assigning functions to the most appropriate sphere of government; and
- 3.6.7. acting as contracting authority for subsidised service contracts, interim contracts, current tendered contracts and negotiated contracts concluded in terms of the transition Act.

3.7. Over and above these functions, the NLTA requires the establishment of a NPTR<sup>58</sup> whose functions are also set out in Section 21 of the NLTA. The key functions of the NPTR include:

- 3.7.1. monitoring and overseeing public transport in the country and the activities of the Provincial Regulatory Entities and municipalities in relation to their land transport functions;

<sup>57</sup> South Africa. 2009. National Land Transport Act, 2009 (Act No. 5 of 2009). Pretoria: Government Printers.

<sup>58</sup> South Africa. 2009. National Land Transport Act, 2009 (Act No. 5 of 2009). Section 20. Pretoria: Government Printers.

3.7.2. receiving and deciding on applications relating to operating licences and related accreditations; and

3.7.3. overseeing fares charged for public transport services throughout the country.

3.8. The NPTR currently only deals with receiving and deciding on the granting, renewal, amendment or transfer of operating licences for tourist transport services contemplated in Section 21(1) (b) (ii) of the NLTA and applications for accreditation of operators of tourist transport services in terms of Section 82(1) of the NLTA read with Section 21(1)(b) of the NLTA. Through the National Land Transport Amendment Bill of 2017, the duties of the NPTR have been expanded to include receiving and processing complaints and input from interested parties on public transport matters.

#### *Provincial government*

3.9. The NLTA assigns the responsibility for formulating provincial transport policy and strategy within the national policy and strategy framework to provincial government. The provincial government is also empowered to facilitate planning, coordinating and facilitating of land transport functions in the province.

3.10. The functions of the provincial government are set out in Section 11 1(b) of the NLTA and these functions include:

3.10.1. planning, coordination and facilitation of land transport functions in the province; and preparing the Provincial Land Transport Framework in terms of Section 35;

3.10.2. formulation of provincial transport policy and strategy;

3.10.3. coordination between municipalities with a view to ensuring the effective and efficient execution of land transport in the province and promoting provincial legislation with a view to promoting the objects of the NLTA;

3.10.4. liaising with other government departments in the national and provincial spheres with responsibilities that impact on transport and land use planning issues, and bringing together key players;

3.10.5. ensuring that municipalities that lack capacity and resources are capacitated to perform their land transport functions;

3.10.6. building capacity in municipalities to monitor the implementation of the NLTA, ensuring implementation of the provincial integrated development strategy and public transport strategy with due attention to rural areas, with the focus on less capacitated municipalities or those that do not fulfil their responsibilities in

respect of transport service delivery, performing the other provincial functions assigned to the MEC.

3.11. In addition, Section 23(1) of the NLTA makes provision for every member of the provincial executive councils responsible for transport to establish a PRE which must then fulfil the functions granted to it in terms of Section 24 of the NLTA. One of the functions granted to the PRE is that of deciding on applications relating to operating licences where no municipality exists to which an operating licence function has been assigned. One of the policy principles underlying the NLTA is that routes should be controlled by planning authorities and not by operators, as was the case in the past.

#### *Municipal government*

3.12. The NLTA enables local government to take over the transport regulatory and contracting functions. The functions of the municipal sphere of government are set out in Section 11 (1) (c) of the NLTA they include *inter alia*:

- 3.12.1. developing land transport policy and strategy within its area based on national and provincial guidelines;
- 3.12.2. promulgating municipal by-laws and concluding agreements, as appropriate in the municipal sphere;
- 3.12.3. managing the movement of persons and goods on land within its area by coordinating such movement;
- 3.12.4. encouraging and promoting the optimal use of the available travel modes to enhance the effectiveness of the transport system and reducing travelling time and cost; and
- 3.12.5. determining concessionary fares for special categories of passengers in the prescribed manner, among others.

#### **The salient features of the regulatory framework for public transport**

3.13. Much of the discussion in this Section will focus on the NLTA as it is the overarching legislation in the public transport sector. The purpose of the NLTA is to, *inter alia*, provide for the transformation and restructuring of the national land transport system. Some of the key features are discussed below.

#### *Processing of operating licences*

3.14. In broad terms there are two types of operating licences to operate road based public transport service, namely contracted and non-contracted operating licences. Contracted services are those services where the operator has concluded a subsidised

service contract, negotiated contract or commercial service contract with the relevant contracting authority as defined in Section 1 of the NLTA. Subsidised municipal and commuter bus operators are the type of services falling under the contracted services category.

- 3.15. Non-contracted services are those road-based public transport services which are provided without any contract having been concluded with a transport authority. There are various types of non-contracted services such as minibus taxis, metered taxis, charter services and tuk-tuk services. These services can further be subdivided into route based services where the operator is permitted to operate only on a specified route or routes such as minibus taxis, and secondly, area based where the operator is permitted to operate within a set radius, for example metered taxis and e-hailing services such as Uber and Bolt (formerly Taxify) which fall within that category.
- 3.16. In terms of Section 50 (1) of the NLTA, no person may operate a road based public transport service, unless they are in possession of an operating licence. Municipal, commuter and interprovincial bus operators are also required to have valid operating licences. Applications for operating licences (excluding interprovincial tourist transport services) are considered and approved by the PREs, while applications for operating licences to operate interprovincial tourist transport services are considered by the NPTR through an accreditation process. Whilst the function to issue operating licences for interprovincial bus services primarily resides with the NPTR, whose functions are also set out in Section 21 of the NLTA, this function is performed by the PREs because the former is currently incapacitated to consider the applications. An operating licence is valid for a maximum period of seven years, but where a negotiated contract has been awarded to an operator (under Section 41 of the NLTA) for more than seven years, such an operating licence must be issued for the period of the contract (in terms of Section 56 of the NLTA).
- 3.17. Once applications are received by the PRE, the PRE gives notice in the Government Gazette inviting members of the public, including other operators, wishing to submit comments or make representations within 21 days of the date of the publication. Where objections have been raised regarding a particular application, the PRE is required to convene a hearing and adjudicate on the objection. Before the PRE can consider the application, it must, by notice in the prescribed manner, inform all planning authorities in whose areas the services will be operated, with the request to give directions with

regard to the application based on the planning authority's integrated transport plan (ITP).

3.18. It appears as though the role of the PREs is merely a technical one with municipalities playing a dominant role in the process since, should the planning authority direct the PRE to refuse the application, the PRE must abide by that decision.<sup>59</sup> It therefore appears as if on the proper construction of the provisions of Section 55 of the NLTA, the PRE has no discretion in this regard. The only discretion the PRE has is in an instance where the planning authority has failed to respond after being notified on the application for an operating licence. In the latter circumstances, the PRE may consider the application for an operating licence without directives from the planning authority in terms of Section 55(6) of the NLTA.

3.19. Even in circumstances where the PRE is considering the application of an operating licence without the planning authority's input, Section 57(3) (a) of the NLTA seems to limit the discretion of the PRE because if the granting of the operating licence would be contrary to the directions of the relevant planning authority based on its ITP, the PRE must refuse the application. The technical nature of the role played by the PRE was also acknowledged by the Gauteng PRE.<sup>60</sup> If any of the parties are dissatisfied with the ruling of the PRE, an appeal can be lodged with the Transport Appeal Tribunal (TAT). A decision of the TAT can be appealed to the High Court. One important issue to bear in mind when considering the overall framework in relation to the issuing of operating licences is the power granted to municipalities in terms of Section 18 of the NLTA to declare a moratorium in respect of the issue of operating licences.

3.20. The Section is only applicable to municipalities who have been assigned the operating licencing function. As far as the PREs are concerned, they derive their powers to issue a moratorium from Section 39 of the NLTA, which confers the power to planning authorities responsible for issuing of operating licences. The challenges faced by operators when it comes to the issue of the moratoria will be discussed in **Chapter 10** below.

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<sup>59</sup> Department of Roads and Transport. 2018. Oral submission by Ms Smith, Gauteng hearings. 6 June 2018. Page 28

<sup>60</sup> Department of Roads and Transport. 2018. Oral submission by Ms Smith, Gauteng hearings. 6 June 2018. Page 26-28.

### *Assignment of transport functions to municipalities*

- 3.21. The NLTA provides that the operating licences function can be assigned from the provincial sphere of government to a relevant municipality subject to Sections 99 and 156(4) the Constitution and Sections 9 and 10 of the Municipal Systems Act, 2000 (Act No. 32 of 2000) (MSA). Section 99 of the Constitution states that assigning a function to a municipality must be agreed with the municipal council. The assignment must also be consistent with the Act of Parliament from which the function is exercised and may only take effect on proclamation by the President.
- 3.22. Section 156(4) of the Constitution allows national and provincial spheres to assign any function to municipalities, if the function would be administered most effectively by the municipality and provided that the municipality has the capacity to administer the function. Sections 9 and 10 of the MSA extend consultations required to the Minister of Finance, Provincial Member of Executive Council for Finance, organised local government, the Financial Fiscal Commission, and the Minister of Cooperative Government and Traditional Affairs.
- 3.23. These Sections also refer to the need for appropriate funding and capacity to the municipality concerned.<sup>61</sup> The municipality seeking to be assigned a transport function must also comply with the above-mentioned entities' requirements.
- 3.24. Although the assignment of functions to municipalities envisages a greater role for municipalities in so far as the issue of operating licences is concerned, the process followed as summarised above does appear to be a daunting one. The assignment, however, does represent a major shift from the position under the NLTTA, where the provincial sphere was primarily involved in the issuing of operating licences. It is therefore apparent that once the functions are assigned to municipalities, the Municipal Regulatory Entity (MRE), once established, will play two distinct roles - the first one as planning authority and the second one as a licencing authority. Once the issuing of operating licence function has been assigned, the responsibility of issuing operating licences will shift from the PRE to the MRE which must then deal with applications relating to operating licences for services within its area.<sup>62</sup>
- 3.25. Where an MRE is established, the municipality must establish a special division in its administration to perform the operating licence function and ensure the appointment of

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<sup>61</sup> National Department of Transport. Oral submission by Mr Patel, Gauteng hearings. 7 June 2018. Page 51 - 54

<sup>62</sup> *Ibid.*

specialised officials with the necessary knowledge, training or experience. It must also arrange or reorganise its administration so that transport functions are integrated with each other and with land use planning (horizontal integration).

#### *Municipalities as planning authorities*

3.26. The powers of municipalities to promulgate bylaws<sup>63</sup> are important and have far reaching implications. Certain municipalities have promulgated certain bylaws that regulate, *inter alia*, fares to be charged by metered taxis (this is discussed more fully in the draft e-hailing and metered taxi services which will be issued separately). Section 14 of the NLTA summarises the municipalities' role as planning authorities which includes *inter alia* the preparation of ITPs as contemplated in Section 36 of the Act and supplying directions to the entities responsible for granting, renewal, amendment or transfer of operating licences. These ITPs are crucial in that when municipalities, as planning authorities, consider an application, they must consider whether there is a need for the service on the route(s) or in the area(s) in terms of its ITP.

3.27. In terms of Section 55(2)(a) of the NLTA if there is a need for the service, the municipality or planning authority must direct the PRE to grant the operating licence and make recommendations it considers appropriate regarding conditions to be attached to the operating licence, having due regard to its ITP. If its ITP is not yet finalised or is inadequate, it must take a decision based on due inquiries and investigations carried out by it. In circumstances where the public transport requirements for the particular route or routes are adequately served by an existing public transport services of a similar nature, standard or quality provided in terms of a commercial service contract or subsidised service contract or in terms of an operating licence as shown by its ITP, the planning authority must direct the NPTR or the PRE to refuse the application.<sup>64</sup> In disposing of an application, the NPTR or PRE must act in accordance with the relevant ITP and directions of the planning authority and must not grant an operating licence contrary to the directions of the ITP and planning authority. In circumstances where the planning authority has failed to respond to the

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<sup>63</sup> By laws are laws that are passed by the council of a municipality to regulate the affairs and the services the municipality provides in its area of jurisdiction.

<sup>64</sup> South Africa. 2009. National Land Transport Act, 2009 (Act No. 5 of 2009). Section 55(3). Pretoria: Government Printers.

request for directives, the NPTR or PRE may dispose of the application without any input from the planning authority.

### *Transport planning*

3.28. The NLTA requires land public transport planning to be integrated with land development and land use planning processes. Among the Land Transport Plans are the following: a national land transport strategic framework prepared by the Minister; provincial land transport frameworks prepared by the MECs; and integrated transport plans prepared by planning authorities.

3.29. Every planning authority must develop an ITP and make it available to the NPTR and the relevant PRE in terms of Section 36 of the NLTA. The planning authority based on its ITP makes recommendations to licencing authority for issuance of operating licences. The ITP identifies the need for transport services. In instances where there is no need for an additional service, the Act makes provision for rationalisation of public transport services. Section 39 of the NLTA makes provision for rationalisation of public transport services which include imposing a moratorium on the issuing of new operating licences on those routes that the planning authority concludes to be overtraded, based on their integrated transport plans. The Minister is responsible for making regulations on the procedures that ought to be followed by the planning authority when imposing a moratorium.

3.30. Planning authorities, however, seem to be inadequately capacitated to develop these integrated transport plans. The failure of planning authorities to carry out their legislative responsibilities in relation to transport planning has led to land based public passenger transport inefficiencies. This will be discussed in **Chapter 4**.

### *Contracting for public transport services*

3.31. Section 40 of the NLTA makes provision for provinces and planning authorities to integrate bus services subject to contracts as well as appropriate non-contracted services into the larger public transport system in terms of relevant integrated transport plans. These may be in a form of contracts subject to Sections 41, 42 and 43 of the NLTA.

3.32. A negotiated contract concluded in terms of Section 41 of the NLTA in terms of the NLTA regulation on contracting for Public Transport Services, should not preclude the



contracting authority from concluding similar contracts with other operators in similar areas and/or routes.<sup>65</sup>

3.33. Where a municipality is establishing an IPTN as contemplated in Section 40, it must make reasonable efforts to involve existing scheduled bus and unscheduled minibus taxi operators, particularly on the relevant routes in the proposed negotiated contracts. The regulation further requires municipalities to make an offer in writing or by notice in the press to such operators. Where the offer has been rejected or the operators have failed to provide a response within 21 days, the municipality may enter into one or more negotiated contracts with other operators in terms of Section 41 (1) of the NLTA.

3.34. Regulation 2 Subsection 5,<sup>66</sup> seems to suggest that, if there are disputes concerning the establishment of IPTN and contracting for public transport services, these should be resolved in terms of the procedures set out in regulations 6 to 9. However, regulation 6 makes provisions for the contracting authority to continue with its activities of establishing the IPTNs and concluding contracts with other operators in the interests of improving public transport in the relevant area.

3.35. The NLTA's regulation 4, contemplates a situation where there is action taken by the municipality no later than one year before the anticipated expiry of a contract concluded in terms of Section 42 (2) of the NLTA.

"... the contracting authority must commence arrangements for inviting tenders for subsidised service contracts or commercial service contracts which must, among other things, involve evaluating the services for compliance with the relevant ITP and redesigning them if necessary."

### **Developments in policy and legislation in public passenger transport**

3.36. Although the 1996 White Paper culminated into the NLTA, there have also been some developments on legislative frameworks, policies and legislation governing the public passenger transport sector. Some of these policies and legislation have been revised to address the changing conditions of land based public transport in South Africa. These include, *inter alia*, National Transport Policy (Draft and revised White Paper), Proposed Single Transport Economic Regulator, National Rail Policy Draft White

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<sup>65</sup> Department of Transport. 2009. National Land Transport Regulations on Contracting for Public Transport Services. (Notice R.877 of 2009). Government Gazette, 32535.

<sup>66</sup> Any dispute with regards to the matters contemplated in this regulation must be resolved in terms of the procedures set out in regulations 6 to 9.

Paper and the National Land Transport Act Amendment Bill. Below, the main features of the National Land Transport Amendment Bill and the Economic Regulation of Transport Bill (2018) are discussed.

### ***The National Land Transport Amendment Bill***

3.37. The NLTA Amendment Bill is discussed for purposes of ascertaining whether the regulatory challenges uncovered by the Commission are addressed by the Amendment Bill. The NLTA is currently under review with the National Land Transport Amendment Bill of 2015 and still subject to parliamentary processes in the National Council of Provinces. In broad terms, the Amendment Bill clarifies, *inter alia*, the functions of the three spheres of government, revises some of the contracting arrangements for public transport, streamlines various administrative arrangements for operating licences and makes provision for electronic hailing (e-hailing) services.

#### ***Contracting for public transport services***

3.38. In so far as contracting in provinces is concerned, the Amendment Bill gives Provinces powers to conclude new contracts (negotiated, tendered and commercial) in municipal areas where municipalities lack capacity. At present municipalities may conclude new contracts as part of the policy to consolidate public transport functions at the local level. The contracts must be designed in terms of the ITPs of the municipality, or if there is no ITP, the Province must design them in collaboration with the municipality.

3.39. There is also a proposed amendment of Section 41 of the NLTA to streamline the provisions on negotiated contracts and the requirement that negotiated contracts may be concluded “once only”. The Amendment Bill clarifies that different contracts can be done for different routes or operators. These proposed provisions are currently found in the Regulations on Contracting for Public Transport Services, 2009 that were made under the NLTA.

3.40. In so far as existing subsidised bus contracts are concerned, currently the NLTA provides that provinces must continue to manage the existing subsidised bus contracts until the function is assigned to a municipality. The Amendment Bill will change this to a requirement that the municipality must meet the prescribed requirements, that is, the contracting function will no longer have to be formally assigned.

### *Relationship between the NPTR, PREs and MREs*

- 3.41. The Amendment Bill provides that the NPTR may issue directives to the PREs, MREs and planning authorities that are not performing their functions adequately. The Amendment Bill also clarifies that the PREs only report to the Head of the Provincial Department on administrative matters and may not be dictated to on operating licence applications.

### *Transport planning*

- 3.42. On transport planning the Amendment Bill proposes a deletion of the requirement that provincial land transport frameworks (PLTFs) must be updated every two years but proposes that they must be redone every five years.

### *Operating licences*

- 3.43. On operating licences, the Amendment Bill provides that they can be withdrawn or suspended where traffic laws are transgressed or where the operator transgresses the code of conduct (if the Minister prescribes such a code). In terms of the NLTA the operating licences function can be assigned to municipalities and this is still the case. Applications for operating licences for contracted service contemplated in Section 56, the renewal of operating licence under Section 58, applications to replace a vehicle under Section 73 temporary operating licences contemplated in Section 60 are streamlined in that regulatory entities are no longer required to publish these applications in the Government Gazette.

- 3.44. The Amendment Bill also provides that before rationalising services on a route, a planning authority (municipality) must first negotiate with operators on the route, eliminate illegal operations and take steps under Section 78 of the NLTA to cancel operating licences and permits that are not in use. Section 35 of the NLTA is also amended to require the planning authority to first consult with affected operators before taking those actions. In general terms, the position is also clarified that an operating licence is not required where no fare (direct or indirect) is charged.

### *Registration of associations*

- 3.45. The registration of associations and operators was a transitional measure for minibus taxis in the NLTTA. The NLTA does not make registration compulsory. However, registrations can be provided for in provincial laws, for example in the Western Cape where this is still the case. The Registrars' functions are now covered by regulatory

entities (i.e. the NPTR, PREs and MREs) in the NLTA. The Amendment Bill, however, makes provision for regulatory entities to keep information on operators, associations and their routes.

#### *Relationship between PRASA and municipalities*

- 3.46. In terms of Section 23 of the Legal Succession Act, PRASA must provide passenger rail services at the request of municipalities, as well as at the request of the DOT, subject to agreements to be concluded between PRASA and the relevant municipality.

#### ***The Economic Regulation of Transport Bill***

- 3.47. The purpose the Economic Regulation of Transport Bill (“ERTB”) is to give practical effect to government plans for consolidating the economic regulation of transport within a single legal framework. The ERTB provides for the establishment of a single regulator (the Transport Economic Regulator) and the Transport Economic Council ending the role of specialised industry-specific regulators in price control.
- 3.48. The Transport Economic Regulator will subsume the Ports Regulator and regulate the following entities: National Ports Authority, Transnet Ports Terminals, Transnet Freight Rail, Airports Company of South Africa, Air Traffic and Navigation Services Company, Passenger Rail Agency of South Africa and South African National Roads Agency Limited. Any person adversely affected by a decision, determination or ruling issued or made by the Transport Economic Regulator may appeal or apply for a review to the Transport Economic Council.
- 3.49. The primary form of intended regulation focusses on price control. Price control has been defined a method for setting the maximum price that can be charged, or revenue that can be earned, by a regulated entity for the use of or access to its assets, facilities or services.<sup>67</sup> Each regulated entity would be required to submit a proposal to the regulator requesting approval of its tariffs on services and facilities offered.
- 3.50. The Minister of Transport may however, in consultation with the Regulator, by notice in the Gazette, declare that this Act applies to any market, or any entity, facility or service, irrespective whether privately or state owned, within the transport sector. Such a determination by the Minister has determined occurs if any of the following circumstances apply:

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<sup>67</sup> See Section 1 of the Economic Regulation of Transport Bill

- 3.50.1. the facility or service is provided by only a single operator; or
- 3.50.2. the entity, market, facility or service is not functioning competitively; and
- 3.50.3. economic regulation can adequately address the economic consequences resulting from the non-competitive nature of the market.

3.51. The Passenger Rail Agency of South Africa and its associated entities such as PRASA Cres fall within the definition of regulated entities in the ERTB. PRASA Cres (manages the real estate business of PRASA and intermodal terminals) have different tariffs across its properties and the Transport Economic Regulator will have powers to regulate its fees or tariffs. As such PRASA would be required to submit a proposal to the Transport Economic Regulator requesting approval of its tariffs on services and facilities offered.

3.52. The ERTB will not currently apply to minibus taxis, e-hailing services and metered taxis as none of them are defined as regulated entities in terms of the ERTB. However, should the Minister establish that economic regulation can address some concerns in any market, the ERTB may apply to all transport modes.

3.53. In terms of National Assembly Rule No. 241(1) (b) the Minister of Transport announced his intention to introduce the ERTB in Parliament during 2020. The ERTB and its Explanatory Memorandum were published for comments in the Government Gazette No. 41437, Notice Number 632 of 12 February 2018, and further published on Government Gazette 41992, Notice 1135 of 24 October 2018.

3.54. Given the time required to fulfil all parliamentary processes, it is unlikely that the ERTB will have an immediate impact on the outcomes of the inquiry. Rather, the inquiry may provide valuable information to the Minister of Transport to assess if economic regulation is necessary on specific transport modes.

## 4. PUBLIC TRANSPORT AS AN INTEGRATED SYSTEM

### Introduction

- 4.1. This chapter focuses on outlining the fundamental principles involved in public transport. An effective public transport is considered as a system providing seamless commuter experience. The chapter commences by providing key features of an effective public transport system (integrated public transport) and then reviews international experiences on integration with a focus on which level of government is most appropriate to provide such a service. An overview of the regulatory framework governing transport planning in South Africa is discussed followed by an evaluation of the extent of integration in South Africa. The subsequent sections assess the impediments to transport integration and lastly, proffers findings and recommendations.
- 4.2. Public transportation systems include a variety of transit options such as buses, rail, and various forms of taxis. These systems should be readily available to the general public for a fare and may run on both scheduled and unscheduled times (metered taxis). To function as a seamless system, integration of the various modes is necessary. Integration involves movement from one place to another via commuter-friendly intermodal facilities and with options for interconnections. Improved integration between the public transport modes helps people to move around more easily and reduces the costs and inconveniences of travel. From a commuter perspective, public transport should have the following characteristics: convenience, easy access, comfort, frequent service, rapid journey, safety and security, customer service and affordability.
- 4.3. A public transport system focuses on connecting different transport modes to facilitate transfer of commuters between the modes in a safe, smooth and efficient manner.<sup>68</sup> This requires a unified design and planning process that incorporates regulation, provision/management of transportation infrastructure and the use of that infrastructure by all operators of public transportation and private commuters. For public transport integration to take place, unified planning is paramount across public transport modes and all role players, such as planning and licencing authorities and operators, must be involved.

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<sup>68</sup> Ibrahim, M. 2003. Improvements and integration of a public transport system: the case of Singapore. *Cities*. 20 (3). Page 205-216.

- 4.4. Integration of transport modes and systems would ideally result in having the best suitable transport mode catering for the transport needs of commuters. For example, mass transportation would be catered by rail, trunk routes by buses and feeder service by minibus taxis. Ideally for such integration to occur, government should play a significant role in the public transport system either as an efficient operator (or contracting the service to efficient private sector players) or have effective planning authorities to undertake transport planning.
- 4.5. Public transport in developed countries is designed as a system which is inclusive of scheduled services operating on scheduled routes using buses and trains among other modes. Various modes in the public transport system differ in terms of cost, capacity, and technology. Commuters access these public transport systems by walking to the stations or by using feeder systems that link them with these main systems.
- 4.6. A classic public transport system is viewed as an integrated system with various modes providing complementary services. The rationale for integration in the public transport system is to derive efficiencies and minimise infrastructure duplication where possible. Integration therefore raises questions about the feasibility of fostering competition in public transport systems. Competition for the market typically suits public transportation as opposed to competition in the market. The question of whether integration distorts competition depends on two perspectives, the first being competition for the market which requires the implementing authority to put the operation of public transport out on competitive tender. In this way, competition is given effect in the sense that all operators are given a fair chance to compete. The other perspective would be for competition in the market. Competition in the market arises when integrated planning by the relevant authorities has inefficiencies or to a larger extent failed.
- 4.7. The key question is that, with transport integration, should modes of transport compete? The City of Cape Town is of the view that there should be no competition in public transport if the planning authority manages to achieve integration of the transport modes.<sup>69</sup> Initial plans for the BRT in Cape Town involved the elimination of taxis and replacing them with buses. This position has since changed, and minibus taxis are going to form part of the BRT by providing a feeder service.<sup>70</sup> City of eThekweni has

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<sup>69</sup> City of Cape Town- oral submission by Mr. Bosch Western Cape Hearings 21 June 2018 page 17.

<sup>70</sup> City of Cape Town- oral submission by Mr. Bosch Western Cape Hearings 21 June 2018 page 17.

indicated that the IRPTN system is not going to be implemented throughout the city. This creates room for the minibus taxis to play a meaningful role.<sup>71</sup>

- 4.8. The implementation of IPTN in the City of George resulted in the complete displacement of minibus taxis, supporting the notion that competition is unlikely in fully integrated systems. This approach created several problems as the minibus taxi industry does not fully support this approach. The intention of the provincial and local government in the implementation of IPTN in George entailed that an integrated transport plan for the Eden District Municipality be developed which made a provision for the provincial operating licence board to reject all applications for operating licences for services that may operate in competition with the subsidised public transport. This is an indication that competition might have to be dispensed with where there is integration.
- 4.9. Central to the municipalities' functions as a planning authority is the determination to use the best mode, whether it is taxi, rail or bus.<sup>72</sup> In the development of IPTNs, the City of Cape Town and the City of Johannesburg indicated that their IPTNs were developed with rail as the backbone of public transport<sup>73</sup> with BRT, and minibus taxis<sup>74</sup> providing additional capacity. Rail service was envisaged to cater for peak demand periods, but the unreliability of the service is now putting pressure on the other modes leading to traffic congestion.<sup>75</sup> Commuter rail service is run by Metrorail which reports to DOT and Gautrain reporting to Gauteng provincial government.
- 4.10. From a planning authority perspective, integration will only foster competition for the market through the competitive tender process. However, the removal of minibus taxis in favour of the BRT resulted in competition on some routes especially from some of the minibus taxis that did not form part of the Vehicle Operating Companies ("VOCS")/BOCs.
- 4.11. Overall, there is limited or lack of integration which has resulted in some form of competition or duplication along certain routes across the different transport modes. Pertinent questions that are always raised are: *"Why Metrobus could not be aligned*

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<sup>71</sup> City of eThekweni – oral submission from Mr. Wosiyana Kwa- Zulu Natal Province Hearings 27 June 2018 page 117.

<sup>72</sup> City of Johannesburg – oral submission by Mrs. Seftel Gauteng Province Hearings 05 June 2018. Page 135.

<sup>73</sup> City of Johannesburg – oral submission by Mrs. Seftel Gauteng Province Hearings 05 June 2018. Page 135.

<sup>74</sup> City of Cape Town- oral submission by Mr. Bosch Western Cape Hearings, 21 June 2018 page 10.

<sup>75</sup> City of Johannesburg- oral submission from Mrs. Seftel Gauteng Province Hearings 05 June 2018 page 135.



*with Gautrain buses? Why do we have a bus feeder system specifically for Gautrain? Why do we have a BRT system on certain routes and sometimes why not? Was it necessary to have the Gautrain feeder system or could we have relied on the existing services?"* The answer to these questions is that *"we don't have that integrated concept around the thinking in public transport in South Africa."*<sup>76</sup> The contributing factor for such lack of integration is the fragmentation of operations across different modes, for example, rail is operated at a national level (Metrorail) and provincial level (Gautrain), bus services (both at local and provincial government). This will be discussed in detail below and contrasted with international experience.

## **Features of an integrated public transport system**

- 4.12. Core elements of an integrated public transport encompass several elements which include network integration, integrated information system, transfer stations, integrated fares and ticketing, coordinated timetables and real – time information about the public transport network.
- 4.13. *Network integration* – this involves integrated planning encompassing all modes of transport (buses, commuter rail and taxis) to reduce wasteful duplication of services, thus improving the utilisation of transport resources.
- 4.14. *Comprehensive information system* – this enables commuters to easily and quickly find and compare different routes and select the most suitable one. Coordination of different transport modes brings about reduced congestion on the road and convenience to commuters. The relevant information includes timetables, tariff information, route maps and maps of the surrounding area at stations and stops.<sup>77</sup>
- 4.15. *Transfer stations* - to optimise travel time and for the comfort of passengers, transfer and waiting times should be as short as possible. The stations should be planned to allow for commuters to walk for short distances. Stations should be easily accessible and provide adequate protection in all climatic conditions.

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<sup>76</sup> South African Bus Operators Association – oral submission by Prof Walters, Gauteng Public Hearings, 6 June 2018, page 118

<sup>77</sup> Public Transport Integration and Transit Alliances, Module 3f. Sustainable Transport: A sourcebook for policy-makers in Developing Cities. Available at [https://www.sutp.org/files/contents/documents/News/2018\\_March/3f\\_Transit\\_Alliances\\_SUTP\\_TUMI\\_GIZ\\_final.pdf](https://www.sutp.org/files/contents/documents/News/2018_March/3f_Transit_Alliances_SUTP_TUMI_GIZ_final.pdf). Accessed on 08 August 2019.

4.16. *Integrated fares ticketing* – Integrated fares and ticketing removes the burden of commuters buying separate tickets for each mode of transport. Besides making it more convenient for passengers, it enables the transport operators involved to optimise their processes.<sup>78</sup> The public transport system in South Africa currently requires each operator to collect its own fares.

4.17. *Coordinated timetables* - timetables are particularly important if services are infrequent, which is more likely during off-peak and in less-populated areas. In such cases, timetables between modes must be coordinated.<sup>79</sup>

### ***International experience on integrated transport systems***

4.18. This section discusses the various models of integrated public transport systems in various countries, specifically, which level of government oversees the transport system. The objective is to benchmark the South African experience with international experience and draw some lessons where possible.

4.19. The management of public transport systems have undergone major changes across the world. Public transport systems have traditionally been operated by central governments but the need to improve efficiency, attend to local dynamics and foster integrated planning has led to the devolution of public transport functions to the lower levels of government. Central government involvement in public transport resulted in little or no coordination with lower levels of government resulting in inefficiency and uncoordinated public transport services. International experience suggests that devolution to lower levels of government has been effective to address inefficiencies and improve coordination. A fundamental belief supporting devolution is that local needs are best served by local decisions rather than those taken centrally by national government.

4.20. International experience suggests that the devolution of public transport function to **metros, city-regions or provinces** was motivated by the need to foster coordination

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<sup>78</sup> Public Transport Integration and Transit Alliances, Module 3f. Sustainable Transport: A sourcebook for policy-makers in Developing Cities. Available at [https://www.sutp.org/files/contents/documents/News/2018\\_March/3f\\_Transit\\_Alliances\\_SUTP\\_TUMI\\_GIZ\\_final.pdf](https://www.sutp.org/files/contents/documents/News/2018_March/3f_Transit_Alliances_SUTP_TUMI_GIZ_final.pdf) accessed on 08 August 2019.

<sup>79</sup> Public Transport Integration and Transit Alliances, Module 3f. Sustainable Transport: A sourcebook for policy-makers in Developing Cities. Available at [https://www.sutp.org/files/contents/documents/News/2018\\_March/3f\\_Transit\\_Alliances\\_SUTP\\_TUMI\\_GIZ\\_final.pdf](https://www.sutp.org/files/contents/documents/News/2018_March/3f_Transit_Alliances_SUTP_TUMI_GIZ_final.pdf). Accessed on 08 August 2019.

in planning, decision making and encourage an integrated and comprehensive urban transport system. In addition, amalgamation of previously fragmented government entities within the public transport sector is a common trend given the efficiencies that would be derived.

#### *Netherlands<sup>80</sup>*

- 4.21. There are three levels of government in the Netherlands: national government, regional government (12 provinces) and local government (393 municipalities). Public transport functions are devolved to the provinces and some city-regions. Fourteen regional authorities are responsible for local and regional public transport of which twelve are provinces and two are transport regions. Their responsibilities include both local public transport services and some regional train services operated mainly on branch lines of the national train network. National government is the transport authority responsible for national rail services and intercity services. The devolution in the Netherlands was meant to ensure public transport integration among other factors.

#### *London, UK*

- 4.22. In London, all public transport is run by Transport for London which provides the following services: London Underground, London Buses, Docklands Light Railway, London Overground, TfL Rail, London Trams, London River Services, London Dial-a-Ride, Victoria Coach Station, Santander Cycles and the Emirates Air Line.<sup>81</sup> Transport for London is the integrated transport authority responsible for transport in London and runs the day-to-day operation of the London's public transport network and manages London's main roads. Transport for London is funded from central and local government, fares, other income (fines) and borrowing for capital projects.

#### *New York City, United States*

- 4.23. The New York City Transit Authority is a public authority in the U.S. State of New York that operates public transportation. It operates the New York City Subway, a rapid transit system in Manhattan, The Bronx, Brooklyn, and Queens, Staten Island Railway, New York City Bus, an extensive bus network serving all five boroughs, managed by MTA Regional Bus Operations.<sup>82</sup>

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<sup>80</sup> Didier van de Velde and David Eerdmans (2016). Devolution, integration and franchising - Local public transport in the Netherlands. Urban Transport Group

<sup>81</sup> <https://tfl.gov.uk/corporate/about-tfl/what-we-do?intcmp=2582>

<sup>82</sup> [https://en.wikipedia.org/wiki/New\\_York\\_City\\_Transit\\_Authority](https://en.wikipedia.org/wiki/New_York_City_Transit_Authority)

### *Bologna, Italy*

- 4.24. SRM (Reti e Mobilità Srl) is the agency that acts as the public transport authority for the Province of Bologna spanning over across 60 municipalities. SRM is publicly owned by the partnership between the municipalities and the Province of Bologna with delegated powers to manage and operate public transport.<sup>83</sup>

### **Transport planning regulatory framework in South Africa**

- 4.25. Public transport in South Africa is a concurrent function between the national and provincial spheres of government with municipal public transport as a responsibility of local government.<sup>84</sup> The 1996 White Paper indicates that “...*land passenger transportation planning should be carried out in an integrated fashion covering all modes. This planning should be done at as low a level as possible and by the relevant transportation authority.*” The same observations were made in the subsequent legislation (National Land Transportation Transition Act, 2000 (Act No. 22 of 2000); and the National Land Transport Act, 2009 (Act No. 5 of 2009) which added details regarding the role of local government as planning authorities and its interface with provincial and national government.
- 4.26. The NLTA defines an Integrated Public Transport Network (IPTN) as a system in an area that integrates public transport services between modes using various mechanisms such as ticketing systems, network and infrastructure sharing with the ultimate objective of ensuring travel is done in a seamless manner.<sup>85</sup> The NLTA prescribes national principles, requirements, guidelines, frameworks and national norms and standards that must be applied uniformly in the provinces in order to consolidate land transport functions and locate them in the appropriate sphere of government. National government is responsible for, among others; the formulation of national transport policy and strategy; national strategic transport planning and coordination and preparing a National Land Transport Strategic Framework, as set out in Section 11(1)(a) of the NLTA. The responsibilities of provincial governments are set out in Section 11(1)(b) of the NLTA and include, among others; the formulation of a provincial transport policy and strategy in accordance with national policy. Municipalities are planning authorities and responsible for preparing transport plans for their area, developing land transport policy, encouraging the optimal use of the

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<sup>83</sup> Wright S. A European Model for Public transport Authorities in Small and Medium Urban Areas.

<sup>84</sup> Constitution of the Republic of South Africa, 1996.

<sup>85</sup> National Land Transport Act 5 of 2009.

available travel modes to enhance the effectiveness of the transport system and reduce travelling times and costs.

- 4.27. Municipalities utilise several instruments to foster transport planning and these include by-laws (regulation), land use management strategies and integrated public transport network with intermodal planning committee, as envisaged in Section 15 of the NLTA. Given the different roles by the spheres of government, the NLTA provides for assignment of functions (devolution) from either national to local government or provinces to municipalities to facilitate better coordination. However, such assignment is subject to ministerial approval where such a municipality has an acceptable ITP. Submissions received during the public hearings indicate that only the City of Cape Town has requested the Minister of Transport to assign such powers<sup>86</sup> but no decision has been made up to now.<sup>87</sup>
- 4.28. The overriding principle of transport planning is to ensure that a planning authority can rationalise public transport services in its area. The integrated transport plan should be able to identify if there is a surplus or deficit of a transport service on a route. Once such a determination is made and in instances where a surplus is identified on a particular route, the planning authority must; where possible (a) offer the operator an alternative service; or (b) allow the operator to continue providing the service and impose a moratorium on the issuing of new operating licences on that route.
- 4.29. Different ways in which integration takes place, especially in the urban areas, have been identified in both literature and in practice. These include integration of different modes of public transport; integration of public and individual transportation; integration of transportation policy with other policies concerning spatial planning and town planning; spatial integration based on the application of efficient land use strategies (e.g. multimodal terminals and interchange platforms, shared lanes for means of public transportation), organisational integration (e.g. coordinated timetables), and joint ticketing for different transportation modes.<sup>88</sup>
- 4.30. The implementation of different transport integration solutions may result in the following benefits: reduction of travel times, optimising transportation costs, traffic

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<sup>86</sup> National Department of Transport – oral submission by Ms. Manana, Gauteng Hearings 07 June 2018 page 50.

<sup>87</sup> National Department of Transport – oral submission by Mr. Patel, Gauteng Hearings 07 June 2018 page 51.

<sup>88</sup> Solecka, K. and Zak, J. 2014. Integration of the urban public transportation system with the application of traffic simulation. 17th Meeting of the EURO Working Group on Transportation, 2-4 July 2014, Sevilla, Spain

congestion reduction and mitigation of environmental pollution. Ultimately, integration promotes efficient transport flow which improves the overall competitiveness of the city/area and better utilisation of different transportation modes and infrastructure.<sup>89</sup>

#### ***Devolution or creation of regional planning authorities to support system integration***

- 4.31. The NLTA provides for assignment of functions (devolution) from either national to local government or from provinces to municipalities to facilitate better coordination. Devolution is based on the premise that lower levels of government are best suited to manage and integrate public transport with services. Devolution or assignment of functions is subject to ministerial approval and having an acceptable ITP is a pre-requisite.
- 4.32. The Revised White Paper on Transport Policy of 2017 alludes to the need for DOT to develop a devolution strategy. No devolution strategy has been developed by DOT despite devolution being advocated for in the White Paper of 1996. There is an urgent need for DOT to provide guidance to lower levels of government on what criteria the DOT will consider in dealing with devolution applications.
- 4.33. Both the White Paper on National Transport Policy of 1996 and the Revised White Paper of 2017 recommended that some of the transport functions be devolved to the lowest appropriate level of government to support integrated planning. This observation was further reinforced in the National Land Transport Strategic Framework 2017-2022 (“NLTSF”) which indicated that feasibility studies for the devolution of passenger rail services to the metropolitan municipalities should be carried out.<sup>90</sup> Devolution of functions to a single planning authority to achieve integration, operational efficiency and economies of scale was further highlighted in the NLTSF in instances where it may not be ideal to consolidate functions within a metropolitan municipality due to the interconnectedness of the municipalities.
- 4.34. The revised White Paper on Transport Policy of 2017 further sets out the strategic objectives of devolution which include the creation of a Transport Authority, or an equivalent coordinated and accountable structure, at a Municipal, Provincial, or Mega-

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<sup>89</sup> Prospectus, 2003. European Union research project: Procedures for recommending optimal sustainable planning of European city transport systems, Final Report, Leeds.

<sup>90</sup> Department of Transport - National Land Transport Strategic Framework 2017-2022

City/City Region level. The interconnectedness of the cities of Johannesburg, Tshwane and Ekurhuleni supports the creation of a city-region or provincial devolution of rail as opposed to individual metropolitan municipalities.

- 4.35. There are advantages in establishing a public transport authority including the integration of land-use, urban and regional planning with public transportation.

### **State of public transport Integration**

- 4.36. This section provides an evaluation of whether public transport in South Africa can be considered as an integrated system based on the discussion above. Integration is broadly considered when there is multimodal coordination, organisational coordination and alignment between land use management, town planning and transport planning.<sup>91</sup> Some of these factors are considered below:

#### *Multimodal coordination*

- 4.37. The existing urban public transportation system in South Africa largely consists of buses, minibus taxis, metered taxis and rail networks. These modes of transport are managed and operated by several operators which vary from government to private operators. The fragmentation in ownership and operators pose a challenge of integrating these modes for seamless commuter experience.
- 4.38. Rail is run by Metrorail and Gautrain (national and provincial government respectively), buses (municipal and contracted services) and minibus taxis (private operators). The cities that have all the modes of transport are Johannesburg, Tshwane, Ekurhuleni, Cape Town, Durban, Port Elizabeth and East London. These cities are used to demonstrate the lack of public transport integration.
- 4.39. *City of Johannesburg (CoJ)*- The city is currently serviced by buses (BRT, municipal buses, and contracted bus services), minibus taxis, rail (Metrorail and Gautrain), metered taxis and e-hailing services. The city, as the planning authority, indicated that there is joint planning committee to coordinate the activities of public transport.<sup>92</sup> The city submitted that it has begun with integrating different modes of transport.<sup>93</sup> While a

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<sup>91</sup> Solecka, K. and Zak, J. 2014. Integration of the urban public transportation system with the application of traffic simulation. 17th Meeting of the EURO Working Group on Transportation, 2-4 July 2014, Sevilla, Spain

<sup>92</sup> City of Johannesburg – oral submission by Mrs. Seftel Gauteng Province Hearings 05 June 2018.

<sup>93</sup> City of Johannesburg- oral submission by Mrs. Seftel Gauteng Province Hearings 05 June 2018. Page 135.

planning committee exists, it is not apparent that there is integration, as indicated by overlaps between certain routes operated by Gautrain feeder buses and Metrobus. The Gautrain operates feeder buses and some midibus contracts operating per schedule from various stations. These buses are part of the Gautrain system. There seems to be an overlap and duplication in relation to these bus services and the Rea Vaya bus services from Park Station. The city has indicated that they subsidise the BRT and the province subsidise the Gautrain bus feeder services. These buses to some extent service the same, almost identical routes.<sup>94</sup> The services overlap because Gautrain is of the view that the BRT is not reliable and the schedule/timetable is not aligned to the Gautrain service, notwithstanding the fact that the Rea Vaya operates a frequent service.<sup>95</sup> Gautrain further indicated that Rea Vaya starts and terminates the trips in some instances more than 500 meters away from the train station which is not ideal for Gautrain commuters. With respect to rail, the City has no influence in the operations of Metrorail and Gautrain including the coordination of the timetables.

- 4.40. *City of eThekweni* - Public transport in the city is currently serviced by buses, contracted bus services, minibus taxis and Metrorail. The city has indicated that they have monthly engagements with the other stakeholders<sup>96</sup> as part of their public transport planning functions. While it appears that there is no apparent evidence of integration, the city has indicated that the city's integrated public transport plan was developed together with PRASA and rail as the backbone of public transport in eThekweni and that the level of service required for rail has been jointly developed together with PRASA.<sup>97</sup> Despite the joint planning committees, there appears to be overlaps and competition between the modes of transport.<sup>98</sup>
- 4.41. *City of Cape Town* - The modes currently servicing the city include mainly minibus taxis, rail and buses (BRT and the contracted bus operations). While it also appears that there is no integration of public transport in the city, bus routes overlap with that of minibus taxis.
- 4.42. *City of Tshwane* – like the CoJ, the City of Tshwane is currently serviced by buses (BRT, municipal buses, and contracted bus services), minibus taxis and rail (Metrorail

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<sup>94</sup> City of Johannesburg- oral submission by Mrs. Seftel Gauteng Hearings 05 June 2018 page 140.

<sup>95</sup> City of Johannesburg- oral submission by Mrs. Seftel Gauteng Hearings 05 June 2018 page 141.

<sup>96</sup> City of eThekweni- oral submissions by Mr. Nxumalo Kwa Zulu Natal Hearings 27 June 2018 page 108.

<sup>97</sup> City of eThekweni- oral submissions by Mr. Chetty Kwa Zulu Natal Hearings 27 June 2018 page 110.

<sup>98</sup> City of eThekweni –oral submission from Mr. Wosiyana Kwa Zulu Natal Hearings 27 June 2018 page 116.



and Gautrain). While there appears to be no integration of public transport in the city there is some interaction between the city, the province and the different transport operators. The city has also submitted that they have established a steering committee with PRASA, meeting on a quarterly basis to discuss planning and all the other related issues, as regulated by the NLTA.<sup>99</sup>

#### *Organisational integration*

- 4.43. Organisational integration involves the systematic coordination of activities at an operational level by different entities. These activities may vary including unified ticketing, traffic management and control of timetables.<sup>100</sup> In most cities of South Africa, well-coordinated timetables for different modes of transport is non-existent. Gautrain indicated that an integrated ticketing system will enhance the use of public transport.<sup>101</sup> The Gautrain has indicated their intention to expand the existing Gautrain feeder minibus taxis to Rosebank and Hatfield.<sup>102</sup>
- 4.44. An integrated ticketing system will enhance commuter experience. GABS for instance has rolled out its smart card, known as GABS Gold Card but this is only used in GABS buses and cannot be used on the MyCiTi or Metrorail for instance.<sup>103</sup> Similar cases occur in Johannesburg, with the Metrobus, Reya Vaya, Gautrain, PUTCO and Metrorail using different ticketing system. In Tshwane, A Re Yeng, Tshwane Bus Services, PUTCO and Metrorail have different tickets which are not usable for various modes. Gautrain on 31 October 2019 introduced technology that utilises bank cards (contactless cards) for the use of commuters to tag in and out of Gautrain stations as well as the Gautrain buses. The acceptable bank cards include: debit cards, credit cards, cheque cards and National Department of Transport (NDoT) cards, such as Areyeng Card, Rea Vaya and My CiTi PayPasses.<sup>104</sup> This is an indication that some effort is being made to integrate the public transport ticketing system, but this is occurring at a limited scale and applicable to a few transport modes. The minibus taxi

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<sup>99</sup> City of Tshwane – oral submissions by Mr. Lentlonkane Hearings held at the Competition Commission 10 October 2018 page 93.

<sup>100</sup> Democratic Alliance- oral submission by Mr. De Freitas, Western Cape Hearings, 21 June 2018, page 86.

<sup>101</sup> Civitas. Innovative ticketing systems for public transportation available at [https://civitas.eu/sites/default/files/civitas\\_ii\\_policy\\_advice\\_notes\\_10\\_ticketing.pdf](https://civitas.eu/sites/default/files/civitas_ii_policy_advice_notes_10_ticketing.pdf) accessed on 17 January 2019.

<sup>102</sup> Irma Venter New construction process proposed for Gautrain expansion project, available at <http://www.engineeringnews.co.za/article/new-construction-process-proposed-for-gautrain-expansion-project-2019-01-21> accessed no 31 January 2019.

<sup>103</sup> GABS Gold Cards <https://www.gabs.co.za/smart-card-faq-s/> accessed on 21 February 2019.

<sup>104</sup> Available at <https://www.gautrainalerts.co.za/purchasegautraincard/> accessed on 21 January 2020.

industry that transports more passengers daily is not yet integrated which negatively impacts the current efforts being made.

- 4.45. The above discussion suggests that the public transport sector in South Africa is not yet fully integrated. The modes of transport across the cities are not systematically coordinated, there is no evidence of joint ticketing and collaborative timetables (in case of scheduled services). From the examples presented above, there is significant fragmentation in interdependent transport operations both within modes and across modes. Given that close to 35 per cent of public transport commuters use subsidised transport, some form of state intervention is required to promote system integration. System integrity (service interconnections, integrated ticketing) is perceived to result in positive externalities for commuters.

### **Impediments in transport planning**

- 4.46. As discussed above, public transport integration involves the coordination of transport planning, optimisation of transport modes, and timetables among others. Integration achieves timely and seamless transfer among modes resulting in the decrease of journey time.<sup>105</sup> The barriers to integration include (i) institutional capacity constraints (ii) fragmented regulatory environment (iii) misaligned objectives of providers of public passenger transport (iv) lack of integration of networks and timetables, (v) the informal nature of some transport modes (taxi industry), (vi) fragmentation between spatial and transport planning functions. Each factor will be discussed briefly below.

#### *Institutional capacity*

- 4.47. The development of the ITPs is a function assigned to local government. The devolution of transport functions to local government has wide support given its peculiar position to plan, implement and manage public transport operations.<sup>106</sup> The lack of capacity is a major inhibiting factor in transport integration, with municipalities indicating limited human capital, skills and capacity to deliver a project at municipal level.<sup>107</sup> DOT on behalf of the Vhembe District Municipality in Limpopo Province and

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<sup>105</sup> Poliakova B. 2013. Key success factors of integrated transport systems. Paper presented at the 13<sup>th</sup> International conference "Reliability and Statistics in Transportation and communication, University of Zilina. 16-19 October 2013.

<sup>106</sup> Bickford, G. 2013. South African Cities: Literature review on public transport and mobility in municipalities.

<sup>107</sup> North West Department of Transport– oral submission by Mr. Gasengake, North West Hearings 25 July 2018 page 12.

Nkangala District Municipality in Mpumalanga Province, appointed external consultants to develop IPTN plans for the municipalities.<sup>108</sup>

- 4.48. The Mpumalanga Department of Public Works, Roads and Transport has indicated that the lack of personnel dedicated for public transport is not only observed in the Mbombela Municipality but also in all the municipalities in the province.<sup>109</sup> In the Northern Cape, the Department of Transport, Safety and Liaison indicated that local municipalities have capacity constraints and therefore the province has assumed responsibility to assist in the development of ITPs.<sup>110</sup>
- 4.49. Despite the capacity constraints at local government level, public transport in general (and transport planning in particular) is not prioritised by local municipalities. Most municipalities do not have transport-related dedicated capacity (divisions of units) and no expertise in transport planning prompting the provincial department of transport to assist municipalities in developing ITPs.<sup>111</sup>
- 4.50. As an interim measure, most planning authorities have resorted to the use of external consultants to develop and update transport plans.<sup>112</sup> The lack of human resource capacity has resulted in the Mangaung Metropolitan Municipality appointing spatial planners who are not transport planners to take over the responsibility of developing the IRPTN, as well as appointing external consultants.<sup>113</sup> The current over reliance on consultants to develop these plans does not provide long-term stability or develop capacity for the longer term. When the consultants withdraw or upon expiry of the contract, momentum is lost which leads to plans not being implemented.
- 4.51. Submissions received during the public hearings also indicated limited capacity at provincial government, however, provinces are better placed to recruit qualified transport planners compared to local government. While the intention for planning authorities to be responsible for transport planning is logical, capacity limitations create room for provinces to play an active role in public transport. This raises questions of

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<sup>108</sup> Government Tender Bulletin, 29 March 2019 No.3053 available at [www.gpwonline.co.za](http://www.gpwonline.co.za)

<sup>109</sup> Mpumalanga Department of Public Works, Roads and Transport – oral submission by Mr. Gadisi Mpumalanga Hearings 11 July page 15.

<sup>110</sup> Northern Cape Department of Transport Safety and Liaison– oral submission by Mrs. Olivier, Northern Cape Hearings 19 July 2018 page 7.

<sup>111</sup> Limpopo Department of Transport – oral submission by Ms. Koedyk Limpopo Hearings 22 August 2018 page 7.

<sup>112</sup> Mpumalanga Department of Public Works, Roads and Transport – oral submission by Mr. Gadisi Mpumalanga Hearings 11 July 2018 page 15.

<sup>113</sup> Free State Department of Transport –oral submission by Ms. Matjoa-Dichabe Free State Hearings 31 August 2018 page 36.

whether provinces should take over planning functions in instances where the planning authorities are failing as is the case in most municipalities.

#### *Fragmented legislative and regulatory environment*

4.52. The set-up of the legislative and regulatory framework is such that public transport is legislated at three different spheres of government resulting in fragmentation. By way of illustration, no public transport may be operated without a vehicle operating licence. These operating licences are issued at provincial level by the PRE. Municipalities are then supposed to advise the PRE within 30 days if they can issue the operating licence. The key decision therefore lies with the municipalities which in this case are the planning authorities, and currently most municipalities do not have capacity to develop ITP. Their directions to the PRE in terms of the Act must be based on the ITPs. So, in the absence of the ITPs they are not able to give directions to the PRE. As a result, the PRE rely on section 55(6) which empowers the PRE to proceed with disposing of the application without their direction.<sup>114</sup> The dual existence of the province and municipality in transport planning and regulation results in fragmentation making it difficult for planning to take place effectively. For instance, the Gautrain project that was implemented by the Gauteng provincial government prompting backlash from various quarters with the South African Communist Party indicating that:

*“Gautrain was driven provincially and the province by-passed the spirit of the law and of national policy by setting up the Gautrain as a separate public company which meant that the three major metros in Gauteng, had to accommodate it retroactively, prejudicing their own plans and potentially compromising funds available for more pressing priorities.”*<sup>115</sup>

4.53. Compounding this problem is also how the municipalities and the PREs are structured. For example, in Tshwane there is a separate unit that plans and looks at Tshwane Bus Service and another unit responsible for IRPTN. These services could easily have been administered under one dedicated structure to foster integration.<sup>116</sup>

#### *Providers of public passenger transport*

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<sup>114</sup> Provincial Regulatory Entity Gauteng – oral submission by Ms. Smith Gauteng Hearings 06 June 2018 page 26.

<sup>115</sup> South African Communist Party (SACP). (2006). Gautrain’s murky waters: SACP response. *Umsebenzi Online*, vol. 5 No. 70. 13 December 2006 available at <http://www.sacp.org.za/main.php?ID=2551> accessed on 14 January 2019.

<sup>116</sup> National Department of Transport – oral submission by Ms Manana, Gauteng Public Hearings, 7 June 2018, page 81

- 4.54. Public transport in South Africa is both owned and operated by private and public sector. Rail (Metrorail and Gautrain) have public sector involvement while buses are largely privately owned (though some are contracted by provinces). Minibus taxis, which carry most of the commuters, are privately owned and run. Government currently is not coordinating effectively the activities of rail and contracted bus services and it is therefore unlikely to succeed to bring private operators to collaborate with public sector. The lack of enforcement of regulations has often resulted in overtrading especially of minibus taxis which makes integration problematic. Planning and implementation are rather fragmented with each mode being differently planned, resulting in some instances in duplication and overlap of public transport services. A case in point is the Gautrain feeder buses and the Rea Vaya BRT.<sup>117</sup>
- 4.55. The Tshwane area is serviced by Tshwane Bus Service, BRT under A Re Yeng, PUTCO, North West Star and Gautrain buses. There is duplication in some of these services, especially infrastructure, and integrating these services is important to minimise wastage of money.<sup>118</sup>

#### *Informal taxi industry*

- 4.56. The minibus taxi industry is rooted within the informal sector, yet it is responsible for around 66.5 per cent of all commuters using public transport. The informal nature of the industry has made negotiations with cities problematic in the implementation of IRPTNs. While the taxi industry understands the rationale for integration, the way government intended to implement the IRPTNs for purposes of integration has resulted in the taxi industry raising many issues, such as lack of proper consultation and enough buy-in. The taxi industry is of the view that unless government sees them as a strong strategic collaboration partner, these challenges will continue to linger.<sup>119</sup>
- 4.57. The BRT system in the City of Johannesburg led to over 600 taxis being removed from operation and operators incorporated in the BOCs as shareholders.<sup>120</sup> This is a drastic change to the way taxi operators used to function and hence collaboration and buy-in is important.

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<sup>117</sup> City of Johannesburg- oral submission by Mrs. Lisa Seftel Gauteng Hearings 05 June 2018 page 141.

<sup>118</sup> National Department of Transport – oral submission by Ms Manana, Gauteng Hearings dated 7 June 2018, page 81.

<sup>119</sup> SANTACO – oral submission by Mr. Molelekwa, Gauteng Hearings 04 June 2018 page 29.

<sup>120</sup> City of Johannesburg- oral submission by Ms. Seftel Gauteng Hearings 05 June 2018. Page 137.

### *Commuter choices*

- 4.58. Planning authorities are responsible for determining the best mode of public transport within their jurisdiction. The determination is made based on the infrastructure capabilities, affordability, reliability and safety.<sup>121</sup> Despite the planning authorities' best intentions, commuters may exercise their right to choose their preferred option. For example, minibus taxis are preferred due to their ability to provide a door to door service. Commuters can queue for a long time to wait for minibus taxis while the Rea Vaya buses are not full.<sup>122</sup> Commuter choices impact negatively on the plans for municipalities to foster and promote integration.
- 4.59. Commuter choices of the mode of transport are also influenced by historical context in South Africa, where there is a clear separation between races and social standing/status. Although minibus taxis are the most efficient mode, there is general hesitation to explore this alternative due to several factors. For transport integration to take place, society should be willing to integrate first and be able to accept one another.<sup>123</sup> Social and racial polarisation will not foster any successful transport integration.

### *Integration of transportation policy with spatial and town planning*

- 4.60. The determination of appropriate transport mode should be informed by spatial and town planning policies based on anticipated densities. Given the legacy of apartheid, the spatial framework dictated that black people live far away from economic opportunities and migrate daily. This led to limited integration between the existing transportation and the spatial and town planning policies. In addition, municipalities tend to have separate transport and town planning departments which introduces some coordination challenges. In order to rectify these coordination challenges, the City of Cape Town established the Transport and Urban Development Authority which deals with the spatial and transport issues more holistically.<sup>124</sup>
- 4.61. Land transport planning must be integrated with the land development and land use planning processes, and the integrated transport plans required by the NLTA. However, it appears that the integration of transport planning and land development is

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<sup>121</sup> City of Johannesburg – oral submission by Ms Seftel, Gauteng Public hearings, dated 5 June 2018, page 178

<sup>122</sup> City of Johannesburg – oral submission by Ms Seftel, Gauteng Public hearings, 5 June 2018, page 179

<sup>123</sup> NACTU – oral submission by Mr Ndlovu, Gauteng Hearings, dated 6 June 2018, page 171-172

<sup>124</sup> City of Cape Town- oral submission by Mr. Bosch, Western Cape Hearings, 21 June 2018, page 12.

far from reaching the objectives of the NLTA. Currently, authorities responsible for human settlement do not seem to take transport into account in their planning, resulting in lack of integration between the two. The North West Department of Community Safety and Transport Management has pointed out that there are inconsistencies between transport and land use planning practice.<sup>125</sup>

- 4.62. Currently, there is no transport authority which has control and decision-making powers over all transport in a local jurisdiction, resulting in fragmented and conflicting interests of multiple transport authorities. Different modes fall under different management. Rail, which has been hailed by the local government as the core of public transport, is currently not under the management of any local authority and is managed by a different entity, PRASA. This situation poses a problem for municipalities in carrying out their functions as planning authorities, with the City of Cape Town stating that a city cannot resolve its transport problems without rail being fundamentally part of its management.<sup>126</sup>

## Findings

- 4.63. The Commission makes the following findings in so far as integration is concerned:

- 4.63.1. Public transport is currently not considered as a network or system to facilitate easy integration between different modes. This results in lack of integration in public transport in South Africa.
- 4.63.2. Public transport in general is not prioritised by local government given its competing mandate of providing other basic services (a few metros are an exception). By extension, public transport planning is therefore not given adequate focus and attention as most municipalities do not have dedicated units dealing with public transport. Some cities rolling out BRT use external consultants to assist with infrastructure development.
- 4.63.3. The lack of capacity is a major inhibiting factor in transport planning and integration, with municipalities lacking the necessary human capital and skills. The DOT states in its 2017 Revised White Paper that the lack of

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<sup>125</sup> North West Department of Community Safety and Transport Management – oral submission by Mr. Gasengake, North West Hearings 25 July 2018 page 12.

<sup>126</sup> City of Cape Town – oral submission by Mr. Bosch Western Cape Hearings 21 June 2018 page 15.

capacity at the municipal level is a major inhibiting factor in municipalities preparing transport plans. A number of provinces also lack capacity but are in a position to attract skills if resources are made available.

- 4.63.4. The fragmentation in the roles of each sphere of government in public transport and ineffective intergovernmental relations have resulted in uncoordinated operations creating inefficiencies. For instance, provinces are the contracting authorities for subsidised bus contracts and these buses operate across municipalities. In addition, some metros also have bus services as well as BRT. Duplication on routes has been identified across modes of transport.
- 4.63.5. Spatial planning and land use management at local government not taking due consideration for public transport provision resulting in lack of integration between transport planning and land development. The functional separation of human settlement and transport departments at local government level exacerbates this misalignment.
- 4.63.6. DOT has not developed a devolution strategy which sets out the criteria to guide the devolution of public transport functions to lower levels of government. The reliance on Ministerial approval without a devolution strategy is not ideal.

## **Recommendations**

4.64. Based on the findings above, the Commission recommends the following:

- 4.64.1. To improve coordination, dedicated transport authorities at provincial level (Provincial Transport Authorities) to be established in each province. This is premised on the lack of priority for public transport and lack of capacity at local government level. Dedicated transport authorities at provincial level can attract skills and can service local municipalities effectively. An example is the Gauteng Transport Authority which was set up to improve coordination and amalgamate transport related functions for Gauteng. Such dedicated transport authority could provide the long-term stability within the planning framework for public transport. The revised 2017 White Paper proposes that



transport authorities or an equivalent structure be established in order to facilitate the integration of all public transport services. The dedicated transport authorities should consider spatial planning.

- 4.64.2. DOT to promote an integrated public transport ticketing system. The DOT in its revised 2017 White Paper indicated that this integrated ticketing should comprise a single system with inter-operability across modes, facilitating participation by all banks and cardholders.
- 4.64.3. DOT to urgently develop a devolution strategy within 12 months to guide the devolution process. Devolution of functions currently undertaken at national level such as rail to lower levels of government will promote integration of public transport services.

## 5. SUBSIDIES IN THE PUBLIC TRANSPORT SECTOR

### Introduction

5.1. Subsidies are part of traditional public transport system in most countries. The genesis of South Africa's formal public transport system was supported by subsidies. Subsidised rail and buses were and still are a key feature of South Africa's public transport and the inefficiencies observed in these subsidised modes led to the growth of private operators such as minibus taxis. This chapter briefly discusses the rationale of public transport subsidies in South Africa, followed by the approaches for allocating subsidies and the different funding arrangements. This chapter seeks to examine the broad spectrum of public transport subsidies and their implication regarding intermodal and intramodal competition in South Africa. In addition, key challenges are highlighted. Later, findings and recommendations are presented.

#### *Rationale for public transport subsidies*

5.2. The system of apartheid in South Africa left a legacy of social segregation which resulted in separation of residential areas and places of work.<sup>127</sup> The segregation meant that certain racial groups were settled far away from economic hubs and public transport subsidies were provided to ensure that workers were able to access affordable public transport and participate in economic activities.<sup>128</sup> Public transport subsidies were initially targeted at bus operators and then rail.<sup>129</sup> However, in 1986 the minibus taxis entered the market and acted as a feeder to buses and rail. As a result, competition emerged and modes like buses and rail lost market share because of some of the inefficiencies and inflexibility in the subsidised services. In order to keep bus operations viable, the government increased the level of subsidies and this scenario continued even after 1994 as explained in detail in **Chapter 5**.

5.3. Public transport subsidies in South Africa are provided to commuter buses and rail with limited support for minibus taxis. This led to allegations of government favouring other modes of transport which has resulted in some hostility among operators. Several challenges such as the fragmented and uncoordinated funding arrangements in the

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<sup>127</sup> Walters, J. 2014. "Public transport policy implementation in South Africa: *Quo Vadis?*" Original research. *Journal of Transport and Supply Chain Management*, 8(1). Page 1-10.

<sup>128</sup> Meshack, KC. 1990. "Changing patterns of black bus subsidies in the apartheid city." *GeoJournal* 22(333), 2510-259.

<sup>129</sup> Paul Browning. 2018. Oral submission by Paul Browning, Gauteng hearings. 4 June 2018. Page 66.

industry continue to pose a threat to the efficiency, effectiveness and sustainability of the subsidies in the industry.

5.4. The literature makes arguments for the provision of subsidies which include the following:<sup>130</sup>

5.4.1. *Equity*: This is to ensure that public transport is accessible for all. Subsidies assist low income earners to use public transport and prevent social exclusion;

5.4.2. *Congestion*: The effective use of public transport usage brings positive externalities by reducing congestion, air and noise pollution, parking needs and accidents. While tolling can be a way to charge private vehicles for the externalities they cause, it may be undesirable for other reasons, in which case providing subsidies to public transport may produce similar effects;

5.4.3. *Environmental factors*: Switching from private to public transport improves the urban environment by reducing greenhouse emissions; and

5.4.4. *Urban development*: Subsidies can be used to promote a pattern of land use or urban development.

5.5. The main objective of public transport subsidies is to ensure that all South Africans, including the poor and unemployed, have access to affordable public transport. The 1996 White Paper on National Transport Policy identifies subsidies as a social “necessary” service seeking to ensure that transport is a system which will “provide safe, reliable, effective, efficient and fully integrated transport operations and infrastructure which will best meet the needs of passengers and customers at improving levels of services”.<sup>131</sup>

5.6. The 1996 White Paper on National Transport Policy outlines the three primary purposes for public transport subsidies which are aligned to the observations made in the literature:<sup>132</sup>

5.6.1. To improve affordability of fares which is intended to attract ‘new’ passengers and increase access to important socio-economic activities of current passengers;

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<sup>130</sup> Piek, J. 2017. “Affordability and subsidies in urban public transport: Assessing the impact of public transport affordability on subsidy allocation in Cape Town.” Masters Dissertation. Cape Town: University of Stellenbosch.

<sup>131</sup> South Africa. 1996. White Paper on National Transport Policy 1996. Pretoria: Government Printers.

<sup>132</sup> South Africa. 1996. White Paper on National Transport Policy 1996. Pretoria: Government Printers.

- 5.6.2. To curb traffic congestion by incentivising modal shift from private vehicle-use to public transport use; and
  - 5.6.3. Public transport users should be supplied with a public transport system that is accessible, cost effective, time efficient and reliable and safe and secure.<sup>133</sup>
- 5.7. Public transport in South Africa has two elements: economic and social good. This means that public transport generates a significant return within the economy, while providing important social benefits.<sup>134</sup> From a social perspective, government intervention through subsidies is for welfare considerations (assistance to the poor) and to provide incentives for increased efficiency in transport operations. The social objectives of subsidies are aligned to the argument put forward by the World Bank which argues for social and distributive dimension of public transport subsidies for efficiency and to compensate for externalities.<sup>135</sup>
- 5.8. The World Bank further argues that regardless of what objectives transport subsidies are supposed to achieve, subsidies should exhibit the following core elements:<sup>136</sup>
- 5.8.1. Efficiency - the administrative cost of implementing the subsidy is not greater than the cost of production per unit;
  - 5.8.2. Effectiveness - the subsidy must meet the policy objective for which it was set up; and
  - 5.8.3. Sustainability - the impact of the subsidy on government finances.

### **Classification of subsidies - demand side vs supply side approach**

- 5.9. In developed countries, subsidies mitigate high costs of private vehicle usage by low income households which is in direct contrast to developing countries where the focus is on reducing transport costs for low income households who have no access to private vehicles.<sup>137</sup> The common objective for the provision of public transport subsidies is to lower the cost of providing public transport services and further improve the quality of the services provided.

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<sup>133</sup> South Africa. 1996. White Paper on National Transport Policy 1996. Pretoria: Government Printers.

<sup>134</sup> Department of Transport. 2019. Engagement between DOT and Competition Commission. 14 March 2019.

<sup>135</sup> Estupinan N, Gomez-Lobo A, Munoz-Raskin R, and Serebrisky T. 2007. "Affordability and subsidies in urban transport: what do we mean, what can be done?" <https://elibrary.worldbank.org/doi/abs/10.1596/1813-9450-4440>. (Accessed on 05 June 2019).

<sup>136</sup> Competition Commission. 2017. "Report on public transport subsidies for Public Passenger Transport Market Inquiry".

<sup>137</sup> Piek J. 2017. "Affordability and subsidies in urban public transport: Assessing the impact of public transport affordability on subsidy allocation in Cape Town." Masters dissertation. Cape Town: University of Stellenbosch.

- 5.10. There are two approaches for the provision of subsidies and that is demand or supply side approach. A supply side subsidy is directed to public transport operators while demand side subsidy target commuters. Generally, supply side subsidies are in the form of capital or infrastructure and operating grants, while the demand-side subsidies are in the form of vouchers or monetary transfers which are normally allocated to the direct users of the services.

*Advantages and disadvantages of supply side subsidies (an international perspective)*

- 5.11. One of the advantages associated with supply side subsidies is lower administrative costs as they are cheaper to implement. There are fewer third parties involved and very limited screening mechanisms need to be setup before its adoption. It has also been argued that under certain conditions supply side subsidies help reduce road congestion.<sup>138</sup>
- 5.12. On the other hand, supply side subsidies have been criticised for being less targeted when compared with demand side subsidies. This is premised on the fact that operators will not discriminate between different types of users. When there are many poor households who do not use a subsidised service or when consumption of the service increases with income, it has been argued that supply side subsidies' benefits will not be particularly targeted to poor households.
- 5.13. A study conducted in greater Buenos Aires, Argentina showed that share of subsidies accruing to the middle and high income households is increasing and therefore not targeting the poor households more effectively.<sup>139</sup> A similar picture was observed in Mexico City, where a study of supply side subsidies on the same mode revealed that they are not particularly pro-poor.<sup>140</sup> Similarly, a study in Santiago, Chile, shows that supply side subsidies are not pro-poor<sup>141</sup>. In Mumbai, India, two supply side subsidies covering buses and rail were analysed and the results show that these subsidies were not pro-poor as the significant subsidy was accruing to middle- and higher-income

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<sup>138</sup> Dodgson SJ. 1985. "Benefits of urban public transport subsidies in Australia".

[https://www.bitre.gov.au/publications/1985/files/op\\_071.pdf](https://www.bitre.gov.au/publications/1985/files/op_071.pdf)

<sup>139</sup> Bondorevsky D. 2007. "Un Análisis Distributivo sobre el Efecto de los Subsidios al Transporte Público de Pasajeros entre 2002 y 2006 en la Región Metropolitana de Buenos Aires".

<sup>140</sup> Flynn J. 2007. "Measures to make urban transport affordable to the poor: Mexico City case study", John F. Kennedy School of Government, Harvard University, report prepared for The World Bank. February 2007.

<sup>141</sup> Gomez-Lobo A, Estupin N and Munoz-Raskin, R. 2009. "Affordability and subsidies in public urban transport: what do we mean, what can be done?" *Transport Reviews: A Transnational Transdisciplinary Journal*. Vol. 29(6): 715–739.

households. In the Indian example, it appeared that for poverty alleviation, it was best to move away from supply side subsidies and integrate the transport subsidies within the existing welfare system, thereby empowering households to prioritise how and where to spend money.<sup>142</sup>

*Advantages and disadvantages of demand side subsidies (an international perspective)*

- 5.14. There are various kinds of demand side subsidy schemes that exist and they include traditional socio-demographic subsidies (i.e. targeting specific groups such as the elderly or students); employer-based subsidies (which generally exclude the informal sector); (iii) spatial subsidies (e.g. subsidies for trips that begin or end within certain pre-determined stations); and (iv) schemes that target the poor directly (means test).<sup>143</sup>
- 5.15. Demand side subsidies have a higher targeting potential if a specified eligibility criterion to qualify has been met. The criteria screens poor and non-poor households. However, there is no guarantee that such a screening mechanism will be well targeted and implemented. As such, potential abuse of the subsidy such as transferring the subsidy to an unintended recipient, and large errors of exclusion or inclusion of the target population exists.<sup>144</sup> For example, geographically targeted utility subsidies in Colombia are not well focalised, although the central government gives instruction to each municipality on how to determine the socio-economic category of each dwelling.<sup>145</sup>
- 5.16. Demand side subsidies can also level the playing field in that they can create mode neutrality among the modes of transport because consumers will be able to make choices considering access, availability and affordability. In addition, they can also address social and equity problems in the transport industry.
- 5.17. The evidence of targeting a specific group of people through demand side subsidies also has its own challenges. For example, in Madrid, Spain, preferential fares for groups such as the elderly or the young are not related to income.<sup>146</sup> Although in Sofia,

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<sup>142</sup> *Ibid.*

<sup>143</sup> OECD. 2016. "Balancing Financial Sustainability and Affordability in Public Transport States". ITF discussion paper 2016-16. Transport the Case of Bogotá, Colombia.

<sup>144</sup> *Ibid.*

<sup>145</sup> Gómez-Lobo, A. and Contreras D. 2003. "Water subsidy policies: a comparison of the Chilean and Colombian schemes", *World Bank Economic Review*, vol. 17(3). Page 391-407.

<sup>146</sup> Vassallo J and Perez de Villard P. 2007. "Guidance on measures to increase urban transport affordability: A case study of Madrid". Report prepared for the World Bank.

Bulgaria, access to preferential passes is to some extent correlated with income, the targeted group cannot be considered satisfactory.<sup>147</sup>

- 5.18. There is also very little evidence on the impact that such subsidies have on the lives of target beneficiaries. In addition, there is no guarantee that any screening mechanism will target the poor.<sup>148</sup> Furthermore their implementation can also result in administrative challenges in so far as determining who should benefit and on which basis and what would be the best policing system to ensure monitoring and compliance. Lastly, they can have a massive impact on the fiscus.

*Approaches utilised to effect demand side subsidies (an international perspective)*

- 5.19. This section discusses the various approaches used to distribute demand side subsidies.
- 5.20. *Means test transfer* - involves the process of measuring how much income a person has in order to decide if they should receive subsidy from government. In Santiago, Chile, the most beneficiaries of this transfer were partly individuals receiving some other welfare payment, and eligibility for these payments was based on a sophisticated means testing procedure.<sup>149</sup> This was achieved through direct monetary transfers which were used to compensate for rising transport costs and this was wholly funded from general tax sources. The case for Chile showed how the use of direct money transfers yielded a positive distribution impact.
- 5.21. *Categorical subsidy* - this method has been implemented in the United Kingdom, Spain (Madrid), Sophia, Mexico City, where a special category of passengers such as students or young children, the elderly, unemployed or war veterans travel free or at least at a lower price than the standard fare.<sup>150</sup> While acknowledging the success of this type of subsidy targeting, it has been argued that it is important to target concessionary fares to those population segments who really need the subsidisation.<sup>151</sup>

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<sup>147</sup> ECORYS Research and Consulting and NEA Transport Research. 2004. "Labor Mobility, Beneficiaries of Public Transport Services in Eastern Europe and Central Asia". Final report prepared for the World Bank Group. Rotterdam, June 2004.

<sup>148</sup> *Ibid.*

<sup>149</sup> *Ibid.*

<sup>150</sup> Estupin N. *Op cit.*

<sup>151</sup> Eichhorn. 2015. In Piek J. 2017. *Op cit.*

- 5.22. *Transport vouchers* - a mixture of a categorical subsidy (because it only benefits formal workers) and means test. It was implemented in Vale, Brazil. The subsidy mechanism was introduced in 1985 and works as follows. It involves employers retaining 6 per cent of formal workers earnings and in return these workers receive transport vouchers from their employers for the home-to-work and return trips required during a month. Workers can opt out of the system, and higher income earners have the incentives to do so since 6 per cent of their salaries will generally be higher than what they spend on commuting. Thus, workers with higher incomes will usually opt out of the system, helping to reduce leakages to higher income groups.<sup>152</sup>
- 5.23. *Geographical subsidy* - this method involves a flat rate charged for trips of varying distances. As a result, short distance commutes are relatively costlier than long commutes and thus in effect travellers on shorter trips are subsidising longer trips. Mexico provides a flat fare tariff structures for all other transport modes (metro, trolley buses, state-owned buses, and the new buses operating in a bus rapid transit (BRT) corridor) have a flat tariff except for minibuses.

### **The current subsidy framework in SA**

- 5.24. In South Africa, there is no formal subsidy policy that outlines the government's criteria for the allocation of public transport subsidies to some modes. The current model is based on historical practice from apartheid, a system that subsidised certain commuter buses. Post-apartheid, subsidies were extended to other modes of public transport for social and economic benefit to the public. Several stakeholders have raised concerns about the disparity between ridership volumes and allocations and how other modes of transport are placed at a competitive advantage over others.<sup>153</sup>
- 5.25. In 2017, the DOT awarded a tender for a development of a subsidy policy to address some of the challenges in the public transport industry. Based on the ToRs for the tender, it appears that DOT's focus will be user or demand side subsidies as the current subsidies are supply side oriented, targeted at bus and rail operators. Minibus taxis are not included even though they do receive some form of capital subsidies.
- 5.26. Although demand side subsidies are theoretically the right approach, they have high administrative costs and the process of determining eligibility may be costly and time

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<sup>152</sup> Estupiñán N. *Op cit.*

<sup>153</sup> GRATA Taxi Association. Submission to Market Inquiry. August 2018. Page 1.



consuming. There are between 200 000 to 250 000 minibus taxis in the country and over 19 000 buses ferrying more than 15 million daily commuter trips, the administration burden to pay operators timeously might be a challenge.<sup>154</sup> Given the informal nature of the minibus taxi, the lack of an integrated ticketing system for various modes of transport and the huge number of taxis making daily trips demand side subsidies are not easy to implement and more time would be required.

- 5.27. It is apparent that supply side subsidies, which are provided through the operator, should be avoided because they usually have a neutral or regressive impact and are less targeted when compared to demand side subsidies. Although demand side subsidies have disadvantages as discussed above, the Commission is of the view that theoretically it is the best way of subsidising public transport. The challenges identified above are real and unlikely to be addressed timeously for the user subsidies to be rolled out. In the interim, a suite of interventions (based on the classification of subsidies) may be appropriate, and this will be discussed later.

### **The funding mechanisms for public transport in South Africa**

- 5.28. The public transport subsidy allocations are guided by the principles established in the Constitution of the Republic of South Africa Act, 1996 (Act No. 108 of 1996), Public Finance Management Act, 1999 (Act No. 29 of 1999) (PFMA) and the annual Division of Revenue Act (DoRA). The section below provides a summary of funding per mode in the public transport sector.

#### **Rail industry**

##### *Metrorail and Shosholoza Meyl*

- 5.29. In South Africa, rail transport is considered a mass transportation mode and is regarded as playing a pivotal role in the provision of public transport. Metrorail services are considered a social service and provided for public benefit. The subsidy to Metrorail seeks to achieve social (affordability) and economic benefits for passengers. The DOT provides transfer payments to PRASA for capital and operational subsidies for the services provided.

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<sup>154</sup> SA Taxi finance. Article: <https://www.transactioncapital.co.za/downloads/taxi/TC%20website%20SA%20Taxi%20section.pdf>. Accessed on 20 August 2019.

5.30. The operational subsidy allocated to Metrorail is meant to subsidise over 500 million passenger trips per year in 6 metropolitan cities, and 700 000 long distance passengers.<sup>155</sup> **Table 5** below shows transfer payments to Metrorail between 2014/15 and 2018/2019.

**Table 5: Transfers and subsidies to PRASA from 2014/15 to 2018/19**

Subsidy transfers (R'000)	2014/15	2015/16	2016/17	2017/18	2018/19	Total (2014-19)
Metrorail - operations	R3 458 925	R3 618 036	R3 809 769	R3 666 839	R4 565 538	<b>R19 119 107</b>
Mainline passenger services - operations	R428 417	R448 124	R471 897	R1 370 932	R1 648 943	<b>R4 368 313</b>
Metrorail - capital	R11 058 959	R14 155 887	R14 608 601	R9 368 189	R8 362 232	<b>R57 553 868</b>
<b>Total</b>	<b>R14 946 301</b>	<b>R18 222 047</b>	<b>R18 890 267</b>	<b>R14 405 960</b>	<b>R14 576 713</b>	<b>R81 041 288</b>

Source: The National Treasury

5.31. In 2018/19, government allocated R6.2 billion in operational subsidies for Metrorail and Mainline passenger services. Between 2017/18 and 2018/19, the growth rate of the transfer to Metrorail was 24.5 per cent whereas for Mainline Passenger Services (MPL) the funding increased by 20.3 per cent in the same period.<sup>156</sup> In 2018/19 the transferred R6.2 billion subsidised approximately 392 million annual passenger trips on Metrorail and 60 million passenger trips on the long distance mainline passenger service.<sup>157</sup> The transfer payments for operations have been increasing over time from 2014/15 to 2018/19.

5.32. Government allocations on capital subsidies were over R8.3 billion in 2018/19 on Metrorail and Mainline passenger services. In 2018/19 the transfer for capital decreased by 10.7 per cent from 2017/18.<sup>158</sup> Between 2014/15 and 2018/19 government has spent over R57.5 billion for financing the railway networks infrastructure, maintenance of infrastructure, rolling stock fleet renewal programmes, signalling and refurbishment of coaches.

5.33. The increase in operational and capital subsidy has not been sufficient given the growing passenger numbers and the old rolling stock and railway infrastructure and as

<sup>155</sup> The National Treasury. 2018. "Estimates of National Expenditure."

<http://www.treasury.gov.za/documents/national%20budget/2018/ene/FullENE.pdf> (Accessed on 5 June 2019).

<sup>156</sup> The National Treasury. 2018. "Estimates of National Expenditure 2018".

<http://www.treasury.gov.za/documents/national%20budget/2019/ene/FullENE.pdf> (Accessed on 5 June 2019).

<sup>157</sup> PRASA Corporate Office. 2017. Annual Report 2017.

<https://www.prasa.com/Annual%20Reports/Prasa%20Annual%20Report%202016-17.pdf>

(Accessed on 5 June 2019).

<sup>158</sup> The National Treasury. 2019. "Estimates of National Expenditure 2019."

<http://www.treasury.gov.za/documents/national%20budget/2019/ene/FullENE.pdf> (Accessed on 05 June 2019).

a result this has caused financial pressure on PRASA. Inefficiencies in PRASA operations have been cited by many stakeholders as a major concern. Metrorail lost passengers to other modes of public transport due to challenges encountered. These issues will be expanded in **Chapter 6**.

#### *Gautrain Management Agency (Gautrain)*

- 5.34. Gautrain is a concession between the Gauteng Provincial Government (GPG) and Bombela Concession Company (Pty) Ltd (Bombela). It is a Public-Private Partnership project between GPG and Bombela and operated by the Gautrain Management Agency (GMA). The main objective of the Gautrain was to reduce traffic congestion in Gauteng, thus providing an alternative for private motor vehicle users.<sup>159</sup> Since the initial implementation of the project, in 2015, it was reported that congestion was reduced to 21 300 fewer car trips per day, resulting in a reduction in accidents and carbon footprint reduced by 52 per cent.<sup>160</sup>
- 5.35. Gautrain services have been provided for economic benefit and thus a precaution for emission and environmental degradation.<sup>161</sup> The Gautrain project receives a patronage guarantee (ridership guarantee) to incentivise performance until the end of the concession agreement. A patronage guarantee is a form of an operational subsidy granted to the Gautrain to ensure that the services of the Gautrain are effective, efficient and sustainable both in the short and long run. The model is designed to compensate for ridership when the mode is underutilised for a certain period.
- 5.36. Patronage guarantees payable to GMA increased from R1.4 billion to R2.8 billion between 2014/15 and 2017/18.<sup>162</sup> The ridership increased from 14.9 million to 15 million passenger trips annually between 2014/15 and 2017/18, showing a steady growth rate in passenger numbers. In 2017/18 the ridership declined by 588 710 passengers (approximately 3.9 per cent of the passenger trips annually). Nevertheless, this shows a slow growth in services since June 2010 was evident. In 2018/19

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<sup>159</sup> Gautrain Management Agency and Bombela Concession Company. 2017. Submission by Ms Judy Mackay. 24 August 2017. Page 1.

<sup>160</sup> Gauteng Management Agency. 2015. "Commissioned report to KPMG: The impact of Gautrain in Gauteng." July 2015.

<sup>161</sup> Gautrain Management Agency. *Op cit*. Page 1.

<sup>162</sup> Gautrain Management Agency. 2018. Annual Report 2017/18.

<http://gma.gautrain.co.za/performance/Pages/annual-reports.aspx> (Accessed on 06 June 2019).

passenger numbers further declined which increased the patronage to R1.6 million.

**Table 6** shows transfer payments to PRASA and Gautrain.<sup>163</sup>

**Table 6: Transfer payments to Gautrain from 2014/15 to 2017/18**

Subsidy Transfers (R'000')	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19
Gautrain: Operations	R1 031 732	R1 109 464	R1 201 674	R1 350 680	R1 571 858	1 648 843
Gautrain: Capital		0	0	0	0	0
Passengers	13 639 059	14 909 939	15 465 526	15 612 070	15 023 312	13 966 482

Source: Gautrain Management Agency

5.37. During the construction of the Gautrain project between 2006/07 and 2010/11, national and provincial government contributed R25.9 billion, and R2.7 billion was funded by the concessionaire. Therefore, no additional capital subsidy was granted after implementation in 2014.<sup>164</sup>

#### *Comparison of operational subsidy between Metrorail and Gautrain*

5.38. Comparison of the operational subsidies allocated to Metrorail and Gautrain reveals that Gautrain receives a greater proportion of subsidy per passenger compared to Metrorail. **Table 7** shows the operational subsidy per passenger for both Metrorail and the Gautrain in 2017/18.<sup>165</sup>

**Table 7: Urban rail commuter operating subsidy per passenger 2017/18**

	Annual subsidy ("R000")	Annual passengers	Operating subsidy per passenger	Fares charged: Pretoria to Centurion
Metrorail	R3 666 839	269 460 035	R13.61	R7.50
Gautrain	R1 571 858	15 023 312	R104.63	R32 (single trip)

Source: Commission's own compilation

5.39. **Table 7** shows that during 2017/18 the subsidy per passenger for Metrorail was R13.61 while the Gautrain subsidy per passenger was R104.63 during the same period. In 2017/18, the annual operational subsidy allocated to Gautrain per passenger was more than six times than that of Metrorail allocations. The disparity in the subsidy transfers between Gautrain and Metrorail have been cited as perpetuating class divisions in

<sup>163</sup> *Ibid.* The figures for 2018/19 as shown on table 6 are unaudited numbers.

<sup>164</sup> *Ibid.*

<sup>165</sup> The fare benchmark for Metrorail is based on the fare structure published in 2014. The Commission is in the process of acquiring recent data from Metrorail Gauteng regional office.

society. Gautrain is targeted for the middle class and yet receive high subsidy per passenger compared to Metrorail which is normally used by the working class. Several stakeholders were concerned that this practice of allocating more funding to Gautrain per passenger is not socially, morally and economically justified and resembles apartheid exclusionary practices.

### **Minibus taxi industry**

- 5.40. The minibus taxi industry has an estimated 300 000 individual operators and transports over 70 per cent of passengers in South Africa.<sup>166</sup> The majority of minibus taxi users are low income earners. The industry receives a capital subsidy from the government under Taxi Recapitalisation Programme (TRP) which commenced in 2006. The programme is discussed briefly in detail below.

#### *Taxi Recapitalisation Programme (TRP)*

- 5.41. In 1995, the National Taxi Task Team (NTTT) was set up to address problems in the industry and one of the resolutions was the replacement of old vehicles with new ones.<sup>167</sup> Government intervened by launching the TRP<sup>168</sup> to replace ageing fleet within the transportation system and also created opportunities in the manufacturing downstream activities.<sup>169</sup> The TRP was implemented as a subsidy to an operator to scrap an old vehicle and use the money as a deposit for a new vehicle which complied with the standards set by the public transport regulator.<sup>170</sup>
- 5.42. Section 49(2) of the NLTA outlines that the holder of a permit or operating licence for a vehicle authorising minibus taxi type services may apply in the prescribed manner for recapitalisation of the vehicle and may choose either to:
- 5.42.1. Leave the industry, in which case the DOT must cancel the permit or operating licence; or
  - 5.42.2. Acquire a new compliant vehicle that has the same passenger capacity as the vehicle specified in that permit or operating licence, or not more than a 20 per cent variance, in which case the operator shall be entitled to an

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<sup>166</sup> SA Taxi Finance Business Overview. 2018.

[http://www.transactioncapital.co.za/downloads/FY18\\_SA%20Taxi%20Funder%20Prospectus.pdf](http://www.transactioncapital.co.za/downloads/FY18_SA%20Taxi%20Funder%20Prospectus.pdf) (Accessed on 6 June 2019).

<sup>167</sup> Paul Browning. 2019. "Public transport funding: subsidy for the taxi users, the case study for subsidy." 16 April 2019.

<sup>168</sup> SA Taxi Finance. *Op cit.*

<sup>169</sup> *Ibid.*

<sup>170</sup> Van Ryneveld, P. 2018. "Urban transit transport analysis". *Urbanization Review*, January 2018.

operating licence for the new vehicle authorising the same service on submission of a valid tax clearance, and such operating licence must specify in detail the route or routes to be operated, which must be those operated by the operator for the period of 180 days prior to the date of application;

5.42.3. Acquire a new, compliant vehicle with more capacity on approval by the planning authority in writing, and the holder must submit the existing permit or operating licence to the Department for cancellation provided that the Minister may prescribe that more than one permit or operating licence held by that holder must be surrendered for cancellation to make up for the increase in capacity of the new vehicle. SANTACO Limpopo submits that one of the objectives of the TRP was to increase vehicle capacity to 22 seaters, particularly for interprovincial services.<sup>171</sup> Although the Act makes a provision that operating licence for 22 seater vehicles can be obtained by surrendering more than two 15 seater permits; SANTACO submitted that this has not been implemented in practice.<sup>172</sup>

5.43. With specific regard to recapitalisation provisions above, the recapitalisation of the minibus taxis is tied to the replacement of the indefinite permits. In its initial form, TRP included deadlines for operators to recapitalise their vehicles and permits were only converted to operating licences on the condition that an operator applies for an operating licence for a new compliant vehicle.

#### *TRP requirements*

5.44. The main objective of the TRP is to replace the old taxi vehicles (OTV) with the new taxi vehicles (NTV) designed to provide public transport services in the taxi industry. The TRP introduced the compulsory requirements for the new taxi vehicles to ensure that:

5.44.1. Safety requirements for passengers as set out by South African Bureau of Standards (SABS) were met,

5.44.2. Comfort for passengers and accessibility is realised by insistence on the size and number of seats, and

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<sup>171</sup> SANTACO Limpopo. 2018. Oral submission by Mr Mathebula, Limpopo hearings. 21 August 2018. Page 101.

<sup>172</sup> SANTACO Gauteng. 2018. Oral submission by Mr Jones, Gauteng hearings. 5 June 2018. Page 85.

- 5.44.3. There is colour coding of taxi vehicles to improve the ease with which illegal operators can be distinguished from the legal ones. This objective was never achieved.
- 5.45. All taxi operators with valid operating licences linked to a legally registered taxi qualify to participate in the TRP. The taxi vehicles undergoing scrapping are required to be registered and recognised as valid taxi vehicles on the current database of the department of transport. The Taxi Scrapping Agency (TSA) uses information on age profile of minibuses to predict the number of registered (particularly unroadworthy and unsafe) vehicles. This information is also used by the TSA to target and prioritise vehicles for scrapping. Although there is no specific age that qualifies the taxis for recapitalisation, older vehicles receive the priority.
- 5.46. With the launch of TRP, the operators that operated unsafe or old vehicles were given preference to register and subsequently replace these vehicles. The operators that operated fairly new vehicles were given a 7-year period to replace their vehicles, failing which the law would be enforced. The operators were also required to be registered as taxpayers to qualify for TRP participation.
- 5.47. The initial participation rate by minibus taxi operators was low as the details of the compensation model were not explicitly known. While the objective of TRP was clear, implementation was poor given the concerns raised by the industry about the scrapping subsidy not being sufficient to pay for the deposit of new vehicles.<sup>173</sup> For example, SANTACO submitted that the allowance is not equivalent to the deposit required to purchase a vehicle.<sup>174</sup> As such, participation declined over time and thus limited the government's intervention in addressing the problem of unroadworthy minibus taxis.<sup>175</sup>
- 5.48. The stringent credit approval processes by financial institutions and the exorbitant repayments were contributing factors for the low uptake of taxi recapitalisation.<sup>176</sup> The scrapping allowance, once approved, does not guarantee that funding from banks for a new vehicle will be approved (due to adverse credit profile) which meant that

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<sup>173</sup> Fobosi, S. 2018. Submission by Siyabulela Fobosi, 13 August 2018. Page 7.

<sup>174</sup> SANTACO Free State. 2018. Submission by SANTACO Free State. 30 August 2018. Page 12-13.

<sup>175</sup> Fobosi, S. 2018. Submission by Siyabulela Fobosi, 13 August 2018. Page 8.

<sup>176</sup> Port Elizabeth and District Taxi Association. 2018. Oral submission by Mr Ayanda Qoko, Eastern Cape hearings. 27 August 2018. Page 110.

Submission by Fobosi S. 13 August 2018. Page 8.

<https://www.sowetanlive.co.za/news/2019-04-25-taxi-industry-welcomes-blade-nzimandes-recapitalisation-programme/>. 25 April 2019 (Accessed 19 May 2019)

operators would lose a vehicle that was operational (though old) and not be able to replace it. This acted as a disincentive for operators to participate effectively in the programme.<sup>177</sup> The National Taxi Alliance submitted the exclusion of very old vehicles hampers the progress of minibus tax operators.<sup>178</sup>

5.49. The participation rate on the Taxi Recapitalisation Programme has been slow since 2009/10 and the bulk of minibus taxi fleet have been continuously ageing, requiring replacement in order to meet the safety standards.<sup>179</sup> The initial target for Taxi Recapitalisation Programme was to scrap 100 000 old vehicles and was later adjusted to 135 894 in 2007.<sup>180</sup> A total of 72 653 minibus taxis have been scrapped and a total amount of R4.4 billion was paid in scrapping allowances by the end of September 2018.<sup>181</sup>

5.50. To support the TRP, the DOT has made several changes. The initial amount paid to minibus taxi operators for scrapping a vehicle was R50 000 and adjustable in line with inflation (CPI) and was later increased to R95 000. In April 2019, DOT announced the Revised TRP with the appointment of the new service provider responsible for the administration and management of the programme. From 2019/20 the scrapping allowance is R124 000 which is equivalent to almost 20 per cent of the current cost of a minibus taxi.

5.51.

5.52. **Figure 7** shows the participation rate in the Taxi Recapitalisation Programme by minibus taxi operators between 2006/07 and 2018/19.

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<sup>177</sup> SANTACO Free State. 2018. Submission Free State hearings. 30 August 2018. Page 12-13.

<sup>178</sup> National Taxi Alliance. 2017. Submission. 28 August 2017. Page 28.

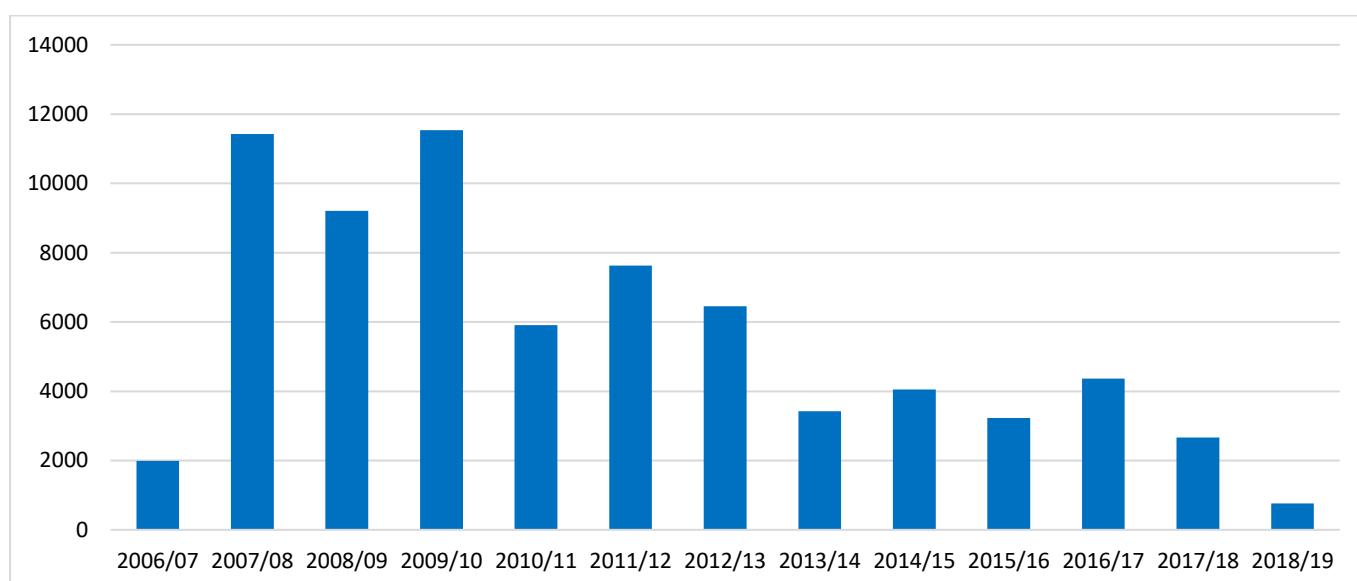
<sup>179</sup> SA Taxi Finance Business Overview, 2018.

<sup>180</sup> <https://www.gov.za/speeches/minister-blade-nzimande-revised-taxi-recapitalisation-programme-26-apr-2019-0000> (Accessed on 19 April 2019.)

<sup>181</sup> <https://www.gov.za/speeches/minister-blade-nzimande-revised-taxi-recapitalisation-programme-26-apr-2019-0000> (Accessed on 19 April 2019.)



**Figure 7: TRP participation rate by minibus taxi operators from 2006/07 to 2018/19**



Source: Department of Transport

## Bus industry

5.53. The commuter bus industry participates in tendered and negotiated contracts as will be discussed in much more detail in **Chapter 8**. The contracts are currently administered by provinces guided by the conditions set by DoRA. The DoRA seeks to make provisions for the equitable division of revenue among all spheres of government. In terms of DoRA, there are two grants that facilitate the operations of commuter buses: The Public Transport Operational Grant (PTOG) and the Public Transport Network Grant (PTNG) which are summarised below.

### *The Public Transport Operational Grant*

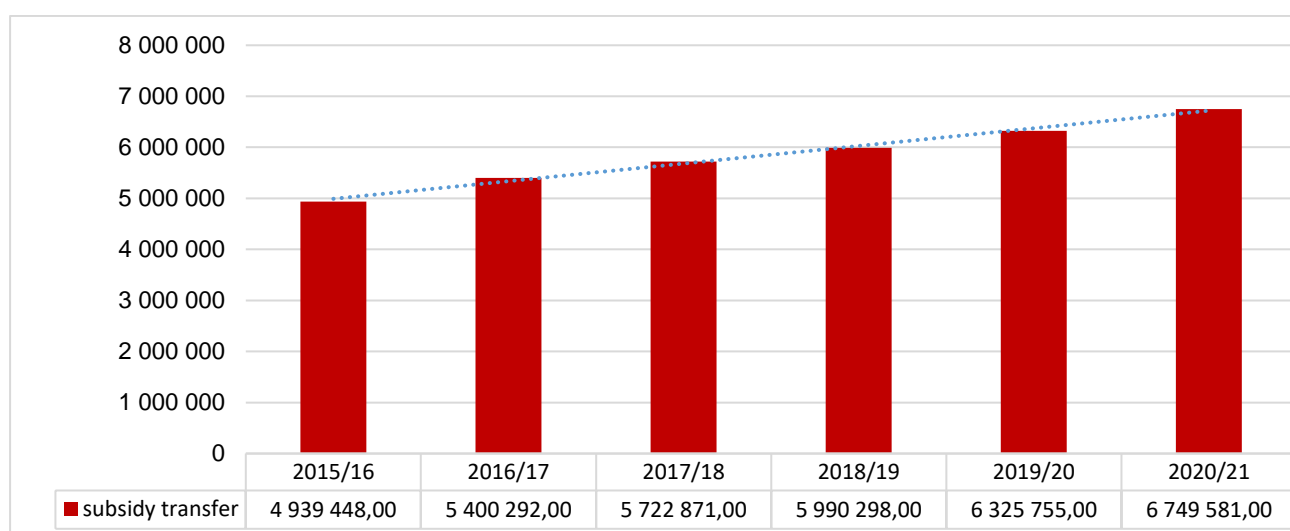
5.54. The PTOG subsidises commuter bus operations and dates to the apartheid regime. In the apartheid era these subsidies were allocated to provincial administrations on behalf of national government to private contracted buses such as PUTCO. The purpose of the grant is to provide supplementary funding (subsidies) towards public transport services contracted by provincial departments.<sup>182</sup> The PTOG is based on kilometres travelled by operators and contracting authority must supervise, monitor and verify the correctness of distance covered.<sup>183</sup>

<sup>182</sup> Department of Transport. 2019. Rural Transport Strategy 2016. Submission by DOT. 14 March 2019.

<sup>183</sup> South Africa. 2017. Division of Revenue Act, 2017 (Act No. 3 of 2017). Pretoria: Government Printers.

5.55. Out of 25 000 bus operators in the industry, only 7 500 operators are subsidised by the government.<sup>184</sup> **Chapter 7** will cover the different categories of contracts existing in the nine provinces. Figure 8 shows PTOG expenditures from 2014/15 to 2018/19 and projected estimates for 2020/21. PTOG is increasing gradually year to year in line with inflation.

**Figure 8: PTOG expenditure and estimates from 2014/15 to 2020/2021 (R “000)**



Source: National Treasury

5.56. KwaZulu-Natal, Western Cape and Gauteng receive 80 per cent of the grant while Limpopo, Eastern Cape and North West, all of which are former homelands, receive the lowest allocations. Provinces supplement the PTOG from their own equitable share.<sup>185</sup> The smaller rural provinces are not prioritised in terms of funding for public transport because of their population size.<sup>186</sup> For instance, in Nelson Mandela Bay, funding is alleged to be insufficient with Algoa Bus Company limited to within the metro and commuters from rural areas or townships are not funded.<sup>187</sup>

### *The Public Transport Integrated Network Grant*

5.57. As will be discussed in **Chapter 8**, the Public Transport Network Grant originated in 2006 as an effort to prepare for the 2010 Soccer World Cup. The grant later

<sup>184</sup> Department of Transport. 2019. Engagement between DOT and Competition Commission. 14 March 2019.

<sup>185</sup> Inter State Bus Service. 2018. Submission by Inter State Bus Service. 30 August 2018.

<sup>186</sup> *Ibid.*

<sup>187</sup> National Treasury. 2018. Oral submission by Ms Britton, Gauteng hearings. 10 October 2018. Page 24-25.

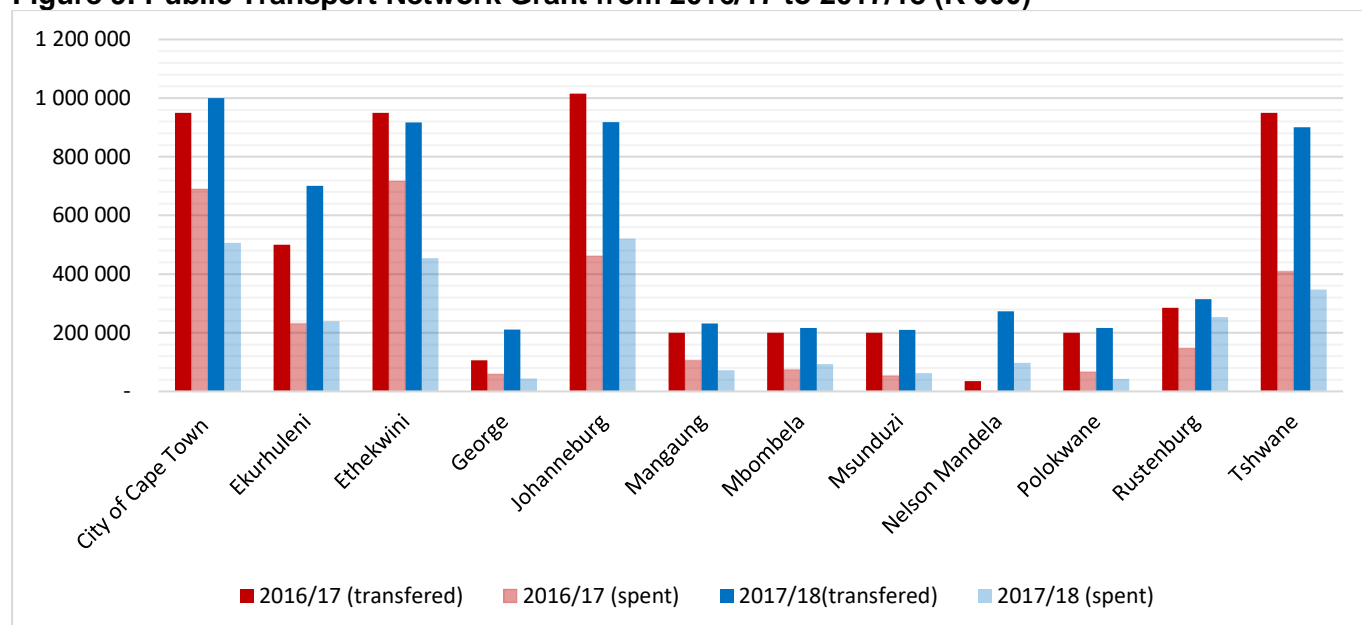
<sup>188</sup> Nelson Mandela Metropolitan Municipality. 2018. Submission by Ms Jawa. 13 August 2018.

transitioned to focus on Integrated Rapid Public Transport Networks (IRPTNs) and is currently transferred to 8 metros and 4 municipalities.<sup>188</sup> The grant is not meant for BRTs only, but to create an integrated public transport network of which BRTs form part of IRPTNs. The strategic goal of the PTNG is to support the provision of accessible, reliable and affordable integrated public transport services.

5.58. The total funding for the PTNG increased from R5.9 billion to R6.1 billion between 2015/16 and 2017/18.<sup>189</sup> A substantial amount of the funding is allocated to the eight metros and the rest is allocated to local municipalities. However, the grant has been underspent by all the cities for 2016/17 and 2017/18 financial years.<sup>190</sup> Some of the reasons highlighted for under expenditure include the inefficiency and unsustainability of the current IRPTN system which resulted in delays.<sup>191</sup> Some of the cities lack the requisite skills and expertise to carry out public transport functions.<sup>192</sup>

5.59. **Figure 9** shows the allocation and spending of the PTNG in 12 municipalities.

**Figure 9: Public Transport Network Grant from 2016/17 to 2017/18 (R'000)**



Source: Department of Transport

<sup>188</sup> The National Treasury. 2018. Oral submission by Ms Britton, Gauteng hearings. 10 October 2018. Page 1

<sup>189</sup> The National Treasury – Estimates of National Expenditure 2019.

<sup>190</sup> <http://www.treasury.gov.za/documents/national%20budget/2019/ene/FullENE.pdf> (Accessed on 05 June 2019.)

<sup>191</sup> The National Treasury. *Ibid.*

The National Treasury. 2018. Oral submission by Ms Britton. Gauteng hearings. 10 October 2018.

<sup>192</sup> Spectrum Alert. 2018. Submission by Mr King. 13 August 2018.

<sup>193</sup> Western Cape Department of Transport and Public Works. 2018 Oral submission by Mr Collins, Western Cape hearings. 20 June 2018. Page 9 and 20.

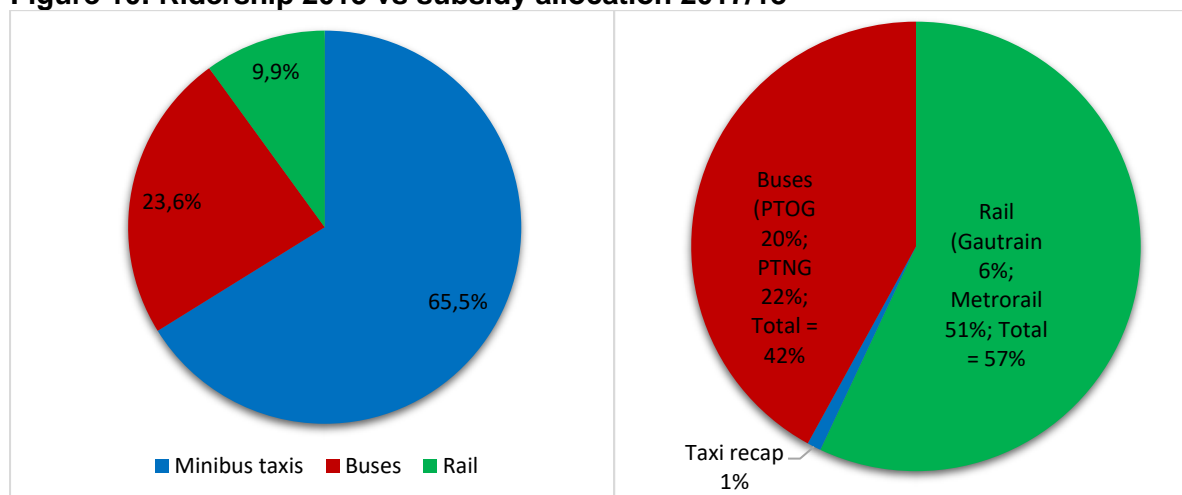
## Analysis of subsidy allocation versus transport usage

5.60. The minibus taxi industry accounts for approximately 66.5 per cent of commuters, buses 23.6 per cent and rail 9.9 per cent.<sup>193</sup>

5.61.

5.62. **Figure 10** shows the ridership relative to the allocation of subsidies across the different modes of public transport. Ridership for minibus taxis is 66.5 per cent while the TRP subsidy is 1 per cent of the total government transport subsidy for 2017/18.<sup>194</sup> Misalignment between ridership volumes and the allocation of subsidies is evident across the different modes of public transport. Despite the quality differences provided by each mode of transport, these disparities cannot be socially justifiable.

**Figure 10: Ridership 2015 vs subsidy allocation 2017/18**



Source: National Treasury and Stats SA

5.63. Minibus taxis are the most expensive mode of public transport and yet transport most of the commuters who prefer minibus taxis because of the expansive route network, easy access to commuters and are reliable compared to subsidised buses and Metrorail. Minibus taxis have been resilient with no sign of decline and government must consider supporting this industry given the inefficiencies in other subsidised modes. The budget allocated to TRP is inadequate to replace all the old vehicles on the road. Adequate funding through the TRP will have both economic and social benefits – safe vehicles on the road.

<sup>193</sup> Statistics South Africa. <http://www.statssa.gov.za/?p=5943> (Accessed on 17 May 2018).

<sup>194</sup> National Treasury. 2018. Oral submission by Ms Britton, Gauteng hearings. 10 October 2018. Page 8.

## Analysis of the grants – infrastructure vs operational grants

5.64. Typically, subsidies for public transport are classified as follows:

- 5.64.1. *Capital subsidy*: considers maintenance and replacement costs of an asset. The subsidy is mainly aimed at keeping the general level of fares low so that passengers do not bear the additional cost, and they also ease the financial pressure on respective operators;
- 5.64.2. *Loss/operating subsidy*: compensates the difference between an operator's total costs and total revenue/income;
- 5.64.3. *Input subsidies*: compensate for certain elements of the total cost or operating cost. The supplier of the subsidy normally sets certain prerequisite efficiency ratios and standards for the subsidy allocated in order to avoid inefficiencies and larger subsidy amounts over time;
- 5.64.4. *Output subsidy*: is paid for the output of the operator, such as the number of passengers served, and the number of kilometres driven;
- 5.64.5. *Tariff subsidy*: compensates the commuter when he/she cannot pay the full economic fare of the service. It is the difference between the actual transport fare charged and the economic transport fare (the real economic cost of the trip).

5.65. These subsidies may further be categorised more broadly as either infrastructure-related subsidies or operational subsidies. The infrastructure or capital subsidy is largely meant for subsidising the development and maintenance of public transport infrastructure and networks whilst the operational subsidy support daily operations.

**Table 8** shows the share of allocation for public transport subsidies between infrastructure and operational subsidies.

**Table 8: Share of public transport funding for infrastructure vs operations, 2018/19**

Public transport subsidies	Transfers: sphere of government	Allocation ("000")	Percentage share (%)
<b>Operation/current subsidy</b>			
Metrorail/Shosholozza Meyl – operations	National entity	R 7 416 736	25%
Public Transport Operation Grant (PTOG)	Provinces	R 5 990 298	20%
Gautrain Patronage Guarantee	Gauteng Province	R 1 648 843	5%
<b>Sub-Total</b>		<b>R15 055 877</b>	<b>50%</b>

<b>Infrastructure/capital</b>			
Metrorail – capital	National entity	R8 362 232	28%
Public Transport Network Grant (PTNG)	Local government	R 6 253 669	21%
Taxi Recapitalisation Programme (TRP)	National entity	R 411 605	1%
<b>Sub-Total</b>		<b>R15 027 506</b>	<b>50%</b>
<b>Grand Total</b>		<b>R30 116 383</b>	<b>100%</b>

Source: Commission's compilation

- 5.66. For 2018/19, 29 per cent of the funding is allocated to Metrorail as a form of capital subsidy and this is targeted at rolling stock fleet renewal, signaling and refurbishment of coaches for both Metrorail and Shosholoza Meyl. Almost 22 per cent of the funding is allocated to Metrorail and Shosholoza Meyl operations which are largely focused on rail commuter services in four provinces and long-distance passenger services in South Africa. Metrorail/Shosholoza Meyl account for almost half of the public transport subsidies (summation of operational and capital subsidies).
- 5.67. For the 2018/19 financial period, approximately 20 per cent of the public transport funding was allocated to municipalities as PTNG. PTNG is targeted at accelerating construction, improvement of public and non-motorised transport infrastructure that form part of a municipal integrated public transport network and to support the planning, regulation, control, management and operations of financially sustainable municipal public transport network services.
- 5.68. Provincial subsidised commuter buses account for 20 per cent of the funding for the 2018/19 financial period. Gautrain receives a patronage guarantee as a form of an operational subsidy which accounts for 6 per cent of the total subsidies. There is no capital subsidy for the Gautrain at the moment, however, DOT and National Treasury allocated 40% of the capital costs of the Gautrain in the period 2006 to 2012 ("the development period"). Future expansion of the Gautrain will require capital subsidies from government.
- 5.69. Over the past five years, (2014 to 2019 financial years), infrastructure-related subsidies received the greatest proportion of funding compared to operational subsidies. For the five year period, average split in funding was 60 per cent for infrastructure subsidies and 40 per cent for operational subsidies as shown in **Table 9**.

- 5.70. Despite the substantial investment in infrastructure, the outcomes in terms of expansion of services to marginalised areas has not yet been achieved. Most of the infrastructure investments are limited to urban areas. Government has also attempted through province to allocate additional funding targeted at improving provincial road infrastructure as discussed below.

**Table 9: Public transport related subsidies 2014/15 to 2018/19**

Allocation ("000")/ Percentage share	2014/15	%	2015/16	%	2016/17	%	2017/2018	%	2018/2019	%	5-year average (%)
<b><u>Infrastructure/capital</u></b>											
Capital: Metrorail	R11,058,959	41%	R14,155,887	46%	R14,698,601	46%	R9,368,189	33%	R8,362,232	28%	39.1%
Public Transport Network Grant (PTNG)	R5,870,848	22%	R5,953,090	19%	R5,592,691	18%	R6,107,057	22%	R6,286,669	21%	20.2%
Taxi Recapitalization programme (TRP)	R300,063	1%	R248,402	1%	R359,352	1%	R233,542	1%	R411,605	1%	1.1%
<b>Sub-Total</b>	<b>R17,229,870</b>	<b>64%</b>	<b>R20,357,379</b>	<b>66%</b>	<b>R20,650,644</b>	<b>65%</b>	<b>R15,708,788</b>	<b>56%</b>	<b>R15,060,506</b>	<b>50%</b>	<b>60.4%</b>
<b><u>Operation/current</u></b>											
Operation: Metrorail and Shosholoza Meyl	R3,887,342	14%	R4,066,160	13%	R4 281,666	14%	R5,037,771	18%	R7,416,736	25%	16.7%
Public Transport Operation Grant (PTOG)	R4,832,709	18%	R4,939,448	16%	R5,400,292	17%	R5,722,871	20%	R5,990,298	20%	18.2%
Patronage guarantee	R1,109,464	4%	R1,201,674	4%	R1,350,680	4%	R1,571,858	6%	R1,648,843	5%	4.7%
<b>Sub-Total</b>	<b>R9,829,515</b>	<b>36%</b>	<b>R10,201,282</b>	<b>33%</b>	<b>R11,032,638</b>	<b>33%</b>	<b>R12,332,500</b>	<b>44%</b>	<b>R15,055,877</b>	<b>50%</b>	<b>39.6%</b>
<b>Grand Total</b>	<b>R27,059,385</b>	<b>100%</b>	<b>R30,564,661</b>	<b>100%</b>	<b>R31,683,282</b>	<b>100%</b>	<b>R28,041,288</b>	<b>100%</b>	<b>R30,116,383</b>	<b>100%</b>	<b>100%</b>

Source: Commission's compilation based on National Treasury and DOT reports



#### *Other public transport-related subsidies*

- 5.71. *Provincial Roads Maintenance Grant (“PRMG”)*: this is a conditional grant allocated to provinces to supplement provincial budgets for the repair and maintenance of road network and infrastructure and to improve road safety with a special focus on pedestrian safety in rural areas. About 49 000 kilometres of the South African paved road network remain under the control of provincial transport departments. The bulk of maintenance operations carried out on provincial roads are funded through the PRMG. Allocation for 2018/19 amounted to R11 billion.<sup>195</sup> The condition of roads, weather patterns and traffic volumes are factors that guide funding allocations for the maintenance of provincial roads.
- 5.72. *Rural Road Asset Management Systems (“RRAMS”)*: this is a current subsidy (operational grant) transferred by DOT to district municipalities to assist in the setting up of rural Road Asset Management Systems (“RAMS”). RAMS assist to collect road, bridges and traffic data information on municipal road network in line with the Road Infrastructure Strategic Framework for South Africa (RISFSA).<sup>196</sup> Allocation for 2018/19 totalled R108 million.<sup>197</sup>
- 5.73. *South African National Road Agency (“SANRAL”): Non-toll network* – this grant assist SANRAL to carry out upgrades maintenance and strengthening programmes of the non-toll portfolios on roads. Non-toll roads constitute approximately 85 per cent of the national roads portfolio and are funded through transfers to SANRAL from DOT. The 2018/19 allocation equated to R6.9 billion for capital subsidy.

#### **Analysis of the fragmented public transport subsidies**

- 5.74. As discussed above (see **Table 8**), public transport subsidies are transferred to all spheres of government as well as different entities which account to these spheres of government. The set-up of the current subsidy framework is resulting in fragmentation which compromises the delivery of the public transport services. Fragmentation arises due to failures in the intergovernmental coordination despite the existence of planning committees as envisaged by the NLTA. By way of illustration, subsidies are transferred to provinces for contracted bus services (PTOG) and these buses operate across municipal boundaries. The 13 cities

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<sup>195</sup> National Treasury, 2019 budget – Department of Transport Budget Vote, page 741

<sup>196</sup> The National Treasury expenditure estimates has categorized this grant as a current subsidy.

<sup>197</sup> National Treasury, 2019 budget – Department of Transport Budget Vote, page 741

receive PTNG for bus operations within their jurisdiction. Theoretically, with proper coordination, public transport services within these 13 cities may be provided adequately, however, the benefits economies of scale in negotiations and efficiencies derived from integrated planning are compromised. Outside of the 13 cities that receive PTNG, contracted bus services are managed by the provinces.

- 5.75. Commuter rail services are provided by Metrorail and Gautrain (in Gauteng only). In Gauteng, based on the principles of integrated public transport system, Metrorail and Gautrain should be run by the same entity (**see Chapter 6**). It is also inefficient for Metrorail services to be managed by an entity which is accountable to national government. In its policy documents, the DOT highlights the urgent need to devolve commuter rail to local government to foster integration, cater for local needs and improve accountability. In terms of international experience, devolution of rail has different benefits and opportunities which include:<sup>198</sup>
  - 5.75.1. Boosting economic growth and productivity - devolution gives local authorities powers over economic enablers such as housing, transport, skills and infrastructure, they will be able to boost economic growth and productivity locally.
  - 5.75.2. Reforming public services - devolution offers the chance to better consolidate public services at a local level, gaining efficiencies from closer working between public services.
  - 5.75.3. Increasing innovation - devolution could both provide a greater number of opportunities to try new ways of working, and lead to smaller, more localised services that are able to fail and adapt with fewer consequences than large, uniform national systems.
- 5.76. Devolution of rail from national government to provinces is discussed in detail in **Chapter 6**.
- 5.77. As discussed in **Chapter 4**, international experience also suggests that the devolution of public transport functions (all transport modes) in general to **metros, city-regions or provinces** was motivated by the need to foster coordination in planning, decision making and encourage an integrated and comprehensive urban transport system. In addition, amalgamation of previously fragmented government

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<sup>198</sup><https://www.instituteforgovernment.org.uk/sites/default/files/publications/4681%20IFG%20-%20Making%20a%20Devolution%20final.pdf> [accessed on 31 July 2019]

entities and funding is a common trend given the efficiencies that would be derived. It is argued that public transport should be considered as an integrated system and therefore interventions should be provided in an integrated manner.

- 5.78. Given the principles outlined above, to promote integration, subsidies should be transferred to the most appropriate level of government to minimise intergovernmental coordination failures. In the South African context, as argued in **Chapter 4**, local government does not prioritise public transport and there is lack of capacity, provinces through the Provincial Transport Authorities with additional capacity may be better placed to manage the subsidies.

#### **Potential challenges of consolidating subsidies under Provincial Transport Authorities**

- 5.79. The Commission notes that the consolidation of subsidies under the Provincial Transport Authorities will not be without challenges. Based on international experience, likely challenges include the following:

- 5.79.1. Building capacity to take on new powers especially managing and operating rail by provinces (**further details in Chapter 6**) may take time. New systems need to be established to ensure that subsidised transport is available to majority of the people. Highly skilled capacity to manage expanded budgets and mandate must be in place or sourced.
  - 5.79.2. Transfers of subsidies to the Provincial Transport Authorities results in the re-allocation of financial resources from national and local government to provinces. This might cause intergovernmental friction especially in instances where approval for specific activities from national government is required. Based on international experiences, national governments are reluctant to lose control of the budget despite strong and credible motivation for consolidating subsidies to ensure effective planning.
  - 5.79.3. Labour related matters must be considered to reduce redundancies and standardising working conditions in case some personnel is moved from local government to the Provincial Transport Authority. Protracted engagements with the labour unions has slowed the formation of transport authorities in other countries.
- 5.80. Financial management has been identified as a challenge in some of the provinces and additional budget allocations may worsen the situation unless this is prioritised.

The Auditor General (“AG”) was noted general culture of non-compliance in procurement processes with lack of consequence for transgressing provinces.<sup>199</sup>

- 5.80.1. In the *Free State*, the province’s audit outcomes significantly regressed over four years as noted by the AG’s audit report for 2017/18. The Police, Roads and Transport department was highlighted to have regressed from an unqualified audit opinion with findings to a qualified audit opinion in 2017/18 with irregular expenditure of R1.6 billion.<sup>200</sup> Gauteng province was commended by the AG for improving its audit outcomes over the past 4 years. However, R 2.1 billion was highlighted was irregular expenditure in the Department of Roads and Transport as a result of extension of the bus subsidy legacy contracts.
- 5.80.2. In *Western Cape*, the AG noted a culture of accountability and sound management practices and the Department of Transport is running efficiently with sound financial management.
- 5.80.3. In *KwaZulu-Natal*, the AG noted that the Department of Transport received qualified opinions for the past 4 years with significant amounts of irregular expenditure. The Department of Transport was one of 4 departments that accounted for 94 per cent of the irregular expenditure flagged in the province to the sum of R10.68 billion.
- 5.80.4. In *Eastern Cape*, the AG has expressed concerns about the culture of non-compliance which led to irregular expenditure of R5.26 billion in the province. The AG commended the province for spending nearly 99% of its allocated conditional grants for the 2017/18 financial year. However, issues relating to project planning, project management, increase in variation orders and limited oversight are still concerning.
- 5.80.5. In *North West*, overall audit outcomes regressed over the last four years with only 32% of the auditees obtaining financially unqualified opinions in 2016/17 compared to 46% in 2015/16. The provincial department of

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<sup>199</sup> Auditor General of South Africa 2017/18 Audit outcomes. “Provincial Overview” Article: <https://www.agsa.co.za/Portals/0/Reports/PFMA/201718/GR/Section%204%20-%20Provincial%20overviews.pdf> [accessed on 22 August 2019].

<sup>200</sup> Auditor General South Africa Annual Report 2017/2018, “Provincial Overview” Article: <https://www.agsa.co.za/Portals/0/Reports/PFMA/201718/GR/Section%204%20-%20Provincial%20overviews.pdf> [accessed on 22 August 2019].

Community Safety and Transport Management was among the five government departments which were placed under administration in 2017/18 in terms of section 100(1)(b) of the Constitution. In 2017/2018, the department of Community Safety and Transport Management was among the three departments that contributed to 76 per cent of irregular expenditure in the province.

5.80.6. In *Northern Cape*, the AG noted a slight regression in audit outcomes due to internal control weaknesses, the culture of non-compliance with applicable legislation and lack of accountability.

5.80.7. In *Mpumalanga*, the AG noted that province remained stagnant with no significant improvement in the audit outcomes, as there were still widespread weaknesses in the internal control environment. Supply chain management continued to be a challenge and weaknesses in this area contributed to 94 per cent of the total irregular expenditure R3.2 billion incurred in 2017/18.

## Findings

5.81. The Commission reviewed the evidence and has made the following findings:

5.81.1. Government does not currently have a subsidy policy for public transport. The Commission is aware that the DOT recently awarded a tender for a development of a subsidy policy.<sup>201</sup>

5.81.2. The current public transport subsidy regime is highly fragmented with minimum coordination. The current subsidies are focussed on transfers to different spheres of government with minimal consideration to promote integration. Current subsidies seem to be standalone interventions with limited coordination given the involvement of all spheres of government in public transport. The DOT in its 2017 Draft White Paper submits that the problem of fragmented subsidies can be solved by having a dedicated funding source for public transport.

5.81.3. Public transport in general is not prioritised by local government and therefore public transport grants to local government must be reviewed. Some cities rolling out BRT use external consultants to assist with infrastructure development.

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<sup>201</sup> Department of Transport. 2017. Public Transport Subsidy Tender Document. July 2017.

- 5.81.4. The minibus taxi industry transports the largest proportion of passengers and is not subsidised. This misalignment between ridership volumes and the allocation of subsidies requires attention and is not socially justifiable.

## **Recommendations**

- 5.82. The Commission notes that government, through the DOT, is currently in the process of developing the subsidy policy. The Commission recommends that the subsidy policy be finalised and consider the following:

- 5.82.1. The subsidy policy to address some of the fragmented subsidies in the public transport sector.
  - 5.82.2. The subsidy policy should address the skewed allocations between urban and rural areas.
  - 5.82.3. The subsidy policy should create incentives for infrastructure investment in marginalised areas. This may assist in attracting transport services by private players.
  - 5.82.4. The subsidy policy should incentivise expansion of rail in high density corridors.
  - 5.82.5. Subsidisation of the minibus taxi industry through increased funding for the Taxi Recapitalisation Programme (a capital subsidy) to address the misalignment between ridership volumes and the allocation of subsidies. The increase in the TRP will provide reasonable capital as a deposit for new vehicles.
- 5.83. To improve coordination and minimise subsidy fragmentation, dedicated transport authorities at provincial level (Provincial Transport Authorities) after being established will be the recipient of all public transport-related subsidies. Subsidies that will be transferred to Provincial Transport Authorities include: PTNG, PTOG, Metrorail operational subsidies (after devolution), Provincial Road Maintenance Grant (PRMG) and the Taxi Recapitalisation Programme. Provincial Transport Authorities may then enter into sub-contracting arrangements with metros to ensure current IRPTN/BRT contracts or services are not compromised during the transition phase or until the contracts come to an end.
- 5.84. Provincial governments to ensure that Provincial Transport Authorities are established and well capacitated to undertake these additional functions. The DOT

in its revised 2017 White Paper proposes that transport authorities or an equivalent structure be established in order to facilitate the integration of all public transport services. Provincial Transport Authorities will determine the appropriate mode of transport based on the subsidy received from national government.

## 6. THE RAIL SECTOR

### Introduction

6.1. This chapter focuses on commuter (passenger) rail sector and firstly provides regulatory framework in the industry. The subsidy framework and challenges in the industry are discussed. The chapter later discusses the assessment of the state of intramodal competition and concludes with findings and recommendations.

#### *Regulatory framework, policy and strategies for rail transport*

6.2. As indicated in **Chapter 3**, public transport is listed in Schedule 4 of the South African Constitution (No. 108 of 1996) as a national and provincial competence.<sup>202</sup> The rail sector is guided mainly by the 1996 White Paper, the Public Transport Strategy of 2007 and the National Land Transport Act No. 5 of 2009 (NLTA).

6.3. The other legislation that governs the passenger rail sector includes the National Railway Safety Regulator Amendment Act, 2002 (Act No. 16 of 2002 as amended) which provides for the establishment of the Railway Safety Regulator (RSR) which is an independent body enforcing and improving the level of operational railway safety.<sup>203</sup>

6.4. In June 2017, the DOT produced a Draft White Paper on the National Rail Policy, which aims to guide developments in the rail sector. One of the interventions is to achieve rapid urban transport with provincial governments encouraged to develop business plans for regional rapid transit to foster integration between heavy metro and low capacity sub-modes. The intention is to maximise connectivity between urban and regional rail systems as well as minimise the number of motor cars that traverse urban areas by providing affordable, convenient, safe, and secure rail service.<sup>204</sup>

#### *Industry role players*

6.5. The DOT is responsible for the development of sustainable rail transport policies, rail economic and safety regulations and infrastructure development strategies in order to improve public transport systems and reduce operational costs and enhance customer

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<sup>202</sup> Gauteng Management Agency and Bombela Concession Company – Joint submission by Judy Mackay dated 24 August 2017, page 16.

<sup>203</sup> Railway Safety Regulator Annual Report 2015 – 2016, page 10. Available at: [https://nationalgovernment.co.za/entity\\_annual/1041/2016-railway-safety-regulator-\(rsr\)-annual-report.pdf](https://nationalgovernment.co.za/entity_annual/1041/2016-railway-safety-regulator-(rsr)-annual-report.pdf) [Accessed on 03 June 2019].

<sup>204</sup> South Africa, Republic. Draft White Paper on Rail National Transport Policy 2017. Pretoria: Government Printers.



services.<sup>205</sup> DOT oversees state owned entities and agencies such as PRASA and RSR.<sup>206</sup> The RSR is an agency of the DOT that ensures safety and quality standards in rail public transport and oversees railway public transport operators and issues safety permits on annual basis.<sup>207</sup>

- 6.6. In South Africa, commuter rail has largely been the responsibility of the national government through PRASA. PRASA's main responsibility is to deliver commuter rail services, long distance (intercity) rail services between the metropolitans of South Africa and from the borders of the Republic of South Africa. In delivering the services, the entity is supported by Metrorail in four regions (Western Cape, Eastern Cape, Gauteng and KwaZulu-Natal).<sup>208</sup>
- 6.7. In addition to PRASA, the GMA and Bombela Concession Company (Pty) Ltd are in public private partnership with Gauteng Provincial Government for the provision of urban rail commuter services through Gautrain. In terms of the Gauteng Transport Infrastructure Act of 2001, Bombela agreed that it would design, partly fund, construct, operate and maintain a rapid link under a 19 and a half year concession while the Gauteng provincial department owns the system assets.<sup>209</sup> The GPG contributed 50 per cent of the capital costs of the Gautrain project through the allocations to the Gauteng Department of Roads and Transport and the GMA.<sup>210</sup> The GMA is accountable to the Member of the Executive Council for Roads and Transport in Gauteng. The Gautrain Management Agency Amendment Bill of 2017 provides for the GMA to oversee and manage the further extension of the Gautrain rapid rail system as per the approved Gauteng Rapid Rail Extensions Feasibility Study Report.<sup>211</sup>

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<sup>205</sup>Gautrain Management Agency- Submission by Ms Judy Mackay, dated 24 August 2018; National Department of Transport, Available at: <http://www.transport.gov.za/web/departement-of-transport/rail> [Accessed on 05 June 2019].

<sup>206</sup> Department of Transport Annual Report 2017/18, page 36. Available at: [http://www.transport.gov.za/documents/11623/41419/Final\\_DOTAnnualReport2017\\_18.pdf/61eaaaea-6d32-4015-8626-af926c2e159b](http://www.transport.gov.za/documents/11623/41419/Final_DOTAnnualReport2017_18.pdf/61eaaaea-6d32-4015-8626-af926c2e159b) [Accessed on 3 June 2019].

<sup>207</sup> Railway Safety Regulator Annual Report 2015 – 2016, page 10. Available at: [https://nationalgovernment.co.za/entity\\_annual/1041/2016-railway-safety-regulator-\(rsr\)-annual-report.pdf](https://nationalgovernment.co.za/entity_annual/1041/2016-railway-safety-regulator-(rsr)-annual-report.pdf) [Accessed on 03 June 2019]

<sup>208</sup> PRASA's 2015/2016 Annual Report.

<sup>209</sup> South Africa, Republic. Gauteng Transport Infrastructure Act, 2001 (Act no.8 of 2001). Pretoria. Government Printers.

<sup>210</sup> Gautrain Management Agency and Bombela Concession Company (Pty) Ltd- Joint submission by Ms Judy Mackay dated 24 August 2017, page 16.

<sup>211</sup> Gautrain Management Agency – Oral Submission by Mr Van Der Merwe, Gauteng Hearings dated 06 June 2018, page 67.

- 6.8. Provincial governments are involved in formulation of provincial policy and oversight. Municipalities are planning authorities responsible for the preparation of the public transport plans at local level. Municipalities are responsible for spatial planning, transport integration and the development and implementation of ITPs and IPTNs for all modes of public transport including rail.<sup>212</sup> However, eThekweni municipality indicated that it plays a minimal role in planning for rail and only incorporates input developed by PRASA in the public transport plans.<sup>213</sup> Coordination is required to minimise misalignment of plans between the planning authorities and rail operators.<sup>214</sup> In other municipalities such as Buffalo City, Metrorail coordinates its planning with the municipality.<sup>215</sup>

#### **Funding arrangement in the rail industry**

- 6.9. This section discusses the funding arrangement in the rail sector with specific reference to PRASA and Gautrain. Detailed discussion on the subsidy framework is in **Chapter 4**.
- 6.10. The National Treasury allocates capital and operational grants to the DOT and the funds are then transferred to PRASA. The funding for Gautrain is allocated directly from the Gauteng Province to the GMA. The spending of funds is guided by the annual Appropriation Act and the PFMA.
- 6.11. There are three different types of subsidies that are dispersed to the rail sector and that include operational, capital and patronage guarantee. The operational subsidy is allocated to PRASA for operations and to ensure that fares are affordable. Capital subsidy is for infrastructure upgrade, refurbishment and procurement of new rolling stock. Capital subsidy is allocated to PRASA Tech and Intersite according to their mandates, as subsidiaries of PRASA.
- 6.12. The operational subsidy is allocated to Metrorail and MLPS.<sup>216</sup> The Gautrain receives patronage guarantee from the Gauteng Provincial Government. The patronage guarantee is a “ridership guarantee” which guarantees the Gautrain a “minimum required total revenue”. If Gautrain does not reach its revenue, the government makes

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<sup>212</sup> PRASA Corporate Office – Oral submission by Ms Lubbe, Gauteng Hearings, dated 08 June 2018, Page 97.

<sup>213</sup> eThekweni Transport Authority and Competition Commission- Notes of the meeting dated 17 October 2017, page 1.

<sup>214</sup> Metrorail – Oral submission by Mr Hattingh, KwaZulu-Natal Hearings, dated 27 June 2018, page 42.

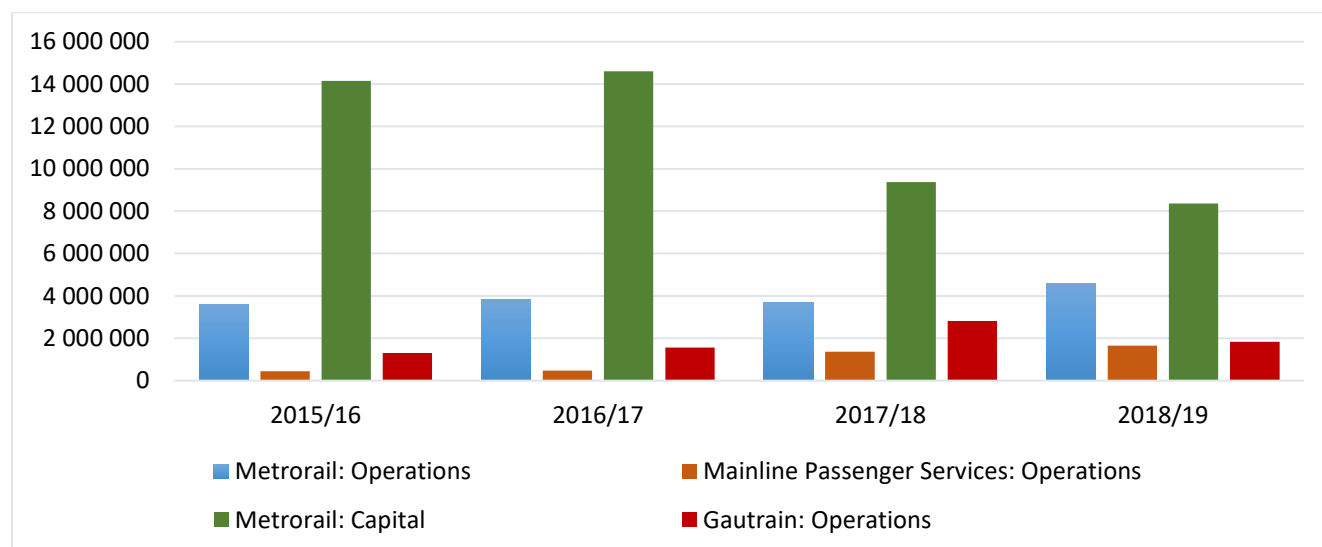
<sup>215</sup> Metrorail – Oral submission by Mr Bosch, Eastern Cape Hearings, dated 27 August 2018, page 11.

<sup>216</sup> PRASA Corporate Office– Oral submission by Ms Lubbe, Gauteng Hearings dated 08 June 2018, page 93.

provision for the shortfall, the difference between the expenditure stream and the income stream.<sup>217</sup>

- 6.13. Metrorail receives the highest operational subsidy compared to Gautrain. In 2017/18, the Gautrain received the highest patronage guarantee a result of decline in passenger numbers. **Figure 11** shows subsidy transfers to Metrorail, Mainline Passenger Service (MPLS) and GMA.

**Figure 11: Subsidy transfers for Gautrain and Metrorail from 2015/16 to 2018/19 (R'000)**



Source: National Treasury 2019

### **Rail public transport offering**

- 6.14. Rail public transport is considered as a mass transport mover and currently operates heavy rail commuter networks in metropolitans' areas.<sup>218</sup> PRASA also provides long distance (intercity) rail services through Mainline Passenger Services that operate Shosholoza Meyl.<sup>219</sup> The Gautrain provides urban regional rapid transit in the Gauteng region.<sup>220</sup>

### **Metrorail**

- 6.15. *Gauteng*: Metrorail services the largest metropolitans in the country. In Gauteng, Metrorail operates the North, East and West of Gauteng and the services cut across three metropolitan municipalities which are City of Johannesburg, City of Ekurhuleni

<sup>217</sup> Gautrain Management Agency – Oral submission by Mr Van Der Merwe, Gauteng Hearings dated 06 June 2018, page 69.

<sup>218</sup> South Africa, Republic. Draft White Paper on Rail National Transport Policy 2017. Pretoria: Government Printers.

<sup>219</sup> PRASA Corporate Plan | MTEF 2019/2021, page 5. Available at: [https://www.prasa.com/Corporate%20Plans/PRASA%20MTEF2019\\_21%20Corporate%20Plan.pdf](https://www.prasa.com/Corporate%20Plans/PRASA%20MTEF2019_21%20Corporate%20Plan.pdf) [accessed on 03 June 2019]

<sup>220</sup> Ibid

and City of Tshwane.<sup>221</sup> The services connect to the intermodal transport nodes including Johannesburg Park Station and Pretoria Station. In Gauteng, Metrorail operates sixteen rail corridors of which six corridors are around Tshwane (North Gauteng) and ten corridors in Witwatersrand commonly known as South Gauteng.<sup>222</sup> The main hub in Gauteng North is Pretoria Station and Germiston in South of Gauteng.<sup>223</sup> Park Station is an intermodal facility with feeder systems between Metrorail, minibus taxis, long distance bus services and Gautrain. In Gauteng, 38 per cent of commuters have access to rail within a walking distance.

- 6.16. *Eastern Cape:* Metrorail provides services in Nelson Mandela Municipality (between Port Elizabeth and Uitenhage)<sup>224</sup> and Buffalo City Municipality (operates between East London and Berlin).<sup>225</sup> In East London, rail is accessible to only 6 per cent of commuters because services are limited due to the location of the railway line which was designed for transporting cargos.<sup>226</sup> Similarly to Port Elizabeth, few communities have access to rail services due to the location of the network which is largely a problem related to infrastructure.<sup>227</sup>
- 6.17. *KwaZulu-Natal:* Metrorail services Kelso, Stanger, KwaDukuza, Pietermaritzburg, Cato Ridge and Crossmoor. Priority routes are KwaMashu, Bridge City, Umlazi and Isipingo, Greenwood Park and Effingham.<sup>228</sup> The railway network cuts across several areas and thus covers most areas in the region. In KwaZulu-Natal, approximately 22 per cent of the residential areas have access to the rail network.
- 6.18. *Western Cape:* Metrorail operates in six municipalities including City of Cape Town and covers 75 per cent of the residential areas.<sup>229</sup> There are three active lines in Western Cape, namely the mainline, suburban and central line.
- 6.19. PRASA owns a total of 426 railway stations with 214 trains in four provinces. Western Cape and Gauteng have the largest network. However, due to several challenges, commuters are relying less on rail and thus have switched to other modes of transport such as buses and minibus taxis.

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<sup>221</sup>Metrorail - Oral submission by Mr Matampi Gauteng Hearings dated 08 June 2018, page 80.

<sup>222</sup> Metrorail – Oral submission by Mr Matampi, Gauteng Hearings dated 08 June 2018, page 80.

<sup>223</sup> Metrorail – Oral submission by Mr Matampi, Gauteng Hearings dated 08 June 2018, page 81.

<sup>224</sup> Metrorail – Oral submission by Mr Stoltz, Eastern Cape Hearings dated 08 June 2018, page 6.

<sup>225</sup>Metrorail – Oral submission by Mr Stoltz, Eastern Cape Hearings dated 08 June 2018, page 6.

<sup>226</sup> Buffalo City Municipality – Oral submission by Mr Skwebu Eastern Cape Hearings dated 28 August 2018, Page 9.

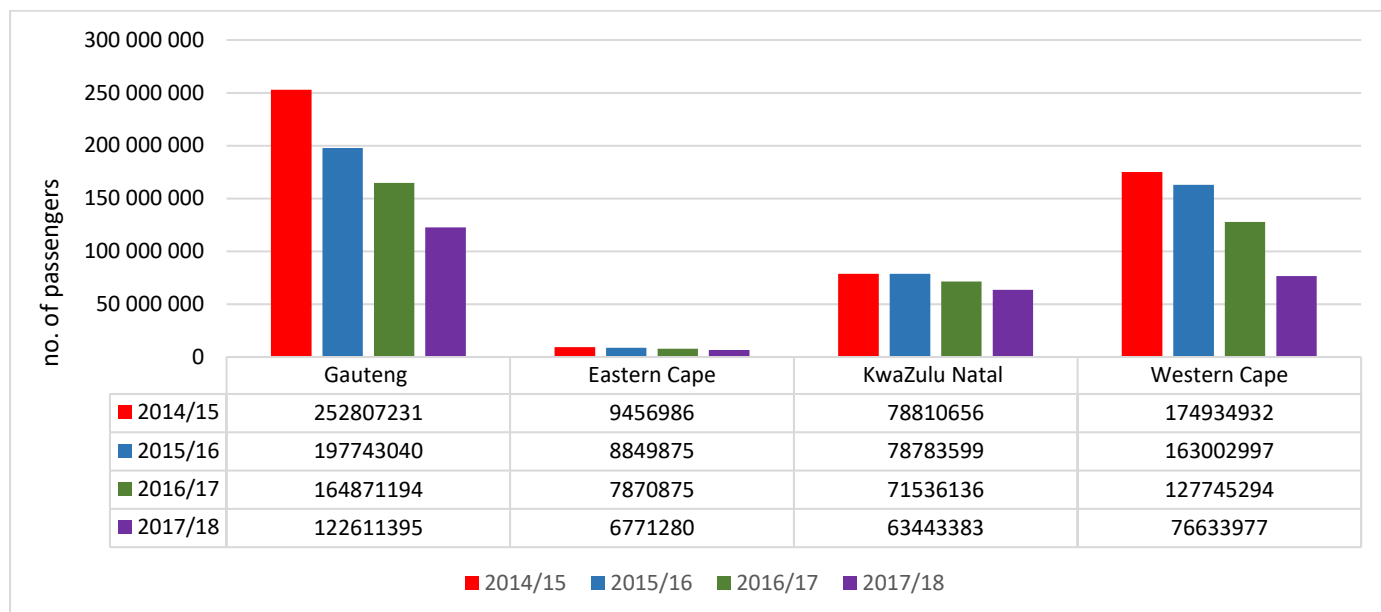
<sup>227</sup> Nelson Mandela Municipality- Oral submission by Ms. Jawa Eastern Cape Hearings dated 13 August 2018, page 17.

<sup>228</sup>Metrorail – Oral submission by Mr Hattingh, KwaZulu-Natal Hearings dated 27 June 2018, page 43.

<sup>229</sup>Metrorail - Oral submission by Mr Walker, Western Cape Hearings dated 20 June 2018, page 83.

6.20. **Figure 12** shows passenger numbers per province.

**Figure 12: Metrorail annual passenger numbers per region**



*Submission Metrorail regional offices.*

6.21. Between 2014/15 and 2017/18, there was a drastic annual decline in passengers using rail in all provinces. Gauteng has the highest number of passengers using rail followed by Western Cape, KwaZulu-Natal and Eastern Cape. Despite Metrorail being the cheapest mode of transport passengers' volumes declined by more 100 per cent in Gauteng and Western Cape between 2014/15 and 2017/18.

6.22. Eastern Cape has limited reliance on commuter rail and most of the passengers use minibus taxis. In Nelson Mandela Bay, rail has 2.9 per cent market share, buses 30.4 per cent and minibus taxis 66.7 per cent <sup>230</sup> In Buffalo City (East London) market share of rail is 11.5 per cent, while buses have 6.1 per cent and minibus taxis 82.4 per cent. <sup>231</sup>

6.23. The demand for rail public transport is different per region with access, reliability and availability playing a major role. <sup>232</sup> However, there have been several service disruptions across the regions which resulted in unreliable and erratic service translating into declining passengers. The system has also been vulnerable to threats

<sup>230</sup>Metrorail – Oral submission by Mr Stols, Eastern Cape Hearings dated 27 August 2018, page 6.

<sup>231</sup> Metrorail – Oral submission by Mr Stols, Eastern Cape Hearings dated 27 August 2018, page 6.

<sup>232</sup>Metrorail- Oral submission by Mr Walker, Western Cape public Hearings dated 20 June 2018, page 83.

such as cable theft and fare evasion that in turn affected the reliability and availability of the service in all the regions.<sup>233</sup>

#### *Metrorail corridors – High dense vs low dense corridors*

- 6.24. International experience in Europe, Asia and the USA demonstrates that rail is a most efficient and effective mode when deployed on routes with high population densities.<sup>234</sup> In South Africa, rail networks are positioned to serve the poor in high density corridors. However, given the two peak periods, the levels of usage vary, ranging from 50 000 passengers per hour (Mabopane and Khayelitsha) to under 2 000 passengers (Pinetown and Springs).<sup>235</sup> The current system has operational challenges and is not modernised to meet customer needs.<sup>236</sup>
- 6.25. High density corridors such as the Moloto Road between Mpumalanga and Gauteng is not currently serviced by rail due to lack of funding.<sup>237</sup> This has led to passengers relying on minibus taxis and buses causing congestion and road accidents along that busy route.<sup>238</sup> In addition, the current funding for railway networks is not sufficient to expand to new areas that are developing.<sup>239</sup> Inefficiencies in the current service offering have resulted in passengers shifting to other modes and the prospects for expansion, given the limited investment, is unlikely. Other challenges related to alleged corruption are beyond the scope of this Inquiry.

#### **Shosholoza Meyl**

- 6.26. Shosholoza Meyl is a division of PRASA operating long distance passenger rail services. Shosholoza Meyl was a brand of Spoornet until April 2008, when its rolling assets were transferred to SARCC.<sup>240</sup> Shosholoza Meyl offers services in two classes, Economy and Tourist. Shosholoza Meyl passengers have dropped from 2.8 million in 2009/10 to 465 647 in 2017/18, while train runs have also dropped from 6 604 in 2009/10 to 1 777 in 2017/18. The long distance passenger rail service has shown an

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<sup>233</sup> Metrorail – Oral submission by Mr Stoltz, Eastern Cape Hearings dated 27 August 2018, page 8.

<sup>234</sup> Emeran, H. Sander, S. Dyer R and Heyns, W. 2013, PRASA: Delivering the national strategic plan. Available at: [https://repository.up.ac.za/bitstream/handle/2263/33246/Heyns\\_Prasa%20%282013%29.pdf?sequence=1&isAlloved=y](https://repository.up.ac.za/bitstream/handle/2263/33246/Heyns_Prasa%20%282013%29.pdf?sequence=1&isAlloved=y) [Accessed on 05 June 2019].

<sup>235</sup> Emeran, H. Sander, S. Dyer R and Heyns, W. 2013, PRASA: Delivering the national strategic plan. Available at: [https://repository.up.ac.za/bitstream/handle/2263/33246/Heyns\\_Prasa%20%282013%29.pdf?sequence=1&isAlloved=y](https://repository.up.ac.za/bitstream/handle/2263/33246/Heyns_Prasa%20%282013%29.pdf?sequence=1&isAlloved=y) [Accessed on 05 June 2019]

<sup>236</sup> Metrorail Eastern Cape Region – Submission by Ms. Jennifer dated August 2018, page 5.

<sup>237</sup> See Article <https://www.businesslive.co.za/bd/national/2018-06-26-lack-of-funding-holds-up-moloto-rail-corridor-project/> [Accessed 15 May 2019].

<sup>238</sup> See Article <https://pmg.org.za/committee-meeting/16137/> [accessed 15 May 2019]

<sup>239</sup> Metrorail Eastern Cape Region – Submission by Ms Jennifer Joni dated August 2018, page 7.

<sup>240</sup> National Department of Transport – National Transport Master Plan 2050 dated June 2009.

average decline in fare revenue of 8 per cent per annum over the last five years.<sup>241</sup> Rail infrastructure used by Shosholoza Meyl is jointly owned by PRASA and Transnet and the relationship is governed by the Interface Agreement.<sup>242</sup> **Table 10** shows the main routes (cities) operated by Shosholoza Meyl.

**Table 10: Long distance routes operated by Shosholoza Meyl**

From	Destination
Johannesburg	Cape Town
Johannesburg	Durban
Johannesburg	Port Elizabeth
Johannesburg	East London
Johannesburg	Komatipoort
Johannesburg	Musina
Cape Town	Bloemfontein
Cape Town	East London

Source : <http://www.shosholozameyl.co.za/train-routes.html>

- 6.27. **Figure 13** illustrates the routes operated by Shosholoza Meyl including the various stops along the route. This is done to check if Shosholoza Meyl can be used for daily commuting within each city, in other words, can a commuter travel from Johannesburg to Pretoria either on Metrorail or use Shosholoza Meyl in transit to another destination.
- 6.28. In the Johannesburg - Cape Town route, Shosholoza commences the trip from Johannesburg Park Station, and the next station is Krugersdorp, and then Potchefstroom, Klerksdorp, Bloemhof and Christiana (North West). In the Northern Cape Province, the train stops in Warrenton, Kimberley, De Aar and Hutchinson. In the Western Cape it stops in Beaufort West, Lainsberg, Matjiesfontein, Worcester, Wellington, Huguenot, Bellville ending in Cape Town.
- 6.29. The Johannesburg - Port Elizabeth route starts at Johannesburg Park Station, the next stop is Germiston, Vereeniging, Koppies, Kroonstad, Hanneman, Virginia, Theunissen, Brandfort, Bloemfontein, Springfontein, Noupoot, Rossmead, Cradock, Cookhouse, Alicedale and then Port Elizabeth. But when it reaches Springfield, there's a connecting

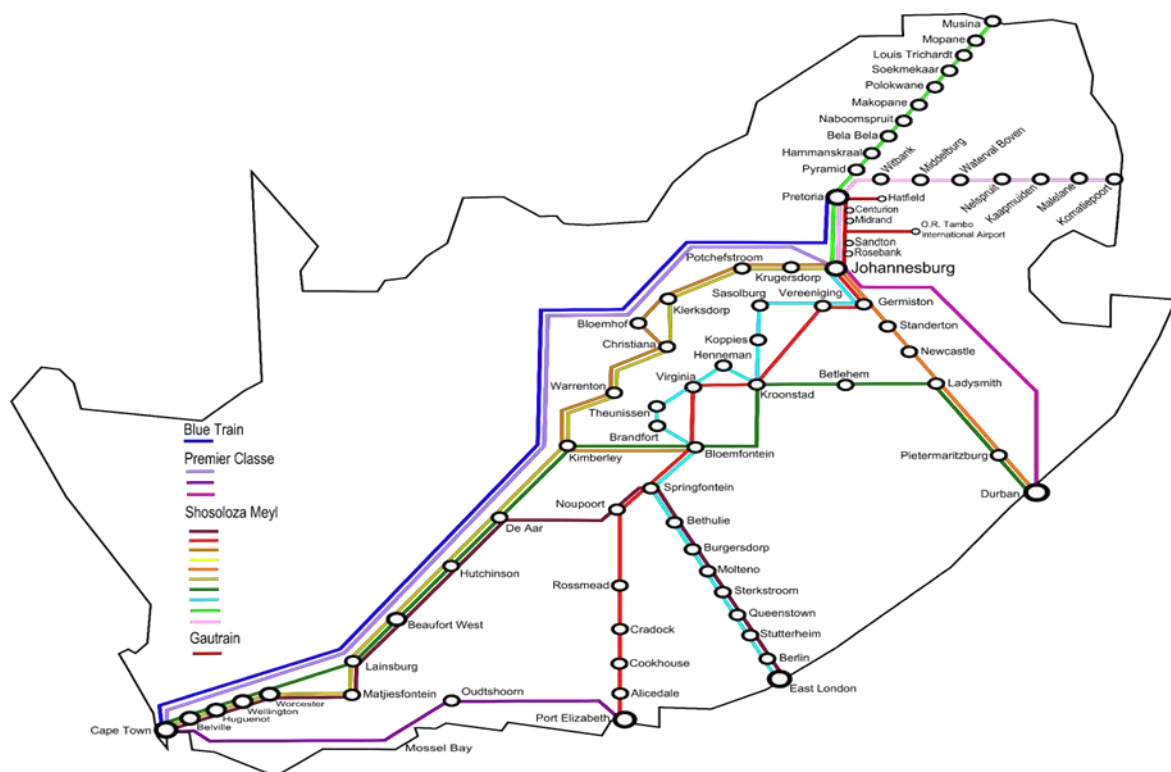
<sup>241</sup> PRASA Annual report 2017/18, page 13

<sup>242</sup> PRASA – response to information request dated 31 July 2019

train to East London, stopping at Bethule, Burgersdorp, Molteno, Sterkstroom, Queenstown, Sutherheim, Berlin, ending in East London.

- 6.30. The Johannesburg – Durban route starts at Johannesburg Park Station, the next stop is Germiston, Standerton, Newcastle, Ladysmith, Pietermaritzburg and ends in Durban. The Johannesburg – Musina route commences at Johannesburg Park Station, the next stop is Pretoria, Pyramid, Hammanskraal, Bela Bela, Naboomspruit, Mokopane, Polokwane, Soekmekaar, Louis Trichard, Mopane and ending in Musina. The Johannesburg – Musina route is currently not operational due to infrastructure challenges.
- 6.31. The Johannesburg – Komatipoort route starts at Park station, the next stop is Pretoria, Witbank, Middleburg, Waterval Boven, Nelspruit, Kaapmuiden, Malelane and then ends in Komatipoort. The Johannesburg – Komatipoort route is currently not operational due to infrastructure challenges.

**Figure 13: Shosholoz Meyl route network**



- 6.32. **Figure 13** demonstrates when the train departs from Park Station which is in Johannesburg, it will not stop anywhere in Johannesburg again, in other words, there are no stops within the City of Johannesburg. In KwaZulu-Natal there are only four stops namely, Ladysmith, Newcastle, Pietermaritzburg and Durban. In Limpopo there



are about eight stops, Bela Bela, Naboomspruit, Mokopane, Polokwane, Soekmekaar, Louis Trichardt, Mopane and Musina. In Northern Cape there are only three stops, Kimberley, De Aar and Hutchinson. In general, the trend suggests that there is one stop per town.

6.33. The route and stops for Shosholozza Meyl does not provide viable alternatives for daily Metrorail commuters for the following reasons:

6.33.1. *Frequency* – Shosholozza Meyl does not operate on a daily basis between the major towns. For example, Shosholozza Meyl operates on Friday and Sunday for the Johannesburg to Cape Town trip. Metrorail commuters between Johannesburg and Krugersdorp would not consider the Shosholozza Meyl as an alternative. In East London, the commuters travelling between East London Station and Berlin may theoretically consider both Metrorail and Shosholozza Meyl, but Shosholozza has only two trips in a week which will not make it viable for daily commuters.

6.33.2. *Departure and arrival* – In instances where the travel days are aligned between Metrorail and Shosholozza Meyl, there are significant departure differences. Metrorail departs every hour from as early as 5am whereas Shosholozza Meyl departs once in the selected two days of operation. In East London the train departs at 14:15pm from East London Station and departs in Johannesburg Park Station at 12:30pm. Shosholozza Meyl seem to depart during off-peak periods as compared to Metrorail.

6.33.3. *Duration of travel* – Shosholozza Meyl train on average takes 39 minutes from Johannesburg Park Station to Krugersdorp station and from Berlin to East London it would take on average 46 minutes. Metrorail on the other hand takes longer due to the number of stops along the route.

6.33.4. *Price* – the price between Shosholozza Meyl from Johannesburg Park Station to Krugersdorp is around R80 compared to Metrorail which is between R7 and R12 depending on whether it's a daily, weekly or monthly ticket. Between East London station and Berlin, Shosholozza Meyl costs around R80 compared to between R12 and R16 for Metrorail.

6.34. The above analysis suggests that the long-distance train services offered by Shosholoza Meyl do not offer a viable alternative to Metrorail for daily commuting in instances of overlaps between the two services within the same city.

## Gautrain

6.35. The Gautrain provide two types of rail urban commuter services; General Passenger Service (GPS) and Airport Passenger Service (APS). The GPS caters for passengers travelling on day to day basis around Gauteng and the APS is specifically meant for passengers travelling to and from the O.R Tambo International Airport. The system is supported by station park and ride facilities together with dedicated feeder and distribution (Bus) services (DFDS). The buses operate on business days and provide some services for special events over weekends. They assist the train operating system whenever there is a problem in operating a full end to end rail service.<sup>243</sup> Gautrain is an 80km rapid transit railway system linking Johannesburg, Pretoria and OR Tambo International Airport.

6.36. **Figure 14** shows routes that are currently operated by Gautrain.

**Figure 14: Corridors serviced by Gautrain**



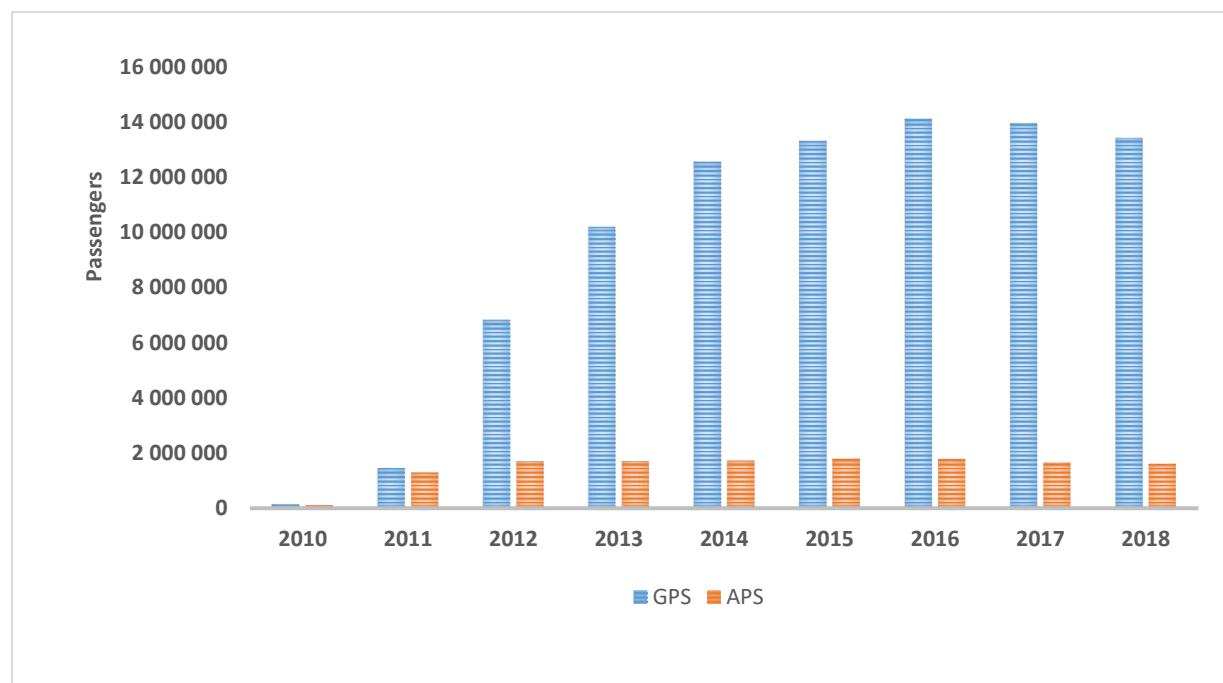
Source: Gautrain Management Agency

6.37. There has been steady growth of passenger volumes for both the Gautrain General Service (GPS) and Airport passenger Service (APS) in the past two years but there are other factors that have turned the steady growth of passenger trips from June 2010 into a decline for both train and bus services in 2017/18.

<sup>243</sup> Gautrain Management Agency – Submission by Ms Judy Mackay dated 25 June 2018, page 5-6.

6.38. **Figure 15** shows the steady increasing number of passengers from 2010 to 2018 on the airport services and the general services.

**Figure 15: Annual passenger trips for the GPS and APS from 2010 to 2018**



Source: Gautrain Management Agency

6.39. Gautrain ridership declined in 2018 partly as a result of lack of capacity during peak time which caused congestion on platforms, violent rivalry between metered taxis and e-hailing services at train stations, and the inability of the Gauteng Provincial Government to use e-tolls to punish motorists for driving instead of using trains.<sup>244</sup> Despite the decline in ridership from 2016, Gautrain provides quality service with over 98 per cent of trains arriving on time.<sup>245</sup>

### Railway infrastructure ownership

6.40. The railway network and infrastructure ownership in the four provinces is split between PRASA and Transnet as shown in **Table 11**.<sup>246</sup> An agreement (called the Interface Agreement) is in place governing the relationship between PRASA and Transnet for the infrastructure.<sup>247</sup> Submissions received indicated that the maintenance of the largest part of the infrastructure is the responsibility of Transnet.<sup>248</sup>

<sup>244</sup> Article - <https://www.dailymaverick.co.za/opinionista/2019-01-22-gautrain-political-patronage-profiteering-is-back-with-a-vengeance/> [accessed on 12 February 2018].

<sup>245</sup> GMA Annual report 2018/19.

<sup>246</sup> Metrorail – Oral submission by Mr Stolts, Eastern Cape hearings dated 27 August 2018, page 8.

<sup>247</sup> Manny de Freitas: Member of Parliament in Western Cape - Submission dated 14 June 2018, page 4.

<sup>248</sup> Manny de Freitas: Member of Parliament in Western Cape - Submission dated 14 June 2018, page 4.

**Table 11: Railway network coverage per region**

Provinces	Railway network coverage	Ownership of the railway tracks
Gauteng	Gauteng railway network is dense and complex, runs for 3500km.	The railway tracks used by Metrorail are jointly owned by PRASA and Transnet.
Eastern Cape	East London corridor is 42km and 35km for Port Elizabeth	The railway networks in Eastern Cape region belongs to Transnet. <sup>249</sup>
KwaZulu-Natal	KwaZulu-Natal rail track extends for 605 km.	In KwaZulu-Natal railway track is shared between Transnet and PRASA.
Western Cape	Western Cape track is 489 kilometres.	In City of Cape Town, the railway tracks belong to PRASA and Transnet.

Source: Submission Metrorail regional offices

6.41. Coordination issues have arisen in the management and operation of the rail infrastructure. For example, the signalling system and track equipment is dependent on the turn-around time of Transnet Freight Rail to attend to repairs.<sup>250</sup> Transnet is currently under the Department of Public Enterprises while PRASA reports to the National Department of Transport. The current set up comprises accountability and constrains the turn-around time for dealing with technical challenges in the system.<sup>251</sup> The dual ownership partially results in poor performance of the system due to slow decision making and ineffective administration.<sup>252</sup>

### **Devolution of commuter rail**

6.42. This section discusses the various models of operating rail in various countries. The objective is to benchmark the South African experience with international experience and draw some lessons where possible.

6.43. Ownership of rail infrastructure and how rail services are operated for commuter rail have undergone major changes across the world. In the early 1990s, countries like

<sup>249</sup>Metrorail – Oral submission by Mr Stolts, Eastern Cape Hearings dated 27 August 2018, page 8.

<sup>250</sup> Metrorail – Oral submission by Mr Stolts, Eastern Cape hearings dated 27 August 2018, page 8.

<sup>251</sup> Manny de Freitas: Member of Parliament in Western Cape - Submission dated 14 June 2018, page 4.

<sup>252</sup> Manny de Freitas, Member of Parliament in Western Cape - Submission dated 14 June 2018, page 4.

Britain underwent structural reforms in the rail sector which included privatising rail operations and railway infrastructure.<sup>253</sup> Despite rail reforms in several countries, cross-country evidence shows that the government is still the main provider of commuter rail and manages the railway infrastructure facilities but the rail operations are being devolved to cities.

6.44. Rail operations in the past have traditionally been operated by central governments but the need to improve efficiency, attend to local dynamics and foster integrated planning has led to the devolution of public transport functions (including rail operations) to the lower levels of government. Central government involvement in rail operations resulted in little or no coordination with local government resulting in inefficiency and poor transport services. International experience suggests that devolution to lower levels of government has been effective to address inefficiencies and improve coordination. A fundamental belief supporting devolution is that local needs are best served by local decisions rather than those taken centrally by national government.

6.45. Most cities (as will be explained below) are involved in the management and delivery of commuter rail. The devolution of public transport function to metros was done to ensure coordination in decision making and encourage an integrated and comprehensive urban transport system. In addition, international experience shows that amalgamation of previously fragmented government entities within the public transport sector is a common trend given the efficiencies that would be derived.

#### *Sao Paulo, Brazil*

6.46. Historically, commuter rail is the responsibility of the Brazilian Company of Urban Trains (CBTU) – a subsidiary of Federal Railway (RFFSA). In 1971, all railways were under the control of the State Government of São Paulo to form the Ferrovia Paulista S.A. Later, the metropolitan government was mandated with managing passenger transport within the jurisdiction of the State of São Paulo. In mid-1992, São Paulo Metropolitan Trains Company (CPTM) was developed as a result of the privatisation process of other lines in the network but commuter transport remained under the responsibility of the state. The Sao Paulo devolution model involved transferring the management of the rail services from the state to regional government and local

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<sup>253</sup> Andrew Haylen Louise Butcher (2017), Rail structures, ownership and reform, Article: <https://researchbriefings.files.parliament.uk/documents/CBP-7992/CBP-7992.pdf> [Accessed on 04 July 2019].

government. This process was meant to address challenges at the local level and deal with urban sprawl.

#### *Malmö, Sweden*

6.47. Between 1999 and 2010, the national state agency, Rikstrafiken, was responsible for tendering process for rail across the country. Later, the state agency was expended and currently railway passenger services are managed by transport board of regional government. Municipalities have exclusive right to formulate and adopt land use plans.<sup>254</sup> The devolution strategy for Malmö, Sweden involved transferring railway functions from national agencies to local and regional tiers to ensure modal shift and public transport integration.<sup>255</sup>

#### *Netherlands<sup>256</sup>*

6.48. There are three levels of government in the Netherlands: national government, regional government (12 provinces) and local government (393 municipalities). Public transport functions are devolved to the provinces and some city-regions. The city-regions are municipal co-operations in the urban areas of Amsterdam, Rotterdam, The Hague, Utrecht, Rotterdam, Eindhoven, Arnhem/Nijmegen and Hengelo/Enschede. These city regions were abolished by law in 2015 and their responsibilities returned to the provinces. Two exceptions remain: in the Amsterdam and in the Rotterdam/ The Hague areas, the responsibility for public transport is now allocated to new ‘transport regions’ as successors to the city regions in these two metropolitan areas.

6.49. In the Netherlands, fourteen regional authorities are by law responsible for local and regional public transport in the Netherlands: twelve provinces and two transport regions. Their responsibilities include both local public transport services and some regional train services operated mainly on branch lines of the national train network, while national government is the transport authority responsible for national rail services, including both intercity services. The devolution in the Netherlands was meant to ensure public transport integration among other factors.

#### *London, United Kingdom*

6.50. In London, public transport is run by an entity of the City of London, Transport for London (“TfL”). TfL provides all transport functions within the City of London, which

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<sup>254</sup> [https://www.ippr.org/files/publications/pdf/connecting-lines\\_March2016.pdf](https://www.ippr.org/files/publications/pdf/connecting-lines_March2016.pdf) [accessed on 27 July 2019].

<sup>255</sup> [https://www.ippr.org/files/publications/pdf/connecting-lines\\_March2016.pdf](https://www.ippr.org/files/publications/pdf/connecting-lines_March2016.pdf) [accessed on 27 July 2019].

<sup>256</sup> Didier van de Velde and David Eerdmans (2016). Devolution, integration and franchising - Local public transport in the Netherlands. Urban Transport Group

includes: London Underground, London Buses, Docklands Light Railway, London Overground, TfL Rail, London Trams, London River Services, London Dial-a-Ride, Victoria Coach Station, Santander Cycles and the Emirates Air Line.<sup>257</sup> TfL is the integrated transport authority responsible transport in London and runs the day-to-day operation of London's public transport network and manages London's main roads. Transport for London is funded from central and local government, fares, other income (fines) and borrowing for capital projects.

#### *Cairo, Egypt*

6.51. In Cairo, the railway network and operations are the responsibility of the state parastatal, Egyptian National Railways (ENR). The devolution of public transport functions has not yet taken place but there are ongoing reforms. For example, government is in a process of restructuring the management and operation of the system.<sup>258</sup> The government is considering separating infrastructure ownership and operation of rail services.<sup>259</sup>

#### *Addis Ababa, Ethiopia*

6.52. In Addis Ababa, Ethiopia, rail is operated by a consortium of two companies, China Railway Group (CREC) and the China Civil Engineering Construction Corporation (CRCC), together with the Ethiopian Railway Corporation (ERC).<sup>260</sup> The ERC is a national railway operator of Ethiopia, under the Ministry of Transport.<sup>261</sup> Rail is a national competence with limited intervention from regions or cities.

#### *Casablanca, Morocco*

6.53. Railway public transport is operated by the National Office of the Railroads of Morocco ("ONCF") under the administrative supervision of the Ministry of Infrastructure, Transport and Logistics (METL). The ONCF is tasked with the exclusive operation and management of the Moroccan rail public passenger transport and network<sup>262</sup> In

<sup>257</sup> <https://tfl.gov.uk/corporate/about-tfl/what-we-do?intcmp=2582>

<sup>258</sup> <https://oxfordbusinessgroup.com/analysis/right-track-authorities-are-investing-developing-rail-network> [accessed on 31 July 2019].

<sup>259</sup> <https://oxfordbusinessgroup.com/analysis/right-track-authorities-are-investing-developing-rail-network> [accessed on 31 July 2019].

<sup>260</sup> Istvan Tarrosy and Zoltan Vorros, 2019. Revisiting Chinese Transportation project in Ethiopia. 26 January 2019. Article: <https://thediomat.com/2019/01/revisiting-chinese-transportation-projects-in-ethiopia/> [accessed on 01 August 2019].

<sup>261</sup> <https://www.africancentreforcities.net/wp-content/uploads/2015/09/DfID-Harnessing-Land-Values-Report-1.7-Ethiopia-Case-Study-20150908.pdf> [accessed on 31 July 2019].

<sup>262</sup> <https://www.afdb.org/fileadmin/uploads/afdb/documents/environmental-and-social-assessments/maroc-projet-de-renforcement-des-infrastructures-entre-casablanca-et-marrakech-r%c3%a9sum%c3%a9-eies-en-08-2015.pdf> [accessed on 31 July 2019].

Morocco, rail is operated at national level and there is no devolution of public transport functions from national tier to the regions or respective cities.

*Selected cities in North America*

- 6.54. *In New York City* - The New York City Transit Authority is a public authority in the U.S. State of New York that operates public transportation in New York City. It operates the following systems: New York City Subway, a rapid transit system in Manhattan, The Bronx, Brooklyn, and Queens, Staten Island Railway, New York City Bus, an extensive bus network serving all five boroughs, managed by MTA Regional Bus Operations.<sup>263</sup>
- 6.55. *In Washington D.C* - public transport service falls under the Washington Metropolitan Area Transit Authority ("WMATA"). Its mandate includes rapid transit service (MetroRail), fixed-route bus service (MetroBus), and paratransit service (MetroAccess).
- 6.56. *In Toronto* – public transport is under the Greater Toronto Transportation Authority (GTTA) running commuter heavy rail, bus, and light rail. Its mandate is to develop a regional transportation plan that is responsive to growing region's needs, improve and expand bus and railway transit as the backbone of regional transit, and promote an integrated public transport transit system.<sup>264</sup>
- 6.57. Several countries have undergone the devolution of public transport from national to regional or local tier of government. The basic rationale for devolution is to foster integrated planning, improve rail services (local government will become accountable as poor service may affect electoral outcomes).
- 6.58. In terms of the UK experience, devolution comes with different benefits and opportunities which include: <sup>265</sup>
- 6.58.1. Boosting economic growth and productivity - devolution gives local authorities powers over economic enablers such as housing, transport, skills and infrastructure, they will be able to boost economic growth and productivity locally.

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<sup>263</sup> [https://en.wikipedia.org/wiki/New\\_York\\_City\\_Transit\\_Authority](https://en.wikipedia.org/wiki/New_York_City_Transit_Authority)

<sup>264</sup> [https://munkschool.utoronto.ca/imfg/uploads/287/governance\\_of\\_regional\\_transit\\_systems\\_final\\_report\\_july\\_2014.pdf](https://munkschool.utoronto.ca/imfg/uploads/287/governance_of_regional_transit_systems_final_report_july_2014.pdf) [accessed on 23 July 2019].

<sup>265</sup> <https://www.instituteforgovernment.org.uk/sites/default/files/publications/4681%20IFG%20-%20Making%20a%20Devolution%20final.pdf> [accessed on 31 July 2019]



- 6.58.2. Reforming public services - devolution offers the chance to better consolidate public services at a local level, gaining efficiencies from closer working between public services.
- 6.58.3. Increasing innovation - devolution could both provide a greater number of opportunities to try new ways of working, and lead to smaller, more localised services that are able to fail and adapt with fewer consequences than for large, uniform national systems.

### ***Devolution as a solution for South Africa***

- 6.59. Both the White Paper on National Transport Policy of 1996 and the Revised White Paper of 2017 recommended that some of the transport functions be devolved to the lowest appropriate level of government. This observation was further reinforced in the National Land Transport Strategic Framework 2017-2022 (“NLTsf”) which indicated that feasibility studies for the devolution of passenger rail services to the metropolitan municipalities should be carried out.<sup>266</sup> Devolution of functions to a single planning authority to achieve integration, operational efficiency and economies of scale was further highlighted in the NLTsf in instances where it may not be ideal to consolidate functions within a metropolitan municipality due to the interconnectedness of the municipalities.
- 6.60. The revised White Paper on Transport Policy of 2017 further sets out the strategic objectives of devolution and these include:
  - 6.60.1. instil a clear understanding of the transport functions and powers of each level of government to reduce uncertainty in relation to responsibilities and requirements;
  - 6.60.2. capture the advantages of devolution - facilitate improved transport services, and bring government responsibility and public accountability down to the site of the citizen interface; and
  - 6.60.3. creation of a Transport Authority, or an equivalent coordinated and accountable structure, at a Municipal, Provincial, or Mega-City/City Region level.

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<sup>266</sup> Department of Transport - National Land Transport Strategic Framework 2017-2022

- 6.61. The Fiscal and Financial Commission (“FFC”) has been in support of devolution for several years and indicated that devolving some of the transport functions to the cities is desirable for better coordination and planning. The FFC states that:

*“It is clear that creating a governance framework that places effective planning and prioritising commuter rail at the city level or, in the case of the Wits and Tshwane regions, in combination with Johannesburg, Ekurhuleni and Tshwane within a rational fiscal framework is a priority, even if more substantial devolution in line with stated policy intentions will take longer”<sup>267</sup>*

- 6.62. The interconnectedness of the cities of Johannesburg, Tshwane and Ekurhuleni supports the creation of a city-region or provincial devolution of rail as opposed to individual metropolitan municipalities. Devolution in this manner is also supported by the DOT policy documents.
- 6.63. The same principle applies to other provinces such as Western Cape and KwaZulu-Natal. Metrorail in Western Cape largely operates in Cape Town and neighbouring municipalities extending to Worcester which is more than 120km from Cape Town. In KwaZulu-Natal, Metrorail services extend to Stanger and Cato Ridge which are 75km and 50km away from Durban respectively. In such instances, devolution of rail is more appropriate at a provincial level to facilitate coordination across the municipalities.
- 6.64. Devolution of rail operations to provinces will ensure effective deployment of capital expenditure due to decentralised decision making. There will be limited bias on how the PRASA Head Office allocates funding to the regional offices. Decentralisation is likely going to induce some creativity and innovation among provinces which might be beneficial to commuters. Furthermore, devolution improves the level of accountability for delivering transport services, thereby providing the taxpayer with better value for money. Theoretically, devolving functions to lower levels of government is likely to allow transport to be customised in order to become compatible with the rest of the built environment managed by municipalities.

### **Criteria to be met for devolution**

- 6.65. The Revised White Paper on Transport Policy of 2017 alludes to the need for DOT to develop a devolution strategy. No devolution strategy has been developed by DOT

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<sup>267</sup> [https://www.ffc.co.za/docs/submissions/dor/2011/FFC\\_DOR\\_2011a.pdf](https://www.ffc.co.za/docs/submissions/dor/2011/FFC_DOR_2011a.pdf) (accessed 31 July 2019)

despite devolution being advocated for in the White Paper of 1996. There is an urgent need for DOT to provide guidance to lower levels of government on what criteria the DOT will consider in dealing with devolution applications. The DOT highlights that devolution should occur when the lower levels of government have capacity, but this assertion is not supported by any form of detailed criteria.

- 6.66. Devolution is based on the premise that lower levels of government are better able to manage and integrate public transport with other infrastructure and services. The devolution of responsibilities must be supported with appropriate capacity development.
- 6.67. The FFC highlights that devolution should not result in merely transferring existing problems to lower levels of government; for example, devolving without necessary adequate funding and technical capacity. While it is desirable to consolidate transport functions at city level or city-region level or provinces, the management of financial risks associated with the devolution must be addressed.
- 6.68. From the review of international case studies, various principles and conditions for effective devolution have been considered. The Commission proposes that the devolution strategy being developed by DOT should consider the following criteria:
  - 6.68.1. Demonstrated experience and competence in operating rail operations or proven ability to assemble technical skills for the rail project. Competency relates to whether the relevant level of government has sufficient capacity to administer rail. Devolved transport powers and functions may either be exercised exclusively or concurrently with a higher level of government for a limited time whilst the lower level of government is gaining experience (transitional arrangement).
  - 6.68.2. Development of a sound business case to operate commuter rail operations;
  - 6.68.3. Demonstrate enough financial resources to set up a rail project management office to draw up plans for devolution;
  - 6.68.4. Political support from both local government and provincial government for the commuter rail function; and
  - 6.68.5. Commitment from political leadership to absorb employees from the respective Metrorail regional offices. Precautionary mechanisms for labour disputes must be in place to minimise job losses.

- 6.69. Once devolution occurs, the principle of funding follows function should be activated. In other words, DOT and National Treasury should provide provinces with enough resources to take over commuter rail operations.

***Evaluation of the provinces to operate commuter rail***

- 6.70. An analysis of the provinces' readiness to operate commuter rail based on the proposed criteria highlighted above indicates the following:

6.70.1. *Gauteng Province* – Gauteng meets all the proposed criteria: it runs an efficient Gautrain service, skills and capacity already in place and based on public statements made by the Premier, the province seems to have the political support to take over Metrorail in Gauteng. Gauteng Premier David Makhura said that “the provincial government would soon take over the running of trains from PRASA and the province is now going to operate not just the buses, it is also going to operate the Metrorail system and integrated with the Gautrain.”<sup>268</sup>

6.70.2. *Western Cape* – the province currently does not run any rail service but has expressed willingness to take over the function for several years because of the inefficiencies of Metrorail in the province. In 2017, Cape Town announced it intended to take over the management of commuter rail to avert the “total collapse” of rail services in the city. Rail is considered the backbone of public transport in Cape Town.<sup>269</sup> The province seems to be in a position to get the necessary skills to operate commuter rail and the City of Cape Town already issued a tender to appoint a multi-disciplinary team of rail professionals to help it prepare to take over passenger rail in the metro.

6.70.3. *KwaZulu-Natal* – the province currently does not have experience of running rail and no public pronouncements by elected officials have been made to support rail devolution. The province may have to wait and learn from the experiences of Western Cape and Gauteng before the functions are devolved exclusively to the province. Another option would be for the province and Metrorail to run the service concurrently in preparation for the exclusive devolution at a later stage.

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<sup>268</sup> <https://www.iol.co.za/news/south-africa/gauteng/gauteng-to-take-over-running-of-trains-from-prasa-20514059>

<sup>269</sup> Bekezela Phakathi, 2019. Cape Town to appoint experts to help take over rail functions, Business Day. 23 March 2019. Article: <https://www.businesslive.co.za/bd/national/2019-03-26-cape-town-to-appoint-experts-to-help-take-over-of-rail-functions/> [accessed 31 July 2019].

- 6.70.4. *Eastern Cape* - the province currently does not have experience of running rail. The province may have to wait and learn from the experiences of Western Cape and Gauteng before the functions are devolved exclusively to the province. Another option would be for the province and Metrorail to run the service concurrently in preparation for the exclusive devolution at a later stage.

***Potential challenges of devolution process***

6.71. The Commission notes that devolution of functions often results in challenges. Based on international experience, challenges brought about by the devolution include the following:

- 6.71.1. Building capacity to take on new powers – new systems and institutions need to be built to ensure that new powers are effectively managed, and this takes time. Devolution is not transferring problems to another sphere of government but improving the system overall.
- 6.71.2. Developing effective and accountable institutions for the devolved functions may be complex in the beginning especially in provinces that do not currently operate commuter rail.
- 6.71.3. Devolution results in the re-allocation of financial resources from national government to provinces and adapting to the new fiscal environment may be a challenge for national government. Based on international experiences, national governments are reluctant to lose control of the budget despite strong and credible motivation for devolution.
- 6.71.4. The fear for job losses and changes in employment conditions is a major challenge in the devolution process. The pressure to show to external stakeholders that devolution works results in top leadership changes which may have an impact of staff morale. In Gauteng for instance, consideration of the different working conditions for Gautrain and Metrorail may be a cause for concern among other problems. Protracted engagements with the labour unions has slowed the devolution process in other countries.
- 6.71.5. Lack of interest from national government to either assess the devolution readiness of another sphere of government (because of loss of fiscal power) or prepare and share experiences with lower levels of government (perceived sabotage) in instances where national government was reluctant to devolve the functions. The devolution and negotiation process tend to be time consuming given vested interests and the fiscal politics involved.

- 6.71.6. Incompatibility of infrastructure and technology – this challenge applies to Gautrain and Metrorail which currently operate on different infrastructure and use different technology. An investment in understanding the Metrorail system will be required.

#### **Lack of integration between Gautrain and Metrorail (Gauteng)**

- 6.72. In South Africa, rail operations and infrastructure are owned and managed largely by national government except for Gautrain service. Gautrain is a public-private partnership and at the end of the concession agreement, provincial government will retain the infrastructure. Rail operations at national government level is inconsistent with the international experience discussed above
- 6.73. The DOT indicated that lack of railway integration in South Africa has been largely attributed to a non-existing policy framework for rail, inappropriate and insufficient investment over many years.<sup>270</sup> For example, in terms of regulations the mandate for Metrorail and Gautrain are derived from two different pieces of legislation. Metrorail, a division of PRASA is mandated by the NLTA to provide rail commuter services in the public interest. PRASA operates heavy rail commuter networks in metropolitan areas (Metrorail), which offers valuable high capacity rapid transit access to inner cities.<sup>271</sup> Gautrain's mandate is derived from the Gauteng Transport Infrastructure Act. **Table 12** shows the features of the Gautrain and Metrorail system.

**Table 12: Properties of railway operations and railway infrastructure**

<b>Metrorail</b>	<b>Gautrain</b>
Policy objective- social service and subsidised	Policy objective – address economic, environmental and congestion issues and subsidised
Mandated by National DOT	Mandated by provincial government
Infrastructure is owned by government and operated by PRASA, a state-owned entity	Infrastructure is owned by government and operated by Bombela Concession Company and GMA on public private partnership through a concession agreement.

<sup>270</sup> National Department of Transport – National Rail White Paper dated 2017.

<sup>271</sup> Department of Transport's National Rail Policy, Draft White Paper, first draft June 2017.

Operates a traditional railway network system in four regions	Operates a high-speed railway system in Gauteng
Metrorail system is 2 228 kilometres	Gautrain is an 80-kilometre operation
National railway network (Metrorail) in South Africa uses the 1 067 mm <u>Cape gauge</u> .	Gautrain is built on an international <u>standard gauge</u> of 435 mm.

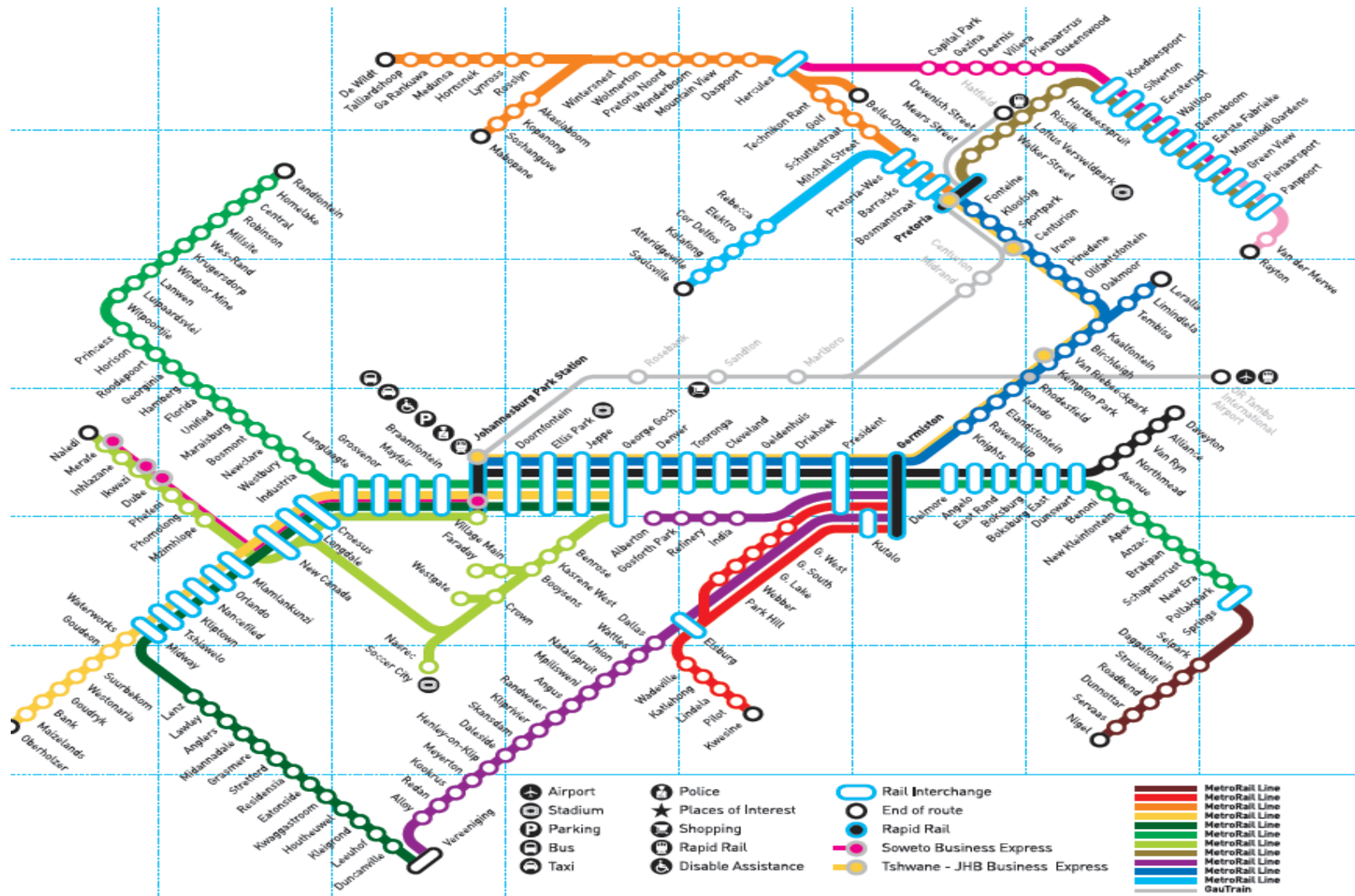
*Source: Gautrain Management Agency and Metrorail*

- 6.74. Metrorail and Gautrain services different market segments or income groups and has been viewed as perpetuating inequality and classification.<sup>272</sup> The differences in the gauges for the Metrorail and Gautrain has negative implications for integration because the train sets cannot operate on both rail tracks.
- 6.75. Based on international experience, it is uneconomic to duplicate rail infrastructure given the high fixed costs. In South Africa, commuter rail is viewed as a two-tier system which is not the norm in other countries. Ideally, coordination in planning new routes and expansion is required. **Figure 16** shows the routes operated by Metrorail and Gautrain.

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<sup>272</sup> See: <https://www.urbanafrika.net/urban-voices/gautrain-and-metrorail-perpetuate-south-african-inequalities/> [accessed 04 July 2019].

Figure 16: Metrorail and Gautrain routes





- 6.76. The Gautrain route is depicted in grey and is 80 kilometres. It operates between Hatfield, Pretoria, Centurion, Midrand, Marlboro, Sandton, Rosebank and Johannesburg Park Station. The airport passenger services run between Marlboro, Sandton, Rhodesfield and OR Tambo International Airport.
- 6.77. Metrorail on the other hand has multiple routes. Of importance is the Tshwane and Johannesburg route (Tshwane – JHB Business Express) depicted in yellow and blue starting at Johannesburg Park Station heading towards the east, Doornfontein, Ellis Park, Jeppe, George Goch, Denver, Tooronga, Cleveland, Geldenhuis, Driehoek, President until it reaches Germiston. From Germiston, it takes a north-easterly direction stopping at, Knights, Ravensklip, Elandsfontein, Isando, Rhodesfield, Kempton Park, Van Riebeeck Park, Birchleigh, Kaalfontein and then heads towards the north stopping at Oakmor, Olifantsfontein, Pinedean, Irene, Centurion, Sportspark, Kloofsig, Fontaine, and Pretoria.
- 6.78. Gautrain was not intended to compete but complement Metrorail. Gautrain was meant to encourage private motorists to use the train.<sup>273</sup> Gautrain was rolled out after the existence of Metrorail, and it appears that it was not planned with Metrorail in mind. The implementation of the Gautrain was also questioned by several stakeholders. The South African Communist Party indicated that: “Gautrain was driven provincially and the province by-passed the spirit of the law and of national policy by setting up the Gautrain as a separate public company which meant that the three major metros in Gauteng had to accommodate it retroactively, prejudicing their own plans and potentially compromising funds available for more pressing priorities”.<sup>274</sup> However, the DOT submits that consultations between PRASA, Gauteng Province and DOT occurred before the roll out of Gautrain including the expansion plans for Gautrain.<sup>275</sup>
- 6.79. At first glance it appears that there is duplication between Metrorail and Gautrain routes. However, duplication exists only between Centurion and Pretoria. But from a planning perspective, it appears that Gautrain and Metrorail were planned

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<sup>273</sup> Gautrain Management Company- oral submission by Mr. Van der Merwe Gauteng Hearings 06 June 2018 page 84.

<sup>274</sup> South African Communist Party (SACP). (2006). Gautrain Murky waters: SACP response. Umsebenzi Online, vol. 5 No. 70. 13 December 2006 available at <http://www.sacp.org.za/main.php?ID=2551> accessed on 14 January 2019.

<sup>275</sup> Department of Transport – Response to information request dated 8 July 2019, page 5

independently of each other. They interlink in four out of the ten stations (Hatfield, Pretoria, Rhodesfield and Park Station).<sup>276</sup>

6.80. Gautrain submits that it intends to expand its operations and has done some feasibility studies. A feasibility study for the expansion of the Gautrain network identified the following main links and stations:<sup>277</sup>

- 6.80.1. Jabulani via Cosmo City and Samrand to Mamelodi: stations include Roodepoort, Little Falls, Fourways, Sunninghill, Olievenhoutsbosch, Irene, Tshwane East and Hazeldean;
- 6.80.2. Sandton and Cosmo City: station in Randburg;
- 6.80.3. Rhodesfield and Boksburg: station at East Rand Mall;
- 6.80.4. Cosmo City to Lanseria Airport.

**Figure 17: Gautrain expansion new routes**



6.81. The expansion project is perpetuating the *status quo* of a two-tier rail transport system, one for the working class and one for the middle class. The approach may deepen mobility related exclusions, as it essentially creates a two-tier system based on geographically distinct areas of the province.<sup>278</sup> The DOT submits that there is an

<sup>276</sup> Gautrain Management Agency. 2019. Oral submission by Mr Van Der Merwe, Gauteng hearings. 5 July 2019. Page 82.

<sup>277</sup> Gautrain Management Agency. 2018. Submission by Ms Judy Mackay. 25 June 2018. Article available at: <https://businesstech.co.za/news/business/282724/these-are-the-new-routes-set-for-the-next-gautrain-expansion/> (Accessed on 12 February 2018).

<sup>278</sup> Thomas D.P Public Transportation in South Africa: Challenges and Opportunities

existing working group in all expansion plans consisting of the GMA, Metrorail, local authorities and DOT.<sup>279</sup>

## **Price setting mechanisms in the rail sector**

6.82. In South Africa, rail is unregulated and therefore not subjected to independent economic regulation despite some monopolistic features. The Department of Transport published the Economic Regulation of Transport Bill on 24 October 2018 for public comment. The Bill seeks to:

- 6.82.1. consolidate the economic regulation of transport within a single framework and policy;
- 6.82.2. establish the Transport Economic Regulator to deal with price regulation among other functions;
- 6.82.3. establish the Transport Economic Council; and
- 6.82.4. make consequential amendments to various other Acts, and to provide for related incidental matters.

6.83. Gautrain prices are determined within the context of the Concession Agreement. Fares on the General Passenger Services are increased in line with CPI each year. Prices for parking and Dedicated Feeder and Distribution Services (“DFDS”) are increased below inflation, with a view to incentivising the use of the DFDS rather than private car usage. The Gautrain fares are subject to discount rates on monthly and weekly products that permit trips between specific stations at a lower rate than the same number of single fares.<sup>280</sup> Gautrain is a recipient of a ridership grant as discussed above.

6.84. Fares charged by Metrorail are meant to ensure affordability to the commuters. Metrorail’s fare determination considers the following factors: market analysis, customer profile and inflation, other cost drivers, competitors and policy considerations. Several role players are engaged before fare increases are affected and include commuter forums, labour, business and planning authorities (municipalities). Final approval of fares is done by the Minister of Transport. The lack of independent economic regulation has led the DOT to explore the possibility of

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<sup>279</sup> National Department of Transport – submission dated 9 July 2019.

<sup>280</sup> Gautrain Management Agency – Oral submission by Mr Van Der Merwe, Gauteng Hearings dated 06 June 2018, page 9 -10.

economic regulation in the rail sector and a policy paper was issued for public comment in 2018.

### **Assessment of competition**

- 6.85. The assessment of competition in public passenger is done using a point of origin/point of destination (O&D) approach. According to this approach, every combination of a point of origin and a point of destination is potentially a separate market from the customer's viewpoint unless viable options in the form of indirect routes are feasible. To establish whether there is competition on an O&D market, the Commission looked at the different routes in that market, firstly from rail services and other alternatives to the extent that they are substitutable for rail public transport.
- 6.86. These alternatives may be direct rail services, indirect rail services between the stations concerned, or other means of transport such as minibuses and buses (intermodal competition). Whether the alternatives are viable depends on a multiplicity of factors, such as the overall travel time, frequency of services and the price of the different alternatives. The section below assesses the state of competition between Metrorail and Gautrain (intramodal competition). Intermodal competition is discussed in detail in **Chapter 12** together with the other modes of transport.

### ***Intramodal competition***

- 6.87. According to the Gautrain Management Agency, Gautrain was not designed to compete with the existing modes of public transport. Its primary function was to induce a modal shift from private car usage to public transport by providing an attractive offering in terms of travel time and cost savings over vehicle operating costs.<sup>281</sup> Furthermore, the railway networks operated by the Gautrain are totally different to that of Metrorail – trains operating on Gautrain cannot use Metrorail railway and vice versa.
- 6.88. Gautrain fares are substantially higher compared to Metrorail and the subsidies' model applicable to the two modes is different as discussed in **Chapter 4**. GMA is of the view that the services are sufficiently priced and are meant to create a sustainable shift from car users to Gautrain. Gautrain fares had to be perceived as less than the cost of

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<sup>281</sup> Gauteng Management Agency – Oral submission by Mr Van Der Merwe, Gauteng hearings dated 06 June 2018, page 14.

motoring.<sup>282</sup> GMA submits that Gautrain and Metrorail target different customers groups and do not operate on similar routes. A working paper titled Gautrain Rapid Link states that:

*“Gautrain is not a stand-alone project, but part of a total holistic transport system in Gauteng. It therefore does not in principle compete with other public transport services, [. . .] such as Metrorail services. At four stations there will be direct coordination with the current commuter rail system and services, namely at Johannesburg Park Station, at Pretoria Main Station, at Hatfield and at Kempton Park”.*<sup>283</sup>

6.89. **Table 13** shows the fares charged and the travel times by Gautrain and Metrorail Business Express for commuters travelling from Pretoria to Kempton Park (Rhodesfield). Gautrain fares are approximately 120 per cent more than those of Metrorail on the identified routes.

**Table 13: Metrorail business express vs Gautrain – travel times and fares**

	To and from	Price	Travel time	Price difference	Travel time difference
Gautrain	Rhodesfield/Pretoria	R66	39 minutes	120%	50 minutes
Metrorail business express	Rhodesfield (Kempton Park station)/Pretoria	R30 <sup>284</sup>	90 minutes		

Source: Commission's own compilation

6.90. The Commission concludes that there is no competition between Metrorail and Gautrain even though there are limited areas where the services overlap. Gautrain focuses mainly on higher LSM groups compared to Metrorail. This is further supported by the differences in fares and travel times where the services overlap.

### Challenges in the rail industry

6.91. There are inefficiencies in the rail public passenger transport industry especially Metrorail which has compromised commuters.

#### *Inefficient service by Metrorail*

<sup>282</sup> Gauteng Management Agency – Oral submission by Mr Van Der Merwe, Gauteng hearings dated 06 June 2018, page 14-15.

<sup>283</sup> Evan der Merwe et al “Gautrain Rapid Link report”.

<sup>284</sup> The fares used here are lunch prices (prices at the time Metrorail was introduced in the relevant route), the team did not have the recent prices at the time the paper was being prepared.

6.92. Rail transport does not seem to be responding to changes in settlement patterns. The capital subsidy from government is not being utilised to expand or develop new railway lines to be closer to the settlements resulting in the services offered not being optimal. An example cited is in East London where the railway line is on the outskirts of major residential areas as the network was designed to transport cargo. The apartheid spatial planning constrained the market share for commuter rail in certain regions, particularly East London.<sup>285</sup>

6.93. Metrorail has aged rolling stock, sometimes in excess of 50 years, operating on outdated technology which makes repairs and sourcing of spares difficult. For example, 85 kilometres in KZN need urgent replacement and that replacement comes with very heavy expensive on-track machinery.<sup>286</sup> Old rolling stock has caused extensive service delays in respective regions and commuters are opting for other modes of public transport which are more reliable and much safer as compared to rail.

287

#### *The misalignment in the ownership of infrastructure*

6.94. As discussed above, there is misalignment in the ownership of rail infrastructure. Currently the Public Rail Agency of South Africa (PRASA) and Transnet share infrastructure that is governed by various lease agreements, with the two entities charging each other for the use of this infrastructure. The largest portion of the infrastructure is owned and managed by Transnet, thus reliability on the rolling stock is mainly dependant on a Transnet Freight rail.<sup>288</sup> Vandalism and cable theft affect the signalling system and track equipment which now must be attended to by Transnet Freight Rail in instances where the infrastructure belongs to Transnet.<sup>289</sup> In such cases, the maintenance of the infrastructure seem to be heavily reliant on a third party. This arrangement causes delays in fixing faults leading to compromised quality of the service.<sup>290</sup> The steady decline in passenger numbers every month is attributed to unreliability of the rolling stock.<sup>291</sup>

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<sup>285</sup> Metrorail – Oral submission by Mr Stoltz, Eastern Cape hearings dated 27 August 2018, page 11.

<sup>286</sup> Metrorail – Oral submission by Mr Hattingh, KwaZulu Natal hearings dated 27 June 2018, page 42.

<sup>287</sup> Metrorail – Oral submission by Mr Matampi, Gauteng hearings dated 08 June 2018, page 82.

<sup>288</sup> Metrorail – Oral submission by Stoltz, Eastern Cape hearings dated 27 August 2018, page 8.

<sup>289</sup> Metrorail – Oral submission by Mr Hattingh, KwaZulu Natal hearings dated 27 June 2018, page 46.

<sup>290</sup> Metrorail – Oral submission by Stoltz, Eastern Cape hearings dated 27 August 2018, page 8.

<sup>291</sup> Metrorail – Oral submission by Mr Hattingh, KwaZulu Natal hearings dated 27 June 2018, page 45.

### *Fare evasion and encroachment*

- 6.95. High levels of fare evasion by commuters is being experienced because of loopholes in the system leading to free ridership.<sup>292</sup> According to the Metrorail, fare evasion has increased over time as evidenced by unaccounted revenue and passenger numbers. Trains are overcrowded and passengers use that as a justification to evade fares.<sup>293</sup>
- 6.96. Encroachments by informal dwellers on the rail infrastructure is becoming an increasingly massive problem particularly on priority corridors. For example, areas like KwaMashu and Umlazi have been experiencing vandalism.<sup>294</sup> Between January and June 2018, there was been a high rate of cancellation of trains and that averaged between 24 to 25 train service cancellations per month and peak services. The failure of the rolling stock with an average age of 41 years has been cited as a contributing factor.<sup>295</sup>
- 6.97. The unreliability of rail has led to increased congestion on roads daily as commuters have opted to use minibus taxis and buses. Commuters are prepared to pay more to get to work on time rather than use the cheaper but unreliable Metrorail service.

### *Transport planning and integration*

- 6.98. Alignment of rail public transport to the ITPs and human settlements plan for the respective municipalities has been cited as a challenge. Many of the country's human settlements have far lower population density than in other countries that use urban rail intensely. Hence it is necessary to actively align human settlements and transport modes, to maximise the role of rail and hence to shift traffic from road to rail. This is a function that planning authorities should undertake. In addition, rail public transport remains a competence of the national government and PRASA, supported by the respective Metrorail regional offices. Further discussion on transport planning is in **Chapter 4**.

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<sup>292</sup> Metrorail – Oral submission by Mr Matampi, Gauteng hearings dated 08 June 2018, page 82.

<sup>293</sup> Metrorail – Oral submission by Mr Matampi, Gauteng hearings dated 08 June 2018, page 86.

<sup>294</sup> Metrorail – Oral submission by Mr Matampi, Gauteng hearings dated 08 June 2018, page 84. Metrorail – Oral submission by Mr Hattingh, KwaZulu Natal hearings dated 27 June 2018, page 46.

<sup>295</sup> Metrorail- Oral submission by Mr Walker, Western Cape hearings dated 20 June 2018, page 84.

## **Efforts by government to address some of the challenges**

- 6.99. The Commission recognises some of the recent interventions undertaken by government to stabilise PRASA. In August 2019, a “Ministerial War Room” was established by the Minister of Transport to improve the efficiency of PRASA. The War Room was meant to address the continued decline of the quality of services that PRASA provides to the commuting public.<sup>296</sup> It focused on service recovery, getting operations back on track at acceptable service levels.
- 6.100. An organisational assessment conducted by the Government Technical Advisory Centre (“GTAC”), flagged critical systematic issues that caused bottlenecks in the achievement of the War Room Targets. These includes collapse of internal systems and controls, dysfunctional supply chain management processes, hollowed-out project management capability and a business model that requires urgent review. These were further compounded by incidents of theft and vandalism and prevalent crime. The findings by GTAC meant that despite the War Room’s success in energizing management and mobilising human resources, the intervention was not sufficient in addressing its targets due to the extent of systematic challenges faced by PRASA.
- 6.101. In December 2019, the Cabinet approved the dissolution of PRASA’s interim board. PRASA was further placed under administration with an administrator appointed for a period of 12 months. The intervention followed an announcement by the Auditor General (“AGSA”) that PRASA regressed on its audit outcomes and moved from a qualified audit in 2017/18 to a disclaimer of audit opinion. The disclaimer was due to non-compliance with the legislative processes, especially supply chain management.
- 6.102. The appointment of an administrator seeks to address the following key priorities:
- 6.102.1. Address matters raised in the Auditor General’s report and ensure that there are no repeat findings; and
  - 6.102.2. Facilitate PRASA’s turnaround plan which focuses on speeding up interventions to improve operational performance, expedite implementation of the modernization programme, ensure security interventions across all corridors, developing capacity to manage PRASA’s

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<sup>296</sup> Department of Transport, 2018/19 Annual report.



capital programme working with other state entities in the short term and review the organizational design and business model.<sup>297</sup>

6.103. The administrator has also recently appointed a team of technical advisors to assist in fostering the turnaround strategy and stabilizing PRASA operations during the 12 months tenure.

## Findings

6.104. Considering the discussions above, the Commission has identified the following findings:

6.104.1. Rail services in Gauteng (Gautrain and Metrorail) are not integrated leading to some duplication on routes. The reason advanced is that Metrorail and Gautrain serve different classes of commuters. The provision of commuter services based on social status perpetuates class divisions.

6.104.2. The provision of rail services by both Metrorail and Gautrain in Gauteng is not an efficient utilisation of limited government funding. International experience suggests that rail operations exhibit natural monopoly characteristics and therefore should not be duplicated. Rail should be provided by one entity to derive economies of scale and foster integrated planning.

6.104.3. National government through PRASA is better positioned to operate long distance passenger rail services through its Shosholoza Meyl brand. In the same vein, National government is not an appropriate sphere to operate Metrorail commuter services within metropolitan areas.

6.104.4. Metrorail service is inefficient in the provision of urban rail commuter services - there are several challenges that constrain the quality of the service, including continuous breakdown of trains, unreliable services, fare evasion by passengers and encroachment due to operating an open system.

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<sup>297</sup> Department of Transport, Media statement dated 09 December 2019. [https://www.transport.gov.za/documents/11623/126494/RASAMANAGEMENTSTAFF\\_09Dec2019.pdf/494d088a-d0bd-40a2-b8b5-5472469e381a](https://www.transport.gov.za/documents/11623/126494/RASAMANAGEMENTSTAFF_09Dec2019.pdf/494d088a-d0bd-40a2-b8b5-5472469e381a) [accessed on 06 February 2020].

6.104.5. High density corridors (which are economically feasible to be serviced by rail) are not currently covered – High density corridors are not serviced by Metrorail due to capacity challenges and poor performance of the system.

6.104.6. In terms of ownership of railway infrastructure, the dual ownership of railway infrastructure between PRASA and Transnet is negatively affecting efficiency in responding to technical challenges.

## **Recommendations**

6.105. To facilitate proper coordination, the Commission recommends immediate devolution of rail operations (based on preliminary assessment of readiness) as follows:

6.105.1. To Gauteng: the Gauteng province (through the Gauteng Transport Authority) in conjunction with the metros will be responsible for both Gautrain and Metrorail. This function will be carried out as part of the Gauteng Transport Authority which will amalgamate transport planning functions.

6.105.2. To Western Cape: the province in conjunction with City of Cape Town and other municipalities will be responsible for Metrorail after the devolution of the rail functions from National government.

6.106. The DOT to develop a rail devolution strategy within 12 months and set out the criteria that provinces (KwaZulu-Natal and Eastern Cape) must meet for devolution to take place.

6.107. The DOT and PRASA will be responsible for long distance passenger rail services through its Shosholoza Meyl brand as Metrorail commuter services will be devolved to the respective provinces.

6.108. The DOT and National Treasury should explore alternative funding sources and potential private sector participation to deal with infrastructure backlogs in the rail sector.

6.109. The DOT and National Treasury must incorporate new rail expansion in the grant framework to target high density corridors in addition to the refurbishment of existing infrastructure.

## 7. SUBSIDISED BUS CONTRACTS IN URBAN AREAS

### Introduction

- 7.1. This chapter assesses the current commuter bus subsidy system in South Africa with a focus on urban areas. Urban areas have significant number of daily commuters and the dynamics of urban commuting are different to that of the rural areas. In order to give context to the *status quo*, the chapter begins by tracing the origins of the bus subsidy system, the historic circumstances that led to the introduction of the system in South Africa. The chapter then shows how the bus subsidy system has evolved over the years to its current form and highlights challenges experienced in different provinces as far as the implementation of the bus subsidy system is concerned. This chapter also identifies competition distortions arising from the bus subsidy system and concludes by making findings and recommendations.

### The origins of the commuter bus subsidy system

- 7.2. As indicated in **Chapter 5**, subsidies are a common feature in a public transport system. The origins of the subsidy system in the South African bus industry dates as far back as the 1940s. The introduction of this system was necessitated by, among other things, the pre1994 governments' adoption of policies and legislation, notably the Bantustan Policy, the Black Urban Areas Act of 1923 and the Group Areas Act of 1950, which resulted in, among other things, the mass removal of Africans from white proclaimed areas. This historical event contributed to the rapid growth of the bus industry, which, until at least 1982, was the key and dominant mode of public transport in South Africa.<sup>298</sup> Bus subsidies were provided to ensure that workers could access commuter busses at reasonable rates.
- 7.3. The segregation policy also resulted in the establishment of several bus companies that operated largely in homelands or independent states, some of which still operate. These companies included the following:
- 7.3.1. Bophuthatswana Transport Holdings;
  - 7.3.2. Maluti Bus Service;
  - 7.3.3. Ciskei Transport Corporation;

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<sup>298</sup> Naude, L.J., 1999. An evolution of the impact of the South African public transport policy on the restructuring of the commuter bus industry. Doctorate Thesis. Johannesburg: Rand Afrikaans University, 160 - 161. See also Walters, J. 2014, Public transport policy implementation in South Africa: *Quo vadis?* Journal of Transport and Supply Chain Management 8(1), Art. #134, page 2 of 10.

- 7.3.4. Transkei Road Transport Corporation;
- 7.3.5. Lebowa Transport (now trading as Great North Transport);
- 7.3.6. Gazankulu Transport (now trading as Great North Transport);
- 7.3.7. KwaZulu Transport Holdings;<sup>299</sup> and
- 7.3.8. Public Utility Transport Company (PUTCO).<sup>300</sup>

- 7.4. The formation of these companies had a detrimental effect on black entrepreneurship in that it resulted in many existing small black bus operators being removed from the market through merger activities.<sup>301</sup> As demonstrated later in this chapter, the demise of small black bus operators was cemented by the manner in which the bus subsidy tender system has been implemented over the years.
- 7.5. Bus subsidies were initially introduced as a temporary measure (in 1944) to avert bus boycotts that ensued between 1939 and 1945. Some of these boycotts were triggered by PUTCO's increase of bus fares in Johannesburg and Pretoria. This, together with other effects arising from the implementation of the Group Areas Act, forced the state to agree to subsidise transport costs incurred by Africans. It appears that PUTCO, which was formed in 1945 following the merger of several entities, was the first entity to be allocated subsidies and was the largest, if not the only bus operator responsible for ferrying Africans in Johannesburg and Pretoria in the 1940s.<sup>302</sup>
- 7.6. In subsequent years, measures were taken to make bus subsidies a permanent feature. These included the extension of subsidies to African women, Indians and coloured. Such measures were necessary because bus subsidies were also used as a policy instrument to segregate Africans to the urban periphery. Khosa explains:
- "Without bus subsidies, South Africa would have manifested a different urban morphology. The Group Areas Act, and to some extent both Bantustan policy and*

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<sup>299</sup> Naude, L.J., 1999. An evolution of the impact of the South African public transport policy on the restructuring of the commuter bus industry. Doctorate Thesis. Johannesburg: Rand Afrikaans University, 162.

<sup>300</sup> PUTCO operated largely in Johannesburg and Pretoria.

<sup>301</sup> Naude, L.J., 1999. An evolution of the impact of the South African public transport policy on the restructuring of the commuter bus industry. Doctorate Thesis. Johannesburg: Rand Afrikaans University, 162

<sup>302</sup> When PUTCO was formed, it charged low fares and had a low income base. It then received subsidies from large entities until this function was taken over by government. See Naude, L.J., 1999. *An evolution of the impact of the South African public transport policy on the restructuring of the commuter bus industry*. Doctorate Thesis. Johannesburg: Rand Afrikaans University, 165.

*decentralisation legislation, would have been unworkable, and the shortcomings of these policies would have been exposed earlier”.*<sup>303</sup>

- 7.7. Furthermore, bus subsidies were used as a mechanism to protect large bus operators against competition from the minibus taxi industry which had emerged and showed significant growth in the late 1980s. Consequently, inefficient large bus operators were also subsidised while some of the services that they provided were not responsive to the needs of commuters.<sup>304</sup>
- 7.8. The bus subsidy system was initially based on coupons of tickets sold by an operator over a specific distance and claims were made based on tickets sold by the operator over its network of services. Furthermore, bus operators were granted permits of indefinite duration. This, too, served as a barrier to entry for new entrants.
- 7.9. Given the wide scope and application of the bus subsidy system and government's limited resources, employers were also required to contribute towards bus subsidies. For example, in 1982 the government contributed 74 per cent while employers contributed 26 per cent.<sup>305</sup>
- 7.10. The 1986 White Paper introduced the tender system in the South African commuter bus industry. In order to give effect to this policy position, bus services were put out to tender in 1987 as demonstration projects in order to assess the effectiveness of this method of procuring bus services.<sup>306</sup> The services that were first subjected to the tender system were those that were rendered by bus operators who could not continue running the services due to inadequate funding.<sup>307</sup>

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<sup>303</sup> Khosa, M., 1990. Changing patterns of 'black' bus subsidies in the apartheid city, 1944-1986. *GeoJournal*, vol. 22, No. 3, 257. See also Naude, L, 2003. The people and customer effects of bus reforms in South Africa. Paper presented at the 8<sup>th</sup> Thredbo Conference in Rio de Janeiro, 4. See also Walters, J., 2014, *Public transport policy implementation in South Africa: Quo vadis?* *Journal of Transport and Supply Chain Management* 8(1), Art. #134, page 2 of 10.

<sup>304</sup> Naude, L.J., 1999. *An evolution of the impact of the South African public transport policy on the restructuring of the commuter bus industry*. Doctorate Thesis. Johannesburg: Rand Afrikaans University, 173. See also Moore, A. Managing and monitoring public transport contracts in Kwazulu-Natal. Paper accessed at [http://www.kzntransport.gov.za/reading\\_room/research/general/ManagingAndMonitoring-Moore.pdf](http://www.kzntransport.gov.za/reading_room/research/general/ManagingAndMonitoring-Moore.pdf), on 11 February 2019.

<sup>305</sup> Khosa, M., 1990. Changing patterns of 'black' bus subsidies in the apartheid city, 1944-1986. *GeoJournal*, vol. 22, No. 3, 256.

<sup>306</sup> Naude, L, 2003. *The people and customer effects of bus reforms in South Africa*. Paper presented at the 8<sup>th</sup> Thredbo Conference in Rio de Janeiro. See also: Walters, J., 2014, *Public transport policy implementation in South Africa: Quo vadis?* *Journal of Transport and Supply Chain Management* 8(1), page 2.

<sup>307</sup> Walters, J., 2014, *Public transport policy implementation in South Africa: Quo vadis?* *Journal of Transport and Supply Chain Management* 8(1), Art. #134, page 2 of 10.

- 7.11. When the democratic government took over in 1994, proactive measures were taken to address some of the distortions and challenges observed in the public transport industry.<sup>308</sup> Key among these measures was the adoption of the 1996 White Paper, which, among other things, cemented the use of the bus tender system as a method to procure commuter bus services. In this regard, the 1996 White Paper proposed that a competitive bidding process be followed.<sup>309</sup>
- 7.12. In order to give effect to the 1996 White Paper, the National Land Transport Transition Act, 2000 (Act No. 22 of 2000) (Transition Act) was promulgated. The Transition Act gave legal recognition to the bus subsidy system. Section 47 (2) of the Transition Act empowered provincial departments to enter into subsidised service contracts after a tender process. Section 47(3) made provision for negotiated contracts and specified the circumstances under which the Minister of Transport could enter into or authorise the conclusion of negotiated contracts. For example, under the Transition Act, a negotiated contract could be concluded if such a contract would promote the economic empowerment of small business, or persons disadvantaged by unfair discrimination.<sup>310</sup>
- 7.13. Prior to the Transition Act coming into effect, government signed interim contracts with bus operators that were already part of the subsidy system. These contracts were to serve as a bridging mechanism between the lifelong permit system and the tendered contracts. Government's plan in this regard was to have all subsidised bus services on tendered contracts by end of 2000. Interim contracts were therefore put in place pending the introduction of the bidding system. Given the purpose and circumstances that led to their introduction, interim contracts were meant to be effective for a period of one to three years. However, these contracts have now been in existence for over 21 years.<sup>311</sup>
- 7.14. In order to manage labour issues in the transition from interim contracts to tendered contracts, government, labour and the bus industry concluded a Tripartite Heads of

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<sup>308</sup> Naude, L, 2003. *The people and customer effects of bus reforms in South Africa*. Paper presented at the 8<sup>th</sup> Thredbo Conference in Rio de Janeiro, 4.

<sup>309</sup> Naude, L, 2003. *The people and customer effects of bus reforms in South Africa*. Paper presented at the 8<sup>th</sup> Thredbo Conference in Rio de Janeiro, 5. See also Walters, J., 2014, *Public transport policy implementation in South Africa: Quo vadis?* Journal of Transport and Supply Chain Management 8(1), Art. #134, page 2 of 10.

<sup>310</sup> Section 47(3)(a)(i) of the NLTTA.

<sup>311</sup> Presentation by the Department of Transport to the Portfolio Committee on Transport, 05 November 2013. See also SABOA – Presentation by Mr Walters, GAUTENG hearings, dated 06 June 2018, page 7.

Agreement. The first set of tendered contracts came out in 1998 and most of these contracts were issued in Gauteng and KwaZulu-Natal. The tender system was, however, halted in 2001 because of labour challenges, lack of adequate funding and court action taken by Golden Arrow Bus Services regarding noncompliance with a requirement in the Transition Act, that there had to be transport plans in place before services could be put out to tender.<sup>312</sup> As a means to address labour concerns, negotiated contracts were concluded (instead of tendered contracts) between 2000 and 2003.<sup>313</sup>

### **The current status of the commuter bus subsidy system**

7.15. No new contracts have been concluded since 2003. The bulk of interim contracts, which are now renewed on a short-term basis and account for more than 60 per cent of the subsidy budget, have not been converted to tendered contracts as per initial plans. In its presentation to Parliament in 2013, the DOT noted the following inefficiencies which characterise interim contracts:

- 7.15.1. Outdated routes;
- 7.15.2. Lack of service level and quality specification (reliability, cleanliness, information, punctuality);
- 7.15.3. Lack of monitoring;
- 7.15.4. No value for money;
- 7.15.5. No fleet recapitalisation; and
- 7.15.6. Annual escalations.

7.16. Furthermore, in 2009 the DOT decided to convert interim contracts from passenger volume-based contracts to kilometre-based contracts in order to cap claims from bus operators. This conversion meant that each subsidised bus operator would be allocated specific maximum kilometres to service or cover on its network for subsidised services. Subsidised bus operators would not be paid if they exceeded their allocated kilometres. According to the DOT, the decision to convert from volume-based contracts to kilometre-based contracts was also triggered by the fact that the DOT was facing a deficit of R1, 2 billion on the subsidy budget in 2009 because of cumulative shortfalls

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<sup>312</sup> Presentation by the Department of Transport to the Portfolio Committee on Transport, 05 November 2013.

<sup>313</sup> Walters, J., 2014, *Public transport policy implementation in South Africa: Quo vadis?* Journal of Transport and Supply Chain Management 8(1), Art. #134, page 2 of 10.

experienced since 2005.<sup>314</sup> **Table 14 Error! Reference source not found.** depicts the current status regarding bus subsidy contracts in South Africa.

**Table 14: Current status of bus subsidy contracts**

Type of contract	Estimated Number of buses	Number of contracts	Percentage of the subsidy budget	Contract characteristics	Duration
<b>Interim contracts</b>	3 849	39	68%	Foreseen as a transition arrangement in 1997. ICs are now 21 years old	3 years originally. Contract extensions are between 1 and 3 months.
<b>Tendered contracts</b>	1 834	66	28%	Based on a standard contract document. Mostly “stand alone” services in rural/ urban areas	5 years originally. Contract extensions are between 1 and 3 months.
<b>Negotiated contracts</b>	1 300	10	4%	Mostly applicable to state-owned and operated bus companies	5 years originally. Contract extensions are between 1 and 3 months

Source: SABOA<sup>315</sup>

7.17. In terms of Section 46 of the NLTA, where there are existing interim contracts, tendered contracts or negotiated contracts in the area of the relevant contracting authority (i.e. provincial government), such a contracting authority may allow the contract to run its course, negotiate with the relevant bus operator to amend the contract to provide for inclusion of the operator in an integrated public transport network, or make a reasonable offer to the operator.

### **The roles of national and provincial governments in the administration of the commuter bus subsidy system**

7.18. All the three types of the contracts discussed above are now governed by the NLTA. Section 1 of the NLTA recognises the DOT, provinces and municipalities as contracting authorities. Section 42, read with Sections 11(1) (c) (xxvi) and 12(1), empowers these

<sup>314</sup> National Department of Transport – written submission dated 24 May 2019, paragraph 3.4.3.

<sup>315</sup> SABOA – Presentation by Mr Walters, GAUTENG hearings, dated 06 June 2018



contracting authorities to enter into 'subsidised service contract' with operators, provided a public tender process is followed. Subsidised service contracts envisaged in Section 42 can be entered into after the expiry of, among others, interim contracts, negotiated contracts, current tendered contracts or subsidised contracts concluded in terms of the Transition Act. Thus, from the reading of Section 42 it appears that both the DOT and provinces are empowered to conclude contracts with bus operators for the provision of subsidised public transport.

- 7.19. The Minister of Transport is further empowered to prescribe requirements for tenders and documents to be used for subsidy contracts. The Minister is also required to determine the model tender and contract documents for subsidised service contracts. These functions are to be performed in consultation with the MECs.<sup>316</sup>
- 7.20. Contracting authorities are also empowered to enter into negotiated contracts. Section 41 (1) identifies three instances upon which negotiated contracts may be entered into:
- 7.20.1. integrating services forming part of integrated public transport networks in terms of their integrated transport plans;
  - 7.20.2. promoting the economic empowerment of small business or persons previously disadvantaged by unfair discrimination; or
  - 7.20.3. facilitating the restructuring of a parastatal or municipal transport operator to discourage monopolies.
- 7.21. In practice, the bus subsidy system is largely administered by provinces. The main responsibility of provinces in this regard is to distribute subsidies to contracted bus operators and to monitor adherence to the terms of contracts concluded with bus operators. Prior to 1996, this function was performed by national government and was devolved to provinces in 1997.<sup>317</sup>
- 7.22. Recently, provinces seem to have also assumed the role of acting as contracting authorities for new subsidised bus contracts (though no new contracts have been awarded as yet) and work closely with municipalities in whose jurisdiction the

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<sup>316</sup> Section 42(5) of the NLTA.

<sup>317</sup> Gauteng Department of Roads and Transport – oral submission by Mr Rendani Marunga, Gauteng Hearings, dated 06 June 2018, page 11.

subsidised bus services are rendered.<sup>318</sup> For example, in Gauteng the Department of Roads and Transport advertised subsidised bus contracts on the tender bulletin and various newspapers in November 2017.<sup>319</sup>

- 7.23. Despite this development, it appears that the contracting process for some of the subsidised bus contracts will still be led and handled by national government under certain circumstances. National government also determines escalations that subsidised bus operators receive annually.

### **Funding for subsidy contracts**

- 7.24. As indicated above, provinces are entrusted with the responsibility to manage commuter bus subsidy contracts. These contracts are administered based on conditions set out in the Division of Revenue Act, which identifies the Public Transport Operational Grant as a source of funding for subsidised commuter bus services discussed in this chapter. Details on the mechanics of this grant are provided in **Chapter 5** which discusses various government subsidies provided to the public transport sector.

- 7.25. **Table 15** and

- 7.26. **Table 16** show the allocation of funds for bus subsidy contracts per province. These allocations include both allocations from national government ("PTOG") and provincial contributions from its own equitable share.

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<sup>318</sup> It is important to note that provinces can only assume the responsibility of a contracting authority for new contracts if done in terms of Section 12(1) of the NLTA.

<sup>319</sup> Gauteng Department of Roads and Transport – oral submission by Mr Rendani Marunga, Gauteng Hearings, dated 06 June 2018, page 13.

**Table 15: Allocation of funds per province, 2015/16**

Province	2015/16			
	Number of subsidised kilometres operated	Number of routes subsidised	Final appropriation (R'000)	Average subsidy per km (Rands)
<b>Gauteng</b>	97 208 974	3 047	2 129 026	21.9
<b>Western Cape</b>	37 495 646	2 462	1 110 888	29.6
<b>KwaZulu-Natal</b>	42 071 471	1 740	1 204 917	28.6
<b>Limpopo</b>	41 525 331	882	666 877	16.1
<b>Eastern Cape</b>	16 252 325	2 610	437 805	26.9
<b>Mpumalanga</b>	26 654 741	154	518 625	19.5
<b>Northern Cape</b>	1 466 990	68	44 907	30.6
<b>North West</b>	28 600 410	841	902 434	31.6
<b>Free State</b>	11 985 646	2 808	283 204	23.6
<b>Total</b>	<b>303 261 534</b>	<b>14 612</b>	<b>7 416 621</b>	<b>34.3</b>

Source: Provincial annual reports 2017/18

**Table 16: Allocation of funds per province, 2016/17**

Province	2016/17			
	Number of subsidised kilometres operated	Number of routes subsidised	Final appropriation (R'000)	Average subsidy per km (Rands)
<b>Gauteng</b>	95 134 951	3 476	2 458 461	25.8
<b>Western Cape</b>	38 315 171	2 520	1 097 000	26.6
<b>KwaZulu-Natal</b>	41 599 563	1 709	1 268 034	30.5
<b>Limpopo</b>	37 023 838	882	719 487	19.4
<b>Eastern Cape</b>	18 418 911	2 635	469 250	25.5
<b>Mpumalanga</b>	27 446 939	154	567 683	20.7
<b>Northern Cape</b>	1 716 501	65	50 348	29.3
<b>North West</b>	28 852 734	841	867 325	30.1
<b>Free State</b>	11 954 262	2 808	296 555	24.8
<b>Total</b>	<b>300 462 870</b>	<b>12 282</b>	<b>7 917 380</b>	<b>34.1</b>

Source: Provincial annual reports 2017/18

7.27. Gauteng province has the largest budget for bus subsidies compared to all the other provinces, followed by KwaZulu-Natal and Western Cape. The three provinces also rank the highest in terms of the number of routes and kilometres subsidised. However,

in terms of average subsidy rate per kilometre, KwaZulu-Natal, North West and Western Cape seem to rank the highest.

### **Provincial perspective on the implementation of the commuter bus subsidy system**

7.28. This section discusses how each province implements the bus subsidy system and the major challenges experienced by different stakeholders regarding provision of subsidised commuter bus services.

#### ***Gauteng***

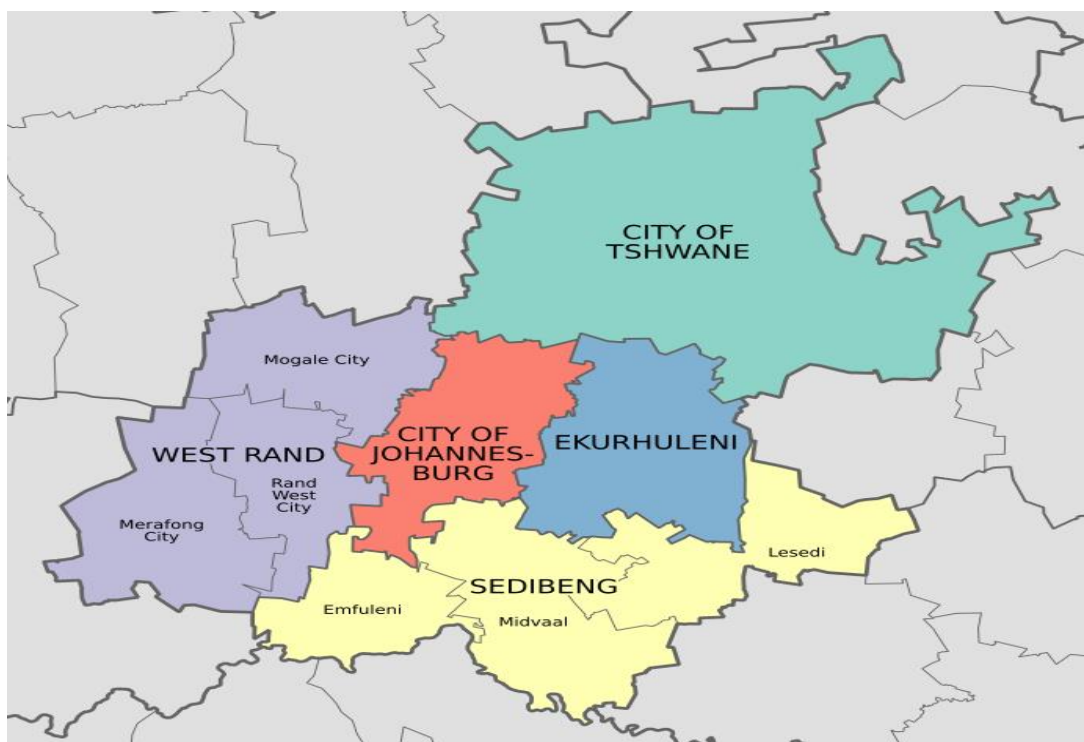
7.29. As indicated above, in Gauteng the Department of Roads and Transport is responsible for the administration of the subsidised bus contracts in the province. According to the Department, it inherited 34 subsidised bus contracts from national government, which are shared among 13 bus operators.<sup>320</sup>

7.30. Gauteng consists of three metropolitan municipalities and two district municipalities, which are further divided into six local municipalities. Subsidised commuter bus services are largely rendered in the City of Tshwane, the City of Ekurhuleni, Sedibeng District Municipality and the City of Johannesburg. **Figure 18** depicts the geographic location of these municipalities.

#### **Figure 18: Map of municipalities in Gauteng**

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<sup>320</sup> Gauteng Department of Roads and Transport – oral submission by Mr Rendani Marunga, Gauteng Hearings, dated 06 June 2018, page 11.



Source: Wikipedia

7.31. PUTCO is the largest commuter bus operator in Gauteng and has enjoyed this position since the 1940s. Currently, it operates a bus fleet of about 1 307 buses on subsidised bus contracts.<sup>321</sup> Below are some of the popular commuter bus routes in Gauteng:

*Mpumalanga/Tshwane routes* –these routes operate from areas in the district of Inkangala in Mpumalanga to the suburbs of Tshwane;

*Soweto/Johannesburg routes* – these routes operate from areas in Soweto to Johannesburg, Sandton, Midrand and other northern suburbs of Johannesburg;

*Soshanguve/Tshwane routes* – the routes operate from the township of Soshanguve to the suburbs of Tshwane.

*Hammanskraal/Tshwane routes* – the routes operate from Hammanskraal and the surrounding areas to the suburbs of Tshwane

7.32. Since 1997 there have been no new subsidised bus contracts awarded in Gauteng. The current contracts held by bus operators are largely interim contracts, and these have been in place for more than 21 years.<sup>322</sup> National government has issued a directive to provinces that the contracts be extended by three more years to 2021.<sup>323</sup>

<sup>321</sup> PUTCO – Submission by M.H Heyns, dated 11 October 2017, page 1.

<sup>322</sup> PUTCO – oral submission by Mr Andrew Sefala, Gauteng Hearings, dated 05 June 2018, page 11.

<sup>323</sup> Gauteng Department of Roads and Transport – oral submission by Mr Rendani Marunga, Gauteng Hearings, dated 06 June 2018, page 11.

- 7.33. Fare increases in Gauteng are usually implemented on an annual basis. However, in 2018, PUTCO went against this tradition by adjusting its fares twice, which caused public outcry.<sup>324</sup> When determining a fare increase, each bus operator must follow the process stipulated in its contract with government. In this regard, the operator is required to consult with commuter associations and obtain approval from the Gauteng Department of Roads and Transport. Consultations with commuter associations are to commence at least five months before the proposed date of the fare increase. According to PUTCO, these consultations are not meant to be negotiations for fare increases. Instead, these consultations are meant to explain to commuters why there is a need for fare increases.<sup>325</sup>
- 7.34. When determining fare increases, bus operators consider their operational costs, subsidies received from government (including revenue escalations), the likely impact of the price increase on competition between different modes of public transport and whether the fare increase would be affordable to commuters. The fare increase must be approved by the Department of Roads and Transport.<sup>326</sup>
- 7.35. Subsidised commuter bus operators in Gauteng have raised concerns about underfunding and receiving low annual increases from government. According to North West Investment (NWI), over the years bus operators have been receiving annual increases that are below actual cost increases. To cover all its costs, NWI has had to increase its passenger fares. There are limitations even in the adjustments of passenger fares as any contemplated increases are still subject to government's approval.
- 7.36. Subsidised commuter bus operators have also raised concerns about a lack of flexibility in subsidised commuter bus system and the restrictions imposed by the kilometre-based system utilised by government. While there appear to be legitimate grounds for government to convert from the passenger based ticking system to the kilometre based system, lack of flexibility in the current system appears to significantly

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<sup>324</sup> Greater Soweto Commuter Forum – Oral submission by Mr Wallet Khumalo, Gauteng Hearings, dated 04 June 2018, page 94.

<sup>325</sup> PUTCO – oral submission by Mr Andrew Sefala, Gauteng Hearings, dated 05 June 2018, page 46.

<sup>326</sup> PUTCO – oral submission by Mr Andrew Sefala, Gauteng Hearings, dated 05 June 2018, page 48. See also North West Investment – oral submission by Mr Lombertus Nicolas de Beer, Gauteng Hearings, dated 05 June 2018, page 11.

constrain bus operators, with the effect that their services do not adequately respond to the needs of commuters, which have drastically changed since 1997.<sup>327</sup> The Gauteng Department of Roads and Transport itself has acknowledged this deficiency:

**“MR LESOFE:** *So, the government has been criticised by both commuters and industry participants for how it has handled the subsidy contracts. For instance, there are concerns about the fact that the contracts are old, and these contracts are outdated, and they do not respond to the needs of commuters*

**MR MARINGA:** *I basically accept those concerns as valid. I mean I have actually been in the directorate for a while now, and we have frequently received complaints from commuters as well as bus operators, as to the kind of service that is being offered...*<sup>328</sup>

- 7.37. A lack of flexibility in the subsidy system has also contributed to an increase in subsidised bus operators’ operational costs. Their concerns in this regard are succinctly illustrated by Mr Lombertus de Beer:

*“These contracts that were entered into in 1997, as I have explained started at point A, ends at point B, your distance is for example 40 kilometres. You are only getting your subsidy for 40 kilometres. We now have to extend the routes, operating let us say 50 kilometres. For the other 10 kilometres there is no subsidy on that. It comes from the company’s pocket, the operation on that as well as fares that the passengers pay.”*<sup>329</sup>

- 7.38. Despite the capping of kilometres, it is important to note that subsidised contracts make provision for variation of routes when necessary. For example, clause 3.2 of PUTCO’s contract stipulates:

*“No amendments to Parts 2 and 3 [timetable and routes section] are to be made without the prior written approval of the Employer, which will not unreasonably be withheld”*

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<sup>327</sup> PUTCO – oral submission by Mr Andrew Sefala, Gauteng Hearings, dated 05 June 2018, page 40.

<sup>328</sup> Gauteng Department of Roads and Transport – oral submission by Mr Rendani Maringa, Gauteng Hearings, dated 06 June 2018, page 53.

<sup>329</sup> North West Investment – oral submission by Mr Lombertus Nicolas de Beer, Gauteng Hearings, dated 05 June 2018, page 16.

- 7.39. From a commuter perspective, concerns have been raised about the quality of services provided by subsidised commuter bus operators in Gauteng. In particular concerns have been raised about buses that run late, breakdowns experienced during trips and the use of buses that are too old.<sup>330</sup> While these concerns are acknowledged, bus operators have pointed out that these challenges arise as a result of, among other things, deficiencies associated with the current subsidy system. As explained by Mr Andrew Sefala of PUTCO:

*“We’ve indicated previously Chairperson in our submission that we had a problem in terms of funding, and I think my previous colleague from North West Investment or NTI has indicated the fact that funding is an issue. You can’t buy busses on a three months contract – you cannot do that. Currently we are having a contract that ends at the end of September. There is no way that you can buy a bus – to an extent that we are now going out of our own way to rent busses to make sure that we render services to the best of our own ability.”<sup>331</sup>*

- 7.40. While the inefficiencies identified above, which ultimately inconvenience commuters, may be attributable to multiple factors, lack of competition for subsidy contracts (as initially envisaged) and inadequate funding are the major contributing factors that ought to be addressed.

### **Eastern Cape Province**

- 7.41. The Eastern Cape Province is a predominantly rural province.<sup>332</sup> The province consists of two metropolitan municipalities and six district municipalities. Commuter bus services in the province are rendered mainly by three bus operators, namely Algoa Bus Company (Pty) Ltd (Algoa), Mayibuye Transport Corporation (Mayibuye) and Africa’s Best 350 Ltd (AB350).

#### **Figure 19: Map of municipalities in the Eastern Cape Province**

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<sup>330</sup> Greater Soweto Commuter Forum – Oral submission by Mr Wallet Khumalo, Gauteng Hearings, dated 04 June 2018. Tshwane Women in Transport – Oral submission by Ms Mavis Mochobane, Gauteng Hearings, dated 07 June 2018, page 90. See also Mpumalanga Commuter Organisation- Oral submission by Ms Masango, Mpumalanga Hearings, dated 10 July 2018.

<sup>331</sup> PUTCO – oral submission from Mr Andrew Sefala, Gauteng Hearings, dated 05 June 2018, page 40

<sup>332</sup> Mlambo, V 2018. An overview of rural-urban migration in South Africa: its causes and implications. Archives of Business Research, 6(4): 63-70. Eastern Cape Department of Transport – oral submission by Mr Phathuxolo Mthirara, Port Elizabeth Hearings, dated 14 August 2018, page 22.





Source: Wikipedia

- 7.42. Algoa is largest commuter bus operator in the Eastern Cape Province servicing over 40 per cent of the subsidised routes.<sup>333</sup> The entity operates over 2000 routes, which are mainly in the Nelson Mandela Metropolitan area, based on an interim contract that was awarded in 1997.<sup>334</sup> Just like PUTCO, Algoa had subsidy contracts with government prior to 1997.<sup>335</sup> **Table 17** below shows some of the popular commuter bus routes currently serviced by Algoa.

<sup>333</sup> Eastern Cape Department of Transport – oral submission by Mr Phathuxolo Mthirara, Port Elizabeth Hearings, dated 14 August 2018, page 25.

<sup>334</sup> Algoa Bus Company – oral submission by Mr Secelo Duze, Port Elizabeth Hearings, dated 14 August 2018, page 66.

<sup>335</sup> Algoa Bus Company – oral submission by Mr Secelo Duze, Port Elizabeth Hearings, dated 14 August 2018, page 75.

**Table 17: Sample of routes serviced by Algoa**

From	To	Length of route (kms)
Kwamagxaki	Newton Park	16.5
Kwamagxaki	Harrower	14.8
Mount Pleasant	Greenacres	9.7
Motherwell	Greenacres	27
Motherwell	Summerstrand (via New Brighton)	31
Motherwell	Uitenhage	18.5
Summerstrand	Greenacres	11.22

Source: Commission's own compilation

7.43. AB350 describes itself as a rural and urban bus passenger company. The entity is 100 per cent black owned and was established by a group of about 166 small bus operators from various regions within the province.<sup>336</sup> AB350 services 134 subsidised routes, which are predominantly in rural areas across the Eastern Cape Province. It operates based on negotiated contracts which were concluded in three phases.<sup>337</sup> The contracts are for seven years and can be extended for five years.<sup>338</sup>

7.44. A comparison between routes serviced by AB350 as shown in **Table 18** and those serviced by Algoa confirms that AB350 services mainly rural areas while Algoa services urban areas. Furthermore, this comparison shows that the routes serviced by AB350 are significantly longer in comparison to those serviced by Algoa. For example, from the two tables above the longest route serviced by AB350 is 107 kilometres (Mthatha to Mount Frere) while Algoa's longest route is 27 kilometres (Motherwell to Greenacres).

<sup>336</sup> Africa Best 350 – oral presentation by Ms Nosipho Ngehu, Eastern Cape Hearings, dated 28 August 2018, page 81. Eastern Cape Department of Transport – oral submission from Mr Mthirara, Eastern Cape (Port Elizabeth) Hearings, dated 14 August 2018, page 25.

<sup>337</sup> Africa Best 350 – oral presentation by Mr Songezile Mado, Eastern Cape Hearings, dated 28 August 2018, page 103. Presentation by AB350 to the Public Market Inquiry, 28 August 2018.

<sup>338</sup> Africa Best 350 – oral presentation by Ms Songezile Mado, Eastern Cape Hearings, dated 28 August 2018, page 104.

**Table 18: Sample of routes serviced by AB350**

From	To	Length of route (kms)
Mthatha	Mount Frere	107
Ngavugavu	Mthatha	64.9
Mthatha	Dikela	72
Mthatha	Tungwini	82
Dokodela	Mthatha	68
Mthatha	Lukuni	75.4
Idutywa	Dwesa/ Ntubeni	85
Queenstown	Zingquthu	48
Matatiele	Liqalabeng	65.4

Source: AB350 website

- 7.45. Mayibuye is an entity of the Eastern Cape Provincial Government and was established in 1990 to provide commuter bus services to rural areas of the former Ciskei and Border areas. Mayibuye does not have a traditional subsidy contract but operates based on a holder agreement concluded with the Eastern Cape Provincial Government. Mayibuye is funded from the Provincial Equity Fund in the form of an operational and grant-in-aid.<sup>339</sup>
- 7.46. The Buffalo City Metropolitan Municipality also provides commuter bus services but on a limited scale. This service is rendered with just six buses and over 90 per cent of commuters are scholars. The City does not get funding from the Department of Transport for purposes of running this service, as this is a municipal bus service.<sup>340</sup>
- 7.47. In contrast to other provinces, there appears to be flexibility in the Eastern Cape in that the contracted bus operators can review routes and make the necessary changes. This exercise ensures that the changing needs of commuters are considered and accommodated where possible. According to Algoa, when there are new developments or requests from communities for services in specific areas that are not serviced, Algoa, with permission from the provincial government, reviews its current services, especially on routes that are not performing well, to determine how best to accommodate the changing needs of commuters. For example, there may be four trips

<sup>339</sup> Mayibuye Transport Corporation – undated submission, available at <http://www.compcom.co.za/wp-content/uploads/2018/09/Mayibuye-Transport-Corporation.pdf>.

<sup>340</sup> Buffalo City Metropolitan Municipality – oral presentation by Mr Ayanda Skwebu, Eastern Cape Hearings, dated 28 August 2018, pages 27 and 28.

running on one route but the carrying capacity may be low. Algoa may then opt to consolidate the services and cut the number of trips on the route. The additional capacity would then be used to service a different route as demanded by commuters.<sup>341</sup> This has been done in areas such as Uitenhage and Motherwell.<sup>342</sup>

- 7.48. Despite the flexible approach adopted in the Eastern Cape as far as the scheduling of routes is concerned, subsidised bus operators are still forced to extend their services to routes that are not funded. Such extensions are done to also respond to the needs of commuters. However, due to lack of funding government is unable to cover the additional costs incurred by subsidised bus operators. For example, of the 2000 routes that are serviced by Algoa, 5 per cent are self-funded. This has been flagged as one of the challenges faced by bus operators in the Eastern Cape Province.<sup>343</sup>
- 7.49. The figures provided by the Eastern Cape Department of Transport also confirm the assertion that there may be a disproportionate allocation of subsidies between rural and urban bus operators. For example, in the 2016/17 financial year 46.50 per cent of the total funding available in the province for running subsidised bus services was allocated to Algoa, 29.24 per cent was allocated to AB350 and 24.25 per cent was allocated to Mayibuye.<sup>344</sup> Although Algoa has more routes to manage than AB350, the latter's routes are long and in areas that are underdeveloped.
- 7.50. In most of the geographic areas, especially those serviced by Algoa, subsidised bus operators face competition from minibus taxis. According to SANCO, Algoa shares routes with minibus taxis because it operates mainly in urban areas. Minibus taxis are unable to provide services to most of the rural communities due to the poor road infrastructure. Thus, competition between minibus taxis and commuter bus services is largely observed in urban areas within the Eastern Cape Province. The Eastern Cape Department of Transport concedes that the allocation of subsidies to commuter buses, to the exclusion of minibus taxis, gives rise to competition concerns:

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<sup>341</sup> Algoa Bus Company – oral submission by Mr Andre Brink and Mr Sicelo Duze, Port Elizabeth Hearings, dated 14 August 2018, pages 77 and 88.

<sup>342</sup> Algoa Bus Company – oral submission by Mr Andre Brink and Mr Sicelo Duze, Port Elizabeth Hearings, dated 14 August 2018, pages 77.

<sup>343</sup> Algoa Bus Company – oral submission by Mr Andre Brink and Mr Sicelo Duze, Port Elizabeth Hearings, dated 14 August 2018, page 76.

<sup>344</sup> Submission by the Eastern Cape Department of Transport dated 17 May 2019.

**MR LESOFE:** ...I have another proposition that I would like to test with you, and I am borrowing this proposition from the Taxi Industry. And the proposition is that the allocation of subsidies to the bus industry to the exclusion of the Taxi Industry puts the Taxi Industry at the competitive disadvantage especially in areas and on routes where taxis compete directly with bus operators and this proposition is made taking into account the fact that generally the Taxi Industry is responsible for ferrying the majority of commuters.

**MR MTHIRARA:** ... Chair, I cannot agree with you more."<sup>345</sup>

- 7.51. Competitive dynamics between commuter buses and minibus taxis are discussed in detail in **Chapter 12**.
- 7.52. In the Eastern Cape, it appears that the conclusion of negotiated contracts with small bus operators works well as a tool for transformation and empowerment. Unlike in other provinces where small bus operators feel completely neglected, small bus operators in the Eastern Cape appear to be recognised and empowered, although more can still be done.

### ***Limpopo***

- 7.53. The province of Limpopo has a total number of 26 contracts which are shared among 18 companies. Of the 26 contracts, three are negotiated contracts (GNT Mokopane, GNT Seshego, GNT Hoedspruit), one is a tendered contract (Lowveld Bus Services) and the remaining 22 are interim contracts.<sup>346</sup> Of these 22 contracts, GNT has five interim contracts.<sup>347</sup>
- 7.54. The largest bus operator is Great North Transport (GNT) which is a state-owned company and is a subsidiary of Limpopo Economic Development Agency (LEDA). GNT has a fleet of 503 buses but is currently operating with 403 buses.<sup>348</sup> GNT has 11 depots, ten of which are in Limpopo and one of which is in Bushbuckridge,

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<sup>345</sup> Eastern Cape Department of Transport – oral submission by Mr Phathuxolo Mthirara, Port Elizabeth Hearings, dated 14 August 2018, page 27.

<sup>346</sup> Limpopo Department of Transport – oral submission by Mr Mainganye, Limpopo public hearings, 22 August 2018, page 21-22

<sup>347</sup> Great North Transport – Oral submission by Ms Matlou, Limpopo public hearings, dated 21 August 2018, page 12

<sup>348</sup> Great North Transport – Oral submission by Mr Monkoe, Limpopo public hearings, dated 21 August 2018, page 6

Mpumalanga. GNT states that 80-90 per cent of its operations are in rural areas and villages, with Polokwane being the only city which it services.<sup>349</sup>

7.55. As can be seen in **Table 19**, GNT's operates across all five districts of the province. **Figure 20** is a visual representation of the province and shows to what extent each district receives subsidised bus services.

**Table 19: Districts of Limpopo - the extent of subsidisation in the province**

Districts	Subsidised routes	Bus operator	Municipalities/ areas not subsidised
Capricorn	Polokwane Municipality / Lepelle Nkumpi/ Blouberg/ Bochum/ My Darling	GNT	<ul style="list-style-type: none"> <li>Indermark</li> </ul>
	Lebowakgomo /Polokwane	GNT and Kopano Bus Services	
	Polokwane /Molemole	Bahwaduba Bus Service	
	Makotopong	Madodi Bus Service	
Mopani	Giyani	GNT	<ul style="list-style-type: none"> <li>Phalaborwa<sup>350</sup></li> </ul>
	Letaba	Mathole bus service	
	Tzaneen	GNT and Risaba bus service	
	Maruleng/ Hoedspruit/ Ga Sekororo/ Bushbuckridge (MP)	GNT	
Vhembe	Thulamela	Magwaba Transport, Mukhondeleli Transport, Enos, Do Light	<ul style="list-style-type: none"> <li>Collins Chabane Municipality</li> <li>East of Malamulele, Lombardy, Giant Reef</li> <li>Western Musina</li> </ul>
	Makhado Municipalit	GNT Makhado, Mulaudzi Transport, Mabirimisa Bus Services, R Phadziri Bus Services, G Phadziri, Mabidi Bus Service	
	Musina Municipality	Magwaba Bus Service,	

<sup>349</sup> Great North Transport – Oral submission by Mr Monkoe, Limpopo public hearings, dated 21 August 2018, page 7

<sup>350</sup> GNT has a commercial service in Phalaborwa which is not subsidised

		Mabirimisa Bus Services	
Sekhukhune	Elias Motsoaledi Local Municipality	GNT	<ul style="list-style-type: none"> <li>• Makhuduthamaga Municipality</li> <li>• Greater Tubatse Local Municipality<sup>351</sup></li> </ul>
	Ephraim Mogale Local Municipality	GNT	
Waterberg	Lephalale Local Municipality <sup>352</sup>	Lowveld bus service	<ul style="list-style-type: none"> <li>• Thabazimbi</li> <li>• Bela Bela</li> <li>• Mookgopong/Modimolle</li> </ul>
	Mogalakwena Municipality	GNT	
	Kwa Ndebele (MP) to Modimolle	PUTCO	

Source: Limpopo Department of Transport<sup>353</sup>

**Figure 20: Municipalities in Limpopo**



Source: Wikipedia

7.56. The district of Vhembe has 11 contracts (42 per cent) which are held by various bus operators. There is a large concentration of contracts in this region which has its origins in the old homeland administration of Venda where the previous government used to

<sup>351</sup> GNT submitted that it operates and owes a depot in Tubatse however this operation is not subsidised. Great North Transport – Oral submission of Mr Monkoe, Limpopo public hearings, dated 21 August 2018, page 8

<sup>352</sup> Lowveld Bus Services operates in the entire municipality including rural areas such as Ga Seleka and urban areas such as Lephalale.

<sup>353</sup> Limpopo Department of Transport – oral submission by Mr Mainganye, Limpopo public hearings, 22 August 2018, page 15-20

subsidise private bus operators.<sup>354</sup> All the contracts from the former Venda administration were carried into the new dispensation in 1994.

### **Western Cape**

7.57. The Western Cape consists of one metropolitan municipality and five district municipalities, which are further divided into 24 local municipalities. Golden Arrow Bus Service (GABS) is the only subsidised commuter bus operator<sup>355</sup> and is one of the major beneficiaries of government's bus contracting system in the country. GABS operate an interim contract with the Western Cape Department of Transport and Public Works {**CONFIDENTIAL INFORMATION**}

7.58. In 2001, GABS formed a joint venture, Sibanye, with two groups of previously disadvantaged small bus operators; Abahlobo Bus Services and Siyakulu Bus Services. GABS was then given the authority by the National Department of Transport to sub-contract Sibanye on some of its routes where each of the three parties had 33 per cent shares.<sup>356</sup> Thus GABS operate some of its routes under the joint venture.

7.59. Fares for subsidised commuter services in the Western Cape are determined by the Provincial Department of Transport and Public Works and are revised on an annual basis. According to the contract, the operator is not permitted to change the fares without consulting the provincial department.<sup>357</sup> The annual revisions are made based on an escalation formula in consultation with the operator. The escalation formulae model includes {**CONFIDENTIAL INFORMATION**}.<sup>358</sup>

7.60. No subsidised commuter bus services are provided in any of the district municipalities. **Figure 21** depicts municipalities in the Western Cape.

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<sup>354</sup> Limpopo Department of Transport – oral submission by Mr Mainganye, Limpopo public hearings, 22 August 2018, page 19.

<sup>355</sup> Department of Transport and Public Works Western Cape- oral submission by Mr Collins, Western Cape Hearings, dated 20 June 2018, page 7.

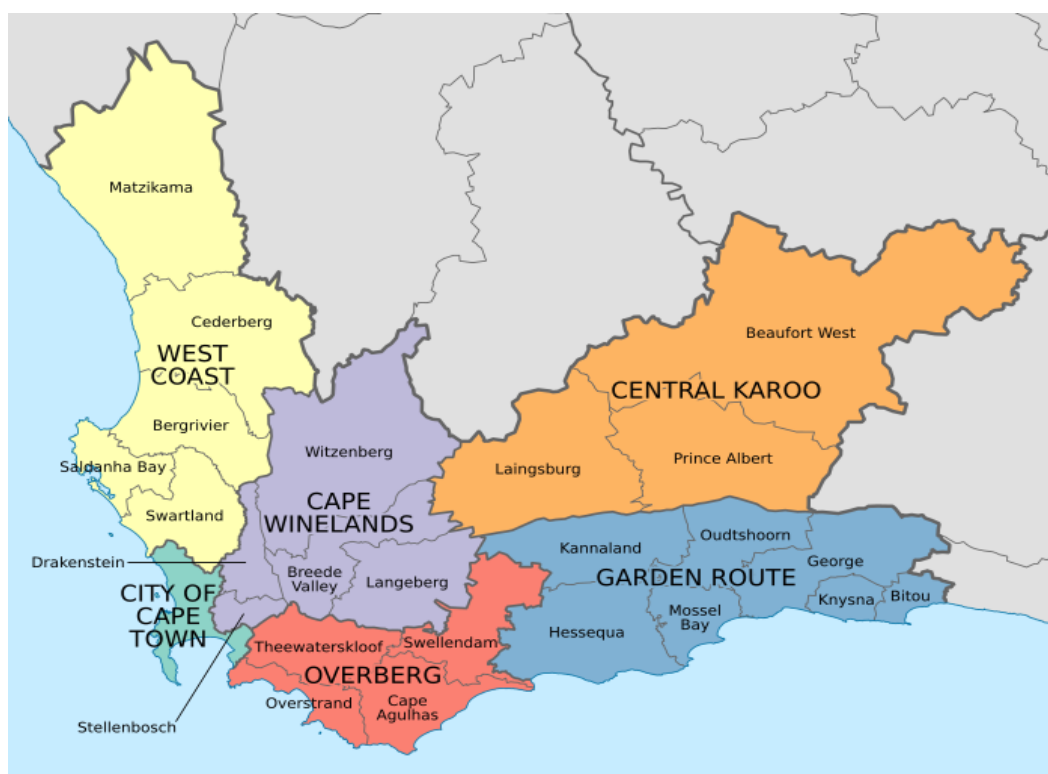
<sup>356</sup> GABS- oral submission by Mr Meyer, Western Cape Hearings, dated 19 June 2018, page 70.

<sup>357</sup> GABS- oral submission by Mr Meyer, Western Cape Hearings, dated 19 June 2018, page 67.

<sup>358</sup> Submission by GABS dated 02 November 2017, page 5.



**Figure 21: Municipalities in the Western Cape**



*Source: Wikipedia*

- 7.61. GABS submitted several concerns regarding the current subsidy system. One of its major concerns is that subsidies increased by only 15 per cent over the past 6 years while operating costs increased by 57 per cent so the subsidy is “not keeping track of inflation”.<sup>359</sup> This leads to poor service levels, unreliability, overloading and deteriorating safety levels. This is exacerbated by the difficulties faced by the operators when seeking finance from the financial institutions because of the short-basis contract extensions. The inflexibility of the contracts was also identified as another challenge by GABS, claiming that the capping of subsidised kilometres inhibits the organic business growth and diverts service provisions from routes which are not economically viable.<sup>360</sup>
- 7.62. Despite the formation of the joint venture between GABS and the small operators, SANSBOC WC is of the view that the small bus operators in the Western Cape are not

<sup>359</sup> GABS- oral submission by Mr Meyer, Western Cape Hearings, dated 19 June 2018, page 61.

<sup>360</sup> GABS- oral submission by Mr Meyer, Western Cape Hearings, dated 19 June 2018, page 62.

allowed adequate opportunity to participate and benefit from the government subsidies since the current contract with GABS has been in place for more than 15 years.<sup>361</sup>

### **Free State**

7.63. In the Free State there are four district municipalities and one metropolitan municipality. The district municipalities have 18 local municipalities. Subsidised commuter bus services are provided within the Mangaung Metropolitan Municipality and Thabo Mofutsanyana District Municipality.

**Figure 22: Municipalities in the Free State**



Source: Wikipedia

7.64. There are two subsidised bus operators in the Free State, namely Interstate Bus Line and Maluti Bus Services.<sup>362</sup> The Free State Department of Police, Roads and Transport is responsible for the administration of the two contracts. The government subsidises 214 buses from Interstate Bus Lines and 43 buses from Maluti Bus Service. Thus, in terms of budget allocations the former receives 83 per cent of the total budget for bus subsidy in the province while the latter receives 17 per cent share of the total budget.<sup>363</sup>

<sup>361</sup> SANSBOC WC- oral submission by Mr Swarts, Western Cape Hearings, dated 20 June 2018, page 199.

<sup>362</sup> Free State Department of Police Roads and Transport – oral submission by Ms Thabethe, Free State Hearings, dated 31 August 2018, page 42.

<sup>363</sup> Free State Department of Police Roads and Transport – oral submission by Ms Thabethe, Free State Hearings, dated 31 August 2018, page 42-43.

Both companies operate negotiated contracts and largely operate in the rural areas and townships. Interstate Bus Line was first awarded the negotiated contract in {CONFIDENTIAL}<sup>364</sup> and Maluti Bus Service was first awarded in {CONFIDENTIAL}.<sup>365</sup> The Free State is largely rural, thus the subsidised commuter buses operate up to 92 kilometres per trip, transporting commuters from the rural areas to different towns.<sup>366</sup> These include routes such as Harrismith to Thibella/Tshirella/Petha/Tsheseng, Bethlehem to Industries, Intabazwe to R-Ross and Bethlehem to Harrismith.

- 7.65. Maluti Bus Service's first contracts expired in 2007 and were extended on a monthly basis until 2013. The contracts were then extended for another 5 years and expired again in March 2018. From April 2018 Maluti Bus Service contracts were renewed on a monthly basis.<sup>367</sup> The short-term contracts have been identified by both operators in the province as a cause of frustration for them when they approach financial institutions for financial assistance to recapitalise their fleet.<sup>368</sup>
- 7.66. Fare increases in the Free State are implemented on an annual basis. The Free State Department of Transport has instituted a body called Joint Route Management Committee (JRMC). One of the functions of the Committee is to negotiate fare increases with the Department on behalf of the operators in the province. The JRMC comprises representatives from various taxi associations; commuter bus operators; community leaders; bus commuters and the provincial department. The JRMC is tasked to decide the level of fare increase every year and table it to the provincial department. In 2016 and 2017 the provincial department rejected the fare increases suggested by the Committee, owing to insufficient budget in the department. Thus, the operators are of the view that the Department decides on the fare increase on its own.<sup>369</sup>

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<sup>364</sup> Interstate Bus Line- oral submission by Mr Mokgothu, Free State Hearings, dated 30 August 2018, page 148.

<sup>365</sup> Maluti Bus Service – oral submission by Mr Engelbrecht, Free State Hearings, dated 31 August 2018, page 114.

<sup>366</sup> Maluti Bus Service PowerPoint presentation dated 31 August 2018.

<sup>367</sup> Maluti Bus Service – oral submission by Mr Engelbrecht, Free State Hearings, dated 31 August 2018, page 114.

<sup>368</sup> Maluti Bus Service – oral submission by Mr Engelbrecht, Free State Hearings, dated 31 August 2018, page 114. Also see Interstate Bus Line- oral submission from Mr Mokgothu, Free State Hearings, dated 30 August 2018, page 148.

<sup>369</sup> Maluti Bus Service – oral submission by Mr Engelbrecht, Free State Hearings, dated 31 August 2018, page 115-116.

7.67. The bus operators also expressed similar views regarding the inflexibility relating to the routes serviced.<sup>370</sup> The dynamics in most of the areas which these operators service have changed since 1997 when the contracts were signed. Following a demand from the commuters, Interstate Bus Lines had to **{CONFIDENTIAL}**.<sup>371</sup> Both operators also expressed similar concerns about the conditions that they operate under as rural operators and the Free State provincial Department is not taking these differences into consideration when allocating the subsidies. The operators contend that the operational costs in the rural areas are higher because of the road conditions and that should be taken into consideration.<sup>372</sup>

### **KwaZulu-Natal**

7.68. KwaZulu-Natal (KZN) has one metropolitan municipality and ten district municipalities.<sup>373</sup> KZN receives the second largest allocation of the PTOG funding (19 per cent) after Gauteng which receives 37 per cent.<sup>374</sup>

7.69. There are 44 subsidised bus contracts in the province – 22 are tendered, 20 are negotiated and two are interim.<sup>375</sup> There are the three main bus associations in the province to which the majority of bus operators belong, namely, SABOA KZN, Bus Operators Association (BOA) and KwaZulu-Natal Bus Council (KWANABUCO). SABOA KZN is made up of mainly subsidised bus operators such as Metro Group of Companies (Metro), South Coast Bus Service, and Ikhwezi Bus Service. BOA is an association of mainly small unsubsidised bus operators which operate commuter bus services in Newlands West, Kwa Mashu, Inanda and Reservoir Hills.<sup>376</sup> KWANABUCO is an association of 250 unsubsidised and previously disadvantaged bus operators which was formed in 2006 by the KZN Department of Transport.<sup>377</sup> KWANABUCO is also affiliated with SANSBOC KZN. Together these three organisations represent the interests of bus operators in the province. KZN, owing to its historical background, is

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<sup>370</sup> Maluti Bus Service – oral submission by Mr Engelbrecht, Free State Hearings, dated 31 August 2018, page 114.

<sup>371</sup> Interstate Bus Line- oral submission by Mr Mokgothu, Free State Hearings, dated 30 August 2018, page 156.

<sup>372</sup> Interstate Bus Line- oral submission by Mr Mokgothu, Free State Hearings, dated 30 August 2018, page 157.

<sup>373</sup> <http://www.kzncogta.gov.za/municipalities/> (accessed 31 January 2019)

<sup>374</sup> National Treasury - PowerPoint presentation by Ms Britton, 10 October 2018, slide 29

<sup>375</sup> KZN Department of Transport - Email from Mr Senzo Thwala dated 01 February 2019

<sup>376</sup> Newlands Bus Operators Association – oral submission by Mr Somaru, Kwa Zulu Natal public hearings, 27 June 2018, pg. 24

<sup>377</sup> KwaZulu-Natal Bus Council – oral submission by Mr Sibisi, Kwa Zulu Natal public hearings, 29 June 2018, pg 52-53; 58

made up of five large subsidised operators and hundreds of small, mainly unsubsidised bus operators.<sup>378</sup>

**Figure 23: Municipalities in KwaZulu-Natal**



Source: Wikipedia

7.70. One of the largest bus operators is Metro which is a group of five subsidised bus companies<sup>379</sup> that operate in eThekweni and Zululand.<sup>380</sup> Metro operates ten tendered contracts which were first awarded in 1997 and have been negotiated ever since. Like other large bus operators in the country, most contracts are subsidised. However, there are some services/trips which are unsubsidised as a result of the delayed reforms in the subsidy regime. Like PUTCO and others, Metro submitted that in many of the areas in which it operates, there has been an expansion and growth which has necessitated that the contracts be redesigned to accommodate changing commuter needs. However, Metro submits that it still operates on the same routes as it did in 1997.<sup>381</sup> In one area, Metro has seen a growth of 6 more townships since 1997 which its current

<sup>378</sup> Metro Group of Companies – oral submission by Mr Maharaj, Kwa Zulu Natal public hearings, 27 June 2018, pg 61

<sup>379</sup> Combined Transport Services, Metro Bus Services, KZT Country Cruiser, KZT Bus Services and KZN Bus Services

<sup>380</sup> Metro Group of Companies – oral submission by Mr Maharaj, Kwa Zulu Natal public hearings, 27 June 2018, pg 57

<sup>381</sup> Metro Group of Companies – oral submission by Mr Maharaj, Kwa Zulu Natal public hearings, 27 June 2018, pg 80-81

contracts are unable to subsidise. As a result, 2 of Metro's contracts are currently making losses.

- 7.71. BOA and Newlands Bus Operators Association submit that they are facing serious challenges competing in the public transport sector given the fact that they are largely unsubsidised. They face competition from subsidised bus operators as well as minibus taxis who intimidate and harass them if they charge low fares.<sup>382</sup>
- 7.72. KWANABUCO submits that the fact that the subsidised bus tendering system has been put on hold from 2002 makes the tendering system anticompetitive and continues to benefit a few large players at the expense of empowering previously disadvantaged operators.<sup>383</sup> KWANABUCO is of the view that subsidies have a negative impact on competition between modes of public transport since not all bus operations are subsidised while they compete with mini bus taxis and other modes of transport (e.g. bakkies).<sup>384</sup>

### **Northern Cape**

- 7.73. The Northern Cape is the largest and most sparsely populated province in the country.<sup>385</sup> The province is divided into five district municipalities. The Northern Cape has a total of six bus contracts, split between six bus operators in the province: Mega Bus, Pumatra Transport, Van Wyk's Bus Services, Imvusa Trading, SANTACO and Rainbow Transport Services.<sup>386</sup> Mega Bus operates in John Taolo Gaetsewe District Municipality, Pumatra Transport, SANTACO and Rainbow Transport Services in Frances Baard District Municipality, Van Wyk's and Imvusa Trading Bus Services in Namakwa District Municipality.<sup>387</sup>
- 7.74. Mega Bus and Pumatra were awarded their contracts in 1997 and they operate the biggest contracts in the province.<sup>388</sup> The Northern Cape Department of Transport further entered into negotiated contracts with Rainbow Transport and Van Wyk's Bus

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<sup>382</sup> Newlands Bus Operators Association – notes of meeting dated 18 October 2017

<sup>383</sup> KwaZulu-Natal Bus Council – oral submission by Mr Sibisi, Kwa Zulu Natal public hearings, 29 June 2018, pg 53

<sup>384</sup> KwaZulu-Natal Bus Council– written submission dated 22 May 2018

<sup>385</sup> Stats SA. Census 2011 Provincial profile: Northern Cape. Page 54. <http://www.statssa.gov.za/publications/Report-03-01-72/Report-03-01-722011.pdf>. Accessed on 16 May 2019.

<sup>386</sup> Northern Cape Department of Transport – oral submission by Ms Olivier, Kimberly Hearings, dated 19 July 2018, page 6.

<sup>387</sup> Northern Cape Department of Transport – oral submission by Ms Olivier, Kimberly Hearings, dated 19 July 2018, page 15.

<sup>388</sup> Northern Cape Department of Transport – oral submission by Ms Olivier, Kimberly Hearings, dated 19 July 2018, page 24.

Services in 2013 and Imvusa Trading in 2015.<sup>389</sup> None of these contracts was awarded through a tender process.<sup>390</sup> It has been submitted that this limits competition as there are a number of other small bus operators who are being denied an opportunity to participate in the process and submit bids for the contracts.<sup>391</sup> However, the capacity and experience of those small operators in the provision of commuter bus services compared to current operators is still of great concern.<sup>392</sup>

- 7.75. Similar to other provinces, some of the routes that are subsidised in the Northern Cape are outdated and do not respond to the needs of commuters.<sup>393</sup> The province is currently reviewing the subsidised routes in an attempt to ensure that this concern is addressed.<sup>394</sup> According to the Small Bus Operators Association of the Northern Cape, the current contracts do not take into account the difficulties faced by operators in the rural areas of in the province.<sup>395</sup> It has been submitted that the small operators are allocated the contracts for the rural areas while the big operators operate in the urban areas.<sup>396</sup>

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<sup>389</sup> Northern Cape Department of Transport – oral submission by Ms Olivier, Kimberly Hearings, dated 19 July 2018, page 25.

<sup>390</sup> Northern Cape Department of Transport – oral submission by Ms Olivier, Kimberly Hearings, dated 19 July 2018, page 26.

<sup>391</sup> SANWIT Northern Cape- Oral submission by Ms Mabanga, Kimberly Hearings, dated 19 July 2018, page 46.

<sup>392</sup> SANWIT Northern Cape- Oral submission by Ms Mabanga, Kimberly Hearings, dated 19 July 2018, page 46.

<sup>393</sup> Northern Cape Department of Transport – oral submission by Ms Olivier, Kimberly Hearings, dated 19 July 2018, page 26.

<sup>394</sup> Northern Cape Department of Transport – oral submission by Ms Olivier, Kimberly Hearings, dated 19 July 2018, page 28.

<sup>395</sup> SANSBOC Northern Cape – Oral submission by Mr Martin, Kimberly Hearings, dated 19 July 2018, page 95.

<sup>396</sup> Submission by SANSBOC Northern Cape dated 19 July 2018.



**Figure 24: Municipalities in the Northern Cape**



Source: Wikipedia

7.76. In terms of budget from the National Treasury and the DOT, Northern Cape receives the least amount of the PTOG compared to other provinces because of its population size.<sup>397</sup> The department also monitors the performance of the contracted buses and when a bus operator does not comply with the obligations stipulated in the contracts, the department penalises the operator by deducting a certain amount from their monthly payments.<sup>398</sup> For example, when a bus is delayed and commuters wait for the bus for more than 30 minutes, that trip becomes free. The penalties further hit small operators hard due to conditions they operate under.<sup>399</sup>

### **Mpumalanga**

7.77. In Mpumalanga there are three district municipalities which are further divided into 17 district municipalities. Each of the districts has two subsidised bus operators, but not all the district municipalities are covered by the subsidised buses. The map of the province is **Figure 25**.

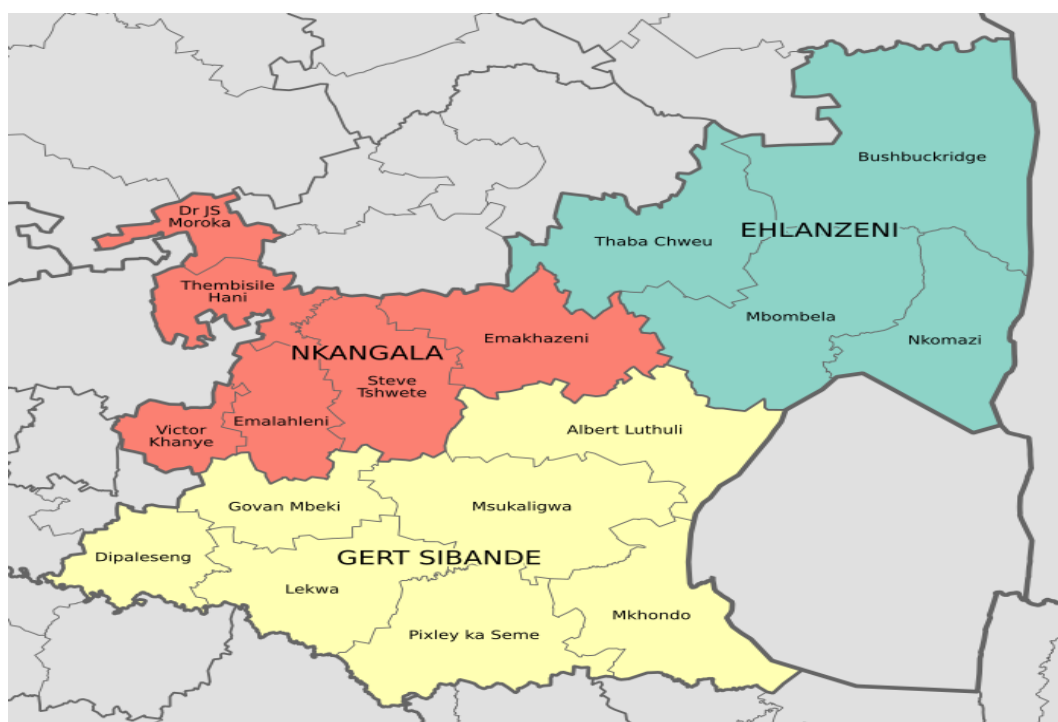
<sup>397</sup> Northern Cape Department of Transport – oral submission by Ms Olivier, Kimberly Hearings, dated 19 July 2018, page 30.

<sup>398</sup> Northern Cape Department of Transport – oral submission by Ms Olivier, Kimberly Hearings, dated 19 July 2018, page 27.

<sup>399</sup> Northern Cape Department of Transport – oral submission by Ms Olivier, Kimberly Hearings, dated 19 July 2018, page 33.



**Figure 25: Municipalities in Mpumalanga**



Source: Wikipedia

7.78. The province has a total of six interim contracts,<sup>400</sup> split among six bus operators namely; Mega Bus, Thembaletu Bus Service (“TBS”), Great North Transport (“GNT”), Tillys Bus Service (“Tillys”), Buscor and Public Utility Transport Company’s (“PUTCO”).<sup>401</sup> Buscor and GNT operate in Ehlanzeni region, Tillys and Mega Bus in Gert Sibande, TBS and PUTCO operate in Nkangala.<sup>402</sup> Buscor has the largest contract in the province followed by Mega Bus and GNT.<sup>403</sup> In terms of the contract held by PUTCO, since the operator operates between two provinces (Gauteng and Mpumalanga), both provinces are responsible for administering the contract. However, the Gauteng department of transport is responsible for 96 per cent of the contract while the Mpumalanga Department of Public Works, Roads and Transport oversees 4 per cent of the contract.<sup>404</sup> All the six contracts in the Mpumalanga Province were entered into in 1997 and have also been extended in perpetuity. In 2018 the department

<sup>400</sup>Mpumalanga Department of Public Works, Roads and Transport – oral submission by Mr Gadisi, Mpumalanga public hearings, 11 July 2018, page 12.

<sup>401</sup>Mpumalanga Department of Public Works, Roads and Transport – oral submission by Mr Gadisi, Mpumalanga public hearings, 11 July 2018, page 27.

<sup>402</sup> Mpumalanga Department of Public Works, Roads and Transport – oral submission by Mr Gadisi, Mpumalanga public hearings, 11 July 2018, page 27.

<sup>403</sup>Mpumalanga Department of Public Works, Roads and Transport – oral submission by Mr Gadisi, Mpumalanga public hearings, 11 July 2018, page 27-28.

<sup>404</sup> Mpumalanga Department of Public Works, Roads and Transport – oral submission by Mr Gadisi, Mpumalanga public hearings, 11 July 2018, page 28.

renewed all these contracts for a period of three years. However, the contracts also have a provision that allows the department to terminate the contracts once funding becomes available for it to advertise or negotiate new contracts, even before the three-year period comes to an end.<sup>405</sup>

- 7.79. In the province, there are other small bus operators who also operate commuter services with no subsidies.<sup>406</sup> The unsubsidised operators charge slightly higher fares to commuters than the subsidised operators. Commuters then often opt for the subsidised buses instead. This has been flagged as the one of the main challenges for small bus operators in the province.<sup>407</sup>
- 7.80. The Mpumalanga Department of Public Works, Roads and Transport holds monthly meetings with all the subsidised bus operators in the province to ensure that all the operators are operating according to their contracts and to also address commuter concerns about the service.<sup>408</sup> However, in the case of PUTCO, the Mpumalanga Department of Public Works, Roads and Transport refers all the commuter concerns regarding PUTCO to the Gauteng Department of Transport since it administers a greater portion of the contract.<sup>409</sup>
- 7.81. In Mpumalanga, the contracted buses only operate during peak periods in the early mornings and afternoon, targeting mostly people who travel for work purposes.<sup>410</sup> In terms of commuter fares, the subsidised bus operators are permitted to increase their prices once every year, taking into consideration, among other things, the CPI and operational costs.<sup>411</sup> Bus operators are required to negotiate fare increases with the provincial department and commuter representatives.<sup>412</sup> Once an agreement is reached, operators are responsible for announcing the increases to the public before

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<sup>405</sup>Mpumalanga Department of Public Works, Roads and Transport – oral submission by Mr Gadisi, Mpumalanga public hearings, 11 July 2018, page 29.

<sup>406</sup> SANSBOC Mpumalanga- oral submission by Mr Mpedi, Mpumalanga public hearings, 11 July 2018, page 123-124.

<sup>407</sup> SANSBOC Mpumalanga- oral submission by Mr Mpedi, Mpumalanga public hearings, 11 July 2018, page 123-124.

<sup>408</sup>Mpumalanga Department of Public Works, Roads and Transport – oral submission by Mr Gadisi, Mpumalanga public hearings, 11 July 2018, page 29.

<sup>409</sup> Mpumalanga Department of Public Works, Roads and Transport – oral submission by Mr Gadisi, Mpumalanga public hearings, 11 July 2018, page 28.

<sup>410</sup>Mpumalanga Department of Public Works, Roads and Transport – oral submission by Mr Gadisi, Mpumalanga public hearings, 11 July 2018, page 14.

<sup>411</sup>Mpumalanga Department of Public Works, Roads and Transport – oral submission by Mr Gadisi, Mpumalanga public hearings, 11 July 2018, page 31.

<sup>412</sup> Thembaletu Bus Service- oral submission by Mr Molapo, Mpumalanga public hearings, 11 July 2018, page 69.

they are effected.<sup>413</sup> However, in 2018, PUTCO went against this tradition by adjusting its fares twice, to the dissatisfaction of commuters.<sup>414</sup>

- 7.82. It has also been submitted that like other provinces, routes and schedules are outdated in Mpumalanga. As the areas in which the subsidised commuter bus services develop, the department is unable to change routes to accommodate commuters residing in newly developed areas.<sup>415</sup> The main reason for this is that the department is also constrained financially.<sup>416</sup> Nevertheless, subsidised operators still try to accommodate commuters by extending their services to new areas even if they do not get subsidies; however, this puts a strain on their operational costs.<sup>417</sup> The Mpumalanga Department of Public Works, Roads and Transport asserts that there is a provision for due process for the operators to claim for extra kilometres from the department.<sup>418</sup>
- 7.83. It has also been submitted that in terms of the rate per kilometre, bus operators in Mpumalanga receive lower rates and thus lower subsidies compared to operators in the bigger urban provinces such as Gauteng and Western Cape.<sup>419</sup>
- 7.84. Just as in other provinces, small bus operators in Mpumalanga have raised concerns about the current subsidy system which favours the current holders of subsidised contracts.<sup>420</sup> However, these operators have cautioned that it might be difficult for them to compete with experienced operators for the contracts (if the tender route is followed) and they may require support, for example in the form of training, in order to be capacitated.<sup>421</sup>

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<sup>413</sup> Thembaletu Bus Service- oral submission by Mr Molapo, Mpumalanga public hearings, 11 July 2018, page 69.

<sup>414</sup> Mpumalanga Commuter Organization- oral submission by Mr Masanga, Mpumalanga public hearing, 10 July 2018, page 101.

<sup>415</sup> Thembaletu Bus Service- oral submission by Mr Molapo, Mpumalanga public hearings, 11 July 2018, page 66. Also see Mpumalanga Department of Public Works, Roads and Transport – oral submission from Mr Gadisi, Mpumalanga public hearings, 11 July 2018, page 32.

<sup>416</sup> Mpumalanga Department of Public Works, Roads and Transport – oral submission by Mr Gadisi, Mpumalanga public hearings, 11 July 2018, page 32.

<sup>417</sup> Thembaletu Bus Service- oral submission by Mr Molapo, Mpumalanga public hearings, 11 July 2018, page 66.

<sup>418</sup> Mpumalanga Department of Public Works, Roads and Transport – oral submission by Mr Gadisi, Mpumalanga public hearings, 11 July 2018, page 35.

<sup>419</sup> Thembaletu Bus Service- oral submission by Mr Bonthuys, Mpumalanga public hearings, 11 July 2018, page 66.

<sup>420</sup> SANSBOC Mpumalanga- oral submission by Mr Mpedi, Mpumalanga public hearings, 11 July 2018, page 125-126.

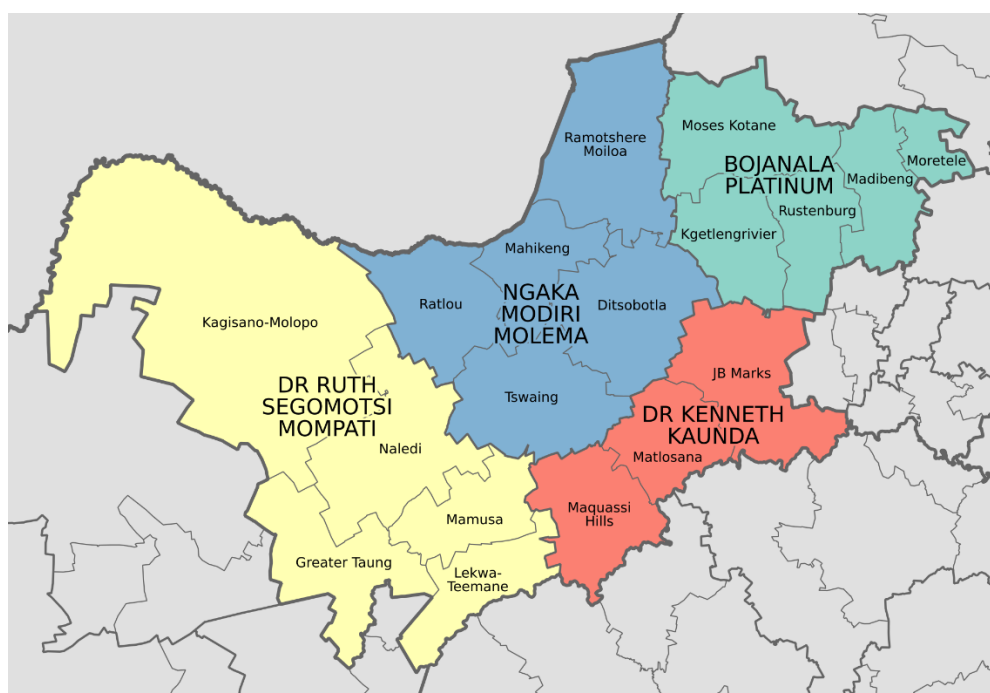
<sup>421</sup> SANSBOC Mpumalanga- oral submission by Mr Mpedi, Mpumalanga public hearings, 11 July 2018, page 125-126.

7.85. In terms of commuter satisfaction, commuters have raised concerns about services rendered by both PUTCO and GNT. In this regard, complaints have been raised with the Mpumalanga Department of Public Works, Roads and Transport. During public hearings, the Commission was presented with evidence in form of pictures of some of the buses that are used by these operators.<sup>422</sup> The Mpumalanga Department of Public Works, Roads and Transport has confirmed that the complaints raised by commuters are legitimate, especially those that relate to buses that are old and in bad condition.<sup>423</sup>

### **North West**

7.86. The North West is divided into four district municipalities encompassing 18 local municipalities as shown in **Figure 26**.

**Figure 26: Municipalities in the North West**



Source: Wikipedia

7.87. There are four bus contracts in the province which are split between four operators namely, Atamelang Bus Service, Thari Bus Service, Phumatra Transport and Veginela

<sup>422</sup> Mpumalanga Commuter Organization- oral submission by Mr Masanga, Mpumalanga public hearing, 10 July 2018, page 99-100. Also see Greater North Commuter Association – oral submission by Mr Gnyakani, Mpumalanga public hearings, 11 July 2018, page 94-95.

<sup>423</sup> Mpumalanga Department of Public Works, Roads and Transport – oral submission by Mr Gadisi, Mpumalanga public hearings, 11 July 2018, page 39-40.

Bus service.<sup>424</sup> All these contracts have been in place since 1997.<sup>425</sup> Budget constraints have been cited as the main reason for not putting these contracts out to tender for such a long period. The North West Department of Transport is also of the view that the subsidised operators in the province are currently underfunded.<sup>426</sup> In 2018, the provincial department was in the process of reviewing the contracts and exploring the feasibility of introducing a new subsidy model for the province as all the four contracts were coming to an end in March 2019.<sup>427</sup> According to the department, it seeks to introduce negotiated contracts and a model that would incorporate taxi operators.<sup>428</sup> The department also intends to negotiate with North West Investment, a parastatal company solely owned by the North West Provincial Government, to start operating in the province rather than in Gauteng.<sup>429</sup>

- 7.88. The small bus operators in the North West have raised concerns about not being given the opportunity to benefit from the subsidy system. Small bus operators have also submitted that there are no bus operators that provide unsubsidised commuter bus services in the province because all the lucrative routes are allocated by the provincial department to the subsidised operators.<sup>430</sup> Furthermore, small bus operators have submitted that in the event government considers incorporating them into the subsidy system, they would prefer negotiated contracts (as opposed to tendered contracts) because they do not have the required adequate skills and infrastructure to successfully participate in the bidding process.<sup>431</sup>
- 7.89. In terms of fare determination, the North West provincial department is responsible for setting commuter fares. Subsidised operators are allowed one fare increase per annum. In this regard, operators submit their proposed percentage increase to the provincial department which makes the final determination.<sup>432</sup>

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<sup>424</sup> North West Department of Transport – oral submission by Mr Baikgaki, North West public hearings, 25 July 2018, page 16.

<sup>425</sup> North West Department of Transport – oral submission by Mr Baikgaki, North West public hearings, 25 July 2018, page 22.

<sup>426</sup> North West Department of Transport – oral submission by Mr Baikgaki, North West public hearings, 25 July 2018, page 21.

<sup>427</sup> North West Department of Transport – oral submission by Mr Baikgaki, North West public hearings, 25 July 2018, page 23.

<sup>428</sup> North West Department of Transport – oral submission by Mr Baikgaki, North West public hearings, 25 July 2018, page 23.

<sup>429</sup> North West Department of Transport – oral submission by Mr Baikgaki, North West public hearings, 25 July 2018, page 23.

<sup>430</sup> SANSBOC North West – oral submission by Mr Tshongo, North West public hearings, 26 July 2018, page 25.

<sup>431</sup> SANSBOC North West – oral submission by Mr Tshongo, North West public hearings, 26 July 2018, page 42.

<sup>432</sup> Atamelang Bus Service – Oral submission by Mr Sebutha, North West public hearings, 26 July 2018, page 56.

- 7.90. As its performance monitoring mechanism, the provincial department has contracted four independent companies to monitor and report to the department on the performance of the operators.<sup>433</sup> The department also holds monthly meetings with subsidised operators and the contracted consultants to address the non-compliance findings.<sup>434</sup>
- 7.91. In terms of amendments of routes, there seems to be some flexibility in the North West as the department of transport has been able to review some of the subsidised routes in order to rationalise and redirect the services to areas where services are most needed. However, there are still areas where the subsidised buses operate without subsidies because of recent human settlement developments.<sup>435</sup> This has also been highlighted as one of the challenges with the current subsidy system. Operators incur more cost as they operate extra kilometres to respond to the needs of the commuters.<sup>436</sup>

#### **Analysis and summary of major challenges in the provision of subsidised bus services (based on experiences in different provinces)**

- 7.92. As demonstrated above, experiences in different provinces show that the bus subsidy system, in its current form, prevents competition between commuter bus operators and serves as a barrier to entry, especially for small bus operators. The extension of the current subsidy contracts in perpetuity has had unintended consequences of creating *de facto* monopolies on subsidised routes, contrary to what was envisaged in the 1996 White Paper. This situation is exacerbated by the fact that competition in the provision of subsidised commuter bus services only occurs at the contracting phase and not on the routes (competition for the market).
- 7.93. These competition distortions are attributable to several factors. Lack of adequate funding for the administration of a more efficient commuter bus system is one of the major contributing factors. In this regard, lack of adequate funding has made it difficult for the DOT and provincial governments to introduce a competitive bidding process for subsidised commuter bus services, as initially planned. According to the DOT, it needs

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<sup>433</sup> North West Department of Transport – oral submission by Mr Baikgaki, North West public hearings, 25 July 2018, page 28.

<sup>434</sup> North West Department of Transport – oral submission by Mr Baikgaki, North West public hearings, 25 July 2018, page 28.

<sup>435</sup> North West Department of Transport – oral submission by Mr Baikgaki, North West public hearings, 25 July 2018, page 29.

<sup>436</sup> Atamelang Bus Service – Oral submission by Mr Sebutha, North West public hearings, 26 July 2018, page 56.

three times more than what is currently allocated for subsidised commuter bus services in order to run a more efficient commuter bus system, which would include the replacement of the current contracts with new tendered contracts.<sup>437</sup> For example, a plan to replace a contract that operated in Tshwane/ Mamelodi (Gauteng province) was estimated to cost three times more than the current subsidy allocation.<sup>438</sup>

- 7.94. Limited funding has also resulted in provincial governments offering the current bus operators' rates that are low and being unable to accommodate new and expanded routes which have come into existence as a result of growth in population and the emergence of new developments. This has made it difficult for bus operators to grow and expand their operations, while also preventing potential entrants from entering the market.
- 7.95. Another major challenge experienced in the provision of subsidised commuter bus services is the extension of the current subsidy contracts on a short-term basis. Although there are justifiable grounds and context for this, the practice has created uncertainties and, in turn, has made it difficult for some of the bus operators to invest in infrastructure and new fleets of buses.
- 7.96. Despite these challenges and limitations, government has been able to keep the bus subsidy system running over the years, based on the available budget. However, this has come at great cost to commuters who are ultimately the intended beneficiaries of the system. For example, commuters have had to endure poor service quality in some of the provinces. Because of inadequate financial support, bus operators have also not been able to adequately respond to the changing and growing needs of commuters by, for example, extending their services to new areas without incurring significant losses. Lack of adequate funding has also had negative effects on the entry of new players, especially small bus operators.
- 7.97. Government appears to be in a dilemma but there is great need for changes to be introduced in order to make the commuter bus subsidy system more efficient and responsive to the needs of commuters and foster competition. While lack of competition is an undesirable outcome, the current dynamics in the market require a gradual introduction of competition to minimise disruptions and assist smaller

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<sup>437</sup> According to the DOT, it needs three times more than what is currently allocated for subsidised commuter bus services in order to run a more efficient commuter bus system.

<sup>438</sup> National Department of Transport – written submission dated 24 May 2019, paragraph 3.4.12.

operators to develop capacity. For example, the termination of all subsidy contracts in the greater Soweto area (in the interest of a competitive bidding process) is likely to cause disruptions and instability in the provision of commuter bus services in that area. Such a move is also likely to result in significant job losses and investment losses for the affected bus operator (i.e. unused assets).

- 7.98. In order to balance the need to promote competition, the maintenance of stability and improved quality of services, various options would have to be considered than the outright termination of the current subsidy contracts.

## **Findings**

- 7.99. The Commission finds that the bus subsidy system, in its current form, prevents competition between commuter bus operators and serves as an artificial barrier to entry, especially for small bus operators. The extension of the current subsidy contracts in perpetuity has had unintended consequences of creating *de facto* monopolies on subsidised routes, contrary to what was envisaged in the 1996 White Paper. The situation is exacerbated by the fact that competition in the provision of subsidised commuter bus services only occurs at the contracting phase and not on the routes (competition for the market). Lack of competition in the market (along routes) leads to inefficiencies to the detriment of commuters. These inefficiencies include the provision of services of poor quality by some of the subsidised bus operators.
- 7.100. Lack of adequate funding is one of the major factors that has made it difficult for the DOT and provincial governments to introduce a competitive bidding process for subsidised commuter bus services, as initially planned. Limited funding has also resulted in provincial governments offering the current bus operators' rates that are low, and not being able to accommodate new and expanded routes which have come into existence as a result of growth in population and the emergence of new developments.
- 7.101. The Commission also finds that subsidised commuter bus routes, schedules and timetables are old and outdated, and consequently do not adequately respond to the needs of commuters. Although subsidised contracts make provision for variation of routes when necessary, it appears that most of the provinces do not take advantage of this provision. Thus, routes have remained unchanged over a long period of time. In turn, this compromises the quality of service provided to commuters.



## Recommendations

7.102. Development of a subsidy policy for public transport and review of the current subsidy framework in a manner that recognises the following: the need to create adequate opportunities for small bus operators, including the opportunity to provide services in urban areas (and not just in rural areas nor just scholar transport). The Commission notes that government, through the DOT, is currently in the process of developing the subsidy policy. The Commission further notes that this process may take some time to complete.

7.103. In order to achieve efficiencies while promoting competition in the provision of subsidised commuter bus services, government should gradually introduce competition in the market. This approach should entail the following:

7.103.1. Subsidy bus contracts should be put out to tender where new routes have been identified. Small and local bus operators should be given preference and negotiated contracts should be considered, where appropriate;

7.103.2. To improve the quality of services provided by bus operators at less cost, government should identify key corridors (e.g. the Moloto route) and increase rates payable to bus operators servicing such routes, on condition that they improve the quality of services provided, for example by investing in a new fleet of buses. This approach may be followed incrementally (on an annual basis) until all routes are covered;

7.103.3. To support and empower small bus operators, the subsidy policy should encourage the conclusion of negotiated contracts (as opposed to tendered contracts) with small bus operators. In this regard, the model followed in the Eastern Cape (i.e. AB350) should be considered for implementation in other provinces. The negotiated contracts awarded to small bus operators should account for a minimum of 30 per cent of all contracts and progressively increased over time; and

7.103.4. Where contracts are put out to tender, government (provincial transport departments or the DOT) should consider breaking some of the contracts into smaller contracts in order to create opportunities for new entrants and

smaller bus operators. Small and local bus operators should be given preference.

## **8. RURAL TRANSPORTATION AND RURAL BUS CONTRACTING**

### **Introduction**

- 8.1. This chapter focuses on the peculiar issues facing rural public transport. The chapter begins by providing policy framework for rural public transportation, followed by an overview of modes of transport prevalent in rural areas. Subsidised buses play a crucial role in transporting rural commuters given the limited alternatives. Challenges faced by mostly rural bus operators are then discussed and the chapter concludes by outlining the findings and recommendations.

### **Policy framework for rural transport**

- 8.2. The 1996 White Paper articulated the vision for the South African transport system as providing safe, reliable, effective, efficient, and fully integrated transport operations and infrastructure which will best meet the needs of freight and passenger customers. The expectation was that the same vision will cascade down to the rural areas and improve the public passenger transport in the rural areas. This was envisioned to be achieved by upgrading of the road infrastructure as well as the development of non-motorised and intermediate means of transport.
- 8.3. Given the peculiar needs of rural areas, the DOT launched a Rural Transport Strategy (RTS) in 2007. The RTS was aimed to provide strategic guidance to all the 3 spheres of government to address mobility and access challenges experienced by rural communities in an integrated, aligned and coordinated manner. Transport is a necessity for sustainable social and economic development and plays a catalytic role in addressing poverty and developmental needs as well as correcting spatial distortion. The strategy identified that the delivery of rural transport infrastructure and services is comprised of the following:
- 8.3.1. Rural transport infrastructure encompassing access roads, district roads, public transport interchanges, tracks and other non-motorised transport infrastructure;
  - 8.3.2. Village level or intra-farm transportation, which involves head loading, as well as the use of non-motorised;
  - 8.3.3. Rural passenger and (small-volume) freight transport services - the so-called “bakkie sector” and animal drawn carts;

- 8.3.4. Passenger transport services along the main connector routes (to towns, clinics and other facilities), served mainly by kombi taxis, and in some areas subsidised bus services;
  - 8.3.5. Special needs transportation services – to address the needs of persons with disabilities, the elderly, trauma, learners and tourists; and
  - 8.3.6. Bulk freight transportation to and from processing plants, distribution centres, markets and suppliers.
- 8.4. The limited public transport infrastructure led the DOT to introduce a draft Non-Motorised Transport (“NMT”) Policy in 2009 with the key focus on the promotion of NMT to increase mobility and accessibility in rural areas. While the project scope and intentions were noble, implementation of the full array of supportive NMT infrastructure and services was constrained by limited capacity, both human and financial.
- 8.5. The strategic framework that underpins the implementation of the Rural Transport Strategy of 2016 includes the National Development (ND) Plan. This Plan seems to recognise the wide range of opportunities that are available to improve transport infrastructure and public transport service in rural areas. The ND Plan advocates a differentiated development in rural towns with greater potential.<sup>439</sup>

#### **Overview of the transport modes available in most rural areas**

- 8.6. South Africa is largely dominated by rural provinces such as the Eastern Cape, Limpopo, the North West, Free State and Mpumalanga. Limpopo is approximately 80 per cent to 90 per cent rural, with a few towns across the province.<sup>440</sup> As in sub-Saharan Africa, much of rural transport in South Africa involves walking with pushcarts over very short distances, while bicycles and animal drawn carts provide mobility for short to medium distances. Long-distance transport is largely done by buses, lorries, pickups (bakkies) which may be available on the main roads. Such motorised options are generally overcrowded and expensive relative to income levels for the rural residents/commuters.<sup>441</sup> The majority of the commuters in rural areas travel to places of work and school.<sup>442</sup>

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<sup>439</sup> Rural Transport Strategy Plan 2016 (Hard copy) submitted by Department of Transport

<sup>440</sup> Great North Transport – Oral submission by Mr Monkoe, Limpopo Hearings, dated 21 August 2018, page 7

<sup>441</sup> Great North Transport – Oral submission Mr Monkoe, Limpopo Hearings, dated 21 August 2018, page 7

<sup>442</sup> SANCO Limpopo – Oral submission by Mr Leshilo, Limpopo Hearings, dated 21 August 2018, page 38

- 8.7. According to the National Household Travel Survey (2013), 8.3 per cent of learners in rural areas walk more than 60 minutes to their educational facilities because of a lack of access to transport services and educational facilities in their respective communities. Furthermore, the main mode used by learners to travel to school is by foot as 64 percent of learners walk to school. Although the figure has declined from 76.3 percent in 2003, it remains high. The Commission has observed that very little has changed in terms of rationalising the public transport subsidies to focus on rural areas.
- 8.8. Subsidised bus contracts are the main source of formal public transport in most rural areas and much focus of this chapter will be on bus contracts.

### **Challenges of providing public transport in rural areas in South Africa**

- 8.9. Several factors contribute to the inadequate provision of public transport services in South Africa's rural lands. The DOT's Rural Transport Strategy for South Africa (2007:26) together with the submissions received by the Commission highlight several rural specific characteristics as key challenges in rural public transport.

#### *Lack of collaboration within government*

- 8.10. The DOT approved the Road Infrastructure Strategic Framework for South Africa (RISFSA) in 2006. RISFSA recommended that a coordinating body to be established in order to harmonise road maintenance across the various roads authorities and agencies in the road sector.<sup>443</sup>
- 8.11. The lack of collaboration and partnership in solving rural development challenges has been identified by several stakeholders as a major impediment. There is no coherent strategy by National Government departments in addressing issues of rural public transport. The Department of Rural Development (DRD) indicated that most of their work is covered by the Comprehensive Rural Development Framework which was approved by cabinet in 2009. However, the framework does not directly cover the aspects related to rural public transportation and there are no policy pre-prescripts or studies done by the department dealing with rural public transport.<sup>444</sup> DRD

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<sup>443</sup> Rural Transport Strategy Plan 2016 (Hard copy) submitted by Department of Transport.

<sup>444</sup> Department of Rural Development and Land Reform – Oral submission by Mr Hiemann, transcript page 7, dated 12 October 2018

was of the view that district municipalities play a significant role with regards to public transportation.

- 8.12. The departments seem to operate in silos and are fighting for space.<sup>445</sup> The Department of Human Settlements submitted that integrated planning within national departments is critical for successful interventions in rural transportation issues and cited the example of coordinated planning for the 2010 World Cup where collaborative efforts by government were aligned.<sup>446</sup> Resolving rural transportation challenges requires the combined leadership and determination by sectors directly associated with rural development such as Department of Transport, Department of Human Settlements, Department of Rural Development and Land Reform, National Treasury (coordination of funding), Department of Cooperative Governance and Traditional Affairs, district and local municipalities, and research institutions.
- 8.13. The DOT's Rural Transport Strategy of 2016 highlights that for purposes of transforming the rural transport landscape it is recommended that in the deep rural and sparsely populated areas that, among others, there be a coordination of public services.

*Sector plans with no transportation focus*

- 8.14. The Department of Human Settlements submitted that the National Housing Code in its current form does not focus on public transportation although it assists in the development of sustainable human settlements.<sup>447</sup> There is no policy document that supports public transportation although the Urban Settlements Development Grant (USDG) may be utilised for transportation projects. This grant is only available to the metropolitan municipalities and is not extended to rural municipalities. The National Housing Code was last revised in 2001.
- 8.15. Rural Transport has been neglected and not prioritised by key national departments and, as such, public transport remains a major concern in the rural areas, where poor road conditions, poor access to various modes of transport, high operational

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<sup>445</sup> Department of Rural Development and Land Reform – Oral submission by Mr Hiemann, transcript page 26, dated 12 October 2018

<sup>446</sup> Department of Human Settlements – Oral submission by Ms Masilo on 12 October 2018, transcript page 64

<sup>447</sup> National Department of Human Settlements – oral submission by Ms Masilo on 12 October 2018, transcript page 41

costs and disparities between urban operators and rural operators have been highlighted as major challenges.

#### *General infrastructure and location challenges*

- 8.16. Rural areas in general are sparsely populated which makes provision of public transport infrastructure costly and difficult. Furthermore, high incidence of rural poverty and levels of unemployment make the demand of public transport limited to justify an operator making investments. Low demand of services is not ideal for transport operators to provide services in those areas. As a result, operators are faced with low economies of scale which leads to high operating costs.
- 8.17. Road conditions in some rural areas are horrific to the extent that buses can get stuck during rainy seasons.<sup>448</sup> The design of the roads in the rural areas is not ideal as operators are required to drive long distances of more than 30 km on gravel and one-way roads.<sup>449</sup>
- 8.18. Minibus taxi coverage is limited in rural areas as a mode of transportation and have alternative modes such as the use of bakkies that are not designed to offer land based public transport.<sup>450</sup> Poor road quality has been identified as an impediment for minibus taxis to operate.<sup>451</sup>
- 8.19. The factors identified above collectively provide a justification for the need for subsidies in the rural areas. In the current context, only bus subsidies are available in some of the rural areas. Even in areas where the subsidies are available, there are still challenges faced by both the operators and commuters as discussed below.

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<sup>448</sup> SANSBOC North West – Oral submission by Mr Godomo, North West hearings, dated 26 July 2018, page 31

<sup>449</sup> Mayibuye Bus Service – Oral submission by Mr. Gwabeni, East London hearings, dated 27 August 2018, page 45.

<sup>450</sup> Mayibuye Transport Corporation – oral submission by Mr. Gwabeni, Eastern Cape (East London) hearings dated 27 August 2018, page 63.

<sup>451</sup> SANTACO EC- oral submission by Mr. Ndiki, Eastern Cape (East London) hearings dated 28 August 2018, page 61.

## Challenges specific to rural bus subsidy contracts

### *Subsidy coverage*

- 8.20. The extent of service coverage from buses in rural areas tends to be limited as subsidised bus operations provide a scheduled service on defined routes. These routes as discussed in **Chapter 7** were decided over 20 years ago and do not respond effectively to changing needs of commuters. In Limpopo, not all rural areas are covered by subsidised buses.<sup>452</sup>
- 8.21. In the Free State, subsidised commuter bus services are provided within the Mangaung Metropolitan Municipality and Thabo Mofutsanyana District Municipality. The other three district municipalities have no subsidy coverage leading to commuters demanding an extension of routes. Following a demand from the commuters, Interstate Bus Lines **{CONFIDENTIAL}**<sup>453</sup>
- 8.22. In the Western Cape, there are no subsidised commuter bus services in most of the district municipalities. Most of the subsidised bus operations are limited within the Greater Cape Town metro.

### *Subsidy allocation*

- 8.23. Provinces such as Limpopo, that used to have homelands, do not receive total funding from the PTOG. In Limpopo, the PTOG accounts for 45 per cent of the province's subsidy needs. For Limpopo, the PTOG typically covers what used to be called the "RSA towns" such as Polokwane (formerly Pietersburg), Marble Hall and Motetema (formerly Groblersdal). The former homelands areas (Vhembe) are then subsidised by the provincial government through its equitable share.<sup>454</sup> In the 2018/19 financial year, the provincial budget totalled R736 million – R380 million was from the provincial fund and R365 million came from PTOG funding.<sup>455</sup> Limpopo province is one the provinces that is severely disadvantaged by the current subsidy regime.

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<sup>452</sup> Great North Transport – Oral submission by Ms Matlou, Limpopo Hearings, dated 21 August 2018, page 22

<sup>453</sup> Interstate Bus Line- oral submission by Mr Mokgothu, Free State Hearings, dated 30 August 2018, page 156.

<sup>454</sup> Limpopo Department of Transport – oral submission by Mr Mainganye, Limpopo public hearings, 22 August 2018, page 18-19.

<sup>455</sup> Limpopo Department of Transport – oral submission by Mr Mainganye, Limpopo public hearings, 22 August 2018, page 18-19.



- 8.24. Due to a lack of funding for subsidy contracts, and despite a growing population and expansion of villages, many areas in the province remain without subsidised bus services. Bus operators submitted that, in some instances, they operate commercial services or extend certain routes which are not subsidised in order to service communities in the province.<sup>456</sup> Lowveld Bus Services submitted that it remains important that bus services are subsidised **{CONFIDENTIAL}**.<sup>457</sup>

*Skewed subsidy allocation between rural and urban areas*

- 8.25. Concerns have also been raised about the disproportionate allocation of subsidies to bus operators operating in the same province but servicing different areas (urban and rural areas). Small and emerging bus operators are also relegated to servicing rural areas while their bigger counterparts service urban areas where conditions are much better. These concerns have been raised in provinces that are generally described as rural provinces, such as Limpopo and the Eastern Cape provinces.
- 8.26. It has further been asserted that the government allocates significantly large sums in urban areas for subsidies in comparison to allocations for the rural areas.<sup>458</sup> It is important to note that the allocation of subsidies to provinces is historical and not adjusted annually.<sup>459</sup> There are disparities between subsidised buses that operate in urban areas and those that service rural areas. Most of the operators servicing urban areas are the larger companies such as PUTCO and Golden Arrow Bus services. Smaller operators who operate the rural areas receive far less allocations compounded by the harsh operational environment.<sup>460</sup>
- 8.27. Bus operators in Limpopo submitted that despite having to service mainly rural towns and villages with poor road infrastructure, the subsidy rate that they receive per kilometre is the same rate they receive for servicing an urban area. This is of particular concern when one considers that the operating costs of a bus operator who services rural areas are much higher than those of an operator who mainly

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<sup>456</sup> Great North Transport – Oral submission by Mr Monkoe, Limpopo Hearings, dated 21 August 2018, page 17; SANSBOC Limpopo - Oral submission by Ms Maponya, Limpopo public hearings, dated 21 August 2018, page 71.

<sup>457</sup> Lowveld bus services - undated written submission.

<sup>458</sup> AB350- oral submission by Ms Ngehu, Eastern Cape (East London) hearings dated 28 August 2018, page 82-86.

<sup>459</sup> National Department of Transport – written submission dated 24 May 2019, paragraph 3.4.10.

<sup>460</sup> AB350- oral submission by Ms. Ngehu, Eastern Cape (East London) hearings dated 28 August 2018, page 82-86.

services urban areas.<sup>461</sup> GNT submitted that it faces serious challenges in servicing rural areas especially where it charges low fares and incurs significant costs in operating in those areas. As a result, GNT is currently operating with a very old fleet of vehicles, much to the dismay of commuters in areas such as Bushbuckridge, Ga-Maja, Makhado and Tzaneen.<sup>462</sup>

- 8.28. KWANABUCO's members operate throughout the KZN province with some mainly focused in rural areas. In these areas, its members, being unsubsidised, often encounter challenges with poor road infrastructure, frequent breakdown of buses and high maintenance costs to repair the buses.<sup>463</sup> Without subsidies, some members have been forced to either service scholar transport or completely shut down their operations. In one rural area, Umzimkhulu, commuter bus services have not been allocated subsidies since the area was transferred from the Eastern Cape to KwaZulu-Natal.<sup>464</sup>

#### *Unfavourable operating environment*

- 8.29. Commuter bus operators who operate in the rural provinces, such as the Eastern Cape and Limpopo, raised concerns that when the subsidies are allocated, government does not take into consideration the different conditions that they operate under, such as road conditions, as compared to those operators operating in urban areas.<sup>465</sup> Among other challenges, these bus operators provide services on poor road infrastructure and poor rank facilities and, in some cases, in areas with no rank facilities at all.<sup>466</sup>
- 8.30. According to SANSBOC, the poor conditions under which bus operators render services substantially increase the cost of providing services of good quality to rural communities. The situation is exacerbated by the fact that there is no fair distribution

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<sup>461</sup> Great North Transport – Oral submission by Mr Monkoe, Limpopo public hearings, dated 21 August 2018, page 9-11.

<sup>462</sup> Great North Transport – Oral submission by Mr Monkoe, Limpopo public hearings, dated 21 August 2018, page 18-19

<sup>463</sup> KwaZulu-Natal Bus Council – oral submission by Mr Sibisi, Kwa Zulu Natal public hearings, 29 June 2018, pg 60.

<sup>464</sup> KwaZulu-Natal Bus Council – oral submission by Mr Sibisi, Kwa Zulu Natal public hearings, 29 June 2018, pg 59.

<sup>465</sup> Mayibuye Transport Corporation – Oral submission by Mr Gwabeni, Eastern Cape (East London) hearings dated 27 August 2018 page 48-49. AB350- oral submission by Ms. Ngehu, Eastern Cape (East London) hearings dated 28 August 2018, page 82. Also see Great North Transport – Oral submission by Ms Matlou, Limpopo Hearings, dated 21 August 2018, page 22.

<sup>466</sup> SANSBOC Eastern Cape – oral presentation by Mr Simlindile Hintsu, Eastern Cape Hearings, dated 28 August 2018, page 102.

of subsidies by government between rural and urban operators. In other words, the allocation of subsidies does not adequately consider conditions faced by operators providing services in rural areas.<sup>467</sup> SANSBOC's evidence in this regard is corroborated by evidence from the Eastern Cape Department of Transport:

**“MR LESOFE:** *And I am sure their performance would be so much better if they were for instance given the opportunity to also service urban areas.*

**MR MTHIRARA:** *I can really agree with you due to the conditions that they operate and at times these challenges do have an impact on their revenue base as well. For instance, AB350 they operate under terrible conditions. When it is raining, they do not operate. You can imagine at times the rain will fall for almost a month then there will be no service for that period and then that affects their revenue base as well so those are the major challenges as well.”<sup>468</sup>*

- 8.31. Due to bad conditions that it operates under, the lifespan of AB350's fleet of buses is shorter and, consequently, the entity is required to regularly procure new buses. In some instances, AB350 experiences breakdowns which causes it not to adhere to its schedules. This attracts penalties that are imposed by the provincial government as per the terms of the subsidy contract.
- 8.32. Operators in the Free State also expressed similar concerns about the conditions that they operate under as rural operators and the Free State provincial department is not taking these differences into consideration when allocating the subsidies. The operators contend that the operational costs in the rural areas are higher because of the road conditions and that should be taken into consideration.
- 8.33. **{CONFIDENTIAL}** submitted that subsidised services in rural areas benefit the poor and make it possible for bus operators to service these areas because often the roads are often poorly maintained making buses the most appropriate mode. In addition, subsidies allow operators such as **{CONFIDENTIAL}** to charge low fares to commuters in rural communities.

### ***Small bus operators can contribute meaningfully to rural transportation***

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<sup>467</sup> SANSBOC Eastern Cape – oral presentation by Mr Simlindile Hintsu, Eastern Cape Hearings, dated 28 August 2018, page 102.

<sup>468</sup> Eastern Cape Department of Transport – oral submission by Mr Phathuxolo Mthirara, Port Elizabeth Hearings, dated 14 August 2018, page 28.

- 8.34. AB350 consists of a number of small bus operators who became one in line with a model adopted to facilitate government's empowerment of small bus operators. Government actively participated in the formation of the company and further provided not only a platform for the members to access financial institutions but also provided funding towards the establishment of AB350.<sup>469</sup> AB350 currently negotiates contracts directly with government and does not only receive work through sub-contracting with the bigger bus operators.
- 8.35. What the current success achieved by AB350 in the Eastern Cape highlights is that small bus operators may need to form bigger companies and need to work alongside government as was done in the Eastern Cape for negotiated contracts to serve their desired transformative purpose. A lot can be learned from the AB350 example in this regard.
- 8.36. AB350 holds a view that sub-contracting does not work for small bus operators in that the large bus operators are not keen to empower them. In this regard, Mr Hintsa relates AB350's experience:
- "...when IDC was still involved in the process, they took us to one of the big companies and say small bus operators now in this case, what can you do about the small bus operators. The answer was very short and brief – we can give them contracts, we can give them busses, but the agreement must be that the management will be done by us"*<sup>470</sup>
- 8.37. Despite the views of AB350 on sub-contracting, in Limpopo, GNT was requested to give some of its routes to smaller operators as a way of empowerment. One of the small bus operators that is being empowered by this arrangement is Kopano Bus services (Kopano), which GNT is currently working with. It is GNT's view that Kopano would be able to successfully compete for contracts placed on tender in Limpopo and currently there are routes that this small bus operator services without sub-contracting. The entity has managed to grow and currently has about 20 buses.<sup>471</sup> Despite the successes of sub-contracting in Limpopo, as evidenced by the growth of Kopano, the Commission notes that sub-contracting has not been that successful in other provinces, notably the Western and Eastern Cape. In the main,

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<sup>469</sup> SANTACO EC submission by Mr Banjwa, Eastern Cape (East London) hearings, 28 August 2018, pg.55.

<sup>470</sup> Africa Best 350 – oral presentation by Mr Simlindile Hintsa, Eastern Cape Hearings, dated 28 August 2018, page 112.

<sup>471</sup> Great North Transport - oral submission by Mr. Monkoe, Limpopo hearings, dated 21 August 2018, pg.23.

small bus operators that participate in sub-contracting arrangements have expressed a view that they operate at the mercy of bigger operators that dictate terms.

- 8.38. In the Free State, as part of negotiated contracts, the Department of Transport necessitated that the two operators who had been awarded the contracts involve small bus operators and minibus taxi operators in their operations to promote transformation in the industry. As a result, Interstate Bus Line and Maluti Bus Service had to issue shares to minibus taxi operators and small bus operators.

**{CONFIDENTIAL}**

- 8.39. In 2011, Maluti Bus service also transferred 20 per cent of its shares to taxi operators and Maluti Bus Service employees. The taxi operators formed a company called Remmohoe Sisonke Pty Limited and acquired more shares in the company. Currently Remmohoe Sisonke Pty Limited owns 85 per cent of Maluti Bus Service and the other 15 per cent is owned by Maluti Employees Transport Trust.<sup>472</sup> Remmohoe Sisonke Pty Limited is owned by Qwa-Qwa United Taxi Association, Bethlehem Taxi Association, Harrismith Taxi Association, Tshiame Taxi Association and the Provincial Taxi Council.<sup>473</sup>
- 8.40. To promote small bus operators in Northern Cape, the province tried to allocate some of Mega Bus' routes to small bus operators. Mega Bus, however, refused to give up the identified routes and instead initiated legal action against the province in 2014.<sup>474</sup> Mega Bus opted to sub-contract small operators instead of handing over some of the contracted routes to such small operators.<sup>475</sup>

## Findings

- 8.41. Subsidy coverage favours urban areas as opposed to rural areas and this translates into disparities in the allocation of subsidies between bus operators servicing the rural and urban areas.

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<sup>472</sup> Maluti Bus Service – oral submission by Mr Engelbrecht, Free State Hearings, dated 31 August 2018, page 114.

<sup>473</sup> Maluti Bus Service – oral submission by Mr Engelbrecht, Free State Hearings, dated 31 August 2018, page 109.

<sup>474</sup> Northern Cape Department of Transport – oral submission by Ms Olivier, Kimberly Hearings, dated 19 July 2018, page 29.

<sup>475</sup> Northern Cape Department of Transport – oral submission by Ms Olivier, Kimberly Hearings, dated 19 July 2018, page 30.

- 8.42. The levels of subsidies granted to bus operators servicing the rural areas does not consider the harsh operating conditions in rural areas which increases operating costs. Breakdowns are more frequent resulting in unreliable service.
- 8.43. In rural areas, poor road infrastructure serves as a major barrier to the provision of public transport. In this regard, rural communities appear to be neglected given the limited transport coverage by both bus and minibus taxis. Subsidised buses tend to operate only during peak hours.
- 8.44. There is lack of collaboration between national and provincial departments responsible for rural development to plan and coordinate road and transport infrastructure. Government has neglected transport planning in most rural areas.

## **Recommendations**

- 8.45. The Commission, after careful analysis of the challenges in the rural transportation sector recommends the following:
- 8.45.1. The Department of Transport and National Treasury to explore the creation of a dedicated funding for rural public transport.
  - 8.45.2. The Department of Transport to foster coordination with sector departments to harmonise interventions for the rural areas.
  - 8.45.3. The subsidy policy being developed by the Department of Transport should consider the operating conditions in rural areas and compensate accordingly.
  - 8.45.4. Provinces should create avenues for small bus operators to participate in subsidised bus services.

## 9. BUS RAPID TRANSIT SYSTEM IN SOUTH AFRICA

### Introduction

9.1. This chapter discusses the Integrated Rapid Public Transport Networks (IRPTNs) and its integral component, bus rapid transit system (BRT). Firstly, the chapter traces the origins of IRPTNs and how the concept was implemented in some South African cities. The key features, historical context and implementation of IRPTNs and BRT is discussed. The current status of BRT roll out in the various cities, key challenges and inefficiencies is evaluated. This chapter also assesses the impact of BRT on intramodal competition and concludes by making findings and recommendations.

### The move from IRPTNs to focus on BRT

- 9.2. In March 2007, Cabinet approved a Public Transport Strategy which proposed a phased implementation of IRPTNs as an integrated, total system response to South Africa's public transport needs.<sup>476</sup> IRPTNs refer to high quality, integrated mass rapid public transport networks comprising of rapid rail and BRT priority corridors.<sup>477</sup> The other key pillar of the strategy is modal upgrading, which focuses on improving the quality of public transport fleet for commuter rail, bus, metered and minibus taxis.<sup>478</sup> IRPTNs were heralded as "the mobility wave of the future and are the only viable option that can ensure sustainable, equitable and uncongested mobility in liveable cities and districts".<sup>479</sup> The key feature of IRPTNs is its emphasis on a high speed service comprising of dedicated median busways, enclosed stations with pre-board fare payment for road trunk corridors and dedicated infrastructure and priority slots for passenger rail corridors.<sup>480</sup> Broadly, the main objective of the IRPTNs was to reduce travelling costs and time for commuters to offset inefficient apartheid spatial planning.<sup>481</sup>
- 9.3. The aim of the Public Transport Strategy was to accelerate the implementation of IRPTNs in metropolitan cities, smaller cities and rural districts. The phased implementation of the IRPTN aimed to have operating systems in place in 12 cities

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<sup>476</sup> Von der Heyden et al. "Financing IRPTN operations: considerations for cities implementing I(R)PTNs in South Africa". 2015 Southern African Transport Conference, Pretoria.

<sup>477</sup> Public Transport Action Plan - Department of Transport (2007), page 7-8

<sup>478</sup> Public Transport Action Plan - Department of Transport (2007), page 4

<sup>479</sup> Public Transport Strategy – March 2007, page 4

<sup>480</sup> Public Transport Action Plan - Department of Transport (2007), page 18

<sup>481</sup> Department of Transport. 2019. Written submission. 24 May 2019. Paragraph 3.1.7.

(including the nine 2010 World Cup host cities<sup>482</sup>) and at least six rural districts<sup>483</sup> by 2014.<sup>484</sup>

9.4. The longer-term vision until 2020 was to develop a system that places over 85 per cent of a metropolitan city's population within 1km of an IRPTN trunk (road and rail) or feeder (road) corridor.<sup>485</sup> These networks were therefore meant to comprise an integrated package of rapid rail and BRT corridors.<sup>486</sup> The following were the proposed phases of the BRT aspect of the strategy:

9.4.1. Phase I: Accelerated Recovery and Catalytic Projects - This phase was to be implemented from 2007 to 2010 and would entail, among other things, the initiation of projects which would promote the implementation of BRT priority corridors in the 12 targeted cities;<sup>487</sup>

9.4.2. Phase II: Promote and Deliver Basic Networks - This phase was to be implemented from 2010 to 2014 and would entail, among other things, the expansion of the initial BRT corridors<sup>488</sup>; and

9.4.3. Phase III: Advance and Sustain Accessible Networks - that was to be implemented from 2014 to 2020 and would entail, among others, maximising the rollout of BRT.<sup>489</sup>

9.5. The Public Transport Strategy was followed by the Cabinet approval of an Action Plan in April 2007 which was drawn up to "enable the movement from strategy to rapid implementation".<sup>490</sup> The key focus of the Action Plan was on the "Catalytic Projects" component of Phase 1 (2007-2010), as outlined above. As a critical component in the

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<sup>482</sup> Tshwane, Cape Town, Johannesburg, Nelson Mandela Bay, eThekweni, Polokwane, Mangaung, Mbombela and Rustenburg.

<sup>483</sup> The six districts were identified as Sekhukhune District Municipality (Limpopo), OR Tambo District Municipality (Eastern Cape), Umkhanyakude District Municipality (KwaZulu-Natal), Ehlanzeni District Municipality (Mpumalanga), Thabo Mofutsanyane District Municipality (Free State) and Kgalagadi District Municipality (Northern Cape). Public Transport Action Plan - Department of Transport (2007), page 77

<sup>484</sup> Public Transport Strategy – March 2007, page 4

<sup>485</sup> *Ibid.*

<sup>486</sup> Public Transport Action Plan - Department of Transport (2007), page 7

<sup>487</sup> The targeted cities were Tshwane, Cape Town, Johannesburg, Nelson Mandela Bay, eThekweni, Ekurhuleni, Polokwane, Mangaung, Mbombela, Rustenburg, Msunduzi and Buffalo City. Later, George Municipality was added as a 13<sup>th</sup> city. However, it is submitted that the Go George system is not a BRT or IRPTN but rather an improved bus service that was implemented by the Western Cape Government and is funded through the PTNG. See National Treasury – oral submission by Ms Britton, Gauteng hearings – Commission's offices, dated 10 October 2018, page 66.

<sup>488</sup> Pillay, K and Seedat, I. 2007. Towards 2020: Public Transport Strategy and Action Plan. A paper presented at the 2007 Southern African Transport Conference, Pretoria.

<sup>489</sup> Presentation by the Department of Transport, "Draft Public Transport Action Plan: Phase 1 (2007-2010): Catalytic Integrated Rapid Public Transport Network Projects", March 2007. See also P Froschauer, "An analysis of the South African Bus Rapid Transit (BRT) Policy Implementation Paradigm", 16-19 August 2010.

<sup>490</sup> Public Transport Action Plan - Department of Transport (2007), page 12



implementation of IRPTNs, the Action Plan proposed the establishment of transport authorities that were equipped to plan, manage and regulate networks in which the transport authorities would be responsible for fare revenue and operators would be contracted to provide particular services.<sup>491</sup> In this plan, provinces would play a coordinating role with respect to planning and ensuring capacity is available for transport authorities. In addition, the Action Plan called for the urgent establishment of multidisciplinary Intergovernmental Task Teams to be able to “fast track and minimise bureaucratic bottlenecks and facilitate speedy decision making”.<sup>492</sup>

- 9.6. The aims and objectives as outlined in the Public Transport Strategy and the Action Plan demonstrate that there was an urgent target imposed on municipalities to plan and execute IRPTNs in both a speedy and efficient manner. However, for most cities, there was insufficient time to plan, develop and implement IRPTNs. In fact, the experience of the City of Johannesburg and George Municipality demonstrate that the planning process took much longer than was anticipated.<sup>493</sup> The City of Johannesburg, being the first to implement the new system, experienced protracted and complex negotiations with the minibus taxi industry for phase 1 of the Rea Vaya BRT.<sup>494</sup> In addition, from a construction point of view, the plans were far too ambitious and implemented in haste as the pressure to deliver in time for the World Cup was mounting.<sup>495</sup> For smaller cities such as Msunduzi, the lack of capacity, transport planning skills and experience in IRPTNs has resulted in the slow pace of implementation.<sup>496</sup>
- 9.7. By 2018, only six cities have managed to develop and implement IRPTNs, namely City of Johannesburg (Rea Vaya), City of Cape Town (MyCiTi), City of Tshwane (A Re Yeng), George Municipality (Go George), City of Ekurhuleni (Harambee) and Nelson Mandela Bay (Libhongolethu).

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<sup>491</sup> *Ibid.* Page 9

<sup>492</sup> *Ibid.*

<sup>493</sup> Seftel, L. 2013. Pains and Gains of a Negotiated Contract: the Johannesburg Rea Vaya BRT Experience. Thredbo 13 Conference, Oxford, 13-19 September 2013. Department of Transport and Public Works Western Cape Government – oral submission from Mr Collins, WESTERN CAPE public hearings, 20 June 2018, page 19

<sup>494</sup> Seftel, L. 2013. Pains and Gains of a Negotiated Contract: the Johannesburg Rea Vaya BRT Experience. Thredbo 13 Conference, Oxford, 13-19 September 2013

<sup>495</sup> *Ibid.* The initial target start date for phase 1A of Rea Vaya was for the Confederation Cup in June 2009 while phase 1B was planned to be completed by June 2010. In reality, services for phase 1A only became fully operational in May 2010. Prior to that, a starter service operated by an interim bus operator started operating in August 2009 with 40 buses.

<sup>496</sup> Msunduzi Municipality – presentation by Ms Mngelana GAUTENG hearings – Commission’s offices, dated 05 October 2018.

9.8. Over a decade since the approval of the Public Transport Strategy and the adoption of IRPTNs as a national policy objective, cities have largely implemented BRT systems and there is little to no evidence of integrated “rapid rail and BRT priority corridors” as was originally envisaged. Rea Vaya in the City of Johannesburg and A Re Yeng in the City of Tshwane are but two examples of BRT systems. In the past 5 years, cities with the guidance of DOT and National Treasury have had to relook and revise their IRPTNs to reduce costs and delays.<sup>497</sup> Some cities no longer put emphasis on the requirement that their systems be of a rapid nature as this has shown to have high cost implications.<sup>498</sup> The DOT submitted that most cities<sup>499</sup> have now amended their earlier plans to focus mostly on supplying new vehicles, fewer stations/shelters and other related infrastructure such as depots.<sup>500</sup> In addition to this, minibuses have increasingly been introduced and integrated into the system. As a result, some of the newer systems are referred to as Integrated Public Transport Networks (IPTNs) such as in George or Integrated Public Transport System (IPTS) such as in Nelson Mandela Bay and not IRPTNs to reflect these new changes. For the purposes of this report, IRPTNs and IPTNs are used interchangeably.

9.9. However, the focus of this chapter is on the BRT system although the Commission acknowledges the original intention by national government and the recent endeavours by cities to move towards integrated systems.

### **Key characteristics of BRT**

9.10. The Institution for Transportation and Development Policy defines BRT as a high-quality bus-based transit system that delivers fast, comfortable, and cost-effective services at metro-level capacities.<sup>501</sup> Dedicated lanes for buses, well-built stations and off-board fare collection systems are some of the prominent features of a BRT system as shown in **Table 20**.<sup>502</sup>

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<sup>497</sup> National Department of Transport – written submission dated 14 March 2019; page 7

<sup>498</sup> National Treasury – oral submission by Ms Britton, Gauteng hearings – Commission’s offices, dated 10 October 2018, page 66-67



<sup>499</sup> George, Mbombela, Mangaung, Buffalo City, Polokwane, Rustenburg, Msunduzi and Nelson Mandela Bay

<sup>500</sup> National Department of Transport – written submission dated 14 March 2019; page 7

<sup>501</sup> <https://www.itdp.org/library/standards-and-guides/the-bus-rapid-transit-standard/what-is-brt/>

<sup>502</sup> Ibid

**Table 20: Features of BRT system**

<p><b>Dedicated lane and busway alignment</b>  Bus-only lanes allow faster travel and ensure that buses are never delayed due to mixed traffic congestion.</p>	 <p><i>Source: Tshwane Municipality</i></p>
<p><b>Off-board fare collection</b>  Fare payment at the station, instead of on the bus, eliminates the delay caused by passengers waiting to pay on board.</p>	 <p><i>Source: Tshwane Municipality</i></p>
<p><b>Intersection Treatments</b>  Prohibiting turns for traffic across the bus lane reduces delays caused to buses by turning traffic.</p>	 <p><i>Source: Urban Africa</i></p>
<p><b>Platform-level boarding</b>  Stations are level with the bus for quick and easy boarding. Accessible for wheelchairs, disabled passengers and strollers with minimal delays.</p>	 <p><i>Source: Pretoria News</i></p>

## The genesis of BRT

### *International perspective*

9.11. The large-scale development of BRT systems was first seen in Curitiba, Brazil in 1974.<sup>503</sup> Following its success in Curitiba, other cities were inspired to develop similar systems. The development of BRT systems was initially limited to North and South American continents. In the late 1990s, the replication of the BRT concept gained momentum and BRT systems were launched in Quito, Ecuador (1996), Los Angeles, United States of America (1999) and Bogotá, Columbia (2000). By 2005, there were over 70 such systems around the world.<sup>504</sup>

9.12. The Transmilenio BRT is among the best BRT systems in the world providing transportation to over 69 per cent of the population of Bogotá, which translates to about 2.4 million riders daily.<sup>505</sup> The Transmilenio BRT is recognised as having the top corridor performance globally with 45 000 passengers per hour per direction.<sup>506</sup> One of the key aspects of the Transmilenio BRT was the creation of 5 private companies to operate the system and this was led by former traditional operators.<sup>507</sup>

### *South African experience*

9.13. In this section, the adoption of the BRT system in South Africa is discussed. Several submissions to the Commission indicated that the BRT system in South Africa was largely modelled on the Transmilenio BRT in Bogotá, Colombia.

9.14. In addition to the influences of Bogotá, there were four main influences that are credited for ushering in the BRT system in South Africa. They are: (i) the 2010 FIFA Soccer World Cup, (ii) funding in the form of a capital grants was made available and allocated by national government to municipalities for infrastructure spending for IRPTNs of which BRTs were a significant component, (iii) approval of the Public Transport Strategy and

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<sup>503</sup> Adewumi E and Allopi, D. 2013. "Rea Vaya: South Africa's first bus rapid transit system". <http://dx.doi.org/10.1590/sajs.2013/a0029> (Accessed 6 September 2017.)

<sup>504</sup> *Ibid.*

<sup>505</sup> Premach, R. 2019. "Bogotá's massive bus system has been globally hailed as a triumph in public transit". Business Insider. <https://www.businessinsider.com/bogata-bus-system-transmilenio-better-nyc-2019-1?IR=T> (accessed 30 May 2019)

<sup>506</sup> Hidalgo D and Graftieaux P. 2007. "Bus Rapid Transit Systems in Latin America and Asia: Results and Difficulties in 11 cities".

US Department of Transportation. "Report on South American bus rapid transit field visits: Tracking the evolution of the TransMilenio model."

[https://www.transit.dot.gov/sites/fta.dot.gov/files/Report\\_on\\_South\\_American\\_Bus\\_Rapid\\_Transit\\_Field\\_Visits\\_December\\_2007.pdf](https://www.transit.dot.gov/sites/fta.dot.gov/files/Report_on_South_American_Bus_Rapid_Transit_Field_Visits_December_2007.pdf) (Accessed on 12 June 2019)

<sup>507</sup> *Ibid.*

Action Plan and (iv) the need to transform and empower the minibus taxi industry. These factors are discussed below.

### *The significance of Bogotá*

9.15. While government did not prescribe the Bogotá model as the ideal model for South African cities, stakeholders in the industry, including municipalities, submitted that the Bogotá model was influential in their planning and implementation of the BRT system. In addition, Bogotá was faced with the task of absorbing existing transport operators into the new system just like South Africa.<sup>508</sup> Submissions received indicate that Bogotá had taxis and traditional buses that had to be incorporated into the system.<sup>509</sup> This involved negotiations with the affected operators to absorb them so that they did not provide competing services. Stakeholders including government officials, taxi and bus operators from all the different cities went for study tours to Bogotá.<sup>510</sup> In Bogotá, buses are said to be always full, with 3 or 4 broad peak services and this is in direct contrast to South Africa with only 2 narrow peak periods.

9.16. Though the DOT has submitted that the IRPTN/BRT model implemented in various cities is a 100 per cent South African model that is grounded in local operations and defined by local issues,<sup>511</sup> the influence of Bogotá is evident. For example, the Rea Vaya scoping study of 2006 reveals that the city's officials conducted a study tour which concluded that, while the circumstances of Bogotá are different from those of Johannesburg, BRT could have applicability in the context of Johannesburg.<sup>512</sup>

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<sup>508</sup> SANTACO National. 2018. Oral submission by Mr Taaibosch, Gauteng hearings. 4 June 2018. Page 46  
City of Johannesburg. 2018. Oral submission by Mr Maseko, Gauteng hearings, Commission's offices. 3 October 2018. Page 19-20.

Turner M and Kooshian C. 2012. "Case Study: Colombia's Bus Rapid Transit (BRT) Development And Expansion." CAF Development Bank of Latin America / Center for Clean Air Policy, Washington. Page 10.  
<http://ccap.org/assets/Case-Study-Colombias-Bus-Rapid-Transit-BRT-Development-and-Expansion.pdf>  
(Accessed on 12 June 2019.)

<sup>509</sup> Mr Esau. 2018. Oral submission by Mr Esau, Western Cape hearings. 20 June 2018. Page 59 and 64;  
Turner M. *Op cit*.

<sup>510</sup> SANTACO National. 2018. Oral submission by Mr Taaibosch, Gauteng public hearings. 4 June 2018. Page 46  
Uncedo Service Taxi Association. Oral submission by Mr Makaluza, Western Cape hearings. 20 June 2018. Page 204.

Msunduzi Municipality. 2018. Oral submission by Ms Mkhize, Gauteng hearings, Commission's offices. 5 October 2018. Page 38

Golden Arrow Bus Service. 2018. Oral submission by Mr Wilkin, Western Cape hearings. 19 June 2018. Page 74.  
Newlands Bus Operators. 2018. Oral submission by Mr Dehal, KwaZulu-Natal hearings. 27 June 2018. Page 31.  
Piotrans. 2018. Oral submission by Mr Mntambo, Gauteng hearings, Commission's offices. 10 October 2018. Page 153.

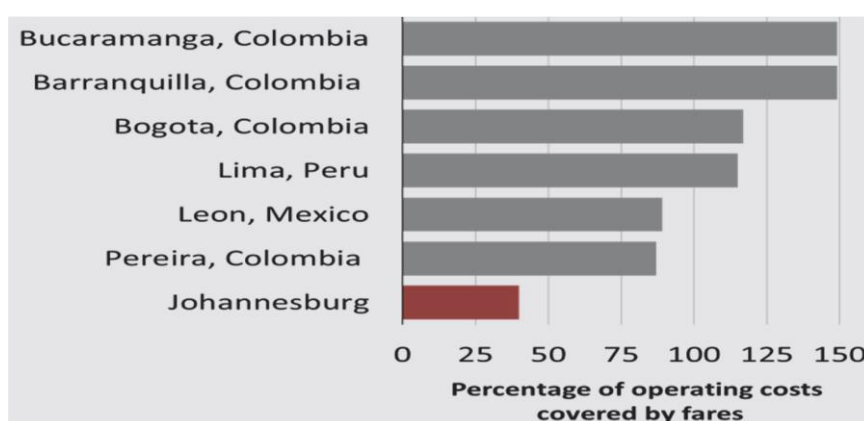
<sup>511</sup> National Department of Transport. 2019. Written submission. 24 May 2019. Paragraph 3.1.5.

<sup>512</sup> City of Johannesburg. 2006. Rea Vaya scoping study. November 2006. Page 22.

Subsequent to this, many other stakeholders have undertaken similar study tours to Bogotá to observe how the system operates.<sup>513</sup>

9.17. Submissions received indicated that the Bogotá model was the incorrect model for South African cities to emulate given the vast differences identified above.<sup>514</sup> The legacy of apartheid spatial planning has resulted in commuters travelling long distances during the morning and later in the evening which affects the viability of the BRT system. High demand is only for peak periods in the morning and evening, and during the day the buses are parked.

**Figure 27: Comparison of Rea Vaya BRT with South American cities**



Source: National Treasury Budget Review 2017<sup>515</sup>

<sup>513</sup> SANTACO National. 2018. Oral submission by Mr Taaibosch, Gauteng public hearings. 4 June 2018. Page 46. Uncedo Service Taxi Association. 2018. Oral submission by Mr Makaluza, Western Cape hearings. 20 June 2018. Page 204.

Msunduzi Municipality. 2018. Oral submission by Ms Mkhize, Gauteng hearings, Commission's offices. 5 October 2018. Page 38

Golden Arrow Bus Service. 2018. Oral submission by Mr Wilkin, Western Cape hearings. 19 June 2018. Page 74

Newlands Bus Operators. 2018. Oral submission by Mr Dehal, KwaZulu-Natal hearings. 27 June 2018. Page 31

Piotrans. 2018. Oral submission by Mr Mntambo, Gauteng hearings, Commission's offices. 10 October 2018. Page 153.

<sup>514</sup> City of Johannesburg. 2018. Oral submission by Ms Seftel, Gauteng hearings, Commission's offices. 3 October 2018. Page 20-21

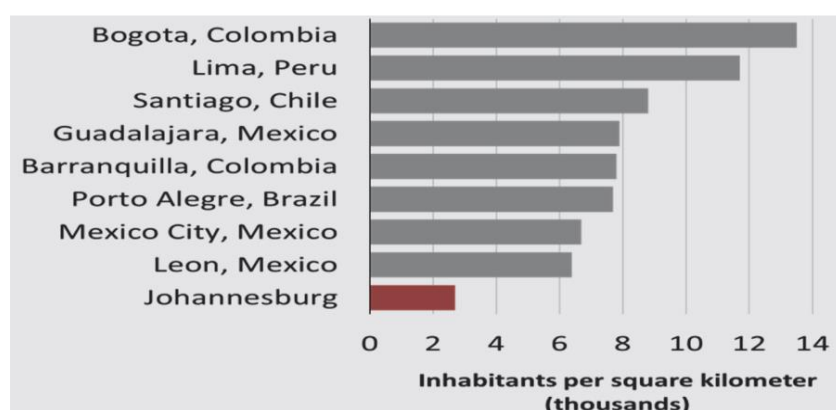
Golden Arrow Bus Service. 2018. Oral submission by Mr Meyer, Western Cape hearings. 19 June 2018. Page 72. *Ibid.* Page 74;

Van Ryneveld P. 2018. Oral submission by Mr van Ryneveld, Western Cape public hearings. 20 June 2018. Page 169.

<sup>515</sup> <http://www.treasury.gov.za/documents/national%20budget/2017/review/FullBR.pdf>



**Figure 28: Comparison of urban density**



Source: National Treasury Budget Review, 2017<sup>516</sup>

9.18. **Figure 27** and **Figure 28** show that when compared to Bogotá, Johannesburg has far less inhabitants per km<sup>2</sup> and as a result of such low population densities (and urban sprawl), the operating costs of Rea Vaya are exorbitant. Therefore, the system is likely to be heavily reliant on subsidies as fares are inadequate to cover costs.

#### 2010 FIFA World Cup

9.19. From the evidence gathered by the Commission, it appears that the concept of a BRT system in South Africa was introduced and fast tracked by the announcement on 15 May 2004 that South Africa had successfully won the bid to host the 2010 FIFA Soccer World Cup.<sup>517</sup> According to the City of Johannesburg and Mangaung Metropolitan Municipality, the World Cup announcement changed the course of public transport in the country.<sup>518</sup> Phillip van Ryneveld, a former employee of the City of Cape Town, also highlighted that the World Cup played a crucial role, by making reference to the experience in the City of Cape Town:

*“In the late 2000s the initiative for the BRT really was driven by National Government and it was in relation to the World Cup. ....and Cape Town said that’s fine”<sup>519</sup>*

<sup>516</sup> <http://www.treasury.gov.za/documents/national%20budget/2017/review/FullBR.pdf>

<sup>517</sup> The National Treasury. 2018. Oral submission by Ms Britton. 10 October 2018. Page 12; eThekweni Transport Authority. 2018. Oral submission by Mr Wosiyana, KwaZulu-Natal public hearings. 27 June 2018. Page 137.

Browning P. 2018. Oral submission by Paul Browning, Gauteng public hearings. 4 June 2018. Page 68.

<sup>518</sup> Mangaung Metropolitan Municipality. 2018. Oral submission by Mr Gondogwana, Gauteng hearings, Commission’s offices. 3 October 2018. Page 89.

Seftel, L. 2013. “Pains and gains of a negotiated contract: the Johannesburg Rea Vaya BRT experience.” Thredbo 13 Conference, Oxford, 13-19 September 2013.

<sup>519</sup> Van Ryneveld. *Op cit.* Page 130.

9.20. The announcement of the hosting rights to South Africa resulted in an urgent need to prioritise public transport and substantial investments were made to make the project successful. Because of this urgency, it appears that there was insufficient time to prepare detailed plans (with reliance on some scoping study) which would guide the implementation of the first phase of the BRT system in various cities. The City of Johannesburg submits that it was ill prepared and under pressure to deliver the project only managing to complete a scoping study by November 2006.<sup>520</sup>

#### *Availability of funding*

9.21. Prior to 2007, severe underinvestment in public transport infrastructure and public transport operations for over 30 years was observed in South Africa.<sup>521</sup> The 2010 World Cup created the impetus to address the backlog in public transport infrastructure and improvement.<sup>522</sup>

9.22. In 2005, a special fund was created called the Public Transport Infrastructure Systems Grant (PTISG)<sup>523</sup> which is today known as the Public Transport Network Grant (PTNG). The PTISG was created to provide for accelerated planning, establishment, construction and improvement of new and existing public transport and non-motorised transport infrastructure and systems.<sup>524</sup> This grant originated as a mechanism to support the provision of transport related infrastructure for the 2010 World Cup but, after a series of reforms, it was later converted to deal with broader public transport services at a municipal level.<sup>525</sup> The PTNG, in its current form, is allocated to municipalities to provide for the capital costs of implementing IRPTNs.<sup>526</sup> The rationale for the PTNG is to support the NLTA and Public Transport Strategy and Action Plan in promoting the provision of accessible, reliable and affordable integrated public transport services.<sup>527</sup> The grant does not provide for the direct vehicle operating costs such as fuel, labour, and the maintenance of buses and bus drivers' salaries.

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<sup>520</sup> City of Johannesburg. 2018. Oral submission by Ms Seftel, Gauteng hearings, Commission's offices. 3 October 2018. Page 17.

<sup>521</sup> Von der Heyden *et al.* 2015. "Financing IRPTN operations: considerations for cities implementing I(R)PTNs in South Africa". 2015 Southern African Transport Conference, Pretoria.

<sup>522</sup> *Ibid.*

<sup>523</sup> This grant was first established as the Public Transport Infrastructure Grant (PTIF).

<sup>524</sup> The National Treasury. 2018. Oral submission by Ms Britton, Gauteng hearings, Commission's offices. 10 October 2018. Page 14.

<sup>525</sup> City of Cape Town TDA. (Undated) Written submission. Page 15

<sup>526</sup> The National Treasury. 2018. Oral submission by Ms Britton, Gauteng hearings, Commission's offices. 10 October 2018. Page 8.

<sup>527</sup> City of Cape Town TDA. (Undated). Written submission. Page 15.



- 9.23. As part of the investments for improvements in public transport ahead of the 2010 World Cup, R3 billion was allocated by the Minister of Finance in February 2005 for the period 2005/6 to 2007/8.<sup>528</sup> The purpose of this allocation was to kickstart the Public Transport Infrastructure Grant (PTIF) by specifically concentrating on 2010 related projects. The Public Strategy and Action Plan of 2007 estimated the costs in capital investments for BRT Phase 1 roll out for up to 12 cities at R13 billion.<sup>529</sup>
- 9.24. The availability of funding as a result of the World Cup provided an opportunity for those cities who previously had not played a direct role in public transport provision, to get involved. Apart from City of Johannesburg, City of Tshwane, City of Ekurhuleni, eThekweni Municipality and Buffalo City, the majority of the cities did not have municipal bus services in operation. It was only after the selection of the host cities that some cities started to think seriously about public transport needs.<sup>530</sup> One such example is the City of Cape Town which previously did not operate a municipal bus service but now operates an IPTN.<sup>531</sup>

#### *Public Transport Strategy and Action Plan*

- 9.25. As discussed above, in March 2007, Cabinet approved the Public Transport Strategy which proposed a phased implementation of IRPTNs as an integrated, total system response to South Africa's public transport needs. The approval of the strategy gave impetus to the roll out of the IRPTNs and funding was made available to support the initiative.

#### *Transformation of the taxi industry*

- 9.26. IRPTN/BRT was also meant to transform public transport not only for commuters but for existing public transport operators, especially minibus operators. Minibus taxi operators were envisaged to form part of the new system by becoming the owners and operators of the IRPTN/BRT.<sup>532</sup> However, minibus taxi operators would have to surrender their

<sup>528</sup> National Department of Transport. 2007. Public Transport Action Plan. Page 41.

<sup>529</sup> *Ibid.* Page 18.

<sup>530</sup> City of Cape Town TDA. 2018. Oral submission by Mr Bosch, Western Cape public hearing. 21 June 2018. Page 7

Mangaung Metropolitan Municipality. 2018. Oral submission by Mr Gondogwana, Gauteng hearings, Commission's offices. 3 October 2018. Page 88-89.

<sup>531</sup> The National Treasury. 2018. Oral submission by Ms Britton, Gauteng hearings, Commission's offices. 10 October 2018. Page 18.

<sup>532</sup> South African Government. 2009. "J Radebe: National summit on taxi industry participation in bus rapid transit systems" <https://www.gov.za/j-radebe-national-summit-taxi-industry-participation-bus-rapid-transit-systems>. (Accessed on 23 April 2019.)

operating licences and cease operating on routes where the IRPTN/BRT was going to be implemented.<sup>533</sup> Taxi operators were to be compensated for surrendering their licences and use the compensation to participate and form bus operating companies where they would become shareholders and begin to earn dividends. This was the mechanism to formalise and empower the minibus taxi industry.<sup>534</sup>

9.27. In 2008, following the Taxi Summit, the DOT released a statement which indicated that the taxi industry would be the nucleus of the BRT system and no loss of jobs and profits would be experienced in the implementation of the BRT.<sup>535</sup> This commitment by DOT cascaded to the cities with City of Tshwane confirming the empowering objective of the BRT by inclusion of former taxi operators in the subsidy system.<sup>536</sup> To secure the buy in of the minibus taxi operators in the IRPTN/BRT, ownership of the system and benefit from value chain opportunities such as cleaning and security services, were promised.<sup>537</sup> Rustenburg Local Municipality submitted that it is currently exploring the possibility of awarding value chain opportunities to the minibus taxi industry in the city as part of its transformation and empowerment initiatives.<sup>538</sup> However, according to the DOT, affected taxi operators are only entitled to compensation for business rights (goodwill) on routes they service.<sup>539</sup> The DOT further submitted that it is not the condition of the PTISG/ PTNG that affected taxi operators must benefit from value chain opportunities and that the DOT's position is that operators only benefit from compensation for business rights.

9.28. As demonstrated later in this chapter, submissions received by the Commission indicated that the implementation of the IRPTN/BRT system has left some taxi operators, who opted to participate in the system, worse off. Some face the possibility of exiting the market.

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<sup>533</sup> Uncedo Service Taxi Association. 2018. Oral submission by Mr Nzongu, Western Cape hearings. 20 June 2018. Page 210-211

Piotrans. 2018. Oral submission by Mr Mntambo, Gauteng hearings, Commission's offices. 10 October 2018. Page 139.

<sup>534</sup> Department of Transport. 2007. Public Transport Action Plan. Page 36.

<sup>535</sup> Ministry of Transport. 2008. "Joint Statement by Ministry of Transport and the Taxi Industry Leadership". 9 December 2008.

<sup>536</sup> City of Tshwane. 2018. Oral submission by Mr Letlonkane, Gauteng hearings, Commission's offices. 10 October 2018. Page 109.

<sup>537</sup> This was experienced in the City of Johannesburg in the negotiations leading up to the launch of the Rea Vaya. See Seftel, L. 2013. Pains and Gains of a Negotiated Contract: the Johannesburg Rea Vaya BRT Experience. Thredbo 13 Conference, Oxford, 13-19 September 2013.

<sup>538</sup> Rustenburg Local Municipality. 2018. Oral submission by Mr Moleele, North West public hearings. 25 July 2018. Page 76.

<sup>539</sup> National Department of Transport. 2019. Written submission. 24 May 2019. Paragraph 3.1.11.

## Current status of BRT/IRPTN implementation

9.29. In this section, we briefly outline the current status of BRT/IRPTN in the various cities:<sup>540</sup>

- 9.29.1. *Johannesburg*: Two BRT corridors have been introduced, both linking Soweto with the central business district (CBD), and both with an extensive feeder network connecting with the trunk routes.
- 9.29.2. *Cape Town*: A BRT line from Table View into the CBD is supplemented by a feeder network. Improvements have been made to other services (e.g., CBD-Hout Bay) as part of the network. In 2016 a high-speed bus route was introduced along the N2 freeway linking both Khayelitsha and Mitchells Plain with the CBD.
- 9.29.3. *Tshwane*: Phase 1 of the A Re Yeng IRPTN is partially completed and operational from Wonderboom to CBD and from CBD to Hatfield.<sup>541</sup>
- 9.29.4. *George*: The George Municipality was not initially included in the list of cities identified in the 2007 Public Transport Strategy and Action Plan. The Western Cape government assisted the municipality to plan and implement an IPTN independently of the national effort– i.e., an IPTN without the BRT element. The emphasis is on frequency and hours of operation, with only limited infrastructure.
- 9.29.5. *Ekurhuleni*: The municipality launched a starter service in October 2017 consisting of a 38 km route length starting from Tembisa Civic Centre and ending at Diesel Street, Isando.<sup>542</sup>
- 9.29.6. *Nelson Mandela Bay* – The metro launched its IPTS on 26 March 2018. The metro launched an interim phase 1A which runs from Cleary Park to the CBD.<sup>543</sup> The IPTS is currently being operated by a vehicle operating company called Spectrum Alert which was registered in July 2017.

9.30. **Table 21** below provides a summary of the current implementation of BRT/IRPTN in Johannesburg, Cape Town, Tshwane, George, Nelson Mandela Bay and Ekurhuleni.

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<sup>540</sup> Browning P. 2017. "The Public Transport Strategy 2007: A Decade of Implementation." SA Transport. Conference 2017, CSIR Conference Centre, Pretoria. 10-13 July 2017.

<sup>541</sup> City of Tshwane. 2018. Presentation by Mr Letlonkane Gauteng hearings, Commission's offices. 10 October 2018. Slide 6.

<sup>542</sup> City of Ekurhuleni. 2018. Presentation by Mr Mothobi, Gauteng hearings, Commission's offices. 12 October 2018.

<sup>543</sup> Spectrum Alert. 2018. Oral submission by Mr King, Eastern Cape hearings (Port Elizabeth). 13 August 2018. Page 72.

**Table 21: Summary of current BRT/IRPTN implementation**

Municipality	Model	Current phase(s) of implementation	Description of routes/corridor	Main features of system	BOC/ VOC model	Future phases
City of Johannesburg <sup>544</sup>  Population: 4.4 million (2011)	Rea Vaya BRT	Phase 1A – 2009  Phase 1B – 2013	Soweto to CBD and Ellis Park  Soweto to the CBD via the western suburbs, Parktown and Braamfontein	Dedicated bus lanes  Bus stations  Fare collection system	<ul style="list-style-type: none"> <li>Piotrans (Pty) Ltd</li> <li>Litsamaiso (Pty) Ltd</li> </ul>	Phase 1C <sup>545</sup>  Phase 2A and B  Phase 3  Phase 1A and B extensions
City of Cape Town <sup>546</sup>  Population: 3.7 million (2011)	My CiTi BRT	Phase 1A  Phase 1B	Phase 1A: Woodstock rail station, Paarden Eiland, Milnerton, Montague	Dedicated bus lanes  Bus stations	<ul style="list-style-type: none"> <li>Transpeninsula Investment (Pty) Ltd</li> <li>Kidrogen (Pty) Ltd</li> </ul>	1. Phase 2a

<sup>544</sup> City of Johannesburg. 2017. Submission of "Transport Sector Plan 2017".

<sup>545</sup> Louis Botha and Katherine Ave between the Inner City, Alexandra and Sandton CBD.

<sup>546</sup> MyCiTi <https://www.myciti.org.za/en/routes-stops/route-map-downloads/> and City of Cape Town TDA Five-Year Integrated Development Plan <https://tdacontenthubstore.blob.core.windows.net/resources/0b3dcecd-867c-4bd1-9c18-1e5b7d7b2534.pdf>

Municipality	Model	Current phase(s) of implementation	Description of routes/corridor	Main features of system	BOC/ VOC model	Future phases
		N2 Express routes	<p>Gardens, Century City, Dunoon, Table View, Melkbos, Atlantis and Mamre</p> <p>Phase 1B: Montague Gardens, Century City and Maitland</p> <p>N2 Express: Mitchells Plain/ Khayelitsha and the Cape Town CBD using the N2 freeway</p>	Smart card-based fare system	<ul style="list-style-type: none"> <li>Table Bay Area Rapid Transit Pty (Ltd)</li> <li>N2 Express Joint Venture</li> </ul>	

Municipality	Model	Current phase(s) of implementation	Description of routes/corridor	Main features of system	BOC/ VOC model	Future phases
City of Tshwane Population: 2.9 million (2011)	A Re Yeng BRT	Phase 1 – December 2014	Rosslyn, Hermanstad, Watloo, Hatfield, Akasia, Montana, CBD	Dedicated bus lanes  Bus stations  Automated fare collection systems  ITS <sup>547</sup> systems	Tshwane Rapid Transit (Pty) Ltd <sup>548</sup>	Phase 2 <sup>549</sup> : Line 4 – Mamelodi (Denneboom) to Annlin West Line 5 – Mamelodi (Mahube Valley) to Centurion  Line 11 – Menlyn to Line 5  Line 6 – Pretoria CBD to Olievenhoutbosch

<sup>547</sup> Intelligent Transport Systems refer to a wide variety of electronic control and information systems that can be employed to improve the operation of a transportation network in general. See Department of Transport. 2007. Public Transport Action Plan. Page 51.

<sup>548</sup> The board consists of representatives of SANTACO, NTA and PUTCO. The board is comprised of 33% from the buses, and 66% from the two taxi mother bodies. See Tshwane Rapid Transit. 2018. Oral submission by Mr Mathebane, North West public hearings. 25 July 2018. Page 172.

<sup>549</sup> Phase 2 is planned to be rolled out over a seven year period (2022-2029). Phase 2 trunk network comprises 86 km of trunk infrastructure and low floor trunk stations. See City of Tshwane. 2018. Submission .

Municipality	Model	Current phase(s) of implementation	Description of routes/corridor	Main features of system	BOC/ VOC model	Future phases
George Municipality <sup>550</sup>  Population: 220 000	Go George IPTN (GIPTN)	Phase 1 – December 2014  Phase 2 – February 2015  Phase 3 – May 2015	City, Loerie Park, Rosemoor Community Mall, Denneoord CBD Blanco, Blanco Community, Heatherpark, City Loop  CBD Pacaltsdorp, Rosedale Community, Pacaltsdorp	Conventional bus system designed as IPTN  Mixed Traffic  Use of existing infrastructure  Paper ticket system <sup>551</sup>	George Link (Pty) Ltd <sup>552</sup>	Phases 4, 5, 6, and 7 <sup>553</sup>

<sup>550</sup> Go George. <https://www.gogeorge.org.za/routes/current-routes/>

<sup>551</sup> An Europay Mastercard Visa (EMV) compliant system is currently in the early stages of implementation.

<sup>552</sup> The shareholding of George Link is comprised of more than 90% former or current minibus taxi industry members and one small bus operator, Louis Transport. See written submission by Department of Transport and Public Works, Western Cape. 7 August 2018. Page 7

<sup>553</sup> Go George. <https://www.gogeorge.org.za/routes/future-routes/>

Municipality	Model	Current phase(s) of implementation	Description of routes/corridor	Main features of system	BOC/ VOC model	Future phases
			Industrial A, Pacaltsdorp Industrial B Mall, Pacaltsdorp Community			
City of Ekurhuleni <sup>554</sup>  Population: 3.1 million (2011)	Harambee IRPTN	Phase 1: Stage 1A – October 2017	Phase 1A – Tembisa to Kempton Park /Rhodesfield  Phase 1B - Kempton Park /Rhodesfield to Boksburg West	Mixed traffic  Mobile kiosks <sup>555</sup>  Europay Mastercard Visa (EMV) cards	Engagements with taxi industry have stalled.  Negotiations will commence once market study is complete to establish compensation model	Phase 2: Kempton Park West to Katlehong  Phase 3: Brakpan to Alberton Kempton Park to Duduza  Phase 4: Etwatwa to Duduza

<sup>554</sup> City of Ekurhuleni – presentation by Mr Mothobi, GAUTENG hearings, Commission's offices, 12 October 2018

<sup>555</sup> These kiosks are situated at Station 7 and Isando



Municipality	Model	Current phase(s) of implementation	Description of routes/corridor	Main features of system	BOC/ VOC model	Future phases
			Phase 1C - Boksburg West to Vosloorus			Etwatwa to Boksburg  Phase 5: Etwatwa to Kempton Park
Nelson Mandela Bay Metropolitan Municipality Population: 1.1 million (2011)	Libhongoletu IPTS	Interim (starter service) phase 1A <sup>556</sup> - March 2018	Cleary Park to CBD		Spectrum Alert <sup>557</sup>	Njoli Motherwell Uitenhage Western suburbs

<sup>556</sup> This consists of one trunk route supported by three feeder routes.

<sup>557</sup> The VOC is comprised of members from two taxi associations, namely, Northern Areas Taxi Operators Association (NATOA) and Algoa Taxi Association (ATA). There are 174 shareholders in the VOC with a fleet of 198 taxis. The VOC is currently leasing 98 vehicles from the taxi industry. The VOC has signed a 3 year contract with the municipality. See Spectrum Alert. 2018. Oral submission by Mr King, Eastern Cape hearings (Port Elizabeth). 13 August 2018. Page 74-75 and 78

9.31. From **Table 21** above it is clear that implementation of BRT/IRPTN has been slow with many of the cities having only implemented the first phase, except George Municipality which has managed to implement three phases. The success of George can be attributed to the model that was adopted, which is the use of a conventional bus system designed as an IPTN.<sup>558</sup> The use of existing infrastructure and mixed traffic meant that the municipality has avoided many delays associated with construction and procurement processes which resulted in better management of costs.<sup>559</sup>

9.32. The experience of Rea Vaya, MyCiTi and A Re Yeng has necessitated a change in the design and roll out of BRT by making use of existing infrastructure to a large extent in order to manage costs.<sup>560</sup> Future phases of BRT and IRPTN will consist of cost cutting measures such as the abandonment of dedicated bus lanes, automatic public transport management systems and use of expensive infrastructure and technology such as automated fare collection systems to make the system more financially viable and sustainable.<sup>561</sup> The DOT submitted that it has relaxed on the infrastructure vision of the Public Transport Strategy and that all 13 cities funded by the PTNG have been instructed to scale down plans and big ticket infrastructure.<sup>562</sup>

#### *Performance of the BRT/IRPTNs*

9.33. With regard to performance, MyCiTi has been performing better than all the other BRTs/IRPTNs, reaching an average of 70 000 passengers per weekday.<sup>563</sup> Go George currently carries around 12 500 passenger trips per weekday.<sup>564</sup> The passenger numbers for Rea Vaya are approximately 56 000 per week day<sup>565</sup> while A Re Yeng's passenger numbers are estimated at 9 000 per weekday.<sup>566</sup>

<sup>558</sup> The National Treasury. 2018. Oral submission by Ms Britton, Gauteng hearings, Commission's offices. 10 October 2018. Page 66.

<sup>559</sup> *Ibid.* Page 66-67.

<sup>560</sup> The City of Cape Town has undertaken that Golden Arrow will be permitted to use the MyCiTi dedicated bus ways, which they are currently forbidden from using, for phase 2 of MyCiTi. City of Cape Town TDA. 2018. Oral submission by Mr Bosch, Western Cape hearings. 21 June 2018. Page 19

<sup>561</sup> The National Treasury. *Op cit.* Pages 66-70.

<sup>562</sup> National Department of Transport. 2019. Written submission. 14 March 2019. Page 7.

<sup>563</sup> <https://www.myciti.org.za/en/contact/media-releases/myciti-control-centre-to-track-all-myciti-buses/#/>

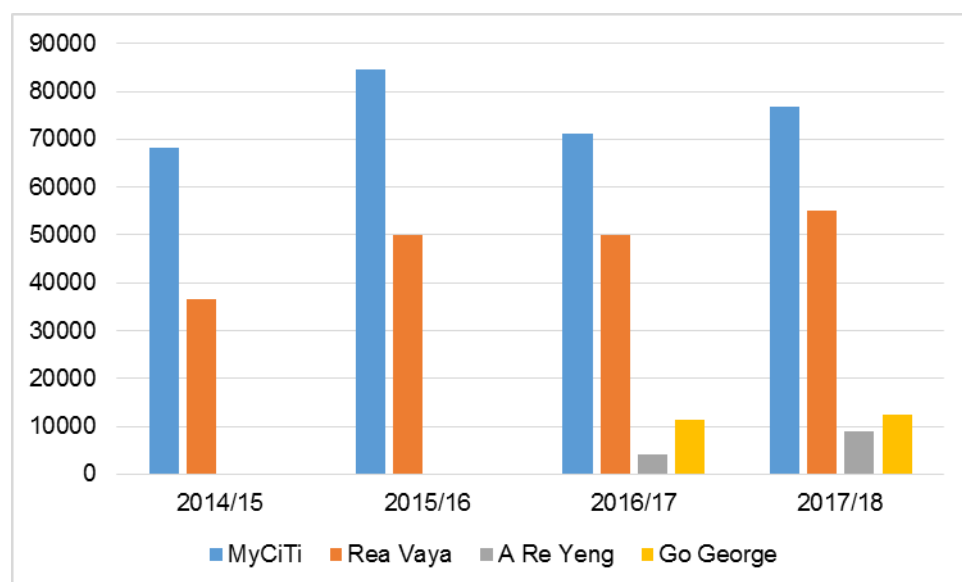
<sup>564</sup> <https://www.gogeorge.org.za/national-transport-month-go-george-statistics-a-story-of-growth/>

<sup>565</sup> City of Johannesburg. 2018. Presentation, Gauteng public hearings. 6 June 2018.

<sup>566</sup> City of Tshwane Roads and Transport Department. 2018. Written submission, "Ridership Report". 21 February 2018

9.34. **Figure 29** below shows the number of average weekday bus rapid transit passenger trips per year in Johannesburg, Tshwane, George and Cape Town from 2014/15 to the 2017/18 financial year as estimated by National Treasury.<sup>567</sup> The **figure** below shows that MyCiTi has consistently had the highest patronage, followed by Rea Vaya and Go George. A Re Yeng has the lowest weekday passengers. According to the National Treasury's performance measures, a range of between 60 000 and 100 000 passenger trips is acceptable for any BRT/IRPTN system.<sup>568</sup> By these standards, 3 out of the 4 systems are failing to attract the desired number of passengers.

**Figure 29: Number of average weekday bus rapid transit passenger trips per year**



Source: National Treasury

9.35. **Table 22** summarises the progress of the rest of the cities that are next in line to launch their IRPTNs.

<sup>567</sup> The National Treasury. Estimates of National Expenditure 2018, Transport Vote 35  
<http://www.treasury.gov.za/documents/national%20budget/2018/enebooklets/Vote%2035%20Transport.pdf>

<sup>568</sup> The National Treasury. Public Transport Network Grant Budget Assessments and IPTN reviews MTREF 2018/19- 2020/21.

**Table 22: Summary of progress of IRPTN implementation**

Municipality	Model	Current phase of implementation	Description of routes/corridor	Progress to date	Expected passenger numbers (Daily passenger trips)	Reasons for delays
Ethekeini  Population: 3.5 million	Go Durban IPTN  9 corridors planned <sup>569</sup>	C3 corridor <sup>570</sup> - 2019 expected	Pinetown to Bridge City, KwaMashu <sup>571</sup>	Construction of C3 corridor		Protracted negotiations with affected operators Construction halted by aggrieved operators Criteria for compensation
Polokwane  Population: 797 000 (2013)	Leeto La Polokwane IPTN 4 phases planned	Phase 1A <sup>572</sup> - 2019 expected	Seshego to CBD (trunk route) Westenburg, Fauna and Flora Park	Advertisement of the tender for busses <sup>573</sup> Engagements with taxi industry	14 659	

<sup>569</sup> eThekweni Transport Authority. 2018. Oral submission by Mr Wosiyana, KwaZulu-Natal hearings. 27 June 2018. Page 117.

<sup>570</sup> The MR277 Road is a new infrastructure from Brits City.

<sup>571</sup> 26 km in length, 16 stations. The C3 corridor will cut across Kwa-Mashu, Newlands West, Westville, Claremont and Pinetown.

<sup>572</sup> Buses (21) and midibuses (15).

<sup>573</sup> Polokwane Municipality. 2018. Oral submission by Mr Chavangu, Limpopo hearings. 22 August 2018. Page 89.

Municipality	Model	Current phase of implementation	Description of routes/corridor	Progress to date	Expected passenger numbers (Daily passenger trips)	Reasons for delays
			(complementary routes)			
Mangaung <sup>574</sup>  Population: 833 138 (2015)	IPTN  8 phases planned	Phase 1 – July 2019 expected Phase 2 - July 2020 expected	Phase 1 - Chief Moroka crescent, Moshoeshoe road, Maphisa road until Intermodal facility CBD  Phase 2 - Intermodal facility CBD, Dr Belcher road until M10 <sup>575</sup>	Operational Plan, Site for depot, Steering committee <sup>576</sup> , governance protocol approved by council  Industry – MOA signed 2016		Funding  Governance  Changes in guidelines for development of CITPs <sup>577</sup> and IRPTNs

<sup>574</sup> Mangauang Metropolitan Municipality. 2018. Presentation by Mr Gondogwana, Gauteng hearings, Commission's offices. 3 October 2018.

<sup>575</sup> Mangauang Metropolitan Municipality. 2019. Email from Sisanda Rasmeni to Nonkululeko Moeketsi. 13 February 2019.

<sup>576</sup> This committee consists of HODs to manage IPTN activities.

<sup>577</sup> Comprehensive Integrated Transport Plan.

Municipality	Model	Current phase of implementation	Description of routes/corridor	Progress to date	Expected passenger numbers (Daily passenger trips)	Reasons for delays
				<p>Study tours with the Taxi Industry undertaken</p> <p>Formation of SPV Infrastructure roll out continues</p> <p>Refinement of routes and service continuous</p> <p>Full City IPTN under development (Nov 2018)</p>		

Municipality	Model	Current phase of implementation	Description of routes/corridor	Progress to date	Expected passenger numbers (Daily passenger trips)	Reasons for delays
Msunduzi <sup>578</sup>  Population: 629 000	IRPTN  5 phases planned	Phase 1A – 2020/21 expected  Phase 1B - 2023 expected	Edendale to CBD  Northdale to CBD	Appointment of service provider to assist with study to assess value of affected operators <sup>579</sup>  MOA signed with taxi associations <sup>580</sup>	Phase 1 - 12 000	Lack of sufficient transport planning skills  Lack of sufficient experience in IRPTN's  Lack of resources/equipment and software
Rustenburg  Population: 650 000	Rustenburg Rapid Transport IPTN <sup>581</sup>	Phase 1 and 2 – expected in next three years (2021)	Phokeng to CBD  Kanana to CBD	65 per cent of infrastructure development has been completed on 2 corridors	Phase 1 – 50 000 passengers (60 vehicles)	Objection on the construction of the Central Station (Town planning)

<sup>578</sup> Msunduzi Municipality. 2018. Presentation by Ms Mngenela, Gauteng hearings, Commission's offices. 5 October 2018.

<sup>579</sup> *Ibid.* Page 6.

<sup>580</sup> *Ibid.* Page 1.

<sup>581</sup> Rustenburg has opted to implement an integrated public transport network system that has a BRT component as well as other services. This consists of a hybrid model using both minibus taxis and buses. See Rustenburg Local Municipality. 2018. Oral submission by Mr Moleele, North West public hearings. 25 July 2018. Page 62.

Municipality	Model	Current phase of implementation	Description of routes/corridor	Progress to date	Expected passenger numbers (Daily passenger trips)	Reasons for delays
				Interim bus operating company <sup>582</sup> has been formed with 9 affected minibuses taxi associations  Procurement of buses	Phase 2 – 30 000 passengers (30 vehicles)  100 000 passenger trips daily	Delays on land acquisition, EIAs and appointment of depot design consultants Financial mismatch between infrastructure development phase and allocations ITS Cost savings to accommodate available budget Operational Delays Community disruptions/protests

<sup>582</sup> The Municipality does not hold any shares in the interim BOC. However a representative from the municipality holds a seat on the board at the shareholder and management level. This position will fade away once the company is fully capacitated and the municipality is satisfied that the BOC has full management and operational capacity to run the BOC. See Rustenburg Local Municipality. 2018. Oral submission by Mr Moleele, North West public hearings. 25 July 2018. Page 83.



Municipality	Model	Current phase of implementation	Description of routes/corridor	Progress to date	Expected passenger numbers (Daily passenger trips)	Reasons for delays
Mbombela <sup>583</sup>  Population: 588 794 (2011)	IPTN  4 phases planned	Phase 1A, B and C – expected 2019	Hazyview to CBD  CBD to Barberton	Development of MOAs with taxi industry Construction of public transport facilities (i.e. bus shelters)  A joint market survey study is underway to identify affected operators  The City will adopt the George model of a mixed fleet		Prolonged engagements with the taxi industry

<sup>583</sup> City of Mbombela. 2018. Oral submission by Mr Mavimbela, Mpumalanga public hearings. 10 July 2018. Page 128-129.

Municipality	Model	Current phase of implementation	Description of routes/corridor	Progress to date	Expected passenger numbers (Daily passenger trips)	Reasons for delays
Buffalo City <sup>584</sup>  Population: 755 200 (2011)	IPTN	Phase 1	Mdantsane to East London	In the process of developing a Business Plan for IPTN  Construction of Qumza Highway feeder route		Protracted court cases  2010 Business Plan out-of-date  Request by DOT and National Treasury to review operation plan from IRPTN to IPTN (95 per cent complete)

<sup>584</sup> Buffalo City Metropolitan Municipality. 2018. Oral submission by Mr Skwebu, Eastern Cape hearings (East London). 28 August 2018. Page 16-17.

9.36. **Table 22** above shows the extent of progress in IRPTN implementation in the other cities, namely, eThekweni, Polokwane, Msunduzi, Mangaung, Rustenburg, Mbombela and Buffalo City. As can be seen from the table, only eThekweni, Polokwane, Mbombela and Mangaung are expected to launch the first phase of their IRPTN in 2019. The reasons for delay and the slow pace of implementation of IRPTN vary between each city however broadly but resistance from minibus taxi operators, lack of planning capacity (especially in smaller cities), and higher operating costs and lower income fares (than had been forecast) have been cited as the most prominent reasons.<sup>585</sup> These will be discussed in the section below.

### **BRT as a transformation tool through bus operating companies or vehicle operating companies (BOC/VOC) 12-year contracts**

#### *Overview of transformation objectives of BRT/IRPTN*

9.37. The successful implementation of the BRT system requires that the existing modes of public transport rendering services on the affected route or corridor be removed and replaced with the new mode of transport. The City of Tshwane refers to this as the industry transition:

*“The main purpose of the Industry Transition within the implementation of the A Re Yeng system is to facilitate a procedure for public transport services on corridors that are already served by other road based public passenger transport operators (buses and minibus-taxis) to be replaced by the A Re Yeng services. **The CoT is therefore seeking to replace affected bus and taxi services with the new A Re Yeng services.***

...

*The viability of the A Re Yeng service is largely dependent on the sufficient number of people utilising the service. In order for the service to be effective, the business model requires that a large portion of the existing bus and taxi public transport services on the routes affected by A Re Yeng be directly replaced by the A Re Yeng services. In order for this to be achieved, some of the existing bus and taxi*

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<sup>585</sup> City of Johannesburg. 2017. Written submission by Ms Seftel. September 2017. Also see Stevens SD. 2017. Written submission by Stuart Denoon Stevens, University of the Free State. 20 July 2017.

*operations on these routes will need to cease operating and be removed completely from the corridors.*<sup>586</sup> (own emphasis added)

9.38. The implementation of the BRT system requires the elimination of any form of competition on the targeted routes, as this may affect the viability of the system. To achieve this, the operators on the affected modes of public transport (minibus taxis and commuter buses) are invited to form a single entity which would then take over the affected routes, under the auspices of the IRPTN/BRT system. Thus, by its nature the implementation of IRPTN/BRT results in the elimination of both intramodal and intermodal competition on the affected routes. It is, however, important to highlight that the effective operation of the system is reliant on the other modes playing a feeder role.

9.39. Another important component and objective behind the introduction of the IRPTN/BRT system is succinctly described in the City of Tshwane's strategic documents:

***"One of the key objectives of the plan is to transform and empower the taxi industry through their involvement in owning and operating the TRT [Tshwane Rapid Transport]."***<sup>587</sup> (own emphasis added)

9.40. Kidrogen, a VOC in the City of Cape Town, corroborated the fact that the intention behind IRPTN/BRT was to transform the taxi industry. Mr Peter gives this account:

*"BRT is the result of the national transport integrated plan with two major objectives. One, to transform the industry for example in the Western Cape especially in the City of Cape Town there is only one bus company. It is Golden Arrow and now how do you change that is to introduce the BRT system at least to dilute them and secondly is to bring a taxi industry to the main stream."*<sup>588</sup>

9.41. It appears that it was envisaged that the implementation of the BRT system would be undertaken in such a way that the taxi industry is both empowered and transformed. Most importantly, it appears that it was also envisaged that the taxi

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<sup>586</sup> City of Tshwane. 2017. Roads and Transport Department Council Resolution Report titled "Permanent compensation to be paid to the affected operators on line 1A and line 1B of the Tshwane Rapid Transit System". 27 July 2017. Pages 1- 2.

<sup>587</sup> City of Tshwane. 2013. Roads and Transport Department Mayoral Committee Memorandum of Agreement for The Taxi Industry. 8 May 2013.

<sup>588</sup> Kidrogen. 2018. Oral submission by Mr Peter, Western Cape hearings. 19 June 2018. Page 128-129.

industry would have ownership and operational control of the BRT system once implemented.

9.42. Based on the evidence obtained by the Commission, it appears that the current 12-year contract BOC/VOC model, whereby operators that opt to be part of the BRT system are required to conclude 12 year contracts, is at odds with the key components and objectives of the BRT system described above. The Commission notes that the design of this model is based on Section 41 of the NLTA which states:

*“(1) Contracting authorities may enter into negotiated contracts with operators in their areas, once only, with a view to-*

*(a) integrating services forming part of integrated public transport networks in terms of their integrated transport plans;*

*(b) promoting the economic empowerment of small business or of persons previously disadvantaged by unfair discrimination; or*

*(c) facilitating the restructuring of a parastatal or municipal transport operator to discourage monopolies.*

....

*(3) A negotiated contract contemplated in Subsection (1) or (2) shall be for a period of no longer than 12 years.”*

#### *Experiences of current BOCs/VOCs*

9.43. In the case of City of Johannesburg, the process of forming a BOC was facilitated by the city in agreement with affected operators who, once they relinquished their vehicles and operating licences, then acquired shares and became shareholders in the BOC.<sup>589</sup> The Rea Vaya model also has Taxi Operating Investment Companies (TOICs) which hold shares in the BOC.<sup>590</sup> The basis of the establishment of TOICs was as a result of the old Companies Act which did not permit private companies to have more than ten shareholders, and TOICs were thus set up to invest in the BOCs.<sup>591</sup> The BOCs then entered into a negotiated contract in terms of Section 41 of the NLTA to own and operate the buses in terms of requirements set out in a Bus Operating Contract Agreement (BOCA). Piotrans, which operates Phase 1A of Rea Vaya, has nine TOICS with over 300 shareholders (all former taxi operators).<sup>592</sup>

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<sup>589</sup> City of Johannesburg. 2018. Written supplementary submission. September 2018.

<sup>590</sup> *Ibid.*

<sup>591</sup> *Ibid.*

<sup>592</sup> Piotrans. 2018. Oral submission by Mr Mntambo, Gauteng hearings, Commission's offices. 10 October 2018. Page 136.

9.44. The experience of Piotrans, in its eighth year of existence<sup>593</sup>, shows mixed results in terms of transformation and overall performance. While the BOC owns the buses, it does not determine fares. Furthermore, after 8 years, the BOC has not been able to declare dividends.<sup>594</sup> As a result, shareholders of the BOC remain uncertain about their future once the contract comes to an end.<sup>595</sup> The City of Johannesburg has also indicated that it is not satisfied with the BOCs' (both Piotrans and Litsamaiso) performance.<sup>596</sup> In addition, it has been submitted that the Rea Vaya BOCs have been plagued by issues ranging from infighting, mismanagement and lack of governance.<sup>597</sup> This is likely to have a bearing when the contract is put out to tender after 12 years, as it seems unlikely that the BOCs will be successful given all the challenges encountered thus far. If Piotrans is unsuccessful in its bid, it is likely that some people will be left unemployed, and most likely unable to re-enter the minibus taxi industry.

9.45. A similar situation is faced in George and Cape Town where former taxi operators are uncertain of their future after the contracts have expired. The Western Cape Minibus Taxi Task Team gave this account:

*"You take a black minibus taxi operator that had an indefinite operating licence. Then you put him on a 12-year contract. Then you expect that person to compete at the end of the 12 years with a bus company that has been in business for 150 years..... Now this becomes an issue and I can tell you in 12 years' time it is going to be very difficult for the minibus taxi operators to tender and be successful in that tender if they must still be competing with bus companies that have been operating for more than 100 years. This must be reviewed."*<sup>598</sup>

9.46. VOCs in the Western Cape have expressed concerns about the uncertainty of the 12-year contracts and have indicated that before they act, they will wait to see what occurs in Johannesburg with respect to the expiry of contracts.

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<sup>593</sup> The contract was effective in 2011.

<sup>594</sup> Piotrans. *Op cit.* Page 141.

<sup>595</sup> *Ibid.* Page 140.

<sup>596</sup> City of Johannesburg. 2018. Oral submission by Ms Seftel, Gauteng hearings, Commission's offices. 3 October 2018. Page 37-40.

<sup>597</sup> *Ibid.*

<sup>598</sup> Western Cape Minibus Taxi Industry Task Team. 2018. Oral submission by Mr Ndugandabe, Western Cape hearings. 19 June 2018. Page 185.

- 9.47. VOCs (former minibus taxi operators in particular) in the City of Cape Town have criticised the manner in which MyCiTi has been implemented and rolled out. They are of the view that BRT is anti-transformation because the involvement of the minibus taxi industry has been limited<sup>599</sup>; they are merely operating the system, but they do not own the vehicles. Neither do they benefit from the value chain or are involved in or informed about fare and revenue collection.<sup>600</sup> The former minibus taxi operators object to the manner in which an incumbent bus operator, Golden Arrow Bus Services, continues to benefit both from the provincial bus contract as well as an affected operator in the IRPTN.<sup>601</sup>
- 9.48. In George, former and current minibus taxi operators are of the view that the industry is on the brink of extinction. Those that chose to opt into the system have expressed that they are worse off since joining the Go George.<sup>602</sup> On the other hand, those that chose not to opt in, are either unemployed or operating illegally.
- 9.49. In contrast, former taxi operators in the City of Tshwane's VOC submitted that they have benefitted from some value chain opportunities such as station management.<sup>603</sup> The City of Johannesburg also submitted that former taxi drivers who became bus drivers through the BOC are better off as they now receive benefits such as a steady income, medical aid and provident fund.<sup>604</sup>
- 9.50. According to the DOT, the affected taxi operators are only entitled to compensation for business rights (goodwill) on routes they service. The DOT further submits that it is the condition of the PTISG/ PTNG that affected taxi operators only benefit from compensation for business rights and not from value chain opportunities.<sup>605</sup>

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<sup>599</sup> *Ibid.* Page 184.

<sup>600</sup> Kidrogen. 2018. Oral submission by Mr Peter, Western Cape hearings. 19 June 2018, pages 131-132 and 141.

<sup>601</sup> Western Cape Minibus Taxi Industry Task Team – oral submission by Mr Ndugandabe, Western Cape hearings, dated 19 June 2018, page 169

<sup>602</sup> Oral submission by Mr Esau, Western Cape hearings, 20 June 2018, page 62, 66 and 74. Uncedo Service Taxi Association – oral submission by Uncedo, Western Cape hearings, dated 20 June 2018, page 220

<sup>603</sup> Tshwane Rapid Transit – oral submission by Mr Mathebane, North West hearings, dated 25 July 2018; page 185

<sup>604</sup> City of Johannesburg - oral submission by Ms Seftel, Gauteng hearings – Commission's offices, dated 03 October 2018, page 10

<sup>605</sup> National Department of Transport. 2019. Written submission. 24 May 2019. Paragraph 3.1.7.

#### *Conclusion on BOC/VOC contracts*

9.51. While the BRT system has assisted in the formalisation of the taxi industry (through the formation of VOCs/ BOCs), the 12-year contract BOC/ VOC model is likely to lead to the disempowerment of the taxi industry. This is because when the 12-year term of each contract lapses, the operators that are shareholders in the affected VOC/ BOC are likely to be forced to exit the market if their VOC/BOC is not the successful bidder when the contract is put out on tender. In turn, this is likely to have negative effects on the transformation and empowerment of the taxi industry, mainly because a significant number of taxi operators belong to VOCs/ BOCs (on the affected routes).

9.52. As a practical illustration, Piotrans, which operates Phase 1A of Rea Vaya, has over 300 shareholders (all former taxi operators). In the event Piotrans loses the bid/s for Phase 1A of Rea Vaya when its 12-year contract lapses, the entity may be forced to shut down, thereby affecting over 300 former taxi operators. In Pretoria, the BOC that operates the CBD to Hatfield route consists of more than 270 shareholders who are also former taxi operators. In the event this BOC loses the bid when its contract lapses, it may be forced to close.

9.53. As demonstrated above, attempts to foster competition on routes where VOCs/BOCs have been formed may have undesirable and unintended consequences of removing a substantial number of former taxi operators from the market. In turn, this would undermine government's quest to empower and transform the minibus taxi industry through VOC/BOC model.

#### **Impact of BRT/IRPTN on competition**

9.54. This section assesses the impact of BRT/IRPTN on intramodal competition in the bus industry.

#### *Competition between subsidised buses (Gautrain buses, provincial/municipal buses, BRT buses and privately-owned subsidy buses)*

9.55. There is a common understanding among industry participants that government's public transport strategy, in support of transport integration, seeks to eliminate any form of competition between provincial/municipal buses, BRT/IRPTN buses, Gautrain buses and privately-owned subsidised buses. The City of Johannesburg



explained that there is no significant competition between different bus modes.<sup>606</sup> The city, guided by the Integrated Transport Network, has ensured that Metrobus and Rea Vaya do not compete with each other nor is there competition between the provincial subsidised bus contracts (held by PUTCO) and the city routes. However, the City of Johannesburg has pointed out that there could be potential overlap with Gautrain bus routes. Nonetheless, owing to the differences in destination and fares between Gautrain and Metrobus / Rea Vaya fares, competition remains very limited.<sup>607</sup>

9.56. In order to achieve this goal, the relevant regulatory entities allocate routes and schedules to various subsidised bus operators in such a way that there is no competition at all between these operators, or there is very minimal competition, if any. To give an illustrative example, PUTCO faces no intramodal competition from other subsidised bus operations in the majority of its 1 860 designated routes. It only faces competition from BRT services (Rea Vaya) on some of the Rea Vaya Phase1B routes which would have ordinarily been allocated to Rea Vaya. According to PUTCO, there has not been a complete allocation of these routes to Rea Vaya because of a lack of adequate funding. Consequently, Rea Vaya has limited capacity on these routes and its services must be complemented by PUCTO's operations and minibus taxi operators. PUTCO submits that Rea Vaya has a competitive advantage on these routes for the following reasons:

- 9.56.1. BRT services are a gross cost contract<sup>608</sup> where the operator does not carry the revenue risk, as other subsidised bus operators (PTOG) do on net cost contracts;
- 9.56.2. The rate per kilometre paid to the BRT services is multiple times higher than the rate per kilometre for most PTOG contracts;
- 9.56.3. The BRT services perform only the operating of the bus. All other functions are outsourced to other service providers, for example, ticket selling, security and bus maintenance. The PTOG services are required to perform these services themselves for a lower subsidy rate; and
- 9.56.4. The BRT buses operate on dedicated bus lanes with priority signalling while PTOG services operate in mixed traffic affected by congestion and time delays. PTOG services are penalised for late arrivals.

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<sup>606</sup> City of Johannesburg –submission dated September 2017, page 6. See also SABOA submission dated 22 September 2017; Golden Arrow Bus Services submission dated 02 November 2017.

<sup>607</sup> City of Johannesburg submission dated September 2017

<sup>608</sup> On these contracts, the operator carries the production risk, but the revenue risk is carried by the authority. SABOA – oral submission by Mr Walters, Gauteng hearings, dated 06 June 2018, page 97

- 9.57. In furtherance of the objective to attain an environment that lacks intramodal competition, the George Municipality bought out the only local private bus operator, Louis Transport, when it introduced its Integrated Public Transport Network. Consequently, there is no intramodal competition at all between bus operations in George.
- 9.58. In Cape Town, MyCiTi buses, which are part of Cape Town's IRPTN, are not intended to compete with Golden Arrow buses on its designated routes. The City of Cape Town sees these two operations as designed to be complementary.<sup>609</sup> However, the City notes that there has to be competition for future contracts relating to the next phases of MyCiTi and for the existing phase of MyCiTi (Phase 1) when the current contracts with the appointed companies expire after 12 years.
- 9.59. Gautrain submits that its bus operations are not meant to compete with other commuter bus operations but are intended to provide services that collect and distribute the users of Gautrain to and from stations as part of origin to destination journey. This is despite the fact that some of the Gautrain bus stops coincide with bus stops for operations such as Metrobus and BRT and are within close proximity of such. Instead, the Gautrain bus operation is meant to be part of an integrated transport system which encompasses other modes of public transport, including commuter buses.<sup>610</sup>
- 9.60. In conclusion, there is no intramodal competition between or among subsidised buses (Gautrain buses, provincial/ municipal buses, BRT buses).

### **Challenges with current BRT/IRPTN model**

- 9.61. This section identifies and discusses the major challenges and inefficiencies that have been observed in cities where BRT/IRPTN has been implemented. In addition to inefficiencies, allegations of corruption have been cited as one of the major challenges affecting the successful rollout of the IRPTN in some cities.<sup>611</sup> The

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<sup>609</sup> City of Cape Town TDA - submission dated 10 November 2017.

<sup>610</sup> Submission by Gautrain dated 24 August 2017, read with a document titled 'Gautrain – Our Journey to a better Gauteng'.

<sup>611</sup> Article by Herald Live "We'll recall IPTS funds" <https://www.heraldlive.co.za/news/politics/2019-06-24-well-recall-ipts-funds-national-treasury-to-nelson-mandela-bay-municipality/> (Accessed 24 June 2019)

inefficiencies that have been identified with the current BRT/IRPTN model are: (i) lack of clear framework for BRT/IRPTN implementation; (ii) increasing under recovery of revenue leading to increasing subsidies; (iii) low ridership due to poor selection of routes; (iv) unnecessary (uneconomic) infrastructure roll out; (v) lack of capacity and mismanagement of the BOC/VOCs and (vi) the coexistence of both BRT/IRPTN and municipal bus services. These are discussed below.

*Lack of clear framework for BRT implementation*

9.62. The lack of a clear framework for the implementation of BRT/IRPTN has been cited as one of the reasons for the inefficiencies encountered by municipalities.<sup>612</sup> This is despite the fact that the Public Transport Action Plan had proposed that all IRPTN Phase 1 implementation be comprised of a standard basic package that can be adapted for local city and district conditions.<sup>613</sup> However, it appears that municipalities have individually implemented their own BRT/IRPTN systems without any kind of standardised framework. For example, some cities have constructed new roads (eThekweni) while others have used existing infrastructure (George). On the other hand, some municipalities have, at least in the initial phase, followed the model of Cape Town and Johannesburg.<sup>614</sup> In rebuttal, the DOT submitted that together with National Treasury, it has been careful to require municipalities to develop and operate systems that are suitable to the level of income that cities can generate and support through their property rates income.<sup>615</sup>

9.63. In addition, a lack of requisite skills and expertise in transport planning has been identified as one of the major challenges experienced by municipalities in BRT/IRPTN implementation.<sup>616</sup> This is made worse by the fact that the many municipalities do not view public transport as a priority and do not make the necessary budgetary provision for it.<sup>617</sup> In Limpopo for example, the province has had to use its own budget to assist municipalities to contract and consult in the development of ITPs.<sup>618</sup> In order to assist City of Mbombela with its IPTN, the

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<sup>612</sup> Kidrogen. *Op cit.* page 129.

Metro Group of Companies. Oral submission by Mr Maharaj, KwaZulu-Natal hearings. 27 June 2018. Page 60.

Rustenburg Local Municipality. Oral submission by Mr Moleele, North West hearings. 25 July 2018. Page 81.

<sup>613</sup> National Department of Transport. 2007. "Public Transport Action Plan". Page 8.

<sup>614</sup> Rustenburg Local Municipality. *Op cit.* Page 81-82.

<sup>615</sup> National Department of Transport. 2019. Witten submission. 24 May 2019. Paragraph 3.1.3.

<sup>616</sup> Msunduzi Municipality. 2018. Presentation by Ms Mngenela, Gauteng hearings, Commission's offices. 5 October 2018.

<sup>617</sup> Limpopo Department of Transport. Oral submission by Ms Koedyk, Limpopo hearings. 22 August 2018. Page 7.

<sup>618</sup> Limpopo Department of Transport. 2018. Meeting notes. 02 February 2018.

province forms part of the Steering Committee meetings and provides the municipality with information and support.<sup>619</sup> These challenges are indeed consistent with the observations made by the Commission (see **Chapter 4**).

- 9.64. Furthermore, the legislation places the responsibility of allocating PTNG funds on the transferring officer, in this case the DOT, to municipalities once it is satisfied that all conditions have been met.<sup>620</sup> It therefore appears that the DOT has allocated funds to municipalities despite a lack of dedicated personnel and sometimes proper and detailed integrated transport plans conducted to justify BRT/IRPTN.

#### *High and increasing operating costs*

- 9.65. The IRPTN/BRT system is expensive to operate and the costs of running this system continue to escalate. The BRT systems experience low ridership and low fare collection and national government would have to continue providing conditional grants to support these systems.
- 9.66. Municipalities, the DOT and the National Treasury underestimated the costs and ridership levels of IRPTN/BRT systems.<sup>621</sup> When the idea for the IRPTN/BRT was initially sold to cities, it was premised on the projection that all the operating costs would be covered by passenger fares and government would mainly focus on funding the infrastructure costs.<sup>622</sup> For Rea Vaya, fare revenue as a percentage of direct vehicle operating costs is currently at 35 per cent.<sup>623</sup> City of Johannesburg identified the reasons for high costs of implementing BRT as stations included in the middle of the road, expensive fare collection system, use of imported goods and extra security to protect the infrastructure.<sup>624</sup>

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<sup>619</sup> Mpumalanga Department of Public Works, Roads and Transport. 2018. Meeting notes. 30 January 2018.

<sup>620</sup> The National Treasury. 2018. Division of Revenue Bill (Bill No. 2 of 2018). Page 227-230.

<sup>621</sup> Van Ryneveld P. *Op cit.* Page 166-167

The National Treasury. Oral submission by Ms Britton, Gauteng hearings, Commission's offices. 10 October 2018. Page 18;

Golden Arrow Bus Service. Oral submission by Mr Meyer, Western Cape hearings. 19 June 2018. Page 84.

Von der Heyden *et al.* 2015. "Financing IRPTN operations: considerations for cities implementing I(R)PTNs in South Africa". 2015 Southern African Transport Conference, Pretoria.

<sup>622</sup> Golden Arrow Bus Service. *Op cit.* Page 84.

City of Johannesburg. 2006. Rea Vaya scoping study November 2006. Page 14.

<sup>623</sup> City of Johannesburg. 2018. Oral submission by Ms Seftel, Gauteng hearings, Commission's offices. 3 October 2018. Page 30.

<sup>624</sup> *Ibid.*

- 9.67. National Treasury submits that in the first few years of the IRPTN in the City of Cape Town, ridership came in at about 50 per cent less than what it had been projected.<sup>625</sup> Golden Arrow Bus Services, one of the affected operators of the MyCiTi indicated that the costs of operating the IRPTN in the City of Cape Town far outweighed the benefits and require high levels of subsidy to be sustained.<sup>626</sup> Golden Arrow further submits that the IRPTN/BRT is six times more expensive to operate and less efficient than a conventional bus system.<sup>627</sup> Golden Arrow attributes this to the low population density experienced in South African cities compared to its South American counterparts which have thirteen times the population density than that of South Africa.<sup>628</sup>
- 9.68. In the City of Tshwane, for the 2017/18 financial year, the operating costs amounted to R311 million while the city only collected just R16.3 million in fare revenue.<sup>629</sup> One of the reasons for the high costs of the City of Tshwane's BRT is that in its planning, it designed its entire system to cover for a twelve year period. This means that all costs of running the whole system (and not just the phases that have been implemented) such as automated fare collection systems, station management, maintenance of busses have already been accounted for and the city is incurring these costs. As a result, the City of Tshwane is currently operating less than 20 per cent of the A Re Yeng system yet it is sustaining the costs of the entire system.<sup>630</sup>
- 9.69. National Treasury submits that the City of Tshwane implemented the A Re Yeng BRT system in a rushed and costly manner. Tshwane started the service in December 2015 from Hatfield into Pretoria; however, it was not ready. The planning framework had deficiencies.<sup>631</sup> The DOT has also expressed concerns regarding the City of Tshwane's rush to implement the system given the low projected bus passengers of 8 000 passengers a day.<sup>632</sup>

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<sup>625</sup> The National Treasury. 2018. Oral submission by Ms Britton, Gauteng hearings, Commission's offices. 10 October 2018. Page 18.

<sup>626</sup> Golden Arrow Bus Service. *Op cit.* Page 73.

<sup>627</sup> *Ibid.* Page 62-63.

<sup>628</sup> *Ibid.* Page 63.

<sup>629</sup> City of Tshwane. 2018. Oral submission by Mr Letlonkane, Gauteng hearings, Commission's offices. 10 October 2018. Page 129.

<sup>630</sup> *Ibid.*

<sup>631</sup> The National Treasury. 2018. Oral submission by Ms Britton, Gauteng hearings, Commission's offices. 10 October 2018. Page 45.

<sup>632</sup> Engineering News. 2018. [http://www.engineeringnews.co.za/article/no-longer-flavour-of-the-month-sa-rethinks-its-bus-rapid-transit-systems-2018-07-27-1/rep\\_id:4136](http://www.engineeringnews.co.za/article/no-longer-flavour-of-the-month-sa-rethinks-its-bus-rapid-transit-systems-2018-07-27-1/rep_id:4136) (Accessed 26 October 2018.)

- 9.70. Corruption has also been cited as a major contributing factor leading to high costs of IRPTN/BRT. In Nelson Mandela Bay, for example, contracts amounting to R3 billion are reported to have been concluded towards IPTS related projects between 2011 and 2015.<sup>633</sup> It is stated for many of these projects, funds were not utilised solely for what was stipulated by the law or funds were spent on services not rendered.<sup>634</sup>

#### *Wrong choice of corridors*

- 9.71. Another inefficiency that has been identified with the current BRT system in South Africa is the choice of corridors or routes that municipalities identified as part of the first phase of BRT roll out.
- 9.72. In the City of Johannesburg, the first phase of the Rea Vaya was along the Soweto Highway from Soweto (Orlando and Diepkloof) passing by the FNB Stadium towards the CBD. The City of Johannesburg acknowledges that the choice of this particular route was highly influenced by the 2010 FIFA World Cup and, with the benefit of hindsight, it was the wrong route to launch a BRT line because there is an insufficient amount of passengers on the route to justify the investment.<sup>635</sup> City of Johannesburg erred in its choice of route as the ideal route would be Joburg CBD up along Louis Botha Avenue past Alexandra to Sandton. This route has provision for seat renewal (passengers disembark, and others embark along the route).<sup>636</sup>
- 9.73. A similar example can be found in the City of Tshwane which prioritised the Hatfield to CBD route as its starter service in the hopes of “generating interest and to start to facilitate and capture the market”.<sup>637</sup> At the time, the City of Tshwane hoped it would be able to capture the student market and create awareness for the system. In reality, however, the city found that the route had too few passenger numbers. The poor performance associated with this route is attributed to A Re Yeng operating in direct competition with the Menlyn Taxi Association, Elardus Park and

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<sup>633</sup> Dispatch Live. 2017. <https://www.dispatchlive.co.za/news/2017-05-17-mystery-surrounds-the-r3bn-tenders/> (Accessed 01 August 2019)

<sup>634</sup> Herald Live. 2019. “We’ll recall IPTS funds” <https://www.heraldlive.co.za/news/politics/2019-06-24-well-recall-ipts-funds-national-treasury-to-nelson-mandela-bay-municipality/> (Accessed 24 June 2019)

<sup>635</sup> City of Johannesburg. Oral submission by Ms Seftel, Gauteng hearings, Commission’s offices. 3 October 2018. Page 17.

<sup>636</sup> Van Ryneveld P. *Op cit*. Page 167.

<sup>637</sup> City of Tshwane. 2018. Submission by Mr Letlonkane, Gauteng hearings, Commission’s offices. 10 October 2018. Page 109.

the Pretoria Station Taxi Association.<sup>638</sup> City of Tshwane prioritised the Hatfield-CBD route at the expense of the underserved townships such as Soshanguve and Mamelodi which were originally earmarked to be part of phase 1 implementation.<sup>639</sup> These are the areas that can bring in the sufficient numbers.<sup>640</sup>

#### *Uneconomic infrastructure roll out*

9.74. In some cities, a lot of money has been dedicated towards expensive infrastructure development that could have otherwise been avoided. One such example is Rustenburg which has opted for a system which is described as a rapid transport integrated public transport network that includes a BRT component as well as other services.<sup>641</sup> This system comprises segregated (dedicated) bus lanes, closed bus stations and non-motorised transport lanes. The municipality has also constructed new lanes on the main corridors in its plans to implement the IRPTN. Such a system upgrade for Rustenburg which only has 650 000 residents, an ailing economy and a high level of motorisation is a costly and inefficient use of financial resources. Instead, it may have been more cost effective to use existing infrastructure and eliminate spending on bus stations and dedicated bus lanes, as instructed by the DOT.

9.75. Msunduzi Municipality has gone out to tender for the construction of a new road specifically for Phase 1A of the IPTN.<sup>642</sup> As part of this new construction, the municipality has split the contract of 4-kilometre road construction and has appointed four contractors to each construct 1 kilometre. This is inefficient as the municipality could have appointed one contractor and benefited from economies of scale.

#### *Lack of capacity and mismanagement of BOC/VOC*

9.76. Lack of capacity, skills and mismanagement of the BOC/VOCs is another inefficiency that has been observed by the Commission with the current BRT/IRPTN implementation. Being the first to implement the new system, the Rea Vaya BOCs

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<sup>638</sup> *Ibid.* Page 113.

<sup>639</sup> *Ibid.* Page 109-110.

<sup>640</sup> Department of Human Settlements. 2018. Oral submission by Ms Masilo, Gauteng hearings, Commission's offices. 12 October 2018. Page 64-65.

<sup>641</sup> Rustenburg Local Municipality. 2018. Oral submission by Mr Moleele, North West hearings. 24 July 2018. Page 62.

<sup>642</sup> Msunduzi Municipality. 2018. Presentation by Ms Mnganela Gauteng hearings, Commission's offices. 5 October 2018.

have experienced instances of conflict and instability at board and management level.<sup>643</sup> This is mainly attributed to the lack of experience in corporate governance. Most recently, in Nelson Mandela Bay, board members of the VOC are alleged to have been interfering in the operations of the IPTS, leading to disruptions of the system.<sup>644</sup>

- 9.77. According to the City of Cape Town, as part of its capacity building initiatives, the City has invested between R40 million and R50 million towards the N2 Express Joint Venture to develop a capacitation strategy that will expose the affected operators to corporate governance and company law training.<sup>645</sup>

#### *Coexistence of BRT/IRPTN and municipal bus services*

- 9.78. As mentioned, government's public transport strategy seeks to eliminate any form of competition between municipal buses, BRT/IRPTN buses and other types of buses. This is done so that efficiencies may be realised. Presently the cities of Tshwane, Johannesburg and Ekurhuleni are serviced by both municipal and BRT/IRPTN bus services. While the routes serviced by BRT/IRPTN and municipal buses do not necessarily overlap, there appears to be a duplication of infrastructure (i.e. depots) leading to inefficiencies. For example, the City of Tshwane is serviced by both Tshwane Bus Service and A Re Yeng however these services are operated by different entities with each having its own infrastructure within the same municipality. The City of Tshwane owns and operates Tshwane Bus Service and the BOC is contracted by the city to operate A Re Yeng. In the spirit of fostering integration and minimising costs, these services ought to be integrated much more. A detailed discussion on transport integration is provided in **Chapter 4**.

#### ***Suitability in small cities***

- 9.79. Given the challenges of the BRT/IRPTN in major cities, the Commission sought to explore if BRT/IRPTN is suitable for smaller cities in light of the characteristics highlighted above which have made BRT/IRPTN successful and the challenges experienced in large cities. According to the City of Johannesburg, BRT/IRPTN is

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<sup>643</sup> City of Johannesburg. 2018. Oral submission by Ms Seftel, Gauteng hearings, Commission's offices. 3 October 2018. Page 37-38.

<sup>644</sup> De Kock R. 2019. "Why the IPTS board must go - Rosie Daaminds". *Herald Live*. 30 April 2019. <https://www.heraldlive.co.za/news/2019-04-30-why-the-ipts-board-must-go-rosie-daaminds/> (Accessed on 11 June 2019.)

<sup>645</sup> City of Cape Town TDA. 2018. Oral submission by Mr Bosch, Western Cape public hearings. 21 June 2018. Page 64.



not suitable for all the cities that have been identified in the Public Transport Strategy. The reasons include limited passenger numbers<sup>646</sup> and the availability of funds from National Government that encouraged cities to implement BRT/IRPTN without identifying the need for the service adequately.<sup>647</sup>

9.80. SANTACO Limpopo submits that Polokwane will not be able to sustain and maintain an IRPTN as there are too few passengers on the Seshego-Polokwane route that justify the level of spending required to implement and operate the system.<sup>648</sup> The economic challenges (high unemployment) faced by the city means that the system in Polokwane will be heavily reliant on subsidies. This view is supported by SABOA which states that the ideal BRT/IRPTN system requires high volumes of passenger traffic throughout the day to ensure the financial viability of the system.<sup>649</sup> SABOA cautions that very few cities in South Africa, both small and large, have high density routes that warrant a BRT/IRPTN system due to the lack of sustainable high volume passenger movements throughout the day. This is attributed to urban sprawl (low density urban development, lack of densification along main transport corridors and the long commuting distances found in South Africa due to the legacy of apartheid spatial planning.<sup>650</sup>

9.81. The City of Mbombela, with a population of about 695 000 (2016),<sup>651</sup> is also earmarked to implement an IPTN despite operating one of the most efficient provincially contracted bus systems in the country.<sup>652</sup> Buscor in Mbombela, currently services 80 per cent of the commuters in the municipality and its surrounds with the minibus taxi industry accounting for the remaining 20 per cent.<sup>653</sup> National Treasury indicates that about 90 per cent of Mbombela's IRPTN is planned on the existing Buscor services that are being provided. It appears that this municipality does not require another bus service and that the implementation of the IRPTN will result in

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<sup>646</sup> City of Johannesburg. 2018. Oral submission by Mr Maseko, Gauteng hearings, Commission's offices. 3 October 2018. Page 28.

<sup>647</sup> Free State Department of Police Roads and Transport. 2018. Oral submission by Ms Matjoa-Dichabe, Free State hearings. 31 August 2018. Page 88-89.

<sup>648</sup> SANTACO Limpopo. 2018. Oral submission by Mr Mathebula, Limpopo hearings. 21 August 2018. Page 94-95.

<sup>649</sup> SABOA. 2018. Written submission. 31 May 2018. Page 19.

<sup>650</sup> *Ibid.* Page 20.

<sup>651</sup> <https://municipalities.co.za/demographic/1244/city-of-mbombela-local-municipality>

<sup>652</sup> The National Treasury. 2018. Oral submission by Ms Britton, Gauteng hearings, Commission's offices. 10 October 2018. Page 24.

<sup>653</sup> Parliamentary Monitoring Group. Meeting report. "Bus Rapid Transport (BRT): progress, challenges and risks faced by cities". Day 2.

a massive duplication of services and wasteful expenditure.<sup>654</sup> A similar case can be made for Mangaung where the IRPTN is set to be implemented on already existing and serviced routes.<sup>655</sup> With the provinces having more expertise (or have ability to recruit experienced personnel) in the provision of public transport and experience in managing bus contracting, they appear to be in better position to identify the most suitable corridors or underserved areas for IRPTN rollout.

9.82. Msunduzi Municipality will also be implementing an IRPTN system citing congestion on the city's main routes as the major contributing factor.<sup>656</sup> Msunduzi was selected for IRPTN implementation based on a scoping study that was conducted in 2008 which showed that there was high demand for public transport in the municipality.<sup>657</sup> Msunduzi has planned to implement Phase 1A (Edendale to CBD) on routes where there are currently 504 minibus taxis that are already ferrying commuters.<sup>658</sup>

9.83. The discussion above indicates that many of the smaller cities did not conduct feasibility studies to identify the need for an IRPTN system in their respective municipalities. This is especially worrying where some IRPTNs are set to be implemented on routes where there are existing public transport providers. This is likely to result in duplication of services and inefficiencies, as experienced by the City of Johannesburg, City of Tshwane and City of Cape Town.

*Views of DOT on inefficiencies identified by the Commission*

9.84. The DOT has expressed a view that some of the inefficiencies identified by the Commission (experienced in the implementation of BRT in Johannesburg, Tshwane and Cape Town) are not because of BRT as a model but are attributable to factors such as capacity, mismanagement and corruption.<sup>659</sup> According to the DOT, these inefficiencies would continue to exist if these challenges were not addressed.

9.85. Furthermore, the DOT submits that, in recent years, selected cities have been required to implement a transformed BRT model which consists of downscaling of infrastructure, targeting high volume corridors and adopting a hybrid model.<sup>660</sup>

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<sup>654</sup> The National Treasury. *Op cit.* Page 54.

<sup>655</sup> Free State Department of Police Roads and Transport. 2018. Oral submission by Ms Matjoa-Dichabe, Free State hearings. 31 August 2018. Page 88-89.

<sup>656</sup> Msunduzi Municipality. Oral submission by Ms Mkhize, Gauteng hearings, Commission's offices. 5 October 2018. Page 11.

<sup>657</sup> *Ibid.* Page 15.

<sup>658</sup> *Ibid.* Slide 8

<sup>659</sup> National Department of Transport. 2019. Written submission. 24 May 2019. Paragraph 3.1.2.

<sup>660</sup> *Ibid.* Paragraph 3.1.5.

## Findings

- 9.86. The Commission finds that the IRPTN system in its current format has led to several inefficiencies due to the adoption of the Bogotá model without adequately taking into consideration the local dynamics within the cities. The high passenger volumes throughout in the city of Bogotá means that the system is less reliant on operational subsidies and can sustain itself through fare collection.<sup>661</sup> This is the opposite case in South Africa where the legacy of apartheid still plays itself out in the provision of public transport. South Africa, unlike Colombia, lacks high density routes, has low passenger volume periods and a continued use of minibus taxis as the predominant and preferred mode of transport by commuters. In some cities, it is evident that no feasibility studies or needs assessments were conducted to justify the implementation of the system. The IRPTN system is therefore not the most suitable model to address South Africa's public transport challenges.
- 9.87. The Commission finds that the coexistence of municipal bus services and BRT/IRPTN in certain cities has led to inefficiencies in the form of duplicated infrastructure. In order to promote integration and minimise costs, these services should be rationalised and consolidated under one entity.
- 9.88. The Commission finds, given the challenges and inefficiencies already experienced by Johannesburg, Cape Town and Tshwane, that the IRPTN system in its current format is not suitable for smaller cities that are likely to encounter similar challenges of low passenger numbers and an over reliance on subsidies to sustain the system. George is an example of a city that does not have a fully-fledged IRPTN system but whose network operates cost effectively.
- 9.89. The Commission finds that the DOT has not fully complied with the conditions entailed in the Division of Revenue Act which specifies that allocations should only be made to those municipalities who adhere to the conditions of the PTNG. In addition, the DORA stipulates that municipalities should demonstrate sufficient capacity to implement and operate IRPTNs. The Commission finds that some municipalities did not in fact satisfy all the conditions and should not have had funds transferred to them by the DOT. The Commission further finds that in some municipalities IRPTNs and in fact public transport in general is not prioritised. As

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<sup>661</sup> The National Treasury. 2017. National Budget Review 2017. Page 79  
<http://www.treasury.gov.za/documents/national%20budget/2017/review/FullBR.pdf>

result, provinces often intervene by providing support and in some cases even allocate budget towards the development of ITPs. Provinces appear to be better placed to manage the rollout of IRPTNs as they would have knowledge of the appropriate corridors and/or underserved areas that justify the implementation of the system.

- 9.90. The Commission finds that the IRPTN has not resulted in the empowerment and the transformation of the minibus taxi industry. This is especially worrying where 12-year contracts have been put in place for those operators who have opted into the system. It is unclear what will happen to these operators post expiry of these contracts. The Commission finds that the BOC/VOC contracts are likely to lead to job losses where former taxi operators are unlikely to successfully tender for new contracts as they have not been sufficiently empowered to operate existing IRPTNs.

## **Recommendations**

- 9.91. The Commission therefore recommends the following, with respect to BRT/IRPTN implementation:
- 9.91.1. The provincial transport authority once established and capacitated, with guidance from the DOT and the National Treasury, should do a complete review of the BRT/IRPTN model taking into account the following:
    - 9.91.1.1. long-term fiscal and financial sustainability;
    - 9.91.1.2. suitability of the model in smaller cities; and
    - 9.91.1.3. inclusion and participation of the minibus taxi industry.
  - 9.91.2. In the interim, municipal bus services and BRT/IRPTN should be rationalised and consolidated under one entity. Once established and capacitated, these services should be contracted by the provincial transport authority.
  - 9.91.3. The DOT should enhance its monitoring capability and capacity to ensure that it complies with the Division of Revenue Act by undertaking necessary due diligence or readiness studies before transferring funds to the cities for BRT/IRPTN.
  - 9.91.4. The DOT should consider reviewing the 12-year BOC/VOC model or undertake a study to evaluate if this model promotes transformation and empowerment. Once established and capacitated, the BOC/VOC should be operated through the provincial transport authority.

## 10. MINIBUS TAXI INDUSTRY

### Introduction

10.1. This chapter provides an overview of the minibus taxi industry. The chapter begins by providing a discussion of the evolution of the industry and then outlining the regulatory framework that governs the minibus taxi industry. A discussion on price determination and the challenges faced by operators in the industry follows. The chapter concludes by making findings and recommendations.

### The evolution of the taxi industry

10.2. The apartheid laws fostered racial segregation and Africans resided in areas far from the commercial and industrial centres of all South African cities. This spatial planning led to several challenges in the bus and rail public transport systems.<sup>662</sup> Buses and rail began to operate at peak times only and routes became less flexible. There was a noticeable increase in the kombi<sup>663</sup> operators to cater for increasing transport needs which the subsidised operators could not satisfy. These operators did not have carrier permits and operated illegally in the beginning.

10.3. The apartheid government was initially opposed to legalising the minibus taxi industry until the events in Soweto in June 1976. The strength of this protest undoubtedly shook government and from 1977 onwards government embarked on a policy of 'upliftment'. One of the 'concessions' made was an agreement between government and the newly formed SA Black Taxi Association (SABTA)<sup>664</sup> to allow taxi permits to specify up to eight seats, and thus to legalise the kombi.<sup>665</sup> This agreement was incorporated into the Road Transportation Act.

10.4. The minibus taxi industry was officially recognised with the passing of the Road Transportation Act.<sup>666</sup> The growth and success of taxi usage resulted in conflicts between bus companies and minibus taxi operators. This led to the Welgemoed Commission of inquiry in 1981. The Welgemoed Commission recommended that the

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<sup>662</sup> Jane B. 2003. "Organizing in the Informal Economy: A Case Study of the Minibus Taxi Industry in South Africa." Paper for the International Labour Organization (ILO). International Labour Office, Geneva.

<sup>663</sup> A minibus, especially one used to transport passengers commercially.

<sup>664</sup> Browning P. 2012. "A Coming of Age – My 21 Years with the Minibus-Taxi." <https://pmg.org.za/files/docs/120725coming.rtf> (Accessed 12 February 2019.)

<sup>665</sup> Woolf SE and Joubert JW. 2014. A look at paratransit in South Africa. [https://www.up.ac.za/media/shared/404/ZP\\_Files/Innovate%2009/Articles/a-look-at-paratransit-in-south-africa\\_woolf-and-joubert-web.zp40153.pdf](https://www.up.ac.za/media/shared/404/ZP_Files/Innovate%2009/Articles/a-look-at-paratransit-in-south-africa_woolf-and-joubert-web.zp40153.pdf). (Accessed on 23 May 2019.)

<sup>666</sup> South Africa. Road Transportation Act, 1977 (Act No. 74 of 1977). Pretoria: Government Printer.

competition from the minibus taxi industry must be gradually eliminated. Following the Welgemoed Commission recommendations, the National Transport Policy Study (NTPS) was established in 1982.

10.5. The NTPS recommended that 16-seater vehicles should be allowed to operate as minibus taxis and that the local authorities set quotas and restrict new permits, as opposed to the Welgemoed Commission recommendations. The system of setting quotas was vehemently opposed by the Competition Board established in 1985, advocating for a totally unregulated industry instead. This led to the tabling of the White Paper on Transport Policy in January 1987 and the establishment of the Transport Deregulation Act, 1988 (Act No. 80 of 1988). The 1987 White Paper, in conjunction with the Transport Deregulation Act of 1988, effectively deregulated the minibus taxi industry.<sup>667</sup>

10.6. The deregulation paved a way and marked the beginning of the taxi industry as we know it today. The deregulation of the public transport industry also allowed market dynamics to determine the entry of operators in the industry. It also suggested that almost all applicants be granted permits to operate minibus taxis. The minibus taxi market grew exponentially and became overtraded. Overtrading by minibus taxis drastically eroded the market share of the other modes of transport (i.e. buses and trains). Minibus taxis were (and are still) favoured due to their flexibility (rapid response to market conditions), availability and easily accessible to commuters. Key concerns are related to high fares and safety.

10.7. In post-apartheid South Africa, the minibus taxi industry became a major player in the public transport industry and government attempted to formalise the industry. The minibus taxi industry has remained relatively informal (individual businesses) and as a result, information on its size is difficult to establish with accuracy. However, it is estimated that there are approximately 200 000<sup>668</sup> to 250 000<sup>669</sup> minibus taxis operating in South Africa. NTA submitted that the taxi industry generates at least R 100 billion per annum.<sup>670</sup> These vehicles travel approximately 19 billion kilometres a year and the most commonly used models are the Toyota Quantum Ses'fikile, followed

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<sup>667</sup> McCarthy JJ and Swilling M. 1985. "The Apartheid City and the Politics of Bus Transportation." *Cahiers d' études africaines*, 25(99). Page 381-400.

<sup>668</sup> SA Taxi Finance Holdings Proprietary Limited. 2017. Submission by Mr Kier. 24 August 2017. Page 3.

<sup>669</sup> National Taxi Alliance. 2017. Submission by Mr Mlalazi. 23 August 2017. Page 5.

<sup>670</sup> *Ibid.* The R100 billion is derived from 250 000 taxis X 120 passengers per day X R 12 per passenger X 25 Days X 12 Months = R 108billion.

by Nissan Impendulo. Most of these vehicles have carting capacity of between 13 to 16 passengers.<sup>671</sup>

### **Key role players in the minibus taxi industry**

10.8. This section provides a brief description of role players in the taxi value chain. As highlighted in **Chapter 3**, regulators such as PREs and local government (planning authorities) play a key role in the public transport industry. Provincial Regulatory Entities (PREs) main function is to receive and decide on operating licence applications. On the other hand, planning authorities are responsible for issuing directives to the PREs whether to grant, renew, amend or transfer operating licences.

10.9. The Department of Labour publishes a sectorial determination for the taxi industry in terms of the Basic Conditions of Employment Act. The sectorial determination outlines minimum wages, maximum hours of work and minimum rest periods, (paid) annual, sick and paternity/maternity leave. Since its publication in 2005, the determination has been regularly updated to change the minimum wage.

10.10. In addition to the regulators discussed above, taxi associations, financiers and manufacturers play a significant role in the minibus taxi industry. The role of each key stakeholder is discussed below.

#### *Taxi associations*

10.11. There are two main umbrella bodies representing minibus taxi operators in South Africa, namely South African National Taxi Council (SANTACO) and the National Taxi Alliance (NTA). Both SANTACO and NTA operate at a national level supported by provincial and regional structures up to local taxi association level. SANTACO has over 123 000 individual taxi operators.<sup>672</sup> Each local association of SANTACO has a minimum of 30 members and collectively have 956 minibus local taxi associations.<sup>673</sup> There are 1 200 local associations affiliated with NTA, with 70 000 individual

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<sup>671</sup> SA Taxi Finance Holdings Proprietary Limited. 2018. SA Taxi business overview, financial year 2018. Page 10. [http://www.transactioncapital.co.za/downloads/taxi/FY18\\_SA%20Taxi%20Funder%20Prospectus%20\(1\).pdf](http://www.transactioncapital.co.za/downloads/taxi/FY18_SA%20Taxi%20Funder%20Prospectus%20(1).pdf) (Accessed 16 April 2019.)

<sup>672</sup> Qwabe T. 2018. Oral submission, Johannesburg public hearings. 4 June 2018. Page 9.

<sup>673</sup> SANTACO. 2018. Oral submission by Mr Qwabe, Gauteng hearings. 4 June 2018. Page 9.

members, and the numbers of vehicles that each association owns collectively ranges from 30 to 2 000.<sup>674</sup>

- 10.12. The role of local taxi associations include providing a letter of support required by the PRE in processing operating licences.<sup>675</sup> Membership fees are required to join a local taxi association and in some instances these fees are prohibitive.<sup>676</sup> These fees cover, among others, funeral contributions for members, and salary of queue marshals.<sup>677</sup> The payable fees to become a member of an association vary from R10 000 and can be anything up to R200 000 and more.<sup>678</sup>

#### *Manufacturers*

- 10.13. The minibus taxi market is dominated by Toyota under the Ses'fikile brand. The Ses'fikile brand has been produced locally since July 2012.<sup>679</sup> The second largest manufacturer of minibus taxis is Nissan under its Impendulo brand, followed by Mercedes-Benz Sprinter, and then the Sasuka model produced by Beijing Automobile Works (BAW). According to SA Taxi Finance, SANTACO and NTA, Toyota is the most preferred vehicle by taxi owners, despite the original replacement parts being expensive. Even though it is locally produced, most of the vehicle's components are imported and this has a major impact on the cost of the vehicle.<sup>680</sup>

#### *Financiers and insurers*

- 10.14. The credit sector is regulated and consists of the Department of Trade and Industry ("DTI") as the policy maker, and the National Credit Regulator ("NCR") as the regulatory entity. The DTI sets the policy framework for the credit sector whilst the NCR implements the policy and monitor credit providers. Any credit provider in South Africa must be registered with the NCR and comply with the National Credit Act ("NCA"). The NCR is responsible for regulating all credit providers, credit bureaus and debt counsellors.

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<sup>674</sup> National Taxi Association. 2019. E-mail response to information request. 29 May 2019.

<sup>675</sup> Greater Bloemfontein Taxi Association. 2019. Meeting notes. 13 February 2018.

<sup>676</sup> Department of Roads and Transport. 2017. Meeting notes. 12 December 2017. Page 2.

<sup>677</sup> Greater Bloemfontein Taxi Association. 2018. Meeting notes. 13 February 2018.

<sup>678</sup> Taxinomics (Pty) Ltd. 2018. Oral submission by Ms Krige, Cape Town public hearings, 21 June 2018. Page 165.

<sup>679</sup> Brand South Africa. 2012. "SA launches second taxi assembly plant." 14 November 2012.

<https://www.brandsouthafrica.com/investments-immigration/business/investing/automotive-141112> (Accessed on 21 May 2019.)

<sup>680</sup> Steyn L. 2017. "Taxi owners bled dry by credit costs." *Mail and Guardian*. 23 Jun 2017.

<https://mg.co.za/article/2017-06-23-00-taxi-owners-bled-dry-by-credit-costs> at (Accessed on 15 September 2017.)



- 10.15. The NCA regulates the credit market by imposing maximum caps on the interest rates, fees and other charges which credit providers can charge, depending on the type of credit. According to NCA, there are seven rate categories namely, mortgage agreements; credit facilities; unsecured credit transactions; short-term credit transactions; developmental credit agreements; short-term transactions; other credit agreements and incidental credit agreements.
- 10.16. SA Taxi Finance and the traditional commercial banks are the major financiers of the minibus taxi industry. In addition, original equipment manufacturers (“OEMs”) and in-house financiers provide funding for minibus taxis.<sup>681</sup> SA Taxi Finance provides finance under developmental credit by the NCA. There are maximum prescribed interest rates that developmental credit institutions can charge per year.<sup>682</sup> There are numerous underwriters<sup>683</sup> and brokers who provide financial and intermediary services to the minibus taxi sector, all of whom are governed by the Financial Advisory and Intermediary Service Act 37 of 2002.<sup>684</sup>
- 10.17. In addition to the main players highlighted above, the motor vehicle repair and maintenance industry support the minibus taxi industry and include fitment centres, motor body repairers or panel beaters and parts suppliers. Taxi owners/operators and drivers form the cornerstone of the taxi industry.

## **Overview of the licencing regime of minibus taxis**

### *Application process*

- 10.18. In terms of Section 50(1) of the NLTA no person may operate a road based public transport service without an operating licence. A minibus taxi operating licence is categorised under non-contracted services and its operating licence is valid for a maximum period of seven years.

<sup>681</sup> The list includes Toyota Financial Services (South Africa) Ltd, Nissan Finance, Mercedes-Benz Financial Services South Africa (Pty) Ltd, WestBank, Absa Bank Limited, Sasfin Holdings Limited, Motor Finance Corporation, Bridge Taxi Finance Proprietary Limited, Standard Bank, and Beijing Automotive Works (BAW) - Easy Rent.

<sup>682</sup> The interest rate formula,  $[(\text{Repo rate} \times 2.2) + 20\%]$ , is specified in the review of limitations on fees and interest rates regulations, Government Gazette, No. 39379. 6 November 2015.

<sup>683</sup> These include, among others: Guardrisk Insurance Company Limited, Hollard Insurance Company Limited through their underwriting management agency, Clarendon Transport Underwriting Managers (CTU), Santam Limited, Constantia Insurance Company Limited and Outsurance.

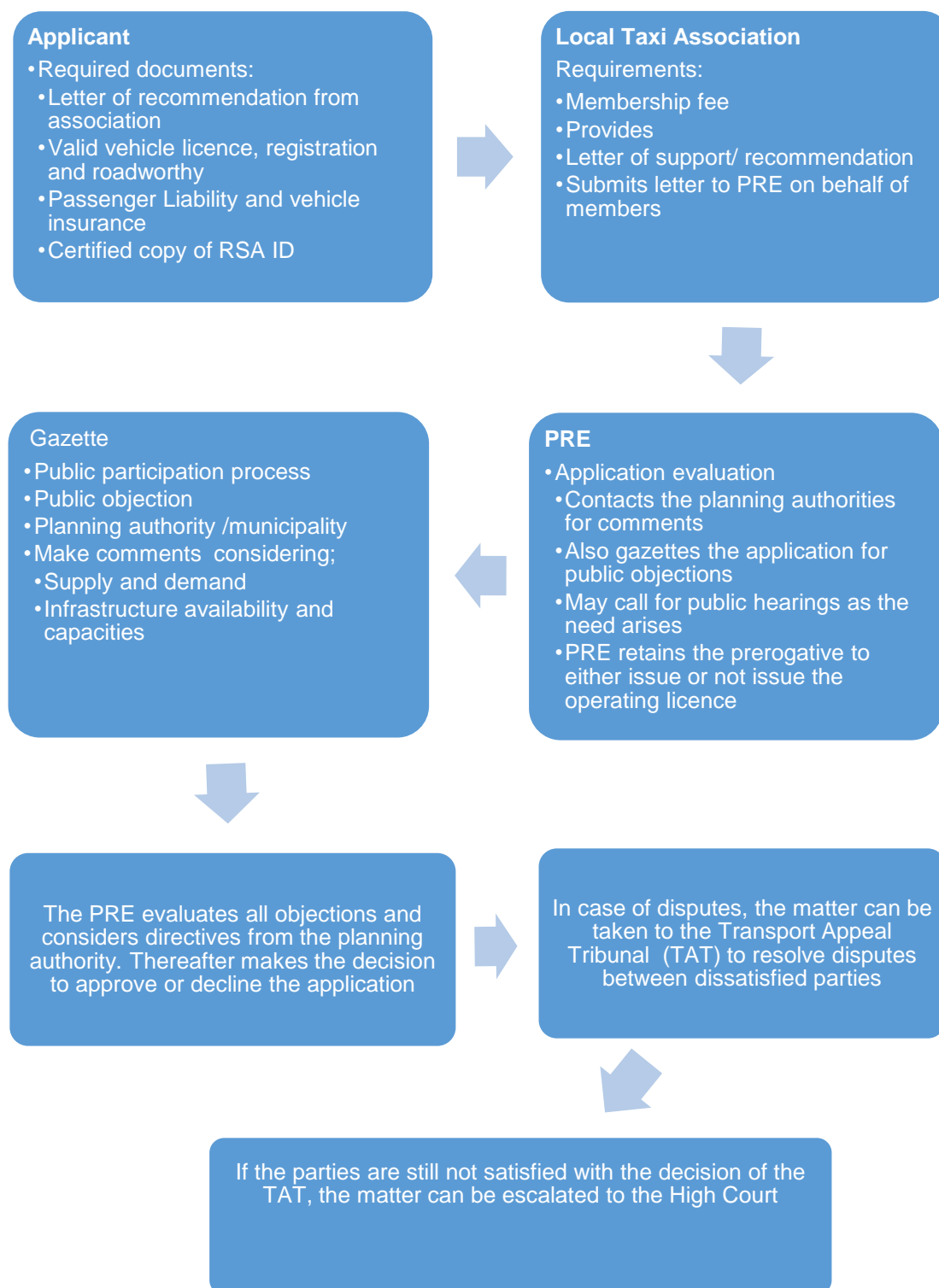
<sup>684</sup> SA Taxi Finance Holdings Proprietary Limited. 2017. Submission by Mr Kier. 24 August 2017. Page 5.

- 10.19. One of the functions of PREs is to receive and decide on applications for operating licences with direction from the planning authority. Municipalities, as planning authorities, issue directives to the PRE regarding the operating licence application process. The directives by the municipalities are informed by ITPs. Municipalities are also involved in providing directives to the PRE's for the granting, renewal, amendment or transfer of operating licences.
- 10.20. When an application is lodged, the PRE must give notice in the Government Gazette of the receipt of an application for an operating licence, and if it so decides, in such other manner as it deems fit to comply with the Promotion of Administrative Justice Act, No 3 of 2000, and allow interested persons an opportunity to comment and make representations. Similarly, the PRE must request the relevant planning authority to give directions regarding the application, based on the planning authority's ITP. The planning authority would give a directive to the PRE based on the need for the service.
- 10.21. In addition, the PRE would also have to consider objections received from interested persons and may decide either to approve or reject the application. Interested persons, including members of the public, have 21 days to make representations from the date of the publication of the notice in the Government Gazette.<sup>685</sup> If any of the parties are dissatisfied with the ruling of the PRE, an appeal can be lodged with the Transport Appeal Tribunal (TAT). A decision of the TAT can be appealed to the High Court.
- 10.22. Where objections have been raised regarding an application, the PRE would be required to convene a hearing and adjudicate on the objection. **Figure 30** provides a summary of the entities involved in the application process and the roles of each entity.

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<sup>685</sup> South Africa. National Land Transport Regulations, publication of applications, regulation 17 (4).

**Figure 30: Application process**

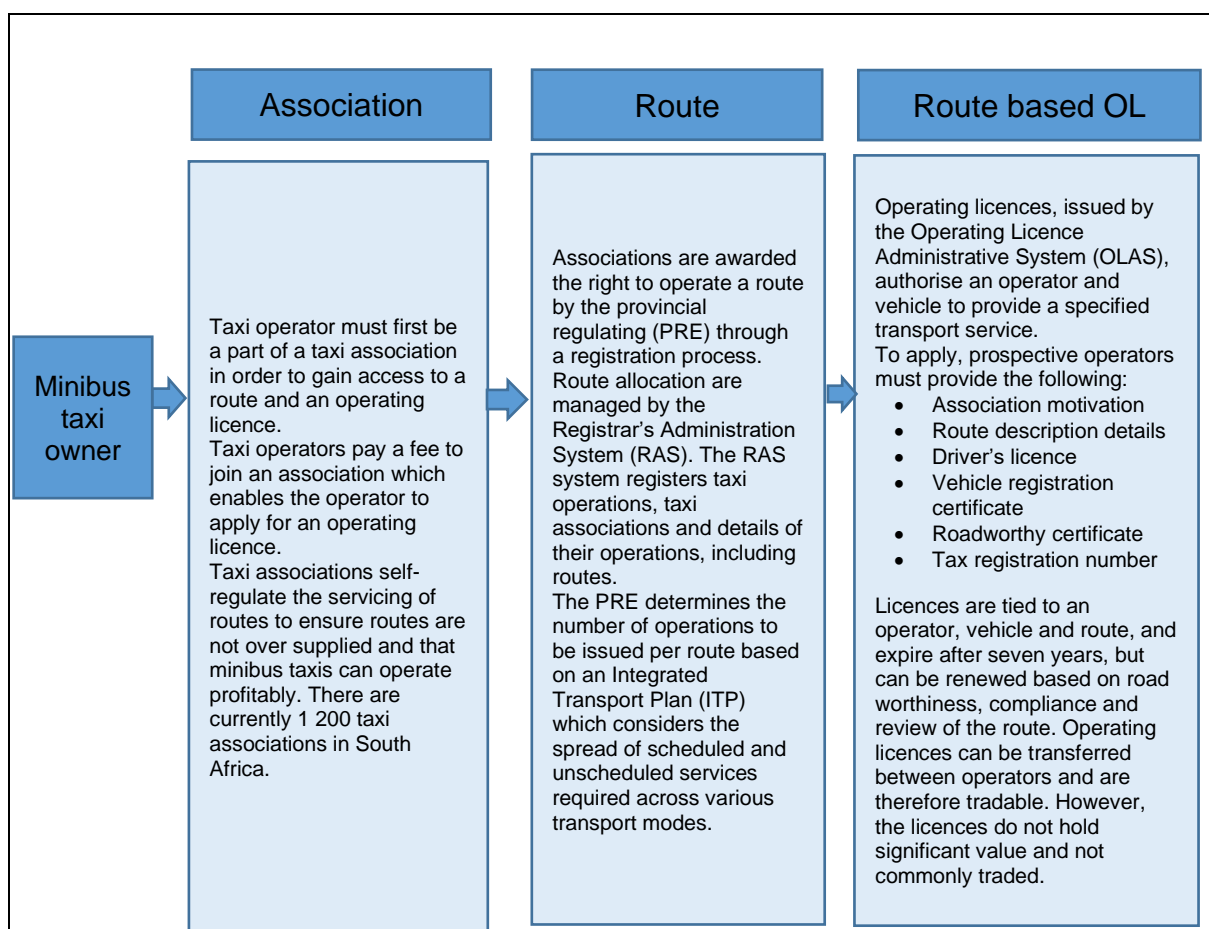


10.23. Different provinces seem to have adopted different strategies to deal with operating licence applications. For instance, in the Eastern Cape, the submission of applications and adjudication is done in each district and this may explain why there are limited backlogs in the province.

## Route allocation

10.24. The process of identification of new routes within a municipality should be informed by ITPs. However, submissions received indicate that in most cases municipalities have no dedicated personnel to develop ITPs and implement them. This has led to municipalities failing to perform their functions to identify new routes based on their ITP. The effect is that operators tend to identify new routes themselves, based on new developments, and then apply to the PRE for operating licences or for amendments of their operating licences. In some instances, some operators do not even apply for amendment of their operating licences thus resulting in those operators illegally providing a service which results in conflict. In the absence of reliable and up-to-date ITPs the PREs and municipalities are not dealing with the issue of route allocation effectively. **Figure 31** depicts how the route allocation process currently unfolds.

**Figure 31: Route allocation process**



Source: SA Taxi Finance business overview

### **Identification of new routes**

- 10.25. The Commission received submissions that operators pay large sums of money to join associations. Once an operator is accepted by an association, they may operate on all routes that were assigned to the association under the NLTT. In many instances, associations add and amend new routes without the knowledge of the planning authorities.<sup>686</sup> This has caused problems because whenever a new development (commercial property or housing) occurs along adjacent routes serviced by more than one taxi association. This was highlighted in the Mall of Africa in Midrand case where two associations claimed the route and the PRE had to try and resolve the issue through negotiations.
- 10.26. In the Mall of Africa case the Alexandra, Randburg, Midrand and Sandton Taxi Association (ARMSTA) conflicted with the Alexandra Taxi Association (ATA) over routes.<sup>687</sup> Similarly, Dube West Taxi Association (NANDUWE) and Witwatersrand Taxi Association (WATA) had vehement clashes for routes in Soweto.<sup>688</sup> Most recently, four members of a rival taxi association were gunned down in Hout Bay, Cape Town.<sup>689</sup> PREs struggle to resolve the issue of routes because taxi operators as business people develop these routes based on demand from commuters, before both the planning authority and PREs become aware of them.
- 10.27. The Commission also received submissions that in the Free State a new route allocation would start with the community members who may need public transport services to a certain destination. The operator would then start transporting those community members to that destination. The demand and/or profitability of the new route will determine if the operators wants to operate the route on a fulltime basis. Henceforth the association would then start applying for the right to operate in the new route.<sup>690</sup> In the case of an existing route, operators would then apply for a route extension to service the new customers.

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<sup>686</sup> Gauteng Department of Roads and Transport. 2018. Meeting notes. 12 December 2018.

<sup>687</sup> Ramothwala P. and Mahlangu I. 2018. "Mall of Africa route dispute blamed for brutal taxi slayings." *Times Live*. <https://www.timeslive.co.za/news/south-africa/2018-07-25-mall-of-africa-route-dispute-blamed-for-brutal-taxi-slayings/> (Accessed on 18 May 2019.)

<sup>688</sup> Author not identified. 2019. "Squabbles over taxi routes burden Soweto commuters." *ENCA News*. 11 March 2019. <https://www.enca.com/news/squabbles-over-taxi-routes-burden-soweto-commuters> (Accessed on 18 May 2019)

<sup>689</sup> Marvin C. 2019. "4 dead, 2 injured in Hout Bay taxi-related shooting." *Independent online*. 11 March 2019. <https://www.iol.co.za/capeargus/news/watch-4-dead-2-injured-in-hout-bay-taxi-related-shooting-20403940> (Accessed on 18 May 2019)

<sup>690</sup> Free State Department of Transport. 2018. Minutes of meeting on 14 February 2018.

- 10.28. The way routes have been identified and structured by associations and operators has been one of the main sources of conflict in the industry. In 2017, Gauteng had the highest number of incidents associated with taxi-related violence, followed by KwaZulu-Natal. The Western Cape recorded 23 instances of taxi-related murders, Mpumalanga had seven, the Eastern Cape five, Limpopo three, the Free State and North West one each, while the Northern Cape recorded zero instances.<sup>691</sup> The key factors that lead to taxi violence have been found to be mostly about route disputes, internal power struggles within and between taxi associations, and revenge attacks in which hitmen were specifically hired to eliminate the victims.<sup>692</sup>
- 10.29. Route conflicts also arise between minibus taxis and buses in instances where they service the same routes or have overlapping sections along the routes. These instances are not very common due to limited intermodal competition. **Table 23** provides a summary of the major route related conflicts. It is important to note that this is not an exhaustive list of all the incidences. Within the minibus taxi industry there is fierce competition between taxi associations for routes. The allocation of routes thus has a significant influence on the level and outcomes of the competitive process in this market. The allocation of routes does not only influence intermodal and intramodal competition, but it also has the potential of perpetuating violence within the industry. Violence in this industry not only affects operators, but it also raises concerns about commuter safety.

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<sup>691</sup> Ndaba B and Manyane M. 2017. "Gauteng's bid to reduce taxi violence." *Independent Online*. 5 March 2017. <https://www.iol.co.za/news/gautengs-bid-to-reduce-taxi-violence-8051083> (Accessed on 18 May 2019.)

<sup>692</sup> Smit, S. 2018. "Taxi violence: Santaco decries lack of justice." *Mail and Guardian*. 23 Jul 2018 <https://mg.co.za/article/2018-07-23-taxi-violence-santaco-decries-lack-of-justice> (Accessed on 27 May 2019.)

**Table 23: Summary of selected route related conflicts in the period 2016 -2019**

Province	Municipality	Route	Mode	Parties
Mpumalanga	Thembisile Hani Local Municipality	Moloto Road	Buses and minibus Taxis	72 taxi associations and 6 bus contracts <sup>693</sup>
Free State	Matjhabeng Local Municipality	Welkom to Odendaalsrus	Minibus taxis	NTA and SANTACO <sup>694</sup>
Gauteng	City of Johannesburg Metropolitan Municipality	Soweto to Johannesburg CBD	Minibus Taxis	Witwatersrand African Taxi Owners Association (Wata) and Nancefield Dube West Taxi Association. (Nanduwe) <sup>695</sup>
Eastern Cape	Mhlontlo Local Municipality	R61 Mthatha and Port St Johns N2 Mthatha and Tsolo R396 Tsolo and Maclear	Minibus Taxis	Border Alliance Taxi Association (Bata) and Uncedo Service Taxi Association (Uncedo)
Western Cape	George Municipality	Short distance route in George	Buses and Minibus Taxis	Go George a Vehicle Operating Company (George Link Pty Ltd) and UNCEDO George Taxi Association
KwaZulu-Natal	Newcastle Local Municipality	Johannesburg and Ladysmith	Minibus Taxis	Sizwe Taxi Association and Klipriver Taxi Association
North West	Rustenburg Local Municipality	Seraleng route near Rustenburg	Minibus Taxis	minibus taxi drivers
Northern Cape	Sol Plaatje local Municipality	Craven Street Taxi Rank and in the Diamond Pavillion Mall	Minibus Taxis	Thusano Taxi Association (TTA) and Green Point Taxi Association
Limpopo	Maruleng Local Municipality Greater Tzaneen Local Municipality	Mertz to Tzaneen and Johannesburg	Minibus Taxis	Letaba Taxi Association and Oaks Taxi Association

<sup>693</sup> Mpumalanga Department of Public Works, Roads and Transport. 2018. Meeting notes. 30 January 2018.

<sup>694</sup> Bloemfontein National Taxi Alliance. 2018. Oral submission by Mr Malindi, Free State hearings. 31 August 2018. Page 16-17.

<sup>695</sup> The National Taxi Alliance (NTA) represents both associations.

## Minibus taxi fare determination

10.30. Minibus taxi fares are not regulated by the government. Based on submissions received, fare determination in the minibus taxi industry is based on a uniform/fixed fare structure. The local taxi associations' executive committees, with the mutual agreement of their members, determine fares per route for all operators belonging to that association.<sup>696</sup> These associations set fares based on market penetration and all passengers pay the same fare. Long distance services operate differently in that fare adjustments only occur once every two or three years. Usually an increase in the fuel price may lead to fare increases from the industry. The experience of taxi associations assists operators with limited formal business training which would make determination of fares difficult.<sup>697</sup>

10.31. The price setting mechanism described earlier has been criticised by the DOT arguing that this pricing regime does not allow competition in terms of price between operators which may be in violation of section 4 of the Competition Act. In order to assess the DOT's argument, it is important for the Commission to briefly characterise the conduct of minibus taxis associations and operators in determining prices. The concept of "characterising" conduct prohibited by the Competition Act was suggested by the Supreme Court of Appeal in *American Natural Soda Ash Corporation and Another v Competition Commission of South Africa* case.<sup>698</sup>

10.32. Characterisation involves establishing whether the character of the conduct complained of coincides with the character of a prohibited conduct in terms of the Competition Act. Certain conduct which, at face value, appears to meet the strict definition of price fixing or market allocation in the Competition Act, may be designed to achieve outcomes other than anti-competitive and consumer welfare diminishing outcomes. In such circumstances, the Commission should first determine the character of the conduct before embarking on the enquiry of whether such conduct contravenes the Competition Act. It is therefore necessary for the Commission to establish whether the character of the conduct coincides with the character of the prohibited conduct. This exercise is a factual enquiry.

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<sup>696</sup> SANTACO. 2018. Submission. 28 May 2018. Page 2.

<sup>697</sup> Gauteng SANTACO- Oral submission by Mr Jones. 6 June 2018. Page 88

<sup>698</sup> See [2005] 3 All SA 1 (SCA).



10.33. The question is whether, in the circumstances under which minibus taxis determine fares together, their conduct is to be characterised as ‘fixing prices’ within the meaning of section 4(1)(b) of the Competition Act. Although the extent of operators’ independence from each other is a relevant factor to consider, this factor alone should not be elevated as the sole basis of concluding that the operators are involved in the act of fixing prices.

10.34. The Commission cannot ignore factors such as the history of price-setting in the taxi industry, the external economic factors, and the structure of the market as impediments to price competition between taxis operators. These factors are discussed below:

10.34.1. A careful examination of how these operators operate would reveal that they do so from a taxi rank, or they carry and drop off hailing passengers while roaming. The structure of the market is such that minibus taxis operating along the same route have different owners. At the taxi rank or point of origin passengers board the first taxi in line regardless of the price.

10.34.2. It is also important to note that charging different fares has never been implemented in the taxi industry. Operators are expected to follow the association’s set fare. As indicated by Express JV, members tend to abide by whatever fare is set by a taxi association to prevent conflict.<sup>699</sup> The Commission is of the view that history of price setting plays an important role in the industry. As a result, pricing competition on the same route would only be feasible in the intermodal competition.

10.34.3. The Commission is also of the view that public interest is an important consideration. Minibus taxi operators are private operators performing a public function of ferrying passengers from point of origin to point of destination. They are the commonly used mode of public transport in South Africa accounting for 66.5 per cent of households who use public transport. It is in the interest of passengers to know their monthly transport cost, so they will be able to budget accordingly. Therefore, if passengers are charged different prices for the same trip, they may be subjected to abuse. For example, when it is raining, or at night, the minibus taxi operator may decide to charge higher prices to the detriment of the passengers. It is also

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<sup>699</sup> N2 Express JV - Public Transport Market Inquiry public hearing, Cape Town. Page 200.

important to note that minibus taxi operators have an incentive to pick up as many passengers as possible. They drive behind each other and overtake vehicles for an additional fare. Their aim is to maximise fare collection as much as possible. This reflects the fact that taxi services are managed by the driver. Apart from having to take his turn at the taxi rank, how he operates is entirely up to him. For him, the compelling feature is how he can maximise his daily fare collection.

10.35. Against this background the Commission is of the view that price competition or setting different fares on the same route would only be feasible between transport modes (in the intermodal competition). It would therefore be irrational and impractical for minibus taxis to set different fares on the same route as this has been a source of violence.

10.36. The Commission has also observed that a taxi association might have over 100-200 vehicles on a single route and to prevent conflict arising from potential different fares, a uniform fare is determined by the association even when operators incur different costs. For example, in Tsolo (close to Mthatha in the Eastern Cape), two taxi associations, Uncedo Taxi Association and Border Alliance, operate between Tsolo and Mthatha and charge different fares for a trip commencing in Mthatha (R30 and R20) because they use different ranking facilities. These differences have been a source of conflict between the two associations.

10.37. In determining the appropriate fare, local taxi associations take the following factors into consideration. Operational cost, price sensitivity, socio-economic status and fares for subsidised bus services. According to Free State National Taxi Association, even though commuters are not directly involved in the decision-making process, they indirectly influence the fare level, hence fare levels consider the commuter's affordability.<sup>700</sup>

10.38. *Operation costs* include fuel prices, insurance, wages, maintenance cost and vehicle finance payment, among others.<sup>701</sup>

10.39. *Price sensitivity:* SANTACO further submits that because commuters are price sensitive fares are negotiated with them so commuters indirectly influence the fare

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<sup>700</sup> Free State National Taxi Association. 2018. Meeting on 14 February 2018.

<sup>701</sup> SANTACO National. 2018. Submission. 28 May 2018. Page 2.

level.<sup>702</sup> Stakeholders in the minibus industry indicated that when fares increase a large number of commuters can either switch to use subsidised buses or walk, especially in small cities/towns like Bloemfontein, Kimberley and Welkom. The minibus taxi industry must take this into account when reviewing fares.

10.40. *Socio-economic conditions*: SANTACO and Free State NTA submitted that the industry does not charge a market related price but charges what they call “compassionate fares” because the minibus taxi industry serves the poor.<sup>703</sup> Similarly, the KwaZulu-Natal NTA submitted that in some instances, associations are charging half of the actual fares because of the communities they serve, which results in low or no profit margin.<sup>704</sup> Some associations have not increased fares in three to seven years.<sup>705</sup>

10.41. *Fares for subsidised buses*: In instances where there are overlapping routes with subsidised buses, the taxi operators take this into account. Taxi operators will charge a slightly higher rate than the subsidised buses because of lack of operating subsidies. Minibus taxis rely on their efficiency and easy access to commuters.

### **Financing of minibus taxis**

10.42. Many minibus taxi operators rely on credit from financial institutions to purchase new and used minibus taxis. The availability of credit is the mainstay of the minibus taxi business as the majority do not have the means to acquire the minibus taxis on cash basis. The credit sector is regulated and consists of the Department of Trade and Industry (“DTI”) as the policy maker, and the National Credit Regulator (“NCR”) as the regulatory entity. The DTI sets the policy framework for the credit sector whilst the NCR implements the policy and monitor credit providers. Any credit provider in South Africa must be registered with the NCR and comply with the National Credit Act (“NCA”). The NCR is responsible for regulating all credit providers, credit bureaus and debt counsellors.

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<sup>702</sup> SANTACO National. 2018. Oral submission by Mr Taaibosh. 4 June 2018. Page 27-28.

SANTACO National. *Op cit*.

<sup>703</sup> SANTACO National - Oral submission by Mr Qwabe. 4 June 2018. Page 27.

<sup>704</sup> KZN National Taxi Alliance - Oral submission by Mr Jabulani Nkomo, KwaZulu-Natal hearings dated 28 June 2018. Page 46.

<sup>705</sup> SANTACO National - Oral submission by Mr Molelekwa, Gauteng Public Hearing dated, 4 June 2018, page 27; Meeting notes - Greater Bloemfontein Taxi Association and Competition Commission, dated 13 February 2018; and Meeting notes - Free State National Taxi Alliance and Competition Commission, dated 14 February 2018.

- 10.43. The NCA regulates the credit market by imposing maximum caps on the interest rates, fees and other charges which credit providers can charge, depending on the type of credit and when the credit was granted. According to NCA, there are seven rate categories namely, mortgage agreements; credit facilities; unsecured credit transactions; short-term credit transactions; developmental credit agreements; short-term transactions; other credit agreements and incidental credit agreements. The NCA impose minimum requirements that ought to be met by both financiers and borrowers to avoid reckless lending. However, developmental credit providers are exempted from certain provisions that would ordinarily be classified as reckless lending.
- 10.44. Minibus taxis financing can be done either under developmental credit or other credit agreement category. Vehicle asset finance agreement may be in a form of an instalment or lease agreement. An instalment sale agreement is a sale agreement where an asset is purchased, and repayment is made over a defined period. At the end of the repayment period, the purchaser takes ownership of the asset. A lease agreement is where the asset is rented for a certain period and at the end of the period it is returned to owner. The minibus taxi industry predominantly enters into instalment sale agreements.

*The different financiers and their market share*

- 10.45. The credit providers to the minibus taxi industry include Standard Bank, Nedbank, FirstRand (WesBank), Absa, SA Taxi Finance and Bridge Taxi Finance. Other dealerships and manufactures such as Mercedes Benz Financial Services, Toyota Financial Services and Nissan also provide financing using its relationships with other banks.
- 10.46. SA Taxi Finance and Bridge Taxi Finance use developmental credit principles when assessing applications for funding from taxi operators. Banks submit that they do not offer developmental credit to minibus taxis. Similarly, Mercedes Benz Financial Service and Toyota Financial Services submit that they do not finance minibus taxis under the developmental credit provisions. SA Taxi Finance submits that it is a developmental credit provider registered in terms of section 41 of the NCA and has been granted a supplementary registration in respect of developmental credit agreements. A developmental credit provider has a mandate, in terms of the NCA, to provide sustainable and accessible credit to historically disadvantaged, low-income persons and communities and to develop small businesses. Therefore, SA Taxi

Finance focuses on providing developmental credit to minibus taxi operators who are regarded as SMMEs.<sup>706</sup> SA Taxi Finance also describes itself as a niche financial provider for minibus taxi operators that are unable to get access to funding from commercial banks.<sup>707</sup>

10.47. **Table 24** presents an overall picture of the financial institutions that extend credit to minibus taxis which is inclusive of both developmental credit providers and traditional banks. This does not suggest that developmental credit providers and traditional banks are in the same market as will be explained later.

**Table 24: Proportion of minibus taxis financed by each credit provider (%)**

Financiers	2013	2014	2015	2016	2017	2018
SA Taxi Finance	<b>CONFIDENTIAL INFORMATION</b>					
Standard Bank						
WesBank						
Nedbank						
Bridge Taxi Finance						
Absa						
Mercedes Benz						
Toyota Financial Services						
Ithala Developmental Finance						
<b>Total</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>

10.48. SA Taxi Finance is the predominant financier to the minibus taxi industry followed by Toyota Financial Services. SA Taxi Finance provides credit to finance predominately the Toyota Sesfikele, Nissan Impendula and Mercedes Benz Printer with 97% of its credit finance being derived from these three brands.<sup>708</sup> Taxi associations (NTA and SANTACO) submit that Bridge Taxi Finance is a small player and specialises in mostly Japanese and Chinese minibus (e.g. Inyathi and BAW Sasuka) which are least preferred by taxi operators.

<sup>706</sup> Meeting notes - SA Taxi Finance and Competition Commission dated 28 August 2017.

<sup>707</sup> SA Taxi Finance website states that "SA Taxi finances entrepreneurs who operate minibus taxis that may not otherwise have access to credit from traditional banks" webpage: <https://sataxi.co.za/about-sa-taxi/> (accessed on 24 January 2020)

<sup>708</sup> Meeting notes - SA Taxi Finance and Competition Commission dated 28 August 2017

10.49. Traditional banks have low presence in the minibus taxi business because of the how they assess risk compared to developmental credit providers. As will be discussed later, the evidence from minibus taxi operators suggest that developmental credit providers may be in a separate market. These points are discussed below.

*The differences in the assessment of risk*

10.50. In the assessment of credit applications, most financial institutions make use of a risk-based assessment models to determine affordability and corresponding interest rate. In risk-based pricing, the interest rate charged on a loan to potential borrower depends on the lenders' view of the borrowers' default risk or equivalently on their probability, willingness and ability to repay. Financiers build credit application scorecards to assess the default risk of applicants' application using information provided and credit bureau data.

10.51. Financial institutions such as **{CONFIDENTIAL}** submit that they finance minibus taxi on the same credit principles as financing any other vehicle or asset class. For these financial institutions, the customer profile in respect of risk level generated by the individual scorecard is an important factor in deciding whether to offer credit. In addition, factors such as "route calculator" to determine the profitability of the route is also considered. **{CONFIDENTIAL}** submit that when financing a minibus taxi, it considers the inherent risks of this asset class such as excessive millage, high accident chances and the condition of the vehicle over the finance term. **{CONFIDENTIAL}** submit that factors such as route profitability, customer conduct, general economic climate, violence over routes are risks which may be associated with providing finance to minibus taxi operators. **{CONFIDENTIAL}** considers financing a taxi minibus different from financing other types of vehicles due to "the inherent credit risk associated with minibus and the taxi industry generally".

10.52. **{CONFIDENTIAL}** submits that unlike traditional financing models employed by commercial banks, it does not apply the traditional affordability assessment of considering the employment income (as evidence by payslip) and consumer related expenses (such as housing, utility and consumable expenses as evidenced by bank statements). Instead, **{CONFIDENTIAL}** conduct affordability assessment by considering the potential income to be earned by the minibus taxi operator on a specific route against the expenses involved in conducting a taxi business. A taxi operator is

considered as an entrepreneur and an SMME in line with the NCA under developmental credit provisions.

10.53. Similarly, {CONFIDENTIAL} submits that it views the financing of the minibus taxi as financing of an SMME as opposed to the financing of an asset which would generally be the case with other vehicle financing. {CONFIDENTIAL} submits that developmental credit requires different credit criteria than normal asset-based finance. The normal asset-based finance principle applied by commercial banks and other non-developmental credit providers evaluate the ability of the individual to service the debt, taking into account the total income of the individual as well as total exposure to debt and other expenses. In contrast, the developmental credit finance principle evaluates the ability of the business to service the debt that will be incurred with the potential income to be earned.

10.54. The banks and non-developmental financial institutions are unlikely to finance a taxi operator with a poor credit record for an asset class that is categorised as risky. Developmental credit institutions are of the view that their risk assessment methodology permits them to provide credit to taxi operators with undesirable credit record or credit score. For instance, {CONFIDENTIAL} provide credit finance to customers (i) who are blacklisted and have defaulted, (ii) with no employment history or source of income, and (iii) no bank account or credit history or profile.

10.55. The different risk assessment models may explain the varying interest rates charged by developmental credit providers and the traditional banks.

#### *Average Interest rates charged*

10.56. Developmental credit providers are allowed in terms of the NCA and the associated regulations to charge a maximum of Repo Rate + 27% which currently translate to 33.55% (as at 24 January 2020). On the other hand, traditional banks can charge a maximum of Repo Rate + 17% which translates to 23.55% (as at 24 January 2020).

10.57. **Figure 32** below shows that developmental credit providers such as SA Taxi Finance and Bridge Taxi Finance charge the highest interest rates of approximately {CONFIDENTIAL}<sup>709</sup> whilst Standard Bank charges on average

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<sup>709</sup> National Taxi Alliance- written submission dated 21 August 2017

**CONFIDENTIAL**}%.<sup>710</sup> Toyota Financial Services and ABSA submit that their average interest rate for minibuss taxis is around **CONFIDENTIAL**}%.<sup>711712</sup>

**Figure 32: Average interests rates charged by financiers 2013- 2018**

## CONFIDENTIAL INFORMATION

*Source: Submissions from various financiers*

10.58. Based on the differences outlined above (interest rates, business model, customer acquisition) the Commission explored the nature of competition between the traditional banks and developmental financial institutions. Specifically, the Commission wanted to establish if minibuss taxi operators consider the developmental financial institutions and traditional banks as viable alternatives.

10.59. **Table 25** presents extracts of the evidence provided by members of taxi association during public hearings.

**Table 25: Extracts of taxi associations' oral submissions**

Name and affiliation	Extracts
Evidence by Mr Phumodi (the Provincial Secretary of SANTACO Free State)	<p><b>MR MANDIRIZA:</b> I just have one question in relation to financing, you mentioned that you have challenges, the high interest rates and the like, from your members which are the major financiers of taxis in the province?</p> <p>.....</p> <p><b>MR PHUMODI:</b> Its Nedbank, Absa, WesBank and the most popular one that is now assisting us is <b>SA Taxi of which now we don't have any option, even if they charge us exorbitant interest, we don't have any option.</b> If it wasn't because 20 of them, a lot of operators would have been out of business because we have been rejected by all these banks. (Own emphasis)<sup>713</sup></p>

<sup>710</sup> Standard Bank - written submissions dated 20 September 2017

<sup>711</sup> Toyota Financial Service - written submissions dated 21 November 2017

<sup>712</sup> ABSA - written submissions dated September 2017

<sup>713</sup> SANTACO Free State - Oral submission by Mr Phumodi, Public Hearing Bloemfontein, dated 30 August 2018



Evidence by Mr Gama (Spokesperson of SANTACO Mpumalanga)	<p><b>MR. MANDIRIZA:</b> .... amongst your members which financial institution as far as you know finances most of your taxis in Mpumalanga?</p> <p><b>MR. GAMA:</b> As a taxi industry, we have our own institution that finance taxi operators because before each and every bank when we come as a taxi operator, they don't want to finance you. They say you are high risk, so we take a resolution to develop our own financial institution known as SA Taxi Finance which helps all taxi operators.<sup>714</sup></p>
Evidence by Mr Tsebe (Chairperson of the Pretoria-Randburg Soshanguve Taxi Association)	<p><b>MR TSEBE:</b></p> <p>...</p> <p>Lack of support from financial houses. I think – if not 80% of our members are blacklisted and <b>the only finance house that can assist in that regard is SA Taxi Finance.</b> SA Taxi Finance, in terms of the interest rate ... they are saying: But you are risk. So, we are taking risk. So, we are giving you 25% and all we ...[indistinct] for you to get that 16 of 10% from Absa. (Own emphasis).<sup>715</sup></p>

*Source: Taxi associations oral submissions during the Public Passenger Transport Inquiry Public hearings*

10.60. Submissions from these associations suggest that only SA Taxi Finance is willing to finance taxi operators with poor credit record. In addition, the taxi industry has argued that the traditional banks are not an option because majority of the operators are either blacklisted or do not meet all the requirements of the banks. SANTACO Mpumalanga indicated that SA Taxi Finance is the major financier minibus taxis in the country.<sup>716</sup>

10.61. NTA submits that many taxi operators do not have an alternative but are forced to use SA Taxi Finance since approximately 65% of the taxi owners are blacklisted or have bad credit record.<sup>717</sup> This was supported by Greater Bloemfontein Taxi Association which submits that taxi operators with bad credit record can only get finance from SA Taxi Finance with interest rate of between 25 to 33 per cent as they do not qualify to get finance from banks.<sup>718</sup> Minibus taxi operators have no bargaining power and have to resort to other means to get the attention of SA Taxi Finance. For instance, minibuses

<sup>714</sup> SANTACO Mpumalanga - Oral submission by Mr. Gama, Public Hearing Mpumalanga, dated 10 July 2018

<sup>715</sup> SANTACO Tshwane - Oral submission by Mr Tsebe, Public Hearing Mpumalanga, dated 10 July 2018

<sup>716</sup> SANTACO Tshwane - oral submission from Mr. Tsebe, Mpumalanga Hearings, dated 10 July 2018.

<sup>717</sup> National Taxi Alliance - written submission dated 21 August 2017

<sup>718</sup> Meeting notes- Greater Bloemfontein Taxi Association and Competition Commission dated 13 February 2018

taxi operators block roads in 2017 in a bid to force SA Taxi Finance to lower its interest rates.

10.62. The desperation by minibus taxi operators highlight that they have limited or no alternatives which suggests a narrow market for minibus taxi financing through developmental credit providers. This narrow market has only two financial institutions that are registered as developmental credit providers that finance minibus taxis as reflected in **Table 26** below. SA Taxi Finance's market share (based on the number of minibus taxis financed) has consistently been near monopoly position since 2012.

**Table 26: Market share for developmental credit advanced to minibus taxis (%)**

Financiers	2012	2013	2014	2015	2016	2017	2018	Average 2012-2018
SA Taxi Finance	<b>CONFIDENTIAL INFORMATION</b>							
Bridge Taxi Finance								
<b>Total</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>

*Source: Calculated using submissions from SA Taxi Finance and Bridge Taxi Finance*

10.63. The structure of the minibus taxi financing market is highly concentrated with no prospect of new entry given the unwillingness or risk aversion by traditional banks to extend finance to the minibus taxi industry under developmental credit principles. {CONFIDENTIAL} indicated that advancing credit through developmental credit does not align to their risk appetite. In addition, banks identified limited access to industry specific information and route profitability as barriers to extending credit under developmental credit. The banks seem to be reluctant to incur data collection systems to enable them to finance minibus taxis under developmental credit. For instance, {CONFIDENTIAL} invested in mobile vehicle mechanics, refurbishment centre and used taxi parts amongst other investments which was essential in collecting relevant information. The banks seem not to be willing to expand their taxi financing portfolios as it does not represent a massive commercial opportunity which does not justify further investment.

10.64. While the commercial banks have limited interest in extending developmental credit directly to minibus taxi operators, but it appears that some of the commercial banks extend credit to {CONFIDENTIAL} despite concerns about the minibus taxi industry being risky. The lack of interest by the commercial banks result in further entrenching

the near monopoly position of SA Taxi Finance and gives rise to potential concern of exploitative conduct by SA Taxi Finance.

- 10.65. Evidence from the taxi industry suggests that the reliance on SA Taxi Finance creates a vicious cycle for the minibus taxi operators in two ways. Firstly, the industry is considered as high risk, which implies that they must be charged relatively higher interest rates. Secondly, the high interest rates charged result in high default rates (approximately 80% of operators are failing to service their debt on time). Defaulting operators will have their taxis repossessed and further tarnishing/worsening the already bad credit record. Approximately {CONFIDENTIAL} minibus taxis of the defaulted loans have been repossessed.<sup>719</sup> Consequently, this has a negative impact on accessing finance in the future which will perpetuate the vicious cycle for the minibus taxi operators. The concept of developmental credit becomes a “double-edged sword” where the intended objectives of improving access to credit finance is leading to worsening financial position of the minibus operators.

***Policy rationale for high interest rate for development credit providers***

- 10.66. Developmental credit providers are permitted to charge an interest to a maximum of Repo Rate + 27% which currently translate to 33.25% (as at 24 January 2020). The factors that are considered when determining the maximum interest rate are stipulated in Section 105 subsection 2 of the NCA<sup>720</sup> which include the need to make credit available to historically disadvantaged persons, low income persons and communities would not ideally qualify for credit through commercial banks.
- 10.67. The Minister of Trade and Industry must take the following factors into consideration when determining lending rates and fees for each category of credit:
- 10.67.1. the need to make credit available to persons contemplated in section 13(a)<sup>721</sup>;
  - 10.67.2. conditions prevailing in the credit market, including the cost of credit and the optimal functioning of the consumer credit market; and
  - 10.67.3. the social impact on low income consumers.

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<sup>719</sup> Analysis by the Commission based on data submitted by SA Taxi Finance

<sup>720</sup> Meeting notes - National Credit Regulator and Competition Commission, dated 13 November 2017

<sup>721</sup> These include historically disadvantaged persons, low income persons and communities; and remote, isolated or low-density populations and communities.

- 10.68. The rationale for the introduction of the maximum interest rates was to promote entry into this market as there was no appetite due to lower interest rates on.<sup>722</sup> In order to attract financiers interest rates were increase to a maximum of Repo Rate +27%.<sup>723</sup> The DTI and NCR submit that developmental credit provisions were introduced to encourage financiers to provide credit to, *inter alia*, SMMEs and people who would ordinarily not meet the affordability test requirement.<sup>724</sup> In this regard, developmental credit providers registered in terms of section 41 of the NCA are exempt from a number of provisions relating to reckless lending<sup>725</sup> and thus are able to offer funding to SMMEs and individuals with poor credit record.
- 10.69. The DTI and NCR highlighted that some impact studies are done to assess the effectiveness of the maximum interest rates. NCR make recommendations to the Minister should a need arise to change the maximum interest rates.<sup>726</sup> However, the Commission has not been furnished with any documents detailing the methodology used in determining the prescribed maximum interest rates. The rationale provided to the Commission was the need strike a balance on the interest that would promote entry into the developmental credit market as well as avoid customers from being indebted due to high interest rates.<sup>727</sup> Without access to impact studies on the appropriate level of maximum interest rates and its effect on minibus taxi operators, the Commission is unable to conclude if the developmental credit providers have significantly benefited the minibus taxi industry. Evidence gathered by the Commission indicates that developmental credit assist with entry into the industry but at the same time the level of repossessions of minibus taxis increase due to defaulting in payment.
- 10.70. The Commission remains concerned about the structure of the minibus taxi financing market as there is no competition in this market which breeds exploitative abuse by the near monopoly firm.

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<sup>722</sup> Meeting notes - Department of Trade and Industry and Competition Commission, dated 2 November 2017

<sup>723</sup> Meeting notes - Department of Trade and Industry and Competition Commission dated 2 November 2017

<sup>724</sup> Meeting notes - National Credit Regulator and Competition Commission, dated 06 July 2018; and Meeting notes - Department of Trade and Industry and Competition Commission dated 2 November 2017

<sup>725</sup> Mercedes-Benz Financial Services South Africa - written submission dated 12 September 2017

<sup>726</sup> Meeting notes - Department of Trade and Industry and the Competition Commission dated 2 November 2017

<sup>727</sup> Meeting notes - National Credit Regulator and the Competition Commission dated 06 July 2018

## Competition within the minibus taxi industry

### *Competition between minibus taxis*

- 10.71. Minibus taxi services operate from ranks (rank-based operation) and some roam<sup>728</sup> along the designated routes. From the rank, operators drop off and pick up commuters along the route.
- 10.72. Revenue in the minibus taxi industry depends on the number of passengers the taxis convey.<sup>729</sup> This implies that larger revenues can be ensured through speedy service that allows more frequency on the route to collect and drop off as many passengers as possible. The City of Cape Town submitted that competition among minibus taxis has safety implications as taxis drive dangerously while seeking out passengers.<sup>730</sup> This feature of the market is suggestive of intense competition between the minibus taxis belonging to the same association, as these taxis would be the only ones allowed to operate on the relevant route(s).
- 10.73. Competition also arises from minibus taxis encroaching on the association's routes.<sup>731</sup> This happens when other associations start routes from their point of origin and encroach on another taxi association's routes. There are also instances where two associations have been granted operating licences on similar routes for historical reasons.<sup>732</sup> NATOA submitted that it shares similar routes and same facility (Cleary Park taxi rank) with ATA.<sup>733</sup> These associations, however, appear to be cooperating instead of competing for passengers on similar routes in which they operate, as they charge similar fares.

## Challenges faced by minibus taxis

### *Misalignment of operating licence functions*

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<sup>728</sup> Meeting notes - Northern Areas Taxi Operators Association and the Competition Commission and. 7 November 2017.

<sup>729</sup> Meeting between the Competition Commission and the City of Johannesburg. 19 October 2018.

<sup>730</sup> City of Cape Town. 2017. Submission by Ms Van Wyk. 8 September 2017. Page 3.

<sup>731</sup> Meeting between the Competition Commission and Algoa Taxi Association. 7 November 2017.

<sup>732</sup> This can cause tensions when one association attempts to increase the number of operating licences held by its members. In this case, the other association would view this as a threat to balance of power and stability on the route.

<sup>733</sup> According to Algoa Taxi Association, Northern Areas Taxi Operators Association was formed by members who used to be part of Algoa Taxi Association.

Meeting between the Competition Commission and Northern Areas Taxi Operators Association. 7 November 2017.

Meeting between the Competition Commission and Algoa Taxi Association. 7 November 2017.

10.74. Submissions from stakeholders indicate limited coordination and misalignment between planning and licencing functions. The taxi industry argues that planning authorities and PREs have no capacity to undertake the functions stipulated in the NLTA and the reliance of either party in the approval process remains a problem. The industry submits that if planning and licencing were under one entity, approval process would be swift. Though the devolution of licencing functions to planning authorities are stipulated in the NLTA, capacity remains a challenge.

*The lack of provision of directives by the municipalities*

10.75. As discussed above, PREs are licencing authorities and municipalities issue directives in terms of their ITPs to the PRE to approve operating licences. Various stakeholders submitted evidence that municipalities take a long time to provide directives to the PRE, resulting in a backlog of applications which has led some operators to be on the road illegally.

10.76. SANTACO is also of the view that PREs can take a long time to issue an operating licence irrespective of whether it is a new application, conversion, replacement, renewal, and transfer or for additional routes.<sup>734</sup> The PREs highlighted outdated systems, lack of funding, capacity and technical capability at both PREs and municipalities as contributing factors to the inefficiencies in the issuing of operating licences.<sup>735</sup> With respect to outdated systems, Gauteng PRE and Limpopo PRE indicated that the licencing system has not been functioning effectively. This was also confirmed by the National Department of Transport and plans are being put in place to upgrade the system.

10.77. Most municipalities confirmed that they do not have capacity to implement ITPs (in cases where it exists) or provide directives.<sup>736</sup> In such a case, the PRE ends up issuing operating licences without consideration of the ITP which, in most cases, results in routes being overtraded.

*Lack of stakeholder consultation*

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<sup>734</sup> SANTACO. 2017. Response to information request dated 13 October 2017.

<sup>735</sup> Department of Transport. 2018. Submission by Mr Patel, Gauteng hearings. 7 June 2018. Page 53-54.

<sup>736</sup> Mpumalanga Department of Public Works, Roads and Transport. 2018. Oral submission by Mr Moloi, Mpumalanga hearing. 11 July 2018. Page 23 Similar sentiments are shared by Northern Cape, Limpopo, and KwaZulu Natal, among others.

10.78. Despite the publication of the notice of the receipt of an application for an operating licence in the Government Gazette, SANTACO complained that the Gazette does not reach its members. In addition, the taxi industry highlighted lack of consultation by the municipalities in the development of ITPs.

10.79. Some of the PREs raised a concern about the cost of issuing a notice in the Government Gazette which impacted on the consultation process. The Northern Cape Department of Transport indicated that they were unable to publish notices due to lack of funding and they required around R750 000 a year to do so.<sup>737</sup> It costs the PREs approximately R3 000 per page to issue a notice in the Government Gazette.

### *Moratorium*

10.80. In terms of the NLTA, a moratorium can be issued by either the municipality or the MEC. Section 18(3) of the NLTA confers on municipalities the power to introduce moratoria in respect of all new applications for operating licences in accordance with the municipality's ITP. These powers have been utilised by various municipalities across the country. A moratorium has been in eThekweni municipality since 2010, and since August 2017 in Nelson Mandela Bay municipality. In the City of Mbombela, a moratorium had been in force since 2015 which expired on 1 September 2018. A new moratorium by the PRE in terms of Section 39(1)(b) of the NLTA, was gazetted and valid for a period of two years.<sup>738</sup> In Kimberley, Northern Cape, the MEC issued a moratorium in 2015/16 for a period of 18 months to clear a backlog of over 3 000 applications.

10.81. The rationale of the moratorium is to allow for an audit process of all operating licences issued; physical verification of all operating licences issued in the municipality/province; allow the municipality/province an opportunity to align all routes and put new operating conditions on all operating licences; and allow for the finalisation of the development of the Integrated Provincial Transport Network Plans as well as the Integrated Transport Plans. Various operators across the country raised different concerns about the way moratoria have been imposed on applications for new

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<sup>737</sup> Northern Cape Department of Transport, Safety and Liaison. 2018. Oral submission by Ms Olivier, Northern Cape hearings. 19 July 2018. Pages 13

<sup>738</sup> See Government Gazette Notice 42036. 16 November 2018.

operating licences. In the City of Mbombela, the moratoria was not communicated properly and there was no council resolution to support the moratorium.<sup>739</sup>

10.82. In Bloemfontein, the PRE submitted that there has been a moratorium on issuing new operating licences since 1999, as a directive from the DOT.<sup>740</sup> The NLTA does not make provision for the DOT to prescribe a moratorium. The Free State Department of Roads and Transport failed to communicate this discrepancy to the taxi industry and the rationale for the moratorium. In 2015, North West Department of Transport announced a three year moratorium on issuing of new operating licences to conduct route verification and assess the need for public transport services within the taxi industry.<sup>741</sup> The moratorium was therefore imposed to try and deal with the transport planning issue and the issue of backlogs.<sup>742</sup>

10.83. In Gauteng, SANTACO submitted that there was never a legislated moratorium.<sup>743</sup> In Limpopo, SANTACO submitted that no new operating licences have been allocated to any operators since 2006.<sup>744</sup> Limpopo's Department of Transport submitted that the moratorium was meant to conduct verification of all operating licences.<sup>745</sup> The moratorium has not served its purpose as illegal operations persist. In the Eastern Cape, there is a moratorium in place for new applications with only renewals or amendments being processed.<sup>746</sup> **Table 27** provides a summary of the moratoria imposed in different provinces and also indicates provinces where backlogs are said to exist.

**Table 27: Provinces where moratoriums have been imposed**

Province	Moratorium on minibus taxis	Backlog
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<sup>739</sup> City of Mbombela. 2018. Oral submission by Mr Mavimbela, Mpumalanga hearings. 10 July 2018, Page 137-138.

<sup>740</sup> Free State Department of Police Roads and Transport. 2018. Oral submission by Mr Mosia, Free State hearings. 31 August 2018. Page 59.

<sup>741</sup> North West Department of Transport. 2018. Oral submission by Mr Baikgaki, Mahikeng hearings. 25 July 2018. Page 36.

<sup>742</sup> Provincial Department of Transport in North West. 2018. Oral submission by Mr Gasengake, Mahikeng hearings. 25 July 2018. Page 40-41.

<sup>743</sup> SANTACO National. 2018. Oral submission by Mr Jones, Gauteng hearings. 5 June 2018.

<sup>744</sup> SANTACO Limpopo. Oral submission by Mr Mathebula, Limpopo hearings. 21 August 2018. Page 100.

<sup>745</sup> Limpopo Department of Transport. Oral submission by Ms Koedyk, Limpopo hearings. 22 August 2018. Page 11-12.

<sup>746</sup> Eastern Cape Department of Transport. 2018. Oral submission by Mr Melane, Eastern Cape (Port Elizabeth) hearings. 14 August 2018. Page 15.



Eastern Cape	Yes <sup>747</sup> , only on new applications	No
Gauteng	No	Yes, estimated to be 11 000
Mpumalanga	Yes <sup>748</sup>	No
Limpopo	Yes	Yes, estimate not available
Northern Cape	Yes	Yes, estimated to be 3 000
North West	Yes	Yes, estimate not available
KwaZulu-Natal	No	No
Western Cape	No	No <sup>749</sup>
Free State	No	No

10.84. From **Table 27**, it is evident that for most of the provinces where moratoria were imposed, backlogs still remain a challenge. For instance, Northern Cape declared a moratorium to deal with backlogs and oversaturation, but these backlogs are estimated around 3 000 outstanding operating licences. A similar situation prevails in the North West and Limpopo. This suggests that the current moratoria have not achieved their objectives with regards to backlog elimination.

#### *Over saturation*

10.85. The Commission has observed that across all provinces there is a huge problem of over saturation in the minibus taxi industry. The over saturation is caused by numerous factors such as the incentive by taxi associations to derive more revenue from membership fees, and lack of capacity within the planning authorities and PREs to process applications timeously. When a taxi operator applies for an operating licence, he/she must provide the PRE with a letter of recommendation from a taxi association that he/she belongs to. This requirement for a letter of recommendation is not stipulated in the NLTA, but it is enforced by all PREs to reduce conflict. Membership or joining fees range between R30 000 and R120 000 per vehicle which is a significant investment or sunk costs to enter the market.<sup>750</sup>

10.86. The high membership fees also incentivise the taxi associations to recruit more members which exacerbate the problem of oversaturation and influx of unlicensed vehicles in the minibus taxi industry.<sup>751</sup>

<sup>747</sup> Buffalo City Metropolitan Municipality. 2018. Oral submission by Mr Skwebu, Eastern Cape (East London) hearings. 28 August 2018. Page 11.

<sup>748</sup> City of Mbombela. 2018. Oral submission by Mr Mavimbela, Mpumalanga hearings. 10 July 2018. Page 136-138.

<sup>749</sup> Western Cape Provincial Department of Transport. 2018. Oral submission by Mr Reyneke, Western Cape hearings. 20 June 2018. Page 46.

<sup>750</sup> Gauteng Department of Roads and Transport meeting notes. 12 December 2017. Page 2.

<sup>751</sup> Meeting with NATOA. 7 November 2017

10.87. Dealerships and banks are required to approve funding and release motor vehicles when there is proof that an operating licence has been secured. However, evidence presented to the Commission indicates that some dealerships and banks do sell minibus taxis without requesting operating licence.<sup>752</sup> In addition, during the application process for an operating licence, the planning authorities are required to advise the PRE's on the availability of ranking facilities and whether the route is saturated or not. Most municipalities confirmed that they do not have capacity to implement ITPs (in cases where it exists) or provide directives.<sup>753</sup>

10.88. To address over saturation, SANTACO at its congress resolved to impose self-regulation to limit the entry of new taxi operators. This decision was also taken to maintain growth for the existing members.<sup>754</sup>

#### *Slow pace of conversion of operating licences*

10.89. The conversion of old permits to an operating licence has also been raised as one of the challenges facing the minibus taxi industry. These permits, which were issued for an indefinite period, were issued to operators under the Road Transportation Act and NLTA. In terms of Section 47(2)<sup>755</sup> of the NLTA holders of these indefinite permits may apply within the conversion period, being seven years after the date of commencement of the NLTA, for their conversion to an operating licence. In terms of Section 49(3) of the NLTA any permit or operating licence authorising minibus taxi-type services issued for an indefinite period or issued for a definite period that has not yet expired, must lapse seven years after the date of commencement of NLTA.

10.90. It therefore appears that the old permits were to remain valid for seven years and would lapse on 9 December 2016 if not yet converted. Although most permits have been converted, SANTACO has raised an issue that some are still outstanding due to backlogs at some PREs.<sup>756</sup> The Amendment Bill proposes that the conversion period

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Meeting with Algoa Taxi Association. 7 November 2017.

<sup>752</sup> See meeting notes of KZN Provincial Regulatory Entity. 19 October 2017. Page 7.

<sup>753</sup> Mpumalanga Department of Public Works, Roads and Transport. 2018. Oral submission by Mr Moloi, Mpumalanga hearings. 11 July 2018. Page 23. Similar sentiments are shared by Northern Cape, Limpopo and KwaZulu-Natal, among others.

<sup>754</sup> SANTACO Gauteng. 2018. Submission by Mr Ralph Jones. 25 May 2018. Page 5.

<sup>755</sup> Section 47(2) of the NLTA reads as follows: "... (2) All permits issued for an indefinite period remain valid, subject to Sections 48 and 49, but lapse seven years after the date of commencement of this Act, but the holder may apply within that period for its conversion to an operating licence to the entity that is responsible for receiving applications for operating licences for the relevant services."

<sup>756</sup> SANTACO. 2018. Oral submission by Mr Qwabe, Gauteng hearings. 4 June 2018. Page 23.

be extended for another five years. Due to delays with the Amendment Bill, the DOT has obtained an order from the High Court suspending the operation of the conversion provisions until the Amendment Bill is passed.

#### *Universal access*

10.91. The DOT is required by law to provide for passengers with special categories of needs in public transport. This requirement is found in the NLTA, the Public Transport Strategy 2007; and the Promotion of Equality and Prevention of Unfair Discrimination Act 2000 (Chapter 5, Section 25, 1(c) iii). In the draft review of the White Paper on national transport policy, the DOT identifies universal access as one of the main issues that needed attention. The department further acknowledges that there are currently no policies or regulations to promote universal access and public transport is not sufficiently accessible to all categories of passengers, including persons with disabilities.<sup>757</sup>

10.92. Evidence obtained during public hearings also seems to suggest that universal access is lacking. For instance, Mr Godongwana submitted:

*“...As you are aware of the current system that does not accommodate the elderly and looking at what we had in the past, in terms of our infrastructure it does not accommodate that. So that means we must go back, look at our infrastructure, and try to make it accommodate the elderly and that’s to be quite honest, that’s an expensive exercise. Because if you look at our sidewalks, they are not universally accessible and to do, to make them universally accessible then it becomes also a costly exercise, but it is one of the challenges anywhere....”*<sup>758</sup>

10.93. It is apparent that the DOT has further requested SANTACO to start to develop a universal design access plan for taxi services.<sup>759</sup> The Commission has observed that currently minibus taxis are not universally accessible. The Commission further notes that DOT as a custodian of transport policy should spearhead universal access with relevant government entities to develop technical guidelines for public transport vehicles.

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<sup>757</sup> Department of Transport. 2017. Draft Revised White Paper on National Transport Policy, 2017. Page 44.

<sup>758</sup> Mangaung Municipality. 2018. Oral submission by Mr Godongwana, Pretoria public hearings. 3 October 2018. Page 65.

<sup>759</sup> Programme of action on universal accessibility of minibus taxi service. 2012. “Making public transport universally accessible for all”. Portfolio Committee on Women, Children and People with Disabilities. 5 September 2012.

### *Access to ranking facilities*

- 10.94. Minibus taxis operate from taxi ranks where they pick up and drop off passengers. They usually enter the rank, offload passengers and may then queue for the next load. A rank will have an entrance, a holding area, loading area and an exit. Minibus taxis must be able to load passengers going to different destinations independently, a bay is needed for each destination, except in cases where the bays are designed to accommodate sharing. The responsibility of the day-to-day control of the activities at the minibus ranks is in the hands of the queue marshals. They are tasked to oversee that drivers load at the right places and that passengers queue orderly based on their destinations. The rank marshal is responsible for coordinating the queue marshals and the operations of the rank in general.<sup>760</sup>
- 10.95. The ranking facilities within various municipal boundaries include minibus taxi ranks and bus ranks, as well as intermodal ranks accommodating various modes of transport. Municipalities in line with the Constitution and section 28(1) of the NLTA, are empowered to develop and administer by-laws on local government matters, including ranking facilities. Various municipalities administer Municipal Taxi Ranks By-Laws to establish, maintain and manage municipal taxi ranks within their areas of jurisdiction. The municipalities, in line with these by-laws are responsible for granting, refusing or suspending rank permits.<sup>761</sup> These ranks are usually within the plans of municipalities and consist of loading, ablution and shopping (informal traders, kiosks and shopping units) facilities.<sup>762</sup>
- 10.96. Under extraordinary circumstances, the MEC responsible for public transport is also empowered in terms of Section 91(2) of the NLTA, by notice in the Provincial Gazette to close taxi ranks. The Provincial Department of Transport in Gauteng, with support from the City of Johannesburg and law enforcement agencies closed the routes and taxi ranks in response to violent conflict between Nancefield Dube West Taxi Association (NANDUWE) and the Witwatersrand Taxi Association (WATA).<sup>763</sup>

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<sup>760</sup> Oosthuizen, S. Willie, K. & Boshomane, M. 2011. A new approach to the management of taxi related facilities: Description of a joint agreement between the taxi industry and the local authority – The Lethabong experience.

<sup>761</sup> These municipalities include amongst others Ubuntu Municipality, Lekwa Local Municipality, Msukwaligwa Local Municipality, Tsantsabane Local Municipality, and Sol Plaatje Local Municipality.

<sup>762</sup> Oosthuizen, S. Willie, K. & Boshomane, M. 2011. A new approach to the management of taxi related facilities: Description of a joint agreement between the taxi industry and the local authority – The Lethabong experience.

<sup>763</sup> See <https://www.gov.za/speeches/mec-vadi-issue-notice-intent-close-nanduwe-and-wata%C2%A0taxi-ranks-and-routes-5-mar-2019-0000> last accessed on 01 August 2019

10.97. Although municipalities have powers to build, manage and maintain the ranks, some taxi ranks are managed to some extent by the taxi associations.<sup>764</sup> It therefore appears as if the exercising effective control of ranking facilities rests on municipalities and minibus taxi associations. The ranking facilities may be managed by:<sup>765</sup>

- 10.97.1. The local authority - municipal workers clean ranks and ablution facilities and provide sanitary products;
- 10.97.2. Private organisation - where ranking facility is in a private property and the owner is responsible for maintaining and managing the facility;
- 10.97.3. A management body - a body consisting of all the parties involved at the rank; and
- 10.97.4. Joint venture - a local authority and minibus taxi industry adopt shared responsibility to manage and maintain the taxi ranks.

10.98. In general, municipalities through by-laws manage and allocate ranks to taxi association(s), who are then required to adopt certain responsibilities such as hiring marshals and maintaining order and smooth operation at the ranking facilities. The City of eThekweni municipality established rank management systems in order to manage ranking facilities.<sup>766</sup> In the City of Ekurhuleni, there are officials dedicated to monitoring the operations at various ranks as well as various associations' activities.<sup>767</sup> Minibus taxis are authorised to access their designated ranking facilities if they have parking permit discs attached to them as required by these by-laws. The City of Johannesburg has a lease agreement with PRASA CRES.<sup>768</sup> In terms of the lease agreement, the City of Johannesburg is responsible for the upkeep of the taxi rank.

10.99. Despite the existence of municipal by-laws, informal taxi ranks are on the increase in most urbanised municipalities. These ranks are predominantly established by taxi owners or associations particularly where there are new developments. Open spaces are usually utilised to park and wait for passengers. In such a case, the taxi operator is still required by the by-laws to apply for a permit to use such ranking areas. The

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<sup>764</sup> National Department of Human Settlements, oral submission from Ms Masilo, Pretoria hearings, dated 12 October 2018. Page 38 - 39

<sup>765</sup> Oosthuizen, S. Willie, K. & Boshomane, M. 2011. A new approach to the management of taxi related facilities: Description of a joint agreement between the taxi industry and the local authority – The Lethabong experience.

<sup>766</sup> City Of eThekweni, oral Submission from Mr Robin Chetty, Durban hearings, dated 27 June 2018. Page 111

<sup>767</sup> City of Ekurhuleni, oral submission from Mr Mothobi, Pretoria hearings, dated 12 October 2018, page 92

<sup>768</sup> PRASA CRES, oral submission from Ms Vuyokazi Lugqola, Johannesburg hearings, dated 6 June 2018. Page 130

municipality based on land use and transport plans either approve or reject such application.

10.100. In Stellenbosch, for example, a study conducted by the steering committee of Comprehensive Integrated Transport Plan for Stellenbosch, found 2 formal out of 10 taxi ranks within the municipal boundary.<sup>769</sup> It is also apparent that in many instances informal ranks are on-street (lay-by) and do not have facilities found at formalised ranks.<sup>770</sup>

10.101. The minibus taxi industry pointed several challenges in relation to quality of services at ranking facilities, such as the rank infrastructure and ablution facilities. SANTACO Polokwane submitted that:

*“...Infrastructure we talk to roads and taxi ranks. Customers are normally subjected to unsafe environment in the form of ranks or taxi ranks. Normally these taxi ranks do not even have a security guard, ablution facilities are not working, government no longer erect these facilities and the provincial department really passes the bark to municipalities to say it is the competency of municipalities to erect these particular facilities...”*<sup>771</sup>

10.102. The National Department of Human Settlements also submitted that the construction or refurbishment of minibus taxi ranks has not been prioritised to the extent that it should have been. The National Department of Human Settlements mentioned that, for the financial year 2016/17 it was only the City of Cape Town that reported to have built one mini bus taxi rank and for 2017/18 financial year the Buffalo City reported to have built one, eThekweni reporting two and then City of Cape Town reporting one.<sup>772</sup>

10.103. The Commission learnt during public hearings that Government should explore granting minibus taxi associations using ranks the opportunity manage the ranks.<sup>773</sup> The Commission noted that some of the territorial conflicts in the minibus taxi industry

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<sup>769</sup> Stellenbosch Municipality. 2013. Transport related documents, chapter-3-attachment-b-cptr-tables-table-2. Available at <https://www.stellenbosch.gov.za/documents/transport> (accessed on 31 July 2019)

<sup>770</sup> Chronicle Reporter. 2015 Informal taxi ranks a problem in Sandton. Available at: <https://sandtonchronicle.co.za/116691/taxi-rank-woes-in-sandtonorinformal-taxi-ranks-a-problem-in-sandton/>. (Accessed on 30 July 2019).

<sup>771</sup> SANTACO Limpopo - oral submission from Mr Mathebula, Polokwane hearings, dated 21 August 2018. Page 95 -96

<sup>772</sup> National Department of Human Settlements - oral submission from Ms Masilo, Pretoria hearings, dated 12 October 2018. Page 38 - 39

<sup>773</sup> SANTACO KwaZulu Natal - oral submission from Mr Shangase, Durban hearings, dated 29 June 2018. Page 109-110

are mainly associated with access to taxi ranks and routes. A fully functional taxi rank can attract more commuters in cases where there are a few taxi ranks near one another.

#### *Access and cost of finance*

10.104. Minibus taxi operators are of the view that the cost of finance is exorbitant. The minibus taxi industry has argued that SA Taxi Finance is charging excessive interest rates. In this regard, the National Taxi Alliance (“NTA”) submits that SA Taxi Finance charges interest rates of approximately 26.5% compared to 12% to 17.25% from traditional credit providers. The high interest rates are likely to increase the costs of taxi operators thus making them unprofitable and uncompetitive, particularly the smaller taxi operators. Taxi operators can be disadvantaged and/or discouraged from growing their operations because of high cost associated with the financing of new or used minibus taxis.

10.105. There are several reasons advanced for the high interest rate charged by developmental credit providers. As discussed above, the NCA allows the maximum prescribed interest rates that developmental credit institutions can charge per year<sup>774</sup> to be significantly higher than the other credit types. Developmental credit providers’ cost of capital is relatively higher compared to that of traditional banks.<sup>775</sup> For instance in the case of a bank, the sources of funds are more diversified to include retail deposits, corporate deposits and institutional investors as opposed to SA Taxi Finance’s which rely on equity capital or borrowing from international or local financiers. SA Taxi Finance sources approximately [CONFIDENTIAL] of SA Taxi Finance funding is sourced internationally and the [CONFIDENTIAL] locally.<sup>776</sup> According to SA Taxi Finance it would be able to accelerate its growth and reduces the cost of funding to taxi operators if it was able to procure cheaper funding from local public enterprises.<sup>777</sup>

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<sup>774</sup> The interest rate formula, [(Repo rate x 2.2) + 20%], is specified in the review of limitations on fees and interest rates regulations, Government Gazette, No. 39379. 6 November 2015.

<sup>775</sup> SA Taxi Finance - written submission dated 11 March 2019.

<sup>776</sup> SA Taxi Finance investor prospectus for the financial year 2018

<sup>777</sup> SA Taxi Finance - written submission to the Competition Commission dated 24 August 2017

- 10.106. Minibus taxi operators are considered by financing institutions to be high risk,<sup>778</sup> because their ability to repay the financed amount is relatively low.<sup>779</sup> SA Taxi finance further argues that by virtue of being a developmental credit provider, all of its customers are naturally of a higher risk and it is important to price for the risk.<sup>780</sup> SA Taxi Finance submits that it operates in a high risk environment hence it charges high interest rate relative to other players. In this regard, SA Taxi Finance argues that the taxi industry is inherently risky due and the taxi operators that they finance are also high-risk customers who are likely to default due to their bad credit record and no other source of income.
- 10.107. The NTA is of the view that one of the reasons SA Taxi Finance charges exorbitant interest rates is because it does not have competition. NTA therefore proposes that government should assist the taxi industry by extending loan capital or guarantees at prime interest rate.<sup>781</sup> Alternatively, in order to lower the interest rates, the government must consider establishing a transport bank to assist the taxi industry.<sup>782</sup>

## Findings

- 10.108. *Misalignment of operating licence function and lack of provision of directives by the municipalities.* The Commission finds that planning authorities lack capacity to develop and implement integrated transport plans. This failure has resulted in these planning authorities being unable or taking too long to provide directives to the PREs when the latter is considering applications for operating licences. This has led to backlogs and illegal operations.
- 10.109. *Outdated licencing system.* The Commission finds that National Land Transport Information System (NLTIS) used for the processing operating licences is outdated and inefficient, to the extent that a few provinces have abandoned this system or customised it to suit their needs.
- 10.110. *Ineffective communication channels between the taxi industry and the transport authorities.* The Commission finds that the exclusive use of the Government Gazette

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<sup>778</sup> SANTACO Mpumalanga- oral submission by Mr. Gama, Mpumalanga Hearings, dated 10 July 2018,

<sup>779</sup> Mercedes Benz Financial Services South Africa - written submission dated 20 September 2017.

<sup>780</sup> SA Taxi Finance - written submission dated 11 March 2019.

<sup>781</sup> National Taxi Alliance - written submission dated 23 August 2017

<sup>782</sup> Port Elizabeth and District Taxi association, which is an affiliate of Boarder Alliance, Oral submission by Mr Qoko, Public hearing Eastern Cape, dated 27 August 2018



as the medium of communication with the minibus taxi industry is ineffective given its informal nature.

- 10.111. *Route allocation.* The Commission finds that planning and licencing authorities are reactive and wait for routes to be developed by the taxi industry. This leads to conflict between taxi associations who operate in adjacent routes or close to new developments.
- 10.112. *Moratoriums and backlogs.* The Commission finds that in some provinces there is lack of proper communication regarding moratoria which has frustrated the minibus taxi industry. The moratoria have not been effective due to illegal operations.
- 10.113. *Price setting.* The Commission finds that the minibus industry does not receive operating subsidies even though it transports the largest proportion of the market. The misalignment between ridership volumes and the allocation of subsidies is not socially justifiable.
- 10.114. *Access to finance.* The Commission has observed that the structure of the minibus taxi financing market is not conducive to promote effective competition. SA Taxi Finance has no real competition and the Commission has reason to believe the interest rates charged for the provision of credit to finance minibus taxis may be exploiting minibus taxi operators. The Commission is further concerned that potential competitors in the developmental credit market (commercial banks) have chosen not to participate effectively in this market, yet, extend credit to SA Taxi Finance for its expansion programmes. As such, the Commission is currently investigating whether interest rates are excessive, this investigation is being conducted separate from the Market Inquiry.
- 10.115. *Universal access.* The minibus taxi vehicles' current design is not universally accessible.
- 10.116. *Access to ranking facilities.* The Commission has observed that the responsibility of exercising effective control of ranking facilities rests on municipalities and to a certain extent on minibus taxi associations.

## **Recommendations**

- 10.117. An overhaul of the issuing of operating licence regime and removal of quantity restrictions on all permits. Operators will still be required to apply for roadworthy permits and other documents necessary for applying for permits but their operating licence applications will not be denied based on supply and demand assessment. In addition, the Commission recommends all pending applications should be processed and finalised expeditiously given that a significant number of operators are already operating illegally. This will free some capacity at the PREs to consider new applications without having to deal with massive backlogs. Capacity should be increased at both the PREs and planning authorities to address backlogs and issue directives timeously;
- 10.118. That planning authorities and provinces enter into memoranda of understanding (MoUs) to jointly exercise their respective powers and functions as contemplated in Section 12 of the NLTA. This joint exercise or performance of their respective powers and functions may be regulated by an agreement between the parties, but this exercise would still require both spheres of government to be sufficiently capacitated;
- 10.119. DOT should upgrade the National Land Transport Information System urgently to improve efficiencies;
- 10.120. The PREs should utilise additional communication channels to reach the minibus taxi industry rather than relying on the Government Gazette. Additional mechanisms to consider may be direct communication to affected taxi associations, use of local government offices, or making use of taxi ranks;
- 10.121. In relation to access to ranking facilities, it is recommended that in order to eliminate conflict of interest and perverse incentives, the management and control of ranking facilities should solely be the responsibility of municipalities;
- 10.122. The minibus taxi industry must be subsidised through increased funding for the Taxi Recapitalisation Programme to address the misalignment between ridership volumes and the allocation of subsidies; and

- 10.123. To improve access to financing to the minibus taxi industry, government should consider setting up a financial institution that would offer competitive interest rates to the minibus taxi operators.

## 11. INTERPROVINCIAL BUS OPERATIONS

### Introduction

11.1. This chapter assesses the state of competition and impediments to effective competition in the provision of interprovincial bus services. An overview of the interprovincial bus services is discussed first, followed by the regulatory framework that governs the provision of interprovincial bus services and a discussion on how prices are generally determined by market participants. Barriers to entry and expansion in the provision of interprovincial bus services is examined and, lastly, the chapter makes findings and provides recommendations.

### Overview of the interprovincial bus industry

11.2. Interprovincial bus services entail the provision of scheduled bus services linking all the major cities in South Africa. Interprovincial bus operators also provide scheduled cross-border services linking South Africa with other countries within the Southern African Development Community (SADC) region.<sup>783</sup> Interprovincial bus services are largely provided by private operators with no state support, with the exception of Autopax Passenger Services (SOC) Ltd (Autopax).

11.3. The largest players in the provision of interprovincial bus services, based on fleet size and passengers transported annually, include Unitrans Passenger (Unitrans), Intercape Ferreira Mainliner Proprietary (Intercape) and Autopax. Autopax is a wholly owned subsidiary of Passenger Rail Agency of South Africa (SOC) Ltd (PRASA) and operates two brands, Translux and City to City, a luxury and semi-luxury brand, respectively. Unitrans also operates two brands, Greyhound and Citiliner. Greyhound provides luxury coach services while Citiliner provides a semi-luxury coach service. Intercape also operates a luxury and semi-luxury service under its brand.

11.4. There has also been some gradual expansion over the years in the provision of interprovincial bus services, with new operators such as Nozulu Enterprise and Events Transport CC (Nozulu Enterprise), Moolla's Transport Services CC (Moolla's) and Africa People Mover (Pty) Ltd (APM). **Table 28** depicts some of the

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<sup>783</sup> For the purpose of this report, cross border services will not be considered as they are not part of the scope of this Market Inquiry.

prominent players in the provision of interprovincial bus services based on information submitted to the Commission as well publicly available information from the company profiles.<sup>784</sup>

**Table 28: Company profiles for selected bus operators**

Firm	Fleet size	Passengers per annum	Year of operation	Services
Autopax <sup>785</sup>	519	2.2 million	2000	Cross-border and Interprovincial
Intercape <sup>786</sup>	155	1.2 million	1979	Cross-border and Interprovincial
Unitrans Passenger	96	1.3 million	1984	Cross-border and Interprovincial
Eldo Coaches <sup>787</sup>	70	32 271	1956	Interprovincial
APM	28	-	2014	Interprovincial
Moola's Transport	3	-	2016	Interprovincial
Nozulu Enterprise <sup>788</sup>	4	-	2017	Cross-border and Interprovincial

Source: Commission's own compilation

11.5. Intercape, Unitrans Passengers and Eldo Coaches have been in the market the longest and thus have a large fleet size. Autopax, which commenced its operations in 2000, acquired most of its buses after it was allocated funding from the government as part of transport preparations for the 2010 FIFA World Cup.<sup>789</sup> Of its total fleet of 519 buses, only 160 buses were fully operational as of June 2018.<sup>790</sup> Autopax pointed out the age of the fleet and thus high maintenance costs of its fleet as one of the biggest challenges that the company is facing. All the other 359 buses were not operating because of breakdowns.

<sup>784</sup> There are other interprovincial bus operators in the market that are not included in the table. However the Market Inquiry has received submissions from these operators.

<sup>785</sup> Autopax. 2017. Submission. 5 October 2017.

<sup>786</sup> Intercape. 2017. Submission. Also see <https://www.intercape.co.za/2017-intercape-busses-overview/>

<sup>787</sup> Eldo Coaches. 2017. Submission. 5 December 2017.

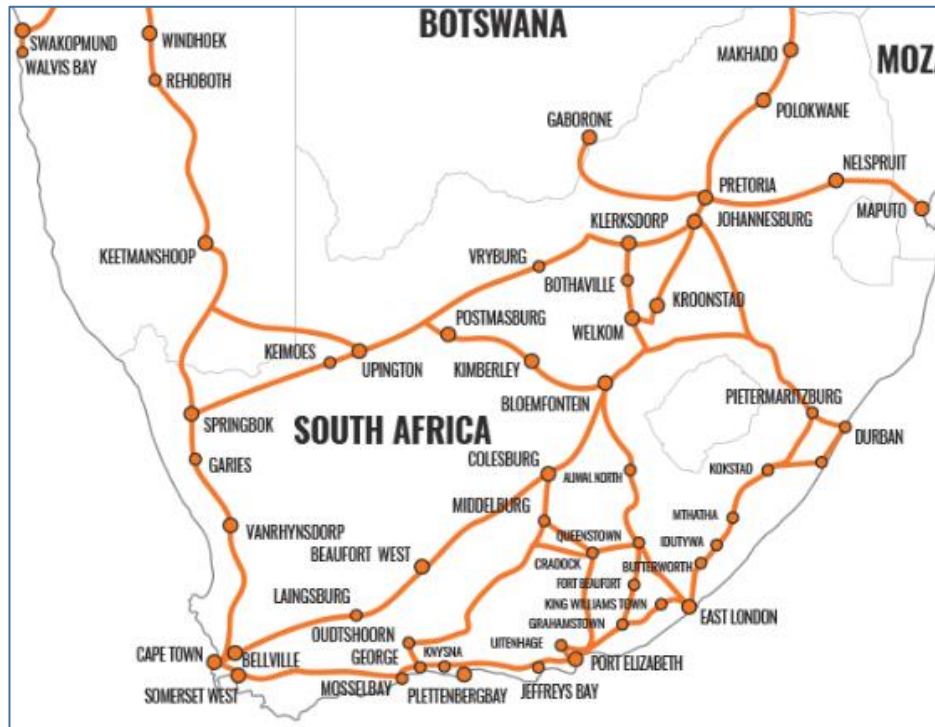
<sup>788</sup> Notes of meeting between Competition Commission and Nozulu Enterprise. 11 October 2017.

<sup>789</sup> PRASA. 2019. Submission 24 May 2019.

<sup>790</sup> Autopax. 2018. Oral submission by Mr Mahlabana, Gauteng hearings. 8 June 2018. Pages, 125, 129 and 130.

11.6. Interprovincial bus operators connect all the major towns and cities throughout the country, operating more than 30 routes.<sup>791</sup> **Figure 33** shows the most popular routes serviced by interprovincial bus operators nationally.

**Figure 33: Routes operated by interprovincial bus operators in South Africa**



Source: Intercape

11.7. The following routes have been identified as the most popular and attractive routes in the provision of interprovincial bus services<sup>792</sup>:

- 11.7.1. Pretoria/Johannesburg to Durban;
- 11.7.2. Pretoria/Johannesburg to Port Elizabeth;
- 11.7.3. Pretoria/Johannesburg to East London;
- 11.7.4. Pretoria/Johannesburg to Mthatha; and
- 11.7.5. Pretoria/Johannesburg to Cape Town.

11.8. There are bus operators that have applied for additional operating licences in order to increase their capacity on these routes.<sup>793</sup> However, it has been submitted that some of these routes are already oversaturated and cannot accommodate

<sup>791</sup> <https://www.greyhound.co.za/route-map/>

<sup>792</sup> APM. 2018. Oral submission by Mr Kgaboesele, KwaZulu-Natal hearings. 29 June 2018. Page 25.

Intercape. 2018. Oral submission by Mr Nelson, Gauteng hearings. 7 June 2018. Page 17.

<sup>793</sup> Eldo Coaches. 2018. Oral submission by Mr Moolla. Western Cape hearings. 19 June 2018. Page 22.

additional capacity. For example, the Pretoria/Johannesburg to Durban route is alleged to be the most saturated route with over 12 bus operators providing services on the route.<sup>794</sup>

11.9. There are also other routes that are less lucrative and unpopular; most of which connect rural towns and big cities. According to Autopax, it provides services on these routes as part of its social responsibility, as mandated by the government.<sup>795</sup> These include the routes connecting Cape Town and Lusikisiki; Pretoria/Johannesburg and Sibasa and Pretoria/Johannesburg and Acornhoek.<sup>796</sup>

11.10. Interprovincial bus services require access to terminal facilities. PRASA manages most of the terminals in the country. PRASA provides access to these facilities through its division, PRASA CRES. The intermodal terminal facilities managed by PRASA CRES include Park Station (Johannesburg), Pretoria, Bloemfontein, Polokwane and the Cape Town Railway Stations. PRASA is vertically integrated in that it also owns and manages most of the bus terminal facilities and is also active in the provision of interprovincial bus services.

11.11. PRASA's presence in both the provision of intermodal terminal facilities and the provision of interprovincial bus services is undesirable, as demonstrated in the competition assessment section. PRASA's ownership of Autopax creates wrong incentives for PRASA to safeguard and protect the interest of Autopax. The wrong incentives may be direct (intentional) or otherwise. This concern is exacerbated by the fact that Autopax is inefficient and has been underperforming over the years. The natural incentive may be to try to offer some benefits to Autopax to mitigate competitive pressures. PRASA's protection of Autopax distorts, limits and/or prevents fierce competition between Autopax and other bus operators.

11.12. Park Station is one of PRASA's flagship stations and is strategically located in the central business district of Johannesburg, linking commuters to long distance and commuter buses, minibus taxis and rail transport (Metrorail, Shosholozwa Mewl and Gautrain). Park Station offers retail space for supermarkets, convenience stores, food courts, banking facilities, vehicle rental facilities and a hotel under one roof.

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<sup>794</sup> APM. 2018. Oral submission by Mr Kgaboesele, KwaZulu-Natal hearings. 29 June 2018. Page 37.

Nozulu Enterprise. 2018. Oral submission by Mr Nyamende, KwaZulu-Natal hearings. 29 June 2018. Page 81.

<sup>795</sup> Autopax. 2018. Oral submission by Mr Mahlabana. Gauteng hearings. 8 June 2018. Page 125.

<sup>796</sup> *Ibid.* Page 131.

Given the features of this infrastructure, Park Station is an essential facility for bus operators and access to such a facility provides a competitive edge. In Johannesburg, there is no other facility such as Park Station.

### **Regulation governing the provision of interprovincial bus services**

11.13. This section outlines the current regulatory framework that governs the provision of interprovincial bus services in South Africa.

#### *Operating licences and route allocation*

11.14. As far as the provision of interprovincial bus services is concerned, the NLTA prescribes that the following authorities be established as discussed in detail in **Chapter 3**.

11.14.1. National Public Transport Regulator (NPTR);<sup>797</sup> and

11.14.2. Provincial Regulatory Entities (PREs).<sup>798</sup>

11.15. The NPTR was established in 2016 and is responsible for the monitoring and overseeing of public transport nationally and monitoring the PREs and municipalities in relation to land transport functions. The PRE on the other hand must monitor and oversee public transport within its province. For example, a PRE considers and decides on approval of permits and licence applications for all public transport modes within its province.

11.16. The function to issue operating licences for interprovincial transport primarily resides with the NPTR. However this function is currently performed by the PREs because the former is currently not adequately resourced to consider applications for operating licences in the provision of interprovincial bus services.<sup>799</sup> Currently, NPTR only considers applications for operating licences and accreditation for tourism services.<sup>800</sup> The DOT intends to further capacitate the NPTR, which has only 12 officials, to enable it to fully perform its functions as mandated by the NLTA.<sup>801</sup>

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<sup>797</sup> Section 20 of the NLTA.

<sup>798</sup> Section 21 of the NLTA mandates every MEC to establish a PRE in the relevant provincial department of transport.

<sup>799</sup> National Department of Transport. 2018. Oral submission by Mr Patel, Gauteng hearings. 7 June 2018. Page 41.

<sup>800</sup> *Ibid.*

<sup>801</sup> *Ibid.* Page 41.



- 11.17. When applying for an operating licence, the applicant is required to submit a timetable with routes it wishes to service, demonstrate that it has capacity to service the proposed routes and that there is demand for the service it seeks to render. Upon receiving new applications, the relevant PRE issues a notice in the Government Gazette of applications received.<sup>802</sup> These applications are also posted on the notice board at the offices of the PRE. Members of the public, including other bus operators, wishing to submit comments or make representations are permitted to do so within 21 days of the date of the publication.<sup>803</sup>
- 11.18. Where objections have been raised regarding a particular application, the PRE is required to consider all comments and presentations received and convene a hearing and adjudicate on the objection.<sup>804</sup> If any of the parties are dissatisfied with the ruling of the PRE, an appeal can be lodged with the Transport Appeal Tribunal. While there is also an option to approach the High Court to adjudicate on any appeal matters, this avenue is hardly ever pursued because it is costly.<sup>805</sup>
- 11.19. In instances where the application is approved, the vehicle to be used by the applicant must be inspected to ensure it complies with all the legislative requirements before the licence is issued. Where the vehicle does not comply with the relevant requirements, the motor vehicle inspector is required to identify the areas of non-compliance and the operating licence will not be issued until such time that the vehicle inspection has been signed off by the inspector.<sup>806</sup>
- 11.20. Operating licences issued in terms of the NLTA are issued for a minimum of five years and a maximum of seven years. Thereafter they have to be renewed.<sup>807</sup> **Figure 34** illustrates the process followed when applying for an operating licence (OL).

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<sup>802</sup> See Section 59 of the NLTA.

<sup>803</sup> Gauteng Department of Transport. 2018. Oral submission by Ms Smith, Gauteng hearings. 7 June 2018. Page 22.

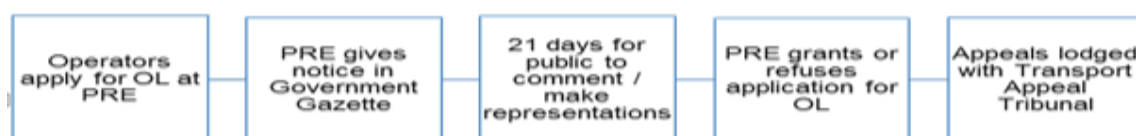
<sup>804</sup> See Section 59 of the NLTA.

<sup>805</sup> Notes of meeting between Eldo Coaches and Competition Commission. 9 October 2017.

<sup>806</sup> SABOA. 2017. Submission. 22 September 2017

<sup>807</sup> Unitans. 2017. Submission. September 2017. Page 11.

**Figure 34: Application process for obtaining a public transport operating licence**



Source: Commission's illustration

### *Route allocation*

11.21. For interprovincial bus services, bus operators determine the routes they wish to use as part of the application for operating licences.<sup>808</sup> There is no limitation on the number of routes that an operator can service. If the application is successful, the operating licence would specify the routes to be serviced, including the starting point and time, and various stops with their respective times. Bus operators are expected to adhere to these routes, stops and times at all times.<sup>809</sup>

### **Price setting mechanisms**

11.22. Each operator of interprovincial bus services determines its own prices based on a number of factors which include: input costs; office rental costs and costs for entry at bus terminal facilities; cost of capital and return on investment; type of coach (i.e. luxury or semi-luxury); competitor analysis; projection/trends from previous years; supply and demand (peak or off-peak); and profit margin for the operator.<sup>810</sup>

### *Dynamic pricing – off-peak vs peak pricing*

11.23. Submissions received by the Commission indicates that interprovincial bus services is a fixed cost business with low margins; bus services must operate on pre-determined schedules which must be adhered to irrespective of the number of passengers being conveyed.<sup>811</sup> As a result of competitive forces, this market is price sensitive.<sup>812</sup> Furthermore, as indicated above, none of the bus operators in

<sup>808</sup> *Ibid.* Also see Eldo Coaches. 2017. Submission. 5 December 2017. Page 5.

<sup>809</sup> Unitrans *Ibid.* Page 12. Also see Intercape. 2017. Submission. 24 August 2017. Page 7.

<sup>810</sup> Intercape. 2017. Submission. 24 August 2017.

Autopax. 2017. Submission. November 2017.

Eldo Coaches. 2017. Submission. 5 December 2017.

Unitrans Passenger. 2017. Submission. September 2017.

Africa People Mover (APM). 2017. Submission. 9 November 2017.

<sup>811</sup> Unitrans Passenger. *Ibid.* Intercape. *Ibid.* APM. 2017. *Ibid.* Autopax. *Ibid.*

<sup>812</sup> Unitrans Passenger. *Ibid.* Intercape. *Ibid.* APM. *Ibid.*

the provision of interprovincial bus services (with the exception of Autopax) receive any form of subsidy or financial support from the government.

11.24. The provision of interprovincial bus services is cyclical with peak and off-peak periods.<sup>813</sup> The demand for the service varies during the year with peak periods over school holidays, long weekends, Easter weekends and festive periods. During the off-peak periods interprovincial bus services have low capacity utilisation and excess capacity is observed. It is for this reason that interprovincial bus operators use dynamic pricing as their method of setting prices.<sup>814</sup>

11.25. Bus operators increase prices during peak periods in order to recover losses made during off peak periods when demand is low.<sup>815</sup> The fluctuating demand thus compels bus operators to have differential pricing for peak and off-peak periods. During the off-peak season, bus operators reduce their tickets prices to attract passengers and to at least cover their operating costs.<sup>816</sup> During peak season, when there is high demand for the service, bus operators adjust their prices upwards. The increased revenue from the peak periods allows the operators to sustain their operations during the off-peak periods.<sup>817</sup>

11.26. Uniform pricing or flat rate pricing throughout the year was viewed as unsustainable.<sup>818</sup> Peak and off-peak differentiated pricing policy allows bus operators to maintain a level of capacity in the market that they would not have been able to profitably sustain had they implemented flat rate pricing policy.<sup>819</sup> APM's experience appears to give credence to the view that flat pricing may not be sustainable. In 2016, it implemented flat pricing as an entry strategy (penetration price), in an effort to attract more passengers.<sup>820</sup> This strategy was successful to attract passengers, but it could not be sustained for an extended period because of losses that were incurred.<sup>821</sup> APM has since abandoned this pricing strategy in favour of dynamic pricing.

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<sup>813</sup> Intercape. *Ibid.* APM. *Ibid.* Autopax. *Ibid.*

<sup>814</sup> Eldo Coaches. *Op cit.* Africa People Mover. *Op cit.* Intercape. *Op cit.* Unitrans. September 2017.

<sup>815</sup> Africa People Mover. 2017. Submission. 9 November 2017. Intercape. *Op cit.*

<sup>816</sup> Eldo Coaches. *Op cit.*

<sup>817</sup> Eldo Coaches. *Ibid.* Africa People Mover. *Op cit.* Intercape. *Op cit.* Unitrans. *Op cit.*

<sup>818</sup> Unitrans Passenger. *Op cit.* Intercape. *Ibid.* APM. *Op cit.* Autopax. *Op cit.* Eldo Coaches. *Ibid.*

<sup>819</sup> Unitrans Passenger. *Ibid.* Intercape. *Ibid.* APM *Ibid.* Autopax. *Ibid.* Eldo Coaches. *Ibid.*

<sup>820</sup> Africa People Mover. *Ibid.*

<sup>821</sup> APM. 2018. Oral submission by Mr Kgaboesele, KwaZulu-Natal hearings. 29 June 2018. Page 3.

## Barriers to entry and expansion

11.27. This section identifies barriers that may prevent new entrants from entering and competing effectively and existing bus operators, especially small operators, from expanding in the market. Understanding the barriers to entry is imperative when assessing the state of competition in any market.<sup>822</sup> Competition requires rivals and in markets where the barriers to entry are high rivalry is limited.<sup>823</sup> Limited rivalry in the markets, among others, heightens potential abuse or stabilises existing collusive arrangements. Barriers to entry and expansion in the interprovincial bus industry are being considered as an important component in the competition assessment which follows later.

11.28. Entry in the provision of interprovincial bus services does not seem to be overly difficult as evidenced by the entry of several bus operators in the recent years such as Nozulu Enterprise and APM. However, there appears to be several factors that delay, and in some instances discourage entry by small operators. These factors are discussed below.

### *Cost of entry and access to finance*

11.29. Just like in any other market, there are cost drivers that are a critical consideration for a bus operator intending on entering the market for the provision of interprovincial bus services and for an operator to stay viable in the market. Such cost drivers include infrastructure, IT systems, sales distribution networks, management experience, technical skills, operating licences and fleet<sup>824</sup>.

11.30. Start-up costs for a bus operator are relatively high. New entrants are required to make substantial and various financial investments. APM submits when it started its operation, the financiers required 30 per cent deposit<sup>825</sup> on a bus (coach) which

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<sup>822</sup> OECD. 2007. "Policy brief: Competition and Barriers to Entry." January 2007.

<sup>823</sup> Roberts S. 2016. "Barriers to entry and implications for competition policy." Competition Commission and Tribunal 2016 Conference.

<sup>824</sup> Unitrans dated September 2017. Submission by Intercape dated 24 August 2017. Submission by Eldo Coaches dated 05 December 2017.

<sup>825</sup> APM submission- oral submission by Mr Kgaboesele. KwaZulu-Natal Hearings, dated 29 June 2018, page 14

costs R4.5 million on average.<sup>826</sup> There are also other costs such as bus registration fees which costs approximates R35 000.<sup>827</sup>

11.31. APM<sup>828</sup> and Nozulu Enterprise<sup>829</sup> identified funding as one of the main challenges facing new entrants in the market and there appears to be no incubator refunding in the industry. Consequently, commercial institutions offer preferential terms to existing and large entities. Due to lack of funding, new entrants are forced to lease buses from existing operators in order to raise enough capital to procure their own buses.<sup>830</sup> For example, Nozulu Enterprise had to lease buses from Eagle Liner, which also operates interprovincial bus services. This arrangement presented some challenges, especially when Nozulu Enterprise's operations started showing growth.<sup>831</sup>

11.32. Furthermore, it appears that the Original Equipment Manufacturers (OEMs) offer preferential procurement terms to the larger operators (previously advantaged and still advantaged) to the detriment of smaller bus operators.<sup>832</sup> For example, a large operator can take delivery of between six and 15 new coaches with delayed payment terms while similar terms are not open to small and new entrants.<sup>833</sup>

#### *Access to bus terminal facilities*

11.33. As outlined above, access to bus terminal facilities is critical in the interprovincial bus operations and PRASA owns most of the terminal facilities in the country. It has also been highlighted that Park Station is one of PRASA's flagship stations and it is strategically located in the central business district of Johannesburg linking commuters to different modes of public transport.

11.34. PRASA uses different pricing mechanisms across its 12 bus terminal facilities under its management.<sup>834</sup> Interprovincial bus operators have expressed concerns with the fees charged by PRASA at these facilities, especially at Park Station. Until

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<sup>826</sup> APM submission- oral submission from Mr Kgaboesele. KwaZulu-Natal Hearings dated 29 June 2018, page 14.  
Eldo Coaches submission- oral submission by Mr Niewenhuizen Western Cape Hearings, dated 19 June 2018, page 23. Nozulu Enterprise- Oral submission by Mr Nyamende. KwaZulu-Natal hearings dated 29 June 2018, page 71.

<sup>827</sup> Nozulu Enterprise- Oral submission by Mr Nyamende. KwaZulu-Natal hearings dated 29 June 2018, page 71.

<sup>828</sup> APM submission- oral submission by Mr Kgaboesele. KwaZulu-Natal Hearings, dated 29 June 2018, page 14

<sup>829</sup> Nozulu Enterprise- Oral submission by Mr Nyamende. KwaZulu-Natal hearings dated 29 June 2018, page 71.

<sup>830</sup> Nozulu Enterprise- Oral submission by Mr Nyamende. KwaZulu-Natal hearings, dated 29 June 2018, page 91.

<sup>831</sup> Nozulu Enterprise- Oral submission by Mr Nyamende. KwaZulu-Natal hearings, dated 29 June 2018, page 72.

<sup>832</sup> APM submission- oral submission by Mr Kgaboesele. KwaZulu-Natal Hearings, dated 29 June 2018, page 14.

<sup>833</sup> APM submission- oral submission by Mr Kgaboesele. KwaZulu-Natal Hearings, dated 29 June 2018, page 14.

<sup>834</sup> Submission by PRASA dated 24 November 2017.

November 2013, PRASA charged bus operators a flat rate per month for collecting and off-loading passengers at Park Station. With effect from 1 November 2013, PRASA introduced what is commonly referred to as the Pay-Per-Use system in terms of which bus operators are charged hourly rates for utilising the bus terminal.<sup>835</sup> An operator is required to pay R480 for each bus that enters Park Station and is given one hour to off-load and collect passengers. If this process takes longer than the allocated time, operators are charged R10 per minute for any additional time.<sup>836</sup>

11.35. All the interprovincial bus operators who participated during the Inquiry, except Autopax, have raised concerns about the Pay-Per-Use system. According to Eldos Coaches, it now pays R400 000 per month (compared to R 7 000 it used to pay).<sup>837</sup> APM submits that it also pays in excess of R400 000 for its 25 services and is concerned that this figure grows with every new service added.<sup>838</sup> Nozulu Enterprise, another new entrant, has also raised concerns regarding PRASA's pricing.<sup>839</sup> Unitrans estimates that the Pay-Per-Use system has added R900 000 per month to its operating costs and it is forced in some instances to pass on the cost to passengers.<sup>840</sup>

11.36. PRASA on the other hand has justified its decision to introduce the Pay-Per-Use system. In this regard, PRASA indicated that before the new system was introduced, all the loading bays at Park Station (there are 22 in total) were allocated and split among the 10 bus operators at the time.<sup>841</sup> These bays were allocated in terms of long-term lease agreements entered into with the respective operators. After the introduction of the new system, PRASA was able to increase the capacity of the facility to include 8 new bus operators.<sup>842</sup>

11.37. PRASA further submits that prior to implementing the Pay-Per-Use system, Park Station was operating at a loss and that the Pay-Per-Use system would enable PRASA to generate sufficient revenue for the facility to begin to pay for itself and

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<sup>835</sup> Submission by PRASA, Annexure B, dated 24 November 2017.

<sup>836</sup> Initially, PRASA had set these fees at R600 per hour and R 200 for every 15 minutes thereafter, respectively. Meeting notes, Eldo Coaches and Competition Commission, dated 09 October 2017; PRASA submission, Annexure B, dated 24 November 2017.

<sup>837</sup> Meeting notes, Eldo Coaches and Competition Commission, dated 09 October 2017.

<sup>838</sup> Submission APM dated 09 November 2017.

<sup>839</sup> Meeting notes, Nozulu Enterprise and Competition Commission, dated 11 October 2017.

<sup>840</sup> Submission by Unitrans dated September 2017.

<sup>841</sup> PRASA – oral submission by Ms Luggola. Gauteng Hearings, dated 06 June 2018, page 126.

<sup>842</sup> PRASA – oral submission by Ms Luggola. Gauteng Hearings, dated 06 June 2018, page 126.

fund the cost of improving it.<sup>843</sup> PRASA has also argued that in introducing the Pay-Per-Use system, it sought to eradicate the exclusive use of the facilities which served as a barrier to entry for small operators and that the system has given rise to significant efficiencies in the bus management and operating system.<sup>844</sup>

11.38. The issues relating to access to PRASA's bus terminal facilities and Autopax's alleged preferential treatment by PRASA are considered more fully in separate investigations that are conducted by the Commission. In this regard, the Commission has received four complaints relating largely to these issues.<sup>845</sup>

### ***Exploitation of regulations - regulatory barriers***

11.39. The Commission has observed that there are certain practices in the provision of interprovincial bus services that limit, distort and/or prevent competition between bus operators. These practices are enabled by ineffective implementation and application of the current regulatory framework. In this section, we discuss these regulatory challenges.

### ***Capacity at PREs***

11.40. Interprovincial bus operators have described the process of acquiring operating licences as rather frustrating for various reasons. This has been attributed to, among other things, the lack of capacity in the PREs. Although the NLTA places the responsibility of issuing interprovincial operating licences with the NPTR, it is still the PREs that perform this role. It has been asserted that the PREs do not have the necessary skills to perform this task. For example, one of the stakeholders made the submission to the Commission:

*"The people that serve on PRE must be qualified with skills in transport economics, law, in accounting, science and in the maintenance of vehicles, knowledge of vehicles, etcetera, etcetera. The PRE's have a far lower level of qualifications .... required to perform its functions".<sup>846</sup>*

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<sup>843</sup> PRASA – oral submission by Ms Luggola. Gauteng Hearings, dated 06 June 2018, page 126.

<sup>844</sup> Submission by PRASA dated 24 November 2017

<sup>845</sup> Africa People Mover v PRASA- Case number: 2017Mar0020; Moolla's Transport v PRASA- Case number 2018Mar0008; Intercape v PRASA- Case number 2018May0005 and Eagle Liner v PRASA -Case number 2019Apr0031.

<sup>846</sup> Intercape – oral submission by Mr Nelson, Gauteng Hearings, dated 07 June 2018, page 10.

*“The national regulator is in terms of the Act enjoined to set standard, to create a standard procedures manual for all applications whether at the level of the planning authority, the level of the PRE or itself or the transport appeal tribunal. So, and that has not been done, so the standardised procedures that are an essential element of the functioning of this whole act, do not exist....”*<sup>847</sup>

#### *Exploitation of regulation process by big operators*

11.41. The current regulations relating to applications for operating licences is open to abuse and exploitation as large established bus operators object to applications by new players. The abuse of this process creates an artificial barrier to entry and inhibits the ability of bus operators, especially small operators, to grow and expand. This practice also entrenches the position of bus operators who are prone to raising frivolous and vexatious objections. While any bus operator is entitled to object to applications for operating licences, the abuse of this process distorts and, in some instances, prevents effective competition in the provision of interprovincial bus services.

11.42. As stated above, if no objections are lodged, the application process is quick, and approval can be obtained from the relevant PRE within 60 business days. Although the objection process is important, especially in instances where there are legitimate grounds to object to applications for operating licences, it appears that this process is open to abuse and exploitation. The Commission heard evidence that big interprovincial bus operators use legislation (i.e. the objection process) as a tactic to prevent or delay entry or expansion for other players in the provision of interprovincial bus services, especially small bus operators and new entrants.<sup>848</sup>

11.43. The Gauteng PRE, which receives and evaluates most of the applications filed by interprovincial bus operators, has confirmed that the concerns raised by bus operators are legitimate.<sup>849</sup> Big operators often exploit the process to frustrate small operators through litigations and this occurs with almost every application filed with the PRE.<sup>850</sup> The depth and severity of this problem is best described by the Gauteng PRE itself:

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<sup>847</sup> Intercape – oral submission by Mr Nelson, Gauteng Hearings, dated 07 June 2018, page 10.

<sup>848</sup> Nozulu Enterprise- oral submission by Mr Nyamende. KwaZulu-Natal Hearings. June 2018, page 19. Eldo Coaches submission- Oral submission by Mr Jansen Van Nieuwenhuizen. Cape Town Hearings, dated 19 June 2018, page 18. Autopax – oral submission by Mr Mahlabana. Gauteng Hearings, dated 08 June 2018, page 130.

<sup>849</sup> Gauteng PRE- oral submission by Ms Smith. Gauteng Hearings, dated 06 June 2018, page 19.

<sup>850</sup> Gauteng PRE- oral submission by Ms Smith. Gauteng Hearings, dated 06 June 2018, page 19.



*“It is indeed a fair concern or a valid concern. You know, we deal with this objection hearings and we actually pick up that you know this is not just about objection. It is about creating entrance barriers by the existing operators. The problem is that the existing, the current existing operators you know, they have great financial muscle that they can use to frustrate you know the upcoming operators through litigation and all that. They even take us through litigation processes as the PRE and you know, the snag [sic] for them is that as long as they are doing that, they delay the application. They can delay it for a year or two or even three years you know, and as the application is being delayed they are continuing to benefit from operations, and we are actually even putting it to them you know that, to say that you know, it is clear that what you are doing is you know [you are] creating an entrance barrier to new entrants and it actually competitive behaviour and it reflects even in our decisions when we make a determination, a final determination...and there is little we can do as the PRE. Even if we decide to grant the application like I am saying they will take the application further on litigation and if the application happens to succeed at the second level of litigation, they will take it to another level.”<sup>851</sup>*

11.44. The most cited reason in the objections filed with the PREs is over saturation of routes.<sup>852</sup> Due to lack of capacity, the PREs are not able to immediately dismiss objections of this nature as no proper demand and supply assessments are conducted. For example, reference has been made to an instance where two different operators applied for 20 and 40 operating licences respectively from the Gauteng PRE. The Gauteng PRE granted the two operators 10 and 20 operating licences, respectively.<sup>853</sup> The PRE is said to have issued these operating licences with no scientific reasoning or consideration for the possible impact of such actions on the market.<sup>854</sup>

11.45. Eldo Coaches has also provided the Commission with evidence that gives credence to the view that big operators exploit the objection processes. For example, Eldo Coaches submits that in 2017 the entity applied for 10 operating licences from the Gauteng PRE to increase its capacity on already existing

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<sup>851</sup> Gauteng PRE- oral submission by Ms Smith. Gauteng Hearings, dated 06 June 2018, page 19-20.

<sup>852</sup> Gauteng PRE- oral submission by Ms Smith. Gauteng Hearings, dated 06 June 2018, page 21. See also Intercape – oral submission by Mr Nelson, Gauteng Hearings, dated 07 June 2018, page 12.

<sup>853</sup> Intercape – oral submission by Mr Nelson, Gauteng Hearings, dated 07 June 2018, page 14.

<sup>854</sup> Intercape – oral submission by Mr Nelson, Gauteng Hearings, dated 07 June 2018, page 14.

routes.<sup>855</sup> In response to these applications, two operators filed objections asserting that the routes that Eldo Coaches was applying for were over saturated. The PRE granted Eldo Coaches five operating licences and rejected the other five applications. The PRE's decision in this regard was challenged in the Transport Appeal Tribunal. At the date of providing evidence to the Commission, Eldo Coaches had spent more than R1.5 million on legal fees and the matter was still unresolved.<sup>856</sup>

- 11.46. The Gauteng PRE further advised the Commission that, in certain instances, because of high litigation costs, some potential entrants abandon their intention to enter the market and withdraw their applications.<sup>857</sup> The PRE's evidence is consistent with evidence from one of the bus operators.<sup>858</sup> The operator contends as follows:

*“Generally a new business has minimal to no cash flow, any unnecessary delay it may face in being able to legally trade/operate may have adverse irreparable effects on the new business, such as the business incurring more costs and in most instances running the business down to a point that it withdraws from the entire process”.<sup>859</sup>*

- 11.47. While there may be concerns of over saturation on some routes, some operators have a number of operating licences that they do not use during the off-peak season and only use them to increase their capacity during the peak season.<sup>860</sup> This is despite the requirements in the NLTA for operating licences that have not been used for more than 180 days to be revoked. For example, Autopax, which has a fleet size of about 519 buses, only uses a fraction of its fleet yet still holds operating licences for the entire fleet.<sup>861</sup> When objections are submitted based on, among other reasons, over saturation, Autopax's entire fleet on the affected routes would be taken into account when an assessment is conducted, despite the fact

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<sup>855</sup> Eldo Coaches submission- Oral submission by Mr Jansen Van Niewenhuizen. Cape Town Hearings, dated 19 June 2018, page 18.

<sup>856</sup> Eldo Coaches - Oral submission by Mr Jansen Van Niewenhuizen. Cape Town Hearings, dated 19 June 2018, page 11.

<sup>857</sup> Gauteng PRE- oral submission by Ms Smith. Gauteng Hearings, dated 06 June 2018, page 24.

<sup>858</sup> Submission by APM dated 09 November 2017, page 5.

<sup>859</sup> Submission by APM dated 09 November 2017, page 5.

<sup>860</sup> Eldo Coaches - Oral submission by Mr Jansen Van Niewenhuizen. Cape Town Hearings, dated 19 June 2018, page 19

<sup>861</sup> Eldo Coaches - Oral submission by Mr Jansen Van Niewenhuizen. Cape Town Hearings, dated 19 June 2018, page 19

that some of its buses may not be in operation at the time of the assessment. This distorts the assessment and serves as an artificial barrier to entry.

- 11.48. Based on this evidence, there seems to be credence to the allegations that the big operators exploit the objection process set out in the NLTA to stifle competition in the market.

*Irregular practices in relation to operating licences*

- 11.49. The Commission has also received submissions that there are irregular practices perpetrated by some of the bus operators when they apply for operating licences.<sup>862</sup> These include the use of pseudonyms by well-established operators; informal transferring, leasing or interchanging of operating licences; and the entry of new operators without complying with the requirements of the NLTA. These practices lead to the over saturation of routes, among other problems.<sup>863</sup>

- 11.50. Mr Mtshala of Uncedo Service Taxi Association also gave evidence that there are interprovincial bus operators who have no operating licences at all or utilise operating licences that do not belong to them.<sup>864</sup> Moolla's Transport also gave similar evidence and stated that during the peak seasons some of the bus operators are able to increase their capacity by hiring additional buses and operate them without any permits.<sup>865</sup>

**State of competition in the provision of interprovincial bus services**

- 11.51. This section assesses the state of competition in the provision of interprovincial bus services and highlights the possible obstacles to fair competition in the market.

- 11.52. Bus operators describe competition within the provision of interprovincial bus services as fierce.<sup>866</sup> The dimensions of competition include pricing, reliability, safety, comfort and convenience.<sup>867</sup> Despite the fierce competition, market participants have also identified a number of features of the market that distort, limit and/ or prevent more robust competition. Of great concern is the vertical

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<sup>862</sup>Submission by Intercape dated 24 August 2017.

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<sup>864</sup>Uncedo Services Taxi Association – oral submission by Mr Mtshala, Eastern Cape Hearings, dated 27 August 2018, page 68.

<sup>865</sup>Moolla's Transport – oral submission by Mr Moolla. Gauteng Hearings, dated 05 June 2018, page 184.

<sup>866</sup>Submission by Intercape dated 24 August 2017. See also submission by Unitrans dated September 2017.

<sup>867</sup>Submission by Eldo Coaches dated 05 December 2017, read with notes of meeting dated 09 October 2017; submission by Unitrans dated September 2017; submission by APM dated 09 November 2017.

integration of PRASA and Autopax and the abuse of the regulatory framework by some of the bus operators. In the section that follows, we discuss these issues in detail.

#### *PRASA's preferential treatment of Autopax*

11.53. Access to bus terminal facilities in the provision of interprovincial bus services is critical for any bus operator. PRASA owns and manages most of the bus terminal facilities in South Africa, especially those that are considered as key infrastructure because of their location and design. These include Park Station (Johannesburg), Pretoria Station, Durban Station, Bloemfontein Station, Polokwane Station and the Cape Town Railway Station. At the terminal facilities PRASA offers bus operators loading bays and office space for distribution of bus tickets. Autopax is a subsidiary of PRASA and operates interprovincial bus services.

11.54. Autopax was previously under Transnet and was acquired by PRASA in 2008.<sup>868</sup> A number of market participants have expressed a view that the relationship between PRASA and Autopax gives the latter a competitive advantage in the provision of interprovincial bus services. For example, it has been submitted that Autopax is not obliged to pay the fees payable by other bus operators to PRASA although it is invoiced monthly.<sup>869</sup> This gives Autopax a competitive advantage in that it does not incur similar costs as its competitors for the use of the terminal facilities owned by PRASA.<sup>870</sup>

11.55. PRASA has refuted the claims that Autopax enjoys favourable trading terms given that PRASA CRES and Autopax are separate business entities with separate boards of directors.<sup>871</sup> PRASA submitted that the only relationship between the two entities is that of a lessor and lessee.<sup>872</sup> PRASA further contends that it treats Autopax no differently to other bus operators.

11.56. To substantiate its claims, PRASA CRES provided a list of top 10 bus operators who were in arrears and it was evident that Autopax is not the only operator in arrears for the use Park Station facility.<sup>873</sup> However, Autopax had the largest debt

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<sup>868</sup> PRASA – oral submission by Ms Lindeque. Gauteng Hearings, dated 06 June 2018, page 132.

<sup>869</sup> Submission by APM dated 09 November 2017.

<sup>870</sup> Intercape – oral submission by Mr Nelson, Gauteng Hearings, dated 07 June 2018, page 6. Unitrans-Oral submission from Mr Boshoff. Gauteng Hearings, dated 08 June 2018, page 72. Eldo Coaches- Oral submission by Mr Moolla. Cape Town Hearings, dated 19 June 2018, page 33. Submission by APM dated 09 November 2017.

<sup>871</sup> PRASA – oral submission by Ms Lindeque. Gauteng Hearings, dated 06 June 2018, page 132.

<sup>872</sup> Ibid.

<sup>873</sup> Submission by PRASA dated 03 June 2018.

compared to other operators on the list. **{CONFIDENTIAL}** Furthermore, the Commission's analysis shows that in addition to its inconsistencies in making payments, Autopax was allowed to use the Park Station bus terminal facilities for almost two years (i.e. 19 consecutive months) without making any payment. While there are indeed bus operators who have defaulted in making payments, Autopax is a perennial defaulter with no concomitant action by PRASA CRES to recover the debt, other than issuing letters of demand. As at February 2019, Autopax owed PRASA CRES **{CONFIDENTIAL}** nationally in rental arrears.

**Table 29: Top 10 bus operators in arrears for the use of bus terminal facilities at Park Station as of June 2018**

Operator	Amount owed (Range)
Autopax	Less than 30 million
Moolla's Transport Services	Less than 10 million
African People Mover	Less than 10 million
Greyhound	Less than 5 million
Cream Magenta	Less than 5 million
Nyamende Events and Transport	Less than 1 million
Intercape	Less than 1 million
Mavambo Coaches	Less than 1 million
Luqray Coaches	Less than 1 million
DMJ Transport	Less than 1 million

Source: PRASA submission June 2018

11.57. PRASA CRES has submitted that the reason Autopax has the highest debt is that it has the largest bus fleet compared to other operators. However, during public hearings, Autopax pointed out that while it has 519 buses, only 160 buses were fully operational and in November 2017 only 90 buses were running.<sup>874</sup> Moreover, PRASA CRES does not seem to provide a convincing argument why no action was taken for non-payment of services for 19 months.

<sup>874</sup> Autopax – oral submission by Mr Mahlabana. Gauteng Hearings, dated 08 June 2018, pages, 125, 129 and 130.

11.58. Recently, PRASA CRES attempted to recover the debt owed by Autopax by issuing summons against the latter. In response to this action, Autopax's CEO made the following remarks to PRASA CRES worth noting:

**{CONFIDENTIAL}**.<sup>875</sup>

11.59. The Commission also notes the following statement made by PRASA during public hearings:

*"In terms of financial support, you know PRASA's primary objective – that is Autopax and rail - is running Autopax and the secondary objective PRASA CRES are the integral part of the broader PRASA mandate. In terms of Section 23 of the Legal Succession Act, PRASA is authorised to carry out its mandate for a subsidiary company and to finance such company in terms of Section 23 – the Legal Succession Act. That is the relationship between Autopax and Prasa then. That's by law – these two have to support each other. PRASA CRES is required to generate an income from the exportation of assets – required and support statutory objectives from PRASA, being rail and bus service. So, that is just where we fit in".<sup>876</sup> (own emphasis)*

11.60. The Commission has also observed that from time to time, PRASA provides financial support and bailouts to Autopax. For example, when Autopax failed to pay salaries to its staff in April 2018, PRASA Group CEO confirmed in a press release that PRASA had continuously supported Autopax as a business and would continue to do so. He further mentioned that *"PRASA had forwarded Autopax a loan of R50 million at the end of March 2018"*.<sup>877</sup> The issue of bailouts provided by PRASA to Autopax is discussed further below.

#### *Allocation of exclusive loading area and office space to Autopax (City to City)*

11.61. The Commission has also established that Autopax's semi-luxury brand, City to City, has been allocated an exclusive loading area and ticketing office, by PRASA CRES, at Park Station. This arrangement commenced in 2000 and City to City used the allocated space based on a developmental lease agreement that was entered into by Autopax (when it was still part of Transnet) and PRASA CRES.<sup>878</sup>

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<sup>875</sup> Submission by PRASA dated 26 November 2018, Annexure 14

<sup>876</sup> PRASA – oral submission by Ms Lindeque. Gauteng Hearings dated 06 June 2018, page 132.

<sup>877</sup> PRASA media release dated 26 April 2018.

<sup>878</sup> Submission by PRASA CRES dated 24 November 2017.

11.62. PRASA submits that Autopax developed the leased area and effected numerous improvements using its own CAPEX. When Autopax leased the area, it was the only operator allowed into Park Station.<sup>879</sup> The developmental lease agreement was continuously renewed until June 2018.<sup>880</sup> Although the lease agreement has since terminated, Autopax continues to use the exclusive area to date.

11.63. During the public hearings, Autopax described the exclusive loading area as a small area that only serviced a few passengers.<sup>881</sup> However, when the Commission conducted an *inspection in loco* at Park Station, it observed that the exclusive loading area is not as small as it had been suggested by Autopax. The Commission's observation is consistent with Eldo Coaches' evidence that the exclusive loading area can accommodate up to 15 buses.<sup>882</sup> Furthermore, the Commission's recent visit to Park Station, on 17-18 April 2019, confirmed that the exclusive loading area is still used by Autopax to provide services to passengers travelling to destinations in Mpumalanga and Limpopo provinces. The Commission's analysis further shows that, based on passenger volumes, Autopax has a strong hold in Limpopo and Mpumalanga provinces.

11.64. **Figure 35, Figure 36** and **Figure 37** shows the exclusive loading area allocated by PRASA CRES to Autopax's City to City:

**Figure 35: Exclusive sitting area reserved for Autopax's City to City passengers**



**Figure 36: Exclusive loading bays allocated to Autopax's City to City operations**

<sup>879</sup> Submission by PRASA dated 24 November 2017.

<sup>880</sup> Notes of the meeting between Competition Commission and PRASA dated 16 June 2018.

<sup>881</sup> Autopax – oral submission by Mr Mahlabana. Gauteng Hearings dated 08 June 2018, page 144.

<sup>882</sup> Submission by Eldo Coaches at the Public Hearings for Public Passenger Transport Market Inquiry dated 19 June 2018 held in Cape Town. Page 34.





**Figure 37: Office tickets allocated to Autopax's City to City operations**



*Source: Competition Commission inspection in loco*

#### *Unfair pricing practices (predation allegations)*

11.65. Interprovincial bus operators, notably APM, Nozulu Enterprise and Moolla's Transport have also raised concerns about significantly low fares charged by the big operators especially on the routes where there is intense competition.<sup>883</sup> It was submitted that big operators were able to charge as low as R140 for a ticket from Johannesburg to Durban. Mr Kgaboesele's evidence was, that based on his experience at both APM and Autopax, it is not possible for an operator to charge prices as low as R140-R160 on the Johannesburg to Durban route and cover its costs.<sup>884</sup> Mr Kgaboesele also advised the Commission that an operator that

<sup>883</sup> Moollas Transport – oral submission by Mr Moolla. Gauteng Hearings, dated 05 June 2018, page 187. Nozulu submission- oral submission by Mr Nyamende. KwaZulu-Natal Hearings, dated 29 June 2018, page 90. APM submission- oral submission by Mr Kgaboesele. KwaZulu-Natal Hearings, dated 29 June 2018, page 20.

<sup>884</sup> APM submission- oral submission by Mr Kgaboesele. KwaZulu-Natal Hearings, dated 29 June 2018, page 20.



charges less than R220 to travel from Johannesburg to Durban with an average load factor of about 80 per cent cannot be covering its operating costs.

11.66. In order to test the above allegations, the Commission conducted a dummy booking using Computicket online ticket sales and the prices that were obtained confirmed that Autopax charged prices that range between R140-R160 on the Johannesburg to Durban route.<sup>885</sup> This was during the off-peak season. Autopax attributed its pricing to market conditions, including dynamic pricing.<sup>886</sup> However, Autopax could not explain why its two brands whose costs structure are different (i.e. City to City and Translux) would charge the same price, which is believed by other operators to be substantially low.<sup>887</sup> While this evidence is not conclusive, it is suggestive of anticompetitive behaviour by Autopax, given its financial performance.

*PRASA's financial support to Autopax (bail outs)*

11.67. PRASA's provision of financial support to Autopax creates distortions to the competitive environment. Autopax has been a consistent underperformer for an extended period of time, becoming more pronounced in the last five years when it posted substantial losses, with the exception of 2014/15. Further losses are anticipated in 2018/19.<sup>888</sup> **Table 30** depicts Autopax's performance between 2013 and 2018:

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<sup>885</sup> The dummy booking was done on 08 June 2018 for the period 11 June 2018- 17 June 2018.

<sup>886</sup> Autopax – oral submission by Mr Mahlabana. Gauteng Hearings, dated 08 June 2018, page 136.

<sup>887</sup> Autopax – oral submission by Mr Mahlabana. Gauteng Hearings, dated 08 June 2018, page 137.

<sup>888</sup> PRASA MTEF Corporate Plan 2020 – 2022, page 40.

**Table 30: Autopax financial performance 2013-2018**

	2013/14	2014/15	2015/16	2016/17	2017/18
<b>Total revenue(R)</b>	848 058 302	913 897 048	943 216 225	915 686 367	568 152 487
<b>Fare revenue(R)</b>	683 452962	750 688 611	709 299 138	616 971 349	509 658 791
<b>Operational expenditure(R)</b>	888 035 246	879 603 569	959 992 612	1 004 366 494	833 446 322
<b>Profit/(loss) (R)</b>	<b>-75 102 504</b>	7 920 829	<b>-28 548 430</b>	<b>-212 457978</b>	<b>-304 590 046</b>
<b>Passenger numbers</b>	2 737 150	2 725 890	2 515 873	2 252 011	1 898 777
<b>Total employees</b>	1 770	1 447	1 619	1 376	1 076
<b>Employee costs/opex</b>	32%	35%	36%	37%	42%
<b>Customer satisfaction</b>	74%	77%	74%	62%	62%
<b>Kilometres travelled</b>	54 484 358	55 556 374	57 627 360	53 623 691	38 262 447

Source: PRASA MTEF Corporate Plan 2020 – 2022

11.68. The drastic decline in Autopax’s financial performance is shown in 2017/18 where all indicators such as total revenue, passenger numbers, losses and kilometres travelled were worse compared to the previous years.

11.69. In both PRASA and Autopax’s strategic documents<sup>889</sup>, it has been acknowledged that Autopax’s underperformance was attributable to inefficiencies within the entity. These documents identify the following inefficiencies, among others:

11.69.1. The entity does not have personnel with relevant technical expertise (no core technical skills);

11.69.2. Autopax’s management team lacks relevant experience in the bus industry. According to Autopax’s Strategic Plan: 2018–2023, “*the fact that the*

<sup>889</sup> PRASA MTEF Corporate Plan 2020 – 2022, accessed at <https://www.prasa.com/Corporate%20Plans/Corporate%20Plan%202020-22.pdf>, on 14 May 2019; Autopax Strategic Plan 2018-2023, accessed at [http://pmg-assets.s3-website-eu-west-1.amazonaws.com/Autopax\\_Passenger\\_Services\\_Strategic\\_Plan\\_2018\\_2023\\_Board\\_Input.pdf](http://pmg-assets.s3-website-eu-west-1.amazonaws.com/Autopax_Passenger_Services_Strategic_Plan_2018_2023_Board_Input.pdf), on 12 April 2019.

*company was not able to understand and diagnose that the Autopax products (Translux and City-to-City) was in a decline stage in terms of the product life cycle is another clear indication of ineptness in the management and leadership. The fact that the company did not have a robust plan to respond to new entrants in the long-distance bus industry market is a sign of lack of requisite management and leadership skills”.*<sup>890</sup>

11.69.3. More than half of Autopax’s fleet is not in use due to either technical breakdowns or accidents. This has had detrimental effects on Autopax’s passenger volumes, revenue and customer satisfaction.

11.70. As a result of underperformance, Autopax had to rely on bailouts and financial support from PRASA. Between 2012 and 2018 Autopax received **{CONFIDENTIAL}** from PRASA in bailouts or financial support. Of this total figure, **{CONFIDENTIAL}** was transferred to Autopax in the past two years.<sup>891</sup> The financial position of Autopax has been worsening and this possibly explains why PRASA CRES is not pursuing the outstanding debt aggressively. This brings into question the impact to competition and desirability of a vertically integrated firm (PRASA Group) continuing to support and protect an inefficient subsidiary (Autopax).

#### *Conclusion on the state of intramodal competition*

11.71. The above evidence (especially evidence on preferential treatment; the allocation of an exclusive loading area to Autopax; PRASA’s financial support to Autopax; and Autopax’s underperformance and inefficiencies) put the spotlight on the relationship between PRASA and Autopax. Given its concerns about Autopax’s underperformance and inefficiencies, PRASA, as the custodian of intermodal bus terminal facilities (through PRASA CRES), is faced with the dilemma and this creates wrong incentives for PRASA to safeguard and protect the interest of Autopax. In turn, this distorts, limits and/or prevents competition between Autopax and other bus operators.

11.72. Access to an intermodal facility is key for competition in interprovincial bus services and there is scope for competition if access is improved. There have been few entrants and their growth is limited due to lack of access to intermodal facility.

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<sup>890</sup> Autopax Strategic Plan 2018-2023, page 5.

<sup>891</sup> Submission by Autopax dated 20 May 2019 (under case number 2017Mar0020).

The involvement of the state may serve as a blockage in the development and growth of this market due to its interest as a player in the market, which requires protection from time to time (as demonstrated above). If Autopax was efficient, profitable and subjected to the same terms as other bus operators, the impact on competition arising from vertical integration may be neutral. Given that there are sufficient market participants that compete in the provision of interprovincial bus services and some degree of dynamism is observed, it is undesirable and unnecessary for the state to actively participate in this market. This is premised on the fact that Autopax is inefficient and PRASA, as an owner of an intermodal facility, has to consider their inefficient subsidiary in its decision-making process. Moreover, the state's participation in the provision of interprovincial bus services has not yielded any significant benefits for users of long-distance public transport. Instead, as is evident from the table above, there is a decline in customer satisfaction as far as this relates to the services rendered by Autopax.

- 11.73. Consequently, the Commission has taken the view that appropriate steps need to be taken to address competition distortions created by the relationship between PRASA and Autopax in the provision of interprovincial bus services.
- 11.74. It is important to mention that between March 2017 and July 2019, the Commission received five complaints from interprovincial bus operators concerning allegations of, among other things, excessive access fees charged by PRASA for access to loading bays at Park Station. The complainants also alleged that PRASA grants favourable trading terms to Autopax by affording it extended payment terms for the use of bus terminal facilities and allocating it (Autopax) exclusive loading bays at Park Station. Such favourable trading terms create a competitive advantage for Autopax.
- 11.75. The Commission duly investigated the complaints and found that PRASA has contravened sections 8(1)(c), 8(b) and 8(a) of the Act. In particular, the Commission found that the bus access fee, which was introduced by PRASA through the Pay-On-Use System, is unreasonably high and has significantly increased the operating costs of interprovincial bus operators. The Commission also found that PRASA is reluctant to demand payment from Autopax for bus access fees and rentals for leasing office space at Park Station. Furthermore, PRASA has allocated a large exclusive area to Autopax at Park Station, while not

providing access to loading bays to several interprovincial bus operators that have applied for access to Park Station. Based on these findings, on 07 February 2020, the Commission referred the five complaints to the Competition Tribunal for determination.

## **Findings**

### *Intra-modal competition and the relationship between PRASA and Autopax*

11.76. The relationship between PRASA, as the custodian of key intermodal terminal facilities in South Africa, and Autopax, as an active market participant in interprovincial bus services, creates wrong incentives for PRASA as it acts in a manner that protects and safeguards the interests of Autopax, whether intentionally or unintentionally. This is evident from (i) PRASA's allocation of an exclusive loading area and ticketing office to Autopax at Park Station, when none of the other bus operators enjoys such privilege; (ii) Autopax consistently being allowed to use PRASA's bus terminal facilities without making payments; and (iii) PRASA has been providing financial support to Autopax for the business to continue operation. Autopax's record of underperformance over the years, has worsened in the past two years. This evidence gives credence to the view that Autopax enjoys preferential treatment from PRASA. PRASA and/or Autopax's conduct in this regard distorts, limits and/ or prevents effective competition between Autopax and other bus operators in the provision of interprovincial bus services.

### *Exploitation and abuse of regulations*

11.77. There is abuse of the objection process. Frivolous and vexatious objections by established bus operators delay and/or discourage entry and/or expansion by other bus operators, especially those that are small in size. This practice entrenches the position of bus operators who are prone to raising frivolous and vexatious objections.

### *Access to terminal facilities as a barrier to entry*

11.78. The Commission has observed some entry in the provision of interprovincial bus services, but the growth of new entrants is hampered by the limited access to an intermodal facility. Access to an intermodal facility is key for any entrant to be an effective competitor.

### *Price setting mechanism by bus operators*

11.79. The Commission has observed that the provision of interprovincial bus services is cyclical in nature and bus operators are unlikely to cover their costs during the off-peak season. In order to remain in business, bus operators increase their prices during peak periods to recoup the losses that they may have incurred during the off-peak periods. Thus, flat rate pricing is unlikely to work in the provision of interprovincial bus services.

## **Recommendations**

11.80. It is recommended that Autopax be separated from the PRASA Group and become a separate state entity. As a separate state entity, Autopax will manage its business activities independent of the PRASA Group and report directly to government and not through the PRASA Group.

11.81. It is recommended that PRASA Cres, which currently operates as a division of the PRASA Group, be incorporated as new and independent state entity outside of the PRASA Group to eliminate conflict of interest and perverse incentives. The new state entity will manage all intermodal terminal facilities currently under PRASA Cres and other ranking facilities in partnership with municipalities.

11.82. An overhaul of operating licence regime by removing all quantity restrictions on the number of operators per route. Operators will still be required to apply for roadworthy permits and other documents relevant for applying permits, but operating licence applications will not be denied based on supply and demand. Planning authorities are still required to confirm if ranking facilities are available. In addition, the Commission recommends all pending applications should be processed and finalised expeditiously.

## 12. COMPETITIVE DYNAMICS IN THE PUBLIC TRANSPORT SECTOR

### Introduction

- 12.1. This chapter evaluates competitive dynamics within the public transport industry. Firstly, the chapter outlines the competition assessment framework for the public transport sector. The chapter then discusses intermodal competition within the public transport sector and impediments to competition. Findings and recommendations conclude the chapter.

### Competition assessment framework

- 12.2. Competition assessment within the public transport industry is done predominantly through a point of origin/point of destination (O&D) approach. According to this approach, every combination of a point of origin and a point of destination may be a separate market from the customer's viewpoint. To establish whether there is competition in an O&D market, the Commission looked at the different routes in that market, and other alternatives to the extent that they are substitutable by other modes of public transport.
- 12.3. The information gathered by the Commission indicates that the transport industry in South Africa does not largely conform to the standard competition framework due to the existence of regulations and government involvement in the sector which limits or influence competition. Competition in public transport can either be (i) competition for a market (or competition for a route) and (ii) competition in a market (or competition on a route).<sup>892</sup> The former implies a condition where there is a tender competed for by various transport service providers for a contract or a certain concession; which, once awarded, only the winning service provider renders a service for the relevant period.<sup>893</sup> The latter implies competition between two or more public transport operators whose earnings depend on the number of passengers each of them convey. The O&D approach will only be utilised in instances where it is applicable.

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<sup>892</sup> City of Cape Town - Submission by Jody Van Wyk, dated 8 September 2017, Page 3, and meeting between the Competition Commission and Nelson Mandela Bay Metropolitan Municipality dated 6 November 2017.

<sup>893</sup> City of Cape Town - Submission by Jody Van Wyk, dated 8 September 2017.

## **Intramodal competition**

- 12.4. Intramodal competition refers to the competition between identical modes of transport, for example competition within the taxi industry. In the sections to follow, an assessment of the state of intramodal competition in the public passenger transport industry is conducted.

## **Competition within the bus industry**

### *Competition for subsidised commuter bus contracts and other subsidised buses*

- 12.5. Currently, government uses (used) a tender process to appoint bus operators to service specified routes. For example, PUTCO and Golden Arrows were appointed in Gauteng and Western Cape, respectively. PUTCO explains that it faces very limited direct competition from other bus operators on the 1 860 routes allocated to it and this is because of ‘government policy of competition for a route, but not on a route’.
- 12.6. The same notion has been cited by City of Johannesburg:  
*“There is no significant competition between different bus modes. The City guided by the Integrated Transport Network has ensured that Metrobus and Rea Vaya do not compete with each other. The provincial subsidised bus contracts also do not compete with City routes. There could be potential competition with Gautrain bus routes, but their destinations are very different (being Gautrain train stations) and their fares, if passengers only use the bus, are much higher than the Metrobus or Rea Vaya fares’*<sup>894</sup>
- 12.7. In Cape Town, MyCiTi buses, which are part of Cape Town’s Integrated Rapid Public Transport Network (IRPTN), are not intended to compete with Golden Arrow buses on its designated routes. The City of Cape Town sees these two operations as designed to be complementary.<sup>895</sup> Gautrain submits that its bus operations are not meant to compete with another commuter bus.<sup>896</sup>
- 12.8. In conclusion, there is limited evidence of intramodal competition within the bus industry.

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<sup>894</sup> Submission by City of Johannesburg dated September 2017. See also SABOA submission dated 22 September 2017; Golden Arrow Bus Services submission dated 02 November 2017.

<sup>895</sup> Submission by City of Cape Town dated 10 November 2017.

<sup>896</sup> Submission by Gautrain dated 24 August 2017, read with a document titled ‘Gautrain – Our Journey to a better Gauteng’.



### *Competition between subsidised and non-subsidised commuter buses*

- 12.9. Submissions received suggest that there is little competition between subsidised and non-subsidised commuter buses. Non-subsidised bus operators indicated that it would be uneconomical for them to attempt to compete with subsidised bus operators. Unsubsidised bus operators largely rely on scholar transport and, in some cases, interprovincial bus services if they have capital to acquire a new fleet.
- 12.10. The only exception was observed in KwaZulu-Natal where there are a number of routes where subsidised and non-subsidised bus operators compete.<sup>897</sup> The Newlands Bus Operators Association represents a group of non-subsidised bus operators and asserts that there is strong competition between them and subsidised buses. However, unsubsidised buses find it difficult to compete on price.

### ***Competition within the rail industry - Gautrain vs Metrorail***

- 12.11. Metrorail provide services in six metropolitan municipalities and Gautrain, on the other hand, only operates in Gauteng Province. The only geographic space where Metrorail and Gautrain operate is in Gauteng. The information gathered from the submissions by both PRASA and Gautrain Management Agency, together with Bombela Concession Company (Pty) Ltd, suggest that there is no competition between Metrorail and Gautrain as these services target different customer groups. In addition, stakeholders also highlighted the significant difference in the fares charged by Metrorail and Gautrain and the routes operated by the two services. More details are provided in **Chapter 4**.

### **Intermodal competition**

- 12.12. Intermodal competition refers to the competition between different modes of transport.

### ***Competition between minibus taxis and subsidised municipal buses***

- 12.13. Market participants are of the view that there is competition between minibus taxis and municipal buses (subsidised buses). The Algoa Taxi Association submits that there is competition between minibus taxis and the Algoa Bus Company on the

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<sup>897</sup> In the province, there are 44 subsidised bus contracts – 22 tendered; 20 negotiated and 2 interim contracts. KZN Department of Transport - Email from Mr Senzo Thwala dated 01 February 2019

same routes,<sup>898</sup> a view which is also supported by the Eastern Cape Provincial Department of Transport.<sup>899</sup> Tshwane Municipality also identified that there is competition between subsidised buses and minibus taxis.

- 12.14. From a customer's viewpoint, there is evidence of switching between the modes though minibus taxis remain preferred based on accessibility, reliability, and convenience.<sup>900</sup> Tshwane Municipality submitted that minibus taxis are the most preferred transport mode due to their accessibility and reliability. Buses are less preferred because of lack of customer service due to constant breakdowns.<sup>901</sup> Unlike buses, when a taxi breaks down, there is another taxi to assist immediately.<sup>902</sup>

### ***Competition between metered taxis (and e-hailing) and buses and rail***

- 12.15. The Commission received submissions which indicated that there is no competition among app-based/metered taxis, buses and rail. Submissions indicated that app-based taxis provide a complementary service to the other modes. Bolt has categorised that the taxi industry, trains and buses do not cater for the same target market.<sup>903</sup>

### ***BRT and minibus taxis***

- 12.16. Market participants' evidence on competition between minibus taxis and BRT is mixed. The context painted by those participants who indicated no competition is only in relation to where the minibus taxis have been removed from their routes as part of the negotiations in the implementation of BRT.
- 12.17. Overall, the Commission found sufficient evidence of intense competition between BRT and minibus taxis. BRT was introduced on routes that are predominately

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<sup>898</sup> See Algoa Taxi Association notes dated 07 November 2017, page 2.

<sup>899</sup> See Eastern Cape provincial department of Transport telecom notes dated 10 November 2017, page 3-4

<sup>900</sup> See Tshwane Metro Municipality notes dated 14 November 2017, page 4.

<sup>901</sup> Greater Soweto Taxi Forum – Oral submission by Mr. Khumalo, Gauteng hearings, dated 4 June 2018, page 93 & 94.

Greater Soweto Taxi Forum describes lack of customer service as lack of communication. Firstly, GSTF indicates that there is no mass announcement when the buses will not be operating. Secondly when there are strikes commuters are not made aware nor is the redress made when tickets expire due to strikes. In addition, tickets continue to be sold even when the strikes are envisioned to the detriment of commuters that already paid upfront.

<sup>902</sup> Greater Soweto Taxi Forum – Oral submission by Mr. Khumalo, Gauteng hearings, dated 4 June 2018, page 104.

<sup>903</sup> See Taxify submission dated 20 February 2018, page 7.

operated by taxis. This was corroborated by Taxinomics.<sup>904</sup> The Gautrain Management Agency (GMA) submits that minibus taxi operators saw the introduction of the BRT system in the province as problematic because they were taking over their routes.<sup>905</sup> George Municipality in the Western Cape also indicated that there is competition between minibus taxis and BRT.<sup>906</sup>

### **Minibus taxis vs commuter rail**

- 12.18. In Western Cape, Metrorail connects surrounding townships and/or suburbs with Cape Town's central business district. There are also minibus taxis operating in the same O&D pairs with Metrorail transporting commuters from various townships or from urban areas to Cape Town. In determining whether competition exists between minibus taxis and Metrorail as per the O&D pairs, the Commission considered among, other factors, the fares charged by these modes in the identified O&D pairs. **Table 31** shows the different fares charged by both minibus taxis and Metrorail in the identified O&D pairs and the percentage differences.

**Table 31: Fares charged minibus taxis and Metrorail**

Point of origin	Point of destination	Minibus taxi fares	Metrorail fares	Price differential
Claremont	Cape Town	R15.00	R7.50	100%
Khayelitsha		R30.00	R10.00	200%
Strand		R30.00	R9.00	230%
Bellville		R13.50	R8.00	60%

Source: Go Metro <https://app.gometro.co.za/#/fares>

- 12.19. The fare differential is significant but commuters in Cape Town expressed a preference to get to work on time using minibus taxis as opposed to using the train which is much more affordable but not reliable. The City of Cape Town also indicated that commuters are switching from passenger rail to other modes of public transport, and this implies that there is existing competition between the rail and minibus taxis driven largely by the inefficiencies in the rail system.

<sup>904</sup> Taxinomics is an initiative driving a communication platform in the taxi industry. Its main aim is to impose questions about the minibus taxi industry if it suspects that the government/private sector is withholding and excluding certain participants to operate in the industry.

<sup>905</sup> See GMA meeting notes dated 29 May 2017, page 3.

<sup>906</sup> See Esau meeting notes dated 27 October 2017, page 2.

- 12.20. PRASA on the other hand, submitted that they do not compete with minibus taxis directly although they have some common routes. City of Johannesburg indicated that in areas or routes where Metrorail operates, minibus taxis tend to charge a relatively lower price compared to areas where there is no Metrorail presence.<sup>907</sup> This implies that Metrorail does constrain fares charged by minibus taxis in certain areas although to a limited extent.
- 12.21. To further understand the state of competition between Metrorail and minibus taxis, an assessment of Gauteng North area is undertaken for illustrative purposes. **Table 32** shows the point of origins and point of destinations travelled by commuters in Gauteng North and Metrorail that connects a number of towns within the greater Pretoria area and Pretoria Central Business District.

**Table 32: Minibus taxis points of origin and destination in Gauteng North**

Point of origin	Point of destination	Minibus taxi fares	Metrorail fares	Price differential
Mabopane	Pretoria CBD	R22.00	R10.50	100%
Pretoria North		R14.00	R7.50	80%
Pretoria West		R15.00	R6.50	130%
Garankuwa		R15.00	R10.50	40%
Atteridgeville		R15.00	R7.50	100%
Mamelodi		R15.00	R8.50	70%

*Source: Commissions' own investigation and Metrorail website*

- 12.22. **Table 32** shows the routes where passenger rail and minibus taxis co-exist, and there is also a significant price differential between the two modes. This suggests that Metrorail and minibus taxis do not compete with one another at least from a pricing perspective. However, the Commission is cognisant of the fact that commuters in different areas including Gauteng North and Western Cape do use minibus taxis and commuter rail services interchangeably due to the unreliability and inefficiency of the services offered by PRASA (forced substitution).

<sup>907</sup> Competition Commission and City of Johannesburg – Notes of meeting dated 09 October 2017.

### ***Competition between interprovincial buses, minibus taxis and long-distance rail***

- 12.23. The evidence on competition between interprovincial buses and minibus taxis is mixed. Intercape is of the view that minibus taxis were traditionally zoned to operate short distances within cities and townships. Intercape further contends that the minibus taxis are encroaching on interprovincial bus market routes with below market related prices.<sup>908</sup> Intercape indicated that it competes with minibus taxis in all the routes that it operates especially on these routes: Durban to Eastern Cape, Cape Town to Eastern Cape, Pretoria to PE, Pretoria to East London and Pretoria to Mthatha.<sup>909</sup> Moolla's Transport Services states that in some instances, taxi operators require or expect interprovincial bus operators to set prices at certain levels so that minibus taxis do not lose passengers to buses.<sup>910</sup> While Intercape believes that there is fierce competition between interprovincial bus operators and minibus taxis, it is of the view that competition from rail is limited.<sup>911</sup>
- 12.24. Uncedo Service Taxi Association (Uncedo) in East London is of the view that interprovincial minibus taxis do compete with buses and submitted some concerns in relation to how interprovincial bus operators are "taking business from the minibus taxis".<sup>912</sup> There are pertinent issues that seem to prevent, distort or limit competition between the minibus taxis and interprovincial buses. One such major concern shared by most of the bus operators is that minibus taxi operators often resort to violence as a means to either prevent bus operators from operating on certain routes or to force them to price at certain levels. For example, in October 2017, one of APM's buses was set alight by minibus taxi operators in the Eastern Cape, operating on routes from Mthatha via Butterworth and Dutywa to Pretoria, because APM allegedly charged low prices that minibus taxis could not compete with.<sup>913</sup> Most recently in September 2018, the minibus taxi operators blockaded the interprovincial buses from coming into and out of Windmill Station in East London in protest of interprovincial buses operating without operating licences.<sup>914</sup>

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<sup>908</sup> Intercape – oral submission by Mr Nortje, Gauteng Hearings, dated 07 June 2018, page 18.

<sup>909</sup> Intercape – oral submission by Mr Nortje, Gauteng Hearings, dated 07 June 2018, page 18.

<sup>910</sup> Notes of meeting between Competition Commission and Moolla's Transport Services dated 06 March 2018.

<sup>911</sup> Submission by Intercape dated 24 August 2017.

<sup>912</sup> Uncedo Services Taxi Association – oral submission from Mr Mtshala, Eastern Cape Hearings, dated 27 August 2018, page 68.

<sup>913</sup> Article by Daily Dispatch, 'Taxi drivers damage APM bus' 17 October 2017, accessed at <http://www.dispatchlive.co.za/news/2017/10/17/taxis-drivers-damage-apm-bus/>, on 02 February 2018.

<sup>914</sup> Article by Daily Dispatch 'Taxi drivers blockade buses at EL's Windmill station' 12 September 2018. Accessed at <https://www.dispatchlive.co.za/news/business/2018-09-12-just-in--taxi-drivers-blockade-buses-at-els-windmill-station/>, on 26 October 2018.

- 12.25. However, Eldo Coaches believes that minibus taxis and interprovincial buses do not compete in the same market.<sup>915</sup> This is because the permit requirements for minibus taxis are different from those of interprovincial buses and the determination of price structures and schedules is also different. Furthermore, buses have sufficient space for both passengers and their luggage. Eldo Coaches also asserts that it does not even consider prices of minibus taxi operators when it sets its own prices.<sup>916</sup> Customer interviews conducted by the Commission at Park Station (Johannesburg) and Bosman Station (Pretoria) suggest that intercity buses and long-distance taxis do not compete. In this regard, a significant number of intercity bus users interviewed by the Commission indicated that their preference is to use intercity buses and are unwilling to switch to other modes of public transport, including long distance taxis.<sup>917</sup>
- 12.26. In respect of rail, fares are heavily subsidised making the fare difference between rail and bus substantial; the rail infrastructure, which includes train yards and stations, is provided by government. The industry does not operate to make a profit, and this results in large scale inefficiencies as government subsidises operating costs. Based on these factors rail was found not to compete with interprovincial buses.

#### *Summary of intermodal competition*

- 12.27. With regards to competition between minibus taxis and BRT, the Commission notes that there is intense competition on overlapping routes between the two modes of transport.
- 12.28. With regards to competition between minibus taxis and subsidised buses, it is evident that there is competition between the two. The Commission notes that minibus taxis are the most preferred mode of transport by commuters since they are accessible, and readily available any time.
- 12.29. With regards to competition between long distance minibus taxis and interprovincial buses, commuters do not view the two modes as competing due to factors such as

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<sup>915</sup> Submission by Eldo Coaches dated 05 December 2016.

<sup>916</sup> Notes of meeting between Eldo Coaches and Competition Commission, dated 09 October 2017.

<sup>917</sup> The customer interviews were conducted during the Easter break, on 17-18 April 2019, at Pretoria Station (Bosman) and Park Station (Johannesburg).

comfort, ability to carry luggage among others. The Commission concludes that competition is limited, if any, due to the preference of buses by commuters.

### **Factors distorting competition in the public transport industry**

- 12.30. The subsidisation of different modes of transport to the exclusion of others and an asymmetric regulatory environment were the most cited concerns distorting competition.

#### *Subsidies*

- 12.31. The top concern from the taxi industry is that subsidies skew competition in favour of the subsidised services. The Commission did not find sufficient evidence to conclude that subsidies impede competition. However, the Commission noted that the taxi industry transports over 70 per cent of the commuters and yet it is not subsidised except for the taxi recapitalisation. As discussed in detail in **Chapter 4**, subsidies in South Africa are meant to achieve social goals to make transportation more affordable.<sup>918</sup>

#### *Entry Barriers*

- 12.32. Entry into the transport industry is marked by certain regulatory requirements and varying costs of entry from one mode to another. Moratoria on taxi operating licences, objections to operating licences applications and funding for fleet renewal are some of the barriers faced by transport operators. Several players in the minibus taxi industry have indicated that the market is over-saturated owing to entry of unlicensed vehicles in the industry.<sup>919</sup> To enter the minibus taxi industry, the entrants must become members of taxi associations, the costs of which range between R30 000 and R120 000 per vehicle.<sup>920</sup> The detailed discussion is in **Chapters 4 to 10**.

#### *Regulatory framework - objections of operating licences*

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<sup>918</sup> South African Bus Operators Association – oral submission by Prof. Walters, Gauteng hearings, dated 6 June, page 107

<sup>919</sup> Meeting with NATOA dated 7 November 2017 and meeting with Algoa Taxi Association dated 7 November 2017.

<sup>920</sup> Hlongwane. A. 2013. Lifting lid on mafia taxi industry. Available at: <https://www.iol.co.za/motoring/industry-news/lifting-lid-on-mafia-taxi-industry-1459651>. (Accessed on 11 October 2017)

- 12.33. Frivolous objections to licence applications by established bus operators is an impediment to new entries and expansion of existing operators who are largely small bus operators owned by HDIs. The existing operators who have “financial muscle” include Interscope and Unitrans, use the objection process to frustrate upcoming entrants through litigation processes.

### **Findings of competition dynamics**

- 12.34. The Commission found the following as impediments to competition:
- 12.34.1. Use of objections to discourage entry in interprovincial bus services; and
  - 12.34.2. Government has not tendered new contracts for bus services in a long time.  
These contracts have entrenched incumbent bus operators as the sole contracted and subsidised operators by virtue of them being perpetual to an extent that competitors cannot compete for these tenders.

### **Recommendations**

- 12.35. The recommendations with respect to frivolous objections are dealt with in **Chapter 11** and for lack of tendered contracts in **Chapter 7**.



## 13. PUBLIC TRANSPORT SAFETY

### Introduction

- 13.1. The public transport system in South Africa has and continues to be afflicted with safety concerns, despite various efforts by government to mitigate these problems. The provision of safe, accessible and affordable public transport infrastructure is important for the socio-economic growth of South Africans.<sup>921</sup> The National Transport Master Plan 2050 (NATMAP) recognises the need to provide safe and accessible public transport options. Safety is thus critical in ensuring the success and sustainability of such a transport system.<sup>922</sup>
- 13.2. This chapter focuses on transport safety in South Africa and its implication on users' choice of public transport. The chapter discusses the safety regulatory framework and highlights some of the shortcomings. It concludes by providing some remedies to deal with safety concerns.

### Safety as a fundamental requirement in public transport

- 13.3. Safety (or lack thereof) in a public transport mode is one of the factors influencing commuter choice in instances where there are alternatives for commuters. In some instances, commuters do not have alternative modes of transport and rely on an unsafe mode of transport due to lack of alternatives. However, in cases where commuters have options, before a commuter decides on the mode of transport to use, one of the key considerations is safety.
- 13.4. Broadly, safety in public passenger transport in literature has been categorised as (i) traffic safety, (ii) in-vehicle security and (iii) emergency management. Traffic safety refers to risks outside the vehicle such as the possibility of being involved in a traffic accident, while in-vehicle safety is concerned with fear of becoming a victim of crime in a vehicle. Emergency management includes technologies available for passengers to detect and respond to risks on board. A good emergency

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<sup>921</sup> Aropet, R 2017. Southern African solutions to public transport challenges. 36th Southern African Transport Conference (SATC 2017). See <https://www.saferspaces.org.za/understand/entry/the-state-of-public-transport-in-south-africa>. (Accessed 4 June 2019.)

<sup>922</sup> Railway Safety Regulator. 2017? Railway State of Safety Report 2016/2017. Available at: <https://rsr.org.za/Documents/State%20of%20Safety%20Reports/RSR%20State%20of%20Safety%20Report%202016-17.compressed.pdf>. (Accessed on 4 July 2019.)

management system allows passengers to use, for example, emergency exits, fire alarm systems, and channels of reporting anything suspicious on board.<sup>923</sup>

- 13.5. Studies of important factors affecting public transport use in various countries reveals that safety and security is paramount in determining users' choice to use public transport, or a particular mode over the other.<sup>924</sup> Users are deterred from using a specific mode of transport when they deem it unsafe.<sup>925</sup> Some studies have examined the safety of women when travelling, given their higher risk of victimisation. Men's subjective sense of security on board has been found to be better than those of women with respect to in-vehicle and traffic security. Users were more concerned about safety, followed by accessibility, reliability, fares, communication and trip experience in the public transport.
- 13.6. The "travel fear factor" can be influenced by several elements, particularly in urban areas, including punctuality of a transport service, security, infrastructure and comfort. While literature shows that public transport is unsafe in urban areas, waiting for public transport was found to be equally risky. Users of public transport, particularly women, feel insecure while walking to and from bus stops, or while waiting at the bus stops. Punctuality and security are thus documented in literature to be the most critical determinants of safety. Users, women, felt safer while they were in a bus as opposed to increased fear when buses do not arrive on time. The users also feel safer when they have ample information regarding the bus service beforehand.<sup>926</sup>
- 13.7. Given the importance of safety, from users' perspective, infrastructure used to access public transport such as bus stops, metro stations, and waiting areas has also received attention from policy makers.

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<sup>923</sup> Salohen, A. 2018. Passenger's subjective traffic safety, in-vehicle security and emergency management in the driverless shuttle bus in Finland. *Transport Policy*. 61: 106 – 110.

<sup>924</sup> Delbosc, A. and Currie, G. 2012. Modelling the causes and impacts of personal safety perceptions on public transport ridership. *Transport Policy*. 24: 302 - 309

<sup>925</sup> Sham, R. Samsudin, N. and Rahman, K. 2013. Managing Public Transport Service Operation in Reducing Travel Fear Factor. AMER International Conference on Quality of Life Holiday Villa Beach Resort & Spa, Langkawi, Malaysia, 6-8 April 2013.

<sup>926</sup> Sham, R. Samsudin, N. and Rahman, K. 2013. Managing Public Transport Service Operation in Reducing Travel Fear Factor. AMER International Conference on Quality of Life Holiday Villa Beach Resort & Spa, Langkawi, Malaysia, 6-8 April 2013.

## **Institutional arrangement of transport safety in South Africa**

- 13.8. The Road to Safety 2001-2005 Strategy launched in 2001 identified a need for the introduction of a policy that regulates operational safety issues for all modes of transport to ensure that passengers are conveyed in a safe, reliable and cost-effective manner.<sup>927</sup> There are several role players in the public transport industry who are responsible for or play a role in safety and enforcement. Some of these role players are discussed below.

### *National Traffic Law Enforcement*

- 13.9. The National Traffic Law Enforcement (“NTLE”), was established in terms of the Road Traffic Management Corporation Act 20 of 1999 as one of the Road Traffic Management Corporation functional units. National Traffic Law Enforcement is divided into two sub-units namely: National Traffic Police, and Norms, Standards and Compliance Unit.
- 13.10. The primary function of the National Traffic Police Unit is to provide for coordination, planning, regulation and facilitation of traffic law enforcement in respect of road traffic matters by national, provincial and local spheres of government. The National Traffic Police has wide ranging functions which include ensuring driver and vehicle fitness, mitigating dangerous driving, dealing with intoxicated driving, and pedestrian enforcement amongst others.

### *South African Police Service (“SAPS”)*

- 13.11. Chapter 11 of the Constitution assigns responsibilities to SAPS which include: to prevent, combat and investigate crime, maintain public order, protect and secure the inhabitants of the Republic and their property, uphold and enforce the law, create a safe and secure environment for all people of South Africa, and participate in efforts to address the causes of crime<sup>928</sup>
- 13.12. The White Paper on Policing (2016) highlighted that section 199(1) of the Constitution calls for the establishment of a single police service given that the

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<sup>927</sup> Arrive Alive. (not dated). Road Safety Strategy in South Africa. <https://www.arrivealive.co.za/Road-Safety-Strategy-in-South-Africa>. (Accessed on 7 July 2019.)

<sup>928</sup> [https://www.saps.gov.za/about/const\\_framework.php](https://www.saps.gov.za/about/const_framework.php) accessed on 28 July 2019.

available resources in South Africa do not permit the huge duplication of functions; where policing forces are fragmented the standard of training and other support services are likely to diminish; and artificial boundaries and barriers (geographical or legal) between police forces makes the task of policing more difficult and raises serious problems with regard to the jurisdiction of one police force over crimes committed in one area and where the suspects have crossed the border into another area.<sup>929</sup>

- 13.13. The policing model advocated in the White Paper on Policing was not intended to usurp the powers and functions of municipalities through the wholesale integration of Metropolitan Police Services into the SAPS. Rather, it was geared toward ensuring the overall operational command of the service, deepen effective oversight of the MPS and enable an optimal utilisation of public resources. Ultimately, greater emphasis was placed on maximising the utilisation of law enforcement resources for effective and efficient policing.

#### *Metropolitan police*

- 13.14. Metropolitan police according to the White Paper on Policing are well placed at municipal level to proactively address crimes through the rigorous enforcement of their other two mandates - traffic enforcement and by-law enforcement. By ensuring that traffic laws and by-laws are observed, Metropolitan police will contribute to instilling a culture of lawfulness. The limitation of the Metropolitan police is that it is subjected to far less accountability measures as opposed to the SAPS which is accountable ultimately to Parliament.
- 13.15. A regulatory framework must be established for conferring of limited investigative competencies for Metropolitan Police to conduct investigations for preparation to submit to court. Metropolitan police may only detain suspects until the SAPS are able to take custody.

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<sup>929</sup> White paper on Policing accessed on 30 July 2019  
[http://www.policesecretariat.gov.za/downloads/bills/2016 White Paper on Policing.pdf](http://www.policesecretariat.gov.za/downloads/bills/2016%20White%20Paper%20on%20Policing.pdf)

## *Private security*

- 13.16. Private security companies play a role in the prevention and circumvention of crime thereby promoting safety for passengers at public transport stations. Private security in public transport has been on the rise given the resource limitations of the SAPS and other enforcement agencies. The use of private security guards within stations has also been observed internationally. For example, in Belgium, there is collaboration with private security and police.<sup>930</sup> An added advantage to the use of private security is that they provide additional security measures such as CCTV cameras and other technologies as well as the security guards. A good example of the use of private security in public transport can be seen with the Gautrain. With Gautrain, a private company was appointed to supply and install high tech security measures of cameras, monitors etc.<sup>931</sup>
- 13.17. The success of the Gautrain in relation to its security standards shows that private security companies also have an important role to play in the enforcement of security at public transport stations.

## *National Rail Transport Regulator*

- 13.18. The National Railway Safety Regulator Act, 2002 (Act No. 16 of 2002) established the Railway Safety Regulator of South Africa (RSR) to monitor and enforce compliance in the rail sector. Safety performance of rail services is the key focus of RSR. Safety performance has two key elements: (i) operational occurrences and (ii) security related incidents. Operational occurrences imply incidents occurring due to unsafe or system faults in railway operations. On the other hand, security related incidents are criminal in nature and include safety, theft and vandalism of infrastructure and personal safety of passengers.<sup>932</sup>
- 13.19. Theft of train equipment poses risk of train derailments and collisions (operational occurrences), which in turn cause unexpected train delays to the detriment and

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<sup>930</sup> [https://lib.ugent.be/fulltxt/RUG01/001/458/488/RUG01-001458488\\_2011\\_0001\\_AC.pdf](https://lib.ugent.be/fulltxt/RUG01/001/458/488/RUG01-001458488_2011_0001_AC.pdf) accessed on 28 July 2019.

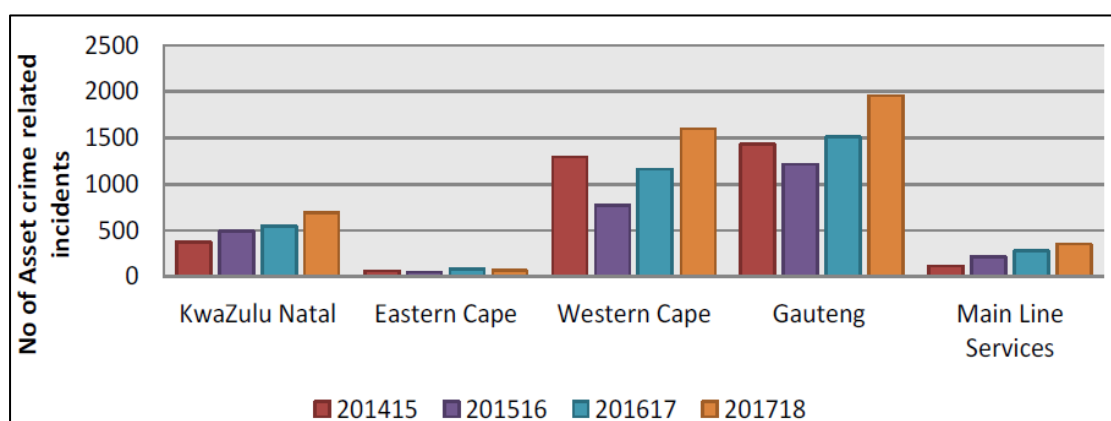
<sup>931</sup> <http://www.c3ss.com/projects/gautrain-security-project>. Accessed on 30 July 2019.

<sup>932</sup> Railway Safety Regulator. 2017. Railway State of Safety Report 2016/17. <https://rsr.org.za/Documents/State%20of%20Safety%20Reports/RSR%20State%20of%20Safety%20Report%202016-17.compressed.pdf>. (Accessed on 5 July 2019.)

dissatisfaction of commuters.<sup>933</sup> Another concern identified by RSR is lack of security personnel to curtail overcrowding in the trains as well as to ensure safety of passengers.

13.20. The RSR issues safety contravention notices and suspends the safety permits in instances where safety standards are not met by rail operators. For example, PRASA's safety permit was suspended in 2018 following a collision in Kempton Park in which 320 people were injured.<sup>934</sup> Although Rapid Rail Police (a specialised unit within the South African Police Service) and PRASA officers are available to deal with illegal entry into the railway platforms, RSR indicated that personal safety of commuters and drivers are still compromised. **Figure 38** shows the trends in crimes involving rail assets of PRASA.

**Figure 38: Crimes involving PRASA's rail assets**



Source: PRASA's annual report and financial statement 2017/18

13.21. In the Western Cape, the high level of incidents was a result of train sets which were destroyed and set alight, coupled with vandalism and theft of assets, hampering train service provision. In Gauteng, train accidents and crime of assets are ascribed to high crime incidents. A level crossing accident near Kroonstad in the beginning of 2018 resulted in 24 fatalities, negatively affecting passenger confidence.<sup>935</sup>

### *Policing in the rail sector*

<sup>933</sup> Railway Safety Regulator. 2017. Railway State of Safety Report 2016/2017. <https://rsr.org.za/Documents/State%20of%20Safety%20Reports/RSR%20State%20of%20Safety%20Report%202016-17.compressed.pdf>. (Accessed on 5 July 2019.)

<sup>934</sup> Sowetan Live. 2019. <https://www.sowetanlive.co.za/news/south-africa/2019-01-11-no-regard-for-rail-safety-at-prasa/>. (Accessed on 6 July 2019.)

<sup>935</sup> PRASA. 2018. Annual report and financial statement 2017/18

- 13.22. In terms of the history of policing of railways, the South African Railways and Harbour Police (SARP) was established in 1934 but was later amalgamated into SAPS in 1986. Around 16 000 officers were transferred to local police stations. In 2003, the mandate, functions and resources of the Protection and Security Services (PSS) Division were approved by Parliament to include railway police.<sup>936</sup>
- 13.23. The integration of the railway police unit into SAPS in 2003 was met by criticism that rail under the SAPS received relatively low attention compared to the separate rail police unit that existed prior to the period. The Institute of Security Studies indicated that dedicated railway police units within the SAPS i.e. PSS had not been effective in combatting the occurrence of violent crimes on railways. Statistics for rail related crimes were not being kept. Under SAPS, crime increased to the extent that the rail industry had to employ private security companies to ensure safety of the rail system. The Institute of Security Studies proposed that railway police be re-established.<sup>937</sup>
- 13.24. In 2004, the railway police, now known as the Rapid Rail Police (RRP) was reintroduced and, with the restructuring of SAPS in 2008, it was moved to the Visible Policing Division. The RRP's major functions include the following;
- 13.24.1. To render a visible policing service to address safety of commuters, passengers, freight and rail transport system
  - 13.24.2. To conduct preventative and reactive policing services
  - 13.24.3. To provide rapid rail policing services and
  - 13.24.4. To perform crime prevention and crime combating operations, all of which is in the rail environment.
- 13.25. To improve visibility, mobile rail police stations were introduced at selected stations. The first mobile rail police stations have been established in Western Cape, KwaZulu-Natal and most recently in the Eastern Cape. The RPR units which were established in these provinces run these police stations and are mandated to both monitor and combat rail related crimes including attacks on commuters, drug smuggling and other crimes.<sup>938</sup>

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<sup>936</sup> [http://pmg-assets.s3-website-eu-west-1.amazonaws.com/160921Rapid\\_Rail\\_Police.pdf](http://pmg-assets.s3-website-eu-west-1.amazonaws.com/160921Rapid_Rail_Police.pdf)

<sup>937</sup> ANA Reporter. 2016. Union wants railway police re-established. Available at: <https://www.iol.co.za/news/union-wants-railway-police-re-established-2051518>. (Accessed on 11 July 2019.)

<sup>938</sup> <https://www.heraldlive.co.za/news/2019-03-08-ec-gets-police-station-on-rails/>

- 13.26. Crimes that occur within the rail environment are quite extensive. In the 2017/18 SAPS' annual report, 31 821 crimes were reported, of which 21 106 were for less serious crimes, and 10 715 were for serious crimes. Serious crimes include 2 381 contact crimes, 669 contact-related crimes, 320 property-related crimes, 1 789 crimes dependent on police action for detention and 5 556 for other serious crimes. However, notwithstanding these figures, a decrease of 11.83 per cent was reported from 2016/17.<sup>939</sup>
- 13.27. From a safety and security perspective, the Gautrain is praised by the public for its safety and security<sup>940</sup>. Its founding company, Bombela Concession Company (RF) (Pty) Ltd developed and implemented a number of measures that would mitigate security and safety risks in the Gautrain. These included having recorded CCTV coverage of all the stations and trains together with the key locations along the routes, 24-hour security guards who are present at all parking areas, continuous satellite tracking of all the buses, and secure fencing along the route to prevent unauthorised access to the premises and vandalism of critical assets.<sup>941</sup>
- 13.28. To consider how much such safety and security measures cost, a tender was awarded in 2018 to CyberTech, a division of Altron, a JSE listed technology company. CyberTech was awarded a R5.5 million security and network operations (SNOC) tender for the Gautrain Management Agency (GMA).<sup>942</sup>

*Public transport policing (all modes of public transport)*

- 13.29. At a provincial level, provincial governments have units and projects to deal with safety and the prevention of crimes in the transport environment. Such examples include the North West provincial department which has a programme in the provincial secretariat for police services involving the Community Police Forum, Community Safety Forum, Community Safety Patrollers and non-profit institutions which are all responsible for the implementation of crime prevention.<sup>943</sup> The department also has a transport regulator programme which involves the taxi associations who are tasked with overseeing the taxi operations and ensuring

<sup>939</sup> [https://www.saps.gov.za/about/stratframework/annual\\_report/2017\\_2018/saps\\_annual\\_report\\_2017\\_2018.pdf](https://www.saps.gov.za/about/stratframework/annual_report/2017_2018/saps_annual_report_2017_2018.pdf)

<sup>940</sup> <https://www.quora.com/How-safe-is-the-Gautrain-from-the-JNB-airport-to-Sandton>

<sup>941</sup> <https://www.bombela.com/design/>

<sup>942</sup> <https://www.ee.co.za/article/altrons-cybertech-wins-the-gautrain-security-tender.html>

<sup>943</sup> <http://pmg-assets.s3-website-eu-west-1.amazonaws.com/180627dcstm.pdf>



relative peace and stability in the industry.<sup>944</sup> Functionality and the sustainability of some of these programmes have been a challenge.

- 13.30. The municipal police (metro police) are established in terms of section 206(7) of the Constitution of the Republic of South Africa and section 64(E) of the South African Police Service Act, 1995 (Act No. 68 of 1995) (SAPS Act). The main functions of municipal police are set out in terms of section 64(E) of the SAPS Act and include traffic policing, policing of municipal by-laws and regulations, and the prevention of crime. Metro police services have been established by the following municipalities: Johannesburg, Cape Town, eThekweni, Nelson Mandela Bay, Tshwane and Ekurhuleni municipalities.<sup>945</sup> Metro police do not possess investigative capacity and therefore transfer all investigative work to the SAPS.<sup>946</sup>
- 13.31. In the bus industry, the DOT has developed a vehicle quality management system for bus operators to ensure safety of the industry.<sup>947</sup> The DOT and other bus contracting authorities use contracts to ensure that minimum safety and compliance requirements are adhered to by bus operators to improve the level of safety in the bus sector. Bus breakdowns are common in this sector.<sup>948</sup> Some submission received by the Commission revealed that there is no strict enforcement of safety requirements by provincial authorities. This is also reflected in perpetual bus contracts extended to bus operators with old bus fleets that are susceptible to breakdowns across the country.
- 13.32. With regards to minibus taxis, Taxi Recapitalisation Programme has been used to ensure that the types of vehicles used for passenger conveyance are safe. Nevertheless, the deficiencies in the programme as highlighted by the industry make safety issues a concern. Lack of proper enforcement in identifying unsafe vehicles has also often been attributed to lack of safety in the industry. One of the concerns has been illegal conversion of panel vans to passenger vehicles that do not meet safety standards. Although conversion of these panel vans is permissible, taxi operators have been converting them illegally. In 2010, it was estimated that 2 353 panel vans in South Africa were illegally converted into passenger-carrying

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<sup>944</sup> <http://pmg-assets.s3-website-eu-west-1.amazonaws.com/180627dcstm.pdf>

<sup>945</sup> Metro Police presentation to Parliament September 2016.

<sup>946</sup> <https://www.quora.com/What-are-the-main-functions-of-the-metro-police-in-South-Africa>

<sup>947</sup> Arrive Alive. (not dated). Road Safety Strategy in South Africa. <https://www.arrivealive.co.za/Road-Safety-Strategy-in-South-Africa>. (Accessed on 7 July 2019.)

<sup>948</sup> Mayibuye Transport Corporation. 2019. Oral submission by Mr Gwabeni, Eastern Cape hearings. 27 August 2019. Page 62.

minibuses which do not comply with new safety standards. These vehicles were among the taxis prioritised for recapitalisation.<sup>949</sup>

### **Impact of safety on competition - South African perspective**

- 13.33. Lack of safety has proven to be one of the key considerations in public transport in South Africa, sometimes at the expense of effective competition and/or consumer choice. Fair competition can be understood as that which involves aggressive pricing (reduced prices to certain extent) and increased efficiencies (e.g. increased innovation to attract customers), among others, to exert competitive constraint on competitors. Intimidation and conflict have been used in the public transport to unfairly eliminate competition, thus reducing consumer choice and welfare.

#### *Use of intimidation and violence to eliminate competition*

- 13.34. The effect of lack of safety on competition manifests itself on two fronts. First, operators may be disincentivised from serving certain segments of the market given high security risks involved in servicing those markets. Second, passengers may shy away from using public transport they deem unsafe or may be left without their mode of choice in areas that are not served by operators who fear violent confrontations.
- 13.35. Ongoing violent feuding between e-hailing and metered taxis, for example, has presented a problem for e-hailing drivers and riders when accessing Gautrain stations. With consideration of safety for its drivers and passengers, Uber's app displays warnings when riders open the e-hailing platform to book rides in the Gautrain station.<sup>950</sup> Gautrain has also advised commuters to be vigilant when using e-hailing platforms.<sup>951</sup> The e-hailing drivers in some cases decline trips from or to Gautrain stations due to safety risks involved as a result of this conflict, while some prefer to pick up and drop off passengers away from the stations.<sup>952</sup> Users are thus,

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<sup>949</sup> Mail and Guardian. 2010. Taxi owners given six months to comply with safety standards. <https://mg.co.za/article/2010-03-06-taxi-owners-given-six-months-to-comply-with-safety-standards>. (Accessed on 6 July 2019.)

<sup>950</sup> Vermeulen, J. 2017. Uber's problems at the Gautrain. <https://mybroadband.co.za/news/motoring/238770-ubers-problems-at-the-gautrain.html>. (Accessed on 9 July 2019.)

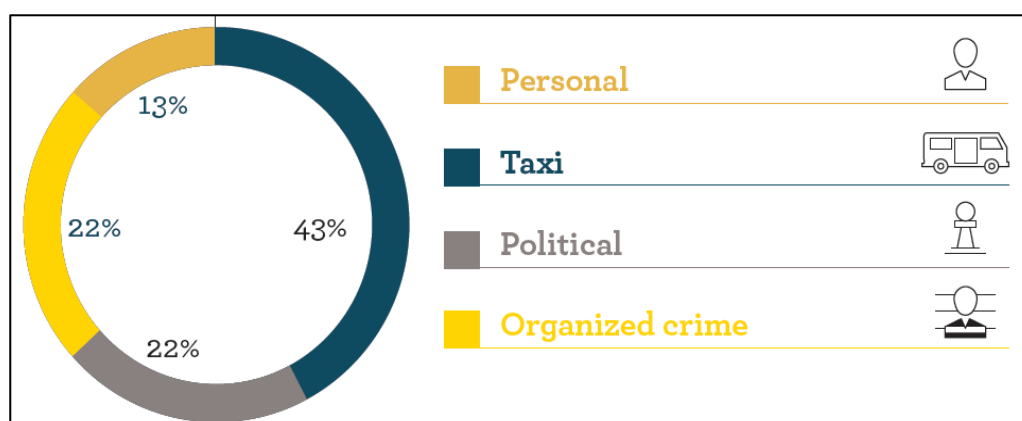
<sup>951</sup> eNCA news. 2017. Gautrain warns commuters about Uber-meter taxi driver dispute. Available at: <https://www.enca.com/south-africa/gautrain-warns-commuters-over-uber-meter-taxi-dispute>. (Accessed on 9 July 2019.)

<sup>952</sup> Vermeulen, J. 2017. Uber's problems at the Gautrain. <https://mybroadband.co.za/news/motoring/238770-ubers-problems-at-the-gautrain.html>. (Accessed on 9 July 2019.)

to some extent, deterred from using e-hailing services as their preferred mode, whose availability has been reduced by the safety risk involved. While e-hailing services are commonly seen as safe due to in-vehicle security features compared to other modes, feuds between e-hailing services and metered taxis feud to some extent their competitiveness in some areas, such as Gautrain stations.

- 13.36. Violence and intimidation have also been a commonplace in the minibus taxi industry, typically taking place between associations over routes. While assassinations in South Africa have received prominence, particularly with regards to media coverage, the study by Association Witness revealed that a large portion of assassinations in South Africa are ascribed to taxi wars. The conflicts leading to these assassinations are in most, if not all cases, between rival associations contending lucrative routes, with violence in the Mall of Africa being one of the prime examples.<sup>953</sup> **Figure 39** provides a breakdown of assassinations in the taxi industry compared to three other categories.

**Figure 39: Breakdown of assassinations per category**



Source: Assassination witness<sup>954</sup>

- 13.37. At the intermodal level, intimidation and conflict is also common between the minibus taxi and the bus industry.<sup>955</sup> In George, Western Cape, violent disputes between minibus taxi drivers and traffic officials followed after 13 minibus taxis were impounded for not being roadworthy. George municipal traffic patrol vehicles and private cars of Go-George bus service employees were torched during the violent

<sup>953</sup> Assassination Witness. 2018. The rule of the gun: *Hits and assassinations in South Africa*. University of Cape Town.

<sup>954</sup> Assassination Witness. 2018. The rule of the gun: *Hits and assassinations in South Africa*. University of Cape Town.

<sup>955</sup> Hlati, M. 2019. Local taxi rank may be closed 'to avoid violence'. <https://www.iol.co.za/capetimes/news/local-taxi-rank-may-be-closed-to-avoid-violence-23624278>. (Accessed on 10 July 2019.)

confrontation. The minibus taxi leaders were of the view that the impounds were carried out to make way for the Go-George bus service (a system that is mostly rejected by the taxi industry for its apparent potential to eliminate the minibus taxi industry from the specific routes). Commuters are often caught in the middle of these feuds by either falling victims to these attacks (whether intentional or unintentional) or being left stranded without transport when operations are suspended.

- 13.38. Evidence presented before the Commission shows that violence and intimidation has also affected the provision of long-distance bus services. For example, in 2015, the North Gauteng High Court granted an interdict in favour of APM against Autopax and several taxi associations whereby Autopax was ordered to refrain from inciting, among others, long distance taxi operators to disrupt APM's bus operations; case damaging its buses; and intimidating and harassing APM's personnel and customers. This interdict was in relation to the routes that APM was attempting to service between Johannesburg and Limpopo, and Johannesburg and Mpumalanga, respectively.<sup>956</sup> This would have afforded passengers more options to choose from when travelling between these provinces. AMP has since withdrawn its services on these routes because of safety concerns.<sup>957</sup> In the Butterworth and Idutywa areas of the Eastern Cape, APM's buses were also vandalised, burnt and damaged allegedly by taxi associations in these areas.<sup>958</sup>
- 13.39. Due to lack of dedicated enforcement institutions as well as safety monitoring agencies at taxi ranks to deal with safety issues, SAPS, metro police and traffic authorities are often left to deal with these violent disputes and intimidating or threatening incidents. This approach is reactive in a sense that commuters must report such incidents as and when they occur and government fundamentally deals with these crises rather than preventing them.<sup>959</sup> Violence not only limits competition by preventing commuters from using their preferred mode of choice, but also limits consumer welfare.

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<sup>956</sup> African People Mover (Pty) Ltd vs Autopax Passenger Services (SOC) Limited 2015/84973. See also African People Mover. Oral submission by Mr Kgaboesele, KwaZulu-Natal public hearings. 29 June 2019. Page 7. Mbanjwa. 2015. Autopax 'harassing' rival operator. <https://city-press.news24.com/Business/autopax-harassing-rival-operator-20151122>. (Accessed on 12 July 2019).

<sup>957</sup> Autopax. 2019. Submission to Competition Commission. 20 May 2019.

<sup>958</sup> Dispatch live. Taxi drivers damage APM bus. <http://www.dispatchlive.co.za/news/2017/10/17/taxis-drivers-damage-apm-bus/>. (Accessed on 15 July 2019.)

<sup>959</sup> eNCA news. 2017. Gautrain warns commuters about Uber-meter taxi driver dispute. Available at: <https://www.enca.com/south-africa/gautrain-warns-commuters-over-uber-meter-taxi-dispute>. (Accessed on 9 July 2019.)

## Experiences of safety concerns in the public transport sector

- 13.40. Incidences of crime in the form of vandalism, theft and violence have a negative effect on the provision of safe and accessible public transport in South Africa. Some of these issues have been highlighted based on the submissions received by the Commission during public hearings in provinces.

### *Western Cape*

- 13.41. There have been several reported incidents regarding crime and vandalism occurring in the rail sector. Trains are being delayed and/or services have been suspended due to cable theft and vandalism of the rail infrastructure. This has had a negative impact on the reliability of the service. It has been reported that since 2015, approximately, 149 Metro Rail carriages were decommissioned due to acts of vandalism and arson. In just two arson attacks in July 2018, damages amounted to R51 million.<sup>960</sup>
- 13.42. The trickledown effect of such safety issues is that not only do they affect the ability of trains to function effectively, but they further impact the other modes as well. Metrorail runs fewer train sets which then also results in the problem of overcrowding not only in trains but also buses and taxis.<sup>961</sup> This is one of the issues that were highlighted by bus operators because commuters will switch to a different mode of transport when they feel unsafe. Given that Metrorail services more commuters in Cape Town, delays will shift a significant number of commuters to other modes leading to overcrowding and heightens security concerns.<sup>962</sup>
- 13.43. A major concern raised by FEDUSA during the public hearings are the incidences of passengers being murdered on the trains. FEDUSA submitted that it had made attempts to engage with the Western Cape provincial government with pleas for them to take decisive action against the rampant murders of passengers in this region.<sup>963</sup>
- 13.44. It was further submitted that the Western Cape is plagued by taxi violence. There have been a number of violent occurrences involving the taxi industry particularly in

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<sup>960</sup> <https://www.thesouthafrican.com/news/cape-town-trains-railway-police/>

<sup>961</sup> Ibid.

<sup>962</sup> Golden Arrow Bus Services. 2018. Oral submission by Mr Mayer at Cape Town public hearings. 19 June 2018. Page 60.

<sup>963</sup> FEDUSA. Oral submission by Mr Khumalo at Gauteng public hearings. 5 June 2019. Page 123.

relation to the delay in issuing of operating licences as well as those bought about by the introduction of the BRT system in the Western Cape. This is supported by a number of reported incidences regarding protests at MyCiTi stations which involved stoning of buses along the N2 express routes in Langa, Khayelitsha and Mitchells Plain.<sup>964</sup> These occurrences inconvenience commuters.

### *KwaZulu-Natal*

- 13.45. During the Public Hearings in KwaZulu-Natal (KZN), violence within the taxi industry was highlighted as a problem by the KwaZulu-Natal Department of Transport arising from route conflicts.<sup>965</sup> There are a number of documented acts of violence within the KZN taxi industry, for example, in Ladysmith, the KZN Transport and Community Safety MEC had to suspend all taxi operators due to the infighting between taxi associations which harmed innocent ordinary commuters.<sup>966</sup>
- 13.46. Copper theft and other forms of vandalism of infrastructure are common in KZN. However, it was submitted that a reason for these occurrences may be because the Metrorail network is open, and people reside next to the tracks which makes theft easier.<sup>967</sup> Such acts of vandalism can be seen in reports regarding to trains being burned in Durban and the Berea area.<sup>968</sup>
- 13.47. Poor conditions and uncleanliness of taxi ranks and bus stops was also cited by commuters. Old vehicles raise safety concerns for passengers.<sup>969</sup>

### *Gauteng*

- 13.48. In Gauteng, occurrences of minibus taxi violence are common as in other provinces. There has recently been a further surge of violence between metered taxis and e-

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<sup>964</sup> <https://www.news24.com/SouthAfrica/News/myciti-commuters-to-bear-brunt-of-attacks-on-bus-stations-20180212>.

<sup>965</sup> KZN Department of Transport. 2018. Oral submission by Mr Ntuli at Durban public hearings. 28 June 2018. Page 169.

<sup>966</sup> <https://www.iol.co.za/business-report/breaking-kzntaxicrisis-all-ladysmith-operations-suspended-12289312>. Also see <https://www.iol.co.za/news/south-africa/kwazulu-natal/da-calls-fikilembalula-to-intervene-in-kzn-taxi-violence-12648831>.

<sup>967</sup> Metro Rail KZN. 2019. Oral submission by Mr Hattingh at Durban public hearing. 27 June 2019. Page 46.

<sup>968</sup> <https://www.news24.com/SouthAfrica/News/2-trains-torched-at-kzn-stations-20180201>.

<sup>969</sup> Abagibeli Bezithuthi Zomphakathi. 2018. Oral submission by Mr Buthelezi at Durban public hearing. 27 June 2018. Page 170.

hailing operators.<sup>970</sup> This is further evident in publicised cases such as the killing of a Taxify driver allegedly at the hands of metered taxi drivers in Roodepoort<sup>971</sup> as well as in Pretoria.<sup>972</sup>

- 13.49. Incidences of crime are also experienced at rail stations and NACTU submitted that an agreement between PRASA and JMPD was reached for JMPD to train security personnel for train services. However, it was submitted that passengers are still being mugged at train stations.<sup>973</sup>

## Findings

- 13.50. Safety influences the choice by commuters of the mode of transport irrespective of whether that mode is the most efficient and economic. Unsafe modes of transport with high incidences of crime, violence and conflict negatively affect consumer welfare in the transport sector.
- 13.51. There is a fragmented approach to enforcement in public transport which includes SAPS, Metro police, Rapid Rail Unit, provincial traffic police, municipal traffic officials, officers deployed by PRASA and Gautrain and other private security companies. This fragmentation limits the effectiveness of enforcement in the public transport industry.
- 13.52. Currently, enforcement agencies are not adequately resourced with personnel and financial resources which leads to the lack of visibility of these enforcement agencies within the public transport environment. Corruption within these agencies adds to the poor status of enforcement.
- 13.53. The safety and security challenges present in public transport are partly a result of bigger socio-economic problems such as unemployment and lack of service delivery in South Africa. This leads to community protests and the vandalism of public transport vehicles and infrastructure which has a negative impact on the provision of safe and reliable public transport.

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<sup>970</sup> SANCO. 2018. Oral submission by Mr Thaga at Gauteng public hearings. 4 June 2018. Page 115.

<sup>971</sup> <https://www.iol.co.za/news/south-africa/gauteng/taxify-cab-drivers-brutal-murder-angers-gauteng-authorities-13563545>.

<sup>972</sup> <https://mg.co.za/article/2018-03-06-metered-taxis-deny-involvement-in-death-of-taxify-driver>.

<sup>973</sup> NACTU. 2018. Oral submission by Mr Ndlovu at Gauteng public hearings. 6 June 2018. Page 142.

## **Recommendations**

- 13.54. The Commission recommends that a specialised division within SAPS be created to deal with all public transport related matters.



## **14. STATE OF TRANSFORMATION IN THE PUBLIC TRANSPORT INDUSTRY**

### **Introduction**

- 14.1. This chapter provides a summary of the extent of transformation within the passenger public transport industry. An assessment is done from two perspectives, firstly, at an operator's level and secondly, evaluation of ownership of critical inputs across the value chain. Given that there are diverse role players for each mode of transport, the analysis will therefore be conducted for each mode of transport and to the extent possible, the analysis is combined to reduce repetition. The chapter will firstly provide background to transformation and its relevance to the Competition Act and then assess the levels of transformation in the taxi, bus and rail industries respectively. Impediments to transformation are discussed and the chapter concludes by proposing some recommendations.

### **Transformation and the Competition Act**

- 14.2. One of the objectives of the Competition Act is the promotion of a greater spread of ownership, in particular to historically disadvantaged individuals (HDIs). The existence of barriers to entry within a particular market affect the ability of HDIs to participate in the economy slowing the pace of transformation.
- 14.3. To determine the extent of transformation, the Commission used the BEE grading or codes developed by the Department of Trade and Industry. BEE ratings and percentages of management and control,<sup>974</sup> black ownership and black female ownership are used as indicators to determine whether or not a sector or level of the value chain is transformed or not. A BEE contribution level 1 is the most compliant (most transformed) and a contribution level 8 is the least compliant (least transformed). For the purposes of this chapter, the focus will be on ownership and management control.

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<sup>974</sup> Management and Control considers the following: Executive Management – the voting rights that the black and black female executives would have contrasted to all the members of the board and the percentage of black and black female executive management members in percentage to all the executive management members. Senior management - the percentage of black and black female employees in senior management positions in contrast to all the employees in senior management position. The same is applicable in terms of middle and junior management. The number of black employees with disabilities is also considered. Notes taken from – BBBEE codes explained, [www.werksmans.com/wp-content/uploads/2014/02/BBBEE-codes-explainedpdf](http://www.werksmans.com/wp-content/uploads/2014/02/BBBEE-codes-explainedpdf). (Accessed on 6 November 2018.)

- 14.4. In accordance with the ToRs, the Commission identifies the critical inputs required by operators for the provision of transport services. Various stakeholders across all modes of transport indicated that financing, manufacturing, fuel supply and vehicle repairs are critical inputs in provision of public transport. These critical inputs are evaluated to ascertain the ownership patterns.

## Financiers

- 14.5. For effective entry into the industry and participation in contracted services, an operator requires significant capital. The major traditional banks in South Africa including ABSA, Nedbank, Standard Bank and First National Bank (FNB) have been cited as the major providers of finance.<sup>975</sup> In addition to traditional banks, there are other financial institutions that provide niche funding. These include major bus manufacturers such as MAN and Scania. In the minibus taxi industry, the only alternative for operators to access funding is through SA Taxi Finance which is part of Transaction Capital Limited. Information on ownership patterns of financial institutions utilised by operators in the bus and minibus taxi industry is presented in **Table 33**.

**Table 33: Ownership patterns of financial institutions servicing bus and minibus taxi industry**

Name of entity	ABSA Bank <sup>976</sup>	Standard Bank <sup>977</sup>	First Rand Bank <sup>978</sup>	Scania Financial services	Man Financial services	Nedbank <sup>979</sup>	SA Taxi Finance
Black ownership (%)	15.28%	22.20%	31.06%	0%	17.36%	28.00%	0%
Black female ownership (%)	6.51%	9.59%	15.08%	0%	6.72%	14.05%	0%

- 14.6. In late 2018, Transactional Capital Limited announced that the taxi industry had acquired a 25 per cent stake in SA Taxi Finance. This transaction was said to

<sup>975</sup> Intercap – submission by Webber Wentzel (Intercap lawyers) on 24 August 2017. Golden Arrow Bus Services- submission by Bowmans (GABS’ lawyers) 2 November 2017 pg.25. Vaal Maseru Bus Services- submission by Vaal Maseru Bus services, 26 October 2017, pg.12.

<sup>976</sup> See <https://www.absa.co.za/content/dam/south-africa/absa/pdf/compliance/B-BBEE-Certificate.pdf> accessed on 13 May 2019.

<sup>977</sup> [https://www.standardbank.co.za/static\\_file/South%20Africa/PDF/Legal%20and%20Regulatory/Standard\\_Bank\\_Group\\_Limited\\_BBEE\\_Certificate.pdf](https://www.standardbank.co.za/static_file/South%20Africa/PDF/Legal%20and%20Regulatory/Standard_Bank_Group_Limited_BBEE_Certificate.pdf) accessed on 13 May 2019.

<sup>978</sup> [https://www.firststrand.co.za/media/1031/BEE\\_certificate.pdf](https://www.firststrand.co.za/media/1031/BEE_certificate.pdf). Accessed on 21 January 2020.

<sup>979</sup> <https://www.nedbank.co.za/content/dam/nedbank/siteassets/AboutUs/About%20Nedbank%20Group/Corporate%20Governance/Governance%20and%20Ethics/Nedbank%20Limited%20and%20subsidiaries%20BBBEE%20Certificate%202019.pdf> accessed on 13 May 2019.

transform the minibus industry as well as the shareholders in the industry.<sup>980</sup> This transaction is a positive move towards transforming vehicle financing in the taxi industry.

## Manufacturers

### *a) Bus sector*

- 14.7. The Commission considered the manufacturers of critical and intermediate inputs required in the bus industry. These critical inputs are chassis, spare parts, bodies and fuel. A large majority of these critical inputs are imported from overseas manufacturers based in countries such as Germany, Sweden and Brazil.
- 14.8. Bus operators such as Unitrans have submitted that critical inputs and intermediate inputs such as chassis and bus bodies are sourced from Mercedes-Benz, Marcopolo, MAN and Scania, among others<sup>981</sup>. **Table 34** illustrates the levels of black ownership and black female ownership among the prominent manufacturers by bus operators in South Africa.
- 14.9. None of the providers have black ownership, apart from MAN. The distributors in the bus industry are mostly firms that import the fully assembled buses into South Africa. The information received indicates limited availability of credible black suppliers for input material, spare parts and maintenance services is an impediment to transformation.<sup>982</sup>

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<sup>980</sup> [www.inceconnect.co.za/sens-view/19803](http://www.inceconnect.co.za/sens-view/19803), Transaction Capital Limited- South African National Taxi Council acquires a 25% stake in SA Taxi Finance Holdings Proprietary Limited, Accessed on 22/11/2018.

<sup>981</sup> Unitrans – submission by Unitrans September 2017, pg. 5.

<sup>982</sup> Autopax- submission by Autopax 9 November 2017, pg. 15.

**Table 34: Level of transformation at bus manufacturing level**

Entity	Mercedes-Benz <sup>983</sup>	VDL Bus and Coach	Marcopolo <sup>984</sup>	MAN <sup>985</sup>	Scania <sup>986</sup>	Volvo <sup>987</sup>
<b>Black ownership (%)</b>	0%	0%	0%	25.10%	0%	0%
<b>Black female ownership (%)</b>	0%	0%	0%	12.55%	0%	0%

Source: Information from company BEE certificates and Who owns Whom website for 2017-2018 and 2018-2019.

*b) Taxis*

- 14.10. The minibus taxi industry is currently dominated by Toyota with its Toyota Ses'fikile brand. These minibus taxis have been assembled in South Africa since July 2012 at the factory located in Durban.<sup>988</sup> The second biggest manufacturer of minibus taxis in South Africa is Nissan. Mercedes-Benz is the third biggest supplier with its Sprinter brand. Another manufacturer is the Beijing Automobile Works (BAW) which has assembled vehicles locally since November 2013. BAW SA mainly produces the Sasuka brand.<sup>989</sup> These manufacturers have no black ownership.<sup>990</sup>
- 14.11. The most common brands which are used by metered taxis and e-hailing app-based taxis include, Toyota, Ford, Volkswagen, Kia and Hyundai, Mercedes-Benz, BMW,

<sup>983</sup> Accessed on [http://www.mercedes-benzsa.co.za/media/1219/mbfssa-2018\\_bee-certificate.pdf](http://www.mercedes-benzsa.co.za/media/1219/mbfssa-2018_bee-certificate.pdf) on 28 November 2018.

<sup>984</sup> Accessed on [https://www.beagledatabase.co.za/system/certificates/58863/original/ELC5428\\_Marcopolo\\_\(Pty\)\\_Ltd\\_BEE\\_Certificate\\_Final.pdf?1442238194](https://www.beagledatabase.co.za/system/certificates/58863/original/ELC5428_Marcopolo_(Pty)_Ltd_BEE_Certificate_Final.pdf?1442238194) on 5 November 2018.

<sup>985</sup> Accessed on <https://www.hatfieldman.co.za/ClientData/Platform4Auto/11202/WebsiteDownloads/Hatfield%20BBBEE%20Certification.pdf> on 5 November 2018.

<sup>986</sup> Accessed on <https://www.beagledatabase.co.za/system/certificates/3227/original/SCANIA.pdf?1310652849> on 5 November 2018.

<sup>987</sup> Accessed on [https://www.beagledatabase.co.za/system/certificates/67171/original/Volvo\\_Final\\_Certificate\\_MAY\\_2017.pdf?1463552672](https://www.beagledatabase.co.za/system/certificates/67171/original/Volvo_Final_Certificate_MAY_2017.pdf?1463552672) on 5 November 2018.

<sup>988</sup> Accessed on <https://www.brandsouthafrica.com/investments-immigration/business/investing/automotive-141112> at 15/09/2017

<sup>989</sup> Accessed on [http://www.chinafrica.cn/Africa/201705/t20170512\\_800096063.html](http://www.chinafrica.cn/Africa/201705/t20170512_800096063.html) at 18/09/2017.

<sup>990</sup> Accessed at [https://www.imperialtoyota.co.za/application/storage/upload/12\\_imperial\\_toyota\\_bbbee\\_certificate\\_2018\\_19.pdf](https://www.imperialtoyota.co.za/application/storage/upload/12_imperial_toyota_bbbee_certificate_2018_19.pdf) on 28 November 2018. Accessed at [https://www.beagledatabase.co.za/system/certificates/87274/original/Nissan\\_South\\_Africa\\_-\\_B-BBEE\\_Certificate\\_2017.2018pdf.pdf?1502370875](https://www.beagledatabase.co.za/system/certificates/87274/original/Nissan_South_Africa_-_B-BBEE_Certificate_2017.2018pdf.pdf?1502370875) on 28 November 2018. Accessed at [http://www.mercedes-benzsa.co.za/media/1219/mbfssa-2018\\_bee-certificate.pdf](http://www.mercedes-benzsa.co.za/media/1219/mbfssa-2018_bee-certificate.pdf) on 28 November 2018. Accessed at [http://www.mercedes-benzsa.co.za/media/1219/mbfssa-2018\\_bee-certificate.pdf](http://www.mercedes-benzsa.co.za/media/1219/mbfssa-2018_bee-certificate.pdf) on 28 November 2018. Accessed at <https://www.imperiallogistics.com/pdf/bee-certificate/bee-certificate-2017.pdf> on 28 November 2018.

Audi, Honda, Suzuki and Nissan and Opel.<sup>991</sup> As indicated above, very limited transformation has taken place at the manufacturing level. In 2009 the Department of Trade and Industry (*dti*) launched the Automotive Incentive Scheme to develop and grow the automotive sector in South Africa. This has not resulted in sufficient transformation.

### *Fuel supply*

- 14.12. The Liquid Fuels Charter (LFC) was introduced into South Africa's petroleum and liquid fuels industry as a means of promoting the empowerment of the historically disadvantaged South Africans in the industry. The LFC aimed to ensure the sustainable presence, ownership and control by approximately 25 per cent of historically disadvantaged South Africans across the industry value chain by 2010. In fuel retail, over 90 per cent of the fuel companies are still owned by whites, showing limited transformation.<sup>992</sup>

## **Operators**

### *Commuter bus operators*

- 14.13. *Large bus operators:* PUTCO is the largest commuter bus operator in South Africa and has a level 3 BEE rating. The second largest commuter bus operator is Golden Arrows Bus Services (GABS) which is a wholly owned subsidiary of one of Hosken Consolidated Investments Limited (HCI)<sup>993</sup> with a level 2 BEE rating. Imperial Logistics owns 55 per cent of Interstate Bus Lines trading as Itumele. The remaining 45 per cent is owned by taxi organisations (20 percent) while 25 per cent belongs to management.<sup>994</sup> The big operators largely operate in the urban areas and the small operators operate largely in the rural areas. This is discussed in detail in **Chapters 7 and 8.**

- 14.14. **Table 35** provides a summary of the BEE ratings for other operators.

### **Table 35: Transformation at the commuter bus level<sup>995</sup>**

<sup>991</sup> Accessed on <https://www.uber.com/en-ZA/drive/resources/vehicle-requirements> at 18/10/2018.

<sup>992</sup> Accessed on <http://www.energy.gov.za/files/PPA-Campaigns/gauteng/Nov2017/Petroleum-and-Liquid-Fuels-Transformation-DoE.pdf>

<sup>993</sup> GABS – submission by Bowmans (GABS lawyers) 2 November 2017, pg. 2.

<sup>994</sup> Accessed on <https://www.interstate.co.za/about-ibl/> on 17 February 2020.

<sup>995</sup> Note: to the exclusion of Putco, percentages are based on BEE Certificates and industry websites, confirmation from the relevant bus operators is pending.

Entity	Putco <sup>996</sup>	HCI/GABS <sup>997</sup>	Buscor <sup>998</sup>	Itumele- Imperial Logistics <sup>999</sup>	Amarosa / Thari bus services
<b>BEE rating</b>	Level 3	Level 2	Level 2	Level 2	Level 3
<b>Black ownership</b>	43%	81%	99.43%	49.45%	100%
<b>Black female ownership</b>	19%	44%	46.53%	17.45%	0%

Source: Company submissions and BEE Certificates for 2018-2019 and 2020.

14.15. *Small bus operators:* These are mostly black owned companies.<sup>1000</sup> SABOA submitted that the small operators in the commuter bus industry are largely black owned with only an estimated 5 per cent being white owned.<sup>1001</sup> While small bus operators are transformed, they remain in the periphery of the commuter bus sector due to limited opportunities.

#### *Interprovincial buses*

14.16. The interprovincial bus market has a number of bus operators across provinces. Small bus operators owned by HDIs play a role within a limited geographical scope. For purposes of assessing the state of transformation, the Commission focused on the biggest operators based on availability of information. APM is one of the 100 per cent black owned interprovincial bus operators in South Africa.<sup>1002</sup> Eldo Coaches is a level 1 BEE enterprise that is 100 per cent black owned.<sup>1003</sup> Autopax is a wholly owned subsidiary of PRASA which is government owned. The other big interprovincial bus operators include Intercap with a level 7 BEE rating and Unitrans (Greyhound and Citiliner) with a level 7 BEE rating. Both Unitrans and Intercap have black ownership of 0 per cent and 12 per cent respectively.

#### *Taxi operators*

<sup>996</sup> Putco – written submission by Putco 11 October 2017, pg. 3.

<sup>997</sup> Accessed at <https://www.hplr.co.za/wp-content/uploads/2018/11/HPLR-2018-B-BBEE-CERTIFICATE.pdf> on 14 June 2019.

<sup>998</sup> Accessed at <http://www.buscor.co.za/index.php/bbbee-status> on 14 June 2019.

<sup>999</sup> Accessed at [https://www.woweb.co.za/?m=Companies&p=comp\\_profile&id=26804&tab=11](https://www.woweb.co.za/?m=Companies&p=comp_profile&id=26804&tab=11) and <https://www.imperiallogistics.com/pdf/bee-certificate/bee-certificate-2019-sa-new.pdf> on 30 January 2020.

<sup>1000</sup> Putco- submission by Putco 11 October 2017, pg.56.

<sup>1001</sup> SABOA- submission by Bowmans (SABOA's lawyers) 22 September 2017, pg.38.

<sup>1002</sup> APM- submission by APM, 9 November 2017, pg.3 and 5.

<sup>1003</sup> Eldos Coaches- submission by Mr. Moolia, Cape Town Public Hearings, 19 June 2018, pg. 8.

- 14.17. The racial demographic of taxi owners and drivers of minibus taxis, metered taxis and app-based taxis are mostly black African. The taxi industry is the only black owned industry in the whole of South Africa.<sup>1004</sup> The participation of women in the taxi industry is low with the majority of the operators and drivers being black African men.
- 14.18. Overall, there are limited levels of black ownership and black female ownership across the value chain. However, at an operational level, the taxi industry is transformed, and the main players in the bus industry are relatively transformed but still depend on untransformed players in the value chain to source critical inputs.

### **Impediments to transformation**

#### *Bus sector*

- 14.19. Several factors have been identified by various stakeholders within the industry as bottlenecks that hinder transformation in the bus sector. These problematic features within the bus sector include the long-standing contracts between government and the more established bus operators, the difficulty experienced particularly by small bus operators in gaining access to finance for entry and expansion and the disparities on the allocation of subsidies between large and small bus operators.
- 14.20. Furthermore, small bus operators have limited participation in subsidy contracts from government and find it difficult to compete with the large operators.<sup>1005</sup> The bus industry is a very high capital intensive market and lack of funding hampers small operators to grow and become effective competitors.<sup>1006</sup> A major challenge to transformation in the industry remains access to funding.<sup>1007</sup>
- 14.21. Government was cited as not supporting the empowerment of small bus operators owned by HDIs but rather as supporting the incumbent large operators.<sup>1008</sup> An exception to this view can be seen in the Free State where previous owners of minibus taxis and employees bought shares in Maluti Bus Service. The taxi industry

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<sup>1004</sup> Cape town Public Hearing, submission by Mr Esau, 20 June 2018 pg. 62.

<sup>1005</sup> SANSBOC NW- submission from presentation submitted at North West Public hearings Mahikeng 26 July 2018.

<sup>1006</sup> Vaal Maeru- submission by Vaal Maseru, 16 October 2017, pg. 14.

<sup>1007</sup> Big Sky Coaches (Pty) Ltd- submission by Big Sky 11 November 2017, pg.8.

<sup>1008</sup> SANSBOC Western Cape- submission by Mr. Johan Swarts 24 May 2018, pg. 3-4.

holds 60% shares in the Maluti Bus Service.<sup>1009</sup> This collaborative work is a good example of how government can assist in effecting transformation. Although sub-contracting was suggested as a way of achieving transformation, as discussed in **Chapter 7**, the Commission is of the view that negotiated contracts between government and small bus operators is the most suitable way of empowering small operators so as to achieve transformation.<sup>1010</sup>

#### *Minibus taxis – impediments to transformation*

- 14.22. Taxi operators submitted that lack of subsidisation impacts their potential to participate in the upstream levels of the value chain. Operators submit that subsidies will assist the industry to explore ways of participating in the value chain, for instance, in the supply of critical inputs such as tyres and fuel given a guaranteed revenue from subsidies.
- 14.23. The lack of formalisation has been cited as an impediment to support the industry to transform. The context is usually with respect to subsidies and participation in integrated public transport networks. The City of Cape Town saw the formalisation of the taxi industry as a way of effecting transformation.<sup>1011</sup>
- 14.24. The motivation by most of the cities in implementing BRT or IRPTNs has been to transform the taxi industry and create formal business. The creation of cooperatives or vehicle operating companies/bus operating companies (VOCs/BOCs) was mooted as one such avenue.<sup>1012</sup> However, the implementation of the BRT/IRPTN, despite the objective of transforming the taxi industry, resulted in unintended consequences which reversed the transformation objectives. The manner in which most BRTs/IRPTNs were initially implemented resulted in the total replacement of minibus taxis with buses where previous taxi operators are now shareholders.<sup>1013</sup> Taxi operators believed that the BRT or IRPTN would be owned by the taxi industry. However, in Cape Town, incumbent bus companies (which are not transformed) still form part of the IRPTN system. Taxi operators are required to forfeit their permits

<sup>1009</sup> Accessed on <https://www.polity.org.za/print-version/sa-statement-by-the-free-state-police-roads-and-transport-on-launch-of-maluti-bus-services-23102012-2012-10-23> on 17 February 2020.

<sup>1010</sup> Great North Transport - submission by Mr. Monkoe, Limpopo (Polokwane) hearings, 21 August 2018, pg.23.

<sup>1011</sup> City of Cape Town, Cape Town Public Hearings 21 June 2018 pg. 44.

<sup>1012</sup> Kidrogen submission by Mr. Peter, Cape Town Public Hearings 19 June 2018 pg. 131. Rustenburg Local Municipality submission from Mr. Moleele, North West Public hearings 26 July 2018, pg. 59. City of Mbombela, Mpumalanga Public Hearings 10 July 2018, pg.126

<sup>1013</sup> SANTACO western Cape submission by Mr. Billard, Cape Town public hearings 19 June 2018, pg.103.



with no chance of getting back in the industry legally.<sup>1014</sup> The perception of incumbent operators being part of every VOC has been cited as a major problem, especially in Cape Town with GABS as an incumbent operator.<sup>1015</sup>

- 14.25. Forfeiting operating licences in exchange of participation in VOCs was cited as perpetuating the imbalances between the buses and minibus taxis. There are concerns regarding the management of the VOCs and the empowerment of the former taxi owners in these newly formed VOCs. Shareholders submitted that they do not have operational control of the VOCs as some municipalities are involved in decision making on strategic issues such as fare determination and ticketing system.<sup>1016</sup> Kidrogen, a VOC in Cape Town indicated that its members do not know what is happening in the business because of lack of relevant skills and training. They are not empowered to understand the business operations which then leads to the involvement of the old big companies.<sup>1017</sup>
- 14.26. The implementation of the BRT/IRPTN involves many activities including building the infrastructure and ancillary services such as cleaning, security services among others (value chain opportunities). Submissions received during the public hearings indicate that the rolling out of the infrastructure is not being directed to the taxi industry. The taxi industry is only involved in cleaning and security services.<sup>1018</sup> The unintended consequence of the BRT/IRPTN is that taxi operators had their income reduced from earning approximately R40 000 a month to R5 500 and taxi operators have gone from being taxi owners to washing buses.<sup>1019</sup>
- 14.27. The implementation of the BRT/IRPTN system has been a positive one for the drivers because they are entitled to medical aid, provident fund and earn a steady salary every month. The working conditions for the drivers in the BRT/IRPTN system

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<sup>1014</sup> Kidrogen submission by Mr. Peter, Cape Town public hearings 2018, pg. 131-133.

<sup>1015</sup> Provincial Task Team submission from Mr. Dyson, Cape Town public hearings 19 June 2018, pg. 171-175.

<sup>1016</sup> Kidrogen submission by Mr. Peter Cape Town public hearings 19 June 2018, pg. 131-133. Mr. Esau, Cape Town Public Hearings, 20 June 2018, 64-67. Poitrans submission by Mr. Mtambo, Competition Commission offices 10 October 2018, pg.149., City of Johannesburg submission by Ms. Seftel Competition Commission offices 3 October 2018, pg.30.

<sup>1017</sup> Kidrogen submission by Mr. Peter Cape Town public hearings 19 June 2018, pg. 131-133.

<sup>1018</sup>, Provincial Task Team submission by Mr. Sotho Cape Town public hearings 19 June 2018, pg. 186. This was also highlighted by UNcebo Taxi Association that says that "only white people are benefitting from the building of infrastructure and that the BRT should have meant that taxi operators could benefit on the value chain but all those things are now under the white minority." Mr. Zungu Cape Town public hearings 20 June 2018, pg.215.

<sup>1019</sup> Oral submission by Mr Easu, Western Cape hearings, dated 20 June 2018, page 64.

are far better than when they were taxi drivers. BRT/IRPTN system has empowered the taxi drivers in the taxi industry.<sup>1020</sup>

- 14.28. An additional impediment cited is lack of finance or lack of access of finance from traditional banks that has forced operators to seek financial assistance from other financial institutions at exorbitant interest rates. As a consequence, taxi operators are then blacklisted because they are unable to repay this debt and the taxis are then repossessed.<sup>1021</sup>

### ***Rail sector***

- 14.29. The major rail players in the rail industry include the Passenger Rail Agency of South Africa (PRASA) and Gautrain. PRASA is a state-owned entity under the National Department of Transport which is the sole shareholder in the rail sector<sup>1022</sup>. Gautrain is a concession between Gautrain Management Agency (GMA) (on behalf of Gauteng Provincial Government) and Bombela Concession Company (Pty) Ltd. The Gautrain Management Agency is a state entity. Bombela Concession Company in 2017 had a BEE rating of 51.04 per cent on management and control, 38.86 per cent of black ownership and 14.74 per cent on black female ownership.<sup>1023</sup>
- 14.30. The GMA submitted that some of the critical inputs for rail transportation include track and wayside infrastructure, the signalling equipment, rolling stock, automatic fare collection system and power and distribution related infrastructure.<sup>1024</sup> The manufacturers of railway locomotives and rolling stock are global players such as Alstom, Siemens and Bombardier and the local manufacturers include Transnet Engineering and Wietra Holdings.<sup>1025</sup>

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<sup>1020</sup> City of Johannesburg submission by Ms. Seftel, Competition Commission offices 3 October 2018, pg.10.

<sup>1021</sup> Port Elizabeth and District Taxi Association East London submission by Mr. Qoko public hearings 27 August 2018, pg. 110, Uber and Taxify drivers' submission by Mr. Mogale North West public hearings 25 July 2018, pg. 148-149. NTA submission by Mr. Mogashoa Polokwane public hearings 21 August 2018, pg. 130.

<sup>1022</sup> Metro Rail EC submitted that Eastern Cape is the only Metro Rail that uses Transnet infrastructure and that in the other areas the rail lines belong to PRASA, Ms. Joni PRASA, Eastern Cape Public Hearings, pg.14.

<sup>1023</sup> Whoownswhom. [https://www.woweb.co.za/?m=Companies&p=comp\\_profile&id=193057&tab=11](https://www.woweb.co.za/?m=Companies&p=comp_profile&id=193057&tab=11) . Accessed on 28 October 2018.

<sup>1024</sup> Gautrain Management Agency and Bombela Concession Company (RF) (PTY) Ltd, written submission 25 May 2018.

<sup>1025</sup> Whoownswhom. [https://www.woweb.co.za/?m=Companies&p=comp\\_profile&id=193057&tab=11](https://www.woweb.co.za/?m=Companies&p=comp_profile&id=193057&tab=11) . Accessed on 28 October 2018.

- 14.31. One of the bottlenecks identified for transformation was the high costs of assets and the lack of skills within the industry which makes it difficult for active participation by historically disadvantaged individuals. The critical inputs necessary to operate these facilities are imported from large international entities. In summary, the rail infrastructure is state owned and there is little transformation and limited local manufacturing of critical inputs in the rail industry. Efforts are ongoing to localise some of the manufacturing.

## **Findings**

- 14.32. The Commission's findings in relation to transformation are:

- 14.32.1. There is no or limited transformation within the public transport industry across the value chain except for minibus taxi operators who are majority black. Upstream levels of the value chain such as financing and manufacturing are not transformed.
- 14.32.2. There are long standing bus subsidy contracts between government and large commuter bus operators which limit the ability of historically disadvantaged persons and small bus operators to participate competitively within the commuter bus industry. This hampers transformation.
- 14.32.3. The way some of the BRT/IRPTN was implemented had unintended consequences on transformation of the taxi industry especially in respect of not being empowered to run the VOCs. In addition, the requirement that taxi owners forfeit their taxi operating licences when opting to be part of the VOCs without a guarantee in the continuation of their contracts creates an uncertainty that impedes the empowerment of these former taxi owners.
- 14.32.4. Frivolous objections to licence applications by established bus operators is an impediment to transformation in the bus sector as it disadvantages small bus operators owned by HDIs.
- 14.32.5. Government owns the bulk of rail infrastructure and most of the critical equipment is imported with limited domestically produced components. The promotion of local suppliers and particularly HDI businesses at this level is minimal.

## **Recommendations**

- 14.33. To address long-term bus contracts by large bus operators, the subsidy policy should prescribe the conclusion of negotiated contracts with small bus operators to fast track transformation. The negotiated contracts awarded to small bus operators should account for a minimum of 30 per cent of all contracts and progressively increase over time.
- 14.34. Where contracts are put out on tender, government should consider breaking some of the contracts into smaller contracts in order to create opportunities for new entrants and smaller bus operators. Small and local bus operators should be given preference.
- 14.35. The DOT should develop a guideline for all contracting authorities for the implementation of IRPTNs where an IRPTN is still feasible. The guideline should ensure that the minibus taxi industry is incorporated into the IRPTN to achieve some level of empowerment in the minibus taxi sector.

## 15. CONCLUSION AND RECOMMENDATIONS

- 15.1. The recommendations resulting from the Market Inquiry contained in this report seek to introduce or encourage changes in the transport sector. The recommendations have been summarised from the various sections of the report. The relevant sections should be referred to directly for more detail.
- 15.2. **Table 36** provides a comprehensive summary of all the Commission's findings and applicable recommendations. This table outlines the relevant regulatory bodies and market participants deemed responsible for implementing the recommendations.

**Table 36: Implementation plan for Public Transport Market Inquiry recommendations**

Chapter	Commission's findings	Commission's recommendations	Who will implement
<b>4. Public transport as an integrated system</b>	<p>There is lack of public transport in South Africa due to the involvement of different spheres of government.</p> <p>The fragmentation in the roles of each sphere of government in public transport and ineffective intergovernmental relations have resulted in uncoordinated operations creating inefficiencies.</p> <p>Public transport is not prioritised by local government given competing mandate of providing other basic services.</p> <p>Lack of human capital and skills by municipalities and some provinces is a major inhibiting factor in transport planning.</p> <p>Spatial planning and land use management at local government not taking due consideration for public transport provision results in lack of integration between transport planning and land development.</p> <p>Functional separation of human</p>	<p>Provincial Transport Authorities to be established in each province to improve coordination.</p> <p>DOT to promote integrated public transport ticketing system comprising a single system with inter-operability across modes in line with its 2017 White Paper. The ticketing system should facilitate participation by all banks and cardholders.</p> <p>DOT to develop a devolution strategy within 12 months to guide devolution process to promote integration.</p>	DOT, Provinces, local government

Chapter	Commission's findings	Commission's recommendations	Who will implement
	<p>settlement and transport departments exacerbates this misalignment.</p> <p>DOT has not developed a devolution strategy which sets out the criteria to guide the devolution of public transport functions to lower levels of government. The reliance on Ministerial approval without a devolution strategy is not ideal.</p>		
<b>5. Subsidies in the public transport</b>	<p>Government does not currently have a subsidy policy for public transport. The Commission is aware that DOT has recently awarded a tender for a development of a subsidy policy.</p> <p>Fragmented public transport subsidy regime with minimum coordination and integration due to different subsidies allocated to all spheres of government.</p> <p>Minibus taxis are not subsidised even though they transport the largest portion of passengers.</p>	<p>Finalisation of the subsidy policy that:</p> <ul style="list-style-type: none"> <li>• Provincial Transport Authorities to be established and be the recipient of all transport-related subsidies to improve coordination and minimise subsidy fragmentation.</li> <li>• create incentives for infrastructure investment in marginalised areas</li> <li>• Incentivise expansion of rail in high density corridors.</li> <li>• ensure subsidisation of the minibus taxi industry through increased funding for the TRP to address the misalignment between ridership volumes.</li> </ul> <p>Provincial Transport Authorities to be well capacitated to undertake additional functions, and to determine the appropriate mode of transport based on</p>	DOT

Chapter	Commission's findings	Commission's recommendations	Who will implement
		the subsidy received from national government.	
<b>6. The rail sector</b>	<p>Gautrain and Metrorail services in Gauteng are not integrated, leading to duplication on some routes.</p> <p>Provision of services for Gautrain and Metrorail services in Gauteng under two separate entities is not an efficient utilisation of limited government funding.</p>	<p>To facilitate proper coordination, the Commission recommends:</p> <ul style="list-style-type: none"> <li>• Devolution of Metrorail operations (in Gauteng) from national government to Gauteng province in Gauteng. Gauteng province will run both Gautrain and Metrorail Gauteng.</li> <li>• Metrorail services in the Western Cape Province to be devolved from national government to Western Cape Provincial Government.</li> </ul> <p>Gauteng and Western Cape seem to be better prepared to run rail services at this stage.</p> <p>The DOT to develop a rail devolution strategy within 12 months of publication of this report and set out the criteria that KwaZulu-Natal and Eastern Cape provinces must meet for devolution to take place.</p>	DOT, provincial transport departments



Chapter	Commission's findings	Commission's recommendations	Who will implement
	National Government is not an appropriate sphere to operate Metrorail commuter services within the metros. This function should be devolved to lower levels of government	The DOT and PRASA to be responsible for long distance passenger rail services through its Shosholoza Meyl brand and Metrorail commuter services will be devolved to the respective provinces.	DOT
	Metrorail is inefficient in the provision of urban rail commuter services given constraints to the quality of its services.	Infrastructure backlogs to be curbed by exploration of alternative funding sources and fostering private sector participation.	DOT in collaboration with the National Treasury.
	High density corridors should be prioritised for rail services	Incorporation of the new rail expansion in the grant network to target high density corridors in addition to the refurbishment of existing infrastructure.	DOT and National Treasury
<b>7. Subsidised bus contracts in urban areas</b>	<p>Extension of subsidy contracts in perpetuity creates <i>de facto</i> monopolies that prevents competition and serves as artificial barrier to entry for small bus operators.</p> <p>Lack of competition leads to poor quality of services by some operators to the detriment of commuters.</p>	<p>In order to achieve efficiency while promoting competition, Government should gradually increase competition in the market through the following approach:</p> <ul style="list-style-type: none"> <li>• Subsidy bus contracts to be put out to tender where new routes are identified; with preference given to small local bus operators.</li> <li>• The subsidy policy should encourage negotiated contracts to empower small bus operators. At least 30 per cent of contracts to be awarded to small bus operators and be increased progressively over time.</li> </ul>	

Chapter	Commission's findings	Commission's recommendations	Who will implement
		<ul style="list-style-type: none"> <li>• Tendered contracts to be broken into smaller contracts to create opportunities for small and local bus operators. These operators to be given preference in the awarding process.</li> </ul>	
	Lack of adequate funding made it difficult for the DOT and provincial governments to introduce competitive bidding for subsidised bus services. Limited funding has resulted in provincial governments offering low subsidy rates to bus operators and are unable to accommodate new and expanded routes.	To ensure quality service at less cost, government to identify key corridors and increase rates payable to operators on condition that operators servicing those routes offer quality service.	Contracting authorities in consultation with planning authorities and commuter bus operators and commuter forums.
	Subsidised commuter bus routes, schedules and timetables are outdated and do not respond to the needs of commuters. This compromises the quality of services provided to commuters.	Development of a subsidy policy and review of the current policy framework that recognise the need to create adequate opportunities for small bus operators, including the opportunity to provide services in urban areas.	Provincial departments or DOT.
<b>8. Rural transportation and rural bus contracting</b>	<p>Limited coordination between government departments</p> <p>Subsidy coverage is skewed in favour of urban areas as opposed to rural areas.</p> <p>Level of subsidies granted to operators in rural areas does not</p>	<p>The Department of Transport to foster coordination with sector departments to harmonise interventions for the rural areas.</p> <p>The subsidy policy being developed by the Department of Transport should consider the operating conditions in rural areas and compensate accordingly.</p>	DOT

Chapter	Commission's findings	Commission's recommendations	Who will implement
	<p>account for harsh operating conditions in those areas, which increase operating costs.</p> <p>Poor road infrastructure serves as a major barrier to the provision of public transport in rural areas. rural communities appear to be neglected given limited transport coverage by both buses and minibus taxis.</p>	<p>The Department of Transport and National Treasury to explore the creation of a dedicated funding for rural public transport.</p> <p>Provinces should create avenues for small bus operators to participate in subsidised bus services.</p>	
<b>9. Bus Rapid Transit System in South Africa</b>	<p>IRPTN system is inefficient, lacks high density routes and has low passenger volumes which makes it over-reliant on subsidies.</p> <p>Coexistence of municipal bus services and BRT/IRPTN in certain cities has led to inefficiencies in the form of duplicated infrastructure.</p>	The Provincial Transport Authority once established and capacitated, with guidance from the DOT and the National Treasury to do a complete review of the BRT/IRPTN model considering (i) long term fiscal and financial sustainability, (ii) suitability of the model in smaller cities, and (iii) inclusion of the minibus taxi industry.	DOT, Provinces, National Treasury
	<p>DOT has not fully complied with the conditions entailed in the Division of Revenue Act which stipulates that municipalities should demonstrate sufficient capacity to implement IRPTNs before funding is transferred. Some municipalities did not satisfy all conditions DORA conditions.</p>	The DOT to enhance its compliance with the DORA before transferring funds to the cities for BRT/IRPTN.	DOT

Chapter	Commission's findings	Commission's recommendations	Who will implement
	<p>The IRPTN implementation has not resulted in empowerment and transformation of the minibus taxi industry.</p> <p>Expiry of BOC/VOC contracts are likely to cause job losses when taxi operators cannot successfully tender for new contracts.</p>	<p>A complete review of BRT/IRPTN model to include participation of the minibus taxi industry.</p> <p>A review or study of 12-year BOC/VOC model to be conducted to evaluate if these models promote transformation and empowerment.</p>	DOT
<b>10. Minibus taxi industry</b>	<p>Planning authorities lack capacity to implement integrated transport plans resulting PREs not getting directives timeously leading to backlogs and illegal operations.</p> <p>Planning and licencing authorities are reactive and wait for routes to be developed by the taxi industry, leading to conflict between taxi associations.</p> <p>PREs are reliant on outdated and inefficient National Land Transport Information System.</p>	<p>Operating licence regime to be overhauled and quantity restrictions on all permits to be removed. All pending applications to be finalised expeditiously given that there is already significant number of illegal operators.</p> <p>Capacity to be increased at both PRE and planning authorities to address backlogs and pro-actively plan for transport needs arising from new developments</p> <p>DOT to upgrade National Land Transport Information Systems to improve efficiencies.</p>	PREs, DOT
	<p>Minibus taxis are unsubsidised even though they transport the largest portion of the market, which is not justifiable in social terms.</p>	<p>The minibus taxi industry to be subsidised through increased Taxi Recapitalisation Programme to address misalignment between ridership volume and subsidy allocation.</p>	DOT

Chapter	Commission's findings	Commission's recommendations	Who will implement
	The responsibility of exercising effective control of ranking facilities rests on municipalities and to a certain extent on minibus taxi associations.	The management of ranking facilities to be sole responsibility of municipalities in order to eliminate conflict of interest and perverse incentives.	
	The interest rates charged for the provision of credit to finance minibus taxis may be excessive.	The Commission is currently conducting investigation separate from the Market Inquiry	
<b>11. Interprovincial bus operations</b>	<p>Autopax as active market participant gets preferential treatment from PRASA in a manner that distort competition as follows:</p> <ul style="list-style-type: none"> <li>• PRASA allocated exclusive loading area and ticketing office to Autopax at Park Station when none of the other operators enjoying such privilege</li> <li>• Autopax is consistently allowed to use PRASA's bus terminal facilities without making payments</li> <li>• Autopax has been receiving financial support from PRASA to continue its operation</li> </ul>	Autopax to be separated from PRASA Group to become a separate entity or be privatised to ensure access of other bus services to terminal facilities.	DOT
	Frivolous and vexatious objections by established other bus operators delays entry and/or expansion of small bus operators. Although there is some entry in the provision of interprovincial bus services, growth is hampered by limited access to intermodal facilities.	Overhaul of operating licence regime by removing all quantity restrictions on the number of operators per route, and expeditious processing of all pending applications.	PREs

Chapter	Commission's findings	Commission's recommendations	Who will implement
<b>12. Competition dynamics in the public transport sector</b>	Use of objections by incumbents to discourage entry of in interprovincial bus services.	Overhaul of operating licence regime by removing all quantity restrictions on the number of operators per route	PREs
	The bus service contracts are perpetually extended, and they have entrenched incumbent bus operators as sole contractors resulting in competitors being unable to compete for such tenders.	Subsidy bus contracts to be put out to tender with preference given to small local bus operators; The subsidy policy should encourage negotiated contracts to empower small bus operators. Tendered contracts to be broken into smaller contracts to create opportunities for small and local bus operators.	DOT, PREs
<b>13. Public transport safety</b>	There is a fragmented approach to enforcement in public transport which includes SAPS, Metro police, Rapid Rail Unit, provincial traffic police, municipal traffic officials, officers deployed by PRASA and Gautrain and other private security companies. This fragmentation limits the effectiveness of enforcement in the public transport industry.	Establishment of a specialised division within SAPS to deal with all public transport related matters.	SAPS
	Enforcement agencies are not adequately resourced with personnel and financial resources to effectively deal with transport related infringements.		

Chapter	Commission's findings	Commission's recommendations	Who will implement
<b>14. Transformation in the public transport industry</b>	Various levels of the value chain within the public transport industry have limited or no transformation with exception of minibus taxis who are majority black owned.	To promote transformation the following measures are recommended: <ul style="list-style-type: none"> <li>• Negotiated contracts with small bus operators to fast track transformation.</li> <li>• Some tendered contracts to be broken down into smaller contracts to create opportunities for smaller bus operators.</li> </ul>	DOT, Provinces
	The BRT/IRPTN implementation has unintendedly impeded transformation in the taxi industry who are not empowered to run the VOCs. The requirement for taxi owners to forfeit their taxi operating licence when opting into the VOCs without guarantee of continuation of their contracts creates uncertainty that impedes empowerment.	Guidelines for all contracting authorities for the implementation of IRPTNs to be developed where implementation is feasible. The guideline to incorporate the minibus taxi industry into the IRPTNs to achieve empowerment in the minibus taxi industry	DOT

## 16. ANNEXURES

### ANNEXURE A: RESPONSES TO CALL FOR SUBMISSIONS

<b>Taxi industry</b>	<b>Bus industry</b>	<b>Rail industry</b>	<b>Government and others</b>
<ol style="list-style-type: none"><li>1. Uber</li><li>2. SANTACO</li><li>3. Atlantis Transport Task Team</li><li>4. National Taxi Alliance</li><li>5. South African Metered Taxi Association</li><li>6. Basil Nagel – Taxinomics</li><li>7. Cornelius Esau</li><li>8. SA Taxi Finance</li></ol>	<ol style="list-style-type: none"><li>1. Africa Best 350</li><li>2. Southern African Bus Operators Association - SABOA</li><li>3. Unitrans</li><li>4. Intercape</li></ol>	<ol style="list-style-type: none"><li>1. Gautrain Management Agency and Bombela Concession Company</li></ol>	<ol style="list-style-type: none"><li>1. Department of Transport</li><li>2. City of Cape Town</li><li>3. City of Johannesburg</li><li>4. Stuart Denoon-Stevens</li><li>5. Lucretia Pretorius</li><li>6. Koboro Elcort Matlala</li><li>7. Shelley Childs</li><li>8. Malekutu Jonathan Lebea</li><li>9. DG Murray Trust</li></ol>



## ANNEXURE B: RESPONSES TO INFORMATION REQUESTS

Taxi Industry	Bus Industry	Rail Industry	Government & others
<ul style="list-style-type: none"> <li>1. South African Metered Taxi Association</li> <li>2. Taxify</li> <li>3. SA Taxi Finance</li> <li>4. Malelani Taxi Association</li> </ul>	<ul style="list-style-type: none"> <li>5. Africa Best 350</li> <li>6. Autopax</li> <li>7. Eldo Coaches</li> <li>8. Golden Arrow Bus Services</li> <li>9. Mayibuye Transport Corporation</li> <li>10. Newlands Bus Operators Association</li> <li>11. North West Transport Investment</li> <li>12. PUTCO</li> <li>13. South African Bus Operators Association</li> <li>14. Vaal Maseru Bus Services</li> </ul>	<ul style="list-style-type: none"> <li>15. PRASA Rail</li> </ul>	<ul style="list-style-type: none"> <li>16. City of Cape Town</li> <li>17. City of Tshwane</li> <li>18. City of Ekurhuleni</li> <li>19. George Municipality</li> <li>20. Mangaung Metro Municipality</li> <li>21. Msunduzi Municipality</li> <li>22. Buffalo City Metro Municipality</li> </ul>

## ANNEXURE C: ORAL SUBMISSSIONS

Province	Taxi industry	Bus industry	Rail industry	Government and others
<b>Eastern Cape</b>	1. SANTACO - Eastern Cape 2. Uncedo Service Taxi Association 3. GRATA 4. Ntuza Cabs 5. Border Alliance	6. Algoa Bus Company 7. Africa Best 350 8. SANSBOC – Eastern Cape 9. Mayibuye Transport Corporation	10. Eastern Cape Metro Rail 11. PRASA Regional Office	12. Buffalo City Metropolitan Municipality 13. Nelson Mandela Bay Metropolitan Municipality 14. Mr Siyabulela Fobosi
<b>Free State</b>	1. SANTACO Free State 2. NTA – Free State 3. Greater Bloemfontein Taxi Association 4. Laphum'ilanga	5. Interstate Bus Lines 6. Maluti Bus Service 7. Mr Kgolokwane 8. SANSBOC – Free State	NO RAIL FACILITIES	9. Free State Department of Police, Roads and Transport 10. Mangaung Metropolitan Municipality 11. Mr Stuart Denoon-Stevens 12. Mr Leva Ben Mabaso 13. SANCO
<b>Gauteng</b>	1. SANTACO – National 2. SANTACO - Gauteng 3. Tshwane Metered Taxi Association 4. Uber 5. Gauteng Metered Taxi Alliance 6. Aeropark Meter Taxi Association	13. Autopax 14. Intercape 15. Moolla's Transport Services 16. PUTCO 17. SABOA 18. North West Transport Investment 19. APM 20. Unitrans 21. Tshwane Rapid Transit	22. Gautrain Management Agency 23. PRASA Rail 24. PRASA CRES	25. Gauteng Provincial Transport Department 26. DOT 27. City of Johannesburg 28. City of Ekurhuleni 29. City of Tshwane 30. Department of Human Settlements 31. Department of Rural Development

Province	Taxi industry	Bus industry	Rail industry	Government and others
	7. Mr Paul Browning – industry expert 8. Gauteng Educational Transport Services 9. Gcina Cabs 10. Tshwane Women In Transport 11. NACTU 12. Taxify			32. The National Treasury 33. National Transport Commuter Organisation of South Africa – NATCOSA 34. Greater Soweto Commuters Forum
<b>KwaZulu-Natal</b>	1. SANTACO KZN - Durban Central Region 2. SANTACO - KZN 3. NTA - KZN 4. SAMTA 5. Mr Peter Lehman	6. African People Mover 7. Mr Dipchund – Freeline Omnibus (Bus operators association) 8. Metro Group of Companies 9. Bus Operators Association - Newlands 10. KZN Bus Council 11. Nozulu Enterprise and Events 12. Transnat Durban Transport	13. Metrorail KZN	14. Department of Transport KwaZulu-Natal 15. Msunduzi Municipality 16. Ethekewini Transport Authority 17. Abagibeli Bezithuthi Zomphakathi (ABZ) Rights Organisation 18. SANCO KZN
<b>Limpopo</b>	1. SANTACO Limpopo 2. NTA Limpopo	3. Bahwaduba Bus Service 4. Great North Transport 5. SANSBOC - Limpopo 6. Lowveld Bus Services 7. BUSCOR	NO RAIL FACILITIES	8. Limpopo Department of Transport 9. Polokwane Municipality 10. Mr Ofentse Hlulani Mokwena 11. SANCO - Limpopo

Province	Taxi industry	Bus industry	Rail industry	Government and others
<b>Mpumalanga</b>	1. SANTACO - Mpumalanga 2. SANTACO - Tshwane Region 3. NTA - Mpumalanga	4. Thembaletu Bus Services 5. BUSCOR 6. SANSBOC - MP	NO RAIL FACILITIES	7. Mpumalanga Department of Public Works, Roads and Transport 8. City of Mbombela 9. Mpumalanga Commuter Organisation 10. Greater North Commuters Association 11. SANCO MP
<b>North West</b>	1. North West Taxi Alliance 2. The Movement – Advocacy Group for Uber and Taxify Drivers 3. Private Public Transport Organisation – E-hailing operators	4. SANSBOC – North West 5. Tshwane Rapid Transit	NO RAIL FACILITIES	6. Department of Community Safety and Transport Management 7. Rustenburg Local Municipality
<b>Northern Cape</b>	1. SANTACO – Northern Cape 2. SANTACO – Namaqua Regional Association 3. SANTACO Local Transport Association	4. SANSBOC - Northern Cape	NO RAIL FACILITIES	5. Department of Transport, Safety and Liaison 6. South African Network of Women in Transport

Province	Taxi industry	Bus industry	Rail industry	Government and others
<b>Western Cape</b>	1. SANTACO Western Cape 2. Provincial Task Team 3. Mr Cornelius Esau 4. George Taxi Association 5. UNCEDO Service Taxi Association 6. Mr David Drummond 7. Mr Riaz Mongratie 8. Mr Basil Nagel - Taxinomics	9. Eldo Coaches 10. N2 Express 11. Kidrogen 12. SANSBOC - Western Cape 13. Golden Arrow Bus Services	14. PRASA Western Cape	15. Western Cape Department of Transport 16. City of Cape Town 17. DG Murray Trust 18. Mr Phillip Van Ryneveld 19. Mr Manny De Freitas - MP 20. Cape Culture Heritage 21. United Commuter Voice 22. South African Network of Women in Transport 23. SANCO Western Cape

**ANNEXURE D**

Integrated Rapid Public Transport Networks (IRPTNs) and the development of integrated transport plans (ITPs).

District	Municipality	Status
<b>CAPRICORN</b>	Capricorn District	ITP developed in 2004, reviewed in 2007 and 2013 in terms of the new ITP guidelines,
	Molemole	ITP developed in 2007/08 in terms of the old guidelines
	Lepelle Nkumpi	No ITP
	Polokwane	ITP developed in 2012/13 in terms of new guidelines. The ITP was reviewed and approved by the MEC in May 2016.
	Blouberg	Developed an ITP in 2012/13
<b>MOPANI</b>	Mopani District	Developed an ITP in 2004, reviewed in 2007 and has commenced in 2014 with a review. Not yet received by the Department for approval.
	Greater Tzaneen	The Department developed an ITP in 2016/17 in conjunction with the municipality.
	Greater Letaba	Commenced in 2014 with the development of an ITP. Not yet received by the Department for approval.
	Greater Giyani	No ITP.
	Maruleng	No ITP.
<b>SEKHUKHUNE</b>	Greater Sekhukhune	Developed an ITP in 2004, reviewed in 2007 on old guidelines.
	Elias Motsoaledi	Developed an ITP in 2008 on old guidelines.
	Ephraim Mogale	No ITP.
	Fetakgomo / Greater Tubatse	The ITP was reviewed in 2015 but is still awaiting approval by the Council. Will be developing an ITP for the integrated municipality in 2018/19.
<b>VHEMBE</b>	Vhembe District	Developed an ITP in 2004, reviewed in 2007 and 2010 respectively.
	Thulamela	Commenced with the development of an ITP in 2014. Not yet submitted for approval.
	Musina	The Department developed an ITP in 2016/17 in conjunction with the municipality.
	Makhado	No ITP.
	Collin Chabane	No ITP – Department will fund the development of an ITP in 2018/19.
	Waterberg District	Developed an ITP in 2004, reviewed in 2007, 2011 and 2014. The 2014 ITP has been submitted to the Department for approval.

District	Municipality	Status
<b>WATERBERG</b>	Mogalakwena	Developed an ITP in 2010 in terms of n guidelines. The Department reviewed the ITP in 2017/2018 in conjunction with the municipality.
	Lephalale	Developed an ITP in 2012 on new guidelines with the assistance of the Department. The DOT will be assisting the municipality to review its ITP during 2018/19.
	Thabazimbi	No ITP.
	Modimolle	No ITP.
	Mookgopong	No ITP.
	Bela-Bela	No ITP.