



FOR ATTENTION:

THE GENERAL SECRETARY, WESTERN CAPE E-HAILING ASSOCIATION

MEMORANDUM TO THE PROVINCIAL MINISTER OF MOBILITY: ADDRESSING GRIEVANCES OF E-HAILING DRIVERS AND THE NEED FOR IMMEDIATE GOVERNMENT INTERVENTION

1. Your memorandum addressed to the Western Cape Minister of Mobility and hand delivered on 17 September 2024 in respect of the above matter has reference.
2. In terms of the South African Constitution, road based public transport is a concurrent function. Hence both National Government through the Department of Transport and the Western Cape Mobility Department have certain powers pertaining to road-based public transport.
3. Your grievances thus have a bearing on both spheres of government and cannot be addressed in isolation. For ease of reference our response will be as outlined under the headings in your memorandum.

A) UNFAIR AND UNILATERAL DEACTIVATION OF DRIVERS:

- The relationship between operator/driver and the app providers (Uber, Bolt, In-Drive etc.) is governed by an agreement between the parties to the exclusion of the Provincial Regulatory Entity which is mandated in terms of the National Land Transport Act to provide an operating licence in terms of Section 50. This agreement is depicted as a partnership between the app providers and the operators/drivers. Hence the app provider does not see the relationship as an employee/employer relationship governed by the Labour Relations Act.
- The department concurs with your plea that a more fair and transparent process needs to be put in place regarding the deactivation of as it has a bearing upon the income of the operator/driver. The plea for government for an intervention will be addressed later in this correspondence.

B) EXCESSIVE COMMISSION CHARGES:

- The President has signed into law the National Economic Transport Act which amongst other would provide for the establishment of a regulatory body to govern tariffs in terms of public transport. Unfortunately, this Act is not yet effective as we await the regulations which provide for an indication as to how this ought to be done. As for now, the department is unable to intervene as to the commission being charged.

C) UNFAIR VEHICLE AGE:

- The Provincial Regulatory Entity in the Western Cape has granted a metered taxi authority in terms of current legislature to all operators whether they operate on a normal metered taxi service or e-hailing service. In terms of the current effective National Land Transport Act and its regulations, there is no limit to the entry requirements in respect of age of a vehicle to conduct a metered taxi type service. Again, this relationship is governed by the agreement entered into between the operator and the app provider as indicated above, to the exclusion of government.

D) FALLING RIDE FARES:

- This aspect will be approached similarly to the explanation given in (C) above.

E) LACK OF ACCOUNTABILITY AND PROTECTION FOR DRIVERS:

- This matter is squarely a Law Enforcement issue. The Western Cape Mobility Department has established a Transport Priority Committee in conjunction with the various structures of the South African Police Services (SAPS) to address the current issues in respect of safety and security for both commuters and operators/drivers.
- We acknowledge the increasing numbers of operators/drivers feeling unsafe within the road based public transport arena and especially e-hailing providers. Hence the department has approached your organisation to participate in initiatives such as;
 - The lobbying of operators/drivers to approach any SAPS office to lodge a criminal complaint,
 - Encourage and distribute the number provided in respect of reporting instances of extortion to be utilized,
 - Establish platforms for engagements with SAPS for leadership of your organization to participate,
 - We have also encouraged SAPS to provide a mechanism whereby victims do not have to provide their personal information and can remain anonymous should they wish to report victimisation and harassment.

F) SOCIAL PROTECTION AND INSURANCE COVERAGE:

- In terms of the current available legislative framework, this aspect is covered by the Road Accident Fund (RAF). For additional coverage, operators are encouraged to take out their own private insurance cover. The department is however willing to assist your organization and facilitate an engagement with the Department of Social Development.

G) LACK OF GOVERNMENT INTERVENTION TO PREVENT PRICE SETTING MECHANISM:

- This aspect is covered by the response provided in (B) above.

H) WE DEMAND THE FOLLOWING ACTIONS FROM GOVERNMENT:

Under this heading, we aim to address all the relevant aspects highlighted by your organization.

- The President has recently signed off the National Land Transport Amendment Act which provides for amongst other the special/designated classification of e-hailing services separating it from a normal metered taxi service. This special recognition is introduced by Section 66 (a) of the new Act. Although this Act has been signed off, it is not yet effective as the regulations giving direction as to how, still needs to be finalized.
- The regulations will provide for the registration of app providers with government. As with any registration, app providers will have to comply with conditions of such registration as well as maintaining compliance to such conditions as determined by government upon registration. It is within the confines within the registration requirements that government aims to play a meaningful role in governing the relationship between the operating licence holder and the app provider.
- In fact, government would be able to monitor compliance by both parties, the app provider - in terms of registration requirements, and the operator - in terms of the operating licence conditions. The compliance to registration obligations on the app providers will allow government to enforce upon such app providers conditions for registration even in so far as their relationship with operators are concerned.
- It is envisaged that once the Act becomes effective and the regulations are published, the department will capacitate operators/drivers in the form of workshops pertaining to their rights and obligations in terms of the National Land Transport Amendment Act. The current National Land Transport Act, Act 5 of 2009, as well as the National Land Transport Amendment Act, do not provide for the Provincial Regulatory Entity to cap the number of operating licences granted to a specific operator. Section 58 in the Act allows the owner to transfer an operating licence to another person.
- Where an operator is found to have lodged applications for the sole purpose of trading such rights with no intention to operate a service as granted in terms of the operating licence conditions, such instances the operator will be subject to a Section 79 enquiry to determine whether the operating licence was granted under false pretence or misleading information.

I) DEMANDS ADDRESSED TO THE APP PROVIDERS:

- The department will schedule a meeting with all current app providers to address your concerns listed in this section. A summary of an outcome of such an engagement will be provided to your organization by the first week of November 2024.
4. The Western Cape Mobility Department wishes to thank you for your unwavering commitment to delivering a safe, reliable public transport to the broader community of the Western Cape and can assure you that the department values you as a partner. Hence, the department will contribute and commit to providing a regulatory framework where all can feel valued within the broader public transport fraternity.

Yours sincerely,

MR ISAAC SILEKU
PROVINCIAL MINISTER OF MOBILITY
DATE: 03 OCTOBER 2024