## General Notices • Algemene Kennisgewings

**ECONOMIC DEVELOPMENT DEPARTMENT**

**NOTICE 332 OF 2017**

**COMPETITION COMMISSION**

**PUBLICATION OF THE PUBLIC PASSENGER TRANSPORT MARKET INQUIRY**

**TERMS OF REFERENCE IN TERMS OF SECTION 43(B) OF THE COMPETITION ACT 89 OF 1998 (AS AMENDED)**

**(Market Inquiry Commencement Date : 7 June 2017)**

Notice is hereby given that the Competition Commission (Commission) will conduct a market inquiry into the Public Passenger Transport sector in terms of Chapter 4A of the Competition Act, 89 of 1998, as amended (the Act). The terms of reference of the market inquiry are set out below.

Members of the public are invited to provide information to the inquiry in accordance with guidelines for participation to be determined by the Commission. These guidelines will be made available on the Commission's website.

Copies of the terms of reference are also available at the Commission's offices at the DTI Campus, Mulayo (Block C), 77 Meintjies Street, Sunnyside, Pretoria, and on the Commission's website at www.compcom.co.za

# PUBLIC PASSENGER TRANSPORT MARKET INQUIRY

## TERMS OF REFERENCE

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## 1. DEFINITIONS

1.1. For the purposes of these Terms of References ("ToR"), the following shall be the definitions applicable:

1.1.1. 'App-based taxi' means a taxi that uses a technology platform that connects independent driver-partners (i.e. transport operators/drivers) to riders (i.e. passengers) through software technology, e.g. Uber and Taxify;

1.1.2. 'Black people' is a generic term which means Africans, Coloureds and Indians –

a) who are citizens of the Republic of South Africa by birth or descent; or
b) who became citizens of the Republic of South Africa by naturalisation – (i) before 27 April 1994; or (ii) on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalisation prior to that date;

1.1.3. 'Broad-Based Black Economic Empowerment' means the economic empowerment of all black people including women, workers, youth, people with disabilities and people living in rural areas through diverse but integrated socio-economic strategies that include, but are not limited to:

a) increasing the number of black people that manage, own and control enterprises and productive assets;
b) facilitating ownership and management of enterprises and productive assets by communities, workers, cooperatives and other collective enterprises;
c) human resources and skills development;
d) achieving equitable representation in all occupational categories and levels in the workforce;
e) preferential procurement; and
f) investment in enterprises that are owned or managed by black people.

1.1.4. ‘Bus’ means a motor vehicle designed or modified to carry more than 35 persons, including the driver. For the purposes of this inquiry, the definition of bus includes long distance buses and commuter buses;

1.1.5. ‘Commuter bus’ means a scheduled bus that is assigned for short travel distance of 100 km and less, mainly utilised by the working population as a mode of transport from their places of residence to their places of employment;

1.1.6. ‘Disruptive technology (innovation)’ means an innovation that creates a new market and value network and eventually disrupts an existing market and value network, displacing established market leading firms, products and/ or alliances;

1.1.7. ‘Intermodal competition’ means competition between two or more modes of transport that offer services to passengers;

1.1.8. ‘Intramodal competition’ means competition within the same mode of transport that offer services to passengers;

1.1.9. ‘Land based public passenger transport industry’ means an industry that comprises both rail and road based modes of public passenger transport services;

1.1.10. ‘Localised taxi’ means a motor vehicle designed or modified solely or principally for transporting not more than 15 seated persons, including the driver, offering unscheduled public transport services operated on a specific localised route or routes, often in townships;

1.1.11. ‘Long distance bus’ means a scheduled or unscheduled bus that is assigned for long distance travel of 200 km and above, that links two or more provinces and/ or regions. The services of a long distance bus may extend to the neighbouring countries of South Africa;

1.1.12. ‘Market inquiry’ means a general research into the state, nature and form of competition in a market, rather than a narrow investigation of a specific conduct by a particular firm;

1.1.13. ‘Metered taxi’ means motor vehicle used to transport not more than 5 seated persons, including the driver; equipped with a sealer, in good working order, for the purpose of determining the fare payable that is calibrated for such fares or complies with any other requirements applicable to such meters;

1.1.14. ‘Minibus taxi’ means a motor vehicle designed or modified solely or principally for transporting more than nine but not more than 23 seated persons, including the driver, offering unscheduled public transport services operated on a specific route or routes, or where applicable, within a particular area;

1.1.15. ‘Rail based public passenger transport services’ refers to services offered by both the Gautrain and Metrorail;

1.1.16. ‘Road based public passenger transport’ means public passenger transport services offered by buses and taxis;

1.1.17. ‘Scheduled services’ means public transport services operated on a particular route or routes in accordance with a timetable;

1.1.18. ‘Taxi’ means a public transport vehicle comprising of minibus taxis, metered taxis, app-based taxis and localised taxis;

1.1.19. ‘Tuk-tuk’ means a three-wheeled motor vehicle designed or modified solely or principally for transporting not more than three seated persons, including the driver; and

1.1.20. ‘Unscheduled service’ means public transport services operated on a particular route and/ or routes or, where applicable, within a particular area, without a timetable.

## 2. INTRODUCTION AND LEGAL BASIS FOR THE MARKET INQUIRY

2.1. In terms of section 43B of the Competition Act, No.89 of 1998, as amended (“the Competition Act”), the Competition Commission (“the Commission”), acting on its own initiative, may conduct a market inquiry (i) if it has reason to believe that any feature or combination of features of a market for any goods or services prevents, distorts or restricts competition within that market or (ii) to achieve the purpose of the Competition Act.

2.2. The Commission will conduct a market inquiry to understand the general state of competition in the land based public passenger transport industry ("The Public Passenger Transport Inquiry"). The Commission will conduct the Public Passenger Transport Inquiry because it has reason to believe that there are features or a combination of features in the industry that may prevent, distort or restrict competition, and / or to achieve the purpose of the Competition Act.[1]

2.3. This ToR is published in terms of section 43B (2) of the Competition Act read together with section 43B(4). In terms of section 43B(2) and section 43(B)(4)of the Competition Act, the Commission must publish a notice in the Government Gazette announcing the establishment of the market inquiry at least 20 business days before the inquiry commences, "*setting out the terms of reference for the market inquiry and inviting members of the public to provide information to the market inquiry*" and "*must include, at minimum, a statement of the scope of the inquiry, and the time within which it is expected to be completed*". In accordance with these provisions, this ToR sets out the scope as well as the expected timeline for the Public Passenger Transport Market Inquiry.

2.4. Although the ToR delimits the scope of the market inquiry as currently envisaged, additional and related matters not identified herein may arise during the conduct of the inquiry. If the Commission believes that the ToR should be amended in any way, either through the addition of new matters or exclusion of matters currently identified herein, the ToR may be amended in terms of section 43B (5) of the Competition Act.

2.5. Upon completing the market inquiry and in accordance with section 43C of the Competition Act, the Commission will publish a report of the inquiry in the

[1] Section 2 of the Competition Act outlines the purpose of the Competition Act as to "promote and maintain competition in the Republic in order to …."

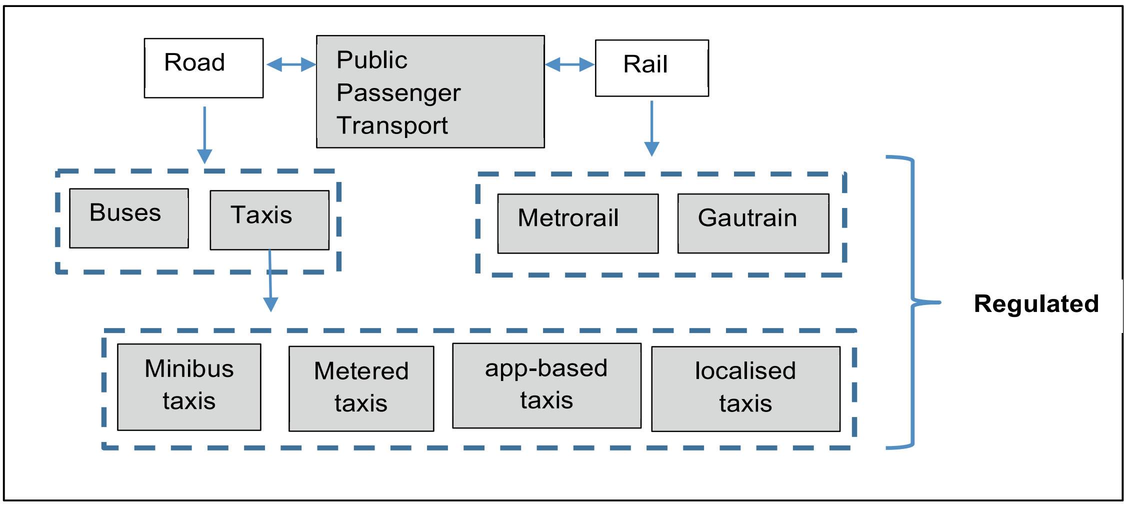
Gazette, and will also submit the report to the Minister of Economic Development.[2]

## 3. BACKGROUND TO THE PUBLIC PASSENGER TRANSPORT INDUSTRY

3.1. The proportion of households that own a vehicle in South Africa is only 29.8%, resulting in the majority of the population being dependent on public passenger transport.[3] Between 70% and 80% of the South African population is dependent on public passenger transport for its mobility.[4] As a result, public transport plays a crucial role in providing meaningful mobility for the majority of the population in order to achieve inclusive economic participation.

3.2. The Commission has identified road and rail based public passenger transport as relevant for this inquiry, in particular, minibus taxis, localised taxis, metered taxis, app-based taxi services, Metrorail, Gautrain and buses ("collectively referred to as land based public passenger transport"). Figure 1 below shows the different types of road and rail based public passenger transport that are subject to this inquiry.

**Figure 1: Modes and types of public passenger transport in South Africa**




*Source: Commission's own research*

[2] Section 21(3) of the Competition Act requires the Minister to table the report at National Assembly.
[3] General South Africa Household Survey, 2015.
[4] Who Owns Whom, African Business Information titled "The minibus taxi and bus services industry", Siccode 71211, December 2016.

3.3. **Buses**

3.3.1. There are four different types of bus services, namely: (a) commuter buses[5], (b) scholar buses[6], (c) long distance buses[7] and (d) tourists buses.[8] The buses subject to this inquiry are the commuter buses and long-distance buses as the Commission understands these to be the type of buses that the majority of the population are reliant upon.

3.3.2. The bus sector is regulated by the National Land Transport Act (NLTA) No. 5 of 2009.[9] The Department of Transport ("DOT") is responsible for the regulation of buses. Operating permits are issued by Provincial Regulatory Entities / Operating Licensing Boards.[10]

3.3.3. Buses that are provincially managed and contracted are mainly funded by the nine provincial governments, by means of a public transport operations grant in accordance with Schedule 4 of the Division of Revenue Act.[11]

3.3.4. The Commission understands that there is a bus association, The Southern African Bus Operators Association (SABOA) which was formed on 21 March 1980.[12]

3.4. **Taxis**

3.4.1. The Commission has identified four types of taxis operational in South Africa, namely minibus taxis, traditional metered taxis, app-based taxis and localised taxis.

*Minibus taxis*

[5] These are buses that transport the working population to the places of employment in the morning and transport back to their homes in the afternoon.
[6] These are buses that transport students to and from the different learning institutions school.
[7] These are purely commercial operations that transport between two relatively longer distance places.
[8] These are purely commercial operations that will transport tourists between the agreed tourists' destinations.
[9] Who Owns Whom, African Business Information titled "The minibus taxi and bus services industry", Siccode 71211, December 2016.
[10] This information was obtained from http://www.saboa.co.za/membership%20benefits.htm on 31 January 2017.
[11] See article by Jackie Walters titled *Public transport policy implementation in South Africa: Quo vadis*?, 2014
[12] This information was obtained from http://www.saboa.co.za/about%20us.htm on 31 January 2017.

3.4.2. Prior to the 1970s, the only modes of public transport available were buses and trains which were often scheduled and operated at peak times only.[13] As such, there was a significant growth of minibus taxis as taxi owners attempted to complement the formal public transport services in order to meet the increased transport demand of the population which increasingly resided far from industrial and commercial sites.

3.4.3. In 1990 the government initiated a National Taxi Task Team ("NTTT") in response to the behaviour of minibus taxi drivers and owners.[14]

3.4.4. In an attempt to formalise the industry, both the minibus taxi drivers and owners respectively established associations, namely the South African Transport and Allied Workers' Union ("SATAWU") and the South African National Taxi Council ("SANTACO").[15] [16]

3.4.5. Minibus taxis operate on commuter corridors, charging a fixed local rate. Fixed local rates charged by minibus taxis are set by local taxi associations.[17]

3.4.6. The taxi sector is regulated by the National Land Transport Act (NLTA) No. 5 of 2009,[18] the DOT being the regulating authority. Minibus taxis are regulated through the issuing of operating licences.[19]

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[13] See Seed Working Paper No. 39 titled: "*Organising in the Informal Economy: A case study of minibus taxi industry in South Africa*" by Jane Barret, 2002.

[14] The NTTT was responsible for devising ways to ensure that the minibus taxi industry was sustainable, competitive and governable.

[15]SANTACO was established in September 2001 after government intensive consultative process with taxi operators countrywide in a move to have an umbrella body governing the industry and act as the principal mouthpiece for taxis. SANTACO is the largest taxi association in South Africa and it is recognised by the government as the official representative of the taxi industry (Who Owns Whom, African Business Information titled "The minibus taxi and bus services industry", Siccode 71211, December 2016.).

[16] SATAWU was formed in 2000 and represents workers in the transport as well as the security and cleaning companies. The sectors represented by SATAWU include railway, harbours, parastatals (such as Transnet and the Passenger Rail Agency of South Africa), aviation, passenger transport (buses and taxis), freight (trucking), contract, cleaning and security.

[17] See Seed Working Paper No. 39 titled: "*Organising in the Informal Economy: A case study of minibus taxi industry in South Africa*" by Jane Barret, 2002.

[18] Who Owns Whom, African Business Information titled "The minibus taxi and bus services industry", Siccode 71211, December 2016.

[19] See document titled Chapter 8/ Passenger Transport, page 14.

3.4.7. The DOT funds the Taxi Recapitalisation Programme ("TRP") in terms of which minibus taxi owners receive a once-off capital grant, which aims to assist owners in replacing their vehicles.[20]

*Metered taxis*

3.4.8. The services of metered taxis are defined in the National Land Transport Act of 2009, (the "NLTA") as amended, as follows[21]:

"*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 it complies with any other requirements applicable to such meters"*

3.4.9. It appears to the Commission that metered taxis are administratively and price regulated by the DOT. It is currently not clear to the Commission whether metered taxis are affiliated with the same associations as those of the minibus taxis and how prices charged by metered taxis are determined by the DOT.

*App-based taxis services*

3.4.10. In 2013, there was significant change in the way transportation services are offered in South Africa when there was an emergence of app-based taxi such as what has become known as "Uber". The entry of "Uber" into the local taxi sector has been met with resistance from metered taxi

[20] See article by Jackie Walters titled Public transport policy implementation in South Africa: Quo vadis?, 2014.
[21] This was the definition prior to the amendment of the NLTA Bill in 2016.

providers who argue that Uber is not subjected to regulation in the same way as metered taxis. [22]

3.4.11. "Uber" has grown significantly in South Africa since its entry in 2013. Uber services are available in five South African cities, i.e. Johannesburg, Pretoria, Cape Town, Port Elizabeth and Durban.

3.4.12. In addition to Uber, there have been a few local entrants such as Snappcab, Zebra cabs (which has migrated from being a traditional metered taxi to an app-based taxi) and Ryda. It appears to the Commission that these players do not appear to have made significant inroads in the public passenger transport industry.

3.4.13. The Commission understands that recently there has been an emergence of "three wheeled vehicles" known as "tuk tuk" which operate mainly within a stipulated radius of a designated area within metropolitan areas, also through an app-based platform. It appears that there are a number of companies offering tuk-tuk services such as etuktuk[23], Commuta-X[24] with officially issued operator permits from the DoT.[25]

3.4.14. It appears to the Commission that the fare payable by riders of app-based taxis are set by independent companies owning the software and not by the DOT.

*Localised taxis*

3.4.15. Localised taxis operate exclusively in townships/ peri-urban areas. The Commission understands that currently localised taxis operate within a designated area on commuter corridors and serve as a feeder to local taxi stations. Localised taxis charge a fixed local rate. It is currently not clear

[22] The technology used by Uber driver-partners is in the form of an application on smartphones or other electronic devices that connects driver-partners and riders and also facilitates the payment of the transportation services offered by determining the distance travelled and/or facilitating the credit card payment where applicable.

[23] See http://www.e-tuktuk.co.za/index.php/about-us/, accessed on the 20 February 2016.
[24] See http://www.commutax.co.za/, accessed on the 20 February 2016.
[25] See http://www.focusontransport.co.za/features/1314-take-a-tuk, accessed on the 20 February 2016.

to the Commission whether localised taxis are affiliated with the same associations as those of the minibus taxis and how prices charged by localised taxis are determined.

3.4.16. Minibus taxis, localised taxis, metered taxis and app-based taxis are subject to this inquiry as the Commission understands that the majority of the population that uses public transport are reliant on these various types of taxis.

### 3.5. Passenger rail services

3.5.1. The passenger railway transport industry provides transport to commuters, inter-city and long-distance passengers across the entire population spectrum in South Africa. There are two types of passenger rail services, namely services provided by Passenger Rail Agency of South Africa ("PRASA") and those by Gautrain Management Agency ("Gautrain"). Passenger rail services offered by both the Gautrain and PRASA are subject to this inquiry as these are the only two providers of rail based public passenger transport services in South Africa.

*PRASA*

3.5.2. The passenger railway transport industry in South Africa is dominated by PRASA, which is the only provider of commuter passenger rail services within metropolitan areas and long haul inter-city and cross border train services. PRASA provides passenger rail services through (i) Metrorail which includes Metro, Petro Plus and Business Express services and (ii) Mainline Passenger services (MLPS) which include Shosholoza Meyl, Luxrail and Premier Classe.

3.5.3. Metrorail relates mainly to the services provided for short-haul commuting, whilst MLPS relates to services provided for long-haul commuting. PRASA's Metrorail provides services in Cape Town, Gauteng, EThekwini, Port Elizabeth and East London, serving 471 railway stations.[26] PRASA's

[26] Of the 471 stations, PRASA owns 317.

Shosholoza Meyl offers cross border services and links to neighbouring countries such as Mozambique, Malawi, Zimbabwe, Lesotho and Zambia, which mainly carry migrant workers. The DOT has regulatory oversight over PRASA. [27]

3.5.4. There are also a number of small private luxury train tour operators such as Rovos Rail and Shongololo Express who offer unique train safaris through Africa, and steam train operators such as Umgeni Steam Railway (KwaZulu-Natal), Friends of the Rail (Pretoria) and Atlantic Rail (Western Cape) which offer public excursions, as well as private and corporate charter train trips for special occasions. These are not included in this market inquiry.

3.5.5. The Commission understands that PRASA is also regulated by the DOT.

*Gautrain*

3.5.6. Gautrain operates only in the Gauteng province and is owned by the Gauteng Provincial Government, through the Gautrain Management Agency ("GMA"). The Bombela Concession Company was awarded a 20-year concession to design, build, partly finance and operate the Gautrain Rapid Rail Link. The Gautrain has been in operation in different phases since June 2010 and it offers general passenger services and an airport passenger service from Sandton and Marlboro to OR Tambo International Airport.

3.5.7. The Gautrain has 24 train sets. Each of these sets have four cars with a seating capacity of 321. The trains are designed to operate at a speed of 160 kilometres per hour. [28] There are currently 10 stations from which the Gautrain operates; in particular the Hatfield, Pretoria, Centurion, Midrand, Sandton, Rosebank, Park, Rhodesfield, Marlboro and OR Tambo stations.[29] The Gautrain also has a Dedicated Feeder and Distribution Services (DFDS or bus services) that transports passengers from various

[27] See Who Owns Whom, Railway Transport, Siccode 7111, 2015.

[28] Who Owns Whom, 2015

[29] This information has been obtained from http://join.gautrain.co.za/map.aspx on 27 January 2017

locations to a particular station. As part of a public transport service, the Gautrain is regulated by the DOT.[30]

## 4. RATIONALE FOR THE PUBLIC PASSENGER TRANSPORT MARKET INQUIRY

4.1. The purpose of the Public Passenger Transport Inquiry is to examine whether there are any features in the land based public passenger transport industry which lessen, prevent or distort competition. The section that follows provides the basis upon which the Commission has reason to believe that there may be a feature or combination of features in the land based public passenger transport industry that prevents, distorts or restricts competition within the industry.

4.2. **Previous complaints in the land based public passenger transport industry**

4.2.1. The Commission has to date received and assessed ten complaints[31] alleging anti-competitive conduct in the land based public passenger transport industry. [32] These can be broadly categorised as follows:

(a) Passengers complaining that short distance bus fares are excessively priced;

(b) Passengers complaining that long distance bus fares are excessively priced, especially during the peak periods. In other complaints, passengers submitted that they pay higher fares for the same long distance trip, especially during the December period;

(c) Service providers alleging that the selectivity of operational

[30] Who Owns Whom, 2015

[31] The one case was not a formal complaint but rather an enquiry from a concerned citizen. See table 10 below for more information

[32] See Case numbers: 2009Mar4320, 2012Apr0206 2013Jan0003, 2010Jun5151, 2009Jun4480, 2014Feb0050, 2015Nov0650, 2016Jun0304, 2016Feb0053 and 2017Jan0022.

subsidies place them at a competitive disadvantage against other modes of public passenger transport that are recipients of operational subsidies; and

(d) Service providers complaining that they are not allowed to operate in specific areas.

4.2.2. During the investigations of the aforementioned complaints, it became apparent to the Commission that there are inconsistencies in regulation. For example, the allocation of subsidies[33] and price regulation.[34]

4.3. **Subsidies as a prominent feature of the industry**

4.3.1. Government provides operational subsidies to some modes of land based public passenger transport and not to others.[35] These are likely to create an uneven playing field between the different modes and types of land based public passenger transport, particularly if the transport types compete with each other. This is because operators who receive subsidies may be able to charge lower prices than their competitors who do not receive the subsidies.

4.4. **Price setting mechanisms**

4.4.1. During the investigation of one of the complaints submitted to the Commission,[36] it became apparent to the Commission that prices are set differently and by different stakeholders within the land based public passenger transport industry. For example, prices charged by metered taxis are set by the DOT whilst those of competing modes of transport, such as Uber operators and minibus taxis, are set by the respective stakeholders outside the DOT. Uber operators' charge prices set by Uber

[33] During the investigation of the matter with case number: 2014Feb0050, it became apparent to the Commission that some commuter buses receive operational subsidies whilst others do not. Furthermore, the only form of subsidies that minibus taxis received was the recapitalization grant.
[34] During the investigation of the matter with case number: 2015Nov0650, it became apparent to the Commission that metered taxis are price regulated by the DOT whilst Uber is not.
[35] See article by Jackie Walters titled "*Public transport policy implementation in South Africa: Quo vadis?*", 2014 and Integrated Annual Reports of PRASA and Gautrain.
[36] See case number 2015NOV0650.

("the application based company that introduced the application") and minibus taxis charge prices set by the respective taxi associations.

4.4.2. Having prices set by different stakeholders (some of which are regulating authorities) is likely to create an uneven playing field between the different types of land based public passenger transport, particularly if the transport types compete with each other. This is because transport operators whose prices are set by regulating authorities may be unable to compete on price as they may be unable to respond to changes in price and demand in the market as compared to their competitors who are able to change prices as and when demand changes. It is currently not clear to the Commission what the price setting mechanisms are within the different types of land based public passenger transport.

4.5. **Transport costs**

4.5.1. Transportation costs as a proportion of household income appear to be high. It is estimated that the cost of public passenger transportation has more than doubled between 2003 and 2013.[37] It has been estimated that half of the workers using several modes of land based public passenger transport have their hourly wage reduced by 40% or more due to transport costs.[38] The cost of transportation is likely to have a detrimental effect on consumer welfare, particularly because the majority of the population that uses land based public passenger transport are low-income households.

4.6. **Contradicting objectives between government policies and the promotion of competition**

4.6.1. Government policies, such as the National Land Transport Strategic Framework (2015), call for an integrated transport system.[39] The Commission currently interprets integrating the transport industry as co-

[37] See document titled Chapter 8 Passenger Transport, page 8.
[38] See Andrew Kerr, 2015 titled "*Taxing the poor? Implications of our high commuting costs"*.
[39] See the National land Transport Strategic Framework, 2015, Department of Transport, Government Gazette No 39092,13 August 2015, page 16.

ordinating and organising the different modes of land based transport in a manner that will result in the different modes of land based public passenger transport complementing each other as opposed to be alternatives of each other from a consumer perspective.

4.7. **Increasing interest in opening the transport industry to competition**

4.7.1. Many countries have in recent years devoted their focus to opening up the road and rail based public transport sectors to competition. For example, within the bus sector, France has issued a number of measures that have removed barriers to entry and continues to offer consumers the benefit of greater economies and new products. France and Italy have liberalised the inter-urban transportation and have created an intermodal regulator that have led to a substantial change in the regulation of road based public transport.

4.7.2. Like South Africa, many countries have seen the introduction of disruptive technology within the transport industry. The entry of Uber and related app-based transport service operators have in some respects increased competition but also by passed some of the regulations that traditional metered taxis adhere to. Countries such as France and Singapore have proposed that all passenger transport be subjected to the same rules.

4.7.3. With regard to rail, most countries have acknowledged that the rail sector is a natural monopoly within their respective countries but have endeavoured to open the rail sector through increased investments in IT systems that will for example manage the reserving and purchasing of tickets with the aim of limiting any kind of abuse from the incumbent.

4.8. **Government's initiatives in the public passenger transport industry**

4.8.1. Government has in the past launched a number of initiatives to improve the transport system in South Africa. Some of these initiatives have resulted in certain classes of passengers being excluded from accessing the implemented initiatives. For example, the pricing of the Gautrain segregates passengers, resulting largely in the middle and upper income passengers having access to the Gautrain. Further, initiatives such as the Gautrain come with feeder buses that only passengers that use Gautrain can access, thus excluding a majority of passengers that could have made use of these services. Initiatives such as these may be seen as prohibiting the majority of consumers from having access to a variety of public passenger transport services they desire.

4.8.2. Given that government has a number of expansion plans in the pipeline with regard to the Gautrain network to areas such as Soweto and Mamelodi, this market inquiry will assist to identify the unintended consequences that may arise from the implementation of such expansion plans.

4.9. **Transformation in the land based public passenger transport industry**

4.9.1. One of the objectives of the Competition Act is to promote a greater spread of ownership, in particular to increase the ownership stakes of historically disadvantaged persons. The participation of historically disadvantaged individuals in the economy is dependent on the existing barriers to entry to competition. In other words, transformation is likely to be very slow where markets are inaccessible and uncontestable.

4.9.2. This market inquiry will identify impediments to transformation in the land based public passenger transport and the extent to which these may raise competition concerns.

4.10. Further, the number of complaints in the public passenger transport industry and the features of the land transport industry in other countries similar to those of South Africa, the Commission has identified the need to understand the overall state of competition in the provision of land based public passenger transport in South Africa in order to determine if there are any regulatory and/ or structural features of the markets that likely to distort competition.

## 5. SCOPE OF THE MARKET INQUIRY

5.1. **Scope of the Market inquiry process**

5.1.1. This market inquiry will assess the general state of competition in the land based public passenger transport industry balancing the need for efficiencies emanating from coordination and monopolisation and the overall benefits of competition to consumers. As such, this market inquiry will assesses:

5.1.2. **Price setting mechanisms**

The analysis of different price setting mechanisms and their impact on competition in the land based public passenger transport;

5.1.3. **Price regulation**

The examination of price regulation and its impact on competition in land based public passenger transport industry;

5.1.4. **Route allocation, licensing and entry regulations**

The impact of regulation, including route allocation, licensing and entry requirements on intermodal and intramodal competition in the land based public passenger transport;

5.1.5. **Allocation of operational subsidies**

The impact of operational subsidies granted to commuter buses, Metrorail and Gautrain on barriers to entry, intermodal and intramodal competition; and

5.1.6. **Transport planning**

The impact of government's transport plans on dynamism, efficiency and competition in the land based public passenger transport sector and economy;

5.1.7. **Transformation in the land based public transport industry**

An assessment of transformation issues, including ownership patterns in the land based public passenger transport industry.

## 6. MARKET INQUIRY PROCESS AND TIMELINES

### 6.1. Market inquiry process

6.1.1. The Public Passenger Transport Inquiry will be carried out by a team made up of Commission staff assisted by industry experts and/ or consultants as required.

6.1.2. The Public Passenger Transport Inquiry will gather information from the relevant stakeholders of the public transport industry and may use the following information gathering tools amongst others:

6.1.3. Questionnaires and surveys to identified participants and/or to the general public;
6.1.4. Information requests to identified market participants;
6.1.5. Calls for submissions on issues relevant to the market inquiry;
6.1.6. Targeted meetings and summons with key industry stakeholders; and
6.1.7. Public hearings as required.

6.1.8. The participants in the Public Passenger Transport Inquiry process will include: public transport regulating authorities such as the DOT at both the national and provincial levels, bus associations and owners, taxi associations and owners, industry associations, end-users, public entities, and any other stakeholders that may be able to provide information relevant to the market inquiry. Members of the public will be invited to participate in the inquiry during the information gathering phase and during the public hearings. Members of the public are encouraged to participate fully in the inquiry process.

6.1.9. The Commission is committed to the principles of fairness, transparency, and integrity and will conduct the inquiry in accordance with these principles. The Commission will allow stakeholders fair and reasonable opportunity to provide input into the inquiry process and its outcomes. For this reason, the Commission may release interim reports throughout the market inquiry for public consideration and comment at its discretion.

6.1.10. The Commission will also release a report at the conclusion of the Public Passenger Transport Inquiry.

## 6.2. Timelines

6.2.1. The Public Passenger Transport Inquiry is expected to commence on 7 June 2017 and is likely to be completed by May 2019.