

**Bolt South Africa**

**Presentation to the National  
Assembly Portfolio  
Committee on Transport**

**Economic Regulation of  
Transport Bill [B1-2020]**

**Public Hearings**

**20 October 2020**



- About Us
- Impact of the Bill
- Comments and Recommendations
- Concluding remarks

**Bolt**



# About us

**Bolt**



# Taxify rebranded Bolt in 2019

- Mobile technology platform connecting passengers and drivers.
- Meet growing demand for accessible, reliable, safe and affordable transport.
- Technology to solve transport problems
- Overcoming public transport and private vehicle ownership challenges.
- Transport as a means to opportunity.



# Fastest growing ridesharing App in Africa & Europe



**30 million  
passengers**

Currently operating in 150+ cities  
in 35 countries with 30m+ riders.



**In SA +30% household income  
spent on transport**

*(Stats SA, GHS 2018)*

**South Africans spent 36 hours  
in peak congestion**

*(INRIX 2017 Global Scorecard: 10 Most Congested Countries in the  
World, 2017)*

**30% of global CO<sub>2</sub> emissions  
are from transportation**

**On-demand**

Personal cars

Public transport

**2018**

**2%**

**46%**

**52%**



**2028**

**28%**

**29%**

**43%**

# Economic Regulation of Transport Bill [B1- 2020]

Impact of the Bill

**Bolt**



# Regulatory environment

## Opening up transport as a network industry for growth



*"E-hailing services have taken off in South Africa and are expected to grow in both the passenger and freight markets. Government should consider how to bring e-hailing services into the regulatory landscape without disincentivizing entry as they address gaps in the market."*

*"Economic transformation, inclusive growth, and competitiveness: Towards an Economic Strategy for South Africa"  
National Treasury (2019), Page 38*

# Regulatory environment

## Bolt SA supports the National Land Transport Amendment Bill

- Dedicated legislative provisioning and recognition for the licensing category.
- A comprehensive definition, regulatory framework and licencing regime.
- Dedicated category - distinct nature , features and characteristics of e-hailing.
- Post-enactment Guidance Note – harmonised regulatory treatment.
- Clamp down on recent special interest groups and self-appointed 'regulators' usurping and undermining the legitimate powers of statutory regulatory authorities

# Introductory Remarks: Impact of the Bill

## Principles

- Bolt SA supports an efficient and cost-effective transport system in order to support economic growth and meet the country's social goals.
- We further support the purpose of the Bill to *"promote the economic growth and welfare of South Africa by promoting an effective, efficient and productive transport sector"*.
- Regulation in transport is currently fragmented and inconsistent.

# Introductory Remarks: Impact of the Bill

## Rationale

- Significant gaps in the regulatory framework inhibit government's ability to provide consistent and comprehensive oversight regarding the land-based public transport eco-system.
- This includes ensuring efficiency and a broad-based access and affordability for all persons.
- Primary objectives for land-based public passenger transport:
  - Ensure the overarching policy, legislative and regulatory framework is comprehensive;
  - Is inclusive of all categories/modes
  - Is harmonised and consistently implemented at national and provincial level.
- Any form of pricing control and associated regulatory instruments is inappropriate for e-hailing given the inherent affordability and consumer choice enabled by Bolt's platform
- Regulated pricing of this nature will detrimentally impact on the provision and access to e-hailing service, thereby stifling innovation in public transport sector more broadly.

# Introductory Remarks: Impact of the Bill

## Impact

- Therefore we do not support price regulation, as it:
  - Introduces administrative burden for authorities
  - Is inflexible in addressing changing market dynamics
  - Disincentives innovation and disadvantages consumers
  - Inhibits South Africa's still developing market for the entry of new participants
- Pricing interventions amount to regulatory price fixing, undermining competition to the detriment of the consumer.
- We recommend and support that the Committee acts in the interests of maintaining a competitive market and excludes any provisions pertaining to price intervention, particular for e-hailing services
- Price regulation excludes new entrants and constitute a barrier to entry into the market and thus curtail competition.

# Comments and Recommendations

**Bolt**



# Overview of our submission and recommendations on the relevant Sections in the Bill

1. Definitions
2. Section 4
3. Section 11
4. Section 12
5. Section 13
6. Section 14
7. Section 21
8. Section 38
9. Section 39
10. Section 40
11. Section 41
12. Section 42
13. Section 50
14. Section 51
15. Section 54
16. Section 60

# Specific Comments Per Selected Sections in the Bill

## **1. Determination and Review of Price Controls**

- Section 11
- Section 12

## **1. Confidentiality and Disclosure of Information**

- Section 13
- Section 14
- Section 60

## **1. Role of the Competition Commission**

- Section 21
- Section 38
- Section 43(2)(b)(i) and Section 43(2)(b)(ii)
- Section 43(4)

# Specific Comments Per Selected Sections in the Bill

## 4. Consultation Process

- Section 39
- Section 40
- Section 43(3)
- Section 43(8)

## 5. Promotion of Legislative and Regulatory Reform

- Section 41
- Section 42

## 6. Annual Fees

- Section 50
- Section 51

## 7. Regulations

- Section 54

# 1. Determination and Review of Price Controls

- Section 11
- Section 12

# Section 11

Clause	Comments	Recommendations
<p data-bbox="59 484 365 609"><b>“Chapter 3, Economic Regulation of Transport Facilities and Services Part A, Price Regulation</b></p> <p data-bbox="65 647 357 703"><b>Determination of Price Controls”</b></p> <p data-bbox="133 743 287 767"><b>“Section 11”</b></p>	<p data-bbox="415 175 1213 317">Bolt SA is of the view that Section 11 is far reaching and intrusive. It directly intervenes in the operations and business models of independent transport services such as e-hailing platform providers and thus has a substantive impact on the users of the platform i.e. drivers and passengers.</p> <p data-bbox="415 350 1213 432">Furthermore, Bolt SA – like other e-hailing services in the South African market – operates differently compared to the traditional taxi industry and services (i.e. minibus and metered).</p> <p data-bbox="415 465 1213 579">The Bolt SA pricing model and mechanism is unique but simultaneously standard for e-hailing services globally. This mechanism benefits both drivers and passengers, which use the Bolt SA platform and equally acts as an incentive.</p> <p data-bbox="415 612 1213 721">Furthermore, per the <b>Competition Commission’s Public Passenger Transport Market Inquiry (PPTMI) Provisional Metered Taxis and E-hailing Services Report</b> published on 19 February 2020 for stakeholder comment, the Commission stated that:</p> <p data-bbox="415 760 1213 836"><b><i>“4.21. The welfare-enhancing benefits arising from digital platforms and their network externalities must be encouraged and preserved to the extent that they are not leading to competition distortions.”</i></b></p> <p data-bbox="415 874 1213 1092">Bolt SA shares and supports the observations by the Commission regarding the benefits arising from digital platforms. The positive impact of innovation and the digitisation of markets is not confined to e-hailing as many other industries are embracing digital innovation to advance business offerings and objectives, which is in the interests of consumers. The nature of and use of digital innovation in key sectors such as transport, are to the benefit of drivers and passengers inclusive of supporting competitive market dynamics</p>	<p data-bbox="1238 399 1904 568">We respectfully request that the legislation acts in the interests of maintaining a competitive market and excludes any provisions pertaining to an intervention in respect of pricing applicable to e-hailing services as such may exclude new entrants and constitute a barrier to entry into the market and thus curtail competition.</p> <p data-bbox="1238 601 1904 770">Given that the e-hailing sector is still in its early stages and further developing in South Africa, it is thus premature to introduce and impose such pricing controls. Accordingly, such proposed pricing controls will act as a disincentive and market barrier for entry and access to new players as well as drivers and passengers.</p> <p data-bbox="1238 803 1904 858">Therefore, e-hailing platforms and services should be exempted from the application of Section 11 in its entirety.</p>

# Section 11

Clause	Comments	Recommendations
<p data-bbox="59 467 369 590"><b>“Chapter 3, Economic Regulation of Transport Facilities and Services Part A, Price Regulation</b></p> <p data-bbox="65 628 359 685"><b>Determination of Price Controls”</b></p> <p data-bbox="131 723 289 751"><b>“Section 11”</b></p>	<p data-bbox="413 188 977 216"><b>The Competition Commission further noted that:</b></p> <p data-bbox="413 246 1093 274"><i>“Price regulation vs deregulation – an international perspective</i></p> <p data-bbox="413 306 1271 388"><i>4.27. Regulation of fares seem to introduce administrative burden for authorities and it is inflexible to address changing market dynamics. Price regulation in general, acts as a disincentive for innovation.”</i></p> <p data-bbox="413 421 1271 530">Bolt SA does not support the introduction of price regulation and believes that such will distort the market dynamics and will be disadvantageous for consumers as well as players in the market given that the South African market is developing and growing with the entry of new participants.</p> <p data-bbox="413 563 1271 705">For all stakeholders, it is advantageous that the principle of market dynamics be applied and thus natural market forces, including supply and demand, would regulate the system with the additional benefit of consumers being made aware of the price points and fully entitled to accept or decline such.</p> <p data-bbox="413 710 1271 847">Bolt SA reiterates that our pricing benefits the consumer during low/off peak times and the consumer is fully aware of the applicable charge and is thus able to cancel, accept or reject the charge. The following scenarios are put forward as examples of cases where dynamic pricing is beneficial to consumers:</p> <ul data-bbox="413 852 1271 1027" style="list-style-type: none"> <li>a) Solving the problem of scarcity of supply of drivers during periods of maximum demand. It brings more drivers online, and it allocates available rides to those who value them more.</li> <li>b) Subsidisation of cheap prices during off-peak times: the critical part of the consumer value that surge pricing creates, is the cheaper prices that are available to consumers on regular days.</li> </ul>	<p data-bbox="1294 334 1904 530">We respectfully request that the legislation acts in the interests of maintaining a competitive market and excludes any provisions pertaining to an intervention in respect of pricing applicable to e-hailing services as such may exclude new entrants and constitute a barrier to entry into the market and thus curtail competition.</p> <p data-bbox="1294 563 1904 765">Given that the e-hailing sector is still in its early stages and further developing in South Africa, it is thus premature to introduce and impose such pricing controls. Accordingly, such proposed pricing controls will act as a disincentive and market barrier for entry and access to new players as well as drivers and passengers.</p> <p data-bbox="1294 798 1904 880">Therefore, e-hailing platforms and services should be exempted from the application of Section 11 in its entirety.</p>

# Section 11

Clause	Comments	Recommendations
<p data-bbox="59 467 365 590"><b>“Chapter 3, Economic Regulation of Transport Facilities and Services Part A, Price Regulation</b></p> <p data-bbox="65 628 359 685"><b>Determination of Price Controls”</b></p> <p data-bbox="133 725 289 751"><b>“Section 11”</b></p>	<p data-bbox="415 190 1271 279">The pricing model benefits consumers as it guards against excessive escalation and any abuse to the disadvantage of consumers.</p> <p data-bbox="415 321 1271 471">Accordingly, while we note the intention of these provisions we respectfully contend that such should not apply to e-hailing platforms and services. This will curtail and inhibit the nature as well as supply and demand dynamics of the e-hailing sector and service in South Africa.</p> <p data-bbox="415 482 1271 731">We are of the view that pricing interventions would amount to regulatory price fixing and shall undermine competition to the detriment of the consumer. Factors that influence e-hailing operators' income, such as fuel price or increased traffic due to accidents, are too uncertain, volatile, and variable to effectively support the rationale to discard dynamic pricing. Supply and demand best serves to protect both the e-hailing operator and the consumer.</p> <p data-bbox="415 773 1271 1022">We would also reiterate that the price that the consumer will pay is available to them upfront in the app. Therefore, consumers are not ambushed after the fact with an unexpectedly high payment for the service. Furthermore, if the consumer is not satisfied with the quoted price, they are free to wait until the high demand has ceased or obtain transport services from another mode. Accordingly, it is not an obligatory imposition or coercion for a consumer to pay.</p>	<p data-bbox="1296 288 1901 537">We respectfully request that the legislation acts in the interests of maintaining a competitive market and excludes any provisions pertaining to an intervention in respect of pricing applicable to e-hailing services as such may exclude new entrants and constitute a barrier to entry into the market and thus curtail competition.</p> <p data-bbox="1296 578 1901 794">Given that the e-hailing sector is still in its early stages and further developing in South Africa, it is thus premature to introduce and impose such pricing controls. Accordingly, such proposed pricing controls will act as a disincentive and market barrier for entry and access to new players as well as drivers and passengers.</p> <p data-bbox="1296 836 1901 926">Therefore, e-hailing platforms and services should be exempted from the application of Section 11 in its entirety.</p>

# Section 12

Clause	Comments	Recommendations
<p data-bbox="131 543 517 601">"Extraordinary review of price controls"</p> <p data-bbox="247 639 401 663">"Section 12"</p>	<p data-bbox="562 543 1097 699">Bolt SA is of the view that if price controls are to be introduced and take effect, such must be subject to regularised oversight and review at set periods of time or applicable timeframes.</p>	<p data-bbox="1108 252 1860 342">We therefore propose that the provision per Subsection 12(1) and 12(2) is amended via the following deletions, substitutions and insertions, to read as:</p> <p data-bbox="1108 383 1860 663">12. (1) At any time after a price control takes effect, the Regulator may conduct <del>an extraordinary</del> <u>a review every 90 days</u> or if the Regulator is satisfied that unforeseeable changes in economic demand, input costs, technology, the regulatory environment or other similar factors have affected the regulated entity sufficiently to constitute a threat to its economic sustainability during the current price control period and thus justify <del>an early</del> <u>a</u> review of the price control.</p> <p data-bbox="1108 674 1860 958">(2) The Regulator may conduct <del>an extraordinary</del> <u>a</u> review in terms of subsection (1) either –  <u>(a) every 90 days;</u>  <u>(b) on its own initiative;</u> or  <u>(c) on application, in the prescribed manner, by –</u>            (i) the relevant regulated entity,            (ii) the Minister; or            (iii) another person, <u>entity, service or sector</u> directly affected by that price control.</p>

## 2. Confidentiality and Disclosure of Information

- Section 13
- Section 14
- Section 60

# Section 13

Clause	Comments	Recommendations
<p data-bbox="131 521 525 646">"Part B, Economic Oversight of Regulated Entities" "Information from regulated entities"</p> <p data-bbox="253 685 407 711">"Section 13"</p>	<p data-bbox="546 199 1296 516">Bolt SA is of the view that Section 13(1) is unduly broad and open-ended and empowers the Regulator to request information which is business and operations specific and sensitive. Furthermore, the nature and type of information requested is far-reaching and at present it is unclear as to the rationale in support of the disclosure and request of such information. A clear criteria and parameters must be set out for the type of information, which may be requested from independent businesses and services, that are not state-owned.</p> <p data-bbox="546 554 1296 680">In terms of Subsection 13(2), "The Regulator may request any other information that is reasonably required by the Regulator to perform its functions in terms of this Act, including confidential information, subject to section 60".</p> <p data-bbox="546 718 1296 909">It is Bolt SA's contention that Subsection 13(2) is unduly open-ended and when read in conjunction with Section 60 empowers the Regulator unreservedly with intrusive and extensive authority whether or not the entity considers such information and any to be confidential, which infringes on the rights of independent business entities.</p> <p data-bbox="546 947 1296 1062">We note Subsection 13(3), which states "The Regulator must maintain the confidentiality of information provided to the Regulator in terms of this section or any provision of this Act".</p>	<p data-bbox="1315 478 1889 532">We propose the amendment of this provision via the following insertions, so as to read as:</p> <p data-bbox="1315 571 1889 762">13. (3) The Regulator must maintain the confidentiality of information provided to the Regulator in terms of <u>the confidentiality agreements entered into with regulated entities and</u> this section or any provision of this Act.</p>

# Section 14

Clause	Comments and Recommendations
<p data-bbox="224 503 826 609"><b>“Regulatory accounting and disclosure requirements Section 14”</b></p>	<p data-bbox="954 277 1760 481">Bolt SA contends that Section 14 should only apply to stated-owned entities, facilities and services as the South African institutional framework of transportation is dominated by large state-owned companies, who have a very high degree of market power over either the infrastructure or services, which they operate.</p> <p data-bbox="954 525 1760 659">Furthermore, state-owned entities, facilities and services are under the jurisdiction and authority of the state and thus are required to report on and disclose matters, in any event.</p> <p data-bbox="954 703 1760 837">Accordingly, independent business services, facilities and entities within the transport sector must maintain their autonomy unconditionally and must be exempt from the application of and compliance with this section.</p>

# Section 60

Clause	Comments	Recommendations
<p><b>“Chapter 5, Enforcement of Act Part A, Powers in Support of Investigation”</b></p> <p><b>“Claims that information is confidential”</b></p> <p><b>“Section 60”</b></p>	<p>Bolt SA submits that the Regulator must uphold the confidentiality of information shared in terms of Section 60(2) in conjunction with any confidential agreements entered into with the regulated entities as well as the written statements explaining why the information is confidential.</p>	<p>Bolt SA therefore proposes an amendment of Section 60(3) via the insertions and deletions to read as follows:</p> <p>(3) The Regulator must –</p> <p>(a) consider <u>and maintain</u> a <u>confidentiality</u> claim made in terms of subsection (1); <del>and</del></p> <p><del>(b) immediately make a decision on the confidentiality of the information and access to that information, which decision may or may not be supported by reasons;</del></p>

## 3. Role of the Competition Commission

- Section 21
- Section 38
- Section 43(2)(b)(i) and Section 43(2)(b)(ii)
- Section 43(4)

# Section 21

Clause	Comments	Recommendations
<p data-bbox="79 551 544 645"><b>“Part C, Compliant Investigations by Regulator Directed price control reduction”</b></p> <p data-bbox="233 680 390 707"><b>“Section 21”</b></p>	<p data-bbox="571 405 1232 628">Bolt SA is of the view that Section 21 endows the Regulator with extensive and discretionary powers to introduce reductions in the price control per the circumstances in Section 18(e), 19(2) or 20(5)(b), in the absence of receiving and considering an opinion from the Competition Commission during the process of determining an appropriate reduction.</p> <p data-bbox="571 663 1232 855">Furthermore, we contend that the publication of the imposition of a reduction in the current applicable price control is insufficient. Therefore the Regulator must publicise a notice of intent to introduce the imposition prior to such being given effect to and implemented.</p>	<p data-bbox="1248 276 1889 336">Bolt SA proposes the amendment of Section 21(2) with the insertion after the 21(2)(h), of the following:</p> <p data-bbox="1248 374 1889 500"> <u>(i) an opinion from the Competition Commission on any potential effect on the market</u>  <u>(j) written and verbal pleadings from interested and affected stakeholders and third parties</u> </p> <p data-bbox="1248 538 1889 663">Bolt SA proposes the amendment of Section 21 with the insertion after the 21(4), by the substitution of subsection 21(5) and insertion of 21(6), to read as the following:</p> <p data-bbox="1248 702 1889 827"><u>(5) The Regulator must publish and issue a Notice of Intention to impose a reduction in the current applicable price control, for a minimum public consultation period of 30 business days.</u></p> <p data-bbox="1248 833 1889 986"><u>(6) When a reduction has been imposed, the regulated entity must take reasonable steps to publicise the fact of the reduction and the extent, duration and reason for the reduction.</u></p>

# Section 38

Clause	Comments	Recommendations
<p style="text-align: center;"><b>“Chapter 4, Establishment of Institutions Part A, Transport Economic Regulator”</b></p> <p style="text-align: center;"><b>“Functions of the Regulator” “Section 38”</b></p>	<p>Bolt SA supports the intended objective and purpose of the Regulator in respect of promoting equitable access to transport facilities and services.</p> <p>Bolt SA notes the following subsections:</p> <p>38. (f) research market structures and service delivery to determine whether or not particular entities, markets, facilities or services within the transport sector are functioning competitively;</p> <p>(g) conduct market inquiries in accordance with section 43(2) (b);</p> <p>(h) determine price controls for transport facilities and services in accordance with Part A of Chapter 3 and, for that purpose, may determine methods of price regulation as appropriate for the economic circumstances of regulated entities;</p> <p>However, it is our contention that the following aforementioned functions per subsections 38(f) and 38(g) are unnecessary.</p> <p>These functions should and must be executed by the Competition Commission upon the direction of the Regulator. It is thus our view that the Competition Commission is best placed to conduct research regarding market structure and service delivery and whether or not entities, markets, facilities or services within the transport sector are functioning competitively as well as market inquiries. Accordingly, the Competition Commission should then provide a report and recommendations thereon to the Regulator for consideration and final determination.</p> <p>Furthermore, subsection 38(h) should not empower the Regulator to “determine methods of price regulation”. This is also a broad and unqualified function for which the definition of “methods of price regulation” is not provided for in the Bill. Accordingly, such should not be introduced or determined by the Regulator as the Regulator is already empowered to</p>	<p>Bolt SA therefore proposes that subsections 38(f) and 38(g) are removed and deleted.</p> <p>Subsection 43(2)(b) already appropriately and adequately empowers the Regulator, on its own initiative or in response to a request from the Minister, to request the Competition Commission to perform the duties and functions set out therein.</p> <p>We further propose that subsection 38(h) is amended with the following deletions to read as:</p> <p>(h) determine price controls for transport facilities and services in accordance with Part A of Chapter 3 <del>and, for that purpose, may determine methods of price regulation as appropriate for the economic circumstances of regulated entities;</del></p>

# Section 43(2)(b)(i) and 43(2)(b)(iii)

Clause	Comments	Recommendations
<p><b>“Relations with other regulatory authorities”</b></p> <p><b>“Subsection 43(2)(b)(i) and 43(2)(b)(ii)”</b></p>	<p>Bolt SA notes subsections 43(2)(b), 43(2)(b)(i) and 43(2)(b)(ii), which states that:</p> <p>(2) At any time, the Regulator, on its own initiative or in response to a request from the Minister in terms of section 45(1) –</p> <p>(a) conduct a market inquiry –</p> <p>(i) if it has reasonable grounds to suspect that any feature or combination of features of the market within any transport sector prevents, distorts or restricts competition or leads to anti-competitive outcomes within that market or the economy; or</p> <p>(ii) to achieve the purposes of this Act.</p> <p>While we note the intention thereof, we are of the view that the Competition Commission is best placed to execute these activities per the direction of the Regulator.</p>	<p>Bolt SA therefore proposes that subsection 43(2)(b) is amended with the following insertions to read as:</p> <p>(2) At any time, the Regulator, on its own initiative or in response to a request from the Minister in terms of section 45(1) –</p> <p><u>(b) may request the Competition Commission to</u> conduct a market inquiry –</p> <p>(i) if it has reasonable grounds to suspect that any feature or combination of features of the market within any transport sector prevents, distorts or restricts competition or leads to anti-competitive outcomes within that market or the economy; or</p> <p>(ii) to achieve the purposes of this Act.</p>

# Section 43(4)

Clause	Comments	Recommendations
<b>"Subsection 43(4)"</b>	<p>Bolt SA notes subsection 43(4).</p> <p>However we contend that the Competition Commission is best placed to conduct a market inquiry per our recommendations regarding subsection 43(2)(b). Accordingly the Regulator should be empowered to direct and request the Competition Commission to undertake a market inquiry.</p>	<p>We therefore propose an amendment to subsection 43(4) via the following insertions to read as:</p> <p>(4) The Regulator may <u>request the Competition Commission to</u> conduct a market inquiry in any manner but, for greater certainty, the provisions of sections 57 to 60, read with the changes required by the context, apply to the conduct of the market inquiry in terms of subsection (2), and to the publication of the report of a market inquiry in terms of subsection (8).</p> <p>Accordingly, once the Competition Commission completes the inquiry they may provide such to the Regulator for publication and submission to the Minister.</p>

## 4. Consultation Processes

- Section 39
- Section 40
- Section 43(3)
- Section 43(8)
- Section 51(2) and 52(2)(b)

# Section 39

Clause	Comments	Recommendations
<p align="center"><b>"General provisions concerning Regulator Section 39"</b></p>	<p>Bolt SA notes the following subsection:</p> <p>39. (1) In carrying out its functions, the Regulator may –</p> <p>(a) have regard to regional or international developments in the field of economic regulation of transport; and</p> <p>We support this function of the Regulator and deem it critical especially in the case of nascent sectors in South Africa such as e-hailing. It is thus imperative for the Regulator to have due regard to regional or international developments in the field of economic regulation of transport prior to any determinations regarding price controls and other contemplated regulatory interventions within subsectors of the transport sector more broadly.</p>	<p>Bolt SA is of the view that this is a key function which must be effectively executed by the Regulator prior to exercising its economic and price regulatory functions. In this regard, it is also beneficial for the Regulator to receive submissions and inputs from the sectors concerned in contributing to the Regulator's information and evidence-base on the sectors it may have exercise authority over.</p> <p>Therefore we propose an amendment to Section 39(1) with the insertion of 39(1)(c) to read as follows:</p> <p align="center"><u>39(1)(c) consult the regulated entities, facilities, services or sectors with regard to any matter which may directly affect their functions and operations.</u></p>

# Section 40

Clause	Comments	Recommendations
<p><b>“Development of codes of practice relating to Act” Section 40”</b></p>	<p>Bolt SA notes the importance of developing and promoting codes of practice per Section 40 of the Bill, as follows:</p> <p>40. The Regulator may develop and promote the voluntary use of codes of practice in respect of any matter in order to better achieve the purposes of this Act.</p> <p>However, these cannot be developed in the absence of receiving input from and without consulting the relevant services and sectors.</p>	<p>We therefore propose that this provision is amended via the following insertions to read as:</p> <p>40. The Regulator may develop and promote the voluntary use of codes of practice in respect of any matter, <u>in consultation with the relevant and affected regulated entity, facility, service and sector</u>, in order to better achieve the purposes of this Act.</p>

# Section 43(3)

Clause	Comments	Recommendations
<p><b>"Subsection 43(3)"</b></p>	<p>Bolt SA contends that 20 business days for the publication of the notice of commencement of a market inquiry is insufficient and too short a timeframe.</p>	<p>We therefore propose an amendment to subsection 43(3) via the substitution of '20 business days' for '30 business days', to read as:</p> <p>(3) The Regulator must, at least <u>30 business days</u> before the commencement of a market inquiry, publish a notice in the Gazette –</p>

# Section 43(8)

Clause	Comments	Recommendations
<p><b>"Subsection 43(8)"</b></p>	<p>Bolt SA is of the view that the Regulator must publish a draft report on the inquiry in the Gazette for public comments and consultation prior to the final report being published in the Gazette.</p>	<p>We therefore propose that subsection 43(8) and 43(8)(a) is amended via deletions and the insertion after 43(8)(a), to substitute 43(8)(b) with the following so as to read:</p> <p>(8) Upon <u>completion</u><del>ing</del> <u>of</u> a market inquiry, the Regulator must –</p> <ul style="list-style-type: none"> <li>(a) publish a <u>preliminary report of the inquiry in the Gazette for public comment and consultations for a period of 30 business days</u> ; <del>and</del></li> <li>(b) publish a <u>final</u> report of the inquiry in the Gazette ; and</li> <li>(c) submit the report to the Minister with or without recommendations.</li> </ul>

# Section 51(2) and 52(2)(b)

Clause	Comments	Recommendations
<p><b>"Subsection 51(2) and 51(2)(b)"</b></p>	<p>Bolt SA submits that the provision for consultation on and determining the annual fee to be paid by each regulated entity is open-ended, vague, unclear and lacks the necessary process to guide the consideration and implementation thereof. Accordingly, consultation is required prior to the imposition of any fees.</p> <p>Furthermore, it is unclear regarding the basis upon which a determination may be made for which annual fees to be paid by each regulated entity may be different for different entities or categories of entities.</p> <p>Bolt SA therefore requests clarity in terms of the information and evidence-base informing different annual fees and thus why such fees cannot be standardised if it is to be introduced.</p>	<p>We therefore propose that subsection 51(2) and 51(2)(b) is amended via deletions and the insertions after 51(2)(a), to substitute 51(2)(b) with the following so as to read:</p> <p>(2) The Minister must, in consultation with the Minister of Finance, determine and publish by notice in the Gazette –</p> <ul style="list-style-type: none"> <li>(a) <u>the intent to introduce an annual fee to be paid by each regulated entity which may be different for different entities or categories of entities;</u></li> <li>(b) <u>the notice referred to in subsection (a) is subject to stakeholder comment and consultations for a period of 30 business days.</u></li> <li>(c) <u>the annual fee to be paid by each regulated entity which may be different for different entities or categories of entities</u></li> </ul>

# 5. Promotion of Legislative and Regulatory Reform

- Section 41

# Section 41

Clause	Comments	Recommendations
<p style="text-align: center;"><b>“Promotion of legislative and regulatory reform”</b></p> <p style="text-align: center;"><b>“Section 41”</b></p>	<p>Bolt SA notes subsection 41(1) and 41(2). However, Bolt SA contends that these powers should not reside with the Regulator as it is already a function of the Department of Transport. Accordingly, extending such powers to the Regulator would then conflict with and be a duplication of the existing programmes of the Department.</p> <p>Furthermore, a number of legislation impacting on the transport sector has already been recently amended, such as the National Land Transport Amendment Bill. It is therefore inappropriate for the Regulator to be empowered to review legislation and regulation and make further recommendations in respect of legislative and regulatory reform. This is especially concerning where such legislation and regulation predates the enactment of this Bill as well as the establishment of the Regulator.</p> <p>Schedule 1, Section 70(1) of this Bill already sets out the consequential amendments required and to be affected in order for the objects of this Bill to be aligned with existing legislation and regulation which impacts on the application thereof.</p> <p>Accordingly, the Regulator should not be enabled to review any legislation or regulation which is dated 5 years or less, since the effective promulgation of this Bill in the Government Gazette.</p>	<p>Bolt SA recommends that subsection 41(1)(b), 41(1)(c) and 41(2) is deleted and removed.</p>

## 6. Annual Fees

- Section 50
- Section 51

# Section 50

Clause	Comments	Recommendations
<p align="center"> <b>“Part C, Administrative matters concerning Regulator and Council”</b>  <b>“Finances”</b>    <b>“Section 50”</b> </p>	<p>Bolt SA notes subsection 50(1) which sets out how the Regulator and the Council are each financed.</p> <p>We further note subsection 50(1)(a), which states that:</p> <p style="padding-left: 40px;">(a) the annual fees to be paid by regulated entities, as determined by the Minister in terms of section 51;</p> <p>While we note the functions of the Regulator per Section 38, Bolt SA is of the view that the Regulator is not engaged in regulatory activities such as the consideration, adjudication and issuance of licences for entities, facilities, services and sectors.</p> <p>Therefore, the reason for introducing annual fees and what such fees may be used for and subsidise is unclear.</p> <p>Furthermore, any consideration to introduce annual fees to be paid by regulated entities, must be subject to consultations with the directly affected entities, facilities, services and sectors. Such cannot be introduced in the absence of information and an evidence-base, which may provide the justification thereof as well as the intent and benefits thereof. Simultaneously, regulated entities must be enabled to submit their views on any considerations of and prior to the introduction of any annual fees.</p>	<p>Bolt SA is of the view that the introduction of annual fees should only be applicable to state-owned entities, facilities and services.</p> <p>Furthermore, e-hailing services must be exempt from the application of and imposition of any annual fees to be paid to the Regulator.</p>

# Section 51

Clause	Comments	Recommendations
<p data-bbox="73 525 494 623"><b>“Minister to determine annual fees to be paid by regulated entities”</b></p> <p data-bbox="195 663 369 696"><b>“Section 51”</b></p>	<p data-bbox="517 336 1058 361">Bolt SA notes subsection 51(1) which states that:</p> <p data-bbox="517 394 1257 532">51. (1) Each year, the Regulator and the Council must prepare and submit to the Minister a joint proposal, in the prescribed manner and form, requesting the setting of an annual fee to be paid in the following financial year by each regulated entity under this Act, to give effect to the following principles:</p> <p data-bbox="614 538 1257 620">(a) The regulated entities are to bear the cost of the Regulator and the Council; and</p> <p data-bbox="517 656 1257 707">We are of the view that the regulated entities <u>should not</u> bear the cost of the Regulator and the Council.</p> <p data-bbox="517 743 1257 882">Consistent with Section 38, ‘Functions of the Regulator’, Bolt SA is of the view that the Regulator is not engaged in regulatory activities such as the consideration, adjudication and issuance of licences for entities, facilities, services and sectors. Accordingly, it remains unclear as to the rationale for imposing annual fees.</p>	<p data-bbox="1271 235 1862 405">Bolt SA is of the view that the rationale for introducing annual fees and what such fees may be used for and subsidise remains unclear and has not been set out, qualified or defined. Furthermore, the definition of “annual fees” and what these may consist of is absent and not provided for in this Bill.</p> <p data-bbox="1271 437 1862 751">We wish to reiterate that any consideration to introduce annual fees to be paid by regulated entities, must be subject to consultations with the directly affected entities, facilities, services and sectors. Such cannot be introduced in the absence of information and an evidence-base, which may provide the justification thereof as well as the intent and benefits thereof. Simultaneously, regulated entities must be enabled to submit their views on any considerations of and prior to the introduction of any annual fees.</p> <p data-bbox="1271 787 1566 812">Bolt SA is of the view that:</p> <ul data-bbox="1271 817 1862 987" style="list-style-type: none"> <li data-bbox="1271 817 1862 899">• the introduction of annual fees should only be applicable to state-owned entities, facilities and services.</li> <li data-bbox="1271 905 1862 987">• e-hailing services should be exempt from the application of and imposition of any annual fees to be paid to the Regulator.</li> </ul>

## 7. Regulations

- Section 54

# Section 54

Clause	Comments	Recommendations
<p><b>“Regulations”</b> <b>“Section 54”</b></p>	<p>Bolt SA submits that the subsection 54(1)(a) and 54(1)(c) is too broad and empowers the Minister with open-ended discretionary powers to make regulations, which have not been defined or qualified.</p>	<p>Accordingly Section 54(1) should clearly stipulate, set out and outline which specific matters the Minister may make regulations on in terms of this Bill.</p>

## 8. Additional Comments

- Definitions
- Section 4
- Section 42(1)(a)(ii)

# Definitions

Clause	Comments	Recommendations
<p><b>“Chapter 1, Interpretation, Purpose and Application Part A, Interpretation 1. Definitions”</b></p>	<p>Bolt SA recommends and proposes that the definition of the National Land Transport Act of 2009 should be included in the Definitions of this Bill.</p>	<p>We therefore propose the insertion after the definition ‘Minister’, of the following definition:</p> <p>National Land Transport Act means the National Land Transport Act, 2009 (Act No. 5 of 2009), as amended;</p>

# Section 4

Clause	Comments	Recommendations
<p align="center"><b>“Part B, Purpose and Application of Act Application of Act” “Section 4”</b></p>	<p>Bolt SA notes subsection 4(2) which states that:</p> <p>(2) The Minister, in consultation with the Regulator, by notice in the Gazette , may declare that this Act applies to any market, or any entity or facility, irrespective whether privately or state owned, within the transport sector, if the Minister has determined that either of the following circumstances apply –</p> <p>(a) a single operator controls more than 70% of the market concerned; or</p> <p>(b) the preconditions for efficiency and cost-effectiveness do not exist in the market concerned.</p> <p>There is a need to cross-reference and include all matters referred to in subsection (4)(2). Furthermore, the Competition Commission is best placed to inform and provide an opinion for the purposes of the determination referred to in subsection (4)(2)(a).</p>	<p>We therefore propose the following amendment and insertion in subsection 4(4), to read as follows:</p> <p>(4) When making a determination in terms of subsection <u>(2)(a)</u> and (2)(b), the Regulator must have found that –</p>

# Section 4(5)

Clause	Comments	Recommendations
<p><b>"Subsection 4(5)"</b></p>	<p>Bolt SA notes subsection 4(5) which states that:</p> <p>(5) Before the Minister may consider making a determination contemplated in subsection (2), the Regulator, in the prescribed manner and form –</p> <p>(a) must publish the relevant opinion or report contemplated in subsection (4) in the Gazette , within the prescribed period;</p> <p>(b) must publish, in the Gazette , a notice that such a determination is being considered, and invite public submissions in response to the notice; and</p> <p>(c) may conduct public hearings on the matter in appropriate circumstances.</p> <p>Given the nature and impact of the determination, which may be made, sufficient consultation and input is required especially from directly affected and interested stakeholders.</p>	<p>Accordingly, Bolt SA recommends that the provision per 5(b) is amendment via the insert of the following, to read as:</p> <p>(b) must publish, in the Gazette, a notice that such a determination is being considered, and invite public submissions in response to the notice <u>for a period no less than 30 business days</u>; and</p>

## Section 4(7), 4(8) and 4(9)

Clause	Comments	Recommendations
<p><b>"Subsections 4(7), 4(8) and 4(9)"</b></p>	<p>Bolt SA supports the provisions and rationale informing the consideration and granting of exemptions from application of the Act and deems this an important and necessary mechanism available to any specific market, entity or service.</p>	<p>Accordingly, Bolt SA requests that e-hailing platforms and services are exempted from the application of the legislation including at the point at which the legislation is promulgated for effective implementation in the Government Gazette.</p>

# Section 42(1)(a)(ii)

Clause	Comments	Recommendations
<p align="center"><b>“Research and public information” “Section 42”</b></p>	<p>Bolt SA notes subsection 42(1)(a)(ii) which states that:</p> <p>“The Regulator must promote public awareness and increase knowledge of the economic nature and dynamics of the transport market, and for that purpose, the Regulator –</p> <p>(a) must publish –</p> <p style="padding-left: 40px;">(ii) abstracts of non-confidential information reported to the Regulator by regulated entities in terms of section 14;”</p> <p>Bolt SA contends that there is no supporting rationale for why “the Regulator must publish abstracts of non-confidential information reported to the Regulator by regulated entities in terms of section 14”.</p>	<p>Bolt SA therefore proposes that this subsection 42(1)(a) is amended via the following substitution of 'must' for 'may' and insertion of 'state-owned' to read as:</p> <p>“The Regulator must promote public awareness and increase knowledge of the economic nature and dynamics of the transport market, and for that purpose, the Regulator –</p> <p><del>(a) — must</del> <u>may</u> publish –</p> <p style="padding-left: 40px;">(ii) abstracts of non-confidential information reported to the Regulator by <u>state-owned</u> regulated entities in terms of section 14;”</p>

# Concluding Remarks

**Bolt**



# Concluding Remarks

1. In maintaining a competitive market that promotes innovation:
  - a. Bolt as an e-hailing platform inherently benefits passenger, drivers and competitive market dynamics.
  - b. Provisions for regulated pricing intervention be excluded and not applicable to e-hailing services.
  - c. Regulated price intervention is exclusionary to new market entrants and constitutes a barrier to entry and competition.
  - d. Price regulation in e-hailing is detrimental to consumer choice and an administrative burden for authorities in SA.
  - e. The Bill is duplicitous to the existing role of PREs and MREs in regulating e-hailing services, undermining their autonomy and intergovernmental relations.
  
1. SA faces fiscal constraints to higher levels of public transport investment.
  
1. Value of leveraging digitisation to accelerate inclusive economic growth.
  
1. E-hailing services connect drivers with passengers efficiently, safely and cost-effectively.
  
1. Request the Committee's consideration of Bolt SA input during deliberations on the Bill.

Thank You

**Bolt**



**Bolt**