

03 July 2020

Attention: The Minister of Transport
The Honourable Minister Fikile Mbalula
Department of Transport

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Dear Minister Mbalula

A REQUEST FOR INTERVENTION –SANRAL’S LACK OF TRANSPARENCY ON TOLL ROAD CONCESSIONAIRES

OUTA’s mandate requires no introduction, following our meetings of recent times. As you know, when it comes to tax payers money or policies that require scrutiny for failure of being conducted in the best interests of society, we get involved to seek correction, transparency and accountability.

I write this letter to inform you of a development that should be of interest to you, namely the Toll Concessionaire Contracts and the lack of transparency being conducted by our state owned entity - SANRAL. Just to be clear, this matter does not pertain to the failed e-Toll scheme limited to Gauteng, but instead, it relates the long distance, non-urban tolled routes managed by the three toll road concessionaires namely N3TC, TRAC and Bakwena.

In the case of these toll road concession contracts, please note that we do understand and support the general concept and practise of Public Private Partnership (PPP) agreements. The ability of the State to transact with private consortiums to build and maintain infrastructure, operate the public revenue collections and transfer these assets to the state on completion of the contract period, is a common national asset funding mechanism around the world.

What bothers us though, is the issue of being ignored when it comes to our request for information pertaining to these toll road concessions, including the revenues generated by these concessionaires, along with how that money has been allocated and the extent of profits generated by each entity. It is after all the public that is paying for these assets, and when the State refuses to provide us with information that we have a right to access, we have an obligation to raise our concerns and investigate these matters. If indeed the public are receiving best value for their toll fees paid and there is nothing to hide when it comes to such matters of public interest, why the lack of transparency?

Our contention is spurred on by the fact that having studied SANRAL’s financial statements, the relatively low returns each year (combined from all three concessionaires at R80 million), and the fact that this has been the same value over the past decade, suggests that the public

(through SANRAL) may not be receiving their share of returns from these toll concessions, unless there is some underlying rationale or reason for these low and consistent concessionaire returns. We will never know unless we are provided with the details we seek.

We think you will agree, it is rather unfortunate that despite our letters and requests through formal channels to SANRAL for this information, we must now seek redress via the courts, in order to compel the State to be transparent. Why does it have to come to this? Why does the State see fit to ignore civil society's effort to look after the interests of the state and its citizens?

We trust that in your position as the minister and someone who understands the need to protect citizens rights, that you will see fit to intervene and instruct SANRAL to halt with their obstructive conduct and to provide us with all the information we seek, without further delay.

In closing, I'd like to draw your attention to two legal cases which contain rulings that support our rights in this matter, namely:-

- *Allpay Consolidated Investment Holdings (Pty) Ltd v South Social Security Agency 2014 (1) SA 604 (CC).*
- *President of the Republic of South Africa and Others v M&G Media Ltd 2011 (2) SA 1 (SCA).*

We look forward to hearing from you soonest.

Yours sincerely



Wayne Duvenage
OUTA - CEO