

FORMAL INDUSTRY COMPLAINT & APPLICATION FOR TARIFF REVIEW

Submitted Pursuant to Chapter 3 of the Economic Regulation of Transport Act 6 of 2024 (ERTA) Regarding Market Conduct, Cost-Reflective Tariffs, and Intermediary Margin Protections

TO: The Transport Economic Regulator (TER) & Transport Economic Council (TEC)
REFERRED BY: NEXUS Logistics Strategic Coalition / Transport Stakeholders
DOCUMENT REF: TER-SUB-2026-001
DATE: October 17, 2026
CLASSIFICATION: Official Regulatory Submission / Urgent Market Conduct Application

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1. DETAILS OF COMPLAINANT & LEGAL STANDING

1.1. The Complainant is NEXUS Logistics Strategic Coalition (NPC / Industry Collective), representing registered transport fleet operators, owner-operators, and logistics subcontractors operating within the Republic of South Africa.

1.2. The Complainant possesses direct locus standi under Chapter 3 of the Economic Regulation of Transport Act 6 of 2024 (ERTA) as an interested and affected party seeking regulatory intervention against discriminatory access, unfair rate structures, and unearned intermediary margin extractions.

2. EXECUTIVE SUMMARY OF COMPLAINT & STATUTORY JURISDICTION

2.1. This application is formally submitted to the Transport Economic Regulator (TER) pursuant to Section 11 and Section 15 of ERTA. The application seeks urgent regulatory intervention regarding market conduct and price-setting mechanics enforced by dominant freight brokerages, logistics intermediaries, and digital dispatch platforms.

2.2. The Transport Economic Regulator holds statutory jurisdiction over all modes of commercial transport under ERTA, tasked with enforcing fair access, cost-reflected pricing, and preventing market distortion.

3. FACTUAL BACKGROUND & ECONOMIC MARKET FRICTION

3.1. Transport operators across heavy vehicle road freight and passenger logistics face systemic economic margin compression. Primary operational friction points include:

· **Asymmetric Intermediary Margins:** Cargo brokers and digital platforms extract unearned commission margins ranging from 15% to over 30%, while shifting all operational and fuel risks onto operators.

· **Uncompensated Port & Facility Delays:** Heavy freight hauliers experience 8 to 24+ hour standing times at port terminals and staging facilities without statutory demurrage compensation, bearing truck idling and finance costs.

· **Delayed Fuel Surcharge Pass-Through:** Freight agreements frequently lock operators into fixed per-tonne tariffs while failing to incorporate mandatory fuel adjustment clauses when diesel costs fluctuate.

4. STATUTORY GROUNDS OF COMPLAINT UNDER ERTA ACT 6 OF 2024

The conduct of the cited intermediaries and facility operators directly contravenes core provisions of ERTA:

Statutory Section	Observed Industry Violation	Regulatory Remedy Sought
Section 11(1)(a) Tariff Regulation	Failure to ensure that commercial freight and passenger transport rates reflect real operational input costs.	Promulgation of binding minimum cost-indexed floor tariffs based on official DoT / RFA indices.
Section 11(1)(c) Access Oversight	Discriminatory access terms and unvetted fee deductions at logistics access facilities and digital dispatch portals.	Mandatory vetting of standard-form contracts and capping broker commissions at 8%–10%.
Section 15 Unfair Conduct	Unilateral imposition of 'no-demurrage' clauses and delayed payment terms exceeding 60-90 days.	Implementation of statutory standing time compensation rules and mandatory 30-day payment caps.

5. ROOT-CAUSE ANALYSIS & MARKET IMPACT

An application of root-cause analysis confirms that market failure in transport logistics stems from an absence of enforced, cost-indexed minimum freight floor tariffs and mandatory demurrage rules. This enables unmonitored intermediaries to extract excessive margins while transferring macro operational risks onto vehicle operators.

6. SPECIFIC ADMINISTRATIVE & REGULATORY RELIEF SOUGHT

The Complainant respectfully requests that the Transport Economic Regulator issue the following binding directives:

SUMMARY OF REQUESTED REGULATORY ORDERS

1. Promulgation of Statutory Minimum Floor Tariffs indexed to official operating costs.
2. Statutory Demurrage Directive mandating hourly standing charges after 2 hours of facility delay.
3. Capping Intermediary & Broker Commission Rates at a maximum of 8% - 10%.
4. Standardized Fuel Surcharge Indexation linked to monthly official energy price adjustments.
5. Enforcement of Maximum 30-Day Payment Terms for all transport vendor invoices.

7. VERIFICATION & FORMAL ATTESTATION

I, the undersigned, in my capacity as authorized representative of the Complainant, hereby verify that the facts contained in this submission are true, correct, and represent the formal position of the coalition.



Derick Ongansie

Authorized Representative
NEXUS Logistics Strategic Coalition
Date: October 17, 2026

8. ANNEXURES & DOCUMENTARY INDEX

- **Annexure A:** Economic Regulation of Transport Act 6 of 2024 Reference Excerpts
- **Annexure B:** Heavy Vehicle & E-Hailing Pricing Discrepancy Matrix
- **Annexure C:** Ishikawa Root-Cause Freight Logistics Findings
- **Annexure D:** Proposed Bankable Reverse-Fix Draft Tariffs

ANNEXURE A: ECONOMIC REGULATION OF TRANSPORT ACT 6 OF 2024 REFERENCE EXCERPTS

The following statutory provisions from the Economic Regulation of Transport Act 6 of 2024 (ERTA) form the legal basis for regulatory oversight, tariff monitoring, and market conduct interventions across South African transport and logistics supply chains:

- **Section 11 (Powers and Functions of the Transport Economic Regulator):** Establishes the single-window economic regulator responsible for monitoring, investigating, and regulating transport tariffs, pricing methodologies, and market conduct across road, rail, ports, and aviation.
- **Section 15 (Investigations into Complaints and Market Conduct):** Empowers the TER to investigate complaints regarding anti-competitive pricing, predatory intermediary margins, discriminatory facility access, and unearned surcharge shifting.
- **Section 23 & 24 (Appeals and Review Proceedings):** Establishes the Transport Economic Council (TEC) as an independent administrative appeals tribunal to review tariff determinations, licensing rules, and dispute adjudications.

· **Section 32 (Cost-Reflection Principles):** Mandates that all regulated transport prices and access tariffs must be cost-justified, reflecting actual operational input costs, fair capital returns, and statutory safety overheads.

ANNEXURE B: HEAVY VEHICLE & E-HAILING PRICING DISCREPANCY MATRIX

This matrix compares structural pricing mechanisms, observed market discrepancies, unethical practices, and statutory violations across both heavy vehicle road freight and e-hailing transport sectors:

Sector / Area	Observed Discrepancy / Red Flag	Unethical Economic Impact	Statutory / Legal Violation
Heavy Vehicle Freight (No-Demurrage Clauses)	Contracts explicitly exclude standing time compensation at port terminals or loading bays regardless of delay length.	Transfers facility inefficiency and port congestion costs entirely onto the transport operator.	Unfair contract terms under CPA Sec 48; breach of ERTA Sec 11 cost-reflection principles.
Heavy Vehicle Freight (Broker Rebates)	Cargo brokers deduct unearned 'early payment' or 'volume rebates' (5%-15%) arbitrarily upon invoice settlement.	Substantially lowers net payout below agreed contractual rates without operational cause.	Unconscionable conduct; breach of contract and unlawful rate suppression under ERTA.
E-Hailing Sector (Unilateral Rate Cuts)	Dynamic fare reductions and commission adjustments implemented without driver consultation or cost indexation.	Transfers inflation and fuel price volatility entirely to the vehicle owner/driver.	Anti-competitive practice under CPA & ERTA Sec 11 provisions.
E-Hailing Sector (Deactivation without Process)	Automated profile suspensions based on unverified rider complaints or acceptance rate thresholds.	Deprives operators of earnings without right of response or impartial appeal.	Breach of natural justice; administrative unfairness under PAJA.

ANNEXURE C: ISHIKAWA ROOT-CAUSE FREIGHT LOGISTICS FINDINGS

The Ishikawa (Fishbone) root-cause analysis isolates the underlying drivers of operational instability and margin collapse across transport logistics sectors into six core operational branches:

- **1. Legislation & Regulatory Enforcement:** Historical delay in bringing road freight and e-hailing transport under central price regulation allowed brokers and platform intermediaries to dictate extractive commercial terms.
- **2. Pricing Model Architecture:** Absence of mandatory floor tariffs indexed to official heavy vehicle operating cost models (Department of Transport and Road Freight Association benchmarks).
- **3. Operational Input Costs:** Extreme volatility in diesel fuel pricing, rapid tyre degradation caused by deteriorating road infrastructure, and escalating toll fees.
- **4. Contractual & Commercial Structure:** Asymmetric standard-form agreements containing non-negotiable indemnity clauses, standing-time waivers, and unilateral rate-cutting mechanisms.
- **5. Governance & Dispute Resolution:** Lack of an independent transport ombudsperson to resolve broker payment withholding, demurrage disputes, and account deactivations efficiently.
- **6. Infrastructure & Port Terminal Efficiency:** Systemic port terminal bottlenecks, staging area delays, and border corridor inefficiencies causing severe asset under-utilization.

> PRIMARY ROOT CAUSE IDENTIFIED:
>
> The structural absence of legally enforced, cost-indexed minimum freight floor tariffs and mandatory demurrage rules, which permits freight intermediaries and digital platforms to extract unfair economic rents while shifting operational risks onto vehicle operators.

ANNEXURE D: PROPOSED BANKABLE REVERSE-FIX DRAFT TARIFFS

To establish sustainable economics and restore bankability to transport operations, the following bankable reverse-fix tariff framework is proposed for promulgation under ERTA regulatory mechanisms:

BANKABLE REVERSE-FIX TARIFF STRUCTURE

1. STATUTORY MINIMUM FLOOR TARIFF:

Formula: Floor Rate/km = (Official RFA Operating Cost Benchmark/km) + (Required Capital Return Margin).

Application: Prevents predatory rate cutting and ensures debt-service coverage for vehicle asset financing.

2. STATUTORY DEMURRAGE RULE:

Formula: Standardized hourly waiting charge billed automatically after 2 hours of facility/port delay.

Application: Internalizes congestion costs and incentivizes terminal efficiency.

3. FREIGHT BROKER / PLATFORM COMMISSION CAP:

Cap: Maximum 8% – 10% for heavy freight brokerage; Maximum 15% for e-hailing platforms.

Application: Eliminates unearned intermediary extractions.

4. AUTOMATED FUEL SURCHARGE (FSC) INDEXATION:

Mechanism: Weekly/monthly automatic tariff adjustments linked directly to official Department of Mineral Resources and Energy diesel price changes.

5. PAYMENT TERM ENFORCEMENT:

Mandate: Minimum 7 day / Maximum 30-day payment term enforcement for all transport vendor invoices.

