



The Director General
Department of Tourism
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Pretoria, 0001

(sent via email to Ms Mmaditlonki Setwaba
at msetwaba@tourism.gov.za)

10 June 2019

AIRBNB RESPONSE TO THE TOURISM AMENDMENT BILL

Dear Director General,

I am writing in order to submit the Airbnb view on the Tourism Amendment Bill. The Bill proposes changes to the Tourism Act, 3 of 2014 that impact the core services provided by hosts on the Airbnb platform.

Airbnb would like to start by thanking the Ministry for its openness to date to meet with hosts who list their homes and experiences on Airbnb, as well as with the Airbnb team. Airbnb has already worked with more than 500 governments around the world on measures to help hosts share their homes and follow the rules; Airbnb is delighted to be given the opportunity to do the same in South Africa.

Airbnb is delighted that the Ministry aims to welcome the sharing economy, and we hope that your intention is to recognise the huge benefits the collaborative economy offers everyone in South Africa - even though Airbnb must raise serious concerns as to the current wording of the draft Bill and its significant potential for unfairness and for disadvantaging a large part of the South African population.

The collaborative economy increases consumer choice, allows consumers to become producers and helps thousands of regular people to make a little extra income to help make ends meet. By providing a clear regulatory framework – highlighting regulatory best practices and removing unnecessary and unjustified barriers to entry as well as growth – South Africa could be a leader in this space and harness the tremendous economic, social and environmental benefits of the collaborative economy and spread its benefits fairly to all residents regardless of background and race.

This is very much in line with the South African government's vision. President Ramaphosa, in his last State of the Nation Address (SONA), recognised the fundamental importance of tourism to growing the economy, stated that the government would “take further measures to reduce regulatory barriers and develop emerging tourism businesses”, and called “on all South Africans to open their homes and their hearts to the world.”¹ The National Development Plan recognises tourism as one of the main drivers of employment and economic growth². Building on this, the National Tourism Sector Strategy (NTSS) recognises the critical importance of tourism to the economy through growing jobs, providing economic

¹ President Ramaphosa, State of the Nation Address (2018), available at <https://www.gov.za/speeches/president-cyril-ramaphosa-2018-state-nation-address-16-feb-2018-0000>

² National Planning Commission. (2012). National Development Plan 2030: Our future – make it work. Pretoria, SA: The Presidency. Available at https://www.gov.za/sites/default/files/gcis_document/201409/ndp-2030-our-future-make-it-workr.pdf



opportunity to young people and the development of a strong Small, Medium and Micro Enterprise (SMME) base in the economy³. Indeed, the National Department of Tourism's own stated Vision is to grow an inclusive and sustainable tourism economy through innovation⁴.

Before sharing Airbnb's position in more detail, it is necessary to make one thing very clear: In all jurisdictions - and South Africa is no different - **Airbnb supports fair and proportionate regulation of home sharing and experiences. Airbnb believes that rules can provide clarity to the community and an opportunity to develop further by continuing to welcome guests from around the world into their homes and neighbourhoods.** For that to happen, regulation must be evidence based and designed in a way that is unbiased and appropriate to the type of activity that is being regulated - not to mention that the regulation must open doors instead of closing them to more citizens.

Sadly, Airbnb is concerned that the current wording of the draft Bill - as well as a number of public-facing comments made by the Ministry - are pointing towards regulations that are based on several misunderstandings of home sharing and Experiences and their significant contribution to South Africa. Even more worryingly, the current wording can introduce **fundamentally unfair approaches which may disadvantage residents** who are currently benefiting from platforms like Airbnb and making a difference to their neighbourhoods. This is key especially in South Africa where representation, opportunity and diversity are imperative to the country's vision for the future.

Specifically, Airbnb is concerned that the draft Bill as it is currently worded

- defines "short-term home rentals" very broadly with no clear explanation of what constitutes a "temporary basis" or to which specific short-term home rentals it applies;
- provides for the Minister to introduce "thresholds" with respect to all short-term rentals without making a distinction between different categories of activity or without determining to what those thresholds will apply. This, combined with the lack of clear policy objectives, creates uncertainty for the host community and could result in measures that are disproportionate and not related to local realities and challenges;
- provides for the Minister to introduce additional qualifications for guides giving wide discretionary powers to determine these additional requirements which creates legal uncertainty for tour guides and people seeking to register as tour guides; and
- provides for the Minister to introduce "permissible ratios" between tourists and tour guides which again creates uncertainty as it is not clear what can be considered "permissible"

Although the Department has stated in meetings that the draft Bill only introduces thresholds for the purpose of making a distinction between professional and non-professional activity, this is not what it in fact says. **What can easily happen is that because there is no stated policy purpose in the Bill, anyone in the near or far future can introduce any regulation based on a policy purpose of their choosing.** For example, there is nothing in the wording to prevent a complete ban of all home sharing activity because the policy purpose can be misrepresented - since it's not clarified - to be a protectionist intervention designed to support incumbent business models in the face of competition.

³ National Tourism Sector Strategy (NTSS) 2016-2026, p.8

⁴ National Department of Tourism's Vision and Mission, available at <https://www.tourism.gov.za/AboutNDT/Pages/Vision-and-Mission.aspx>



Airbnb is committed to South Africa and wants to work with you to help create policies and regulation that will allow South Africans from all walks of life to continue sharing their country and interests, benefitting from the extra income and significantly contributing to the economy of the country. Below you can find some more information on Airbnb, its community's ongoing contribution to the country, its serious concerns over the wording of the draft Bill as well as Airbnb's proposed way forward. For ease of reference there is an Executive Summary and the full response follows.

EXECUTIVE SUMMARY

Airbnb supports policies that - in line with the South African Government's vision as well as what innovators shared with Airbnb during the Africa Travel Summit, in September 2018 in Langa - enable innovation in authentic and healthy tourism and bring travel to the forefront of the economy with participation from South Africans across geographic and community divides. Based on that, Airbnb supports fair and equitable regulation which support the right of home sharers and experience hosts to continue welcoming guests from all over the world and benefiting their local communities as well as the South African Economy.

Airbnb operates a model that by design matches the ambitions of the South African government and the Tourism Ministry - it contributes to the economy through growing jobs directly and indirectly, providing economic opportunity to young people and a gateway to (if desired) business creation and development. It further creates and encourages inclusive and sustainable tourism through innovation.

Airbnb - as an online marketplace - and the Airbnb community of hosts and guests are significantly contributing to tourism and the economy in South Africa. Host and guest activity on Airbnb generated an estimated **R8.7 billion (roughly \$678 million USD) in economic impact in the country and this economic impact corresponds to a total of over 22,000 jobs supported across the broader South African economy.**

This growth is **democratic** and **inclusive**. Hosts on Airbnb can be on the Atlantic seaboard or in Soweto, they can share their cooking skills in Bo-Kaap or take you for a walk in Khayelitsha - opening a world of opportunity across South Africa both in terms of geography and in terms of diversity.

Airbnb has worked with hundreds of cities and countries around the world to inform and help create policies and regulation that support the growth of home sharing and experiences. Airbnb knows from those collaborations that:

1. **Regulation is a useful and necessary tool of good policy but policy comes first:** One cannot make decisions about regulatory tools without determining what one is trying to achieve and the conditions in the country. The wording of the draft Bill makes scarce mention of the policy aims and has the potential to create an unfair and blunt instrument which will only cause harm.
2. **Regulation should encourage varied accommodation types to ensure a wealth of options for visitors:** any destination that has a wealth of experiences and accommodation options is ultimately more attractive to more and different types of travellers and they have consistently shown to support home sharing as an option. The solution is simplifying and making clear rules across all categories to encourage variety and innovation.
3. **Regulation should be fair and equitable, one size does not fit all:** In the same way that a small bed & breakfast does not follow the same regulation as a hotel, so home sharing cannot be subject to the same regulation as a bed & breakfast. Determining what should apply to all and what should apply only to certain categories encourages a fair treatment of the different realities and diversity in the market. Regulation



should thus depend on the type of activity rather than the platform on which the service is listed.

4. **Regulation should create opportunities for all communities to benefit from technology fairly without artificial blockers that disadvantage those who offer more popular services:** The fairer the regulation introduced across the board, the more the sector will thrive and develop equitably across different types of accommodation and tour guiding - which should discourage interventionist approaches as well as the counterproductive introduction of “further qualifications” or ratios when the existing ones are sufficiently burdensome already.

Overall Airbnb would caution against approaches that disregard the very real and already thriving home sharing and Experiences community. This would be **detrimental to the destination as South Africans have really embraced this opportunity and millions of guests have experienced the vibrant reality of South Africa beyond the picture that is traditionally presented to tourists and keep returning for more.**

Airbnb would also caution against attempting to protect existing players in the market since the absence of simplification and clear rules that apply to them combined with the introduction of measures that will make the destination less accessible will ultimately have the opposite result and end up hurting even those the legislation was aiming to protect.

Instead, Airbnb would suggest a way forward that embraces innovation in travel and seeks to enable more players in the market - ultimately creating a more attractive and thriving destination, able to continue competing on a global level.

- A. **Introduce a national level tourism innovation policy and create a rigid framework of transparent, clear and fair decision making:** Airbnb suggests that a strong policy on tourism innovation should be set, creating the framework for transparent, clear and participative decision making (by the national government, provinces and or cities) and mandates that regulation can only be passed if it:
 - a. Creates innovation and opportunity
 - b. Is fair
 - c. Is appropriate
 - d. Is based on evidence
 - e. It has given South Africans the opportunity to express their views and concerns
- B. **Introduce a definition for home sharing as a non-professional activity and give a clear path to professionalisation as a second step**
 - a. Introduce a definition of home sharing as an occasional and non-professional activity.
 - b. Clarify what the path is for any home sharers who would like to become a professional and which concrete requirements and obligations would be applicable to them.
 - c. Review and simplify at the very least the professional category that follows home sharing, making it an introductory step into the professional world
- C. **Introduce regulatory setting powers or specific regulation that is fair and equitable:** Airbnb would argue that regulation:
 - Should not add new burdens to tour guides who are at the forefront of curating, spreading and supporting the South Africa narrative;
 - Should recognise the benefits that home sharers bring to tourism and the economy;



- Cannot be introduced for home sharers simply because professionals are subject to it but it needs to be appropriate to each category;
- Can introduce thresholds as a differentiator between home sharing and professional activity, however this threshold should enable participation across communities, make home sharing attractive and allow for a clear path to becoming a professional should someone wish to do so;
- Should take the practical application of the regulation, including compliance, into account with a preference to avoiding burdens for home sharers and local stakeholders.

Below I am setting out these arguments in more detail and I hope that this will be useful in your consultation process. I remain at your disposal to discuss any of our comments below and look forward to our continuing engagement in support of innovation in South African Tourism.

Sincerely yours,

Sofia Gkiousou
Airbnb Regional Policy and Campaign Lead, EMEA



BACKGROUND

Airbnb operates an online marketplace – also described as a platform – where travellers ('guests'), and providers of accommodation and/or experiences (hosts') can meet, connect and transact directly with one another.

Airbnb has become home to a truly global community of travellers, where hosts and guests build real-life relationships with people from all over the globe and enjoy experiences of a lifetime by connecting with different places, lifestyles and cultures. The consistent ability of hosts on Airbnb to provide authentic, high-quality and diverse accommodation and experiences to a new segment of travellers is the reason why Airbnb has developed strong working relationships and partnerships with a number of cities and countries globally.

Occasionally sharing a home brings huge benefits to South African families, local communities and businesses, creating a new form of tourism. To that end, home sharing has an important economic contribution, attracts investment, spreads economic benefits and increases work opportunities. For their part, hosts can earn useful additional income to meet living costs, pay for the upkeep of their home, and support their families. **In South Africa specifically, 50% of hosts tell Airbnb that the income from their hosting through the Airbnb platform has helped them stay in their home.**



Lebo hosts in Johannesburg with his mom; they both love hospitality. He is a photographer by profession and believes in the power of creating lasting moments. He describes this by saying that Airbnb has mastered the ability of moment capturing among humans that did not know one another before. He loves to engage with his guests and get to know them in a very meaningful way. He jokingly says that he would die if he stopped being on the Airbnb platform. "It has made sure that my mom sustains herself after taking her pension."

Airbnb today goes beyond enabling the provision of accommodation and offers a further opportunity to people who want to benefit from the sharing economy by allowing them to offer Experiences. These are activities designed and led by inspiring locals. They go beyond typical tours or classes by immersing guests in each host's unique world. It's an opportunity



for anyone to share their hobbies, skills, or expertise without needing an extra room or a house—undoubtedly an expensive asset in today's South Africa.

We know that South Africa is committed to increasing tourism and providing inclusive opportunities to citizens and that this will facilitate economic growth, particularly amongst disadvantaged communities. Home sharing and Experiences - appropriately supported and enabled by regulation - can be the perfect vehicle for meeting this aspiration.

And not only that. Home sharing and experiences also provide the opportunity for visitors to stay in areas where there is no or insufficient accommodation and see a South Africa that they would not otherwise see. This invigorates the local economy in areas that may have previously struggled to attract visitors. We know from the feedback we receive and from various surveys over the years that guests on Airbnb tend to stay for longer, spend more, and spend more locally than comparable guests using traditional accommodation.



Fayruza is a third-generation Malay cook

COOKING CLASS

Taste Malay dishes with a home chef

📍 Cape Town

🕒 3 hours total

🍽️ Food and Drinks

🗣️ Offered in English

🏆 Over 190 people rated this experience 5 stars.

About your host

I am a third-generation Malay cook, and have been cooking since the age of 10. My food is unique, tasty and authentically Cape Malay. I am passionate about food and love entertaining. I love travelling, meeting new people, books and

Fayruza is an Experience host on Airbnb from Bo Kaap. Formerly an air steward for 14 years, before a career in senior management for a security company, Fayruza took ill a couple of years ago and decided to scale back her career in favour of a less stressed lifestyle. She now opens her home for a Cape Malay cooking experience incorporating delicious food, history, culture and great company.

AIRBNB AND ITS COMMUNITY IN SOUTH AFRICA

Travel and tourism today account for 10 percent of global GDP and one in every 10 jobs worldwide, and travel to emerging economies is expected to grow at twice the rate of travel to advanced economies from now until 2030⁵. But not all tourism is created equal. As the travel industry continues to grow, **Airbnb promotes a unique, differentiated form of healthy tourism: tourism that is local, authentic, diverse, inclusive, and sustainable**, versus mass travel that bottles up the economics of travel and can be environmentally less sustainable.

In a recently published report⁶ it is noted that since Airbnb's founding, **2 million guests have arrived at listings on Airbnb in South Africa**. These guests are creating significant economic benefits for the community of hosts and in turn for the local neighbourhoods. Travelling on the Airbnb platform enables tourists to discover new destinations and helps to ensure that

⁵ World Travel & Tourism Council; UNWTO.

⁶ Airbnb in South Africa: The Positive Impact of Healthy Tourism, published September 2018, <https://www.airnbccitizen.com/report-the-growing-impact-of-airbnb-in-south-africa/>



local residents directly benefit from tourism's economic growth. And this is not just people who have a home they can share, it's also Experience hosts and by implication local businesses - shops, restaurants and attractions.

An analysis by Genesis Analytics in the same report helps to estimate the economic impact that Airbnb has in South Africa. From June 1, 2017 through May 31, 2018, **host and guest activity on Airbnb generated an estimated R8.7 billion (roughly \$678 million USD) in economic impact in South Africa. This economic impact corresponds to a total of over 22,000 jobs supported across the broader South African economy.**

The most significant thing though is that **this growth is democratic and inclusive.** Hosts on Airbnb can be on the Atlantic seaboard or in Soweto, they can share their cooking skills in Bo-Kaap or take you for a walk in Khayelitsha - opening a world of opportunity across South Africa both in terms of geography and in terms of diversity - for example 65% of home hosts in South Africa are women.

What's more, guests have rich experiences when they stay with a host that lists on Airbnb. 82% of guests say they are more likely to return due to Airbnb. And what is significant to South Africa as a destination is that guests are more likely to return if they have a wealth of accommodation options for different types of travel - not when they have only one or two types to choose from. Not to mention that guests also learn about local businesses, further spreading the benefits of tourism - **95% of hosts recommend local businesses to their guests and according to the survey of guests to South Africa, 52% of their tourism spending occurs in the local neighbourhood where they stay.**



***Michelle** is a host in Johannesburg and is always positive about the future of tourism in South Africa. She has been a curator and is a writer. She fell in love with Airbnb after a couple of months of couch surfing. Her best hosting experience on Airbnb was a gentleman from Brazil who came for a week and then stayed for 2 weeks learning English and enjoying Johannesburg through her lens. She mainly uses the extra cash to help pay her bond. She shares her home and she says that is why she loves the platform because people get to share meals with her.*



Experiences is a product on the Airbnb platform that further encourages and enables economic empowerment: Hosts keep 80 percent of what guests pay for an Experience, and they are fully in control of how and when they provide them. From Barcelona to Paris, to Seattle, to Florence, to Los Angeles, some of the most popular Experience hosts globally are on track to earn more than \$200,000 USD this year. **In South Africa, the average earnings for someone who hosts Experiences six times per month is approximately R180,000 annually (\$14,000 USD). Those who host more frequently, 12 times per month, average approximately R230,000 annually (\$18,000 USD).**

Airbnb Experiences go a step further, with social impact Experiences. These provide non-profits a platform to fundraise and promote their mission while inspiring users of the platform to engage in social causes around the globe. Each organisation decides what Experience will most help the communities they serve—whether it's fundraising, building awareness, volunteering, or all of the above—and Airbnb waives its service fees so that **100% of the proceeds go directly to the non-profit**. With these Experiences, Airbnb makes its global footprint and peer review system available to impactful organisations, including in neighbourhoods that are not normally on the tourist map. Immersing in a social cause, community, mission and vision of a non-profit transforms people to act beyond the timespan of the Experience, creating long-term donors, volunteers, and ambassadors for a cause.



KAYAKING

Paddle with the Penguins

📍 Cape Town
⌚ 2 hours total
🧰 Equipment
🗣️ Offered in English

About your host

Your guides on this Experience will be either noted marine conservationists Terry Corr or Jon Monsoon.
Terry Corr is the Head of Education of AfriOceans Conservation Alliance. Terry is a qualified marine conservationist, passionate lifetime wildlife conservationist, a qualified scuba diver, qualified sea kayak guide and trained Nature Guide.
Jon Monsoon is a qualified nature conservationist,...+ [More](#)

Paddle with the penguins - a Social Impact experience run by Terry, Jon and Lesley

Airbnb Experiences enabled them to self-fundraise for the different projects they are working on as well as educate travellers and locals on ocean conservation. The global audience that the Airbnb platform offers has given them unparalleled opportunity and access to people as well as funds.

AfriOceans Conservation Alliance is one of South Africa's leading nonprofit organisations, founded in 2003 by Lesley Rochat, aka The Shark Warrior. AfriOceans conducts REAL Marine Environmental Education and Awareness programmes that make a difference in communities, beaches and in the Ocean.

Apart from the contribution of the community to South Africa, Airbnb as a company has also been active in areas that are of interest both to the Government and hosts around the country. Noting the push towards diversification, opportunity and spreading of tourism as well as skills-building for underrepresented communities, please find below two of Airbnb's most relevant projects which patently exhibit the company's ongoing commitment to these principles.

Africa Travel Summit



Airbnb knows of great examples of innovators on the Continent making a difference to their communities through the power of travel. Airbnb wanted to give a voice to that community, put South Africa front and centre of those creative discussions and offer an opportunity to policy makers to hear from the real trendsetters. To that end, Airbnb was honoured to convene 200 innovators in tourism and tech from across Africa in Langa, Cape Town from 11-13 September, 2018 **to discuss how technology can best be used to accelerate inclusive, sustainable economic growth through travel on the Continent.**

The venue was not chosen lightly. Airbnb remains visibly and demonstrably committed to spreading not only tourism, but conference tourism as well, outside the strict confines of already popular destinations.

Change-maker talks punctuated the panel discussions to create a thought-provoking mix of theory and findings, best practices and from-the-field insights. From all these discussions, four themes emerged (a full report is also available⁷):

- A. **Pride of place:** Unlocking Africa's full potential for tourism growth should be -among other things - about appreciating African daily life and the continent's cultures and communities. We cannot create healthy, community-based tourism until we embrace that there is value in community tourism and not just in offering the same thing in the same old locations.
This is exactly what the **Airbnb** model does - it allows communities to enhance and promote their neighbourhoods with the revenue staying primarily in the hands of the community while promoting Africa daily life.
- B. **Taking ownership:** participants felt strongly that Africa must take ownership of the future of tourism, enable connection, allow communities to set up strong supply and promote an accurate and lively image of the real Africa.

⁷ Report: Learnings from the Africa Travel Summit <https://www.airbnb.com/citizen/report-learnings-from-the-africa-travel-summit/>



Airbnb is proud to facilitate this grass roots vision of tourism by offering a globally relevant and accessible platform which enables locally representative travel models to emerge.

- C. **Making the business case:** The importance of the tourism industry to African economies, and particularly its “healthy” potential for inclusiveness, is easily eclipsed by generic views of the industry as one focused on providing its customers with fun, fanciful escapes. Challenging as it may be, an unemotional business case must be made.

The **Airbnb** report on travel in Africa is indicative of a robust business case. The community contributes to the economy, to tourism, to employment without racial or geographical barriers.

- D. **Foundations first:** Summit discussions made it clear that well before we consider the potential role of apps and devices, we need to lay a solid foundation of the basics—basic technologies and the skills to use them—across the continent before we can start scaling the tourism economy for maximum local impact. These basics include things like data access, smart devices and the skills to use them.

This is exactly why **Airbnb** is proud to have created the Airbnb Africa Academy.

Airbnb Africa Academy



Africa is a prime example of Airbnb’s commitment to its vision to use technology to help spread the benefits of tourism, previously kept in the hands of a few, to the many. As part of Airbnb’s support for a new generation of entrepreneurs, the company is building the Airbnb Africa Academy, an initiative to encourage healthy tourism and entrepreneurship in under-resourced communities across the continent.

Now in its second year, the Academy provides emerging tourism entrepreneurs with tools and resources that they can use to become hosts on Airbnb’s platform through sharing their homes or passions (Experiences). Airbnb wants economic growth to be inclusive and enjoyed by the many underrepresented communities within emerging markets.



In a lot of countries for historical, cultural and financial reasons, access to technology, education and opportunity has not been equal. Airbnb thinks that the proliferation of technology and user friendliness of platforms can change that fundamentally. Airbnb is committed to ensuring that as tourism becomes a larger portion of economies around the world, local people and the communities they live in are the primary beneficiaries.

Through the Academy, locals are supported to take ownership of the future of tourism in their communities, showcasing the wealth of diversity in South Africa, and the rest of the continent. By sharing their communities and stories through hosting on the Airbnb platform, locals are owning the true, accurate narrative of Africa. To date, the Academy has supported 85 hosts to come onto the platform, each from diverse rural and under-resourced communities in the Western Cape (Langa, Khayelitsha, Kassiesbaai, Lyndoch), Gauteng (Soweto and Alexander), and Kwa-Zulu-Natal (Khula Village, Mkhuze, Inanda, Drakensberg, Durban).

From all of the above it has been exhibited how

- **Airbnb and the community that shares a home or their knowledge on Airbnb are operating exactly within the vision set by the Government, the Tourism Ministry and the tourism innovators themselves from the Africa Travel Summit.**
- **Airbnb and its community are promoting healthy, community-powered tourism that grows the economy significantly and has a positive impact on innovation, income and enabling the participation of communities previously underserved and underrepresented.**

Continuing this work is exactly why we feel that South Africa needs not just any regulation but fair and proportionate regulation.

WHAT AIRBNB MEANS BY FAIR AND PROPORTIONATE REGULATION

To continue Airbnb's contribution to growing an inclusive and sustainable tourism economy through innovation, there are four key principles which, in the company's experience, should underpin enabling, fair and proportionate regulation:

1. Regulation is a useful and necessary tool of good policy but policy comes first.

Many countries around the world are regulating the sharing economy and home sharing but good regulation can only be based on a clear policy vision of:

- **What is the reality in the country (e.g. in terms of tourism accommodation, housing, ownership, access to opportunity, bureaucracy etc.)**
- **What do the Government and Ministry want to encourage (e.g. more tourism, more diversity, more access to opportunity etc.)**
- **What challenges do the Government and Ministry want to address (e.g. low tourism numbers in rural areas, low access to opportunity for people from previously underserved communities, low youth employment, etc.)**

Sadly, the current wording of the draft Bill is very vague and unclear and sets out no information on the above. It indicates the creation of specific regulatory approaches without any explanation of what they are trying to encourage or solve. In other words - and excuse the oversimplification - the wording announces that we will be using a hammer, which wouldn't be appropriate if Airbnb and the Government are trying to glue together a pot or put a picture up on the wall. **What can easily happen is that because there is no stated policy purpose in the Bill, anyone in the near or far future can introduce any regulation based on a policy purpose of their choosing.** For example, there is nothing in the wording to prevent a complete ban of all home sharing activity because the policy purpose can be misrepresented



- since it's not clarified -to be a protectionist intervention designed to support incumbent business models in the face of competition.

Policy & Regulation example: GREECE

Pre-policy considerations:

- *The reality - Greece went through a significant economic crisis and citizens were struggling to make ends meet with loss of employment or lowering of salaries and pensions. At the same time Greece is a country with high ownership levels - people tend to own their home and a house in the village they come from and/or a small rental in the city. Even though with the crisis these properties were not giving income (the rental market had collapsed) owners still had to pay steep taxes. Additionally, the crisis and dwindling rental activity meant that small businesses in many neighbourhoods had to shut down. Finally, tourism is one of the key contributors to the Greek economy and vital during the crisis.*
- *Encouraging - The Government and the Independent Authority for Public Revenue wanted to encourage more tourism, support small businesses across all neighbourhoods, find ways for struggling citizens to make ends meet and increase state income from taxation.*
- *Challenges - The Authority wanted to discourage tax evasion and also wanted to be able to monitor levels of activity accurately.*

The Policy:

Greece decided on a policy of welcoming home sharing and enabling as many citizens as possible to participate with simple non-bureaucratic systems that would inspire compliance by each individual.

The Regulation:

Greece currently has no day limits and no property limits on home sharing. Each host only has to use the Authority's tax system - which already exists and the majority of citizens have easy access to - to notify that they intend to home share. No permits are required, no checks and no paperwork; the Government's system automatically gives a registration number which the home sharer has to display everywhere they list.

How Airbnb helps:

- *Airbnb disseminates information on best practice and the rules on our Responsible Hosting Pages.*
- *Airbnb sends an annual reminder immediately before the annual Tax Declaration deadline, displaying a full breakdown of all activity and income of each host.*
- *Airbnb has opened a dedicated Registration Number field for each listing.*
- *Airbnb runs a digital campaign encouraging hosts to register and to display their registration number - achieving impressive rates of compliance in a short amount of time.*
- *Airbnb continues monitoring the community's activity and are in close contact with the Authority to explore new ways to help with compliance.*

If we look into the existing Government and Ministry announcements for the policy direction outside of this consultation, the country aims to encourage inclusive growth; and grow SMEs, innovation, opportunities for young people as well as more tourism. If that is the policy then the regulation as currently worded does not match it - it is doubtful that thresholds, ratios and the potential for creating rules without stated and transparent reasons will get the country to where it wants to be. To the contrary, rules designed on misconceptions about the sharing economy and unclear policy direction will harm diversity, opportunity and tourism.

2. Regulation should encourage varied accommodation types to ensure a wealth of options for visitors.

Contrary to what certain parts of the tourism industry would have policy makers believe, destinations find that they attract a lot more guests and a more varied set of guests when they have various accommodation options to suit all pockets and tastes. The ability to find exactly what one is looking for will also increase the likelihood of a traveller returning - for example there is nothing to stop someone who visited Johannesburg for work and stayed in a business hotel to return with their family and stay in a small garden unit in the same city. **Diversity of accommodation options grows the overall size of the pie. In other words, the solution cannot be to create a uniform product offer with no local colour and variation, devoid of local reality and one that leaves South Africans devoid of opportunity.**

To achieve this variety nowadays, the tourism strategy has to embrace the simplification of current rules for professionals and must recognise home sharing as a separate category but one equally valuable to the creation of a vibrant accommodation sector.



Lillian is a host in Kayamandi, outside Stellenbosch in the Western Cape. She has used Airbnb as a platform to welcome more people to her home and her community. She is a storyteller and she often talks about how she began with very little but was able to use what she had to support her family.

3. Regulation should be fair and equitable; one size does not fit all.

Vibrant and fair competition requires various accommodation options and none should be given advantages over others. However, what is often misunderstood - and often deliberately by established players - is that one rule does not fit all in any area of policy. As a government would not require a corner shop to follow the same rules as an out of town megamarket - it equally already does not require a small bed & breakfast to follow the same rules with a big hotel.



What is clear then is that the new category of home sharing cannot be treated in the same way as existing categories.

That is not to say that certain things should not remain the same for all players. For example, Airbnb has long been on record that the TOMSA Levy is a valuable tool that contributes to tourism and its promotion in South Africa. The Levy is an example of something that may apply to all accommodation providers as a key contributor to the country.

In other words, all accommodation options are not the same. Most will provide something fundamental - like a pillow - but cannot provide something inappropriate to their size - like a receptionist. The same goes for regulations. Some can logically apply across the board - like the TOMSA Levy - while some would be inappropriate to their size or level of activity. The key with both the pillow and the TOMSA Levy is that both can be the bare minimum of all accommodation options - regardless of size and intensity of activity - i.e. offering a pillow and paying the TOMSA Levy does not suddenly mean that you are a professional or a big hotel.

4. Regulation should create opportunities for all communities to benefit from technology fairly without artificial blockers that disadvantage those who offer more popular services

Experiences

An important example of this worrying trend in the draft Bill of creating artificial limits and barriers as well as discouraging participation from all South Africans is that “further qualifications” will be required of tour guides - on top of the already existing ones. This can only further disadvantage South Africans and most particularly people from disadvantaged communities. Further costly qualifications - in time or money - will further deter new entrants.

Currently, the start-up costs and time required to become a registered and trained tour-guide can be too high and lengthy for the average person to enter into. Under the existing Act, all people wanting to be registered as a tourist guide must show proof of competence provided by an accredited trainer. To pay for this training, an individual must fund the upfront cost of R240 for registration (renewable every 3 years) and training qualifications between R7,000-R32,000. For a low or no income individual this can often mean risky loan-shark agreements and meeting lofty repayments whilst training. If an individual manages to surpass those obstacles, they can then additionally face a long waiting period for the registration to be processed, before they are allowed to operate. With processing times taking up to 12-18 months, this inhibits an individual from earning a tour-guiding income despite being fully trained to do so. The result, they take up employment elsewhere and this can often lead to the individual disengaging from tour-guiding all together - either during the lengthy training or while awaiting the final documentation.

These existing barriers are not encouraging for anyone from an underserved community looking to become a tourism entrepreneur. Therefore, Airbnb would stress that “further qualifications” which result in a requirement for more money, individual’s or processing time to get trained and licensed would further disadvantage them and the sector.

Costs and timing constraints also extend to new businesses, wanting to grow by engaging young people with employment opportunities. The high barriers to entry of training and licensing processes mean they can’t attract the talent or sponsor their training.

Airbnb recognises the need for relevant historical education, safety training and information being part of the guides’ training because Experiences hosts say that it enriches their own knowledge and gives them a solid base for representing South Africa and giving further,

accurate ideas on more activities that the visitor can engage in - a cumulative benefit to the destination overall. However, Airbnb asks that the Department set regulations which encourage SAQA, CATHSSETA and other appropriate authorities to review the existing categories and classifications and determine what remains essential for guides to be informed on. What would be relevant to different or particular forms of tour guiding activity and what is part of sharing modern day South Africa with visitors, not just the past, has evolved and changed now.



Nick is an Experience host in Cape Town: "Myself and my two partners had to pay R7,000 each to do the course. Although R21,000 is not a substantial capital investment in some industries, it was a huge challenge for a self-funded start-up.

Once completing all the requirements in August 2017, we had to wait until April 2018 before we received our licenses. This meant that we had to wait a year (after making our initial investment) before we could run our first tour. As a result, we missed the whole of the 2017 season.

Our main issue was that everything taught in these classes only prepared us to provide traditional-styled tours. Everything was focussed on the past/history with no attention on the current or future state of our country.

Through our experience, we have found that individuals are not willing or able to invest R7000 to do a course if they are only able to legally find work 6-12 months later. Two examples come to mind. We are currently looking to hire additional guides for the 2019/2020 season. One of my potential guides has had to resort to working long hours as a waitress to pay for the course. Another potential guide has asked if we could provide him with a R7000 loan so that he can do the guiding course. In exchange, he has offered to do the first 7 full-day tours for free."

A qualified guide should be an expert in the area that they are sharing with visitors, alongside an important foundation of general knowledge and safety. In order for the training to be fit for purpose in the twenty-first century, it must remain relevant, contextual and accessible for the different offers available.

Not all modern-day tourism offers fit within or should be subject to the standard requirement of a SAQA or CATHSSETA accredited training. Modernising and evolving the regulations and requirements for training should be an enabling change for activity and employment opportunities, not a hindrance. For instance, for many, their offer may not be their full-time



occupation or purpose. Charities and non-profits offer activities which raise awareness and fundraise to their cause. Other small businesses may partake in hosting an experience occasionally which does not represent the mainstay of their business operation. Individuals equally, can offer activities and skill-shares which engage both locals and tourists.

Finally, it remains unclear what the intention behind allowing the Minister to determine by regulation “permissible ratios” of tour guides is, as it is a very vague definition that gives a lot of discretion to the Minister to regulate on that specific issue. If this refers to the idea of artificially limiting the number of tour guides overall, once again this impacts quality and healthy competition. Equally, this would make the wrong assumption that all tour guides or activities do the same thing - a notion that can quickly be put to rest with even a cursory glance at the Airbnb Experiences offering. If it refers to “ratios” of visitors to each individual guide per booking, Airbnb believes it is important that there is proper research conducted to ascertain what type of tour-guiding activity this would apply to. Without this, it could lead to unintended impacts on particular activities which require larger groups.

Home sharing

It was also quite alarming to read that according to an official in the Ministry

“(..) new regulations could lead to a more “even playing field” for all Airbnb owners: “If the guy in the Airbnb gets 13 nights, and the guy next door gets nothing, then he knows that he will get his chance when the Airbnb reaches its threshold. It's more about a shared economy rather than trying to regulate a private service.”⁸”

The notion that because one player had 10 bookings, another player also ‘deserves’ 10 bookings is anticompetitive and detrimental to tourism in the era of online reviews and real-time updates on the quality of services. One would be encouraging the lowest common denominator - since at some point all players would get a booking they might as well offer subpar services - instead of rewarding exceptional quality as judged in real time by guests.

Furthermore, artificial limits can easily further disadvantage already underrepresented communities. **Home sharing in a low-income area or in a less popular area will not accrue the same income as what a home sharer can ask in a popular area.** The starkest example is a property in a township and a property on the Atlantic Seaboard. And while many might - inappropriately in our opinion - question the necessity of accommodation options and Experiences across South Africa - Airbnb believes that this diversity and this opportunity to visit and experience the whole country, whether you are a South African travelling or someone visiting from abroad, is the mark of an inclusive country which supports and invites vibrant tourism to the benefit of all instead of the few.

Finally, if the Ministry is minded to introduce limits on this flawed perception of fairness then Airbnb looks forward to your view as to introducing limits for the same reason on bookings done across the board to all types of accommodation - including but not limited to - big hotels.

Airbnb has also noted from various publications and conversation that there is a misconception about what “levelling the playing field” looks like. Too often “levelling the playing field” is used as a way to maintain over-complicated and redundant regulation for professionals, extend it to all categories and disadvantage small players as well as home sharers. In other words, instead of seeking to simplify the rules for all, one is seeking to “punish”

⁸ Renting an Airbnb in South Africa may change dramatically, due to new laws, 15 April 2019, Tom Head, The South African <https://www.thesouthafrican.com/travel/airbnb-south-africa-new-laws-tourism-potential-changes/>



the innovators and continue punishing the existing players by reinforcing and expanding bureaucratic systems.

The truth is the exact opposite. The less limits introduced, the more high-quality services as determined by visitors in real time will be rewarded. **The more rules are simplified and fair regulation is introduced across the board, the more the sector will thrive and develop equitably.** Finally - and sadly - the more restrictive and unfair the rules, the more residents are pushed to hide their activity, resulting in loss of benefit to the community and loss of income from taxation. **This is why Airbnb invites the Ministry to review and simplify regulation across categories** - and some of the company's principles and suggestions for simplification are below.

WHAT AIRBNB WOULD SUGGEST IN TERMS OF NEW REGULATIONS

Airbnb proposes that the Ministry should consider Airbnb's proposals, bearing in mind Airbnb's four principles of regulation when considering any amendments to the Tourism Act and any future regulations. Keeping in mind the South African government's goal of growing an inclusive and sustainable tourism economy through innovation we would like to make the following suggestions:

A. Introduce a national level tourism innovation policy and create a rigid framework of transparent and fair decision making.

Tourism innovation policy

National Government - in collaboration with all interested Ministries and stakeholders, including South Africa Tourism, the Ministry of Tourism, the Revenue Service etc. - should agree on a strategy for innovation in tourism based on, as mentioned above:

- What is the reality in the country (e.g. in terms of tourism accommodation, housing, ownership, access to opportunity, bureaucracy etc.)
- What do the Government and Ministry want to encourage (e.g. more tourism, more diversity, more access to opportunity, payment of taxes etc.)
- What challenges do the Government and Ministry want to address (e.g. low tourism numbers in rural areas, low access to opportunity for people from previously underserved communities, low employment in youth etc.)

The policy should support clear, appropriate and equitable rules for a variety of offerings in accommodation and experiences. Airbnb would also invite the Government to consider committing to a specific strategy to support previously underserved communities and help them benefit from the digital economy and the new tourism opportunities.

Creating a framework of transparent and fair decision making

Based on this policy Airbnb would invite the Government to also consider who is most appropriate to set regulation considering what the aim is. A uniform national regulatory direction might need to be set by the Ministry of Tourism in consultation with Parliament but perhaps more specific regulatory tools may need to be set by the Provinces to ensure local relevance.

Regardless of who sets regulatory direction and regulatory tools, ideally the regulation making Authority should commit that any new regulation has to face four tests on:

- a. **Innovation & opportunity** - Being supportive of new approaches that enrich and diversify South African tourism.
- b. **Fairness** - Being fair across the country for all geographies and different communities
- c. **Appropriateness** - Being appropriate to the level of activity regulated.



- d. **Evidentiary basis** - Being based on solid analysis of transparent and trustworthy data like economic need, diversity and tourism statistics.
- e. **Consultation** - Giving to South Africans the opportunity to express their views and concerns.

B. Introduce a definition for home sharing as a non-professional activity and give a clear path to professionalisation as a second step

The Bill seeks to include the definition of "short-term home rentals" into section 1 of the Act. The Bill defines "short-term home rentals" as follows:

"short-term home rental" means the renting or leasing on a temporary basis, for reward, of a dwelling or a part thereof, to a visitor."

The Bill does not define nor explain what "short-term" or "on a temporary basis" mean. Rentals, by definition, are entered into on temporary basis (e.g., even 10-year leases). The definition should thus be clarified to clearly indicate to those affected exactly what types of rentals the government is seeking to regulate.

A further issue of concern is that short-term home rentals and home sharing are already regulated by municipalities, in terms of their constitutional competence to regulate land use planning. Certain municipal planning bylaws have already introduced similar types of regulation to those contemplated in the Bill. Thus, through multiple levels of regulation, the risk of duplication and inconsistencies arise and the increasing red tape could have the unintended effect of stifling the growth of the tourism industry in South Africa. Airbnb supports a collaborative approach to short-term home rentals that brings different spheres of government together to find a co-ordinated appropriate solution.

Airbnb is concerned that this definition is confusing and does not create the introductory category of home sharing which has a demonstrable benefit to the South African economy and all communities across the country. Not all home sharers want to become professionals. Some are students at university and share their property when they go back home for the holidays. Some have a holiday home that they don't use all year. Some are empty nesters and enjoy the company.

Airbnb would respectfully submit therefore that it is imperative to not use the term "short term rental" and **to instead introduce a definition of home sharing as an occasional and non-professional activity.**

Airbnb does recognise, however, South Africa's ambition to promote entrepreneurship and encourage South Africans from all walks of life to innovate and create new businesses. The low entry barriers to home sharing as well as the clarity of the rules may well mean that some home sharers will find they have a talent and desire to become professionals.

Airbnb would respectfully submit therefore that the draft Bill should also clarify what is the path for any home sharers who would like to become a professional and which concrete requirements and obligations would be applicable to them.

Airbnb would further ask that the Government reviews and simplifies at the very least the first professional category, making it an introductory step into the professional world and effectively encouraging talented home sharers to further contribute to the South African Economy by creating and running a business - a category that is separate from home sharing. This does not only benefit home sharers but it also benefits existing professionals who will see



their bureaucratic burden reduced and will be able to use their funds and energy to innovate further.

C. Introduce regulatory setting powers or specific regulation that is fair and equitable

In line with the previous point about making a decision on who will set regulations and what tests that regulation will have to face, Airbnb would like to suggest that the Ministry should further introduce a set of principles for regulation of home sharing and tour guiding that will protect the sector and allow it to grow responsibly. The principles should be that:

- Regulation should recognise the benefits that home sharers bring to tourism and the economy and hence their activity needs to be recognised and regulated fairly and appropriately.
- Regulation cannot be introduced for home sharers simply because professionals are subject to it. The regulating body should seek to simplify for professionals and present evidence of why a proposed regulation should apply across the board. For example, we would submit that a home sharer has no need for a business license but it should be discussed whether all accommodation providers should pay a compulsory TOMSA Levy or equivalent.
- Any thresholds introduced need to be in place in a meaningful and fair way that clarifies the difference between home sharing and professional activity. The threshold
 - Should **enable all communities** to participate regardless of if they share a home or an experience in a less popular area where they can charge less or a more popular area where they can charge more.
 - Should **make home sharing attractive** through sufficiently permissive but fair rules so that South Africans are encouraged to participate and benefit their local economy.
 - Should **provide a clear indication of the point after which one will become a professional** so that interested South Africans can try the activity before they plunge into running a business.
- Regulation should not add new burdens to tour guides who are at the forefront of curating, spreading and supporting the South Africa narrative. Instead, Airbnb would suggest a review of local systems to point out best practice and better standardise the process of getting trained and licensed. We would suggest that the Western Cape process - while it could benefit from some improvement - is nevertheless a good example of equipping people with the fundamentals before they can create their own individual experience. Based on Airbnb's engagement with community focused guides, Airbnb would strongly appeal to the Department to refrain from introducing artificial limits - and instead recognise active innovators in this space. Airbnb references its engagement with community focused tourism entrepreneurs, as it has really opened our eyes to the potential of engaging a **new wave of tourism entrepreneurs** from previously underserved communities. By making the system more inclusive instead of pursuing further restrictions, some of the benefits of this are that;
 - Activities and tours which are run by local residents are **endorsed by the local community**. They understand the positive impacts and feel a part of the offer and narrative being shared. This also reduces security risks and can minimise crime, with the community embracing their presence.
 - It offers an **authentic and immersive experience for visitors**. Residents are able to share their stories directly and it allows for greater interaction between locals and tourists as they explore.

- The **potential for inviting and helping flourish tourism services entrepreneurs** is huge, with sign-up rates of over 300 offers after just two years of Experiences being launched



Ntsiki is an Experience host in Soweto, where she grew up

“We show tourists the other side of South Africa, that isn’t shown in travel mags. We tell stories that tourists would otherwise never hear. Tourists aren’t just sleeping at our houses, they’re staying with a family, experiencing what is like for us”

Ntsiki was working for big tour companies before and she is now able to work for herself and to earn a better income to sustain her family. As her experience is successful she can now partner with other guides or potential experience hosts in her community to create more things for people to see and do in Soweto.

Based on our engagement Airbnb has observed three important areas for consideration, which could result in a vastly more inclusive tour-guiding system:

- **Scaling modules:** Having basic, entry-level modules which enable a quick-start foundation of training, ideally offered online, would enable someone to get started. An online solution would allow flexibility and accessibility to study. This would remove the blocker of having to pay and travel long distances to training locations and focus the time commitment directly on studying. It would engage young people to sign-up and begin operating in a scaled back way, with a clear pathway to earn further credentials through scaled modules, to grow their tour-guiding expertise over time. We have further recommendations to share on developing online curriculum, if this is of interest to the Department.
- **Enabling early-stage activity:** Flexibility is paramount to enabling entrepreneurs, and so having a system which allows certain types of activities whilst studying for a full tour-guiding license would be incredibly impactful. Allowing individuals to still generate income and put their skills and learnings to practice would keep them engaged and less financially vulnerable.



- **Inclusive payment schemes:** Creating training payment schemes which enable individuals to repay fees as they earn, would be transformational for inclusivity. A commission structure could be established to pay towards studies – which deducts a small percentage from each tour. Or an individual can be given credits to assist with fees and costs.
- Finally, when creating regulation, one of the most critical elements is the way in which it will be administered and enforced. Key legal and administrative questions - including the ability of local authorities to manage with the sheer volume of compliance processes and requests - depending on the regulation passed - have to be taken into account. It should also be noted that while Airbnb supports its users with compliance – as per the example of Greece above – it does so in places where there is a clear policy and regulation, supporting the ability of people to share their home and interests. We remain open to a conversation about providing appropriate information and support to our community, which can follow the setting of a firm policy direction and fair and equitable regulation.

Airbnb is at the forefront of working with countries, regions and cities around the world where our community has a significant presence and where there is support for the right of people to share their homes, both when they are present and when they are out of town. Airbnb would also point out that it is not the only platform operating and other players will have to be included in any conversation about how Airbnb can help our users follow the rules.

CONCLUSION

In conclusion, Airbnb is committed to continuing supporting the community who have a significant and positive impact to South Africa as well as work to promote the destination and create new opportunities for underserved communities.

Airbnb supports fair and equitable regulation for home sharing with clear and stated policy intent, free of the risk of misunderstandings due to the absence of the policy vision in the current wording of the draft Bill. To that end, Airbnb would encourage the Ministry to reconsider the draft Bill and consult widely within Government as well as with citizens and stakeholders on the policy and only subsequently on specific regulation.

We remain at your disposal and we would be delighted to discuss this further at your convenience.

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