

FINDINGS AND RECOMMENDATIONS

Subject of this *Findings and Recommendations* are the complaints filed by various Transport Network Vehicle Services (TNVS) applicants against the Land Transportation Franchising and Regulatory Board (LTFRB) for the delay in the processing of their applications for the issuance of a Certificate of Public Convenience (CPC). After affording both parties the opportunity to be heard, whereby LTFRB submitted its *Reply*¹, and after due consideration of the evidence and arguments submitted, the Authority hereby finds violations of R.A. 11032 or the *Ease of Doing Business and Efficient Government Service Delivery Act of 2018*.

I. FACTS

On 03 July 2019, the Complaints Action Center (CAC) of the Authority received an email from a complainant regarding the alleged delay by the LTFRB in processing the Provisional Authorities (PAs) of TNVS applicants. Thereafter, various complaints² concerning the same matter were received by the Authority. The Authority took notice of the planned “Transport Holiday” of TNVS groups, which was set on 08 July 2019.

On 05 July 2019, the Authority sent invitation letters to the LTFRB and the Department of Transportation (DOTr) for a dialogue between the Authority, TNVS groups, and Civil Service Commission (CSC) Commissioner Aileen Lizada (Commissioner Lizada) to be held on 08 July 2019. LTFRB Chairman Martin B. Delgra III (Chairman Delgra) declined the invitation due to a prior commitment. Nevertheless, LTFRB invited the Authority to attend and participate in a dialogue, which was scheduled on 09 July 2019.

On 06 July 2019, the Authority held a dialogue with the TNVS leaders and listened to their concerns and issues on the LTFRB registration, including concerns on the denial of the issuance of PAs for hatchback cars without a reasonable explanation. In the dialogue, the Authority gave an assurance that it will look into LTFRB’s process and review policies affecting the delivery of services in LTFRB. The Authority obtained the commitment from TNVS stakeholders to afford their members the option to go online instead of participating in the “transport holiday”.

On 08 July 2019, the Authority held the scheduled dialogue at the Quezon City Memorial Circle Covered Court with TNVS stakeholders, CSC commissioner Lizada, DOTr Undersecretary Mark Richmond de Leon, and the Department of Trade and Industry (DTI) Bureau of Philippine Standards (BPS).

On 09 July 2019, the Authority participated in the dialogue conducted by the LTFRB. The Authority appealed to LTFRB for the relaxation of its rules and for the issuance of PAs allowing TNVS applicants to operate without sacrificing public safety. It further cited that TNVS is a regulatory innovation that is not exactly covered by any existing legal framework in the Philippines for public transportation.

¹ Copy of the *Land Transportation Franchising and Regulatory Board Reply to ARTA Notice to Explain* dated 25 July 2019 is hereto attached as **Annex “A”**.

² Copy of the Summary TNVS Complaints received by the Authority is hereto attached as **Annex “B”**.



On 11 July 2019, the Authority met with TNVS leaders in order to come up with a speedy and appropriate resolution of their complaint. It assured TNVS leaders that the President of the Republic of the Philippines is concerned with their plight.

On 12 July 2019, the Authority met Chairman Delgra and gave its recommendations on LTFRB's regulatory processes. The primary recommendation was a moratorium on apprehension for the following:

- a. those who have pending applications that have not been acted upon by LTFRB;
- b. those whose PAs expired but with pending applications; and
- c. those whose applications were denied but with pending motion for reconsideration.

On 19 July 2019, photos³ and videos⁴ of TNVS applicants queuing in front of the LTFRB Office in East Avenue, Quezon City as early as 10:00 in the evening were furnished to the Authority. These were also uploaded in various social media platforms and were reported by the media. Such queue was for the simple purpose of securing a number or slot just for the stamping of the TNVS applicants' PAs. It is well to note that the Authority also received reports that TNVS applicants may simply pay the amount of THREE THOUSAND PESOS (Php 3,000.00) in lieu of a slot and avoid queuing.

On 24 July 2019, the Authority issued a *Notice to Explain*⁵ upon the LTFRB requiring the board to explain the various irregularities found by the Authority. The LTFRB was given three (3) days to submit its explanation

On 26 July 2019, the Authority received the reply of LTFRB together with its attachments, which mostly consists of memorandum circulars and department orders.

It is noteworthy that on even date, the Authority received a complaint regarding the sale of "sure slots" whereby slots for the online registration of TNVS applications, which are supposed to be free, are being sold even prior to the actual opening of the online applications. The minimum amount for each slot is FIVE THOUSAND PESOS (Php 5,000.00). Furthermore, such sale was being perpetrated by fixers who conduct their business within the premises of the LTFRB Cashier. Consequently, the Authority conducted a joint operation with the Presidential Anti-Corruption Commission (PACC) and the National Bureau of Investigation (NBI) to entrap the identified fixer. This resulted in the arrest of the fixer named "ROSE LAWERDA" which proves that fixers proliferate in the LTFRB preying upon the multitude of TNVS applicants.

³ Printout of some of the photos of TNVS applicants queuing outside the LTFRB office in Quezon City are hereto attached as **Annex "C" series**.

⁴ GMA News – 24 Oras, "TNVS Operators, magdamag pumipila sa LTFRB para maproseso ang kanilang provisional authority", 23 July 2019, [<https://www.youtube.com/watch?v=USGeOwOvS5g>]; GMA News – Unang Balita, "TNVS drivers at operators, nakapila na sa labas ng LTFRB para makakuha ng accreditation...", 17 July 2019, [https://www.youtube.com/watch?v=rDKX4Sa_FLA]; GMA News – Unang Balita, "Daan-daang TNVS operator at driver, magdamag nakapila sa LTFRB". 18 July 2019, [<https://www.youtube.com/watch?v=LLwZ8Y4Taks>]

⁵ Copy of the *Notice to Explain* dated is hereto attached as **Annex "D"**.

II. FINDINGS

Under **Section 17 (d), (e), and (f) of R.A. 11032** or the *Ease of Doing Business and Efficient Government Service Delivery Act of 2018*, the Authority has the following powers and functions, to wit:

“(d) Initiate investigation, motu proprio, or upon receipt of a complaint, refer the same to the appropriate agency, or file cases for violations of this Act;

(e) Assist complainants in filing necessary cases with the CSC, Ombudsman and other appropriate courts, as the case may be;

(f) Recommend policies, processes and systems to improve regulatory management to increase the productivity, efficiency, and effectiveness of business permitting and licensing agencies;”

Moreover, **Section 21 of R.A. 11032** enumerates the violations thereof, to wit:

SEC. 21. Violations and Persons Liable - Any person who performs or cause the performance of the following acts shall be liable:

a) Refusal to accept application or request with complete requirements being submitted by an applicant or requesting party without due cause;

b) Imposition of additional requirements other than those listed in the Citizen’s Charter;

c) Imposition of additional costs not reflected in the Citizen’s Charter;

d) Failure to give the applicant or requesting party a written notice on the disapproval of an application or request;

e) Failure to render government services within the prescribed processing time on any application or request without due cause;

f) Failure to attend to applicants or requesting parties who are within the premises of the office or agency concerned prior to the end of official working hours and during lunch break;

g) Failure or refusal to issue official receipts; and

h) Fixing and/or collusion with fixers in consideration of economic and/or other gain or advantage. (Emphasis supplied)

Pursuant to its mandate, upon evaluation and investigation of the complaints lodged against LTFRB, and after due consideration of the documents submitted by the parties, the Authority hereby finds that ***prima facie violations of R.A. 11032 EXISTS***, which hampers convenience and ease of doing business in the country. There are

ambiguous, confusing and inefficient rules as well as excessively burdensome procedures imposed on TNVS applicants for the acquisition of PAs and CPCs.

A. LTFRB'S UNREASONABLE AND UNDUE DELAY IN PROCESSING AND ACTING UPON THE TNVS APPLICATIONS

At the crux of the complaint against the LTFRB that was received by the Authority is the unreasonable and undue delay in the processing of TNVS applications be it for the issuance of PAs, a renewal thereof, or for the issuance of CPCs. Such delay necessarily includes the setting of hearings and resolutions of motions for reconsideration of dismissals thereof.

By reason of such delays, the Authority hereby finds that the LTFRB failed to render government services within the prescribed processing time violating **Section 21 (e) of R.A. 11032**.

1. Failure to act upon applications for the issuance/renewal of PA's within the processing time stamped by LTFRB itself on the application forms;

At the outset, a perusal of the reply of LTFRB will show that it has proffered no reasonable explanation for the delay in the processing and approval of TNVS applications. The Board merely pointed out to the fact that they are undermanned and have serious budgetary concerns to meet the surge in TNVS applications⁶. This explanation, without more, can only be construed by the Authority as an **admission** and clearly supports the fact that there was delay in the processing of TNVS applications.

However, the Authority cannot countenance such justification. If LTFRB is in serious lack of manpower, then the same should have been considered in regulating TNVS applications. Indeed, with this factor in mind, LTFRB should have simplified its processes or reengineered existing ones instead of imposing overly burdensome requirements, without compromising public safety. Notably, LTFRB already requires several insurance coverage⁷ which should dispel any apprehension concerning public safety. Verily, LTFRB should have undergone a regulatory impact assessment prior to the issuance of such policies.

The Authority submits that the LTFRB cannot feign ignorance of such increase as it is reasonably expected that there will be a surge in TNVS applications due to the undeniable increase in its demand from the riding public.

Anent the processing time, the Authority takes notice of the fact that almost all of the TNVS applications, after a case number or docket number has been assigned, are stamped with a period for the applicant to return and submit his/her documents. Moreover, the number of days was increased from twenty (20) to (30) days. This serves as a commitment on the part of LTFRB to accommodate and act upon the application of a TNVS applicant accordingly. Unfortunately, the very period imposed

⁶ Explanation/Justification to Item No. 2, pages 4-5 of Annex A.

⁷ Comprehensive Insurance, PAMI or SCCI, and Third Party Liability

by LTFRB itself is not properly observed as applicants, upon returning on such period, are directed to return on another unspecified date.

Meanwhile, LTFRB issues PAs with limited validity compelling the applicant to renew the same and endure the grueling processes and requirements imposed by LTFRB, at the expense of the applicant's most valuable resource – time. Instead of issuing PAs with limited validity of forty-five (45) days, which is now increased to ninety (90), the LTFRB should have considered granting a longer period of validity of at least one (1) year, or better yet by not imposing an expiration at all taking to mind that it is undermanned and will be unable to process the applications on time. The LTFRB should have taken these factors into serious consideration. As a result, the TNVS applicants are left on a quandary as to when their applications will be processed or approved. Sadly, they are constrained to toil this burden for the sake of making both ends meet for their families.

Therefore, LTFRB violated Section 21 (e) of R.A. 11032 when it failed to timely act upon applications for the issuance/renewal of PAs within the processing time stamped by the LTFRB itself.

2. Failure to conduct hearings and render decisions for an unreasonable length of time on applications for CPC to operate TNVS, and on motions for reconsideration of dismissals thereof within the processing time provided in LTFRB's Citizen's Charter

Similarly, the Authority finds that LTFRB violated Section 21 (e) when it failed to conduct hearings and decisions for an unreasonable length of time on applications for CPCs by TNVS applicants, including resolutions of motions for reconsideration within the processing time provided in the LTFRB's Citizen's Charter. Worse, the Authority received complaints that some TNVS applicants already had their hearings and have submitted all the required documents but are still awaiting for the issuance of the CPC for about a year now, which is in grave violation of its own Citizen's Charter.

LTFRB's Citizen's Charter was approved by MC 2017-004 on 10 February 2017. However, a careful reading of the charter will show that TNVS applications are not included. Notably, no special procedure was provided for TNVS applications despite the fact that MC 2015-017 and subsequent circulars pertaining to TNVS applications **were already issued as early as 08 May 2015**. The fact that the process and requirements for TNVS applications was not included in its 2017 Citizen's Charter appears to be questionable to the mind of the Authority, which LTFRB failed to explain.

Nevertheless, even observing the processing time and procedures for *Applications for Issuance for A New Certificate of Public Convenience*, the Authority still finds the LTFRB remiss of its duty and is in violation of Section 21 (e) of R.A. 11032 when it failed to conduct hearings and render decisions for an unreasonable amount of time.

Based on MC 2017-004, the processing time for LTFRB to conduct hearings, drafting and evaluating decisions/orders for recommendation to the Board is forty-five (45) days. This coincides with the fact that the PAs were originally issued with a limited validity of the same number of days, which is now increased to ninety (90) days. The

PAs are issued to allow the applicant to operate pending the issuance of the CPC without being apprehended. However, even if an additional two (2) days are added for the Docketing and attestation of the order as provided by the charter, LTFRB is still in violation of Section 21 (e) of R.A. 11032 since TNVS applications take years before the appropriate CPC is issued. Worse, there are TNVS applicants who have submitted all the required documentary requirements, paid all the fees, and whose applications were duly heard for over a year now but have no corresponding CPC yet. These applicants are compelled to go through the grueling and unwarranted process of renewing their PAs for the simple reason that LTFRB cannot timely issue their CPCs. Clearly, LTFRB failed to render the required service within the processing time prescribed by MC 2017-004, its Citizen's Charter.

LTFRB explained that such delays are due mainly to the failure of ninety percent (90%) of the TNVS applicants to submit their formal offer of evidence, wherein ninety percent (90%) of which cannot submit a Bank Certificate of Conformity. LTFRB stated that these applicants are the ones who seek the resetting of their hearings.

Anent the submission of the formal offer of evidence, the Authority opines that this requirement may be foregone by the LTFRB considering that the rules of procedure and evidence prevailing in courts of law should not be strictly applied.

Section 5 (i) of Executive Order No. 202 series of 1987, which created the LTFRB and which was attached to its reply as Annex A, provides, to wit:

Sec. 5. Powers and Functions of the Land Transportation Franchising and Regulatory Board. The Board shall have the following powers and functions:

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i.) To promulgate rules and regulations governing proceedings before the Board and the Regional Franchising and Regulatory Office: Provided, That except with respect to paragraphs d, e, f and g hereof, the rules of procedure and evidence prevailing in the courts of laws should not be controlling and it is the spirit and intention of said rules that the Board and the Regional Franchising and Regulatory Offices shall use every and all reasonable means to ascertain facts in its case speedily and objectively and without regard to technicalities of law and procedures, all in the interest of due process;

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In the case at hand, it is incumbent upon the LTFRB to consider the relaxation of the rule on submitting a formal offer of evidence during the initial hearing. The submission of such document is definitely derived from the rules on evidence of the Rules of Court of the Philippines. Adherence to such formal requirement only adds to the regulatory burden that TNVS applicants must bear. Notably, the Board may employ measures of ascertaining the completeness and veracity of the documentary requirements submitted by each applicant.

As for the requirement of submitting a Bank Certificate of Conformity, which the Authority finds as an undue regulatory burden upon the TNVS applicants, shall be discussed hereunder.

The Authority cannot rely on the explanation of LTFRB that 90% of the applicants are the ones causing such delay. Aside from the bare assertion of LTFRB, there are no other pieces of evidence submitted to substantiate such claim.

Furthermore, the Authority cannot let LTFRB's detestable and misplaced citation of an inapplicable law go unnoticed. It invoked R.A. 9485 or the *Anti-Red Tape Act of 2007* in explaining that it is excluded from the coverage of the law because it performs a quasi-judicial function in approving TNVS applications.

While it may be true that R.A. 9485 excluded agencies performing quasi-judicial functions from its coverage, LTFRB is well to be informed that R.A. 11032 amending R.A. 9485 was enacted on May 28, 2018. Notably, **Section 3 of R.A. 9485 providing for such inclusion has been amended by Section 3 of R.A. 11032**, which reads, to wit:

SEC.3 of Section 3 of the same Act is hereby amended as follows:

*“SEC. 3. **Coverage.**- This Act shall apply to all government offices and agencies including local government units (LGUs), government-owned or controlled corporations and other government instrumentalities, whether located in the Philippines or abroad, that provide services covering business and nonbusiness related transactions as defined in this Act.”*

From the foregoing, it can be gleaned that the exclusion was already deleted. Hence, it is the intention of the law that such exclusion be removed. *Apropos* is the legal maxim “*casus omissus pro omisso habendus est*”, or a person, object or thing omitted must have been omitted intentionally⁸. It is basic in statutory construction that in case of any doubt in the application of the law, it is indispensable to resort to its legislative intent to determine the true wisdom of the law. This intent is further bolstered by deliberations of the Bicameral Conference Committee⁹, wherein the framers of the law wish to include all agencies within the purview of R.A. 11032.

Therefore, the application of R.A. No. 9485 is clearly inapplicable to contradict the Authority's jurisdiction over LTFRB's processing of TNVS applications. It cannot feign ignorance of the effectivity of R.A. 11032 under the elementary principle of “*ignorantia legis neminem excusat*”.

In view of the foregoing, the Authority hereby finds LTFRB **LIABLE** for violation of **Section 21 (e) of R.A. 11032**.

B. LTFRB'S IMPOSITION OF ADDITIONAL REQUIREMENTS OTHER THAN THOSE STATED IN ITS CITIZEN'S CHARTER

The Authority further finds that LTFRB violated **Section 21 (b) of R.A. 11032** when it imposed additional requirements not stated found in its Citizen's Charter, which further increased undue regulatory burden and cost upon the TNVS applicants.

⁸ *Ifurung vs. Ombudsman*, G.R. No. 232131 April 24, 2018

⁹ Pertinent copies of the deliberations of the Bicameral Conference Committee is hereto attached as Annex “E” and “E-1”.

1. Imposition of additional requirements without due cause, particularly:

a. Bank Certificate:

The prevalent concern of the TNVS applicants is the submission of a Bank Certificate of Conformity. **Notably, this requirement is not found in MC 2017-004.** In its reply, LTFRB stated that the Bank Certificate of Conformity is not an additional requirement but an accommodation. It is being required by LTFRB in lieu of the absence of the Official Receipt/Certificate of Registration (OR/CR) which the applicant is being required to submit. The purpose of LTFRB in requiring such document is to grant protection to the banks who financed the purchase of motor vehicles under a mortgage agreement.

The Authority submits that the LTFRB exceeded its mandated when it imposed such document considering that regulating the relationship between the banks and its borrowers is beyond its jurisdiction.

It is well to note under the principle of *Privity of Contracts*, the relationship between the parties to a contract allows them to sue each other but prevents a third party from doing so. Here, LTFRB is not a party to the contract between a mortgagor and a mortgagee. The Board's primordial role is to ensure public safety and not to ensure effectivity of their contracts. LTFRB admitted on page 7 of its reply, to wit:

“the LTFRB in its exercise of regulatory function, require the submission of the Bank’s COC, in lieu of the submission of the OR/ CR”.

E.O. No 202 is bereft of any provision that LTFRB has the Authority to regulate the relationship between banks and their borrowers, which LTFRB claims it implemented in order to protect the Banks from “*greater risk on the loan exposure which results to faster depreciation of the units and greater accountability of the borrowers*”. Indeed, LTFRB is mandated to ensure the safety of the riding public, among others, and not the interest of banks. Such function or duty is endowed upon another government agency.

Moreover, TNVS applicants should not be required to submit the same considering that by its very nature, a TNVS vehicle ceases to be public when it goes offline. Hence, it cannot be classified in the same way as with the other public transport vehicles or platforms. At the very least, LTFRB should have awaited the appropriate legislation that shall regulate TNVS in the Philippines.

It bears stressing that banks are well equipped to protect its rights and interest under its agreement with the TNVS applicant in case of any breach. In fact, any violation of the agreement will be between the applicant and the bank. Any issue in the said agreement will not affect the safety of the riding public, which LTFRB is mandated to protect.

All the foregoing boils down to the inevitable conclusion that LTFRB's imposition of requiring a Bank Certificate of Conformity is uncalled for and amounts to an undue regulatory burden by requiring a document not included in its Citizen's Charter. This has caused great difficulty for many TNVS applicants to secure the CPC

applied for as it involves the deposit of a great sum of money. This resulted in the unreasonable delay in the processing and appropriate action upon such applications.

Therefore, LTFRB is **LIABLE** for violation of Section 21 (b) of R.A. 11032 for imposing the submission of a Bank Certificate of Conformity, which is an imposition of an additional requirement other than those listed in the Citizen's Charter.

b. Proof of Existence and Sufficiency of Garage;

Anent the requirement of proof of existence and sufficiency of a garage, the Authority reiterates its finding that a TNVS should not be classified in the same manner as with other public utility vehicles since by its very nature, it ceases to be public when it goes offline.

Moreover, the Authority submits that the requested proof of such sufficiency has become unduly burdensome upon the applicant. Besides, LTFRB may simply require as an alternative an affidavit of undertaking with pictures, subject to post audit. The affidavit will provide a recourse to LTFRB in case of any wrongful assertion of fact as the same is executed under oath and shall be under penalty of perjury. LTFRB may likewise employ means to verify the veracity of the claims of the applicant.

2. Imposition of undue regulatory burden and cost;

a. Requiring applicants to personally file their application and prohibiting the designation of a representative other than the direct ascendant/descendant of the applicant;

The Authority finds that the requirement imposed upon TNVS applicants to personally appear during hearings and prohibiting the designation of a representative other than the direct ascendant/descendant of the applicant as an undue regulatory burden.

The Authority takes notice of the fact that many of the TNVS applicants are Overseas Filipino Workers who are currently residing abroad. There are instances that the only persons who are qualified to appear on their behalf are either elderly, a minor, a person with disability, or someone who has another day job. Likewise, it is well to note that some of the TNVS applicants are using this ride-sharing service as a sideline and have other day jobs as well.

b. Requiring applicants to compile documentary requirements and application form specifically in a long orange folder.

While the Authority lauds LTFRB's attempt to streamline the processing of documents as early as 2005, it must be emphasized that the numerous colors of folders corresponding to certain types of applications is for the efficiency and convenience of the Board and its employees, to the detriment of the applicant and the general public.

Furthermore, the difficulty is in the person finding the specific color required by the LTFRB.

A simple survey of MC 2005-011 would show that the array of colors is outrageously confusing such that an ordinary person would find it difficult to determine with absolute certainty that a color is, for instance, golden yellow and not lemon yellow. It is noteworthy that in the classification made by the LTFRB there are four (4) shades of blue, three (3) shades of green, three (3) shades of yellow, three (3) shades of pink, and three (3) shades of white.

Certainly, such requirement is solely for the benefit and convenience of the Board and its employees to the detriment of the applicant and the general public. It should not be passed on to the applicant.

c. Granting PA's with a short period of validity which constrained the applicants to undergo the same long process with the LTFRB resulting in long queues outside the LTFRB office;

The Authority finds that the grant of PAs with a short period of validity is unduly burdensome upon the applicant. Indeed, the number of days was increased from forty-five (45) to ninety (90) days. However, despite such increase, LTFRB still failed to timely process and act upon TNVS applications within the prescribed processing time and issue the CPCs applied for.

Indeed, issuing PAs with a limited validity is of no issue provided LTFRB is able to process the applications on time. LTFRB should have taken to mind its own incapacity to act promptly on the applications and made appropriate adjustments on the validity of PAs so that TNVS applicants will not be constrained to hurdle with the grueling process of renewing their PAs with such short periods of validity.

The Authority takes notice of the reports regarding the long queue of TNVS applicants in front of LTFRB's East Avenue Office as early as 10:00 in the evening. There are times when applicants had to endure the long hours of waiting in the wee hours of the morning under the pouring rain just to get a slot for the stamping of their PA's renewal. This makes the applicants vulnerable to avail of the services of fixers, which has proliferated in LTFRB. Hence, this not only violates R.A. 11032, but the very mandate of President Duterte himself that people should not queue until they die. As in this case, the TNVS applicants are in reality sacrificing their own health considering the harsh circumstances that they have to endure just to process their applications.

In sum, the period of validity of PAs is not commensurate with the processing period of TNVS applications. As a result, the applicants have to hurdle with the grueling process of LTFRB at the expense of their precious time, financial resources, and health.

3. Inconsistent, arbitrary, and varying interpretations and implementation of the rules and regulations on TNVS applications

The Authority further finds that LTFRB is in violation of Section 21 (b) of R.A. 11032 by reason of the inconsistent, arbitrary, and varying interpretations and implementations of the rules and regulations on TNVS applications.

LTFRB explained that it ensured clarity, brevity and full understanding of full understanding of policies and procedures. However, this is contrary to the numerous complaints received by the Authority from the TNVS applicants themselves who were given verbal instructions that has caused confusion and chaos.

An example of this is the sudden shift to an online application starting 24 July 2019. The Authority takes notice of the fact that the TNVS applicants still lined up on 23 July 2019. Sadly, they were informed that their applications/renewals will no longer be entertained on that day after queuing and waiting for long hours. This caused great confusion and is contrary to the announcement posted on the wall of LTFRB stating that online applications shall begin on 24 July 2019. This incident was even reported in GMA7¹⁰.

Another example is the failure of LTFRB to implement its own circular, MC 2018-005 as will be discussed hereunder.

In this light, the Authority stands firm on its statement that LTFRB failed to implement its own rules and regulation as evidenced by the repeatedly occurring outrage in TNVS applications. LTFRB failed to promptly act during said situations, which is actually a result of its own doing.

Hence, such confusing and inconsistent implementation of the rules and regulations results in the imposition of inconsistent requirements and varying implementation of the rules and regulations in relation to TNVS applications.

Thus, LTFRB is in violation of Section 21 (b) of R.A. 11032.

4. Implementing abrupt changes in the requirements and procedures for TNVS application without due notice to the public.

In the same vein, the Authority finds that LTFRB violated Section 21 (b) of R.A. 11032 when it implemented abrupt changes in the requirements and procedure for TNVS applications without due notice the public.

The Authority takes notice of reports that TNVS applicants are asked to produce additional documents once their folders or documents are already endorsed or transmitted to the Board. An applicant relayed to the Authority that a different list of requirements are shown which contains additional documents that were not included in either the Citizen's Charter or in LTFRB's website¹¹. This caught the applicant by surprise considering that no previous notice to the public was issued by LTFRB.

In view of all the foregoing, the Authority hereby finds the LTFRB **LIABLE** for violating **Section 21 (b) of R.A. 11032**.

¹⁰ GMA News – 24 Oras, “TNVS Operators, magdamag pumipila sa LTFRB para maproseso ang kanilang provisional authority”, 23 July 2019, [<https://www.youtube.com/watch?v=USGeOwOvS5o>]; GMA News – Unang Balita, “TNVS drivers at operators, nakapila na sa labas ng LTFRB para makakuha ng accreditation...”, 17 July 2019, [https://www.youtube.com/watch?v=rDKX4Sa_FLA]; GMA News – Unang Balita, “Daan-daang TNVS operator at driver, magdamag nakapila sa LTFRB”. 18 July 2019, [<https://www.youtube.com/watch?v=LLwZ8Y4Taks>]

¹¹ LTFRB. (2019). *How to Register for TNVS New CPC Application (Official Registration will Start 8am of June 10, 2019)*, Retrieved from: <http://ltfrb.gov.ph/index.php/2019/06/07/how-to-register-for-tnvs-new-cpc-application-official-registration-will-start-8am-of-june-10-2019/>

C. LTFRB FAILED TO DULY IMPLEMENT MEMORANDUM CIRCULAR 2018-005

LTFRB's failure to implement MC 2018-005 is a violation of **Section 21 (a) of R.A. 11032 as it refused to** accept applications for hatchbacks despite the submission of all the required documents.

At the outset, the Authority disagrees with the statement of the LTFRB that the issue on the acceptance of hatchback, sub-compact units as TNVS has been laid to rest.

It is well to note that while Secretary Arthur P. Tugade (Secretary Tugade) of the DOTr issued Department Order No. 2019-013 on 19 July 2019 allowing the acceptance of hatchback sub-compact units as TNVS, the corresponding Memorandum Circular implementing the same is yet to be issued despite its urgency and necessity. In fact, the aforementioned list of requirements for TNVS applications posted in LTFRB's website still indicates that hatchbacks are not allowed. The issuance of the aforementioned Department Order bolsters the urgency for such circular. Without the corresponding Memorandum Circular which LTFRB was mandated to promulgate within thirty (30) days from the date of the issuance of D.O. No. 2019-013, any effort to implement it remains futile. Hence, the issue regarding the acceptance of hatchbacks as TNVS is **NOT** yet laid to rest.

LTFRB justified in its reply that what MC 2018-005 allowed are the hatchbacks, sub-compacts that are included in the Master List that allegedly came from Transport Network Companies (TNCs).

However, the Authority submits that a careful reading of the Memorandum Circular will bear that the nature of hatchbacks which were allowed to be accepted was not qualified. The circular specifically stated, to wit:

“Likewise, accredited hatchback units shall now be allowed subject to the following conditions:

- 1. Hatchback units shall be accepted subject to a transition period of three (3) years in order for the peers to recoup their investment.*
- 2. Hatchback units shall only be allowed to operate within Metro Manila. Hatchback units are prohibited from operating in the provinces of Laguna, Bulacan, Rizal and Cavite.*
- 3. Hatchback units shall charge lower fare rates to be approved by the LTFRB.”*

Clearly, the circular had no mention that the hatchbacks to be allowed are only those from the Master List. It was the LTFRB itself which refused to comply with its own circular. Unfortunately, LTFRB's obstinate refusal to allow **all** hatchback applications resulted in the substantial loss of expected profit by the TNVS drivers operating such vehicles as they were prohibited to operate the same.

It is noteworthy that Chairman Delgra did not sign the aforementioned circular as he was on leave. As such, he cannot be expected to interpret the same accordingly.

Hence, LTFRB's refusal to allow the application of hatchbacks despite having submitted the complete requirements amounts to a violation of R.A. 11032.

For this reason, the Authority finds LTFRB **LIABLE** for violation of Section 21 (a) of R.A. 11032.

D. PREVALENCE OF FIXERS WITHIN THE PREMISES OF LTFRB

The Authority further takes notice that there is a prevalence or proliferation of fixers within the premises of the LTFRB. These are based on the reports received by the Authority. The presence of fixers is so common that they can freely transact within LTFRB's premises. Furthermore, the Authority also received reports that the signing and approval of applications may be facilitated for a sum of money. In other words, the magnitude of corruption in LTFRB is so vast that it prevails not only on the lower rungs of the employees but also in its upper echelon involving its top officials. Indeed, red tape resulting in burdensome and grueling procedures and requirements by the LTFRB has bred corruption.

Notably, the proliferation of fixers was confirmed when the Authority conducted a joint operation with the PACC and NBI, which resulted in the apprehension of a fixer selling sure slots for online applications. The Authority is of the honest belief that this fixer cannot operate on her own and necessarily involves the participation of an LTFRB employee. Worst, the LTFRB can be faulted for its indifference in the proliferation of such fixers within its very own premises. Indeed, it can be safely presumed that the officials of LTFRB sanctioned these activities, either through their inaction and indifference or acquiescence.

Hence, the Authority finds that LTFRB is **LIABLE** for violation of Section 21 (h) of R.A. 11032.

III. RECOMMENDATIONS

In view of all the foregoing findings, the Authority hereby gives the following recommendations pursuant to your policy of eliminating red tape and by virtue of the Authority's mandate under **Section 17 of R.A. 11032**:

A. LEGAL AND DISCIPLINARY RECOMMENDATIONS

1. Filing of Complaints Against Responsible Officials and Employees of LTFRB

The Authority hereby recommends the filing of any and all actions before the appropriate agencies or offices against the officers and employees who must be held responsible for violations of R.A. 11032.

Anent the prosecution of the fixer apprehended during the joint entrapment operation conducted by the Authority, PACC and NBI, the same is referred to the PACC for further investigation.

2. Automatic Approval of All Pending Applications

Section 10 of R.A. 11032 provides for the automatic approval of applications, to wit:

***SEC. 10. Automatic Approval or Automatic Extension of License, Clearance, Permit, Certification or Authorization.**-If a government office or agency fails to approve or disapprove an original application or request for issuance of license, clearance, permit, certification or authorization within the prescribed processing time, said application or request shall be deemed approved: Provided, That all required documents have been submitted and all required fees and charges have been paid. The acknowledgement receipt together with the official receipt for payment of all required fees issued to the applicant or requesting party shall be enough proof or has the same force and effect of a license, clearance, permit, certification, or authorization under this automatic approval mechanism.*

The Authority takes notice of reports that many TNVS applicants are still awaiting the issuance of their respective CPCs despite having submitted all the required documents, including the Bank Certificate of Conformity, without any issue or notice of denial. Worst, many applicants have been waiting for a year now for the issuance of their CPC.

For the meantime, the TNVS applicants are granted PAs in order to allow them to operate without the CPC. However, the applicants are compelled to seek the renewal of the PAs from time to time due to its limited validity. Sadly, TNVS applicants are even required to file motions for extension of the validity of their PAs by reason of LTFRB's own failure to timely issue the CPC despite the applicant's compliance with all its burdensome requirements. This is patently unfair to the applicants.

It bears stressing that this recommendation shall in no way trample on or endanger the safety of the riding public considering that the CPCs are to be issued to TNVS applicants who are currently operating by virtue of PAs.

Hence, the Authority hereby recommends, and shall hereby order, the **AUTOMATIC APPROVAL** of the CPCs of all the applicants who have submitted all the required documents, attended their hearings, and paid the appropriate fees. The Authority finds no compelling for unduly delaying the issuance of the aforementioned CPCs.

B. POLICY RECOMMENDATIONS

The Authority further instructs LTFRB to **streamline the processing of TNVS applications** and makes the following **policy recommendations**, to wit:

1. The Appropriate Regulatory Framework Should Be Devised For TNVS

TNVS is an innovative transportation framework that is not yet covered by an appropriate regulatory framework. It can be gleaned that LTFRB referred to the existing regulatory frameworks in the Philippines and utilized them in the hopes of regulating TNVS pursuant to its mandate of ensuring the safety of the riding public. This regulatory framework refers to Commonwealth Act No. 146 or the *Public Service Act of 1936*. However, such recourse is flawed as TNVS does not fall squarely under the definition of a public utility as the law would define them.

By its very nature, TNVS is a ridesharing system that was not contemplated under C.A. No. 146, wherein TNVS drivers or operators cease to be public utility vehicles when they go offline.

The concept and nature of a TNVS is to have individual drivers offer their private vehicles to riders during their desired time or schedule through the platform offered by TNCs. They are not restricted or forced to drive at a certain time of the day. The vehicles remain private when TNVS drivers go offline and is maintained by such individual drivers. Its objective is to provide a means for owners of private vehicles to augment their earnings through a “*sideline*” by utilizing their respective private vehicles. Hence, the service offered by TNVS is NOT solely public in nature.

Clearly, C.A. No. 146 is an outdated 83-year-old law which LTFRB seeks to fit into the TNVS framework. It does not contemplate a transportation framework similar to TNVS. This is the reason why several bills in Congress¹² were filed seeking to address the need for the appropriate regulation of TNVS through the enactment of an appropriate law specifically designed to an emerging industry such as TNVS.

Further, it should be noted that Department of Transportation’s Department Order (DO) no. 2015-011 dated 08 May 2015 defined “Transport Network Vehicle Service” like other modes of Public Transport (PT), such as PUKs, Taxi, Buses, UV Express, and the like. In this light, the LTFRB needs to benchmark with how the regulatory frameworks and policies of similar TNC and TNVS business models evolved in other economies, as follows:

a. Singapore’s Land Transport Authority (LTA) will introduce a new regulatory framework for the Point-to-Point Sector from June 2020 following the passing of the P2P Passenger Transport Industry Bill last 06 August 2019. The new regulatory framework will allow LTA to regulate P2P service operators based on the type of services provided:

- Street-hail is where commuters flag down an available taxi from the street
- Ride-hail is where commuters book a taxi of private hire car in advance through smartphone apps or call booking hotlines.

¹² **Senate Bill Nos. 1501** by Senator Grace L. Poe, **1502** by Former Senator Joseph Victor G. Ejercito, and **1001** by Senator Win Gatchalian, among others.

The regulatory framework treats the services differently and its operators will be required to hold separate licenses. Licensing will focus on larger P2P service operators. “Ride-hail service operators with 800 or more vehicles on their platforms must also be licensed. To manage compliance costs and facilitate the growth of new and innovative services by smaller ride-hail service operators, LTA will exempt ride-hail service operators with fewer than 800 vehicles from the requirement to obtain a ride-hail service licence.” The LTA will carry out further consultations with stakeholders to further refine operating standards and licensing requirements prior to finalization. “Licence applications for street-hail and ride-hail service operators, including carpool operators, will open in February 2020. The new regulatory framework will commence in June 2020.”¹³

b. The policy objectives of the Malaysian government are two-fold: (i) ensuring the safety of the commuting public; and (ii) leveling the playing field for taxi-operators/drivers and TNVS-operators/drivers alike. In order to operationalize these two objectives, the Malaysian government recognized the existence of two different actors in the operation of TNVS: The e-hailing operator (the intermediary) and the E-hailing Drivers (the drivers/owner of the vehicles). Specific regulations were implemented by revising two laws: the Land Public Transport Act of 2010 or LPTA 2010 (Act 715) and the Commercial Vehicles Licensing Board Act of 1987 or the CVLBA 1987 (Act 334). Regulations imposed on the e-hailing operator include: the need to register with the Companies Commission of Malaysia (DTI of Malaysia) and other requirements specified by the Land Transport Commission (LTFRB of Malaysia). Such requirements are: measures to safeguard the safety of the commuting public and limitations on the commissions of the operators. For the TNVS drivers, the same regulations on taxi drivers are applied. Key requirements are: (1) a Public Service Vehicle License; (2) Driver to pass criminal records and medical exams; (3) 6-hour training module; (4) vehicle inspections (minimum three-star ASEAN NCAP rating; annual inspections at PUSPAKOM if the vehicle is 3-years old or older; (5) the display of a decal issued by the government when carrying passengers and; (6) insurance to cover the vehicle, passenger and third-party insurance. The Institute for Democracy and Economic Affairs estimate that the imposition of these requirements will result to compliance costs for drivers of at least RM315 and 16 hours. IDEAS also highlight that these will highly impact the part-time drivers of TNVS which compose 25% of the market and new TNVS drivers (high barriers to entry) (Todd, Amirullah, & Xing, 2018)

c. In the United Kingdom, private hire vehicles (PHV) are allowed to operate by complying with local PHV regulations and licenses. “PHV licensing regimes in Scotland and Northern Ireland vary slightly from those in England, whilst the Welsh Government is considering reforming the framework for licensing taxis and PHVs

¹³ Land Transport Authority. 2019, August. Joint news release by the Land Transport Authority and PTC – New regulatory framework for the Point-to-Point Transport Sector. Retrieved from <https://www.lta.gov.sg/apps/news/page.aspx?c=2&id=9a155384-4229-4e06-ac6f-119275ccc9a4>

in Wales. It should also be noted that taxi and PHV markets, as well as the levels of competition, are very different across different local authorities (Linton and Bray, 2018). Typically, the role of these authorities is predominantly to protect the public, which they may do via a combination of quality controls, quantity controls and/or economic controls.¹⁴

d. European Union (EU) Member States have the option to maintain the current regulatory framework as long as the rules and regulations are compliant with the national transport law or to remodulate the current regulatory framework “to legitimize collaborative platforms and integrate them within a general legal framework.”

e. The US Department of Motor Vehicles (DMV) require that TNCs must be issued a license or permit. Regulatory framework for TNCs issued by the DMV are as follows:

- Drivers must apply to the TNC and be subject to back ground check conducted by the TNC or third party provider as well as a check of the applicants driving record. Results must comply with standards set by DMV or the applicant is disqualified;
- TNCs must adopt a zero tolerance substance abuse policy;
- TNCs must adopt or implement policies regarding accessibility and discrimination;
- TNC drivers must use personal vehicles, may only accept trips through the digital platform, may not street hail and may not accept payment in cash;
- TNC vehicles must display TNC trade dress.

It should be noted that regulatory initiatives vary per State as long as it adheres to the above regulatory framework.¹⁵

f. In Sao Paulo, Brazil, the regulators aspire to promote not only the welfare and interests of Transport Network Companies but also the city and its residents. In 2016, a decree which covers how TNCs should be regulated was enacted. It was crafted in line with Brazil’s National Urban Mobility Policy (NUMP) which lays out policy goals to enhance the quality of life of all Brazilians. The first description of a TNC appears in the above-stated legislation that regulates the use of roads in municipal areas for private economic activity, specifically paid individual transport, carpool, or shared driverless vehicles.

¹⁴ Enoch, M. (2018, December). Taxis and private hire vehicles in the UK transport system: how and why are they changing? *UK Government Office for Science*. Retrieved from <https://assets.publishing.service.gov.uk>

¹⁵ Daus, M. Regulating Transport Network Companies. Retrieved from https://www.aamva.org/uploadedFiles/MainSite/Content/EventsEducation/Event_Materials/2017/2017_AIC/TNC_D AUS.pdf

Though it is not explicitly defined, TNCs are considered as an **individual paid transport service** in Brazil. On the other hand, taxis are considered a **public service** in São Paulo, which can be provided by either a legal entity, such as a commercial company, or by an independent professional driver. A minimum requirement of 15 vehicle fleet and a service yard to provide maintenance is a requirement for companies to operate. (Ibid., p.40) Comparatively, São Paulo's taxi industry faces more strict enforcement than TNCs. Taxis are restricted from a number of activities, including parking in designated areas, picking up a user 100 meters away from a taxi stand or other fixed site, providing services without a guidebook from São Paulo, and rejecting passengers. The city's Municipal Road Use Committee is responsible for developing and monitoring policies for taxis and TNCs.

Relative to this, municipal law in São Paulo prohibits providing **individual paid transport services** without a permit. Thus, app-based mobility services can only be provided by companies and vehicles registered in the city of São Paulo and can take two forms: (a) the app or platform, such as Wappa, 99, or Easy Taxi, links users to taxi companies/drivers or (b) the app or platform, such as Uber, MeLeva, or Ponga, links users to a carrier's own registered drivers. For reference, here is a list of requirements to obtain a TNC permit: In São Paulo, TNC drivers are not required to own their vehicles nor to obtain a special license plate, which are notoriously hard to get. To obtain a permit, TNC drivers in São Paulo must have:

- Brazilian driver's license
- Vehicle registered in São Paulo (if the vehicle is not owned by the driver, a signed letter from the owner is required)
- São Paulo State Criminal Certificate indicating no criminal record for four years (or driver must present rehab certificate)
- Driver certificate (16-hour driver training certified by Public Transportation Department)
- Registration with the Municipal Driver's Record
- Application Vehicle Safety Certificate (TNC must produce inspection records for vehicles to validate that they are functional and have a maximum age of five years (eight if vehicle has an antilock braking system))
- Portable and visible ID

Simultaneously, to obtain an operator permit, TNCs are required to:

- Maintain a record for each driver (safety, comfort, hygiene, and quality)
- Use digital maps to track trip routes and traffic in real time
- Communicate trip fare before the start of the trip and enable electronic payments through its platform
- Ensure fares align with maximums set by the Municipal Road Use Committee
- Enable users to publicly evaluate quality of service• Provide users with an electronic receipt containing trip origin, destination, time and distance, route map, price paid, and driver ID

It is in this light that the Authority recommends the enactment of an appropriate legislation specifically designed for TNVS, which may come through the enactment of a law or a carefully evaluated memorandum circular, whereby the flexibility of such transportation framework will be properly addressed sans the undue regulatory burdens.

In line with this recommendation the Authority also suggests that a stay order maintaining the status quo be observed by LTFRB granting all PAs an extended validity of at least one (1) year, or better yet without an expiration at all, until the appropriate legislation for TNVS is enacted. This will ensure the continued service of TNVS operators to the riding public. Corollarily, the removal of burdensome processes involved in TNVS applications will either limit or eliminate opportunities for corruption to thrive.

2. LTFRB should Conduct a Regulatory Impact Assessment for the Purpose of Improving Regulatory Frameworks

As discussed in the foregoing, LTFRB's regulatory policies are marred with unduly burdensome procedures that cause delay in the efficient delivery of government services through the issuance and processing of TNVS applications. There is no doubt that LTFRB needs to assess its policies and regulations with the end in mind of simplifying transactions.

The Authority, together with its consultants from the public and private sectors who are deemed experts in the field of regulatory assessments, are willing to aid the ailing LTFRB in order to streamline its processes and provide a more simplified and efficient government service. This will address any concern in the regulation of TNVS through a long-term solution. One of the solutions to which the Authority may resort to is a "*Regulatory Sandbox*", which is a mechanism for developing regulations appropriate for innovations brought about by emerging industries such as TNVS. These are but some of the scientific tools and approaches that LTFRB may resort to in implementing regulatory reforms.

Notably, a more efficient government service by the LTFRB will inevitably empower businesses in the field of transportation without sacrificing the safety and welfare of the riding public, which it is mandated to protect.

It is well to note that it is LTFRB that will conduct a regulatory impact assessment to provide regulatory reforms, not the Authority. The latter will simply aid LTFRB by reviewing its proposed reforms and recommend improvements if need be. The Authority, together with its partners in the public and private sectors, who are considered experts in regulatory reforms, are well-equipped in helping LTFRB in this noble endeavor.

Through Regulatory Impact Analysis, regulating entities shall focus on analyzing the full spectrum of policy options (ie. non-regulatory alternatives, co-regulation, incentives etc.) in the attainment of targeted policy objectives. RIA applies to policy processes that consider options to create, amend or repeal regulations.

RIA will also allow LTFRB to make use of qualitative and quantitative analysis to better assess costs and benefits for regulated and regulating entities, and identified policy options. Proportionality Analysis employs a level of qualitative analysis which covers enumerates a list of the full description of impacts and their order of magnitude.

Quantitative Analysis is used to put value on the scale of impact of all the fully monetized costs and benefits. For this analysis, Net Present Value is used for discounting to allow a systematic comparison of costs and benefits that will usually not occur in the same year but are spread over several years; or the Annualization of Costs and Benefits is used for different policies that have different time horizons.

RIA also provides for the development of stakeholder engagement plans through the conduct of consultations with its regulated entities and other relevant stakeholders by canvassing a range of policy options, thus forming a more effective and efficient regulation. Consultations will also ensure transparency and accountability of regulations by incorporating feedback and perspectives of relevant stakeholders.

In addition, methodological approaches shall be employed to ensure the sustainability of the regulation with regard to changing demands and evolving technologies by developing plans for implementation, monitoring, and evaluation

3. PAs Should Have No Expiration

In view of the foregoing discussions, the Authority reiterates its recommendation that the expiration of PAs should be stayed until the appropriate legislation regulating TNVS is enacted. In the alternative, LTFRB may shall either have a longer period of validity not less than one (1) year.

The Authority submits that LFRB is not constrained to grant a PA that necessarily expires. It is within the ambit of LTFRB's powers to remove such expiration period until the enactment of an appropriate legislation regulating TNVS. Inevitably, they will be saved from the ominous process of simply renewing their PAs.

Notably, the Authority suggests that these PAs may be revoked or cancelled by the LTFRB in cases of serious violations of traffic rules and regulations, including other ethical or legal considerations as it may deem proper. This will ensure that the safety and welfare of the public are not compromised.

4. Removing the Requirement of Bank Certificate of Conformity

Bank Certificates of Conformity are being required in lieu of the presentation of the vehicle's Certificate of Registration, which will be changed from "*private*" into "*for hire*". This requirement alone is flawed as the vehicles used for TNVS operations are not totally for hire but are actually private in nature. The Authority reiterates that the very nature of a TNVS as a ridesharing application whereby the vehicle owner uses his/her spare time and the available spaces for his/her vehicle to augment his earnings.

Since a TNVS cannot be classified in the same way as other public utilities, this requirement should be relaxed by the LTFRB. As earlier stated, the Bank Certificate of Conformity is for the protection of banks, which is beyond the scope of LTFRB's mandate. Moreover, it is well to note that the Bank Certificate of Conformity only affects that relationship of the bank and the TNVS driver applicant, to which the LTFRB is not privy. Any contractual negotiation or discussion resulting from the fact that the vehicle will be utilized for TNVS affects the driver and the bank only.

5. Review and Compare Regulatory Policies of Other Economies Concerning Similar Business Models

The Authority recommends that the LTFRB, together with the DOTr and the Senate Committee on Public Services, benchmark, review, and compare the regulatory framework and policies of similar business models evolved in other economies and devise the appropriate regulatory framework for TNVS in the Philippines

The innovation presented by TNCs is not confined within the Philippine transportation framework. The Authority recommends that the regulatory policies and framework devised in other countries involving the same platform be reviewed and benchmarked so as to adopt any and all practicable measures to address LTFRB's regulatory concerns.

6. Provide Basis for Supply Base with the Cap of 65,000 TNVS Units for Metro Manila

The Authority hereby requires the LTFRB to provide the actual copy of the study/audit performed by its independent auditors which served as its basis in setting

the common supply base with the cap of 65,000 TNVS units in Metro Manila. The Authority would like to clarify if an economics needs test was conducted which resulted in the supply base and if the number arrived at took into consideration proportionality to include the base for taxi operators. Moreover, such requirement is in keeping with the ASEAN core principles of good regulatory practice, particularly on transparency which emphasizes access to relevant and salient information.

7. Immediate Revision of Requirements

The Authority recommends the immediate revision of some requirements set by the LTFRB, which imposes undue regulatory burden upon the applicants.

First, the Authority seeks that the requirement of an orange folder be deleted. There is no compelling reason nor a solid logical basis for making such requirement considering that any long folder may sufficiently compile the applicant's documents. This requirement only results in an undue regulatory burden upon the applicant.

Second, the additional requirements to be submitted during the hearing, on proof of existence and sufficiency of garage should likewise be deleted, or at least reduced. This requirement raises costs to entry for the applicant as there is a risk whether or not LTFRB will grant the CPC to the applicant. The sunk cost for the applicant is further increased the should the CPC not be granted.

8. Grab Shall be the One to Process TNVS Applications with the LTFRB

Finally, the Authority strongly recommends that the submission of documents and processing of applications be facilitated by the TNCs themselves. TNVS applicants should not anymore be required to do these burdensome tasks personally. The only contact that a TNVS applicant should have with the LTFRB is during their respective hearings.

The Authority received information that the reason for the undue regulatory burden imposed upon TNVS applicants is LTFRB's apprehension that the previous acts of TNVS showing lack of a genuine intention to serve as a public utility and attend their hearings will recur. However, it is totally unfair that these past mistakes by some TNVS applicants be taken against all of them. LTFRB's recourse of severely by imposing undue regulatory burdens made it the very evil that it sought to dispel.

The solution that the Authority suggest is to provide TNVS applicants with a limited period of complying with the requirements to be coursed through the TNCs. This will weed out those whose who wish to faithfully comply with the requirements, and those who are negligent of such obligation.

On the part of the TNCs, any violation of the guidelines or rules of procedures committed by them should render them liable therefor. Similarly, while they were remiss in adhering to the directives of the LTFRB in the past, it will be grave injustice

to impose undue regulatory burdens, which is not commensurate to the evil sought to be prevented. Besides, nothing stops LTFRB from penalizing erring TNCs.

Makati City, 13 August 2019.

Recommended by:

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Approved By:

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