

# Outcry over tariffs, not tolls says lawyer

The public outcry against the tolling of Gauteng's highways was related to the tariffs, the High Court in Pretoria heard on Tuesday (27 November).

# OUTA

Opposition To Urban Tolling Alliance

"I think we should make it clear that the public outcry is not because of tolls but the tariffs," Vincent Maleka, senior council for the transport department said.

He said the South African National Roads Agency Limited's (Sanral) notice of intention to toll roads had received the transport minister's approval.

Maleka was responding to submissions by Opposition to Urban Tolling Alliance (Outa) lawyer Mike Maritz made in court on Monday (26 November). Maritz had argued that the implementation of tolls was unlawful and that Sanral's initial notice to toll roads in Gauteng was "sterile" and "misleading".

Maleka added that the transport minister consulted the public and considered the cost of e-tolling when he approved the upgrade to Gauteng's highways.

On Tuesday morning, David Unterhalter, for Sanral, responded to Outa's submissions by saying the allegation that the initial notice of the intention to toll roads in Gauteng was "sterile" and "misleading", was inconsistent.

He argued that Sanral did what was required by law, engaged with the public, and that the Gauteng Freeway Improvement Project was not part of the 2010 Soccer World Cup.

Unterhalter told the court it had been reported in the media that there would be upgrades to major roads in Gauteng.

"Sanral was not going to simply toll existing roads. Roads were going to be improved."

Unterhalter argued that all relevant civil society organisations representing Gauteng motorists knew about e-tolling and the user-pay principle when the project started in 2008, but did nothing until the tariffs were announced in 2011.

He said e-tolling was inevitable because the upgrades to Gauteng's highways had been completed, at a huge risk to Sanral.

He questioned why it took Outa and other organisations so long to act, saying they waited until the last gantry was put up before they said anything.

Unterhalter argued the application to have e-tolls scratched should be dismissed, saying it was a "conspiracy theory".

"The application has no foundation and it should simply be dismissed."

He said Outa changed its submissions after the Constitutional Court in September overturned an interim order, granted by the High Court in Pretoria, which had put a hold to the Gauteng e-tolling project, pending the current review.

"What the applicant [Outa] tried to do is to solicit information that the cost of tolling is very high. This is a matter of concern," he added.

"At the moment their case contradicts itself."

The Constitutional Court found the High Court in Pretoria had not considered the separation of powers between the high court and the executive.

On April 28, the high court granted the interdict to the Outa, ruling that a full review needed to be carried out before electronic tolling could be implemented. The interdict prevented Sanral from levying or collecting e-tolls.

Sanral and the Treasury had said the delays in implementing e-tolls had prevented the payment of R21bn incurred in building gantries.

Wearing red shirts, members of the Congress of SA Trade Unions watched proceedings from the public gallery. The trade union federation is opposed to the implementation of e-tolls.

Unterhalter said Outa should pay legal costs if the application failed.

Final arguments would be heard on Wednesday (28 November).

Source: *Sapa* via I-Net Bridge