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URGENT

Our ref. DJ Eloff / MAT3179

08 May 2020

Nkosazana Clarice Dlamini-Zuma
Minister of Cooperative Governance and Traditional Affairs
87 Hamilton Street
Arcadia
Pretoria
RSA
0002

By email: info@cogta.gov.za

Dear Minister Dlamini-Zuma,

RE: DEAR SA // MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS

1. With reference to the above mentioned. We confirm that we act on behalf of Dear SA, a registered national not-for-profit company and civil rights organisation. Our client acts in the interest of its supporters as well as in the interest of the public through active participation and advocacy.
2. This letter is directed to the Minister of Minister of Cooperative Governance and Traditional Affairs as designated in terms of section 3 of the Disaster Management Act (No. 57 of 2002).

3. The purpose of this letter is to express concern with two aspects of the Level 4 Regulations. First, the partial prohibition of online retail. Second, the narrow time window allowed for people to exercise.

REGULATIONS

4. On **29 April 2020** you issued regulations to address the national state of disaster declared on **15 March 2020** in Government Gazette No. 43096.
5. Part E of Table 1 of the Regulations sets out the permitted goods that may be sold. Item 20 states:

Directions may permit the incremental expansion of e-Commerce, taking into the account the need to limit the extent of movement on the road, contact between people, law-enforcement challenges and the impact on other businesses.

6. In terms of Regulation 16(2)(f):

A person may only leave their place of residence to walk, run or cycle between the hours of 06H00 to 09H00, within a five kilometre radius of their place of residence: Provided that is not done in organised groups.

RISKS POSED BY COVID

7. Our client and its supporters are committed to fighting the spread of this disease and welcome rational and just measures to achieve this goal.
8. The aim of slowing down the spread of the disease, “flattening the curve”, is to improve the health system’s ability to deal with cases requiring treatment. Flattening the curve does not necessarily mean fewer people will get infected and need treatment but rather spreading the inevitable

infections out over time prevents the health system which has limited capacity and resources from becoming overrun.¹

9. The following table produced by the Actuarial Society of South Africa demonstrates the risks posed to South Africans by Covid-19.² It is evident that the risks are highly correlated with age and there is a marked increase in risk for those over the age of 50.

Age-group (years)	% symptomatic cases requiring hospitalisation	% hospitalised cases requiring critical care	Infection Fatality Ratio
0 to 9	0.1%	5.0%	0.002%
10 to 19	0.3%	5.0%	0.006%
20 to 29	1.2%	5.0%	0.03%
30 to 39	3.2%	5.0%	0.08%
40 to 49	4.9%	6.3%	0.15%
50 to 59	10.2%	12.2%	0.60%
60 to 69	16.6%	27.4%	2.2%
70 to 79	24.3%	43.2%	5.1%
80+	27.3%	70.9%	9.3%

10. Lockdown measures cannot stop the virus from spreading, but they can slow down the speed of infections. Lockdowns will not save the lives of those who contract Covid-19 and do not require hospitalisation. They also do not save the lives of those who contract the virus and would sadly and regrettably succumb to the disease even if they gained access to an ICU bed. They only assist those who contract the virus and would survive if they were hospitalised but are unable to receive such care because the health system has been overrun.

¹ Development of a Covid-19 Model for the Actuarial Society of South Africa, 1

² Development of a Covid-19 Model for the Actuarial Society of South Africa, page 14

RISKS POSED BY LOCKDOWN

11. SA-TIED produced a working paper in collaboration with Government to outline the economic impact of Covid-19 and the lockdown.³

South Africa's economic fortunes are currently closely tied to the Covid-19 pandemic brought on by the novel coronavirus. The lockdown measures that South Africa has put into place have profound economic implications. The implications of the pandemic in the rest of the world, and hence on demand for South Africa's export, are not as large as the effects of the domestic lockdown but are still very large by any normal measure.

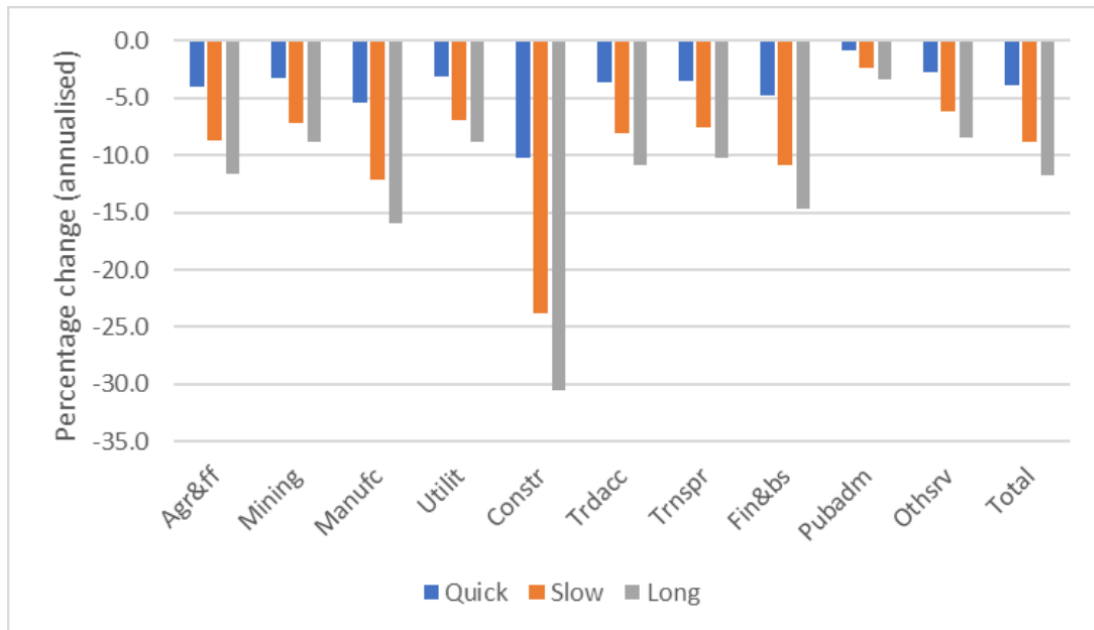
The lockdown involves preventing individuals from leaving their homes except under exceptional circumstances. Unless employed in an essential sector, they cannot go to work and are restricted in how and where they can spend their income. The lockdown also involves closing non-essential industries, leading to declines in production and possibly large numbers of workers being laid off.

From both the demand and supply sides, the lockdown results in a massive decline in demand/supply of many industries. The effect is widespread across industries, but especially large in the service sectors (e.g., restaurants, entertainment, tourism, travel, hotels, etc.). The lockdown alone causes major impacts on employment, production, and demand. In addition, these impacts spill over into the macro economy. Industries are facing an uncertain future and are hesitant to engage in investment projects, resulting in a decline in

³ Southern Africa –Towards Inclusive Economic Development (SA-TIED), Impact of Covid-19 on the South African economy

aggregate investment. The pandemic is global, leading to a major decline in world trade.⁴

12. The following table shows the expected impact on annual employment by sector.⁵ The table demonstrates that the longer the lockdown endures the larger the impact will be on job losses.



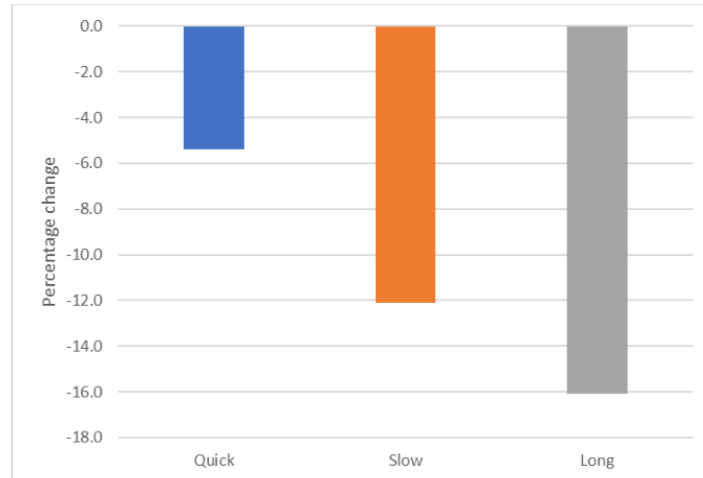
13. In a presentation to the Standing Committee on Finance, National Treasury recently indicated to the legislature that that it was projecting between 3 and 7 million job losses as a result of a protracted lockdown to fight the spread of Covid-19.⁶ In South Africa there are only roughly 10 million employed citizens. It goes without saying that South Africa simply cannot afford to these job losses.

⁴ Southern Africa –Towards Inclusive Economic Development (SA-TIED), Impact of Covid-19 on the South African economy, page 8

⁵ Southern Africa –Towards Inclusive Economic Development (SA-TIED), Impact of Covid-19 on the South African economy, Fig 8, page 21

⁶ Briefing by National Treasury on Financial Implications of Covid-19 on Both the Economy and Budget Joint Standing Committee And Select Committee On Finance And Appropriations 30 April 2020

14. The following table shows the expected impact on GDP.⁷ The table demonstrates that the longer the lockdown endures the larger the impact will be on the economy.



15. The economic costs of lockdown also have health costs. Michael Marmot, an expert in the field of public health notes that the wealth of nations plays an enormous role in the life expectancy of citizens. In a wealthy country like Japan, life expectancy reaches 81.9 years, while in a poor country like Sierra Leone it is only 34 years.⁸
16. The following table produced by PANDA is an estimate of the years of life that will be lost due to the lockdown.⁹ The table takes into account the age demographics of South Africa.

⁷ Southern Africa –Towards Inclusive Economic Development (SA-TIED), Impact of Covid-19 on the South African economy, Fig 6, page 19

⁸ Michael Marmot, Social determinants of health inequalities, The Lancet, Vol 365 March 19, 2005

⁹ PANDA (Pandemic ~ Data Analysis), Quantifying Years of Lost Life, 17

Age Band	YLL per person	YLL Total
0 to 4	0.06	334,939
5 to 9	0.05	271,941
10 to 14	0.07	380,134
15 to 19	0.13	631,331
20 to 24	0.22	1,101,000
25 to 29	0.31	1,687,789
30 to 34	0.34	1,889,314
35 to 39	0.34	1,559,123
40 to 44	0.33	1,188,492
45 to 49	0.33	999,832
50 to 54	0.35	864,295
55 to 59	0.37	808,145
60 to 64	0.39	710,638
65 to 69	0.42	584,682
70 to 74	0.43	429,718
75 to 79	0.43	255,523
80 and over	0.41	248,517
	Total	13,945,412

17. By contrast the PANDA team estimate that years lost as a direct cause of Covid-19 will be between 104,808 to 461,154. This means that on a conservative estimate the impact of the lockdown would be 29 times more costly to life than the disease itself.

ALLOWING E-COMMERCE

18. Measures which allow the economy to operate while ensuring the health and safety of those living in South Africa are of the utmost importance. Our client is not asking for all lockdown measures to be revoked. However, the current restrictions on e-commerce play a limited a role in stopping the spread of the virus and they play a big role in hampering the economy.
19. It is irrational to claim that allowing unfettered e-commerce is unfair to brick and mortar stores, because if given the opportunity many physical stores will choose to move their businesses online to sell their goods. This can be done by partnering with existing online retailers or by setting up their own websites. The opportunity amidst this crisis is to advance the

fourth industrial revolution through innovation in e-commerce which will ignite the new economy.

20. Sha'ista Goga of the Centre for Competition, Regulation and Economic Development, writes that *“the key benefit of e-commerce is that it substantially reduces contact that would be experienced in physical stores.”*¹⁰
21. By opening this part of the economy, employees who work in manufacturing, logistics, warehousing, and transportation would be able to return to work and feed their families.

RELAXING RESTRICTIONS ON OUTDOOR EXERCISE

22. A group of academics in China have studied the locations where outbreaks took place and found the following:

*The first salient feature of the 318 identified outbreaks that involved three or more cases is that they all occurred in indoor environments. Although this finding was expected, its significance has not been well recognised by the community and by policy makers. Indoors is where our lives and work are in modern civilisation. The transmission of respiratory infections such as SARS-CoV-2 from the infected to the susceptible is an indoor phenomenon.*¹¹

23. The upshot of their investigation is that the virus is much less likely to spread outdoors. This means that people should be given more freedom to exercise outdoors during daylight hours. Furthermore, there is no reason to restrict the exercise to running, cycling and walking, provided that the exercise is not performed in groups.

¹⁰ Available at <https://www.businesslive.co.za/bd/opinion/2020-05-05-smart-use-of-e-commerce-now-is-likely-to-have-long-term-benefits/>

¹¹ Indoor transmission of SARS-CoV-2, Hua QIAN et al, page 4

24. Limiting the exercise window to three hours creates congestion and raises the risk of transmission. Therefore, to slow the spread of the disease, people should be entitled to exercise outdoors during daylight hours.
25. It is our client's view that the regulations in their current formulation would lead to adverse consequences which can be avoided by making the suggested amendments.

REQUEST

26. Our client trusts that it is the government's approach to follow a data driven approach to policy making and regulatory functions which take broad inputs into consideration. This letter is sent to your office in order to support the fight against Covid-19 whilst ensuring long term economic sustainability in benefit of all South Africans.
27. In light therefore our client requests the following:
 - 27.1. Firstly, that the provisions of the regulations be amended to allow people to perform any form of non-group outdoor exercise during daylight hours while adhering to social distancing and mask wearing measures;
 - 27.2. Secondly, that the regulations are amended to include all forms of online retail in Part E of Table 1. Alternatively, that directions be issued which allow all forms of online retail;
28. Should we not receive your response by close of business **14 May 2020** our client will be compelled to seek appropriate urgent relief in court.
29. Our client, however, trusts that unnecessary litigation could be avoided and look forward to your urgent response.

Yours faithfully,



HURTER SPIES INC

Per. Daniël Eloff

**CC: Deputy Ministry of Cooperative Governance and Traditional Affairs -
Local Government**

Mr Parks Tau

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joshnag@cogta.gov.za

mphol@cogta.gov.za

**CC: Private Secretary to Minister of Cooperative Governance and
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**CC: Assistant Private Secretary to Minister of Cooperative Governance
and Traditional Affairs**

Ms Pamela Salusalu

Email: PamelaS@cogta.gov.za

**CC: Chief of Staff to Minister of Cooperative Governance and Traditional
Affairs**

Ms Thokozani Matho Mhlongo

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CC: National Disaster Unit

Dr Moses Khangale

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