

ADVERTISING ALONGSIDE PROVINCIAL ROADS

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1. LEGAL MANDATE :

1.1 BACKGROUND

The following extracts from a notably informative article by Prof. André Rabie in the November 1987 edition of the SA Public Law, put into perspective the long existing need from an environmental point of view, to control the display of advertisements visible from public roads:

- "An environmental problem of which many South Africans would be mercifully unaware, is the visual blight brought about by advertisement signs along roads. Anyone who has visited the United States of America, for instance, would be able to testify to the intense degree of aesthetic degradation caused by innumerable advertisements on so-called 'billboards', mostly huge structures, cluttering the environment along roads, especially on the outskirts of urban areas, but also many kilometers from any town or city."
- "One of the most far-sighted, but - due probably to its very effect in preventing the problem - also least known environmental statutes in South Africa is the Advertising on Roads and Ribbon Development Act 21 of 1940."
- "It is remarkable that almost all the emphasis was on the need for environmental conservation; road safety was hardly mentioned, while it would probably today be regarded as a consideration of at least equal importance. It was emphasized that South Africa was in the fortunate position that it could learn from the unfortunate experience of other countries. It is no exaggeration to state that through this timely Act a potential environmental disaster - from an aesthetic perspective - has been averted. The Act stands as a monument to those who displayed unusual foresight and environmental responsibility, at least some three decades before the need for environmental conservation became generally recognized."

It is important to note Prof. Rabie's reference to road safety being of at least equal importance, seeing that this factor has since become even more vitally important, due to the dramatic increase in traffic volume, especially on Gauteng's high speed standard designed roads.

1.2 CURRENT SITUATION

- The Department currently plans, constructs and manages public roads, which includes the control of advertisements visible from public roads under the supervision and control of the Premier of Gauteng, in terms of the following legislation:

- the Roads Ordinance, 1957 (the Ordinance), and
 - the Advertising on Roads and Ribbon Development Act, 1940 (the Act).
- The Ordinance inter alia prohibits the display of advertisements inside road reserves of public roads from a traffic safety point of view, while the Act among others regulates the display of advertisements visible from public roads from an environmental conservation perspective.
 - The South African Manual for Outdoor Advertising (SAMOAC) is used as a guideline in evaluating advertisement applications.
 - SAMOAC constitutes a framework and a guideline document for the standardization of assessment criteria and the application of control measures in South Africa. The framework will enable decision-making authorities and advertisers alike to approach control and regulation with an equal understanding of the issues at hand. SAMOAC seeks to classify, evaluate and control outdoor advertising, however appropriate regulations will be needed to provide SAMOAC with statutory force.

1.3 REVISION OF LEGISLATION

- The Ordinance and Act is outdated in certain respects, and will be replaced by the Gauteng Transport Infrastructure Bill ("the Bill"). It will update the above-mentioned pieces of current legislation in line with the Constitution and latest policy as set out in the *Gauteng White Paper on Transport Policy, 1997* and other policy documents. The Bill inter alia encompasses relevant provisions of the Act. As this is a National Act, it will be excluded from further application in Gauteng as soon as the Bill is promulgated and comes into operation.
- The provisions of the Act have been largely followed by the drafters of the Bill and the regulations pertaining to advertisements are presently being workshopped, for the drafting thereof based on the Regulations on Advertising on or Visible from National Roads.

2. AREAS OF IMPACT :

2.1 ROAD SAFETY :

To understand properly the potential impact of advertising on road safety, one must grasp two seemingly contradictory facts, and have a good feel for the numbers involved.

Firstly, the road accident toll in South Africa is **far too high**, with some 500 000 accidents and about 10 000 fatalities each year (**nearly 30 deaths every day**). In contrast, a road accident is a very rare event in the average person's experience. For perspective, consider a typical rate of occurrence of accidents in this country of about 1 accident per 200 000 km traveled. The average person may drive some 20 000 km a year, so he could expect to be in some sort of accident once in 10 years – perhaps just a bumper bash. Now there is one fatality for roughly every 50 accidents, **so the chances of Mr. Average being in a fatal accident are one in (50 x 10) which is 1 in 500 years!** Little chance, you may say.

No wonder, then, that people are not acutely aware of road danger (note the disregard for cellphone law). No wonder, too, that advertisements are downplayed by commercial interests as a source of potential driver distraction. The accident events are so rare, but their aggregate impact is huge. This imposes an absolute duty on the roads authorities to minimize all risks to motorists, including the control of advertising. In the face of a great lack of understanding of the problem, this will be an uphill struggle and pro-advertising interests are already far ahead on points.

Against this background, it is now attempted to approach the problem by trying to establish what advertising might be permitted, bearing in mind that roads are created at enormous cost and that the highest level of traffic efficiency must therefore be retained.

In what ways could advertisements contribute to road accidents?

- This is largely a matter of the possible distraction of the driver from the immediate needs of his task, and possible problems in the relative conspicuity of advertisements and nearby road signs.
- Confusion may also be caused where colours, symbols or shapes used on advertisements resemble those used on standard road signs, or where an advertisement might obstruct a driver's vision.
- Advertising trailers are frequently parked in road reserves with total disregard for safety principles, and this behavior is difficult to control.
- Finally an advertising structure close to the road would present a collision hazard in itself; it could furthermore be a greater hazard to other vehicles whilst falling or after falling due to a collision. Therefore neither fixed nor trailer advertising is acceptable in a provincial road reserve.

Further consideration is given to advertising possibilities outside road reserves :

The purpose of road advertising is to attract the attention of motorists. While acknowledging that certain types of advertisements in certain positions may not present a problem, it must be understood that no unnecessary distraction of drivers may be risked particularly where there are **(a) road signs**, where there is **(b) a change or discontinuity in the road** (such as an intersection, an interchange, a blind rise and so on) or where there is **(c) a change in traffic flow pattern**. The first two limitations define fixed positions which are directly related to the roadway itself, while the last one could arise anywhere depending on traffic conditions (essentially the density of traffic).

To elaborate firstly on the last-mentioned consideration, an essential concern is about a possible unexpected stoppage of free-flowing traffic, which is likely to occur where the density of traffic reaches the threshold of unstable flow. This occurs with a relatively high traffic volume; the implication is that if advertising had previously been permitted on the road concerned, the road authority would be obliged in terms of potential hazard to withdraw that permission at the stage when traffic volumes had grown sufficiently to reach unstable flow conditions, even if only in the peak times. This is unfortunately also when the location is becoming more attractive to the advertiser!

The "liberal" approach of a road authority could thus be that if all other conditions make a proposed advertisement acceptable, permission could be granted on an annual basis. This would be subject to an annual review of conditions and traffic flow, with the condition that permission will not be renewed if traffic volumes are, in the opinion of the road authority, approaching an unacceptable threshold. (The advertisement and supporting structure would then have to be removed at the cost of the advertiser). It must be added that in heavy multi-lane traffic, drivers easily become subject to

“information overload” and their decision making processes can become scrambled by having to take in information too rapidly from several directions (ahead, rear and side mirrors and over-the shoulder) even without the intrusion of a bright variable message board on the side.

Considering the other two limitations mentioned, the allowable proximity of a possible advertisement to either a road traffic sign or to some roadway discontinuity would depend on the vehicle speed involved. Many of the rules and guidelines used all over the world to control road advertising are designed to cover a broad spectrum of situations and to cater for the greatest market, which is in urban areas. Whilst provincial roads in Gauteng largely traverse urban areas, they serve longer-distance traffic and operate at higher speeds than most other roads. Design speeds of 100 or 120 km/h are thus the norm, with 80 arising in some cases and lower speeds being an exception. Considering the high proportion of single-occupant vehicles, the idea that advertisements are targeted at passengers rather than at drivers can not be used as a basis for assessment.

A broad assumption is made that an advertisement may be regarded as “conspicuous” only when it is close enough to be legible, on the assumption that a motorist will give it no more than a momentary glance while it is too far away to read. It is standard practice to allow for road guidance signs to be read for a maximum of 1,5 seconds before it is necessary to focus again on the road ahead for a nominal 1 second. If there is too much information on the sign for it to have been read in the first glance, another turn of the head for a further 1,5 seconds would follow. If a sign has more than six words, it becomes a problem to take in the message in the first viewing. At typical highway operating speeds of 30-35 metres per second (110 – 127 km/h), the 4,5 seconds required for two such quick-reads would span a traveled distance of 135 to 160 metres. Beyond such a sign, there should be a further clear space to permit a driver to become aware of the next sign (advert or road sign), and to scan the road ahead. Thus a minimum spacing of some 250 metres between boards is seen as reasonable, where the amount of information on each is limited. It is thus possible to determine the positions along a road where remotely placed advertisements might not present a particular hazard. The calculations are influenced by characteristics such as the narrowing cone of vision of drivers as speed increases, size of lettering, and the complexity and length of the message to be conveyed.

The driver distraction potential of an advertisement depends very much on the nature of the display. Static non-illuminated boards have a negligible potential for actively distracting a driver. Boards with illumination may be in a similar category if the illumination is static. Animated or electronic boards with changing lighting patterns have a large potential for distraction and are not acceptable within the view of a driver.

It is thus concluded that from a road safety point of view there may be some scope for the placing of static advertisement boards with or without static illumination, in limited, carefully selected positions outside the building restriction lines along a provincial road reserve.

With the above-mentioned information in mind, the department has made the following policy decisions regarding the display of advertisements :

1. No advertisement sign / structure shall –
 - i. *Be permitted within the road reserve of any provincial road.*
 - ii. Be so placed or contain an element which distracts the attention of drivers in a manner likely to lead to unsafe driving conditions;
 - iii. Be illuminated to the extent that it causes discomfort to or inhibits the vision of approaching pedestrians or drivers;
 - iv. Obscure a pedestrian's or driver's view of pedestrians, road or rail vehicles and features of the road, railway or pavement such as junctions, bends and changes in width.
2. An advertisement sign should be placed at a distance equal to its height from the road reserve boundary or at least 5m, whichever is the furthest.

2.2 VISUAL ENVIRONMENTAL :

- The visual environment plays an important role in creating better human living environments for all communities in South Africa. Section 24 of the Bill of Rights in the Constitution of the Republic of South Africa states that “..... Everyone has the right to an environment that is not harmful to their health or well being....”
- The visual environment is a key to ensuring mental health and psychological well being. It has an immense impact on how we think and act as human beings. It also plays an important role in creating healthy communities. A sense of place and identity is created by means of the visual environment which leads to community pride, a sense of security and permanent belonging, human dignity and enthusiastic citizen involvement.

2.3 ECONOMIC DEVELOPMENT – TOURISM IN SOUTH AFRICA :

- Outdoor advertising and information transfer fulfils an essential function in modern society. It directs, guides and informs as to locality, product, activity or service and contributes to economic growth in general. However, if outdoor advertising is not controlled properly it could have a very negative impact on tourism resources and the human living environment, as was experienced in countries such as the United States of America.
- Visual resources such as scenic landscapes and cultural streetscapes constitute major tourist attractions. The visual environment also forms a backdrop to most other tourist activities such as game watching, touring, entertainment, shopping and sport. The visual environment can be seen as the fabric that gives meaning and substance to any tourism experience.
- In South Africa, with its richness and diversity of landscapes and cultures, it is of the utmost importance that the element of local character should be strengthened and enhanced when and wherever possible.
- The department evaluates all applications for the display of advertisement signs next to provincial roads in terms of the three areas of control according to SAMOAC (p55):

- i. Areas of Maximum Control : Natural Landscapes, Rural Landscape, Conservation Areas, Passive Recreation Areas, etc.
 - ii. Areas of Partial Control : High / Medium Density Residential, Residential with Office and Commercial Encroachment, etc.
 - iii. Areas of Minimum Control : Central Commercial Districts, Industrial Areas or Industrial Parks, Entertainment Districts, etc.
- This type of approach ensures that all areas of maximum control are kept free of advertisement signs – conserving our natural areas and benefiting tourism.

3. ROAD TRAFFIC SIGNS :

“Guidance” signing comprises all those road signs which contribute towards the on-road visual information system and which give direction or reassurance to drivers in the process of navigating their way through the road network.

The primary direction signs system on the road network throughout South Africa is a system that promotes the principles of conformity, accuracy, uniformity, consistency and continuity.

3.1 TOURISM SIGNS :

This class of guidance signs has been provided to cater for the needs of tourists over and above the normal direction signing. Tourism signs are therefore often supplementary to direction signs in the sense that primary navigational information is given on direction signs and this may, when warranted, be supplemented by separate tourism signs.

It should be clearly understood that signs indicating tourist facilities, and particularly service facilities, are provided for the benefit of tourists and should not be construed as advertisements for the facilities concerned.

The primary direction signs system needs to be checked and put in place before consideration is given to the implementation of supplementary signs such as tourism signs and local direction signs. Hence, an improved guidance system can do much to prevent unnecessary demands for tourism signs and, frequently, advertising signs from resulting in a potential detriment to the environment.

The basic objectives of a tourism sign is :

1. To guide tourists in the final stages of their journeys to their destinations, safely and without wasted travel time of distance;
2. to inform tourists (and other road users) on the route(s) on which they are most likely to approach the facility, of the presence of acceptable service facilities.

In addition all relevant organizations working with tourism signs should have as objectives :

1. The establishment of uniform practices in signing applications leading to the provision of a consistent roadside information system;
2. The highest level of correlation between maps and signs;

3. Never to allow tourism signs to be misused as competitive advertising signs;
4. The promotion of tourism signing in preference to direct forms of advertising signing;
5. The minimizing of environmental clutter and sign costs consistent with effective signing levels.

Warrants for Tourism signs : (Road Signs Note No. 9)

1. The basic requirement to be complied with is that drivers shall have sufficient time in terms of their environment and driving task demand to safely take in the additional information being offered by the supplementary sign. Therefore, if existing primary or secondary direction signs and/or existing local or tourist direction signs require all the available attention of drivers then the additional tourist direction sign shall not be warranted.
2. With supplementary tourism signs it is a basic hypothesis that, with the aid of a map, brochures, verbal directions, etc. the existing hierarchy of numbered routes, orientational destinations given on direction signs, and an adequate system of street name signs, drivers should be able to reach a point in relative close proximity to their intended destination before supplementary tourism signs may be considered necessary
3. The provision of tourism direction signs should, irrespective of any individual warrants applicable to the type of tourist destination, conform to the following principles :
 - Tourist direction signs will not be warranted when the location of the destination concerned is obvious to road users.
 - The provision of Tourism signs should not commence further from the destination than the *nearest numbered route*.
 - The facilities available shall be of a standard which is acceptable to a reasonable tourist.
 - When a number of tourist destinations can be reached in one direction, from a particular junction, an attempt should be made to determine some single collective name which will adequately guide road users in the correct direction.
 - In extreme cases where many tourist destinations occur, consideration should be given to providing a suitable information layby with enough local detailed information to simplify the local navigation process.
4. All facilities to be signed shall have a clean, well-kept and attractive appearance, and shall be in a good state of repair.
5. Criteria specific to each type of facility relating principally to hours of operation, distance from the approach road and most important the quality rating of the facility are also laid out in the South African Road Traffic Signs Manual (SARTSM).

3.2 ADVERTISEMENTS :

The SARTSM discusses outdoor Advertising (Volume 1 Section 1.9). Pertinent points of view are as follows:

The function of outdoor advertising is to *attract the attention of road users*. Such advertising can be considered to be in conflict with the function of road traffic signs if not properly managed.

If an outdoor advertisement can be considered to have adverse effects, these effects can occur in one of two ways, namely :

- a. environmentally - the location, or an accumulation of advertisements, detracts from the appearance of an attractive and cared for environment.
- b. road safety - in that the display of an advertisement may have an effect on the safe use and operation of any form of traffic, attention is distracted by such an advertisement, and also through any possible confusion with any road traffic sign.

Information imparted to a road user by an outdoor advertisement can be considered :

- a. in-trip information : fuel, food, accommodation or services;
- b. non-trip information : general information having no bearing on the fact that the observer is travelling on a road system e.g. cigarette advertising.

If uncontrolled advertising attempts to provide in-trip information are not controlled it would most likely lead to a deficiency in the information provided.

The conspicuity of road traffic signs can be adversely affected by the presence of outdoor advertising signs.

Any authorized official should have the power to order the removal of any advertisement which if, in his opinion, the sign is likely to:

- a. distract the attention of a driver in a manner likely to lead to unsafe driving conditions;
- b. conflict with any road traffic signs.
- c. be misunderstood to represent a road traffic sign due to any factor, including the following:
 - i. any form of arrow;
 - ii. symbol, logo;
 - iii. colours specified for road signs;
 - iv. statements calling for a driver to turn off the route on which he is travelling or to make a U-turn.

4. DEPARTMENTAL PROCEDURES :

During 1999 the Department constituted a working group in order to entertain all advertisement applications along public roads, under the control and supervision of the Premier of Gauteng, on a uniform basis. The working group is composed in such a

manner that the officials serving on it are representative of all the different disciplines which have a bearing on advertisements.

Applications for the display of advertisement signs visible from a provincial road are considered by the advertisement working group in terms of the Act and the Ordinance using the SAMOAC document as a guideline.

Road superintendents are also present and give input regarding applications for advertisements within their respective districts.

4.1 APPLICATION PROCESS :

1. The applicant applies by completing a formal application form, includes a locality map and sketch indicating the dimensions of the proposed sign and submits it to the secretariat of the advertisement workgroup.
2. The application is placed on the agenda of the next meeting and sent to the relevant road superintendent for inspection.
3. At the monthly workgroup meetings, all applications are evaluated by the workgroup members. A decision is made and the application is approved / not approved.
4. The secretariat notifies the applicant of the workgroup's decision. If approved, an approval number is given to be displayed on the top right corner of the sign.
5. Where further information is required to finalize the application, the applicant has 30 days to respond, after which time the application will lapse.

4.2 REMOVAL OF ILLEGAL SIGNS :

- Due to the huge ever increasing number of illegal advertisements being displayed visible from public roads, and the limited means to effect the removal thereof, Gautrans is forced to manage the task by targeting specific roads on a priority basis.
- Care is taken that the administrative action in this regard is just in terms of the Bill of Rights contained in The Constitution, in that the person displaying the sign is given:
 - reason for the removal.
 - reasonable time to motivate why the sign should not be removed.
 - reasons why the motivation to retain the sign is not acceptable, when a final notice to remove is served.

5. EXPERIENCES :

5.1 REMOVAL OF ILLEGAL SIGNS - DISTRICT OFFICES :

The maintenance of roads in Gauteng is executed through five district offices. These offices are managed by Road Superintendents who are responsible for all maintenance work to roads – upgrading of roads, regravelling, road signs and road markings, removal of illegal advertisement signs and various other functions.

The offices are situated at the centres listed below with the relevant contact person at each office :

1. Pretoria – H. du Plessis : (012) 808 0333
2. Benoni – J. van Antwerpen : (011) 423 2602
3. Bronkhorstspuit – V. Phala : (013) 932 0171
4. Krugersdorp – W. Pretorius : (011) 660 5541
5. Vereeniging – P. du Plessis : (016) 451 1047

These offices are responsible for implementing the department's policy with regard to advertisements. The removal of illegal advertisement signs is co-ordinated and executed from the district offices.

Small advertisement signs are removed by departmental teams but larger steel structures have to be removed by specialized rigging contractors and is a very costly process. To remove one 81m² billboard costs the department ± R 65 000 – these costs are recoverable from the owner of the illegal advertisement in terms of the Act.

Due to a lack of manpower, illegal advertising on all provincial roads can not be controlled at once. Roads are targeted on an ad hoc basis and any illegal signs are removed. However, as soon as illegal signs are removed, new illegal signs are erected within a week or even less. This is a very frustrating situation and an expense that the department can ill afford. More effective law enforcement is presently being investigated, which will be included in the Bill.

ADVERTISING FOR A POSSIBLE INCOME :

"It is obvious that the area along public roads represents prime advertising territory. Commercial pressure for such use of this space accordingly would be very strong. Moreover, the temptation for authorities to submit to this pressure should be almost equally strong, since a substantial income can be derived from letting the area in question, either directly, where public land is concerned, or indirectly, through license fees, where private land adjoining the road is concerned." - Prof. André Rabie in the November 1987 edition of the SA Public Law.

In the SAMOAC document road signs sponsored by an advertisement company is classified as follows : Class 4(a) Sponsored Road Traffic projects – Signs relating to the sponsoring of projects specifically intended for road users and involving the provision of road services, the promotion of road safety or the management and conservation of roadside environments.

This is in contradiction to the department's policy not to allow any advertisement signs within the road reserve of a provincial road, which will be specifically stipulated in the new regulations.

Gautrans intends, by means of legislation, to consider the display of advertisements visible on land belonging to the State on a tender basis to generate income, on condition that all legal and other requirements for such display are met by the applicant.

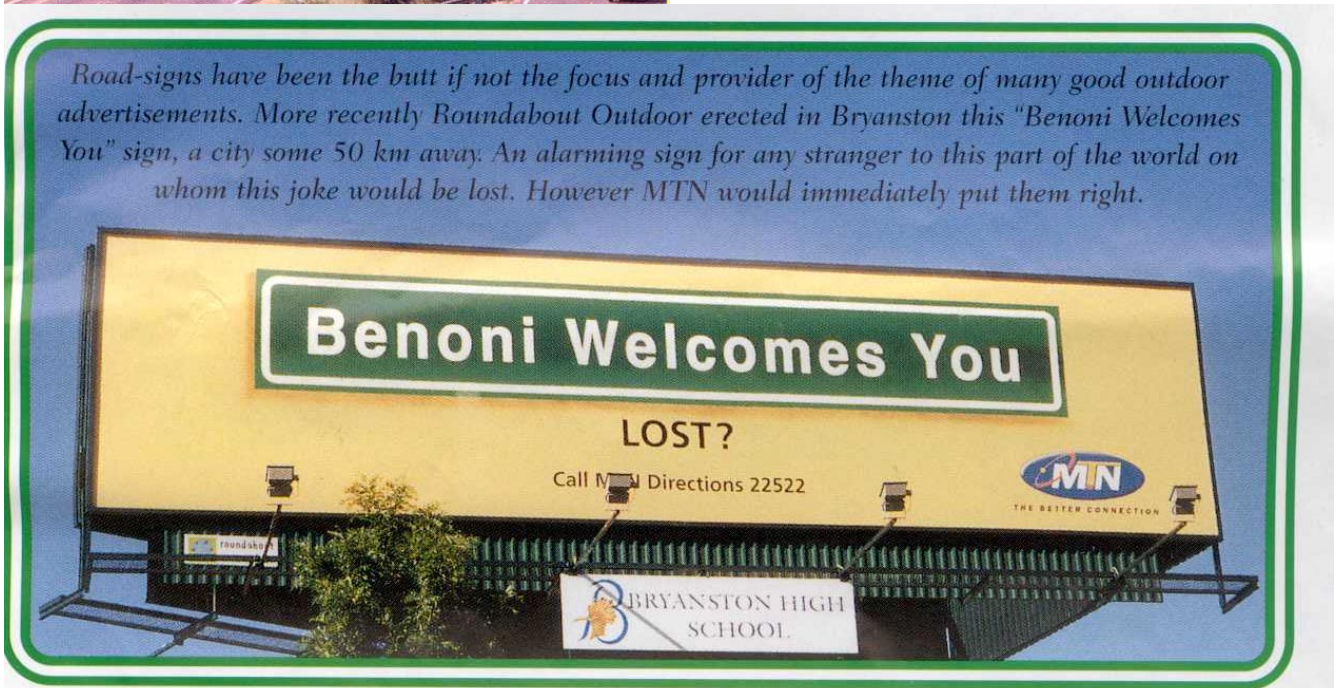
Gautrans furthermore intends to charge an application fee to defray administrative costs by means of legislation.

5.2 EXAMPLES OF ADVERTISING :

Proliferation of signs at intersections and on road medians. Is this not detrimental to the environment? The road user is overloaded with information and this is potentially very dangerous.



Areas next to a freeway should be considered as areas of maximum control until an Environmental Impact Assessment has been done by the relevant authority.



No road traffic signs are allowed on an advertisement sign. Is this not confusing to the traveler?

6. CO-ORDINATION BETWEEN AUTHORITIES :

In the past Clause 2 of Act 21 of 1940 stipulated strict controls in terms of safety for outdoor advertising adjacent to Provincial Roads. Due to pressure from the advertising fraternity the road safety issue was disputed. The result was inconsistency with regard to approvals by, amongst others, local authorities.

A need was recognized for a National Manual on Outdoor Advertising Control and the National Departments of Transport and Environmental Affairs and Tourism was tasked to compile a manual. Ministers Pallo Jordan and Mac Maharaj endorsed the final SAMOAC document.

The SAMOAC document was accepted by COLTO. The document has been discussed at the RCC Ribbon Development Sub-Committee meetings where all provinces are represented. Most provinces, including Gauteng, have accepted the document.

A need was identified to form TCC Workgroup 10 to co-ordinate the use of the SAMOAC document to ensure consistency and uniformity in the approval of advertisement signs between various authorities.

Proposed objectives of Workgroup 10 :

1. Prepare detailed guidelines within SAMOAC;
2. Prepare procedures to ensure consistency and uniformity of approvals; and
3. Consider the necessary computerized systems to manage the above.

Other issues relating to Workgroup 10 :

- Local Authorities need to subscribe to the SAMOAC guideline document in line with Gautrans that recognizes the SAMOAC document in the Infrastructure Bill as well as the National Department of Transport (NDoT) and the Greater Pretoria Metropolitan Council (GPMC).
- Consultants need to be appointed for administrative work and computerized systems.
- Relevant officials need to be nominated from Metropolitan and Service Councils to serve on Workgroup 10.
- As soon as Metropolitan and Local Authorities are settled after the December elections, the workgroup should be brought to life.

7. CONCLUSION :

- The control of outdoor advertising is essential to ensure that both environmental and road safety concerns are addressed.
- SAMOAC, in its foreword says, "The visual environment can be seen as the fabric that gives meaning and substance to any tourism experience."
- Gautrans' responsibility is to ensure a roadway environment conducive to road safety.
- Both these goals are met by maintaining strict control of Outdoor Advertising.