

MEDIA RELEASE

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ACCELERATING THE WORK OF THE B-BBEE COMMISSION IS OF IMPERATIVE PRIORITY – ACTING COMMISSIONER NTULI

The Acting Commissioner of the Broad-Based Black Economic Empowerment (B-BBEE) Commission, Ms Zodwa Ntuli says that an effective Commission is important for the pace of transformation of our economy to be accelerated to achieve the objectives of the B-BBEE Act. Ms Ntuli was speaking at a business engagement session that took place in Johannesburg where she engaged critical stakeholders with the aim of obtaining views and expectations that will be incorporated in the final process of the establishment of the B-BBEE Commission.

Ntuli highlighted the need for critical players to contribute in shaping the strategy and the work of the B-BBEE Commission and be able to measure its performance regularly against the legislative objectives.

She said that the B-BBEE Act has clearly defined what the Commission should be focusing on based on gaps that existed since the implementation of B-BBEE in 2003.

“Our review has revealed that the monitoring of transformation was not conducted diligently. We therefore must ensure that the Commission closes this gap. B-BBEE cannot continue to be applied in pockets, haphazardly and when people feel like it. We must be able to constantly measure the economic value of BEE transactions and verify whether they are measurable against the National Development Plan imperative of reducing poverty, unemployment and inequality. With this Act as revised now we will be able to zoom in on company reports and interrogate spending patterns to determine whether they are advancing transformation in real and sustainable terms,” said Ntuli.

Ntuli also identified fronting practices as a key constraint to transformation that the Commission will also be focussing on.

“Fronting as a practice started off on a small scale and continued unabated to the point that it became sort of a norm. Fronting has now become so complex and sophisticated, and made part and parcel of many BEE deals as if it is a legitimate practice. The Commission will focus on eradicating this practice, but more importantly it will focus on putting measures in place to prevent such practice going forward. B-BBEE deals, including those broad-based empowerment schemes will be scrutinized regularly, and monitored to detect this fraudulent practice. Fronting undermines transformation and is unacceptable,” added Ntuli.

Ntuli added that there was also misalignment of government legislation to the B-BBEE legislation.

“The B-BBEE Act creates a ‘Trumping Provision’ for BBEE Act to prevail where there are instances of conflict created by misalignment of legislation. The ‘Trumping Provision’ simply means that if there is a piece of legislation that is not consistent with the B-BBEE legislation, then the BEE legislation will trump the conflicting legislation. The B-BBEE Commission will ensure this is enforced and will monitor how the B-BBEE Act is applied by all government departments and entities,” cautioned Ntuli.

Ntuli said that the Commission would work with government entities and other players to identify those companies that misrepresent their B-BBEE status and manipulate the application of the codes to defraud government, and ensure that they are publicized, prosecuted and ultimately excluded from doing business with any government component. Such culprits should not be allowed to continue to unjustly benefit from government procurement.

In conclusion, Ntuli emphasized that to achieve an inclusive economy requires all participants in the economy to play their part. The Commission intends to work with all critical stakeholders, including the industry players, state owned enterprises and practitioners in this space to speed up the pace of transformation. Success is going to come in all working together towards this goal, and in this process we aim to assist state owned entities to set significantly high targets for transformation in their policies, and apply them transparently within the parameters of B-BBEE Act. State owned entities are a key driver of this transformation agenda.

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