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Department:  
Trade, Industry and Competition  
REPUBLIC OF SOUTH AFRICA

## THE NATIONAL ASSEMBLY

### QUESTION FOR WRITTEN REPLY

#### QUESTION NO. 1003

**Mr Z E Mthethwa (MK) to ask the Minister of Trade, Industry and Competition:**

Whether he has found that the resistance against black economic empowerment (BEE), which includes approaching the courts to scrap BEE, is sponsored by the white establishments and/or institutions that want to retain white minority control over the economy; if not, what is the position in this regard; if so, what are the relevant details?  
NW1125E

#### REPLY:

B-BBEE aims to transform South Africa's economic landscape as part of achieving restorative justice, as advocated by the Constitution in relation to economic rights that Black people were previously denied during Apartheid, while B-BBEE also contributes to achieving purely economic objectives. Considering that South Africa's constitutional dispensation embraces the divergence of voices in the country's polity and society as a whole, there is a concerted campaign to erase the gains of economic inclusion. This trend is characterised by unending litigation against every effort intended to support the participation of the previously excluded black majority in the economic mainstream.

In terms of the litigation aspect, what is emerging is not simply a set of isolated court cases, but a growing pattern, one in which different anti-B-BBEE antagonists are strategically using the courts to constrain or weaken the implementation of B-BBEE across the state, in doing so by exploiting ambiguities in the B-BBEE Act, institutional weaknesses, and by arguing inconsistencies in responses by departments and/or organs of state.



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In most cases, the litigation targets how departments and public entities implement compliance with section 10(1) of the B-BBEE Act pertain to procurement of goods and services, as well as licensing, authorisations, and awarding of grants, where legal vulnerabilities are often found, also due to weakness and inconsistencies in interpretation of the B-BBEE law especially where it intersects with sector legislation.

The anti-transformation pushback and litigation against the government's economic transformation efforts occur at a time when a critical mass of South Africa's corporate citizens continues to support the B-BBEE legislation and its initiatives anchored in ownership, skills development, and support for black-owned MSMEs through very progressive ESD programmes.

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