

TRANSFORMATION IN THE ICT SECTOR

Presentation to Portfolio Committee on Communications and Digital Technologies

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the dtic

Department:
Trade, Industry and Competition
REPUBLIC OF SOUTH AFRICA

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BACKGROUND

- The primary purpose of the Broad-Based Black Economic Empowerment (B-BBEE) Act and the Codes is to address the legacy of apartheid and promote the economic participation of Black People in the South African economy.
- The B-BBEE Strategy identifies the development of Sector Codes as an integral and strategic vehicle to advance transformation in the economy. There is a certain number of sectors identified as strategic to qualify for the development of Sector Codes.
- A strategic Sector is generally regarded as the Sector that contributes to the country's Gross Domestic Product (GDP) and economic development in a massively special and unique manner, through the creation of sustainable job/employment and other investment opportunities.
- The aim for development of Sector Codes is to address **sector challenges** and **peculiarities** on transformation that would otherwise not be addressed fully by the Generic Codes.

STATEMENT 003 OF THE CODES OF GOOD PRACTICE: GUIDELINES ON SECTOR CODE DEVELOPMENT AND MONITORING

The objectives of this statement are to specify:

- ❖ The manner of gazetting Transformation Charters under section 12 of the Broad-Based Black Economic Empowerment (B-BBEE) Act;
- ❖ The process for developing and gazetting of Sector Codes under section 9 of the B-BBEE Act;
- ❖ The status of Transformation Charters and Sector Codes; and
- ❖ Recommend an approach for drawing up Transformation Charters and Sector Codes.

ESTABLISHMENT OF SECTOR CHARTER COUNCIL

- The Line Ministry has the responsibility to drive the process of establishing a Sector Charter Council with the Sector.
- The Council should have equitable composition of stakeholders in the members of the Sector Charter Council (Private Sector, Labour, Community including designated groupings and Government).
- The Sector Charter Council should apply good corporate governance principles in conducting its activities.

ROLE AND FUNCTIONS OF SECTOR CHARTER COUNCILS

- Oversee the implementation and monitoring of the Sector Codes;
- To provide guidance on sector-specific matters affecting B-BBEE in entities within the sector;
- To compile reports on the status of Broad-Based Black Economic Empowerment within the sector; and
- To share information with sector members, approved accreditation agencies, B-BBEE Commission, B-BBEE Presidential Advisory Council, the Line Minister and the Minister of Trade, Industry and Competition.

GAZETTED SECTOR CODES

The Minister
has gazetted
11 sector
codes to
date

- Information and Communication Technology Sector Code
- Tourism Sector Code
- Construction Sector Code
- Integrated Transport Sector Code
- Property Sector Code
- Forestry Sector Code
- Financial Services Sector Code
- Agri BEE Sector Code
- Marketing, Advertising and Communication Sector Code
- Defence Sector Code
- Legal Sector Code

ICT SECTOR CODE

- The ICT Sector Code was gazetted on 06 June 2012 and Amended on 07 November 2017.
- The ICT Sector Code aims to address inequities resulting from the systematic exclusion of black people from meaningful participation in the economy and the ICT sector.
- Higher targets were set in the ICT Sector Code to accelerate transformation in the sector and bridge the digital divide.
- The ICT Sector Code set a target of 30% for black ownership, which is higher than the 25% in the Codes of Good Practice.
- The Sector Code set a target of 3% Net Profit After Tax (NPAT) for enterprise development, higher than the 1% NPAT target in the Generic Codes, to develop black-owned ICT companies.
- For Socio-Economic Development, a 1.5% of NPAT for initiatives aimed at improving access to ICT in education and health, and benefiting black communities.



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ICT SECTOR CHARTER COUNCIL

The mandate of the ICT Sector Charter Council is derived from Statement 003 of the Codes of Good Practice, which entails the following:

- Advise the organs of state on all matters relating to B-BBEE in the ICT sector;
- Monitor and review the implementation of the ICT Sector Code and all related matters;
- Develop and foster common standards and code of ethics in the implementation of the ICT Sector Code;
- Assess, evaluate, and commission research on specific areas where such research is not available;
- Responsible for the accreditation of the National ICT projects aimed at “bridging the digital divide” in conjunction with the existing bodies such as the Universal Service and Access Agency of South Africa (USAASA), the Digital Divide Partnership, Independent Communications Authority of South Africa (ICASA), the Council for Scientific and Industrial Research (CSIR), trade unions, Non Government Organisations (NGOs) and other organs of civil society;
- Guide on sector-specific matters affecting B-BBEE in entities in the sector; and
- Compile reports on the status of B-BBEE within the ICT sector.

ICT SECTOR CHARTER COUNCIL

GOVERNANCE, MONITORING THE IMPLEMENTATION OF THE ICT SECTOR CODE AND REPORTING ON THE STATUS OF TRANSFORMATION IN THE ICT SECTOR

- A series of governance challenges hindered the Council's work, which resulted in several resignations and a vote of no confidence in the Chairperson. The Council has raised its concerns with the Minister of CDT. In the period under review, no reports have been received by **the dtic** on the **Status of Transformation in the ICT sector**.
- This prompted the Minister of **the dtic** to write to the Minister of CDT to request that he ensures proper oversight over the ICT Charter Council and support the Council financially, and ensure compliance with the B-BBEE Act.
- Paramount being the submission of Annual Reports on the Status of Transformation in the ICT sector. The failure to present the reports on the Status of Transformation is non-compliance with the B-BBEE Act.

TRANSFORMATION IN THE ICT SECTOR

- **the dtic** has, through the Gazette of the Generic Codes of Good Practice and Sector Codes, facilitated the transformation guidelines with targets to promote equity ownership, ensure participation and decision making by black people at board, executive, and all levels of management. Education, training, learnership, upskilling and employment of black people. Development of black-owned enterprises and creating opportunities for active and sustainable participation and growth in value chains of the various sectors of the economy.
- The ICT Council is entrusted with the responsibility of monitoring the implementation of the ICT Sector Code and reporting annually to the Minister of Trade, Industry and Competition and the Minister of CDT on the status of transformation in the ICT sector.
- **the dtic** monitors transformation through reports received from the B-BBEE Commission and the ICT Sector Charter Council. No reports were received from the ICT Sector Charter Council and the CDT. The reports from the B-BBEE Commission show that the ICT sector has a sizeable share of level 8 or non-compliance in the region of 30% over the past 5 years, but with a decent share of level 1-4 at around 60% over the same period.
- Level 1 compliance has been in the region of 25% of ICT firms in the sample for the past 4 years. There has been a steep growth in the average number of points attained for Enterprise and Supplier Development (ESD), which is likely to be a result of a scorecard that strongly promotes ESD which is allocated almost half the points.
- For Ownership and Skills Development there has been a small increase in points attained but for Management Control there has been a decline since 2018.

ICT SECTOR CODE: OWNERSHIP

ICT Sector average % of exercisable voting & economic interest rights by Black People & Black Females (2013-2023)

Year	Average of Black voting rights	Average of Black female voting rights	Average of Black economic interest	Average of Black female economic interest
2013	69,90%	17,47%	29,36%	8,31%
2014	8,79%	3,59%	6,00%	2,76%
2015	8,69%	2,16%	8,57%	2,25%
2016	8,35%	1,94%	9,23%	3,84%
2017	25,63%	9,89%	19,00%	11,89%
2018	27,49%	13,05%	22,10%	14,64%
2019	38,77%	14,65%	27,66%	18,72%
2020	37,74%	14,57%	26,16%	18,78%
2021	32,85%	12,29%	25,61%	16,24%
2022	30,77%	13,15%	25,65%	15,84%
2023	39,18%	15,19%	32,16%	20,24%

- Exercisable voting rights for Black people has slightly exceeded the compliance target of 30% since 2019. This may be partially attributable to the same 30% requirements being imposed on licensees by the Independent Communications Authority of South Africa (ICASA).
- However, the share of economic interest has only exceeded the 30% target in 2023 and remains far lower than the voting rights acquired by Black People.
- Similarly, Black Female voting rights exceeded the 10% compliance target in the ICT Sector Code since 2018 but it remains well below the economic interest acquired by Black Females. (Source: B-BBEE Commission Report: 2013-2023)

OVERVIEW OF EEIP

- The EEIP was created for multinationals whose global practices or policies preclude them from complying with the ownership element of Broad-Based Black Economic Empowerment (B-BBEE) through the traditional sale of equity or shares to Black South Africans.
- Such multinationals must provide proof that they have not entered into any ownership partnership arrangements in other countries globally.
- The B-BBEE policy has made a provision for the recognition of contributions in lieu of such sale of equity.
- In the ICT Sector value of the EEIP contributions may be measured against 30% of the value of the multinational's operations in South Africa or may be measured against 4% of the Total Turnover from its operations.

EEIP IN THE ICT SECTOR

- There is currently 5 ICT companies that are participating in EEIP: **AWS SA & ADS SA; Microsoft SA; DELL SA; IBM SA;** and **SAMSUNG** with an investment commitment of over R 3 billion.
- Multinationals are making contributions to supplier development, skills development as well as research and innovation.
- This has had a positive impact on job creation, sustaining of suppliers and overall socio-economic development. To date jobs creation of at least 1391.
- **the dtic** and DCDT are working together on a Monitoring & Evaluation framework to improve the current monitor framework for the EEIPs in the sector.
- Improvement will be in terms of measuring the impact and not just tracking the spend as well as conducting regular site visits and audit for the beneficiaries.

EEIP IN THE ICT SECTOR: FRAMEWORK FOR MONITORING AND EVALUATION

The framework will be informed by the following principles:

- Co-governance and shared responsibility between **the dtic** and DCDT with the support of ICT Sector Charter Council, and oversight at senior management level (establishment of a committee to analyse applications as well as monitoring);
- Shorter frequency of reporting by multinationals;
- Site visits, auditing and surveying of beneficiaries;
- Implementation of Theory of Change to track desired outcomes; and
- Ample record keeping at implementation and close-out phases of programmes.

B-BBEE Policy Review and Sectors

The following matters are being considered as part of the review of B-BBEE policy to ensure sector diversification and industrialisation:

- Improve sector codes implementation, oversight and policy alignment;
- Insert text that allows Minister to identify priority sectors in B-BBEE policy implementation;
- Insert text that allows **the dtic** and B-BBEE Commission to monitor sector transformation charters and codes more effectively. This must include powers to issue remedial/corrective directives (guidelines);
- Insert text that strengthens alignment between sector codes, Industrial Policy & Master Plans, as well as other sector policy targets.

B-BBEE Policy Review and Sectors

- Increase participation and support for informal black-owned businesses;
- Recognition of informal economy and businesses;
- Insert text that places B-BBEE policy implementation at the centre of spatial development policy strategies.

THANK YOU