

## **STATEMENT BY THE B-BBEE ICT SECTOR COUNCIL**

### **On the Opening of New Licences and the Threat to Transformation through the dilution of the 30% HDI Ownership Requirement**

[Johannesburg, South Africa, 27 May 2025] — The B-BBEE ICT Sector Council notes the recent publication of policy directions by the Minister of Communications and Digital Technologies proposing to open new individual electronic communications network service (IECNS) licences. We welcome this move as it has the potential to expand the market and increase the participation of small, medium, and micro enterprises (SMMEs) if implemented within a robust transformation framework of the ECA.

However, we are gravely concerned by the accompanying proposal to enable Equity Equivalent Investment Programmes (EEIPs) to substitute the legislated 30% HDI ownership requirement set out in the Electronic Communications Act (ECA), Act 36 of 2005, as a licensing condition for licensees. The introduction of EEIPs as an alternative to the 30% HDI ownership requirement, especially when issuing new licences, may reverse the hard-fought but fragile transformation gains achieved to date in the ICT sector. It risks re-entrenching exclusion, allowing historically privileged entities to again dominate under the guise of investment or innovation.

The ECA's ownership requirement addresses more than B-BBEE scorecard compliance, it is a statutory mechanism to:

- Promote direct ownership and control by historically disadvantaged South Africans
- Ensure that licensees reflect the demographic and developmental priorities of the country
- Support inclusive economic growth by linking ownership to infrastructure roll-out and universal access objectives
- Advance broad-based economic redress, not charity or outsourced impact.

It is increasingly alarming that calls for change are being driven by actors who have consistently opposed BBBEE and other transformative efforts. These developments risk sidelining South Africa's legal framework and long-standing transformation objectives in favour of interests that have shown open disregard for them. This raises serious concerns about the future of inclusive economic development and the integrity of our national policy commitments.

Even more troubling is that some local beneficiaries of B-BBEE are now advocating for measures that could ultimately shut the door on the majority of black South Africans who have

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yet to benefit. This departure from principle not only weakens the foundations of the transformation agenda but also calls into question the credibility and integrity of the broader project of economic justice.

The B-BBEE ICT Sector Council therefore:

- **Rejects** the use of EEIPs in its current form due to glaring gaps in addressing true transformation due to lack of measurable and reporting transparently.
- **Warns against** the dangerous precedent this will set, allowing powerful incumbents and multinational entities to bypass local ownership while reaping the benefits of operating in a regulated and strategic national sector. This precedent carries severe risks, including and not limited to:
  - **Economic & Industry Devastation and Job Losses:** An infrastructure-light, foreign-controlled model risks decimating local Internet Service Providers (ISPs), Small, Medium, and Micro Enterprises (SMMEs), and Wireless Internet Service Providers (WISPs), particularly in underserved areas where domestic investment has been high. This directly threatens local jobs and rural business growth. Perceived preferential treatment could alienate existing operators, leading to sectoral disinvestment and undermining national broadband goals like SA Connect. If classified as trade in services rather than Foreign Direct Investment (FDI), such operations risk becoming net exporters of South African subscription payments without contributing meaningfully to local job creation or infrastructure development.
  - **Cross-Industrial Precedent:** If the principle of considering direct HDI ownership versus EEIPs is established in the critical ICT sector, it sets a dangerous precedent for other regulated and strategic national sectors with B-BBEE ownership requirements. This could lead to a broader dilution of empowerment models across various industries, impacting meaningful economic participation by Historically Disadvantaged Groups nationally.
- **Demands** a comprehensive review of EEIPs, whose impact on sector transformation remains marginal, unaccountable and largely symbolic. This review must ensure:
  - **Transparent Public Reporting and Accountability Gaps Closure:** Mandated publication of transparent public EEIP performance data by the Department of Trade, Industry and Competition (DTIC), moving beyond current claims of private reporting where no public impact or tracking reports have been issued. Establish sector oversight, multi-stakeholder governance, and measurable Key Performance Indicators (KPIs) for any consolidated Transformation Fund, to prevent fiscal opacity and ensure genuine impact.

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- **Upholding USAASA's Mandate and Universal Access Funding:** Clarity on how new entrants will contribute to the Universal Service Fund and integrate with the Universal Service and Access Agency of South Africa (USAASA)'s mandate, preventing the diversion of rural rollout responsibility to foreign actors with no developmental obligation. If exempt from contributing to the Universal Service Fund, this creates unfair economic asymmetry and funding erosion, directly impacting the ability to bridge the digital divide.
- **Calls on** the government of the 7<sup>th</sup> Administration to remain faithful to the vision of economic justice as articulated in the Constitution, the National Development Plan (NDP), and the founding objectives of the ECA. Moreover, aligning with the three main strategic priorities of the South African Medium-Term Development Plan (MTDP) 2024-2029 specifically priority one, which seeks to achieve broader objectives of an inclusive economic growth while reducing inequality.

**Insists** that the issuance of new licences must go together with deepened transformation, not the dilution thereof.

Transformation is not a checkbox. It is a moral, constitutional, and legislative imperative. It cannot be sacrificed for expediency, foreign lobbying, or narrow commercial interests.

The B-BBEE ICT Sector Council intends to make a formal submission to the Minister of Communications and Digital Technologies during the 30-working-day public comment period on the Proposed Policy Direction (Government Gazette No. 52711). We urge all interested persons and stakeholders committed to genuine economic transformation to review the proposed direction and make their own submissions to ensure that ICASA, while compelled to "consider" the Minister's policy direction, is also fully informed by the comprehensive views of the sector and the broader public, as the Minister's direction does not bind its substantive ideas.

Issued by:

The B-BBEE ICT Sector Council

**-ENDS-**

The B-BBEE ICT Sector Council (ICT Council) is a body established to oversee and implement Broad-Based Black Economic Empowerment (B-BBEE) within the South African ICT sector. Its primary role is to develop and monitor the implementation of the B-BBEE ICT Sector Code, which sets targets for black ownership, skills development, and enterprise development. The Council was officially launched on November 8, 2016.

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