OWNERSHIP AND CONTROL

1997

Bid to keep unions in Eskom committee

BD 3/1/97

Mboneni Mulaudzi

PUBLIC Enterprises Minister Stella Sigcau is scheduled to meet the National Union of Mineworkers (NUM) and National Union of Metalworkers of SA (Numsa) today in an apparent attempt to persuade them to resume participation in Eskom's restructuring and transformation committee.

The committee was established last February under the national framework agreement in response to union charges of a lack of consultation by government on its proposals for privatising a number of parastatals.

The meeting, confirmed by Sigcau's spokesman Wandile Zote, comes after the joint announcement by the NUM and Numsa yesterday that they would withdraw from the restructuring committee because decisions had been taken without their involvement.

Zote said there had been a misunderstanding about the role of the committee, which had been set up to deal with issues arising from government plans to privatise the parastatal.

The unions argue that the committee should focus on restructuring and transformation, while Eskom management believes that its task is to develop options for government on future structures and ownership.

The unions also allege that Eskom management has decided on a joint information technology venture, possibly with IBM.

Eskom spokesman Peter Adams denied this, saying management had held only preliminary talks. If the venture appeared viable, it would be put forward as a tangible suggestion, but no decision had been taken yet.

NUM assistant general secretary Gwede Mantashe said a concrete proposal on a joint venture had been discussed at the Eskom electricity council, but the unions had objected.

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Adams denied another union allegation that Eskom wanted to sell and recommission the mothballed power stations. He said management was looking at several options.

The unions criticised the reorganisation of activities at Eskom which it said had not focused on efficiency, but had been designed to secure the positions of the current executive directors.

Adams said unions and management could not agree in the restructuring committee on the reorganisation proposals and had agreed to submit individual reports to the minister.

The unions said it had become clear that neither government nor Eskom took the work of the restructuring com-

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Eskom

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BD 3/1/97

Continued from Page 1

mittee seriously. Eskom spokesman Archie Jacobs denied the allegation, saying Eskom was committed to the work of the committee and wanted to see all the problems resolved. Eskom was looking forward to a meeting, due to take place in two weeks' time, which would seek to resolve the issues that were hampering the smooth working of the committee.

Mantashe said attendance by both unions at the meeting with Eskom would depend on the outcome of today's meeting with Sigcau.

Mantashe said a memorandum had been sent to the public enterprises minister on December 12 asking for government to intervene to pre-empt decisions being taken by Eskom management alone, but there had been no response from the ministry.

Zote said the minister had not yet seen the memorandum, as she was not in the office. He condemned the withdrawal of the unions saying "one does not in the absence of a response decide to withdraw".

Unions won't delay privatisation, says Sigcau

Star 8/1/97 (232) (233)

By Thabo Leshilo

The boycott of privatisation talks at Eskom by the National Union of Mineworkers (NUM) and the National Union of Metalworkers of South Africa (Numsa) was not expected to delay the process of restructuring the key state asset, public enterprises minister Stella Sigcau said yesterday

The minister told a press conference at Johannesburg international airport she was confident Eskom and the unions would resolve their disagreement

This would pave the way for the unions to resume participation in Eskom's transformation and restructuring committee (RTC), she said

The minister's statement came after a five-hour meeting with Eskom management and the unions failed to reach an agreement whereby the unions would return to the RTC

The unions withdrew their participation in the committee last week after alleging that Eskom's management had made decisions about the company's future without their involvement

Among the unions' allegations was that management had already finalised plans to sell off its mothballed power stations Another was that Eskom had unilaterally clinched a joint-venture deal with IBM. Both charges have been denied by the company

The minister will attend another meeting with Eskom, the NUM and Numsa in an attempt to assist the parties to resolve differences and to convince the unions to resume their participation in the parastatal's transformation – as required by the national framework agreement on the restructuring of state assets

Gwede Mantashe, assistant general-secretary of the NUM, said the two unions would continue to boycott privatisation talks at Eskom He also expressed hope that the unions and Eskom would resolve their problems.

See Business Report

Sale of Sun Air cleared for take-off

CT (BR) 10/1/97 (232)

THABO LESHILO

Johannesburg — Real Africa Durolink, BoE NatWest/Moseneke & Partners and Investec have been shortlisted from 18 bidders to advise the government on the sale of Sun Air, the government-owned domestic airline, Wandile Zote, a spokesman for the public enterprises ministry, said yesterday.

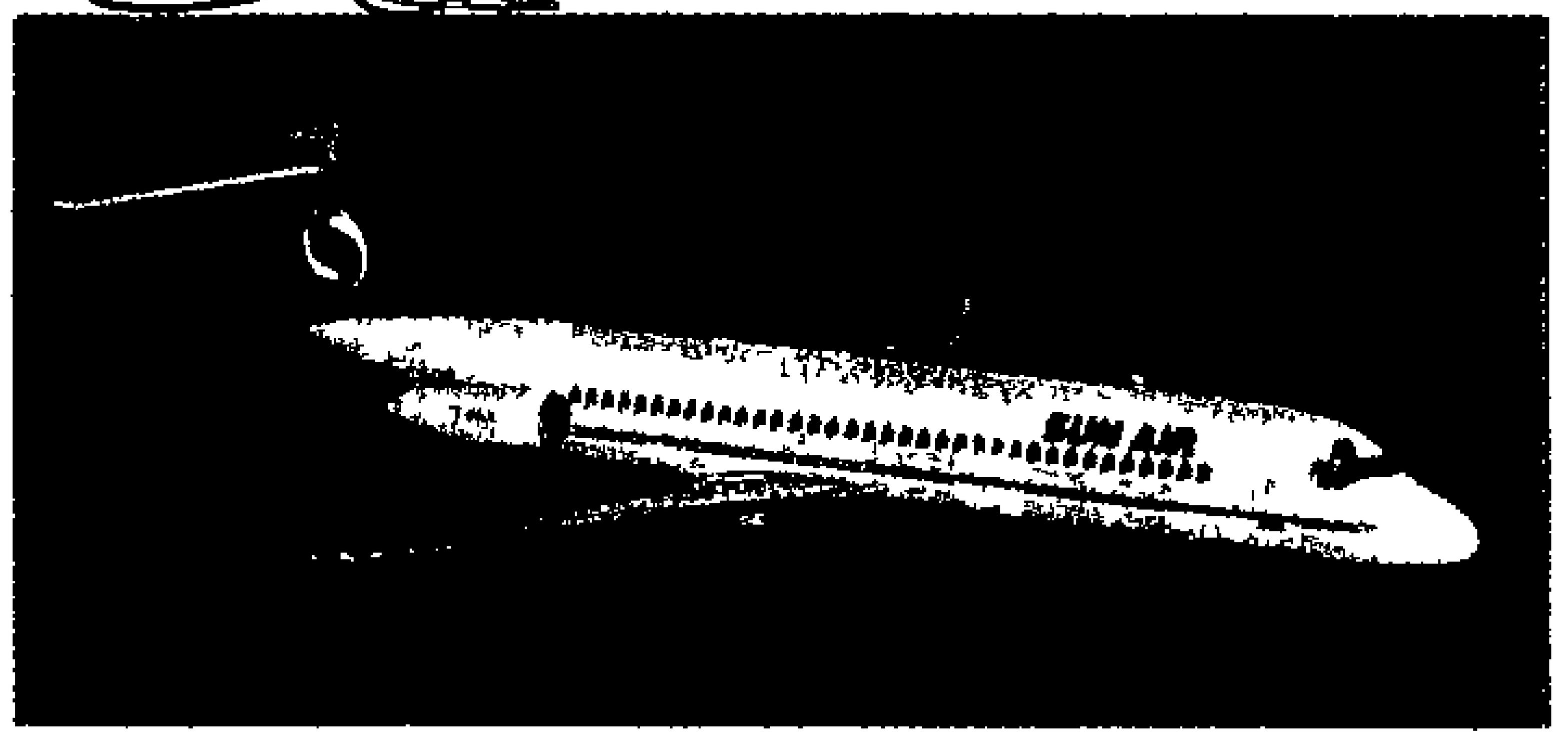
Sun Air, estimated to be worth about R200 million, has been scheduled to be sold by March, becoming the first state-owned company to be privatised. It was formerly owned by the defunct Bophuthatswana government and employs 320 people.

Zote said that Stella Sigcau, the public enterprises minister, and Mac Maharaj, the transport minister, would choose the successful bidder from among the three competitors this afternoon.

Peter Schlebusch, an associate director of Real Africa Durolink, said the bidders would make individual presentations to the evaluation committee on the privatisation of Sun Air this morning before the contract was awarded.

The evaluation committee is made up of representatives of government, labour and the company.

Zote said one of the responsibilities of the party that won the contract would be to determine the true value of the state-owned domestic airline.



SOARING AHEAD *Sun Air, scheduled to be sold by March, looks certain to be the first state-owned company to be privatised*

John de Villiers, an executive director of BoE NatWest, said its bid was a joint venture with Moseneke & Partners, the law firm that also specialises in privatisation. He said a team of aerospace experts was due to arrive last night to help with today's presentation.

The ministry would not reveal the names of the potential buyers for Sun Air. However, Zote said the buyer would have to a local majority shareholder. There is a 25 percent cap on foreign ownership.

Sigcau said last year that Sun Air and Aventura, the cash-strapped holiday resort company, should be in private hands by this March. It is not yet certain when an adviser on the sale of Aventura will be appointed.

This week, the minister repeated her commitment to speeding up the process of restructuring or privatising state-owned enterprises. Sigcau said her department would soon come up with a clear programme for the restructuring and/or privatisation of state assets.

She said the squabble between Eskom and the National Union of Mineworkers along with the National Union of Metalworkers of South Africa was not expected to delay the restructuring process.

The two unions have withdrawn from Eskom's restructuring and transformation committee, accusing the management of the electricity utility of deciding its future without the unions' involvement.

Sigcau expressed the hope that the parties would resolve their differences soon and resume their partnership with the government on restructuring Eskom, which has assets of about R50 billion.

Bright second half for the JSE

NANCY MYBURGH

FINANCIAL SERVICES EDITOR

Johannesburg — The JSE is in for a tough first half this year, but share prices should start looking up in the second half, Adrian Allardice, Old Mutual Unit Trusts' senior portfolio manager, said yesterday.

Speaking at Old Mutual Unit Trusts' quarterly presentation, Allardice said: "While the first half of this year might be difficult for the Johannesburg Stock Exchange, prospects could improve considerably in the second six months. In fact, 1997 may yet turn out to be a good year for the stock market."

Company earnings faced an expected slowdown in economic growth as well as a heavy burden of high interest costs, which would probably weigh down share prices over the next six months, Allardice said. But expectations of better growth in 1998 should help lift shares later in the year.

Similarly, foreign investors were only likely to show greater interest in South African stocks in the second half of the year. "Offshore investors traditionally buy on a bullish trend in earnings and the currency," Allardice said, adding that the rand could remain volatile this year depending on how much progress the government made in the relaxation of exchange controls.

A correction in New York share prices might also rebound on local stocks should good US growth prompt the US central bank to raise interest rates. Although Wall Street had had an on-again, off-again correlation with the local shares prices, Allardice forecast trends in the US market to be "a major factor for the JSE".

One plus for the local share market was likely to be greater fiscal discipline by the government this year, helping to pave the way for an interest-rate cut. "We think the Budget will meet its target of 4 percent deficit (for 1997)," Allardice said, but added that increased revenue, rather than government spending cuts, was largely responsible for his outlook.

But an improvement in fiscal policy should take some of the burden for reining in inflation and supporting the rand off the Reserve Bank this year, he said. "If at the same time there is an improvement in the current account, this will allow a cut in interest rates."

Two more possible boons for shares this year were some progress by the government on privatisation, and a second year of good growth in agriculture, which looked likely given the heavy rains in past months.

Allardice forecast corporate earnings growth of about 25 percent over the next 18 months.

Regarding the company's unit trusts, Old Mutual's Gold Fund, one of just two gold funds in the country, slipped behind its competitor, Standard Bank, in the year ending December 31 1996 after beating Standard in the year ending September 30.

Old Mutual's Gold Fund recorded a return of 26 percent for the period and, although that handily beat the 15 percent performance of the JSE's all gold index, Standard on Wednesday reported a 31 percent return for its gold fund.

But Old Mutual described its industrial fund as the best performer in its sector for the period, with an 8,2 percent return. Its gilt fund also nearly doubled the performance of the all bond index, with its 12,9 percent return, against the index's 6,74 percent.

However, "with growth on the JSE generally subdued, unit trusts with offshore holdings were among the best performers", the company said. Its Global Equity Fund was up 19,8 percent. The fund has foreign asset holdings, achieved through asset swaps with international partners, of 8,94 percent.

Of its remaining funds, the Top Companies Fund showed a 13,3 percent return, the Sentinel Fund recorded 8,8 percent, the Growth Fund was up 9 percent, the Investors' Fund 8,9 percent; and the Mining Fund registered a return of 21,3 percent.

Shortlist for Sun Air

(232)

M+G (13m) 10-16/1/97

Mungo Soggot

THE privatisation of Sun Air is galloping ahead, with the Transport Department set to interview on Friday advisers who will start work on Monday

The shortlist of three possible advisers for the R200-million airline sale comprises banking group Investec, a partnership between investment bank BoE NatWest and Johannesburg law firm Moseneke & Partners, and Real Africa Durolink, the investment banking arm of Don Ncube's Real Africa Investments

The Transport Department advertised for advisers over the Christmas break. Industry observers say transport director general Ketso Gordhan's appointment of advisers for the Sun Air privatisation has been rapid and efficient This stands in contrast to the Public Enterprises Department's efforts to appoint its advisers last year — a painfully protracted process subject to many delays before Simpson McKie HSBC, a tie up between the local stockbroker and international banking group HSBC, was finally selected

The advisers have been told they will work with Simpson McKie HSBC, the overall government adviser However, the overlap between advisers working for Minister of Transport Mac Maharaj and those working for Minister of Public Enterprises Stella Sigcau comes after long-standing tensions between the two ministers over who should control the privatisation of state transport assets

The banks and advisers hired by online ministers will execute the actual sales All ministries with state assets earmarked for privatisation in their portfolios are entitled to hire their own advisers, as are parastatal heads themselves

Sigcau indicated last year that the government wanted to see Sun Air sold off in the first half of this year Gordhan could not be reached for comment.

Wandile Zote, a Public Enterprises representative, said that according to the Department of Transport an announcement on the winning adviser would be made on Friday afternoon.

Virgin Atlantic, which last year entered into a partnership deal with Sun Air, whereby the local carrier now handles Virgin's connecting South African flights, has expressed interest in buying the airline

Maharaj reportedly said last year he would prefer to see Sun Air bought by a local group He said "I would like a South African investor or consortium to buy it, but I would check carefully to ensure it isn't a front for a large foreign airline such as British Airways or Singapore Airlines That would give them a strategic foothold here and enable them to undercut South African Airways"

ST(BT) 12/1/97

Sun Air privatisation advisers named

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STATE ASSETS

By SVEN LUNSCHE

THE government has appointed financial services group BoE NatWest and law firm Moseneke & Partner to advise it on privatising Sun Air

The announcement is a significant step in the privatisation programme. It clears the way for the first state-owned company to be sold since the democratic government took office

Tom Boardman, managing director of BoE NatWest, says no date has yet been set for the privatisation but analysts have widely suggested that the sale could go through as soon as March, just ahead of the partial sale of Telkom

Boardman says no value has yet been placed on Sun Air, but investors will look primarily at future earnings potential

Sun Air is one of the most profitable local airlines and is conservatively estimated to be worth about R250-million

Both black and foreign shareholders will be given a stake in the group, although foreign shareholding is limited to 25% Richard Branson's Virgin Atlantic is considered the prime contender for the stake as it already has a code-sharing agreement with Sun Air

The partnership of BOE NatWest and Moseneke was selected from a short-list of three bidders NatWest Markets, the UK-based shareholder of BoE NatWest, has been involved in about 50 airports and airline privatisations over the past few years, including that of British Airways, Boardman says

NUM in bid to oppose Alexkor privatisation

13/1/97 (232)

Reneé Grawitzky

THE state-owned Alexkor diamond mine in the Northern Cape played a crucial role in sustaining the depressed regional economy which relied heavily on the mine and it should therefore not be privatised, the National Union of Mineworkers (NUM) said yesterday

NUM has asked the Minerals and Energy Policy Centre to investigate the mine in view of restructuring and privatisation This request comes in the wake of government's announcement that Alexkor could be one of the first state assets to be sold off and subsequent claims of retrenchments

The centre's report highlighted the importance of the mine in the regional economy. It also said it was "questionable whether a private owner could sustain the development and corporate social investment programmes currently supported by the mine from its pre- and post-tax profits". Deficiencies were found in the management information systems, mining and accounting procedures

The report also criticised the newly appointed board, saying it was ill-equipped to give direction to mine management. The board members had little mining skills and experience and was technically incompetent, it said This, according to the report, was "the single greatest threat facing the mine" It was necessary to change the way the mine operated and restructuring would have to take place

However, the acrimonious relationship between the union and mine management could jeopardise agreement being found on any joint solutions.

Alexkor was a perfect example of how a state asset could be restructured for the upliftment of one of the most deprived areas of the country. The union felt strongly that in view of the limited life span of the mine, the state should be involved in managing its downscaling as an integrated part of a regional plan to develop other economic alternatives for the region

Public enterprises ministry spokesman Wandile Zote said th ministry acknowledged that on could not talk about the privatisa tion of Alexkor without considerin that the company provided employ ment for people in Namaqualand.

He said it was premature to tal about the privatisation of Alexko Decisions on its future would b made only after an investigation in to its lifespan had been conductec These findings would determin whether "we go the privatisatio route, strategic equity partner or joint venture", he said

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Govt hopes to prosecute MTN, Vodacom

Ingrid Salgado (232)

GOVERNMENT is hoping to prosecute cellular network operators MTN and Vodacom for alleged collusion before a new competition law is introduced

Competition Board chairman Pierre Brooks said at the weekend the decision to prosecute hinged on the outcome of MTN's court challenge to a 1986 regulation used to investigate the two operators

BD 13/1/97

But should the Pretoria Supreme Court find against MTN in this matter, Transvaal attorney-general Jan d'Oliveira would initiate legal proceedings against MTN and Vodacom, Brooks said Conversely, government would have no legal basis to prosecute if the regulation was invalid

News of government's intention ended speculation that operators

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Competition (232)

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BD 13/1/97

would evade prosecution if action against them was overtaken by legislation. A new competition law, which would probably be introduced next year, would render the regulation null and void.

Brooks said the trade and industry ministry was drawing up an answering affidavit to oppose MTN's challenge to government notice 801, which prohibits price-fixing, resale price maintenance, market sharing, collusive tendering and horizontal collusion on conditions of supply.

The regulation was used last year to investigate alleged anti-competitive behaviour by MTN and Vodacom after the so-called "London Agreement" was uncovered. In terms of the secret pact, the network operators allegedly agreed on tariff levels, discounts, infrastructure sharing and the maximum hours they should pay service providers to connect customers.

Brooks said the substance of government's opposing argument had not yet been finalised. However, "we generally believe we have solid grounds for opposing MTN's application"

Although notice 801 was inherited from the previous government and its enforcement was ineffectual, it nonetheless formed the basis of competition policy. Without it, there could be no enforcement of competition law until a new law was in place

Under these circumstances, the trade ministry believed that opposing the application, which was likely to be heard in the middle of the year, was the most appropriate option. Brooks said the challenge made introducing new competition legislation more urgent

Unions end boycott of Eskom discussion

(232)

THABO LESHILO

CT(BL) 15/1/97

Johannesburg — South Africa's two largest unions, the National Union of Mineworkers (NUM) and the National Union of Metalworkers of South Africa (Numsa), ended their two week-long boycott of talks yesterday on the restructuring of Eskom.

The NUM and Numsa had withdrawn from the restructuring and transformation committee of Eskom, accusing the management of Eskom of privatising some of its operations without union involvement.

The decision followed a meeting of five hours with Stella Sigcau, the public enterprises minister, and the management of the state-owned electricity utility.

The parties said they had agreed to "revitalise" the transformation committee. Among the accusations levelled by the unions were that Eskom's management had already finalised plans, without consulting the unions, to sell off three mothballed power stations and had also clinched an information technology joint venture with IBM.

Sigcau said that the restructuring process was not about privatising Eskom. "Cabinet has decided that we should restructure (state) assets. Privatisation is just one option," said Sigcau. She had not ordered that Eskom's core business be privatised.

Sigcau said yesterday's meeting had resolved that all disagreements over the restructuring would be dealt with within the transformation committee.

Stella Sigcau

She said her ministry would appoint experts to make recommendations to the government on a suitable management structure for Eskom. The discussion had been worthwhile, she said.

Gwede Mantashe, the NUM's assistant general secretary, said the unions would return to the committee and make it what it was envisaged to be by the National Framework Agreement.

"It was never our primary interest to boycott. But, we refused to get into something that was a toy telephone, he said.

Allen Morgan, the managing director of Eskom, said the company was committed to making the restructuring process a success for the good of all interest groups, including its millions of customers and the government.

Mantashe said it was unfortunate that the issue of restructuring was being overshadowed by the emphasis which the media had placed on the process of privatisation.

Sigcau blocks attempted sale of Transtel

(232)

BD 16/11/97

Lukanyo Mnyanda

PUBLIC Enterprises Minister Stella Sigcau has again stepped in and squashed Transnet's unauthorised attempt to sell off its loss-making cellular phone division

A ministry spokesman yesterday confirmed that Sigcau would block the move to sell Transtel Cellular to cellular provider MTN, but declined to comment on possible disciplinary action against Transnet management

"This is a restructuring issue and has implications for broader telecommunications strategy .. The ministries of public enterprises and post and telecommunications would have to be informed of the process before any decision could be made," the ministry said

It emerged earlier this week that Transnet and MTN began negotiations on the possible sale of Transtel Cellular in November and had reached such an advanced stage that an effective date had been set for February 1

MTN denied that a deal had been reached but confirmed that it had held talks about possibly acquiring Transtel Cellular's subscriber database.

It was the second time in a year that the ministry had been forced to intervene and prevent Transnet from ditching Transtel Cellular, which sustained an R82m loss in the year to March 1996.

Transnet chairman Louise Tager declined to comment yesterday and referred enquiries to MD Saki Macozoma, who could not be reached for comment

It also emerged yesterday that a former agent was suing Transtel Cellular for R41m for allegedly failing to provide cellular facilities and infrastructure, in breach of contract. Krugersdorp-based Office Style claimed in court papers filed in October that incompetence at Transtel Cellular, including failure to activate lines, had lost it clients and demanded compensation for loss of income

Competition Board will not hold formal inquiry into SAB

CT(BR) 17/1/97 (232)

ROY COKAYNE

Pretoria — The Competition Board has decided not to launch a formal investigation into allegations that South African Breweries (SAB) employees influenced an international equipment supplier to grant its agency to one of their former colleagues.

However, the complainant, Leo Brown of Dispense Systems International (DSI), said yesterday he would definitely be pursuing a civil claim because of the loss of the agency.

DSI is the local agency that had supplied SAB with imported beer draughting equipment until June last year.

"My attorneys have got all the papers about it, and most of the work (for a civil claim) has already been done," Brown said.

Pierre Brooks, the chairman of the Competition Board, said yesterday the board had written to Brown and explained that the nature of the complaint did not fall within the board's jurisdiction.

DSI filed a complaint with the Competition Board last year alleging that SAB staff had put pressure on the international supplier to grant the agency to one of their former colleagues. The loss of the agency put DSI out of business

Brooks said Brown was more perturbed that there had been improper interference by employees of SAB than at being replaced as the local agent.

Brooks said improper interference by a third party in the contractual relationship between two parties was governed by common law. The board had advised Brown of that.

But Brooks stressed he was not necessarily indicating that a common law action in this regard would be successful.

Brooks said the board had approached the foreign equipment supplier but, from what it had told the board, it appeared the company was "not under any duress from SAB or any of its employees".

He said: "It appeared it (the supplier) took an independent decision to move away from DSI to another distributor and that this decision was taken on its own, on business grounds and in the best interest of the company."

Brooks said last year that SAB had responded to the allegations and informed the board it had conducted two separate inquiries but could not find anything that was improper or that involved interference on the part of their officials.

chief executive with a strong political bias and focus as these abilities would then complement McRae as a non-executive chairman

Deputy President Thabo Mbeki, right, with Deputy Foreign Minister Aziz Pahad at the Union Buildings in Pretoria yesterday.
Picture GARTH LUMLEY

Eskom's privatisation 'depends on its electrification programme'

Robyn Chalmers (232)

ESKOM was unlikely to be privatised until there was a substantial increase in the number of households supplied with electrical power, the European credit rating agency IBCA said yesterday.

IBCA was announcing that it had assigned an international local currency rating of triple-B to Eskom. BD 23/1/97

The agency said Eskom's R3bn electrification programme over the coming years, aimed at achieving higher penetration rates than those achieved by traditional distributors, would have to gather pace before privatisation became an option.

It said that, as part of its contribution to SA's restructuring, Eskom had built up provisions of R1,2bn for municipal authorities unable to meet debts as a result of rent and service payment boycotts.

Nevertheless, the agency identified a steady improvement in the parastatal's financial position, saying that productivity gains and effective debt management had brought gains. This was despite Eskom's commitment to reducing the real price of power 20% over the seven years to 1998.

Sapa reports that the Independent Municipal and Allied Trade Union said it would oppose the restructuring of electricity distribution if it was not good for SA. Restructuring would not ensure delivery for all.

Eskom's privatisation 'depends on its electrification programme'

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Union challenges government on Telkom

(257)(232) CT(BR) 24/1/97

FRANÇOISE BOTHA

Johannesburg — The Communication Workers' Union has challenged the government to put conditions on the sale of a strategic equity stake in Telkom to a foreign consortium, which include a limited timeframe on their participation in the privatisation, a top union source said yesterday

The source said that the union, a Cosatu affiliate, was not in favour of the sale of a 20 to 30 percent stake to a foreign strategic equity partner and had presented other options to the government. The proposals include Telkom buying the equipment needed for its expansion programme on a hire-purchase basis or attracting foreign investors who would own a stake, either through a trust or for a prescribed period.

Tlhalefang Sekano, the president of the union, was reluctant to comment because, he said, discussions with the government were at a sensitive stage.

The proposals come despite a National Framework Agreement among unions, black empowerment groups and the government on Telkom's privatisation.

The union is optimistic that it will take the entire proposed 10 percent black empowerment share in Telkom Sekano said the union had asked for the full 10 percent black empowerment stake in preliminary discussions In terms of the proposed privatisation process, Telkom has committed up to 30 percent to foreign buyers and 10 percent to black empowerment groups

Connie Molusi, a spokesman for Jay Naidoo, the telecommunications minister, said the government had held discussions with black empowerment groups about the 10 percent stake, but insisted that nothing had been agreed. Plans to announce the chosen strategic equity partner in April were still on track.

A Telkom source said "it was highly likely" that a black empowerment group or consortium would receive the 10 percent stake in Telkom "well below" the price paid by the foreign bidder. Molusi denied any policy had been established for a discount.

The shortlisted foreign bidders are Deutsche Telkom, France Telecom, which secured a 51 percent stake in Ghana's telecommunications company CI-Telecom yesterday, and a consortium formed by Telekom Malaysia and America's South Western Bell.

Safcol to discuss privatisation option

BD 24/1/97

Robyn Chalmers

A RECENT decision to place the management of the former homeland forests with the water affairs and forestry department had allowed government to pursue privatisation options for the SA Forestry Company (Safcol) after a year's break

Safcol CE Tienie van Vuuren said yesterday the public enterprises ministry had given the parastatal the go-ahead to restart its restructuring meetings.

A public enterprises ministry spokesman confirmed that Safcol's restructuring and transformation committee would meet again soon, with full participation by labour representatives

The investigation into the possible privatisation of Safcol — which manages 20% of the state's forestry operations — was suspended last year

This was after Water Affairs and Forestry Minister Kader Asmal expressed concern over the management of the "homeland" forests — which are neglected and incur heavy annual losses

Van Vuuren said significant internal restructuring had taken place since the formation of Safcol in 1993 This included revision of Safcol's financial and personnel systems, while the Black Management Forum's formula for affirmative action policies and programmes was being implemented.

He said: "Safcol is now ready to pursue restructuring/privatisation options in accordance with the national framework agreement procedures. There were discussions on the possibility of splitting Safcol up, but this would lead to Safcol losing its comparative international advantage."

He said a number of companies had expressed interest in buying a stake in Safcol — including groups from the US, Japan, Malaysia and Korea as well as a number of local organisations

Van Vuuren declined to give further details

Sources close to the process said US forestry giants Weyerhauser, Rayonier and Georgia Pacific were possible candidates Local forestry companies Sappi and Mondi could also be contenders

Safcol is one of the state's more profitable assets, having made strong gains in turnover and operating income over the past few years, although it did not meet its targets in the year to June 30 last year

Turnover rose 30% to R466,8m, but operating income dipped to R34,5m (1995: R36,4m) while share earnings fell to 4,3c from 7,3c previously.

Van Vuuren warned that a serious fall in profit during the current financial year was likely for a number of reasons.

These included the depressed market for sawn timber which decreased about 8% on a volume basis last year, and international markets were soft at the moment which meant reduced demand for Safcol's products.

(232)

Union set to oppose electricity proposals

BD 24/1/97 (232)

Robyn Chalmers

THE Independent Municipal and Allied Trade Union (Imatu) would oppose the restructuring of the R20bn electricity supply sector if proposals being considered by government were accepted

Hans Deetlefs, national president of Imatu, which represents 80 000 municipal workers, said yesterday the proposals would drastically affect local authorities' finances and personnel by removing their distribution function

"The proposals by the Electricity Working Group do not consider the financial implications of local government in depth and will not ensure an effective delivery of electricity for all," said Deetlefs.

Among the steps proposed was that the electricity distribution industry be consolidated by merging the distribution business of Eskom and local governments into financially viable independent regional distributions

Tariffs should be cost-reflective to ensure the financial viability of the industry and separate, transparent taxes to fund electrification and other municipal services should be introduced

A full-time and specialist transformation team should also be established in order to finalise various outstanding issues, plan and negotiate the transformation process and draft the legislation necessary to effect restructuring

Deetlefs said the proposals would lead to some municipalities losing the income they currently garnered from distributing electricity, and it could in turn lead to higher municipal rates and taxes

"Administrative capacity and resources would be wasted by the need to set up additional electricity-exclusive administrative mechanisms when general local government mechanisms are and will remain in place," he said

Imatu had formulated a different model for restructuring the industry which was also based on the formation of regional electricity distributions but meant local authorities would run the various entities set up.

The model, which has been submitted to the six ministries studying the other proposals, suggested that the entities should consist of other groupings as well, for example mining, agricultural and union organisations

The National Electricity Regulator took a decision earlier this month to begin implementing certain restructuring options in the face of lengthy government delays in making a decision on the working group's proposals.

Its decision meant up to 100 underperforming municipalities stood to lose their licences to supply electricity while the voluntary merger of the electricity function of some municipalities into clusters could also take place

Govt announces time frame for partnerships in airway restructuring

BD 29/1/97 (232)

Stephané Bothma

GOVERNMENT yesterday announced a timetable for finding a strategic equity partner for SA Airways (SAA), a foreign equity partner for the Airports Company and for the privatisation of state-owned Sun Air.

Transport director-general Ketso Gordhan said yesterday that a partner for SAA would be found this year.

Similarly, a foreign equity partner would also be sought for the Airports Company, which controls the nine former state-owned airports, Gordan said during the official opening of a R7m British Airways World Cargo freight facility at Johannesburg International Airport.

Gordhan, who is also transport restructuring and transformation committee chairman, said government-owned Sun Air would be completely privatised in six months. He said an aviation safety agency, independent of the transport department, would be created to oversee air safety.

"A privatised agency should help overcome the problem of retraining skilled staff and result in a more professional and competent service. Government subsidies will be removed and the agency will be entirely funded by user charges," Gordhan said.

Although no details about the envisaged SAA and Sun Air deals were given by Gordhan, regulations allow foreign interest of only 25% in South African airlines.

Industry sources yesterday commented that SAA, due to heavy operating losses this year, would have some difficulty in finding an equity partner immediately.

Gordhan said government would explore the idea of strategic partnerships and joint ventures, citing the example of last year's British Airways/Comair franchise agreement.

"Such developments would help bring management skills, cutting-edge technology and equity to the local industry," Gordhan said.

SAA spokesman Leon Els said yesterday that the airline could not comment on Gordhan's statement.

A public enterprises department spokesman said he could not comment on the time frame expressed Gordhan had outlined.

Sun Air spokesman Birgit Koster said although the airline and staff would welcome privatisation, the matter was now completely in the government's hands.

It is widely expected that the independent UK carrier Virgin Atlantic will buy a 25% stake in Sun Air. The two airlines entered into a code-share agreement last year.

Mineworkers' Union members listen as Free State University senior lecturer Louis Bothma addresses them yesterday on affirmative action and its effect on the mining industry. Picture GARTH LUMLEY

Government 'is playing games with labour'

(232) BD 30/1/97

Reneé Grawitzky

GOVERNMENT was playing games with labour as state enterprise managers ran roughshod over unions and failed to consult them before starting privatisation initiatives, Mineworkers' Union acting general secretary AC van Wyk said yesterday

In an interview prior to the start of the union's national congress, Van Wyk said increased co-operation between white and black unions could occur as privatisation would affect all workers

Despite the national framework agreement on state asset restructuring, privatisation initiatives were continuing without proper consensus being reached, he said.

This had occurred at Eskom, with the National Union of Mineworkers and the National Union of Metalworkers of SA withdrawing from the transformation committee because they claimed the Eskom management had bypassed the framework agreement

Van Wyk said officials in all the unions had become bogged down in trying to participate in Eskom's 450 forums, where decisions affecting workers could be taken.

He said labour did not have the capacity to service all these forums in a meaningful way

As a result of the recent problems with Eskom a total ban had been placed on negotiations until a commitment was received from management on a number of aspects

Van Wyk said privatisation discussions were under way at Eskom subsidiary Rotek, with differences of opinion having emerged between various unions as to whether it should be privatised or not. He said "If Rotek is privatised tomorrow it will go under "

Anaesthetists' share scheme 'breaches code of ethics'

(232) BD 3/2/97

Reinie Booysen

THE 178 anaesthetists who bought shares in Pulseline, a Medhold-controlled company retailing medical products used during anaesthetic procedures, would be informed by the Interim National Medical and Dental Council of SA that they were breaching the council's code of ethics, officials said at the weekend

The Competition Board said on Friday that it, too, was investigating the scheme on grounds it could be anticompetitive

In terms of the scheme, the group of anaesthetists have subscribed for shares in a company called Anesticum, which will hold 49,9% of Pulseline The remaining shares of Pulseline will be owned by Medhold, a Johannesburg Stock Exchange-listed company engaged in the medical and pharmaceutical sector

Medical council registrar Nico Prinsloo said the council decided at a recent meeting that a rule forbidding medical practitioners from holding interests in entities which manufacture or distribute medicines was also applicable to entities which manufacture disposable medical products Pulseline will primarily distribute imported disposable products used during anaesthesia

"This rule would therefore apply to these anaesthetists," said Prinsloo, referring to the Pulseline scheme

"If they proceed with their scheme, and if that is reported to the council, we will have to investigate it and deal with it," Prinsloo said

He said the applicable rule of the council's code of ethics stated that medical practitioners were not allowed to participate "in the manufacture for commercial purposes, sale, advertising or promotion of or in any other activity which amounts to trading in any medicine" nor "engage in or advocate the preferential use or prescription of any medicine from which preferential use or prescription any valuable consideration is derived".

Prinsloo said there were two exceptions to this rule. The first was to enable medical practitioners to dispense medicines to their patients, and the second entitled medical practitioners to own shares in large companies in a manner which would not have an influence on their choice of medicines for their patients He noted that the section enabling doctors to dispense medicines was under debate, as there had been calls for it to be scrapped.

The Competition Board said the "stated purpose" behind Pulseline and Anesticum was "to provide anaesthetists with an investment vehicle to supplement their incomes from the perceived threat posed by managed health care schemes"

It said "the essence of the complaint centres on Pulseline allegedly benefiting from an unfair relationship with practising anaesthesiologists — the more shareholding anaesthetists prescribe Pulseline products, the greater will be their dividend income"

The board said it was "held that this relationship places competing firms at an unfair competitive disadvantage"

A Medhold spokesman said the complaints had been filed by competing firms which were afraid of the competition Pulseline would introduce to the market

The spokesman denied that the scheme would prejudice anaesthetists in deciding which products to use during anaesthesia "An anaesthetist is not the only person who decides which products to use during an operation In addition, the anaesthetists involved are upstanding people with high ethical standards, who will do only what is best for their patients"

Government to announce plan for privatisation, restructuring

BD 4/2/97 (232)

Robyn Chalmers

A NUMBER of moves to further privatisation will be announced presently, focusing largely on restructuring at Eskom and Telkom and the sale of the state's leisure company, Aventura.

This follows government's recent announcement that Sun Air would be sold within six months and equity partners for SA Airways and the Airports Company found before year-end

A public enterprises ministry spokesman said a meeting was held on Friday to assess the sale of Aventura

Public Enterprises Minister Stella Sigcau said at the weekend government was looking at employing staff from the Development Bank of Southern Africa and the Industrial Development Corporation or the finance department to advise on restructuring

The posts, telecommunications and broadcasting ministry is expected to table Telkom's licence later this week which will finally provide details of the parastatal's exclusivity period. Telkom's monopoly period is widely expected to be specified at between four and six years while the licence will be valid for 25 years.

Government sources said the four foreign companies bidding for between 20% and 30% of Telkom were likely already to have received copies of the draft licence They were Southwestern Bell, Telekom Malaysia, Deutsche Telekom and France Telecom.

The public enterprises ministry was also expected to announce the restructuring of Eskom's electricity council, including the appointment of a new chairman and council members.

Chairman John Maree has indicated he would resign and an Eskom spokesman said the final decision would be made by Sigcau

Energy competition 'after 2000'

(232)

Reinie Booysen

BD 4/2/97

GOVERNMENT expected to introduce competition in the energy sector — "irrespective of public or private sector ownership" — after 2000, a senior government official said yesterday

Minerals and energy chief director Johan Basson told a Pretoria business forum on energy and environmental technologies in SA, sponsored by the European Union, that the focus of national energy policy after 2000 would shift to the "creation of a level policy playing field"

He said that "equal attention would then be given to the effective use and supply of energy, while competition would be introduced to the energy sector, irrespective of public or private sector ownership"

Minerals and Energy Minister Penuell Maduna said government's eagerly awaited draft white paper on energy policy was "nearing completion"

The draft would be open to public scrutiny once cabinet agreed on it Once finalised, the "necessary legislation would be enacted to give expression to policy", said Maduna

KWV privatisation furore not merely a storm in a wine glass

(232)

Business Day wine writer Michael Fridjhon gives his perspective on the controversy surrounding employment practices in SA's wine industry and the impending privatisation of wine co-operative KWV

BD 5/2/97

THE dispute over the ownership of KWV's assets has spilled over into a confrontation between leading members of the wine exporters' association and several wine writers, notably John and Erica Platter and myself

For more than a week, battle has raged over the apparently unrelated turf of a BBC broadcast detailing the kind of labour practices on Cape farms that would not make anyone proud to be South African The exporters say these disclosures are unpatriotic Given that I am part of the controversy, I can hardly claim to be disinterested However, I can outline the facts and show how they relate to KWV's proposed restructuring

In October last year, British wine writer Andrew Jefford visited SA, during which time he conducted several interviews In one of these, John Platter, paraphrasing Kader Asmal's book, Reconciliation Through Truth, made some observations about the use of prison labour on Cape wine farms in the post-Second World War era. Given that many of the convicts were pass offenders — and thus political rather than violent criminals — the system added up to institutionalised slavery

Needless to say, British supermarkets have sought assurances that none of their stocks emanate from producers with less than squeaky-clean practices

This sudden focus on labour conditions in the Cape is not destined to amuse the country's bulk wine producers — of whom the KWV is a key player Several years of unprecedented boom sales have not been translated into a commensurate improvement in the conditions of employment of vineyard workers in the Cape.

You may well argue that this kind of scrutiny is not the ordinary business of international wine critics. Indeed, I have yet to find the same concerns expressed by British wine writers when they visit Californian vineyards using cheap Mexican labour

British hypocrisy in these matters is indisputable, but should not be permitted to cloud the merits of the case If wine farmers wish to profit from the surplus of labour, falling back on the old adage of supply and demand, they must not be surprised when they find "transparency" thrust upon them when British consumers choose not to drink the fruit of such exploitation.

But what has all this to do with KWV's plans to convert from a co-op to a company? Very little, until it decided it was incendiary enough for a Reichstag fire.

Faced with increasing resistance to its proposals (the effect of which would be to enrich KWV management and the least efficient farmers at the expense of consumers and the country's quality wine producers), KWV obviously decided to set up a sideshow Die Burger was fed the story two weeks after the broadcast transcripts were circulated

The head of the exporters' association (a KWV employee) contrived to express his outrage at what he called the Platters' "unrepresentative" views Then, mysteriously, Die Burger obtained ("from a source at the agriculture ministry") correspondence from me to Thabo Mbeki from 1995 in which I was critical of the management of the wine industry.

And so the connection has been made wine writers are industry busybodies whose views on KWV's proposals must be discredited at any cost. This is a lot of intrigue for a glass of wine, but worth the effort for R2bn in assets

Cheers at SA Breweries as first round of beer battle comes to a head

South African Breweries has won the first round in the battle for beer supremacy in South Africa, but Namibian Breweries believes its beer will stand the test of time.

The Advertising Standards Authority recently decided in favour of SAB, which lodged an objection against an advert run by Namibian Breweries in which that company emphasised that its beer was brewed according to the "Reinheitsgebot" and contained "No hurry, no additives, no secrets and no cover-ups".

In a froth, SAB complained that Namibian Breweries' advertising campaign emphasised negative aspects of a competitor's beer and contained the implication that a competitor's beer "was made in the context of dark secrets, in a hurry and with chemical additives that could be harmful".

The Advertising Standards Authority (ASA) found that, 80% of beer makers did not make their beer according to the "Reinheitsgebot" but made it by the inclusion of other ingredients or additives in order, for example, to prolong shelf-life or foaming. It was accepted by Namibian Breweries that these additives or ingredients did not result in the beer of such a brewer being inferior to beer made according to the "Reinheitsgebot".

The appeal committee of the ASA found in favour of SAB and pointed out that the media campaign by Namibian Breweries – in which words such as "unlike others, we declare all the ingredients on our label" and "because we brew according to the German Purity Law, we do not have to hide anything" – was in contravention of the code for advertising standards and that the implication of the advertising campaign was that the products of competitors of Namibian Breweries were inferior. – Own Correspondent

Mon 8/2/99

(232)

Public Enterprise Minister Stella Sigcau says privatisation should benefit all South Africans.

PIC VELI NHLAPO

Unbundling to empower all

(232)

Sowetan 11/2/97

By Shadrack Mashalaba

THE Government is to establish a national empowerment fund to assist black people in their purchase of shares in privatised state corporations

This was revealed by Public Enterprises Minister Stella Sigcau at a black economic empowerment conference organised by the Institute for International Research in Johannesburg yesterday

The theme of the conference is "Bridging the gap between corporate necessities and black economic empowerment priorities"

"The Fund will be launched in March and will be accompanied by a massive public campaign including in rural areas," Sigcau said

Sigcau said 1997 is the year in which the Government will start its privatisation programme as outlined by President Nelson Mandela during the opening of Parliament on Friday

"Before the end of the year, Telkom will have a strategic equity partner and Sun Air would have fully privatised"

She said the development of human resources was the key variable that the Government would have to seriously look into during the privatisation process

"This is one area in which people can get jobs if they have the qualifications or show potential"

She said the Government was in support of competition "However, competition should have safety nets"

Speaking at the same conference, Anglo American chairman for corporate affairs Clem Sunter said there was a need to develop new management concepts in improving South Africa's productivity

Affirming projects

Speaking on behalf of Public Works Minister Jeff Radebe, Bongani More, a director in the Public Works office, said the department had embarked on a programme to empower the disadvantaged whilst at the same time not depriving other groups

He said the Public Works Department has disbursed R600 million to affirming projects in the past six months

"As such, financial institutions also have a role to play in propelling small business forward

"Government, however, must take a lead in implementing Affirmative Action," More said

PRIVATISATION *State airline's employees will be able to buy shares*

Foreigners to get 49% of Sun Air

CT (PR) 11/2/97 (232)

EMPOWERMENT IN THE AIR *Stella Sigcau, the public enterprises minister* PHOTO JOHN WOODROOF

JABULANI SIKHAKHANE
BUSINESS EDITOR

Johannesburg — Foreign investors will be able to buy 49 percent of Sun Air, the state-owned airline, rather than the 25 percent previously offered for sale, Stella Sigcau, the minister for public enterprises, said yesterday.

Sources said the decision to increase the stake was likely to have been taken in response to concerns of some potential bidders that a 25 percent stake would be insufficient to gain management control.

Current airline regulations limit foreign ownership of a South African airline to 25 percent. A 49 percent stake would guarantee such control, given that the remaining 51 percent would be split among various other parties. Bidders would also be willing to pay a premium for a 49 percent stake, sources said.

Sigcau told delegates at a conference on black economic empowerment that the government felt a 25 percent stake would be limiting, given the expertise and financial injection the strategic equity partner would be expected to make.

The remaining 51 percent of Sun Air's equity will be split between various interest groups.

Sigcau said Sun Air employees would also acquire a stake in the airline through the employee share ownership scheme that the government had agreed to set up for all employees in state-owned enterprises.

Mechanisms would be put in place to assist them to buy the shares, she said. In the case of broader black economic empowerment, Sigcau said the creation of the National Empowerment Fund, to be launched next month, would "spread share ownership among millions of our people."

This fund will own a proportion of the shares in major parastatals such as Telkom, Eskom, Denel, Transnet and Safcol.

"Historically disadvantaged people will be afforded an opportunity to buy shares in the fund at affordable prices," Sigcau said.

□ Cosmetic changes, Page 18

Privatisation drive to be stepped up a gear this year

(232)

Telkom's partial selloff will be South Africa's biggest transaction so far, says Naidoo

Star 12/2/97

BY MONDLI MAKHANYA
Cape Town

The state's privatisation programme will gain new momentum this year with the accelerated sale of a South African Airways stake and the completion of a partial sale of Telkom, government ministers said yesterday

Posts, Telecommunications and Broadcasting Minister Jay Naidoo announced that the partial privatisation of Telkom would be completed by April and Public Enterprises Minister Stella Sigcau said her ministry would fast-track the SAA deal Naidoo and Sigcau were speaking during a media briefing in Parliament.

Water Affairs and Forestry Minister Kader Asmal said the commercialisation of the Safcol forestry company would also be speeded up in order to make it a viable entity

Naidoo said the process of bidding for a 30% stake in Telkom would be completed in March and the sale finalised in April.

Naidoo said that although there were no figures yet, this would be "South Africa's biggest transaction" so far, and several international companies had already started bidding for the stake

He defended the Government's plans to grant Telkom a five-year period of exclusivity during which no other competitors would be allowed to enter the fixed-line telecommunications sector

Sigcau said increased competition in the passenger aviation industry had convinced the Government to speed up the sale of a partial stake in SAA before the company became less viable The Government would therefore expedite the restructuring of the company's management structure

"Last year I was not talking about fast-tracking the restructuring of SAA but this year I say we need to speed up the partial privatisation," said Sigcau

She said the privatisation of the entire Aventura resorts company was far advanced and the deal would include the empowerment of "historically disadvantaged investors".

She added that the interministerial cabinet committee looking into the restructuring of state assets had agreed that the equity stake to be sold in Sun Air should be increased from 25 to 49%

MEETING THE PEOPLE

ANNA ZIEMINSKI / AF

Hand of friendship ... Malaysian high commissioner Abdul Kadir Deen joins President Nelson Mandela in greeting onlookers through an entrance gate to Tuynhuys in Cape Town yesterday after presenting his credentials to the president.

Part-privatisation of SAA must be speeded up

(232)

Sigcau

80.12.1997

Linda Ensor

CAPE TOWN — There was an urgent need to fast-track the partial privatisation of SA Airways (SAA), Public Enterprises Minister Stella Sigcau said at a parliamentary news briefing yesterday

"It is agreed generally that in view of its importance as a national asset and the severity of its problems, the restructuring of SAA should be speeded up," Sigcau said.

A workshop on the restructuring of the airline had been arranged for later this month.

At this workshop crucial decisions, such as the size of the stake to be sold off, would be made

Sigcau noted that an interministerial cabinet committee had decided to allow foreign investors to take a 49% stake in an airline instead of the previous 25%, but would not comment on whether this applied to SAA as well as Sun Air

She said that government's policy to seek a strategic equity partner for SAA would be referred to the transport subcommittee of the National Framework Agreement for further discussion, including discussion of other strategy options

"There is an urgent need to press ahead with the corporatisation of SAA and make the many changes needed in management structure, legal form, moving people, changing contracts, determining a balance sheet structure et cetera, which are needed to convert SAA from a division of Transnet," she said

A model scheme for encouraging employee share ownership in restructured companies had been approved in principle by the interministerial cabinet committee In terms of the scheme workers would be loaned R10 000 each from a national empowerment fund to buy shares in privatised utilities

Also, the government's draft protocol on corporate governance in the public sector — this dealt with such matters as linking the remuneration of executives to performance contracts — had been reviewed and would be presented in revised form to the committee on March 6

Sigcau said all state-owned enterprises under her department's jurisdiction, namely Denel, Eskom, Safco and Alexkor, had performed satisfactorily

Aventura, despite its loss last year of R8m, had achieved profits for the first time in its history

This represented a 43% growth since commercialisation started three years ago However, Aventura needed to be recapitalised for refurbishment of its resorts in order to compete effectively

Transnet expected the six months of its financial year to end-March to be tough with earnings remaining under pressure, though Eskom expected to exceed its budgeted revenue and net income in the current financial year

Creating 'millions of thousandaires' from privatisation

(232)

OWN CORRESPONDENT

Cape Town – The Government plans to place some of the millions raised from privatisation of state assets into the hands of people disadvantaged by apartheid

Deputy Minister of Trade and Industry Phumzile Mlambo-Ngcuka said at a briefing in Parliament the plan was to spread wealth as widely as possible Instead of creating a handful of millionaires the goal was to create "millions of thousandaires"

The fund should be working in the first half of this year so that its operation could be linked to the privatising of Telkom, Sun Air and other parastatals

As much as 10% of the money flowing in from the sale of Telkom would be set aside for the fund which, in addition to an "active" portion lending money to entrepreneurs, would have a "passive" portion to "warehouse" equity holdings on behalf of the previously disadvantaged, possibly through a mutual fund

There would be strict rules preventing the sale of investments to make a quick profit

The disadvantaged would be defined in terms of lack of ability to establish businesses in certain areas or in terms of education

Asked to be more specific, she said that "ultimately, we all know who we are talking about"

Star 14/2/97

PRIVATISATION (232)

JUMPING THE GUN

FM 14/2/97

Investors' dreams of an early fire sale of major State assets will remain just that, if the views of the man overseeing the process are anything to go by

Sipho Shabalala, head of Minister Stella Sigcau's Office for Public Enterprises is quick to point out that SA is not in the same boat as Zambia or Mozambique where collapsed economies dictated the pace of privatisation

"Their economies and collapsed State enterprises had to be rescued by International Monetary Fund-driven structural adjustment programmes which entailed mass sell-offs of formerly nationalised enterprises We are relatively better off and most of our enterprises are not heavily subsidised fiscal burdens "

With the sell-off of Aventura and SunAir, as well as a 30% stake in Telkom, well under way, even this does not mean these will be sold off by the end of the year Vague noises have also been made about selling mothballed Eskom power stations along with State fuel interests

But a large question mark hangs over the privatisation of the rest of Eskom, Transnet and its components Portnet, Petronet, Autonet, SA Airways and Spoornet, the balance of Telkom and other State enterprises And Shabalala does not seem keen on Thatcher-style mass sell-offs So investors' hopes of privatised State enterprises hitting the JSE boards should be tempered with caution

Sipho Shabalala

Shabalala, who has occupied his present post for two years has definite views on the matter "Our aim is not just to fatten the animal for slaughter We are looking at using State enterprises as vehicles for upliftment, job creation, subcontracting to small business enterprises, training, technology transfers and to help us achieve economic parity "

And though privatisation is an integral part of the policy of restructuring, it will be assessed as a possible end-result of the process Or, depending on individual merit, it might be chosen if it is a better strategy to meet government's stated goals The restructuring programme is also focused on helping the indigent and economically disenfranchised through government's effective management of its State enterprises

Privatisation — and restructuring of State enterprises — will also be used as a vehicle for increasing the black stake in the economy

"For this purpose, our advisers — the Hongkong Shanghai Bank (HSBC) — is now investigating the possibility of creating a National Empowerment Fund, which will be aimed at financially assisting disadvantaged individuals, as well as helping black-owned corporations obtain shares in privatised enterprises," says Shabalala

Similarly, an Employee Share Participation Scheme — allowing workers to obtain an as yet undetermined percentage of equity in privatised enterprises — is also being planned

He adds that, by using enlightened management techniques, enterprises could be recapitalised and simultaneously given much-needed technology transfers from overseas — by selling off minority stakes — allowing them to become more globally competitive and much more profitable

Profitable enterprises such as the Airports Company could also be intelligently used as vehicles for black economic empowerment through job creation and training, as well as by allowing a percentage of services and supply tendering to be channelled towards small businessmen In this way, State enterprises could be managed as vehicles for successful reconstruction and development

"One always has to keep in mind that, following SA's successful political transition, we are now also involved in the harder task of economic transformation State enterprises could play a major role in achieving economic parity

"Meanwhile, we will continue looking at each enterprise sector by sector and, depending on assessments of the various bodies contained in the National Framework Agreement — and led by the advice of the HSBC — Cabinet will decide what route should be followed with each enterprise

"If economic distortions can be removed, I see no reason why this route cannot be followed rather than just being driven by a philosophy of get-rid-dism " *Arnold van Huyssteen*

GENERAL EXPORT INCENTIVE SCHEME

GENEROSITY EXCLUDES INDIGENT SUCKERS

Media have over the years tried to uncover abuses of government's now discarded R2bn/year general export incentive scheme (Geis)

But the extent of the great Geis ripoff was revealed only last week at the Petrochemicals, Plastics & Synfibres cluster initiative in Pretoria

New Department of Trade & Industry chief director of industrial promotion Tony Heher says his department had to hire 50 staff last year to claim back subsidies paid out on false claims

"About R1,6bn was paid out on Geis incentives but we got back about R350m from applicants who did not qualify for the incentives," Heher says More people were employed to handle Geis than were working on sectoral industry issues

On a brighter note, he says "lots of resources are now available to regulate the various schemes, including the new R400m supply-side package And if we can get parliamentary approval, an extra R1bn from the old Geis budget will in future also be made available "

The Geis scheme was introduced with great fanfare in the early Nineties by Trade & Industry former director-general Stef Naude, who claimed he drew it up one weekend on the back of a cigarette box The scheme was introduced as a substitute for the much-derided structural adjustment programmes devised by former chairman of the old Board of Trade & Industry Lawrence McCrystal

McCrystal's plans were shot down by Naude but, ironically, are similar to government's new industry cluster and spatial development initiatives, both forming part of the new supply-side package which also includes tax holidays

Arnold van Huyssteen

Province's bus privatisation plans threatened

CT (BR) 14/2/97 (232)

THABO LESHILO

Johannesburg — Differences over the interpretation of the national framework agreement on the restructuring of state assets (NFA) is threatening the North West government's privatisation plans for its commuter bus services, Business Report established yesterday

The two bus services involved are Vaal Transport Corporation and Eastern Express, which has 34 buses

At the heart of the dispute is whether provisions of the NFA, agreed on last year after a dispute between the government of national unity and organised labour to provide guidelines for the restructuring or privatisation of state-owned enterprises, should be automatically applied to the provinces

Peter Dantjie, the southern Transvaal secretary of the National Union of Metalworkers of South Africa, said labour believed that the provinces were bound to abide by all the provisions of the NFA whereas the North West government did not.

He said the problem arose when the provincial government could not accede to union representatives' demand that the government pay for experts to advise the unions on the restructuring of the two bus companies

Sello Rasethaba, the chairman of the restructuring committee, said the meeting decided to suspend its activities until a provincial restructuring committee was established The province initially planned to sell the two bus companies by the end of January

Vaal Transport operates in the Vaal region, while Eastern Express operates in Mpumlanga

Accountants' row may go to Competition Board

(232) (~~377~~)

Amanda Vermeulen BD 14/2/97

THE Association of Chartered Certified Accountants may refer its dispute with the Public Accountants and Auditors' Board to the Competition Board over claims that the auditors' board is colluding with the SA Institute of Chartered Accountants (Saica).

Last week the association said it would consider taking legal action against the auditors' board for delaying its statutory recognition in SA This recognition would allow association members to conduct audits without having to write the board's exam

Association director Mashudu Ramano said yesterday that the association believed there were grounds for the matter to be referred to the Competition Board. The association also planned to seek ministerial intervention from the finance ministry, which oversees the auditors' board

He said the chartered accountants' institute had been given a monopoly to provide auditing services in SA by virtue of the fact the fact that the board would not recognise other institutes No other association was represented on the board, which was dominated by institute members

Ramano said the board had employed a full-time staff member in its offices, to assist the institute in improving its services and restructuring

"The board has told us it may grant us recognition by the end of the decade, by which time Saica will have been given sufficient time to restructure and develop its own capacity "

Auditors' board CE Lucas van Vuuren said the board would reserve its comment on the matter

WTO accepts SA telecoms offer

TRADE NEGOTIATIONS

By SVEN LUNSCHE

THE World Trade Organisation has accepted South Africa's offer to open up its telecommunications market gradually to foreign competition

Postmaster-General Andile Ngcaba said on Friday that the WTO (successor to GATT) had accepted in principle the SA proposal to the WTO, which is seeking to liberalise the $600-billion world telecoms market in 60 countries

However, late on Friday night (at the time of going to press) WTO negotiators in Geneva were engaged in last-minute negotiations to finalise the global accord before its Saturday deadline

Trade negotiators said the fate of the pact lay in the hands of the United States and a decision could come from Washington late on Friday They said the US administration — under pressure from some key figures in Congress over its open trade policies — had to make a political decision on whether to accept a package that did not meet all its targets

The global talks have proved a careful balancing act between the demands by industrialised countries for massive liberalisation, and defensive moves by the developing world to protect their markets, mostly dominated by state-owned monopolies

The latter, including South Africa, have asked for more time to allow their telecoms industries to adapt to global competition and accelerate the expansion of their telephone networks

SATISFIED ... Postmaster-General Andile Ngcaba

~~(267)~~ (232) ST(BT)16/2/97

The SA submission to the WTO is broadly in line with the recently released licence for Telkom, the public-sector giant which is due for partial privatisation

It thus provides Telkom with a monopoly over voice-line services until the end of 2003, with a gradual liberalisation of other telecoms services in the meantime. Other areas, such as the provision of telephone equipment, have already been thrown open.

The WTO offer also establishes a 30% shareholding threshold for foreigners in key telecoms companies such as Telkom

"Our offer has been widely welcomed by our trading partners as well as multilateral bodies such as the International Telecommunications Union," says Ngcaba He says South Africa is one of the few African countries that has submitted an offer. He adds that a progressive regulatory structure also worked in the country's favour during the WTO talks

South Africa's submission is in line with other offers to the pact this week by newly industrialised and developing countries

For example, Hungary's period of exclusivity on international and domestic services is five years and that for local calls six years Ghana has a five-year exclusivity period

Foreign shareholding in telecoms operators is generally limited to between 20% and 35%

World trade in telecommunications has been booming with global revenues forecast to jump to more than $1.2-trillion by 2000 and the market will expand further in the coming digital age, a UN survey said on Friday

The survey by the International Telecommunications Union, the UN telecoms agency, was issued to encourage the WTO negotiators to conclude the negotiations, Reuter reports.

The ITU survey predicted total world revenues from the industry could almost double by 2000 from $800-billion in 1996 if a deal is struck, boosting information technology industries and cutting the cost of communications networks Exports of telecoms equipment rose by 20% to around $60-billion in 1995, while international telephone calls are growing at a rate of 15% a year, generating $53-billion in retail revenues worldwide in 1995

PRIVATISATION *The government plans to sell 49% stake for at least R1,2bn*

Airports Company bonanza

ET 17/2/97

(232)

OPTIMISTIC *Transport minister Mac Maharaj believes the Airports Company should seek a foreign equity partner* PHOTO JOHN WOODPOOF

DUMA GQUBULE

Johannesburg — The government expects to receive R1,2 billion from the sale of a 49 percent stake in the Airports Company, Mac Maharaj, the transport minister, said on Friday, as the company's enterprise restructuring committee met for the first time

Maharaj said a proper valuation of the company had not been done, but he was sure it was worth "more than R2,5 billion

"The proceeds (from the sale) will go to the central fiscus If government chooses to invest in the company, this will be a separate decision," he said

He said the government felt a maximum of 49 percent of the company should be shared between the employees, a black economic empowerment consortium and a foreign partner

Maharaj said South Africa could benefit from a foreign partner who provided access to capital, technology and skills

The partnership might also lead to an alliance "which could in the future allow for mutual equity holdings, joint ventures into southern Africa and other regions of the world", he said

At Friday's meeting, the government, as the sole shareholder of the Airports Company, and the labour unions, agreed on a constitution and the composition of the restructuring committee The committee will have six government representatives (including the management of the Airports Company) and nine from the labour unions

"There was no decision made on restructuring the Airports Company But we made a commitment to transparent negotiations with all stakeholders We will debate all options (on restructuring) at the next meeting on March 14," said Dirk Ackerman, the managing director of the Airports Company

At the meeting the government delegation, led by Khetso Gordhan, the director-general of the transport department, outlined four options for the Airports Company retaining the status quo, a part-privatisation to a consortium that included a foreign partner, full privatisation, or a listing

"We got rid of the last two options within the first five minutes," said Randall Howard, the general secretary of the Transport & General Workers' Union

The management of the Airports Company, led by Ackerman, made a presentation giving the reasons why the company wanted an equity partner

The Airports Company needed an infusion of new technology and skills to support a R1,2 billion investment in new infrastructure over the next few years, Ackerman said

The trade unions did not make a presentation They will hold a two-day workshop early next month to discuss the issue

"We must go to the next meeting with a view so that we can have a concrete agreement," Howard said

"At this point we are not convinced of the need for a strategic equity partner

"But we have an open mind and realise that airports are not a basic necessity that the majority of our people use and have access to

"The question is how the restructuring of the Airports Company can be used to achieve the wider objectives of the National Framework Agreement and impact on transport development," Howard said

Fisheries white paper seeks to strike a balance, Jordan says

BD 17/2/97

Linda Ensor

CAPE TOWN — The white paper on a fisheries policy, due to be tabled in Parliament next month, had attempted to achieve a balance between redistribution and a recognition of the existence and role of the large fishing groups in the economy, Environment, Tourism and Fisheries Minister Pallo Jordan said at the weekend.

He hoped that the sea fisheries legislation, which addressed many of the "burning issues" of the industry, would be passed this year.

While stressing that the inequities of the past had to be addressed, Jordan said it would not be possible to dismantle the fishing industry callously without regard for the future of the country. The large fishing groups employed large numbers of people and had the capacity to make the industry internationally competitive.

"The inequalities of the past have to be weighed up against economic realities," Jordan told a parliamentary news briefing.

The white paper was the product of broad consultation between all stakeholders which, among other things, addressed the question of to whom the marine resources belonged and how people could gain access to it.

Jordan said an accessible version of the document would be made available in six languages, for distribution to fishing communities.

He expressed concern over the alarming escalation in poaching, especially of perlemoen which would be completely wiped out within five years if poaching continued. It seemed crime syndicates were involved, especially in the Hermanus and Hawston areas.

"We see the need to engage in some lateral thinking to address some of the problems in the fishing industry. My ministry is investigating solutions like use of mariculture in certain secure areas, to give dwindling perlemoen resources a much needed boost," he said.

Pick 'n Pay in deregulation bid

Business Day Reporter

BD 17/2/97

RETAILER Pick 'n Pay submitted a memorandum concerning the deregulation of the oil industry and current price disparities to Minerals and Energy Minister Penuell Maduna on Friday, the group said at the weekend.

Pick 'n Pay has been advocating the relaxation of the current regulations governing the oil industry in a bid to bring down petrol prices at the retail level.

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Eskom's bid to sell power stations angers union

BD 20/2/97 (232)

Robyn Chalmers and Renee Grawitzky

ESKOM has called for tenders on the sale of two decommissioned power stations, Highveld and Taaibos near Sasolburg, bringing the parastatal once again into conflict with labour unions

Simunye power stations manager Gawie Horn said yesterday Eskom had placed adverts in the local and foreign media on the sale of Highveld and Taaibos stations — collectively known as Kragborn Power Station — after proper consultation with labour and other stakeholders

But the National Union of Metalworkers of SA (Numsa) denied it had been consulted on the sale of the power stations or the intention to advertise the sale

Numsa spokesman Steve Nhlapo said Eskom was "playing games" and insisted the parastatal was attempting to undermine both government and the labour movement

He said this issue had been put on the table before the unions deadlocked and withdrew from the restructuring and transformation committee in December The unions subsequently agreed to return to the committee, but it had not met since December and the unions had asked Eskom on Monday to convene a meeting soon.

Numsa and the National Union of Mineworkers' withdrawal came after they alleged Eskom was bypassing the national framework agreement on state asset restructuring and was not consulting on various restructuring decisions

Nhlapo claimed Eskom had not advised the public enterprises ministry that it intended selling an asset of the state

Yesterday, ministry spokesman Wandile Zote said the ministry was looking into the sale to ensure labour and other stakeholders had been consulted

Horn said that after full consultation a decision had been made to sell the two power stations for scrap, as Eskom had decided it would not be viable to recommission them for the purpose of electricity generation

"Significant funds would have to be spent in terms of the capital outlay needed to refurbish There are also limited coal sources near Sasolburg so large transport costs would have to be incurred "

Horn said a decision on Ingagane power station's future still had to be discussed

He said there had been strong interest expressed in the power stations from SA scrap dealers and merchants abroad. Estimates on what Eskom could garner from the sale were not forthcoming, but tenders had to be submitted with bid bonds of up to R1m

The closing date for tenders is April 25 this year

Horn said several options for the sale of the power stations were offered, including selling both with 460ha of real estate, selling each separately with its related real estate or selling a selection of equipment Each station had eight steam turbine generators, boilers and precipitators

ELECTRICITY *Eskom faces another showdown with labour*

Fire sale draws union heat

CT (BR) 20/2/97 (232)

THABO LESHILO

Johannesburg — Eskom, the electricity utility, faced another bitter confrontation with labour yesterday in reaction to its decision to sell two decommissioned power stations without consulting the affected unions.

The two stations, Highveld and Taaibos, near Sasolburg, were advertised for sale this week They were at the centre of the conflict that led the National Union of Mineworkers and the National Union of Metalworkers of South Africa to boycott talks about the restructuring of Eskom last December

At that time, Eskom wanted to sell the two stations, plus another in Newcastle, KwaZulu Natal, called Ingangane, as going concerns The company had hoped the sale would attract a foreign partner and introduce competition within the local electricity industry

The move by Eskom angered the unions who claimed it was unilateral restructuring of state assets The Cosatu affiliates refused to participate in the Eskom reconstruction and transformation committee, dismissing it as a toy telephone

Stella Sigcau, the public enterprises minister, intervened, rapping the knuckles of Eskom's management and persuading the unions to rejoin the transformation committee last month.

The two unions, Eskom and Sigcau agreed that the parties would resolve their differences over decommissioned stations within the committee. The committee has not met since December 6, despite the agreement

Peter Adams, the spokesman for Eskom, said yesterday that the company had decided to sell the stations as scrap because nobody was interested in them as going concerns He said the sale was not a matter for the committee because jobs were not affected

But, according to Stephen Nhlapo, Numsa's energy sector co-ordinator, Eskom could not sell any of its assets, including decommissioned or mothballed power stations, without the matter being agreed to by the committee "This is news to us Even the minister (Sigcau) does not know about it," Nhlapo said

He said he had had talks with Sigcau yesterday about the proposed sale, which had been advertised in the Sowetan, among others this week Wandile Zote, the spokesman for the public enterprises ministry, said the ministry would "look into the matter", but declined to elaborate

Conflict delays choice of chairman

DUMA GQUBULE

Johannesburg — Stella Sigcau, the public enterprises minister, has delayed the announcement of a new chairman of Eskom, the national electricity utility, because the government and unions are torn between two contenders, businessman Reuel Khoza and Cyril Ramaphosa, the executive deputy chairman of New Africa Investments (Nail), government sources said yesterday

They said the announcement, which was intended for today, was delayed mainly because of disagreements within the top ranks of the ANC

One source said "There is a view that Ramaphosa's hands are full with Johnnic, Nail, Times Media and South African Breweries

"There is another view that he (Ramaphosa) must be thanked for giving us Codesa and the constitution and to maintain unity in the broader church of the ANC He might be resentful if he is overlooked for this one

"The problem is that Nail would have two deputy chairmen, Dikgang Moseneke and Ramaphosa, in charge of Telkom and Eskom, two of the largest companies in the country Also, because government criticises cross-directorships, it cannot appear to be creating a new elite or give the impression that the only talent we have is a handful of people "

Khoza, who is the chairman of the African Mining Group consortium which is bidding for a controlling stake in mining group JCI, is the frontrunner He is believed to have the support of Sigcau and as well as a lobby that believes the position should go to someone with business experience behind him

Khoza, an MBA graduate, is a director of Standard Bank, IBM and Glaxo Pharmaceuticals His management consulting firm, Co-ordinated Management Consultants, has consulted to large corporations, including Eskom, for the past 16 years

Sigcau is also expected to appoint two deputy managing directors for Eskom

The positions will most likely be given to insiders Ray Dabenga, the executive director for electrification, is considered a hot favourite for one of these positions

Two unions block sale of power stations

BD 21/2/97

(232) (~~250~~)

Robyn Chalmers
and Reneé Grawitzky

ESKOM has been forced to call off the sale of its two decommissioned power stations near Sasolburg, Highveld and Taaibos, after labour unions said they had not been consulted.

Public Enterprises Minister Stella Sigcau said yesterday that this was in line with a resolution signed last month between her ministry, Eskom, the National Union of Mineworkers and the National Union of Metalworkers of SA (Numsa)

"Eskom has conceded that the decision to advertise for tenders was an error of judgment on their part and that the advertisements will be withdrawn immediately," she said.

Sigcau said Eskom management was committed to discussing matters around the power stations within the restructuring and transformation committee as previously agreed between government, labour and management.

The unions sent a letter to Sigcau yesterday noting with "contempt and utter disgust" the intention of Eskom to sell the power stations They said this violated agreements and the trust relationship had been broken

"Eskom is continuing to sell state assets, including state-owned land, without even consulting the owner, which is government," the letter said

Eskom said on Wednesday it had decided to begin advertising for tenders after proper consultation with labour and other stakeholders But Numsa spokesman Steve Nhlapo said Eskom had not tabled the sale for discussion in the restructuring and transformation committee, but had presented it at a strategic forum used for information sharing

He said when the information on the sale was presented at the strategic forum — one of 400-odd such forums at Eskom — the union was holding its national congress and could not attend.

A union source yesterday called the issue a "storm in a teacup", saying it was unclear whether the power stations would ever be functional again and their sale would therefore not affect workers' job security

Timetable for Safcol's restructuring is drawn up

Robyn Chalmers

BD 21/2/97 (232) (3) FORESTRY

THE restructuring of the SA Forestry Company (Safcol) has to kick off by November in terms of a broad timetable outlined yesterday by the public enterprises ministry

Ministry spokesman Wandile Zote said Safcol management would meet in March to formulate proposals for restructuring. The proposals would be discussed at a two-day meeting to be held with labour representatives, management and government in April

An investigation into the possible privatisation of Safcol was suspended last year after Water Affairs and Forestry Minister Kader Asmal expressed concern over the management of the former homeland forests These forests are generally neglected and incur heavy annual losses.

However, a decision by Asmal late last year to place the management of the former homeland forests with the water affairs and forestry department allowed government to pursue restructuring options for the parastatal

Zote said a final report on proposals for Safcol's restructuring had to be placed before the interministerial cabinet committee by May 17 and the implementation of the accepted proposals would take place by November

Safcol CE Tienie van Vuuren said recently that Safcol was ready to pursue restructuring/privatisation options in accordance with national framework agreement procedures

He also said a number of companies had expressed interest in buying a stake in Safcol, including groups from the US, Japan, Malaysia and Korea, and local organisations

A water affairs and forestry department report said Safcol had no problems in respect of its pension fund or medical aid benefit scheme, unlike other parastatals, and it had paid a R5m dividend to the state last year

However, the report said that many other key areas still needed to be evaluated, such as corporate governance — including matters relating to the board of directors and the value of assets

Safcol's dividend and cash management policies needed to come under the spotlight, as did progress with affirmative action, worker participation and industrial relations and human resources development programmes

Corporate social investment projects and the application of a code of ethics needed to be examined as well

Safcol is one of the state's more profitable assets, although operating income dipped to R34,5m (1995: R36,4m) and share earnings to 4,3c (7,3c) in the year to June 30 on a 30% rise in turnover to R466,8m

ELECTRICITY *Sigcau again chastises utility's management*

Eskom reproached for hasty sales

CT (BR) 21/2/97 (232)

Thabo Leshilo

Johannesburg — Eskom was censured yesterday by Stella Sigcau, the public enterprises minister, for being too hasty in privatising the electricity utility's assets

It is the second time that Sigcau has acted against Eskom's management in two months over privatisation The trigger this time was Eskom's announcement this week that it was selling two de-commissioned power stations as scrap The move contravened the national framework agreement (NFA) governing the restructuring of state assets

The company advertised tenders in newspapers for the purchase of Highveld and Taaibos stations near Sasolburg

The National Union of Metalworkers of South Africa (Numsa) and the National Union of Mineworkers said it contravened the NFA. Numsa said the proposed sale also violated the pact the unions, Eskom and Sigcau had reached last month, which led the two Cosatu affiliates to end their boycott of restructuring talks at Eskom.

The unions boycotted the talks at the end of last year after accusing Eskom's management of trying to sell the power stations, among other things, without consultation They agreed to rejoin the Eskom restructuring and transformation committee after it was agreed that the future of the de-commissioned stations would be discussed in the committee

That was the last time the decommissioned stations were discussed Sigcau, the NUM and Numsa were surprised when the sale was advertised this week

Eskom insisted it did not have to discuss the sale of the power stations with labour But after the NUM and Numsa complaints to the minister, Eskom admitted yesterday it had erred.

"Unfortunately, an error of judgment by the manager concerned has occurred in not linking the disposal for scrap of Kragbron (Highveld and Taaibos) to the airport discussion and the resolutions reached," said Bruce Crookes, Eskom's executive director for power generation

He assured the unions "nothing further will be done" to sell the stations before the committee reconvened.

Eskom unplugs privatisation

ST(BT) 23/2/97 (~~250~~) (232)

PARASTATAL POLICY

By SVEN LUNSCHE

ELECTRICITY utility Eskom has ruled out the large-scale privatisation of any of its power stations, chief executive Allen Morgan said on Friday

This follows controversy over advertisements placed this week calling for tenders on two decommissioned power stations near Sasolburg and Taaibos

However, Morgan said Eskom was looking for joint venture partners for its remaining decommissioned station, Umgeni, as well as its three mothballed power stations, Nkomati, Camden and Grootvlei "This is not privatisation We will recommission the stations when feasible, in partnership with technological or equity partners, local and foreign"

Morgan said it was unlikely that the stations would be linked to the power grid before 2000

On Taaibos and Highveld, Morgan said there was little choice but to sell off the equipment, although this would be discussed with union members Decommissioned power stations employ no workers and union protests surprised many analysts

"This was a matter of principle and the unions were right to protest," Morgan said, adding that his relationships with the trade unions was "reasonable"

Eskom was forced to withdraw the advertisement after conceding that it had circumvented the negotiation process established between management, Eskom unions and government.

CLEARING THE STATIC . . . Eskom CE Allen Morgan, who says equity partners will be sought

The advert set a closing date of March 14 for tenders, which excluded the possibility of generating electricity on site

Morgan admitted that the decision to place the advertisement was had been made by a senior Eskom manager without consulting his superiors The manager has faced an internal disciplinary inquiry

Politics has also featured in negotiations on the future of the electricity utility Eskom's ruling body, the Electricity Council, is seeking a successor to chairman John Maree, who retires shortly

Two prominent black businessmen, Johnnic chairman and former ANC secretary-general Cyril Ramaphosa and African Mining Group chairman Reuel Khoza are front-runners for the post.

Sources say Ramaphosa was a certainty as chairman until a few weeks ago when senior cabinet ministers objected to his appointment, arguing that he already has too many directorships

The sources also suggest that a Ramaphosa chairmanship would sit uncomfortably with his former party rival, Deputy President Thabo Mbeki

Public Enterprises Minister Stella Sigcau is expected to announce the successful candidate early this week

Cosatu outlines privatisation approach to top UK officials

ARG 24/2/97 (232)

Johannesburg – A Congress of South African Trade Unions delegation to the UK has spelt out to top-level officials its view of privatisation as part of a reshaping of the entire economy.

The team, headed by general seretary Sam Shilowa, flew home at the weekend after meetings with the executive of the Trades Union Congress, fund managers SBC Warburg, the powerful Transport and General Workers Union, the Committee on South African Trade and Labour Party foreign affairs spokesman Tony Lloyd

Cosatu aimed to correct "misconceptions" about the inflexibility of the South African labour market. Discussions had covered investment, macro-economic policy, the restructuring of state assets and the labour market, and Cosatu's views on "the crisis" in Swaziland

On privatisation, Cosatu told UK audiences its position was within "our overall commitment to restructure the South African economy"

"This should include redefining the role of the civil service, police service and the army, shifting spending patterns away from wastage and apartheid expenditure to meet RDP goals

"At the same time we should ensure that there is meaningful delivery on areas such as education, health, public transport, social welfare and basic infrastructure " Parastatals and public utilities should also be looked at

Cosatu argued there were new sectors where the state should be involved, but it did not mention which ones

It said there was a misconception, mainly fuelled by South African business and the commercial press, that one of the key problems facing the economy was the alleged inflexibility of the labour market, or that South African wages were too high by international standards, in relation to the level of productivity of the economy

"This claim flies in the face of recent studies conducted by, among others, the International Labour Organisation, which finds that in many respects the labour market is too flexible and that millions of workers remain vulnerable and unprotected

"We outlined the current negotiations to provide a basic floor of rights to all South African workers, as well as the commitment by the trade union movement, through accelerated training, industrial restructuring and other measures, to create employment, expand the economy and develop its efficiency," Cosatu said – Sapa

AVIATION *Tender documents available next month*

CT(BR) 27/2/97

Privatisation of Sun Air draws widespread interest

~~226~~ (232)

Duma Gqubule

Johannesburg — Four years ago, Sun Air was a little-known airline with a turnover of about R6 million It is now an operation attractive enough to get the attention of the likes of Richard Branson, the flamboyant boss of Virgin Airlines

Today, Sun Air has eight aircraft. It operates on the profitable "Golden triangle" between Johannesburg, Durban and Cape Town where it has managed to capture about 20 percent of the market.

For the financial year to March 31, Sun Air is expected to report a turnover of more than R300 million

Sun Air could become the first fully privatised company in the new South Africa, and the airline could find its place in economic history books if it beats Aventura, the state-owned holiday resort company, to that goal

As the sole shareholder, the government would pocket anything between R100 million and R150 million "The process has gone very smoothly There have been no hiccups," said Johan Borstlap, the managing director of Sun Air

Two weeks ago, the company's sole shareholder, along with its 500 members of staff and management, agreed to privatise The staff would take up shares in the privatised Sun Air "We do not have major unions at Sun Air The staff have never felt the need for union representation because they are not getting a raw deal And there will definitely not be any job cuts after privatisation," said Borstlap

Tender documents would be available by March 11 at the offices of Board of Executives Natwest and Moseneke & Partners, the privatisation advisers Interested parties would have four weeks to submit their tenders

Important criteria for choosing the winning bidder would include black economic empowerment and the ability to grow the airline "The partner must bring aviation expertise and cash for expansion. Sun Air has lots of potential. All we need is capital to unlock that potential," Borstlap said. The advisers would announce the winner of the bid by early July, and the transaction was likely be done the following month

Despite the publicity given to the balloon-flying boss of Virgin Airlines, sources close to the government and the advisers said he was not necessarily a front-runner Although the foreign partner was entitled up to 49 percent (in effect a controlling stake) of the company's shares, it was by no means a foregone conclusion that that would happen Other contenders are the Dutch airline KLM and Safren, the shipping and entertainment group which used to own Flitestar, the local airline which closed down in mid-1994

Whichever way the bidding goes, the winning consortium would have to include a credible black partner, probably entrepreneur Moss Ngwenya's African Leisure & Tourism Corporation, a broad-based consortium of leading black players in the tourism industry, which was at present preparing a bid for Sun Air

"We do not prefer anyone It will be an open bid The government will obviously see who puts what on the table," Borstlap said

Privatisation should aim to boost jobs

BD 27/2/97 (232)

Robyn Chalmers

THE restructuring of state assets should be aimed at boosting employment creation and improving quality, export performance and the competitiveness of end products, says public enterprises office head Sipho Shabalala

He told the SA-US business development committee that in restructuring public enterprises for better performance, there were several areas that had to be attended to.

These included corporate governance, the autonomy and accountability of public enterprises, performance contracts, capital restructuring and financial management, as well as market orientation and competitiveness

"The critical policy issue .. is the development of an equitable, empowering, competitive and efficient private sector working in collaboration with (the) state.

"Competition should promote new entrants to the economic mainstream and should guarantee internal and external efficiency and effectiveness of our industries," he said.

Government had begun a broad restructuring and privatisation initiative.

Shabalala said SA's economy was a poor performer with regard to international competitiveness The majority of blacks operated outside the main economy and those who were in the economic mainstream were poorly paid, unskilled and semiskilled.

The restructuring of state enterprises should attempt to boost equity and technology ownership by blacks, while funds should be budgeted for black entrepreneurship development

He said the private sector needed to be restructured to address the problems of poverty, skills and low economic growth.

PUBLIC WORKS (232)

PROCUREMENT SWITCH

FM 28/2/97

The Public Works Department is to privatise some functions and services, from building prisons to cleaning buildings

Up to six pilot projects, including a high-security prison, are to be launched in April The jail is expected to attract international bidders in design, finance, construction and operation

Contract criteria will take in black economic empowerment

Correctional Services Minister Sipo Mzimela, visiting maximum security prisons in the US in January, was impressed by Jessup in Maryland Elements of its design are likely to be incorporated locally

The planned prison will cost about R200m and hold at least 1 000 The site has not yet been determined

Privatising the project will cut construction time from two or three years to a year-and-a-half And the tender process has been reduced to six instead of nine months With prison overcrowding severe and breakouts averaging 100 a month, the building is needed urgently

Sipo Mzimela benefits of privatising prison construction

Public Works deputy DG Sivi Gounden says contracting out will provide opportunities for many firms that offer services such as cleaning, building maintenance, gardening and security

The contracts will be open to small, medium and micro enterprises, black-owned firms and big companies that involve formerly disadvantaged groups

"By engaging the private sector, tremendous cost savings can be passed on to the taxpayer," says Gounden

The pilot roster has played a pivotal role in the department's black empowerment measures Instituted in December 1995, it was an 18-month experiment aimed at increasing the capacity and experience of emerging architectural, engineering and quantity surveying practices

The roster features 451 firms out of a potential 3 500 (of which small, medium and micro enterprises comprise 60%) It expires in mid-1997 but Public Works wants to extend it by six months to allow negotiations to be held by the three parties that established it the department, the Alliance of Development Professions and the SA Black Technical & Allied Careers Organisation Ultimately, the department wants a permanent roster

SA Association of Consulting Engineers CE Graham Pirie does not think the roster should be extended as it is "You cannot be an emerging professional for ever Times have changed and the roster needs to be made more accessible "

Alliance chairman and Association of SA Quantity Surveyors president Koos Klopper also opposes extension He says the roster was designed as a short-term measure and is not a sustainable or equitable basis on which to award government work

More than 90% of quantity surveying firms are not on the roster Klopper wants the admittance criteria lowered from 25 to 15 points as it is "almost impossible" for firms to meet the black equity ownership requirements given the shortage of black quantity surveyors

Substantial earnings are at stake, as is clear in the value of contracts awarded

- Architects received R18,4m in professional fees for 124 contracts on projects worth R890m,
- Quantity surveyors got R15,7m in fees for 119 contracts on projects worth R623m, and
- Engineers earned R20,1m in fees for 208 contracts on projects worth R688,6m

Since the affirmative procurement policy's implementation last August, more than 40% of the 970 Public Works tenders in construction have been awarded to firms with significant black equity ownership

"We've sent the message to affluent firms that if they want these opportunities, there are things they must do," says Gounden "We have also created a more equitable spread of work, though there is still a long way to go before reaching full democratisation " *Claire Bisseker*

Sunday Times,
March 2 1997

The less than public service

CAROL PATON

(232) (250)

THE management of police stations, magistrate's courts and even the prize Union Buildings gardens are to be placed in private hands as the government takes steps to trim the public service

The maintenance of government buildings, gardening, cleaning and security were among the services the Department of Public Works would put out to tender, its deputy director general, Nazeem Martin, said this week.

First in line for privatisation are the Union Buildings' terraced indigenous gardens

Martin said his department aimed to go much further than buying ancillary services and would contract out the management of its property portfolio "The rationale behind it is to ensure that we provide our clients with a more efficient and cost-effective service We have also been forced to look for other alternatives since large numbers of people left the public service through voluntary severance packages," he said

Although firms in the private sector often outsourced only 50 percent of their services, the Department of Public Works would probably set a higher target

Martin said a pilot study, probably of buildings in Gauteng, would be in place before the end of the year but was still subject to negotiation with other government departments which were clients of its services

ST 2/3/97

Telkom deal leads way to privatisation

BD 4/3/97 (232)

Robyn Chalmers

THE consortium of US-based SBC Communications and Telekom Malaysia has succeeded in its bid for a 30% stake in Telkom, kickstarting SA's first major privatisation exercise

The final, tough negotiations with the consortium on price, rollout and transformation targets are due to start in earnest this week

Post and Telecommunications Minister Jay Naidoo was confident yesterday he would be able to announce the successful outcome of the process early next month This would put government on target to complete partial privatisation of Telkom ahead of Sun Air, Aventura and the Airports Company — all expected to be sold this year

SBC Communications and Telekom Malaysia outbid France Télécom, which Naidoo said had expressed a desire to continue participating in the strategic equity partner process: "But at present, negotiations will proceed solely with SBC Communications and Telekom Malaysia," he said.

Ministry spokesman Connie Molusi said Deutsche Telekom had indicated it had decided not to bid in view of the major international changes the telecommunications industry was undergoing as a result of liberalisation and restructuring

The ministry declined to comment on the price of the stake, but analysts have placed it at R5bn-R6bn This could be reduced should agreement be forged on more aggressive rollout and transformation targets

It was estimated that Telkom and its strategic equity partners would be called upon to roll out a minimum of 1,8-million lines to previously disadvantaged areas over five years, but Naidoo said higher rollout targets could be negotiated.

The parastatal's unsatisfactory customer service record also had to be turned around, with heavy financial penalties imposed should it fail to meet targets Naidoo said once negotiations had been concluded a full announcement would be made detailing the substantial commitments to transformation, the rollout of lines as well as the financial offer.

"In the meantime, details of the bid are subject to confidentiality undertakings which are customary in such transactions," he said

Molusi said SBC Communications and Telekom Malaysia had undertaken a due diligence exercise on Telkom and had a good grasp of the local market "They have come to the party with an initial pricing offer for a stake in Telkom and we believe this is a very good bid There is little chance of the deal falling through at this stage"

Negotiations now had to take place on conditions the consortium might place on the rollout and other targets which will come under scrutiny

In terms of three draft 25-year licences issued by the ministry last month, Telkom was given the right to provide fixed-line telephony exclusively for five years. The monopoly period could be extended to six years if Telkom committed to a more aggressive network rollout in the fourth year

The licence said for the first three years the overall basket of Telkom's tariffs could not increase at more than the rate of inflation minus 1,5%, and increases for individual services could

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Telkom

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not be more than 20%

Naidoo said the ultimate aim in issuing the licences was to provide appropriate and affordable telecommunications services to as many people as possible within the shortest time

Renee Grawitzky reports that SBC Communications said last night it was pleased that its consortium with Telekom Malaysia had been selected to enter into final negotiations for a stake in Telkom SA. Once negotiations with the SA government had been finalised, which was expected by April, the details of the consortium's bid, including modernisation commitments and the financial offer, would be announced.

Telekom Malaysia's CEO Dato' Mohamed Said Mohamed Ali said his company was confident that in partnership with SBC International, it had "the knowledge, experience and technology to make a significant contribution to meeting the needs of the people of SA as Telkom's strategic equity partner"

No timetable for competition policy talks, although Erwin 'has received document'

(232) BD 4/3/97

John Dludlu

TRADE and Industry Minister Alec Erwin had received a draft discussion document on proposals to rewrite the country's competition policy, the trade and industry department said yesterday.

However, a department spokesman was reluctant to say when the document would be taken to the National Economic, Development and Labour Council (Nedlac), the statutory consultative body that brings government, business and labour together to discuss key socioeconomic policy.

One member of the team advising the minister said yesterday that although the team had not met this year due, in part, to the co-operation talks with the European Union (EU), the team was confident the competition policy review would be finalised by year-end.

Government sources said Erwin had not had a chance to study the document because of his workload, a factor contributing to previously missed deadlines.

Erwin, like his predecessor Trevor Manuel, now finance minister, has undertaken to table proposals at Nedlac. Both have ruled out "line-by-line" discussion.

Business, which has generally supported Erwin's handling of the competition policy debate, wants a speedy resolution of the review, stressing that certainty is "absolutely crucial" to the process.

Previously, sources within the team, which included Competition Board chairman Pierre Brooks, Cape Town academic David Lewis and parliamentary trade and industry committee member Tseliso Ntaupane, have ruled out harsh US-style antitrust laws for SA, saying the country's economy does not require such a model. Observers have said that the debate was moving towards the EU model.

Sources have noted agreement within the team on the need for effective administration of competition laws. Some parliamentarians have also called for stiffer penalties to punish offenders.

Business representatives have warned against using competition laws to achieve social goals and have expressed support for a policy that tackles anticompetitive corporate behaviour — such as abuse of dominant position — rather than laws that deal with the structure of the economy.

Agreement on restructuring

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By Abdul Milazi

TELKOM and its unions announced yesterday that they have agreed on the National Framework Agreement's telecommunications sector strategy for the parastatal's restructuring

In a joint statement yesterday the parties said details of the framework were still being worked out

Represented on the National Framework Agreement workshop at the weekend were the Communications Workers Union (CWU), South African Telecommunications Association (Sata), Postal and Telecommunications Association (P&T) and the Mine Workers Union (MWU)

According to the statement the key concern of labour was finding mechanisms to ensure employment security, transformation of the sector and growth that would lead to sustainable job creation in the sector

The parties agreed that the restructuring process should focus on the achievement of Reconstruction and Development Programme (RDP) goals, such as the extension of telephone services to disadvantaged areas

It was also agreed that the focus of the restructuring should place emphasis on training

It should also ensure full representation at all levels of the company and in the telecommunications sector

The workshop also agreed that the government should commit itself to promoting the local telecommunications manufacturing sector

Black entrepreneurs entering the sector should also be empowered, it was agreed Cosatu's Vusi Nhlapho said "All parties committed themselves to co-operate in achieving the success of this project which is designed to deliver a better quality of life to our people and create a more competitive economy"

Sowetan 4/3/97

Privatisation: ANC has done an about-turn

cT 6/3/97

(232)

IN THE SECOND in a two-part series, **DONALD McNEIL jun** examines the state of privatisation in South Africa and possible obstacles to the process

PERHAPS the most remarkable aspect of the privatisation debate in South Africa is the psychological about turn that the ANC has made on this issue in recent years

During the long struggle against white rule, it was closely allied with trade unions and the Communist Party, and it strongly advocated state ownership

In 1990, just before his release from prison, Mandela wrote "The nationalisation of the mines, banks and monopoly industries is the policy of the ANC, and a change or modification of our views is inconceivable "

But, by 1994, some ANC ministers had became free-market enthusiasts They talked about selling the post office, privatising water and filling the countryside with toll roads

Early this month, in his state of-the-nation speech, Mandela named companies to be sold or reorganised.

In "a matter of months", he said, all of Sun Air and Aventura would be sold, as would a big chunk of Telkom By year's end, Airports Co, which manages the nation's airports, and Safcol, would "complete their bidding processes" By early next year, South African Airways and Autonet, the intercity bus and trucking company, would be revamped.

"All these steps," he emphasised, "will be taken in full consultation with all those involved, and I wish to urge both management and workers to respect this principle "

Yet, in 1989, the ANC vehemently if fruitlessly objected to the sale of Iscor, the state's steel-making corporation, saying the white government was "selling the family silver" to its friends before blacks took power

The matter of who really owns Sasol, which distills oil from coal and was privatised in 1979, remains a mystery, even to company executives.

Government officials bridle at suggestions of foot-dragging and point out that privatising British Airways took seven years

Asked why things were not moving as quickly as in Zambia, where even the national copper industry, which earns 90% of the country's foreign exchange, was being sold, Sipho Shabalala, deputy director general of the Ministry of Public Enterprises, said. "Zambia had collapsed They were unable to even pay their workers That's not the situation here "

There are four reasons for the slow progress.

The most powerful is union opposition Most disturbing to private economists is the basic agreement on the restructuring of state enterprises signed last year by the government and the unions

"Employment levels will be retained," it said, "though the identity of the employer may change for some workers Individual employment security is guaranteed."

Asked if the no-layoff promise might not scare away buyers of enterprises, Shabalala called the document "more of a gentlemen's agreement than a contract"

"There is much more room for negotiation," he said, and pointed out that Transkei Air had been liquidated last year after a buy-out package for union workers was negotiated.

An economist for the Congress of South African Trade Unions, Ravi Naidoo, said the basic agreement had many contradictory phrases in it and said the unions had become "fairly flexible on some things like joint ventures"

The second obstacle is that the ANC promised in an ambitious Reconstruction and Development Programme to supply the poor with clean water, electricity, phones and other services To do that, they need a degree of control The government may, for instance, require Telkom, in return for keeping its monopoly on land lines, to install 1,8 million more phone lines by 2002

"A phone is more empowering than a share," one adviser said.

But as Nedbank's Dennis Dykes, who favours selling Telkom outright and letting the government buy phone lines for the poor when necessary, pointed out "Having multiple objectives — getting the best price, carrying out the Reconstruction and Development Programme, and furthering black empowerment — creates real difficulties in a sale "

A third reason is messy record-keeping Some companies have never been audited and the former bureaucracy's secretiveness concealed corruption and mismanagement.

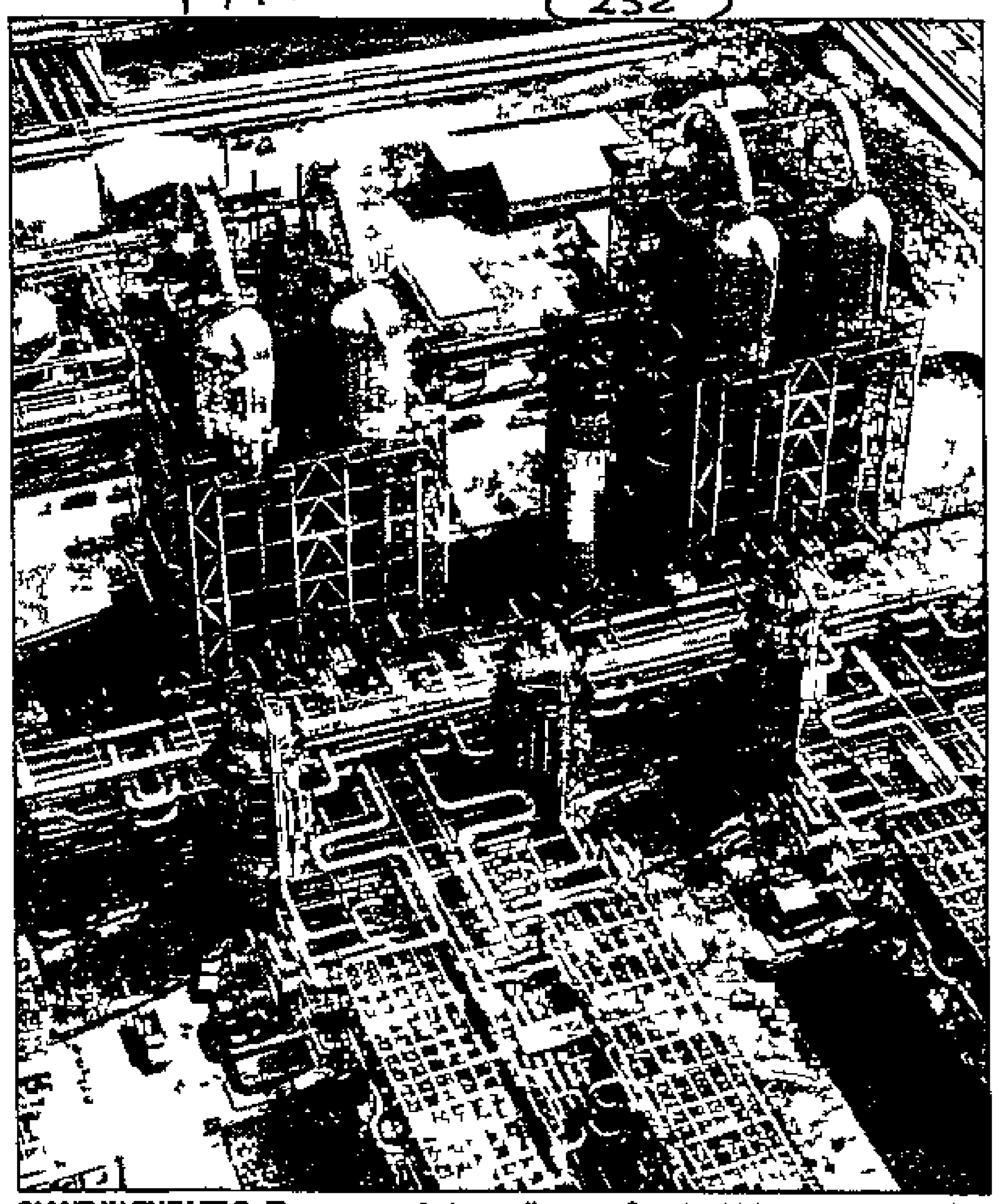
Public Works Minister Jeff Radebe recently announced that the government's best guess was that it owned 130 000 pieces of property, some of them as far away as Switzerland and Lithuania, bought secretly and hidden under private names

And liabilities are still being unearthed The pension fund for employees of Transnet, a holding company for transportation enterprises, is thought to be underfinanced by R3,2-billion

The fourth obstacle is bureaucratic delay and infighting The ANC, as it revamps everything from the army to primary health care, chooses to move slowly — convening hearings, hiring consultants and grinding out reports The fate of Eskom, for example, will not even be discussed until the cabinet has officially responded to a parliamentary report.

On top of that, the Ministry of Public Enterprises, nominally in charge of privatisation, is battling with agencies whose portfolios it overlaps

The mechanics of privatisation will be different at each company At some, unions will get a stake while managers retain control At others, pieces will be sold to foreign companies Parts of some companies will be earmarked for black ownership, with loans from either banks or the government And in one case, a company was liquidated after the employees received buyout packages.



GIANT IN THE VELD The matter of who really owns Sasol, which was privatised in 1979, remains a mystery, even to company executives

The government's chief adviser on the process is HSBC Simpson McKie, part of HSBC Holdings But each proposed deal seems to get its own adviser

Investors and corporate executives say that speed has to pick up, and the government has come around to agree ing.

But as Stella Sigcau, the Minister for Public Enterprises, warned recently "We didn't want to do it so fast that they would think we were three years ahead of schedule, only to find out that we had done it badly and were actually two years behind schedule "

PUBLIC SERVICE *Targets to be met by 2000*

British department to advise on restructuring

CT(BR) 10/3/97 (~~232~~) (~~250~~) (232)

CHRISTO VOLSCHENK
ECONOMICS EDITOR

Cape Town — The government has appointed the British Overseas Development Administration as an adviser on the restructuring of South Africa's public service

In a written answer to a question posed in parliament, Zola Skweyiya, the public service and administration minister, said on Friday the administration had already nominated three experts for the job

They would arrive in South Africa at the end of the month and complete their investigation within 31 weeks

Last year, the government launched a programme to restructure the public service It entailed shedding 100 000 jobs in the 1996-97 financial year

At the end of last year, the public service employed 1,2 million people and the government said it expected to reach its target by the end of this month The process of restructuring the public service should now be completed by March 2000

"The team of experts will also help with retrenchment management," Skweyiya said "It will work with a core team consisting of members from the departments of public service and administration, state expenditure and selected other national and provincial administration," he said.

A working committee of the public service and administration and state expenditure departments recently completed its research into the staffing needs of departments and provincial administrations It would suggest to the Cabinet how many jobs the public service should shed in the financial year, which starts on April 1 this year

The British experts will set the targets for the 1998-99 and 1999-2000 financial years They will study all the functions the public service performs and propose which should be abolished or transferred to the private sector They will then determine how many public servants are required to deliver an adequate service

They have also been asked to study successful right-sizing exercises in two countries in Africa at similar levels of development as South Africa and two other countries in the world to "identify the best practices and techniques for right-sizing"

R189m waste management merger queried

(232)
BD 11/3/97

Edward West

THE two leading SA waste management companies, EnviroServ Holdings and Waste-Tech, announced a R189,3m merger yesterday which the water and forestry affairs department immediately questioned on grounds that it could constitute a monopoly.

New EnviroServ executive chairman Rufus Maruma said the company, which listed in May last year, would acquire Waste-Tech from himself and majority shareholder Fraser Alexander. The acquisition would be settled by the issue of 45-million EnviroServ shares, representing 45% of enlarged EnviroServ Holdings.

The merger effectively doubles the size of EnviroServ The company's maiden year-end results, published today, show turnover growing to R243,9m from R105,6m if the merger had been effected before the 12 months to December last year

Water and forestry affairs depart-

Continued on Page 2

Merger

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Continued from Page 1

ment scientific services manager Tami Sokutu expressed concern over the merger, which he said could result in a monopoly as the two companies were far larger than their competitors. "The other companies are too small to represent any competition," he said

The water and forestry affairs department has introduced more stringent environmental controls at landfill sites recently Two weeks ago it ordered the closure of Waste-Tech's Umlazi site in KwaZulu-Natal following complaints from the public, only the second such closure in SA

EnviroServ CEO Alistair McLean said the Competition Board had not been approached on the merger as this had not been deemed necessary

Board chairman Pierre Brookes said the board had started inquiries to assess the effect of the merger.

McLean said the two companies' services were complementary, in the type of waste they dealt with and geographically "Nothing changes with the merger," he said. Waste-Tech, which traded in the Western and Eastern Cape provinces, and in KwaZulu-Natal, would bring a greater geographic spread to EnviroServ, historically strong in Gauteng Furthermore, barriers to entry into the industry were high and there was little point in duplicating investments, Maruma said

Domestic waste disposal was another growth area The company had 6% of this market, with government services making up the rest

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Privatising the government garage 'could save R100m'

Linda Ensor (232)

BD 11/3/97

CAPE TOWN — Central government planned to privatise the management of the government garage, a step which transport director-general Khetso Gordhan estimated could generate a once-off saving of about R100m.

The plan was to have a privately run, dedicated car hire service to cater for government's transport needs

Gordhan told the parliamentary portfolio committee on transport yesterday that it cost R270m in overheads for the provincial governments to run 10 000 vehicles on behalf of central government on an agency basis Of this, R100m was for salaries and R170m for static overheads

He indicated later that tender documents calling for proposals for a concession would go out next month or in May He was optimistic that the garage would be commercialised early in the next fiscal year

Gordhan noted that there was a great deal of scope to cut costs and improve the service The fleet was far too large for central government's needs, and large sums were lost through the theft of spare parts

He hoped provincial governments, which jointly operated a fleet of about 30 000 vehicles, would also opt for privatisation Gauteng was investigating the possibility, while Mpumalanga had already put out tenders calling for proposals

Outlining his department's priorities, Gordhan said it was hoped that a white paper and legislation on the Multilateral Motor Vehicle Insurance Fund would be finalised this year, along with privatisation of Sun Air and divisions within Transnet

Legislation to establish a roads agency and an aviation and maritime safety agency should be ready in two months' time Also planned was the creation of a commercialised permit agency to deal with the issuing of about 40 000 cross-border permits annually

Union agreement paves the way for Telkom sale

BD 11/3/97 (232)

Renee Grawitzky

LABOUR has finally given the post and telecommunications ministry an official "green light" to finalise negotiations with the consortium of US-based SBC Communications and Telekom Malaysia, which succeeded in its bid for a 30% stake in Telkom

This comes in the wake of agreement on a broad memorandum of understanding signed yesterday between the ministry and six telecommunications unions, following protracted negotiations

The agreement, which should have been signed last week and faced 11th-hour hitches yesterday, formally endorsed the finalisation of the strategic equity partner process and the broader restructuring of the industry

Over the last week government and labour dealt with the remaining obstacles, addressing job security, training and network expansion to rural areas and previously disadvantaged communities

The agreement, committing parties to "work for the sustainable development of the SA telecommunications sector", was unclear as to whether jobs would be guaranteed However, it said the strategic equity partnership process would be based on training, network expansion, redeployment of staff and not by involuntary staff reduction.

Uniformity of employment security for labour was emphasised, implying that everyone would be treated in the same manner and management would not receive preferential treatment

Government has committed itself to granting labour and disadvantaged communities a 10% equity stake in Telkom The memorandum indicated that the parties would "conceptualise a telecommunications development trust, or any other appropriate vehicle consistent with the national empowerment strategy to address the objective of historically disadvantaged people"

It is understood that further talks would take place between labour and the equity partner, however, initial thinking supported hiving off of a portion to government's empowerment fund and a portion to the telecommunications trust The intention was to ensure disadvantaged communities did benefit from the 10% equity, and not merely ensure that consortia and union investment companies were the recipients

Nation Union of Metal Workers' of SA official Elias Monage said the agreement promoted the local telecommunications manufacturing sector by providing for a government procurement policy that included provision for local content and the expansion of the network to rural areas through the purchase of local equipment

All parties would commit themselves to ensure that restructuring would fulfil reconstruction and development programme objectives, and government would commit itself to further negotiations over "any future equity restructuring of the enterprise (Telkom)", a joint statement said.

Privatisation on high-level forum agenda

Sowetan 11/3/97 (232)

By Shadrack Mashalaba

PUBLIC Enterprises Minister Stella Sigcau will officially open South Africa's first ever Pan African Investment Conference scheduled for Sunday at the Sandton Sun Towers, Johannesburg

The three-day conference, entitled "Privatisation in Practice – The Restructuring of State-owned Enterprises in Africa into the Next Millennium" will be co-hosted by Business In Africa Conferences and John Victor Promotions from March 16 to 19

Sigcau will deliver her keynote speech on March 17.

The organiser's say the conference is the first to attempt to discuss and debate the vital subject of privatisation at a high level Pan-African forum from a hands-on perspective.

Some of the issues to be covered during the conference include the anti-trust considerations, comparisons between the "Asian Tigers" and the "African Lions", exchange controls, immigration policy, joint venture opportunities between the public and private sectors and how to make privatisation work.

Union expectations and fears will also be discussed

High profile business people and individuals from Africa and other parts of the world are also expected to address the conference which is to be chaired by HSBC International Bank managing director Arnold Shipp

The speakers include Business Africa managing director Everest Ekong, Global Programme manager Dr Ken Kwaku, International Finance Corporation senior investment officer David Donaldson, International Research managing director James Shapiro, HSBC Equator Bank senior vice-president Richard Bouma and CNN regional manager Edward Boateng

International support

Pan African Investment conference is supported by the International Finance Corporation, a division of the World Bank and will be attended by heads of Government, trade and industries, and finance ministers from most African countries

African Development Bank, the Africa Import-Export Bank, GT Management UK, Price Waterhouse USA and other representatives of international business organisations are expected to attend the conference

For more information contact John Victor Promotions (011) 789-6793

Eskom's privatisation on hold

ST (BR) 12/3/97 (232)

Duma Gqubule and Reuters

Johannesburg — Eskom's privatisation plans have been put on hold for the next two or three years, Willem Kok, Eskom's executive director of finance, said in London yesterday

"The government has said that it will look at other entities and not Eskom in the next two to three years So, for the medium term Eskom is off the table," Kok said

He said the delay was because of "the current state of management, the unions and government" The three parties have struggled to find common ground in the National Framework Agreement

Meanwhile, the national electricity supplier increased its revenue by 9 percent to R18,7 billion last year, John Maree, the

TIGHT REIN *Allen Morgan, the chief executive of Eskom*
PHOTO JOHN WOODROOF

group's outgoing chairman said yesterday.

Maree said that Eskom had continued to show business improvements and financial health

"The real price of electricity continues to decline to the point where it is now among the lowest in the world A tight rein is being kept on costs, productivity continues to improve and the balance sheet is stronger than ever. The debt-to-equity ratio had improved from 1,45 times to 1,25 times, while net income rose to R3,1 billion from R2,7 billion," he said

Maree said the government was looking at whether Eskom should become a tax- and dividend-paying entity.

He said the government was moving at a measured pace to put policy in place regarding the restructuring of state assets and privatisation.

He said that there were a number of issues that needed to be settled before clarity was obtained about the structure of Eskom and the industry as a whole

Competition Board probes video pricing policy

David McKay

(232) BD 14/3/97

THE Competition Board has launched an investigation into the pricing policies of SA's two dominant video film distributors, Ster-Kinekor Video and Nu Metro Videos, which together control about 80% of the R200m-R300m a year video rental market.

A board spokesman said yesterday that the investigation had been sparked by recent recriminations between Ster-Kinekor, Nu Metro and video store operators.

Video store operators claimed that films were sold to them in packages of uneven quality at a relative discount to individual films, the spokesman said.

This forced them to buy low quality films. Packages of films typically consisted of one good title with four other titles of lesser quality.

Secondly, Ster-Kinekor and Nu Metro are allegedly putting pressure on video stores to buy directly from the distributors, rather than through franchisors who buy films at bulk discount prices, he said.

According to complaints received by the board, video distributors allow franchisors to buy on behalf of individual stores — but only if that franchisor controls more than 49% of the store.

A Nu Metro spokesman said that the company preferred to deal with the owners of stores who were reponsible for payment.

However, he welcomed the board's proposed investigation as this would inject stability into the video film market.

Also under investigation was a "six month window period" during which video distributors could prohibit the resale of the films. The board would investigate if this was justifiable.

Ster-Kinekor is a subsidiary of Interleisure. Nu Metro is owned by CNA Gallo.

Analysts said the board's probe is the latest of many disputes between it and Ster-Kinekor. In the past, the board has investigated allegations that Ster-Kinekor had a monopoly of the SA film circuit.

Interested parties would be given 30 days to submit written representation concerning the probe, the board said.

Video dealers go up against distributors

ARG 17/3/97

Competition Board to probe pricing, 'anti-competitive behaviour'

(232)

LLEWELLYN JONES
BUSINESS REPORTER

The highly competitive home video industry is coming under the spotlight at the Competition Board after bitter complaints from video store owners.

The Competition Board said last week it was launching an investigation into the pricing policies and any alleged anti-competitive behaviour of the two leading video distributors, Nu-Metro Video and Ster Kinekor Video, which has resulted in widespread dissent and a civil suit to be heard in the Pretoria High Court next month

Competition Board director of investigations Steve Abraham said this was not the first spat between Nu-Metro Video, Ster-Kinekor Video and video store owners to come before the Competition board.

In 1989, the board had to intervene when it became apparent that some distributors were engaging in restrictive practices which were subsequently outlawed

"The complexities and the competition law implications of the relevant issues raised by the latest round of allegations and counter-allegations – coupled with irreconcilable differences of opinion between the distributors and the dealers on those issues – requires a formal investigation," said Mr Abraham

The leading complainants are Ultra Videos of Pretoria, Steers subsidiary Blockbuster Videos, and Cape Town-based Omega Videos, but Mr Abraham said the board had also received complaints from many other smaller dealers

Spokesmen for both Nu-Metro and Ster-Kinekor said they "welcome the investigation" and "believe it will bring stability to the market" They declined to comment further as the matter was now sub-judice

The main concerns expressed by the dealers were Nu-Metro's and Ster-Kinekor's policies and pricing on bulk buying and the treatment of franchises

Dealers said videos were sold to them in packages of four or five videos – which normally included one blockbuster, two "medium" films and two "weak" films

The result is that if a small store wants to buy top titles, it has to buy too many titles to get decent prices as low as R200 or pay top prices, as much as R320, for blockbuster films

But perhaps more damaging in the longer term is Ster-Kinekor and Nu-Metro's refusal to recognise franchises as bulk buyers, instead insisting on dealing with franchise outlets on an individual basis As one dealer said, this practically removed franchising as an attractive vehicle for development, by "robbing" them of the discounts normally attributed to franchise bulk buying.

Ster-Kinekor and Nu-Metro also strictly disallow franchisors to sub-distribute their wares "In the event of us not performing exactly the way prescribed by the 'majors', which includes the signing of a "conditions of sale agreement for Ster-Kinekor", we simply receive a threat of non-delivery, which can be potentially disastrous to any video store," the dealer said.

NUM calls for Govt action on minerals

(232)

Sowetan 17/3/97

Government is steering away from alliance perspective, says union

By Abdul Milazi

THE NATIONAL UNION of Mineworkers (NUM) has called for the nationalisation of the mines and for the Government to take up 60 percent of shareholdings in all mining companies

The call is part of the resolutions taken by the union at its ninth national congress in Pretoria at the weekend

The congress called on the Government to speed up the finalisation of a state-policy on minerals and energy and to ensure that it favoured the working class The NUM also warned that any restructuring of state-owned assets should be done in consultation with the labour movement

"The ANC must always get properly mandated positions from its alliance partners on the policy of privatisation," one delegate cautioned

The NUM further resolved to throw its weight behind the Congress of South African Trade Unions in its fight against wholesale privatisation

Delegates expressed concern that the ANC-led Government "is moving away from the alliance position of partial privatisation, towards wholesale privatisation"

"Any restructuring of state-owned assets must work in the interests of all the people of our country, not just the wealthy few who have access to domestic and international capital," said one delegate

The congress wanted the restructuring to focus on effective and affordable delivery of services and the basic needs of all citizens.

Delegates argued that the mineral wealth of the country belonged to all its people and should not be owned by a few individuals.

The congress also rejected a two-tier labour market policy, as proposed by business at the National Economic Development and Labour Council (Nedlac), as a remedy for the country's fledgling economy.

Minister of Labour Tito Mboweni told the congress that transformation could only be achieved if workers, government and business worked together in formulating policies.

Industrial policy

The NUM congress called on the Government to adopt a comprehensive industrial policy before embarking on further trade liberalisation, privatisation and removal of exchange controls

The industrial policy should have specific stipulations for job creation and the expansion of the manufacturing sector, as well as meet RDP objectives

The congress also rejected the Government's macro-economic strategy, saying it was written by consultants who did not consult the alliance and therefore was exclusive in nature

NUM president James Motlatsi said the macro-economic strategy represented "95 percent of the views of five percent of the population and five percent of the views of 95 percent of the population"

CAPE TIMES
FRIDAY, MARCH 21, 1997 ★

'NO QUICK FIXES'

West Cape looks to privatisation

(232)

CT 21/3/97

FACING A HEAVY CUT in the Western Cape budget, the province's financial chief is banking on privatisation, and has warned consumers they must expect to be taxed locally. **CHRIS BATEMAN** reports.

As a political storm brewed in Wale Street yesterday over the "unworkable" Western Cape budget, privatisation of service delivery emerged as the favoured solution to address growing local cash shortfalls and much-needed staff cuts

Dr Johan Stegmann, the province's corporate and finance services chief — who has seen his staff shrink from 105 000 in July 1994 to 81 070 this month — said privatisation, while retaining the province's "core business", was the best way ahead

"We need redeployment of human capital elsewhere, without being an encumbrance to the taxpayer," he said

This meant creating incentives for staff to move to newly established small or medium private businesses which delivered traditional public services, boosting the local economy and creating business opportunities

Stegmann said the British model, where private companies delivered services from pension payouts to roads maintenance, had been closely studied Toll roads were also being planned for several Western Cape roads "We need to commercialise or restructure our own assets and the services we give," he said

An expensive and faltering attempt, costing millions, was the Nisec pensions contract debacle and Stegmann warned that there were "no quick fixes"

While keeping tightlipped on the implications of Finance Minister Mr Trevor Manuel's R780-million cut to the Western Cape budget, Stegmann revealed that 10 000 of his staff had taken the voluntary severance package since May last year

He expected to easily reach his staff complement target of 80 804 by the end of this month

Officials have been sworn to silence while management carries out an exco crisis plan over two weeks, before Finance MEC Mr Kobus Meiring delivers his postponed budget on April 2. The plan is to urgently brief trade unions, teacher unions, local government institutions and organised trade — followed by full consultation with the civil service corps

On the political front, the African National Congress yesterday accused the National Party of failing to accept the reality of the Financial and Fiscal Commission's provincial equity formula — a formula which the NP says has been selectively applied without giving provinces fundraising capability

The Democratic Party joined the NP in attacking the ANC-led central government, saying it was "cherry-picking" only certain FFC recommendations

Stegmann warned consumers that if they wanted extended public services then "they must expect to be taxed locally"

Opposition to KWV's privatisation plans grows

BD 24/3/97 (232)

Samantha Sharpe

CAPE TOWN — Relations have soured further between the wine co-operative KWV on one side and Agriculture Minister Derek Hanekom and labour on the other, ahead of tomorrow's High Court hearing into its plans to transform itself into a public company

About 83% of the KWV's members approved the plans last year, and a favourable court decision would see the distribution of all benefits accumulated over the years to the KWV's members.

Group director Theo Pegel said at the weekend that Hanekom had "coerced" organised labour into supporting his opposition to the restructuring during an exclusive meeting with the Food and Allied Workers' Union (Fawu).

Fawu said it "dismissed with contempt" the reasons behind KWV's unbundling, which included the possibility of a black empowerment partnership. The union asked for a forum to be established comprising labour, the KWV and other stakeholders, interested parties and the state, to ensure that proper negotiations and consultation took place.

Pegel said the union had agreed to attend a meeting last week with KWV staff, management and the minister.

"But, last Monday afternoon Mr Hanekom indicated to KWV that he was not prepared to meet KWV's staff, only with Fawu management and shop stewards

"This is a clear case of organised labour being coerced to support the minister, despite disadvantages it may hold for their members," Pegel said.

It appeared from Fawu press statements the minister had given his undertaking to the trade union to do everything in his power to oppose the KWV's conversion. Hanekom had appointed two representatives to negotiate with the KWV, despite apparently having already decided to oppose the restructuring, Pegel said.

The KWV had learnt with "surprise and dismay" of Fawu's unhappiness with the transformation process, which it found "incomprehensible in view of the fact that the conversion actually holds advantages to all workers and producers in the wine industry"

The court was expected to consider three separate government-commissioned reports tomorrow — one an investigation into the regulatory framework for the wine and distilling industry, another into the assets of the KWV and a third into the competitive effects of the unbundling process

While the Competition Board's findings into the competitive aspect have not yet been made public, the Kassier report has called for the dismantling of the current regulatory framework governing the wine and spirit industry.

The third report said although the KWV had statutory powers this had not boosted its reserves or allowed it to acquire undue assets Auditors Fisher Hoffman Sithole were appointed to investigate how the KWV's assets were derived after ambiguity in the initial report

Sun Air set to be privatised by August (232)

BD 25/3/97

Robyn Chalmers

THE privatisation of Sun Air should be completed by August in the wake of government's call yesterday for prequalification bids for the state-owned airline by April 10

A government spokesman said yesterday "A lot of interest has been expressed in Sun Air by a number of local and foreign organisations, but we will have to see the number and quality of prequalification bids first It is an important step for the restructuring process "

Greater economic participation by previously disadvantaged groups was a key focus of the sale, along with the long-term business success of Sun Air, enhanced competition in SA's aviation sector, and transfer of skills and technology

Of SA-based groups expressing interest in Sun Air, it was learnt earlier this year that black empowerment companies African Renaissance and Women in Capital Growth could link up with Virgin Atlantic in its bid for a stake in Sun Air

Cabinet committee is given privatisation brief

BD 26/3/97 (232)

Linda Ensor

CAPE TOWN — Public Enterprises Minister Stella Sigcau has recommended to the cabinet committee responsible for privatisation that it formulate uniform guidelines to govern privatisation in the provinces

A committee meeting scheduled for yesterday was postponed

Sigcau said in an interview that the committee wanted to ensure there were uniform and acceptable standards for the disposal of state assets by provincial governments

Labour and other interest groups had expressed concern about the restructuring process at provincial level Her spokesman Wandile Zota later denied that the controversial deal by the Mpumalanga Parks Board and the Dolphin group lay behind the bid to streamline procedures

Sigcau said the discussions would include Provincial Affairs and Constitutional Development Minister Valli Moosa, Finance Minister Trevor Manuel and Public Works Minister Jeff Radebe

Meanwhile, parliament's public enterprises portfolio committee has initiated talks with other portfolio committees with responsibility for state enterprises such as transport, energy, telecommunications etc, with a view to boosting parliamentary oversight of the privatisation effort.

Committee chairman Mandla Msomi proposed yesterday that a "super committee", consisting of two representatives each from 11 portfolio committees, be formed The task of the proposed committee would be to formulate overreaching legislation to govern the disposal of state assets No decision was taken on the proposal

Some committee members felt that all parastatals should be consolidated under one ministry, instead of being scattered across a number of line functions

It was totally unacceptable, they argued, for public enterprises to be wholly dependent on other ministries

Masakhane paperwork 'outweighs success'

BD 26/3/97

EAST LONDON — The Masakhane campaign came in for a drubbing from East Cape premier Arnold Stofile yesterday, when he said the amount of paperwork involved outweighed the campaign's achievements

Addressing a workshop on the campaign, Stofile said it had been ineffectual since its inception in 1995 because organisers had focused too heavily on appeals for citizens to pay for rates and services and not on other aspects of nation building He stressed that the payment of rates was only one facet of the campaign, and that the overall aim was to reconstruct a nation. He said the size of the workshops and documents about the campaign were inversely proportional to the end results.

East London city councillor John Badenhorst, representing the SA Local Government Association, said practical considerations — like including accumulative amounts on bills, credit control and flat service rates — were vital to ensuring payment — Ecna

Thousands of Congress of SA Trade Union members marched to the labour department offices in Johannesburg yesterday to highlight their demands around proposed employment standards legislation Picture GARTH LUMLEY

20 000 marchers disrupt Jo'burg CBD

BD 26/3/97

Reneé Grawitzky

ABOUT 20 000 Congress of SA Trade Union members disrupted the city centre yesterday as they marched to the labour department's Johannesburg offices to highlight their demands on proposed employment standards legislation

Yesterday's action, part of Cosatu's programme of mass action which culminates in a national stayaway on May 12, came ahead of a meeting of government, labour and business, planned for today, which was called off at the eleventh hour

The march was preceded by moves by Consol Limited's glass division to bring an urgent interdict against the Chemical Workers' Industrial Union (CWIU), which had called for a stayaway in the Wits region to coincide with the march Consol intended applying for an interdict in the Labour Court in Johannesburg on the basis that the call constituted an unlawful protest action

The parties reached an out of court settlement whereby the union undertook to take all reasonable and possible steps to inform employees it was no longer calling for a stoppage The company said on that basis it withdrew its application Consol said one factory did not operate yesterday.

SA wants Cites

Interested bidders told to submit pre-qualification proposals by early next month

Sun Air sale process lifts off

CT(BR) 26/3/97 (232)

Duma Gqubule

Johannesburg — BoE/NatWest and Moseneke & Partners, the advisers to soon-to-be-privatised Sun Air, are expected to announce the successful bidder for the company's entire share capital by the end of June, a source close to the deal said yesterday

The privatisation process for Sun Air, which could net government up to R150 million, kicked off in earnest yesterday after the airline's advisers published a notice asking interested bidders to submit pre-qualification proposals by April 10

After that, the advisers will issue tender documents to successful applicants who will be expected to make a "non-binding" offer a month later A shortlist will then be compiled from which a successful bidder will be selected

Sources said the advisers had developed a set of criteria which would be used to evaluate potential candidates

These included the financial capacity to grow the company, black economic empowerment and soft criteria such as commitments to affirmative action and training

"Certain weights will be attached to each criterion Government wants cash so price will be an important consideration But government has also said this sale will not be an auction

"It is possible the swing factor could be the quality of the black partner in any consortium Government will want a black partner to bring more than its blackness to the table The partner must have a commitment to the industry and the ability to add value to Sun Air's operations by growing the airline locally and into the region," the source said

Virgin Air, KLM, Swiss Air and Singapore Airlines have been mentioned as potential strategic equity partners to take a stake of up to 49 percent in Sun Air A source close to the government said the selection of a final bidder would be based on "fundamental issues rather than hype Government will not be swayed by publicity stunts of potential international equity partners."

Meanwhile, Masimo Investments, an empowerment vehicle set up by the National Black Business Caucus, has put its weight behind a bid by entrepreneur Moss Ngwenya's Rethabile Leisure and Tourism group

Rethabile is a group formed to spearhead the entry of black business into the tourism and leisure industries

The Rethabile group consists of trade unions, Pulanala Tourism, Hotels and Leisure, a consortium of black tour operators and travel agents and Matla Leisure Holdings Rethabile has been joined by Jongilanga, a Durban-based consortium led by businessman Diliza Mji which includes two women's groups, Akhona Trade and Investments and Ikhwezi Edurec Investments

Another black consortium, Bophirima Investments, is believed to be in the running The group recently won the bid for government's stake in Yabeng Investments, which, like Sun Air, was owned by the former Bophuthatswana government

Municipal trade unionists to fight water-privatisation plan

(232)

Star 26/3/97

Samwu urges Govt to reconsider, claiming that involving private sector would lead to drop in quality of service, higher prices, retrenchments and job insecurity

By Jovial Rantao
Cape Town

South Africa's largest municipal trade union has come out against the Government's plan to involve the private sector in the management of water services

The South African Municipal Workers Union (Samwu), a Cosatu affiliate, believes that privatising water services, as envisaged in the Water Services Bill, would result in retrenchments, job insecurity, worsening working conditions, higher prices, drops in the quality of services and the loss of public accountability and democratic control over the provision of services.

"We wish to warn strongly against the involvement of the private sector in the delivery of water services

"The private sector bias is, however, consistent with the GEAR strategy and its neo-liberal influences This immediately clouds any private water options in an ideological skirmish and no amount of talk about dealing with the issues in ideological terms will convince us," said Samwu secretary-general Roger Ronnie

Ronnie told Parliament's portfolio committee on agriculture, water affairs and forestry that private sector involvement would turn local government into a contracting authority which would be responsible for establishing and monitoring the regulatory framework within the services which would be delivered by the private sector

"All this reference to Government as a service provider is a smokescreen," he said

He said his union has taken the anti-privatisation stance fully aware of the problems of local government service delivery

Ronnie said much of what was contained in the Government's proposals regarding service delivery was influenced by a perceived lack of financial resources, hence its preoccupation with private sector involvement

This view, he added, was strengthened by the macro-economic policy choices of the Government

He called on the Government to consider

- a review of the monetarist macro-economic policy for the Government,
- the development of a system which promotes the transparent collation of strategic local government financial information,
- the reintroduction of prescribed assets,
- increasing tax powers to local authorities,
- a Masakhane campaign which fully involves local government workers,
- the establishment of a local government solidarity to help rural councils

The union has suggested that local government employees should be considered as the key to extending and improving services

"This will include calls for investment in ongoing skills development and maximum utilisation of the expertise and experiences of frontline local government employees in the process of reorganising the way in which services are delivered

"This will involve investigating new forms of work organisation," Ronnie said

He said Samwu has already identified Cape Town and Johannesburg as pilot projects within which the union would produce plans for extension and maintenance of water services under public ownership and control

"This is part of our commitment to showing the potential of the public sector in expanding services to previously unserviced and under-serviced communities generally "

"Already our members located within water services in these areas have started work," Ronnie told the committee

Lawyer moots KWV probe

(232) BD 27/3/97

THE competition board should probe an agreement signed this week between the KWV wine co-operative and liquor wholesalers, the legal adviser to Agriculture Minister Derek Hanekom said yesterday

"I would advise him (Hanekom) to make sure the agreement is the subject of a competition board inquiry," said lawyer Steven Goldblatt He said the accord appeared to mitigate against the entry of new industry players

"It seems prima facie to fly in the face of a transparent, open and accessible market," Goldblatt said.

KWV spokesman Cassie du Plessis declined to comment on Goldblatt's remarks But he said the agreement in principle, signed with the Cape Wine and Spirits Industry (CSWI), meant the CSWI would withdraw its court efforts to block the KWV from converting into a private company "There might be certain contracts emanating from this," Du Plessis said Agreement details still had to be finalised

Hanekom has also brought a court action to block the KWV privatisation move, basing his action in part on the fact that the KWV used its position as a statutory industry regulator to accumulate assets at no risk to itself.

The KWV's court application to convert to a company and Hanekom's objection were both postponed on Wednesday They will be heard in the Cape Town supreme court on April 2

The CSWI — which includes among others the Stellenbosch Farmers' Winery, Distillers Corp, Douglas Green, Bellingham, Gilbeys and Seagram — initially opposed the KWV's privatisation plan on the grounds it would pose unfair competition in the local market.

Sources close to the agreement signed this week said the KWV had given the CSWI assurances its marketing efforts would remain focused on exports, at least in the short term.

The sources said the KWV believed its current activities were generating sufficient profit and that trying to break into the domestic market would not be attractive to the co-operative.

They said due to a shortage of SA quality wine, the KWV did not have enough wine to service foreign customers. The KWV, with 4 400 wine farmer members, operated in about 50 countries, but was barred by law from selling in Africa south of the equator unless its members agree

It provided about 50% of the brandy sold in SA According to court papers, the KWV had accumulated R1bn worth of assets. — Reuter.

Telekom Malaysia, SBC get Telkom slice

BD 27/3/97 (232)

Robyn Chalmers

GOVERNMENT has finalised the sale of a 30% stake in Telkom to US-based SBC International and Telekom Malaysia which will net the state $1,26bn — or R5,54bn — and lead to the delivery of 2,8-million lines over five years

The finalisation of the sale to the consortium is a landmark agreement which kickstarts government's privatisation process and is the largest foreign direct investment in SA to date.

Deputy President Thabo Mbeki said this week government would commit $1bn (R4,4bn) of the $1,26bn realised for the sale into expanding infrastructure The remaining R1,14bn would go to the National Revenue Fund

The deal, which values Telkom at R18,57bn, means SBC will own 18% of Telkom and Telekom Malaysia 12% Five international managers will be seconded to Telkom's 15-strong board and a further 75 expatriate staff will have managerial tasks.

Post, Telecommunications and Broadcasting Minister Jay Naidoo said Telkom would also commit almost $12bn (R53bn) capital expenditure over five years, almost doubling its current programme. "The deal is highly satisfactory. it far exceeds our initial expectations," he said The possibility of listing Telkom could be considered after the five-year exclusivity period ended Any further sale of government's shareholding was likely to take the form of an initial public offering

After "tough" negotiations, the consortium — which has formed a partnership called Thintana Communications — agreed to deliver 2,8-million lines, against initial targets of 1,8-million, and 120 000 payphones It was also committed to replacing 1,25-million analogue lines with digital lines

Naidoo said priority areas would be underserviced provinces, with KwaZulu-Natal and the Eastern Cape receiving more than half the new lines in the first year Northern Province would see the greatest increase in telephone density over five years Other priority customers were educational and medical establishments, libraries, local authorities and 3 200 villages

"Government's incentive structure of allowing an extra year of exclusivity should Telkom and its partners deliver the agreed number of lines on time has worked Effectively, the deal means the current network will be doubled by the eighth year," he said

Naidoo said there would be a strong focus on training, with the consortium committing a further R1,38bn to Telkom's training programme, bringing the total training budget to R2,3bn over five years — a 150% increase in

Continued on Page 2

NAIDOO

Telkom

(232)

Continued from Page 1

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the current budget The consortium aimed to see at least 35% of black employees at management level in Telkom by 2002

Naidoo said that with the aid of the consortium, Telkom planned to position itself as the primary international hub on the African continent for telecommunications "The successful conclusion of the transaction is one of the final steps in the timely implementation of a policy framework which will transform the telecommunications sector in this country," he said

Southwestern Bell International development Africa president James Myers said his company believed strongly in the SA government's goals for extending services to its people "We look forward to being an integral part of that process," he said

Telekom Malaysia corporate strategy vice-president Sham Manickam said the organisation was excited about the opportunity "It will represent Telekom Malaysia's largest overseas investment "

Naidoo said government's next step was to work out the details of making a further 10% equity in Telkom available to boost black empowerment, as the vehicle to be used has yet to be decided upon

See Page 3

SA arrives late at privatisation party

(232) ET(BR) 27/3/97

From Reuter

Johannesburg — In making up for a late start, South Africa has pulled off the continent's biggest privatisation deal to date by selling 30 percent of Telkom for $1,26 billion, analysts said yesterday.

"South Africa has been behind the curve on privatisation For foreign investors this deal is a very important signal because once the process starts, you know there is more to come," said Constantin Vayenas, an economist at UBS in London.

"Privatisation is absolutely critical because of the capital that will flow in and because of the message it sends about the determination to trim government and open up the economy"

Sluggish progress on selling South African state assets had been criticised by economists who said the process was critical to cut government borrowing, increase efficiency and demonstrate the government's commitment to market-oriented reforms. With the Telkom deal, the process should start to accelerate, they believed.

Jay Naidoo, the communications minister, agreed. "Even though we've decided each restructuring will be done on a case-by-case basis, I think we've put into place a number of very important milestones in the Telkom process," he said

These milestones might bring South Africa up to speed with several other African countries where reformist governments had been pushing privatisation aggressively

Africa, the world's poorest continent, had in recent years come round to the advantages of privatisation as a process which could inject badly needed capital and technology

"Coming out of their previous anti-market orientation, Africa and its leaders have rediscovered the benefits of foreign direct investment," the World Bank's Ken Kwaku told the first pan-African privatisation conference in Johannesburg earlier this month.

Zambia, arguably the continent's foremost pioneer of privatisation, moved into a critical phase this year with the sale of Zambian Consolidated Copper Mines, the mining company which accounted for about 90 percent of national export earnings

Ghana, Kenya, Uganda, the Ivory Coast, Uganda and Mozambique were among other countries that had taken notable privatisation steps.

South Africa, the continent's economic leader, had been slower to embrace the concept, with politicians in the ANC only recently been prepared to use the "p" word.

But the mood had changed with the sale of a 30 percent stake in Telkom to SBC Communications and Telekom Malaysia.

Stella Sigcau, the public enterprises minister, said Pretoria had embarked on the largest and most far-reaching process of restructuring state assets on the African continent.

The World Bank's Kwaku believed privatisation could help to attract capital in to Africa, which had so far passed the continent by.

During 1995, net foreign direct investment into developing countries was about $97 billion, of which Africa received a mere $3 billion

UNBUNDLING

SA's corporate web comes undone

(232)

CT(BR) 2/4/97

FROM REUTER

JOHANNESBURG

Slowly but surely corporate South Africa is untangling the complex web of cross-shareholdings that built the inward-looking conglomerates of the apartheid era

A few more threads will unravel this month when the industrial group Malbak, with interests ranging from vehicle retailing to pharmaceuticals, completes an unbundling of assets it says will boost shareholder value by 15 percent

Malbak is the third large industrial holding company to break itself up, following a lead first set by Barlow and Gencor in 1993

The past year has seen a flood of companies following suit, including the biggest investment trust, Genbel South Africa

Marinus Daling, the chairman of Sanlam, the life assurance company, which has used its controlling stakes to pioneer restructuring at Gencor, Genbel and Malbak, is an unbundling enthusiast

He sees long-term gains beyond the once-off unlocking of the discount to net asset value at which conglomerates' shares typically trade

"I have always been of the very strong belief that what drives unbundling is the focus of management," said Daling

"If you can focus the minds of the management so that they can create better companies on an ongoing basis, then you will continue to add value for shareholders That, in my view, is the important part of it"

South Africa's conglomerates are largely a product of the isolationist past when exchange controls locked up capital, forcing diversification into a host of industries at home Those controls still remain but their days are numbered

Trevor Manuel, the finance minister, announced the latest steps to dismantle capital controls in his March 12 Budget, including key concessions for companies which will be able to raise funds internationally against their domestic balance sheets

"In the past, people couldn't take their money and expand their core business internationally The moment you can do that there is an incentive to break down the conglomerates and focus your business," said Daling

At the same time old trade barriers are coming down, exposing industry to the icy blast of foreign competition

In today's climate the logic of diversified groups with tentacles in every corner of the South African economy is proving harder to justify

Conglomerates, often controlled through pyramids in which a holding company owns 50 percent of another holding firm which owns 50 percent of another, were an early target for the ANC government

But recently the political heat has been turned down as the same structures that helped enrich the Rupert and Oppenheimer families have been put to use by black empowerment groups, like Nthato Motlana's New Africa Investments

Instead, the pressure is coming from the market and demands from shareholders that conglomerates unlock share discounts

Dana Becker, the head of research at ING Barings in Johannesburg, believes the unbundling trend is becoming unstoppable, driven not only by domestic considerations but also by a new-found desire to please global investors

"We are getting a lot more interest from foreign investors in our stock market If you are an unfocused conglomerate you are very undesirable in the eyes of a foreign investor" Foreign fund managers, looking for "pure plays", wanted to buy direct into operating companies, he said.

But the biggest of them all, Anglo American, is resisting the trend, professing to be happy with its diversity

Robin McGregor, an independent analyst and member of the government's Competition Board, says Anglo's industrial holding concern Anglo American Industrial Corporation (Amic) would be a natural for unbundling

But Leslie Boyd, the chairman of Amic, rules out such a move "If you haven't got big companies, you can't do big things And if you can't do big things, then you can't compete in the global village," said Boyd

Govt outlines strategy to privatise SAA

BD 4/4/97 (232)

Robyn Chalmers

GOVERNMENT has given details and broad timetables for restructuring the transport industry for the first time, including the possibility that SA Airways (SAA) could be fully privatised and listed within seven years.

Transport director-general Ketso Gordhan told a transport restructuring seminar yesterday that the restructuring of Transnet was "hugely complex", but there were several developments government would like to see take place within the next four to seven years. Gordhan admitted the task was made more difficult by the fact that the transport ministry had no direct say over Transnet, which fell under public enterprises despite this ministry having no transport skills or capacity.

He said government wanted to secure a strategic equity partner for a minority stake in SAA in the short term. While no decision had been taken yet on SAA's future, there was the possibility of listing a larger proportion or all of the state's shares in the airline over a number of years. These and other restructuring plans were still being negotiated with trade unions.

Gordhan said the reasons government wanted partially to privatise SAA mirrored those applying to Telkom. Government recently sold a 30% stake in Telkom for $1,26bn, of which the major portion will be ploughed back into boosting infrastructure. Skills transfer, improved customer service and technological advancements were also priorities.

He said government was finalising a concession-type contract for MetroRail, which became a separate division of Transnet in February. This was the first step towards allowing private operators to compete with MetroRail in providing commuter rail services.

"I can confidently predict that in the first year of operating on a more commercial business footing there will be a saving to the state of about R50m," Gordhan said. A demonstration concession on 10% of the network was planned for October next year, with full concession planned for 2001.

Passenger and freight transporter Autonet would be fully privatised in four to seven years, but loss-making consignment distribution business PX was more problematic.

PX posted a net loss of R433m (1995: R297m loss) in the year to end-March last year and Gordhan said a major internal restructuring was needed before considering the possibility of privatisation or the introduction of joint venture partners.

Transnet chairman Louise Tager said recently that restructuring at PX was moving ahead well, and negotiations were under way with unions to move 3 500 people out of the division.

Gordhan said internal restructuring was also needed at Spoornet before other options were considered to deal with the "high levels of overemployment" and other problems at the parastatal. The first step could be the introduction of concessions

Continued on Page 2

SAA

(232)

Continued from Page 1

BD 4/4/97

Government was working on plans to separate the port authority element from the port operations within Portnet, after which it was possible that the port operations could be privatised or a joint venture partner brought in and the authority restructured.

Petronet, which operates Transnet's liquid petroleum pipeline network and transports petroleum products, would be regulated but would remain a state utility, as it provided an important and basic service, he said. There were plans to find a strategic equity partner for a minority stake in the Airports Company, but no decision had been made on the parastatal's long-term future. A further tranche might be sold via a listing, or the state could remain the majority shareholder.

Gordhan said Sun Air would be privatised this year, with a short list of possible partners who would qualify to tender for the sale to be published on April 16. Government also planned to shift the focus of the transport department, with agencies overseeing roads, permits, shipping and aviation to be established next year to assume many of the department's tasks.

The transport white paper outlined a fundamental policy shift towards private sector partnerships and signalled a move in government's role towards formulating policy and strategy.

Meiring plans to sell off assets to raise funds

Cosatu slams privatisation plan

ARG 4/4/97 (232)

WILLIAM-MERVIN GUMEDE
POLITICAL STAFF

The Western Cape government plans to sell off assets to fund capital projects such as the construction of roads and buildings.

The provincial government also plans to rationalise office space in Cape Town, saving up to R110-million over three to four years

Finance MEC Kobus Meiring announced in his budget speech in the provincial legislature that all unused and costly fixed assets in the province would be sold and the proceeds transferred to a loan fund to bankroll new capital projects.

He said an amount of R13-million had been provided in the 1997-98 budget to kick-start a downsizing and privatisation programme – the most ambitious so far for any of South Africa's provinces, he said

"We (provincial government) will introduce a level of asset management never seen before in the civil service and look at the optimal and economic use of state fixed assets," Mr Meiring said

A team of experts from the private sector would be recruited by the transport and public works department to speed up the compilation of an inventory of all state assets

He said the provincial administration's lease account was far too expensive and the province's cabinet had decided that office accommodation in the Cape Town metropolitan area should be rationalised over the next three to four years

"We expect to realise eventually savings of R110-million through this"

The Congress of South African Trade Unions has slammed the privatisation plan which it and said it would "vigorously" oppose such moves

"Organised labour has not been consulted, although Mr Meiring once gave us a presentation in which he mentioned the province was thinking of privatising some of the province's public assets," said the provincial secretary of Cosatu Tony Ehrenreich

Democratic Party provincial leader Hennie Bester called on central government to give provinces full power to privatise public services

"The major functions performed by the provincial government – health, education, social welfare, public roads and local government – are functions where the provincial government only has concurrent legislative power with the national government," Mr Bester said

"The Western Cape is in a Catch 22 situation The national government cuts its allocation from the national budget, but the same national government prevents it from either generating its own resources or rationalising its administration in a rational and efficient manner," Mr Bester said

The province was caught in a legal and managerial straitjacket as it could not raise taxes, could not retrench staff and could not privatise public services," he added

PUBLIC DOMAIN *Enoch Godongwana, Numsa's general secretary, wants Eskom to remain state-owned because of the role electricity plays in the lives of South Africans* PHOTO JOHN WOODROOF

CT (BR) 4/4/97 (...) (232)

Numsa rejects Eskom privatisation

FRANK NXUMALO

Johannesburg — The possible privatisation of Eskom was thrown in the balance yesterday when Numsa, the largest affiliate of Cosatu, called for the electricity utility to remain 100 percent state-owned

Enoch Godongwana, Numsa's general secretary, said the union's position was based on the critical role that electricity played in the life of South Africans Numsa's opposition to any form of privatisation, partial or total, was likely to cause problems should the government go ahead with plans to restructure Eskom

"The generation, transmission and distribution of electricity must remain in state hands," Godongwana told Numsa's national bargaining conference in Johannesburg

Referring to the partial privatisation of Telkom, Godongwana said Numsa was in agreement with government because the union viewed the communications company as a highly competitive entity which needed to outsource state-of the-art technology if it was going to remain relevant.

"We also needed a lot of capital to finance expansion There was no way we could have done this without a strategic partner," said Godongwana

Referring to media reports that cast aspersions on the future of the alliance between Cosatu and the ANC, Godongwana said the future of the alliance was only "an area of concern for sceptics and prophets of doom"

Godongwana said "Those who understand the nature of the struggle for democracy in South Africa and the kinds of problems we face in trying to transform our country's economy, will agree that the alliance is a critical instrument for achieving that transformation.

"The ANC needs Cosatu badly, in as much as Cosatu needs the ANC badly for friendly labour relations to exist in the first place. Anyone who thinks either the ANC or Cosatu can survive effectively one without the other, is living in a dream world," Godongwana said

Govt transport services to go commercial

Star 4/4/97

Plan includes independently operated ports and airlines within seven years

By Anna Cox

Government transport services around the country are to be commercialised

The Department of Transport yesterday announced changes within the industry to introduce private sector partners for all modes of transport including aviation and shipping

The changes will also bring bus and rail monopolies to an end

The plan is to have independently operated airlines, ports and railways within the next four to seven years South African Airways could also be privatised

Announcing the moves in Pretoria yesterday, director-general Ketso Gordhan said they had become necessary because of the Government's changing role

At present it was the biggest transport operator in the country, responsible for between 70% and 80% of all transport The changes would bring about a reduction in the Transport Department's staff from 1 053 to 270

A series of agencies would be set up and run by the private sector. Each would employ its own staff and have chief executive officers to run them.

A roads agency would take care of the country's 7 000km of national roads The department was investigating a 0,6c fuel levy for a dedicated road fund

Here a Government representative would be appointed to the board to oversee financial control The board would also take control of the 650km of toll roads

Urban transport faces radical changes Most of the department's powers will devolve to provincial and metro transport authorities

Bus and rail operators' monopolies would end This has already started taking place From the beginning of this month, bus operators have been given interim contracts for their routes When these expire, the routes will be put out to tender

Commuter rail, would be put out to concession by 2000 A maritime safety agency will operate shipping functions and a similar agency will regulate air transport.

Unions set to declare dispute over govt plans for electricity

(232)

Supply

BD 7/4/97

Reneé Grawitzky

THE National Union of Metalworkers of SA (Numsa) and the National Union of Mineworkers (NUM) are to declare a dispute against Eskom over government's plans to privatise effectively the electricity supply sector

This emerged yesterday after Numsa's four-day national bargaining conference, at which a programme of action was adopted focusing on demands for wage increases of more than 20% for metal and motor sector employees and the defence of jobs, especially in parastatals such as Eskom

Numsa general secretary Enoch Godongwana said the union could not pre-empt negotiations. However, the union expected a major battle over its demands for 200 hours' paid training, payment for skills acquired and four training modules for each job grade

The union opposed cabinet's decision on restructuring the electricity supply sector, announced last month, and if necessary would take action against Eskom and government

A Numsa official said the proposal called for decentralising distribution, which was privatisation in disguise.

Eskom was preparing to allow an independent private company it owned to distribute electricity, as well as local authorities. It wanted to contract out all noncore businesses and would eventually own nothing.

The union said 80 000 workers were involved in the electricity supply sector and therefore should be involved in making decisions on distribution.

The issue would be discussed by Eskom's restructuring transformation committee when it met today

Numsa indicated that a dispute could be declared after the meeting.

The union's bargaining conference focused on five core areas — wages, training and grading, productivity, levels of bargaining and demarcation, and work reorganisation — and emerged with a programme of action to tackle these issues and defend jobs

After the conference Godongwana said 200 000 jobs had been lost in the metal and related sectors since 1982.

"We have to defend our members' jobs, particularly in the domestic appliance industry, by questioning the high cost of steel inputs, and in telecommunications, where we believe the government has gone over the top by reducing the General Agreement on Trade and Tariffs requirement from 20% to 0%".

Godongwana said the union would have to target Iscor on steel pricing. He and assistant general secretary Mbuyi Gwenda said that in the absence of an

Continued on Page 2

Numsa

BD 7/4/97

Continued from Page 1

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industry-specific industrial policy, jobs would continue to be lost. The defence of jobs campaign would target parastatals, including Eskom. Restructuring would be resisted if it affected jobs.

Steel and Engineering Industries' Federation of SA (Seifsa) talks start on April 23 Employers face demands of inflation plus 12% for workers on the bottom grade. Employers in the motor sector (garages, panel beaters) face demands of inflation plus 16% for the lowest-paid workers, with raises based on actual rates, not minimum rates, as was the case previously.

Delegates at the conference agreed to begin mobilising workers in support of a single bargaining council covering workers in metal and engineering, electrical contractors, and auto manufacturing and component sectors.

Town sparks privatisation outcry

Union vows to fight new water plan

CT(BR) 7/4/97 (232)

Terry Bell

Cape Town — The municipal workers' union, Samwu, has declared war against privatisation. In a four-day executive meeting starting today, the Cosatu executive will decide what action to take following the effective privatisation this morning of the water and waste services of Nelspruit, the capital of Mpumalanga

At 10am today the Nelspruit council is due to announce the winning bid for a 30-year contract to manage water and waste services for the city. One of the most significant aspects of the tender was that companies had to agree to undertake the collection of service charges

"When that provision (collection of charges) was included, we thought private companies might not be interested," said Moeketsi Mosola, the director of the constitutional development department However, such fears had been misplaced and a number of companies — including multinationals — had tendered

Among those short-listed for the contract is understood to be a consortium headed by Britain's Biwater and the national civic organisation investment company, Sanco Investment Holdings Sanco has spearheaded the largely unsuccessful Masakhane campaign aimed at encouraging non-payers to pay for municipal services

Now the row over water provision between the government and the unions threatens to erupt into the open and to expose a number of embarrassing rifts in the ruling alliance "There has been a lot of dishonesty," said a leading trade unionist "We have been lied to and feel cheated ".

The announcement of the award of the Nelspruit contract also flies in the face of an agreement reached between Samwu and local authorities At a meeting on March 17, the union obtained an undertaking that the award of contracts would be postponed until the various alternatives had been analysed further A similar plea, 10 days earlier, to the constitutional development department — it is responsible for local government — was rejected The department maintained that decisions "on the ground" were the province of local authorities

However, the department rejected a business plan put forward by the Cape Town council on the grounds that it did not comply with the provisions outlined in "public-private partnerships" which is the ruling government programme But Mosola maintained that the partnerships programme did not amount to privatisation

It provided for funds to be "leveraged from the private sector" and for "risk sharing" Samwu could be catered for within these provisions

Ronnie said "We are raising the matter of water provision with Cosatu this week — and we are going ahead with our plans "

Samwu's plans so far are to stage pickets across the country, starting on May 1, to raise the issue of water privatisation

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SAA *Maharaj cites worldwide trend*

ET(BR) 9/4/97 (232)

Privatisation of SAA will be 'pragmatic'

AUDREY D'ANGELO

Cape Town — The government should adopt "a pragmatic rather than an ideological approach" to the privatisation of SAA, Mac Maharaj, the transport minister, said yesterday

He said a statement by Stella Sigcau, the public enterprises minister, that SAA could be sold off completely over time, was "in line with our thinking"

Maharaj said state-owned airlines all over the world were normally run at a loss but those in the private sector usually made some profit It had taken seven years for British Airways to be privatised "I don't think it will take us as long," he said

Maharaj emphasised the importance of reaching agreement with the unions on how privatisation should be handled Discussions with the unions were now in progress

"We first need to arrive at an agreement with the unions over various strategic equity policies We must ensure there will be direct benefits to the airline and the economy Jobs must be safeguarded, skills transferred and management strengthened "

Pointing out that the formation of alliances between airlines affected the market and that there was a global movement towards deregulation of the industry, he said the privatisation of SAA had to be "taken in the context of global developments"

BENEFITS *Mac Maharaj supports Stella Sigcau's view of SAA privatisation*

"We must look at South African interests. There must be substantial benefits from privatisation. We must ensure that transforming the economy brings black empowerment "

Sigcau said in Japan this week that British Airways and Lufthansa had "expressed interest in buying a stake in SAA"

John Hanlon, British Airways' general manager in southern Africa, said his airline would need to look carefully at the terms and conditions of the sale and the value placed on the shares before deciding whether to bid for a stake in SAA

Nelspruit workers left out of Samwu's fight against privatisation

CT (BR) 9/4/97 (~~2668~~) (232)

Sharon Hammond

Nelspruit — The Nelspruit branch of the South African Municipal Workers' Union (Samwu) said yesterday that it did not know about the union's plans to protest against Nelspruit's plans to privatise its water and waste services

Louis Mthisi, Samwu Nelspruit's secretary, and an employee of the town council, said any action would only be taken after the council had explained what it meant by privatisation

Samwu, at national level, "declared war against privatisation" in reaction to the council's plans and said marches would be held across the country on May 1

He said the issue had only so far been discussed with shop stewards at the council, and that Samwu, at national level, would first attend a conference organised by the Development Bank of SA about public-private sector partnerships, before discussing the matter with the council

"After that, I'm not sure what resolution will be taken," he said

Samwu's "war" declaration might also be premature, after the council postponed announcing the winner of the bid for the contract from Monday to April 30 Etienne Garnett-Bennett, a council spokesman, said the date had possibly been postponed to allow for further discussion "This (public-private sector partnerships) has never been done in South Africa before, which probably explains why the unions are reacting this way," he explained

Also unaware of the brewing "war" is Cosatu's Nelspruit branch Cosatu said this week that it would hold a conference to decide what action to take against the council for its privatisation bid, but Michael Nkosi, its local chairman, said he was unaware of the conference and, in fact, favoured privatisation "Where we live, there is no water supply We believe service would be better from a private company," he said

Vying for the tender are eight companies including Sanco Investment Holdings and a consortium headed by Britain's Biwater — African Eye News Service

LABOUR *Shilowa the odd man out*

(232)

Privatisation divides top Cosatu executives

CT(BR) 11/4/97

Frank Nxumalo

Johannesburg — Sharp divisions within Cosatu, South Africa's largest trade union federation, emerged yesterday over privatisation policies and the planned nationwide strike on May 12 against the government's Employment Standards Bill, according to union officials and sources

Cosatu's four-day executive committee meeting ended yesterday amid bitter infighting and what some inside sources said were irreconcilable differences over organised labour's position on the government's policies of privatisation

Two unions affiliated to the 1,2 million strong federation opposed endorsing privatisation as a federation policy

Harold Harvey, the general secretary of the Transport and General Workers' Union, confirmed yesterday that his union was opposed to any sort of privatisation of state assets

In a statement yesterday, the South African Municipal Workers' Union said it rejected "privatisation of any municipal sector"

But according to union sources, Sam Shilowa, the general secretary of the federation, has endorsed the ANC's policies of restructuring

The federation has postponed until April 18 a decision on the nationwide strike, three days after Tito Mboweni, the labour minister, is expected to have promulgated the Employment Standards Bill

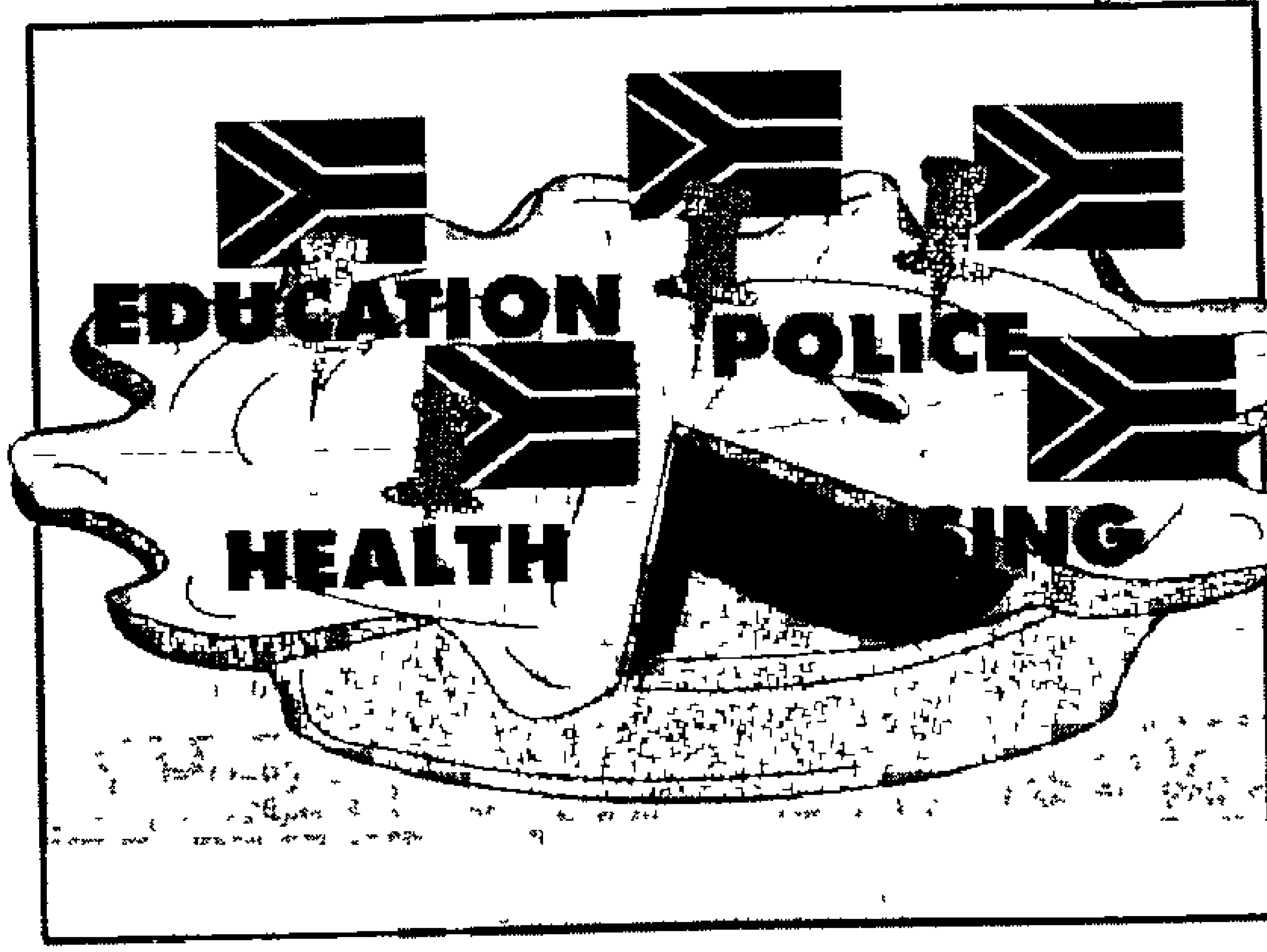
The bill seeks to reduce the 46-hour working week to 45, then phase it down to 40 hours over a period of five years Cosatu has demanded a legislated 40-hour week

Meanwhile Business South Africa, a business lobby, has warned that it will take legal action against Cosatu if the May 12 strike proceeds

Pretoria wakes up to some harsh realities

CT (BR) 11/4/97 (232)

PAUL PEREIRA



While the government has committed itself to at least partial privatisation of state assets and is gingerly parrying its left wing in order to implement this, socioeconomic developments in society indicate that South Africa is privatising willy-nilly

Much of this has to do with the crushing public debt and a skewed pattern of state expenditure The homeland system not only allowed the white minority government to strip black South Africans of their citizenship, it also provided massive savings for the central exchequer Expenditure transfers to homelands — from education to health — were always at a lower per capita level than the amount spent on Africans in "the republic" Correcting these expenditure patterns requires political courage, diverting funding away from urban areas (including townships) towards rural areas.

By international standards South Africa spends a high proportion of its national budget on education. However, the limits of its resources and the need for redistribution have meant that financing priority will be given to primary and secondary education at the expense of tertiary education Pupil-to-teacher ratios will also have to rise in most areas to reach the government's target of 40 to one in primary schools

While disruptions have declined in schools, financial pressure has seen an increase in disruptions at tertiary institutions and the relatively new phenomenon of a private tertiary education sector

So, while the universities find themselves under siege because of decreasing state subsidisation and increasing political tensions surrounding "transformation", this does not necessarily mean the end or even terminal decline of tertiary education It implies merely that much of this education could in future occur through private initiative.

Similarly, moratoriums on police recruitment, corruption in the police services and underfunding and undermining of morale in the justice system do not necessarily mean that full-scale anarchy will be South Africa's lot. Personnel employed in the private security industry already outnumber those in the police services by about 2,4 to one The government may in time be forced to co-operate more with private services to arrest the crime rate

The welfare department seems to be redirecting its focus to the poorest of the poor and seeks to assist only those single mothers who have little or no means to subsist, cutting funding to those previously most benefited — the largest group of beneficiaries having been single coloured women.

The health department, on the other hand, still seems to think in terms of maximum state intervention in the health sector and is considering compulsory service for medical graduates, a compulsory national health scheme, a new system of primary health care to lower access to tertiary health institutions and massive intervention in the prescription and sale of medicines The provision of free care to pregnant women and young children has, in addition, placed the system under enormous strain — as could the recent introduction of free abortion on demand.

And while the ANC often promises an increase in housing provision, government policy — unlike that of previous administrations — is based on a partial subsidisation of private property for employed people (rather than the provision of houses per se) Whereas about half of South Africans are urbanised now, this will have increased to about three-quarters of the population in 2010.

Overall, the burden on the state's resources will decrease only if economic growth occurs The number of jobs in the formal sector of the economy matches the number that existed in 1982 At the end of 1995 the number of jobs in the public sector had increased by 3,3 percent since 1990, but the private sector has experienced a drop in jobs of 9,6 percent.

A further impetus away from state provision of social and other services is the rate of immigration to South Africa. The government guesses that illegal immigrants constitute anything between 5 percent and 20 percent of the population

Increased urbanisation in particular is expected to halve population growth by 2026 But viewed against increasing boycotts of rates and payments for state services, a public debt of about 60 percent of gross domestic product, declining standards in some health and education provision, general lawlessness, the need to redirect funding to rural areas, ongoing immigration to the country from the rest of Africa and growing unemployment, the government is in no position to provide services to people at the level or intensity once experienced by whites

Step by step the state is being forced to withdraw from intervening welfare-state-style in the private domain and is being forced instead to encourage a process of privatisation and self-reliance

At the same time it is coming under pressure to concentrate on its core responsibility ensuring a safe and secure environment. This is a process the country is being forced into by demographic and financial realities There is no getting away from it, and it makes the debate between interventionists and abolitionists in a very real sense irrelevant.

□ Paul Pereira is the senior public affairs and policy manager of the South African Institute of Race Relations This article has been edited and first appeared in the institute's April edition of FastFacts

Thatcher's pals bid for SA water

(232) MHG 11-17/4/97

A controversial UK firm is at the centre of a growing row over Nelspruit's water privatisation, report Eddie Koch and Sharon Hammond

A BRITISH firm linked to a secret clique which ran the United Kingdom's Conservative Party's controversial aid-for-trade programme in the Third World is at the centre of a growing row between organised labour and the government over plans to privatise municipal water services in Nelspruit

The South African Municipal Workers' Union (Samwu) this week announced it will begin a week-long series of protests on May 1 to oppose efforts by foreign companies to "buy" South Africa's water supply services from local authorities — a move it believes will lead to job losses and tariff hikes

The union says plans to privatise water and waste services in Nelspruit are part of a wider scheme by the British company, Biwater, and other multinationals to obtain lucrative contracts to control municipal water in South Africa

In a bizarre twist to the controversy, Sanco Holdings — the investment company run by the South African National Civics Organisation (Sanco) — has teamed up with Biwater to bid for commercial rights to manage Nelspruit's water The consortium is tipped to win the tender

The partnership appears to put Sanco Holdings — headed by former Congress of South African Trade Unions militant Moses Mayekiso — in direct conflict with organised labour and in an alliance with conservative British capital on the issue.

Reports in the British *Independent* newspaper show Biwater was among a select group of civil contractors and defence manufacturers which benefited from a secret network that controlled the supply of British aid and arms to, and trade with, overseas countries initiated at the start of former prime minister Margaret Thatcher's rule

The network, an inner circle of senior civil servants, government and industry figures, effectively decided how the Britain Aid and Trade Provision Programme (ATP) — aid money to help finance contracts from overseas governments — should be allocated, and how contracts for arms sales should be won

Biwater was among five companies which accounted for almost 43% of the ATP budget between 1978 and 1992 Its contracts included projects in Malaysia, Sri Lanka and Thailand — some linked to efforts by the British government to sell advanced defence equipment to these countries Biwater has also been a generous supporter of the Conservative Party — one of 18 companies which gave the party directly or through a middleman organisation more than £6-million between 1979 and 1993 Mayekiso was unavailable to comment about Sanco Holdings's consortium partner

Meanwhile, though Samwu has "declared war against privatisation", its members in Mpumalanga appear to be taking a more cautious stance, waiting to see if the plans will generate advantages or job losses for the workforce

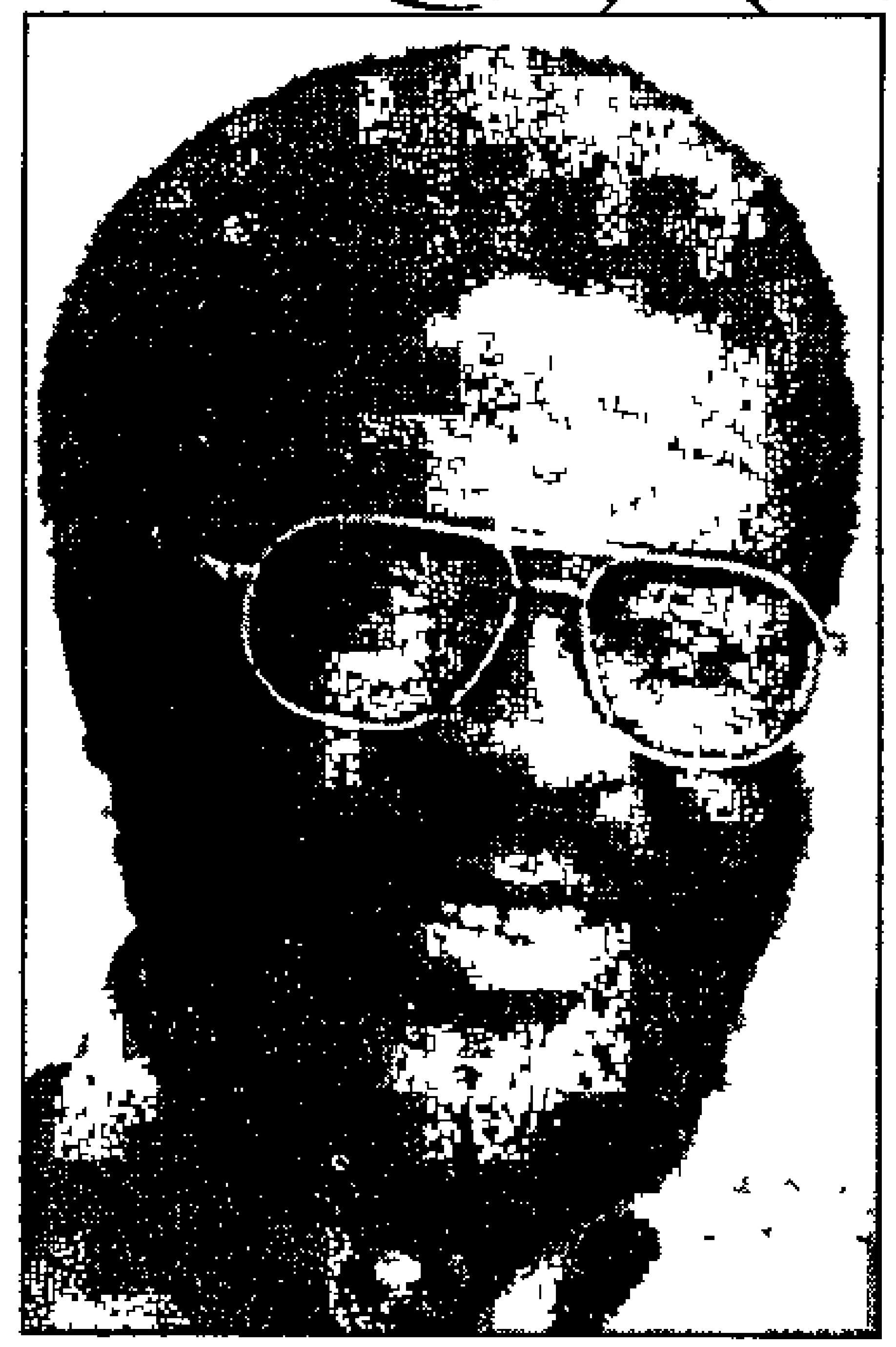
Samwu's Nelspruit secretary, and employee of the town council, Louis Mthisi, said earlier this week that his organisation wanted the council to explain what it meant by "privatisation" before deciding on a course of action

"They [the council] say it's not really privatisation but delegated management Now, do they mean that all assets will go to the private company that wins the tender or that the water and sewage will only be managed by the company?" asked Mthisi

Nelspruit council spokesman Etienne Garnett-Bennett said a decision about which of the eight bidders should win the tender for the town's water management had been postponed This is probably to allow more time for the union movement and the civic organisations to explore and discuss issues surrounding water privatisation.

The council has asked the unions to elect representatives to a committee that will decide which bidder should be awarded the contract

The chairman of Cosatu's local branch, Michael Nkosi, has also added to confusion at rank-and-file level by saying local residents and workers will probably support privatisation "Where we live there is no water supply We believe service would be better from a private company," he said



In the middle: Moses Mayekiso
PHOTOGRAPH SIDDIQUE DAVIDS

Members of the Independent Municipal and Allied Trade Union could also be affected by the possible privatisation of services delivered by Nelspruit's water and sewage department But representative William Spencer said "We don't approve of privatisation but understand the council cannot provide the services the public expects until 10 or even 20 years down the line "

Samwu's national leadership is adamant that planned protests will go ahead, and that these will be supported by its members in the Nelspruit area The union says international experience showed workers lose jobs, water prices rise and quality drops when private companies take over concessions to manage municipal supplies

Samwu is demanding a moratorium on all negotiations between local authorities and the private sector over privatisation of municipal services. The union wants "restructuring of the public sector" to be dealt with only through the National Labour Relations Forum

The Department of Water Affairs and Forestry cannot, in terms of the Constitution, intervene in decisions taken by local authorities over how to manage their water

But the department is trying to ensure that municipal water is managed efficiently and in the interests of the poor by promulgating regulations that will lay down a basic set of standards and guidelines for local government. "The proposed water services Bill will give national government a mechanism to promote the public interest in cases like this by requiring local government to go through a structured procurement and planning process in the public interest," said department deputy director general Mike Muller

The outcome of the Nelspruit debate will have crucial implications for municipal water management around the country Several multinationals, including Biwater and French-owned Lyonnaise Des Eaux, see Nelspruit as a place to test the waters before moving on similar bids in Cape Town, Johannesburg and other big cities

COMING AROUND? ... Stella Sigcau, who may be changing her views on privatisation

Transnet restructuring could pick up speed

ST(BT) 13/4/97 (232)

PRIVATISATION

By SVEN LUNSCHE

A DRAFT report to Public Enterprises Minister Stella Sigcau by her private-sector advisers recommends widespread privatisation of the company's numerous subsidiaries, including rail operator Spoornet

The report (dated March 24), by UK investment bank HSBC and its local stockbrokers Simpson McKie James Capel, goes further along the privatisation route than Sigcau has publicly wanted to acknowledge to date.

It suggests that the difference in outlook between Sigcau and the Department of Transport is narrowing. Earlier this month Ketso Gordhan, director-general of Transport, expressed frustration about the divided government responsibility over Transnet

The drive to restructure Transnet will be given a further push soon when, as expected, cabinet accepts recommendations by the Department of Finance to restructure the group's pension fund, which is saddled with an actuarial deficit of R8-billion

HSBC and Simpson McKie James Capel were appointed advisers to Sigcau in December last year They acknowledge in their report that they have not represented all the possible options

"However, it focuses on those options which, in our preliminary opinion, are most likely to be practicable," they say

Their most surprising verdict is that on Spoornet, Transnet's largest subsidiary and previously considered a candidate for restructuring only The report suggests that Spoornet be maintained either as a single entity or split into several operations running the various industrial lines, such as coal, iron ore or timber Thereafter the new company, or companies, should be "privatised by means of trade sales or flotation" The advisers recommend the concessioning or elimination of Spoornet's unviable passenger service

Concessioning (contracting private sector operators to run a business) is also the favoured option for commuter rail group Metro

The advisers recommend only one option for SA Airways "Privatisation by means of a strategic equity partner or flotation " This option was expressed by Gordhan earlier this month and echoed by Sigcau this week after it emerged that the airline will report a loss of R345-million in financial 1996/97

Among the other Transnet operations that should be privatised, according to the report, are pipeline operator Petronet, road freight and passenger operator Autonet, the heavily indebted parcel group PX, its telecoms arm Transtel, IT subsidiary Datavia and most of the properties once they are transferred to the relevant businesses

HSBC and Simpson McKie James Capel also advise a separation of the port infrastructure and operations currently falling under harbour operator Portnet Both divisions could subsequently be privatised An alternative to this option would the the creation of companies around individual ports, to be privatised later

Erwin delays policy revamp

(232)

ST(BT) 13/4/97

COMPETITION RULES

By THABO KOBOKOANE

TRADE and industry minister, Alec Erwin surprised observers on Friday when he announced a further delay in revamping the country's competition policy

Erwin revealed that he was further behind than he had hoped, but expected to present a working document to the National Economic, Development and Labour Council in late May or June

If targets were met, the draft Bill would be ready for parliament next year

The Bill would be drafted by a team, "solely picked by me", once Nedlac had reached consensus on policy frameworks

He said if the actual competition law was going to achieve some its objectives it would have to be located within a wider set of legislative instruments "I hope, to table the working document before Nedlac either in late May or early June," Erwin said

Eskom workers join fight against revamp

(232)

Reneé Grawitzky

HUNDREDS of Eskom workers marched on the Pretoria offices of Minerals and Energy Minister Penuell Maduna yesterday to highlight opposition to government's plans to restructure the electricity supply industry

The National Union of Mineworkers (NUM) and other unions in the industry claimed that they had not been party to any consultation on the positions adopted by government in March

Union spokesman George Molebatsi said a memorandum was presented to Maduna, who indicated that nothing would happen regarding the restructuring until all the parties discussed the issues. Molebatsi said Maduna had hoped that discussions around restructuring would have been finalised by the end of August

NUM said the report compiled by the electricity working group, which proposed autonomous regional electricity distributors, was about "taking us away from the employer we have been associated for many years without getting our views" This was contrary to what was discussed in Eskom's restructuring and transformation committee, the union said

BD 15/4/97

Govt support for role of hunting in SA

Michael Moon

BD 15/4/97

HUNTING in SA was making a real contribution to the protection of ecosystems and wildlife, deputy environmental affairs and tourism minister Peter Mokaba said yesterday

"The only way to make conservation work in Africa is to make it pay," Mokaba told a seminar of the Wildlife Utilisation Forum of SA at Suikerbosrand, near Heidelberg.

Hunting for trophies and venison had developed into a very lucrative industry Annual income for SA from foreign hunters was almost R117m in a 1996 survey, which did not include airfares, taxidermy and other expenses

In places, game farming was more profitable than stock farming.

Mokaba said the realisation of game as a valuable resource contributed much to securing the continued existence of many species. The availability of suitable habitat is therefore essential, he said

He said draft policy on conservation, due to be tabled in Parliament during the current session, contained the sentence, "Government . will continue to support programmes that utilise indigenous wildlife sustainably for subsistence purposes and commercial gain".

Mokaba also said SA would back a proposal by Zimbabwe, Botswana and Namibia to have the world ban on trade in elephants and ivory lifted at the Convention on International Trade in Endangered Species (Cites) meeting in Harare in June

SA's neighbours managed their elephant populations well and government was convinced that controlled international trade in ivory would not have a detrimental effect elsewhere in Africa Conservation in the three countries was in dire need of the funds which could be realised from ivory stockpiles, said Mokaba

At the Cites meeting, SA is to argue for the easing of restrictions on the trade in rhino horn

Eskom workers march to protest to plan to privatise

THABO MABASO (~~255~~) (232)
BUSINESS REPORTER
ARG 15/4/97

Eskom employees have slated Government proposals to partly privatise the electricity utility, saying the move would lead to job losses.

Interviewed during a march by 200 workers to the company's Bellville headquarters yesterday, NUM's Western Cape co-ordinator, Mario Wanza, told the Cape Argus that the restructuring would also result in a drop in service standards.

"We understand the fact that the Government inherited a bankrupt state, but we cannot accept them selling off an asset that provides the basic needs of the population," Mr Wanza said

He said the Government had plans in a soon-to-be-released white paper on energy policy to break Eskom up into regional energy distributors.

"This in essence would mean privatising Eskom, and we know that as soon as you privatise workers lose their jobs and electricity costs will rise."

Mr Wanza said marches opposing the proposed privatisation were also held in other provinces yesterday.

Eskom was an efficiently run parastatal which had met its Reconstruction and Development Programme targets and did not need to be privatised, he said

"This is the start of an ongoing process of mass action and until the Government comes to its senses, we will continue with this action," he said.

The Government, unions and Eskom's management have been involved in negotiations during the past few months on proposals to restructure and transform the parastatal.

The discussions were initiated in February last year after unions complained that the Government was not consulting them on its proposals for privatising parastatals

Despite persistent rumours of plans to privatise Eskom, the company's executive director of finance, Willem Kok, said last month that the Government had put plans to sell the electricity utility on hold for the next two to three years

An Eskom spokesman was not available for comment yesterday

Hanekom wins first round against KWV

Samantha Sharpe

CAPE TOWN — The Cape High Court granted Agriculture Minister Derek Hanekom leave yesterday to intervene in wine co-operative KWV's planned conversion into a public company, effectively placing an obstacle in its road to privatisation.

The decision would give Hanekom until July 14 to file papers relating to his concerns about the conversion, which included the future regulatory environment for the wine industry, competition implications and distribution of KWV's assets.

The matter would be heard in court on August 18.

Hanekom said that while he welcomed the High Court ruling, he did not want to be seen "to stand in the way of the KWV's plans to become more competitive and to be in a better position to develop its foreign markets".

But the additional time granted by the ruling would allow for the completion of a second investigation into the value of assets built up by KWV as a result of its statutory powers as well as time to enter into discussions about the competitive aspects of the conversion.

"The ruling confirms that my department does indeed have a bona fide interest in KWV's scheme of arrangement. I do hope that in the time granted it will be possible for all the parties to arrive at a negotiated settlement that addresses all the major issues."

KWV MD Willem Barnard said he

(232) BD 16/7/97

Continued on Page 2

KWV

Continued from Page 1

was disappointed that Hanekom had found it necessary to postpone the conversion. "The delay puts on hold KWV's plans for the international market for another financial year, with the forced continuation as a co-operative being costly." The conversion was originally planned for April.

Barnard said KWV was in talks with three investment houses, including a black empowerment group and an international party, involving separate deals of R100m each — all of which hinged on the restructuring process. He said KWV had agreed in December to give Hanekom three months for his investigations, giving its full co-operation to the commissions which gathered information.

While it would continue to co-operate with Hanekom regarding his concerns about the regulatory framework, the competitive implications had been resolved by an agreement with the industry's wholesalers represented by the Cape Wine and Spirit Institute. Any question about the distribution of KWV's assets to its members was "non-negotiable", he said.

Union 'broke rules in bid for Sun Air'

BD 18/4/97 (232)

Reneê Grawitzky

THE SA Railway and Harbour Workers' Union (Sarhwu) had, in broad principle, transgressed the rules of Sun Air's restructuring committee, the transport department said yesterday, but it said it was satisfied there had not been any potential conflict of interest

Transport director-general Khetso Gordhan said the union was unaware its investment arm was involved in Virgin-Bhekilanga consortium's bid for Sun Air

This reaction comes amid reports that potential bidders had questioned whether there was a conflict of interest because of the union's involvement in the restructuring committee while its investment arm was bidding

These parties felt that conflict existed because there was no real difference between the investment arm and the union and, therefore, the investment arm would have access to confidential information.

To add to this, it was incorrectly reported that the chief executive of Sarhwu's investment arm Sandile Zungu had represented the union on the restructuring committee The union's committee representative was Ntombi Masikane, who had signed a confidential undertaking which strictly prohibited her from disclosing any information to a third party

Gordhan said the union's role in the restructuring committee had in no way influenced Virgin-Bhekilanga's ability to have an advantage over other bidders

Information disclosed in the committee to date was not sensitive and would be published in the tender document sent to all bidders.

The rules of the restructuring committee provided that a party could not be involved in the committee and in a potential bid at the same time.

Gordhan was satisfied, however, that union members were unaware that the investment arm was involved in the bidding process and that a distinction existed between the two structures.

Zungu said there was a fundamental difference between Sarhwu and its investment arm. Its investment arm was owned by Sarhwu Enablement Trust, which had been registered by Cheadle, Thompson and Haysom

The union was not a beneficiary of the trust, so no money could flow from the trust to the union. Beneficiaries of the trust included all workers in the railway, harbour and airline industries, not just Sarhwu members

In fact the investment arm had written to Gordhan last week telling him of the distinction between the two structures, Zungu said.

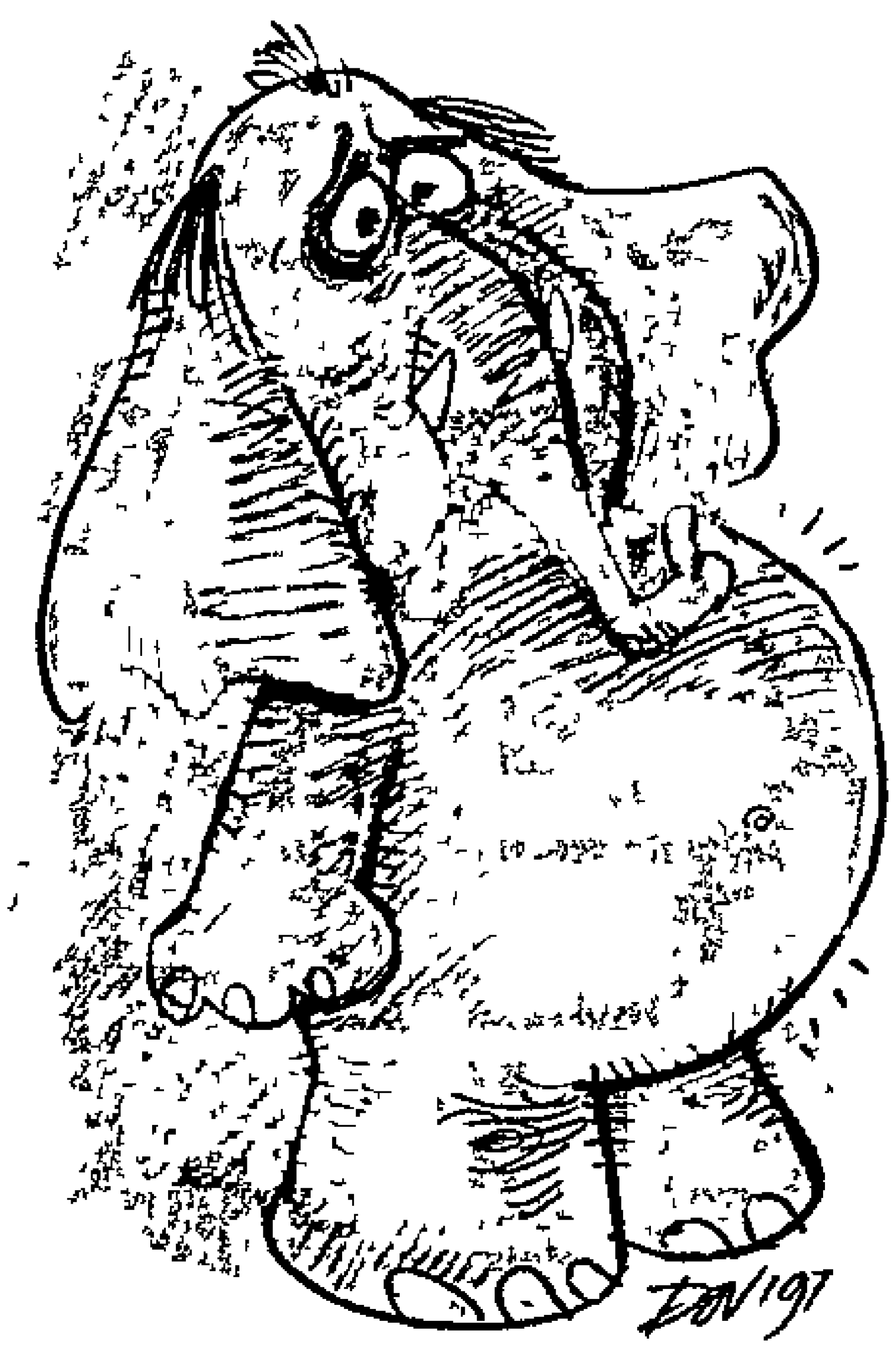
COMPETITION POLICY STILL IN LIMBO

TRAPPED ON AN ELEPHANT

(232) FM 18/4/97

When former Trade & Industry Minister Trevor Manuel was tackled on delays in formulating competition policy he had a ready answer "We are dealing with a pregnant elephant rather than an ant "

That was in February last year, when he united protesting business and labour lobbies at Nedlac by refusing to discuss details of draft legislation with them



Gestation in an African elephant is about 22 months So, 14 months and two task teams later, his successor in the post, Alec Erwin, has eight months to go

It seems he will need them Guidelines were expected at a policy meeting between the Minister and the Nedlac Trade & Industry Chamber last week They were not forthcoming, however

Erwin reportedly told the chamber he had sacked the task group, which included Competition Board chairman Pierre Brooks, appointed to draft legislation, and was setting up a new team

The Minister was in Cuba and could not be contacted to confirm the report But spokesman Ismail Lagardien says as far as he knows, Erwin has not axed the team Brooks says neither he nor any of the task group, which, he says, was informally constituted, "has been informed of any axing "

Business SA representative Stef Naude says Erwin explained to the chamber he was "taking a holistic view of corporate governance, competition policy, insolvency and consumer protection "

"This involves five Acts," says Naude, "Companies, Close Corporation, Harmful Business Practices, Insolvency and Maintenance & Promotion of Competition The Minister said we would get a document with proposals on competition law principles by June "

The Minister will also appoint a technical drafting committee

While the task force has been debating new ground rules to prevent anti-competitive behaviour, the ground has been changing

Standard Bank group economist Nico Czypionka says competition policy needed for an open economy is very different from that needed for a closed economy

"Over the past few years, SA has become increasingly open to international competition because tariff reductions make it easier for foreigners to enter the market In some critical areas — the motor industry, for instance — reduction of tariffs has fundamentally changed the competitive situation

"This is illustrated by the fact that, for the first time, a depreciation of the currency was not immediately followed by soaring consumer prices "

There are remaining areas of abuse to be addressed

"The contentious issue," says advocate Willem Pretorius, who co-authored an earlier working paper on competition policy reform, "has always been whether to address conduct or structure "

This issue was raised in the paper "It is important not to assume any direct or automatic link between positions of dominance (concentration) and undesirable behaviour

"Nevertheless many instances can be found of undesirable behaviour in markets dominated by a few enterprises "

The policy which government decides on will have to be consistent with its economic policy package

"The Growth, Employment and Redistribution strategy is essentially pragmatic," says Anglo American's Mike Spicer

So earlier fears of draconian antitrust legislation are likely to prove unfounded But meanwhile competition policy remains in limbo — creating an uncertain business environment *Ethel Hazelhurst*

PRIVATE EQUITY FUNDS

HAMBROS SA LAUNCH

Bridging finance for medium-sized and larger unlisted companies has traditionally been in the form of loans from banks Now medium-term investment is coming to SA in the form of equity investment in private companies

The latest initiative is a R200m fund launched by the UK-based bank Hambros, through its SA subsidiary, Hambro Private Equity Funding for Hambro Private Equity investors is coming mainly from institutions They include Anglo American Corp Pension Fund, De Beers Pension Fund and Eskom Pension & Provident Fund

Hambro Private Equity chairman Tony Williamson (58) is the former CE of Wooltru He resigned in 1988 to go to Vancouver, where he ran a small portfolio of private equity investments

On his return in 1995, he was offered his present position by Hambros' newly established representative office

Hambro Private Equity director Patrick Maxwell (31), a chartered accountant, joined Hambro European Ventures — the UK and Western European buyout and development capital arm of Hambros — in 1990 "In SA we are modelling ourselves along the same lines as in the UK," says Maxwell

Hambro European Ventures now has

Water privatisation plan is outlined

(232)

By Russel Molefe

WATER Affairs and Forestry Minister Professor Kader Asmal has outlined Government policy on the privatisation of water services, the issue which angered trade unions and sparked labour unrest in Mpumalanga

Asmal said Government policy recognised the need for local governments to adopt different approaches, which included the use of private sector service providers, to "ensure that all South Africans gain access to basic services on an equitable and efficient basis"

Other alternatives, apart from direct service provision, which local governments could adopt are

● The strengthening of public utilities such as water boards to undertake distribution as well as bulk supply, the use of non-governmental organisations, particularly in rural areas; and, co-operation between local authorities

"No particular solution is being favoured The programme of local government support is providing technical and financial assistance to local authorities and assistance to NGOs, channelled principally through the Mvula Trust, is in place"

Hw explained that his ministry also made extensive use of the private sector to implement its programmes. The Government is to introduce a new Water Services Bill that "will help to build the framework for service provision"

Sowetan 17/4/97

Telkom to defy Competition Board 'request' (232) (267)

Lukanyo Mnyanda BD 22/4/97

TELKOM said yesterday it would defy a Competition Board "request" to release financial information on the SA Internet Exchange (SAIX), following accusations of restrictive practices from the Internet Service Providers' Association

The board became involved in the matter late last year when the service providers complained about the Internet exchange, saying its product benefited unfairly from Telkom's monopoly.

The service providers said the exchange was being unfairly cross subsidised and they feared that cross subsidisation could create scope for predatory or transfer pricing There were concerns Telkom could discriminate against non-Internet Exchange-aligned service providers in service, installation and maintenance

Telkom public affairs group executive Victor Moche said yesterday that the parastatal would not release financial information on the Internet exchange until a number of "industry issues" were resolved. Telkom believed the matter should be handled by the SA Telecommunications Regulatory Authority and that the Competition Board's involvement could lead to an infringement of its exclusive rights as stipulated in the Telecommunications Act and its licence. Telkom would take the matter to the authority.

Hanekom keen to settle dispute

(232)

CAPE TOWN — Agriculture Minister Derek Hanekom would do everything in his power to settle out of court the dispute over turning KWV into a private company, he said yesterday

It was the "right thing" to turn KWV into a company but a number of issues, including what was best for everybody concerned, had to be sorted out first, he said in reply to debate on agriculture policy.

Hanekom defended his use of adviser Michael Fridjhon, whom the National Party claimed had vested interests in the wine industry.

Fridjhon had been used by KWV itself as an adviser and consultant, and a number of interested parties in the industry had faith in him, Hanekom said.

His knowledge of the industry was also extensive. "I have trust in his integrity." — Sapa.

BD 23/4/97

Govt's attempts to devise competition policy shelved for this year

BD 24/4/97

(232)

Wyndham Hartley

CAPE TOWN — Government's attempts to devise new competition policy and legislation to govern it would not happen this year, Parliament's trade and industry committee was told yesterday.

Committee chairman Rob Davies told the committee that while competition legislation was on the schedule for the committee for this year he had been told by Trade and Industry Minister Alec Erwin that it was most unlikely that this would happen in 1997.

Yesterday's announcement by Davies follows announcements last week by Erwin that the process of developing competition policy had taken longer than expected. He also said he would be involving cabinet colleagues more in developing policy and that he hoped to have a mandate from the cabinet on competitions policy for the National Economic, Development and Labour Council in June.

Sources close to the committee said they perceived the real problem to be trying to develop policy and legislation in areas which were problematic, such as unbundling and the management of cartels. They said the entire issue of competitions policy was in disarray.

The committee, in its report on the budget for the department for 1997/98, also expressed its concern at the death pains of the general export incentive scheme (Geis) and the payments which had to be made in terms of the system, which will cease to exist at the end of this year.

The report, adopted by the committee for tabling in the National Assembly, says the issue is that payments under Geis are post hoc, meaning that the growth in exports firms that qualify for the payments "could exceed the amount budgeted". This, the committee said, could significantly reduce the new supply-side measures being contemplated for the promotion of exports.

Avoidance of the Geis programme was supported by the trade and industry committee, the reports says, and this should be "explored with Nedlac".

The report implies that the use of funds which are needed for other measures should not be used on Geis.

It was noted by the committee that there would be a further 30% decline in Geis payments compared with 1996/97, but this would still consume about 35% of the department's budget for the 1997/98 year. Geis accounted for almost 50% of the department's budget in 1996/97.

The committee also expressed concern over the lack of criteria to measure the success of mechanisms designed to promote employment.

Govt urged to privatise harbours

232

Nicola Jenvey

DURBAN — Grindrod Unicorn chairman Murray Grindrod has urged government to move forward with its port privatisation plans, despite the difficulties associated with the release of state assets.

Grindrod said in its latest annual report that privatising the ports and their facilities remained "a desirable move" for the SA marine industry, as the group continued to be adversely affected by port delays while these were state-owned. Although he acknowledged that privatisation was "not without its difficulties", he urged government to proceed as soon as possible.

During last year Unicorn's tanker division took delivery of two new product tankers, the Engen Rainbow and the Engen Simunye and bought another tanker, the Energos, for delivery in the second half of this year

Grindrod said the prices paid had been highly competitive and the investment would stand the group "in good stead" in future. He expected that the state-of-the-art vessels would produce significant benefits in the current year.

The international shipping and transport market had been influenced by the level of international trade and the group had positioned itself to minimise the effects of fluctuations.

Trading income rose 48% to R160m in the year to December, while attributable income increased 38% to R54m.

BD 24/4/97

MAIL & GUARDIAN
April 25 to May 1 1997

Pros and cons of sell-offs

(232) MtG (Bm) 25/4-1/5/97

Privatisation is not a panacea for all economic problems, particularly in Africa, where it is frequently part of structural adjustment programmes, writes Asghar Adelzadeh of the NIEP in the fourth of a series on economic policy

PRIVATISATION has become increasingly prominent worldwide in the past 15 years and has now become extremely important in policy debate for developing countries

Outside the developed countries discussion has however typically focused either on the successful privatisers in Latin America and South-east Asia or upon the more substantive issues posed by the economies in transition from central planning predominantly those in Eastern Europe

In the African context there seems to be a consensus that state-owned enterprises (SOEs) have not been performing well and various reasons have been put forward including poor investment decisions and inappropriate pricing policies managerial impediments such as overstaffing political interference in day to-day management decisions unclear objectives a weak human resource base and incompatibility of civil service procedures with commercial operations lack of infrastructure excessive centralisation and lack of capital

One of the key driving forces behind privatisation in Africa has been the increasing role of policy-based lending — of which privatisation is often a component — from the international finance institutions (IFIs) Between June 1981 and December 1991 182 World Bank operations supported privatisation in 67 countries half of them in Africa Divestiture components are to be found in 70% of all structural adjustment loans and 40% of sectoral adjustment operations In 1992 there were also 60 technical assistance projects in support of privatisation efforts mostly in sub Saharan Africa and almost all aimed at strengthening capacities to privatise

In many countries privatisation has been embraced as an economic policy that serves almost as a panacea for if not for all economic problems In general the rationale is assumed to be one of welfare improvement Privatisation is also expected to improve the government s macro-economic position because state enterprises are frequently loss-making and hence net receivers of government funds

By transferring SOEs to the private sector it is argued that not only will the state receive an injection of funds but the resource drain from deficits will be removed If privatisation improves the efficiency of production the state can also expect increased income in the future through tax revenues

Privatisation is also perceived to contribute to the development of weak or non existent capital markets and hence to enhance domestic savings mobilisation

This rosy picture has been shown to depend upon specific favourable factors that are too readily overlooked One of the principal requirements for privatisation is an adequate administrative capacity Divestiture is technically demanding even in advanced economies Most of the African divestiture programmes are dependent on technical assistance or financial aid from external agencies Establishing an effective machinery to manage divestiture programmes has proved difficult in Africa with significant effect on policy outcomes

The market structure in which an enterprise operates is also more important than ownership in determining economic performance In the absence of an appropriately competitive environment, a strong regulatory framework is required as is strong capacity to implement the regulations

This is necessary to guard against abuses of monopoly power such as price fixing and collusion Access to technology is another important determinant of both productivity increases and market structure which has some bearing on the impact of privatisation Anticipated productivity increases would be restricted given the cost of new technology

For employment, privatisation is frequently associated with staff reduction The state sector is often characterised by strong trade unions and as a result, the cost of shedding staff in political as well as economic terms can be great.

The macro-economic and micro-economic impacts of privatisation programmes are closely interlinked A positive fiscal impact depends crucially on privatised enterprises being more efficient than if they stayed in state hands creating more profit and hence more tax revenue for the government Otherwise the exercise consists of swapping a future income stream for a current asset with no net contribution to public accounts

Research in Latin America found that proceeds from privatisation had an insignificant impact in terms of reducing government deficits and high growth in privatisation has had only a modest impact on fiscal accounts from a present value perspective

In many African countries the actual receipt of funds from enterprise sales is not expected to have a major fiscal impact given the capital constraints Gains to public revenues are expected to be achieved more by putting a stop to the financial drain of transferring funds to loss-making SOEs However African states have been advised by the World Bank to transfer their most profitable assets first.

Privatisation in Africa has a wide range of economic and political effects

This means that the revenue position of governments may suffer rather than benefit in the short term as the profitable enterprises are transferred, although this may be ameliorated in the longer term by a higher revenue base if private enterprises are more efficient and profitable

Privatisation is normally a component of a wider structural reform programme Therefore, it should be judged in the context of an overall adjustment strategy or within a policy framework that incorporates the sequencing of reforms Choices have to be made concerning the order in which polices are implemented as they will have an impact on one another

As discussed above, any industrial restructuring programme will depend for its success on the macro-economic policy framework infrastructure international markets and availability of skilled personnel.

The impact of privatisation in Africa is complex situation specific and touches upon a wide range of economic and political effects The factors covered above need to be taken into account

Against this background it is possible to assess South African prospects and initiatives There are a number of positive features

- A cautious sectoral approach with attention to sequencing of policy
- Recognition and participation of the trade union movement and other popular interests in negotiations as reflected in the National Framework Agreement (NFA)
- Distancing from the terminology of privatisation as the only or main form of dealing with public enterprises, as reflected in the use of "the restructuring of state enterprises" phrase in the NFA.
- The tying of restructuring of state assets to sectoral supply side policies in which closely negotiated joint ventures are prominent rather than simply selling off public enterprises

However, there are a number of negative features These include

- An unwarranted belief in the role that privatisation might play in financing the reconstruction and development programme Within the context of a broader investigation of the role of the financial system the relationship between the restructuring of state assets and the financial system needs to be assessed for its impact on government finance in general and on the levels and composition of industrial investment
- An inevitable dependence of privatisation upon finance provided by South Africa s major conglomerates which are themselves more strategically focused on globalising their productive and financial operations

Foreign investors are faced with a wide choice of alternative assets around the world These factors will place downward pressure upon privatisation revenues and will lead to an increase in what is already a highly concentrated level of corporate ownership and control

- The process of privatisation is expensive in terms of costs and administration Apart from draining resources it tends to undermine the ethos morale and motivation of the public sector where South African capacity is already limited

No careful consideration seems to have been given to whether resources being devoted to the privatisation programme and future regulation might not be better allocated to reforming and enhancing the present public administration and to delivering Reconstruction and Development Programme (RDP) projects through public sector agencies

- Although restructuring of state enterprises is being considered within the context of specific enterprises and sectors it is not clear that the associated policies
  - (i) employ full social cost-benefit analysis of projected outcomes
  - (ii) incorporate an overall strategic vision for the South African economy with due attention to its strengths and weaknesses and the goals of the RDP
  - (iii) are sufficiently developed in detail in depth and scope, and
  - (iv) will have in place in advance the necessary measures for ensuring continuing commitment to, and delivery of intended outcomes in view of commercial and other pressures for them to be undermined
- There is an excessive deference to an elusive business confidence in economic policy in which privatisation is seen as an objective in its own right thereby hastening privatisation unduly and leading to misguided policies

This article is based on a paper commissioned by the National Institute for Economic Policy from Professor Ben Fine of the School of Oriental and African Studies, University of London

Ramos outlines privatisation rules

CT(BR) 25/4/97 (232)

AUDREY D'ANGELO

Cape Town — Private sector companies taking a stake in state-owned enterprises must accept a share of the risk rather than structuring the deal around tax concessions, Maria Ramos, the director-general of finance, said yesterday

Ramos said such deals would be looked at very carefully to ensure the company was not passing the costs of the risk on to the taxpayer

Ramos spoke at a finance workshop organised by the British consulate during its "Britain Means Business" week

A British participant, Richard Oliver, the head of structured financing at BWZ, said concession financing was a suitable way for a government to transfer the cost of risk to the private sector

He said it was normal for a government to grant concessions to build, finance and operate projects until the asset passed into public ownership

Black empowerment and unbundling rule mergers

ST(BT) 27/4/97 (232)

UNBUNDLING and black economic empowerment were the major drivers behind the record R62 2-billion of merger and acquisition activity last year

There was a hefty 43% rise in the value of merger and acquisition transactions, while the number of disclosed deals was up more than 50% to 276, Ernst & Young's annual merger and acquisition survey shows

Unbundling accounted for 18% of the total value of deals while economic empowerment accounted for 11%

There were 18 "mega deals" (over R1-billion) in 1996 valued at R40-billion, or 64 5% of the total This compared with only five such deals in 1995 valued at R26 3-billion

The biggest deal of the year was the R6 1-billion restructuring of Anglovaal's mining interests and the second largest was the R5 2-billion unbundling of Genbel Third was Gencor's acquisition of a larger stake in Alusaf, and fourth was the NBS/Boland banking deal

There were 45 black empowerment deals valued at R7-billion compared with 23 deals (R12 4-billion) in 1995

Details of the report and an analysis of the M&A industry is provided in our survey on pages 6 to 9 of the first section of Business Times A survey on rating agency IBCA appears in the BT Money section on pages 18 to 20

□ Business Times will be offering a daily interactive labour service, Business Times Labour Guides, in association with The Labour Consultancy It will assist you to unravel some of the confusion arising out of labour legislation

Regular labour law seminars will be hosted on BT Online, starting on May 18 This week's edition carries a brief overview of some of the structures and issues pertinent to the new labour regime Next week, Labour Guides tackles the minefield of probationary periods for new employees

You can find the Labour Guides on our homepage **<www.btimes.co.za>**

ister A...

Qualifiers in sale of Sun Air named

BD 30/4/97 (232)

Robyn Chalmers

THE 100% sale of Sun Air, SA's first full privatisation exercise, should be completed by the end of July, with eight local and international consortiums having qualified to bid for the airline, Public Enterprises Minister Stella Sigcau said yesterday.

Qualifying bidders included Virgin Atlantic of the UK — in partnership with six black empowerment groups, among them African Renaissance and the SA Railway and Harbours Workers' Union Investment Company — Malaysia Air, Air France and Comair in consortium with NSA Investments.

Other qualifiers were the Rethabile Consortium, consisting of black businessmen involved in the tourism industry together with broadly based black investment groups, and the Ukhozi Sanco Consortium, comprising a newly formed black empowerment group and the investment arm of the SA National Civics Organisation.

Phoenix Venture Partners, an investment banking and emerging markets advisory consulting company, and Maru Investment Holding, a black economic empowerment group from North West, also qualified.

The consortium of Virgin Atlantic and its partners has been widely tipped as a frontrunner, but analysts were optimistic yesterday that the other bidders would ensure a highly competitive environment

Both Sigcau and Transport Minister Mac Maharaj expressed their satisfaction that significant progress had been made on the privatisation of Sun Air Initially there were 16 applications for prequalification.

Sigcau said tender documents would be made available to the various parties from today The deadline for submissions was May 22, after which a short list would be announced. A decision on how the sale proceeds would be employed would be negotiated along the lines of the recent sale of a 30% stake in Telkom

Sigcau announced earlier this year that the stake in Sun Air to be made available to offshore buyers had been increased to 49% from 25% This paved the way for possible foreign control of a privatised Sun Air.

BoE Natwest corporate finance manager Steve Naude declined to comment on Sun Air's value, but said the airline had eight aircraft and operated on the profitable routes between Johannesburg, Cape Town and Durban Analysts have estimated that government could garner R150m-R200m, depending on the goodwill factor.

Naude said the criteria for prequalification had depended on three issues — the identity of the parties involved, the level of financial backing and the motivation behind the purchase.

Restructuring and transformation committee co-chairman Donald Keth, who represents the views of labour, said the trade union movement fully backed the privatisation of Sun Air and no job losses were expected "In order to ensure there are no job losses we have to have a growing and dynamic company, and for that reason we are behind the sale of Sun Air."

An employee share ownership scheme which would be established was still under discussion

Picture: Page 3

The MINISTER OF DEFENCE

(1)(a) Yes As the hon member is aware the transformation and restructuring process of the Department of Defence is still in progress The decision regarding the replacement of ten of the fifteen officers who opted for the Voluntary Severance Package, will depend on the results of the restructuring exercise, and as such no replacements have been appointed yet

(b) and (c) Regarding the following five officers, the detail is as follows

(i) Lt Gen W G Kritzinger will be replaced by Maj Gen D Ferreira This appointment is in the post of Chief Joint Operations and not in the post of Chief of Staff Operations which will disappear He is Senior Command and Staff Course as well as Joint Staff Course qualified He has had ample experience in the former SA Defence Force and in the SA National Defence Force in terms of command and operational experience to be a successor His recent successful appointments in the SA National Defence Force as Officer Commanding Natal Command and General Officer Commanding Eastern Transvaal Command serve as adequate proof of his skills and expertise

(ii) Maj Gen G M Opperman was replaced by Maj Gen A M L Masondo, who was appointed by the Placement Board as a Maj Gen and has proven himself to be a suitable successor He was a member of the former MK, with ample experience and knowledge regarding communication and external liaison He is Joint Staff Course qualified

(iii) Maj Gen F A Botha was replaced by Maj Gen Ramano, a former member of MK, who was appointed by the Placement Board as a Maj Gen and has distinguished himself as a commander, with ample skills and expertise, during his appointment as General Officer Commanding Northern Cape Command Although his appointment as General Officer Commanding Northern Cape Command has been relatively brief he has acquired the basic attributes which are needed to manage the post of Deputy Chief Army He is Joint Staff Course qualified

(iv) Maj Gen D P Lamprecht was replaced by Maj Gen C H van Zyl, who is Senior Command and Staff course as well as Joint Staff course qualified His experience in the former SA Defence Force made him a most suitable replacement for appointment as General Officer Commanding Western Province Command He also proved his skills and expertise during his appointment at Army Headquarters as the former Director Communications

(v) Maj Gen D C Benade, former General Officer Commanding Witwatersrand Command was replaced by Maj Gen W G Lombard, who is Senior Command and Staff Course as well as Joint Staff course qualified and has proven his expertise during his former SA Defence Force command appointments He replaced the General Officer Commanding Gauteng Command after the amalgamation of the former Witwatersrand and Northern Transvaal Commands He is an appropriate successor for Lt Gen S Nyanda, who was the previous General Officer Commanding Gauteng Command

*43 Dr T G ALANT – Finance [Question standing over]

*44 Mr A WATSON – Finance [Question standing over]

Hansard

Competition policy for SA

*45 Mr D DE V GRAAFF asked the Minister of Trade and Industry

(232)

(1) Whether the process of drawing up a competition policy for South Africa is behind schedule, if so, (a) why and (b) what steps does he or his Department intend taking in this regard,

(2) whether he intends tabling in Parliament or making public a written policy statement on this issue if not, why not, if so, when?

N1153E

The MINISTER OF TRADE AND INDUSTRY

(1) There is not a fixed schedule for the revision of the competition laws However, it is going slower than most would have liked

(a) because of the pressure of the Ministers work programme and because of related recommendations on overall corporate law

(b) a memo will be piloted through Cabinet in June and the agreed process in Nedlac will start

(2) Not at this stage since it has not gone before Cabinet I will make a statement at an appropriate time but did of course address this matter in my Budget speech

For written reply

SADF property acquired clandestinely

197 Mr L T LANDERS asked the Minister of Public Works

(1) Whether his Department's investigation into state-owned property included an investigation in respect of property acquired clandestinely for the purposes of the South African Defence Force's Project Coast if not why not, if so, (a) what was the original value of the property in question, (b) where is this property located and (c) what are the further relevant details,

(2) whether his Department's investigation into state-owned property that was so acquired clandestinely for Project Coast or for any other purposes included (a) a corporate mansion on the Fancourt Golf and Country Club Estate, allegedly purchased in 1991 by a certain company, the name of which has been furnished to his Department for the purpose of his reply, which is or was owned by a company, the name of which has also been furnished to his Department (b) a certain company, the name and details of which have been furnished to his Department, (c) a Jetstar luxury jet that is or was registered in Orlando Florida in the United States of America, (d) a cottage in Harfield, London, in the United Kingdom, (e) a certain bank account called Blu-Mar, details of which have been furnished to his Department (f) a luxury double apartment in one of the most prestigious suburbs in Brussels, Belgium, and (g) the Five Nations Country Club in Me'an Belgium, if so (i) what are the names of the companies concerned and (ii) what are the further relevant details in each case?

N338E

The MINISTER OF PUBLIC WORKS

(1) No Cabinet mandated the National Department of Public Works to compile a National Register of state-owned fixed property This refers to properties registered in the name of the Republic of South Africa and/or Provincial Governments (including the various descriptions, of which 149 are known such as 'The Minister of Public Works', 'Transvaal Provincial Administration' etc) The task does not include properties of parastatals local authorities state-owned companies such as Escom Telcom, etc which is presently being researched by the Department of Land Affairs The latter will be incorporated in the data base of the Department of Public Works On completion of the project on all known and traceable State properties, investigation into properties that were acquired and sold clandestinely in and outside the country will ensue

ANALYSIS

Political will must triumph over the trade unions on privatisation

The privatisation process, which could be very beneficial to SA's economy, has been hampered by what amounts to a trade union veto, argues Inkatha Freedom Party MP **Mandla Msomi**

BD 2/5/97

(232)

THE recent parliamentary budget debate has reinforced understanding of some of the economic realities of privatisation

Privatisation on a vast scale would remedy the state's failures in making the parastatals more efficient and profitable, improving the delivery of related services and products It would also be the major identifiable real source of foreign investment, while promoting vast technological transfers from the companies which purchase assets such as our airlines or telephones

Privatising parastatals worth about R20bn could cure our public finance ailments, decreasing our borrowing from R37bn to R17bn, saving a yearly R3bn of passive interests alone Less government borrowing would be likely to lower interest rates, making more internal capital available for economic development, and reducing the cost of servicing public debt

Run more efficiently, privatised assets would create externalities and a renewed push towards increased productivity

These are but a few of the many identified pros of privatisation.

Therefore, privatisation makes sense all around. Accordingly, we made firm commitments — backed by President Nelson Mandela and Deputy President Thabo Mbeki — to foreign partners and governments that we would vigorously pursue this policy

However, very little has so far happened. Why have many wheels spun with so little movement on the path of privatisation?

Our parliamentary portfolio committee went around the world to look at processes and techniques We realised that there were flaws in the system and the process had to be politically righted. We had to design a process, including the participatory role of the portfolio committees, to ensure the accountability of the executive to the legislature, as most of the privatisation effort was originally conceived as an administrative, rather than a legislative matter

Thereafter, we had to design a legislative framework for a developmental strategy to privatisation

Speculation and imprecise media reports then clouded the debate on the role played by government in ensuring transformation within parastatals, strategic partnerships and black empowerment as a component of the privatisation process and its relation with the success of the macroeconomic strategy Rising management, investor and trade union fears about empowerment weaken the political will to push privatisation forward.

We focused therefore on strengthening this political will by broadening the basis of consensus at the decision-making stage, to avoid resistance during implementation. We also stressed the need to proceed on the basis of a package of assets so as to defuse political or parochial issues However, soon the agreement on whether privatisation should take place became undermined by a long debate on when and to which extent it should happen. New political will had be found to make privatisation happen now and to the fullest possible extent

Rightfully, the portfolio committee wished to drive the privatisation effort rather than leaving it to the executive alone Hence, the proposal to have a law for each privatised asset — rather than executive actions adopted under an umbrella statute Indeed, parliamentary involvement enables transparent canvassing of all stakeholders and provides political legitimacy However, this approach undermined the notion of a package and diluted the political will to get the job done

Once the issue of privatisation was entrenched in the interplay between government, parastatal, trade unions and the other stakeholders, it became clear that trade unions had acquired a virtual veto power on the issues of when and how much to privatise, and could delay the process to the point of making it economically unviable

The national framework agreement was created as a forum designed to generate consensus between government and trade unions on privatisation However, the unions were given the power to prevent agreement on any restructuring of assets, including privatisation basically, a veto power on the process The public enterprises minister tried to solve potential deadlocks by creating an additional venue within the NFA to mediate conflicts the "six-a-side" meetings to reduce disagreement down into practical steps on how, when and why of privatisation.

These steps include negotiations at the sectoral level This means that each sector, such as transport or minerals and energy, must initiate negotiations and make recommendations to government on how it wishes the process to proceed. This step has effectively given to the trade unions an additional opportunity to jam privatisation at an early stage

There then is a second stage at the parastatal level — in transformation and reconstruction committees which determine internal restructuring processes and recommend to government how the process should take place Government has given impetus to those objectives by setting time frames for privatisation of each parastatal

The public enterprises ministry and the portfolio committee have agreed to develop a set of criteria to determine the fairness of each proposal with respect to black empowerment strategies, inward investment and transparency of the sale Strategic advisors have also been retained to advise government, labour and the parastatals

This plethora of procedures, venues and committees hardly hides the crux of the matter the process is being held to ransom by trade unions which are intimidating a politically driven process into paralysis

Perhaps it is now time to get serious about privatisation and call back common sense from the distant land where it has been exiled. We all agree that privatisation is a good medicine to cure our problems but let us also realise that this medicine hurts when administered.

This surgical process cannot be jammed by the smallest pain, and it might be necessary to anaesthetise political sensitivity by diminishing our reliance on political will to push the process forward.

Common sense, reinforced by three years of poor delivery results, suggests that the privatisation equation contains the following elements

□ There must be a political will which cannot be questioned every time a union might complain,

□ While some elements within the ANC favour privatisation, others are dead set against it, which results in a lack of serious political will — camouflaged under a quest for consensus and inclusiveness,

□ Once the political will is entrenched and the train can no longer be stopped at whim, there must be real consultation on how to do it, rather than on whether, how much and when to do it. Accordingly, during implementation, rather than during the initial decision making process, parliamentary structures should ensure consultation, transparency and fairness in making state assets available for public and private sector participation and black empowerment;

□ Time frames, modalities and techniques of privatisation must be consistent with market forces to maximise value of assets being privatised, which means the actual process should be an economic rather than a political one, and

□ There should be no space to make political issues on how privatisation takes place

Solving this equation is a simple exercise Restructuring and privatisation should be the task of an independent privatisation commission which drafts and recommends legislation for each asset, or a package of assets This is consistent with the fact that most of the parastatals are created by statutes, while government holds public assets by law In any case, Parliament would have the final say

Legislation establishing the commission should entrench the political will by directing the commission to recommend and plan privatisation of any asset held by government or a parastatal for which it cannot identify a compelling reason for remaining under direct or indirect government control or ownership It would be even better if this legislation were backed by a general constitutional principle prohibiting government from providing services or products which the private sector may provide with comparable efficiency and reliability

The commission would be forced to work with the stakeholders to avoid Parliament rejecting its recommendations, but would not be held to ransom by them Privatisation would not be driven by political but by technical considerations, and the job would get done, with parliamentary structures having the power to correct anything politically unpalatable

One would wish that common sense could triumph. Instead, with respect to privatisation, one gets the feeling that "at the end of the day, after all the stakeholders have consulted with all the role players we establish another committee to look into this issue"

National interest demands that we entrench once and for all a sound economic policy framework within which free enterprise, market-driven policies and privatisation of state-owned enterprises may attract inward investment, accelerate black empowerment and alleviate poverty

□ Msomi is chairman of the parliamentary public enterprises standing committee

Robyn Chalmers

Sun Air bid linked to empowerment

(232)

MALAYSIA Air and Air France would have to link up with a local black empowerment group should either succeed in its bid to buy Sun Air, the public enterprises ministry said.

Public Enterprises Minister Stella Sigcau and Transport Minister Mac Maharaj announced earlier this week that eight local and foreign companies and consortiums had qualified to bid for the airline in SA's first full privatisation.

Sigcau announced in February that foreign investors would be able to buy a maximum 49% of Sun Air, rather than the 25% previously offered. This was in response to concern that 25% was not large enough to attract foreign bidders and that there was a need to inject foreign capital into the organisation

While bidder Virgin Atlantic has linked up with six local empowerment groups, neither Malaysia Air nor Air France have indicated that they are planning to go a similar route Both have entered the bidding fray in their own right

"The stake they can hold will be limited to 49% and government has made it clear it wishes to sell 100% of Sun Air, so logically any successful foreign bidder would need a local partner," said Wandile Zote, a ministry spokesman

Analysts said it was possible that Virgin, which many industry observers believed to be the bidding frontrunner, could take 49% of Sun Air if it won, with the remaining 51% divided among its local partners

One analyst said that should this materialise, it was possible that a single foreign operator could end up with a controlling stake in Sun Air.

The other bidders for Sun Air announced this week were Comair/NSA Investments, Rethabile Consortium, Ukhozi Sanco Consortium, Phoenix Venture Partners and Maru Investment Holding

The sale is expected to be completed by the end of July Tender documents were made available this week and bids have to be made by May 22, after which a short list will be announced

BD 2/5/97

Land claims put the brakes on negotiations to sell state

BD 5/5/97

S Aventura (232)

Robyn Chalmers

TALKS on the restructuring and sale of state-owned resort company Aventura had been temporarily halted while claims on Aventura-owned land were being investigated, industry sources said at the weekend.

They said an unspecified number of land claims had been lodged over the past few years on land owned by Aventura around SA, but particularly in the North West. As a result, a decision had recently been reached to call a temporary halt to the talks while advice was sought from Land Affairs Minister Derek Hanekom.

"It would be pointless to move ahead with the restructuring and sale of Aventura while there are land claims which have not yet been resolved. The issue needs to be carefully considered," said one source. Government spokesmen declined to comment.

Reneé Grawitzky reports that a union spokesman said the land claims were an important issue. An industry source indicated such claims had been raised with Aventura three years ago, but action had been taken only recently. Besides the land claims there were other issues, which parties would not disclose, hampering the talks.

The public enterprises ministry said last month it planned to sell 100% of Aventura after government and labour representatives agreed to its full privatisation.

Industry analysts generally expected Sun Air to be SA's first full privatisation exercise, with talks on track for a sale to be completed by the end of July. The sale of Aventura had also been scheduled for end-July, but the decision to halt talks would probably delay the sale.

It is understood 10 local and foreign organisations have expressed interest in buying Aventura. One is believed to be a major financial services group with a strong economic empowerment core. Sources said others could include Malaysian company Samrand, a number of US leisure and industrial companies, and Safren and Kersaf.

Another could be the controversial Dubai-based Dolphin Group, which recently forged a deal with the Mpumalanga Parks Board for exclusive development rights on parks board land — including prime Aventura properties Blydepoort, Loskop Dam and Swadini.

Industry sources said Kopano Ke Matla — union federation Cosatu's investment trust — was also understood to be contemplating putting in a bid while the SA Commercial, Catering and Allied Workers' Union's investment company had indicated it might also wish to go this route.

'Privatising' govt stock a step closer

(232) BD 6/5/97

Greta Steyn

MOVES to privatise the marketing of government stock have gained momentum, with the finance department asking banks for their views on two key issues — capital requirements and exchange controls

The department wants private banks to make a market in its stock, rather than the Reserve Bank, in a bid to manage state debt more effectively. Private market-makers of government bonds would have to be prepared to buy and sell stock at all times in the market, just as the central bank does now

According to a discussion document just sent to bond market players, foreign banks would have to make a direct investment in SA before they could become market makers The document tentatively suggests a capital base of R1bn for a banking group as a means to avoid systemic risk.

Offshore players would have to invest a portion of R1bn and provide guarantees for the rest Local market sources said the figure — which was still only a suggestion — would make it easy for large foreign players to enter the market, as well as for most local banks "It is by no means an onerous requirement," one source said

Foreign banks such as JP Morgan, and possibly Goldman Sachs and Deutsche Bank, are champing at the bit to become market-makers. Local banks, believed to include Absa, Investec, Standard Bank and Rand Merchant Bank, are also keen but are worried about unfair competition from the foreign players.

The department tackled the issue of unlevel playing fields in the discussion document Market sources said the department had asked the banks to outline the type of foreign investments they would have to undertake to hedge their exposure in the local gilts market

"This could signal a major shift in thinking, as at present local banks are not allowed to take positions in overseas capital markets," a source said

While the discussion paper did not

Continued on Page 2

Govt stock

(232)

Continued from Page 1

BD 6/5/97

actually say a special dispensation would be created to allow offshore investments, the source believed local banks would not want to become market-makers if there was not some easing of exchange controls that applied to them. Market makers would be responsible for raising the capital to meet government's borrowing requirement of more than R30bn, and would have to be prepared to buy and sell stock in bull and bear markets.

As a result, the banks that took part ran the risk of huge exposures which local banks said could be hedged in foreign markets.

"The idea is to look at other markets where there is a correlation with the local market, and to hedge a local position there," one banker said

The changeover to private market-makers could take place in a year's time at the earliest, by which time further easing of exchange controls could help the process It was understood that the department's thinking was to facilitate foreign hedging by providing banks with permission in advance for a range of investments

"There should be no lag between the decision to take an offshore position and obtaining permission," a finance source said

A controversial aspect of the department's present thinking was the scrapping of the need to create "Chinese walls" around the market-making and jobbing activities of a bank. The fence around the different activities was needed to avoid speculators "front-running" government funding and making insider trading profits on the company's knowledge of government's finances

It was understood that the department believed Chinese walls would be too difficult to monitor, and that supervision was best left to the Registrar of Banks However, market sources said there would still be some debate about the issue.

Some bankers and brokers were sceptical about the move towards private market-making, saying there was not enough money in it to make it worthwhile. However, bankers who were keen argued that there were lucrative spin-offs to be had.

The foreign banks indicated they would not enter the SA market in such a big way until some regulatory problems had been sorted out, notably the long settlement period for gilts.

Finance director-general Maria Ramos last month said government would force the market into a shorter settlement period by the end of the year if it was unable to get its act together without interference

NEWS

12 000 E Cape workers to protest privatisation

(232)

Demos planned for municipal offices

ARG 5/5/97

East London – More than 12 000 Eastern Cape municipal workers will join a nationwide protest action today against the threatened privatisation of aspects of the public service like water and electricity provision.

A national South African Municipal Workers' Union (Samwu) nine-day protest campaign was launched on Workers' Day last week but Eastern Cape participation has been delayed to allow for thorough preparations.

Samwu Eastern Cape secretary Nicholas Ndyalivani said the campaign involved lunchtime demonstrations outside municipal offices until May 9.

Mr Ndyalivani said it was not expected that the campaign alone would shift the government trend towards privatisation but it would educate local councillors on the negative side of privatisation

The campaign would be followed up by more vociferous anti-privatisation action.

He said Samwu was against the privatisation of health services, including hospitals and ambulances, and water and electricity because this would make them unaffordable for most people.

Samwu national spokeswoman Anna Weekes said: "Samwu is of the opinion that services should be provided in the spirit of the RDP – to meet needs, not for the profit of foreign companies.

"It is rumoured that Biwater, a British company, has offered the Department of Water Affairs and Forestry R12-billion to privatise the water and waste services of the entire country Samwu will not allow our water to be handed over for the profit of unsavoury multinational companies without a fight."

She said Samwu research showed that privatisation resulted in:

- a "drastic" rise in prices within two years of privatisation.
- a drop in quality of service because multinationals were difficult to control
- workers losing their jobs, with assurances of "no retrenchments" being broken within two years
- corruption when private companies resorted to bribery to win tenders.
- wastage of public money.

Ms Weekes said Samwu was developing pilot project proposals for public sector alternatives to the privatisation of water and waste services. – Ecna

NEWS

Privatisation needs legal basis, says PAC

(232)

CT (BR) 5/5/97

CHRISTO VOLSCHENK
ECONOMICS EDITOR

Cape Town — The Pan African Congress (PAC) wants the process of restructuring and privatisation to be formalised with legislation "to ensure new owners of state assets have a good title which will be legally defensible"

The legislation must spell out who will have the power to engage the state in transactions which will pass title from the state to the private sector

Patricia de Lille, PAC MP, will call on government in parliament today to introduce legislation which will spell out how and by whom the process of restructuring and privatisation should be implemented

Mandla Msomi, the Inkatha Freedom Party MP and chairman of the parliamentary public enterprises standing committee, has also called on the government to introduce legislation which would "create an independent privatisation commission to drive the process and write legislation necessary to restructure the different assets"

The parliamentary standing committee on public enterprises went on a worldwide trip to study how other countries have implemented privatisation

The independent privatisation commission would break the hold the unions had over the process and put it in the hands of parliament, Msomi said

De Lille said legislation should promote transparency, work against corruption in the process and ensure the interests of ministers did not prevail above those of the nation

A motion tabled in parliament on Friday by the PAC said the legislation should provide a legal framework within which privatisation could take place.

"The legislation must contain a full list of state enterprises with their values, define the objectives of the programme and create the structures to execute the programme of restructuring and privatisation.

"It must give parliament the opportunity to participate fully in the process of restructuring and privatisation"

Samwu's anti-privatisation campaign picks up speed

CT (BR) 6/5/97 (232)

Frank Nxumalo

Johannesburg — Thousands of workers allied to the South African Municipal Workers' Union (Samwu) had responded positively to the union's anti-privatisation campaign which began last week, said Anna Weekes, a union official.

In Cape Town, 12 000 workers met to state their demands on privatisation, and on the East Rand 600 workers demonstrated, said Weekes.

Samwu's Eastern Cape region would be taking its protest to Humansdorp today, while 1 000 municipal workers were expected to turn out on Thursday in King Williams Town, Queenstown and East London, she said.

In Nelspruit the action was suspended while Samwu officials met with the council. It would resume today, however, with workers involved in lunch-time demonstrations.

Weekes said Samwu was working hard on developing "pilot proposals for public sector alternatives to privatisation of water and waste services".

The water and forestry affairs minister, Kader Asmal, said at the weekend that while his department "had to accept working in new ways with the private sector", Samwu's claim of a R12 billion offer to buy out South Africa's water resources by Biwater, a British company, was "nonsensical".

Parliament demands say in restructuring

New bill to rule sale of state assets

CT(BR) 6/5/97 (232)

Christo Volschenk

ECONOMICS EDITOR

Cape Town — A bill would be tabled in parliament to regulate privatisation and the restructuring of state assets, Stella Sigcau, the public enterprises minister, said in parliament yesterday.

This followed comments by Patricia de Lille, the PAC minister of parliament, that shares in some state assets, including Aventura and Safcol, could only be sold with the approval of parliament

De Lille said she would call on parliament today to put pressure on the government to table a bill "within two to three weeks" which spelled out who would implement the restructuring programme and what parliament's role would be.

"Almost all the laws governing state entities contain clauses which prohibit the sale of shares without parliament's approval and, until now, no such legislation had been drawn up Even the national framework agreement between labour and government did not mention the need for these laws," De Lille said.

De Lille said thus far parliament had been excluded from decisions on restructuring and privatisation.

"Members of parliament have had to read in the newspapers about decisions taken by government and labour regarding privatisation.

"For instance, the equity ownership of 49 percent of Sun Air to be sold to foreigners was decided in this way, and parliament had no say. The 49 percent ceiling is far too high and unacceptable," she said.

Reuter reports that Sigcau said the government was likely to sell a strategic stake in national carrier SAA next year. She said the overhaul of SAA, which faces increased competition from other airlines operating on its routes, was a priority

"The government's preferred method is to seek a strategic equity partner (SEP) Labour has shown support for the SEP route, and the government expects the restructuring of SAA to be complete during 1998," she said

Sigcau said the SEP route was also the government's preferred option for the Airports Company, which runs South Africa's main airports. The restructuring of this company was expected to be complete by the end of the year or early next year.

The restructuring of Safcol, the state forestry company, complicated by the issue of land claims, should be achieved in "some form" by the end of the year or early next year, Sigcau said

Land claims are also complicating the restructuring of resorts company Aventura, where a tender process has been started for the sale of 100 percent of the equity

Sigcau was non-committal on the future of electricity producer Eskom, South Africa's biggest state company

Disadvantaged to benefit from privatisation

Star 6/6/97 (232)

By Jovial Rantao
Political Correspondent

Cape Town – The Government has agreed to two policy objectives that would enable historically disadvantaged businesses and the 174 430 employees at the five state-owned enterprises to benefit directly from the enterprises' privatisation, Public Enterprises Minister Stella Sigcau announced yesterday

Introducing a debate on her ministry's budget vote, Sigcau said an interministerial cabinet committee (IMCC) had agreed that shares in restructured enterprises should be sold, at a discount, to the National Empowerment Fund (NEF) that would be set up to empower historically disadvantaged communities

Sigcau said it was the Government's intention that funding schemes would be developed with the private sector to enable the disadvantaged to acquire shares in the NEF

"These principles were accepted by the IMCC and will be discussed at the portfolio committee and with labour and other stakeholders," she said

She said the Government had also agreed to give the workforce of state-owned enterprises more say by using employee share ownership schemes The IMCC had endorsed the share scheme with a limit per employee of about R10 000

Sigcau also announced that the Government expected the restructuring of the five state-owned enterprises, with a joint turnover of R40-billion, to be completed or nearing completion in the next 12 to 18 months

Unveiling the time-frames for the first time, Sigcau said "some form of restructuring" would be achieved at timber-growing and processing company Safcol by the end of this year or early 1998

Sigcau said the tender process for the sale of 100% of the equity at Aventura holiday resorts to a consortium of sector-specialist companies and groups of historically disadvantaged investors, which was started earlier this year, would be completed within the next 18 months

She said the restructuring of the Airports Company and South African Airways would be completed this year SAA experienced a net loss of more than R300-million The loss was attributed to higher fuel prices, increased foreign and local competition, the unfavourable rand-dollar exchange rate, and industrial action by staff of SAA's technical division

Turning to Eskom, Sigcau said 1996 saw an increase in payment levels from previously black local authorities, from 39% in 1995 to 62% last year The amount owed to Eskom increased to R1 413-million in 1996 from R1 192-million in 1995

The NP's Dr Dawie de Villiers accused the ANC of committing itself internationally to a liberal market economy, while at home it clung to "remnants of a socialist Marxist approach"

The DP called on the Government to announce a policy on privatisation for state enterprises through a mix of stock market listings and selling stakes to strategic foreign investors

▶ Sale of state assets

Stride report 'could pave way for Transnet privatisation'

BD 7/5/97 (232)

Robyn Chalmers

THE Stride committee recommendations had the potential to overcome the biggest obstacle to Transnet's future privatisation, namely the R13bn pension fund burden, analysts and government spokesmen said yesterday

Public Enterprises Minister Stella Sigcau said in her budget speech this week that the committee had recommended the Transnet debentures be cancelled and that all Transnet pensioners be taken over by the state.

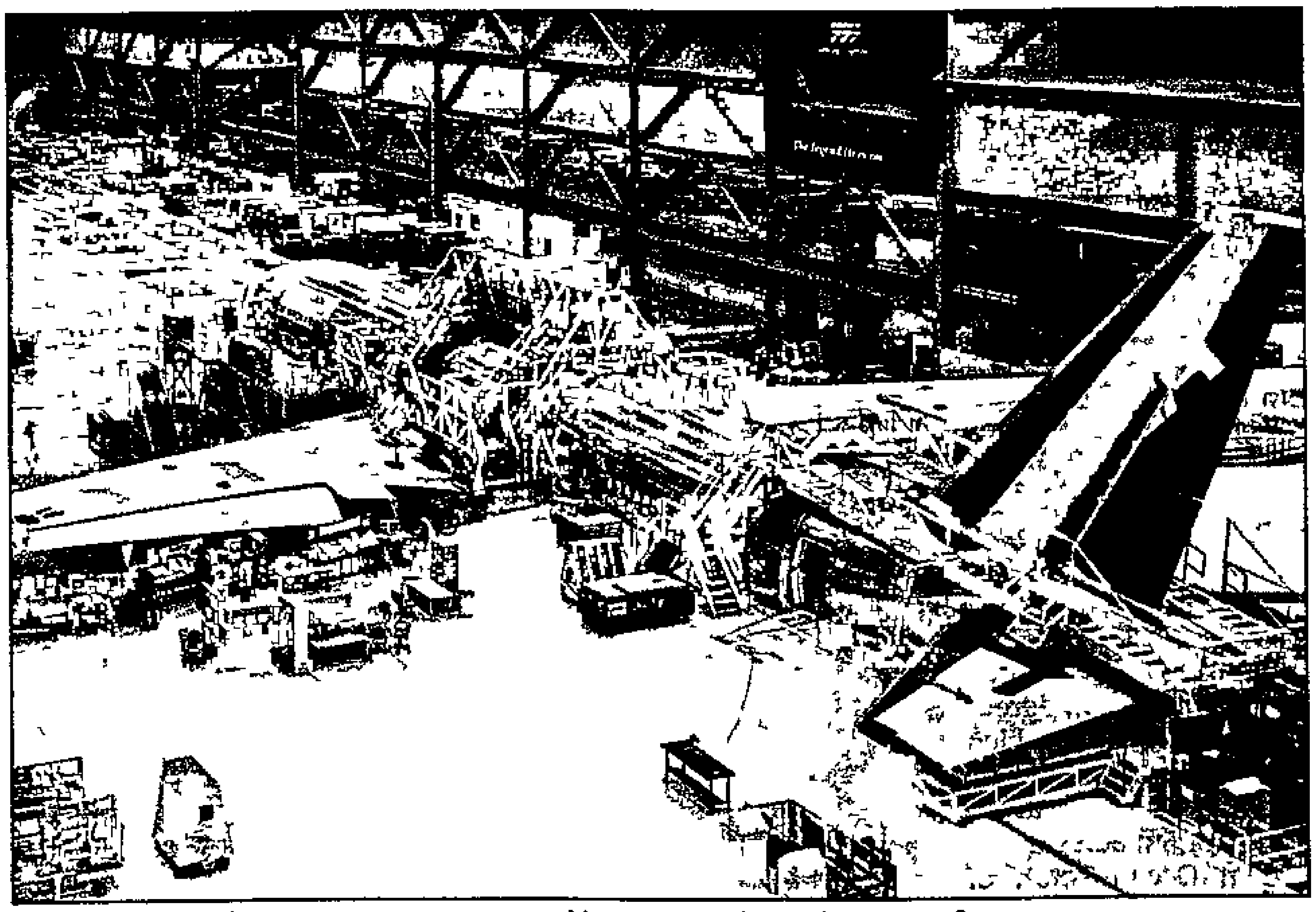
Public enterprises ministry spokesman Wandile Zote said it had been hard to proceed with Transnet restructuring as the pension fund obligations had been problematic "The Stride committee recommendations are positive and should pave the way for restructuring to move ahead far more rapidly," he said

A transport spokesman said the pension fund was "in chaos" It was imperative to sort out its problems as soon as possible, before progress on restructuring talks could be made

The report is before the interministerial cabinet committee, and other talks must still take place before it can be implemented

A top Transnet finance division spokesman said recently Transnet would be burdened with payments of R2bn a year for the next five years from pension and medical aid fund deficits The spokesman said Transnet was paying 16,5% interest — or R1,4bn a year — on R10bn stock it had issued to reduce the pension fund's deficit. The parastatal was also paying an additional R200m to the pension fund and R400m to the medical aid fund

Comment: Page 9



Boeing 777 under construction can Nomvete pick up the pieces?

SA AIRWAYS

Trouble on flight deck lands slap in Sigcau's lap

(232) FM 9/5/97

Going cheap, loss-making State enterprise with ageing fleet and staff morale spread-eagled on the runway

Public Enterprises Minister Stella Sigcau is to revamp SA's ailing national airline She considers the matter crucial, due to its "importance as a national asset" SA Airways, say observers, is just about as important as the Voortrekker Monument in terms of national assets National airlines have traditionally haemorrhaged cash Alitalia, Lufthansa, British Air to name a few

It was only privatisation that saved Lufthansa and BA Alitalia continues to bleed To her credit the Minister realises an equity partner is required But who will come aboard under present management?

The airline lost R350m for the year to March and all indications are that it will continue to freefall The dive looks like putting paid to any lofty thoughts of selling the airline (or part thereof) to the private sector

Who would pay top dollar for an enterprise that is losing nearly R1m a day? The carrier has had a downturn of almost R700m on the pre-audit R340m profit it made in fiscal 1996

Ever-faithful CE Mike Myburgh attributes the loss to last year's fall in the rand, and a hike in fuel prices

Those in the know don't buy that They blame changing management styles for the airline's woes While he had sole responsibility, Myburgh turned a loss of R23m in 1994 into a R217m profit in 1995 — a turnaround of R240m He then went on and turned in a creditable R340m profit for 1996

Myburgh now has to report to executive director Zukile Nomvete, appointed this year

On a turnover of more than R4bn, pundits say the airline should have been able to absorb the R60m lost during a technical workers' strike earlier in the year and still show a profit

SAA's load factors are mostly good It has 75% of the domestic scheduled market, and most of its aircraft flying between SA, the UK, and the US are full What has gone wrong?

The change in management style triggered off a number of repercussions

The most serious is the drop in morale following the loss of senior executives Former GM Nick Vlok, who was with SAA for 30 years, joined Comair Next to go was Gary Webb, executive manager of marketing planning It also lost advertising chief Ian Bromley The list continues Steve Donnelly, responsible for international marketing, Eric Kelbick, responsible for the African market, Roland Bungey, responsible for national and international sales, and Mickey Mitchell, flight operations chief for nearly 30 years, and 10 managers with 15 years service each

In November 1995 Sigcau announced SAA had placed an order with Boeing for seven 777s and two 747-400s A year later Nomvete inexplicably put the order on hold

Since then the order for the two 747s has been reinstated but they will come into service only next year There is no sign of a firm order for the 777s Meanwhile, SAA is losing out to competitors using modern aircraft

David Pincus

Monopoly accusations greet Outspan's venture with Metro

(232) ~~[illegible]~~ CT(BR) 12/5/97

ANN CROTTY
CONSUMER INDUSTRIES EDITOR

Johannesburg — Metro Cash & Carry (Metro) has established a multimillion-rand joint venture with Outspan, the citrus fruit export agent, for the marketing and distribution of citrus fruit to Hong Kong, the Philippines, Thailand and China, Metro sources said last week.

The launch of the joint-venture company, called Metspan, has been greeted with criticism from independent agents who charge that Outspan is using the last days of its statutory power to attempt to replace a statutory monopoly with a commercial monopoly.

One agent argued that it was inappropriate for Outspan to enter into an exclusive commercial agreement with a dominant player like Metro while Outspan was still enjoying the benefits of being the dominant agent of the Citrus Board. "How can they be doing private commercial deals if they are still effectively an instrument of state policy?" asked an independent agent. The agent added that, in terms of legislation, Outspan's privileged position would continue for several more months.

His concern, which is shared by other independent agents, is that the combination of Outspan's traditionally strong procurement position with local producers and Metro's strong position as a South African export agent in Hong Kong will effectively prevent independent agents from making any inroads into what is believed to be a highly lucrative and fast-growing market.

An additional concern is that this joint venture may be the first of many. Metro has a formidable international network that includes interests in Israel, Russia, the Middle East, Malawi and Botswana. There is also concern that Metro might look at similar deals with Unifruco, which for years was the exclusive export agent of the Deciduous Fruit Board.

John Grainger of Metro's international division said at this stage there were no plans to extend Metspan's brief beyond citrus fruit and the Far East: "At this stage we just want to see how Metspan will do. There are no discussions about Unifruco or Africa."

The joint-venture agreement provides for an exclusive supply of citrus fruit from Outspan to Metspan for distribution in the Far East. If Outspan was unable to supply sufficient fruit to Metspan, other sources would then be used.

THE BIG STORY

In the public's interest to go pri

Minister Stella Sigcau spells out why State is selling off i

ARG 13/5/97

COLIN DANIEL

A private person. Public Enterprises Minister Stella Sigcau who has announced more privatisation plans

PUBLIC ENTERPRISES MINISTER STELLA SIGCAU RECENTLY ANNOUNCED THE TIME FRAMES ON THE LARGEST AND MOST FAR-REACHING PROCESS OF RESTRUCTURING STATE ASSETS ON THE AFRICAN CONTINENT, WRITES **WILLIAM-MERVIN GUMEDE** OF OUR POLITICAL STAFF

Barely a month after pulling off the continent's biggest privatisation deal to date by selling 30 percent of Telkom for $1,26-billion (about R5,54 billion) Public Enterprises Minister Stella Sigcau rolled out the Government's plans to put another five state owned companies under the hammer

She briskly announced in Parliament last week that the privatisation of five State owned companies with a joint turnover of R40-billion was expected to be completed or would near completion in the next 12 to 18 months

The companies in which significant restructuring progress should be made were the Airports Company, Spoornet, Safcol, Aventura and Alexkor

A new bill also would be tabled in Parliament to regulate the privatisation drive and the restructuring of State assets, added Ms Sigcau

South Africa, the continent's economic leader, had been very careful to embrace privatisation so far, with the ruling class in the African National Congress only recently being prepared to use the "p word"

Zambia, arguably the continent's foremost privatiser, moved into top gear earlier this year with the sale of Zambian Consolidated Copper Mines, the mining company which accounts for about 90 percent of its national export earnings

Ghana, Kenya, Uganda, the Ivory Coast, Uganda and Mozambique were among other countries that had opted to go on a privatisation spree

The mood in South Africa has changed since with the sale of the 30 percent stake in Telkom to SBC Communications and Telekom Malaysia

Communications Minister Jay Naidoo said "Even though we have decided each restructuring will be done on a case by case basis, I think we've put into place a number of very important milestones in the Telkom process "

Ms Sigcau said Pretoria had embarked on the largest and most far reaching process of restructuring State assets on the African continent

The sale of the five State-owned companies now, according to Ms Sigcau, would bring South Africa up to speed with several other African countries where reformist governments had been pushing privatisation aggressively

The sudden increased activity on South Africa's privatisation front comes as a bit of a surprise, although President Mandela referred to it when he mapped out econom[illegible] for the year ahead including the imminent privatisation of key State assets, in his opening speech to Parliament at the beginning of the year

When President Mandela was released from jail, the African National Congress still had nationalisation "of the commanding heights of the economy" as a pillar of its economic strategy

The ANC's new economic blueprint, the Growth, Employment and Redistribution (Gear) strategy, backed by the World Bank and the International Monetary Fund, presses for a sweeping privatisation programme, deregulation and fiscal prudence

It will be interesting to see though, while Ms Sigcau claims she has trade union backing, how the Congress of SA Trade Unions will respond to privatisation moves

Although Cosatu has formally pinned its colours to a nationalisation mast, it is also a signatory to the National Framework Agreement of January 25, 1995

This agreement between the ANC's alliance partners – Cosatu and the SA Communist Party – allows for a degree of privatisation under the label "restructuring of State assets"

The agreement attempts to strike a balance between the conflicting demands for continued State control and the need for "restructuring of State assets" to allow partnerships with, and sales to, private corporations

'RDP goals will be defeated if restructuring benefits a new black elite while the delivery of services is undermined'

The debate between the ANC and its alliance partners is not over the whether there should be restructuring of state assets, rather, it is over what assets should be restructured, how and when this should be done and what safeguards should be built in to protect public sector workers against retrenchments by private sector entrepreneurs

Cosatu general secretary Sam Shilowa said some time ago "The goals of the RDP will be defeated if restructuring benefits a new black elite while the delivery of services is fundamentally undermined "

Ms Sigcau said the Government's preferred method of privatisation was to seek a strategic equity partner for each of the companies

Unveiling the privatisation time frames for the first time, Ms Sigcau told the National Assembly that an inter-ministerial cabinet committee had agreed that privatisation should also benefit historically disadvantaged businesses

The Government agreed to two policy objectives which would enable historically disadvantaged businesses and the 174 430 employees at the five State-owned enterprises to benefit directly from the enterprises' privatisation, said Ms Sigcau

To this end, shares in restructured State-owned companies would be sold at a discount to a National Empowerment Fund (NEF) which would be set up to empower historically disadvantaged communities

Ms Sigcau said it was the Government's intention that funding schemes would be developed with the private sector to enable the disadvantaged to acquire shares in the NEF

The employees of privatised enterprises also would benefit through employee share ownership schemes

The share scheme will allow employees to purchase shares to the value of R10 000

"These principles have been accepted by the IMCC and will soon be discussed at the level of the portfolio committee and with labour and other stakeholders," she added

'Safcol – the State company which runs commercial plantations – will be restructured by the end of this year'

She said Aventura – the group of State holiday resorts – would be sold off completely.

The tender for the sale of Aventura holiday resorts to a consortium of companies specialising in holiday resorts and groups of historically disadvantaged investors, would be completed within the next 18 months

She said the restructuring of Alexkor, which is involved in diamond mining in the Northern Cape, was a priority in order to inject fresh capital to fund exploration and development programmes

"The restructuring process for Alexkor is at a fairly advanced stage and has taken into consideration the importance of the economic role it plays in Namaqualand " She anticipated that the restructuring process should be complete by the end of 1997 or early next year

She said Safcol – the State company which runs commercial plantations – would be restructured by the end of this year

The restructuring of the Airports Company and South African Airways would be completed this year

It had been acknowledged that in view of SAA's importance as a national asset and the highly competitive market within which it operated, its restructuring should be considered a priority

The SAA experienced a net loss of more than R300 million last year Ms Sigcau said the loss was attributed to fuel increases, increased foreign and local competition, the unfavourable rand dollar exchange rate and industrial action by staff members at the SAA's technical division

The SAA workforce had problems with morale and ways needed to be found to motivate them to be "more patriotic concerning the airline"

Turning to Eskom, Ms Sigcau said 1996 had seen an increase in payment levels from [illegible] from 39 year [illegible] R1 [illegible] reduce [illegible] percent [illegible] ment in been 8,1 [illegible] get [illegible] year [illegible] gramme fied [illegible] ty to ricans [illegible] ered [illegible] success [illegible] had [illegible] over [illegible] haul [illegible] and iron

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ARG 13/5/97

(232)

COLIN DANIEL

‘ublic Enterprises Minister Stella Sigcau who has announced more privatisation plans

with the private sec- d.sad.antaged to acquire " - of privatised enterpris- 'ir through employee schemes will allow employees the value of R10 000 " plas have the the she of, its, completely the sale of Aventura hol- of companies resorts and groups antaged investors, within the next 18 ...cturing of Alexkor m diamond mining in was a priority in order to fund exploration ... process for Alexkor ... stage and has taken the importance of the economic role it plays in Namaqualand "

She anticipated that the restructuring process should be complete by the end of 1997 or early next year

She said Safcol – the State company which runs commercial plantations – would be restructured by the end of this year

‘Safcol – the State company which runs commercial plantations – will be restructured by the end of this year’

The restructuring of the Airports Company and South African Airways would be completed this year

It had been acknowledged that in view of SAA's importance as a national asset and the highly competitive market within which it operated, its restructuring should be considered a priority

The SAA experienced a net loss of more than R300-million last year, Ms Sigcau said the loss was attributed to fuel increases, increased foreign and local competition, the unfavourable rand dollar exchange rate and industrial action by staff members at the SAA's technical division

The SAA workforce had problems with morale and ways needed to be found to motivate them to be "more patriotic concerning the airline"

Turning to Eskom, Ms Sigcau said 1996 had seen an increase in payment levels from previously black local authorities, from 39 percent in 1995 to 62 percent last year

The amount of money owed to Eskom increased to R1 413 million in 1996 from R1 192-million in 1995

Eskom was on track with its aim to reduce the real price of electricity by 15 percent by the year 2000

Since it had spelled out the commitment in 1994, the real reduction to date had been 8,1 percent, she said

The organisation had set itself the target of electrifying 1 750 000 homes by the year 2 000 and since the start of its programme 1 259 520 homes had been electrified

Eskom's success in providing electricity to hundreds of thousands of South Africans who were traditionally not considered part of the electricity market "is a success we must look up to"

Referring to Spoornet, Ms Sigcau said it had developed world market leadership over the years in the running of heavy haul trains carrying minerals such as coal and iron ore

The technologies and competencies it had developed were not only sought after the world over, but they provided the company with a competitive tool that had the potential to carve out a niche for it in the global market.

Therefore Spoornet was in the process of bidding, in the context of local and international partners, for the operation of freight and heavy-haul systems in Brazil

Ms Sigcau said one of the challenges her department had faced had been to nudge public enterprises to move from antiquated and authoritarian management styles and to embrace all the management levels that flowed from South Africa's new constitution

The public enterprise committee had passed this year's budget "not without reservations" which included greater clarity on how the restructuring of enterprises was to serve black empowerment

Patricia de Lille of the Pan Africanist Congress said shares in some State assets, including Aventura and Safcol, could only be sold with the approval of Parliament

Ms de Lille said she would call on Parliament to put pressure on the Government to table a bill "within the next two or three months" which spelled out who would implement the restructuring programme and what Parliament's role would be

Kobus Jordaan of the Democratic Party said privatisation would succeed only if the process was transparent, and quoted an economist saying that sale of equity to foreign investors could provide South Africa with more than R50-billion

The DP called on the Government to announce a policy on privatisation for the major State enterprises through a mixture of stock market listings and selling large stakes to strategic foreign investors

"The privatisation of large State enterprises could only boost the market's capitalisation by 20 to 25 percent.

If foreign investors purchased only 20 percent, it would provide SA with an additional $8 billion (about R35,2 billion) to $10 billion (about R44 billion) in foreign investment, said Mr Jordaan

Banks warned on home levies

(232)

By Troye Lund

The Competition Board has demanded banks and the National Home Builders Registration Council reply to its warning that their collusion had led to millions of rands being illegally levied on homeowners.

The board's warning to the Council of South African Banks (Cosab) and the NHBRC came after 17 of Gauteng's 20 major residential developers complained that they were being forced to act as tax collectors.

They said the banks would approve the loans of developers' clients only if the developer was registered with the NHBRC and had paid over a levy that equalled 1,3% of the home's selling price – even if the loans were more than R65 000, which is the maximum loan amount on which the levy may be charged.

The developers told the board that about R85-million would have been levied on homeowners unlawfully by the end of this year if the banks and the NHBRC continued to collude and levy clients with home loans over R65 000 and up to R250 000.

After investigating the complaints, the board issued a stern warning to Cosab and the NHBRC.

The developers said they were seeking legal opinion on "this gentleman's way of extortion".

The board gave Cosab and the NHBRC permission to collude in April 1995 to encourage the financing of small housing loans. Developers had to be registered with the NHBRC and had to have paid the levy before the bank approved home loans under R65 000.

Levies, handed over to the NHBRC, would act as a warranty to protect consumers against defectively built homes.

But, without further reference to the board, the colluding partners raised the levy ceiling in February last year to include loans up to R250 000.

Star 13/5/97

Metrorail to be opened up to private competition

(232) ~~(2??)~~ BD 16/5/97

Robyn Chalmers

STAKEHOLDERS have agreed to open commuter rail service provider Metrorail up to private sector competition via concessions within four-and-a-half years, depending on the outcome of a pilot project scheduled to kick off soon.

Transport department director-general Ketso Gordhan said the decision to introduce competition to commuter rail services was the result of negotiations with labour and other stakeholders

Government initially intended to introduce concessions on significant portions of SA's rail network within three years with labour looking at 17 years, but the final outcome was a continued monopoly for four and a half years

Gordhan said talks were under way on the introduction of a pilot project on a specific route to test the viability of granting concession agreements

"We want to ensure the route is representative of the SA rail commuter situation — one which is neither too lucrative or too unprofitable We are also looking for a route on which we can introduce a build, operate and transfer (BOT) system," he said

Gordhan said it was expensive to expand the rail network in SA and government was considering the possibility of the private sector both operating and expanding portions of the rail network.

The BOT mechanism envisaged the private sector raising funds for public projects, building and operating them, after which they would revert to the state at the end of the contract period Concessions would see the private sector entering into an agreement with government to build or rehabilitate infrastructure and operate a facility for a fixed period.

Transport department land transport chief director Theo Maeder said Metrorail's contract with the SA Rail Commuter Corporation had been restructured to allow private sector competition

"The target is to introduce full concessioning in four and a half years and to bring in both local and international operators," Maeder said

Transport Minister Mac Maharaj said recently Metrorail had been separated from Spoornet from January 1, and was operating as a separate division

Analysts said Metrorail would have to be convincingly turned around if it was to compete effectively with the private sector within four and a half years. It has been reliant on state subsidies via the SA Rail Commuter Corporation for years The corporation posted a deficit of more than R1bn for the 1994/95 financial year, before a R1,2bn state subsidy

Metrorail said it had made strides toward transformation by setting aside R2,8bn to upgrade its coaches over the next 15 years and committing itself to improved customer service practices. Measures being put in place included mobile ticket selling points, customer care programmes for all front line staff, station upgrades and a zone fare structure.

Dispute with govt stalls Alexkor's restructuring

BD 20/6/97 (232) (216)

Reneé Grawitzky

THE privatisation and restructuring of Alexkor, a diamond mine in the Northern Cape, was suspended by the mine's restructuring committee yesterday and it declared a dispute with government and Alexkor's board.

The committee said the dispute arose when Public Enterprises Minister Stella Sigcau ignored its recommendations on corporate governance and announced a new, non-negotiable management structure.

Sources close to the process said four board members who did not agree with the decision were considering resigning over this issue. The committee consists of representatives of Alexkor management, labour, community and provincial government.

Diamond analysts warned the dispute, which could stall restructuring, placed the mine's future in jeopardy as it was unclear whether reserves could extend beyond six months.

The mine's poor financial position could be exacerbated by the high level of diamond theft

Industry sources said international syndicates operating out of Port Nolloth smuggled out about R130m worth of diamonds annually from west coast mines, including Alexkor

The committee said about R5m worth of diamonds were smuggled from the mine last weekend. An industry source estimated that between 20% and 40% of Alexkor's total turnover was smuggled from the mine and production was down to 30%.

Robyn Chalmers reports that Sigcau said it was not within the mandate of the committee to declare a dispute over a corporate governance issue.

"It is the clear mandate of the shareholder (government) to deal with corporate governance," she said.

She declined to comment further.

The committee said Sigcau had made a management decision by which she would implement what she regarded as an informed management structure, which in fact was nothing more than a repetition of a structure implemented and scrapped two months ago because it was not working

The committee proposed a structure whereby an interim management team could be brought in to assist current management to recover the situation and bring the mine back on track.

A diamond analyst said government was dealing with a mine on its knees. The restructuring committee could either be seen to be part of the problem or solution. However, the mine's life depended on proper management. Two Alexkor chairmen had resigned in the past year while numerous top management reshuffles had occurred, with some being fired or resigning. The committee said the current management was incapable of running Alexkor.

Competition Board to study casino rezoning

(237)

CHRISTO VOLSCHENK

Cape Town — The Competition Board is investigating whether an objection by African Sun Mpumalanga (Afrisun) to a rezoning application by Tsogo Sun contravenes the competition legislation, Pierre Brooks, the board chairman, said in parliament yesterday.

"Tsogo Sun has lodged a complaint with the board saying Afrisun's objection to the rezoning application constitutes an abuse of process and restricts competition. As such, the board has launched a formal investigation," he said.

The Mpumalanga Gaming Board awarded Tsogo Sun a gambling licence earlier this month for a casino in Witbank on condition that it received approval for the rezoning of a site on the N4 freeway about 5km outside Witbank's CBD.

CT(BR) 21/5/97

Afrisun was also in contention for the licence and filed a last-minute objection to Tsogo Sun's rezoning application after it was announced Tsogo Sun had been awarded the licence.

At the time industry sources speculated that Afrisun's objection to the rezoning application could delay the opening of the casino by up to three months from the end of this year to early next year.

"The questions whether the objection constitutes an abuse of process and, as such, is a restrictive practice outlawed by our competition legislation are difficult ones to answer. But the complaint has been lodged and we are investigating the matter.

"In American case law there are examples where similar situations have been condemned as an abuse of process and therefore anti-competitive," Brooks pointed out.

Privatise railways while there's still time, expert warns countries of southern Africa

(232)

Star 24/5/97

By PETER FABRICIUS

Harare – Southern African countries were warned here that they should privatise their railways soon, while their economies still had the high growth potential to attract investors.

Global management consultant Peter Wagner was speaking at a seminar on privatising transport during the World Economic Forum's fifth southern African summit in Harare.

Wagner said the old industrialised countries were having tremendous difficulty selling their railways because investors were reluctant to make such large investments. In low-growth economies, they would take too long to get returns on their investments

SA Transport Minister Mac Maharaj said his department had not rushed into restructuring the transport sector for the sake of novelty It had been guided by the reality it found and the need to be competitive

It had undertaken a comprehensive review of the transport system and policies it inherited to determine what was the proper role for the Government in transport

It had decided that the Government's role was to guard the national interest – to deracialise a fragmented society and focus on job creation.

Its role included co-ordinated planning and development strategies, and giving transport planning a regional focus.

The private sector's contribution to transport included the profit motive, technology, development of human resources, project management skills, access to capital, and making markets through user charges. Taking these into account there were several different possible public/private-sector relationships – from government agencies which included private-sector representatives, through public/private partnerships, such as concessions and strategic equity partnerships, to full privatisation

Maharaj said that when he had completed his restructuring, the number of officials in the Transport Department would be down from 1 100 to 250.

In railways, the Government had asked for bids for a concession to operate and maintain the commuter rail system

This system was being subsidised by the Government for 70% of its costs.

The aim was to move from a deficit subsidy to profits, because the operator would have to carry the risks

Samwu steps up anti-privatisation

(232) Sowetan 27/5/97

By Abdul Milazi

Planned handing over of basic services to private sector rejected

THE SOUTH AFRICAN Municipal Workers Union (Samwu) is to petition the Government next month on the privatisation of municipal services as part of its ongoing campaign aimed at putting an end to the planned handing over of the provision of basic services to the private sector

The Nelspruit, Johannesburg and Cape Town municipalities were already looking at offering tenders to interested companies, as water and waste service provision becomes more expensive because of the failure of the Masakhane campaign to get people in black suburban areas to pay for services.

Samwu has extended the deadline for signatures to June 30 to give people more time to join the petition. It has also vowed to intensify its anti-privatisation campaign this week

Samwu general secretary Roger Ronnie said the union had launched a worker education campaign called *How to deal with Privatisation*

Community awareness

"Workers need to be educated how to negotiate with councils on the issue of privatisation We are finding that many municipalities across the country are taking it upon themselves to privatise services as they see fit," said Ronnie

Ronnie said Samwu decided to intensify community awareness of privatisation after the recent 10 percent increase in water prices "which many communities are not even aware of

"The Government and city councils are saying that privatisation is the only means of escape from the local government funding crisis

"This is why Samwu is currently drawing up proposals for public sector alternatives to privatisation of water and waste services in Nelspruit, Johannesburg and Cape Town

"We recently found out that the Government intends carrying out privatisation regardless of any public sector alternatives or union opposition"

Call for privatisation lead

CT (BR) 29/5/97 (232)

Christo Volschenk

Cape Town — A privatisation agency may be formed in the office of Deputy President Thabo Mbeki to co-ordinate the process of restructuring state assets, Mandla Msomi, IFP MP and chairperson of the portfolio committee on public enterprises, said in parliament yesterday

Msomi said the envisaged agency would answer the suggestion, made by a delegation of privatisation experts from the Commonwealth Secretariat in London, that a single privatisation agency be formed and a strong leader appointed to take control of the restructuring process

Msomi said the ministry of public enterprises and portfolio committee on public enterprises agreed parliament should be part of the restructuring process

"To that end we have agreed to establish an ad hoc committee comprising representatives from allied portfolio committees The ad hoc committee will link with the existing interministerial committee on state asset restructuring

"We will decide whether a separate law should be drafted for every restructured asset, or whether a single umbrella statute will suffice," he said

He also announced a two-day workshop on the issue

Privatisation move will save public R43-m

(232)

By Jovial Rantao
Political Correspondent

S.Star 29/5/97

Cape Town – The Government is to privatise some of its services in a move that will save the taxpayer at least R43-million annually and empower emerging entrepreneurs by encouraging public and private partnerships

The move will affect 3 000 workers who, officials say, will be accommodated by the companies which win the contracts.

Public Works director-general Sipho Shezi told Parliament's public works committee that the Government planned to outsource its cleaning and horticultural functions, security and access control; and maintenance units and workshops

He said the Government was paying in excess of R60-million a year for the services, and was receiving only 10% in value

Shezi said he had run a pilot programme in Durban which had proved highly successful

"We outsourced the cleaning of 40 Durban magistrates' courts to a private company 'The Government would have spent R7-million for the job, but we had to pay the contracted company only R3,8-million "

Labour accord 'negative for privatisation'

BD 4/6/97 (232)

Lukanyo Mnyanda

THE national framework agreement between government and labour, which excluded the management of state enterprises targeted for privatisation exercises, would negatively affect future selloffs, SA Airlink joint MD Rodger Foster said yesterday

Foster said at an airports and aviation conference yesterday the role played by organised labour in the process was unique to SA and a trilateral agreement including management would have been preferred

Labour would have to recognise market forces which determined revenue streams would play a role in determining cost levels, particularly salary and wage agreements. The process would also be accelerated by the fact that government was under considerable international pressure to deliver on privatisation

With the trend towards globalism, international and local markets were likely to be dominated by a few global mega-carriers, and this was borne out by the emerging trend towards mergers, alliances and franchising

CAPE TIMES
THURSDAY, JUNE 12, 1997

'BUSINESS MORE ECONOMICAL'

Privatise municipal services — Sacob

CT 12/6/97

(232)

JOHANNESBURG: There should be no political appointments at any level of local government. Staff should be able to do their jobs and reflect the population make-up of their area.

THE SA Chamber of Business yesterday urged the large-scale privatisation of local government services.

The proposal is contained in a memorandum on a local government discussion paper issued for comment by the Ministry of Provincial Affairs and Constitutional Development

As many products or services as possible should be privatised, Sacob said

Services the private sector could deliver at lower cost and with greater efficiency included water treatment, sewage disposal, legal services, vehicle maintenance, refuse collection, street repairs, roadside maintenance, streetlight operation, traffic signal maintenance, solid waste disposal, catering, data processing, ambulance services, meter reading, security, and accounts and payroll preparation, said Sacob

Cape Town city manager Mr Andrew Boraine welcomed the Sacob proposals but warned that it was a "complicated debate"

Some services, such as water provision, were a "natural monopoly", as there was only one provider, and it would not necessarily make sense to run them as a business

Although he advocated running the Cape Town municipality on "more business-like lines", he was opposed to its being managed as a business.

"A public authority is not a business," Boraine said "The solutions put forward by business are not the only solutions"

However, debate around local government management was desirable and necessary, he said

Sacob also said that the cost of redressing service backlogs should be borne by the fiscus, not by the provincial or local authorities

Business representatives should be co-opted to serve on local councils in an advisory capacity, Sacob said

Local government should be run on business lines with government managers appointed through a market process

There should not be political appointments at any level of local government Staff should be capable of doing their jobs, and should reflect the population make-up of their area

Local government and business should liaise on infrastructure provision, Sacob said

Infrastructure should be privately financed, and operating agreements signed

On public representation, Sacob said it favoured a ward system to promote accountability of councillors

A charter of accountability should be drafted. Proportional representation did not serve the interests of citizens as well as a ward system, Sacob said

However, Sacob accepted proportional representation in metropolitan areas, provided elections were open to constituencies other than political parties

Sacob said there should be maximum devolution of state power to local authorities, and that they should be smaller rather than larger, to increase their responsiveness to local needs

Costly, duplicative bureaucracies were a feature of mega cities and their substructures A complete overhaul of local government legislation was needed, Sacob said — Sapa, Staff Writer

Union hits at Govt for privatisation

Sowetan 12/6/97 (232)

By Abdul Milazi

Union concerned about the presence of major international companies

THE South African Municipal Workers Union (Samwu) has criticised the Government for awarding tenders to the value of R700 million to the private sector to carry out water and waste services

Samwu said yesterday that it was surprised by the Ministry of Water Affairs and Forestry when it announced the awarding of the tenders to four consortiums last week, while the union was still investigating alternatives to the planned privatisation of municipal services

Samwu president Petros Mashishi said the privatisation of municipal services would put basic services out of reach of the poor, and particularly people in the rural areas

"Samwu is of the opinion that basic services should be provided in the spirit of the RDP (Reconstruction and Development Programme) to meet the needs of people, and not for the profit of foreign companies," said Mashishi

Mashishi said the union was also concerned about the presence of major international companies like Aquafund and Water and Sanitation Services SA (WSSA), a subsidiary of Lyonnaise Des Eaux, which is one of the major water controllers in the world

"In other words this programme Water Affairs and Forestry has initiated is perpetuating the international trend where very few companies dominate water services," said Mashishi

Mashishi said the tenders which were, according to Government, awarded on the basis of the Build, Operate, Train and Transfer (BOTT) concept, had many positive aspects such as community empowerment, job opportunities and building capacity among local authorities However, "the bottom line is profit"

However, the director-general Mike Muller said the Government did not have the capacity to meet the needs of the communities "and needed assistance from the private sector"

He explained that the tendering was necessary as a mentoring programme to help build capacity among local authorities and train them in the operation of water systems

Mashishi argued "The way these particular BOTT schemes will work is that the Government had paid the winning consortiums a fixed rate to build, operate and manage the service In other words the consortiums won't be paid out of the tariffs they collect "

The consortiums which won the bid are WSSA, Group Five Civils, Ninham Shand, Fongoda Skade and Associates, Jakoet and Associates and VSA Geoconsultants

UNIONS (232) ~~(1554)~~ CT (BDR) 26/6/97

CWIU rejects 'neo-liberal agenda'

The Chemical Workers' Industrial Union (CWIU) has rejected union investment and the restructuring of state assets as solutions to the country's economic problems, Siphiwe Mgcina, the union's spokesman, [illegible]id yesterday Mgcina said these positions were adopted at CWIU's recent congress. "The con[illegible] [illegible]olved to reject the setting-up of union investment companies and called for continued state ownership of strategic state assets such as Eskom, Telkom, water and health. We reject glob[illegible]lisation as a neo-liberal agenda which causes .. unemployment."

He said the union had also decided to merge with the Paper Printing, Wood and Allied Workers' Union. The possibility of a merger with the South African Chemical Workers' Union was discussed, as the "political stumbling blocks of the past no longer exist". The CWIU supported Cosatu's demands on the draft Basic Conditions of Employment Bill, he said. — *Frank Nxumalo, Johannesburg*

Private solutions for public problems

M+G (Amm) 27/6-3/7/97 (232)

Government is increasingly turning to business to help kick-start delivery, reports Marion Edmunds

THE high-profile appointment of South African Breweries chief executive, Meyer Kahn, to the police service is just one example of a growing trend in government to rely on private-sector management skills to kick-start delivery.

The departments of justice, welfare, safety and security and correctional services are to be boosted by a five-person team from a private company to help implement strategic anti-crime programmes.

The initiative will cost R502-million, to be funded by the Reconstruction and Development Programme (RDP). The private-sector managers will cost the taxpayer about R8-million — 3% of the programme costs — and they will be seconded for two years. Their role will include assisting in setting up programmes to improve law court management, upgrade prisons and to provide skills training for convicted criminals.

At the same time, the managers will be training their civil servant colleagues, and introducing new, efficient working methods to a sluggish public sector.

The Department of Education is to follow suit, hiring private-sector managers to assist in a R160-million programme to establish youth colleges in all nine provinces. The departments of housing, constitutional development and health are hooking into private managers too, with health, for example, having already contracted out the management of the key RDP project, the Primary School Nutrition Feeding scheme, to Ernst & Young at a cost of R7-million last year.

The basis for the introduction of private-sector managers to the heart of the public sector has in part been laid by a small team of people originally seconded from the private sector and parastatals to work in the RDP office. They are called the Programme Management Service, and fell into deputy finance minister Gill Marcus's lap when the RDP office closed almost a year ago. Their contracts are negotiated annually, and their salaries are paid by the companies from which they are seconded.

Neil Nel, formerly of the Agricultural Research Council, heads the team. "Our job is implementation. We don't fall under any line function, we can push and shove without worrying about our position. We can cut through red tape and access expertise in the public sector, which is sometimes locked up," he says.

Nel's management gurus have been sent to the provinces, education, the anti-crime departments, constitutional development, housing and health. Two have recently been dispatched to the welfare department, where they are to provide much-needed assistance in setting up structures to implement the new child grant scheme, which is not an RDP-funded project.

Dr Johan Olivier, a member of the team working in the education department and on crime-fighting projects, is excited about what he believes to be a revolution in management in the public sector.

"In the past 18 months we have learnt that there is just not adequate management capacity. What we are developing is a systematic approach to assisting departments. One of the key objectives of the RDP was to transform government, and we are using RDP fund money for projects as leverage to assist departments to transform."

Olivier believes the public service restricts itself through bad practices. Some civil servants actively resist change, some are embroiled in departmental politics, others are hampered by tunnel vision, which prevents them from finding solutions in other departments.

But Neil Coleman of the Congress of South African Trade Unions is alarmed. He says the logic and ethos of business are different to that of the civil service.

"This is a relatively new development and it does raise some worrying questions. South African business management is notoriously inefficient, particularly when it comes to managing human resources. It's quite strange that all of a sudden, South African business is trumpeted as this panacea for problems in the public sector. If one looks at the international experience, there have been efforts to mechanically transpose business methods into the public sector, often with disastrous consequences," he said.

ST (BT) 29/6/97

Competition Board renews probe into liquor industry

(232)

ACTIVITIES of KWV and SA Breweries are to be closely scrutinised by the Competition Board as part of its investigation into the liquor industry.

Chairman Pierre Brooks says an area that will be examined is KWV's and SAB's shareholdings in enterprises with which they compete

Other issues include the possible foreclosure effects of KWV's decision to convert itself into a company and an agreement struck between KWV and the Cape Wine and Spirit Institute. SAB's distribution systems and licensing agreements will be probed

The current investigation, started in January 1995, has looked into aspects like the industry's structure, its vertical integration and licensing policies.

Brooks says this has provided the board with useful insights, but various developments have since taken place which require that it have "a more specific enterprise and issue focus".

MONOPOLISTIC PRACTICES

By THABO KOBOKOANE and ZILLA EFRAT

Meanwhile, SAB has dismissed as "ludicrous" a claim by Namibia Breweries that the SA beer giant is employing "bullying tactics" in Namibia.

Norman Adami, managing director of SAB Beer Division, disputes the claim and says it is ironic to be accused of unfair competition when Nambrews is free to compete in South Africa.

He says Namibia has created unfair conditions, obstructing SAB's attempt to enter the Namibian market.

The Namibian brewer this week accused SAB of attempting to disrupt its market with a non-refundable 750ml bottle Bob Masche, MD of Nambrews, says the non-refundable bottles look similar to bottles used by Nambrews and that it will be unable to sort out SAB's bottles from its own.

Competition Board will add SAB to liquor study

(232) CT (BR) 30/6/97

FROM REUTER

Cape Town — The Competition Board has decided to broaden the scope of its investigation into the liquor industry to focus on KWV and South African Breweries (SAB), Pierre Brooks, the board's chairman, said on Friday

Brooks said he planned to investigate the effects of KWV's plans to convert itself into a company He would also focus on shareholdings by KWV and SAB in enterprises with which they compete, SAB's distribution system and "other related matters"

The industry has been hit by controversy recently Derek Hanekom, the agriculture minister, took legal action to prevent KWV's move because he wanted clarity on how it would affect the wine industry and its assets

Brooks said he also wanted to investigate an agreement between KWV and the Cape Wine and Spirit Institute, which had initially also opposed KWV's moves to become a company

SAB dominates the South African beer market and has been engaged in a war of words with Namibian Breweries, which has been making steady inroads into the market

Brooks said the apartheid-era government had rejected certain reforms the board recommended for the liquor industry in the 1980s, and approved a corporate structure that still existed today

He said "political considerations" probably influenced the decisions taken at that time.

In 1995, the board decided to investigate the industry again because of "developments which require it to have a more specific enterprise and issue focus"

KWV to meet Competition Board today

BD 1/7/~~96~~97 (232)

Louise Cook

THE KWV would meet Competition Board chairman Pierre Brookes today to establish the reason for the board's "unexpected" decision to launch a full-scale investigation into the wine co-operative, Kooperatiewe Wijnbouers' Vereeniging (KWV), corporate services director Theo Pegal said yesterday.

He said the co-operative was "completely in the dark as to what is going on" since the competition board had undertaken a report on KWV in January this year

The board found that, should KWV transform into a company, it would be subject to the same rules and regulations as any other company, Pegal said

Competition Board chairman Pierre Brookes said developments in the liquor industry had now necessitated a comprehensive probe into various aspects of KWV as well as SA Breweries (SAB).

"In the case of KWV we will be looking at the effect of the conversion to a company on competition and new market entrants, possible anticompetitive aspects of the co-operation agreement between KWV and the (Cape) Wine and Spirits Institute, as well as KWV's shareholding"

The probe into SAB would cover its distribution network and licensing arrangements SAB has about a 30% shareholding in Stellenbosch Farmers' Winery and Distillers, Brookes said

SAB corporate manager Dunbar Bucknal said that despite its shareholding, SAB had no managerial control in the companies

The shareholding was a move for SAB to diversify after increased discriminatory excise tariffs Other large international beer groups have already diversified, Bucknal said.

He also denied that SAB's distribution network discouraged competition "As with any company, SAB is entitled to secure the most effective distribution network possible. It would be ironic if government and the Competition Board want to penalise success"

The Cape Wine and Spirits Institute was not available for comment

Meanwhile, KWV and government negotiating teams were racing to reach an out of court settlement on the issue of KWV's planned conversion to a company before the next Cape High Court hearing in August.

Pegal confirmed that talks between the parties — at this stage focusing on future regulation of the wine industry — started for the first time last week

Asked if the talks would cover the controversial issue of who owned KWV's R1bn assets, he said it would come up when an auditors' report was completed

KWV and Land and Agriculture Minister Derek Hanekom had been locked in a legal battle over KWV's planned conversion to a company At issue was whether farmers were the sole owners of the co-operative's assets

Privatisation the issue in municipal march

By Cecilia Russell

An SA Municipal Workers' Union (Samwu) protest hit Johannesburg today, hamstringing council bus services and disrupting other services

Only 20% of metropolitan bus services were operating as drivers joined the 20 000 Samwu members expected to take to the streets to march against privatisation of services.

There were no refuse removal services. Greater Johannesburg council labour-relations executive Potso Mohajane said the council had made plans to keep essential services – like emergency services, traffic, water and electricity – running

A protest march by the union started with workers gathering at the Library Gardens and is set to continue into the afternoon with a march to the Metro Centre in Braamfontein

Mohajane said the council was upset about the march because it was being targeted for a policy of privatisation which it had "not even contemplated.

"We are bearing the brunt of decisions made in other municipal areas," he said.

Samwu branch secretary Themba Nxumalo said many municipalities were privatising services at the expense of workers and consumers

"When the Government came into power they promised effective, efficient and accessible services," Nxumalo said But, he said, privatisation lowered standards of services, made them more costly for the consumer, and led to job losses

Today's march is a build-up to a national campaign against privatisation.

(232) Star. 1/7/97

Competition policy review delayed again

(232)

BD 3/7/97

John Dludlu

PLANS to review the country's competition policy have been delayed again, this time as a result of the winter break of parliamentarians, it has emerged

At a high-level policy session at the National Economic, Development and Labour Council in April, Trade and Industry Minister Alec Erwin promised to table a discussion document in Nedlac in late May or early June after obtaining a broader mandate from his cabinet colleagues

However, Nedlac executive director Jayendra Naidoo said yesterday "despite the fairly lengthy delays" in the process, Erwin had informed the body that he had completed internal consultations on the competition proposals He (Erwin) was expected to discuss them with the cabinet this month before being in a position to table them at Nedlac, Naidoo said

Naidoo said Nedlac would organise this year's second policy session — a high-level meeting normally addressed by cabinet members — with Erwin Though Erwin was said to be on vacation, his spokesman, Ismail Lagardien, yesterday confirmed Naidoo's scenario

The competition policy review, which has been on the Nedlac trade and industry chamber's agenda for some time, has missed several deadlines

Despite indications that government lacks the resources to drive the review process, the state's official line has been the need to have thorough internal consultations, and Erwin's busy schedule

Business, which has been waiting for government's proposals, is expected to seek an update from government representatives at the trade and industry chamber's meeting today

However, fears of a harsher competition law have been allayed, thanks to the realisation that the SA economy would not be suitable for such laws Erwin has signalled that he would take a much broader approach to economic governance, with the revamped competition law forming "part of a set of legal instruments" to be effective

Although he has promised business and labour a chance to consider the policy, Erwin has made it clear that if there is no consensus among social partners government will have to take a position Legal drafters would also be appointed solely by him

Metro will heed Samwu's call

CT (PAR) 2/7/97 (232)

Johannesburg's local authorities were given a 14-day ultimatum yesterday to respond to a demand by the South African Municipal Workers' Union (Samwu) for a moratorium on privatising municipal services.

More than 10 000 Samwu members staged a protest march in Johannesburg yesterday, during which they presented a memorandum to metro officials.

Samwu said it wanted an end to outsourcing contracts and private-public sector partnerships, as well as the termination of any government involvement with private multinational companies.

Kenny Fihla, deputy chairman of the executive committee of the Greater Johannesburg Transitional Metropolitan Council, denied the council had taken any decision on privatisation but agreed to respect Samwu's 14-day ultimatum.

"The council has not yet taken a policy decision on privatisation, and it does not intend doing so without consulting with labour first," Fihla said. — Frank Nxumalo, Johannesburg

Total US-SA trade drops 6%

BD 4/7/97

Simon Barber

WASHINGTON — Total trade between the US and SA in the first four months of the year was 6% off last year's pace, reflecting reduced shipments of platinum group metals to the US, and a sharp but expected fall in SA imports of US wheat and corn.

SA chemical exports to the US continued to show strength as did certain lines of SA clothing. Shipments of organic and inorganic chemicals reached $48,3m as of April, a 31% increase from the same period last year.

US imports of SA knitted apparel jumped 138% to $12,5m. "This suggests that in selected areas of textiles, SA is capable of competing," commerce department Africa bureau director Sally Miller said.

Shipments under the tariff heading that includes platinum group metals, diamond and other precious metals, which together account for around 40% of US imports from SA, were down 17% as of April, to $250m from $303m.

US imports in the same category from Russia, America's other major supplier of platinum group metals, were off 40% to $75,5m.

Miller suggested that the downturn was cyclical, but could also reflect changes in the automotive industry, which is the major customer for platinum group metals.

Meanwhile, US imports of SA iron and steel — SA's second largest category of exports to the US — were also off 15% from last year to $88,2m, well behind the pace of the past three years.

Big drops were discernible in ferromanganese, ferrosilicon manganese and, to a lesser extent, in ferrochrome.

Total SA exports to the US as of April were $694m, down from $732m a year ago.

Total US exports to SA were $968m, down from $1,03bn.

The US trade surplus with SA narrowed to $274m.

Labour team set to review competition policy

BD 4/7/97 (232)

John Dludlu

THE labour constituency at the National Economic, Development and Labour Council (Nedlac) has set up a task team to help review the country's competition policy.

Herbert Mkhize, assistant general secretary of the SA Commercial, Catering and Allied Workers' Union, said yesterday the task team, including union representatives outside the Cosatu fold, would bring in outside expertise should the need arise.

This comes amid indications that although the review of competition policy is on hold while parliamentarians take their winter break, Trade and Industry Minister Alec Erwin intends to table a discussion paper at Nedlac next month after obtaining a mandate for his ideas from the cabinet.

Labour and business representatives yesterday appeared less than perturbed by the delay. "We are letting him (Erwin) take his time, but we will deal with the document when it comes to Nedlac," a business source said.

Mkhize, who co-ordinated the labour element at Nedlac, supported Erwin's cautious approach.

Labour's preparation for the debate has been seen as signalling the seriousness with which it regards competition policy. Some analysts believe it indicates labour's intention to lobby for tough competition laws.

Meanwhile, sources said government representatives at Nedlac confirmed that Pretoria had proposed an ambitious "all-inclusive" accord with the European Union, which would free trade exchanges between the two sides over 12 years.

Erwin and João de Deus Pinheiro, the European commissioner for relations with SA, are to meet in a week to discuss the matter.

Boost for empowerment in privatisation plan

ST (BT) 6/7/97

(232)

SHARE PARTICIPATION

By SVEN LUNSCHE

THE government is close to finalising the shareholding in privatised public sector corporations that will be reserved for empowerment purposes

According to government sources, up to 10% of each parastatal could be sold into the proposed National Empowerment Fund (NEF), which will offer historically disadvantaged communities the opportunity to buy units in the fund at a considerable discount

Furthermore, each employee of a public sector corporation will be allocated shares to the value of R10 000 at the time the company is privatised The share allocation falls under the Employee Shareholder Option Programme (Esop) negotiated between government and trade unions

Shares in both the NEF and Esop will be offered at a much lower price than that paid by other investors in privatised corporations No finality has been reached on the discount, which is expected to vary from case to case

The Department of Trade and Industry, which is devising the structure for the NEF, is believed to have asked Telkom for a 20% discount on its shares

A 10% stake in Telkom would dominate the portfolio of the NEF, and to achieve a greater diversity, a large portion of shares earmarked for the NEF could be offered initially to black-controlled companies operating in the telecommunications sector

The NEF is modelled on Malaysia's successful, ethnically exclusive Bumiputra national unit trust scheme The government is still debating whether to allow all South Africans to buy a stake in the trust, or whether to reserve it for previously disadvantaged communities

Sarhwu 'on collision course' with private hauliers

Union slates port ruling in Durban

ET (PR) 10/7/97 (R232)

Jonathan Rosenthal
INDUSTRIAL EDITOR

Durban — The South African Railway and Harbours Workers' Union (Sarhwu) said this week it saw the landmark court decision, which last week opened the Durban harbour's container terminal to private sector truckers, as an act of privatisation

Sarhwu said it would take whatever steps were necessary to protect its members' interests

"Whether we like it or not, it is a change of ownership This is the function that has been done by our members, and the court decision puts us on a collision course with the private hauliers," a senior union official said

rights to collect and deposit containers in the harbour if they were to be transported within a 110km radius of the port At the time, freight forwarders said in some instances Portnet's rates were double those quoted by private hauliers

Bax Nomvete, Durban's port manager, said this week the court decision, which last week opened the harbour's container terminal to private sector truckers, could disrupt the flow of containers through the already stretched facility

He said Portnet, which is both the port operator and its regulator, had asked for between a year to 18 months to establish a truck-stop, improved security and computer systems before opening the facility to private truckers

"If you have congestion in the termi-

Sarhwu 'on collision course' with private hauliers

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ET (BR) 10/7/97 (#232)

JONATHAN ROSENTHAL
INDUSTRIAL EDITOR

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"Whether we like it or not, it is a change of ownership. This is the function that has been done by our members, and the court decision puts us on a collision course with the private hauliers," a senior union official said.

But he would not say what action the union might take. The union is believed to have about a 70 percent representation among the estimated 4 000 organised workers in the port. About 1 000 workers are directly involved in work with the container terminal or the associated road transport company, Portnet Cartage.

Last week, the Durban Supreme Court ruled in favour of two transport companies and the KwaZulu Natal Association of Freight Forwarders, which brought an application in February challenging Portnet's restrictive practices.

The restrictions gave Portnet Cartage, a Portnet subsidiary, exclusive rights to collect and deposit containers in the harbour if they were to be transported within a 110km radius of the port. At the time, freight forwarders said in some instances Portnet's rates were double those quoted by private hauliers.

Bax Nomvete, Durban's port manager, said this week the court decision, which last week opened the harbour's container terminal to private sector truckers, could disrupt the flow of containers through the already stretched facility.

He said Portnet, which is both the port operator and its regulator, had asked for between a year to 18 months to establish a truck-stop, improved security and computer systems before opening the facility to private truckers.

"If you have congestion in the terminal, it will have a knock-on effect, which will affect the ship turnaround times, costing ship owners more than $10 000 to $15 000 a day," said Nomvete.

Portnet has lodged an appeal against the ruling, which was handed down in response to a legal challenge by Durban trucking companies and the freight forwarders' association.

Nomvete said that, subsequent to last week's ruling, Portnet had established a temporary truck-stop and processed truckers by hand. But he did not expect a "train smash" because the number of private truckers entering the terminal was likely to grow relatively slowly, he said.

Airports Company starts privatisation in earnest

BD 10/7/97 (232)

Robyn Chalmers

PARTIAL privatisation of the Airports Company has started in earnest with government tendering for a transaction adviser to oversee the sale of up to 49% of the parastatal.

Airports Company MD Dirk Ackerman said yesterday that successful negotiations with labour and government over the past months had resulted in the agreement by all parties on the need for a transaction adviser.

"It has been agreed that a minority stake in the Airports Company will be sold, although the exact percentages will be finalised only once the transaction adviser has been appointed and can give input," he said

In May, government, labour and the Airports Company agreed within the auspices of the restructuring committee that an international strategic equity partner should take a minority stake in the parastatal which has minimum assets of R2,5bn.

In its tender invitation, the government said that tenders closed on July 14 and short-listed candidates would be notified on July 17 with interviews by the transport ministry taking place on July 25.

It said the transaction adviser would be required to work closely with the Airports Company restructuring committee and HSBC Simpson McKie, the overall advisers to government on privatisation

Ackerman said he was encouraged by the number of foreign organisations which had expressed interest in buying into the Airports Company. "It is indicative of the type of progress the Airports Company has made in improving its operational capabilities and its bottom line," he said.

Industry analysts said that, as with other asset sales under way such as Sun Air, government was likely to stress that bidders should have black economic empowerment partners or should find concrete ways to boost such empowerment

One analyst said companies understood to have expressed interest in the Airports Company included Lockheed Martin AGI, Soros Investments, the British Airports Authority, Schiphol Amsterdam, Daimler-Benz, the Malaysian Airports Authority, Vienna Airport, Singapore Airport and the Challenger Group.

Apart from negotiations on the partial privatisation of the company, Ackerman said the Airports Company was making solid progress on its drive to transfer skills and technology to African countries.

"We have been assisting authorities in Ghana with training courses and technology, and we hope to expand this over time In the future, we could look at forging management contracts with airport authorities in Africa and are already assisting some of the local airports run by municipalities," he said

(232) BD 10/7/97

Deregulation must await mass roll-out

The restructuring of SA's telecommunications sector is in line with world trends, says Posts, Telecommunications and Broadcasting Minister Jay Naidoo

DEREGULATION, unfettered privatisation, unbridled competition, "flexible" labour markets (read problems with trade unions) and reducing the role of the state in the political economy, are increasingly proposed as the panacea to SA's economic ills.

This view requires careful analysis, particularly in determining the strategic direction of the state in utilising the public corporations and instruments at its disposal to achieve the goals of democratic government.

Global telecommunications consist of numerous interconnected and multifaceted networks. SA's international isolation over the past 15 years or so has led the country to lag behind global developments through a lack of access to capital, expertise and technology. Such isolation is no longer acceptable, the integration and restructuring of the sector to meet new goals has become critical.

With reintegration, however, there come demands for increased market access, liberalisation and increased competition. It is within these demands that discussion about the best way forward is sometimes erroneously anchored.

In integrating and restructuring telecommunications, government's approach has been characterised by a three-pronged strategy. The first element of this strategy was to transform the telecommunications sector to meet new needs, the second element was to revamp regulations and set policy objectives to create a regulatory space for transformation, the third element was to attract partners who possessed the necessary technology, capital, and expertise.

This strategy has yielded the injection of $1bn into Telkom's network expansion programme of R53bn, and has also provided for a R2,315bn training scheme.

Telkom has been tasked with rolling out the infrastructure 3-million new telephone lines, Internet access to 2 000 disadvantaged establishments, and the connection of 24 000 phone lines to priority customers in medical and educational institutions.

In return, Telkom has been provided with a licence which sets out a five-year period of exclusivity on public switched telecommunications services.

This regulatory concession to Telkom allows it the space to concentrate on achieving a universal service rather than using its resources to defend its already established market.

The Telkom exclusivity period is shorter than in comparative cases internationally.

In the Czech Republic, the exclusivity period is seven years. In Hungary, it is eight years. Greece, Ireland, Portugal and Spain have all granted additional transition periods of exclusivity up to five years beyond their original deadlines of January 1 1998.

Through this transaction, Telkom will be transformed into a cost-effective, efficient and service-orientated world-class company, in which the demographic profile of the country will be reflected at all levels.

This will be accomplished through an investment in human resource development.

We have achieved a substantial commitment to network expansion, improvement in service quality and transformation to expand telephone services to all our people, in particular to those urban and rural communities disadvantaged by apartheid.

We are also confident that the advanced telephone, multimedia and other business information services which the consortium can deliver will be of tremendous benefit to the economy.

The 1996 Telecommunications Act provides for the separation of the policy-making, regulatory and operational functions of the SA telecommunications sector. Policy-making is vested in government, which must also deal with shareholder management and long-term planning.

One goal, in particular, is to balance the provision of basic telecommunications delivery against the need for advanced information services capable of meeting the needs of the growing SA economy.

The regulatory framework ranks among the most progressive in the world. The SA Telecommunications Regulatory Authority (Satra) is responsible for licensing and the allocation of the frequency spectrum.

There are those who have naively questioned this body's independence. The reality internationally is that there is no regulator of telecommunications in the world — including the often quoted FCC of the US and Oftel in the UK — that operates independently of industrial policy and the framework of the sovereign nation state.

Government has not chosen to go down the road of unbridled deregulation in the telecommunication sector. To have done this would have been an unmitigated disaster and would have compromised all the socioeconomic goals we have set.

What we have done — contrary to the view of many analysts — is to set in place a world-class environment for developing dynamic growth in the sector.

There are also those who pursue the flawed argument of a neutral state with no role in economic development other than the collection of taxes.

The shameful legacy of apartheid has skewed telephone penetration in favour of historically white areas. This was the result of direct government intervention.

This government, like any other around the world, will intervene in correcting such inequality, thereby ensuring that all South Africans have an equal opportunity to benefit from the emerging knowledge society.

The principal means of intervention to address telecommunications access imbalances include:

☐ The establishment of the Universal Service Agency whose objective is to set up "telecentres" in rural areas which will ensure access to telephones and the Internet, funded through a universal service fund.

☐ Establishment of a human resource development fund from government grants and industry levies to work with industry, labour, civil society, universities and technikons to ensure appropriate skills are developed at the cutting edge of the new economy.

☐ En-masse rollout of the Internet to ensure applications such as telemedicine, telelearning and open access for all to government information services.

This brings us back to the emergence of the so-called "knowledge society".

Two-thirds of humanity live on less than $2 a day. Half of humanity has not made a phone call.

As a privileged, educated elite heads off into cyberspace, what is the fate of the majority of the world's population?

SA reflects this microcosm of the world's inequity and the division of wealth and knowledge. A democratic government should not pursue policies that perpetuate these inequalities and show a careless neglect of reality.

Competition already exists in the South African telecommunications industry. Not only do the two cellular operators, MTN and Vodacom, compete against each other, but a process is already underway for a third cellular operator.

Competition in the provision of local, long-distance and international services is contemplated under the Telecommunications Act, but will not be introduced until Telkom has expanded and modernised its basic infrastructure in a way that meets the demands of all segments of the population. This will be achieved by the rollout of a substantial number of new telephone lines.

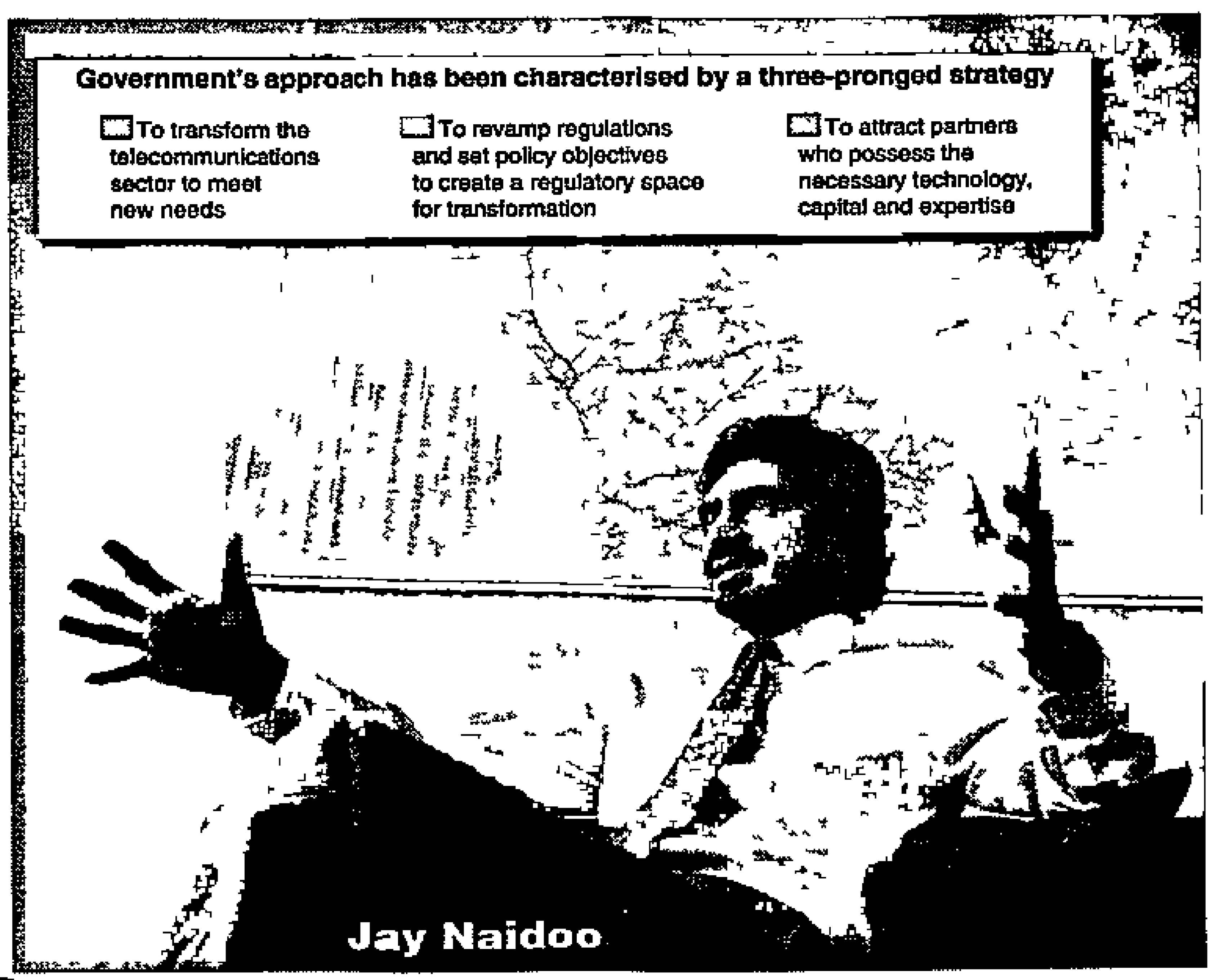
In most other countries, network rollout for the purpose of providing universal service has been undertaken a considerable time before the domestic telecommunications market has been fully liberalised. Because of apartheid, universal service has yet to be achieved in SA.

A relatively brief exclusivity period is therefore necessary to facilitate network rollout — the scale of which is almost without global precedent. This exclusivity period is not a license to print money. Stiff targets and severe penalties accompany it should Telkom fail to deliver. Comparison with the exclusivity period in the UK is misleading, as universal service had already been achieved by the time British Telecom was forced to compete with a strong second operator.

Competition will inevitably lead to lower prices. However, this will also happen immediately in SA as a result of the Telecommunications Act. Tariffs will also be regulated by Satra.

During the first three years of the exclusivity period, prices for services for which there is insufficient competition must be reduced in real terms by 1,5%.

In short, phased competition will bring the greatest possible rewards to SA, through carefully thought-out strategic considerations and not through ideological posturing.



Jay Naidoo

Competition Board to the rescue as doctors close ranks on fees

(232) ST (BT) 13/7/97

The board's entry into the health care war is good news for the general public, writes PAT SIDLEY

THE Competition Board is looking at doctors and other suppliers of health care services with its eye on whether or not their behaviour in fixing tariffs is anti-competitive or not. This scrutiny means patients' interests will at last be looked at while health care suppliers battle to keep their pockets full

Doctors, specialists and other health care providers have been getting together in various groups to face the effects of managed care

The advent of managed care in SA means that medical aids, insurance companies and dedicated managed care companies will ensure that prices of health care cannot continue to rise as steeply as in the past In some areas, prices may fall.

This is done by imposing limits to how doctors and other health care suppliers can charge patients and on what basis In many cases this means that medical practitioners are given an upper limit on what they can charge Hospitals, pharmacists and other suppliers are also limited by negotiations with managed care companies in what they can earn and how they can earn it

In order to fight the pressure from managed care companies and medical schemes, doctors are forming preferred provider networks Surgeons have formed a group which represents around 80% of surgeons They have simply laid down the gauntlet "These are the prices — take it or leave it"

These moves are seen by some as price-fixing or collusion And where this works against competition it might be regarded as contrary to public interest. Doctors have generally been exempt from this type of scrutiny — the Medical Association of SA has been able to recommend tariffs to its members without interference from the Competition Board

Reg Magennis, managing director of Medmanage, says the medical schemes law was designed for a central pricing mechanism which would set "scales of benefits" paid to doctors and "blue book" prices for pharmaceuticals

Managed care has spurned groups of "preferred providers", and there are now groups of doctors tendering against other groups, says Magennis Following the doctors, hospitals have formed networks and pharmacists have also banded into groups The groupings are engaged in what Magennis describes as a "battle" in health care

In this scenario the Competition Board is defending competition on behalf of the public The board will be meeting with doctors later this month, and has asked for a submission by the Representative Association of Medical Schemes to answer charges from other health care suppliers that it imposes and fixes rates when then cannot be varied.

For the public, the scrutiny of the Competition Board should be welcome in a real sense, the board represents the interests of the public at large.

"The public can't shop around for a different price," says board chairman Dr Pierre Brooks, referring to the effect of doctors fixing non-negotiable rates for care.

Brooks says "A collective getting together could constitute horizontal collusion — which is outlawed — in the provision of services"

What it means for the public is that there may eventually be no flexibility or room to shop around for health care — and health care is a necessity for everyone

So if medical schemes and their organisation, RAMS, leave no room to shop around, they may well land up on the wrong side of competition policy

Brooks points to a recent appeal court case in which agreements between suppliers and consumers in which there is no flexibility, and in which rights and obligations are forced on the parties, were ruled to be against the law

As things stand, the public has not been included in the debate as doctors, pharmacists, hospitals and others jostle to keep their incomes as high as possible in the face of managed care companies' attempts to cut prices down.

The entry of the Competition Board, with its longstanding tradition of fairness, into the debate will ensure that the needs of the public are incorporated into the eventual outcome of the war being waged in heatlh care

AZT generic may become available

GLAXO-WELLCOME, manufacturers of AZT, one of the more frequently used drugs for the treatment of AIDS, may face a challenge to its patent in this country from Canadian generic drug manufacturer Apotex Inc.

Apotex is awaiting the outcome of a court challenge to Glaxo-Wellcome's patent in Canada.

Apotex president Jack Kay says the basis of Apotex's challenge to the patent lies in the company's contention that the drug was not invented by Glaxo-Wellcome, but by the National Institute for Health in the US It therefore does not merit the protection of a patent.

It has lost a similar challenge in the US, but has already been selling its generic equivalent, Apozidovudine, on the Canadian market and in other countries where the patent system does not protect Glaxo-Wellcome's patent efficiently

AIDS patients currently relying on the state for treatment are unlikely to get AZT because of the cost. The state called for tenders for a mere 1 090 packages of the drug and Glaxo-Wellcome won the tender at R526 per 100 tablets There are some 2.5-million AIDS patients in SA who rely on the state for their treatment.

Apotex SA chief executive officer Gerald Peter says his company can supply the drug to the state for R263 per 100 and still make a large profit. Peter says the Department of Health has taken an interest in this drug and the Medicines Control Council has approved the company's application to have the drug registered on the new fast-track registration process. This means that the process for registration can be speeded up — although the registration itself is by no means automatic.

Kay said Apotex SA would be willing to challenge Glaxo-Wellcome's patent in SA if it succeeded in the Canadian courts It would be helpful to the country's AIDS patients if the government saw the need to help ensure that the cheaper generic equivalent drug was available.

Catching on slowly to a growing idea

IT TOOK the government almost two years to commit itself to the sale of state-owned enterprises but, since early last year, there are few ministers who still question the wisdom of privatisation

The implementation of this policy has, however, been slow and tedious, bogged down by trade union resistance and a labyrinth of consultative and negotiating forums

Two privatisations have, to date, been completed — the sale of six SABC radio stations and 30% of Telkom — and a third (Sun Air) is imminent But a long waiting period is scheduled thereafter

Although Minister of Public Enterprises Stella Sigcau committed herself to the full or partial sale of seven parastatals this year, the remaining five (Safcol, Alexkor, Aventura, Autonet and Airports Company) are only likely to come under the hammer next year None of the four have yet appointed advisers suggesting differences between labour, government and management on how to proceed with the sales

In a recent speech Sigcau insisted that the trade unions are being won over and there is growing consensus on the need for restructuring and privatisation

Yet, on the shopfloors and in the office corridors of major parastatals, the differences in approach between managers and trade unionists are still evident, leading to costly delays

These are largely of the government's own making Eager to appease the unions, which were, and still are, horrified at the government's backing of privatisation, Sigcau agreed to put in place numerous restructuring committees and add a considerable list of social obligations to the process

The number of committees that have to back a restructuring move can be as high as eight, from a parastatal's shopfloor via sectoral meetings and culminating in a six-a-side session between labour and government

The delays arising from government dithering, as well as the extensive round of negotiations are of concern to analysts "While a number of parastatals, such as the Airports Company, have benefited from that little bit of extra time to ready themselves for privatisation, others (Safcol, SAA) have lost considerable value," says Pieter van Huyssteen, head of Price Waterhouse's corporate finance division

Sigcau also agreed that government should retain a majority stake in the bulk of restructured enterprises, a move which could alienate potential foreign investors

Colin Coleman, director of Standard Bank's public finance division, warns that while government should not discard its social obligations, it must look at the cost that goes with them He adds. "Investors will always price these obligations into the bid, the more obligations the less the price "

MAKING PROGRESS: Public Enterprises Minister Stella Sigcau, who says that trade unions are being won over to privatisation

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Another analyst warned that in her effort to please the unions, Sigcau failed to seriously address the parastatals' business requirements "The concerns of the actual business should always be paramount to social obligations or union concerns," he said

Coleman and Van Huyssteen agree about the priorities that public sector corporations should set themselves if they want to attract top-notch investors

"What investors are looking for is, very simply, a healthy return on investment," says Van Huysteen "They can almost be assured of that if the business has clear commercial objectives and strategic directions "

Other criteria, says Coleman, are market opportunities (here, SA's status as the hub of the region counts in its favour) and the cost of human resources (expensive unskilled labour and a shortage of managers are a disadvantage)

The sale of the SABC radio stations for R516-million last year and the sale of 30% of Telkom to SBC Communications of the US and Telekom Malaysia for R5,6-billion has provided some clarity on what government plans to do with the proceeds from privatisation

Income from the sale of so-called non-strategic assets, such as Aventura, Alexkor and Safcol, are likely to be used to redeem state debt This is the intention with the proceeds from the radio stations, although the issue still has to be finalised with the SABC

Parastatals that provide a crucial socio-economic function are likely to retain the bulk of their proceeds Telkom had to surrender about 20%, or R1 2-billion, to the state but retained the remainder (R4 4-billion) to finance the roll-out of the telecommunications network. Were the government to sell Eskom, a similar equation could be used

The sale of Telkom has been widely rated as a success Not only did the two telecoms operators invest a considerable amount for a minority stake, they also committed considerable resources to the expansion of telephony in South Africa, particularly in poor rural and urban areas

Sections of the public sector freed from political objectives are providing encouraging lessons in profitability, writes SVEN LUNSCHE

Bureaucrats get a kick up their parastatals

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PUBLIC SECTOR CORPORATIONS												
RANKED BY				TOTAL ASSETS		TURNOVER		NET INCOME		EMPLOYEES		FINANCIAL
				R-m		R-m		R-m				
ASSETS	TURN-OVER	NET INCOME		LATEST	PREVIOUS	LATEST	PREVIOUS	LATEST	PREVIOUS	LATEST	PREVIOUS	YEAR-END
1	1	[illegible]	[illegible]	[illegible]	50 625	18 687	17 114	3 072	2 616	9 857	39 952	[illegible]
2	2	6	Transnet	40 239	39 169	17 934	16 156	120	118	113 634	115 633	3/96
3	[illegible]	[illegible]	[illegible]	[illegible]	19 473	16 347	13 326	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
4	5	3	IDC	13 534	11 731	2 253	2 147	535	294	520	482	6/96
5	[illegible]	[illegible]	[illegible]	[illegible]	6 758	465	380	114	[illegible]	[illegible]	[illegible]	[illegible]
6	6	5	Land Bank	4 391	5 015	1 737	1 475	178	175	1 285	–	12/96
7	[illegible]	[illegible]	[illegible]	[illegible]	4 079	3 041	3 015	379	[illegible]	[illegible]	[illegible]	[illegible]
8	7	9	Post Office	1 703	1 711	1 706	1 501	36 3	44 3	23 015	24 176	3/96
9	[illegible]	13	[illegible]	1 032	1 080	1 652	1 613	-60	101	[illegible]	[illegible]	[illegible]
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Graphic: FIONA KRISCH

Source: Annual reports/companies

LEAN, mean and state-owned This is not a euphemism easily applied to South Africa's public sector, where many dinosaurs remain mired in inefficiency, red ink and are subjected to the whim of political objectives

But amid the slumbering bureaucracy there are an increasing number of corporations who are turning the parastatal sector upside down

They are largely led by a new generation of hard-driving executives who apply private sector fundamentals to their companies While they do not have carte blanche from Pretoria — empowerment objectives remain an important milestone in the privatisation process — they seek to achieve these by relying on one principle only to run efficient, profitable organisations that do not rely on hand-outs

The list of these entrepreneurs is still relatively small, but it includes some powerful names Telkom chairman and acting chief executive Dikgang Moseneke, Eskom chairman Reuel Khoza, Airports Company chief executive Dirk Ackerman IDC chief executive Khaya Ngqula and Sun Air managing director Johan Borstlap

Even at beleaguered Transnet some names spring to prominence — Spoornet's Mafika Mkwanazi and Autonet's Peter Mageza — but their efforts are largely overshadowed by the ever-increasing financial malaise at the state-owned behemoth

Transnet, which is set to report large losses in its 1996/97 financial year, stands out among those parastatals struggling to make the transition to the new environment, along with the SABC Post Office Armscor, Safcol, Aventura, Mossgas and Alexkor, all of which have a long way to go before they truly can be said to be on the road to commercial efficiency

What separates the weak from the strong, the efficient from the laggards? Trends are hard to discern but some traits provide a clue.

Public sector corporations under the control of operational ministries tend to have a clearer focus than those reporting to Stella Sigcau s Department of Public Enterprises In the late 80s the ministry was created as a temporary measure to provide the late Wim de Villiers with a means of control over parastatals

The department outlived De Villiers and, as a result Sigcau's ministry now has direct political control over Transnet, Safcol, Eskom, Alexkor Denel and Aventura With the notable exception of Eskom, none of these companies can be labelled a commercial success, a fact most analysts blame on the lack of operational experience in her department

For example, the appointment of seven black executive directors — some of them political appointments, others not sufficiently qualified — has cost Transnet dearly as the group is set to report its second consecutive financial loss in the 1996/97 financial year

The Department of Transport has frequently bemoaned the fact that Transnet, as the country's largest transport entity, does not report to it, thus making the creation of an integrated transport strategy more difficult.

Another example of political expediency is the public service obligations imposed by the IBA on the SABC — obligations which are now being reviewed after the SABC has run up huge losses in meeting them

Traditionally, the cosiness between the executive suite and a ruling political party fosters not only inefficiencies and inflation but outright corruption This was all too frequent during National Party rule and is also evident, albeit on a more limited scale, these days

Pieter van Huyssteen, head of corporate finance at Price Waterhouse makes a simple observation "If political objectives are part of the aims of restructuring then any benefits, if any at all, are short-term. If the aims, however, are efficiency, effectiveness and commercial viability, the reforms will yield long-term economic advantages"

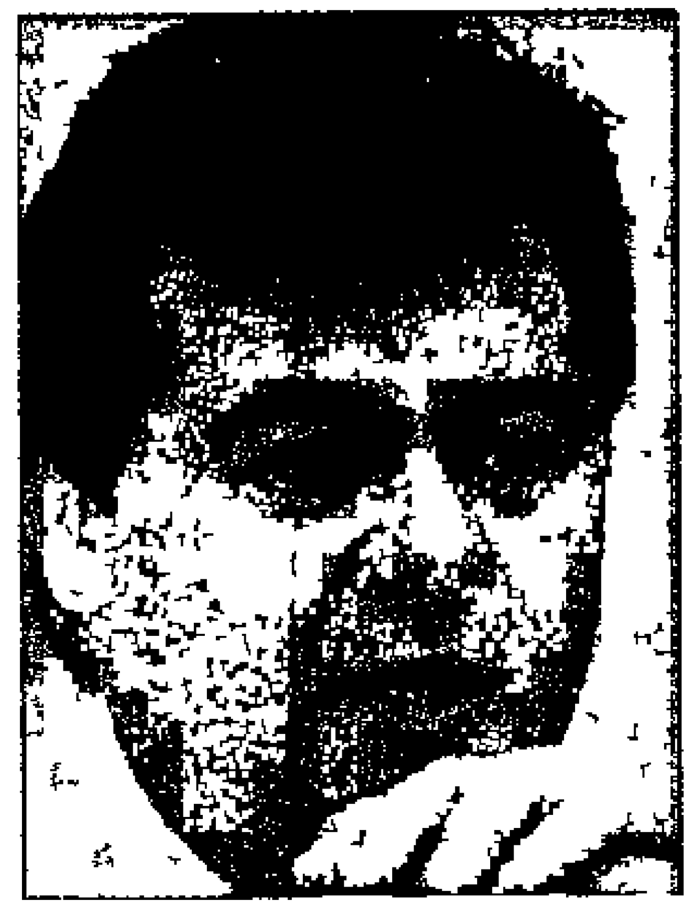
Even if the corporation reports directly to their operational ministry (Sun Air and Airports Company to the Department of Transport Telkom Post Office and SABC to Communications, the IDC to Trade and Industry) success is not always guaranteed, but it certainly comes more easily

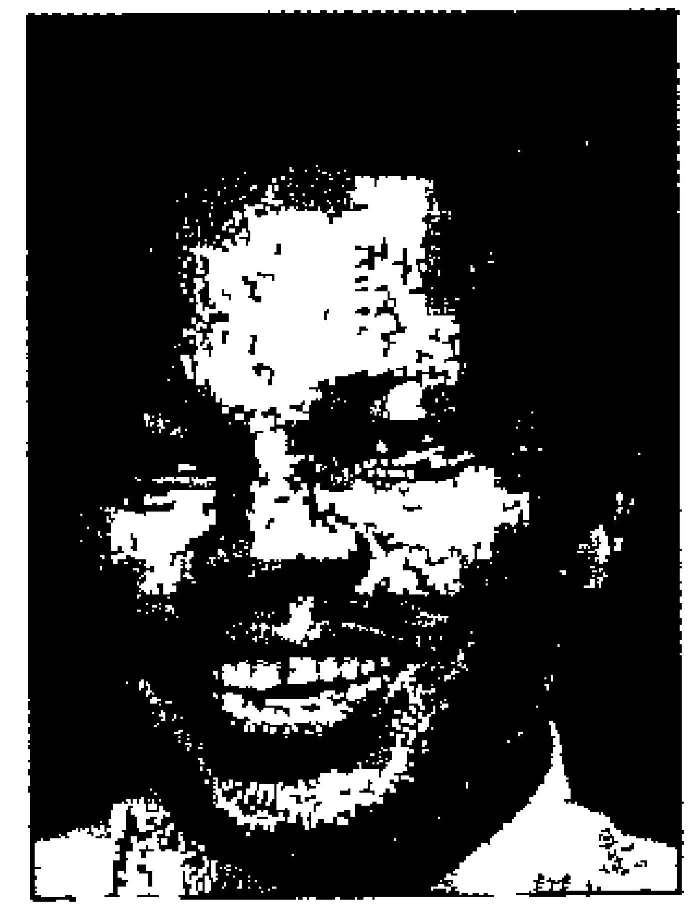
It is likely that an official in the Department of Transport, for example, would have a reasonable understanding of the operations of Sun Air and would not impose political objections against purely operational decisions

Another differentiating factor is the success of the commercialisation drive that was implemented in the public sector at the beginning of the decade and was always meant to proceed privatisation. Many parastatals were given a mandate to operate efficiently and were given no recourse to state funding

Eskom stands out in this respect — it cleaned up its balance sheet and boosted profits while at the same time embarking on a huge electrification drive.

Transnet's previous management on the other hand failed to find a long-term solution to its pension fund deficit and saddled the new regime with a R13-billion shortfall





MOVERS AND SHAKERS Airports Company chief executive Dirk Ackerman and Eskom chairman Reuel Khoza, setting examples in the public sector

State finds its infrastructure by another road

(232) ST(BT) 13/7/97

THE provision of infrastructure is one of the key elements of the government's growth strategy This policy also dictates that state spending be curtailed sharply, forcing the government to seek infrastructure funding from other sources

The obvious answer was to mobilise private sector finances, an approach that met with some resistance initially but has now been embraced by government

Mac Maharaj, the Minister of Transport, said this month that of the R170-billion government has to invest in infrastructure over the next 10 years only about R70-billion would be available through the Budget

The remaining R100-billion would be sourced from public-private partnerships

Maharaj's department is leading the development of private financing of infrastructure by concessioning the building and operations of toll roads The concept has also been adopted by the Department of Correctional Services which is planning nine new prisons for a total cost of about R1 5-billion

But private-public partnerships are not limited to national projects — they have found willing promoters at the local government level where numerous projects, ranging from water provision to waste disposal and small airports, are on the drawing board

The partnership concept has taken off internationally and the World Bank estimates that the market was worth $300-billion over the last decade of which new investment accounts for $100-billion alone

Colin Coleman, director of Standard Bank's public finance division, says dynamic private sector developers "are

Bank estimates that the market was worth \$300-billion ' over the last decade of which new investment accounts for \$100-billion alone

Colin Coleman, director of Standard Bank's public finance division, says dynamic private sector developers "are pushing the frontier of reform the world over enlarging the scope for effective competition between infrastructure service providers"

He says that in order to promote private sector investment the government should adhere to a few ground rules offer competitive returns on investment, promote competition for the tenders, allocate risks on an equitable manner between the public and the private sector and win the support of labour.

Standard Bank itself is a key partner in the SA Infrastructure Fund, which was established last year with initial funding of R500-million. It now has a capital base of almost R1-billion and is set to announce its first major investment — a R100-million stake in the N4 toll road between Witbank and Maputo

The Development Bank of SA has also become a major player in this field with the establishment of a private-sector investment unit It is also involved, to the tune of R200-million, in the N4 project

Private sector involvement in infrastructure can take numerous forms but two stand out in South Africa

- Simple, delegated management operations, where government undertakes the capital expenditure but a private contractor provides the working capital and runs the asset
- The so-called build-operate-transfer, or BOT system Under BOTs the government issues tenders for a project for a specified number of years Over that period the private sector contractor has to complete the project and run it on a profitable basis so that a return on investment is offered after the period has expired

STREETS AHEAD: The toll plaza at Marianhill, near Durban, one of many examples of private sector funding providing infrastructural facilities

COLIN COLEMAN
Standard Bank

The Department of Transport is making extensive use of BOTs in the development of its national toll road network. Altogether five toll roads are either in construction or on the drawing board, projects with a total value of over R5-billion.

The recent tender for the N4 toll road gives the winning consortium between 25 to 30 years to achieve a return on an investment which could be as high as R1 4-billion The government reserves the right to set the toll levy and could extend the period of operations once the current contract expires

The Department of Correctional Services has also jumped on the bandwagon In May it invited tenders for several new jails estimated to cost an initial R1 5-billion The offer has attracted considerable international attention, including from Group 4 in Britain and Correctional Corporation in the US, two leading companies in "prison concessioning" The tender includes juvenile centres, super-maximum security prisons and an awaiting trial facility

PUBLIC-PRIVATE PARTNERSHIPS

PROJECT	TOTAL COST	STATUS
N1 - [illegible]	R450-m	Completed
Comafin Venture Capital	R262-m	Approved
[illegible] toll road	R1 450-m	Approved
Beitbridge - Bulawayo rail	R271-m	Approved
[illegible]	R25-m	Approved
Two maximum security prisons	R400-m	Approved
Five new prisons	[illegible]	Approved
N3 Heidelberg - Cedara toll road	R1 2-bn	Proposed
[illegible]	R1-bn	Proposed
Wild Coast toll road	R1.5-bn	Proposed
Coega [illegible]	R1,5-bn	Proposed

11 Local Government waste disposal, water treatment and airport projects

Graphic. FIONA KRISCH   Source DBSA, DEPARTMENT OF TRANSPORT DEPARTMENT OF CORRECTIONAL SERVICES

Public sector shies away from rivalry at any price

(232)

ST(BT) 13/7/97

ONE of the results of privatisation is that it removes a company from the protection of the public sector into the competitive realm of the private sector

It is, therefore, not surprising that the government seldom cites greater competition as one of the aims of its privatisation programme

Pierre Brooks, chairman of the Competition Board, says that to date, the board has had limited feedback from the Department of Public Enterprises about the role of competition in the privatisation process

The need to entrench and foster competition was a major contributor to the success of Britain's privatisation programme in the 80s

Brooks says it is vital that the impact on competitiveness is considered when selling off a parastatal "We do not want to turn a public sector monopoly into one owned by the private sector At least in the public sector the government still has a measure of influence which it loses once the company is in the private realm "

He adds that the promotion of competition could, for example, force a company to sell off various operating divisions instead of putting itself on to the block as a going concern

While Brooks stresses that the form of sale will depend on the company involved — "Denel, for example, is easily broken up, while SAA is not" — splitting up a dominant public sector company is advantageous for competition, since it generally rules out vertical integration within one industry sector

Furthermore, says Brooks, a corporate shake-up would allow qualified black firms to establish smaller, but more feasible joint ventures instead of simply installing them at board level as directors

The board is currently involved in three investigations concerning possible competition policy infringements by public sector corporations

The best-known case has been Telkom's attempt to nationalise the Internet Brooks says there is nothing the board can do about Telkom's monopoly in the telecommunications sector "That was a political decision," Brooks adds "But we can intervene when that monopoly abuses its powers in an anti-competitive manner "

Telkom is attempting to define the Internet as a basic service, thus including it in its five-year period of exclusivity, during which it does not have to face competition During this period independent Internet service providers (ISPs) would have to rent lines from Telkom's Internet arm, SAIX, instead of a more direct and cheaper link

The Competition Board initially intervened after protests from the ISPs and asked Telkom to provide it with detailed accounts on SAIX in order to establish if it is unfairly cross subsidised by its holding company

When Telkom subsequently snubbed the board, it sought the assistance of the SA Telecommunications Regulatory Authority (Satra) which has direct jurisdiction over the Telkom license Indications are that Satra will rule against Telkom

The board is also debating the future of the SA Forestry Company (Safcol) In one of its widest and most lengthy investigations to date it has been deliberating for almost one and a half years on two crucial aspects of Safcol's operation — its status as the sole supplier of timber to most of the country's independent sawmillers and its expanding role as a sawmiller itself thus competing with its customers

Brooks says a ruling on Safcol is imminent and could severely impact on the privatisation of the forestry company Sources at Safcol says plans for its privatisation are proceeding regardless

It is understood that both management and labour at Safcol envisage an unchanged company when it is transferred to the private sector with considerable value added to the downstream (sawmilling) part of the group

WATCHDOG Competition Board chairman Pierre Brooks

This proposal horrifies independent sawmillers, who for years have benefited from Safcol s public sector status in that the company supplied them with logs on favourable terms, with prices out of kilter in global terms

The board could rule that Safcol has to ring-fence its forestry and its sawmilling operations to avoid cross-subsidisation — similar to the ruling handed down to Telkom's Internet arm

On the other hand Brooks could rule that the two arms have to be completely separated, with the forests owned by Safcol sold off as plantations to independent sawmillers

As regards Safcol's effective log supply monopoly Brooks said he would have to investigate whether a privatised Safcol would not offer meaningful opposition to the two private sector giants in the field — Sappi and Mondi

Finally, the Department of Transport has asked for advice on the current privatisation of Sun Air With the recent withdrawal of Virgin Atlantic from the bidding race, a consortium led by Comair has emerged as the firm favourite to win control of 100% of Sun Air

If the two were to merge it would group South Africa's second and third largest airlines

Brooks says the Competition Board would favour as much competition as possible but was unlikely to veto the deal "At least we have two smaller airlines grouping together to compete with SA Airways It is not ideal, but it appears to promote competition nevertheless, he says

A UK guide to restructuring

Top SA corporate tax lawyer, Michael Katz of Edward Nathan & Friedland, takes a look at the privatisation process

(232)

ST(BT)13/7/97

THE objective of this brief article is to give some observations on the objectives of the restructuring of state assets in South Africa and the methods by which it can be achieved

I have relied on the experience in the United Kingdom and in this regard have found very useful the book entitled *Selling the State — Privatisation in Britain* by Cento Veljanovski

As explained by Veljanovski, the major objectives of privatisation which emerged during the debate in the United Kingdom include the following

- to reduce government involvement in the decision-making of industry,
- to permit industry to raise funds from the capital market on commercial terms and without government guarantee,
- to raise revenue and reduce the public sector borrowing requirement,
- to promote wide share ownership,
- to create an enterprise culture;
- to encourage workers to share ownership in their companies,
- to increase competition and efficiency

As Veljanovski points out, during the early days of the debate in the United Kingdom the objectives of privatisation appear to be purely financial and managerial

It seems that the original impetus for privatisation came from a desire to discipline the nationalised industries by subjecting them to market forces This in turn derived from the realisation that the administrative methods of controlling and monitoring the performance of the nationalised industries had largely failed and in its existing institutional form would continue to do so

Veljanovski points out that from these relatively esoteric beginnings, privatisation began to acquire a set of more specific and often conflicting objectives

In this regard some commentators have pointed out that a less tangible yet nonetheless politically important objective which drove the privatisation process was the desire of the government to create a more entrepreneurial society

With the sale of British Telkom another reason, or as Veljanovski points out rationalisation, for privatisation emerged "Regulation of private monopoly was seen as a more effective and efficient form of production than nationalised public monopolies

"Private monopoly produces goods and services more cheaply, and any abuse of monopoly power can be controlled by the setting up of a new framework of regulation administered by a new regulatory agency and competition law Thus, for the public utility industries, privatisation means a change from public production to what is regarded by the government as more efficient, private but regulated production "

Finally, in the context of the philosophical approach to privatisation in the United Kingdom it is instructive to reflect on the following observation of Veljanovski "The benefits which are expected to flow from privatisation are, in the government's view, numerous

"Customers will benefit from the prospect of higher standards, greater efficiency in the provision of services, a charging policy designed to pass on efficiency savings and keep bills down, and the opportunity to hold shares

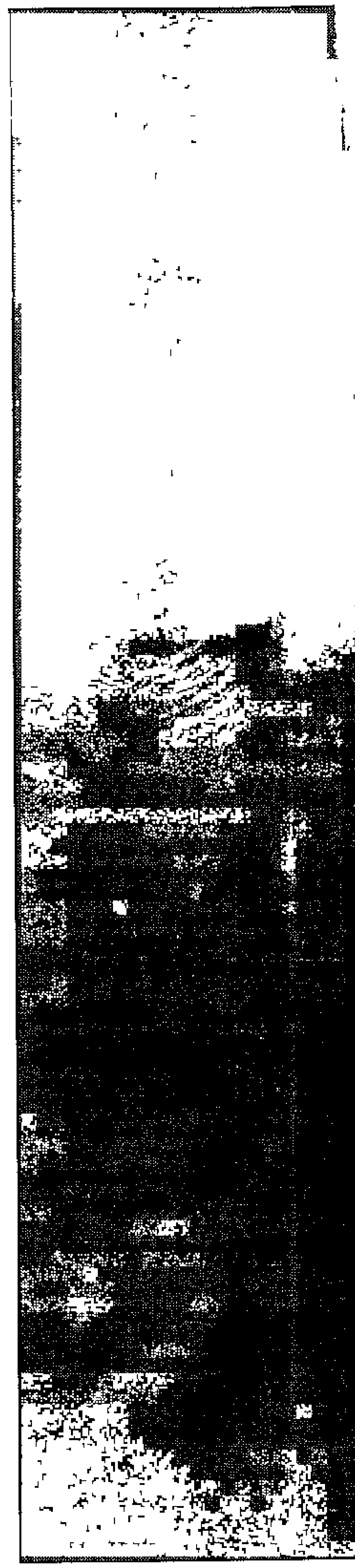
"Employees, because they are given an opportunity to buy shares in their own companies at preferential terms, will identify with their businesses and have greater job satisfaction and better motivation, so industrial relations will improve "

The philosophical justification for the restructuring of state assets also provides an indication as to the methods of achieving it Should it be an outright sale, or should it be an offer of shares by the privatised entity so that the money comes into that entity?

If the raising of money is the objective of privatisation then the former method will be selected' whereas if some of the other objectives referred to above are important then the latter method will be selected

Furthermore, outsourcing and sub-contracting of state activities also flows from some of the objectives referred to

As appears from the comments set out above, once a public entity is privatised it is essential that it be subject to a regulator and the normal competition laws of the land



DESIRE TO DISCIPLINE N

Selling the message of buying into private ownership

(232)

ST(BT) 13/7/97

A CRUCIAL pillar of the privatisation programme is the participation of employees and previously disadvantaged communities

The government is close to finalising the percentage of shares in privatised public sector corporations that will be reserved for empowerment purposes and for staff

According to government sources, up to 10% of each parastatal will be sold into the proposed National Empowerment Fund or NEF which will offer historically disadvantaged communities the opportunity to buy units in the fund at a considerable discount

Furthermore, each employee of a public sector corporation will be allocated shares to the value of R10 000 at the time when the company is privatised The share allocation falls under the employee shareholder option programme, also known as Esop, negotiated between the government and trade unions

Shares to both the NEF and Esop will be offered at a considerable discount to the price paid by other investors in privatised corporations No finality has been reached on the discount, which is expected to vary from case to case

The Department of Trade and Industry which is devising the structure for the NEF, is believed to have asked Telkom for a 20% discount on its shares

Financial advisers are also still working out the details of how to make both schemes affordable given that the average South African or civil servant is not terribly cashflush

Arrangments may include delayed payment terms, low-interest loans or an interest-free salary advance to buy shares for a limited period In return employees or buyers of NEF units will be prohibited from selling those shares for a fixed period to avoid speculative price variations

The NEF is modelled on Malaysia s successful ethnically exclusive Bumiputra national unit trust scheme and is part of the government's strategy to make privatisation more attractive to the majority of the population

The NEF will be structured into three separate funds according to proposals devised by the Industrial Development Corporation for government

● The key element is the investment trust, which will hold the bulk of the NEF portfolio The fund will receive seed capital from government and will also rely on investment returns for disversification into other equity investments

● A second fund a so-called warehousing trust will be used to offer equity stakes in restructured parastatals to black-controlled companies

The cash raised by this trust will be passed on to the investment trust for further investment or paid to the government for state debt redemption

● The third element of the NEF will be an entrepreneurial trust financed by the IDC, other investors, overseas banks, donor funding and, to a limited extent, by the investment trust This fund will take equity holdings in small and medium-sized companies owned by disadvantaged communities

While the warehousing and entreprenerial legs of the NEF are reserved for disadvantaged communities, the government is still debating whether to allow all South Africans to buy a stake in the investment trust.

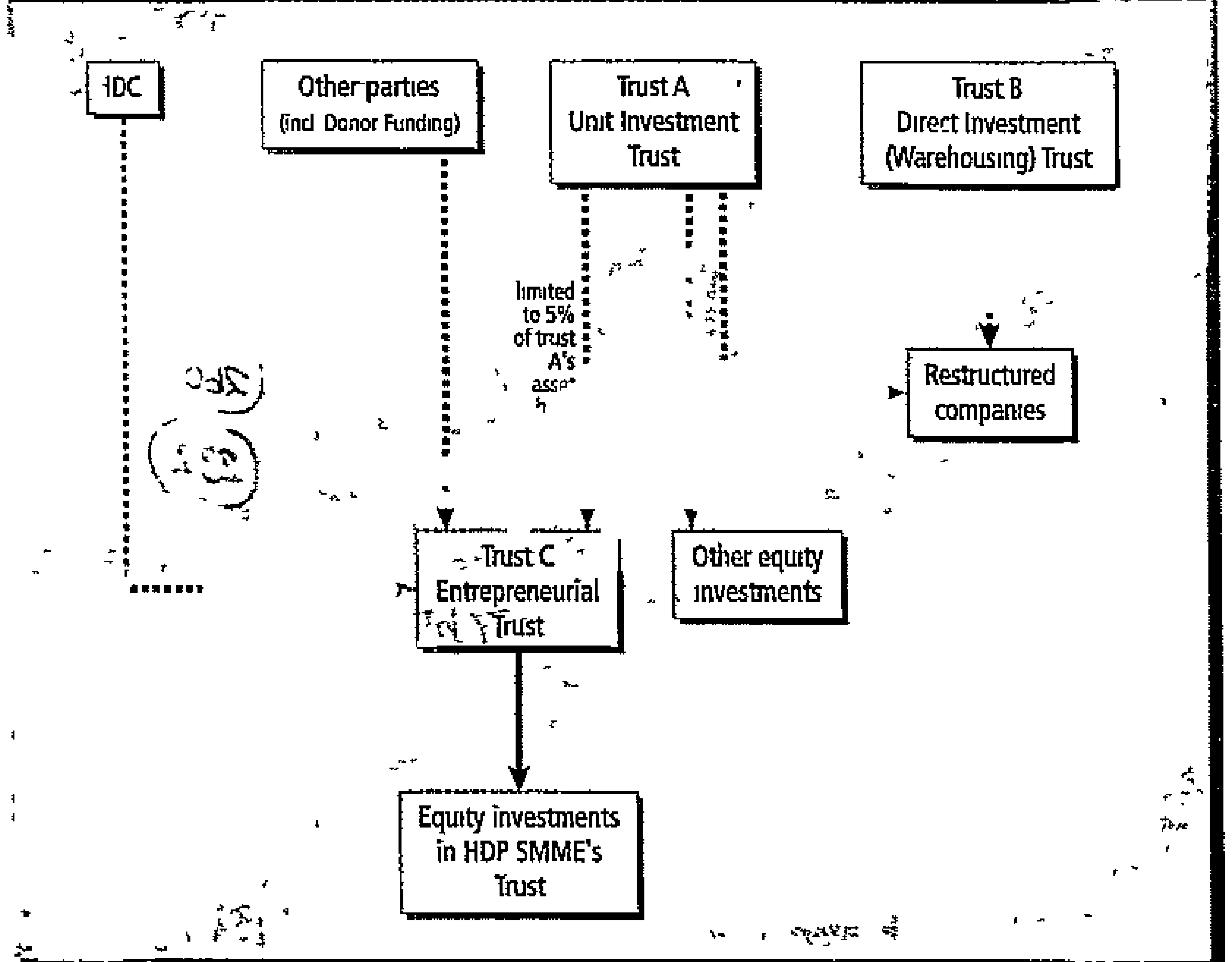
"It is going to be a nightmare to administer the investment trust if a racial check has to be made on every applicant who wants to buy units " one source said

Gert Gouws the IDC's finance general manager, says it is important that the investment trust's portfolio is suitably diversified in order to offer balanced growth

There is thus the danger that a 10% share of Telkom would dominate the fund for some time to come The NEF's initial investment of a 10% interest in Telkom is valued at about R1 8-billion, although the NEF will probably buy the stake at a discount of about 20% and be offered deferred payment terms

Once holdings in other parastatals are included and the NEF diversifies into private corporations, the required diversity should be achieved, Gouws says, adding that the NEF could also buy into unbundled conglomerates

STRUCTURE OF THE NATIONAL EMPOWERMENT FUND



Call for closure of Transnet subsidiary PX

BD 16/7/97

(232)

Lucia Mutikani

THE Road Freight Association accused Transnet of unfair competition yesterday and urged government swiftly to close or privatise its loss-making subsidiary, PX.

Association chairman Roger Naisby said that it was necessary to privatise or terminate some or all of PX's activities. The division had been recording losses of between R400m and R500m yearly over the past three years.

"We see this as unfair competition in that anyone who can record that magnitude of losses must of necessity be a drain on the taxpayer or certainly be cross-subsidised by other divisions within the Transnet stable," he said.

PX head Nico Heyns said recently that a huge restructuring at the company aimed at improving its financial situation had led to a backlog of about 25 000 parcels.

Heyns said the company was now trying to source additional manpower to deal with the backlog.

Naisby said that the association had, to some extent, similar views on Autonet, another Transnet division, which was competing in the road freight industry.

"While we are aware that they are profitable, they have certainly not produced an acceptable return on capital invested," he said.

"The fact that these companies are divisions of Transnet means that the taxpayer cannot establish whether there is, in fact, cross-subsidisation from the more profitable division of Transnet to those which are underperforming."

Naisby said that while the association appreciated that government had identified the need to privatise a number of Transnet's divisions, it was concerned that the process was progressing too slowly.

He said he understood the unions had expressed concern about potential retrenchment which might arise from the privatisation.

"We believe that if they (PX) have to privatise, which indeed they must with losses of R500m a year, the sooner they face up to the real price which has to be paid the better it will be for the taxpayer," he said.

While many people saw Spoornet as another area with which the association had a major problem, it viewed the parastatal as a potential partner, he said.

"We see it as an opportunity for intermodel freight transport co-operation. We do, however, have one concern with Spoornet in that we believe that they are cross-subsidising general freight haulage from their more profitable bulk haulage of ores and minerals.

"This, we believe, is creating unrealistic competition in terms of haulage of general goods and forcing up the prices of haulage of bulk ores and minerals."

He said government should look into the possibility of opening harbours to competitive businesses.

"Some of the rates being quoted for harbour activities and the handling of products, such as steel at Saldanha Bay, are unrealistically high and appear to be typical of monopolistic practices."

He said it was difficult to put a figure on the losses incurred by the association's members as a result of unfair competition from the parastatals. This could only be done through the intervention of the Competition Board.

Selloffs on the go again soon

eT 16/7/97 (Bor) (232)

DUMA GQUBULE

South Africa's privatisation programme appears to have lost momentum after the spectacular R5,5 billion sale of a 30 percent stake in Telkom to Thintana, a joint venture between Telekom Malaysia and SBC Communications, in March this year But there could be another five companies on the block next year, according to a Reuter survey

The privatisation programme was a key element of government's growth, employment and redistribution (Gear) strategy It was one of a package of policies designed to improve foreign and local investor confidence in the economy which had been dented by last year's currency crisis.

One year later Servaas van den Bergh, one of the authors of the Gear document, says "Improving investor confidence was one of the most important aspects of Gear in the medium term Government has done well on this score, but I would like to see more speed on the privatisation front."

The Telkom part-privatisation, a complex transaction, took less than a year to conclude after Jay Naidoo, the minister of telecommunications, took the process over from his predecessor, Pallo Jordan

But Stella Sigcau, the minister of public enterprises, will conclude her department's first privatisation (a relatively easy one) sometime next month, more than three years after she was charged with the responsibility of looking after many of the nation's crown jewels

Sun Air will be sold to one of four consortiums which prequalified to submit non-binding offers for the airline The consortiums are Rethabile/Comair, Bhekilanga; Phoenix Venture Partners, and a group led by Malaysian Airlines The government will pocket R50 million to R100 million for its 100 percent stake

In Sigcau's defence, the privatisation process was only kickstarted on December 6 1995 when Thabo Mbeki, the deputy president, said the government was ready to dispose of certain non-strategic assets The labour unions were on the streets the following day — the government had forgotten to consult a key alliance partner before making the announcement

After urgent bilaterals between the government and labour, the two parties signed the National Framework Agreement in February last year which paved the way for the Telkom part-privatisation

A second factor in Sigcau's defence is that Telkom was the juiciest national asset There is not much in her department that will raise the temperatures of foreign investors The proceeds from the privatisations over the next year will not be significant, analysts say

Since the Telkom announcement, there has been little to report on, except the prequalifiers for the Sun Air privatisation. But there could be another five companies on offer next year after the Sun Air privatisation has been concluded, according to Reuter

There will first be some unfinished business to take care of the sale of a further 10 percent stake in Telkom to black investors by the end of the year The biggest privatisations which are possible next year include the sale of a 49 percent stake in the Airports Company for an expected R1,2 billion, and the sale of a yet-to-be-determined stake in South African Airways (SAA), the national carrier

There are nine companies interested in the Airports Company, according to Reuter The privatisation should be relatively straightforward because it has received qualified labour support Randall Howard, the secretary-general of the Transport and General Workers' Union, says "Airports are not a basic necessity used by most of our people"

The SAA part-privatisation will be more complex. Unlike the Airports Company, which is in a healthy financial condition, the national carrier is expected to report huge losses (of about R323 million) in two weeks' time.

The airline could be sold in one piece — SBC Warburg, the government's adviser, values the airline at about R4 billion, sources say — or be broken up into companies, with foreign investors allowed to cherry-pick the international operations British Airways, Virgin and Deutsche Lufthansa have already expressed an interest in SAA.

Other state-owned companies which could be sold next year are Safcol, a forestry company which is valued at about R1 billion, Aventura, the holiday resorts company valued at R50 million to R100 million; Alexcor, a small Namaqualand diamond mine, and Autonet, a small Transnet road transport subsidiary

Other big issues on Sigcau's plate include the restructuring of loss-making Transnet, which could soon start selling off chunks of its subsidiaries to strategic equity partners, Denel, whose transformation should gather pace next year, and Eskom, which will not be privatised in the near future, but will start paying taxes

Transnet hits back at claims of unfair competition

(232) BD 21/7/97

Lucia Mutikani

TRANSNET has shrugged off allegations of unfair competition levelled against it by the Road Freight Association (RFA), saying that the accusations are "nothing new"

Last week RFA chairman Roger Naisby urged government to urgently close or privatise Transnet's loss making subsidiary, PX, which he said had been recording losses of between R400m and R500m a year over the past three years

He also accused another Transnet division, Autonet, of failing to produce an acceptable return on capital invested Naisby said Spoornet was creating unrealistic competition in terms of haulage of general goods and forcing up prices of haulage of bulk ores and minerals through cross-subsidisation

However, Transnet media liaison and corporate marketing manager Tami Didiza described Naisby's allegations as "unfortunate", saying he had implicated four of the parastatal's divisions "without the necessary facts".

"Transnet is a public company operating in terms of the Companies Act All Transnet financial obligations are therefore met through revenues generated by its operations and not taxpayers' money as alleged by Naisby."

Didiza said PX was operating on sound business principles, while Autonet operated in an open market and its rates and service levels were in line with market demands.

"The acceptability of Autonet's returns produced is determined by the shareholder and (they) are in line with the shareholder's expectations as agreed with the Transnet board."

"The cost of capital to Autonet is determined by Transnet on the same risk evaluation as any tender would and with the expected returns."

In response to claims of unrealistic rates for harbour activities, Didiza said Portnet had quoted preliminary tariffs for the Saldanha steel project based on estimates regarding capital investment. These tariffs had not been finalised.

"Spoornet's price to the market is determined in a responsible manner, like any other business with a profit motive. It is not in Spoornet's interest to help create a fundamentally unprofitable industry for the general freight," he said

"To the contrary, this segment is a substantial portion of Spoornet's business portfolio and Spoornet is striving for a healthy industry that can facilitate long-term profitability, with sound competition."

Didiza said Spoornet was in the process of aligning its total business portfolio to world class business practice. "This exactly excludes any cross-subsidisation strategy as part of an envisaged future

"Spoornet's transformation is closely linked to the revamping of the total regulatory environment, despite the apparent disregard for the current laws by many transport operators"

"Government has made a principled decision to privatise noncore assets, and the process is under way and will be fulfilled within the necessary timeframe," Didiza said

Privatised telecoms 'vital' to SA's IT progress

(232)

From Reuter

CT(BR) 30/7/97

Cape Town — The accelerated privatisation of all telecommunications services was vital if South Africa wanted to keep abreast of international developments in information technology (IT), two University of Cape Town (UCT) academics said in an article published yesterday

James Hodge and Jonathan Miller said in the latest edition of UCT's Trade and Industry Monitor that the decision to partially privatise Telkom with a five-year exclusivity period could harm the development of other information infrastructures

"For instance, the Council for Scientific and Industrial Research's community information delivery system based on wireless technology has run into problems with Telkom when attempting to move beyond the pilot stage," they said.

The present arrangement did not provide a level playing field in all services, they said.

"An example is the role of Telkom as a network provider and Internet service provider, which has already led to allegations of unfair competition through hidden subsidies"

Telkom responded to the allegations by asking the South African Telecommunications Regulatory Authority to classify Internet access as a basic service. This application had failed

These developments highlighted the need for government to adopt a regulatory environment that allowed for the rapid growth of all telecommunications networks, Hodge and Miller said

They said that while the financial services and retail sectors appeared to be making the most effective use of information technology, manufacturing was lagging behind and needed to get up to speed if it was to become competitive around the world

Given the low level of computer literacy in South Africa, especially among blacks, the professional training and education of IT users would also be important, they said.

Telecoms privatisation urged

BD 22/7/97 (232)

CAPE TOWN — The accelerated privatisation of all telecommunications services was vital if SA was to keep abreast of international developments in information technology, two University of Cape Town academics said in an article published yesterday.

James Hodge and Jonathan Miller said in the latest edition of UCT's Trade and Industry Monitor that the decision to partially privatise Telkom but give it a five-year exclusivity period could affect the development of other information infrastructures.

"For instance, the Council for Scientific and Industrial Research's community information delivery system based on wireless technology has run into problems with Telkom when attempting to move beyond the pilot stage," they said.

The arrangement did not provide a level playing field in all services.

"An example is the role of Telkom as a network provider and Internet service provider, which has already led to allegations of unfair competition through hidden subsidies," Hodge and Miller said.

Telkom responded to these allegations by asking the SA Telecommunications Regulatory Authority to classify Internet access as a basic service This would have allowed it to continue providing the service regardless of the outcome of Competition Board investigations. The application failed.

These developments had highlighted the need for government to adopt a regulatory environment that allowed for the rapid growth of all telecommunications networks, Hodge and Miller said

They said that while the financial services and retail sectors appeared to be making the most effective use of information technology, manufacturing was lagging behind and needed to get up to speed if it was to become internationally competitive —Reuter.

State plans to privatise PX service, Autonet (232)

CT(BR) 29/7/97

Duma Gqubule

Johannesburg — The government intended to privatise 100 percent of PX, Transnet's loss-making parcel delivery subsidiary, and Autonet, the road transport operator, Mac Maharaj, the transport minister, said yesterday

Transnet is expected to report huge losses next week after absorbing PX's R500 million deficit

"PX has been put on the table with labour with government saying it intends to wholly privatise it, as is the case with Autonet," Maharaj said

But senior government, Transnet and trade union sources were annoyed yesterday that Maharaj had jumped the gun by announcing the privatisation of PX and Autonet before consultations with labour

Tsidiso Moshau, the assistant general secretary of the South African Railway & Harbours Workers' Union (Sarhwu), said: "It (the privatisation of PX) would have to be discussed at the National Framework Agreement's (NFA) transport sector meeting We had an NFA six-a-side meeting last week and Mac said nothing about PX"

Sarhwu opposes piecemeal privatisation of Transnet subsidiaries It prefers to negotiate a holistic strategy for all Transnet subsidiaries But the union recently said SAA would be an exception to the rule because of its large losses

A ministry of public enterprises source said "The privatisation of PX is not on the agenda yet It has not even been discussed"

A senior Transnet source said "This is news to me, just like a statement he (Maharaj) made last week that the ports would be privatised Nobody would buy PX as it is And the unions would kill me if they heard we were secretly planning to sell the company"

Competition Board to probe Telkom tender

232

BD 31/7/97

Lesley Stones

THE Competition Board is to investigate a Telkom tender on grounds that it favoured one specific manufacturer.

Black-owned computer company Afro-Comp International (ACI) has forwarded more than a year's worth of communications with Telkom to the board to back up its complaint that the tender violated procurement regulations. The proposal, estimated to be worth more than R65m, cited specific models of computers, file servers and notebook PCs made by Compaq.

Board chairman Pierre Brooks confirmed yesterday that an investigation would be held He said a government body was obliged to issue competitive tenders and if clauses precluded other bidders it obviously raised some concerns. "If tenders are anti-competitive we have to take complaints seriously. If a contract is drafted in a way that is company-specific that might be frowned upon," he said.

ACI MD Joey Fleming said he had referred the matter to the board at the urging of several other PC vendors equally unhappy at the way Telkom structured its tender. In addition to complaining directly to Telkom officials, Fleming had also lodged complaints with the posts, telecommunications and broadcasting and the public enterprises ministers

"We have fought from the day the tender came out I hope the Competition Board will investigate this blatant move to keep other computers out of Telkom," Fleming said

Fleming said he did not have any complaint against Compaq itself, but against Telkom which refused to consider any other models

The contract was awarded last week to Persetel and PC distributors Sourcecom, both suppliers of Compaq

Big losses could force pace of change at Transnet

ST(BT) 3/8/97 (232) (261)

Stella Sigcau is backing the parastatal in the dispute with Mac Maharaj over its privatisation, write SVEN LUNSCHE and DON ROBERTSON

TRANSNET looks set to report a record loss of between R250- and R750-million for the year to end-March 1997 when the state-owned transport giant releases its financial results tomorrow

In anticipation of the large losses, some government sources are calling for an acceleration of Transnet's restructuring and privatisation programme But the pace of change led to a public altercation between Transport Minister Mac Maharaj and Public Enterprises Minister Stella Sigcau this week.

Transnet's commitment to servicing its bankrupt pension and medical funds is likely to cost the group at least R1 4-billion in 1996/97 and will wipe out any surplus funds that could arise out of potential combined trading profits of about R1 25-billion from its six main operations The overall trading profit hides large losses at two of the operations — the PX parcel division and SA Airways

The pressure on Transnet executives showed this week when managing director Saki Macozoma publicly attacked the accelerated restructuring agenda put forward by Maharaj On Friday, Macozoma was backed by the Transnet board and by Sigcau, who is responsible for Transnet Sigcau's spokesman Wandile Zote said the minister shared the board's concern about Maharaj's statements on Transnet's restructuring

Macozoma's attack, which labelled Maharaj's statement as reckless and as undermining the negotiation process with labour, brought to a head differences between Maharaj and Transnet/Sigcau about the extent of change at the group

Government sources, however, say that Maharaj's proposals for the various divisions at Transnet have generally been backed by his cabinet colleagues The proposals include the full or partial privatisation of Autonet, PX, SA Airways, and Portnet's harbour operations.

An inter-ministerial government committee, chaired by Deputy President Thabo Mbeki, will soon examine a master plan for Transnet According to sources, the plan could entail the allocation of pension-fund deficits to the various operations and their subsequent ring-fencing

This would provide potential investors with a clearer financial picture as well as eliminate cross-subsidisation

The committee will also examine whether future investors could pay off the pension deficit instead of paying taxes, as recommended by the Finance Department

Analysts are confident that Transnet will report a good overall profit from its six major divisions, but stress that its commitment to providing at least R1 4-billion to service the R10 3-billion of debentures raised to cover shortfalls in the pension fund will wipe out any surplus funds

They also warn that the financial provisions could be even larger In the 1995/96 financial year, the total commitment for the pension fund and medical aid was R1 9-billion, which included an additional R175-million for increased pensions and contributions to employees and R409-million for pensioners and medical benefits These figures were similar to those made in the 1994/95 financial year and are likely to be repeated as staff shrinkage has been slight

The combined profit of the trading divisions is expected to be about R1 25-billion, after taking into account the losses from PX and SAA

A divisional breakdown of expected earnings shows that SAA is set to post a loss of about R350-million as increased operating costs including higher fuel prices take their toll This compares with a profit of R324-million in the 1995/96 financial year

A loss is also expected by analysts in the current (1997/98) financial year, although SAA executives forecast a return to the black.

In spite of efforts to restructure the PX parcel division, a loss of at least R500-million is expected compared with the R433-million loss in the previous period

Earlier this year, executive director Joe Ndhlela said the division had hoped to keep losses down to about R475-million, but the provisions for 2 000 staff members who took voluntary retrenchment would increase this figure

He added that PX would not be profitable until 2000 and that the loss in the 1997/98 financial year would be about R290-million

Spoornet will probably show a profit of R350-million against R98-million in 1995/96, but only about R100-million of this will represent a trading profit The balance consists of extraordinary items including the repayment of debts by countries such as Zimbabwe

Petronet should increase profits by about 10% from the R180-million reported in 1995/96 Petrol sales during the 1996/97 financial year were up by about 6%

Portnet looks set to show some improvement, although increased costs will have affected operations Earnings are expected at about R1 5-billion (R1 39-billion) Tonnages handled increased by 5 2% during the 1996/97 financial year

Autonet's five-year profit strategy is running to plan and headline earnings are expected to show a 80% improvement on 1995/96 The result could be an increase in profits to about R26-million (R23-million)

TRANSNET'S EXPECTED PROFIT/LOSS SCENARIO

	1995/96	1996/97	PROPOSED STATUS
Spoornet	R98-m	R350-m	Internal rest[illegible]ring
Portnet	R1.39-bn	R1.5-bn	Separate infrastructure from operations. Sell off operations
SAA	R324-m	(R350-m)	Privat[illegible]tion [illegible] 19% or a majority hold[illegible]
Petronet	R180-m	±R190-m	Restructuring
Autonet	R23-m	R26-m	Full privatisation
PX	(R433-m)	(R500-m)	Further restructuring before privatisation
Operating profit	R1.79-bn	±R1.[illegible]	
Provision for pension fund and medical aid	R1.98-bn	between R1.5-bn and R2-bn	
Total loss	R253-m	R250-m to R750-m	(losses)

Privatisation 'set to gain momentum'

BD 4/8/97 (232)

Robyn Chalmers

MAPUTO — Government could receive up to R2bn over the next year from the sale of several state assets, notably the Airports Company, finance department deputy director-general Andre Roux said at the weekend

Speaking at a Société Générale Frankel Pollak conference, Roux said government had received almost R6bn over the past six months from an asset sale, and the process was set to gain momentum The funds came from the sale of 30% of Telkom, although a significant portion was being used to expand telecommunications structure

Roux said no projections had been done on how much the state was likely to receive from assets over the next five years

"We have not included funds received from the sale of state assets into our deficit targets Whatever is received, however, will go into debt reduction," he said

Government was likely to take a pragmatic approach towards the use of funds received from the sale of state assets. Depending on the needs of the various organisations, some entities could be sold and all the funds would go to the treasury while funds received from the sale of others could be reinvested — as with Telkom.

The sale of a 30% stake in Telkom was the first major privatisation exercise undertaken by government, and was likely to be followed by the 100% sale of Sun Air this year Other privatisation exercises under way or on the cards included the sale of up to 49% of the Airports Company — to be concluded by next March — and the sale of tourism group Aventura. Talks on the restructuring and possible sale of the SA Forestry Company have started while government has said discussions on loss-making parcel group PX, SA Airways and Autonet would be speeded up.

Roux said the issue of subsidising parastatals was under scrutiny, with government having eliminated the

Continued on Page 2

Privatisation (232)

Continued from Page 1 BD 4/8/97

subsidisation of some entities. The Post Office's subsidy — which has averaged about R500m over the past five years — would continue for a limited period and Roux said the SABC had requested a subsidy to allow it to fulfil its mandate of a public broadcaster However, any subsidy would be aimed at particular programmes rather than the entity itself.

Government was considering imposing a tax and dividend policy on Eskom — which is currently exempt — in a bid "to level the playing fields".

Katz Commission head Michael Katz said the commission was keen to ensure that all parastatals paid tax and were corporatised

"The argument that government has not taxed parastatals like Eskom in order to sell earnings and thereby get a better price for entities is not true It's .. just that there are complications, and the issue needs to be carefully considered," he said.

See Page 3

SAB challenges inquiry

(232)

CT (POR) 5/8/97

Roy Cokayne

Pretoria — South African Breweries' (SAB) lawyers have challenged the Competition Board's notice of its investigation into the company on procedural grounds for being "vague", Pierre Brooks, the chairman of the Competition Board, said yesterday.

The board announced early last month it had launched a formal investigation to determine whether SAB had a monopoly in the alcoholic beverage industry and whether any agreements or arrangements it had with anyone in the industry constituted a restrictive practice.

The notice, published in the Government Gazette, said the investigation would also attempt to determine if the shareholding that SAB has in any other enterprises operating in the industry, or any representation it may have on the directorates of such enterprises, gave rise to a monopoly or constituted a restrictive practice

The Government Gazette notice said the board's investigation would also focus on other issues, including

- SAB's distribution system in the industry;
- Its licensing agreements with any person or group of persons,
- SAB's launching of brands,
- Agreements, arrangements or understandings not to compete with any other participant in the industry;
- Agreements with, or inducements offered to, any person relating to the allocation and position of space for particular products in alcoholic beverage retail outlets, and
- Threatening or acting against any existing or potential competitors in an improper manner

At the time, Norman Adami, the managing director of SAB's beer division, welcomed the investigation and pledged the company's full co-operation

SAB spokesmen were unavailable for comment yesterday

Competition Board to scrutinise Pepsi sale

(232)

MPHO MANTJIU

Johannesburg — The Competition Board would meet the liquidators of New Age Beverages, the failed Pepsi bottler, today to discuss the implications of selling the plant to one of the market leaders, Pierre Brooks, the chairman of the board, said yesterday

Les Cohen, the chief liquidator of New Age, said Amalgamated Beverage Industries (ABI) and other large bottlers had looked at the plant and expressed an interest in acquiring it.

Details of the bids received for the bottling plant on the East Rand would be made available tomorrow, Cohen said.

Smaller bottlers have expressed concern that ABI might buy the facility, cementing its stranglehold on the local soft-drink bottling market

One of the bidders, who is a member of a consortium of small companies, said they were relying on the board to break up the power enjoyed by large concerns

Brooks said if the successful bidder had a greater market share than others, it would be appropriate to take action in an effort to maintain economic democracy

He said the board had pointed out to the liquidators in writing the possible ramifications of selling the New Age facility to a large company If the buyer was not consistent with competition policy, the board would set in motion a process to stop the transaction Even if the plant was sold, the deal could be undone

An analyst said when the board looked at any deal it would have to take into account that South Africa was a country with a large concentration of conglomerates and was not a mature industrial society

New Age was liquidated last month after attempts to find a buyer proved unsuccessful

CT (BR) 7/8/97

LIQUIDATIONS (232) (1882)

Competition Board eyes NAB plant sale

The Competition Board and the liquidators of New Age Beverages (NAB), the failed Pepsi bottler, reached an understanding of each other's positions during an exploratory meeting yesterday, said Pierre Brooks the chairman of the board.

Brooks said the liquidators would keep the board informed on further developments relating to the sale of NAB's bottling plant. "We promised each other to liaise as the event unfolds," Brooks said. The liquidators said their responsibility was towards the creditors, who are owed about R419 million. The board has expressed concern that NAB's plant would be sold to industry leaders Amalgamated Beverage Industries and Suncrush, cementing their stranglehold on the local bottling industry.

Sources said there was a possibility Pepsico, the US-based beverage company, would seek to return to South Africa and might be interested in purchasing the plant. — *Mpho Mantjiu, Johannesburg.*

eT (BR) 8/8/94

INSURANCE

Board seeks temporary ban on Pulseline

BD 11/8/97 (232)

Ingrid Salgado

A BAN is being sought on the activities of Pulseline, the medical products company in which up to 180 anaesthetists are shareholders, pending the outcome of a Competition Board probe into whether it is anticompetitive.

Competition Board chairman Pierre Brooks said yesterday that the application by the SA Medical and Device Industry Association (Samed) to halt certain business operations at Pulseline was being investigated, and a decision would be reached "very shortly"

The anaesthetists last year bought shares in Pulseline, a Medhold-controlled company, retailing anaesthetic products, a move described by the medical equipment and private hospitals as monopolistic and unethical

A recommendation to Trade and Industry Minister Alec Erwin on whether to act by imposing a temporary ban in terms of the Maintenance and Promotion of Competition Act would follow The matter had to be finalised before the board could begin a more earnest probe into whether Pulseline was anticompetitive "It obviously requires urgent attention," Brooks said

The board's investigation centres on whether shareholding by anaesthetists, who had access to major hospitals, would distort the market for disposable products used in anaesthesia

The SA Medical and Dental Council said an investigation into whether the anaesthetists' scheme had breached the council's code of ethics was still in the preliminary stage The council probe — separate from the Competition Board probe, although the two were co-operating — was initiated after a complaint by Samed, which represents manufacturers, importers and distributors of medical services Samed alleged the scheme was monopolistic and unethical

The medical council said it would decide whether Samed's allegations warranted further investigation after a meeting next month

The anaesthetists hold their stake in Pulseline through Anesticum, which owns 49,9% of Pulseline The balance of shares belongs to pharmaceutical company Medhold which posted a 72% drop in attributable income to R1,8m for the year to April The group said its investment in Pulseline had contributed to a 77% fall in operating profit

Key Market Movements — 7/8 to 8/8

Gold				Currencies		Europe close	Europe close	3 month	Stock Markets				
NY close $/oz	Lon PM $/oz	Lon PM R/oz	Kruger-rand	R per $	$ per R	DM/$	R/£	BA	FTSE 100	Dow Indus	JSE Ov'all	JSE Gold	JSE Indus
326,45	323,70	1 513,91	1 495,0	4,6785	0,2138	1,8686	7,4361	15,15	5 086,8	8 188,00	7 614,4	996,6	9 314,2
↑	↑	↑	↑	↓	↑	↓	↓	NO MOVE	↓	↓	↓	↑	↓
321,95	321,00	1 501,79	1 480,0	4,6769	0,2137	1,8415	7,3995	15,15	5 031,3	8 031,22	7 599,2	967,1	9 283,4

Privatisation of Sun Air looks doubtful

(232)

Sowetan 19/8/97

By Maxwell Pirikisi

Delays in the privatisation of Sun Air have cast doubt on whether South Africa is serious about the restructuring of state assets

Analysts suggest that the Government might be forced to abandon efforts to privatise the airline, a move which could question the Government's capacity to successfully manage its privatisation campaign Sun Air's privatisation was to have been finalised at the beginning of this month

Concern

Concern about the pace of privatisation follows recent speculation that the Government might not want to sell Sun Air at a price below valuations determined by its advisers

Initially it was believed that the Government could raise about R200 million from the sale of Sun Air before the figure was later revised down to R100 million

However, it was rumoured last week that one of the two remaining bidders had offered less than R30 million for the airline The two bidders are Rethabile/Comair Consortium and Phoenix Venture Partners

Public Enterprises Ministry spokesman Mr Wandile Zote would not be drawn into discussing the possibility of the Government abandoning Sun Air's privatisation in view of current offers for the enterprise which are thought to be lower than expected

A few months ago Public Enterprises deputy director-general Professor Sipho Tshabalala was quoted as suggesting that if offers for Sun Air fell far short of Government expectations, the sale might be re-negotiated

Yesterday University of South Africa senior lecturer in the Department of Public Administration Dr Frank Smith, who is an expert on privatisation, said although privatisation seemed to be on track, there "could be signs that the Government had its own problems"

(232) ~~Forestry~~

Safcol awaits Competition Board investigation report

CT (BR) 20/8/97

ROY COKAYNE

Pretoria — The Competition Board has completed its investigation into alleged restrictive practices by the SA Forestry Company (Safcol), the parastatal to which the state's commercial forestry interests have been transferred

However, Pierre Brooks, the chairman of the Competition Board, said yesterday other matters had prevented the report being discussed at the board meeting last week and it had been deferred to next month

The investigation has delayed Safcol's proposed privatisation

Brooks said the report first had to be given to board members to allow for elaboration before it was sent to Alec Erwin, the trade and industry minister

The investigation followed complaints submitted to the Competition Board by the York Timber Organisation and CJ Rance in the Eastern Cape

Brooks said earlier that the investigation would focus on complaints that certain practices by Safcol could be regarded as restrictive practices. These were tied up with Safcol's past and the system in terms of which state commercial forestry interests had been transferred to Safcol.

Partnerships unlock private sector resources for delivery

(232) (~~2ble~~)

Private sector involvement in local government is taking off. Constitutional development department municipal partnerships director Moeketsi Mosola provides the background to the trend

BD 26/8/97

THE emergence of public sector-private sector partnerships has become an increasingly pervasive international trend. While some problems have occurred, there is a growing list of successes.

Although a limited number of such partnerships have been tried domestically, SA lags significantly behind many other parts of the developing world.

While this is problematic, it also provides SA with the opportunity to learn from international experience and to adopt international best practice.

Accordingly, SA is increasingly recognising the importance of public-private partnerships in the delivery of services. Government has encouraged partnerships to address the country's development challenges. This requires that public and private sectors, as well as labour and communities, work together to achieve sustainable socioeconomic development.

Because the concept of public-private partnerships is relatively new to SA, a number of challenges need to be addressed in order to establish them in the infrastructure and service delivery arena. These challenges include:

- □ A lack of capacity at local government level to design and implement partnership projects;
- □ Financial constraints at all levels of government in relation to infrastructure backlogs and growing needs;
- □ Poorly functioning municipal administration and management; and
- □ A culture of nonpayment for services and related poor quality of existing services.

The fundamental reason for partnerships is their capacity to unlock resources from the private sector in order to assist in delivery of the basic infrastructure goals of the reconstruction and development programme.

Massive infrastructure backlogs and upgrading needs are beyond the capacity of the public sector to deliver alone.

Characteristics that allow partnerships potentially to make a positive contribution to government's objectives in providing municipal services include:

- □ Unlocking investment capital from the private sector;
- □ Promoting efficiency and effectiveness gains;
- □ Providing access to nonfinancial resources; and
- □ Containing fiscal and macroeconomic benefits.

However, major concerns regarding public-private partnerships have been expressed in SA. And it must be acknowledged that private sector involvement in what are traditionally public sector functions can lead to problems.

Some of these are:

- □ Loss of sovereignty. Delegating local government functions to private sector operators implies some responsibilities must be handed over for a specific period of time. It is usually possible to accommodate these concerns through contractual arrangements for key areas of responsibility;
- □ Job security. Organised labour is rightfully concerned about the loss of jobs associated with private sector involvement. In many countries, like the UK, privatisation of municipal assets has disadvantaged workers considerably. However, our proposed scale of expansion of municipal infrastructure means that there will be a net increase in employment in the municipal sector even with private sector involvement. Indeed, some partnership arrangements in SA have improved worker conditions significantly;
- □ "Cherry-Picking". The profit motive and risk aversion of private operators means that they are often inclined to service affluent communities and exclude communities which have problems meeting service charge payments. Such "cherry-picking" can be consciously avoided by contractual obligations;
- □ Profiteering and corruption. The awarding of contracts can be associated with corruption of politicians and officials. It is important to ensure a sound competitive process that is open to public scrutiny.

Local authorities entering into partnership arrangements might not have the necessary skills and capacity to address all of these concerns, but it should be possible to ensure that correct approaches are adopted through a clear regulatory framework.

This framework must ensure that benefits accruing for partnerships are actually achieved, that consumers are protected, and that the problems are avoided. It must create an environment conducive to private sector activity while at the same time achieving government's socioeconomic and macroeconomic goals.

Some of the following are aspects the constitutional development department feels meet a proper regulatory framework:

- □ Good governance (accountability and transparency);
- □ Protecting consumers (standards and tariffs);
- □ Efficiency (competition and periodic regulations);
- □ Promoting local options;
- □ Monitoring performance; and
- □ Involving stakeholders.

The department is acutely aware that the success of public-private partnerships depends on building good relationships among all stakeholders. These include labour, local government, business and nongovernmental organisations. To this end, the department has been consulting all stakeholders to ensure success, and has put a comprehensive policy programme into place.

New unit will help local govt in partnerships with private sector

BD 28/8/97 (232)

Deborah Fine

A MUNICIPAL infrastructure investment unit is being set up by the provincial affairs and constitutional development department to help local authorities to engage in service delivery partnerships with the private sector.

Municipal economic development and partnerships director Moeketsi Mosola said last week that the unit would provide top level technical advice and support to local councils wanting to enter into public-private partnerships to speed up the creation of municipal infrastructure and acceptable levels of service delivery in their areas of jurisdiction

Apart from advice about issues such as tenders and the drawing up of contracts to give adequate protection and safeguards to local authorities and ratepayers, the unit will offer financial grants to assist with feasibility studies, tender procedures and hiring private consultants to oversee the partnership process.

The unit will include a board made up of members of the national finance and constitutional development departments, the Development Bank of SA, the SA Local Government Association, investors and donors The board will act as trustees for the unit's grant fund, which had already been allocated R20m in addition to donor funds.

Mosola said the department hoped the unit, which would also provide the necessary technical assistance to local authorities, would be fully operational by the end of October

The unit's creation followed an acknowledgement by government that the public sector simply did not have the funds and other resources to create bulk infrastructure and deliver municipal services at the required rate

Involving the private sector would bring additional capital, management capacities and technical skills into the delivery process Private sector involvement could also bring about service delivery improvements, cost-efficiency and recovery.

Government was thus encouraging local councils to consider private sector partnerships by means of 25 to 30 year concessions or 6 to 10 year leases whereby private companies would manage and operate infrastructure facilities on the council's behalf at commercial risk. Firms would derive income and recoup capital spending directly from services tariffs.

Other public-private options included service or management contracts by contracting out specific operations and maintenance activities Such contracts could be used for the operation and maintenance of standpipes, meter reading, billing and collections, park and garden maintenance, refuse removal, ticketing, cleaning and catering.

Provincial Affairs and Constitutional Development Minister Valli Moosa has stressed, however, that final responsibility for service delivery would always remain with local authorities

For this reason his department had set up the new investment unit to ensure that inexperienced local authorities were not "left at the mercy of unscrupulous profiteers" who could seek to draw up "one-sided" partnership contracts with which to exploit both councils and ratepayers.

In addition, his department was also devising a regulatory framework for such partnerships

Privatisation plan to save ailing province

CAROL PATON (232)

ST 31/8/97

THE Northern Province may privatise a number of government enterprises in an effort to save the provincial administration.

This proposal was made by Premier Ngoako Ramatlhodi a week after a provincial audit report compiled by the Department of Public Service and Administration described his 125 000-strong provincial administration as being "on the verge of collapse".

Other radical reform proposals made public by Ramatlhodi and his cabinet this week include:

- Cutting the size of the public service;
- The reconsideration of all capital projects already planned or under way;
- The appointment of financial managers in government departments;
- A moratorium on the purchase of vehicles and stringent measures to curb the misuse of vehicles, and
- Cutting back on telephone bills and other unnecessary expenditure.

Heads of department will also be made accountable for finances and overspending in their own departments.

In July the Semenya commission identified widespread financial mismanagement, chaotic administration and a failure to follow accounting and tender procedures.

However, no one was found guilty of corruption.

A spokesman for Ramatlhodi, Kenny Mathivha, said that assets that were likely to be privatised included the Gateways international airport, 25 game farms and the Northern Province Development Corporation. Non-core government functions such as laundry and catering services would also be privatised.

Other government activities may be continued in joint ventures with the private sector. One example of these are the proposed "peace parks" — nature conservation areas on the borders of Botswana and Zimbabwe — which are to be developed for tourism.

Ramatlhodi has also ordered the temporary suspension of the building of a multimillion-rand government complex in Pietersburg.

All government departments will be asked to examine their functions to determine which can be privatised or outsourced.

CT (BR) 1/9/97

Big march may halt services

(232)

FRANK NXUMALO

Johannesburg — More than 32 000 South African Municipal Workers' Union (Samwu) members in Gauteng are expected to take part in today's march against the privatisation of municipal services.

The action is expected to cripple local government services across the province.

Workers will gather at the Library Gardens in central Johannesburg this morning and will be addressed by Roger Ronnie, Samwu's general secretary

They will march to the offices of the MEC for local government in Sauer Street to hand over a memorandum calling for "an immediate moratorium to be placed on all major contracts currently under negotiations between the private sector and local authorities".

A union spokesman said at Samwu regional meetings last week leaders expressed their members' frustration at the apparent "continued local and provincial plans to privatise services", and they have endorsed a call from members to take the battle against privatisation "to the employers' doorstep"

The spokesman said Samwu's central executive committee also gave "their whole hearted support" to the march.

FORUM

RAILWAYS *SARCC paves the way for the private sector to run suburban routes on contract*

Everyone gains from rail concessioning

(232) JCBR 1/9/97

JOHN SPIRA

The South African Rail Commuter Corporation (SARCC), a state corporation formed in April 1990, is dipping its toes deep into the privatisation waters.

Established to provide rail commuter services to the people of South Africa, SARCC operates Metro Rail Services, which employs more than 10 000 people, under contract to Spoornet.

Wynand Burger, the managing director of SARCC, has been restructuring the corporation along commercial lines

"In the early days, the regional Metro managers fell under Spoornet. It had to change. First we ring-fenced the regional activities The suburban activities were completely divorced from other Spoornet activities. At the same time we established, together with Spoornet, a proper Metro Rail head office. I am proud to have been part of that transformation process," says Burger.

Metro Rail is now on an equal footing with Spoornet, Portnet and Autonet

The result was a properly structured Metro Rail head office Spoornet's influence was reduced, with the Metro Rail regional offices reporting direct to SARCC's head office. Earlier this year Metro Rail became an independent division of Transnet.

Metro Rail now ranks pari passu with Spoornet, Portnet and Autonet

"With Spoornet having been established as a separate entity within Transnet, the six Metro Rail regions are well defined We are a fairly small, lean and agile operation

We regard ourselves as an agent of central government's department of transport."

SARCC owns all Metro Rail's assets and provides all capital funding, which stands at R300 million a year plus a subsidy of R1,5 billion a year.

Metro Rail is a contractor, running the suburban services on SARCC's behalf.

The privatisation story begins with the concept of concessioning, which Burger regards as a crucial factor in SARCC's future because it opens up the possibility of bringing in private sector consortiums or joint ventures to run suburban services on a contractual basis on SARCC's behalf.

"We would retain ownership of the assets but entrust the operation and maintenance to someone else," says Burger.

SARCC's concessioning strategy takes a leaf out of the Argentinian model employed in Buenos Aires, which sold its metro rail assets and split the country up into 25 operational, franchised units with franchises extending from seven to 15 years

Burger says that from the start many of those units broke even, with some paying dividends to the government from their profits, at which stage the subsidies they had been receiving were discontinued.

"The successful franchises have achieved profitability through efficiencies, improved services and higher passenger loads It has been working well."

As one of the first steps along a similar road, SARCC intends changing the agreement it has with Metro Rail. Until December 2001, however, it will maintain the status quo, with the exception of what it has styled "a demonstration project"

"We have an agreement with the unions and the Metro Rail management until the end of 2001 that we will keep them on as contractors, but not under the old agreement, which is mostly cost and input based. We're busy finalising a new agreement, still with the same contractor, but operating under new criteria that will be mostly delivery based," says Burger.

ON TRACK *Wynand Burger, the managing director of SARCC, is proud to be part of the corporation's transformation*

"In other words, we will measure service Inputs won't be measured in such detail, the argument being that input is reflected in the output. At the end of the day, we'll either penalise them or reward them.

"This way we'll be sure that we and the taxpayers are getting value for money"

In the meantime, the demon stration project is attracting keen attention.

"We still have to decide the magnitude and locality thereof. It has to be representative of the kind of business we run. We can't cherry-pick the line and have no challenges, but it has to be attractive enough for outsiders to operate. The idea is throw it open to public tender towards the end of this year or early next year."

Burger expects tenders to be forthcoming from national and international sources, with the successful tenderer becoming operational by the middle of next year on a 10-year concession basis.

"Taking a line through the passenger numbers and the revenue, and looking at our total business, it is possible that about 10 percent of the current business will be set aside for the demonstration project Metro Rail will run the other 90 percent in the meantime"

Burger is conscious of the need to avoid the 'old civil service attitude'

Will Metro Rail staff be affected by the demonstration project?

"Very likely so I expect, though, that a large proportion of the affected people will be accommodated within the demonstration project. Those who aren't will probably be accommodated within Metro Rail."

For the next five years at least, Metro Rail will be able to benchmark itself against the demonstration project and vice versa

"At the end of the five years, and this is perhaps the bottom line, we will open up the rest of the country, including Metro Rail, to the private sector" At that stage, Burger hopes, Metro Rail will be so efficient that it will be in a position to get most, if not all, of the concessions.

Burger is acutely conscious of the need to avoid perpetuating the "old civil service" attitude. "If that happens, we won't move forward If not, people will work harder and smarter because of the threat of competition. There's nothing better than that to keep people on their toes.

"At the end of the day, the man in the street benefits from a more efficient service, the taxpayer benefits from the privatisation process, and the private sector gets the opportunity to participate. Ideally one would like to see these things happen overnight, but it will be a long term process. In the meantime, the service should steadily improve.

"Our revenue has improved dramatically over the past few years, partly from improved efficiencies. If I were an outsider I would certainly start preparing myself for a concessioning investment down the line."

Rumbles from unions over Sun Air sale

BD 1/9/97 (232)

Robyn Chalmers

LABOUR would support halting the Sun Air privatisation process as it had failed to meet a range of objectives, including attracting a capable international trade partner, high-level sources close to labour said at the weekend

This followed a report that the Rethabile-Comair consortium was the sole bidder negotiating with government for the 100% sale of Sun Air

A labour source said as far as labour was concerned there remained two bidders in the process — the Rethabile-Comair consortium and the Phoenix group — which had put binding offers before government

"No evaluation or negotiation has yet been done on the final offers by the restructuring and transformation committee despite repeated attempts to get government to do so," said a source

If the Rethabile-Comair consortium was the sole bidder, this had been a unilateral decision taken by government and was not in line with the agreed procedure This would not be accepted by labour and it would have to consider "further options and actions"

The source said Sun Air "should not become a political football to satisfy government's privatisation agenda"

Public enterprises ministry spokesman Wandile Zote denied that government had taken a unilateral decision on the bids, saying discussions were under way and a decision still had to be made "We will meet today to make a final decision and (government's official adviser) HSBC is confident the deal will be clinched today "

Transport ministry spokesman Didi Moyle declined to comment, saying discussions were taking place and a statement would be released soon

Labour sources said the Rethabile-Comair consortium was not labour's first choice because of the involvement of Comair, which was Sun Air's main competitor "We need to be mindful of the future implications (that the involvement of Comair) potentially has for the viability and sustainability of Sun Air," the source said

Another labour source said that Telkom had ended up with only one bidder and Sun Air appeared to face a similar situation The difference, however, was that the Telkom bidding consortium was a capable international trade partner and was able to meet the privatisation objectives

'SAA should be restructured by next year'

BD 1/9/97 (232)

Patrick Wadula

PUBLIC Enterprises Minister Stella Sigcau has set further targets for the privatisation programme, saying SA Airways (SAA) should be restructured by next year and restructuring at Eskom has kicked off

At an Engen development forum on privatisation and empowerment, Sigcau said government had a major political commitment to the privatisation process The right macroeconomic conditions were prevailing and effective regulatory mechanisms were being pursued.

She said that in view of the importance of SAA as a national asset and the highly competitive market within which it operated, the restructuring of the airline had to be considered a priority.

Government had started on its "corporatisation" and expected the restructuring of the national airline to be completed during next year "Transparency is the key to the process and government has started with the process in earnest and is never going to look back"

On Eskom, discussions with relevant stakeholders within the distribution industry had taken place and a task team was to be appointed to move the process forward.

"The restructuring and transformation committees within Eskom have started working on the restructuring process," she said.

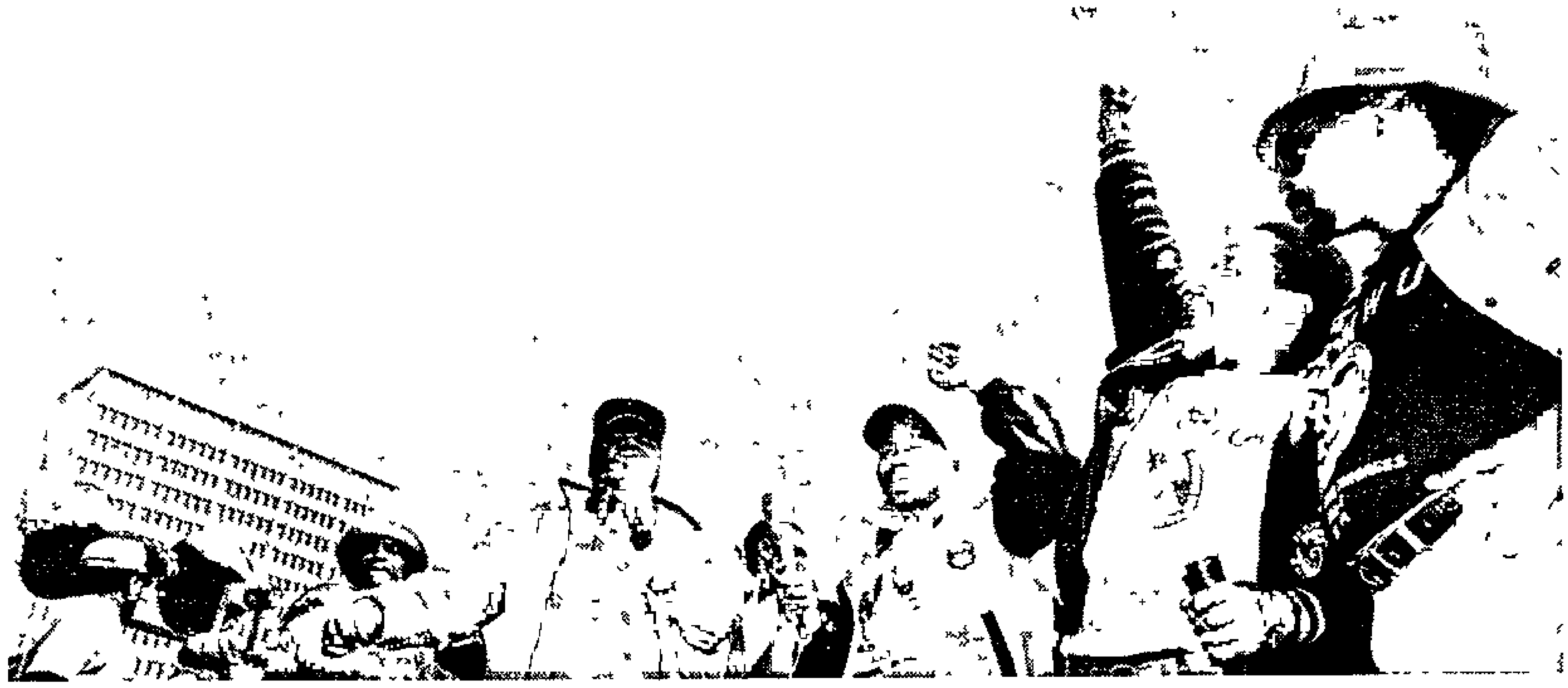
Eskom was committed to maintaining its position as one of the world's lowest cost providers of electricity for growth and development. "This will continue to create investment opportunities for infrastructure development in the region, in particular as far as electricity initiative industries are concerned."

The restructuring process at Alexkor was at a fairly advanced stage with options for its restructuring due to be taken to the interministerial cabinet committee.

The committee had endorsed the introduction of a strategic equity partner for the Airports Company, with a stake of up to 49% initially up for sale, and had also agreed to its listing within two years.

Some form of restructuring at the SA Forestry Company would be achieved by the end of this year or early next year, while a similar timetable had been set for Aventura, the state-owned resort centre.

"In the government's macroeconomic strategy, privatisation is regarded as one of the elements key to economic growth, job creation and wealth redistribution," she said



Thousands of SA Municipal Workers Union members yesterday marched to the Greater Johannesburg Metropolitan Council in protest against government's intended plans to privatise water, refuse removal and transport provision. Pictures CATHY PINNOCK

BD 2/9/97

Council workers' jobs 'not at risk from privatisation'

(232)

Pule Molebeledi

THOUSANDS of council workers who took to the streets yesterday in protest against the proposed privatisation of municipal services were assured by the Johannesburg metropolitan council that their jobs were not at risk

The undertaking came from greater Johannesburg metropolitan councillor Patrick Flusk, who was addressing members of the SA Municipal Workers' Union (Samwu).

The workers said the privatisation of some responsibilities of local government would result in job losses and lead to the deterioration in the provision of services

Flusk said negotiations with the union were continuing on the restructuring of the council which was in a financial crisis.

He questioned the continued subsidisation of the airports, petrol stations and beer halls by the council. "How could we pay you better when we are subsidising services that have got nothing to do with council?"

Samwu's Gauteng secretary Victor Mhlongo said the union opposed government moves to involve the private sector in the provision of basic services. He said the union would canvass support from the African National Congress, SA Communist Party and labour federation Cosatu.

Samwu also sought the intervention of Gauteng development, planning and local government MEC Sicelo Shiceka They handed over a memorandum which was accepted on Shiceka's behalf.

Council spokesman Mxolisi Ngxamngxa confirmed there were plans to privatise. He said the council would apply a "no work, no pay" policy to those workers who did not report for work.

He said the march had not affected the provision of essential services, as measures had been put in place to minimise the effect of the protest

Govt clinches Sun Air privatisation with R50m deal

(232)

Lukanyo Mnyanda

BD 2/9/97

SA HAD completed its first full privatisation with the sale of state-owned airliner Sun Air to the Rethabile/Comair consortium in a deal valued at R50m, the transport and public enterprises ministries said yesterday.

The Rethabile empowerment consortium and black-owned investment company Co-ordinated Network jointly would hold a 55% controlling stake, with Comair acquiring 25%

Sun Air employees would take up 5% through an employee share ownership trust while the remaining 15% would be earmarked for the National Empowerment Fund set up for black investors

Government said it would continue negotiating with the consortium with a view to finalising a share sale and purchase agreement.

The successful bid, subject to "certain conditions precedent", placed a R50m value on Sun Air's equity and incorporated "positive provisions" for the company's employees. Sun Air had interest-bearing debt of R47m.

Sun Air's sale represents SA's first successful full privatisation following the partial sale of Telkom which raised more than $1bn

The R50m was at the lower range of expectations and government initially expected a price between R50m and R100m.

The sale, to the sole bidder after the Phoenix group withdrew from the race, follows concerns expressed by labour which said at the weekend it would support the halting of the process as it had failed to meet a range of objectives, including attracting a capable international trading partner. Labour sources said the transformation committee had not evaluated or held negotiations on the final offers, despite attempts to get government to do so The sources declined to comment yesterday

Government said that the consortium believed that Sun Air represented a sound base which would yield "exciting" earnings growth

See Page 4

Board will not probe claims of collusion

(232)

Lucia Mutikani

BD 2/9/97

THE Competition Board would not be formally investigating key players in the nuts and bolts industry for possible price collusion because a similar investigation had been carried out about 12 years ago, executive director Wouther Meyer said yesterday.

The board had received an anonymous complaint against the nuts and bolts industry in July alleging that the key players had colluded to increase their prices by about 30%.

"We are not doing a formal investigation.

"We cannot undertake another investigation because an investigation into collusion has already been done," Meyer said.

"In 1985 we did an investigation and made recommendations to the (trade and industry) minister which resulted in a notice being published in the Government Gazette prohibiting cartels.

"The enforcement of such a prohibition does not lie with the Competition Board, but with the SA Police Services and the attorney-general's office

"The prohibition of collusion applies to all industries."

However, he said the board would see if it could gather information and enough evidence to refer the case to the police for prosecution

"It is extremely difficult for us to gather information because we need somebody to come up with a copy of an agreement or a tape indicating the market players colluded to increase prices," Meyer said

"We really need anybody who has proof of collusion to lay it before us or the police"

Govt considers privatising printing works

BD 5/9/97 (232) (~~495~~)

Lucia Mutikani

GOVERNMENT was considering privatising its printing works, with a decision expected by the end of next year, government printer Mesuli Dondolo said yesterday.

The Government Printing Works was drafting the tender documents for a consultant to advise it on whether privatisation was feasible.

All over the world governments are relinquishing control of printing, and privatising these institutions. The home affairs department, to which the printing works belongs, is investigating this trend," he said.

The printing works might approach the Printing Industries' Federation of SA to make available a suitable official to assist in the selection of the tenders.

Meanwhile, Dondolo said the printing works was in the process of acquiring digital printing technology for production of confidential material in an effort to improve security.

The technology would also help to reduce wastage.

PRIVATISATION AND LIBERATION (232)

FM 5/9/97

Breaking out of the debt trap

It seems like simple arithmetic, but nobody's doing the sums

The cost of servicing SA's debt has tripled over the past six years, doubled over the past four and could be the biggest expenditure item in next year's Budget But there is a way out, says the Democratic Party in its economic policy statement, released this week

If R20bn worth of public corporation assets were to be privatised, the State's financial equilibrium could be restored at one stroke By way of illustration, the statement looks at this year's Budget figures

Government's borrowing requirement would drop from R37bn to R17bn in the year — a reduction of 54% The cost of servicing debt would go down from R39,6bn to R36,6bn to start with, a saving of R3bn

"The massive reduction in the borrowing requirement would push interest rates down significantly," says the DP, "and bring about further reductions in the borrowing requirement and debt servicing costs"

This would reverse the spiral of debt and debt servicing, liberating government from the debt burden it inherited from the previous administration and freeing funds for government's real priorities education, health and development

The real benefits, as the multiplier effect (of better health, greater skills and more effective social infrastructure) works its way through the economy, are incalculable

The DP advocates the sale of government's shareholding in Iscor, Sasol, Alusaf, the Airports Company, Alexcor, Autonet, Abakor, Armscor, Aventura, Denel, Petronet, Portnet, PX, SAA, Safcol and Soekor before the end of 1998 Ethel Hazelhurst

Sun Air sale raises crucial issues

The first round of privatisation in SA has revealed procedural problems which need to be addressed, write specialist writer Robyn Chalmers and labour reporter Reneé Grawitzky

BD 10/9/97 (232)

THE recent agreement on the sale of Sun Air raises crucial questions about the future of SA's privatisation initiative, a programme which is integral to government's overall economic policy

Government, under enormous pressure from business to be seen to be implementing its growth, employment and redistribution (Gear) strategy, is facing pressure also from the same source to ensure its privatisation programme gains momentum

It is being argued in some quarters that this pressure may have been a factor in government pushing through the sale of Sun Air Once government received significantly lower than expected binding bids, it should have reconsidered the wisdom of continuing with the sale This is particularly pertinent in view of government having indicated — during the Sun Air sale process — that the initial stake in SA Airways up for grabs was likely to rise to 49% from 25%

Government, however, contends it got the best deal it could out of the Sun Air sale after a due diligence exercise revealed higher than expected short- and long-term debt

It is becoming clear the "secretive" bidding process employed is flawed as it allows bidders and government to manipulate public opinion, leaving confusion and suspicion in its wake

Valid or not, serious questions are being raised about whether the bidding process is above board or whether it is falling victim to political manoeuvring — in the same vein as casino licence bids A party involved in casino licensing says "Many of the empowerment groupings or consortiums are the horses and jockeys of the politicians "

As with Telkom, government effectively ended up negotiating with a single bidder for the 100% sale of Sun Air — the first full privatisation undertaken by the government and one which many believed would signal the state's first real commitment to privatisation

State-owned company Sun Air has been sold to the only bidder Deputy President Thabo Mbeki, left, and Public Enterprises Minister Stella Sigcau, were the driving forces behind its privatisation

Questions about government's real intentions on privatisation have been raised mainly because of the length of time it has taken to get the process off the ground Since Deputy President Thabo Mbeki outlined government's policy on privatisation in December 1995, much talking has taken place in a plethora of committees, but there has been limited visible action — possibly because the complexity of the different sales was initially underestimated and government correctly wants to "get it right" despite criticism of delays

But concerns remain that the Sun Air sale was pushed through to pacify an increasingly restless public and to show the international community, in particular, that government was serious about privatisation.

The announcement that government could raise the stake of SAA up for sale focused the attention of international players on the airline Although Virgin Atlantic had pulled out of the Sun Air sale before government made this announcement, it is reliably understood that the onerous conditions placed on the Sun Air sale — in part to protect the future SAA sale — could have caused Virgin and other international companies to shy away If, however, SAA had been sold first, losing international bidders were likely to have looked at Sun Air more favourably, and the pressure would have been off government

Government argues that it is well satisfied with the deal it received for Sun Air as, when liabilities assumed by the winning consortium are taken into account, it received close on R100m for the airline along with a range of other concessions

Objectives

Public Enterprises Minister Stella Sigcau says while the focus of government's policy is to use privatisation proceeds to reduce state debt and fund the huge costs of infrastructure, there are a host of other objectives as well

These are to create wider ownership in the SA economy, promote empowerment, enhance competitiveness and promote fair competition, facilitate growth, and assist in meeting the basic needs of the population and the objectives of the reconstruction and development programme

"Government has been criticised in certain quarters for the apparent delays in the restructuring process However, these delays reflect the concern of government to consult all stakeholders," says Sigcau

"As far as the restructuring programme is concerned, government's central and overriding objective is to restructure the state-owned sector into a series of efficient, well-managed and financially independent companies capable of providing goods and services at affordable prices to all SA, particularly the previously disadvantaged "

She claims government is committed to consulting all stakeholders on the restructuring processes under way

The sale of Sun Air raises crucial questions for labour, particularly the extent to which it can influence the process and whether the involvement of union investment companies in bids could compromise labour

The National Framework Agreement (NFA) signed last year outlines the commitment of labour and government to restructuring However, some would argue that labour failed to secure a broader role for itself in the process The NFA ensures labour's participation in "policy formulation processes" but is silent on its role in the transaction phase — perhaps the most crucial phase of the whole process

A union source says the Sun Air deal was a total "eye-opener" for the n one and clarified the limited extent final transaction phase of the Telkom deal in London A labour source says that, despite this, it was kept in the dark about the final bid plan and certain policies and decisions around it

In the case of Sun Air, labour was totally excluded from the transaction phase, which a labour source says, "leaves labour as a mere observer in the whole restructuring process"

Unions generally believe labour should be involved in the negotiation of the outcome and not merely be consulted on "government's master plan" Labour's role, he says, has been relegated to this, but the blame cannot be placed solely at the door of government In some instances, labour has been reacting to positions proposed by government and not presenting its own clear positions

It is important, says a union source, for labour to be involved in the transaction phase as this is where bidders and potential buyers agree on whether or not to adopt prior agreements reached between labour and government on job security and human resource development issues

The source said that at the beginning of the process they tried to get assurances from Sun Air that any agreements reached on these issues would be binding on the buyer At that stage it was conveyed that this could prove to be difficult

The final transaction process is secretive, and not transparent Therefore, labour is not sure whether prior agreements reached with Sun Air have been taken on board by the buyer A reason given for keeping labour out of the transaction process is that, at this point, all the information is revealed

A government source said the bidding process could be compared to a normal commercial deal and if certain information was leaked it could prejudice the whole process

Involvement

The SA Railway and Harbours Workers' Union (Sarhwu) says it wanted agreement on a five-year, no retrenchment clause If the buyer had problems with this, the union would have been prepared to negotiate on this issue In the middle of the consultation process, however, Sarhwu removed itself from the restructuring committee because its investment arm was part of the Virgin-Bhekilanga consortium which was initially one of the bidders

Sarhwu says the involvement of its investment arm in the bid did create problems as members failed to understand why the union was removed from the process and were unsure whether their interests would be taken care of This, the union says, forced unions to start confronting the involvement of union investment companies in bids for state enterprises It also brought to the fore the question of whether a "Chinese wall" does exist between the union and its investment arm

As the privatisation process unfolds, it is becoming clear that weaknesses need to be addressed Failure to do so could lead to government discrediting its own process

Labour, on the other hand, has to be more proactive in its attempts to questions for labour, particularly the extent to which it can influence the process and whether the involvement of union investment companies in bids could compromise labour

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A union source says the Sun Air deal was a total "eye-opener" for the unions and clarified the limited extent to which they could be involved in the process

At the eleventh hour labour got approval from government to observe the

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Labour, on the other hand, has to be more proactive in its attempts to influence the process if it is to avoid government railroading it.

Comment Page 11

KWV and Hanekom settle dispute

(232)

BD 10/9/97

Samantha Sharpe

CAPE TOWN — Wine co-operative KWV's privatisation plans will go ahead following an out-of-court settlement with Agriculture Minister Derek Hanekom which will result in KWV paying R477m to a new nonprofit company responsible for management of the industry

The parties have been at loggerheads over KWV's plans to restructure into a private company, with the establishment of the section 21 Wine Industry Trust effectively smoothing the conversion process. Government claimed in court papers that it was entitled to certain assets KWV had accumulated as a statutory body

In terms of the agreement, KWV will pay R477m to the trust over a 10-year period, of which R200m will be from annual subscriptions and R277m a contribution to financial and running costs With additional input from other industry players this is expected to grow to more than R500m.

The agriculture ministry will retract its opposition to the restructuring plans and assist in the acquisition of appropriate land for viticulture and other development purposes

In a joint statement yesterday, the ministry and KWV said the funds would be used for research and advisory services, encourage training, support the wine industry's export drive, promote the entry of new farmers and other "various services . . especially to the labour community on wine farms".

The trust would be managed by a board of directors representing interested wine industry parties as determined by the minister and run by a professional manager and a small staff complement appointed by the board

KWV MD Willem Barnard said industry services already provided by KWV and the SA Wine and Spirit Exporters' Association would be contracted out by the trust on a tender basis following a five-year transition period during which KWV would continue to manage the industry. This would prevent duplication of services

On the investigation by the Competition Board into KWV, Barnard said this would probably form the basis of the trade and industry minister's plans to restructure the Wine and Spirit Control Act "Competitive positioning and partial industry stratification will form part of that exercise."

He said KWV, while under no formal obligation to do so, would use the privatisation process to fund expansion internationally and would not attempt to compete locally — the possibility of which had raised alarm among local distributors

"The international market is far more attractive than the domestic market, especially given the benefits of a weaker rand, and is such a huge market that our ability to win market share at little additional ... spend is very good."

Hanekom said he was pleased with the new development, as well as with KWV's contribution, and he was happy to withdraw his opposition to the KWV's conversion into a company, which is scheduled for December 2.

"No single party is claiming victory, jointly this is a great victory for the wine industry and for our country "

DIFFICULT TIME . . . Public Enterprises Minister Stella Sigcau has been called on to cede authority over parastatals

Sigcau details Transnet restructuring

ST(BT) 14/9/97 (232) (~~200~~)

PARASTATALS

By SVEN LUNSCHE

SEPARATE, business-led boards of directors for Transnet's six divisions are on the cards at the parastatal, Public Enterprises Minister Stella Sigcau said this week.

Sigcau said a "masterplan" for Transnet, currently before a Cabinet committee, would seek full corporatisation of its business units before considering privatisation

The government is also contemplating the appointment of an executive to the parastatal to oversee restructuring The appointee — an outsider — could fill the deputy managing director post.

In an interview, Sigcau hinted that the role of her ministry could be scaled back next year once the privatisation programme "is fully in place"

Sigcau has had a difficult few months Calls have been mounting for an acceleration of the privatisation plan and for her department to cede authority over parastatals to operational ministries

Late last year Sigcau said up to seven parastatals could be privatised this year. She now concedes that only two will materialise (30% of Telkom and Sun Air)

"The process has been slower than we had wanted, mainly due to unforeseen events such as land claims against the SA Forestry Company, and we have bent over backwards to accommodate the unions," she said. "But the end result will be that we will not regret any of the planned sales to the private sector," she said

Transnet is at the heart of Sigcau's restructuring process. In terms of the masterplan, which Sigcau said would be concluded by next month, governance structures would be introduced at Transnet over the next few months Most divisions would be set up as separate companies with their own board of directors "ideally led by a chairman from the private sector" The Transnet board would be retained

The government is also set to take over the pension fund liabilities for Transnet's pensioners

Sigcau said the corporatisation of South African Airways, which reported a R350-million loss for 1996/97, was expected to be complete by March This would be followed by its 49% sale, a percentage still to be ratified by Cabinet

Sigcau said government had proposed the 100% sale of Autonet while restructuring at loss-making PX would continue

Guide details success stories of municipal 'privatisation'

BD 16/9/97 (232)

Deborah Fine

SEVERAL SA local authorities had contracted out certain municipal services to the private sector, which had resulted in notable savings, prevention of retrenchment, creation of jobs and more effective delivery.

This was according to guidelines developed by the National Business Initiative and First National Bank's Development Investment Unit to inform local authorities about alternative methods of service delivery and private sector involvement in line with global trends.

Government has committed itself to private-public sector partnerships as a means of leveraging funds, management and technical expertise to meet SA's huge demand for municipal infrastructure and provision of basic services.

The move has been criticised by organised labour, which has expressed concern that privatisation would lead to retrenchments, increased service costs and loss of state control over essential services.

The guide, however, cites a decision by the Benoni Town Council to contract out its fire and emergency services operation to a private company in 1992. Stringent performance standards, financial penalties should the standards not be met and the presence of two city councillors on the company's board has enabled the council to effectively monitor the service.

At the time of the takeover the company took over all 178 people employed by the council to carry out the service, with no loss of benefits. The company's staff had since risen to 200, with staff owning 20% of the company's shares.

The contracting-out had resulted in estimated savings of R16m for the council over the first contract period of five years. The contract was renewed earlier this year.

The Stilfontein Municipality, near Klerksdorp, had opted to privatise its town engineering department to prevent retrenchment of half of its staff in 1990 when operating costs exceeded budgetary allocations.

The company took over the department's 182 employees, offering similar salaries and benefits. The company is obliged to maintain water, roadworks, stormwater systems and kerbstones and has saved the council an estimated R1m a year.

The Springs Town Council, also on Gauteng's East Rand, had elected to open its bus transportation services to the private sector in 1993 as a result of annual losses of about R2,4m. Contracting out the service had saved the council an estimated R2m a year in capital expenditure. In addition, the council earned extra revenue by leasing out its bus terminus, depots and offices to the company. Service standards were monitored.

The guide said it had been acknowledged that "the role of local government is not to do everything but to make sure everything is done".

Councillors under siege over plan to privatise cleaning

NORMAN JOSEPH (232) ARG 17/9/99
City Reporter

About 50 municipal workers disrupted a Tygerberg executive council meeting in Parow, keeping councillors and officials under siege for more than three hours.

The workers, members of the South African Municipal Workers' Union, and shop stewards from various branches, demanded that a council decision to privatise the cleansing department in Khayelitsha be reviewed with the union's involvement.

A large contingent of municipal law enforcement officers tried to keep the protesters outside the municipal building in Voortrekker Road during the meeting yesterday.

But they forced their way into the council chamber, driving several councillors to their offices.

Andre Adams, chairman of the union's Tygerberg branch, told the remaining committee members that if a private company took over cleansing in Khayelitsha, most of the 230 workers would lose their jobs

Mr Adams told committee vice-chairman Vuyane Ngcuku that the private company, Billy Hattingh Refuse Removal System, could employ only 117 casual workers at R1 000 a month. They would have no benefits, like a medical aid or a pension fund, and could not be sure of permanent jobs.

Mr Ngcuku told the protesters their actions were unacceptable, and promised that their grievances would be addressed later.

But union members, chanting and singing, demanded that the committee make an instant ruling that the decision be reviewed at a meeting with the union.

Mr Ngcuku called off the meeting, saying there was no quorum.

As councillors gathered in another room to discuss the union's demands, protesters ran amok in the council chamber, sitting in executive seats and chanting slogans

Officials locked their offices and fled the building.

After about two hours, workers attempted to force their way past law enforcement officers into the room where councillors were talking.

Tempers flared and a brief scuffle broke out, but law enforcement inspectors Floors Coetzee and Arthur Booysens restored order.

Mr Adams said 1 000 municipal employees would march tomorrow from the Bellville Civic Centre to the Parow administration offices.

Competition law 'to curb privileges'

John Dludlu (232) BD 18/9/97

SMALL and medium-sized firms in SA should not be granted special privileges by a revamped competition law, a small business policy think-tank has recommended.

However, the Small Business Project has called for far-reaching powers to be given to a reshaped competition policy watchdog, including the power "to strike down, or take some sort of action where small enterprises are unduly affected by government regulation which has reduced the levels of competition in any market".

These thoughts are contained in a policy paper prepared by the project with the support of the Friedrich Naumann Foundation.

Trade and Industry Minister Alec Erwin is widely expected to make known his ideas next month. A high-level policy session with him is due to be held late next month at the National Economic, Development and Labour Council (Nedlac)

In the paper, the call for an interventionist role by the competition policy authority is based on the fact that the present small business law "does not provide immediate relief to aggrieved parties". This relief should also be available to other firms.

The document stresses competition policy goes beyond dealing with anticompetitive behaviour by firms. The paper's approach is expected to generate hot debate in small business circles where the feeling is that the sector needs nurturing, including exemptions from laws, sources say.

Trade and industry department director-general Zavareh Rustomjee said that government would also review the more than 50 other laws which had competition elements

Business has warned that the competition policy review process should not seek to use competition law to achieve sociopolitical goals, while labour — which has yet to make its views known — has set up a task team ahead of the official debate at Nedlac.

Lufthansa reaches end of privatisation process

CT(BR) 19/9/97 (232)

AUDREY D'ANGELO

Cape Town — Lufthansa, SAA's commercial partner, has announced the final stage of its privatisation.

The German government, which once owned the airline completely, has sold it off in phases to the private sector The shares are traded on the Frankfurt stock exchange

The government's final 37,5 percent stake of about 143 million shares will be offered to private investors through a consortium to which most German banks belong

A spokesman for Lufthansa said the consortium would offer private German investors attractive discounts on the placement price — which has not yet been announced — and they would be given preference in the share allocation if they ordered early in the subscription period The actual discount was still to be decided

The subscription period for private investors begins on September 29 and ends on October 10 During this period, the issue price will be determined in a book-building process and will be fixed in the second week in October The shares will be issued on October 13

Lufthansa entered a commercial partnership with SAA two years ago Since then the two airlines have operated codeshare agreements, selling seats on each other's aircraft as though they were their own on routes between South Africa and Germany and allowing passengers to earn points on each other's frequent flyer programmes

There have been rumours that Lufthansa was likely to contend for an equity stake in SAA when the South African airline was privatised However Juergen Weber, Lufthansa's chief executive, has said repeatedly it was not Lufthansa's policy to take equity stakes in allied airlines

SAA was excluded from the Star Alliance formed recently by Lufthansa and other partner airlines because of uncertainty about the future of the SA airline

COMPETITION BOARD (232)

Nuts and bolts of pricing

When is the practice of price leadership — where one party sets the price and the other follows — justified? Or, more importantly, when can it be construed as collusion?

A case in point is that of SA's two largest industrial fasteners manufacturers, National Bolts (Natbolt) — a subsidiary of the Forward Corporation — and listed engineering company TPN Investments.

Both have been accused by an unnamed complainant of price collusion. This has sparked a preliminary investigation by the Competition Board.

The board's director of investigations, Johan Liebenberg, says it has asked Natbolt and TPN for comment on the allegations. The companies have denied there is any such practice.

"At this stage we do not have enough *prima facie* evidence to refer the matter to the SA Police Service," Liebenberg says.

However, within the industry, the two companies have been criticised for consistently producing identical price lists, even though they have different cost structures.

One critic estimates that they have about 75% of the total market for bolts. Despite this, both companies have failed to convert their commanding position in this R450m market into profits. Natbolt hasn't made any money for Forward, listed in the industrial holdings sector, in the past eight years. It is one of three problem companies (together with Gentyre and MacPhail) receiving urgent management attention.

TPN profits have been inconsistent and generally appear to be on the down with half-year results to December showing a 35% decline in EPS. The company blames the competitive domestic market for its problems and, like Natbolt, looks to the export market for its salvation.

Natbolt MD Dennis Dedwith denies price collusion, and says fasteners are commodities and prices are set by the market.

The *FM* was unable to contact TPN for comment.

Liebenberg says the Competition Board has decided to assist the complainant by helping to accumulate evidence, after which the board may decide to refer it to the police.

Competition Board chairman Pierre Brooks says, however, that it's possible these practices may amount to price leadership, which is acceptable.

Stuart Rutherford

FM 19/9/97

Roads to be managed by private sector

Robyn Chalmers (232)

MORE than 90% of SA's road network could be managed by the private sector in the longer term, with discussions on the way forward planned over the next few months, transport department director-general Khetso Gordhan said at the weekend

He said government wished to move towards the New Zealand model of greater private sector involvement in the management of the road network

He said the first phase of achieving this was through the National Roads Agency, legislation for which was recently approved by the cabinet The agency would initially manage, construct and maintain SA's 7 000km national road network, but this was likely to be extended to the 20 000km of primary roads in five to six years

"Ultimately we would like to set up a holding company for the National Roads Agency with nine provincial agencies in place as well but this is further down the line "

The agency would be set up by April next year, and the board would be made up of eight people, one from the finance department and the remaining seven from the private sector

Retired chartered accountant Barry Adams and Grinaker Construction MD Bean Bornheimer had been approached to play a role in setting up the agency. National road chief director Nazir Ali had been offered a two-year contract as CEO of the agency In the next two months, directors for financial, engineering and corporate services would be appointed

The agency would initially be responsible for operating the national road network, including overseeing toll roads and managing the build-operate-and-transfer system

Gordhan said there was growing acceptance of the need for a dedicated fuel levy to fund the national road network, with a 5c levy likely next year rising later to 6c. It was estimated that a 1c levy at the current petrol price would garner R150m

"The levy will be transparent as it is being promoted as a user charge As the current (budgetary) allocation is roughly equivalent to a 5c levy, and if the proposed additional 1c is approved, this will effectively amount to a 1c increase in the petrol price," he said

There would be four agencies at provincial level in Gauteng, KwaZulu-Natal, the Western Cape and the Eastern Cape which would not be mere "appendages", but would have responsibility for budgets, planning, toll road operations and maintenance

"This is not going to happen overnight, and the national head office could keep responsibility for about six months before it is devolved," he said

The National Roads Agency would have a staff of about 150 with about 30 people in the national head office.

BD 22/9/97

Decision on SAA privatisation soon

BD 25/9/97 (232)

Ingrid Salgado

THE interministerial cabinet committee was likely to decide on the process of privatising SA Airways next month, a spokesman for Public Enterprises Minister Stella Sigcau said yesterday.

No decision had been made on the percentage stake for sale, Wandile Zote said. However, he was certain the committee would decide on October 16

Transnet MD Saki Macozoma said in London on Tuesday that government would sell 25%-30% of SAA to a strategic equity partner. The number of shares sold could be boosted by sales to employees and an allocation to enhance black economic empowerment

Macozoma's comments appear to bring him closer to Transport Minister Mac Maharaj after they clashed in public recently over the percentage stake in SAA to be sold.

Maharaj had said the initial stake of SAA to be sold could rise to 49% from 25% Macozoma disassociated himself from the statement, saying it undermined the restructuring process.

Zote said Macozoma's comments did not contradict Maharaj's earlier statement that the initial stake could rise to 49% "That 49% is not the chunk that will go to the foreign investor." Should the higher percentage be accepted, it would include stakes for the National Empowerment Fund and the employee share ownership plan.

Sigcau has indicated it was "unlikely" that less than 49% would be sold

Asked whether Maharaj and Macozoma had resolved their differences, Zote said. "They are both very important to the process That whole incident was unfortunate. My guess is that they have resolved it."

Macozoma said Transnet and SAA were looking for a privatisation adviser for the sale. In the interim they were using HSBC, the overall adviser on restructuring state assets

Several carriers have expressed interest in acquiring a stake in SAA, including British Airways, Deutsche Lufthansa and Virgin Atlantic.

Coallink a precursor to Spoornet going public

ET (BR) 3/10/97 (282)

Jonathan Rosenthal

The still air of northern KwaZulu Natal's Umfolozi river valley is shattered 24 times a day by the sound of trains trundling to and from the world's largest coal terminal at Richards Bay Look down from the high bridges and your perception is foreshortened, turning the villages, veggie patches and goat herds below into toy town caricatures of hidden poverty.

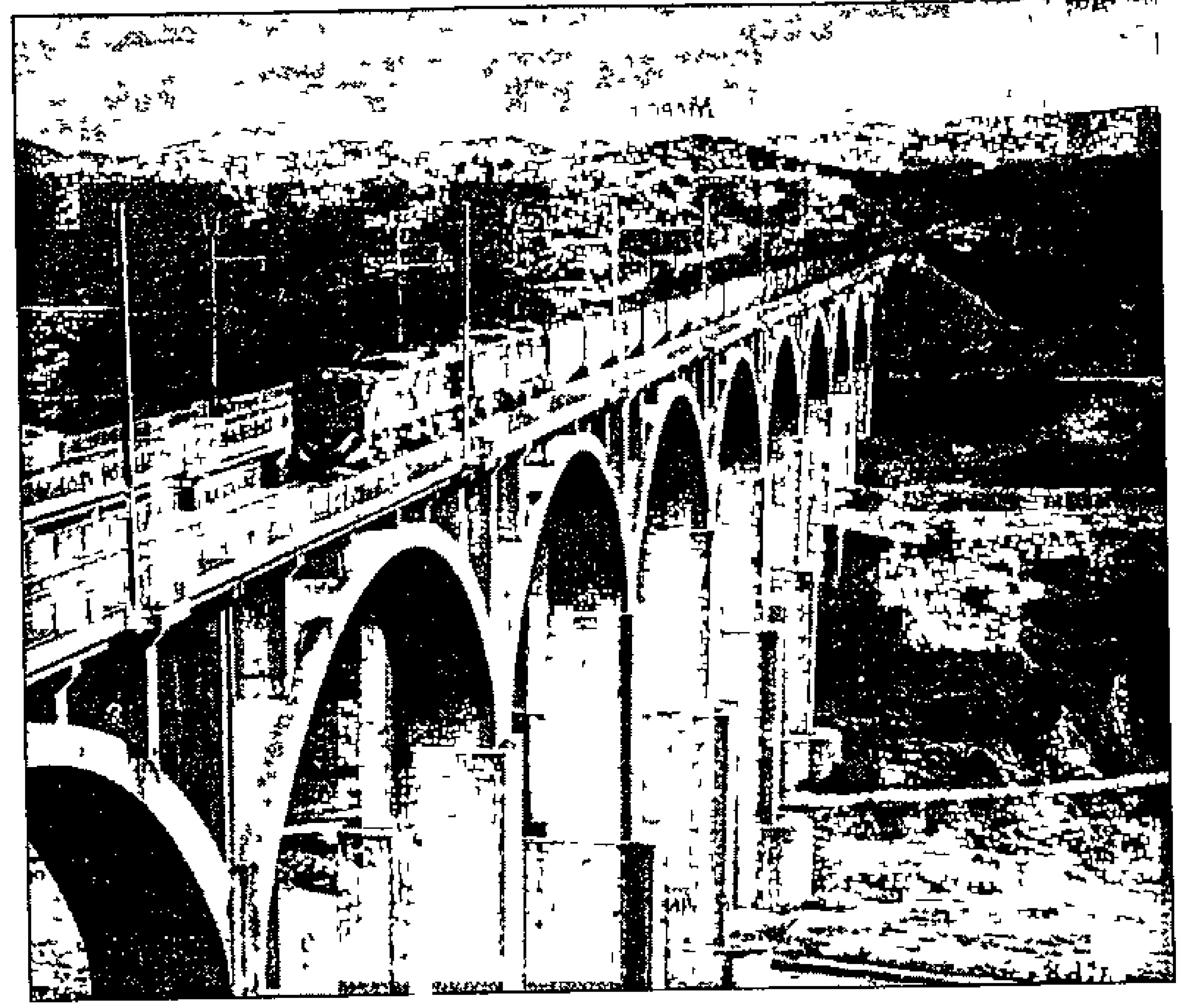
Look back again at the soaring arches which carry some of the world's heaviest coal trains and one cannot help but be left with a feeling that apartheid's planners simply hoped to bypass most of the country in its unrelenting drive of progress for a few

And yet the change in priorities in the past few years has been so complete that the land reclamation for the next expansion phase of the Richards Bay coal terminal will have to wait until a fish eagle has hatched her eggs and left her nest.

But perhaps the greatest change to Spoornet's coal line, which carries South Africa's second largest foreign exchange earner, is a change of attitude and culture to place the bottom line first and make the railway look like an attractive prospect for private investors

In 1994 Spoornet brought in consultants to benchmark the Richards Bay coal line, which was upgraded in the 1980s to carry 200-truck trains, against similar heavy haul operations around the world. The consultant classed it a world leader in efficiency by a margin of 8 percent.

In the past three years that margin has begun to fall as Spoornet battles with an ageing infrastructure while its foreign competitors began installing the latest in electronic gizmos.



Spoornet's response earlier this year was to ringfence the coal line into Coallink, a dedicated coal export operation with control over its own assets and budgets.

The official rationale at the moment is that this allows it to focus better on serving the coal industry and on identifying its capital needs to keep the line going Ian Bird Coallink's executive manager, deferred any questions on privatisation to his superiors And while splitting the line off into a semi autonomous business unit should do wonders for efficiency in its use of capital it is also clear that the formation of Coallink cannot be anything but a precursor to privatisation.

And when this occurs it is likely to be a very different model from those currently envisaged The privatisation of most railways has followed a path of splitting railway operations away from ownership of the infrastructure. Spoornet executives have previously hinted that privatisation would likely see the railway lines themselves remain in state hands as a common carrier almost like the national road network, and several competing railway operators would run their own trains on these lines

What makes the coal line different is the heavy loads of 26 tons an axle exerted by coal wagons, which make the rail-wheel interface a crucial aspect of the line's competitiveness Spoornet has already doubled the theoretical lifespan of the railway by meticulously grinding, planing and polishing the rails into a profile which reduces stress and metal fatigue.

The flip side of this is that it only allows railway wagons onto the line if they have passed a "roadworthy" to ensure that their wheels are as meticulously groomed so as not to damage the rails. Most of Coallink's capital spending over the next few years is likely to be spent on new rolling stock to increase capacity, but in the new century it is also going to have to significantly ramp up its spending on progressively renewing and replacing parts of the line.

Spoornet has already given Coallink exclusive control over a significant chunk of the rail network stretching from Wonderfontein and Machadodorp in the north down to Richards Bay. Splitting this off from the rest of the network has been made easier by the fact that it is already relatively self-contained and the general freight it carries to and from Richards Bay is hauled by its own locomotives.

Combine these factors with a 10-year contract to haul coal to the terminal at tariffs that will decline in real terms and it seems that splitting infrastructure from operations is a remote possibility.

For gamblers, the best odds offered are that Coallink will be sold to the Richards Bay Coal Terminal, a joint venture non-profit export facility owned by seven coal groups including Ingwe, Amcoal and Tavistock. The terminal already schedules Coallink's trains and matches these to stockpiles at the port. But some kind of staff or management buyout, perhaps with outside partners, should also not be ruled out.

Within the heart of Spoornet new forms are beginning to take shape, casting off the mould of the old bureaucratic arrogance of state-controlled industry But when the fish eagle has flown from her nest, and Coallink's wagons are painted with new corporate livery, will the rural poor living below the railway line even notice the difference?

GOLDEN ARROW RETIREMENT PLAN

Row over pension surplus

232

Pensioners angry because they weren't consulted

FM 3/10/97

Financially strapped Golden Arrow Bus Services, which operates Cape Town's famous orange buses, is to get an R85m handout from its members' pension fund — though employers have been on a contribution holiday since its owners took over in 1992

The payout has infuriated a handful of pensioners, including a former chief executive of the company's previous owner, Tollgate Holdings

Employers have no statutory right to dip into company pension funds, though this will change under new Pension Funds Act legislation proposed by the Financial Services Board (FSB) which could become law later this year

However, the FSB has given the green

light to the massive payout — and formal approval by the Registrar of Pension Funds appears to be imminent This follows a 1994 precedent, when the Lintas advertising company successfully appealed to the FSB to allow it to change its rules and release monies from its R5m pension fund to the company

The FSB's chief actuary, Peter Milburn-Pyle, is reluctant to discuss the present application "The Golden Arrow pension fund as a whole is in a delicate state at the moment," he says

Milburn-Pyle is behind the new legislation, which will make the estimated R6bn surpluses in company pension funds available to employers

Pressure groups are fiercely contesting such payouts Campaigner Basil Kransdorff says he is "fighting the actuarial process of leaking workers' retirement funds to finance their employers' agendas"

Golden Arrow Bus Services was formed in 1861 under the name Cape Town & Green Point Tramways and is one of SA's oldest companies As City Tramways it was part of Tollgate Holdings, but changed its name to Golden Arrow Bus Services after a management buyout in 1992, just months before Tollgate went into liquidation

The buyout team included Golden Arrow's present chairman, Nic Cronjé, and MD Barry Gie

By last year the company had a debt burden of R79m and accumulated losses of R39m It also had a pension fund with assets and investments totalling R407m And it is from this kitty that the R85,6m lifeline will be paid

The assets of the Golden Arrow Retirement Plan are disclosed in a preliminary statement of funds drawn up in March by liquidator Leon Lewis, of actuaries Alexander Forbes

Golden Arrow's Gie is chairman of the fund trustees The company says he is overseas and unavailable for comment

After liquidation expenses of R1,7m, Lewis states that R194m will be spent buying with-profits annuities for pensioners and R122,7m will go to a new retirement fund for "active" members

Each pensioner would receive a 25% enhancement of their actuarial reserves and a bonus equal to one month's pension

And R80m would be "repatriated to the employer," plus 40% of residual assets, bringing Golden Arrow's payout to R85,6m

The term "repatriated" annoys pensioner Roy Fisher, who points out that Golden Arrow Bus Services has been on a contribution holiday since the present owners took over in 1992

Fisher, a former bus inspector with Golden Arrow, is 62 He retired in 1986 after a heart attack Like the other 1 190 pensioners, he received news of the proposal to liquidate the fund and revert "a minimum of R85m" to the company in a letter dated August 22 1996

Fisher refused to sign his acceptance of the proposal, though the arrangement has nearly doubled his monthly pension, from R752 to R1 145. And he received a bonus of R1 145 "I feel the company is not entitled to any money," he says He claims his requests to Golden Arrow for the names and addresses of fellow pensioners to call a meeting to discuss the proposal was refused

>>I'm fighting the actuarial process of leaking workers' retirement funds to finance their employers' agendas<<

Though 95,7% of pensioners and 98,1% of the 1 785 active members accepted the distribution proposal, Fisher's view is shared by fellow pensioner, former Tollgate Holdings CE Johan Barnard

"Why should the company get anything — let alone R86m?" asks Barnard

Barnard, who is a senior advocate, says "The crux of the matter is they didn't consult the pensioners"

On November 4 1996, three months after the proposal went to members, a new "overriding" rule, number 26, was added to the fund's rules This allowed the balance of the fund's assets to be paid to Golden Arrow Bus Services

The actuarial valuer of the Golden Arrow Retirement Plan, Simon Peile of Alexander Forbes, says the R400m pension fund "was not a consideration when the company was bought in 1992" It did, however, become an issue after Lintas broke the ground

Peile agrees Golden Arrow has been on a lengthy contribution holiday

He describes Golden Arrow Bus Services (Pty) as a "progressive company" Half its shares are owned by a community foundation — the Golden Arrow Foundation The balance, says Peile, are held by the directors and workers

In April 1996 the in-house newssheet *Gazette* said the R85m "reversion" would enable the company to reduce its debt and reinvest — R30m had been lost in 1993-1994 because violence prevented operations in Khayelitsha

The aged bus fleet needed upgrading "One new single-decker bus costs R500 000," said Gazette "Thus the injection of enough capital into the company to allow it to build in the necessary safeguards for its survival will benefit everyone"

In the newssheet, chairman Cronjé described the pension fund distribution as "a once-in-a-lifetime opportunity for all members to have their benefits enhanced by a sizeable amount"

Golden Arrow still has to receive the R85m But Melburn-Pyle says he sees no reason why the Registrar of Pension Funds should not approve the distribution The fact that the company has been on a contribution holiday is a "red herring," he says

"We have an obligation to all interested parties in a pension fund — and that includes the employer," he says **Jack Lundin**

Unifruco chiefs quick to cash in on deregulation

Louise Cook

(232)

FORMER Unifruco executives have wasted no time in taking advantage of the deregulation of SA's fruit industry, with confirmation yesterday that Cape-based food, fruit and flower exporter Fruveg, and the UK's largest fruit juice manufacturer, Gerbers Food Group, were close to finalising an export joint venture. BD 3/10/97

SA citrus and deciduous fruit marketing was opened to free trade this week after being restricted to a single channel — Unifruco — for decades.

A number of free agents have entered the market, but the Fruveg-Gerbers joint venture will establish a new company headed by former Unifruco chairman Leo Fine and will include former GM Denis Searson, among others.

Roy Fine, MD of Fruveg, which has been involved in cut flower and fresh produce exports from SA for 80 years, said SA fruit would be sold on the prime European and UK markets under the brand name Sunpride from next year. Sunpride was well-established in Europe and the UK as Gerber's choice fruit juice brand, he said, which would give the company a head start when breaking into the market.

The deal with Gerbers would establish a new company, also to be called Sunpride, and was close to being finalised Gerbers would be a minority shareholder in the venture, which would target Europe but also seek to enter other international markets.

"Sunpride is being formed to take advantage of the newly deregulated export market and is designed for the producer who wants an own identity without any pooling system," he said.

Fine would not disclose the expected cost of setting up the new company, saying negotiations on such details would be completed this week. But turnover of about R150m was expected next year through the export of 3-million cartons of citrus and deciduous fruit. "This will be a major breakthrough. SA fruit will be marketed under a brand name associated with choice fruit juices in Europe and the UK," he said

20% of parastatal to go to foreign partner

Linda Ensor

232

BD 8/10/97

CAPE TOWN — Twenty percent of the Airports Company would be sold to a foreign equity partner, Transport Minister Mac Maharaj said yesterday

Maharaj told a joint meeting of Parliament's transport and public enterprises committees that government planned to list the Airports Company in a few years' time, when the strategic equity partner would have the option of increasing its stake to 30%

The operator, which could be any one or two of 15-16 interested parties — including the British Airways Authority and the airport authorities of Malaysia, Frankfurt and Schipol — would be obliged to second several key managers to SA for 2-5 years

The consensus sale plan was approved by the interministerial cabinet committee for final implementation by March next year

Government expected to raise more than R1bn from the sale of 49%, of

Continued on Page 2

Airports

Continued from Page 1

which 10% would be offered to investment institutions owned by historically disadvantaged people and trade unions, 9% to management and employees; and 10% to the National Empowerment Fund

To ensure the broadest possible representation of the disadvantaged, the minimum and maximum stakes held by them would be 0,25% and 5% respectively. They would pay the same price as the strategic equity partner for their shares.

Maharaj said due diligence would be undertaken between December and February, and legislation would hopefully be passed by Parliament by end-February — the deadline for bids.

The bids would be adjudicated by early March and the deal finalised by the end of the month while the market empowerment transaction was planned for April. All the empowerment and employee transactions were expected to be finalised by mid-June.

The strategic equity partner would have to be committed to affirmative action targets, training and skills transfer programmes, and co-operation with the rest of Africa.

Maharaj stressed that the acquisition of world-class skills — vital for the implementation of the company's rapid expansion plans — was one of the prime reasons for the sell-off. In particular the retail outlets in terminal buildings required global economies of scale to succeed.

In the year to end-March 74% of the 19% profit increase was derived from retail operations.

The proceeds of the sale would flow to the treasury and the planned capital expenditure of R1,4bn over the next three financial years would be funded from cash flow and future profits, transport director-general Ketso Gordhan said in an interview. Of this R800m would be devoted to Johannesburg airport and about R300m-R400m to Cape Town.

Privatisation of SA's grain industry takes leap forward

BD 13/10/97 (232)

Samantha Sharpe

CAPE TOWN — The privatisation of SA's grain industry has taken another step forward with the announcement at the weekend of a private R600m syndicated loan finance and hedging facility for advance price payments of wheat and barley.

Société Générale is the arranger, agent and lead banker for the set up of the syndicated loan, accorded with the participation of NBS Boland and Standard Bank Group.

Société Générale assistant GM Amedeo Anniciello said the new pricing structure followed the disbanding of the Wheat Boards single-channel marketing system and its replacement with a private firm, Company Grain.

Company Grain was set up by the eleven grain handling co-operatives in the Western Cape in a bid to offer a marketing channel to Western and southern Cape farmers.

The appointment of a private bank as the arranger was in line with the latest privatisation initiatives, with advance price payments for wheat, barley and breakfast oats traditionally funded through a statutory body or the Landbank.

While statutory funding had historically led to huge misrepresentations and subsequent losses on the part of the Wheat Board, the fact that private banks were willing to take part in funding initiatives signalled a healthy return to market equlibrium, he said.

While the new pricing structure has seen advance wheat prices falling significantly compared with last year's single channel pricing system, this followed an expected wheat surplus in SA and the US.

The advance price does not reflect the final price paid for wheat, but is a provisional price paid ahead of the of the sale of wheat in the forthcoming marketing year.

AIRPORTS COMPANY (232)

Privatisation finally lifts off

Maharaj offers added inducement to strategic equity partner

FM 10/10/97

Transport Minister Mac Maharaj's carefully laid-out programme to sell off 49% of the profitable Airports Company of SA (Acsa), may be disentangled by parliamentary delays in changing the legislation governing the company

Maharaj this week unveiled a tight, step-by-step plan to privatise the R2bn industry-valued public corporation — and added a fillip The Strategic Equity Partner (SEP) that will bag the initial 20% on offer will be allowed to increase its stake to 30% in an initial public offer

This may be enticing to international airport operators preparing to bid for Acsa But a departmental law adviser admitted that the legislative programme to make Acsa a commercial enterprise had been cut "tight, tight, tight"

Transport director-general Khetso Gordhan said the amendments to the Airports Company Act of 1993 had to be ready by early March 1998 — before the sale and purchase agreement

"It could affect our programme if it is not ready," said Gordhan, adding, however, that it was unlikely that there could be hitches as the amendments were "not controversial" The amendments to the Act are to bring about the transactions with an SEP and empowerment groups, define the scope of the company's activities, limit risk to the core of the aeronautical activities of the company and provide for treatment of Acsa as a commercial enterprise

But there are only 12 weeks of parliamentary activity left before March 1998 — and in that period the Bill has to be approved by Cabinet then go to parliament's transport committee in mid-February for any amendments The committee has been given two weeks to consider, or amend it if necessary before referring it to the National Assembly More time may be needed for this as MPs had already started nit-picking on Monday One of the questions centred on the role of parliament as watchdog over the 51% government stake in Acsa

Maharaj and his team are confident that the deadlines will be met and the sale wrapped up by mid-June next year

Maharaj said the SEP would participate by appointing additional directors, seconding several key managers for between two and five years, and undertaking short-term focused consulting exercises

"The SEP will have the power to make constructive input to existing management but not outright control," he said

An airport operator, or two operators, will lead and control the SEP, who will be committed to affirmative action targets, training and co-operation in Africa

The Acsa cake will be divided between the State (51%), SEP (20%), investment institutions, the historically disadvantaged and unions (10%), management and employees (9%) and a 10% stake will go to the National Empowerment Fund when it is established

Acsa MD Dirk Ackerman said international traffic had grown by 8% in the past year, and profits after taxation by 19% to R159m from R134m last year Turnover had increased by 27%

Robert Tshabalala

Mac Maharaj confident of meeting legislative deadlines

"We've had an exceptionally good year," Ackerman said, adding that privatisation would lead to even better performance

Asked why it was necessary to sell off Acsa when it was doing so well, Maharaj replied "Yes, the company has performed robustly But that does not mean we must rest on our laurels We need to develop our nonaviation business and no matter how well Ackerman and his team have done, we can do better"

Ackerman said it was not advisable to unbundle Acsa now "It would be difficult to run the smaller companies Two years ago they were losing R20m a year and now it is under R4m We feel it is better to leave them as a package and we will get a better deal for them and help improve the economies of the provinces they are in"

A labour representative said that "on this one" there was total agreement by Cosatu that the sale should proceed **Justice Malala**

Decision this week on privatisation of state mine

(232) BD 13/10/97

Renee Grawitzky

THE interministerial cabinet committee is expected to take a decision this week on how Alexkor, a state-owned diamond mine in the Northern Cape, is to be privatised.

Industry sources indicated that 60% of the mine could be sold to a potential strategic equity partner.

The sources said it was unlikely government would agree to proposals tabled by Alexkor's restructuring and transformation committee which called for a 30% stake given to the community, 20% to labour, 15% to the national empowerment fund and 35% to an equity partner.

Government was likely to agree to the sale of up to 60% of the mine to a potential equity partner, he said. Government would also have to decide if the mine would be split into onshore and offshore operations and sold off separately. The future of the mine's other activities such as farming would also have to be considered.

At the same time a number of consortia are being formed to bid for the mine while established companies such as De Beers and Trans Hex are potential buyers.

However, industry sources said there was some resistance in government for De Beers to buy the mine, even though it had the expertise to turn the mine around.

The interministerial cabinet committee meets on Thursday to discuss recommendations put forward by the sectoral task team and considered by the oversight committee which met last week.

Public enterprises and the mineral and energy affairs department said they were not in a position to comment on the outcome of the deliberations.

The model proposed by Alexkor's restructuring committee was motivated by the fact that the mining industry played a crucial role in the Namaqualand economy and the lifespan of all the mines was limited.

The model was to ensure the mine and other activities could act as a vehicle for future sustainable regional development.

A report conducted last year by the Mineral and Energy Policy Centre highlighted the importance of the mine in the regional economy. The committee proposed that 30% of the mine be given to the community because 30% of the mine's post-tax profits revert to the community through the Alexkor Trust, and secondly, there are a number of land claims.

The report said "it was questionable whether a private owner could sustain the development and corporate social investment programmes".

AIRPORTS CO PRIVATISATION (232)

Searching for a perfect partner

FM 17/10/97

Members of a committee advising on the privatisation of Airports Company SA (Acsa) set off this weekend to assess nine mystery contenders for the 20% stake of the public corporation earmarked for a strategic equity partner

Since the nine represent an unofficial shortlist — and the deadline for prequalification bids is only a month away — their identity is a secret One, however, can be named the British Airports Authority is set to receive the committee members on October 21 BAA, which owns and operates seven UK airports including Heathrow, must be considered a lead contender "We are deadly serious about SA," confirms Europe and Africa MD Richard Jeffrey

A fly in the ointment could be the disappointingly low stake on offer However, BAA believes that a controlling stake could be in the offing

Publicly, Transport Minister Mac Maharaj has said initially 49% of Acsa is to be privatised — only 20% of which will be made available to the overseas strategic partner

Bidders agree that R2,5bn is not an unrealistic price tag for Acsa So 20% will cost £340m — probably as much as any foreign operator is prepared to punt at this stage

However, some potential investors have been told that government plans to sell the remaining 51% once the initial deal has bedded down This strategy would enable it to benefit from the foreign investor's input, with some predicting that the present worth of the 51% stake could double within two years

Though the destinations for the Road Show have not been announced, it is possible to predict some likely touchdowns Frankfurt airport is a cert So is North America's Airports Group International (AGI), a privately held company which runs a host of medium-sized airports in the US

In Europe, the Road Show will embrace Amsterdam's lauded Schiphol airport, Ireland's Aer Rianta and Rome airport, listed in July

The Far East leg will embrace Malaysia and Singapore

However, Maharaj must tread cautiously There are now more airports wanting to privatise than there are top operators, potential partners are pulling out if deals look like going sour

Dusseldorf (16m passenger/year) is in the final stages of offering a tempting 50% of its equity, but has shown reluctance at handing over the reins

Says one cooling bidder "They haven't come to terms with the fact that they're going to give up control They want the money and the expertise, but they don't really want to be owned by foreigners"

Jack Lundin

Samwu slams plan for water privatisation

(232)

Deborah Fine

BD 16/10/97

THE SA Municipal Workers' Union (Samwu) has joined the Mpumalanga African National Congress (ANC) Youth League, the Congress of SA Trade Unions (Cosatu) and the SA Communist Party (SACP) in condemning moves by the greater Nelspruit town council to allow a private consortium to deliver water and sanitation in the area by way of a 30-year concession.

The council announced last week that the services would be taken over by the Metsi A Sechaba Consortium backed by British firm Biwater. The council, however, will continue to regulate and monitor the services and tariffs provided by the consortium.

"It is a complete disgrace that a few members of the Nelspruit council have unilaterally pushed the privatisation process through, despite Cosatu and SACP opposition and a split in the ranks of the regional ANC over this issue," Samwu said yesterday.

The project has, however, received the blessing of both Provincial Affairs and Constitutional Development Minister Valli Moosa and premier Matthews Phosa.

The union said international experience indicated that the privatisation of water had resulted in job losses and massive increases in service tariffs. "Across the world ... communities have gone to the extent of rioting in the streets against the privatisation of basic services."

Samwu, together with Cosatu, would discuss measures to involve municipal workers in an antiprivatisation campaign at Samwu's 5th national congress.

Samwu members were also expected to pass a resolution that unless privatisation was halted, municipal workers countrywide would embark on mass action. Cosatu, Samwu and the SACP were planning a stayaway on October 27.

In addition, Samwu was arranging a community meeting in Nelspruit on Sunday to "expose the lie that privatisation will provide adequate services for communities".

Aventura to be sold despite land claims

(232) BD 21/10/97

Robyn Chalmers
and Jacob Dlamini

GOVERNMENT is to press ahead with the 100% sale of state-owned holiday resort group Aventura, despite unresolved claims on Aventura-owned land, and hopes to remove a restriction on the size of a foreign shareholding.

Public enterprises ministry spokesman Wandile Zote said notices inviting participation in the tender process should appear this week.

"We have decided to go ahead and sell the company anyway. We will leave the issue of land claims to be sorted out separately," he said.

Talks on the restructuring and sale of Aventura were halted in August while the claims were being investigated. A decision was taken at an inter-ministerial cabinet committee meeting later in August to fast-track the land claims, and methods to do this were being explored by the land affairs ministry. The sale of Aventura has been on the cards for more than a year.

Public enterprises director-general Sipho Tshabalala yesterday submitted to the National Council of Provinces' select labour and public enterprises committee an amendment designed to remove restrictions placed on the total shareholding of foreign companies.

He said government attempts to privatise Aventura could be thwarted by legislation allowing foreign shareholders to own only 20% of the chain.

He said Aventura had been commercialised and privatisation would provide capital to unlock its growth potential and allow for expansion.

It is understood that 10 local and foreign organisations have expressed interest in buying Aventura. It owns 15 resorts in six provinces, with turnover of about R124m a year.

The cabinet committee decided that Aventura would be restructured as a single component and that 100% of equity would be divested to an investor, empowerment groups and labour.

National Party spokesman Louis Swanepoel supported the amendment as restrictions would discourage potential investors, he said.

Nelspruit services privatisation opposed

Deborah Fine BD 28/10/97 (232)

MEMBERS of the Congress of SA Trade Unions, the SA Municipal Workers' Union and the SA Communist Party (SACP) staged a march on the Nelspruit town council yesterday to protest against a recent council decision to allow a private consortium to deliver water and sanitation services in the area

The council announced last month that SA consortium Metsi A Sechaba, backed by British firm Biwater, was the preferred bidder for a 30-year water and sanitation concession in the greater Nelspruit area The exact nature of the services-delivery partnership between the council and the consortium was expected to be finalised by the end of the year

The council opted for the public/private sector partnership after it was decided that the council on its own could not deliver water and sanitation services to all of Nelspruit's' residents within a reasonable time period.

The Nelspruit project has received financial and technical backing from the national provincial affairs and constitutional development department, as well as support from Mpumalanga premier Mathews Phosa

The trade unions and the SACP, however, have vowed to launch countrywide protests against the semiprivatisation of municipal services, claiming that the process will lead to job losses, massive increases in service tariffs and the perpetuation of services inequalities.

In a memorandum handed to Nelspruit deputy-mayor Fatima Mabuza yesterday, about 400 marchers demanded the suspension of the concession process An urgent meeting between the council and the trade unions is expected to be held tomorrow

HANNES THIART

Tidy team: Samwu members help co-worker Bathandwa Sipakisi, with wheelbarrow, collect refuse in Khayelitsha to highlight a campaign against privatisation of municipal services

Protest spells big clean-up for Khayelitsha

ARG 30/10/97 (232)

LENORE OLIVER
STAFF REPORTER

About 3 000 municipal workers streamed in to clean the streets of Khayelitsha in defiance of moves to privatise municipal services.

The SA Municipal Workers Union (Samwu), armed with spades, wheelbarrows, compactors and black bags, arrived in truckloads yesterday at Sites B and C to tidy the area and collect waste for five hours

These areas were targeted because refuse collection was the poorest

Samwu has embarked on a national campaign to oppose privatisation of municipal services on the grounds that the quality of services delivered to communities will suffer

The union also fears that many of its members could lose their jobs

Yesterday's action was intended to demonstrate Samwu's contribution to the Masakhane campaign, and to show the Tygerberg council that with the "political will and the re-organising of the workforce, local government workers are able to provide an effective and efficient service"

Mark Tinkler, chairman of the Cape Metropolitan Samwu branch, said members wanted to show local authorities that it was not necessary to privatise – there were resources

"We are trying to say that we have the resources within the existing structure," he said

"The workers just have to be re-organised and redeployed in order to have efficient service within the City of Tygerberg," Mr Tinkler said

Samwu felt that privatisation would widen the gap between councils and communities, and has suggested alternatives to privatisation such as re-organising municipal structures and giving communities greater control over the allocation of resources

The union had suggested a pilot project for delivery of services focused on re-organising the workplace by improving relationships between municipal management, municipal employees and councils

Tygerberg officials say the jobs of Samwu members have not been jeopardised, and that the substructure is simply extending its services to areas deprived for many years

Mr Tinkler said the union would investigate other forms of action if its demands were not met

News

ANTAGONISTIC *Petrus Mashishi, the general secretary of the South African Municipal Workers' Union, says privatisation will increase corruption*

PHOTO: JOHN WOODROOF

Samwu condemns privatisation

ET(BR) 30/10/97 (232) (252)

Frank Nxumalo

Johannesburg — No amount of foreign capital, including forms of privatisation, outsourcing, delegated management, ratio[illegible] or commercialisation [illegible] the South African Municipal Workers Union (Samwu) said yesterday.

The union said at its fifth national congress that its anti-privatisation campaign had been [illegible] by the government's [illegible] to embrace macro-economic strategies that apparently [illegible] to "keep its involvement in the economy as minimal as possible".

"These policies characterise [illegible] with our [illegible] at the [illegible] time," the union said.

[illegible] Cosatu's rejection of these policies and called for them to be replaced by policies [illegible] of the [illegible] reconstruction and development programme, the union said.

Petrus Mashishi, Samwu general secretary, slammed corruption in the public sector and called for the restructuring of municipal services to cater for the needs of the majority.

He said that all over the world "corruption goes hand in hand with privatisation and democracy will be meaningless except in a situation where [illegible]".

The present government has inherited a corrupt public [illegible] Samwu [illegible] with the [illegible] government.

"The public [illegible] to meet the needs of the [illegible] providing the [illegible] services to all," said Mashishi.

He said the fight against privatised services was aimed at [illegible] the [illegible] apartheid service delivery.

Samwu has been among the leaders of the fight against [illegible] plans to privatise its municipal water services.

Competition body says OK to Shoprite

(30) (272)

ACQUISITIONS

By MARCIA KLEIN

COMPETITION Board clearance should pave the way for a speedy conclusion to Shoprite Checkers' acquisition of OK Bazaars in its entirety, quashing earlier speculation that it will handpick about 50 stores

On Friday Competition Board chairman Pierre Brooks said he had given his blessing for a takeover of all OK's stores. "We believe they have not finalised negotiations on financial issues but we have indicated we will not oppose the deal", he said.

OK has 144 stores and 20 Hyperamas which collectively brought in R6.4-billion in sales in the year to March But the company's bottom line losses mounted to R74-million from a R1-million loss in the previous year.

The OK's net asset value was R950-million at end-March, and there is speculation that the asking price for OK was R400-million, less R100-million of debt.

Six years ago Shoprite, then a relatively small, Cape-based retail chain, bought 169-store Checkers for a song, and has turned it around to such an extent that its operating profit is now around R200-million.

It is estimated that Shoprite Checkers holds between 23% and 24% of the food retail market, while the OK Bazaars has 17% to 18%, giving them a combined market share of more than 40%.

But the board has indicated that a merger will not be uncompetitive.

Brooks said that an analysis of the proposed merger, which followed an approach to the board by the parties involved, indicated there was no cause for concern.

He said the decision was based partly on the fact that OK Bazaars "is an ailing company, and people have known for a long time that they are going out of business in any event."

The transaction could benefit the trade unions that are involved, and contribute to black economic empowerment.

"We looked purely and simply at competition issues and looked at various categories including where consumers are and where they buy," Brooks said

"We usually look at concentration ratios, and while they can never be decisive, they are at levels which do not warrant intervention."

Manufacturers of products sold in supermarkets were canvassed on the situation.

Brooks said it was important to establish whether the company's combined purchasing power would enable it to "be coercive in its dealings with suppliers".

It had been established that this was not the case.

Brooks said he was aware that other parties were also interested in the whole or part of OK Bazaars.

A spokesman for Shoprite's managing director, Whitey Basson, said he would not comment on the deal as a cautionary notice was still in place.

It is not clear when the deal will be announced.

ST (BT) 2/11/97

LEGISLATION DELAYED ON PRIVATISATION OF STATE-OWNED AVENTURA (232)

Cape Town — Legislation on the privatisation of Aventura, the state-owned holiday resort company, was slightly delayed yesterday as ANC members of the labour committee of the national council of provinces insisted that it stipulated that local interests be given priority

They were not completely united on the issue, however, with some fearing that this stipulation could deter foreign investors by "placing too many tight screws"

But delegates from Gauteng won the day after they insisted that one of the aims of privatisation was to ensure wider control of state assets, particularly by empowerment groups An amendment to the bill will be considered by the committee on Monday

CT (BR) 14/11/97

Sipho Tshabalala, the public enterprises director-general, said eight bids had already been received — Lynda Loxton

Sowetan 18/11/97

'State should not privatise blindly'

(232)

Aviation companies have no affirmative action policies

By Sello Rasethaba

THE AIRPORTS Company Limited (ACL) and the Air Traffic and Navigational Services Company (ATNS) were both formed in 1993 to commercialise the provision of services at the nine state airports and the air traffic control and navigational aids infrastructure

These companies are presently 100 percent government-owned and are responsible to the Department of Transport

The motivation to commercialise these entities, namely better financial control, efficiency, user charging and cost effectiveness was valid and a trend taking place globally

However, the timing of the commercialisation process (just before the 1994 elections) suggests that there were other agendas – to keep certain crucial areas of the aviation industry away from the new government and in the hands of a few vested interests

It is important to examine these two entities more closely in terms of their orientation to the policies of the government of the day, namely human resource development and transformation

One can argue that hardly any attempts have been made by the ATNS and the ACL to make them representative, in terms of race and gender, to properly reflect the demographics of this country

Imbalances

The argument put forward by these companies is that they operate in highly specialised and technical areas and that because of the legacy of the past, not enough black and female candidates are trained in these areas

But then what training programmes have been implemented at these companies to address these imbalances since their creation some five years ago?

The ATNS boasts one of the most sophisticated air traffic control training facilities on the continent, yet how many South African black and female students have been trained there?

How has the navigational aids infrastructure that the ATNS oversees been utilised to develop the human resources of those from previously disadvantaged backgrounds in technical areas?

Mac Maharaj has linked the privatisation of the aviation industry with affirmative action targets

What efforts have been made to introduce bursary programmes for promising matriculants to study in various disciplines (technical, management economics and so on) at a tertiary level?

And what is the intensity of recruitment of young black and female graduates from tertiary institutions?

By looking at the present composition of these companies, it is clear that the answer to these questions is that hardly any initiative has been taken with regard to human resource development

There are no black employees in management positions hardly any black air traffic controllers and technical personnel practising in their areas of qualification, and no formal affirmative action programme at the ATNS

Furthermore, former exiles and people from the former Transkei Bophuthatswana, Venda and Ciskei homelands who are now air traffic controllers or qualified, in related disciplines are not given the opportunity to practice their skills

'No initiative taken to develop black people'

Even very senior persons such as former directors of Air Traffic Control, who were trained at some of the top international air traffic control schools, are denied the opportunity of practising their professions and find themselves behind desks in these organisations while employees many times their juniors are practising as air traffic controllers

There is talk that a tripartite grouping comprising the ATNS, the ACL and another party are to establish an aviation training institution to offer programmes in various disciplines of aviation

Given the past record of these entities, one asks the question how committed will these institutions be to addressing the issues mentioned and developing human resources in line with the Reconstruction and Development Programme (RDP)?

The Aviation Training and Development Foundation (ATDF) was established by various stakeholders in the aviation industry to enable previously disadvantaged persons to pursue careers in the industry The ACL and the ATNS are both affiliated to this body

The policies of the ATDF are 'to overcome the present educational inequalities and imbalances which cause barriers to entry in the industry" and 'to ensure an adequate supply of suitably qualified candidates for the industry'

This body hopes to achieve this through programmes such as

- Adult basic education and development (literacy and numeracy),
- Preparatory programmes aimed at upgrading basic academic life skills,
- Creation of a customer service culture
- Air tourism awareness programmes and
- Aviation industry administration

Adult literacy and computer literacy may be important areas but where are the programmes with more content and relevance to the aviation industry (in technical, business management and economics areas) for black and female candidates who do possess computer literacy and basic academic life skills ?

Is this how these stakeholders hope to address the imbalances that exist in the industry?

If so, how serious will these stakeholders be in training those from previously disadvantaged backgrounds when they establish an aviation training institution?

The privatisation of the ACL is gaining momentum, with up to 49 percent of the current government shareholding initially up for sale to the private sector

The Government intends selling the rest of its shareholding a year after the first phase of privatisation If Government relinquishes all its shareholding in the ACL, how will it then effectively control transformation in terms of demographic representation?

In principle one is not against the privatisation process but caution must be exercised in the disposing of parastatals and other state assets that can play a crucial role in the transformation of our society

Such state infrastructure, if utilised and controlled in the spirit of the RDP will go a long way towards the transformation of this society

No rush

There should be no rush as transformation of South Africa cannot be achieved overnight and it certainly is not something to be left solely to the private sector; commercial management yes, but social transformation must be implemented with a degree of government control

Minister of Transport Mac Maharaj has set affirmative action targets, training and skills transfer programmes that the bidders will commit themselves to

This is fine but what guarantees are there that these targets will be met once the ACL is totally privatised? Guarantees that these targets will be met may very well become a perpetuation of the history of this company, which is labelled "window dressing", an art which they seem to have perfected

A strategic equity partner may be necessary to help attract capital needed for the expansion of airports but the Government does not have to relinquish all its shareholding for this to happen

Totally privatising the ACL will not make it any more efficient than it already is, as it is a monopoly in the industry Selling a 20 percent shareholding to black economic empowerment investment groups will also not ensure fundamental transformation of the company and the empowerment of blacks and females at a management and functional level in the company

Government has to take the lead and control in ensuring that training affirmative action and skills transfer occurs at all levels of these two entities, in line with the human resource development policies espoused in the RDP

This process is crucial to addressing the imbalances of the past

(The writer is a board member of North West Transport)

Privatisation of electricity industry 'vital'

Robyn Chalmers BD 19/11/97 (232) [illegible] [illegible]

THE privatisation of the electricity supply industry should be regarded by government as a priority, Eberhard von Koerber, executive vice president of engineering group ABB in Europe, the Middle East and Africa, said yesterday

Von Koerber, who has held talks with government and business leaders in SA, said it was vital that large parts of the electricity sector be handed over to the private sector as soon as possible

The distribution sector should be the first to be privatised into a deregulated environment Government's concept of setting up a number of regional electricity distributors was a solid one, but they should be opened up to the private sector rather than being managed by Eskom and municipalities "As opposed to stifling employment opportunities, this will create new avenues of investment for black entrepreneurs, where local capital can be used"

The global trend was towards splitting the transmission, distribution and generation functions and opening them up to the private sector in a phased manner Government was unlikely to meet the electrification needs of the population unless it went the private sector route of it was technical, disputing the feasibility it going, and what brought it down.

Consolidation of accounting firms causes jitters

The planned mergers among the 'big six' accounting firms could face regulatory intervention, writes Jim Kelly

(232) F

BD 19/11/97

THE decision of the world's leading stock market regulators to scrutinise the latest crop of mergers among the big six accountancy firms introduces a significant new hurdle to global consolidation in the sector The news must have chilled the blood of those who have risked so much in floating ambitious plans to create big firms

The intervention was entirely unexpected and came from an unlikely source The International Organisation of Securities Commissions (Iosco), the club of world stock market regulators, issued a communiqué on the Internet from Taipei following its annual conference hosted by the local Securities and Futures Commission Representatives of the US Securities and Exchange Commission and Britain's new Financial Services Authority were present.

Several observers at the conference have said the merger plans recently announced by Price Waterhouse and Coopers & Lybrand, and Ernst & Young and KPMG, were a topic of considerable informal discussion among senior regulators

The final communiqué devotes a paragraph to "taking note of the consolidation of the largest international accounting firms" The rest of the paragraph will have been read with some horror by those in the profession who fear regulatory intervention.

Iosco went on to note "the increasing reliance on revenues from consulting and other nonaudit services" among the big six firms and the need to "explore the impact of those developments on the independence and quality of audits conducted and other accounting services provided by those firms"

The argument apparently behind these remarks is an old one, but potent nonetheless It is also highly sensitive. Does the increasing reliance of the big firms on fee income from business advice — in many cases from audit clients — undermine their ability to be independent in their roles as statutory auditors?

Until now the presumption has been that regulators would rely on self-regulation by the firms to safeguard independence A whole sheaf of rules is followed by the big firms to safeguard shareholders and secure auditor independence Certainly the European Commission has decided to work with the profession — rather than seeking to intervene

But the Iosco communiqué confirms the worst fears of critics of the mergers — that they would focus attention on this area again and force regulators to consider safeguards As one observer said "The big six firms have put their heads above the parapet."

The communiqué makes it clear that such concerns do exist. But the regulators are also worried about their own lack of choice when it comes to using professional firms to help them regulate the market — such as in the British statutory requirement that auditors report on internal controls within a bank. Several regulators complain that the big six are already bumping into themselves — finding that conflicts of interest severely reduce the choice available

In the light of the mergers regulators are concerned that the big six are in many cases the only firms they can ask to undertake many of these tasks, which include a range of roles linked to corporate failures, rescues, and transactions Global expertise — and the resources to act and implement services across borders — are rare This is one of the reasons the firms want to merge — but regulators are clearly worried at the small size of the pool which will be left

If both mergers go through the big six will become the big four

But regulators know that the logic which has forced such consolidation may eventually produce a big three — indeed the European Commission has already privately indicated it will in part consider the merger applications against a backdrop of an eventual market of three big firms In such a market regulators must be concerned about lack of choice

Iosco's intervention is surprising because until now it was felt that regulatory opposition would come from competition authorities — principally in the US, Europe and Tokyo Concern among securities regulators is potentially more dangerous as it will focus on audit — where the merged firms are most exposed to allegations of market dominance — and because it involves large multinational clients — the very market they are merging to serve

Of course Iosco is just a club But it is powerful, with prestigious members Its pronouncements are likely to establish practice It is understood that while it may not make a submission to the competition authorities, it may alert them to concerns about the mergers The communiqué says that Iosco's technical committee — which facilitates the listing of multinational companies — "will consider the policy implications of changes within the accounting profession on independent audits of financial statements of securities issuers and of financial services firms" While no judgment is given in the communiqué it is clear genuine concerns exist.

It is ironic that Iosco's interest should bring trepidation to the big six. Since the mergers were announced they have pleaded for a global view to be taken of the markets in which they operate Iosco takes such a view — but has to deal with the realities of policing the individual stock exchanges which underpin the system And it has to take a view of audit and other assurance services — the very parts of the market where the big six hold sway Meanwhile, the big six want regulators to look at the global consultancy market — a more flexible and varied sector

It will also be ironic if the rush to merge finally brings to the surface yet again the argument that the big firms should be further restricted in the kinds of services they can provide World Accounting Report editor David Cairns said. "Global mergers require global regulation If this means Iosco is going to limit the big firms doing nonaudit work for audit clients, then it has big implications" Those implications are unlikely to include blocking the mergers — but they may mean the big six have to pay a high price for their global ambitions — Financial Times

BUSINESS DAY, Thursday, November 20 1997

momentum

Drafting of competition policy gains

(232) BD 20/11/97

Ingrid Salgado

THE process of rewriting the country's competition policy is set to gain momentum next week when Trade and Industry Minister Alec Erwin presents his long-awaited competition policy review to business and labour

Erwin would table the document at a meeting of the National Economic, Development and Labour Council's (Nedlac's) trade and industry chamber on Thursday, trade and industry department communications director Themba Rubushe said yesterday. Department officials were working around the clock to have the revamped policy ready on time, he said

Government has already missed several deadlines on the review process, fuelling uncertainty and anger in business Reasons cited for the delays included Erwin's workload, the need for thorough internal consultation and alleged disagreements in a task team advising government on the review The team includes Competition Board chairman Pierre Brooks, Cape Town academic David Lewis and trade and industry portfolio committee member Tseliso Ntaupane

Portfolio committee chairman Rob Davies said it was "very possible" that a new competition law could be passed by Parliament by the end of next year Erwin's concept document was likely to be debated by Nedlac for some weeks, after which a bill would be drafted based on these discussions.

Failure to reach consensus at Nedlac would not necessarily stall the process. Davies said "The matter could go straight to the parliamentary process where a lot of representations would take place There could also be ways to reach consensus about general principles in Nedlac."

There are signs that organised labour intends lobbying for tough competition laws, with Nedlac's labour constituency having set up a task team to help prepare for the policy debate

Business has called for a policy that deals with anticompetitive corporate behaviour, rather than legislation that deals with the economy's structure. SA Chamber of Business senior economist Bill Lacey warned yesterday against using competition laws to achieve socio-economic ends He said it remained unclear whether government's review would follow the thinking of the recently released Liquor Bill which had included elements of competition policy by prohibiting overlap between the wholesale, retail and manufacture of liquor.

"If the review does broadly follow that document, I will be somewhat distressed," Lacey said.

Erwin has previously indicated that a harsh competition policy along the lines of US antitrust laws would be unsuitable for SA

Aventura qualifiers identified

CT(BR) 21/11/97 (232)

Lynda Loxton
Parliamentary Correspondent

Cape Town — Five, mostly local, consortiums, including companies such as Kersaf and Protea Hotels, have been identified as prequalifiers in the privatisation of Aventura, the state-owned holiday resort company, Stella Sigcau, the public enterprises minister, said yesterday

She also said SAA, the state-owned airline, would advertise today for a transaction adviser to help with its partial privatisation, to be completed by the second half of next year

At the same time, the interministerial cabinet committee had agreed on the general principles for the privatisation of Safcol, the forestry parastatal, and would advertise soon for a transaction adviser

Sigcau said the restructuring of state enterprises had not been happening as quickly as promised this year, mainly because of shortages of skilled staff She expected much more rapid progress next year

PRIVATISATION *Stella Sigcau names five local consortiums*

The five prequalifiers for Aventura are Kopano ke Matla, which includes Protea Hotels, Rennies Travel and Samrand, Phalafala Leisure Consortium, which includes Kersaf and Genbel Securities, Samco Consortium, comprising Samco Development Trust, Protea Hotels and Southern Development Trust, Boiketlong Investment Consortium, which is comprised of Trade First 187 trading as Koti Investments, Nozakho Investment Holdings, Embhuleni Tribal Authority and Embhuleni Business Trust, and Shomani Investment, which includes the South African Development Corporation, Hospitality Worldwide Service and the South African Casino Development Fund

Sigcau said she hoped the involvement of local communities in the privatisation process would help resolve the land claims that have dogged the process to date

She said she hoped to announce the name of the SAA transaction adviser on about December 12

Sigcau said the privatisation plans for Transnet were nearing conclusion, while the first report on Alexkor was due to go to the relevant committees soon

Public Enterprises Minister Stella Sigcau held a briefing at the African National Congress's Shell House headquarters in Johannesburg yesterday Picture TREVOR SAMSON

Portnet to be split in two, says Sigcau

(~~231~~) (232)

Robyn Chalmers

BD 26/11/97

PORTNET would be split into two entities by next year to separate its port authority and operational elements, Public Enterprises Minister Stella Sigcau said yesterday

In an overview of her ministry's work for the past three years, Sigcau defended delays in the privatisation process, saying much work and consultation had to be done first and solid progress was being made now

She said it had been decided that the operations and authority functions of Portnet would be separated next year and a regulator would be established, as it was government's function to oversee the regulation of ports

A decision had been made at a recent interministerial cabinet committee meeting to significantly increase the public enterprises ministry's capacity next year to cope with its greater work load The ministry and office of public enterprises had a staff complement of 39 but was responsible for state-owned entities which employed more than 300 000 people.

Sigcau said there was a need to accelerate implementation of the national empowerment fund and the employee share ownership scheme A strategy for the development of human resources and a management cadre in SA in general, and in state-owned enterprises in particular, was vital.

"We must explore the need for and possibility of establishing new strategic state-owned enterprises, for example, in the liquid fuels industry. The possibility and feasibility of consolidating the housing portfolios of state-owned enterprises and combining them with existing housing parastatals (is being considered)," she said

On privatisation, Sigcau said despite problems with land claims, the sale of holiday resort company Aventura would be completed by next year

A short list of five bidders had been announced.

The privatisation of the SA Forestry Company (Safcol) was back on track although the overall strategy was being re-examined, particularly in the light of spatial development initiatives under way in provinces where Safcol had major forestry holdings.

Other developments included a significant increase in the number of black people and women who were represented on boards.

On Eskom's electricity council, for example, the number of black members had increased to 52,6% this year from 30% in 1994, Sigcau said

Transnet's first step to privatisation

Robyn Chalmers

(232)

TRANSNET had invited black economic empowerment groups to bid for a 30% equity share in the restructured Viamax Fleet Management, MD Saki Macozoma said yesterday. BD 27/11/97

This is Transnet's first step down the privatisation road, although government has indicated it planned to sell passenger and freight transport group Autonet and a stake in SA Airways — possibly by next year.

Macozoma said agreement had been reached on structures that would facilitate the restructuring of Viamax Fleet Management. The company provided a maintenance leasing service of company vehicles at Transnet and for the private sector market.

He said Viamax Fleet Management would be separated into a fleet asset-owning operation and a fleet management services operation. This would be known as Viamax Fleet Solutions.

The restructuring of Viamax Fleet Management was seen as the beginning of the privatisation process for the rest of the Viamax group, a wholly owned subsidiary of Transnet.

Transnet executive director Mafika Mkwanazi said the preferred criterion for the black economic empowerment partner would be that it was a local company which was black controlled or managed

Interested companies had to make submissions by December 27 after which a short list would be drawn up. He said a 10% equity stake in Viamax Fleet Solution would be available for employees to participate in a share option scheme.

Dept responds to privatise issue

(232) Sowetan 27/11/97

By Khangale Makhado

THE Gauteng health department said yesterday that it had not privatised its ambulance service *in toto,* but only the section responsible for the maintenance of vehicles This was done with a view to improve the service

This follows accusations that the department had privatised the facility and that the move would lead to job losses

Spokesman for the department Mr Popo Maja said yesterday that all they had done was to opt for leasing, in that the private sector would lease the ambulances to the department The ambulances would be manned by government staff, but maintained by the private sector

"In the past we had a situation where ambulances were owned and maintained by the state and this resulted in the government encountering huge problems whereby broken down vehicles took longer to repair, causing the public to suffer

"The delay in making available the vehicles endangered lives of people and, in a bid to address the imbalances of the past in the health service delivery, we had to ensure that we opted for the most efficient, reliable and effective way that would ensure the availability of ambulances when they are needed," Maja said

Fierce opposition

He said there was fierce opposition to the new arrangement, launched in February this year, with fears that if the department was to privatise the service workers would lose their jobs

"The new arrangement will ensure that there is a definite number of vehicles on the road or ready to be there at any given point in time when needed And if a vehicle breaks down it would be replaced within an hour," said Maja, adding that they were saving a great deal on costs, time and the lives of people

Competition policy blueprint will cast a wide net — Erwin

(232) BD 07/11/97

Tim Cohen

LONDON — Government has expanded the range of issues to be examined under its new competition policy to include state corporations, public-private partnerships and the professions, Trade and Industry Minister Alec Erwin says

Erwin said government's long-awaited competition policy submission to the National Economic, Development and Labour Council (Nedlac) — to be presented today — would not be an exercise in "grandstanding"

Government saw competition policy as an important leg in the reform of SA's commercial and regulatory environment, he said

The policy document would not contain detailed proposals, but would aim at reaching agreement on broad principles Talks with other Nedlac partners would probably take three to four months, and legislation was likely to be tabled towards the end of next year's parliamentary session

Government had expanded the range of legislation to be overhauled as competition policy permeated a wide area beyond private business The process would therefore run hand in hand with reform of other consumer protection laws, the streamlining of the Companies Act and bankruptcy law, and reforms to the financial sector.

Government might not necessarily bring legislation forward in all these areas, but sought to clarify the policy framework Erwin said one of the crucial areas was the interaction between competition policy and the regulatory authorities and public-private partnerships, such as Telkom.

The interface between state corporations, the private sector and competition policy needed to be questioned In addition, the policy had to "address the realities of the professions" The dialogue was aimed at creating a transparent and efficient economy which retained a developmental dimension. The policy would need to accommodate empowerment needs, and address world trade and globalised investment patterns, he said.

Tug of war on privatisation

(2322)

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The City of Tygerberg municipality is still locked in arbitration with the South African Municipal Workers' Union over the privatisation of cleansing services in Khayelitsha

Municipal officials are studying video recordings of several clashes between union members and the police recently when dozens of council vehicles were damaged and councillors were assaulted in Lingulethu West.

Sixteen municipal workers may lose their jobs if they are identified among the culprits. – Staff Reporter

ARG 28/11/97

Erwin spells out new deal on monopolies legislation

ARG 28/11/97 (232)

BUSINESS EDITOR

A new Monopolies Law should be in place before the end of next year, says Trade and Industry Minister Alec Erwin.

Presenting his long-awaited competition policy guidelines to the National Economic Development and Labour Council (Nedlac) in Johannesburg yesterday, Mr Erwin said the document would lay the basis for making production and distribution more efficient by stripping out anti-competitive conduct

This was important for South Africa because international competitors complained of uncompetitive local markets with artificial barriers to entry

Economic distortions caused by high levels of concentration prevented South Africa from being a world-class exporter in many fields, Mr Erwin said

The competition policy would open new doors for those who had previously been excluded from economic activity This included consumers and emerging entrepreneurs, Mr Erwin said

Labour union concerns about job losses due to competition and to mergers and acquisitions would also be built into the policy process

Concentrations of wealth and power which did not serve the public interest would be tackled head on, he said

But, Mr Erwin said, the policy was not aimed at big companies just because of their size, and nor would it prohibit mergers and acquisitions, enforce unbundling, or necessarily dismantle monopolies Each situation would be judged on its merits

The policy guidelines would now be discussed in Nedlac's trade and industry chamber for three months before legislation was tabled, Mr Erwin said

Erwin presents policy guidelines

ET(BR) 28/11/97 (232)

Lynda Loxton and Clyde Russell

Cape Town — Anti-competitive behaviour and the broad structure of industries, including ownership patterns, would come under the spotlight in a review of competition policy, Alec Erwin, the trade and industry minister, said yesterday

He presented his long-awaited guidelines for a new competition policy to Nedlac and said he hoped that legislation would be in place by the end of next year

The guidelines do not provide specifics on what should or should not be regarded as monopolies, but are broad principles that should guide the negotiations in Nedlac

"Where artificial, non-economic concentrations of wealth and power exist — and so do not serve the public interest — these will be addressed forthrightly," said Erwin

"Yet the policy is not aimed at the absolute size of enterprises, or the prohibition of mergers and acquisitions in concentrated industries, or enforced unbundling, or the existence per se of monopolies These will be judged on a case-by-case basis, so as to improve the position of South Africa as a whole and the economic lives of its people"

COMPETITION *Alec Erwin hopes legislation will be in place by the end of next year*

The guidelines propose the establishment of an autonomous competition authority that will implement competition law and penalties without ministerial or political interference There will be a basis for appeal

Pierre Brooks, the chairman of the Competition Board, said yesterday that there were several areas of competition law that needed to be reviewed

He told the British Chamber of Business in South Africa that he wanted a co-ordinated approach to competition policy He also said the present system of criminal sanctions was not working well

Brooks said he was in favour of a flexible approach to competition policy and not one based on dogmatic principles He said this had led to criticism of inconsistency in decisions, but he believed a case-by-case approach was best

Brooks said South Africa would also have to integrate its competition policy with that of other countries

□ **Business Watch, Page 16**

Competition law may get sharper teeth

(232)

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BD 28/11/97

Greta Steyn

GOVERNMENT has proposed beefing up competition policy through the creation of a new watchdog that would have sweeping powers to crack down on abuses of market power

The proposal is contained in a document tabled yesterday for discussion with labour and business in the National Economic, Development and Labour Council (Nedlac)

Business groups have been waiting for three years to see what government has up its sleeve on competition policy, after hints by the newly elected government that it could break up conglomerates

The document suggests that the proposed new monopolies act should target anticompetitive behaviour, rather than size or concentration of market power However, the government should be able to dilute market power when necessary. It should be able to prevent mergers and acquisitions, and to compel companies to withdraw from particular markets

"Government is obviously cognisant of the link between structure and conduct," the document said Conglomerates did not necessarily lead to anticompetitive behaviour, but some corporate structures facilitated "inappropriate conduct" Hence, the authorities should be able to "trigger structural remedies, both pre-emptively and with respect to compelling disinvestment or exit from particular markets"

The government proposes to take the enforcement of the monopolies act out of the hands of criminal courts, as is the case with current competition law The idea is to create a professional agency with powers to investigate and to respond "rapidly and robustly" to anticompetitive behaviour It said the present system of prosecution in the criminal courts had failed — "there have been no prosecutions, let alone convictions, for contravention .. since 1986" Reasons for the poor record included the high rate of more serious crime and investigating officers' lack of expertise in competition matters

"Enforcing the rules governing competition and ensuring that wrongdoers do not flout the rules with impunity are crucial facets of any credible competition law," the document said

The new monopolies law would also remove the possibility of politically inspired intervention At present the trade and industry minister is allowed to intervene at his discretion.

There were four reasons why a new monopolies law was necessary the current act did not address the extent of concentration of ownership or market share, there were no provisions relating to vertical or conglomerate relations, there were few mechanisms to prevent (or even know about in advance) mergers and acquisitions which intensified concentration, and the act did not contain strong prohibitions of anticompetitive activity.

The document said the drafting of the monopolies bill would take place in tandem with the Nedlac discussions It would be published at the beginning of March followed by 12 weeks of public consultation afterwards.

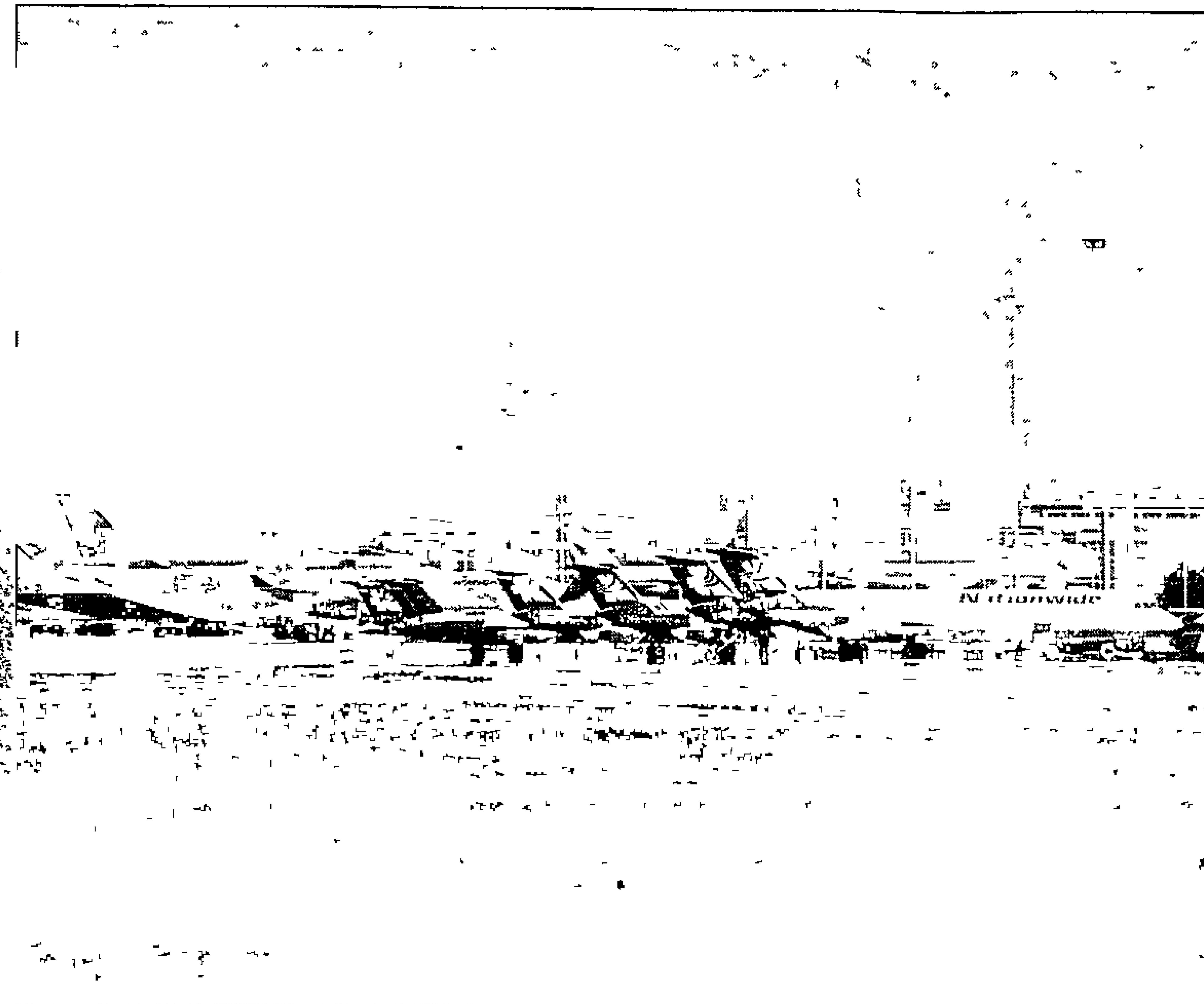
See Page 3

Privatisation of Airports Company gains speed

(232)

Six bidders have been named but only three have a realistic chance, writes THABO KOBOKOANE

ST(BT) 30/11/97



GOING, GOING ... international airports authorities are competing for a 20% stake in Acsa

THE partial privatisation of Airports Company SA (Acsa) got off the ground this week when government announced the names of the six international airports authorities that had prequalified to bid for 20% of Acsa

However, only three of the six — Montreal, Rome, Amsterdam, British Airports Authority, Frankfurt and Milan — stand a realistic chance, an analysis of their various strengths shows

The six companies have been invited to undertake due diligence at Acsa before bidding The successful bid will be announced by the second quarter of next year

The partial privatisation of Acsa, worth about R2-billion, is in line with government's privatisation programme

The introduction of a foreign partner will be followed by the sale of 10% of Acsa to black investors, 9% to staff and 10% to the National Empowerment Fund Government will retain a majority stake but will over time reduce its holding through a listing of the company

The Department of Transport said that while price would be an important consideration, it would also look at which partner could add the most value to its assets in areas such as retail and property development.

Of the six contenders, BAA and Amsterdam Airports Schiphol must rank as clear favourites with Frankfurt in with a slight chance

BAA, privatised in 1987, is probably one of the largest commercial airports authorities in the world, managing seven airports in the UK — including Heathrow and Gatwick — handling 71% of UK air passenger traffic and 81% of its cargo Outside of the UK, BAA manages the Indianapolis airport systems and the shops and catering facilities at Pittsburgh.

In fiscal 1996, about 44% (£556-million) of revenue came from its retail side while property accounted for £213-million and airport traffic charge for £434-million During the year its UK airports handled more than 93-million passengers and with US operations included the figure exceeds 100-million

It has said that it is seeking opportunities to own and operate airports overseas with priority accorded to the US and Australia — where federally owned airports are scheduled for privatisation

Amsterdam Airports Schiphol has been pursuing privatisation opportunities on international markets through its management and consulting arm Schiphol Management Services.

The irony is that while AAS favours its own privatisation, its shareholder, the Dutch government, is still grappling with the issue. To date, its international strategy has been to tie up with other partners in its bids, but the structure of Acsa once complete rules that out When the process is finalised, the state will be left with 41%, empowerment partners 10%, employees 9% and the strategic equity partner 10%

Schiphol owns 15% of Brisbane Airport Corporation Consortium which runs Brisbane Airport and owns 40%, via its US subsidiary Schiphol USA, of JFK International Arrivals Terminal, a consortium building an international arrivals terminal at JFK for non-US airlines

In fiscal 1996 AAS reported net profit of 174-million guilders with landing fees accounting for 45% of income It handled 27 8-million passengers (at four airports in Amsterdam) and nearly 1 1-million tons of cargo

The Frankfurt Airport authority — also state owned — generates most business from ground handling activity (37%) and airport fees (31%) In 1992 it suffered a DM55-million loss, but has recovered from this

Its international presence, through consulting group FAG Airconsult, handles the ground handling services at six airports in Spain and is part of a consortium planning to build and operate for 30 years the Athens International Airport

The Montreal airports authority (known as the ADM and a non-profit organisation) has been responsible for the management, operation and development of two of Montreal's international airports — Dorval and Mirabel — through a 60-year lease It is small in comparison to the other three, posting an annual turnover of $109-million

Competition law breaks even

(232) ST(BT) 30/11/97

LEGAL CHANGES

By THABO KOBOKOANE

GOVERNMENT's revamp of its competition law, almost three years in the making, is unlikely to cause a major rift between government and business

The bill, tabled in the National Economic, Development and Labour Council (Nedlac) by Trade and Industry Minister Alec Erwin, proposes reforming existing competition law Furthermore it will establish a new policing authority, with significant statutory powers

The feared antitrust action, modelled on US competition law, failed to materialise

The measures have impressed black business and the SA Chamber of Commerce (Sacob)

National African Federated Chamber of Commerce general secretary Mashudu Ramano says the proposals will address SA's "fairly weak" competition law "SA needs a much stronger competition policy that will limit, among others, excessive concentration in particular markets "

Sacob's economics director, Ben van Rensburg, welcomed the comprehensive approach of the proposals, which plan to merge competition policy with issues such as industrial development and international trade

"This would make sure all laws governing business move in a similar direction", but he warned that a significant number of issues had yet to be detailed including concentration and conglomeration

The proposed law will "prohibit anti-competitive conduct and abuses of dominant market position", as well as "ownership concentrations leading to excessive control over economic activity"

Competition Board chairman Pierre Brooks says the new law effectively prohibits anticompetitive behaviour from the outset "Our present law merely warns of the potential consequences of such behaviour "

Draft on policy welcomed

Sowetan 1/12/97 (232)

By Isaac Moledi

THE Government has welcomed new draft guidelines on competition policy, saying these were part of its plan to align its overall economic policy

Deputy President Thabo Mbeki's office said on Friday that the opportunity provided by the release of the draft "Guidelines on Competition Policy" served to integrate competition policy "with our overall national policy objectives and the particular objectives of our industrial and macro-economic policies"

They were in line with both the Growth, Employment and Redistribution macro-economic strategy and the Reconstruction and Development Programme

Proposals for strengthening competition policy through the creation of a new regulatory body, which would crack down on abuses of market power, were submitted to the National Economic Development and Labour Council last Thursday

Mbeki's office said a number of areas now needed immediate attention

These included

- The establishment of a competent, professional and powerful competition policy authority,
- A reformed and much strengthened monopolies law directed at anti-competitive conduct,
- A review of current practices and regulations in the area of corporate governance,
- A review of the Harmful Business Practices Act which bear principal responsibility for protecting consumer interests, and
- A review of the competitive interface between public corporations and the private sector

"There are opportunities for these large firms, as we reform state institutions with which they should now have an opportunity to compete," the statement said

The policy is expected to give a new voice to emerging enterprises that have been complaining about barriers to entry and other anti-competitive practices

Consumers, communities, labour and the unemployed will also benefit from greater competition, particularly in areas associated with basic needs and also in light of forthcoming improvements to consumer protection laws, the statement said

"The steps we take towards codifying our new Competition Policy Guidelines into law begin this week with debate in Nedlac"

FM 5/12/97 (232)

COMPETITION POLICY

Erwin's delicate balancing Act

The first problem is to define the public interest

Last week, Trade & Industry Minister Alec Erwin ended three years of suspense over the form which ANC competition policy would take when he presented his "guidelines' to the National Economic Development & Labour Council (Nedlac) last week.

Though he has underplayed some of the problems which may arise, his proposals should appease both big and small business And put the consumer in a better position than ever before

The problem with formulating competition policy is it has to interact with industrial strategy and trade policy — and the imperatives of the three are often mutually exclusive

There have been several areas of controversy over the years

One is whether large concentrations of corporate power deter foreign investors Offshore investors the argument goes, find it difficult to take over existing companies because of their intricate system of cross holdings and the pyramid structures which allow control of many companies by a few individuals They must either form joint ventures with local businesses or establish new operations

Erwin quotes a 1997 World Investment Report by the UN Conference on Trade & Development "Market dominance by a few major players is one of the main reasons why foreign investors have avoided SA after the end of sanctions

A corollary to this is the comparative freedom of companies to merge or acquire other companies without any effective bar to the process and sometimes without the previous knowledge of the authorities In theory this means there is little to prevent the creation of monopolies

Next is the debate over efficiency One view is that the obstacles to hostile takeovers allow managers to perform at less than the maximum efficiency The counter view is that the presence of strong controlling shareholders ensures peak efficiency because they are in a position to act against bad managers

A separate issue is whether the conglomerated companies actually abuse their dominant position in the market with 'restrictive practices' such as price fixing or production or distribution restriction

Concentrations are also accused of operating at an unfair advantage to smaller domestic competitors And they are perceived to be disadvantaging consumers — as major suppliers of certain products they are in a position to set prices

Dominance and abuse of a dominant position are two different issues and different remedies are needed to address the problems involved

Existing legislation — the Maintenance & Promotion of Competition Act — is not adequate to deal with many of the deficiencies in the markets Let alone the imagined deficiencies in the market place

And the Competition Board, an autonomous statutory body established under the Act has proved ineffectual

These weaknesses in existing legislation are seen to work to the benefit of entrenched white businesses

Since the advent of the ANC to power, another dimension has been created in the debate It is how far legislation can assist development, black empowerment and affirmative action without compromising market efficiencies

This compendium of complexities and political hot potatoes accounts for the long delay in introducing a policy once seen as a priority of the ANC

Erwin has put his proposals on the table and he is optimistic about reconciling conflicting interests

And "where complementarity is not possible explicit trade-offs have to be made between objectives of various policy fields," it continues

Erwin may be underestimating the difficulties that will arise when attempting to implement the various measures But he has set out clearly the two central trade-offs in the proposed guidelines

Robert Tshabalala

Alec Erwin *ending three years of suspense*

The first is a concession that big is not necessarily bad and therefore large corporations are not in themselves to be targets of future legislation The rationale behind this is government is responsible not only for domestic competition but for SA's competitiveness in trading with the rest of the world And size is needed to achieve the economies of scale that global competition demands

To compensate for the advantages this may give big conglomerates in local markets, the policy guidelines propose making an important concession to industrial strategy Government will strive to correct market failures Steps are required to support emerging black entrepreneurs and to ensure that the restructuring of uncompetitive industries does not conflict with the goals of black economic empowerment "

To achieve efficiency a number of initiatives are proposed

One is a reformed and strengthened monopolies law However it will be directed at anticompetitive behaviour in the market and not at size

Another is the strengthening of divestiture measures

Also proposed are reviews of corporate governance practices and regulations, securities regulations and institutions with responsibility for overseeing corporate structure, the Harmful Business Practices Act and the interface between public corporations and the private sector

"Carefully targeted law underpinned by trained and specialist agencies" will enforce competition policy once it is legislated, says the document

Debate on these issues will lay the basis for drafting a Monopolies Bill

Business and labour representatives at Nedlac have three months to comment But to speed up the process a Bill will be drafted while comment is being received

It is scheduled to be published at the beginning of March 1998 And for 12 weeks, a series of workshops will be held and the public will be invited to comment

The Bill will be finalised by the end of July and is scheduled to be tabled in parliament in September

Ethel Hazelhurst

Call to speed up water, electricity deregulation

(232)

Lucia Mutikani

BD 8/12/97

GOVERNMENT should speed up deregulation of the electricity and water industries to ensure greater transparency and competitive prices for consumers, utility consultant Drew Stein said at the weekend.

Stein, a director with Deloitte & Touche Consulting Group, said SA had been talking about deregulation of the utilities sector for years, but progress had been slow so far

The first step in deregulation was to pull out the natural monopoly, the "transmission" system, and place it into its own corporate structure.

"The reason for this is that the natural monopoly needs to be open and transparent so that all the users of the system are treated equally," said Stein.

"It appears that in the current structure, with transmission being in Eskom, it is extremely difficult for any one wishing to use the system to be sure there are no cross subsidies and that the transmission system is operating as a neutral carrier.

Referring to electricity utilities, he said the key to deregulation was to ensure that the structures inhibiting the process were broken into their various natural components.

On bulk water, he said it was unusual that central government was still involved in management Governments all over the world were departing from the operational side of the water industry after regulation and solid control mechanism had been established "I believe the SA water industry will follow the same route," said Stein.

Most importantly, government needed to establish acceptable robust governance procedures and policies Each corporate structure should produce a statement of corporate intent on an annual basis.

REVIEW 97: PRIVATISATION

Rough and bumpy trot to sell assets

CT(BR) 10/12/97 (232)

NCABA HLOPE

Johannesburg — The drive by government to privatise its parastatals has been an admittedly painful, but rewarding, experience

If President Nelson Mandela, discovered that it was no easy walk to freedom, Stella Sigcau, the public enterprise minister, would be entitled to write a book called "No easy trot to privatisation"

It became necessary for the minister to "trot" as she was under pressure from business to be seen to be accelerating the implementation of the tenets of the growth, employment and redistribution (Gear) strategy

Gear is premised on the conviction that the government should concentrate on the creation of an enabling environment for private entrepreneurs to run businesses on market principles.

Whether involving the sale of a stake or full-scale unbundling, the route has been a rough and bumpy road marked by an odd mixture of a heavy dose of uncertainty, delays and minimal successes.

The government embarked on a multi-pronged programme to privatise its assets, primarily because they were loss-making.

These included South African Airways, Aventura, Sun Air, the Airports Company of South Africa, Telkom and several radio stations formerly operated by the SABC.

To date the government has netted over R6,5 billion in proceeds from the sale of the 30 percent stake in Telkom and the 100 percent stake of Sun Air and the radio stations.

Stella Sigcau

Though the sale of the radio stations and the Telkom stake to a consortium of SBC Communications in the US and Telekom Malaysia for R5,58 billion and marked a positive start, the rest of the programme has moved slowly.

"Without sounding too apologetic, the privatisation process has experienced problems such as the land claims issue encountered with Aventura, which delayed the process. But it has been a necessary experience," Wandile Zote, the public enterprise spokesman said.

The sale of Sun Air was delayed and almost scuppered by disputes over the more lucrative domestic routes between Comair and Sun Air.

The final nod was given to the Rethabile-Comair consortium with its offer for R50 million, which had to shoulder Sun Air's R47 million interest-bearing debt.

Zote said the government was developing strategies to skirt hurdles that hamstrung the pace of the programme and would accelerate its delivery capacity next year

The government would fast-track the resolution of land claims at Aventura and wrap up the process next year. It would also advertise shortly for a transaction adviser to administer the unbundling of Safcol.

However, Safcol's privatisation could still be delayed as the commonly slow state bureaucracy would be expected to decide whether it should be sold as a single company, in separate parts or include the former homelands forests.

Questions have been raised about whether the government should shelve the sale of its loss-making operations until they are restructured and restored to full health Some managers of loss-making companies have rejected the logic of hanging under the cloud of an uncertain future while losing lucrative offers from the private sector.

At some point the government has even been accused of being reluctant to relinquish control of its entities and instead settling for partial privatisation

However, the government has also devolved the privatisation programme to its regional and local levels and tied it to outsourcing and build, operate and transfer (BOT) programmes

"We have learned a lot this year as we laid the foundation for more delivery next year," Zote said

Four banks vie for SAA privatisation role

(232)

Robyn Chalmers

BD 10/12/97

GOVERNMENT has short-listed four merchant banks for lead transaction adviser to oversee the partial privatisation of SA Airways (SAA), expected to be completed by October

The candidates are Goldman Sachs, Merrill Lynch, SBC Warburg and UBS Real Africa Durolink, with the winner to be announced on December 18 Public Enterprises spokesman Wandile Zote said the adviser would oversee the process, including determining a share value, controlling the tender process and managing legal aspects.

A second adviser — likely to be a local black merchant bank — was being sought to oversee the employee share ownership scheme and the transfer of an unspecified stake to the National Empowerment Fund (NEF) It remains unclear how much of SAA will be sold, although government will retain a majority stake It is estimated that 25% to 30% will go to a strategic equity partner, between 5% and 10% to employees and up to 10% to the NEF

Ministers slowly opening doors to private sector power distributors

(232) (~~85~~) (~~185~~) BD 31/12/97

Robyn Chalmers

TWO cabinet ministers have held out the prospect of private sector competition in the R25bn electricity distribution industry.

However, Minerals and Energy Minister Penuell Maduna and Provincial Affairs and Constitutional Development Minister Valli Moosa have indicated Eskom and municipalities will retain control for several years, until the turmoil in the sector is resolved.

The National Electricity Regulator and international electricity distributors, many of them the product of foreign privatisation, have called repeatedly for greater private sector involvement in the struggling sector.

The cabinet has voiced support for a restructuring of the industry. Once implemented, the industry would be consolidated into an as-yet-undecided number of regional electricity distributors, cost-effective tariffs would be introduced along with an electrification levy, and a capped tax implemented.

As part of the restructuring, Maduna said recently that independent power producers might be allowed to enter the electricity supply sector.

"We are grappling with the crises in the industry, but over time we will have to address the issue (of private sector involvement)," he said.

In a speech read on his behalf at a recent electricity conference, Moosa said there was much uncertainty about the restructuring process. He made it clear that the electricity supply industry would remain under public ownership for the time being, with municipalities and Eskom as equal partners. The situation would be reviewed later.

"Any changes should take place within the framework of government's policy on the restructuring of state assets," he said, referring to the National Framework Agreement, government and labour's blueprint for privatisation and restructuring.

Moosa said restructuring would not result in forced retrenchments and municipalities would continue to play a key role in the industry.

One concern for municipalities is the loss of electricity revenue which makes up more than 41% of local governments' total income. Moosa said they would still be able to contribute to the funding of other municipal services from surplus electricity revenue.

Association of Municipal Electricity Undertakings president Jan Malan called for regional electricity distributors to be floated and fully established by July 1 next year. All employees should hold shares and customers should ultimately also have access to shares in distributors.

OWNERSHIP & CONTROL

1998

OCT. – DEC.

Plan to privatise services

(232) Sowetan 1/10/98

By Sharon Chetty

IMAGINE visiting the Hillbrow or any other police station and instead of the usual tacky appearance finding a spruced-up venue shiny floors, newly painted walls, no cobwebs in the corners

Sounds farfetched? Not really, if a project of the Ministry of Public Works gets under way

While the Government is still grappling with the issue of privatising state assets, the ministry has started a programme to privatise some of its peripheral functions, like the maintenance of buildings, leaving it to concentrate on the more important things, like providing a decent service to the public

Killian Masipa, chief director in charge of client services in the Ministry of Public Works, says the aim is for the Government to move away from being an "employment agency", with numerous staffers having to take care of all manner of things, and to focus on its task of delivering appropriate services

Government has negotiated with staff unions, who largely agree with the plans to outsource services, says Masipa

When you consider that the Government owns thousands of buildings, including military bases, prisons and training institutions, the cost of taking care of them is enormous

"At the moment we need R40 billion to bring maintenance up to par," he says

A novel way of reducing staff has been found, says Masipa

"We are in the process of finalising a programme in which employees take over the cleaning and gardening services," he said

The department has negotiated with staff to set up their own private companies, guaranteeing them work for a certain period, say three years, within which they are expected to become self-sufficient

The planned one-stop border facility at Ressano Garcia in Mozambique, which will have private sector partners, is expected to put an end to long queues

PIC SHARON CHETTY

This project will save Government millions in salaries and benefits – about 50 to 60 percent of staff are in this sector, earning about 40 percent of the salary budget – and encourage the former employees to be more efficient as they have eventually to compete in the open market

The idea has been approved in principle by Cabinet

In the case of police stations it is envisaged that, eventually, the only responsibility the Government will have will be to provide the trained police officers to work at a station Everything else will be taken care of by an outside, private company

Already the principle has been applied Four years ago the new Government found there were huge backlogs and that much had to be done to provide infrastructure in the rural areas

They adopted a "fast-track" plan – dubbed design, build, finance and operate (DBFO) – to get outside contractors to erect police stations where none existed before, cutting through the red tape that would have meant years of delay

But the more viable option appears to be with prisons

Two maximum-security prisons, in Louis Trichardt and Bloemfontein, and an awaiting-trial facility in Boksburg have been earmarked for development under the new scheme

A youth correctional centre in Barberton will also be built privately, says Masipa

Everything will be provided for by outside contractors, he says

The biggest incentive in privatising prisons, he admits, is to curb the numerous breakouts

"Part of the contract will include penalties for breach of security For every escape we can impose a monetary fine of, for example, R300 000

"Imagine the cost to the contractor if there are 10 escapes There are unlikely to be mass escapes because it would then cost too much

'We want to virtually exclude escapes Also, we want to transfer the optimum risks to the private sector," says Masipa

The idea is significant because it will also ensure that the previously neglected areas will gain facilities sooner rather than later because, by its nature, the private sector works faster

Masipa says the ministry has studied privatised prisons in the United States, Britain and Australia and hopes to adopt the best and most practical ideas from there to make the local system work

The planned facilities are already being negotiated with potential bidders

It is expected the facilities will be completed 18 months after the contracts are awarded, so the deadline has been set for the first quarter of 2000

Another pilot will be the Johannesburg Justice Centre, an attempt to make the criminal and justice system work in concert

At the 24-hour centre police will have to classify those arrested immediately

Thus there will be an attempt to avoid keeping petty thieves in detention for long periods, the cases of illegal immigrants will be processed speedily, and the paperwork will not pile up because a court will be in operation to deal with the cases as they arise

"One of the big problems is that there are many escapes from police holding cells, when in the first place the police should not be keeping prisoners because they do not have the correct facilities"

Private sector involvement will extend much further than prisons and police stations, to making border posts with neighbouring countries much more efficient

Two border control points, one with Mozambique at Ressano Garcia which is part of the Maputo Corridor development and another that will include Swaziland and Mozambique in the Lebombo Corridor (in north-eastern KwaZulu-Natal), will have private contractors

"We will find ways of collecting revenue, dealing with migration and policing the points through one facility to make movement easier"

At present there are several different departments involved at each border post

"These will be pilots If we find we can demonstrate value for money through this, then it will lead to the opening up of more services," says Masipa

Competition Bill too late for Sasol

CT(BR) 1/10/98 (232)

LYNDA LOXTON

PARLIAMENTARY CORRESPONDENT

Cape Town — The proposed merger between Sasol and AECI probably would have been approved if the new Competition Bill had already been passed, Simelane Menzi, a government law adviser, said yesterday

Briefing the National Council of Provinces' select committee on economic and foreign affairs, Menzi said the deal probably would have met one or more of the four public interest grounds necessary for a merger.

These grounds are whether the deal would benefit a particular industrial sector or region, affect employment, allow the entry of small businesses and make industries more competitive internationally

Alistair Ruiters, the chief director of business regulations, confirmed that the department of trade and industry had been in favour of the merger, which was called off because the Competition Board gave it only qualified approval.

Ruiters said he was not sure whether the board examined the merger in terms of its effects on the national or international market

"Had one looked at it in terms of our public interest criteria, which include international competitiveness, we believe this merger might actually have been approved."

The committee was also briefed on the National Empowerment Fund Bill and the Estate Agents Amendment Bill, both of which were passed by the national assembly last week.

Themba Mhlongo, the director in charge of policy analysis and strategy, said the South African Revenue Service had turned down a request to exempt the National Empowerment Fund from taxes, duties and levies

Sango Ntsaluga, the project director of the fund, said that it would not be a catalyst for the restructuring of state assets, but would buy shares in public enterprises and private companies for historically disadvantaged South Africans

Regarding the concern that white investors might use black people as proxies to buy shares, Mhlongo said checking identity documents of shareholders might be necessary

The vote on the bills is on Monday

☐ Business Watch, Page 2

Cosatu, govt look set to reach privatisation deal

BD 2/10/98 (232)

Renée Grawitzky

TALKS aimed at resolving a dispute between the Congress of SA Trade Unions (Cosatu) and government over the privatisation of municipal services will continue next week, with strong signs that the parties are near a deal.

The talks between Cosatu and the constitutional affairs department are expected to lead to agreement on local government restructuring and the provision of municipal services.

The parties have held a series of meetings since the National Economic Development and Labour Council failed last month to end Cosatu's opposition to the privatisation of municipal services

Last month the federation suspended a planned protest against privatisation after making progress in talks with government negotiators.

Labour sources said the draft agreement, yet to be finalised, contained a broad framework on the restructuring of local government similar to the National Framework Agreement for restructuring state assets

It also contained a regulatory framework dealing with cases in which the private sector was involved in service delivery.

The parties were also expected to consider whether initiatives in Nelspruit and the Dolphin Coast, where municipalities had privatised some services, adhered to the agreement

Union intends to march

By Mzwakhe Hlangani
Labour Reporter

THOUSANDS of South African Municipal Workers Union (Samwu) members are expected to take part in an anti-privatisation demonstration at the offices of the Greater Pretoria Metropolitan council at 10am today

The march, also part of the nationwide Samwu campaign against proposed privatisation of municipal services, is in response to the proposed outsourcing of some municipal services by the Centurion and Akasia, Bronkhortspruit and Cullinan local councils, according Samwu spokesman, Mr Aaron Maphosa.

Resistance to privatisation mounted since Dolphin Coast municipality in KwaZulu-Natal announced its plans to privatise water services

A British transnational, Biwater, is the preferred bidder for a 30-year water contract in Nelspruit

Samwu believes that privatisation of water, electricity, refuse removal and other services will lead to corruption and exploitation by unscrupulous private companies whose sole motive is profit

Samwu hopes that the demonstration will send a clear message to the councils in the Pretoria Metro that their privatisation initiatives have no backing from the union, Maphosa said

Councils should seek ways of transforming delivery by expanding the existing services, he said.

Pretoria municipal workers protest against privatisation

Stephané Bothma BD 6/10/98

PRETORIA — About 5 000 members of the SA Municipal Workers' Union marched to the Greater Pretoria Metropolitan Council yesterday to protest against the privatisation of municipal services

According to union spokesman Mike Mtembu, privatisation would lead to job losses and poor working conditions (232)

A memorandum handed to senior council official Andries Schutte said that privatisation would affect the quality of municipal services negatively, while profits would increase for private sector providers

"Service tariffs will also increase, making them unaffordable to residents," the memorandum said.

The union said 149 municipalities had already privatised services such as refuse removal and meter reading

"Privatisation is taking place even though an agreement was reached in 1997 with the SA Local Government Bargaining Council that services would first be improved and extended before privatisation was even considered," Mtembu said.

The union also claimed that local authorities had come under pressure to privatise because of government budget cuts

7 000 protest privatisation of services

(232)

Sowetan 6/10/98

By Mzwakhe Hlangani
Labour Reporter

AT LEAST 7 000 municipal workers in Pretoria demonstrated yesterday to put pressure on Government to reverse its plans to privatise five municipalities

The march on the Pretoria Metro Council in Church Street was part of the nationwide anti-privatisation campaign by the South African Municipal Workers Union to protest outsourcing of municipal services

Forty-eight municipal services have been privatised

South African Municipal Workers Union (Samwu) spokesman Mr Godfrey Sekela said the message from workers to Pretoria Metropolitan and the local councils of Akasia, Bronkhorstspruit, Centurion and Cullinan was that contracting out basic services would undermine the living standards of workers

A memorandum presented to Greater Pretoria Metropolitan Council chief executive officer Mr Henry Enslin warned that privatisation "will exacerbate apartheid inequalities"

"We have no alternative but to mobilise our members, our communities and the public against all tiers of government, particularly local government, to stop privatisation of basic services," said Sekela

Enslin told the marchers that he, together with chief executive officers from respective local councils, would brief councillors about the workers' demands and report back within a week

● The strike by 3 000 Edgars workers gained momentum yesterday when 2 500 members of the Federal Council of Retailers and Allied Workers Union indicated their willingness to join the protest

Union spokesman Mr Nat Ketlele said the union had notified management that they would be joining the strike tomorrow

Meanwhile, South African Commercial Catering and Allied Workers Union spokesman Mr Pitso Tshukudu said Edgars management had invited the union to a meeting

● Sapa reports that all nine regions of the National Union of Metalworkers agreed yesterday to end their five-week motor industry strike, paving the way for workers to return to work within the next five days

Union spokesman Mr Dumisa Ntuli said "Workers must be given grace of four to five days to return to work Some stay in rural areas where the channels of communication are quite poor

"The biggest problem employers will face is laying off the scab labour they employed"

South African Motor Industry Employers Association spokesman Mr Vic Fourie said "We don't think we'll have everything back to normal so quickly but things are settling"

The union and management have agreed in principle that from next year annual wage negotiations will be based on actual rates of pay and not minimum rates

National Council of Provinces rejects eleventh-hour changes

Cosatu, De Beers fail to shake Competition Bill

CT (MR) 6/10/98 (772)

LYNDA LOXTON
PARLIAMENTARY CORRESPONDENT

Cape Town — Last-minute efforts by Cosatu and De Beers to introduce changes to the Competition Bill were rejected by the National Council of Provinces' select committee on economic and foreign affairs yesterday

Cosatu asked that the bill be amended to ensure that trade union representatives could participate in merger control proceedings

But Alistair Ruiters, the chief director of business regulations, said this was the intention anyway If it did not take place because of the way the bill was worded now, this would be addressed by an amendment later

In a written submission, De Beers said it was undesirable to place the onus of proof on firms charged with anti-competitive behaviour while procedural safeguards were needed for divestiture.

It also claimed that the fact that the Competition Appeal Court had final jurisdiction over competition law matters was unconstitutional, while the criminalisation of the failure to comply with orders by the Competition Tribunal should be replaced with a system of daily fines

Ruiters and Norman Manoim, his legal adviser, said these issues had been raised during the public hearings by the national assembly and had all been rejected It would not be difficult for firms to prove they were not anti-competitive, or that there were efficiency or technology reasons why they held a monopoly

Divestiture would only be ordered when there was no other remedy, while the Competition Appeal Court would be a specialist court very much like the labour court

The committee approved the bill without any amendments It also approved the National Empowerment Fund Bill, even though some committee members were concerned about an amendment suggested by Themba Mhlongo, the director of policy analysis and strategy in the department of trade and industry

The amendment removed a clause stipulating that the minister had to be consulted before the chairman of the board used his vote to break voting deadlocks Mhlongo said the fund would be a commercial entity and needed to be able to take decisions quickly without waiting for ministerial approval

"Currently, no state-owned commercial enterprise has such a provision where the minister influences the exercise of a casting vote by the chairperson of the board," he said

The committee accepted his argument and amended the bill

SAA is the first parastatal to take on part of Transnet's pension fund and medical aid debt

Sigcau justifies privatisation strategy

eT (BR) 7/10/98 (232)

LYNDA LOXTON
PARLIAMENTARY CORRESPONDENT

Cape Town — Transnet's pension fund and medical aid liabilities would be shared out on a case-by-case basis as the different business sectors were restructured, Stella Sigcau, the public enterprises minister, said yesterday

In a written reply to a question in the National Council of Provinces, she said the first decision of this kind would be on SAA's balance sheet

An announcement is expected soon on how much debt and other liabilities could be taken on by SAA, retained by Transnet or handled under arrangements underwritten by government

Sigcau said SAA's revised business plan was expected within the next few weeks, when the government would decide on its opening balance sheet.

Up to 49 percent of the shares in the newly incorporated SAA would be sold Up to 25 percent would be held by a major airline

"Moves have also been made to fast-track the restructuring of Autonet and PX," she said.

Much work has already been done to prepare for the restructuring of the forests belonging to the South African Forestry Company (Safcol) and the department of water affairs and forestry

This includes finalising the National Forests Bill covering Safcol's pension fund deficit and working out a detailed strategy for selling the business

"The government expects to issue invitations to potential investors to bid for majority shareholdings later this year and to have completed restructuring by the middle of 1999," Sigcau said She said the sale of Aventura, the state-owned resort company, to Kopano ke Matla, the trade union investment arm, would be completed soon

The cash flow problems of Abakor, the abattoir business, had been eased by the government, which had made further funding available and had agreed in principle to the conversion of certain of its debts into equity that would initially be owned by the Meat Board, Sigcau said.

It had been decided to appoint one or more private sector companies to manage the different units of Alexkor, the diamond mining parastatal

They would undertake and fund exploration programmes to secure its long-term future Invitations to bid for the management contracts would be sent out by the end of the year, Sigcau said

Sigcau said all the preparations had taken place within the framework of Gear and in accordance with the National Framework Agreement

Jobs summit plans to fast-track its decisions

ET (BR) 7/10/98 (232)

Roy Cokayne

Pretoria — Important agreements and a range of processes to address unemployment would be announced at the presidential jobs summit on October 30, Alec Erwin, the trade and industry minister, said yesterday

He said actions would be started at the summit from prior discussions and agreements between the government, business, labour and other parties

Erwin said consultations were continuing, and the parties hoped to reach agreement on the structural dimensions of the summit and finalise the lead projects next week.

The initial and lead projects would be "fast-track" Some of them would be infrastructural programmes, which would link into the housing and public works campaigns, working for water and clean city projects.

"The jobs summit will agree on a number of processes and programmes for job creation."

Erwin said there were differences between the parties but they would work together in areas where they had agreement

He said the government had called for submissions on the jobs summit and a range of inputs, views and comments had been received Some of these might be incorporated in the action plan for the summit or recorded and included in the document

Erwin said the parties were trying to find, from the submissions, the concrete agreements and programmes that could take the process forward

The groups had agreed to commit themselves to working together on a range of programmes, some short to medium term and others longer term

These involved industrial policies and support for the disabled and women It was necessary to see if they could be "implemented in a joint and practical way"

It had been decided during talks in Nedlac that there would be a second round of discussions from October 12 to 16 in the nine provinces for "structured inputs from the provinces"

He said that they had worked with a fully representative major business initiative for the first time in South Africa's history

The state had R800 million for infrastructural projects this fiscal year, but was looking at the medium-term expenditure framework and the commitment of business and labour

African gains through privatisation

Sowetan 8/10/98

(232)

Sowetan Business Reporter

THE privatisation of 2 700 enterprises in sub-Saharan Africa raised almost R1,8 billion in foreign exchange by 1996, says the International Finance Corporation in its annual report for 1998.

The IFC said the private sector's role is expanding as most countries have implemented market reforms intended to free entrepreneurial energies Regulatory reforms have made it easier for private companies to operate.

"Moreover, capital markets are starting to develop in several countries. Equally encouraging is the progress of democratisation and of civil society At sub-regional level, a democratic, open South Africa has had positive implications for trade and investment in the Southern African Development Community (SADC) and beyond, improving business opportunities for private investors and the IFC," says the report.

"Prospects are brightening as many sub-Saharan African economies have consolidated recoveries The region's economies are growing, although at an uneven pace. Countries with strong economic performance owe their success to strengthened macroeconomic fundamentals resulting from structural adjustment and liberalisation"

The IFC is the private sector arm of the World Bank. Since 1956, the IFC's fundamental role has been to promote economic development by encouraging private investment, both foreign and domestic, in developing member countries.

It provides long-term, market-related capital in the form of loans and equity.

This year the IFC has approved two loans worth R240 million in South Africa

Some of the local projects that have benefited from this funding include Constantia Days Inn Hotel, which got cash to establish and operate a limited service hotel, and Cash Bank, which will receive a loan to market its products and services.

Lesedi Private Hospital will get funding for the establishment of a nine-bed intensive care unit.

Liquidity crises

In his message, outgoing IFC deputy executive vice president Jannik Landbaek said 1998 was a very difficult year in Asian markets.

Landbaek said IFC mobilised in Asia by helping existing clients survive the liquidity crises

"By providing long-term capital to strengthen clients' balance sheets and by quickly identifying new investment opportunities, IFC was working to restore confidence in the Asian economies.

"Perhaps more than anything, the events in Asia this year reminded us all of the critical value of effective domestic financial regulatory systems and transparency in financial markets," he said.

"Although the recent problems in East Asia represented the most far-reaching threat to global prosperity since the Latin American debt crisis of the 1980s, we firmly believe that the decade-long trend of private sector-led development will continue.

"For private investors, nothing has changed the fact that the developing world – with its large, relatively young, and growing population – holds great promise"

Developing countries

He said people in developing countries needed strong infrastructure, a healthy financial sector, industrial production and consumer goods and services

The IFC says the next century will pose serious challenges. "The organisation is on the threshold of a major change," it says.

It argues that a dozen nations garner more than 75 percent of the world's private investment capital flow, leaving entire regions of the world vastly underfunded

In the effort to eliminate poverty through economic development, this reality represents a large unfinished agenda for the IFC.

MUNICIPAL SERVICES

NELSPRUIT TURNS ON THE TAPS OF PRIVATISATION

(232)

Hour of truth nears as State gets set to call Cosatu's bluff

FM 9/10/98

Nelspruit may seem an improbable epicentre for a revolution, water and sanitation its unlikely seeds

If revolution is too strong a word, there's no doubt that a seismic shift will occur in local government when, as is expected this month, Provincial Affairs & Constitutional Development Minister Valli Moosa gives Nelspruit the nod to proceed in contracting a private company to run its water and sanitation services for the next 30 years

In doing so, the ANC government will unleash the first of what is likely to become a spate of public-private partnerships and privatisation projects in possibly hundreds of the municipalities across the country

The variety and extent of these projects — and the fact that many will be accessible to the small entrepreneurs — could encourage black empowerment and stimulate social upliftment

That the ANC government is pressing ahead in the face of union resistance, within sight of the general election, illustrates its conversion to private enterprise

Nelspruit's initiative is being closely watched by dozens of other cash- and resource-starved local councils They regard the concession and regulatory framework for Nelspruit's scheme as a watershed for municipal service provision — a blueprint for their own plans to privatise or part-privatise costly or inefficiently run services such as water, waste management, housing, garbage disposal, revenue collection and even electricity generation

Already a cluster of small municipalities in and around Ballito, north of Durban (the Dolphin Coast), have drawn up a plan similar to Nelspruit's, in partnership with French water company Saur, which has applied to the Development Bank for loan capital Johannesburg, Pretoria, Durban, Port Elizabeth and Bloemfontein are among at least 30 other councils considering their own privatisation schemes At least a dozen European, US and South American water and service companies have opened shop in SA hoping to ride a boom in municipal service partnerships

Nelspruit and Dolphin Coast have chosen to award concessions, stopping short of full privatisation, but municipalities can choose from at least eight other partnership or privatisation options (see table) A senior Constitutional Development official says, though, that some basic services, such as water, probably will never be fully privatised,

TOWARDS EFFICIENCY

Business options available to rescue municipalities from their service delivery nightmares

FULL PRIVATISATION: A municipality sel[illegible] (eg garbage disposal) to a private fi[illegible]

CONCESSION: A private firm runs a municipal service; financing investments and working capital. The assets revert to the municipality on expiration of the contract.

BUILD-OWN-OPERATE-TRANSFER (BOOT): A form of concession. A p[illegible] and runs new [illegible] to the municipality on expiry [illegible]

LEASE (AFFIRMAGE): A private firm rents service facilities from a municipality and is responsible for operation, maintenance and working capital Fixed assets remain responsibility of municipality.

DELEGATED MANAGEMENT: A private firm rents service facili[illegible] municipality and is responsib[illegible] maintenance and working cap[illegible] remain responsibility of [illegible]

SERVICE CONTRACT: A municipality pays a private firm to carry out specific operational services, such as meter reading, billing and collection

CORPORATISATION: A municipality forms a separate legal corporation to manage municipal service deli[illegible]

DEBT ISSUANCE: A municipality issues bonds to raise capital directly from private investors for capital costs of building or expanding service infrastructure

PUBLIC-PUBLIC PARTNERSHIPS: A municipality enters into a [illegible] another public entity to run municipal services

P.T.O.

MPL slams privatisation

CP 11/10/98 (232)

Malefane says the notion that privatisation could save millions is a myth

Legislature News
By ELIAS MALULEKE
Gauteng Editor

A Member of the Gauteng Legislature, ANC East Rand Economic policy head and SACP Gauteng Provincial Executive Committee member Pule Malefane, has slammed the privatisation of state assets

In his paper delivered to the ANC Parliamentary Constituency Office in July, and released to members of the legislature this week, Malefane said it was a myth privatisation would save millions

He argued that the Reconstruction and Development Programme "which everybody claims to be committed to" and on which government policies were based, asserted that an estimated 17 million people in South Africa lived below the minimum living wage level

He said the government's RDP objectives acknowledged that proper sanitation, electricity, the provision of land and houses, the elimination of illiteracy and improved health services had to be provided irrespective of whether the poor could pay

Malefane said in his three-page paper that anti privatisation lobby groups like Cosatu, the SACP "and ANC to some extent", did not only oppose privatisation because it was supported by Thatcherists or neo-liberals, but because it fundamentally undermined the core values of the people

He also alleged that it did not promote the development of the communities as it was driven by an inexorable quest for profits

"South Africa requires a state that is capable of mobilising the required resources to expand the wealth base to grow our economy "

Malefane said elected representatives should ensure that the indigent be accorded a respectable quality of life, which would not be possible with privatisation of government assets

ANCESTRAL RITUAL ... Two sangoma initiates talk to their ancestors before taking a m... bath (intelezi) during one of their rituals in a graduation ceremony at Emdeni, Soweto, last week. After the rituals, they will be fully-fledg... ready to practice ■ Pic. GIDEON NHLAPO

☐ GAUTENG primary and high schools owe more than R5 million for service charges and rates to local councils

The 323 schools who owe money were named last week in a report tabled by Education MEC Mary Metcalfe

Metcalfe said an additional amount owed to the Brakpan Council was not included in her reply because she was awaiting details

Among the schools that owed money were Noordgesig Primary (R33 505), Sedibeng Primary (R11 000), Bulelani (R34 000), Toekomrus (R2 135), P J Simelane Primary (R17 565), Elite (R24 000), Resi densia (R18 000) and Prosperitus Primary (R22 000)

Metcalfe said the money would have to be paid by her department.

She said the department owned the school buildings and her department was liable for the payment of services and rates

Previously state funded schools were responsible for the payment of their own services. Her department had prescribed procedures to ensure payment of municipal services

The non-payment was due to the failure of school to submit service and rate accounts

Metcalfe said on receiving accounts from local authorities, the schools had to forward them to their regional offices for invoicing The accounts then had to be sent to her office for payment.

However, the statements were submitted late or not at all.

To ensure a better working mechanism, the education department was engaged in talks with local authorities to confirm the number of schools which owed money and addresses where accounts should be forwarded for payment in future

THE LEGISLATURE THIS WEEK

☐ MONDAY

Finance and Economic Affairs, Auditorium, 9 am

Public Accounts Committee, Outside Venue, 9 am.

Sports, Recreation, Arts and Culture, Room C, 9 am.

Education Committee, Room C, 2 pm

☐ TUESDAY

Finance and Economic Affairs, Auditorium, 9 am.

Petitions and Public Participation, Room C, 9 am.

Housing and Land Affairs, Room A, 9 am

Public Safety and Security, Room B, 11 am.

☐ THURSDAY

Petitions and Public Participation, Room C, 9 am.

Social Welfare and Population Development, Room C, 9 am.

Finance and Economic Affairs, Room B, 2 pm

Public Transport, Roads and Works Committee, Room A, 2 pm.

☐ FRIDAY

Petitions and Public Participation, Auditorium, 9 am.

Social Welfare and Population Development, Room C, 9 am.

Education Committee, Room A, 11 am.

NEWS

Unions accept outsourcing of municipal services if public sector is preferred choice

Agreement in privatisation dispute takes step forward

(232) CT (MR) 12/10/98

TERRY BELL

Cape Town — The long-running row over the privatisation of municipal services should be resolved later this week An agreement is expected which concedes that the public sector should be the "preferred option" for service delivery

In an exclusive interview last week, Mohammed Valli Moosa, the constitutional and provincial affairs minister, said a draft agreement had been reached between the government, the Cosatu trade union federation and local authority employers

The draft agreement was adopted on Friday, at a closed executive meeting of the municipal union Samwu, which has been a leader in the Cosatu anti-privatisation campaign

Although details will not be made public, Petrus Mashishi, the Samwu president, acknowledged that the agreement gave "first option" to public sector delivery of services — such as water, sanitation and rubbish collection — which several councils had already moved towards privatising

The agreement does not rule out participation by the private sector in "public-private partnerships" (PPPs), but states that these may only be adopted where there is no public sector structure "willing and able" to provide the service

Another task team, set up in June and which includes nine experts from the US, is charged with drawing up a "framework agreement" for PPPs

But so far as Mashishi — the only Samwu official now permitted to speak on the issue — is concerned, all local government restructuring proposals must first be evaluated against the final version of the draft agreement adopted last week

Samwu still had a "community-controlled" proposal for water and sanitation delivery "on the table", he said

The Samwu scheme has been the focus of the battle over the controversial Nelspruit and Dolphin Coast PPP proposals

Last month, the row reached a peak with Cosatu's threat of a general strike Notice of the strike through the National Economic Development and Labour Council resulted in the task team which drew up last week's draft

However, so far as Valli Moosa was concerned, Nelspruit, where Biwater, the British conglomerate, stands to win a 30-year water and sanitation services contract, should be regarded as a "pilot project" for PPPs

PPPs, he said, had 'proved themselves around the world"

Public enterprises form gaping hole in SA's new competition policy

(232)

Competition legislation is about to be signed into law. Raenette Taljaard looks into how it deals with public enterprises

BD 13/10/98

IN THE global political economy of the 21st century it is not only capital flows and problems associated with a lack of regulation that have increased exponentially. The seamless web of international interdependence has also witnessed increasing numbers of cross-border mergers and acquisitions.

Multinational companies that know no boundaries or national origin have become entangled in a rapidly evolving race to gain from economies of scale and scope in order to increase their profitability.

This phenomenon has led to a shake-up in the forums of global competition policy as the World Trade Organisation has initiated informal talks regarding a multilateral response to policing uncompetitive practices and abuse of market dominance. The antitrust authorities in the US and the European Union's (EU's) competition authorities have also concluded co-operation deals.

Furthermore, the UK is aligning its definition of market dominance and abuse of a dominant position with that used by the EU competition authorities under the provisions of the Treaty of Rome.

At the very least there seems to be conceptual convergence between the US, EU and UK as regards the definition of market dominance and abuse of a dominant position.

This response has become necessary as global cartels are increasingly prevalent in the international political economy.

Competition policy has thus gained a new global lease on life as merger and acquisition tremors have not only led to policy responses at a bilateral and multilateral level. National governments are also beefing up their competition policies by tightening competition legislation to eradicate loopholes.

They are strengthening national competition authorities to enable them vigorously to combat consumer exploitation by private sector and public sector firms alike.

SA is no exception. As one of the freshest débutantes on the global economic stage, SA does not stand isolated from these developments. The country needs a sound competition policy and strong competition authorities for a litany of reasons.

Firstly, as is the rationale for all competition enhancing policy measures, the primary concern is to curtail the abuse of market dominance which acts to the detriment of the SA consumer. It is common wisdom that there is too great a degree of concentration in both the private and public sectors in SA.

Secondly, a sound competition policy forms an integral part of the legislative regulatory environment on which investors base their risk:reward assessments which predicate their investment decisions.

With the current hesitation that surrounds investing in emerging markets, the importance of an unambiguous regulatory framework cannot be overemphasised.

Thirdly, a sound competition policy is intimately linked with a smooth privatisation process. The one implies the other if both the economy and consumers are to benefit. The need to accelerate the process of privatisation is beyond dispute given the critical juncture at which SA's Growth, Employment and Redistribution (Gear) strategy currently finds itself. For this acceleration via privatisation to succeed, however, the bedrock competition policy environment must be sound.

It is beyond dispute that competition gives an impetus to innovation. This is desperately needed in our public enterprises if they are to fulfil their universal service obligations and still be profitable and viable commercial entities.

This is why it is crucial that our competition policy must be without any shortcomings.

The new competition bill passed the scrutiny of the National Council of Provinces recently and will soon become law (Act 128 of 1998).

While neither the bill's exemption clause (clause 10) nor the schedule of institutions that are to be exempted from its provisions explicitly mention the public utilities, they will enjoy de facto exemption due to the statutory monopolies that they were granted for certain sections of their commercial activities under the respective founding acts.

SA's new competition policy will thus remain incomplete as long as the country's public utilities (such as Telkom, for example) continue to be shielded from competitive pressures by statutory monopolies.

It is certainly not too fanciful to suggest that a private sector firm, found guilty of abuse of market dominance, could credibly challenge such a ruling by a competition authority on constitutional grounds of equity.

It can easily cite the equality clause in the constitution and point to the uneven-handed treatment of public sector firms that enjoy statutory monopolies vis-a-vis private sector firms that are being subjected to the vigorous application of market dominance definitions by beady-eyed competition authorities.

In the UK, the new Labour government has slavishly toiled on new competition legislation that will transform the existing Monopolies and Mergers Commission into a strong new competition commission with extensive powers, which will include controversial powers of search and seizure.

It is also preparing a new legislative framework for the privatised utilities in order to maximise the benefits garnered from competition and the reform of the competition agencies' powers in these sectors.

The reforms are aptly titled A Fair Deal for Consumers. Modernising the Framework for Utility Regulation.

The newly fortified competition commission as well as the various sectoral regulators (ie the office for electricity regulation, office for water services, office for telecommunications regulation, office for gas regulation and the office of the rail regulator will have significantly enhanced concurrent powers to attack possible corporate collusion under the new legislation.

SA should learn from the UK's experience.

Its de facto exemption of parastatals via statutory monopoly will stifle efficiency gains and competitive innovation. It will blunt the competition policy we are aiming to create and inhibit the potential of new regulatory bodies such as the SA Telecommunications Regulatory Authority and the Electricity Regulator to evolve into fully fledged actors with concurrent competition authority powers.

These bodies must have the ability and power to apply competition legislation to the parastatals under their jurisdiction. The legislation should not have been silent on this issue.

Effective competition legislation should dismantle the shields of statutory monopolies. Such shields will only give us unsatisfying outcomes. It is a fallacious argument to claim that foreign investors and equity partners can only be lured into our state-owned enterprises with promises of unsustainable statutory monopolies.

It serves no purpose to lure these investors under false pretences if we are serious about our long-term goal of creating a competitive environment capable of enhancing our macroeconomic framework.

This is against the public interest despite claims of a "public interest concern for the universal service obligations" of parastatals. It ultimately acts to the detriment of consumers and our economy.

SA's foray into the realm of competition policy reform and new competition legislation must address these issues urgently. The de facto exemption of parastatals from the provisions of the competition bill is the most significant shortcoming of the legislation. It is a lamentable oversight.

At the very least the bill should have made provision for sunset clauses applicable to the statutory monopolies of the utilities that would have signalled a timeframe to begin the vigorous application of competition policy to public sector actors.

The current situation as regards SA's partially privatised utilities and competition policy contrasts starkly with reforms in the UK, where the regulatory authorities and competition authorities are increasing their hold on public and private sector firms without discriminating.

SA should follow suit in the interests of investment, a sound regulatory framework that instils confidence and ultimately the consumer.

The sword of competition should cut both ways to curb corporate collusion in the public sector and private sector without ambiguity or favour.

□ *Taljaard is the programme and membership manager of the SA Institute of International Affairs. She writes in her personal capacity.*

Portnet wants private sector to run ports

Robyn Chalmers (232) BD 15/10/98

PORTNET has proposed a strategy which will see the private sector running port operations under an independent national port authority.

The Transnet division also sounded a warning bell about infrastructure investment, saying the past government had underinvested in ports at "a delinquent level" About R12,5bn was needed over a decade to catch up and maintain growth against current investment of R1,5bn a year

A review of wharfage and all other charges was under way, even though the total cost of doing business with SA's ports was not excessive Wharfage rates were high by international standards although Portnet generally undercharged for services by 40%-50%

An across-the-board review of Portnet's roughly 70 terminals was also under way to improve operational performance and eliminate services which were not cost-effective

Rob Childs, Transnet executive director in charge of Portnet, said the strategy was proposed by Portnet management and was not official policy. Government has, however, indicated that a fundamental restructuring of ports is on the cards.

Childs said a key proposal was that SA should establish a national port authority as landlord which would concession private firms to undertake operations in a competitive environment

A port consulting company should be established to furnish advice to new entrants to port business. An independent port regulator was needed to oversee the supply of services, ensure competition and prevent exploitation.

Childs also fired a broadside at the transport ministry's Moving SA strategy which aims to provide a platform for transport over the next 20 years He said Portnet had "commented critically" on certain aspects of the Moving SA report. The report recommended consolidating SA's ocean freight and port systems, identifying core container ports and prioritising infrastructure investment around these. Transnet had also recorded numerous concerns about the report.

Portnet's view on an integrated port strategy supported the participation of all SA's ports in economic development. "The selective development of certain ports to the detriment or even closure of other ports would not seem to hold net economic benefits for the country." Childs said a separate ports policy was urgently required and should be integrated with trade policy. It should also take cognisance of the strategies of all interested parties.

Privatisation preys on workers

Sowetan 20/10/98

(232)

By Nkosi Molala

ADVOCATES of privatisation and contracting out Government services argue that the private sector can perform these functions with greater efficiency and at less cost – but their arguments need to be examined

As far as cost saving is concerned, it is necessary to state that there are many hidden costs involved in contracting out – costs these advocates choose to ignore

Firstly, it takes time and money to prepare, negotiate administer and monitor a contract This is because the Government has to ensure that the contract includes every conceivable contingency because contractors or consultants will do only what the contract spells out

Secondly, the practice known as "lowballing" or "buying in" is another deception used by contractors Here contractors place their bids low to win the contract and make up for it at the subsequent renewal

Usually the Government has become so dependent on the contractor by this stage that it is not cost-effective to change to another contractor or to perform the service in-house

Financial difficulties

Such a contractor can go for and actually get substantial price increases on subsequent contracts

Thirdly, there are occasions when the contractor experiences such financial difficulties that he or she is compelled to default on the contract, or the quality of the work is of such a poor nature that the only option for Government is to terminate the contract

In both cases the Government has to enter into expensive interim arrangements to ensure continued provision of the service either by funding another contractor or turning the service back in-house

It is argued that contracting out to the private sector guarantees efficiency and the highest possible quality of service However, the reality is opposite

In their quest for profits contractors always strive to reduce costs so that they are able to maximise their profits To do so they often hire inexperienced personnel at very low wages, ignore contract requirements and provide inadequate supervision

Very often the quality of their work becomes so poor that the Government is compelled to engage in corrective action Cracked "RDP" houses and frequently collapsing stormwater drains and sewerage systems speak louder than words

Driven by profit, contractors take up more projects than they have personnel for and pressured by deadlines they employ anyone who professes knowledge of the work. They are concerned more with the number of contracts they conclude than with the quality of work they do

As more and more services are contracted out, so more and more the Government renders itself vulnerable to private sector manipulation And the more this happens, the less likely it will be before in-house professional staff to get advancement, training and education opportunities

Such a state of affairs impacts negatively on the morale of Government workers Nobody sees career advancement in the Government sector and so they begin look outside They remain in this sector only so long as they have not found an opportunity elsewhere

This attitude leads to a serious reduction in their commitment to work and creates requisite conditions for the further contracting out of more services Thus, contracting out has the effect of gradually precipitating the collapse of the capacity of Government to deliver services

At a time when Government trumpets the virtues of bringing governance closer to the people, contracting out does just the opposite It pushes the level of accountability and responsiveness another step away

Every time residents have a complaint about a contracted service, the local government can do little more than complain in turn to the contractor or enter into costly contract re-negotiations or termination proceedings

Widespread corruption

Clearly every service that is contracted out by the Government must be regarded as lost – not only by it but also by the people who are supposed to benefit from that service

The slogan "Government for the people" remains just that, a slogan

The history of the practice of contracting out in other countries and indeed in present-day South Africa is replete with widespread corruption, bribery, giving and receiving kickbacks, collusive bidding or tendering, conflict of interest and charges for work never performed

Contracting out also becomes a vehicle for political patronage, rewarding cohorts, bodyguards and the party faithful

Contracting out Government services also involves what has come to be known as "revolving-door abuse" – in which Government officials leave the public service to join contractors and are then placed in positions that require them to lobby their former employers for contracts

The new South African is a victim of this phenomenon – public servants taking packages and then returning to the service as consultants

It is evident from this that the contracting out of Government services leads to retrenchments in the public service Equally evident is the fact that, contrary to public claims, the private contractor cuts costs to increase the margin of his profit by reducing the size of labour

In fact, the current trend is to casualise labour – a practice that strips exploitation of all pretence and exposes its cruelty. The trade unions fighting the privatisation programme are among the few still on the side of the workers

These unions need the support of those who are on the side of justice and peace It is clear that if privatisation snatches out of the hands of workers the only means by which they live, it cannot be on their side, let alone advance their interests

(The writer is the chairman of the Azanian Peoples Organisation in Gauteng)

The privatisation of government services has risks, like profiteering contractors who deliver poor quality with little accountability.

OCTOBER 25 1998

SAA seals three new alliances ahead of privatisation

ST(OT) 25/10/98 (232)

The race is on among global carrier groupings to secure a stake in the SA airline, writes ROGER MAKINGS

SA AIRWAYS has entered into far-reaching bilateral agreements with three major carriers which could see the value of the airline improve markedly when it comes to choosing a foreign equity partner

The airline this week said it had signed memorandums of understanding with Swissair and Singapore Airlines, shortly after a similar deal with Lufthansa was announced which will see greater co-operation between the carriers

This will include reciprocal wet-leasing of aircraft, engine and hull maintenance, the integration of cargo networks, common frequent flyer benefits, the leasing of aircraft, and management and cabin crew training

The deal will also see the replacement of about nine ageing SAA Boeing 747SPs and 747-200s in a possible one-for-one swop with the three carriers

Coleman Andrews, SAA's chief executive, said this week that the airline's options on privatisation remained open

"Swissair, representing the Qualiflyer global alliance, and Lufthansa/Singapore of the Star global alliance are interested in participating in our privatisation, as are the Continental/Northwest/KLM Alitalia grouping"

But Andrews would not be drawn on which alliance was favoured by SAA or when a foreign equity partner might be announced, although this is widely expected in the next few weeks

"We could end up having not one but two equity partners and they do not necessarily have to be from the same alliance," he said

Global alliances are keen to get their hands on SAA's regional services in sub-Saharan Africa, which would, in effect, give them global coverage

The struggle for a stake in SAA is expected to be fierce A cash-flush British Airways and Lufthansa are arch-enemies and both desperately want to expand their influence in Africa — one of the last remaining untapped continental areas in global alliances' networks Also, Swissair seems to be bringing much focus to the party — and strong allies in the process

Although the government has stated that it will initially sell off 49% of SAA, only 30% to 35% of the carrier will go to a foreign partner or consortium, the rest finding its way to the National Empowerment Fund and staff

It has, however, been said that in time, probably within five years, the balance of the airline will be sold off — with a foreign equity partner probably gaining control

Interest in acquiring SAA is strong because global alliances are running out of quality partners to join their consortia as they vie for international domination

Lufthansa, say observers, has the upper hand because of its already close association with SAA — in particular the fact that Lufthansa could soon be overhauling SAA engines and SAA overhauling Lufthansa's 747 airframes The two carriers plan to use each other's aircraft and crews on their own routes to boost utilisation, and they are planning to integrate a cargo network between Lufthansa, SAA, Singapore Airlines and DHL

Andrews, who was in Frankfurt, Zurich and Singapore this week, said recently "We will make alliance deals only with partners who want to help us build and not with those who want to exploit what we have to offer"

Sources say this sentiment may put BA out of the running BA is seen as a somewhat ruthless global player intent on empire-building with little thought to the preservation of its acquisitions

But the government is keen to get the best price for SAA, and it will be hesitant to write off BA as a contender

Private participation in service delivery encouraged

(232) BD 26/10/98

Deborah Fine

GOVERNMENT'S vision of municipal services partnerships would promote private sector participation in service delivery while marginalising nongovernment organisations, Urban Sector Network spokesman Kevin Allen said at the weekend

Government's draft municipal framework aims to assist cash-strapped local authorities to meet their constitutional obligation of affordable services by facilitating delivery partnerships with a range of alternative services providers.

Allen said the local government white paper listed a range of partnership mechanisms through which municipalities could seek to achieve efficient universal services coverage. These included partnerships with public sector, private sector, non-governmental and community-based organisations

However, the proposed regulatory framework was geared mostly towards private sector partnerships in the form of long-term lease and concession agreements, he said.

The labour movement and civic organisations have opposed private sector participation in municipal services delivery, claiming this will lead to increased tariffs and a lack of democratic accountability.

Allen also challenged the assumption that municipal services partnerships could resolve many of the financial difficulties experienced by local authorities. "If local government does not have sufficient revenues to fulfil its mandate, it should begin to question whether it has an equitable share of national revenue and whether it has sufficient revenues to monitor and manage services partnerships," he said.

Gugu Moloi, the infrastructure and planning chief-director at the constitutional development department, said the concerns of the Urban Sector Network and other stakeholders would be considered in the drafting of a second framework to be completed by December

US 'jumps gun' on concessioning of ports

Simon Barber
and Robyn Chalmers

WASHINGTON — Portnet says US consular staff have "jumped the gun" in issuing a bulletin to US business outlining a possible timetable for the private concessioning of ports

The bulletin — prepared by US consular staff who were briefed by SA officials — said that government was likely to announce a timetable to concession Portnet's operations at Durban and six other harbours this year by the end of the year.

It said the process was expected to start with Portnet's conversion into a "landlord-type port authority granting private concessions for terminal and other businesses" within the next two months. At the same time a port regulator would be created and a consulting company appointed to provide technical, financial and managerial advice

The bulletin said Portnet would start hiving off "portions" of its oper-

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ations By the second half of next year it would invite tenders to operate the terminals under its jurisdiction, including the Durban container terminal, the largest such facility in Africa and the 12th busiest in the world

Portnet MD Rob Childs said yesterday that the bulletin related to an internal management discussion document which had yet to be discussed with government or Transnet.

"The timing is news to me There is a specific process on the restructuring of state assets This will not begin until the interministerial cabinet committee has appointed a restructuring committee which has yet to happen"

Childs said although labour was briefed on the concessioning proposals it had not been asked to comment as the process had yet to get under way Portnet had not yet begun preparing tenders and should it do so, it would be undertaken in a transparent manner

The bulletin said Portnet officials were "confident" that before the end of next month, the cabinet would give its blessing to the Durban South Port project This involved the construction of a new harbour and car terminal on the site of Durban's international airport

Childs said that this was "no more than an idea — if anything Portnet's view is that this is a remote possibility in the short term"

Privatisation to move into fast lane, pledges Sigcau

(232)

STATE ASSETS

ST 15/11/98 By THABO KOBOKOANE

PUBLIC Enterprises Minister Stella Sigcau on Friday promised privatisation was set to start moving, but having heard these assurances before her critics will be wondering if this is finally the real thing

Her optimism is fuelled by efforts to strengthen the capacity of the directorate of privatisation within the department by the end of the year in order to fast-track privatisation "I am optimistic people will start to see movement in that direction once the directorate is in place," Sigcau said in an interview

She first announced plans to do this two months ago Her plans then included the option to set up a dedicated agency outside of government

"We are more comfortable with a vehicle inside government," she said on Friday, adding she would soon visit Germany and Zambia to study their privatisation agencies — both of which are independent of government

But Sigcau was in no mood to set deadlines Failure to meet numerous targets in the past have been used by her critics to show up the slow pace of privatisation She defended her department's track record, which has seen only two minor sell-offs in the past three years "I have always said you can't compare bananas with apples," she said, referring to the comparison drawn between her track record and those of the communications and transport departments. She argued that she had more problems to contend with, such as land claims

The biggest challenge remained transport giant Transnet, whose privatisation was being hampered by the parastatal's R12-billion pension and medical fund deficit, she said For the moment, Transnet's various businesses were being corporatised Non-core assets such as Connex and Transwerk would be sold in the next 18 months National carrier SAA was also likely to get a strategic equity partner next year — Sigcau previously promised to have this deal secured by the end of the year

Denel was to be grouped under five subsidiaries. aviation, artillery, civilian products, information technology and property The privatisation of information technology arm Ariel Technology was still on track, she said "The idea is to corporatise it, identify other parastatals with similar IT synergies and then consolidate these under one group."

JOBS AT STAKE *Pierre Brooks calls the case interesting because a small venture appears to be hamstrung by a major player*

Competition Board enters milling fray

ROY COKAYNE

Pretoria — The Competition Board had launched an investigation to determine whether a restraint of trade clause in a sale agreement for the Eastern Cape milling operations of Premier Food Industries constituted a restrictive practice, Pierre Brooks, the chairman of the board, said last week.

The agreement was between Premier Food Industries and entrepreneur Bruce Spanjaard in his capacity as a trustee for a company that was in the process of being established.

Premier was part of the Premier Group before it was sold and incorporated into General Food Industries (Genfood), the Pretoria-based milling company.

Brooks said the Premier Group, in the process of unbundling, had closed down and sold to Spanjaard the land and assets of certain milling operations in the Eastern Cape. He said the sale agreement included a restraint of trade involving maize and wheat milling.

Brooks said Premier Foods Industries was subsequently sold to Genfood, which took over the rights and obligations in relation to the land and assets sold to Spanjaard.

He said the new owners wanted to start up a business, possibly for milling, which would create a few jobs in an economically depressed area.

But Brooks said the new owners had approached the Competition Board about the restraint of trade clause in the sale agreement.

He said it was an interesting case because it involved a small company that was trying to move into the milling industry to create jobs, but was prevented from doing so by a major player in the industry.

Genfood's spokesman refused to comment as the legal dispute is in progress.

Worry over lawyers

(332)

Sowetan 17/11/98

By Mbulelo Baloyi

LAWYERS' organisation has expressed concern at the unacceptably high number of human rights lawyers who have been struck off the roll and have called on the law societies to be more circumspect when dealing with difficulties faced by attorneys.

This follows last Friday's striking off the roll of attorneys of well-known Durban attorney and human rights lawyer Ms Linda Zama (48) in the Pietermaritzburg High Court.

Zama was struck off the roll after the Natal Law Society [illegible] history of impropriety and shortfalls in her management of trust funds.

Her removal from the attorneys roll comes hardly a year after the removal of two other top Durban lawyers Mr Kwenza Mlaba and Ms Nomalungelo Makhaye.

The two were struck off the roll after the society found irregularities in their accounts following the non payment of R400 000 to the victim of a shooting incident involving the police.

Natal Law Society spokesman Mr Frans van der Merwe told *Sowetan* yesterday that during [illegible] months no fewer than [illegible] lawyer had been struck off the attorney roll after it had been found that there had been mismanagement and irregularities in client trust fund accounts.

The majority of these lawyers had cut their teeth during the political trials in the mid-1980s defending security detainees.

Spokesman for the National Association of Democratic Lawyer (Nadel) in KwaZulu-Natal Mr Krish Govender said the recent strikings had been a sore point for the association as most of them had been good lawyers.

This [illegible] national publicity secretary [illegible] Mr [illegible] who said the [illegible] would [illegible] like to [illegible] grounds" as the decision to strike [illegible] off the roll had been taken by the law society.

"It would be difficult for us to [illegible] the action of the law societies in as much as we are not condoning the act which the individual lawyers have committed but since some of our members are also serving on these structures (law societies), we cannot be seen to be contradicting their decisions," said Allie.

[illegible] the names of the lawyers [illegible] been struck off the roll in KwaZulu Natal alone are legal luminaries such as Norman Abrahams [illegible] Mazibuko, Thulani Phewa, [illegible] Made, Kashra Hanie, VF Don[illegible] J Catterall Clive Vawda, S Sm[illegible]

An[illegible] Durban lawyer who spoke on condition of anonymity said most of the named lawyers were "a group of talented people".

"If there are problems the society should try to find out what is being done to help them. I know it's pretty hard for black lawyers.

in the long term, UIA will reap

Nelspruit water deal angers union

Reneé Grawitzky

THE Nelspruit town council plans to sign a 30-year contract with the UK-based Biwater within the next two to three weeks amid calls by Public Services International (PSI) to suspend the privatisation of water services in Mpumalanga.

The SA Municipal Workers' Union (Samwu) warned that any municipality that independently privatised while government and the Congress of SA Trade Unions (Cosatu) were still engaged in talks to finalise a framework agreement governing the restructuring of municipal services would be "very much out of order and could derail the whole process"

Talks have been under way between government and Cosatu since September to finalise a framework

Samwu general secretary Roger Ronnie said there was "no provision in the framework talks currently under way for Nelspruit to go ahead independently and privatise services to Biwater"

Samwu's national executive committee resolved last week that the Biwater issue should be referred to a sectoral committee for debate after the framework talks have been concluded The union said the sectoral committee was being set up as a result of the current discussions

Samwu believed the Biwater/Nelspruit issue should be referred to this sectoral committee for further discussions

Sources close to the process said there were indications from government that they wanted to speed up the Nelspruit deal as Biwater had allegedly threatened to withdraw its offer This deal has been on hold since April last year.

PSI, which represents 20-million public service workers worldwide, published a report this week alleging "financial, operational and political problems associated with Biwater". It claimed Biwater faced formal accusations of corruption in the Philippines and "allegations of improper conduct related to other cities"

Ronnie said the allegations against the UK-based company "strengthen Samwu's arguments that privatisation processes are extremely open to corruption"

The union felt it would be "highly problematic if a company already alleged to have acquired contracts by dubious means is allowed to take up another multimillion-rand contract

"Biwater's role in these allegations of corruption needs to be investigated urgently," Ronnie said

BD 20/11/98 (232)

IFP attacks findings against Buthelezi (222)

THE Inkatha Freedom Party said yesterday a finding by the truth commission that its leader Mangosuthu Buthelezi violated human rights was legally obscene and morally repugnant

In a paid advertisement in a Sunday newspaper the IFP said KwaZulu-Natal was singled out in the 1980s by the African National Congress as part of a larger campaign to make the country ungovernable

"The truth commission is fully aware of a mass of official ANC documents that prove this beyond doubt," the advertisement read

The party said the commission knew that a cabinet member publicly called for Buthelezi to be "got rid of"

"It knows too that the same individual told Richard Goldstone that the policy to use violence had been dropped

"This despite the fact that the truth commission knows full well that the very people involved were caught red-handed smuggling large quantities of the tools of assassins into KwaZulu-Natal long after the transition to democracy had begun and for the express purpose of murdering members of the IFP"

The party said despite all these documented facts, the truth commission instead chose to focus its attention on the so-called 300 Caprivi trainees who were trained to protect government property

"While it has found no evidence of any wrong-doing or a violation of human rights by Mangosuthu Buthelezi, it seeks to hold him accountable for the violation of human rights

"This is legally obscene and morally repugnant," the party said

The truth commission's final report was released in October —Sapa

BD 23/11/98

NATIONAL

Govt budgets R40m for competition policy

(232)

New institutions include a tribunal, commission and appeal court

BD 23/11/98

John Dludlu

GOVERNMENT has set aside about R40m to fund the establishment of new competition-policy institutions following newly legislated policy on competition, says a senior trade and industry department official

Alistair Ruiters, the chief director for business regulation and consumer services at the trade and industry department, said yesterday the R30m-R40m would come from the department's 1999/2000 budget Ruiters pointed out that government was still hoping to raise additional funds from donors

The new institutions, to be set up early next year, include a competition tribunal, commission and an appeal court

This is the first time that government has shed light on the costs of the new bodies since the revamp of the competition law began about a year ago

Ruiters would visit foreign competition authorities abroad to negotiate agreements for the training of SA personnel officials next year

Several jurisdictions — including the European Commission, Dutch, US and Canadian authorities — had already expressed interest in training SA officials

Ruiters, who led government's team in the competition negotiations, said the proposed review of SA's corporate laws had "taken a bit longer" than expected to get off the ground According to an earlier timetable, Ruiters was hoping to unveil proposals on the review project for public comment by September

However, he had now set aside next year as the period for negotiating and drafting changes to SA's body of corporate laws, including company law, bankruptcy laws and securities law

The review — by far the most comprehensive to be undertaken in SA to date — forms part of government's plan to reduce the costs of compliance for business and seeks to enhance business regulation

Internal departmental consultations on company law reform were already taking place, he said. He would meet a UK counterpart involved in a similar project next week

Prior to this review, amendments to company law were carried out in a piecemeal fashion, on the recommendations of the department's standing advisory committee on company law

Ruiters also disclosed that the department was conducting a review of the legislative programme so that urgent laws could be placed before Parliament next year, given the fact that next year was a shorter legislative year

Apart from the competition policy review, Ruiters said this year's achievements included reforming the Harmful Business Practice Act, completing the Liquor Act and reviewing the Estate Agents Act to enhance consumer protection

SAA deal paves way for partial privatisation

(232)

Robyn Chalmers

GOVERNMENT has agreed that SA Airways will take responsibility for R1bn of Transnet's pension fund deficit and debt, paving the way for SAA's balance sheet restructuring and partial privatisation.

In terms of an interministerial cabinet committee agreement, government and Transnet will absorb SAA's remaining R3bn portion of Transnet's liabilities. The committee is still assessing the financial mechanism required to take over this burden, the impact of such a move and how to deal with the remainder of the R10bn pension fund liability and debt.

Government, Transnet and its employees recently agreed to share the huge pension fund and debt burden. This raised problems as the loss-making SAA, up for partial privatisation by next April, could not absorb its R4bn portion of the debt and remain viable.

Public enterprises department head Nomonde Mapetla said yesterday the deal unblocked the path for SAA to be set up separately. However, by taking responsibility for R1bn, SAA was likely to be profitable only in two to three years.

SAA moved further into the red for the six months to end-September, reporting a net operating loss of R207m from a R145m loss in the previous six months.

Mapetla said there was interest in SAA from international airlines including Swissair, British Airways, Virgin Atlantic, Air Malaysia and Lufthansa. Government is expected to sell 49%, with between 30% and 35% going to a foreign partner and the rest likely to go to employees and the National Empowerment Fund.

She said SAA had completed its business plan, focusing on routes, aircraft, marketing and a new corporate structure. A number of Transnet executives were abroad on a second international roadshow, at which the new business plan was being presented to international lenders.

Transnet has accrued about R22bn in debt through, among other things, bonds, direct loans and syndicated loans. In terms of its unbundling, Transnet plans to apportion much of this debt to its business units.

Crisis-hit Japanese banks only recently withdrew key objections to the debt-transfer proposal. Government had to postpone the privatisation exercise to early next year after Asian lenders objected to a balance sheet restructuring.

BD 24/11/98

Samwu is backed by world body

(232) ([illegible])

FRANK NXUMALO
LABOUR EDITOR

CT (BR) 30/11/98

Johannesburg — Public Service International (PSI), the world trade union federation for public sector unions representing more than 20 million workers in 140 countries, last week pledged its unconditional support for the South African Municipal Workers Union (Samwu) in its fight against the privatisation of water and municipal services and assets, especially in Nelspruit and on the Dolphin Coast.

"We support what Samwu is doing and we will work out alternative proposals," said Hans Engelberts, the general secretary of PSI "We think there are other ways that you can use to deliver water services without going to foreign companies."

His remarks were in apparent reference to Biwater, the British multinational that has been named as the preferred bidder for the Nelspruit contract.

Samwu wants the government to take "strong" action against Roelf Kotze, the town clerk of Nelspruit, for allegedly making a mockery of the local governments' asset restructuring talks between Cosatu and the central government.

"The proposed framework agreement covers each and every municipality in the country and Nelspruit is no means excluded in any way," the union said.

Samwu questioned Kotze's motives, saying he had an "unwavering dedication" to Biwater and an "overwhelming disregard" for the government and Cosatu.

Kotze said he regarded Samwu's allegations with the "utmost contempt".

SAA accused of anti-competitive behaviour by three airlines

Three domestic airlines – British Airways-Comair, Nationwide and Sun Air – said they had filed a complaint with the Competition Board yesterday arising from South African Airways conduct in the market.

They said in a statement that the board's attention had specifically been drawn to large capacity increases in a number of domestic routes combined with pricing policies which, in the view of the carriers, were clearly below cost and therefore constituted predatory behaviour on the part of a dominant market shareholder.

On the Johannesburg-Durban route, SAA had seen fit in an overall declining market to increase capacity by 50% and to market this increase at fare levels that in terms of the number of seats offered could not achieve full cost recovery, they said.

SAA for the first six months of the current financial year had reported a record financial loss of R204-million

The three airlines stated that SAA's conduct was a clear case of anti-competitive behaviour.

SAA spokesperson Leon Els said the airline had not received official notification of the complaint from the board and he was not able to comment. – Sapa and Staff Reporter.

Star 1/12/98 (232) ~~(261)~~

Board recommends veto of Nampak merger plan

(1000) (174) (272) BD 2/12/98

Amanda Vermeulen

THE Competition Board has recommended to Trade and Industry Minister Alec Erwin that the proposed merger of Nampak's metal packaging business with US-based Crown Cork be vetoed.

The board said the deal, announced in August, would give Nampak 100% of the SA food can market from 87%.

The board declined to comment yesterday, saying details of the investigation would be made available today, once Erwin had a chance to go over its report.

Nampak chairman Brian Connellan said the decision was disappointing as both parties were keen to carry out the deal, but all was not yet lost.

"The Competition Board, while recommending against the merger, has suggested that Nampak and Crown Cork make direct approaches to the minister to discuss the matter further." Erwin is not bound by the board's ruling and can overturn the recommendation if he deems it to be in the public interest.

Connellan could not say when talks with Erwin would be held. He had to confer with Crown Cork, which had its head office in Philadelphia.

The board's recommendation comes as a blow to Nampak, as a merger could have significantly enhanced earnings. About 30% of the company's profits are generated from its canning operations.

Headline share earnings in the year to September came in at 112c from 106c the year before. Attributable profit was R572,9m from R547,1m.

Had the deal been approved SA would have been left with only one producer of food cans and two of beverage cans, and Nampak would have had a controlling interest in the entity. Its share of SA's beverage can output is estimated at 74%, after the merger it would have been 91%.

Analysts said Nampak was under pressure as many of its business were geared to the slowing economy. "But there are still a number of positive strategic moves under way, and I do not foresee a decline in earnings," said one analyst.

Nampak buying spree: Page 17

Competition Board chairman Brooks retires

BD 3/12/98 (232)

Amanda Vermeulen

COMPETITION Board chairman Pierre Brooks has retired with effect from January 1, ending a decade as the country's chief competition watchdog

Brooks, who signalled his intention to retire to Trade and Industry Minister Alec Erwin several months ago, went on leave this week and will not return to his office

His interim replacement is Dave Lewis, a director on the 12-member board

Erwin also announced other changes to the board yesterday, including the appointment of new members Menzi Simelani and Norman Manoim

Brooks said he had wanted to leave for some time, but was persuaded to stay on until new competition legislation had been passed — this happened in October

He wanted to act as a consultant on competition policy and concentrate on a number of projects, including writing a commentary on the new Competition Act

Brooks was a law professor at Unisa

Brooks writing a commentary

before he assumed his post at the board

The trade and industry department thanked Brooks for his dedication, loyalty and hard work, saying his valuable contribution to the department, the board and the country was greatly appreciated

Board member Alistair Ruiters said Brooks would still be involved in finalising the report on the proposed Adcock Ingram acquisition of Pharmacare, even though he was now officially on leave

A staff member at Brookes's office said there was nothing controversial or sinister in his departure

The Competition Board, which will make way for a new-generation competition authority in June in terms of legislation drafted by the trade and industry ministry, has attracted much criticism in recent months This week it recommended that packaging group Nampak's proposed merger with Crown Cork be vetoed, while a few months ago it torpedoed Sasol's takeover of AECI

At the time, analysts were mixed in their opinions of the R4bn Sasol deal, but the majority view was that the board's decision could have a negative effect on the international competitiveness of the SA petrochemical industry

MUNICIPAL PRIVATISATION (232)

PARTNERSHIPS IN THE PIPELINE

Cosatu and government agree

FM 4/12/98

A stubborn 15-month row between government and unions over municipal privatisation policy is nearing resolution (see *Current Affairs* October 9) The Department of Constitutional & Provincial Affairs has given quiet nods to the Nelspruit and Dolphin Coast municipalities to sign water-delivery partnerships with two foreign companies — deals that will set the tone of privatisation policy at all levels of government for years to come

It seems likely, though, that minor contractual issues and the impending Christmas break will delay signings of the pioneering projects until early January

Two weeks ago, Nelspruit's executive committee formally accepted the bid of the British Biwater company, and recommended full council approval Town clerk Roelf Kotze said the signing could go ahead if, as expected, the draft concessionary agreement was found to accord with the policy negotiated by the Department of Constitutional Affairs and the umbrella union, Cosatu

Dolphin Coast, a collection of five resort communities around Ballito, north of Durban, is almost as close to finalising a water delivery agreement with preferred bidder Saur, a French company

Key to the government-union agreement is a clause that states that the public sector remains the "preferred option" for service delivery — thus allowing private participation in service provision only after all avenues for public-sector delivery have been exhausted

Though government and union officials are loath to discuss details of the framework agreement, it is understood that Cosatu has accepted the broad terms of the partnership framework

"A few technical details must be sorted out and then it can be put before the Cabinet for approval early next year," says a source involved in the negotiations

The Nelspruit deal, in particular, is regarded by government as the pioneering blueprint for a broad privatisation framework which could be applied not only to municipal services, but to partnerships with the private sector at other levels of government

Scores of other municipalities have already indicated a keenness to join the partnership bandwagon

Peter Honey

Nampak merger is not in the public's interest, says board

(BD) (872)

Amanda Vermeulen

THE Competition Board's decision last week to recommend the prohibition of the Nampak merger with Crown Cork on the grounds that it was anticompetitive could not be outweighed by public interest, it said.

In its report, the board suggested a number of options that could have been attached to a conditional approval of the deal.

Crown Cork was keen on the deal, since the loss-making operation faced closure and the loss of numerous jobs otherwise.

But the board concluded that "after careful consideration of all the facts, applicable principles, and diverse opinions ... the transaction would result in an appreciable restriction of competition in the relevant markets which was not outweighed by the relevant public interest considerations".

The board's major objection to the deal concerned the food can market. Had the transaction been approved, it would have given Nampak 100% of this sector.

In addition, the board said import penetration was negligible, customers were not as dominant as in the beverage industry, and there were no substitute products or containers in which food could be kept for long periods of time in the absence of freezers.

The other worry was that CG Smith, the parent company of Nampak, is also the parent company of CG Smith Foods — which is the largest customer of Nampak as far as food cans are concerned.

"This may give rise to competition policy concerns if Nampak applies discriminatory practices between CG Smith companies and other companies."

BD 7/12/98

The board said: "(We) are of the opinion that competition in this market will be restricted to an appreciable extent and that it is likely to have a negative impact on consumers."

In the beverage can sector, a Crown-Nampak merger would have resulted in the new entity having 91% of this market, but competition for cans comes in the form of glass bottles for the beverage industry, with Consol being the dominant supplier by far to both the beer and soft drink markets.

Despite submissions from both Coca-Cola and SA Breweries, the board said: "On balance it appears that (while) competition will be restricted in the beverage can market, it is unlikely that the merger will result in consumers being negatively affected to an extent that requires the prohibition of the transaction."

New defiance in the final days of a 'dinosaur'

BD 9/12/98 (232)

The Competition Board appears to be going down fighting ahead of its replacement next year. **Hilary Joffe** looks at its recent activities

AFTER years of being called toothless, it suddenly seems the Competition Board is blocking everything that comes its way in a last independent stand before it is replaced by the new competition authority next year

Last week's Nampak/Crown Cork recommendations, and the Sasol/AECI report earlier this year, seem to reflect a new assertiveness Yet the impression that the board is making a last stand against corporate size is not entirely justified

The board's recent activities, though, do raise some intriguing questions about SA's competition law, old and new

Would the deals stopped by the current board have been approved by the new authority, due to be launched in July next year? Is the approach to mergers and acquisitions, whether under the old law or the new, flexible enough to deal with SA's position as a small emerging market in an increasingly global economy?

And will the new competition experts be any better at finding the balance between economic and social considerations?

In addition to Sasol/AECI and Nampak/Crown Cork, the board, over the past four years, has stopped mergers or acquisitions in cement, where it came out against the proposed Alpha/Blue Circle merger, and in footwear, where it said no to Conshu's proposed acquisition of Boltons

Against this, it has said yes to the ABI/Suncrush transaction and given the go ahead in the leather industry to Kolosus's acquisition of Silveroak, and in steel exports, to the formation of Iscor's steel export joint venture with Macsteel (though there it set a range of conditions aimed at preventing anti-competitive practices).

The record does not seem conclusive. More importantly, though, this list reflects only the outcomes of the formal investigations conducted by the board, which looks at many more proposed transactions on an informal basis In the first 10 months of the year, it conducted preliminary investigations into a record 57 deals, up from 35 last year That could be the result of an increased number of mergers and acquisitions or it could reflect a heightened awareness of competition issues It is possible, too, that some hope to get in ahead of the new authority, on the assumption it will treat them more harshly than the old

Usually companies approach the Competition Board in the planning stages of a merger or acquisition The board takes an informal look — and frequently gives an informal go-ahead, though it reserves the right to revisit the deal if necessary However, it may say "if you go ahead, we will have a formal investigation".

In some cases the parties drop the deal at that point. In others, they go ahead, and so does the investigation

These days, most big mergers and acquisitions are run past the board in this way Most of these inquiries are not publicised, though the board does offer the odd detail in its annual report

But even if the statistics do not tell a clear story, the board recently does seem to have been more assertive, even defiant. This was apparent on the Sasol/AECI issue, where it went against the trade and industry department's initial calls of support for the deal In part, of course, this is because over the past four years it has been accountable to a different government — and minister — with different priorities from those that prevailed before 1994.

Chairman Pierre Brooks retired this month after a decade. He tried to keep up with "state of the art" competition policy although he was hampered by the old government. New members such as Who Owns Whom Robin McGregor and academic Dave Lewis have brought some fresh perspectives Even so, there is a perception that the new act will usher in a different approach

A government law adviser suggested that under the new legislation, the outcome of the Sasol/AECI case would have been different It is not clear, though, that it would have been

The criteria by which the experts must judge whether a proposed merger will "substantially prevent or lessen competition" are set out in some detail in the new legislation Existing legislation (this dates back to 1979, when the act, which previously covered only "restrictive practices", was revised to include acquisition activity) gives the Competition Board wide discretion The new authority must look at factors such as actual and potential competition from imports, ease of entry into the market, the degree of countervailing power and so on

Against these, however, the new act sets out considerations of public interest which must be taken into account and which may outweigh "pure competition" issues Three of these are broadly social the authority must look at the effect of a proposed merger on sectors or region, on small and black business and on employment. The fourth is rather different and possibly incompatible with the others the idea that SA needs industries that can compete globally

The new legislation sets up a competition authority which is procedurally quite different from the old Where the existing board is both investigator and adjudicator, the new authority will comprise a commission, which will do the investigating, and a tribunal, which will do the judging The crucial contrast is that where the existing board does no more than make recommendations to the trade and industry minister, to whom the parties can then appeal, in the new system, the tribunal issues rulings and the right of appeal is to an appeal court, comprising a judge and two assessors

Broadly, while the issue is "market power", this is not a simple question of size or market share.

One of the most difficult issues in most competition investigations is defining the relevant market. Is SA Breweries, for example, in the market for beer or for "share of throat", is the explosives market a global one or is it, in effect, purely domestic because of the risks of transporting explosives Competition experts these days use also the notion of "contestibility" would a player that abused its position in the market be challenged by other players Economists who look at these issues in European Union and US investigations draw on tools such as game theory, enabling them to look at how actual or potential market players would act strategically in response to action by other players

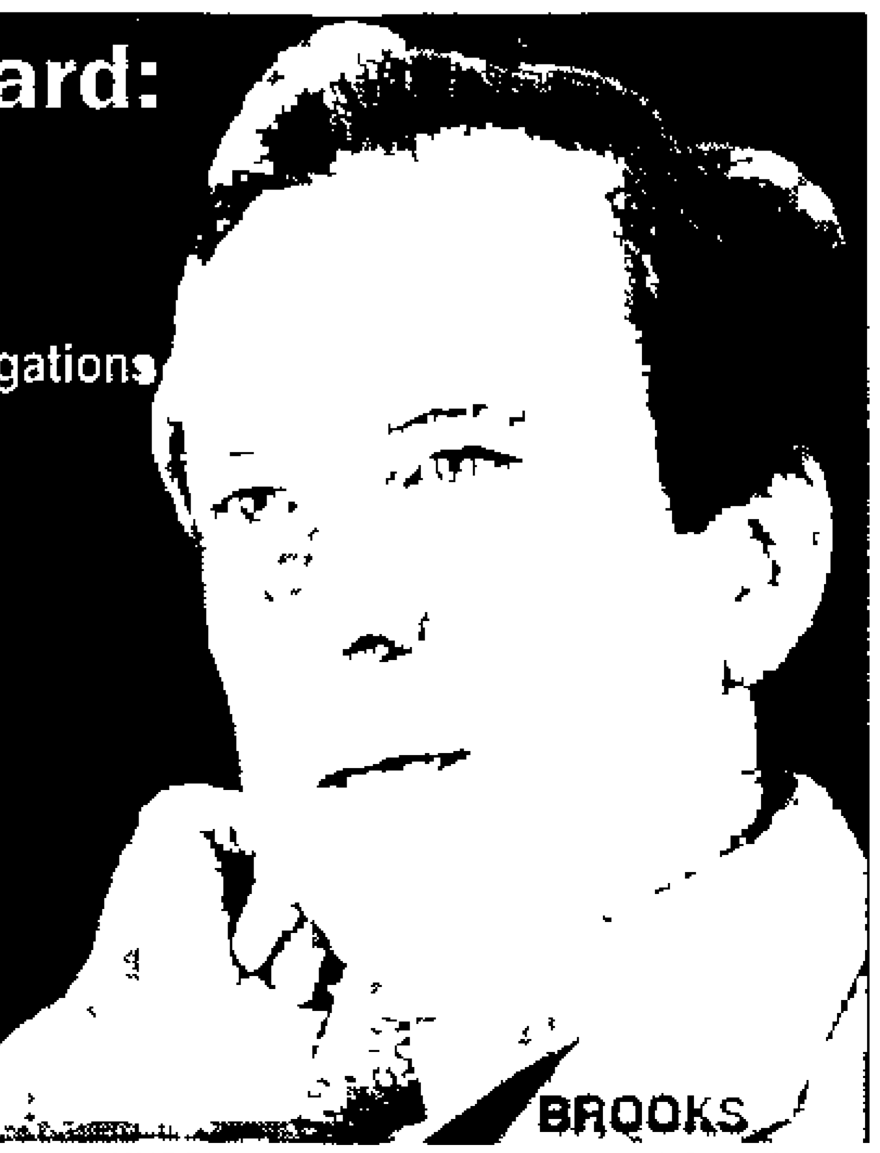
However, in the end a decision on whether a merger will curb competition is a judgment call by those responsible for making the decision And, although SA's new Competition Act is clearer than the old, the decisions which emerge will depend on the people who staff the new authority

For there is, in essence, little the new law puts in place, at least with regard to mergers and acquisitions, for which the old Act does not provide the space The Competition Board's recent judgments show it drawing on a set of criteria, most derived from international precedents, which is similar to those likely to be employed under the new regime. Indeed, both the Sasol/AECI and Nampak judgments refer explicitly to the factors set out in the new Competition Act. They look fairly carefully at which is the relevant market and whether the positions of dominant players would be contestable And both weigh up issues of competitiveness with those of "public interest", along the lines set out in the new law

Many in the market will be watching the appointments to the new competition authority And mergers will not be the only issue. the new act provides a much clearer role for the authority in investigating and clamping down on anti-competitive behaviour by existing companies with market power, not just those planning deals to grow their share of the market.

Competition Board: acquisitions

Year	Preliminary assessments	Formal investigations
1990	33	1
1991	35	3
1992	42	2
1993	40	2
1994	40	2
1995	30	1
1996	20	4
1997	35	1
1998	57 (10 months)	3



BROOKS

KUBEN DAVID Source COMPETITION BOARD

Nampak to contest Competition Board's takeover ruling

(232) CT

Ann Crotty

Johannesburg — Nampak, the packaging group, yesterday said it would challenge the Competition Board's ruling preventing its takeover of Crown Cork

Nampak issued a cautionary yesterday after the market closed, saying if the representations to the minister of trade and industry were successful, the conclusion of talks with Crown Cork might affect its share price

Nampak closed 70c weaker at 760c yesterday Analysts said this was in line with general market weakness and not in anticipation of the board's negative response.

One analyst said although the deal would not have been a huge portion of Nampak's business, a successful acquisition would have been seen as a positive for the group, and in its absence the share price could take strain.

In this regard the point was also made that although it is normal procedure for the parties to make representation to the minister, the board's recommendations are not often overturned

Last night Competition Board Chairman Pierre Brooks said the merged entity would have had over 90 percent of three markets — beverage canning, food canning and aerosols

"With beverage canning it could be argued the countervailing power of South African Breweries and Coca-Cola would have ensured a balance between the producer and the buyer, but this is not so with food canning "

He said there were possibly other buyers for Crown Cork other than the dominant market player.

□ Business Watch, Page 2

Academic chosen to usher in complex competition laws

Our temporary new competition chief may have a permanent job — if he wants it. Associate editor John Dludlu looks at possible moves for David Lewis

IT IS not often that the appointment of someone to a key public policy position generates so much speculation about his future However, the decision by David Lewis, the director of the development policy research unit at Cape Town University, to agree to replace recently retired Pierre Brooks, the chairman of the Competition Board, has failed to settle speculation about his future career plans

That Lewis, who joined the board as a member a year ago, will be its chair only for the next six months until the board is replaced by a competition commission has, in part, been responsible for the continuation of the talk

He is now tipped to head the commission, one of the new institutions provided for in revised legislation

The other top contender for that job is understood to be Alistair Ruiters, the chief director for business regulation and consumer services at the trade and industry department

Ruiters led the government team, including Lewis, which negotiated the new competition law with both business and labour at the National Economic, Development and Labour Council (Nedlac)

Speculation does not stop at the competition commission Lewis's name has also been linked to the job of Nedlac's executive director, recently vacated by Jayendra Naidoo

Sources close to Nedlac say Lewis has not applied for the job, although some say that a candidate of his calibre does not need to apply

Lewis dismisses talk of his replacing Naidoo, who has joined business As for the competition commission job, he says "I have not thought beyond the next few months "

Although the job of chairing the board requires that he spend more time in Pretoria, he has not resigned his academic job in Cape Town

Part of the reason he took the government job was that it dovetailed with his research interests in industrial, trade and technology policy His appointment to the board has been welcomed by many stakeholders crucially, business and labour

The board operates in terms of ineffectual legislation Under present law it is merely an investigative and advisory body to the trade and industry minister

It recommends to the minister who does not have to heed its recommendations

However, thanks in part to the infusion of new blood, like Lewis and other new board members, and Brooks's stewardship, the board has recently been seen as playing an activist role Its tough rulings vetoing the Sasol/AECI and Nampak/Crown Cork mergers have shown its willingness to take on big business

Brooks points out that the involvement of SA's big corporate players has raised the board's public profile

"Some of the (latest) decisions are infused with the new seriousness with which government views competition policy," says Lewis

Among other things, Brooks says, the board took into account the effect the proposed mergers would have had on jobs and the degree of market concentration that would have resulted

David Lewis business and labour have welcomed his appointment

(232) BD 14/12/98

Lewis does not seem perturbed by the fact that his tasks will include working with the frustrating old law while ushering in new institutions "I will have a good board and support from the (trade and industry) department," he says "The approach (in government) is to strengthen rather than weaken competition law"

The new law is stronger and more sophisticated than the present one

It will also be more complex than present competition legislation Clauses have been included to take into account SA's particular circumstances For example, mergers may be exempted if they contribute to the promotion of SA's exports, support small business development, assist in the economic empowerment of previously disadvantaged communities, or if they stop the decline of certain industries

Whether or not Lewis decides to stay beyond six months, he will be expected to keep all these factors in mind as he executes his present responsibilities

A business economist says the fact that he was one of government's key negotiators should assist him in interpreting the current and the new law

Naidoo, who has known Lewis for years from their union days, describes Lewis as a committed democrat who "put the interests of the country before his own" Though tolerant and sensitive of others' views, he "will not be pushed around", says Naidoo The business economist finds Lewis to be an able and independent thinker two important qualities in dealing with vested interests

A labour source says "(The job) will be more challenging now because competition policy is becoming an important part of our industrial policy "

The business economist says Lewis faces the challenge of finding the human and financial resources in phasing in the new sophisticated institutions

Lewis earned the respect of business and labour when government negotiators agreed to remove a clause in the law that would have given the minister powers to review the decisions of the competition tribunal

Ruiters says this decision was inspired by the fact that government did not want the law to be turned into a law of litigation

Before directing the research unit, Lewis spent decades in the labour movement He has held the positions of general-secretary of the General Workers' Union and, later, national organiser of the Transport and General Workers' Union He has also served as adviser to the labour minister

Those who know Lewis say he values his independence Which explains why he has chosen to remain in the academic world, choosing to advise government His decision to accept the board's chairmanship, albeit for six months, for now, may be a realisation on his part that independence of thought and public service are not mutually exclusive

PRIVATISATION

Transnet's first stop: reassembly

CT (MR) 15/12/98 (232)

Ann Crotty

Privatising Transnet would involve a process not just akin to unscrambling an egg but also getting it back into the shell.

In hindsight, the corporatisation process of the old South African Railway Service to form Transnet in 1991 could hardly have been better designed to ward off attempts at privatisation if its architects had been the South African Municipal Workers' Union

For this reason, some hesitant progress in efforts to sell part of SAA is likely to be the closest Transnet will come to privatisation in the foreseeable future

At the time of corporatisation — when it might have been easier to package Transnet in preparation for privatisation — there was little thought of such an option for the parastatal

As financial director Gloria Serobe explains, Transnet's businesses are spread throughout the country; no division operates on a standalone basis For example, many services used by Spoornet are provided by other Transnet divisions such as Datavia, Transwerk, Promat, Propnet and Protekon

While privatising these service businesses might be reasonably straightforward, attempts to privatise the transport businesses would be much more complex

For instance, a piece of property in Durban might not only house facilities belonging to Portnet but could also have assets belonging to Spoornet, Petronet, Autonet and even Metrorail It is also likely that some of Transtel's facilities cut across the property

This situation, replicated thousands of times across the country, is why privatising any division will be so complex

The encouraging news from Serobe is that the current restructuring at Transnet will create standalone entities But this could be a lengthy process.

Then there are the rather complex matters of the pension fund liability and Transnet's lenders, who as at March 31 1998 were providing about R15 billion of funding for the unwieldy parastatal.

Much of this funding was provided to Transnet — not its operating divisions — restraining Transnet from selling any of its assets Such restraint can only be removed with the agreement of what is likely to run to hundreds of lenders.

The assumption of political will for privatisation is an extremely heroic one. Serobe refers to the fact that most South Africans have widely different expectations about the role Transnet should be playing in the economy "This is inevitable given that, one way or another, Transnet touches almost everybody's life" This sort of diverse expectation is likely to be mirrored at Cabinet level.

It is possible to consider at least eight ministries with different objectives for Transnet. If so, then trying to organise a concerted push for widescale privatisation of its operations could be a difficult exercise.

In the meantime, given the divergent performance demands on Transnet, Serobe's strategy is to focus on growing the bottom line.

Although corporatisation took place in 1991, it was only in 1996 that the auditors qualified the parastatal's accounts They have been qualified every year since. Serobe says every effort will be made to ensure that the 1999 financial statements will not be qualified.

The qualification was required in terms of the new accounting standard AC 123. Tom Wixley, a partner at auditors Ernst & Young, and Mveleh Booi, a partner at auditors APF — Transnet's joint auditors — explain that before this new standard became effective, the assets of an entity were looked at in their entirety

The new standard required that assets be broken down into categories and that the auditors satisfy themselves of the value of each category.

The theory behind this standard applies to the value of a company on break-up. Transnet represents one of the few examples in which the theory is valid in practice.

As Wixley notes, under the previous accounting standards, it was possible to look at the total asset base and, for example, to make up for undervaluing the rail front with generous valuations on the airline front.

In 1996 the Transnet auditors began a revaluation exercise on the pipeline network, which estimates the cost of the asset "according to its remaining economic life, redundancy and over-engineering of the actual assets".

In 1997 a revaluation of the port facilities began, which "estimates the cost of replacing the assets with a modern system to perform the same functional operations, adjusted by the remaining economic life".

Some outsiders have pointed out that in an open market situation it is possible that many of Transnet's facilities would not be replaced. But Wixley stresses that it is the most appropriate method of revaluing the assets.

He refers to AC 123, which states: "The fair value of land and buildings is usually its market value for existing use, which presupposes continued use of the assets in the same or similar business"

Whatever the outcome of all, the processes that are accompanying Transnet's move into the new South Africa, it must be extremely comfortable for citizens that it is all much more open and accountable.

It is also comforting to know that, in the meantime, Serobe and her colleagues are focusing on the bottom line.

Competition Board gets more time

Erwin grants extension for talks on Adcock Ingram's proposed acquisition of Pharmacare

(232)

Amanda Vermeulen

TRADE and Industry Minister Alec Erwin has granted the Competition Board's request to delay until January 31 next year final deliberations on the proposed acquisition of SA Druggists' Pharmacare division by Adcock Ingram

A spokesman for the board, Wouter Meyer, said yesterday that a final decision on the board's investigation — believed to be complete — had been delayed for "legal and technical reasons"

Life insurance group Fedsure has made a R2,6bn offer for 100% of SA Druggists, after which it proposes to sell Pharmacare to Adcock. This transaction has been under investigation by the Competition Board since September

As a result of the postponement, Adcock and Fedsure have extended their agreement until May 1. Their original agreement would have expired on March 1. According to Fedsure, apart from the time extension there have been no other significant changes to the agreement between the two companies.

Fedsure has already had to up its original R2,55bn or R33,50 a share offer to shareholders because of previous delays The increase of 60c a SAD share was offered to shareholders, representing the time value of money, Fedsure said at the time

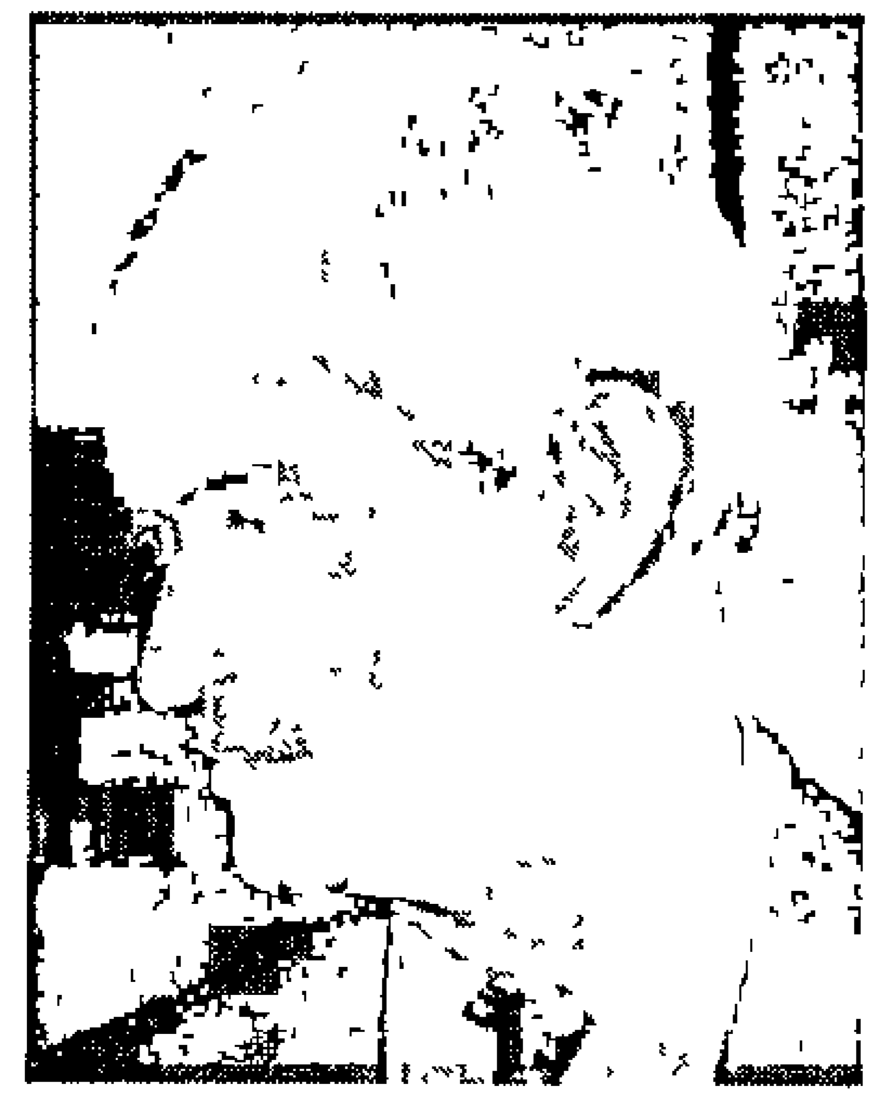
Last week US drug development company Argyll Scientific emerged as a possible rival for Fedsure, although at this stage no details are available about the Texan company's offer

Argyll said late last week that it would make details of its bid for SAD known only if the Competition Board recommended against the Pharmacare-Adcock deal.

Analysts have speculated that Argyll's presence could force Fedsure to up its offer again — a move which would go a long way to resolving differences between the SAD directors and the Fedsure appointees over the value of the Fedsure offer.

SAD directors have maintained that the Fedsure bid does not represent a fair and reasonable offer, based on indicative letters of interest in some of SAD's underlying companies from other interested parties.

Although there have been a number of indications of interest in SAD or its underlying businesses, no real rivals to the Fedsure offer have yet materialised.



Erwin... granted delay

BD 22/12/98

OWNERSHIP & CONTROL
1999

Drug companies face investigation

BD 5/1/99 (232)

Amanda Vermeulen

THE Competition Board will launch a formal probe into pharmaceutical manufacturing companies which formed International Healthcare Distributors (IHD) and Synergistic Alliance Investments (SAI), following complaints that these exclusive distribution channels constitute restrictive practices.

The Competition Board contacted all the parties involved late last year and informed them that official notification of an investigation into the matter would be published in the Government Gazette early in the new year

The complaints revolve around the drug manufacturers bypassing the wholesale network by distributing their products through IHD and SAI directly to retail outlets almost exclusively

IHD MD Bobby Hammond declined to comment yesterday and SAI spokesman John Bartlett could not be reached.

IHD was established five years ago and is owned by several multinational pharmaceutical manufacturers It distributes the products of several major drug companies including Roche, Eli Lilly, Bristol Myers Squibb, Bayer and Novartis.

SAI, which was established recently, has five key shareholders — Glaxo Wellcome, Smith Kline Beecham, SA Druggists' (SAD's) Pharmacare, Pfizer and Warner Lambert.

It has bought a significant foothold in the local market with the acquisition of SAD Distributors late last year It is believed that the company will have a similar market share to that enjoyed by IHD when it is fully operational.

IHD is believed to have about 32% of the market. When the company was formed in November 1993, the Competition Board granted it exemption from prohibition on collusion of conditions of supply, with one proviso being that it did not exceed a 10% market share. A later amendment to the shareholders' agreement rendered the exemption superfluous and it was therefore withdrawn

Since then, IHD and its multinational pharmaceutical participants have drawn numerous complaints from various retail and professional associations, including the Interim Pharmacy Council. A formal complaint from United Pharmaceutical Distributors (UPD) was presented to the Competition Board last year

Legal action was also taken against IHD last year when pharmaceutical wholesalers took a complaint of alleged collusion to the Supreme Court However, the wholesalers dropped their case against IHD in August.

UPD claims that IHD's shareholders refuse to supply their products to other distributors or supply "on severely discriminatory terms In this manner it eliminated all competition for distribution of the products of (the participating drug companies)," it said in its submission.

UPD has also told the Competition Board that IHD was able to increase prices and offer substandard service without pharmacists being offered any alternative option to obtain their products.

"SAI and IHD will control the distribution of 70,1% of all pharmaceutical products (to the private sector)," UPD said in its submission.

"(They) will create 52 monopoly situations out of 83 in the distribution of the products in relevant (therapeutic) product markets " The 83 product categories represent 73% of the total value of all pharmaceutical products.

The Competition Board is also investigating the competitive implications of Adcock Ingram's plan to acquire SAD's Pharmacare division An announcement is expected by the end of the month.

Competition chiefs tipped to fume over merger

(2272)

MARC HASENFUSS

CAPE EDITOR

CT(MR) 13/1/99

Cape Town — The R125 billion merger between British American Tobacco (BAT) and Rothmans International could face competition challenges in various countries around the world, it emerged yesterday

The merger, if approved, will give the new enlarged company a 16 percent share of the world's cigarette market, just behind market leader, Philip Morris, which holds about 17 percent.

Rothmans International, owned by Richemont and Rembrandt, and British American Tobacco, will effectively corner 90 percent of the South African cigarette market, a development that will certainly draw attention from the Competition Board.

And, according to Dow Jones, the European Commission may insist on cigarette brand disposals in the Netherlands before approving the merger. Rothmans and BAT account for about half of sales in the Netherlands

An official at the commission dealing with such issues said "alarm bells go off when a concentration reaches a market share of around 40 percent".

Thys Visser, the managing director of Rembrandt, said yesterday informal discussions had already been held with the Competition Board in SA, and further dialogue would take place.

"We can't contemplate which way any decisions will go at this stage It's also too early to speculate on whether there will be any rationalisation of brands"

Visser stressed the matter was highly complex in a number of countries where BAT and Rothmans operated. "There's lots of work ahead in this merger."

Richemont edged down R2 to R100,40 on the JSE yesterday, while Rembrandt added 20c to R43 Batsa, the JSE-listed subsidiary of BAT, surged R4 to R52,50.

□ Business Watch, Page 2

Competition Board rules on Adcock today

(232)

Adele Shevel

Johannesburg — The Competition Board today decides whether to accept or reject the proposed acquisition of South African Druggists' pharmaceutical interests by rival firm Adcock Ingram

This is part of a larger deal in which Fedsure, the financial services company, has proposed to acquire the entire issued share capital it does not already own of SA Druggists, for R34,10 a share in a R2,6 billion transaction

Fedsure is after the healthcare concerns and plans then to sell SA Druggists' pharmaceutical interests to Adcock

The Fedsure deal hinges on whether the Competition Board approves the transaction

The board's decision will be presented to Alec Erwin, the trade and industry minister, and made public early next month

A report by Merrill Lynch said it expected the deal to be approved on condition the large-volume parenteral business in Intramed be excluded from the transaction "Otherwise Adcock could have close to 90 percent of the market."

The report said the growth potential of Adcock Ingram would be greater if it merged with the pharmaceutical interests of SA Druggists

Graeme Wald, an analyst at Merrill Lynch, said Adcock was likely to benefit from greater growth prospects if the deal went through But Merrill Lynch nonetheless downgraded its recommendation of the company because the share had already increased from R18 to R21 at the time it was released.

"The company would carry a higher risk rating if the deal went through Adcock would have to bed down the merger with SA Druggists, and one could expect staff cutbacks," Wald said.

Adcock would pay R1,25 billion in cash and the balance in issued shares to R2,01 billion.

"In this manner Adcock would dispose of its cash, although our forecasts indicate that the company would not have to assume a significant amount of debt to fund the transaction

"Our analysis shows that if the deal is approved, the effect on earnings per share growth in 1999 will be slightly positive, and will accelerate significantly in 2000 and 2001"

SA Druggists has said Fedsure's offer was not fair and reasonable and proposed that shareholders reject it

Last month Argyll Scientific, a US pharmaceutical group, said it would bid for SA Druggists if the board rejected Fedsure's bid

Adcock closed at R19,00 on the JSE yesterday

CT (BR) 21/1/99

(232) BD. 28/11/99

Fresh produce market to be privatised

Louise Cook

PRETORIA —The Johannesburg fresh produce market is to be privatised, ending nearly a decade of uncertainty about its future ownership.

Land and Agriculture Minister Derek Hanekom said yesterday he would approach the Greater Johannesburg Metropolitan Council to "express concern over the way that the financial difficulties of the council are having a severely negative impact on the Johannesburg market".

The move follows nearly a decade of uncertainty around future ownership of large fresh produce markets which use facilities of metropolitan councils which receive a percentage of the markets' annual turnover

The fresh produce forum, representing big and small farmers, market agents and traders, said yesterday it had lobbied Hanekom last year to prevent the Johannesburg market from being sold to the highest bidder. The forum said stakeholders had to oversee the privatisation process.

The minister's decision to have the Johannesburg market — the biggest in the country with an annual turnover of R1bn a year — privatised, was confirmed by the agriculture department yesterday. This followed a probe by the national agricultural marketing council into the finances of the market last year as allegations of gross financial mismanagement by the Johannesburg metropolitan council persisted.

A source said the accumulated cost as a result of the mismanagement totalled at least R87m. The council was meant to have used its cut of the market's income to maintain and expand the market, but these benefits apparently were not passed on to the market.

Other ministerial decisions on the future of the market included the council granting the market financial independence Privatisation of the market should happen in a "neutral and objective way that is not unduly beholden to any set of vested interests".

The National Agricultural Marketing Council recommended that there was no "compelling reason why the metropolitan council should continue to own the Johannesburg market, but if it does, ownership and management should be split"

"The market authorities should invest time and money in upgrading the operations of the market In particular, money should be spent on improving the fabric of the market, especially security, wholesale facilities and the computer system."

Hanekom also said the payment by farmers of statutory levies on produce delivered to markets was no longer legal except on wheat, barley, oats, sorghum and cotton.

In some cases, farmers had been ripped off by having levy fees deducted.

Reacting to the privatisation of the market, Fresh Produce Forum chairman Bertie van Zyl said the Johannesburg market should not simply be sold to a large trading house

The forum told Hanekom last year that any privatisation should be done with the full participation of the stakeholders like the SA Agricultural Union's horticultural society, National African Farmers' Union, informal and formal traders and market agents.

Star 29/11/99 (232)

Hanekom gives go-ahead for privatisation of fresh produce market

By Rodney Victor

The Minister of Agriculture and Land Affairs, Derek Hanekom, has accepted a recommendation that the Johannesburg Fresh Produce Market should be privatised or commercialised.

Hanekom's office yesterday said he had approved a report by the National Agricultural Marketing Council (NAMC), which investigated operations at the market after reports in *The Star* three years ago revealed widespread corruption and losses running into millions of rands.

Some of the NAMC recommendations are:

■ That the minister ask the Greater Johannesburg Metropolitan Council to give management at the market financial independence and authority as soon as possible.

■ That consideration be given to commercialising or privatising the market.

■ That market authorities should upgrade its operations.

■ That market authorities allow wholesalers to receive produce directly from producers.

■ That the Agricultural Produce Agents Council improve the transparency of market operations by clarifying procedures regarding interest in trust accounts, levels of commissions, the provision of credit and record-keeping, and that the composition of the council itself should be clarified.

StarLine investigator June Bearzi, who first blew the whistle on corruption at the market, and who was attacked and beaten up by market agents and their henchmen for exposing the situation, was delighted to hear of the recommendations.

Bearzi said: "Some of these agents had a whole system of skimming off profits from the council and the farmers.

"They were cheating the council out of millions, and they were buying Ferraris and racehorses with the profits," she said.

Some agents also defrauded the council by selling produce without registering the sales on the council's computers, thus avoiding payment of 5% commission to the council.

They also defrauded farmers by telling them that entire batches of produce had gone bad and had been destroyed, and by under-reporting the prices they obtained for produce sold.

"If the market is privatised, there will be more control over operations," Bearzi said.

"The council was absolutely lax and they lost millions because of that," she added.

Kenny Fihla, chairperson of the metro council's transformation lekgotla, said the NAMC's recommendations were in line with the council's own thinking.

Union lets fly at Hanekom over his privatisation plan

BD 3/2/99 (232)

Louise Cook

PRETORIA — Land and Agriculture Minister Derek Hanekom's plan to privatise the Johannesburg fresh produce market has met a hurdle with the SA Municipal Workers' Union (Samwu) The union rejected the plan and accused the minister of meddling in local government affairs

Samwu deputy general secretary Mncedisi Nontsele said yesterday Hanekom was acting outside his jurisdiction and ignoring a key agreement between trade union federation Cosatu and central government on the issue of privatising municipal services.

In terms of the municipal services partnership framework agreement between Cosatu and the constitutional development department thrashed out two months ago, city councils have the first option to provide services to cities and towns Should they lack the money to do this, the private sector could be co-opted to "improve" the service, Nontsele said

"No way can central government simply go ahead and privatise a service without the matter first being debated in the SA local government bargaining council, a forum on which unions and municipalities are represented We find it odd that Hanekom is not aware of this agreement "

The agriculture department said last week Hanekom had accepted recommendations by the national agricultural marketing council to the effect that the Johannesburg fresh produce market be privatised The move follows years of allegations of gross financial mismanagement of the market's affairs

The greater Johannesburg metropolitan council receives a cut of the turnover of the R1bn-a-year market, but reportedly used the money to cross-subsidise other expenses instead of using it to maintain and expand the market.

The national agricultural marketing council recommended privatisation after a special probe last year This should "happen in a neutral and objective way that is not unduly beholden to any set of vested interests", it said in a report to Hanekom The national agricultural marketing council also said in the report that there was "no compelling reason why the metropolitan council should continue to own the Johannesburg market, but if it does, ownership and management should be split"

Other recommendations accepted by Hanekom include a proposal that the market authorities invest time and money in upgrading operations and that money be spent on improving the fabric of the market, especially security, wholesale facilities and the computer system

But Samwu Johannesburg branch treasurer Mpho Mokone said the union would fight any attempt to "unilaterally" privatise the market "It is not possible for the council to deviate from the national agreement and privatise," he said

The union's Johannesburg branch has more than 20 000 members

Hanekom declined to respond However, a spokesman for the national agricultural marketing council said a consultant was likely to be appointed to ensure the privatisation process was taken care of properly

Competition Board blocks Adcock deal

(232)

BD 4/2/99

Recommendation also thwarts Fedsure's plan to buy SA Druggists and sell Pharmacare division

Amanda Vermeulen

THE Competition Board has taken another controversial decision by recommending to Trade and Industry Minister Alec Erwin that the proposed acquisition of SA Druggists' Pharmacare division by Adcock Ingram be prohibited

The move drew a stunned reaction from Adcock Ingram and its black empowerment partner, Sekunjalo Investments. The parties have until February 26 to appeal to Erwin to overturn the ruling

The rejection of the R2bn transaction also means Fedsure — which planned to buy 100% of SAD and sell Pharmacare to Adcock — will abandon its intention to make an offer to SAD minorities

The board's rationale for rejecting the deal was that the merger "would significantly restrict competition in key therapeutic drug categories" In the government and private sectors of the pharmaceutical market, the deal would have given Adcock an unacceptable share in terms of competition parameters.

The report also said the merger would lead to job losses "It has not been satisfactorily established that the merger will lead to the massive efficiency gains (claimed) We do not believe that the short-term losses in employment will be compensated for by the long-term gains accruing from an enhancement in competitiveness . . The merger (therefore) appears contrary to public interest."

On the issue of promoting black empowerment by approving a deal, the board said this issue was not considered sufficiently powerful to outweigh the anti-competitive effects of the merger

Sekunjalo CEO Iqbal Surve said the board's recommendation dealt a major blow to black empowerment "and we do not know when such an opportunity will present itself again"

Adcock CE Phil Nortier said the decision had not "dampened" the company's spirits. "If anything, it has made us more determined to expand our business in several untapped local markets and meet our objective of increasing earnings from offshore sources " It is not yet clear whether Adcock will appeal to Erwin.

SAD is likely to open discussions with a number of parties that expressed interest in the group after Fedsure made its intentions known in September last year One of the parties, Texas-based drug development company Argyll Scientific, said in December it would make a bid for SAD should the Competition Board go against the Adcock proposal.

No details are likely to emerge about the future of SAD until the deadline to petition Erwin has passed or Fedsure withdraws its offer However, questions are being asked about the future of Fedsure's 34% interest in the group, and how it will now fulfil its health-care ambitions

Merrill Lynch analyst Graeme Wald did not believe that the arguments used by the Competition Board were sufficient grounds to block the deal. He said the issue of job losses was not a competition issue, and failed to see why consumers should fund inefficient operations purely to retain jobs

He said Adcock was "between a rock and a hard place" as it was sitting on almost R1bn, which would force it to invest offshore despite the prevailing difficulties of the rand "Fedsure will have to find a way to get its hands on SAD's health management business The vetoing of this deal is a setback to its plans, as the transaction would have catapulted Fedsure Health into the number one position in the health management industry "

The board also made reference to the intense lobbying that surrounded this transaction, saying consideration might be given to prohibiting this kind of activity in future investigations.

The board last year also blocked Sasol's plans to buy AECI

Competition Board looks into SABC, pharmacies

(232) (86) BD 5/2/99

Janet Parker and Amanda Vermeulen

THE Competition Board has launched two new investigations, one targeting the SA Broadcasting Corporation (SABC) and the other some of the largest pharmaceutical manufacturers operating in SA

According to a complaint lodged with the Competition Board by the Association of Facility Owners, the SABC is insisting that television productions made for the SABC's three channels be produced using the SABC's Henley facilities

The board said the practice was likely to limit the ability of independent facility houses to compete for the business of independent producers and would constitute restrictive practices

SABC spokesman Enoch Sithole confirmed yesterday that part of the corporation's programme commissioning process was to stipulate that as much as possible " any production should be done using SABC facilities"

The SABC's Henley and airtime studios had become quieter and less profitable since 1997, when the SABC began to outsource much of its production

However, Mfundi Vundla, chairman of the Independent Producers Organisation of SA, said it was not the fault of the independent industry that the SABC was burdened with redundant facilities Independent producers and facility owners were losing business because of the SABC's strong-arm tactics, he said

Vundla said the independents were committed to cultivating the industry, had a good work ethic, and could offer better deals and service than the SABC

Meanwhile, the announcement of the board's investigation into drug manufacturers confirmed earlier reports of a pending investigation following complaints stemming from the establishment of two distribution companies

The board said the agreements between the manufacturers and the two distribution companies — International Health Care Distributors (IHD) and Synergistic Alliance Investments (SAI) — appeared to constitute restrictive practices as defined in the Maintenance and Promotion of Competition Act

The board decided to investigate as restrictive practices in the pharmaceutical industry could affect the prices of prescription medicines

This dispute is centred on claims that SAI and IHD are single channel distributors that bypass wholesalers

Comment: Page 7

NEWS

COMPETITION *Possible restrictive practices in broadcasting and pharmaceuticals to be heard*

Production houses bring case against SABC

(232) (~~260~~) CT (BR) 9/2/99

ROY COKAYNE

Pretoria — The Competition Board has announced it is investigating possible restrictive practices by the SABC over its insistence that local production houses producing material for its programmes use SABC facilities

Announcements in the Government Gazette show the board is also investigating possible restrictive practices in the pharmaceutical industry

Pharmaceutical manufacturers contracted with International Health Care Distributors (IHD) have refused to deal directly on a non-discriminatory basis with pharmaceutical wholesale distributors or other customers in the private sector of the market

According to one notice, the SABC investigation followed a complaint to the board by the Association of Facility Owners

It said the gist of the complaint was that the SABC, the dominant broadcaster in the country and operated in terms of a licence issued by the Independent Broadcasting Authority (IBA), insisted its studios at Henley be used by production houses producing programme material for use by the broadcaster

"It is alleged that as a result of this policy, independent facility houses are unable to compete on a level, non-discriminatory basis, for the business," the notice said

"Since such facility houses are unable to broadcast material, because of the restrictive nature of the licensing, the practice is alleged to limit the growth of the industry outside the SABC while threatening the survival of many smaller players," it said.

In regard to IHD, a second notice said Competition Board investigation would also determine whether the proposed contractual arrangements between pharmaceutical manufacturers and Synergistic Alliance Investments (SAI) constituted a restrictive practice

In terms of these contractual arrangements, pharmaceutical manufacturers would not deal directly on a non-discriminatory basis with pharmaceutical wholesale distributors or any other customers in the private sector on the market once SAI was established

According to the notice, a number of pharmaceutical manufacturers had contracted with IHD whereby IHD would perform a distribution function on an exclusive basis

It said other pharmaceutical manufacturers had indicated they would also be contracting with SAI to perform a similar function on their behalf.

"The complainant, a large pharmaceutical wholesaler, has presented evidence to the board suggesting the practice restricts competition at wholesale distribution level," the notice said

Samwu shocked by Dolphin Coast deal

Union prepares legal case over privatised water

ET (MR) 10/2/99 (232)

Frank Nxumalo

LABOUR EDITOR

Johannesburg — The South African Municipal Workers' Union (Samwu) said this week it had instructed its lawyers to prepare legal action against the department of constitutional development and provincial affairs for approving a 30-year public-private partnership water deal between the Dolphin Coast municipality and Saur International, a French consortium.

The deal is worth about R200 million Samwu is opposed to the privatisation of state assets and the award of the lucrative deal to the international consortium that it says has a dubious reputation

The union says it has evidence that Saur's top management and a subsidiary, Bouygues, are under formal investigation in France for allegations relating to water scandals

Cosatu said it was "shocked and disappointed" at the deal

The labour federation said the deal had not been finalised or tested in terms of the agreed Municipal Services Partnership agreement

However, Andrew Ferguson, the acting town clerk of Dolphin Coast, said the indication from the department was that there was no reason why the deal, which had negotiated over a long time, should not go ahead.

Ferguson said the dispute seemed to be between Cosatu and the government over whether the sectoral forum should have powers to vet and veto public-private partnership deals

"Cosatu views the government's endorsement of the contract while negotiations were still under way as an act of bad faith," the labour federation said "It is particularly worrying that executives of Saur International and its subsidiary, Bouygues, are being investigated in France for alleged corruption in water dealings"

This was denied by the department "We are not aware of any corruption investigation That is Samwu's stock accusation against any company," said Chippy Olver, the deputy director-general of the department of provincial affairs

The deal follows hard on the heels of the signing of a sectoral forum agreement on the issue between Samwu and the South African Local Government Association

The forum agreed last week that the privatisation of water on the Dolphin Coast and at Nelspruit would be discussed at a special meeting in three weeks' time

Municipal workers accuse international consortium of involvement in scandals

"The union was shocked to learn that, three days after the sectoral forum agreed on that principle, the minister gave the go-ahead for the signing of the 30-year privatisation contract in Dolphin Coast municipality," said Mncedisi Nontsele, Samwu's deputy general secretary

"Senior department of constitutional development officials agreed at the sectoral forum meeting that the agreement would not be concluded until the parties had met again at the special meeting"

However, Olver said Samwu was misreading the sectoral forum agreement and and that, at any rate, local authorities were constitutionally independent tiers of government that were employer bodies in their right with the ability to enter into contracts

Privatisation of water shocks unions

(232)

By Mzwakhe Hlangani
Labour Reporter

Sowetan 11/2/99

THE controversial privatisation of water delivery on the Dolphin Coast in KwaZulu-Natal stirred up a bitter feud this week between the departments of Constitutional Development and Provincial Affairs and Congress of South African Trade Unions affiliates

Cosatu spokesman Mr Mukoni Ratshitanga said the federation was shocked by the green light given to the privatisation deal won by French multinational company SAUR This was done before further discussions had been finalised at a sectoral forum agreed upon in terms of the Municipal Services Partnership agreement.

He said Cosatu was considering other ways of trying to get the deal cancelled and that the matter had been discussed by the alliance

The South African Municipality Workers Union had discussed a programme of action to be taken to quash the deal, he said

Department of Constitutional Development deputy director-general Dr Chrispian Olver said in a statement yesterday that the Dolphin Coast municipality had to proceed with the signing of the contract since Cosatu had failed to respond in time to a letter from Minister Valli Moosa requesting the federation to examine if the contract complied with the framework agreement

"On the basis of legal consultations, the department remains convinced that the Dolphin Coast contract complies with the framework agreement It has also to be pointed out that during the negotiation process it was agreed that contracts would be reviewed by the parties concerned and at no stage was reference made to specific contracts being referred to the sectoral forum," Olver said

Ratshitanga maintained that the sectoral forum, set up to discuss privatisation contracts on a case by case basis, agreed that the contract would need to be discussed at a specially convened meeting of the forum

JO'BURG PRODUCE MARKET

THE CUPBOARD WAS BARE

(832)

Surplus grab hurts privatisation

FM 12/2/99

Johannesburg Metropolitan Council's bid to privatise its fresh produce market, SA's largest, faces two big hurdles — one financial, the other ideological

The ideological objection comes from the SA Municipal Workers' Union, which says the privatisation would breach the unions' framework agreement with government on municipal service partnerships But that's a negotiable issue

The more stubborn obstacle is that the market, though routinely profitable, is broke — not through any fault of its managers An "unappropriated surplus" of about R120m that the market had accumulated by mid-1998 has been entirely appropriated by the cash-strapped metro council, say municipal officials

This emerges at a time when the market urgently needs to spend about R80m on upgrading infrastructure and facilities — without which it would not be an attractive investment option

Since the early Eighties, the market has earned more than it has spent In the year ending June 1998, it earned R20m in profit and R13m in interest, raising its R87,8m surplus to over R120m That has disappeared into council coffers

Metro CE Ketso Gordhan says "a few billion rand" that existed in various other metropolitan surplus funds are also now "non-existent" With the council owed about R2,3bn in service payment arrears, and with its operating and capital budgets having been slashed to the bone, chances of recovering the "missing" surpluses seem slim

Arnold van Huyssteen

Global union urges rethink on Dolphin Coast services move

(232) (~~56~~)

Deborah Fine

PUBLIC Services International (PSI), a trade union federation representing 20-million public service workers across the world, has called on central government to reconsider allowing the entry of the private sector into municipal services delivery

PSI general secretary Hans Engelberts said yesterday his organisation had asked its affiliates worldwide to send letters of protest to various government ministers and officials over the Dolphin Coast water concession in KwaZulu-Natal

BD 16/2/99

He said affiliates should voice their "deep concerns" to Constitutional Development Minister Valli Moosa as well as constitutional development ministry senior officials Zam Titus, Chippy Olver and Gugu Moloi.

Also in the firing line were Water Affairs Minister Kader Asmal along with the department's director-general Mike Muller, SA Local Government Association chairman Colin Matjila and the Dolphin Coast municipality's CE, Andrew Ferguson

The Dolphin Coast concession enables a consortium led by international firm SAUR to take over the provision of water and sanitation services in the greater Ballito area for 30 years.

The contentious deal was given the go-ahead in January by Moosa, amid protests from the Congress of SA Trade Unions and the SA Municipal Workers' Union (Samwu) that the concession was in violation of a national framework agreement signed by national and local government and labour last year

Samwu, a PSI affiliate, accused government and the Dolphin Coast municipality of authorising the concession without first allowing it to be discussed at a sectoral forum created under the framework agreement

Government replied that labour had misinterpreted the framework agreement, and that it was not the forum's task to approve municipal partnerships.

Engelberts called on Moosa to uphold the national framework agreement, which identifies the public sector as the preferred deliverer of municipal services

He was supported in his calls by the Chicago-based Services Employees International Union in the US, the Bexley Trades Council in the UK and the CGT Public Services Union based in Montreuil, France

Eskom splits to gear up for privatisation

(232) (227) (280)

New subsidiary will be formed to head utility's expansion drive in Africa

BD 17/2/99

Linda Ensor

CAPE TOWN — Eskom is to be split in two to lay the foundations for privatisation

A new subsidiary, Eskom Enterprises, will take over the state-owned power utility's unregulated businesses, which compete inside and outside SA.

The regulated power generation, transmission and distribution businesses will remain with the parastatal.

Public Enterprises Minister Stella Sigcau said yesterday that splitting Eskom would sharpen the market focus of both companies and enable Eskom to broaden its activities throughout Africa.

Sigcau said Eskom Enterprises, with about 8 000 employees, would be headed by Eskom's former technology executive director, Jan de Beer Eskom Enterprises would take over Eskom's huge maintenance operation, Rotek, which is active elsewhere in Africa. It would also incorporate its technology, research, marketing, information technology and security services and supply them to Eskom on an arms-length basis

Sigcau said Eskom Enterprises would be responsible for managing and developing all Eskom subsidiaries It would also be responsible for developing markets in the rest of Africa where Eskom could sell its expertise as a power utility

"The primary objective of Eskom Enterprises will be to maximise the value from the existing nonregulated subsidiaries and develop viable new business, initially related to the power industry, in Africa and ultimately around the world," Sigcau said

The separation would free noncore businesses from the constraints of regulation and create the flexibility to downscale, commercialise or privatise them.

Eskom said the ring-fencing of the different operations would end cross-subsidisation and allow their profitability to be determined In the past all the utilities' accounts were consolidated

She said streamlining the regulated business, which would keep finance and human resources in-house, would ensure that it focused on providing "an affordable, available and reliable power supply for domestic customers, and a low-cost, high-quality power supply for industrial and commercial customers"

The changes were similar to those being made by all major utilities in the world and represented "the first step in preparing Eskom to compete effectively in international markets while defending against competitors in the SA market"

Meanwhile, Eskom Electricity Council chairman Reuel Khoza confirmed that the candidates to succeed Eskom CEO Allen Morgan had been selected and appointed deputy CEOs They were Bongani Khumalo, who would head restructuring and transformation, and Thulani Gcabashe, responsible for Eskom Enterprises

Dolly Mokgatle, formerly Eskom executive director of corporate affairs, is to be executive director of transmission, and Solly Moloko, formerly senior GM (transmission) becomes executive director of human resources Nsizwa Molepo and Judith Mhlauli are to head the services and marketing groups respectively, and Steve Lennon, as acting head of technology, will oversee transfer of resources to Eskom Enterprises He will also have the responsibility of restructuring technology functions that remain with the regulated business Other senior executives of Eskom Enterprises will be Sam Mosikili (formerly executive director of marketing and communications), Vusi Ngubeni (formerly executive director of services) and Uganda-based MD of Eskom Enterprises (Africa), Duncan Mbonyana

Among the six nonexecutive directors will be Joe Hlongwane, Dawid Mostert and Douglas Ramaphosa

Plans for Aventura, Safcol: Page 3

Unions to fight Eskom privatisation

Reneé Grawitzky

ORGANISED labour warned yesterday that it would challenge any moves by government to privatise state-owned power utility Eskom

This follows an announcement by Public Enterprises Minister Stella Sigcau yesterday that Eskom would be split into two separate operations as part of its restructuring

The split is intended to lay the foundation for the utility's eventual privatisation.

Unions appeared divided yesterday on whether they had been consulted by government over this

The National Union of Metalworkers of SA (Numsa) claimed Sigcau reneged on a previous commitment to refer the final plan to Eskom's restructuring and transformation committee

However, the National Union of Mineworkers (NUM) has contradicted Numsa

NUM general secretary Gwede Mantashe said the plan for Eskom's restructuring was almost in line with labour's position

The NUM agreed with government's view that Eskom should become a leaner structure concentrating on international markets

The union was, however, concerned about whether the plan would lead to the wholesale privatisation of the utility.

Mantashe warned that this would not be acceptable and that labour would fight retrenchments.

"Our understanding is that restructuring should not result in retrenchments but .. that an expansion into Africa should lead to job creation opportunities"

He said job cuts would fly in the face of the commitments given by business and government at last year's presidential job summit

Numsa said labour had not been given the opportunity to comment on the restructuring plan before it was discussed in Parliament.

BD 18/2/99 (232)

No push forward on privatisation initiative

BD 18/2/99 (232)

Linda Ensor and Robyn Chalmers

ANALYSTS and foreign investors looking for a budget announcement outlining a big push forward on government's privatisation initiative were disappointed yesterday

Some also believed that government's estimate that it would receive R4bn as a result of the sale of state assets was too conservative

"It depends on what is finalised this year, but the sale of Aventura, Alexkor, Safcol (the SA Forestry Company), SA Airways, part of Denel and Transnet, as well as Sasria (SA Special Risks Insurance Association) should all add up," one analyst said

Others doubted that the sale of these assets, some of which were highly complex transactions, would be completed this year

Finance Minister Trevor Manuel said government had not been too adventurous in estimating the proceeds of privatisation as it was hard to predict these exactly

He said government did not want to overshoot its estimates

Further down the track is Sasria, which should be a strong contributor to the R4bn figure, Safcol, and a number of others, while Aventura still has to be paid for

Complex processes are taking place, such as Transnet's huge pension-fund deficit, which has to be sorted out first

Finance department director-general Maria Ramos said an actuarial evaluation of Sasria's assets was in progress to determine what was required to cover the organisation's liabilities and commitments Sasria's portfolio is made up of equities and government bonds — the latter estimated to be valued at as much as R3bn

"Equities will be more difficult to deal with as we cannot just dump them on the market That is why we have been quite cautious in providing for the proceeds of privatisation, as not all that could be realised from Sasria will be realised this year," Ramos said

Progress has been made in restructuring state assets in 1998/99, with the partial sale of the Airports Company yielding R991m In all, R7,2bn was realised from sales of Sun Air, SA Broadcasting Corporation radio stations and part of Telkom, of which R2,7bn went to reduce state debt

Government is reviewing its options on an arms industry revamp, such as a merger and sale of Denel Informatics and Transnet's Datavia

Uproar over municipal privatisation (772)

Dustin Chick

THE SA Municipal Workers' Union national executive committee would reaffirm a decision it made last year to proceed with the implementation of the Municipal Services Partnership, deputy general-secretary Mncedisi Nontsele said BD 8/2/99

Nontsele said at the weekend the national executive had also resolved to seek urgent legal advice about last week's signing of the Dolphin Coast municipal privatisation contract with French transnational water company Saur International

"A sectoral forum meeting ten days ago agreed that the privatisation of water in the Dolphin Coast and Nelspruit would be discussed at a special meeting in three weeks time," he said The union was therefore "shocked to learn that the minister had given the go ahead for the privatisation of the Dolphin Coast municipality".

The matter was also expected to be tabled at the Congress of SA Trade Unions executive committee meeting this week.

MUNICIPAL OUTSOURCING (232)

UNION TAKES LEGAL ADVICE

State says Dolphin deal kosher

FM 19/2/99

Though the ink is barely dry on a groundbreaking privatisation agreement — involving the award of a 30-year water and waste water management concession to an international consortium (*Current Affairs* February 5) — government and trade unions are already at loggerheads over the estimated R1bn deal

The SA Municipal Workers' Union (Samwu) claims Provincial Affairs Minister Valli Moosa jumped the gun by allowing the concession to be signed between the Dolphin Coast Municipality (north of Umhlanga) and French multinational Saur International, before final agreement was reached with Cosatu and Samwu They claim this happened despite an undertaking that the deal would be held back

Government is adamant that the contract complies with a Municipal Services Partnership (MSP) framework agreement, signed with Cosatu in December

Samwu, though committed to making the MSP work, claims, however, the matter was still under discussion at a sectoral forum — a mechanism established to deal with cases falling outside the MSP ambit

This is denied by local government deputy director general Chippie Olver, who spearheaded the development of a formula for risk partnerships between local authorities and the private sector

Olver says no such undertaking was given, and he has the relevant tape recording to prove it "The reality is that the Dolphin Coast deal should have been signed at the beginning of December, but we persuaded Saur to delay until the end of January A further delay was out of the question Saur was on the verge of walking away from the contract"

Though government and Samwu met at a sectoral forum on Friday, union deputy general secretary Mncedisi Nontsele says the issue was not on the agenda because Samwu is seeking legal advice on the Saur agreement, and has referred it to Nedlac for resolution Samwu also hopes to pursue a "political" solution

Rejecting charges that the union is stonewalling, Nontsele says "We recognise that where service delivery cannot be met through the public sector, there may be a role for private enterprise It is outrageous to suggest we are deliberately stalling the process"

Herb Payne

Privatisation axe splits a forest community

NICKI PADAYACHEE (232)

FORESTRY

TUCKED away in the Kogelberg mountains in the Cape, a small community is being forced to give up the only home many villagers have known for almost 50 years — to make way for pine trees

The village of Hoogland has fallen victim to government plans to privatise the South African Forestry Company Limited (Safcol) and sell off state-owned forests

Kader Asmal, Water Affairs and Forestry Minister, wants to raise R1-billion from the privatisation, but his plans ignore the needs of the Hooglanders

"Our community is being torn apart," said Magrietha de Bruin.

"We marry here, live here and have our children here. This is our place."

Most of the villagers work for local farmers or are retired and retrenched employees of Safcol, which owns the land on which Hoogland stands

The 160 residents have launched a seemingly hopeless battle for survival. They want the village, set in the Highlands, to be declared a municipal area which they would administer themselves

There were 32 houses, but Safcol has moved its workers to the nearby town of Grabouw, and it began demolishing homes in December

Safcol claims the village is a fire and environmental hazard which costs too much to maintain. But residents claim there has never been a fire in the surrounding forests

"Of course it is a fire hazard," said Renier Gehrman, Safcol spokesman "What if they protest and burn barricades in the road? The sewerage system and their refuse are an environmental hazard, too"

He said Safcol was in the business of planting trees, not running villages

He said the remaining two- and three-bedroomed prefabricated wooden houses would be sold and moved to nearby municipal areas, where, he said, it made sense to have a house.

All the houses were put out to tender, and Safcol employees were given first option to buy Next option went to the occupants, followed by nearby farmers who might want to house employees

But villagers said they could not afford the R5 000 Safcol wanted for their homes, as well as additional costs for new land and moving each house.

"We are poor people," said De Bruin, 35, who has lived in Hoogland for 13 years. "We cannot afford to move. We want to stay here where it's peaceful. Highlands has been a safe place all these years"

Their children grow up with a sense of freedom. They can walk to school and, although they are poor, the community feels they have something many South Africans do not: they live in an area free of violent crime.

The destruction of the village also sounds the death knell for the local school, which has been serving the children of the village and the surrounding farms for 30 years

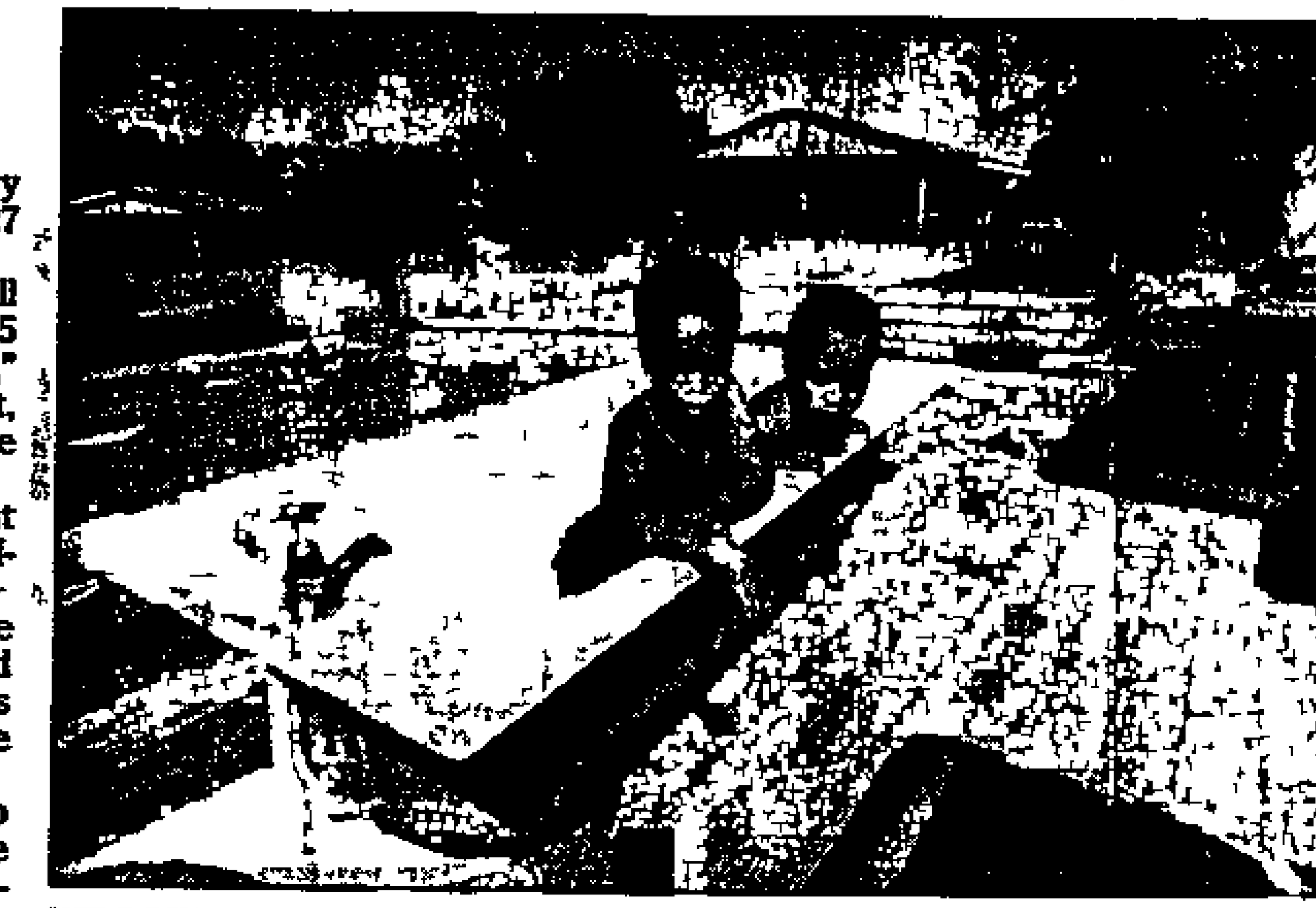
The small Hoogland Primary School will be shut down if the 27 village children go

"The Department of Education will keep a school open only if it has 25 pupils, and there will only be 24 left," said headmistress Maggie du Toit, who, with fellow teacher Eugene Brown, teaches all seven grades.

Kelly Theunis, of the Department of Land Affairs, is arbitrating with Safcol over the fate of Hoogland.

She probably summed up the futility of their fight when she said that lack of local job opportunities meant the community would be better off moving

"The village will not be able to grow It will cost too much to provide services, and the district office cannot afford to maintain the access road," she said.



WE GOT THE BLUES: Two of the children in Hoogland who will lose their home when the government sells off Safcol Picture: AMBROSE PETERS

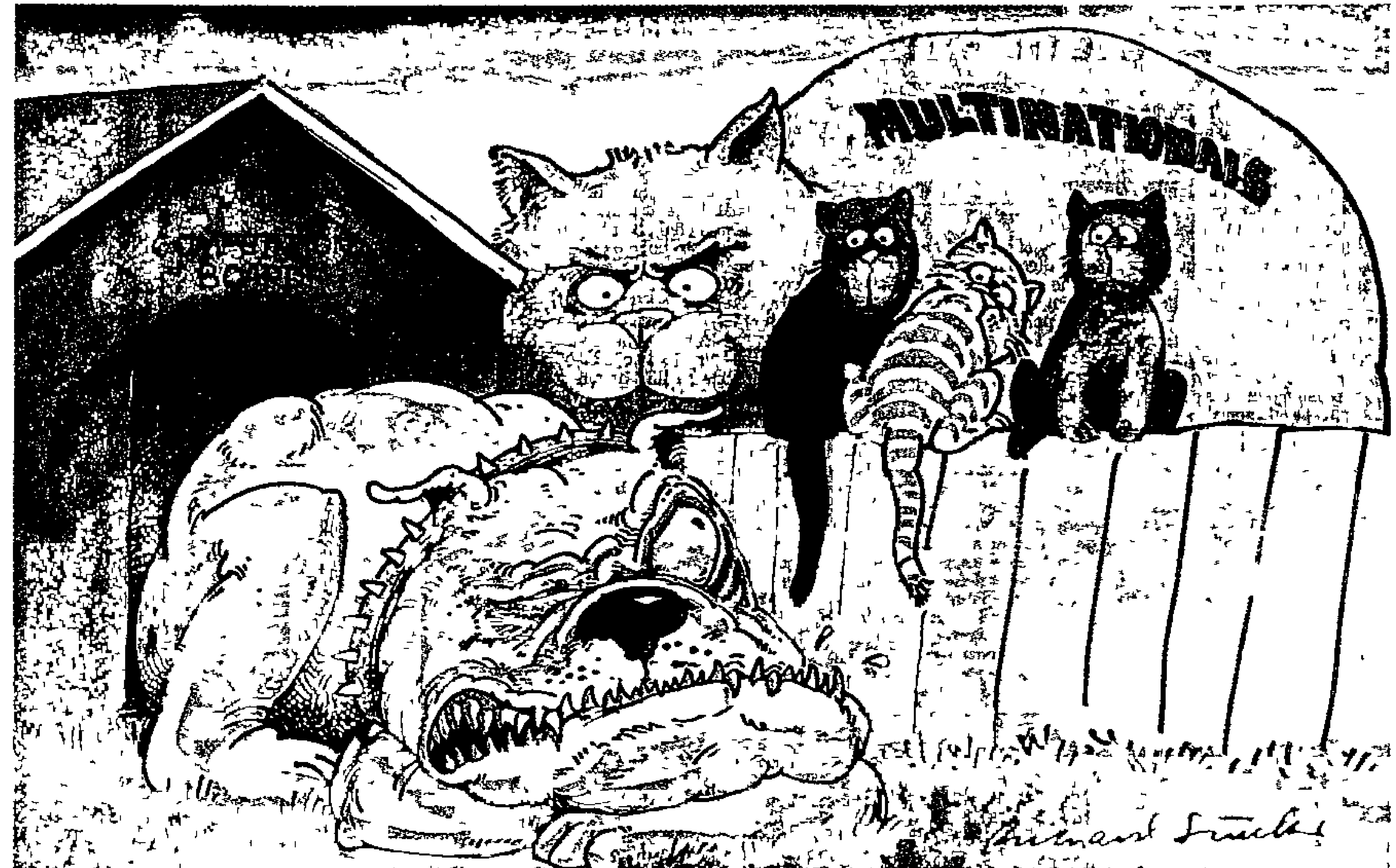
Tribunal will have real teeth on matters of rivalry

MARCIA KLEIN

Looks at recent Competition Board spats and its new shape

(232)

ST (BT) 21/2/99



AFTER bearing years of criticism that it had no teeth the Competition Board's recent rejection of a number of high-profile deals has yielded a new rush of claims that its teeth are now too sharp and even some mischievous suggestions that the board may be taking sides

The Competition Board has in the past few months, scuppered the merger plans of Sasol and AECI and those of Adcock Ingram and SA Druggists' Pharmacare division The latter in particular involved an unprecedented level of lobbying, so it is perhaps not surprising that the board has come under pressure for its decision

The board s task is thankless In each case it investigates, it has to judge whether a deal is anti-competitive or whether restrictive practice can be detected There is no simple formula.

Its overstretched staff must work within the framework of current unsatisfactory, competition law and it has the capacity to act only as adviser to the Minister of Trade and Industry, without any real powers of its own The new Competition Act, to be implemented later this year, will see the board replaced by an investigative commission, a tribunal and a special court of appeal Its mandate will change, giving it more, and much sharper teeth — with a lot of bite.

SA companies will continue to feel the effects of international and local merger activity, as will competition law

The recent international merger of British American Tobacco and Rothmans has interesting implications for SA, where the two effectively make up the entire tobacco industry

Competition Board chairman David Lewis says there are strong examples in recent years of one jurisdiction preventing a merger taking place in another The EU prevented the Boeing-McDonell Douglas deal because of the massive sales in its market "Obviously our market doesn't have that kind of clout," he says "But in a deal like the one between BAT and Rothmans, we are a market in which both groups are active and have incorporated companies " Stressing the board has not yet discussed this deal, Lewis says it would limit its attention to the effect of the merger of the two SA entities

Sasol, AECI, Adcock Ingram and SAD must be wishing the board's powers were even more limited The board has sent them all back to their respective drawing boards, some a little less willingly than others

In the case of Sasol and AECI, the board blocked the deal but said it could go through with certain major changes The companies, however, abandoned their plans The board's decision was criticised on the basis that it would render SA's petrochemicals industry internationally uncompetitive

A more controversial decision was the recent rejection of the Adcock-SAD deal, with the board saying the deal would significantly restrict competition in key therapeutic categories in the pharmaceutical industry It also said the deal was contrary to public interest in that short-term losses in employment would not be compensated by long-term gains from enhanced competitiveness

Iqbal Survé, whose Sekunjalo Investments was set to be the empowerment partner and significant shareholder in the new, enlarged group, says there was no reason to prevent the deal He says Adcock and SAD occupy 22% of the market between them while multinationals have 75%

"The board failed to demonstrate why this is anti-competitive and has selectively interpreted the data. We are competing against multinationals Multinationals will come in and they will be insensitive to employees and to black economic empowerment," he says

"There will be lots of mergers throughout the world which will affect local industry, but they are stopping local industry players from joining forces "

Survé says the board has taken its mandate too narrowly and has become "a guardian to ensure that no mergers take place" He says it failed to apply its mind to the statistics, and that voting was based on one man's report He also claims there were procedural irregularities and that the board withheld information

But Lewis dismisses all these claims He says nearly every submission to the board cites job-creation empowerment and the need to compete against multinationals Such claims need to be examined carefully

"It is also not our job to say whether or not they are making a good decision for the company But if efficiency gains are claimed, there must be solid evidence these gains will accrue to the company and consumers "

Lewis says "There is a fear that we will reduce the ability of SA companies to compete in international or domestic markets Companies claim they need to be bigger to compete successfully But you have to be careful about that — this claim is cited in every merger

"And even if the company becomes internationally competitive there is no necessary reason why SA consumers should benefit "

Then there is what Lewis calls "the failing firm argument", where the submissions claim that unless the deal goes though, the company being acquired will fold "In fact, the competition-friendly strategy in such a case is to drive the weaker competitor out of the market by providing consumers with a better quality product at better prices," says Lewis

He says there is the perception based on the Sasol and Adcock decisions "that mergers are being stopped left, right and centre" But, in fact, most are not even investigated

Lewis adds that the case of Nampak and Crown Cork — where the board initially refused a deal but last week approved a revised proposal — illustrates that even if the board decides against a deal companies can propose alternative arrangements and the board is open to look at them "Mergers *per se* are not prohibited. It is their competitive effect that is vital "

There is an increasing sense, in submissions to the board, that companies are seeking protection, particularly from outside forces Lewis argues that competition law is meant to protect competition, not individual competitors "There should be nothing to worry about when a multinational enters the market. If there is robust competition it is a competitive market " Former chairman Pierre Brooks said recently that if a dominant player competed with other international players in SA, this should not be cause for concern as the choice of the consumer was not restricted Even if a company is dominant in its industry, the board will look to see whether consumers have choice in terms of product and see whether dominance adversely affects them

This sentiment is evident in the old and new laws where the commission must weigh anti-competitive practices against public interest considerations

By the middle of this year, the board will "finally and legally have more teeth", says Lewis He adds that although the board is still operating under the old legal system, "we are under the aegis of government policy, which lends itself to a more robust competition ethic. That gives us more confidence to pursue what we want to under the old Act", possibly giving the impression that the board is being more active in its investigations and more willing to make controversial decisions

Lewis says that under the current Act, the board is merely an advisory body, making recommendations to the minister Certain *per se* prohibitions, like collusion on prices, are referred to police or the attorney-general

In terms of the new law, the competition tribunal will have considerable enforcement and punitive powers — it will be able to stop mergers on its own. It will be able to issue fines and cease and desist orders There will be a special competition court of appeal, with judges expert on competition matters

Lewis says the new law is more in tune with current international practice in this area and the new commission will have far greater resources than the current agency has

At full strength, the new investigative agency will have 70 staff, representing a lot of extra capability as there are only about seven investigative staff at present The competition tribunal, with a minimum of three and a maximum of 10 people, will keep an arm's length from the investigative body

"The current system is arguably weak, both in law and resources We will have an agency with considerable enforcement power and resources and a specialist adjudicative system "

Privatisation easier said than done

Suspicions of favouritism point to the need for transparency, writes associate editor Robyn Chalmers and senior reporter Reneé Grawitzky

(232) BD 24/2/99

THE second round of the privatisation process, currently focused on smaller assets, is in growing danger of becoming discredited in the eyes of the international and local business community

Government has done little to address the perception that privatisation is not only moving too slowly but is also being mismanaged and hampered by organised labour This is largely due to the state's failure to explain effectively the complexity of the process and the hurdles it faces

From the outset, government adopted a pragmatic view to restructuring state enterprises, making the restructuring specific to the requirements of the business in question

Arnold Shipp of HSBC Investment Bank, government's adviser on privatisation, points to the differing requirements of SA Airways and the forestry sector as an example.

SAA needs capital, help with management and integration into an effective global airline network. This means the level of equity offered can be relatively low The more important consideration is the strength of the new partner in the global market.

In the forestry sector, Shipp says there is a need for greater value-added downstream development and international marketing skills This implies a higher degree of equity involvement by an investor

"Government's central and overriding objective is to restructure the state-owned sector into a series of efficient, well-managed, financially independent companies capable of providing goods and services at affordable prices to the mass of historically disadvantaged South Africans One complementary and key objective is to further the empowerment of historically disadvantaged communities," he says

Other objectives are increasing competition in sectors, improving standards of management and relieving state debt

After almost four years, how far down the road has government gone in achieving these objectives? One answer is that with the big sales, such as 30% of Telkom and 20% of the Airports Company, real progress is being made to grow the companies and bolster service levels

Frustrated consumers trying to get a new telephone or find parking at Johannesburg International Airport may find this hard to swallow But real changes are taking place within these organisations which will lay the foundation for future growth and improved service

Not all processes can go as smoothly as the Airports Company and Telkom, for a variety of reasons Analysts often attribute delays to labour problems or government's lack of commitment to move ahead for fear of offending labour, but they are not always correct

At the outset, concern was raised that labour was slowing privatisation down It is becoming clear that labour has generally not been a major impediment While labour's role might not always have been strategic, it has not been obstructionist

Some critics might argue that in the case of the privatisation of municipal services, labour is attempting to derail the process and embarrass government But even there labour has not embarked on drastic measures to stop government

At the end of 1995, when Deputy President Thabo Mbeki announced government's ambitious privatisation plan, expectations were raised that the process would get under way immediately But government was ill-prepared for a number of unforeseen problems True to form, government failed to outline the complexity of the privatisations As a result, international investors failed to understand some of the issues delaying finalisation These include the merging of the run-down former homeland forests with those of the SA Forestry Company (Safcol), which some estimated would take up to six years That the integration happened quicker is largely due to the water affairs and forestry department taking the initiative

Government also failed to factor in the time it would take to sort out land claims In the case of Aventura, a six-week time period was predicted but this ultimately took 10 months

It was also necessary to deal with claimants who might have been ignorant of the issues and individuals who wished to use the community to further their own agendas

However, these complexities cannot always explain the delays in restructuring, but point more to mismanagement. Management can play a key role in the process, either supporting or attempting to undermine it In some cases management has proved problematic

For example, the recent sale of Aventura and the awarding of the upcoming Alexkor management contract have been mired in controversy One delay has followed another despite the desperate need of both entities for recapitalisation

At Aventura, where the financial arrangements were announced more than eight months after Cosatu's investment company, Kopano ke Matla, was identified as the preferred bidder, the situation is less than healthy There is growing confusion about the financing of the deal and whether Kopano has indeed clinched the deal

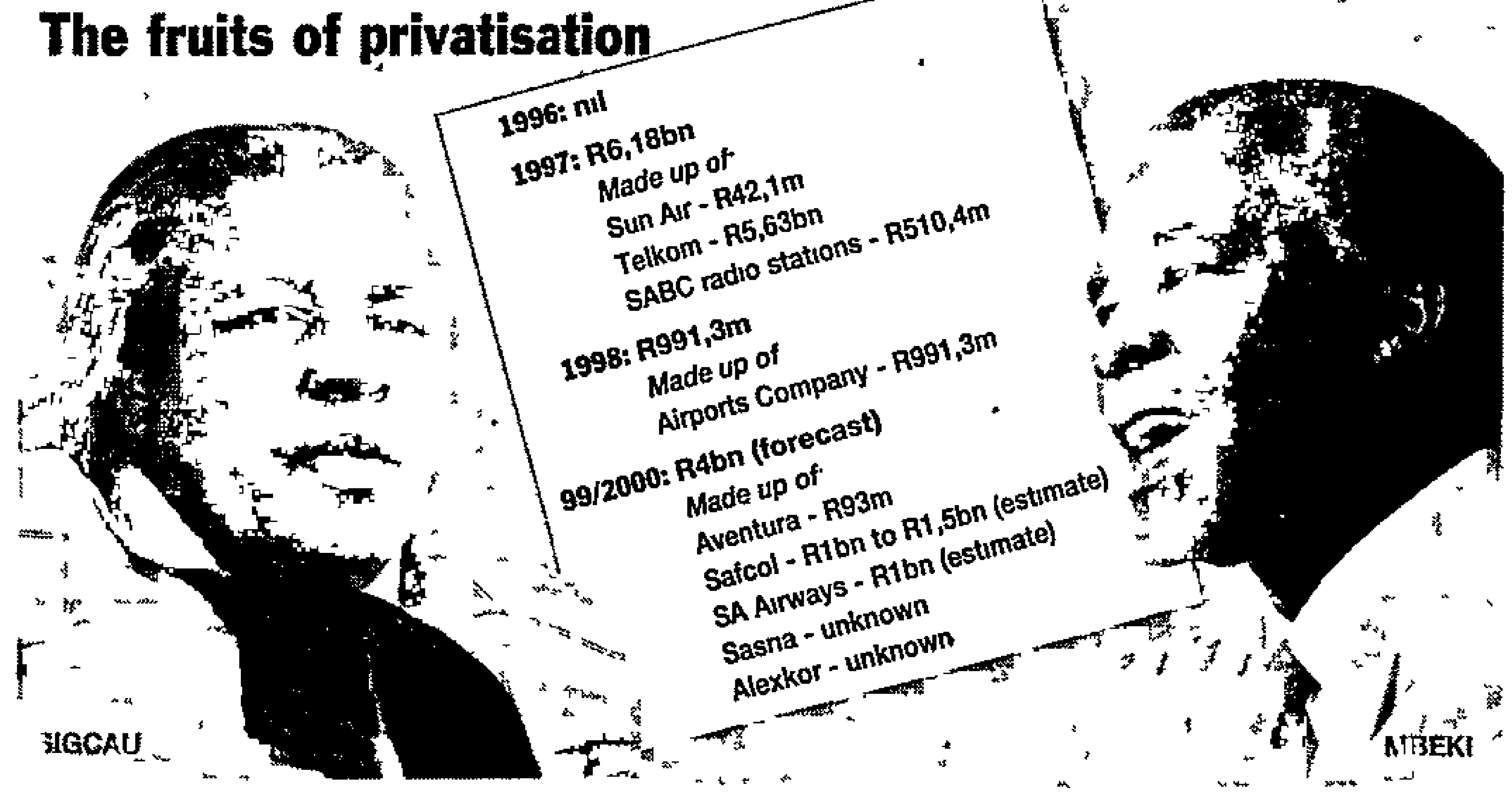
At Safcol, which has been anxiously awaiting some form of privatisation for years, the perceived inability by government to come to grips with the highly complex restructuring has contributed to delays An announcement by public enterprises Minister Stella Sigcau and water affairs and forestry Minister Kader Asmal last year that trade unions and government had agreed on a way forward was met with a palpable sense of relief that, at last, something had happened

The transaction was complicated by the decision to incorporate some former homeland forests into the equation As these were run down and overstaffed while Safcol's were well maintained, the merging of the two to be offered as seven packages to the private sector was particularly difficult The poor state of the former homeland forests will ultimately reduce the price government can expect A total of 75% of assets will be offered via long-term leases and harvesting licences, for which government expects R1bn-R1,5bn

In the case of Alexkor, it took government close to two years finally to take a decision on whether to privatise immediately or not Further delays have occurred in the year since government decided to bring in a company to manage the mine Parties still await government's final decision on the successful bidder

A perceived lack of transparency and lengthy delays, notably at Aventura and Alexkor, have created the space for potential bidders to jockey for position This has spurred speculation of behind-the-scenes deals and the granting of contracts to parties in return for past favours There is no evidence of this but the fact that these suspicions exist is an argument supporting greater transparency in the process

The fruits of privatisation



SIGCAU MBEKI

KAREN MOOLMAN Source. BUDGET REVIEW/INDUSTRY ESTIMATES

Gordhan takes on unions over Jo'burg asset sale

(232)

Plan for privatisation of some city landmarks expected to draw flak

Star 24/2/99

By Prince Hamnca
City Editor

Greater Johannesburg's superboss, Ketso Gordhan, is set to clash head-on with union leaders tomorrow when he unveils Egoli-2000, an ambitious plan that proposes to privatise some of the city's key assets.

Egoli-2000 is being discussed at a two-day bosberaad of top city officials and politicians which started yesterday. The talks are aimed at developing a unicity or megacity model for Johannesburg.

Sources say sparks will fly when Gordhan presents his controversial plan to the city's union bosses.

Among assets targeted for privatisation are the zoo and the Civic Theatre. The bosberaad will also finalise plans for the privatisation of Rand airport, the Johannesburg fresh produce market and two sport stadiums.

Insiders attending the bosberaad said Gordhan had the full backing of opposition parties, but still had to convince the unions about his plans for the city.

Victor Mhlongo, provincial secretary of the South African Municipal Workers' Union, lashed out at Gordhan and the council for not consulting union leaders about the master plan.

"We are definitely going to give him a hammering. We will stop the implementation of this plan through the bargaining council," Mhlongo said. The union has 21 000 members in Greater Johannesburg.

Greater Johannesburg is expected to finalise its single-city structure by the end of next month.

The two-day breakaway session will be attended by the council's top 30 politicians and senior officials and will produce a comprehensive plan that will be tabled to the council next week. The two-year plan will map out Johannesburg's political and administrative structures and will have far-reaching implications for the city.

Greater Johannesburg's deputy chairperson Kenny Fihla said the bosberaad would come up with a clear and consolidated plan for the city

Insiders say the corporatisation of the Johannesburg zoo, Civic Theatre and council-owned farms would result in many job losses The zoo is expected to be administered by a manager who would be appointed on a performance-linked contract in the next two months.

Greater Johannesburg's newly appointed transformation manager, Pascal Moloi, said the Municipal Structures Act, which makes provision for the establishment of single or unicities in metropolitan areas, is high on the bosberaad's agenda

The New National Party and the Democratic Party said the act would result in cumbersome and bloated bureaucracies in metropolitan areas. The New National Party-dominated Cape Metropolitan Council filed an application in the Cape High Court to challenge the constitutionality of this act.

The DP's Mike Moriarty said the Municipal Structures Act was already cast in stone.

"We would like strong municipal subcouncils," he said.

It wasn't long ago that the Premier Group was a conglomerate with extraordinary powers Its tentacles reached into areas far removed from its origins as a miller (it was once, for example, a holding company for control of SA Breweries, a key player in food production, and its influence in pharmaceuticals was pervasive)

Even a year ago Premier remained a broad industrial group with interests in food through wholly owned subsidiary Premier Foods and its 63% stake in Bonnita Holdings, in wholesaling and distribution through its 62% holding in Metro Cash & Carry (Metcash) and wholly owned United Pharmaceutical Holdings, retail and entertainment through its 33% stake in CNA Gallo and 53% in Teltron, and pharmaceuticals through a 30% stake in C G Smith Group's Adcock Ingram

Over the past 12 months, however, Premier has shrunk further and dramatically Its entire retail and entertainment division has been sold and its wholesale division was unbundled directly to shareholders

CONGLOMERATES

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BREAKING OUT

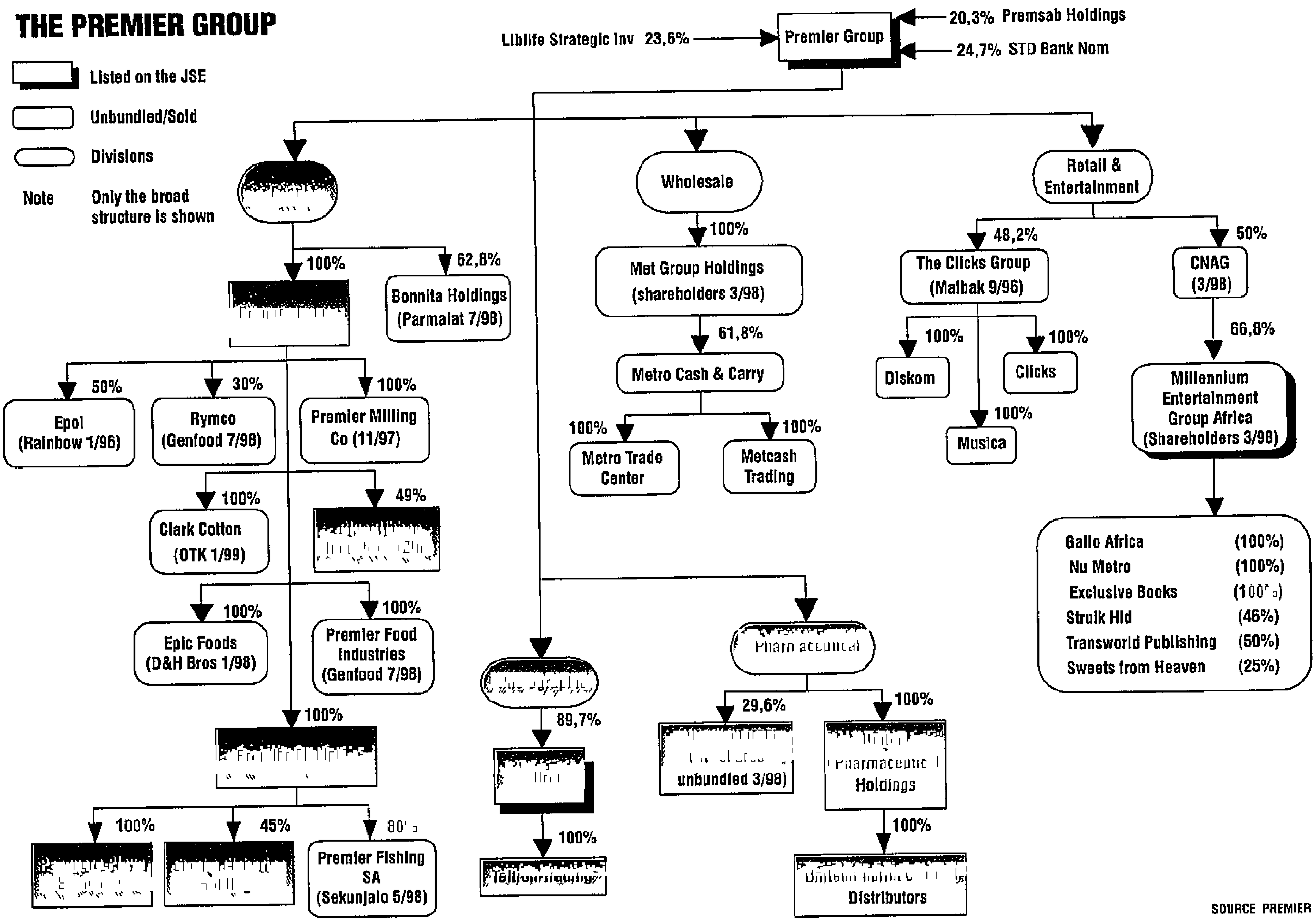
Investors cash in as family jewels come under the hammer

More recently, it's disposed of its milling, baking and yeast production interests to Genfood, its fishing interests to the Sekunjalo empowerment group, Bonnita to Italian food group Parmalat and its entire cotton interests to OTK Holdings It has distributed a further R1,1bn to shareholders and has reduced its capital base

This group now comprises a pharmaceuticals distribution operation, some offshore fishing, a baking business in Zimbabwe (subsequently sold to Genfood as part of the baking and milling divestment), and photographic wholesaler and distributor Teltron All this comprises a massive unbundling that is likely to lead (logically, some analysts would argue) to its eventual disappearance

Why unbundle? The term unbundling is used loosely to describe the breaking up of a firm's operations This may involve anything from the divestment of a single business unit to a full demerger in which significant parts of the parent company are split into separate legal entities

Reasons given include releasing the true value of a company, defence against asset strippers and refocusing on a company's core competencies Whatever the case, the



SOURCE PREMIER

OF WEDLOCK

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roots of unbundling can usually be traced back to the influence of the stock market and changing nature of investment

Unbundling first became a significant phenomenon in the US and UK in the late-Eighties and caught on in SA only in the mid-Nineties

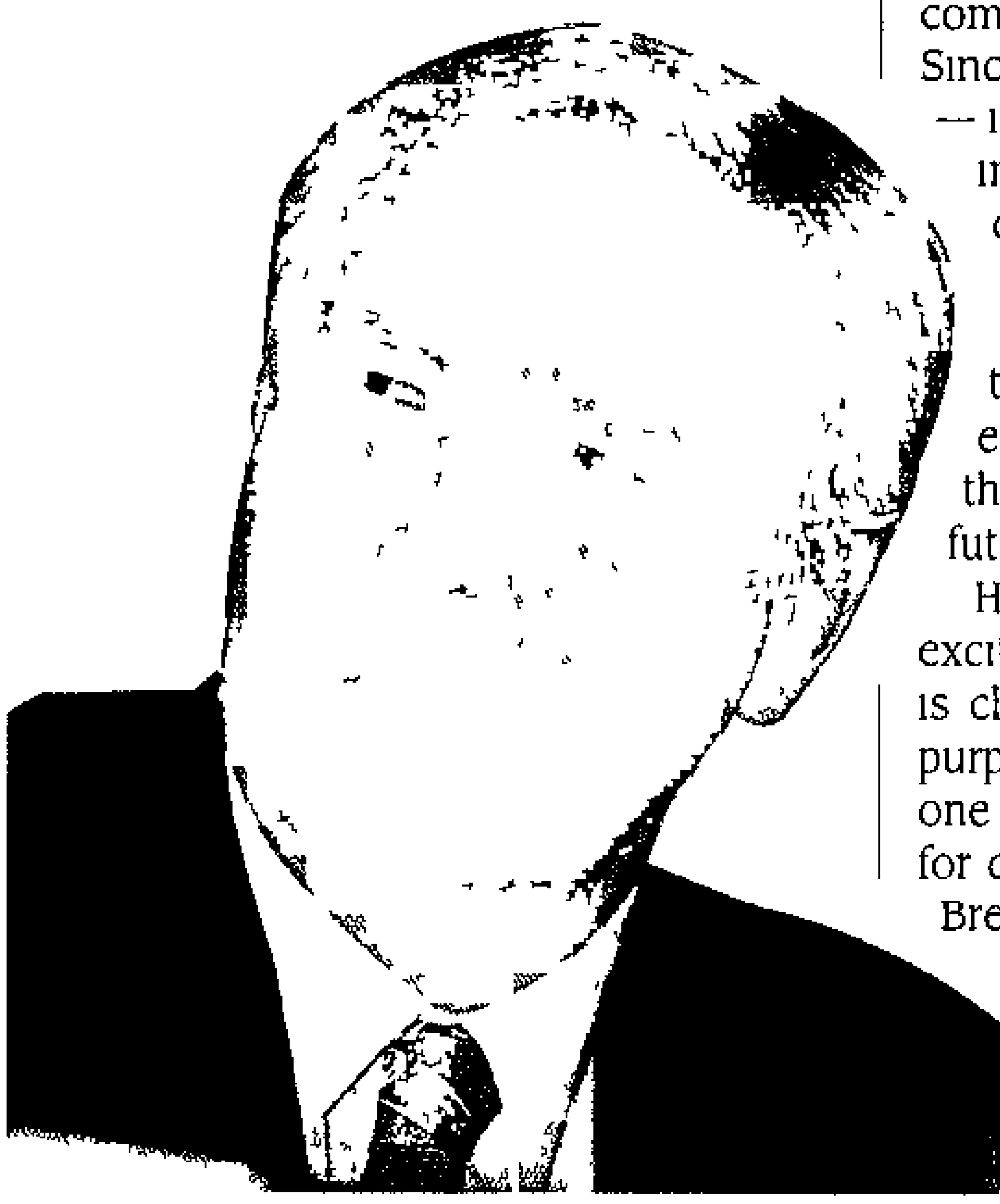
In the Sixties and Seventies many companies followed a strategy of diversification and balanced their portfolio with complimentary businesses to ride out fluctuations in different markets The past 20 years have seen the lowering of trade barriers and relaxation of exchange controls throughout the world and these moves have resulted in the globalisation of investment This, coupled with the increased sophistication of institutional investors, meant that diversified companies were no longer viewed as useful vehicles for reducing risk As a result, many of these companies found themselves undervalued on stock markets

The value of a diversified company in the US, UK and SA is often based predominantly on the fortunes of its principal business Such companies are vulnerable to hostile takeovers by asset strippers intent on releasing the company's true value

Unbundling in Germany and Japan is still rare and there have been no major revamps of this type in the Far East This can be explained by the close relationship between companies and their investors and the reduced role of the stock market as a source of capital

In SA though, the scenario is different Here different criteria applied which in may cases was caused by the country's insular status due to apartheid Cash, especially on the JSE, was trapped forcing reinvestment after reinvestment by both private and institutional investors As a result many conglomerates evolved into pyramid-type structures driven from the top down Most managements failed to take into account the many forced diversifications which drove a wedge between them and their core business

Shareholders' wealth had become locked into unwieldy, overstaffed conglomerates which, given their huge asset base, failed to give acceptable returns The companies became prize targets for foreign predators Besides increasing shareholder value, unbundling now brings improved management focus and faster corporate decisions — vital if local companies are to make it in the hurly burly of world markets



Doug Band *remains king of the castle in a dwindling empire*

Premier's initial restructuring took place in 1996 when it raised R402m from the sale of the Clicks group to Malbak and Epol to Rainbow Chicken It then merged Premier Pharmaceuticals with Adcock Ingram Along the way, Premier Foods closed four mills and three bakeries as part of its programme to switch emphasis from volumes to profits Over financial 1996 it wrote off R101m against restructuring, closure and retrenchments

In 1997 it sold CNA-Gallo's unexciting stationery and retail division to Wooltru for R445m and changed CNA-Gallo's name to Mega (Millennium Entertainment Group) Before the year ended, Premier closed Epic Oils and wrote off another R133m

The group's second major restructuring was launched in February 1997 when it unbundled its interests in Mega (so giving Omni Media an effective 42% stake), then in Metcash and its N-shares in Adcock Ingram

Those disposals made it look as though Premier was reverting to its original core competency in food and allied businesses Since then, however, the latest disposals — including cotton interests to OTK Holdings for R130,5m plus shareholders' claims against the group worth R134m (and a single acquisition, the Macsteel interest in Teltron) — are so profound that the reason for Premier's continued existence must be in doubt It is clear to the financial market that the company's future is uncertain

How all this came about is a matter that excites more than a passing interest What is clear, however, is that it was used for purposes outside its original business at one stage as a convenient parking place for control of an even larger business (SA Breweries), in the process its managers lost sight of the bread-and-butter issues of its core businesses

Premier lost ground steadily to its much more focused and better controlled competitor Tiger Later it was rocked by a series of frauds In retrospect, and while it can probably be argued that more could have been done to rescue the group temporarily, it is probably also fair to observe that the extent of the decay made it a basket case

In another sense, however, is it also true that Premier is taking the process of unbundling to its most logical conclusion In the process it is hard to fault new management's claim that it has salvaged substantial sums for the benefit of all shareholders

Startling as Premier's history may be probably the most astonishing of all unbundling stories is Gencor's Originally used to foster Afrikaner aspirations of ownership in mining, Gencor was the first house to embrace unbundling in its business philosophy

In 1993 Gencor decided to concentrate on its mining core That meant it would divest in favour of shareholders substantial holdings in a variety of industrial and natural resources investments Among those were Sappi (forest products, 38,6%), Engen (oil refining and distribution, 49,9%), Genbel (investments and finance, ished by Anglo American Corp, which lost the prize when its international mining arm, Minorco, was narrowly defeated in its efforts to take over London-based Consolidated Goldfields

GFSA managers secured the support of the Rembrandt group and the Rupert family through a structure that effectively protected GFSA from predators

The acceptability of Gencor executive chairman Brian Gilbertson to GFSA's executives in preference to other suitors was the key to their preparedness, led by CE Alan Wright, to permit this complex control structure to be unwound

The merger, effective in January 1998, established Gold Fields Ltd, a new company whose name is intended to preserve that founded by Cecil John Rhodes in the last century, as a major world gold producer (indeed, until the forging of the new Anglogold, it was the international leader)

There is a view that this merger (Beatrix, St Helena and Oryx with Kloof and Driefontein together with associated mineral rights) was intended as a catalyst for further industry rationalisation In fact, it took advantage of an unstoppable ground swell directed at major structural change

Since then GFSA has embarked on its own profound restructuring This involves the unbundling or sale of assets which include its stakes in Gold Fields and Standard Bank Investment Corp

The GFSA agreement has major implications for Gencor because it commits it to pursuing its gold mining ambitions through new Gold Fields At the same time, Gencor cancelled its consulting services agreement with Impala Platinum (Implats) and sold its entire platinum group metals mineral rights to the company in exchange for Impala Platinum shares The effect, therefore, was that Gencor ceded its operating roles in precious metals to Gold Fields and Implats

The end result of this series of complex corporate manipulations is that all that remains of the original Gencor is its role as a passive though supportive shareholder in Implats, in which it holds a dominant 47,4% stake and Gold Fields (18,7%)

Gencor's final unbundling awaits on 2002 when obligations to Indonesia relating to the closure of the Prima Lirang gold mine expire and when the warranties given to Billiton regarding its purchase of Gencor's nonprecious metals assets have run their course

So, in the space of five years, Gencor has gone from its role as a massive industrial and mining conglomerate to a narrower focus as a mining house with interests in gold and platinum and finally to an investment house with a staff of five

Barring an extraordinary resuscitation, Gencor is scheduled to disappear in 2002, but its demise has been orchestrated from a position of strength

The same, unfortunately, cannot be said of Johannesburg Consolidated Investment where disembursement — after the unusual Gencor unbundling, re-bundling and unbundling saga — is nothing short of extraordinary JCI, founded by Barney Barnato, one of the most colourful of the legendary Randlords, soon after the discovery of gold on the Witwatersrand, survived his death to become a premier mining house In time fell within Anglo American Corp's sphere of influence until Anglo's stake extended to nearly 50% of the equity

The change in SA's political dispensation, which began with the release of Nelson Mandela from jail in 1990 and was cemented by the general election of 1994, also introduced a new imperative to empower the black community economically Anglo American's response was to announce the separation of JCI into three discrete businesses, two of which would become vehicles enabling blacks to take ownership positions in mining and industry

JCI was broken up into platinum (under the catch-all Anglo American Platinum, Amplats), industry, property and investments (under Johnnic), and gold, base metals and minerals under the old JCI name

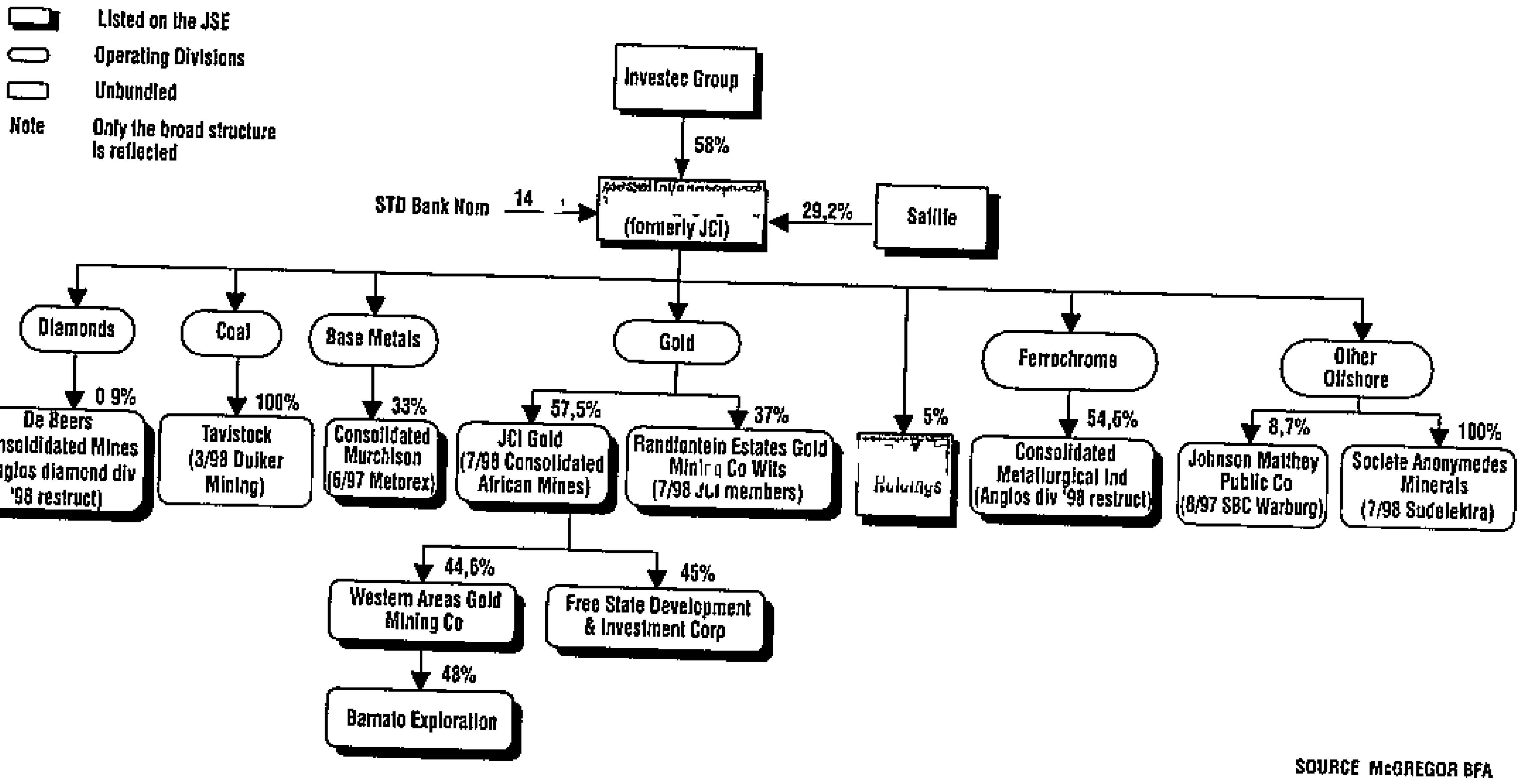
When Amplats was spun out of JCI, the greater group's original investments in the unlisted diamond trading companies was included in that package Subsequently, De Beers bought out JCI's (or Amplats') equity holdings in the diamond trading companies Ownership of Amplats was retained by Anglo American to make it the world's principal producer of platinum

Johnnic was the first to be auctioned and was eventually sold to the National Empowerment Consortium but not before former ANC secretary-general Cyril Ramaphosa was dragged in to resolve the differences of opinion and agenda inevitable in a grouping as diverse as that which was finally cobbled together New Africa Investments Ltd (Nail), the black investment group chaired by Nthatho Motlana and of which Ramaphosa became deputy chairman, now plays a role in Johnnic, which belies the size of its equity holding It is worth noting that Nail executive Jonty Sandler was quoted as saying (*Business Report* December 3) that Nail would sell its stake if Johnnic's performance didn't improve materially

By the time JCI was ready to be shed its new management team, led by MD Bill Nairn, had long set about rediscovering its original *joie de vivre* Like a whirlwind, JCI executives spread across Africa looking for new precious metals projects The company's interests stretched out to embrace Russia, Australia and southeast Asia

The impact of this activity and the forceful, persuasive manner of its presentation were quickly reflected in the market's

JCI – 1998



SOURCE McGREGOR BFA

rerating of JCI's share price This coincided with a contest between Nail's Ramaphosa and the African Mining Group consortium led by newcomer Mzi Khumalo for the JCI prize The result was a disastrous and unnecessary price war In the end, Khumalo told Anglo American his consortium would pay 50c a share more than whatever his competitor offered and the deal was sealed at R54,50

The intention of the sale at R54,50 was that it would secure for African Mining Group a 34,9% stake in JCI but the plan ran aground because Khumalo and African Mining Group were unable to secure enough finance Saflife then stepped in with a rescue plan to buy 30% of JCI while African Mining was given a one-year option to buy the remaining 4,9% At the time Saflife was controlled by Consolidated African Mines which held a 40% equity stake in it

Effective control over JCI was exercised by African Mining in concert with BNC Investments, a private company then owned by the Kebble family into which Khumalo was introduced as a 30% stakeholder

Consolidated African Mines is controlled by BNC, hence JCI is controlled by BNC which holds 6% directly in the mining house and 14% indirectly through Saflife

The Khumalo family interest in JCI totalled about 1% and the Kebble family held around 4%

Having surmounted the financing obstacle, things ought to have proceeded smoothly That is not, unfortunately, how things turned out JCI executives were repeatedly distracted by changes in strategy An earlier Anglo American foray to take control of Lonrho Plc, the London listed multinational taken to fame by the legendary Tiny Rowland, backfired when the European Commission ruled against it That left Anglo looking for someone to take Lonrho off its hands and JCI seemed be the perfect patsy

The attraction for JCI was that Lonrho appeared to offer good opportunities for both geographic and commodity diversification It quickly became apparent that the personal animus which emerged between the two chairmen, JCI's Khumalo and Lonrho's non-executive Sir John Craven, ran too deeply to be resolved easily A deal between JCI and Lonrho, expected to be announced in May 1997, didn't get near the finishing line

Mzi Khumalo took fright when the gold price collapsed

The result was an uneasy stalemate compounded by a fall in the gold price (which unnerved Khumalo) and by his sudden desire to move away from precious metals and into base metals and minerals At the forefront of Khumalo's strategy appeared to be his support for newly listed, unproven mining company, Southern Mining, which had secured the mineral rights over the titaniferous deposits of the northern Free State

At about this time, Khumalo was persuaded by its blue-chip London advisers, SBC Warburg, that an offer to sell its brightest gold mine jewels, Western Areas and Joel, to Anglo American, then putting the final touches to the restructuring of Anglogold, might produce a warm response The upshot was that JCI and Anglo agreed a deal in terms of which Anglo would get 36,6% in Western Areas plus 60% in Joel plus the management contracts related to those mines and JCI's remaining 3% stake in Amplats In exchange Anglo would deliver its 26,2% holding in Lonrho Plc plus cash

This plan wrote *finis* under JCI's hopes of becoming a major international mining house Almost simultaneously it transpired that Khumalo had entered into a deal to buy a 20% stake in Southern Mining for R252m The result was a row of major proportions, one which led ultimately to Khumalo's decision, under pressure from colleagues, to resign all his posts at JCI He has since been replaced as non-executive chairman by Wiseman Nkuhlu

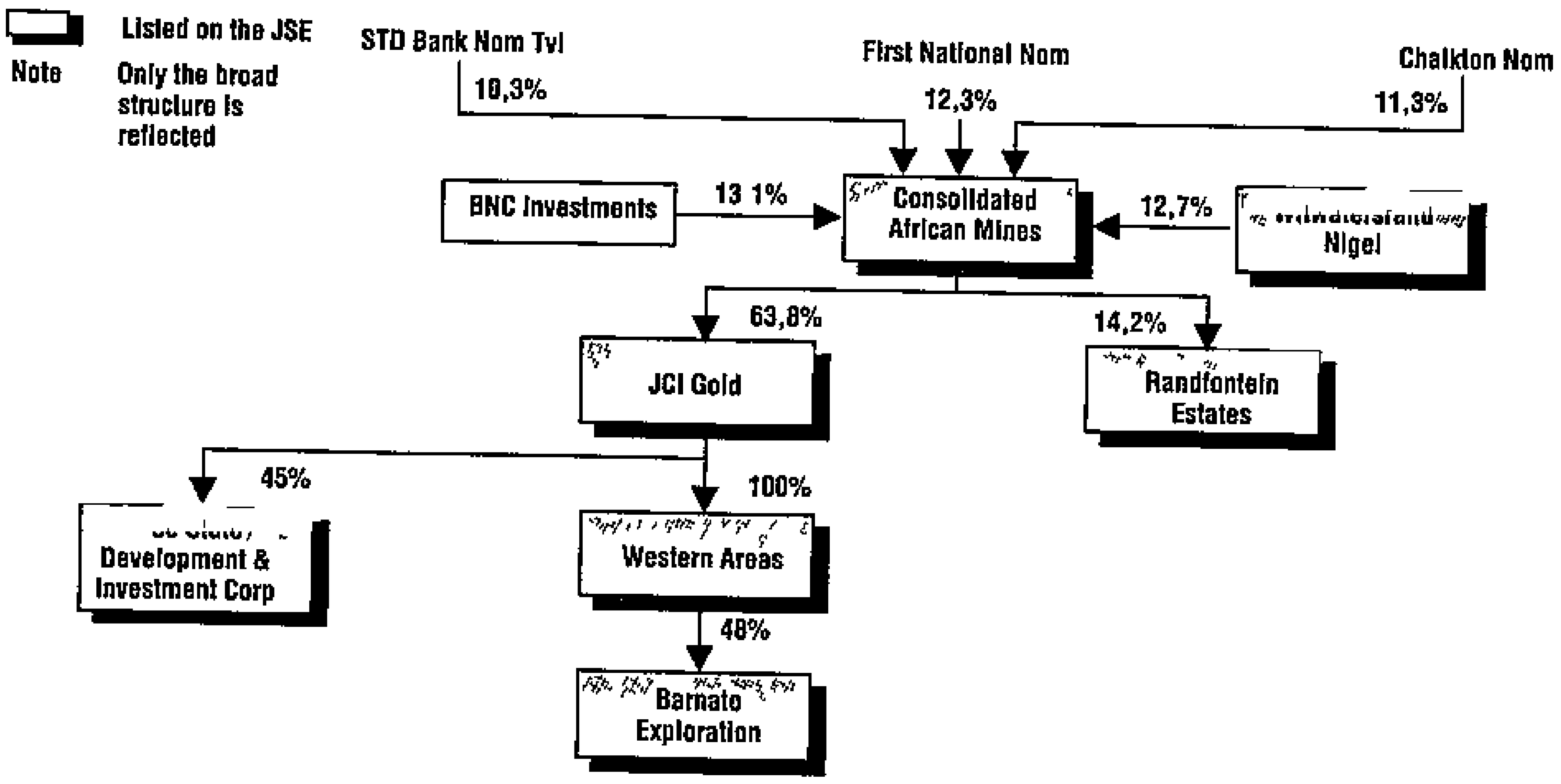
Meanwhile, trades union representatives (trades unions formed an important bloc of the black empowerment element of the JCI purchase) made sure Anglo American was under no misapprehension of the extent of their opposition to the Joel-Western Areas-Lonrho scheme In the end, a substantially watered-down scheme was resubmitted which left Western Areas with JCI and also linked the sale of JCI's coal assets (Tavistock and United Carbon Producers) to Duiker, an SA-based Lonrho-controlled company, along with the purchase by Lonrho of 21% of itself from JCI

Anglo got control of Joel and JCI's 3% stake in Amplats It paid JCI R12,5m to reimburse it for what were called protracted reorganisations JCI got 21% of Lonrho for which it paid Anglo R219m Duiker bought Tavistock for a net R1,38bn JCI then sold its 21% Lonrho holding to Investec which then sold it on to Lonrho

Out of all this was spawned JCI Gold, to be merged with Consolidated African Mines (which owns 57% of it) and both will be merged into JCI It will be left with three arms (Randfontein Estates (26%), Western Areas (45%), which also owns 48% of Barnex, and JCI Projects

After the sale of Duiker, antimony producer Consolidated Murchison was sold to Metorex and ferrochrome producer Consolidated Metallurgical Industries was sold to Sudelektra, 40% owned by Switzerland-based international metals and minerals

JCI – 1999



SOURCE JCI

trader Glencore

These moves also meant the control structure of JCI had been greatly simplified Deputy chairman Brett Kebble says the new JCI will be jointly controlled in a pool agreement between the family and the African Mining Group consortium now led by Nkuhlu The group holds more than 70% of Wit Nigel whose major asset is 30% of Consolidated African Mines, which has 57% of JCI Gold Five African Mining Group nominees sit on the nine-member JCI board

In December JCI took the financial and mining community by surprise when it announced that it intended selling a one-half stake in Western Areas gold mine to Canadian-based gold major Placer Dome for an effective US$300m (about R1,7bn) The mine will be excised from Western Areas and be injected into a joint venture to be owned equally by Placer Dome and Western Areas

The logic now suggests that Consolidated African Mines and JCI will merge with Western Areas Later, London-listed Randgold Resources may be rolled into the combined company to provide it with a start as an international mining finance and development house

This represents a sea change in JCI's fortunes After the empowerment sale, its share price was depressed not only by a persistently declining gold price but by confusing strategies, poor transparency and ambitious putative deals that did not materialised Now, however, much has been clarified

As a commentary on changing investor perceptions the relative values attributed to SA Breweries and Anglo American Corp delivers some sharp lessons In March last year SAB overtook Anglo American for the first time as the country's biggest commercial operation as measured by market cap with R50bn compared with R49,6bn The situation has since fluctuated widely with Anglo American regaining its prime position and holding on to it but not by much The table illustrates how the two have moved

JOSTLING FOR PRIMACY

Market cap in Rbn

	Anglo American	SA Breweries
March 27	49,6	50,0
April 3	52,8	51,3
April 24	69,4	59,7
June 19	44,9	42,0
Jan 5 1999	39,1	35,5
Jan 12	39,2	36,8

Since then both companies have been substantially outplayed and overtaken in size by the merger of the tobacco interests of Richemont and Rembrandt in Rothmans International with those of British American Tobacco Plc

In the past year, however, Anglo and SAB have progressed in different directions Anglo has chosen to restructure along commodity lines rather than by the geographic divisions it employed formerly It will also seek a primary listing on the London Stock Exchange and become a UK-registered company

SAB, on the other hand, has chosen to unbundle or simply to divest from a variety of commercial operations in favour of a concentration on brewing Like Anglo, it seeks to emphasise the increasingly international nature of its brewing interests through a similar LSE listing

The process for both of these massive undertakings is characterised by unusually complex, though different, sets of problems

In SAB's case, its unbundling programme was initiated in 1997 when it sold its loss leader OK Bazaars to Shoprite for a peppercorn R1 and then provided a further R600m to cover losses and write-offs

That was swiftly followed by the sale early last year of furniture group Afcol to institutions led by Capital Partners (now Brait Merchant Bank) and Investec and subsequently merged with Pat Cornick At the same time the traditional High Street acting chairman

For Johnnic, itself the first major economic empowerment initiative undertaken by the Anglo American group, SAB is a crucial investment representing 60% of its assets Johnnic is also known to be in need of access to large sums to finance its expansion initiatives This is why it has suggested it may be interested in the sale of its stake in SAB

However, the putative sale by Johnnic of its stake may trigger or encourage similar sale decisions by Anglo American and Liberty Life If carried through to a logical conclusion, these would require the purchase of such a large controlling stake that it would also necessitate an offer to minorities Given its size of about US$8bn, that is a mouthful that even global industry leaders would be hesitant to swallow

Anglo American Corp, by far the largest mining house (though Rembrandt is now the biggest group), and one of the world's most important, best fits the definition of an organisation struggling with the conundrum that small is nimble, big bestows financial strength but medium is helplessly marooned

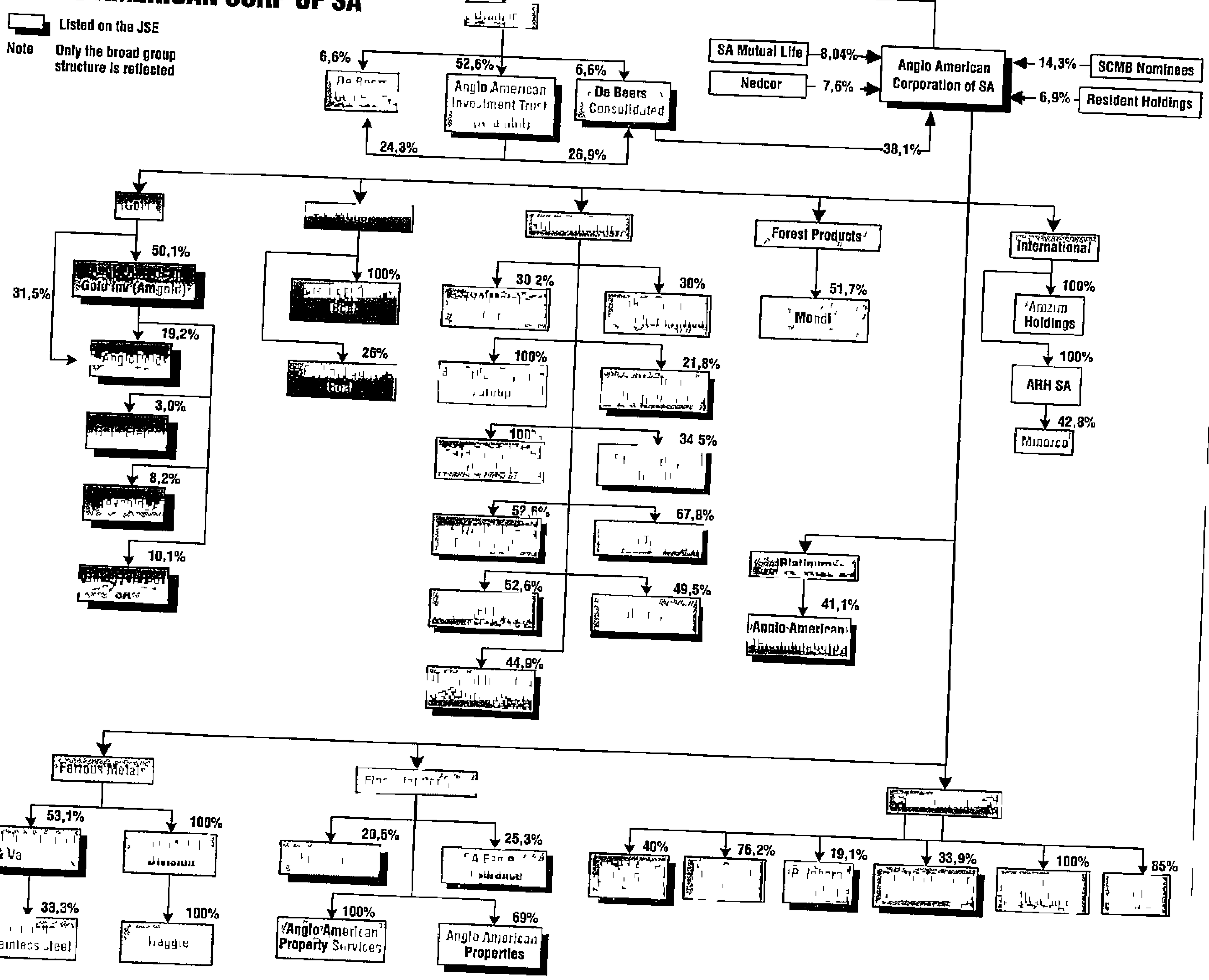
Anglo's approach to unbundling is characterised by a straightforward rejection of the underlying principles It doesn't like unbundling and has consistently said so One consequence is that the comprehensive rearrangement upon which it is now embarked is a restructuring rather than an unbundling

The undeniable fact is that, despite the investment community's love affair with single-minded focus, the lure of the conglomerate, a label used here in its broader meaning, probably remains close to its corporate heart As the group expanded in the Thirties and Forties it became an article of faith that the purpose of its search for diversity was to equip it to ride out one commodity's tough times by drawing on the wealth of others If diamonds, for example, were to slump because of overproduction then gold and copper might take up the slack

This is simplistic in the sense that we now know commodities often track together and move in concert Executive director Michael Spicer makes the point, however, that in its early years the diversity concept did indeed provide a vital safety net This is why the concept of spreading risk remains enticing to Anglo executives

Unfortunately, this simply isn't the way

ANGLO AMERICAN CORP OF SA



SOURCE ANGLO AMERICAN

investors have moved over the past decade It may be that changes in company governance and organisation are merely matters of fashion — but fashion can also be important To some extent Anglo accepts all of this

The decision announced last year of a major restructuring along commodity lines, rather than the semi-geographic separation previously employed, looked at first glance as though Anglo would finally conform to investor needs for focus In reality, however, it is a lot closer to belt and braces — a conscious plan to satisfy the investment community while preserving the safety net which diversity is thought to capture

Restructuring a group as vast as Anglo means tackling some formidable complexities It is no secret that international diamond giant De Beers has for decades been high on the US hit list because it is perceived to have consistently broken American commandments on anti-trust legislation This has meant that Anglo's own ability to do business in the world's biggest economy was severely limited

So first on the list was the need to demonstrate a separation between Anglo and De Beers This was underlined by the physical separation of the two head offices in Johannesburg The cross shareholdings remain, however, and, rather more importantly, so do the cross directorates — the element most likely to inspire American Securities Exchange Commission disapproval Nevertheless, what this transfer of power achieved was to demonstrate that De Beers and its diamond business were no longer so closely interwoven with Anglo

Repeating this across the board would produce a nasty conclusion for Anglo If Anglogold could be spun off as a separately listed company (after consolidating ownership of the gold mines and buying Minorco's American precious metals interests), and if Anglo American Coal (Amcoal), Anglo American Platinum (Amplats), Anglo American Industrial (Amic) and Minorco (stripped of precious metals and left holding the group's base metals interests) could retain their individual listings and identities, then what would be left for Anglo itself?

It would be merely a holding company, a repository for ownership, while strategic and operational control of each entity would vest within itself The logic of that kind of restructuring would require that the shareholding in each separate business would become, ultimately, discrete

This takes no account of the unquantifiable but none the less valid assertion that the centre of groups such as Anglo add value because they contribute intellectual weight In Anglo's case, that weight is mostly accounted for by its considerable technical expertise If, therefore, the operating divisions were to take that on themselves, the concentration of intellectual power would dissipate

Julian Ogilvie Thompson restructuring rather than unbundling

The alternative was to turn Anglo into both an operating and holding company To do this, minorities in Minorco, Amcoal and Amic were bought out That gives Anglo itself a base as a coal mining, base metals and industrial manufacturing group while continuing to serve as the holding company for its other traditional interests (diamonds and gold) To add to this, Anglo and Billiton have jointly undertaken to buy out the minorities in Samancor, the world's largest ferrochrome and manganese producer, which will then be held in a joint venture on 40 60 with Billiton taking the lion's share

At the same time De Beers has sold its holdings in Anglogold (4%), Amplats (13%), Namakwa Sands (20%), Mondi (17%) and Gamsberg Zinc (10%) to Anglo for Anglo American shares The Oppenheimer family has sold its stakes in Mondi, Gamsberg and Namakwa to Anglo The effect of these sales is that those companies are now wholly owned subsidiaries of Anglo

The last move in this restructuring will be for Anglo American to transfer its domicile to the UK through the formation and listing of Anglo American Plc, Anglo American Corp of SA would then become a wholly owned subsidiary of Anglo American Plc

No-one should think that this chain of change spells the end of the Anglo American group's restructuring It is clear that many smaller issues need to be tackled For example, a lengthy re-arrangement of chemicals and explosives producer AECI is under way and the future of Highveld Steel, as the last remaining avenue for investment in the rapidly improving Columbus Stainless Steel joint venture, are just two areas of restructuring attention The group's continuing thrust into copper has taken on added momentum after its recent announcement that it had bought back from the Zambian government most of the copper-producing assets nationalised more than 30 years ago

The relocation of Anglo American's domicile to London is designed, partially, to remove many of the obstacles, foreign exchange controls included, from its attempts to grow internationally The group is already the largest producer of gold, platinum and diamonds and is the largest diversified mining company by turnover

However, it is appropriate to point out that its strong balance sheet is an aspect it shares with other London-listed mining houses and, in the short term at least, it is likely to find that efforts to add value through new investments will be as difficult for it as it has been for the others

For Barlow, the search for focus may have been less complicated, but it has nonetheless been impressive This company, of which Old Mutual (22,8%) is the largest single shareholder, was among the first to take advantage of legislation changes introduced to encourage companies to restructure for the sake of economic efficiency

Grown originally out of the Caterpillar agency made famous in SA by the Barlow family, the company grew rapidly over the late Sixties and into the Seventies through a series of acquisitions These included the CG Smith food group and mining house Rand Mines, at one time (in the first decade of the century) reckoned to be the richest company on earth and still powerful when it was taken over by Barlow through its investments in gold, coal and base metals

Barlow's first round of unbundling took place in 1993 when the company, then named Barlow Rand, passed its holdings in the CG Smith Group through to its shareholders That was followed by the same process in Rand Mines, which split into Randcoal and Randgold

This process, in which Barlow can fairly claim to have been a trailblazer, has proved instrumental in transforming the SA mining industry and large and important elements of the industrial base

During1998 Barlow unbundled further Recently appointed CE Tony Phillips says Barlow has decided to concentrate in areas of its core competency (and this boils down to a strict focus in marketing and distributing leading international brands produced by other manufacturers capital equipment, Caterpillar, materials handling, Hyster, motor, Toyota, BMW, Ford And the manufacture, marketing and distribution of Barlow's own brands cement, PPC, scientific products, Bibby Sterilin, Melles Griot, paint and coatings, Plascon, steel tube, Robor, Moneweld

And what this implies, of course, is the disposal of under-performing or non-core businesses Over the past year, Barlow has sold Wrightech (capital equipment) for R50m, Circle Freight for R37,5m and some metals trading interests for R53m, its entire holding in PGM Investments for R33,7m and 11,6m Persetel shares for R355m, and post balance sheet has sold another 26m shares for R1,4b Artec (roof sheeting) was closed

The other side of the coin is that Barlow has bought a host of new operations, all of which Phillips claims slot into the focus the group's executive has pinpointed for future The R465m cost of these, the largest item by far — including buying Australian paints business Lanes for R350m — also took in the Perkins division of Atlantis Diesel Engines

The result is that Barlow is locked into the fixed investment (capital) side of the economies within which it operates This is true of SA and is equally the case in Europe — materials handling in the UK, capital equipment in the Iberian peninsula, and laboratory equipment across the region In the US, it's strong in materials handling in the south-east And Barlow claims a world-wide leadership in laser production

The group's attributable profit is 62% from the international brands it markets and distributes on behalf of other manufacturers, with 33% from its brand manufacture and 5% from financial services

Geographically, its net assets are spread between Europe (47%), SA (40%), North America (11%) and other African countries (2%) And its attributable profit comes from SA (43%), Europe (41%), North America (11%) and the rest of Africa (5%)

PROOF OF THE PUDDING

How Barlow and its [illegible] performed after unbundling

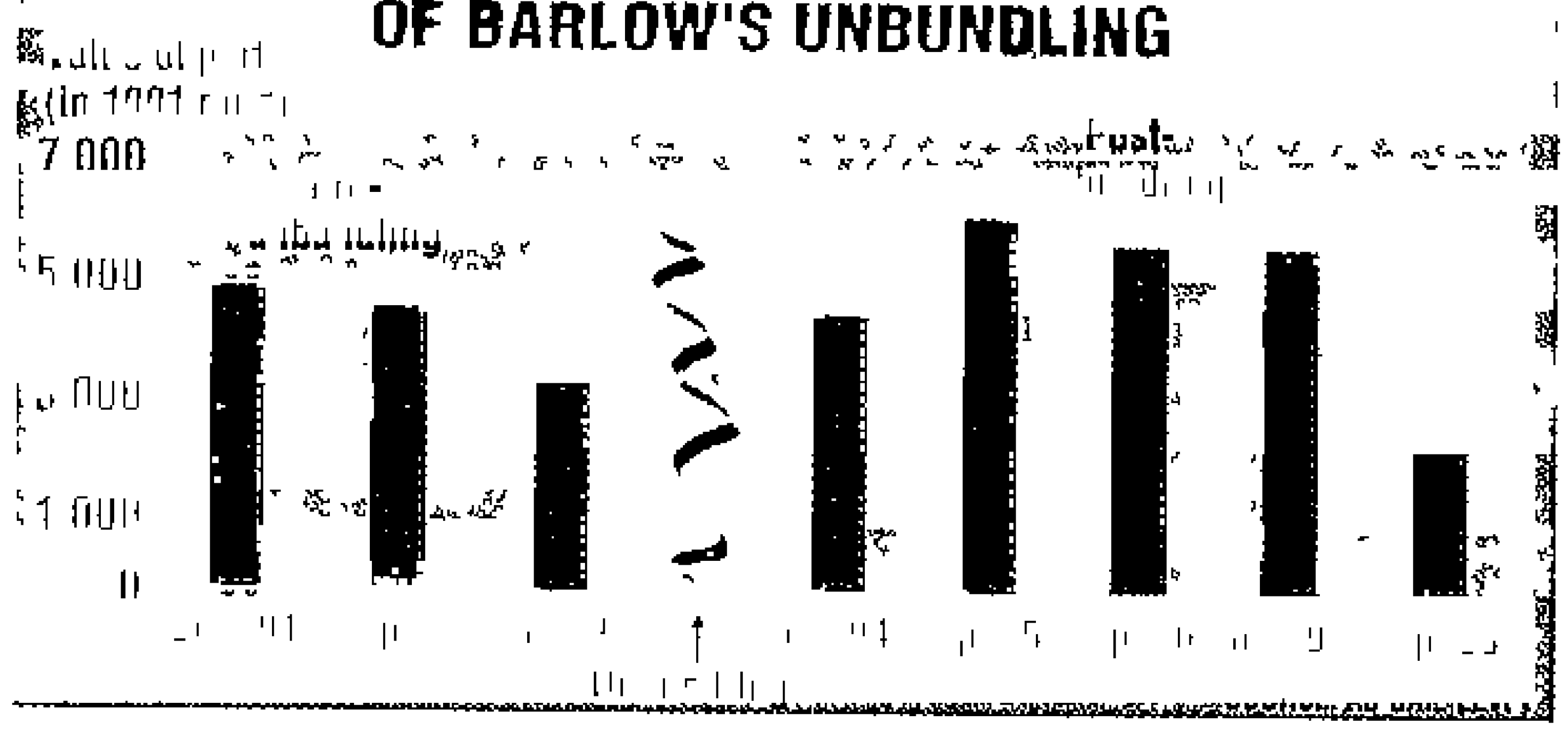
[illegible]

Company	[illegible]	[illegible]	[illegible]
Barlow			
CG Smith			
Reunert		[illegible]	

EPS [illegible] before and after the unbundling

Company	[illegible]	[illegible]	[illegible]
Barlow	260		
CG Smith			
Reunert			
Rand Mines			
Property			

WHY TIMING WAS CRUCIAL IN MAKING THE MOST OF BARLOW'S UNBUNDLING



When Barlow began unbundling in 1993, chairman Warren Clewlow told shareholders one of the reasons for the decision was that Barlow's board found it of "great concern that the group's attributable profits have, for various reasons, declined over five years from a peak in 1989 of R1 001m, representing earnings per share of 543,8c to this year's R721m, representing EPS of 367,4c per share, an average decline of 8% per year"

Last December, however, Phillips was able to tell investment analysts that the restructured, unbundled group had delivered 22% average profit growth over the five years since 1993 This is a handsome improvement but it hasn't been sufficient to persuade a clearly sceptical, and often jittery, market In 1997 the Barlow counter hit a high of R65 and a low of R40,15 In 1998, however, this range changed appreciably, from a high of R55 to a low of R18,60

The counter has also strongly underperformed the Financial and Industrial Index, further evidence, if it's needed, that the market considers those businesses almost exclusively exposed to capital spending (gross domestic fixed investment) to be an unusually high risk

So, while Barlow has repositioned strongly, and successfully, to take advantage of any strong economic resurgence in SA or the northern hemisphere, the trouble now is that global prospects simply aren't encouraging

There's little doubt the success of efforts like Barlow's has spurred wider unbundling But people and personalities play a role too The Anglovaal group was the last entrant (in the early Thirties) to the pantheon of SA mining houses and was characterised by the insistence of its two founders that it should never be anything other than controlled by two families

This was thought to be the perfect partnership — the Hersov and Menell families contributed everything they had to each other, and the group they controlled remained indissolubly attached to them Family control was extended through the use of as many as five share categories including loan stock and the use of the now unpopular, low-voting, "N" share

But too many factors intervened In the end, the families exhausted their supply of good management and failed to renew the group's capital stock, an interpretation which is challenged by Rick Menell who believes that both elements of the restructured group are equipped with high class management resources

A failure to renew capital stock, especially in a finite industry, is central to many SA corporate stories It was certainly the case with Rand Mines just as an example Anglovaal mining operations were small in scope, failure to expand these and to replace wasting assets meant that its market capitalisation shrank dramatically

Menell says, however, that they are concentrating on expanding the mining asset base — notably in Zambia, but also to bring the new Target gold mine in the Free State to higher levels of production as quickly as possible

That aside, the market considered it quite unsurprising when Anglovaal's Basil Hersov announced a restructuring which would lead to unwinding control from the two families The Menell heirs are to take the mining interests, the Hersovs will concentrate on the group's industrial legacy

This means the close relationship between the families has ended, some say in Rhino Minerals and 50% in Nyala Minerals, both of which are also up for sale,

- Gold through Avgold (comprising its wholly-owned subsidiaries E T Cons, Hartebeestfontein, Loraine, Target, Sun and Oribi)

Menell says Anglovaal Mining's thrust will be to concentrate on a narrow spread and intense focus of its operations He's bringing to full production as quickly as possible the recent cobalt acquisitions in Zambia (90% of the Nkana slag dumps, and the Chambishi acid and cobalt plants)

Menell will also want to bring the new Target mine in the Free State to full production swiftly The two projects will require substantial cash injections and Menell says he's now satisfied problems delaying financing packages have now been removed A three-year US$50m loan, bearing interest at the sharp rate of only 85 basis points above Libor, has been put in place for the Chambishi project, Menell, expects the feasibility study for the project to be completed and available in April

Industrials: At the time of AVL's annual report in September 1998, the company held effective controlling stakes in a number of operating businesses spread over a wide range

- Irvin & Johnson (frozen foods and fishing), 42%,
- Consol (packaging), 49%,
- National Brands (fast moving consumer goods), 50%,
- Fixed Investment (Alpha 18%, Bearing Man 33%, Tristel 59%, Grinaker Construction 30%)

The contrast between this portfolio and that of 1996 couldn't underline more emphatically the radical changes which have taken place In late 1997, AVI refocused its packaging subsidiary by selling off the rubber, tyre and paper packaging operations and delisting Consol itself Grinaker was unbundled and the electronics operation, which was then wrapped into Grinaker Holdings and including Grintek, Grinaker Electronics and Siltek, was sold off to black business group Kunene Brothers, its textile arm, Avtex was sold to Da Gama, in company with Holderbank, the Swiss-based controlling company of cement producer Alpha, AVI seeks first to increase its stake in the company and then to delist it

Fishing and frozen food group I&J has embarked on a joint venture with Simplot Australia and also on a black empowerment deal worth R162m which will put 20% of the group into the hands of three empowerment consortia National Brands is focusing on margins, market share, cost reductions and a general enhancement of the big name brands under its control Consol has completed its big capital expenditure programme and is now focusing strongly on improving factory efficiencies

In the circumstances, it is now fair to conclude that the industrial portfolio has been sensibly reordered and that the group's combined financial position has been restored to a position of sufficient strength for it to contemplate expansions Since the realisation in early 1996 that the greater group's circumstances were hardly encouraging, the market has bludgeoned the counters AVL's share price, for example, which peaked at R172 in 1996, fell to a low of R23,50 in 1998

It's not possible to review this kind of performance without concluding that the slump in global equity markets (Wall Street excepted), is a market verdict on what it considers a failure of family management and the passive approach of its professional managers

But for all the nuance that companies bring to unbundling the race to determine which conglomerate becomes the first to carry unbundling to its logical conclusion has resolved into a straight contest between Premier and Safren

After Safren's unbundling of Kersaf last year it disposed of Rennies Group to Bid-

HOW IT WORKS

WHEN IT'S RIGHT AND WHEN IT'S WRONG

A justification for a diversified company is the sharing of resources and competencies across businesses This creates shareholder value through corporate strategy based on business links that create value through the sharing of tangible and intangible activities and the ability to transfer skills Many mergers and acquisitions have, however, failed to realise these benefits

Management theorists, such as Peters and Waterman, Hamel and Prahalad, hold that synergies can be truly realised only within companies that focus on a few core competencies Unbundling of noncore businesses leads to the company's portfolio and management's attention being focused on a set of common businesses or core competencies resulting in improved performance

Refocusing on core competencies may ultimately lead to the restructured company rebundling through mergers or acquisitions to enhance its business position and gain international recognition First Rand was formed from the amalgamation of a set of financial service companies that gave the organisation further strength and international recognition

Some companies may try to focus on a large variety of competencies and claim that economies of scale, better access to capital and an improved credit rating justify their strategy In practice, however, the costs, inflexibility and cultural mismatches of the resulting bureaucracy may nullify these benefits

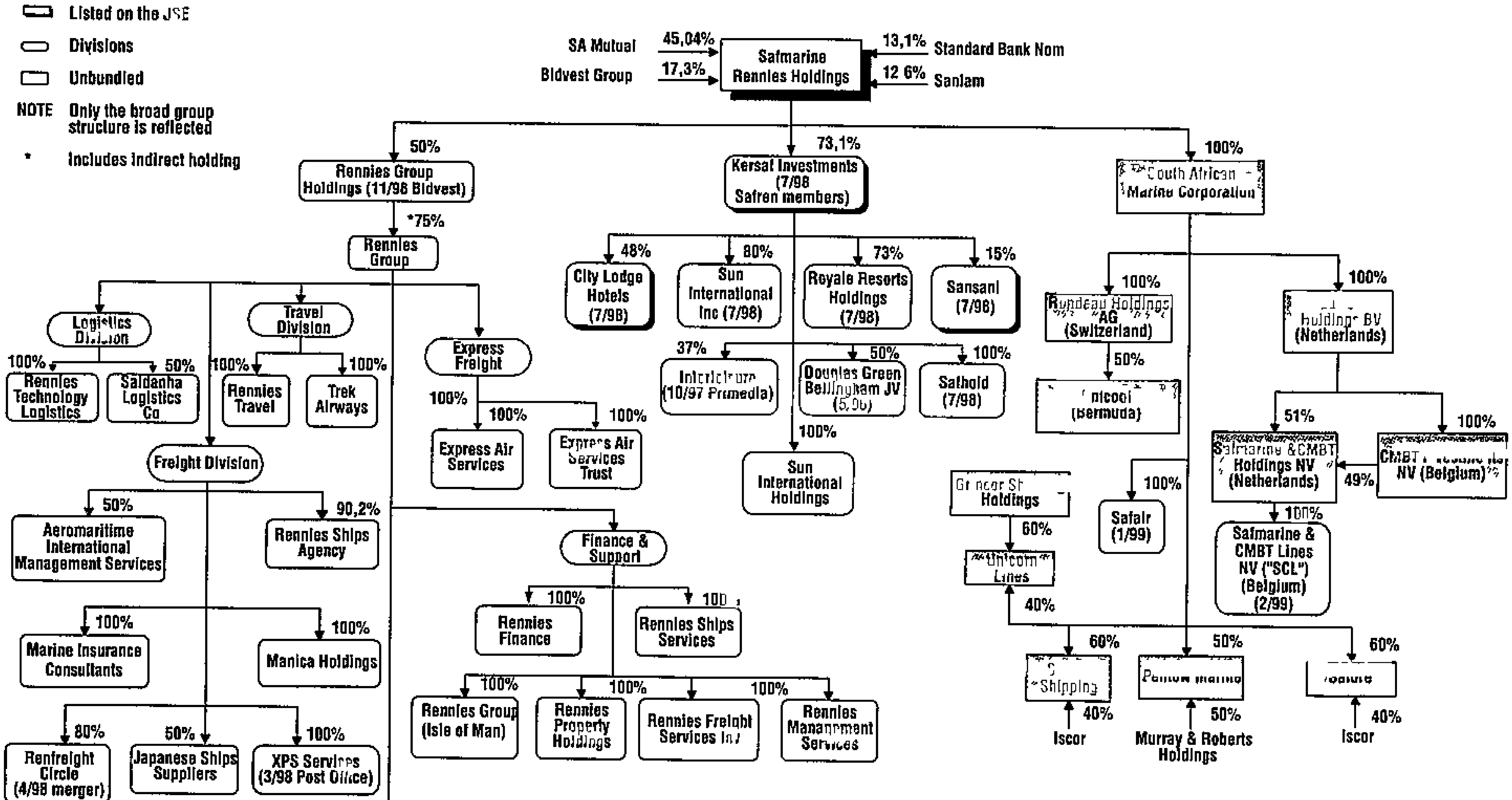
These arguments prompt the question whether all diversified companies will inevitably unbundle to avoid trading at a discount The fact is that there are many successful, highly diverse companies that are by no means on the brink of unbundling These typically adopt a more federalist approach Component companies enjoy almost complete autonomy and are required by their parent companies to meet only certain business and financial objectives

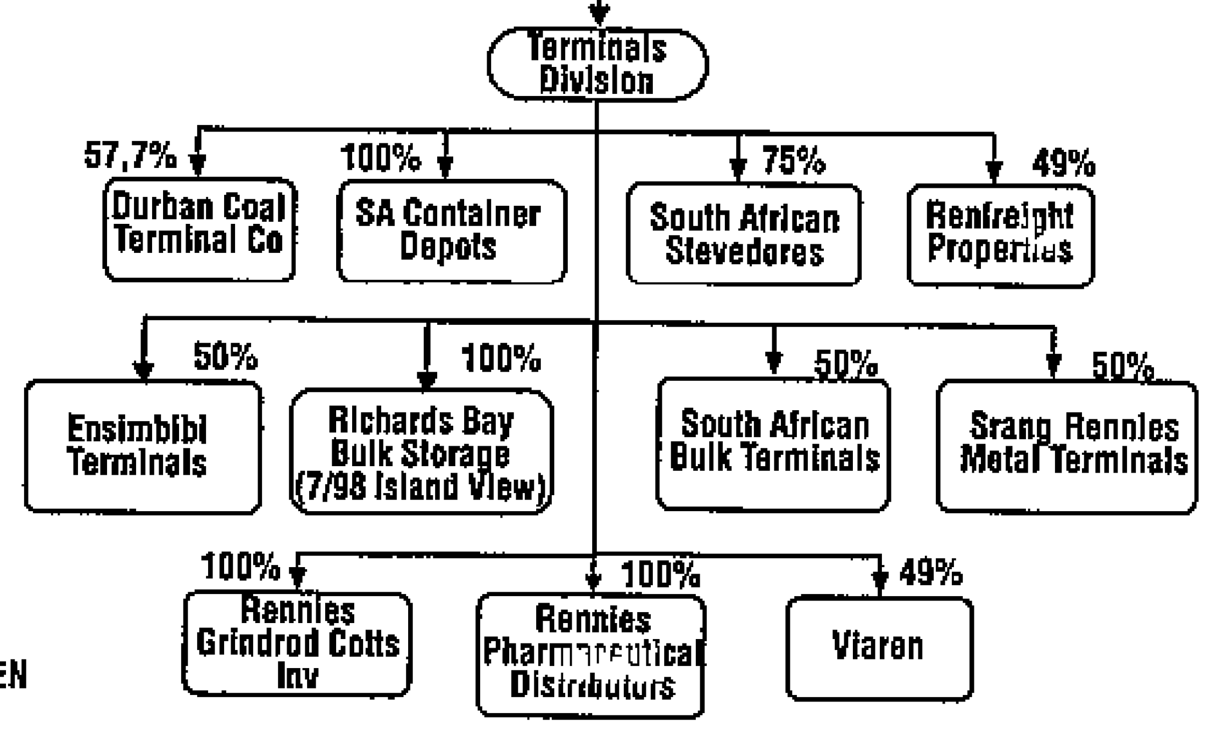
Unbundling can be an expensive and complicated operation (Malbak set aside R100m to cover its costs) which should never be considered lightly However, the release of large quantities of cash often associated with unbundling will continue to tempt companies under pressure from shareholders to sell an asset This is compounded by fears regarding the intention of the Reserve Bank to tighten banking supervision over the next year

Unbundling is often prompted as much by short-term pressures as long-term logic Companies that unbundle tend to do so because an intrinsic flaw in their make-up is causing their corporate strategy to be ineffective and their share price undervalued For SA companies the influence of factors such as the cost of capital and rapidly changing economic and political climate, coupled with legislation, have all contributed to the rapid increase in the number and value of unbundling exercises during the past few years

Abigail Levin is a strategy consultant at Andersen Consulting ■

SAFREN





SOURCE SAFREN

vest for R1,05bn and then sold Safair to Imperial Holdings for R230m This leaves Safren with its substantial shipping business concentrated in wholly owned subsidiary Safmarine

Unfortunately, Safmarine constitutes the most intractable part of Safren's operations because shipping everywhere is making heavy weather

The difference for Safmarine is that its fleet is modern and in good condition This ought to make it a target for shipping companies prepared to invest before the expected surge in trade volumes over the next decade

In a depressed sector like shipping the p e ratios applied to global competitors ranges between five and 30 An estimate for Safmarine is six and this suggests it ought to make a tempting meal for the big boys As it turned out, Danish ship owner AP Moller (which owns the Maersk line) has bought Safmarine liner business for US$240m This brings the total raised in this unbundling to R2,23bn

Transport holding company Safmarine and freight, travel and leisure group Rennies merged to form Safren in 1984 Within months the casino, resort and leisure group Kersaf was added to the portfolio

Kersaf was the first to leave the fold when it was unbundled from Safren last year to give the conglomerate an opportunity to concentrate more closely on its transport and freight businesses The directors believed that separating ships from the chips would unlock significant shareholder value

That left Safren with seven related operations liner, with 39% of earnings, bulk, 10%, reefer shipping, 23%, aircraft leasing (9%), terminal management (8%), freight (7%), and travel services (4%) It was thought then by analysts that the restructuring of Rennies would suffice and that a primary listing overseas for the shipping and freight operations might be next on the list As part of that focus, Safmarine bought the remaining 25% stake in liner subsidiary Safmarine & CMBT Lines from its joint-venture partner CMB of Belgium A shipping merger with a foreign firm was clearly on the cards

Then Rennies sold its loss-making XPS parcel delivery service and storage and handling operations to Island View That was followed by an agreement between Rennies and Barlow's Circle International SA to join with US-based Circle International to merge their domestic and global logistics and freight management interests into a new company, Renfreight Circle, with Rennies holding 80% in the business

Rennies' most unrelated business was Rennies Travel which conducts a profitable foreign exchange operation

Safren stands out as a classic example of the reason for the unbundling of conglomerates Chairman Buddy Hawton notes, after a decade of growth in earnings and assets that went unrewarded by the market, that the logic of unbundling to realise wealth became unanswerable

The result was that Safren's controlling stake in Kersaf was distributed to shareholders by a dividend in specie

Now that Rennies has gone, the company remains with its original shipping business, Safmarine, and the decision to sell it to a foreign fleet owner implies that Safren is likely to be delisted this year

Special Report written by David Gleason with Abigail Levin

Big-time privatisation in store for Jo'burg

Sowetan 26/2/99

By Joshua Raboroko

THE Greater Johannesburg Metropolitan Council has unveiled a two-year plan aimed at saving the cash-strapped council from financial crisis, rejuvenating the city and generating millions of rands

The plan includes privatising water, sanitation, electricity and waste systems, selling Johannesburg and Orlando stadiums and council-owned houses and hostels

Addressing a press briefing after a two-day summit – dubbed Transformation Lekgotla – the council's chief executive officer, Mr Kenny Fihla, said the plan, to be called "Igoli 2002", was aimed to set up utilities for water, sanitation, electricity and waste management Since these utilities were commercially viable they would operate as companies owned by the council

Privatisation and the sale of assets including Metro Gas, Rand Airport, portions of council-owned land, the Fresh Produce Market and Johannesburg and Orlando stadiums would generate revenue and create jobs

He said that privatisation of the assets was a minimal part of the plan and represented less that three percent of the council's business However, it was an important part of the plan in that it would help generate revenue to allow the new owners to make much needed investments to grow the businesses and create jobs

The council was losing R134 million annually on 6 000 houses and flats – presently occupied by councillors employees – as well as old-age homes They were in good condition and would be put on sale.

Hostels would be converted into family units in an attempt to reduce the critical housing shortage in the city.

The council also wanted to "corporatise" Johannesburg Zoo, the Civic Theatre, its bus company, farms, housing delivery company and specific development projects such as the Newtown Development Agency.

Fihla said the council and its four substructures were collectively heading for a deficit of R257 million by the end of the 1998-99 budget year. This was the result of several factors, including water losses, wasted expenditure from unproductive systems, insufficient income received and inadequate billing.

Competition Board probes MultiChoice

(272) BD 5/3/99

Amanda Vermeulen

THE Competition Board has launched an extensive investigation into whether subscription management company MultiChoice Africa's pricing of decoders and distribution policies constituted anti-competitive behaviour

The company would be probed over allegations of infringements of competition law, including accusations that it refused to deal with local hardware, software and satellite signal marketer DSat, the Competition Board said

Jim Volkwyn, MultiChoice CEO for Africa and the Middle East, said "We will co-operate fully with the board's investigation to help consumers understand the real price of DSat rentals"

Other areas of the probe would look at whether MultiChoice gave differential treatment to subscribers who had bought digital satellite television subscriptions from DSat

DSat is a subsidiary of Paradigm Interactive Media, and sells DStv subscription and equipment rental packages in SA

The feud between DSat and MultiChoice has been simmering for years, and dates back to about the beginning of 1997 when DSat launched its rental packages in the local market

MultiChoice alleged DSat's contracts were misleading the public and potentially locked customers into stiff hikes in monthly rates after the first year of a multiyear contract

DSat in return accused MultiChoice of anti-competitive behaviour after the subscription company threatened to refuse to enable the decoder equipment of DSat's customers

The debate with the Competition Board has been taking place for some months, during which MultiChoice has enabled DSat decoders Both groups presented their views to the board last month, after which a decision about a full investigation was taken

The board said other areas that would be probed in the MultiChoice investigation would be the group's pricing and distribution policy on decoders used to decode programming marketed by MultiChoice, and the alleged cross-subsidisation between MultiChoice and its own rental outlets with regard to signal and/or decoders

SOWETAN Wednesday March 10 1999

More talks on privatisation

By Joshua Raboroko

THE Greater Johannesburg Metropolitan Council is hoping to reach an agreement soon with trade unions about the controversial privatisation and sale of council assets, including the Orlando and Johannesburg stadiums

The GJMC intends to privatise its metro gas, Rand Airport, a portion of council-owned land, the fresh produce market and the stadiums, all of which form a minimal part of the plan and represents less than three percent of the council's assets

The chairman of the transformation *lekgotla* established to solve the financial crisis facing the council, Mr Kenny Fihla, told *Sowetan* that at the meeting they held with trade unions "things did not run properly"

He said delegates had differing views on the issues However, 60 percent of them welcomed the move to privatise some of the assets, saying that the important part of the plan was to help generate revenue and to create jobs

He was confident that at the next round of talks this week progress would be made in the controversial privatisation and sale of the assets. The council is unable to fund the investments needed to grow these assets

The purpose of the meeting was to ensure that trade unions had an insight into the problems and potential solutions for the city

He said the council intended to build a firm partnership with labour and management to ensure that they worked together to achieve the shared objectives of their plan

Much emphasis would be placed on a labour relations exercise which ensured that staff was part of all key decisions and on issues such as job security, benefits and salaries.

No retrenchments would take place during the process

Move to stop 'opportunistic mergers'

(232).

Legislation comes in midst of a high level of tie-up activity in SA

Wyndham Hartley

CAPE TOWN — The trade and industry department has moved to stop companies from "opportunistic mergers" during the transition phase between the old order competition law and the implementation of the new Competition Act expected in August or September

Department officials introduced the Competition Amendment Bill to the National Assembly's trade and industry committee and the finance and economic committee of the National Council of Provinces

They noted that the legislation came to Parliament at a time when there was a high level of merger activity in the SA marketplace

Competition Board head David Lewis said there were two key trade issues addressed by the amendments restrictive trade practices and mergers Lewis said the present competitions regime did not demand that the board be informed of the intention to merge, while the new act made this compulsory

He said there was concern about the chances for opportunistic mergers in the transition period

Lewis explained that the new measures would allow the incoming competitions structures to police mergers which had taken place under the old without notification, even if they only became known once the new act had been implemented The power to rule on such mergers will apply between October last year and one year after the new act comes into force

The amendments also rule that mergers outlawed by the old competitions board will remain prohibited under the new laws The act is expected to be implemented later this year Lewis said it was also necessary to have transitional arrangements for the administration of restrictive trade practices

He said that at present the board investigated and then made a recommendation to the minister.

If a prohibition was recommended and the minister concurred, it was gazetted In order to provide legal certainty, the bill sought to ensure all prohibited practices from the old law remain in effect for at least one year after the new act came into force

Lewis said there were only about 12 prohibition on the books and some were very old However, others were very recent. Both committees approved the legislation

BD 16/7/99

New competition law coming

Sowetan 23/3/99 (232)

BUSINESS organisations have been urged to prepare themselves for South Africa's new Competition Act, which is expected to come into effect in June

According to Gareth Driver, partner at Werkmans Attorneys, the companies have an opportunity to make sure that they comply with the new Act

The Act is expected to have a serious impact in some areas, and there are stringent sanctions for the companies that do not comply, Driver said

"Companies can be fined up to 10 percent of their turnover, civil damages claimed and contractual arrangements can be declared void," cautioned Driver

The Competition Act aims to eliminate the business practices which stifle competition

It will apply to all economic activity within South Africa or having an effect within the country

Driver said the Act's scope also covered the cross-border business practices and arrangements such as the exclusive distribution agreements

"It is expected that the scope of the public regulation exception will be hotly debated in the industries where licences or other approvals are required for the conduct of the business," said Driver

He added that the exceptions to the Act include the collective bargaining and agreements in the employment context, professional associations and the entities authorised by public regulation

Driver advised firms to utilise the period before the Act's commencement to review their existing arrangements and practices to ensure compliance with the new law *–Sowetan Business*

Labour's future in govt privatisation uncertain

(232)

Reneé Grawitzky

LABOUR's future involvement in government's privatisation and restructuring programme remains uncertain as government and unions have yet to meet to discuss the way forward for the national framework agreement

The agreement — signed by government and labour in 1996 — was intended to accommodate some of labour's concerns about restructuring and provide broad guidelines for its involvement in the process

The agreement expires next month and parties have yet to meet to discuss its future

Labour would like to see the negotiation of its extension and re-evaluation to effect some amendments while government's position in this regard is unclear

Labour sources said if government no longer supported the framework agreement, it would send out a signal about its attitude towards social dialogue

This could also have an effect on attitudes towards institutions such as the National Economic, Development and Labour Council

The sources said there was a view in certain government quarters that if it was not for labour, the privatisation process would have been faster There was also an attitude that it was now time for government to govern

The Congress of SA Trade Union's restructuring co-ordinator, Vusi Nhlapo, said the agreement had been beneficial for both parties It had placed certain constraints on government to negotiate but at the same time had ensured the smooth restructuring of state assets Labour had in many instances been able to ward off retrenchments Labour had to examine mechanisms to protect its members while overall the agreement had to be tightened up to ensure a better understanding

Government, he said, indicated it would be prepared to negotiate the extension of the agreement's timeframe

National Labour and Economic Development Institute director Ravi Naidoo said the framework agreement allowed for more dialogue about restructuring

The process had been slow but in the last year began to pick up and restructuring would increase in the next couple of years It would be problematic, he said, if the agreement was not extended during a period of increased restructuring and possible job losses

AIRPORTS *Cabinet to give parastatal's privatisation date this year*

Phase two of airports sell-off on cards

CT (BR) 31/3/99 (269) (232)

ROY COKAYNE

Pretoria — The timing of the second phase of the privatisation of the Airports Company of South Africa (Acsa), the airports parastatal, would be determined by the Cabinet this financial year, said the transport department's business plan released yesterday by Mac Maharaj, the transport minister

In the second phase the government would sell its remaining shareholding through an initial public offering

"It is expected to take place within the next 12 to 18 months," said the report

Maharaj said "The framework provides a clear path into the long-term future

"Its greatest value is that it not only ensures that government now has a long-term view of its role and where it should be focusing its investments, but it also sends clear signals to the private sector about how its role is seen by government and where it should be investing

CLEAR PATH *Mac Maharaj, the transport minister, says the department's business plan emphasises the government's long-term view and investment focus It will give transport providers a clearer sense of long-term planning priorities and constraints*

"The customers and providers of transport will be able to determine what their long-term future will look like and to confront the difficult decisions that will have to be made with a clearer sense of long-term planning priorities and constraints "

In April last year the transport department oversaw the successful sale of 20 percent of Acsa to an international consortium led by Aeroporti di Roma for R819 million

In July last year, the department announced the R172 million sale of 21 million shares, representing 4,2 percent of Acsa's issued share capital, to six South African empowerment groups The groups represented roughly 6 million individual shareholders or beneficiaries

The department is offering 9 percent of Acsa's shares to Acsa management and employees It would set aside a further 10 percent for the National Empowerment Fund, said the report

In terms of Acsa's budget for 1999/2000, net income before taxation was budgeted to decline from a projected R413 million in 1998/99 to R382 million Total revenue was budgeted to rise from a projected R891 million in the 1998/99 financial year to R934 million in 1999/2000 and dividends to rise from R55 million to R58 million

However, the report said the 1999/2000 budget quoted was an extract from Acsa's five-year plan It had not yet been approved by its board

Acsa was in the process of compiling its detailed budget for 1999/2000, it said

Dipak Patel, the director general of the department, said another focus of the business plan was public transport, which would place the three public modes on a new footing

This would aid the development of a customer friendly integrated transport system in the next few years

Patel said the department had had three rounds of restructuring from a highly bureaucratic department with 1 047 people in 1996 to 250 people today

He said change in the size and shape of the department resulted in it moving from doing nearly everything in-house to the co-ordination of a network of transport clusters geared towards delivery

Patel said parliament had voted R3,495 million to go to the department The department's restructuring would mean only 4 percent of this would be spent within the department and 96 percent earmarked for transfers to policy, strategy and implementation, corporate support services, and regulation and safety This showed "that the department is truly lean"

MANAGEMENT

New legislation should ring corporate warning bells

First target of Competition Act will be a high-profile case of dominance abuse

BD 1\4\99

Saul Klein (232)

WITH a few months to go before the new Competition Act is implemented, warning bells are ringing for corporate SA

The new legislation will have a major effect on anticompetitive practices that may have been tolerated in the past Indeed, in the past few months we have seen a reconstituted Competition Board displaying its teeth disallowing the proposed merger of AECI and Sasol, and initiating investigations into International Healthcare Distributors and Multichoice

The act brings with it two new dimensions that decision-makers must appreciate First, it carries heavy penalties to ensure enforcement, providing for administrative fines of up to 10% of a firm's annual turnover, imprisonment for up to 10 years, and forced divestiture The act also opens the door to civil damages

Second, it is difficult to anticipate how the new authority will tackle future cases The biggest problem that business faces is one of uncertainty as to whether particular practices are legal or not Uncertainty is exacerbated in SA by the criteria that are to be applied

In many instances, the act provides for a balancing of pro-competitive and anti-competitive effects in the review of restrictive practices, abuse of dominance and prospective mergers Criteria are not restricted to consumer welfare and economic efficiency, as in other jurisdictions such as the US

Other criteria for consideration in SA include promotion of employment, social and economic advancement, promotion of a greater spread of ownership, expanding participation in world markets, and enabling small and medium-sized enterprises

It should be clear to the most naive observer that the various criteria may frequently be at odds with one other

What is less clear, is how the authority will trade off one criterion for another It is likely that political forces will play a role in how this uncertainty is resolved

Given that members of the authority will be ministerial appointees, it is inevitable that priority will be given to those people with viewpoints that the minister finds palatable It is likely that consumer welfare and economic efficiency will be traded off for job protection

Political considerations may also result in pressure on the new authority to act quickly and decisively to send a signal that the ways of the past are no more It is quite probable that a short list of potential targets for investigation has already been prepared

Given the extent of industry concentration in SA, the first target is likely to be a high profile case under the abuse of dominance provisions of the act There are at least 12 industries where a single firm holds a market share of more than 35%

Other targets could reflect populist sentiment The major banks may find their activities under greater scrutiny Large mergers will also attract attention because of the need to send clear signals

Faced with this uncertainty, how should businesses prepare themselves? The first step should be a complete audit of all business activities to determine anything that could fall foul of the act

Given its scope, this determination should be wide, and worst-case scenarios should be clearly identified, even if they are considered unlikely Such an audit is a major undertaking that could consume significant resources

The second step is to consider those areas of possible concern, and evaluate both their business logic and whether or not they can be justified under the act It may be necessary to make changes in how the business is conducted to conform with the act

The third step is to prepare a defence in terms of any practices that serve a strong business objective, but could be attacked on anti-competitive grounds

There are a number of such practices, relating, for example, to distribution arrangements, pricing and promotions

Preparation of a defence involves considering economic and non-economic criteria, and collecting evidence to substantiate desired conclusions This step will be expensive and time consuming

An important change lies ahead for business The time to act is now, before investigations are launched and before penalties are imposed The costs of acting now pale in comparison to costs that could be incurred later

□ *Saul Klein is professor of marketing and international business at Wits Business School*

RESTRUCTURING *The government seems less keen to include business and labour in policymaking*

Doubts abound over the future of the NFA

CT(BR) 7/4/99 (232)

FRANK NXUMALO

Johannesburg — The government-labour National Framework Agreement (NFA) expired last Wednesday but Membathisi Mdladlana, the minister of labour, would not be drawn on its future last week

The NFA was signed in 1996 by the government and Cosatu to accommodate the concerns of the country's most powerful and largest labour federation on the restructuring of parastatals and local authorities

Even while Cosatu prepares for a workshop of its affiliates in those sectors to decide on whether to propose an extension of the NFA, it has already expressed deep concern at recent developments.

Cosatu has said these developments threaten thousands of jobs They seem to suggest that many leaders in the state sector regarded the "uncritical adoption of the ideology of privatisation as a panacea for all societal problems"

Zwelinzima Vavi, Cosatu's general secretary designate, said affected affiliates would give the workshop detailed reports on the restructuring and/or privatisation process within and outside the context of NFA

The workshop would also "evaluate whether the NFA served any useful purpose"

"The workshop," he said, "should recommend as to whether this NFA's life span should be extended or not

"The May 1999 executive committee has been requested to take (some) decisions, including (one) on engagement with the alliance and (on) a programme to defend our members' jobs"

NEW ISOLATIONIST *Membathisi Mdladlana, the labour minister, says the government can go it alone*

But the dynamics go beyond privatisation, the NFA seems to have been overtaken by events

It is highly relevant that the labour department has just completed its five-year programme of action, a large part of which was the enactment of new labour legislation in collaboration with the National Economic Development and Labour Council (Nedlac)

The completion of the programme itself has deep implications for the future of Nedlac after the elections in terms of its importance in the eyes of government, the focus of its activities and, by implication, the future of social dialogue.

The bilateral nature of the NFA is another hobbling aspect because the private sector, an important player in the question of state restructuring, is not a signatory to it

The importance of the sector in restructuring is clearly shown by the way officialdom in particular frequently refers to restructuring as the public-private partnership

What is really at issue is the future of social dialogue, or tripartisanism an arrangement by which the government, labour and business all sit down to negotiate sufficient consensus on important socio-economic issues

There are already indications that the government is beginning to draw the line between what needs to go to Nedlac and what just needs to be handed down as a policy directive

Mdladlana admitted this straight out, saying there were issues that the labour department "could (cover) without Nedlac"

"Not everything from government must go to Nedlac. That is why some of the social partners lost miserably in court," he said in apparent reference to the recent lobby by tobacco companies against the health department's tobacco bills

NEWS

Samwu opposes Igoli 2002

CT(BR) 8/4/99 (386)(232)

FRANK NXUMALO

Johannesburg — The South African Municipal Workers' Union (Samwu) yesterday rejected the Igoli 2002 plan to restructure Johannesburg and called for an immediate halt to the process

"Samwu does not believe there is a financial crisis in Johannesburg that could be improved by selling off profit-making and job creating assets Any restructuring plan must first rectify areas where money is being wasted "

The union said arbitration was currently in process between employers and Samwu because of a dispute over last year's restructuring plans, since launched under another name

Victor Mhlongo, Samwu's Gauteng provincial chairman, said "A National Framework Agreement on municipal restructuring was concluded last year between all municipalities and Cosatu, which Igoli 2002 completely ignores.

HALT! *Victor Mhlongo of Samwu wants the Johannesburg restructuring plan to be shelved*

PHOTO JOHN WOODROOF

"This brings into question the authority of national government in driving negotiations around local government "

Mhlongo said Samwu had "not been consulted" on a restructuring process that would radically alter the conditions of service of members, especially in the services designated for privatisation

He said this was a contravention of section 64 (4) of the 1995 Labour Relations Act, which stipulated that unions must be consulted in cases of workplace restructuring when this resulted in changes in conditions of service

Some of the agreements ignored by Igoli 2002 included the Municipal Services Partnership Framework signed by Cosatu and the South African Local Government Association, and government policy that public sector service delivery should be restructured democratically by all stake-holders

Board stops investigation into SAB and KWV

(232) (182)

ROY COKAYNE

CT (BR) 19/4/99

Pretoria – The Competition Board had withdrawn its notice of investigation into SAB's business practices, Wouter Meyer, the director of the board, said yesterday

A notice of investigation into the affairs of KWV, the investment group, had also been withdrawn.

The withdrawal of the SAB and KWV notices of investigation and six other investigations were published in the Government Gazette on Friday

Meyer said the majority of the notice withdrawals were related to the new Competition Act Many of the alleged offending practices, including abuse of dominance, could be better dealt with through the new act.

The Government Gazette notice said the board decided to terminate a number of investigations announced in terms of the Maintenance and Promotion of Competition Act, because in some cases the need for an investigation had fallen away, and circumstances had changed in others

The board launched the SAB investigation to determine whether SAB had a monopoly in the alcoholic beverage industry and whether any agreements it had in the industry constituted restrictive practices

SAB subsequently challenged the board's notice of its investigation on the grounds that it exceeded the board's rights and power in terms of the act.

Lourens Jonker, the chairman of KWV, said last year the board investigation into the liquor industry and the affairs of KWV had been put on hold until the new Liquor Act was passed.

Jonker said at the time the new Liquor Act would probably contain guidelines and prescriptions regarding competition which could affect the outcome of the investigation

Ruiters tipped to be chief of competition body

(232) BD 20/4/99

John Dludlu

A top trade and industry department official is regarded as frontrunner to take charge of the new commission

GOVERNMENT is expected to name Alistair Ruiters, the chief director at the trade and industry department, as head of the new competition commission as part of beefing up competition law enforcement in SA, sources say

A source close to the process says the recruitment of top managers for the new competition policy institutions is expected to be finalised next week ahead of an announcement in mid-May

A senior government official has confirmed Ruiters is in line for the post of commissioner for the competition commission

In terms of the new institutional framework, which forms part of government's bid to strengthen competition law enforcement, the commission will essentially carry out investigations on corporate behaviours outlined in the Competition Act

Another source says Ruiters, who is the chief director for business regulation and consumer services at the trade department, has acquitted himself well during the process of reviewing SA's competition law

The job requires an "organiser, a manager who can get good people around himself to do the job", says one observer

Together with David Lewis, the acting chairman of the Competition Board and the man widely expected to become the head of the new competition tribunal, Ruiters led the government team that negotiated the present law with business and labour

Since early this year, as acting commissioner, he has been involved in setting up the new commission, which will be an independent body Though its initial budget will come from the trade department, the body is situated out of the department's premises in Pretoria to retain its independent status

Ruiters, formerly a special adviser to the trade and industry minister on small business policy, is out of the country on official business

Sources say Lewis, an academic running an industrial policy research unit at the University of Cape Town, is expected to continue playing a role in competition law administration Apart from chairing the board ahead of its dissolution in June, Lewis has now been a member of the board for years

Those close to the recruitment process say Lewis is expected to head the competition tribunal It will grant exemptions, and authorise or prohibit corporate mergers

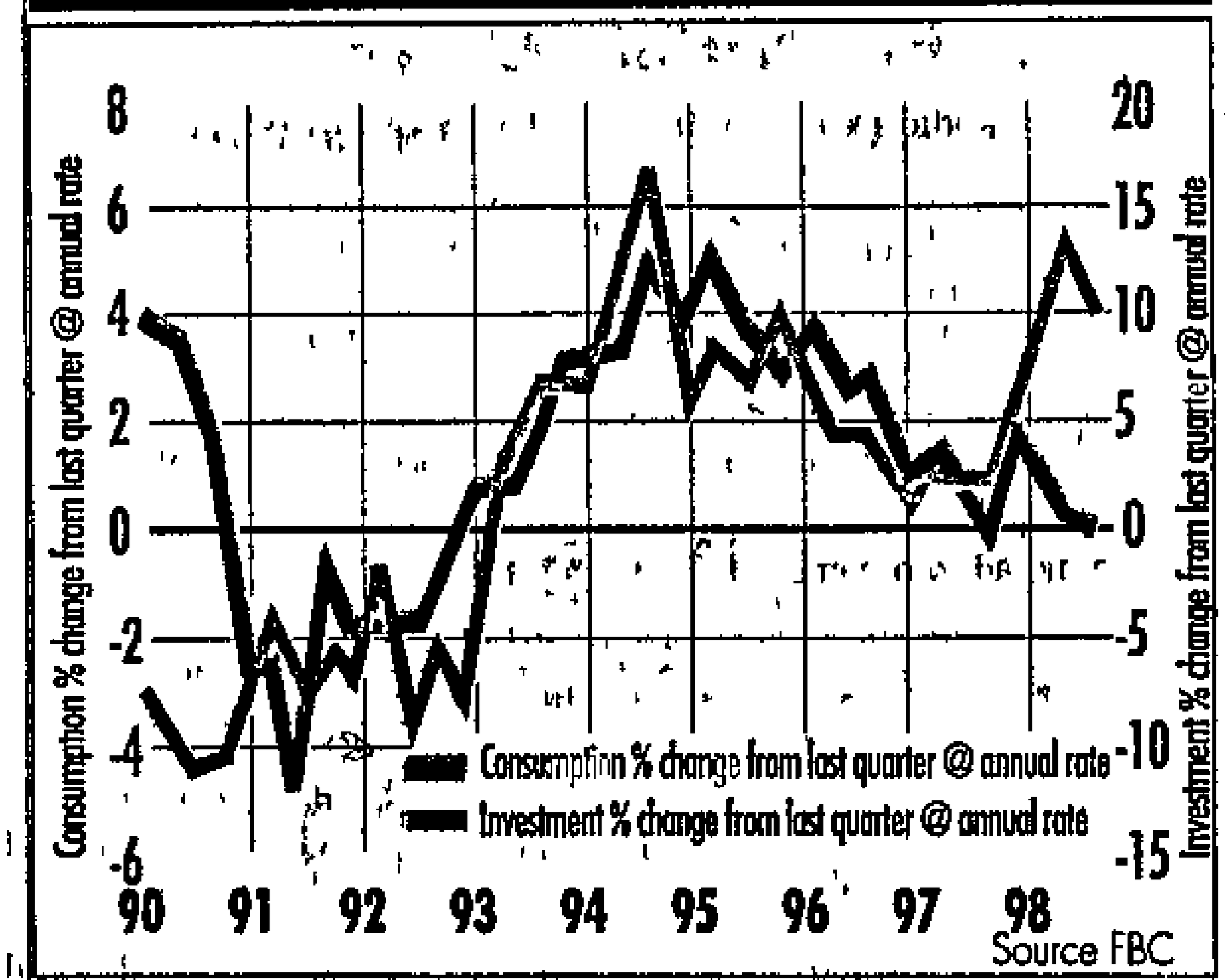
It is widely expected that the newly appointed members of the Competition Board, including a trade union official, will continue serving in the new regime which comes into effect in June

Current officials of the board interested in serving in the new commission have been asked to apply for jobs

However, the trade department is expected to retain a link with the competition body, albeit with limited competence

Parliament recently approved amendments to prevent opportunistic mergers and acquisitions aimed at bypassing the scrutiny of the sharper law

Changes in consumption and investment



Post-election privatisation to reach R40bn

ET (BR) 20/4/99 (232)

Lukanyo Mnyanda
Economics Editor

Johannesburg – The privatisation of state assets was expected to accelerate after the elections in June and could raise as much as R40 billion over the next five years, adding about 6 percent to South Africa's gross domestic product (GDP), FBC Fidelity Investment Bank said yesterday

In its economic report for the first quarter, the bank said the government was estimated to have about R120 billion in property alone which could generate an additional R15 billion if sold off or rented out, while privatisations at municipalities could raise another R4 billion over the same period

"Together, these nearly double the estimated privatisation proceeds to around R40 billion, or about 6 percent of GDP. It is likely that further stakes in South African Airways and Telkom could be sold off after 2004, boosting these proceeds to about 8 percent of GDP over 10 years," it said

FBC's report confirmed its bearish outlook for the South African economy in the short term while sending out a more optimistic message on longer-term growth prospects as structural reforms began to pay off It expected an average growth rate of more than 3 percent over the next five years This year, however, growth would contract by 0,9 percent

This is by far the most bearish estimate in the market place, with most economists expecting growth to be positive, if sluggish, at less than 1 percent

Indications that the decline in commodity prices was reaching a bottom support their optimism, while the positive spin-offs of the privatisation process would be reinforced by the probability of new investors introducing new technology and skills The conclusion of a trade agreement with the European Union would also boost growth in the long run

Mike Schussler, FBC's economist, said the South African economy was more competitive already, and the painful job losses experienced over the past few years as key sectors restructured to improve competitiveness should stop in the next 18 months

The report said one of the few benefits of the economic slowdown of the past two years was that inflation had remained subdued FBC forecast it to average just 6,1 percent this year, with only the sharp comeback in oil prices expected to stop it from going much lower than 4 percent by the end of the year At 6,9 percent, the average inflation rate for last year was the lowest for 25 years.

FBC expected the current account deficit to fall to about 1,7 percent of GDP this year compared with 2,1 percent last year The rand should continue with its relative stability and end the year at about R6,50 against the dollar

South Africa is expected to post a healthy surplus of just over R800 million when trade data for March come out tomorrow

Another exception in an otherwise bleak period for the economy was the continuing growth in gross domestic fixed investment, which grew by 7,5 percent last year as a result of the public sector and parastatals increasing their investment by 54 percent

Sacob calls for clarity on regulation policy

(232) CT(MR) 21/4/99

ZINTLE FILTANE

Johannesburg – The South African Chamber of Business (Sacob) yesterday called on the government to clarify its policy on competition and that associated with regulation

In a memorandum titled Regulation and Regulators, Sacob examined the role of regulatory bodies, advocating that in the interpretation of policy, the regulators must be seen to be impartial and independent of politics and vested interests

It argued that while the powers and functions of regulators varied, the common feature was where there was no competition in their industries of responsibilities, Sacob strived to serve as its substitute

Sacob said "At times it is easy to confuse a pro-market stance with condoning the abuse of market power Such confusion can arise wherever there exists a dual role of promoting economic growth and regulating a market "

The chamber said operational and policy formulation responsibilities should be the prerogative of the government and separate from regulatory responsibilities

This could be achieved by the establishment of independent regulatory bodies free from political interference, it said

There are three regulatory bodies, and a fourth would be established during the course of this year

Appointments to the Independent Broadcasting Authority as well as the South African Telecommunications Regulatory Authority are made by the state president on advice of the national assembly

Appointments to the National Electricity Regulator and the soon to be established postal regulatory body fall under the responsibilities of the minister of minerals and energy and minister of post, telecommunications and broadcasting respectively

Picture. JULANI VAN DER WESTHUIZEN

PICKING UP ... Public Enterprises Minister Stella Sigcau expects more high-profile deals will be concluded soon

(232.) ST.(BT) 25/4/99

Privatisation drives picks up pace

STATE ASSETS

By ANDREW GILL

THE much-criticised slow pace of restructuring state assets appears to have built up a head of steam with various high-profile deals likely to be concluded in coming months

Public Enterprises Minister Stella Sigcau said a management contract at state-owned Alexcor was awarded to Nebera, one of eight bidders, and the sale of Connex should be agreed this week for R18-million

This is R3-million more than was bid just two weeks ago

Sigcau also said 23 non-binding bids were received for forestry company Safcol, which has been languishing amid a lack of progress on its planned privatisation Talks with preferred bidders start in August after a due diligence process by current bidders Only four of the bids are said to be for the entire Safcol business, which is the preferred method of privatising the concern

The developments come on the back of the expected sale of a 20% to 30% stake in SA Airways this year, while other developments include a focus on Portnet with a view to splitting it into two entities — a port authority and operations — and the privatisation of Swartklip, Eloptro, Vektor, Metrorail concessions, Transwerk, Autonet, Apron Services, AirChefs, Protekon, Chemical Services and Production House, Sigcau says

Failure to secure a deal at Aventura, where a contract with Cosatu's investment arm Kopano ke Matla was cancelled this month, is expected to result in a management change at the resorts company A decision on whether to opt for a management contract at Aventura is expected this week

● Sigcau's vision: Page 7

Telkom to privatise three noncore units

9D 26/4/99 (232)

Robyn Chalmers

TELECOMMUNICATIONS utility Telkom has called on the private sector to bid for three of its units which are estimated to have equity capital of about R427,5m

The bids have been called for Telkom's R400m fleet management division FastFleet and provision of a full maintenance lease service, the R25m electronic services workshops and the R2,5m light engineering workshops

The move is part of Telkom's outsourcing policy which refers to the sale of noncore entities and their assets The policy is to enable Telkom to focus on the core business of telecommunications and information technology

Telkom corporate communications group executive Amanda Singleton said that outsourcing was not a new development in Telkom and had been unfolding over the past four years

Singleton said Telkom was now preparing to outsource its fleet management division, electronic and engineering workshops, as well as non-infrastructure properties and property management

"To this end, Telkom (has called) for potential buyers to apply for prequalification. This is an exploratory step aimed at enabling Telkom to test the level of interest, experience and expertise among potential buyers in the market place "

Telkom chairman Dikgang Moseneke said yesterday perceptions that Telkom's exclusivity period was anticompetitive and designed to protect a state monopoly were unfair and inaccurate

Moseneke said "Telkom's task is a massive one the temporary exclusivity period is intended to ensure we have the financial means to meet these obligations "

Updated Competition Act 'will help promote trade'

(232)

ZINTLE FILTANE

Johannesburg – Companies eyeing mergers and acquisitions would be placed under tough scrutiny if their actions were found to be anti-competitive, David Lewis, the chairman of the Competition Board, said yesterday

He described the new competition legislation as a piece of "commercial legislation" designed to promote trade and investment, which did not allow for "capricious interventions in decisions made by firms and their managers, the principal agents of trade and investment"

Lewis said that while the objectives of the legislation were clear, firms were going to be more self-conscious about the implications of their decisions and actions for competition

Among other differences between the current act and the new one, scheduled to come into effect later this year, the new act makes notification of mergers compulsory

Lewis said one of the advantages of the new act was that it clearly spelt out the assessment process and criteria for mergers and acquisitions

"Hence it will first have to be established whether or not the merger substantially prevents or lessens competition"

He said in the event the merger was found to restrict competition, the authorities would have to examine possible countervailing efficiency grounds to justify the merger

"If it finds that none exist, it will then have to examine a prohibition against specified public interest grounds"

He said a merger could be blocked even if it was found that it did not impair competition, but was wanting on the specified public interest grounds

Lewis said one of the issues that underpinned government commitment to a strengthened competition policy was the firmly held perception that South Africa's industrial structure was highly concentrated, characterised by trading practices aimed at defending the concentration and dominance

It was also perceived that the barriers confronting new entrants, particularly small, medium and micro enterprises, were almost insurmountable and that this contributed to a marked lack of dynamism in the economy

~~IST launches on-road fuel system~~

~~ROY COKAYNE~~

~~Pretoria – IST, the listed technology group, had made history with the launch of an on-road fuelling system, the first of its kind in the world, Gary Morolo, the chairman of IST, said this week~~

~~He said the new system, Petro-Man, was the solution to on-road fuelling problems and associated fraudulent activities in the sector~~

~~"It is the ultimate tool for optimum fuel and lubricant dispensing control," he said at the launch on Wednesday~~

~~He said Petro-Man, designed by IST Industrial, was the most versatile system on the market to date It provided fuel management with solutions from simple attendant tagging to state-of-the-art vehicle identifications and refuelling technology~~

~~Jacques Joubert, IST's marketing manager, said the system was aimed at fleet owners He would not be drawn on the number of units or value of orders IST hoped to sell~~

~~Joubert said the product would be available from September this year at a rate up to 200 units a day~~

Competition Act will alter the game's rules

BD 18/5/99 (232)

New law set to enhance the regulation of mergers and acquisitions

John Dludlu

NEXT month is set to become one of the most important in the lives of South Africans Not only will a new government take office, but the face of economic regulation will change when most provisions of the new Competition Act come into force

The act will make life different for SA's economic operators, both in the private and public sectors

In preparation for implementing the new law, the cabinet has named Alistair Ruiters, formerly chief director for business regulation and consumer services, as head of the new Competition Commission, an independent body that will chiefly investigate mergers and acquisitions

Unlike in the present legislation, all mergers will have to be notified to the competition authorities

The act, which significantly bolsters the old one also requires proposed mergers to be communicated to worker representatives

Apart from dealing with mergers and acquisitions, the act prohibits several corporate practices, including restrictive horizontal practices (market sharing and price-fixing) and restrictive vertical practices

While it does not equate size of firms with anti-competitive behaviour, the act frowns upon companies that abuse their dominant positions by, say, price discrimination

The law also makes provision for the Competition Tribunal and Competition Appeal Court The tribunal, the body which is widely expected to be headed by Competition Board head Dave Lewis, will either approve or veto mergers

Ruiters says the act is peculiarly South African in nature While addressing the concerns of foreign investors, it also deals with strictly SA issues Among its objectives, it seeks to promote employment, "advance the social and economic welfare of South Africans" and promote black economic empowerment

In an economy like SA's, dominated by mostly larger firms, this law also seeks to ensure small and medium-sized enterprises have an "equitable opportunity to participate in the economy"

Contrary to the current law, which has allowed parastatals to abuse their privileged positions, the new law empowers competition authorities to deal effectively with the transgressions of parastatals or public utilities

To avoid jurisdictional overlaps, the commission is empowered to negotiate agreements with other regulators of publicly licensed bodies

Lewis, an industrial policy expert and veteran trade unionist, warns that parastatals which move out of their mandates to compete in unlicensed sectors will fall into the ambit of the law According to the board's 1997 annual report, five such complaints were received.

Lewis and Ruiters recently went to Parliament to seek endorsements of "transitional measures", a series of proposals aimed at preventing the possibility of "opportunistic mergers" being consummated under the present ineffectual regime

Lewis says "We were anxious to avoid a situation where a merger took place by design or error two months before the new act came into force, and we only discovered about it before the new agency (the commission) came into effect We would have been handcuffed by the circumstances"

Public interest

The final version of the law, signed by the president, gives the trade minister a right — like any other interested party — to participate in merger proceedings on grounds of public interest.

An earlier version granted the minister review powers, prompting business to threaten to test the constitutionality of the provision in court This would not have been unique to SA. In Germany, decisions of the Federal Cartel Office can be overridden by the finance minister on specific grounds

Legal experts say this clause would, in effect, have compromised the constitutionally enshrined independence of judicial bodies such as the Competition Appeal Court

Ruiters says the climbdown was prompted by a need to avoid making the law one of litigation.

Pierre Brooks, former chairman of the board who retired last year, is relieved that the new law excludes a stipulation providing for representation of the trade and industry department at the commission.

To ensure its independence, the commission is situated outside the department's headquarters

During negotiations, government representatives faced a tough battle from business' opposition to the inclusion of public interest as a consideration in merger proceedings

In other words, a merger will be assessed on the effect it has on "non-efficiency" issues such as employment, a particular industrial sector; the ability of small and black-owned firms to be competitive, and the ability of SA's businesses to compete internationally

Business opposed this, saying competition policy should not be used to achieve social goals

Brooks accepts the public interest clause as it is not open-ended

Interestingly, the World Trade Organisation (WTO) recently noted that many countries often linked rivalry between companies — the basic objective of competition law — to broader socioeconomic objectives

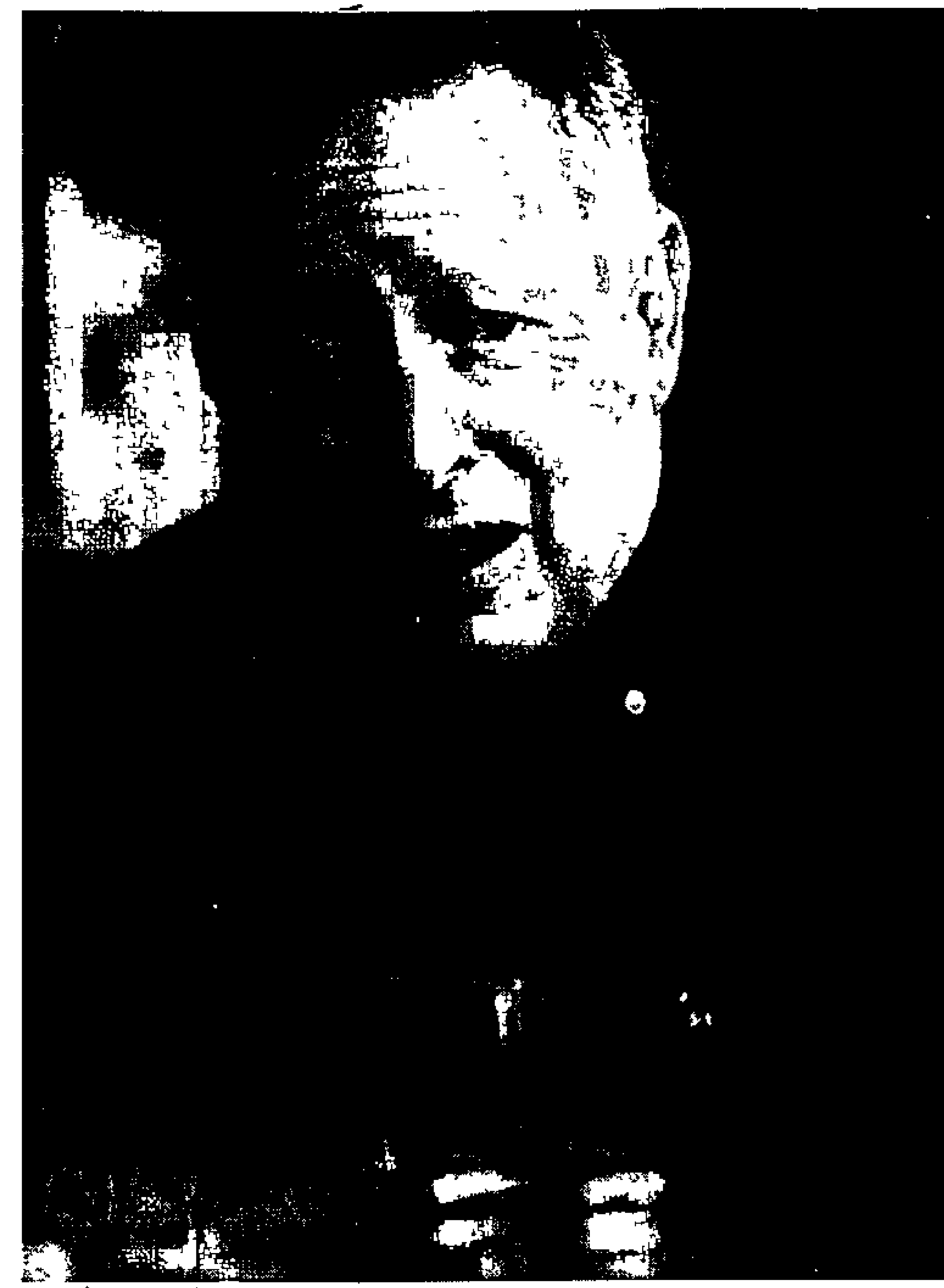
For example, Britain's competition laws, which are under review, are based on the public interest approach, while Canada takes an "explicit total welfare approach" that balances "potential efficiency gains against anti-competitive effects"

Another concern with the new law is that it is too sophisticated for a mid-income economy like SA's However, both Lewis and Brooks argue strongly against settling for a "third-rate" law that would be cheaper to implement. "I'd rather work determinedly in filling that gap than in having a law that's kind of simple, but inadequate," says Lewis

It is envisaged that an officer will be appointed to help firms apply for exemptions and ensure that they comply with the law

The WTO says that competition policy works most effectively when introduced with other market-oriented reforms

This appears to have been SA's approach The strengthening of competition law, coinciding with the review of laws to protect consumers, is expected to be followed by a review of corporate law to enhance economic governance



Acting chairman of the competition board, David Lewis, the man widely expected to become the head of the competition tribunal The Competition Act, which becomes effective next month, aims at regulating mergers and acquisitions in the business sector Picture BRETT ELOFF

Sowetan 18/5/99

Cosatu warns over job losses

(232) ~~(???)~~

By Mzwakhe Hlangani
Labour Reporter

ECONOMIC recession, stagnation and high interest rates have resulted in over 108 000 job losses through restructuring and privatisation of public and private enterprises, according to the deputy general secretary of the Congress of South African Trade Unions, Mr Zwelinzima Vavi

Speaking at a media briefing, Vavi said the federation would block unilateral restructuring of parastatals which were conducted without consultation

"We are ready to respond fully to the threat of job losses in a number of state-owned enterprises Never in any circumstances will Cosatu stand idle while thousands of workers lose jobs," he said

In terms of the national framework agreement, any restructuring of state enterprises has to be negotiated with the organised labour sector.

The agreement lapsed at the end of April and the federation has entered into negotiations for a new framework

The federation is wary of the fact that the agreement did not cover state enterprises regulated by provincial and local governments and as a result workers were not adequately protected by the Insolvency Act

Vavi decried the record levels of liquidations, in particular in the small to medium enterprises sector, as a result of economic depression

"Workers continue to be dumped on to the streets and lose not only their jobs but years of investments in pension savings," Vavi said

"We will instruct our lawyers to urgently look at the Insolvency Act to see how it can be improved so that the obligation can be placed on companies to inform their workers well in advance that they face financial difficulties or when the possibility of liquidation exists," he said

An alternative to retrenchment needed to be found in order to minimise job losses The restructuring of public service, scheduled for the end of the year, was not likely to result in major retrenchments

The Department of Public Service and Administration said a skills audit had so far found about 25 000 civil servants to be redundant

Deputy director-general Dr Neva Makgetla said the labelling of some public servants as supernumerary undermined the morale of both employees and their managers without assisting the restructuring process in some cases

Competition board geared for action

BD 20/5/99 (232)

John Dludlu

GOVERNMENT is due to release a set of rules and regulations over the coming weeks that will underpin the implementation of the new Competition Act — the final step in the state's plan to beef up its capacity to police corporate mergers and acquisitions

Newly appointed competition commissioner Alistair Ruiters said yesterday the rules would outline procedures to be followed in notifying competition authorities of mergers and acquisitions as well as the route for instituting complaints about restrictive practices

In terms of the new law, which replaces the present one administered by the competition board, businesses which are planning a merger or an acquisition will be forced to notify competition authorities of their intentions

The commission, an independent investigative body, will then make recommendations to the soon to be established competition tribunal, an administrative body that will either approve or veto a merger

The act, signed into law last year, prohibits a range of anticompetitive behaviour, including abuse of dominance and market-sharing arrangements

Crucially, the regulations — which will be based on the act and are not negotiable — will also name the thresholds at which a firm becomes dominant.

In terms of the act, a dominant firm is one operating in a market where it has "at least 45% of that market, has at least 35%, but less than 45% of that market, unless it can show it does not have 'market power', or it has less than 35% of that market, but has market power"

When the act was being debated, these thresholds were criticised by business negotiators as being too low

The regulations would also give clear details of the circumstances under which exemptions from the act could be granted

The commission may grant an exemption to agreements if these arrangements contribute to the promotion of exports, strengthening the ability of small business or black-controlled firms to compete, or industrial policy

Ruiters said the commission was expected to have a staff of about 80 and a budget of R59m It would begin negotiating with other regulators such as Satra, the telecoms regulator, and the IBA, the broadcasting watchdog, to avoid overlaps and to ensure that public monopolies did not abuse their positions by frustrating private sector operators in unlicensed activities

Union in protest at privatisation moves

(222)

Sowetan Reporter

THOUSANDS of chanting members of the South African Municipal Workers Union (Samwu) demonstrated outside the Johannesburg Library Gardens yesterday in protest against the iGoli 2002 programme to be introduced by the Greater Johannesburg Metropolitan Council (GJMC) in two months.

The protesters said they were "disgusted" by the fact that no less than seven public assets had been designated for privatisation in the next two months

The union called for the immediate halt of iGoli 2002 saying it had no economic benefits being little more than a "glossy public relations document".

The wide-ranging programme is aimed at privatising some of the major assets owned by the cash-strapped GJMC to alleviate the financial crisis facing the council.

Chairman of the Johannesburg branch of Samwu Mr Caleb Mokoena said workers remained sceptical about the entire exercise as it would lead to retrenchments.

Mokoena added that the union had not been properly consulted on the move.

He also pointed to what he called an agreement between the union and the council in which, according to Mokoena, the council had agreed to hold back the implementation of iGoli 2002 until it had been referred to a bargaining forum.

Mokoena said a matter of contention for his union was that four council executive officers would be given bonuses amounting to more than R2 million.

The GJMC announced recently that the bosses – city manager Ketso Gordhan, transformation projects manager Pascal Moloi, chief finance officer Roland Hunter and labour relations specialist Makgane Thobejane – would be paid bonuses equal to a year's salary if they met all their targets to turn the cash-strapped council around.

Sowetan 26/5/99

US official scolds Pretoria for slow rate of privatisation

BD 27/5/99 (232)

Patrick Wadula

SA HAS been criticised for dragging its feet in the privatisation of state-owned assets by the US under-secretary of state for economic, business and agricultural affairs

Stuart Eizenstat, speaking via a satellite transmission from the US yesterday, said SA's privatisation process was not occurring at a pace to encourage the kind of growth SA needed

Eizenstat recently visited the southern African region for the Southern African Development Community (SADC)-US Forum held in Botswana

"I hope after the elections that we will see an acceleration in SA's privatisation," he said

Eizenstat said that although there was a commitment to private-sector involvement to create an investment climate that would attract private companies, there was concern that privatisation meant "taking away the crown jewels of a country" and putting them into private hands

"If I may say so, these crown jewels, generally perform very poorly in state hands. They do not perform for the people," he said

Eizenstat said the SADC countries could take the example of successful privatisation processes taking place in countries such as Poland, Malaysia and Bolivia.

Privatisation needed to be done openly and transparently This meant an open bidding and ensuring it was at a fair market value

Done correctly, privatisation would provide the treasury of the country with tremendous foreign capital These funds could be pumped into education, infrastructure and healthcare

It was encouraging that there was a commitment to privatisation in Nigeria, which intended using technical assistance from the World Bank.

The trade and investment framework agreement proposed by the US at the forum could be signed within several months provided SADC leaders were interested in such an agreement, he said

Nafcoc wants unified business sector

(233) BD 27/5/99

Patrick Wadula

NATIONAL African Federated Chamber of Commerce (Nafcoc) president Steven Skosana called for unity in the business community for the economy to succeed

Speaking at Nafcoc's gala dinner he said SA business could no longer afford to remain fragmented Because of the apartheid government black business operated separately from that of the Indian, coloured and white business sectors "We cannot run a fragmented economy based on historical racial divisions"

Skosana said the success of the SA economy would come about if the split between these groups were closed. Nafcoc had to widen its platform to include not only emerging business, but also lobby support of big business Big business and developing black business would contribute towards the economic transformation of SA.

Skosana said the remaining question was whether Nafcoc would add a golden touch or seek a golden touch in the SA economy in the new millennium

Skosana said the first five years of an African National Congress-led government was a period of planning and not delivery Delivery was expected in the next five years, he said

Water and Forestry minister Kadar Asmal, another speaker, said the five years was a period of delivery

Government had succeeded among other things in providing rural communities with telecommunication lines and water

'Countless' standard clauses in agreements could constitute unlawful action

Competition Act will put the squeeze on franchise industry

CT(MR) 31/1/99

(222)

EDWARD WEST

Cape Town – The Competition Act, which is expected to be implemented next month, has serious implications for the franchise industry, which typically relies on restrictive supplier, service and price structures to conduct its business

Alistair Ruiters, the commissioner of the Competition Commission, said last week that franchisers needed to start revisiting their franchise agreements and seek appropriate advice, given that there were standard franchise clauses which restricted competition

"The commission will frown on these clauses where they are used or interpreted by franchisers to go beyond protecting the basic right of a franchiser and are used to eliminate or restrict competition," he said

Franchising is a big business in South Africa There are about 400 franchisers, in the country, each of which are tied through franchise agreements to an estimated 35 000 franchisee operations

Nando's, which is listed on the JSE and has a chain of 137 chicken eateries, announced last week that it intended to revisit franchising after buying back its franchised businesses ahead of its listing in 1997

Robbie Brozin, the managing director, said the new franchise outlets, probably 15 in all, would take into account the new requirements of competition legislation

GSM Direct, a cellular service provider, announced last week it would franchise all of its 62 stores, with no upfront franchise fee, free rent for a year, guaranteed territory and substantial advertising support

Joe Louw, an attorney with Bisset Boehmke McBain, said in a Franchise Association of Southern Africa publication that there were countless features of the relationship between franchisers and franchisees, and between franchisees themselves, which could constitute unlawful action in the act The risk was that the franchise agreement or provisions therein could be declared void

Features typical in a franchise agreement which could be construed as unlawful were the purchase of stock from only one supplier or franchiser, stipulating the types of product or services franchisees may deal with, territorial restrictions on trade, provisions preventing franchisers from appointing other franchisees or dealing in a certain areas, restraint of trade provisions after termination of the agreement, standard pricing provisions, tying arrangements forced on franchisees, and provisions curtailing the right to advertise

Ruiters said franchisers would not be treated any differently from other firms but they could apply for an exemption, with each application treated on its own merits A franchiser could apply for an exemption individually or as a member of the Franchise Association, which could apply for an exemption on its behalf

The commission could grant a block exemption to the association only in respect of a specific category of agreement, such as fast foods, motor spare parts, or retail supermarkets

Each agreement would be analysed and the commission would negotiate franchisers or representative bodies on which clauses were acceptable for the basic existence of franchising as an industry, said Ruiters

The Franchise Association has about 200 members, which means about half the industry will have to incur the legal costs of revisiting agreements and applying for an exemption, if necessary

A Franchise Association spokesman said the plan was for members to make a contribution towards the legal costs of complying with the legislation, and for the association to apply for exemptions on behalf of its members, although it was likely that the larger franchise companies would also submit their own applications

Competition Board guns for drug sales 'duopoly'

CT(MR) 1/6/99 (232)

Lynda Loxton
Parliamentary Correspondent

Cape Town – Pharmaceutical companies should be given six weeks to end their monopolistic sales tactics, Dave Lewis, the chairman of the Competition Board, announced yesterday.

Lewis said the board had found that there were two exclusive distribution networks among pharmaceutical manufacturers

These were International Healthcare Distributors (IHD), owned by 11 major pharmaceutical manufacturers, which accounted for about 33 percent of drug sales, and Synergistic Alliance Investments (SAI), owned by five manufacturers, which accounted for about 25 percent of sales

While IHD had been in operation for some time, SAI had delayed its start-up because of the Competition Board's investigation.

Lewis said both companies accounted for a dominant share of sales for a large number of drug brands.

Each company also effectively prevented the sale of its products by the other's clients or distributors.

"The board has found that these arrangements severely compromise intra-brand competition – that is, competition between sellers of the same brand," Lewis said

This problem was exacerbated by the fact that pharmacists had to carry the full range of drugs to accommodate all doctors' preferences.

It was difficult for retailers to shop around for the best prices.

Lewis said the board recognised that competition authorities sometimes had to accept less intra-brand competition

In this case, however, the two companies shared a duopoly in which they produced the same kinds of products and could therefore play off prices against each other.

At the same time, extensive patenting had considerably weakened inter-brand competition already.

The board was also concerned that IHD and SAI had raised significant entry barriers to newcomers to the industry.

Interested parties have been given two weeks to comment on these recommendations to Alec Erwin, the minister of trade and industry

COMPETITION BOARD

CT(MR) 3/6/99

(232)

Medicines distributors face acid test

ADELE SHEVEL

The recommendation put forward this week by the Competition Board to the minister of trade and industry that the two direct distributors in the pharmaceutical industry should stop certain restrictive practices has significant repercussions for distributors and the industry

It also has fundamental repercussions for independent wholesalers, as there has been a dramatic shake-out in the pharmaceutical industry over the past few years, resulting in well over 3 000 job losses, with more expected

The direct distribution companies are owned by various pharmaceutical manufacturers who distribute their products to the private sector through these companies in competition with independent wholesalers

Before these joint ventures were developed, manufacturers distributed through pharmaceutical wholesalers, which competed with one another for sales to mainly retail pharmacists

The two distributors, International Healthcare Distributors (IHD) and Synergistic Alliance Investments (SAI), have spent several hundred million rand on warehouse outlets alone

They now have to decide whether to voluntarily implement the board's suggested course of action

If they do not do this within six weeks, the board has recommended that the minister prohibit "these discriminatory practices"

David Lewis, the chairman of the Competition Board, refers to the investigation as "unusually large".

He adds that the anticompetitive practices identified are so complex and pervasive it is preferable that the parties themselves participate in removing them

The decision also involves pharmaceutical wholesalers, pharmacists, manufacturers which are operating in the country and those that might enter at a later date.

The industry remains the highest profit-margin business worldwide, so the stakes are loaded

IHD is owned by 11 major pharmaceutical manufacturers who collectively-account for about 33 percent of the sale of prescription medicines to the private market

SAI is owned by five manufacturers who hold about 25 percent of the private market

Although IHD has been operating since 1993, SAI has not yet started, pending the outcome of the investigation

Manufacturers affiliated to IHD and SAI do not supply their products to independent wholesalers on the same terms as to the direct distributors

Independent wholesalers obtain products on terms and conditions as available to IHD's or SAI's retail customers, placing the independents at a price disadvantage.

Pharmacists and wholesalers have been vehemently opposed to these two distribution vehicles Pharmacists complained that costs went up and prices followed, while wholesalers have been operating on tight profit margins.

Explaining its recommendation, the board says the elimination of the wholesaler could compromise competition and raise entry barriers in the pharmaceutical product market.

It notes that it is not concerned with the protection of wholesalers but that the elimination of these middlemen could increase the input costs and lower the service available to retail pharmacists

This could threaten to undermine regulatory changes in support of generic substitution and parallel importation

Lewis says the board found that direct distributor arrangements "severely compromise intra-brand competition" – competition between competing sellers of the same brand

Doctors' prescriptions ultimately determine the consumer's choice of drug If consumers cannot get their prescriptions filled at one pharmacist they will go to another one

This means the pharmacist cannot refuse to stock a certain brand

The two direct distribution vehicles were developed because other distribution chains were under pressure and were closing down fast

The companies have been operating under tight margins,

John Bartlett, SAI's spokesman, said last year if the channel could not sustain itself, "it is up to the manufacturers to make sure they will have a channel through which to distribute".

The board considered certain public interest benefits allegedly associated with these distribution arrangements, primarily the promotion of safety and prevention of theft of pharmaceutical products

But the board rejected the view that these issues were addressed through these distribution arrangements.

As for allegations of collusion, the board's investigative powers were limited to investigating restrictive practices

Only the attorneys general and the police are permitted to investigate contraventions of current prohibitions The board is to advise the new Competition Commission on this

Interested parties have two weeks to provide the minister with comments regarding the board's findings and recommendations

Other mechanisms of using voluntary arrangements to remove restrictive practices have been used to resolve competitive difficulties in the past

The most recent was Safcol Others were the Cape Times and Cape Argus, and Macsteel and Iscor

The fundamental question is now what route do the direct distributors take to find an alternative arrangement?

Board draws drugs distributors' protests

John Dludlu

THE Competition Board yesterday sought to stay out of a fray sparked by its recommendation on the practices of pharmaceutical distributors

International Healthcare Distributors (IHD) this week threatened to seek a high court review of the board's recommendation to the trade minister to empower the board to negotiate the removal of "restricted practices" with IHD and the Synergistic Alliance Investments (SAI) IHD is owned by 11 companies that account for about 33% of the sale of prescription medicines to the private market

"IHD has been advised that the report by the board is reviewable to the high court under both the common law and the constitution as constituting unfair administrative action IHD has instructed its legal representative to draft such a review " IHD said

IHD charged that the board's findings were "fatally flawed".

The board's recommendations followed an investigation into the distribution practices of pharmaceutical manufacturers, particularly two established by SAI and IHD

The board said "Within each of these distribution companies there are manufacturers who, singly or in combination, account for a dominant share of sales in a large number of therapeutic categories The effect of these arrangements is that the manufacturers discriminate in favour of their associated distributors, effectively preventing other distributors from competing on a level playing field "

The board, which will soon make way for the Competition Commission, also found that the arrangements "severely compromised" competition between sellers of the same brand

Holger Eckoldt, IHD's executive chairman, said the report's finding was based on the misconception of "what we do" — that is the relationship IHD had with its principals "We are service providers, not owners "

IHD also felt that due process had not been followed in the board's investigation, Eckoldt said

However, he said yesterday that the company was prepared to co-operate with the board

Dave Lewis, the chairman of the board, last night refused to be drawn into discussing the appropriateness of IHD's statement.

In a preliminary response, SAI, which is owned by five manufacturers that collectively account for 25% of sales of prescription medicines to the private market, said its activities helped — rather than hindered — the state's healthcare policy

SAI pledged co-operation with the board and the National Association of Pharmaceutical Wholesalers to resolve the board's concerns

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COMPETITION COMMISSION & TRIBUNAL

A NEW BUILDING AND A NEW BALL GAME FOR COMPETITORS

Regulator has tough task to win business confidence

In Pretoria, workmen are racing the clock to complete a custom-designed headquarters for the new Competition Commission and Tribunal The two bodies will run the new, beefed-up competition law that comes into operation on September 1, but Competition Commissioner Alistair Ruiters intends to move in this week

Leasing such an ultra-modern, glass building may seem incongruous for a government agency, but Ruiters says the commission has to have a professional image Once competition policy gets into gear, it will be a regular port of call for the best company lawyers in town and for the representatives of foreign investors "They mustn't think we're palookas," he says

This year's budget is R50m-R60m But Ruiters says the commission will be self-funded from merger notification fees and donor funds He says he has already raised R4,7m for the commission from foreign donors

There is a lot of work to do before the commission formally throws open its doors in the spring industry must be apprised of the new law, rules and regulations published and a team of highly skilled staff employed On their shoulders rests the success of the new competition policy, which could fundamentally alter the way business is done in SA

The commission is the nerve centre of the new policy — a regulator with functions similar to those of the Independent Broadcasting Authority (IBA) and the SA Telecommunications Regulatory Authority (Satra) Such commissions are part of competition policy in the world's business centres nowadays, but it is a big administrative leap for SA from the 12-member Competition Board, which was widely regarded as a watchdog with little bark or bite

To give the new bulldog teeth, Ruiters plans to employ 83 economists, lawyers and statisticians, among others, to fashion a new competitive terrain

The commission will be a one-stop shop for companies that want to merge, because they must lodge notification with it It must educate consumers and companies about the new law, investigate anticompetitive practices, recommend prosecutions to the tribunal (which has two courtrooms) and suggest sectors or companies for exemptions from the Act Exemptions are permissible for companies geared for export, for declining industries and where exclusion can help an empowerment company gain market share

It was this latter objective, and the charge that the commission must take account of the public interest, that raised business ire during the year-long negotiations for the new policy Still, Ruiters says he believes business is keen to comply He says his phone has not stopped ringing with companies wanting information on the new law Between July and August, the commission will publish the rules, regulations and thresholds to determine if a company or merger complies with the new policy The legislation empowers the commissioner to investigate companies or sectors of the economy Should he find anticompetitive practices, he would negotiate a "compliance programme" with the offending company

"You don't change people's behaviour by beating them up," says Ruiters "You must make them understand why price-fixing, cartels and vertical trade restraints are bad for business" He pledges "discipline and prudence" and says he brings to the commission tried management skills (see box)

To succeed, the competition authorities must develop a strategic sense to deal intelligently with merger notifications and "to learn how to weigh up concepts that don't necessarily talk to each other," says lawyer Norman Manoim, who was part of the drafting team for the legislation

"The commission and tribunal are the public guardians of competition matters," he says "If they cannot negotiate solutions, there will be difficult and gruelling battles They must learn to identify those battles" **Ferial Haffajee**

ALISTAIR RUITERS

FROM BRAT PACK TO BUSINESS TSAR

At the tender age of 34, Alistair Ruiters qualifies as a member of SA's brat pack — though not without a small measure of controversy

An industrial policy specialist, Ruiters earned a doctorate in economic history from Oxford University on an Anglo American/De Beers bursary He was appointed Competition Commissioner in February, after leading the policy-making process

He was previously chief director for business regulation and consumer services at the Department of Trade & Industry (DTI), where he helped manage the drafting of legislation for small business, lotteries, liquor and gambling

Though he claims success in small business policy-making, in reality none of his policy instruments are working well His tenure at the DTI was further complicated by a fallout with Deputy Minister Phumzile Mlambo-Ngcuka over the funding of small business

Associates in business use words like "smart" and "bright" to describe Ruiters, but they also criticise him as having poor people skills and for being "distant" Being a protege and confidant of Trade Minister Alec Erwin has not harmed his career, though Before entering the public service, he taught industrial policy at the University of Cape Town His brother, Tony, is a prominent businessman based in Cape Town **Ferial Haffajee**

Jo'burg privatisation plan on hold

Sowetan 10/6/99

(237)

Sowetan Reporter

THE contentious Igoli 2002 privatisation plan which is likely to see Rand Airport, the Johannesburg fresh produce market, power plants, the municipal bus company and Metro Gas sold off, will not be implemented until the major trade unions have participated in the advancement of the plan, it was reported yesterday

South African Municipal Workers Union provincial secretary Mr Victor Mhlongo expressed elation that Johannesburg's city manager Mr Ketso Gordham had reportedly committed himself not to proceed with the implementation of the plan before discussions with the unions

Samwu and the Independent Municipal and Allied Trade Unions had demanded that they form part of any decision to bring about transformation and restructuring

A special negotiations committee meeting between the two unions and the Greater Johannesburg Metro ended in the parties agreeing that Mr Gordham sign a written guarantee placing on hold all the privatisation projects which were, before the signing, at an advanced stage, Mhlongo said

The special negotiations committee will meet again on June 15th and 18th to decide upon a labour relations plan for the city

Mr Gordham who was said to be attending meetings for the whole day yesterday, was not available to confirm the holding back of the privatisation scheme

NUM rejects govt's denials

(232)

Privatisation of Eskom 'clearly on the agenda'

Robyn Chalmers

THE privatisation of Eskom is clearly on the agenda, despite repeated government denials that it intends selling off the electricity utility, says National Union of Mineworkers (NUM) general secretary Gwede Mantashe

Speaking at a privatisation conference yesterday, Mantashe said that all the processes witnessed by labour over the past five years indicated clearly that government wished to privatise Eskom

Public Enterprises Minister Stella Sigcau, who has previously said that privatisation was not currently on the cards for Eskom, said yesterday the utility provided a crucial social service with its reconstruction and development programme

However Sigcau said that earlier this year a SA delegation went to a number of other countries to study how their electricity industries operated

Mantashe accused the public enterprises ministry of "pushing through" last year's Eskom Amendment Act The act stated that Eskom would be incorporated in terms of the Companies Act and would pay tax and dividends

"This was so despite our opposition to these amendments

"With other unions, under the umbrella of Cosatu, we made a joint representation in opposition of these amendments," he said Labour wanted government to set electrification targets and benchmark Eskom against them rather than making Eskom pay tax and dividends and then asking the fiscus to provide for electrification programmes

Mantashe criticised the energy white paper published by the minerals and energy ministry for its "glaring weaknesses"

The electricity supply industry, portions of which are up for restructuring, had been reduced to a political football and this needed to be urgently corrected, he said

The energy white paper placed emphasis on competition in the supply sector, which Mantashe said meant breaking the industry into small units It was proposed that distribution be consolidated into a limited number of regional electricity distributors, transmission made a stand- alone company and generation broken into individual power stations as stand-alone businesses

"This, in our view, is preparation for (the) piecemeal privatisation of Eskom," he said

Mantashe said labour was opposed to the subtle approach to privatisation Government had to pronounce its intentions and engage trade unions in debate "They must make us see what they see as advantages of privatisation."

The NUM supported Eskom's recent internal restructuring which reduced the number of groups from 10 to seven and maintained Eskom's core functions of generation, transmission and distribution "In our view, this is restructuring focusing on improving efficiency levels rather than privatisation," he said

9/6/99 BD

National Union of Mineworkers general secretary Gwede Mantashe, right, and Eskom Enterprises MD Jan de Beer engage in discussion at the privatisation conference held in Sandton yesterday.

Picture ROBERT BOTHA

Public enterprises minister spells out state of parastatal restructuring

Sigcau lashes out at critics of privatisation record

CT (AR) 9/6/99 (232)

Zintle Filtane

Johannesburg – Stella Sigcau, the public enterprises minister, lashed out yesterday at local and overseas critics of the government's record on privatisation

She said they had "failed to grasp the uniqueness of the South African situation and concluded wrongly"

Restructuring was not driven by ideology, but by pragmatism and consensus, she said

Addressing delegates at a privatisation conference, Sigcau said there was a clear distinction between state-owned enterprises, which were "highly profitable and readily saleable and those, such as Transnet, which raise particular issues as a result of historic or continued losses or significant liabilities"

She said Transnet's restructuring and commercialisation required changes to legal, management, organisational and financial aspects and perhaps to the size and shape of the workforce before being considered for privatisation

Sigcau said Transnet faced the dilemma of whether to cut back on investment, in which case service levels would deteriorate, or to undertake the appropriate level of investment, some of which had to be financed by additional borrowing, supported by government guarantees

She updated delegates on privatisation activity during the past 10 months

Transwerk, performing refurbishment of rolling stock, with an annual turnover R1,18 billion, would be corporatised into four companies in May Sigcau said this was because no one entity would be interested in Transwerk as a whole Transaction advisers would be appointed before the end of July and the process would be finalised before the year-end

A production house, chemical services and a printing business would be advertised before month-end "These being small entities, we will not go through the process of corporatisation," she said

Apron services and ground handling of cargo had been slowed down to avoid overlapping interests with SAA, the state airline The process would be finalised before the year-end

SAA's four short-listed entities had gone through due diligence and bids would be in by June 19 It was hoped to complete the process by the end of July

The divisionalisation of Portnet was in progress An inter-ministerial Cabinet committee would meet on July 17 to discuss both Portnet and Petronet

The privatisation of the Blue Train would be complete by year-end and all work on Transnet would be completed in two to three years

At Safcol, final and binding bids would be in hand by July 30

Meanwhile, Denel would be sliced into four sectors aerospace, defence, IT and property Decisions would be taken on consolidating the country's aerospace interests into a single entity

The introduction of one of the major players in the international aerospace industry as a strategic equity partner was being considered, Sigcau said

Restructuring needs a champion

A more focused and skilled public enterprises ministry could silence critics of SA's privatisation programme, writes associate editor Robyn Chalmers (232)

BD 11/6/99

GOVERNMENT's oft-maligned privatisation programme will need an injection of skills and a champion if it is to meet the expectations of local and foreign investors in the next five years

This is the view of a number of international investment advisers and analysts at this week's Privatisation Africa 99 conference, many of whom have been involved in and advised on global privatisation programmes

Internationally, privatisation has been gaining popularity for more than a decade, with total programmes raising almost R90bn in revenue in 1996 (see graph) The focus is shifting gradually to Africa where debt-laden countries are increasingly turning to a more liberal economic approach to help finance the continent's huge infrastructure needs

In SA, president-designate Thabo Mbeki made his landmark announcement in December 1995 that SA would adopt a restructuring and privatisation strategy Since then, the programme has generally been picked apart, with criticism ranging from the slow pace of the programme to a directionless understaffed and underskilled public enterprises ministry

Memories, though, are short Too many local and international decision makers have forgotten how far the ANC has come from the days when nationalisation was policy and business people shuddered at the prospect of big mining and other companies being brought under state control

There is some irony also in the fact that European and other investors grumble about the pace of SA's privatisation when the UK, often seen as leaders in privatisation policies, took about 15 years to complete most of its state sales

Why the rush in SA? On the one hand it could be argued that it is unwise to call for the quick sale of comparatively well-run, profitable entities such as Eskom, which is providing a valuable social service through its electrification programme On the other, the electricity distribution sector is in virtual chaos with consumers feeling the pinch of power cuts and having to make sense of hundreds of different tariffs

Government has been well aware of this looming crisis for more than four years and appears unable to reach consensus with labour and other stakeholders on the way forward Any restructuring of the distribution sector will have a significant effect on Eskom (232)

The case for moving ahead rapidly with restructuring and privatisation should be made rather for those entities not managed effectively and not adding value to the economy The same applies to those companies which have no strategic value to government and where the state should not be involved

In fighting off critics, Public Enterprises Minister Stella Sigcau has repeatedly pointed to the complexities of restructuring certain entities particularly given the objectives government wishes to achieve Key purpose of the programme is to remedy deep-rooted social inequalities in SA by giving affordable, good quality services to all South Africans, reducing state debt and economically empowering historically disadvantaged communities

Stephen Gorven, director and head of corporate finance at Kagiso Financial Services, believes privatisation of parastatals should be used as a springboard to launch new black businesses Gwede Mantashe, general secretary of the National Union of Mineworkers, says public utilities should give government a leverage to drive transformation "Afrikaners used these utilities to skill poor Afrikaners " he says

Sigcau makes it clear that decisions on the privatisation and restructuring of entities are taken by the interministerial cabinet committee This committee is chaired by president-designate Thabo Mbeki and several ministries are represented

Mxolisi Mbetsi head of privatisation at HSBC Simpson McKie which is the key privatisation adviser to government, says that in the state's view, restructuring is a process, not an event In any single company, years rather than months are needed to complete the various phases of the process This includes internal restructuring, preparation for external restructuring, the competitive tender to involve new shareholders or concession-holders and the transformation of the company under new management he says

However excessively slow restructuring is one of the issues that international privatisation advisers caution against

Allison Ingram, director of strategic development at Virgin Trains, who was integrally involved in the privatisation of passenger rail operations in the UK, pinpoints this issue Ingram says that when a state enterprise is reorganised and privatised, it causes a hiatus in the development of the business as management's attention is diverted to the reshaping task. "You have to move as quickly as possible The longer you mess around, the worse it becomes "

ABN Amro Bank corporate finance vice president David Bate agrees, saying pre-privatisation reorganisation should be "quick and dirty"

David Burnell, former senior adviser to the Zambia Privatisation Agency, says it is important to understand how vulnerable and at risk an enterprise is during the limbo period From being designated for privatisation, through to a completed transaction the enterprise is exposed to many threats which can degrade its value and undermine a successful transaction

Essentially then, the SA government earmarked companies for privatisation before any restructuring or other decisions had been made creating unrealistic expectations internationally, causing staff uncertainty and perhaps increasing labour opposition In retrospect it might have been more prudent to take a lower-key approach while emphasising SA's commitment to privatisation, which was necessary to soothe a business community weary of nationalisation This would have allowed government to do its homework, identify the potential obstacles plan any restructuring required and move ahead rapidly with privatisation

So as South Africans await Mbeki's decision on his cabinet and the future structure of government, what global lessons are to be gleaned for SA's privatisation programme in the coming five years?

First and foremost is to have a champion or champions who have the total support of the president, deputy president and key ministries Bate believes if there is no champion the privatisation programme, "will fail abysmally"

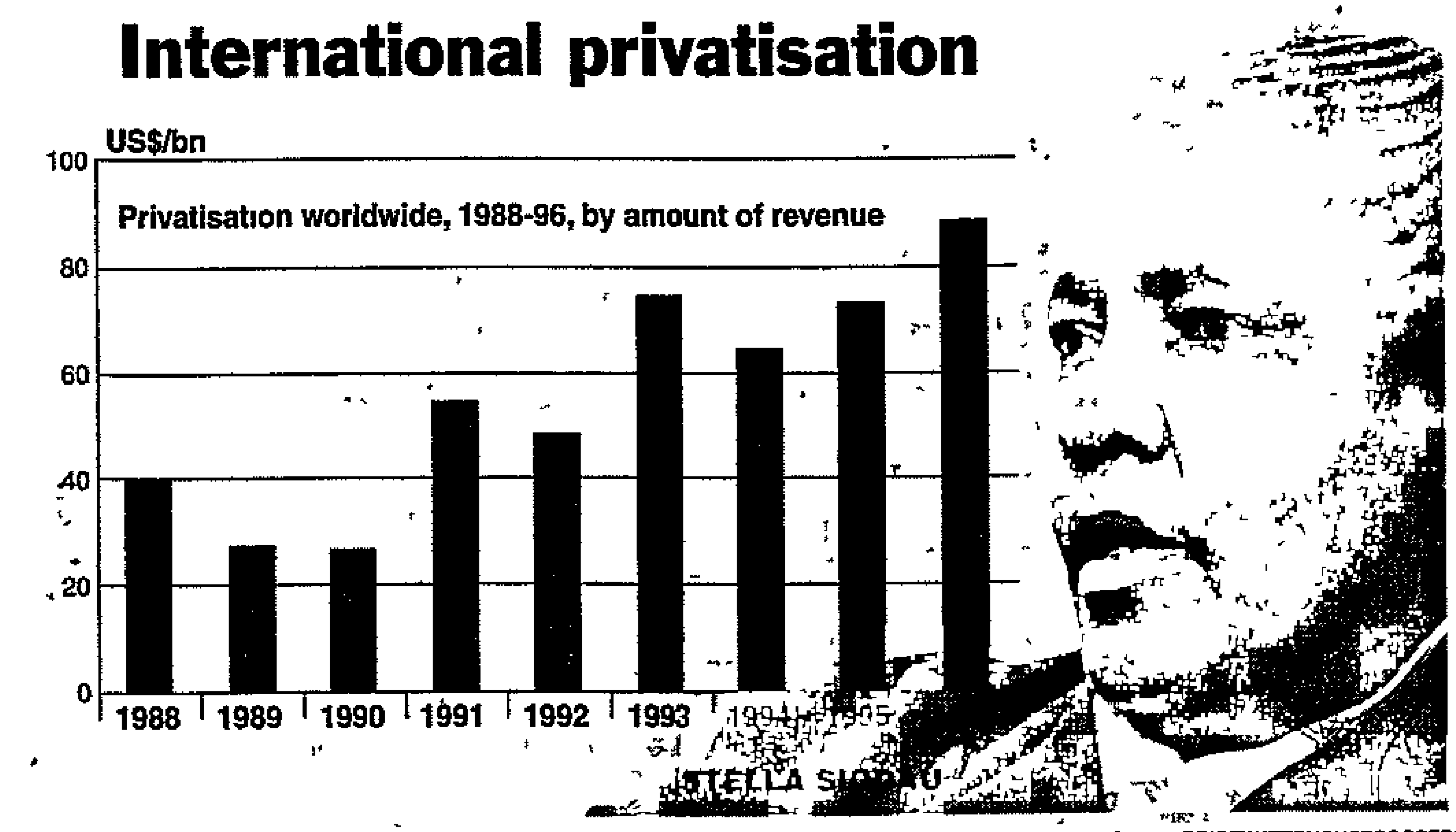
Mbeki was initially expected to champion the initiative, a task he did behind the scenes as chairman of the interministerial cabinet committee A dynamic, internationally respected and politically acceptable person is now needed for this task.

Other key lessons are that transparency and fair play are essential, outside experts with international experience must be brought in as advisers and trade unions and other stakeholders such as staff must be consulted. This relates to a need for a strong and open communications and public relations plan, which has been lacking in SA s privatisation programme and is the cause of some of the problems being encountered by the initiative

Is there then a need for a separate ministry to drive privatisation, currently undertaken by the public enterprises ministry? Opinion on this is divided The presidential review commission recommended that while overall responsibility for the programme should fall under the president's office, line function ministries should take control of privatising entities falling under their area of expertise Transnet's restructuring should be guided by the transport ministry and Eskom's by the minerals and energy ministry

But Bate and other advisers believe this is not the route to go Bate says the problem is that the individual ministries do not learn from each others mistakes and no pool of privatisation expertise is built up A dedicated ministry or agency is essential, he believes

For all the criticism of SA's privatisation programme some of which is justified, to date the partial or full sale of six parastatals has raised more than R7bn, which has been used to reduce government debt or bolster infrastructure Many billions more will be raised this year and in future years which will certainly please the incoming finance minister A more focused ministry with enhanced skills and a high-profile champion to drive the programme may even silence the international critics



KUBEN DAVID Source: PRICEWATERHOUSECOOPERS

By Adrienne Roberts

(237)

WHAT SA COULD HAVE EARNED

FM 11/6/99

Slow pace of privatisation

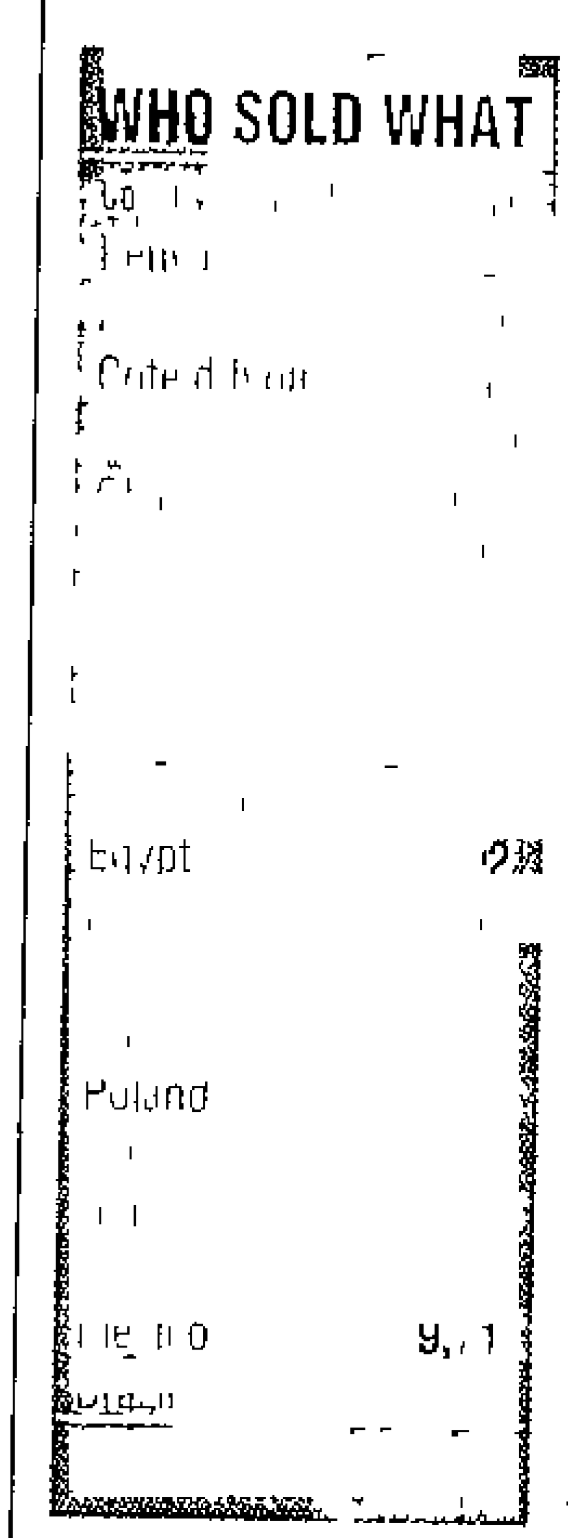
Had SA kept up with the average rate of privatisation for other emerging markets, it would have made as much as four times more than it has since 1992, says Standard Equities analyst Philip Clayton

Clayton estimates SA could have received US$6,4bn — $4,7bn more than the R1,7bn in privatisations since 1992 This, assuming an exchange rate of R6/$, would come to more than R28bn

The proceeds could have been used to lower the State's debt burden, and the finance costs saved could have been spent on social services

Obviously, speeding up the privatisation process would boost the capital account as foreign direct investment flowed into the country

And since privatisation is a major item on the checklists of foreign investors, it would make SA a more attractive destination



To the extent that proceeds were used to pay off debt, they would not only cut the State's interest bill, but they would probably also lower the interest rates paid by government on new debt Lower public-sector borrowing would also help reduce interest rates throughout the economy

Clayton points out the short-term benefits of greater privatisation would be immediately apparent in a stronger rand

This would improve investor sentiment and lower the inflationary pressure from import prices It would, however, make exporters less competitive

Nevertheless, privatised assets would enjoy efficiency gains because the private sector, being subject to the pressures of competition, is a more efficient producer

The biggest short-term drawback remains the threat of job losses

The effect on the stock exchange would be mixed The number of new listings would increase, increasing investment opportunities on the JSE The trade-off is that foreign investors would be likely to take their dividends out of the country

Internationally, by far the most enthusiastic emerging-market privatisers have been the Latin American economies — led by Brazil, then Mexico and Argentina

SA's performance is tiny in comparison to Brazil's $58,6bn, but it still beats all other African countries SA's closest competitor is Ghana, which has managed to sell off State assets to the value of $0,8bn (see chart)

Belinda Anderson

Act does not narrow the information gap

Plans to commercialise the SABC may well prove to be inappropriate, costly and ultimately unworkable, writes Jane Duncan

17/6/99 (232) B|D

A CONTROVERSIAL new broadcasting act recently came onto the statute books. It was referred back to Parliament by SA's first democratically elected president, Nelson Mandela, on the grounds that powers given to the communications minister could impinge on the independence of the Independent Broadcasting Authority. The problems led to these powers being amended.

Yet, there are other substantive problems with the act that were not flagged and are in urgent need of public debate, even though it has already been passed — especially the plans to commercialise the SA Broadcasting Corporation (SABC).

There are fears that commercialisation may result in the marginalisation of public service broadcasting rather than its protection and promotion.

The right to information of the most marginalised in our society is at stake, especially that of women, the elderly, the unemployed and the rural poor, as these groups largely do not have the buying power to attract commercial services. Corporatisation also threatens the viability of the 11-language policy.

It is unfortunate that the act was treated as a rush job. Civil society had only a tiny window of opportunity to respond in writing to the act once it was released last August. 17 working days to be precise. This was a ridiculously short time frame to consider such a vital piece of legislation.

In terms of the act, the SABC is to be corporatised, with the state (effectively the communications minister) as the sole shareholder. The services will be separated into public service and commercial arms, with the latter cross-subsidising the former. The minister will have the power to veto the amount set aside by the board for cross-subsidisation.

Government has also floated the option that the commercial arm could be privatised, partially or completely. These changes are being effected to gear the SABC for self-sufficiency, as footing the R1,2bn bill for its services would be a recurring drain on the fiscus.

The problem with these plans is that no one really knows whether they will work. In fact, corporatisation will be an expensive business, and may cost the SABC more than it can afford, given its commitment to fund the public service arm.

What is not clear at the moment is whether the SABC is now going to be paying company tax. If it does not, then it may well face legal challenges by commercial competitors on the grounds that the SABC's commercial services enjoy a competitive advantage. This is precisely the sort of instability that the legislators wanted to avoid.

If the SABC does pay tax, then the financial pressure may compel it to increase its income to compensate. If the SABC's ability to attract advertising revenue is decreasing in the face of intensifying competition from privately owned broadcasters, then where will the money come from? The licence fee?

It has increased recently, and unemployment continues to rise. Collecting the fee in these circumstances is a Sisyphean task. To compound the financial pressures, the SABC will pay a portion of its after-tax profits to the state as a dividend.

Add to this the cost of separation of the two arms. In terms of the white paper on broadcasting — on which the act is based — arms-length contractual agreements will have to be drafted in respect of the shared facilities and infrastructure. Conceivably, this could mean everything from the production studios to the toilets. Arrangements could be so tortuous in their complexity that a costly army of lawyers, contract specialists and accountants would be needed to administer them. Saving money can be expensive.

Given these financial pressures, the SABC could also find it difficult to add commercial value to its operations as much of the profits would be absorbed by the public services. They could be seen as a commercial "liability", irrespective of their social value.

In fact, as competition rises, the SABC would face increasing pressure to plough its revenues largely into the commercial arm simply in order to stay ahead.

The situation could get even more serious, though. If government exercises its policy option to privatise the commercial arm, then the whole cross subsidisation arrangement falls flat on its face. Where will the public service arm get its money from then?

The privatisation option is more than likely, given that the public enterprises ministry said recently it accepted that business was not the "business of government" and that privatisation was the preferred option for public businesses.

So, the government turns state-owned enterprises into public businesses, and then argues that government has no business running them. In the light of this statement, it should not take a rocket scientist to see where the SABC is heading.

What if government partially privatises the commercial arm? Private shareholders would also want to see significant return on their investment, which could turn up the commercial pressure even more.

The lack of a stable revenue base is already pushing the SABC to invest heavily in sales and marketing to ensure that it continues to attract advertising. In the process, it is being geared to chase an ever-shrinking pool of middle and upper-income earners, a chase which is inherently unequal as it cannot enjoy the same level of freedom as its commercial competitors.

This chase has already been at the expense of the SABC's public service mandate, when it accepted a recommendation from the slash-and-burn international consultants — McKinsey and Associates — to decrease the level of local content and increase the use of the advertisers' language of choice, English. If the SABC was unable to sustain its mandate before corporatisation, heaven help it afterwards.

We are gambling with the future of a strategic public institution by putting in place institutional arrangements that could well collapse under the weight of their own logic. In the light of our recessionary realities, more equitable financial solutions than advertising and licence fee collection must be found.

The latter has been termed a "regressive form of poll tax" as a fixed amount is charged irrespective of income levels. There is something very wrong with treating unequals equally. The financing of public services through general taxation, however flawed, offers a more equitable solution than "user pays" schemes, and would have made corporatisation unnecessary.

However, given that corporatisation is now a reality, our attention should be directed to whether the SABC should be made to return a dividend or pay income tax in the light of its financial instability.

Worldwide, information gaps are widening between rich and poor. If we do not find creative national solutions to this global problem, the consequences could be terrible.

Those of us who are committed to the aims of the broadcasting system outlined in the Broadcasting Act — especially around democracy and universal service — are duty bound to rethink the current plans around the SABC, as they may well prove to be inappropriate, costly and ultimately unworkable.

Duncan works for the Freedom of Expression Institute

MPs 'must proceed post haste with privatisation'

(232)

LUCIA MUTIKANI

CT (PR) 18/6/99

Johannesburg - South Africa's new government needed to make up crucial time in its stalled privatisation programme, a financial adviser vying for privatisation business said yesterday

David Bate, ABN-Amro Johannesburg's corporate finance head, said the country's privatisation programme was a year behind schedule

"It's time that we revisit the government's advisers and what they have done Perhaps it's time for new advisers to come in and bring a fresh perspective to privatisation," Bate said

But bankers implementing the sale of state assets denied the process had dragged and said billions of rands had already flowed into the public purse

Plans are under way to partly privatise SAA, the national carrier, Denel, the arms manufacturer and Safcol, the forestry group, before the end of the year

The partial privatisation of SAA was initially scheduled for last year, but was postponed to tackle the airline's R4 billion debt

So far, the government has privatised Sun Air, the domestic airline, and sold a 30 percent stake in Telkom, the telecommunications parastatal to SBC International and Telekom Malaysia

It has also sold 20 percent of Airports Company South Africa (Acsa) to Aeroporti Di Roma

It has plans to dispose of another 20 percent stake in Telkom and 23,3 percent of Acsa, in which Aeroporti Di Roma owns an option to buy another 10 percent

Proceeds of privatisation have so far totalled over R11 billion

HSBC Simpson McKie was appointed key adviser on privatisation and has overseen the process since 1996 Mxolisi Mbetsi, its head of privatisation, shrugged off the criticism and said a lot of progress had been made since 1996 - Reuters

Decision fair and consistent, say analysts

Competition Board pulps Mondi deal

CT (BE) 24/6/99 (232)

ANN CROTTY

Johannesburg – Analysts yesterday welcomed a decision by the Competition Board to recommend that the trade and industry minister prohibit a proposed transaction between Mondi and Kohler, the paper and packaging groups

In another announcement, after an investigation into alleged restrictive practices by Multichoice, the board also criticised Multichoice and DSat yesterday for unacceptable practices

In terms of the proposed paper and packaging deal, Mondi would acquire Kohler's corrugated packaging business and Kohler would acquire Mondi's carton board packaging businesses Mondi is a wholly owned subsidiary of Anglo American Industrial Corporation and Kohler is a wholly owned subsidiary of Malbak.

One analyst said the recommendation appeared to be in line with the board's desire to promote competition, because the transaction would have serious adverse implications for the availability of raw materials

Another said it was consistent with the board's earlier recommendation to prohibit the proposed transaction between Nampak and Crown Cork.

The analyst said that although the board had blocked the original Nampak proposal, it did support a revised version of that transaction, showing it was reasonable and prepared to consider everybody's concerns

The board said yesterday afternoon that Mondi and Kohler had argued that their share of the respective markets would only match Nampak's. This would encourage competition, they said.

The companies also said there was "sufficient countervailing power in the market" to ensure that they would not be able to abuse their positions.

The board said "criticism had come predominantly from large customers" and related mainly to the availability of raw material and "possible discriminatory practices" if the transaction went through.

The board ruled the transaction would give rise to an "appreciable restriction in competition"

The investigation into alleged restrictive practices by Multichoice is part of a long battle between it and D-Sat, the satellite signal marketer

The board found Multichoice had never abused its position by refusing to enable a subscriber who had complied with Multichoice's subscription agreement.

But the board found Multichoice's pricing policy for the sale of its decoders was restrictive "insofar as it discriminates between equivalent transactions in the same market, that is the rental and retail markets".

The board said many D-Sat customers were not aware that the cost of receiving the signal from D-Sat's rental equipment would escalate significantly after the first year of the contract. The board described this as part of "an iniquitous marketing ploy"

REST OF AFRICA

African privatisation grows

BD 24/6/99 (232)

Bank expects SA and Nigeria to speed up sales of state-owned corporations

John Dludlu

PRIVATISATION has gained momentum in Africa in the recent past as most governments recognise the need for efficiency, says the African Development Bank.

In a recently published study, African Development Report, the Abidjan-based bank hints at the acceleration of the trend in the year ahead as two of the continent's main economies — SA and Nigeria — press on to privatise state-owned corporations

In southern Africa volumes and values of privatisation are likely to be enhanced by SA's planned sales The bank, in which SA is a 1% shareholder, estimates that in the medium-term state assets worth about $5bn could be privatised, while in the longer-term about $30bn could be sold off

After the sale of a 30% stake in telecoms parastatal Telkom, critics said Pretoria had slowed down the pace of privatisation This is expected to pick up under the new administration

In Zambia, until now seen as the success story of privatisation in Africa, the government has sold off 215 of its 312 companies earmarked for privatisation However, its privatisation has been slowed down by the slow sale of Zambian Consolidated Copper Mines, notes the report

In Zimbabwe, privatisation is expected to include offers of shares to a large foreign private investor in the Posts & Telecommunications Corporation as well as in Air Zimbabwe, says the report

The report also mentions bad experiences in privatisation It suggests that many of the 1 000 Angolan parastatals were sold off at prices "well below market value, in some cases as little as 5% of their value" A further 500 firms, including banks, the airline and perhaps the national oil company, have yet to be sold off

Analysts say the main privatisation event after SA will be the disposal of stakes in Nigerian state corporations Those earmarked for privatisation include Nitel, the telecoms firm, Nepa, the energy utility, and Nafcon, the country's fertiliser, steel, cement and sugar producer which may net the country several billions of dollars

In north Africa the process is likely to pick up speed when the Egyptian government finally sells the 30% stake in telecoms to private operators In Morocco government has launched privatisation bonds that give holders preferential options on equity of public firms to be sold

The study says "Acceptance of the concept of privatisation has been viewed as an essential part of globalisation process by policy makers in the developing world Privatisation is intended to increase economic efficiency and allows for foreign participation in the local economy It also provides immediate liquidity for some cash-hungry governments "

Mondi, Kohler (232) seem unlikely to appeal ruling

BD 25/6/99

Sibonelo Radebe

THERE are limited avenues available for Mondi and Kohler to influence Trade and Industry Minister Alec Erwin in his ruling on their proposed swapping of interests after the Competition Board recommended against it, say analysts

Under the deal, ruled anticompetitive on Monday, Mondi would have acquired Kohler's corrugated packaging business and Kohler would have acquired Mondi's carton board packaging business.

The two groups may present their case to Erwin to convince him to go against the recommendation.

Mondi declined to comment on what it would do next, saying that the issue still had to be discussed at board level. Kohler CEO Clarence Miller indicated no interest in taking up the issue with Erwin The ruling was disappointing but not devastating, he said, and business would continue as normal.

The board was concerned that the deal would have adverse effects on raw materials availability.

Comment: Page 11

Competition Board reaches decision on swap

Moses Mlangeni (2322)

THE Competition Board has reached a decision on the proposed swapping of interests by packaging companies Mondi and Kohler Corrugated and will make an announcement before the end of the week

An analyst said it was likely that the deal had been approved

In the proposed deal Mondi was planning to buy out the corrugated interests of Malbak.

At the same time it was planning to sell to Malbak the printing side of its carton board division, Interpak.

This could see Mondi dominating the corrugated industry and Malbak dominating the carton board industry

The Competition Board said yesterday it expected to inform Trade and Industry Minister Alec Erwin about its findings on the matter today

BD 22/6/99

SAA's privatisation stake set to be doubled

BD 28/6/99 (232)

Robyn Chalmers

AS MUCH as 40% of SA Airways (SAA) could be in private hands by the end of this year, government has indicated

This would be double the 20% stake sold to Swissair last week. Swissair will pay R1,4bn for its shares, putting the total value of SAA at about R7bn and making the deal SA's second-largest privatisation exercise The sale of 30% of Telkom in 1997 garnered R5,6bn

Public Enterprises Ministry spokesman Zaid Nordien said Swissair had an option to buy another 10% of SAA within six months. Another 5% stake would go to the state's National Empowerment Fund with a further 5% earmarked for black empowerment shareholders

There has been speculation SAA could be fully privatised via a listing on the Johannesburg Stock Exchange.

SAA CE Coleman Andrews said Transnet would retain the R1,4bn raised through the Swissair sale, using it to improve its balance sheet

Transnet MD Saki Macozoma has indicated that to allow SAA's partial sale, the airline needs a clean balance sheet with acceptable gearing. As a result, Transnet is to retain R1,5bn of SAA's debt while government keeps R1,3bn. The debt is the result of a pension fund deficit and operational debts

Officials close to the process indicated that the bidding contest ended in a two-horse race between Swissair and the US-based Texas Pacific Group. Lufthansa, in partnership with Singapore Airlines, pulled out of the process, while American Airlines, believed to have been a short-listed bidder, forged a partnership with Swissair days before the SAA deal was announced

Swissair, which has a sizeable interest in Belgium's Sabena, plans to establish a partnership with American Airlines, code-sharing on flights to Chicago, Boston and Miami

Public Enterprises Minister Jeff Radebe said the link with Swissair would help SAA cement major relationships in Asia and north America while improving its competitive position in Europe

The deal is expected to help SAA cut interest rates on loans to 6%-7% from 18%. The Swiss have also agreed to train scores of SAA managers and to export their apprentice programme to SA.

Swissair will help SAA negotiate cheaper aircraft deals and will have 15 wide-bodied aircraft a year overhauled by SAA, sustaining about 300 jobs in the technical field

Something to think about: Page 2

Sale and restructuring of assets will bring 'healthy return' to SA

Full speed ahead on state privatisation programme

ET (PR) 20/6/99 (232)

ZINTLE FILTANE

Johannesburg – Jeff Radebe, the public enterprises minister, would accelerate the process of restructuring and privatisation of state assets, ensuring a "healthy financial return for the people of South Africa", public enterprises spokesman Zaid Nordien said yesterday

Nordien said this policy was in line with President Thabo Mbeki's maiden state of the nation address to parliament on Friday, where he announced that Swissair would buy 20 percent of South African Airways (SAA) for R1,4 billion

He said Swissair had an option to buy a further 10 percent in the next six months

"Now that the larger percent is secure, the rest will move quickly"

He said 5 percent was earmarked for black economic empowerment and SAA employees were expected to benefit

Another 5 percent would go to the national empowerment fund

MAGNETIC *Trade minister Alec Erwin says upgrade projects will help attract investments and trade links* PHOTO SELWYN TAIT

The restructuring of Apron Services and Airchefs, which had been put on hold until the confirmation of SAA's equity partner, would now proceed

Alec Erwin, the trade and industry minister, told a media conference in Cape Town yesterday that South Africa's ports and rail network would be restructured next because fresh investments depended on the upgrading of infrastructure

The upgrading projects "will considerably improve the logistics flow, both of imports and exports, through our trade links with the rest of the world and Africa", Erwin said

"The priority, therefore, will be in the further restructuring of the port authority, Portnet, and in the rail network"

He said special focus would be on the Spatial Development Initiatives (SDIs) and Industrial Development Zones (IDZs), which would kick-start economic growth and job creation by attracting local and international investors

Erwin said this programme would facilitate investment projects in excess of R113 billion at various stages of the SDIs, with the capacity to generate more than 104 000 new jobs

"Furthermore, there are a number of ports and airports under investigation and IDZs"

Finance minister Trevor Manuel, also addressing the press briefing in Cape Town, said the government expected to realise some R4 billion through its privatisation projects in the current financial year

He said Safcol, the state forestry company, was also being prepared for restructuring

Union attacks Telkom bidders

Reneé Grawitzky (232) (267)

30/6/98

PRIVATISATION and restructuring of Telkom and the Post Office has come under attack from the Communication Workers' Union (CWU) which has questioned various "disturbing developments" introduced by international equity partners.

General secretary Seleboho Kiti said in his secretariat report, discussed at the union's first national congress in Johannesburg, that the introduction of international equity partners had not led to skills transfer programmes for local workers.

He said these companies employed union bashing tactics and were engaged in staff reduction programmes such as voluntary retrenchments, outsourcing and increasing use of contract workers.

Kiti said talks were under way with the Post Office on redundant staff, while Telkom was offering voluntary retrenchment packages and continuing with its outsourcing programme

The congress had to develop ways to counter these negative developments Kiti indicated that the parties had not yet been able to resolve wage disputes which were referred to the Commission for Conciliation Mediation and Arbitration (CCMA).

One major stumbling block at Telkom was the introduction of a performance management system that had unleashed strong opposition from members

Gauteng premier Mbhazima Shilowa called on CWU shop stewards to sign up as SA Police Service reservists This is in line with his call during his first address to the Gauteng legislature this week and a Congress of SA Trade Union resolution call on its members to enrol as reservists to help fight crime. He warned against factionalism "that destroys organisations We must not have it in our movement."

Sanco president Mlungisi Hlongwane said the union faced greater, more complex challenges as privatisation was being implemented. If workers opposed privatisation, it would then be introduced under a different guise, he said A union's power was no longer determined by its strikes but rather how it could advance and protect worker interests.

Philip Dexter, African National Congress national executive committee member, said: "We need to come up with an alternative to globalisation " SA could determine its agenda and not be required to follow International Monetary Fund or World Bank rules.

Telkom tightens belt ahead of deregulation

Austerity will mean substantial job losses, but will open up other opportunities

(267) (232)
BD 2/7/99

Robyn Chalmers

TELKOM plans to streamline its operations through a sweeping programme of outsourcing, retrenchment and cost containment in preparation for the deregulation of the local phone market

The moves were unveiled yesterday in conjunction with an announcement that the utility's attributable profit fell to R2,3bn in the year ended March from R2,5bn in the previous 12 months

Telkom, which is 70% owned by government, and 30% by SBC of the US and Telekom Malaysia, is due to lose its local phone monopoly in 2002 or 2003 While the belt-tightening moves are likely to result in substantial job losses, they could open up significant outsourcing opportunities for Telkom's suppliers in the technology, telecoms and associated industries

Telkom MD Sizwe Nxasana confirmed that a listing on the Johannesburg Stock Exchange remained on the cards, but said the decision on the size and timing of the listing lay with government

Nxasana declined to say how many of the utility's 61 000 employees were likely to be laid off

By May this year, almost 2 500 applications for voluntary early retirement were received, of which about 2 100 had been approved, reducing the total employment figure to 59 000 "Our intention was not to grant blanket approval of applications as this could have led to a brain-drain of key skills among staff," he said

He indicated that outsourcing of noncore assets would gain momentum in the current year Telkom last year announced it planned to open talks with its unions on the sale of its fleet management division, noninfrastructure properties, and its light engineering and electronics workshops

Nxasana .. changes for utility

Hiving off these and other facilities would allow Telkom to concentrate its resources on its core telecommunications business, freeing outsourced divisions to use spare capacity and improve their own long-term viability.

"This year we will focus on restructuring the business and eliminating those areas considered noncore, This will (adversely) affect our results in the short term," Nxasana said

He said the company's shareholders accepted the need to strike a balance between short-term profit and long-term viability and competitiveness, and supported Telkom's drive to position itself for competition.

In terms of Telkom's licence issued in 1997 it has a government-guaranteed monopoly on fixed-line telephony for five years A sixth year could be introduced if it meets stringent infrastructure investment and service targets

Telkom beat its network investment licence targets in the year to March, adding 502 750 lines against a target of 460 000 and exceeding the 5-million line mark as a cumulative total for the first time The group modernised more than 500 000 existing lines against a target of only 13 000, and installed more than 27 000 new payphones compared with a 25 000 target. It met eight out of 10 service quality targets against four out of 10 the previous year The two targets missed related to the percentage of business and residential faults cleared in less than 48 hours

The group plans to continue rebalancing its tariffs, with the focus on reducing international call rates Overall telephone rates rose 5,5% this year

Telkom has clamped down on expenses such as travel and subsistence allowances, and tightened controls on the use of vehicles and other equipment It has also moved from ordering stock in advance to linking component orders to current network requirements

Profit warning: Page 15

Finally, a competitive competition milieu

(232) ST(BT) #6 4/7/99

AMANDA VERMEULEN

Examines the new legislative dispensation

The new Competition Act, and its administrative arm, the Competition Commission, are welcome signs of a more interactive and accountable approach by the Ministry of Trade and Industry to the complexities of business in the new South Africa.

The Act was signed by President Nelson Mandela last November and will be fully implemented from September 1 this year. The outgoing Competition Board will be replaced by a three bodies — the Competition Commission an independent Tribunal, and the Competition Appeal Court.

The commission will be headed up by Alistair Ruiters. It will be the first port of call in any issues of restrictive practice, abuse of dominance, and mergers and acquisitions. The commission's investigation findings will be referred to the tribunal, while appeals on recommendations can be lodged with the appeal court.

The new competition policy, born out of lengthy debates at Nedlac and consultation with other competition authorities around the world, is clearly an improvement on the old dispensation. Although the new Act will be fully implemented later this year, its impact has already been felt in key judgments recently taken by the soon-to-be defunct Competition Board.

The proposed Sasol acquisition of AECI last year, and the planned merger of Adcock Ingram with the pharmaceutical interests of SA Druggists are just two examples. Both were blocked by the board on the basis of the new legislation.

Trade and Industry now appears to be taking the carrot rather than the stick approach towards stimulating healthy competition in the economy. Ruiters says the focus is on prevention, rather than punishment, making it important that business in SA becomes well acquainted with the requirements of the new legislation.

"There is still much uncertainty about the new policy, and it is our aim to educate all affected parties about the changes, to encourage them to comply with the law. We have consulted broadly with competition authorities in other countries, and a key element of their experiences has been the problems associated with time-consuming and costly litigation.

"We need to inform everyone, from consumers to trade unions and business, in order to promote and enhance competition. The commission will also have an advocacy function."

'The biggest challenge we face is in implementing and administering the new policy'

There are several key issues in the new policy, which brings it in line with best practice in developed countries, giving SA a template to assess competitive issues, while also taking into account the pressures of an economy in transition.

Perhaps most important has been the drive to clarify definitions of dominance — a decision which will hopefully eradicate uncertainty about competition law. The old policy's ambit was limited to monopolistic situations, and horizontal mergers and acquisitions. The new Act clearly defines situations of dominance and identifies three main categories. Any party with 45% of the domestic market is deemed dominant. A share of 35% to 45% puts the onus on affected companies to demonstrate that they are not dominant and do not have market power to manipulate their business sector through supply restrictions or price fixing. For any company which has a share of below 35% the responsibility lies with the commission to prove that it does not exert undue influence in its market segment.

A second important element, Ruiters says, is that the process has been depoliticised. No longer does the Trade and Industry Minister have the final say on any issue brought before the commission. Like any other party who can register as a complainant the minister is entitled to make a submission, but he no longer has any power to influence the process.

This removes to a large extent, the opportunity for any party to exert influence on the minister on the grounds of national interest, international competitiveness or black empowerment for example.

The new legislation has also largely decriminalised the enforcement of competition law. The tribunal will adjudicate cases brought before it by the commission, and has the power to impose significant fines, including up to 10% of turnover.

Failure to comply with a tribunal order will result in criminal proceedings in a normal court of law. Another significant fact is that the new Act allows wounded parties to apply for damages in a court of law on the basis of a tribunal order.

A further crucial element is the facility for certain business segments to apply for an exemption from adhering to competition law when it comes to restrictive practices. These groupings include small business, export-related companies, empowerment groupings and declining industries.

The commission thus has the ability to make exceptions when benefits outweigh the concerns of restrictive practice — an acknowledgement of the peculiarities of the SA economy in its transitional stage.

The assessment of mergers and acquisitions also takes into account certain conditions and issues which can determine the outcome of an investigation beyond the mere application of set parameters of dominance. For example, the impact a transaction will have on a certain industry or region, the job creation or loss implications, the ability of small and black owned businesses to compete, and the ability of the affected party to compete internationally, could all be taken into account.

Companies brought before the commission can draw on a number of defences, such as the benefits of a transaction in technology and efficiency.

An interesting new facet is the extra-territorial powers given to the commission. Any merger which takes place outside of SA's national boundaries must seek approval from the commission if the courting partners do business locally, and if their marriage could have an impact on the domestic market.

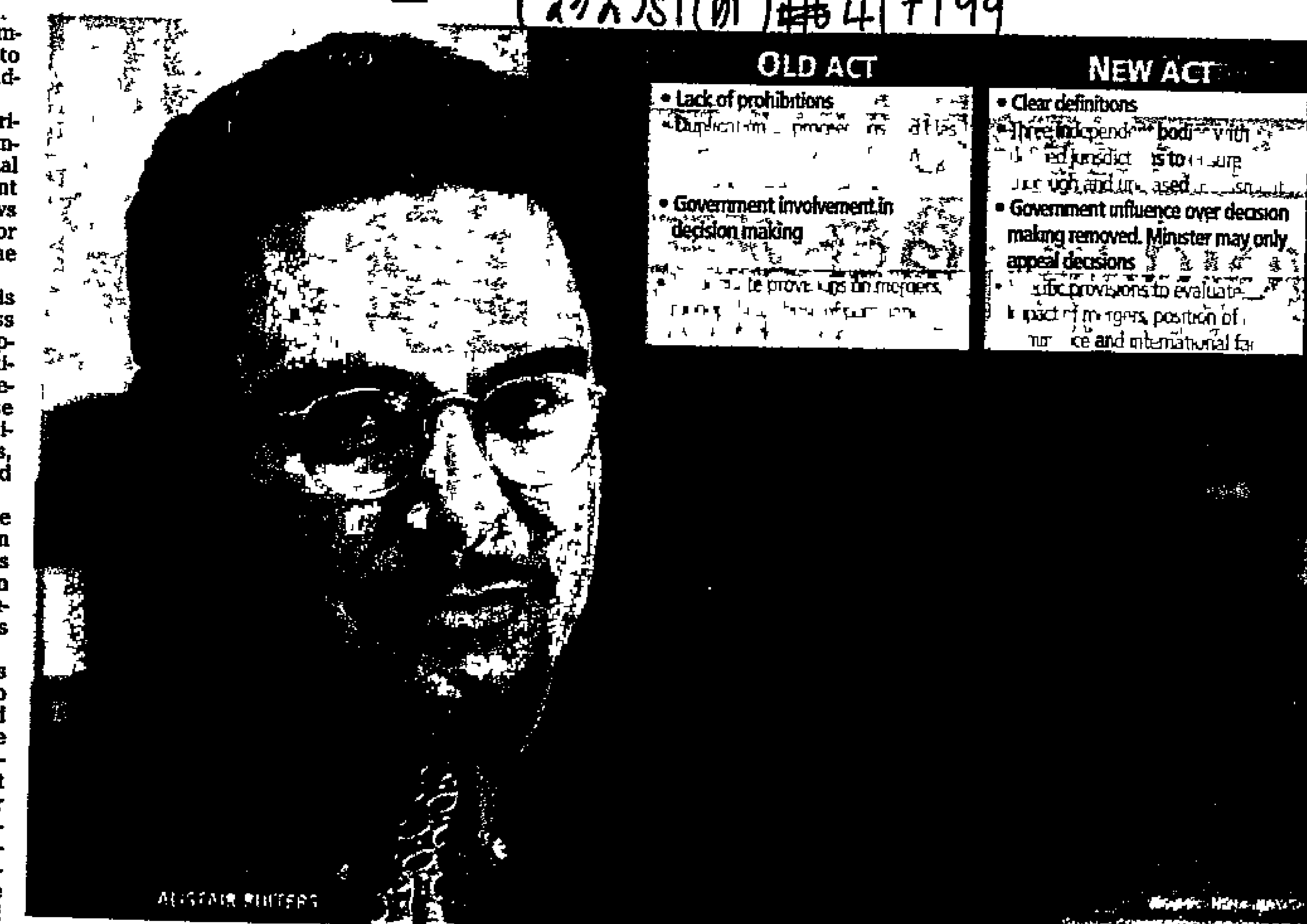
Ruiters cites the example of the merger of two US companies — McDonnell Douglas and Boeing — which hit the skids owing to European Union concerns about the effect of the merger on the European market. "This aspect of new competition policy is a response to globalisation and the number of multinational mergers which have occurred this decade. Japan has also recently amended its competition legislation in recognition of the same issue." Interestingly, Ruiters notes the bulk of the enquiries which followed the passing of the legislation into law last year came from foreign lawyers and corporate finance advisers.

The commission has been given powers to take remedial action or impose restrictions on foreign companies operating locally if they do not seek approval for a merger of their subsidiaries. This could easily lead to tension between SA and some of the very large and powerful multinationals which operate in this country, but much of it can be resolved through bilateral agreements with other nations.

At this stage however, such agreements are not common — only two exist in the world, but SA's new legislation has made provision for the establishment of bilateral agreements with other countries.

This would give the signatories greater flexibility and access in gathering information. SA's free trade agreement with the European Union allows for discussion over competition issues, while Ruiters says that SA entered into a technical cooperation agreement with the Federal Trade Commission in the US earlier this year to allow the fledgling commission to draw on the US body's expertise in devising regulations. The commission has also had useful discussions with competition authorities in other countries. The new authority is expanding its reach into Africa, playing an educational role among Southern African Development Community countries by inviting them to attend comprehensive training sessions for commission staff and board members.

"But the biggest challenge we face is in implementing and administering the new policy. Once we have built a track record, and set some precedents, our speed and efficiency will improve."



ALISTAIR RUITERS

Blue Train set to steam into the private sector

BD 9/7/99 (232) (269)

Robyn Chalmers

THE Blue Train — one of the world's most famous and luxurious rail services — and SA's other long-distance passenger trains are set to be run by the private sector

Unveiling Spoornet's transformation plan yesterday, CEO Braam le Roux declined to comment on specific plans for non-core assets, but confirmed that the focus would in future be on the core business "Freight makes up 97% of Spoornet's turnover and as such it is certainly our core business," he said

Government and labour sources said a decision had been made that, as non-core operations, Mainline Passenger Services and Blue Train operator LuxRail were non-core operations and did not belong within Spoornet

Transnet deputy MD Mafika Mkwanazi said Public Enterprises Minister Jeff Radebe would make a number of announcements, including the fate of non-core assets, next week

Industry analysts expect Transnet to follow a similar route with Mainline Passenger Services as it has done with commuter rail division Metrorail

SA's commuter rail network is scheduled to be fully concessioned to international private operators by April 2003

Long-distance rail transport is likely to be concessioned to the private sector, with subsidies to make the services attractive to investors

The Blue Train could be fully privatised Government said last year that it was among a number of Transnet's non-core assets that would be sold by early next year, but the sale was placed on hold to ascertain buyer interest, partly because of losses following hefty investments

Analysts say there could be international interest in buying the Blue Train, but occupancy rates would have to be increased and the luxury service should be the subject of an international marketing campaign

An estimated 90% of the Blue Train's patrons are international visitors, mostly from Europe and the US Only 6% are from Africa

IHB confronts Competition Board

CT (BR) 14/7/99 (232)

ADELE SHEVEL

Johannesburg – International Healthcare Distributors (IHD), direct distributors of pharmaceuticals, would take the Competition Board to court to review the baord's recommendations, Johann Niehaus, the chief executive of the distributors, said earlier this week

The Competition Board sent its recommendations to the minister of trade and industry The board stated that the direct distributors and Synergistic Alliance Investments (SAI) should discuss ways of ending their restrictive practices The parties had six weeks to do this, but neither had completed the process

Robert Appelbaum, from the legal firm Moss Morris, who is acting for IHD, said the matter would be taken to court in the next few weeks The group has an overseas team collecting information on the issue

Niehaus said the company preferred to have the report under high court review before entering into discussions

A ruling from the minister of trade and industry on direct distributorship in the pharmaceutical industry is expected by the end of this week

IHD is a joint venture comprising 11 multinational pharmaceutical manufacturers

SAI is owned by five manufacturers, but has not started operating It will do so pending the board review

The Competition Board found that the direct distributor arrangements compromised competition Retail pharmacists have also opposed the direct distributors, saying their actions have caused prices to rise

Sowetan 14/7/99

President calls for new commitment from OAU

(230)

By Jimmy Seepe

PRESIDENT Thabo Mbeki called on African heads of state attending the Organisation of African Unity summit yesterday to show a new commitment towards the objectives and programmes they had set themselves five years ago at the signing of the Abuja Treaty

Mbeki, who was addressing the last day of the OAU summit on the African response to globalisation, said African governments must have functioning mechanisms that would allow them to start acting on five levels required in the competitive process – national, bilateral, regional, continental and global

Mbeki was speaking before a record 43 African leaders who turned out for the 35th OAU annual summit in Algeria Ten remaining states sent senior government representatives

He said the challenge governments had to meet was to develop their own sovereign continental capacity to take part in the global processes aimed at producing a framework of rules, institutions and established practices, to promote their own interests

Calling on African leaders to become their own liberators in the competitive world, Mbeki said "the first thing we should do is to recall the objectives we set ourselves when we adopted the Abuja Treaty, which came into force five years ago"

The Abuja Treaty provided for six goals for implementation stages for African development, which are

- Higher rates of economic growth and development,
- Sustained improvements in the standards of living of our people,
- Higher and sustained rates of investment,
- The modernisation of our economies,
- A cumulative process of integration of the African economy, and
- A beneficial integration of the African economy into the global economy

He said mere moral appeals from the have-nots to the haves are not likely to take Africa very far

"Such is the degree of comfort among the haves, even in our own societies, that their ears are closed to the correct warnings we give repeatedly, that the worsening relative and absolute poverty of the many can never serve as assurance that the prosperity of the few is guaranteed for all time," said Mbeki

Regarding global cooperation, Mbeki said issues which required a concerted African response were the debt issue, negotiations at the World Trade Organisation relating to the global trade system, the post-Lomé negotiations with the European Union, "obviously acting together with our ACP partners"

Another issue he identified concerned "attracting capital from the countries of the North, radically to increase the level of productive and profitable investment in our economies"

He also highlighted the importance of technology transfers, restructuring and reorientation of the World Bank and the International Monetary Fund, the issue of gold sales by the IMF and the central banks of the developed countries, and, the volumes and use of overseas development assistance

He called on the leaders to address two categories of challenges – the one subjective which involved government politics, and the other objective, which involved mobilising the intelligentsia in the process of development

"The second is the mobilisation of our intellectual resources to provide the answers to what we should do practically to achieve the economic objectives we have already stated

"This means we have to activate our intelligentsia to become a valued partner in the struggle to interact with the process of globalisation in a manner that benefits our peoples"

Optimistic Mbeki blows whistle of OAU change

(230) BD 15/7/99

SA leader calls for an end to military regimes and a return to democracy

Stephen Laufer

ALGIERS — On a soccer mad continent, it was perhaps inevitable that politics would turn to the language of the pitch

As Zambian President Frederick Chiluba told his colleagues at the Organisation for African Unity (OAU) summit in the Algerian capital "We should immediately show the red card to anyone who overthrows a democratically elected government"

President Thabo Mbeki demurred What was the point of declamatory actions, he asked, if they were not followed by real efforts to restore democracy in such countries? "Let's rather show them the yellow card by requiring a rapid return to democracy, failing which they will not be allowed to participate in the next OAU summit."

On its own, not a major sanction, perhaps It must, Mbeki argued, be complemented by workable mechanisms and an institutional capacity within the OAU and the subregional organisations like the Southern African Development Community to intensify the pressure on military regimes to move back to democracy quickly

He argued that the OAU's early warning system had to predict and help prevent coups "The summit has come to the point where we've passed good resolutions, but now it is time to act"

This raises the issue of OAU reform A week on the fringes of the annual meeting of heads of state leaves little doubt This is a creaking, lumbering organisation, torn between the temptation to bask in nostalgic memories of the fight against colonialism and apartheid and an uncertain but more challenging future

It is also, say optimists such as Mbeki and Nigerian President Olesegun Obasanjo, the organisation of a continent increasingly keen to shed its slothfulness, corruption and autocracy. As in its early years, it must again become the voice of Africa's people — this time articulating the social and political vision capable of improving ordinary lives

With more than 40 heads of state and government present, attendance at this summit is better than for many years.

Mbeki said one of his colleagues had told him he came to Algeria in response to a new mood among Africans that it was "time to do something".

It was Obasanjo who made the link between democracy and economic advance Several countries were working for good governance, accountability and transparency. The resulting confidence in democracy "is needed to allow us to tackle our economic problems boldly Without stable political conditions and good governance, poverty alleviation will remain a pipe dream."

Obasanjo argued that poverty and conflict fed on each other and went hand in hand with bad governance, which marginalised the majority of the population.

There will be a special summit on OAU reform, in September in Libya, conveniently coinciding with the 30th anniversary of "Brother Leader" Muammar Gaddafi's accession to power.

He may not be the continent's most uncontroversial symbol, but his recent attempts at peacemaking in the Democratic Republic of Congo and between Ethiopia and Eritrea make it necessary to have him inside the tent, as one senior African diplomat put it, so why not let him host a very necessary meeting?

Mbeki said yesterday that at the Tripoli summit the OAU had to become an organisation "capable of moving this continent forward economically and politically". More active intervention on economic integration, first regionally and then continent-wide, required a more modern OAU

So it cannot continue as the organisation described by diplomats familiar with its current workings in Addis Ababa. One said the OAU was a shunting yard where presidents park political has-beens and others needing grace and favour but not well enough equipped for a real diplomatic posting

Mbeki said he believed it would be possible to attract skilled and experienced Africans to OAU jobs.

"Once we put a vision and structures in place, they will be inspired. There were many Africans in responsible jobs worldwide who would be happy to return if given the sense that they could make a real contribution"

Asked to propose the vote of thanks at the closing session yesterday, Mbeki proved again that he is an optimist, saying "Africa has in a real way taken another step towards its rebirth"

Perhaps he was right. The rumoured retirement of Sudan's Ibrahim Dagash, for two decades the OAU's spokesman, could be a good omen

Dagash was the man who outraged participants at the summit's opening day with his explanation to journalists of the chaos and lack of facilities for listening to speeches by Obasanjo, United Nations Secretary-General Kofi Annan, his OAU colleague Salim Ahmed Salim and Algeria's reformist president, Abdel Aziz Bouteflika "This is Africa," he said "What do you expect?"

SA to host OAU summit meeting

BD 15/7/99

Stephen Laufer (230)

ALGIERS — SA will host the Organisation of African Unity summit meeting in 2002, becoming the second of three southern African states to do so in the new millennium

Zambia will be the venue for the annual heads of state meeting in 2001 and Mozambique in 2003

Meanwhile, SA has told Mozambique it will support Maputo's bid for a two-year temporary seat on the United Nations security council, starting in 2003 SA had initially planned to run for the seat, but President Thabo Mbeki has apparently instructed foreign affairs to give Mozambique priority

As this week's summit meeting closed in Algeria yesterday, Foreign Minister Nkosazana Dlamini-Zuma opened SA's new embassy in Algiers

Dlamini-Zuma said SA wanted to intensify its relationship with the government of newly elected president Abdel Aziz Bouteflika. A foreign affairs source said the SA-Algeria bilateral commission currently chaired by the two countries' deputy foreign ministers would be upgraded to presidential level

Winds of change: Page 2

Africa's coup leaders to get 'yellow card' (1) (230)

Landmark decision by OAU

ARG 15/7/1999

PETER FABRICIUS
FOREIGN EDITOR

Algiers – Africa's leaders ended the Organisation of Africa summit here with a new resolve to end the economic ills and conflicts that plague the continent, adopting an historic resolution to suspend leaders who come to power through coups.

President Thabo Mbeki, attending his first OAU summit as head of state, said the meeting was characterised "by a mood of great determination to ensure that decisions on these matters are actually implemented"

In their most important decision, the 45 leaders decided that governments that took power by force from elected governments would be suspended from the OAU if they had not moved to constitutional rule by the time of the next annual summit in a year's time

On the coup resolution, Zambian President Frederick Chiluba proposed to "red-card" coup leaders – suspending them immediately from the OAU – but he and the other leaders accepted a proposal by Mr Mbeki and newly-elected Nigerian leader Olusegun Obasanjo that coup leaders should instead be "yellow-carded" – given a warning and a year to restore constitutional rule or be suspended at the next summit

Mr Mbeki said that in the meantime the OAU would have to take active measures to help these governments establish constitutional rule

Mr Mbeki and General Obasanjo emerged clearly as the two major players of this summit, receiving general recognition and respect

Mr Mbeki was chosen to deliver the final address, thanking Algeria for hosting the summit

The summit became an important boost for the incomplete and uncertain reforms of Algerian President Abdelaziz Bouteflika, who has recently released Islamic extremist political prisoners and begun a dialogue with one of their groups

The summit passed an unprecedented motion of support for Algeria and Mr Bouteflika, proposed by South Africa, thanking both for their contribution to the independence of Africa

The summit also agreed to hold a special meeting in Libya in September this year to review the OAU charter.

Radebe pledges speedier state asset restructure

ST(BT)18/7/99 (232) (260)

With the foundation laid, privatisation's new supremo expects a lot of activity in coming months, writes THABO KOBOKOANE

PUBLIC Enterprises Minister Jeff Radebe has promised to speed up the restructuring of state assets so that they can play a "profound and strategic" role in the economic development of SA

"We will concentrate on accelerating changes to make sure we speed up the restructuring There will be a lot of activity in the next 18 months"

Radebe, who is expected to push privatisation, says he believes criticism levelled at the process, particularly under his predecessor Stella Sigcau, was harsh "The five years were a learning curve, during which the basis was laid," he says.

Radebe and government will certainly be buoyed by recent successes This week a consortium of New Zealand Post International and Royal Mail (UK) was appointed as the state's preferred bidder for the Post Office's strategic management partnership

An announcement on the successful bidder for a management contract to run Aventura with an option to buy is due next week

British Aerospace is believed to be closer to finalising its acquisition of a 20% stake in Denel Aviation

Three weeks ago it was announced that Swissair had acquired a 20% stake in SAA for R1 4-billion, with an option to increase the stake to 30%. Further stakes of 5% each of the airline have been set aside for the National Empowerment Fund and black empowerment shareholders

Radebe says Denel is set for attention once negotiations for the defence package are concluded "Given trends internationally, surely Denel needs an international strategic partner to position it as global player."

Transport parastatal Transnet, which this week reported a R426-million loss for the year to March compared with the R278-million profit previously, is a key priority, he says

"The state of affairs will have to be addressed so that Transnet becomes an efficient and effective organisation The priority will be to speed up the transformation and restructuring of Transnet"

Particular urgency is to be attached to Spoornet, which has indicated it may shed between 18 000 and 27 000 jobs Radebe says the proposed job cuts have not been finalised; government still has to take a view

Sources in government say the state, which has been aware of Spoornet's situation for three years, may be reluctant to allow the layoffs, given the current flood of job losses

Radebe has come out in support of a structure like the Gold Crisis Committee to negotiate job losses at parastatals and cushion the blow

Priority will also be given to increasing capacity and improving skills which the department clearly lacks Radebe says a personnel audit is under way to determine the staffing needs of the department

There is talk of a number of key appointments being made soon, starting with that of a director-general.

The department is to prioritise the issue of corporate governance based on the King report on corporate governance to ensure that state enterprises are models in the continent

"Without governance we are dead in the water," says Radebe

Govt 'will not be harsh on restrictive practices'

BD 20/7/99 (232)

John Dludlu

TRADE and Industry Minister Alec Erwin signalled his intention yesterday not to clamp down on allegedly restrictive vertical practices of pharmaceutical distributors, at least for now

Erwin's decision follows a recent threat by International Healthcare Distributors (IHD) to challenge a recommendation by the Competition Board that the minister should empower the board to negotiate the removal of restrictive practices with IHD and the Synergistic Alliance Investments (SAI).

However, government's climbdown does not entirely remove the threat of action against IHD and SAI

"The new legislation (due later this year) is, in any event, a more effective instrument for investigating and remedying the alleged vertical restrictive practices examined by the board as well as the appearance of collusion "

The board, which investigated the exclusive distribution arrangements, had found that these arrangements enabled manufacturers to discriminate in favour of their associated distributors effectively

IHD is owned by 11 pharmaceutical manufacturers who collectively account for about 33% of the sale of prescription medicines to the private market, while SAI's five manufacturers collectively account for 25% of the sale of prescription medicines in the private market

The board's finding prompted an angry response from IHD, which claimed at the time that the report of the board was based on a misconception of what IHD did IHD also threatened to seek a review of the finding by the high court

Johan Niehaus, MD of IHD, last night declined to comment on the minister's statement pending the outcome of a meeting to be held with IHD's lawyers this morning

Government's statement said "Although the minister is advised that a procedural review is unlikely to succeed, the effective upshot of this decision will be lengthy and costly legal proceedings that will effectively delay further consideration of the important substantive matters at issue "

However, government made it clear that the decision not to act on the board's findings should not be construed as reflecting on the quality of the board's work

Erwin won't implement board's ruling

(222) (183)

Adele Shevel

Johannesburg – Alec Erwin, the trade and industry minister would not implement the recommendation of the Competition Board to stop restrictive practices by direct pharmaceuticals distributors, he said yesterday.

Direct distributors were taken to the board on the basis that wholesalers said they traded restrictively and priced on a discriminatory basis to the wholesalers, in effect making them uncompetitive.

Pharmacists also lodged complaints that prices increased and cut margins since direct distributors began operating.

Erwin said in a statement his decision was made to avoid a possible high court review. The minister's decision not to act on the report removes the basis for a review.

International Healthcare Distributors (IHD), the joint venture consisting of 11 multinational companies, said it would take the board to court on review of the board's recommendations.

The review would have lasted longer than the lifespan of the Competition Board which would be taken over by the Competition Commission from September 1.

SAVING TIME *Alec Erwin wants to avoid court delays*

The board conducted a formal investigation into whether the operating principles followed by IHD constituted restrictive practices. The task of the board was to determine whether the act of discrimination, an act that underpins the exclusive distribution arrangements, constitutes a restrictive practice.

A statement said: "Although the minister is advised that a procedural review is unlikely to succeed the effective upshot of this decision will be lengthy and costly legal proceedings that will effectively delay further consideration of the important substantive matters at issue."

The minister said the board acted fairly towards all parties concerned.

Trevor Phillips, the executive director of the National Association of Pharmaceutical Wholesalers, said it was likely the wholesalers would take the matter further. "It's good news that it will not be tied up in the high court."

Erwin said the complainants and interested parties would be free to pursue the matter in terms of the new Competition Act. The new legislation would be a more effective instrument to investigate and remedy the alleged vertical restrictive practices examined by the board "as well as the appearance of collusion".

Potential bidders have week to register preliminary interests for trust

Housing trust to go private

(222) (123)

Zintle Filtane

Johannesburg – Potential bidders for the South African Housing Trust had until next Tuesday to register preliminary interests, Chris Stephen, the chairman for the trust's privatisation committee said yesterday.

Stephen said the trust's two subsidiaries, Khayalethu Home Loans and Nu-Way Housing developments could be privatised separately if bidders were interested in one and not the other.

He said the government was selling because it realised it needed to focus on formulating and managing housing policy and to limit its direct involvement in operational structures.

The government was looking for a fair price for the trust, which acted as the financing arm for the two subsidiaries. The winning bid would be one that enhanced, preserved and did not disrupt the low cost housing market.

"Besides policymaking, government sees its role as one of promoting and facilitating structures to contribute to the low cost housing market.

Now that government has set up and launched the trust, it is appropriate to find a private sector owner who will make the necessary investments to take the businesses forward."

Khayalethu had an asset base of about R450 million in book value which was the performing half of a book in excess of R1 billion with 28 000 home loans to the low income market. Stephen said the other 50 percent was "non performing due to the legacy of non payment although this is increasingly moving into the performing half of the book".

Close to 50 percent of loans across the country were being repaid with the rate continuing to rise.

In 1997 the government ceased financing individual home loans through the trust. It was unable to process loan applications worth R350 million approved by Khayalethu.

Nu Way had an asset base of about R120 million with an annual turnover of approximately R40 million from project development management fees.

Stephen said Nu Way was one of the few local developers "able to provide clients in the mass low-cost housing market with a complete turnkey solution from land identification to the handing over of a new house or estate".

He said Nu Way turned an R11 million loss in fiscal 1997 to a surplus approaching R7 million in 1998 through its turnkey approach to managing projects for mass low-cost housing and without additional funding.

Erwin says SA needs a national liquor system to aid competition

(182) (232) BD 21/7/99

Jonny Steinberg

WERE the liquor bill to be ruled unconstitutional the liquor industry would be left without a national regulatory system and may descend into "chaos", Trade and Industry Minister Alec Erwin has told the Constitutional Court

In February, then President Nelson Mandela refused to sign the bill and instead sent it to the court to test its constitutionality Mandela said he was uncertain whether the bill encroached on exclusive provincial powers

The Western Cape's business promotion and tourism MEC, Hennie Bester, who is opposing the bill, told the court in an affidavit that the bill violated provincial authority to issue liquor licences and to regulate liquor retailers

Responding to Bester, Erwin argued that the bill was designed to address matters that "self-evidently called for national legislation", such as the structure of the industry, the need to make the liquor industry more accessible to the historically disadvantaged and the fact that 90% of liquor retail trade was informal and uncontrolled

Among the measures envisaged by the bill was a three-tier registration system for manufacturers, wholesalers and retailers which aimed to "limit the excessive vertical integration in the liquor industry which creates uncompetitive practices," Erwin said

Erwin argued that the structure of manufacturing and wholesaling in the liquor industry required a national rather than a provincial regulatory framework

"Taking SA Breweries as an example, it will be unduly burdensome to require it to approach regulatory authorities in all nine provinces in order to be able to operate business operations in each of those provinces The position would be even more complicated if the different provinces applied different requirements "

Bester replied that Erwin's prognosis of confusion and fragmentation was "a gloomy and unrealistic vision" He said Erwin had failed to show that the bill's encroachment on provincial powers was necessary to maintain SA's economic unity or to essential national standards, as required by the constitution

Govt presses on with privatisation

Sowetan 23/7/99

(232)

THE South African Government pledged yesterday to speed up the privatisation of state assets in the next five years but would not be drawn into setting any targets

Public Enterprises Minister Jeff Radebe told Reuters in an interview that the framework for the sale of state enterprises had been laid by the Nelson Mandela government and the new administration was prepared to take this plan forward

"The next five years of African National Congress government under President Thabo Mbeki will see acceleration of the restructuring of state assets," said Radebe.

However, he said no target had been set for the disposal of the enterprises, which boast an asset base estimated at more than R150 billion

"We are going to be coming up with a business plan that will chart the way on how the restructuring of state assets is going to be accelerated," Radebe said

Since 1996 the ANC-led government has sold a 30 percent stake in telecommunications parastatal Telkom to SBC International and Telekom Malaysia

It has also partly privatised the Airports Company of South Africa with the sale of 20 percent to Aeroporti Di Roma and has disposed of a 20 percent stake in South African Airways to Swissair for R1,4 billion

Last week, the Government selected a consortium of New Zealand Post and Britain's Royal Mail for a three-year management partnership with the Post Office

These transactions have raised more than R11 billion for the public purse and the Government hopes to net four billion rand this year from the privatisation of assets

There are plans to dispose of 60 percent of state forestry concern Safcol and 40 percent of Denel Aerospace by next April

In addition, the Government will sell a further 10 percent in Telkom and additional stakes in South African Airways and the airport holdings

Critics argue that the privatisation process has stalled and is at least one year behind its original targets

"We are convinced we're on the right track but with consultations and cooperation of the stakeholders we can move forward speedily," said Radebe

The restructuring of the transport utility Transnet has been complicated by its R22 billion pension fund deficit and debt *– Reuters*

Public-private partnerships impress govt

BD 12/8/99

(232)

Labour and welfare departments are in the vanguard to assess their success

Pamela Whitby
and Financial Times

THE labour and welfare departments are touting public-private partnerships (PPP) as a path to maximum efficiency for government information technology projects

Both departments have been working on tenders that could see government sharing risk and reward with the private sector Labour is adjudicating its prequalification tenders while welfare is awaiting approval from the State Tender Board for the replacement of its outdated social security payment system (Socpen)

The departments at their own expense have led investigations into the viability of the private sector entering such a PPP Labour chief director of IT Joel Mpshe says the State IT Agency (Sita) is working as the department s technology partner

Sita chairman Sello Rasethaba stresses that the contract should work both ways Government should be careful also when assessing its future partner to ensure it gets maximum value out of the contract "It should not simply be a case of assessing risk for the company " he says

If successful PPPs could become a national standard

A political issue that requires careful consideration is how to square a long-term business relationship between government and specific outsourcing partners with traditional public procurement standards and the need for government not to be seen to be too close to any one supplier

Rasethaba says SA should take heed of warning bells sounded by similar international projects In the UK private finance initiatives (PFI) another name coined for the PPP have been criticised for failing to share risk and reward Although the original premise was to share risk certain authorities in the UK have attempted to transfer all risk to the supplier

For true risk-sharing to work the contract should enable the supplier to achieve greater revenue by breaking targets or achieving greater benefits than the business case envisioned

Deputy justice director-general Hassen Ebrahim who took part recently in an international fact finding tour says "We were made aware of concerns that these contracts are quite hard on vendors who are required to put up the initial capital and recoup costs only by way of transactions and performance "

However justice also identified areas which could benefit from a PPP Ebrahim says the automation of the entire court is an example although no policy on this has been defined yet

The department observed PFIs in the UK which included technology group TRW s work on the UK s national fingerprint information system and ICL's work for the Lord Chancellor s division to automate the court justice system

State expenditure is aware of failed initiatives which explains why labour s initial attempt to get a PPP tender issued was sent back for revision It was argued the tender was impractical because risk had not been adequately assessed

There are two kinds of risk: performance risk or financial risk Internationally government departments have adopted one or the other Performance risk however seems to be the standard practice where a department could gain credit or additional services if agreed service levels are not met

Lessons learnt abroad should make the SA government realise that handing over control of its IT department to a company may not be enough Departments should be aware of the IT vision and work closely with the private sector to achieve the government agenda, says Rasethaba

Johannesburg vows to safeguard jobs

(266) (232) 12/8/99

Frank Nxumalo
Labour Editor

ET (BR) 12-8

Johannesburg – The privatisation of the Greater Johannesburg Metropolitan Council's utilities and assets would not result in massive retrenchments, the council said yesterday

"We are guaranteeing jobs and that there would be no negative impact on conditions of service," said Kenny Fihla, the chairman of the city's Transformation Lekgotla, the council's privatisation committee

Fihla said this was possible because the council would impose a contractual obligation on buyers of its assets to take over the entire worker complement and conditions of service at the time of the transaction

He said the council was not only upbeat because it had "received many offers" to buy, but also because the new owners would be operating in conditions of virtual market monopoly

The South African Municipal Workers' Union (Samwu) said its main concern was the loss of revenue to private hands

Themba Nxumalo, the Witwatersrand regional secretary for Samwu, said the people to be hardest hit by the sale of the fresh produce market would be Johannesburg's unemployed, estimated at 30 percent, because private operators would almost certainly increase tariffs.

Anna Weeks, Samwu's national spokesman, did not think it was legally possible for the council to build the compulsory takeover of staff and their conditions into a contract.

Fihla said loss-making council assets such as Metro Gas, the Johannesburg Stadium and Rand Airport would be sold.

He believed the major causes of poor performance were managerial inefficiencies compounded by a severe lack of infrastructural investments.

The council is in the red with arrears amounting to R2,1 billion, and growing by R33 million a month. It owes banks R2,8 billion but has already paid R615 million in interest this year

These shortages of funds forced the council to cut back on capital expenditure from a planned R1,7 billion in 1996-97 to R84 million this year.

The water and sanitation, electricity and waste management would be registered as companies in terms of the Companies Act.

Fihla said this would enable them to source funds from private markets on the strengths of their balance sheets.

As the sole or majority shareholder, the council would be paid a dividend at the end of each trading period

Arnold Pronto

Stephen Barber *former fire chief, now MD, says he's saving Benoni millions*

MUNICIPAL OUTSOURCING (237) FM 13/8/99

BREAKING WITH TRADITION TO FIND PRIVATE-SECTOR PARTNERS

Benoni fire brigade experiment produces success story

Radical alternatives are being explored by local municipalities in a bid to ensure basic services are provided countrywide And municipalities are looking seriously at partnerships with the private sector to generate funds for maintaining or improving service levels

The Municipal Infrastructure Investment Unit, a Section 21 company, says it has "pipeline" projects for partnerships from about 65 rural and urban municipalities Some of these projects are at feasibility study level, others are being negotiated, while some municipalities have only expressed interest

Municipal Infrastructure specialist James Dohrman says these partnerships offer the most promising future for cash-strapped municipalities Among the advantages is that "with the private sector you can specify performance and hold it responsible"

Precedents exist The Benoni local authority's foray into private-public partnerships has produced spectacular results

Nine years ago the Benoni Fire Brigade was just another municipal department with restricted room to improve its services and revenue It employed 170 people and had an annual budget of about R11m

Today, the revamped Benoni Fire & Emergency Services is one of seven subsidiaries of a privately owned company, Fire & Emergency Services, that employs about 600 people and provides a wide range of emergency services in SA and abroad It is considering a listing on the JSE in two years to fund further expansion

The change began in 1991 in the form of a public-private partnership Fire chief Stephen Barber, with First National Bank and the Benoni city council, had already spent years researching the possibility of contracting out the fire service

Their intentions turned to action after parliament passed a law in 1991 that allowed local authorities to own shares in private companies — on condition the company was "established to render the services previously carried out by the local authority"

Fire & Emergency Services was formed, entering into a five-year contract with the council, which had a 30% shareholding The council rented premises to the company and retained responsibility for the maintenance costs, while the company bought up the council's vehicles and equipment

For the council, the arrangement represented significant savings, since the contract stipulated that the council would not be responsible for future capital expenditure

All 174 of the fire brigade's staff opted to transfer to the company, which meant the council dispensed with administrative costs

Barber, now MD of Fire & Emergency Services, estimates his company saved the local authority R16,5m in the first contract period He forecasts that the current contract period, from 1997 to 2000, will save Benoni more than R20m

The employees, too, have benefited Not only were no jobs lost and all benefits retained, but they gained an incentive in the form of shares 20% of the company stock is held in an employee trust

Under the agreement, the council pays an annual fee of about R15m for the services "We can only succeed if we render the service for less than it would cost the local council and if we maintain service standards at least equal to what the local authority would have provided," says Barber

Five years after entering into the contract, the council sold its share of Fire & Emergency Services Holdings The company now describes itself as "SA's leading provider of contract fire services, paramedical services and emergency communication centres"

The service provider handles firefighting, hazardous chemicals, paramedics and emergency rescue services for the 450 000 Greater Benoni community ResQ Medix is its private ambulance service Emergency Communication Centres has the contract for all Vodacom's national and international emergency calls

The company has been providing paramedics to the United Arab Emirates Airforce for the past three years, and is negotiating similar contracts in Australia, Indonesia, Malaysia and the US

Barber says SA could take the public-private partnership and privatisation approach further "I believe, based on investigation with a number of local authorities around the country, that if local and regional governments contracted their fire services out they would save at least R1bn over the next five years"

Can the Benoni experience be replicated elsewhere? Dohrman thinks so, but says much remains to be done to smooth the way for partnerships There are delays in implementing projects, primarily because unions remain sceptical and because banks have adopted a conservative approach to financing the deals

Siyabulela Qoza

Privatisation will take place under a new Act

(232) CP 15/8/99

By MABUTHO SITHOLE

THE ministry of public enterprises will go ahead with drawing up programmes for the privatisation of state assets and will outline the rules for the local and international market.

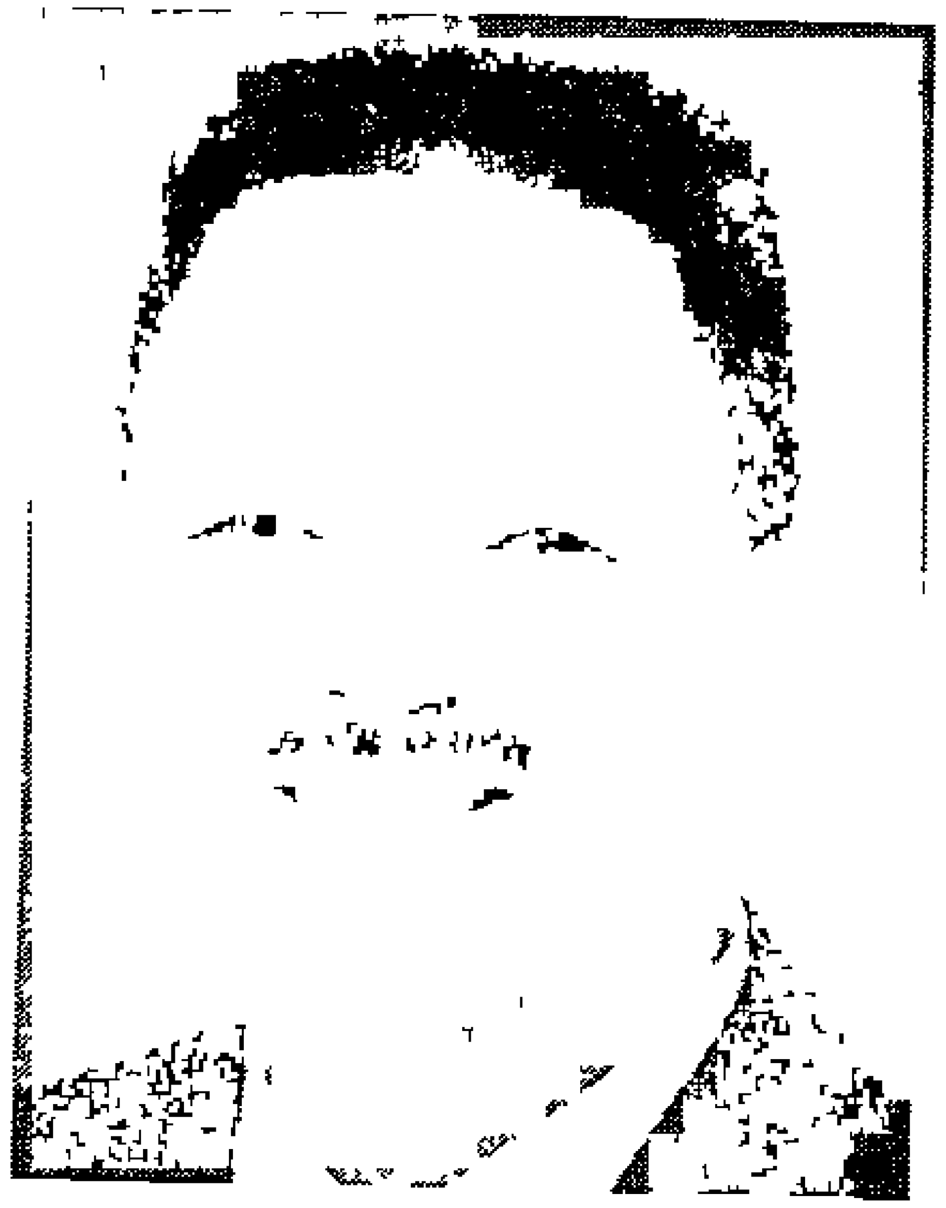
Public Enterprises Minister Jeff Radebe this week said his ministry is to prioritise and accelerate the pace of the government's "restructuring and privatisation programme"

"One of the ways we intend achieving this is by creating a legal framework for the initiative which will become an Act We must give certainty on the way forward, and we believe the framework will erase any doubts about government's commitment to the programme," said Radebe

The new framework will apply to all enterprises owned by the state A significant number of these are being restructured with some sort of private sector participation or are in line for such attention

The aim is to transform state-owned enterprises from cost centres for government into commercial businesses, many of which have a strategic role to play in South Africa

The government will also focus on



PRIVATISING ... Public Enterprises Minister Jeff Radebe

empowering small and medium-size enterprises and previously disadvantaged people

Radebe will soon appoint a director-general, a sign that the department has been elevated to an equal footing with other state departments and has an expanded mandate

"This is another sign of the importance President Mbeki places on the privatisation initiatives. The appointment of a director-general will also pick up the pace of the programme," said Radebe

The ministry has prioritised transport utility Transnet and arms parastatal Denel as being in urgent need of restructuring

Studies are being conducted to ascertain the problems facing these organisations and the opportunities they offer

Denel needs to be positioned to ensure it plays a pro-active role in SA's defence procurement packages

"A key factor at Transnet is to sort out the pension and medical aid fund liabilities, which have hindered attempts at a wholesale reshaping of the organisation "

Radebe urged Transnet's management and the finance ministry to agree on a solution to the pension fund issue as soon as possible

There is a great deal of urgency over Spoornet, the rail division of Transnet, which management has indicated requires immediate transformation to ward off further losses

Management has proposed a sweeping plan to close or out-source almost half the rail network, with the loss of up to 27 000 jobs

Labour is to submit its proposal next week to a sub-committee of ministers set up to investigate Spoornet's transport network

Radebe said serious consideration would be given to the concerns of labour, and he would keep an open mind throughout the process

However, any restructuring that involves the mass closure of rail lines and job losses will have significant social implications

"These rail routes provide the lifeblood of numerous small communities across the length and breadth of SA," Radebe said, adding that the restructuring of state assets was not intended to create more pockets of poverty

Transnet has already indicated that it plans to sell its non-core assets such as Transwerk and Apron Services over a period of 12 to 18 months, while retaining a strategic interest in many of its core assets like Spoornet, Portnet and Petronet

Bucs supporters, who at the beginning of the match waved posters saying "We want Bondas back", soon discarded them and cheers for the new coach left some quite hoarse. PIC PAUL VELASCO

Evils of privatisation

Sowetan 16/8/99

Privatisation does not solve the social problems facing humanity but is instead a mechanisms for private accumulation. **Blade Nzimande** explains why

(232)

ONE of the most intense ideological onslaughts in the current period is that privatisation is the only, and indeed the most preferable, route to economic growth and social development for South Africa

This has been punted as if it were the gospel truth Yet all available evidence, particularly in developing countries, clearly points to the contrary

A classic example of the real intentions and effects of privatisation is the current squabble between the International Monetary Fund (IMF) and the Zimbabwean government

The IMF is threatening not to release a R1,2 billion loan to Zimbabwe on the grounds that government cannot go ahead with price controls in order to make mealie meal (a staple food for the mass of the people) accessible to its population

In Zambia the World Bank is only going to release funds on the basis that the largest mining corporation is now to be privatised and sold to Anglo-American

Of the estimated 280 state enterprises earmarked for sale in Zambia, 229 have already been sold Between 1992 and 1995, 61 000 jobs were lost – 6 000 a direct result of privatisation

Conclusions from virtually all studies, including those by the IMF and World Bank, are that privatisation and liberalisation have not worked But these institutions say the reason these do not succeed is because these countries have not done more privatisation It is like a doctor prescribing more of the medicine that makes a patient ill!

This neoliberal ideology now needs to be strongly challenged, both ideologically and through concrete struggles Its ideologues and proponents need to tell us where privatisation has succeeded in overcoming the legacy of poverty and inequality left by colonial plunder and neocolonialism, and where it has brought sustainable growth and poverty alleviation

This ideology has, ironically, become attractive precisely because it is merely based on hope and promise whose realisation is never guaranteed It is like an inversion of the "Fly now, pay later" adverts In this case it is "Pay now, fly later, but be warned the plane might actually never arrive"

On what basis, therefore, is this approach likely to succeed in South Africa, a country with one of the worst records of social inequality in the world, and with a serious problem of structural unemployment?

Perhaps the record and history of privatisation tells us exactly what it actually is

The reason privatisation and liberalisation have featured so much as international prescriptions is not because they are solutions to social problems facing humanity

Dr Blade Nzimande ...parastatals should be strengthened as key instruments for development.

Rather, they are mechanisms to turn the entire globe into a haven for private accumulation, principally for the transnational corporations

We challenge those who claim otherwise to disprove this and concretely demonstrate otherwise!

Arguments for privatisation normally point to globalisation as a force that determines a path of development for all countries

Much as there is truth in this, sometimes this argument has been used to hide a lack of political will to struggle for the creation of spaces to implement progressive national development agendas

Or even worse, to hide that some governments have made a choice to deliberately promote capitalism, hopefully with a human face

Our own experiences over the last five years are instructive The delivery of water, electricity, housing, telephone connections and education for millions of our people has been as a direct result of an aggressive state-led development programme

This has been buttressed by hundreds of development committees and forums This has not been as a result of massive privatisation of essential state functions and utilities

Instead, in cases of privatisation or private sector-driven provision of essential services, the result is generally that of job losses, casualisation and outsourcing of labour with little impact on social upliftment

This, however, does not mean private resources should not be harnessed towards development. Indeed it is necessary But any socially beneficial role the private sector plays always takes place within the context of state-led development programmes

This has been the case even in developed capitalist countries In cases where new technology, expertise and capital is needed, the state can enter into partnerships with the private sector

But on the understanding that such arrangements are aimed at improving the capacity of the state, in the short to medium term, to deliver social services and create jobs on a sustainable basis

Where the state – at national or local level, acting in concert with the people – is capable of providing basic services without the involvement of the private sector, that should be done

The truth is that the private sector is only efficient in delivering profits, not services to the people, particularly in relation to the working class and the poor

One of the main aims of the working class, the urban and rural poor should therefore be towards the strengthening of the role of the state in social delivery and economic development

This struggle should include a consisten opposition to ideologically driven privatisation Instead we should struggle for the building of a developmental state

Such a state plays an increasingly interven tionist role in economic development and in th delivery of key social services to the majority o the people

If need be such a state should create new stat entities in order to accelerate social delivery Parastatals should be strengthened as key instru ments for development and not merely targets fo privatisation

The key question therefore is not whether t privatise or not, but how best to develop ou economy on the basis of meeting the needs of th majority of the population

(The author is general secretary of the Sout African Communist Party)

(2327) (194)

Mondi and Kohler get the go-ahead

JOHANNESBURG — The Competition Board yesterday reversed a decision barring two packaging and paper firms from swapping assets after they tabled revised proposals

Board chairman David Lewis said approval had been given for paper group Mondi to acquire Kohler's corrugated packaging unit In return, Kohler would buy Mondi's carton board packaging business Both companies are unlisted

Lewis said the approval followed a revised proposal by Mondi, undertaking to sell its corrugated packaging plants within three months to a buyer approved by the Competition Board — Reuter

BD 20/8/99

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FM FOCUS

Edited by Peter Honey

(13A) (232)

TRADE UNIONS & PRIVATISATION

NO MORE JOLLY ROGER AT THE HELM

The SA Municipal Workers Union (Samwu)'s general secretary, Roger Ronnie, has quit his post in the fall-out from the battle over how trade unions should approach privatisation Ronnie (40), who officially stood down at the end of last week, says his immediate decision was fuelled by overwhelming "mental and physical stress"

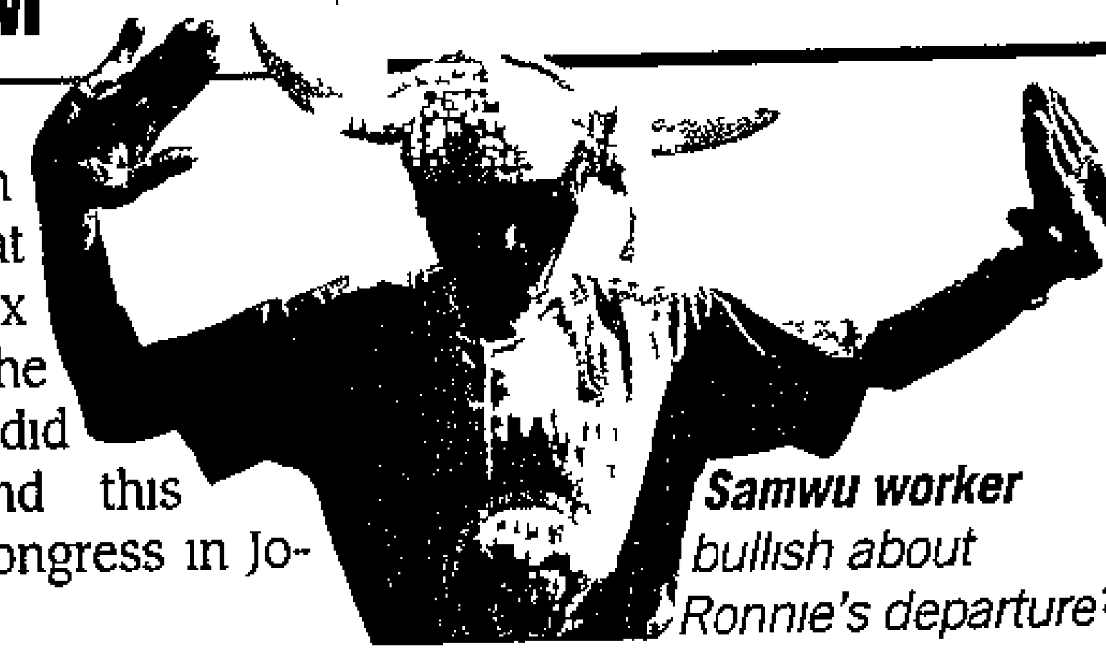
"I can state categorically that I wasn't pushed," he told the *FM* this week

He will remain with Samwu and continue to work in its Cape Town national office His duties have been handed to acting general secretary Mncedi Nontsele

So complete is his break with the union leadership that Ronnie, after six years at the Samwu helm, did not even attend this week's Cosatu congress in Johannesburg

The 230 000-member Samwu is one of Cosatu's biggest affiliate unions "People underestimate the pressures of being a national general secretary," he said

While Ronnie's health is the official trade union line for his quitting, the decision is also intensely political The trade unionist clashed last year with Cosatu leaders over his dogmatic stance on the privatisation of municipal services



Samwu worker bullish about Ronnie's departure?

Federation sources call him "a troublesome fellow" He also met with strong opposition from SA Communist Party (SACP) members in Samwu who didn't want the union to push so strongly against a government that is associated with the tripartite alliance of the ANC, Cosatu and SACP

Ronnie and a handful of other Samwu members led a vocal antiprivatisation drive which opposed any attempt at joint ventures — such as the public-private partnerships finalised this year between Nelspruit and Dolphin Coast municipalities and private water management companies

Samwu's antiprivatisation campaign co-ordinator, Maria van Driel, has also quit the union after facing attacks from leaders who opposed her militant style and ideological stance Officially, Samwu claims that she, too, left for health reasons

In two years, Cosatu has softened its stance on privatisation and now says public-private partnerships should not be opposed ideologically **Ferial Haffajee**

WHY THEY FAIL

"It's rarely for lack of smarts or vision Most successful CEOs stumble because of one simple, fatal shortcoming It's bad execution As simple as that not getting things done, being indecisive, not delivering on commitments" — *Fortune* Magazine, cover story

Unwelcome passengers in privatisation cabin

Anticompetitive moves by SA Airways and bad choices by government may have played a role in Sun Air's crash, writes **Raenette Taljaard**

BD 26/8/99 (232) (269)

WE FREQUENTLY forget that Sun Air represented the first full privatisation of a state-owned asset While there was no template to guide the process, the collapse of this maiden privatisation a mere two years after its conclusion gives early warning signals of what to avoid — and the many costs involved in failure

There are also lessons about the competitive conditions that must be fostered as a corollary to privatisation

The costs involved in the botched privatisation of Sun Air transcend the narrow confines of the R20m still owed to the fiscus by the Rethabile/Comair consortium or even the R25m-R30m it will ultimately cost the taxpayer if SA Airways (SAA) gets the go-ahead for its bid to acquire 75% of the airline

Casualties, apart from the staff who will join the ranks of the unemployed, include the integrity of SA s privatisation process and the competitive environment we are trying to forge as our economy undergoes structural changes

Questions must be asked about the role of the Competition Board and why it did not intervene earlier to curb the anticompetitive behaviour of SAA in its aggressive bid to reclaim lost market share at the cost of competitive skies There was no clear ruling from the board as to whether SAA was guilty of anticompetitive behaviour or whether there was a connection between the airline s exploitation of its dominant position and Sun Air s demise.

Questions abound as to whether the country's deregulated market is too small to support a fourth carrier or whether the broader interest in having to attract foreign equity into the "crown jewel" of SA s privatisation process SAA, could have trumped concerns of competition

Some lessons have emerged from Sun Air's privatisation that show the pitfalls to be avoided A rigorous assessment of the managerial capacity and experience of bidding firms must be made. Questions must be raised about the fact that Sun Air was awarded to a bidder with practically no experience of running an airline bar that of its competitor with representation in Sun Air's management, Comair

It cannot be denied that much of what made the airline falter was built into the composition of the management team that included a 25%-strong Comair giving a rival access to the balance sheet of a competitor

Government must be much more circumspect when it carves up equity stakes to ensure that a similar schizophrenic management structure does not emerge.

Government must not do anything to jeopardise the bidding process midstream instead it must maximise the realisable value of the asset to be privatised

This was not the case with Sun Air Initially eight local and international consortiums lodged bids and analysts placed a price tag of R200m on the airline.

However government made a fatal error in simultaneously announcing it had intentions to sell an equity stake in SAA.

The end result was that the Rethabile/CNI/Comair consortium clinched the deal for a mere R50m

It was an expensive learning experience In this drama SAA has typecast itself as the hero willing to fly all Sun Air passengers

SAA CEO Coleman Andrews. is he Sun Air's saviour or the plotting predator?

But Sun Air s demise is strengthening SAA s dominance in the domestic market

The SAA section of the public enterprises department review 1994-1999 contains the following statement "In the highly deregulated domestic market, airfare price wars were common occurrences as airlines strove to achieve dominance in the marketplace. The airlines major goal is to remain dominant, regain lost market share and maintain yields at an acceptable level "

In the same review the public enterprises ministry states that the promotion of fair competition and the enhancing of competitiveness forms part of the restructuring process If the minister thus allows SAA to obtain 75% of Sun Air and the liquidation process goes ahead this will conflict with the department s stated objectives

Action is needed on the part of competition authorities to give a clear-cut answer as to whether the demise of Sun Air Phoenix, and FlightStar in recent years represents clear evidence that the domestic market cannot sustain a fourth carrier — or whether their demise was related to anticompetitive behaviour and predatory actions by the national carrier

On September 1 the Competition Tribunal and the Competition Appeal Court will come into effect as a result of new legislation.

Hopefully these bodies will lobby for their powers to be strengthened regarding state-owned and enterprises A thorough investigation is needed of SAA's anticompetitive behaviour and whether its regaining of market share was a quid pro quo for the equity sale to Swissair

At the end of the day we could see a resurgence of the stifling dominance of SAA, albeit with a foreign equity partner if SAA s bid for 75% of Sun Air gets the green light. Hopefully proposals for financing the refloating of Sun Air with new investment from the private sector will win the day instead of allowing a further concentration of market power in the hands of SAA.

The collapse of SA s flagship privatisation means that government must fast-track the Facilitation of Restructuring Transactions Bill, the blueprint for SA s privatisation process, to restore local and international confidence in the privatisation process

- Taljaard is an MP and the Democratic Party spokesman on public enterprises

Encoding good corporate conduct

BD 27/8/99 (232)

Act strengthens government's hand in dealing with anticompetitive behaviour, writes John Dludlu

WITH the recent promulgation of the rules and regulations of the functions of the Competition Act of 1998, government has strengthened its hand in dealing effectively with anticompetitive corporate behaviour

The tone of the rules, published last Friday, shows the new competition authorities' desire to have a bird's eye view of SA's corporate players

In terms of the rules, firms that generate a turnover and have assets of more than R5m in SA will not be affected by the act's provisions on the abuse of dominant position

According to the act, a dominant firm is one that has at least 35% share of a market but less than 45% unless it can show it has no market

It can also be one that has less than 35% of that market, but has market power The act prohibits such firms from charging excessive prices, refusing competitors access to an essential service and applies price discrimination

During the negotiations of the law business felt that the 35% threshold used in determining dominance was too low

The threshold of a "large" merger is one where both the combined annual turnover and combined assets of the acquiring firm and the acquired are valued at or above R3,5bn The threshold for an intermediate merger is between R50m and R3,5bn

According to the law, which carries severe penalties for anticompetitive corporate behaviour, the Competition Commission, the agency that will grant exemptions from the act and investigate mergers and acquisitions, has to refer all large mergers to the Competition Tribunal

Pierre Brooks, retired chairman of the Competition Board, which will be replaced by the Competition Commission, says that the thresholds are "realistic" and show the legislators' intention not to "overburden the tribunal"

"The tribunal will (effectively) be used fairly sparingly," says Brooks

All mergers will impose an administrative burden on both the commission and businesses

The fee for filing a merger notice is R5 000 if the merger is valued at between R50m and R100m, R125 000 for between R100m and R1bn, R250 000 for between R1bn and R3,5bn and R500 000 for a merger that is valued above R3,5bn

Brooks, who participated in the formulation of the policy, says thresholds will make firms more discerning when considering merging operations

"It will focus the minds of people (They will be asking if the merger) is really necessary for our business " The costs involved will also be a consideration, says Brooks

The act provides for exemptions to be granted to transactions that promote small businesses and those owned by previously disadvantaged people Exemptions will also go to deals that contribute to the stability of an industry designated by government or those that help promote exports

A firm applying for a single exemption will have to pay a filing fee of R5 000, plus an annual fee of equal to R500 times the number of years for which the exemption is granted

A category exemption will cost R100 000, plus an annual R1 000 times the number of years for which the exemption is given

Alistair Ruiters, head of the commission, says the cost structures reflect the value of work entailed in assessing mergers as well as the benefits that will accrue to those receiving exemptions

The thresholds were arrived at after workshops the commission held with lawyers and after studying the experience of six other competition jurisdictions

The rules also detail procedure for the trade and industry minister if he wishes to participate in merger proceedings The law, which depoliticises the policing of corporate mergers, allows the minister to participate "as a party" in any merger proceedings

In participating as a party, on the grounds of "public interest", it means the constitutionally enshrined independence of judicial bodies such as competition institutions is guaranteed

Public interest means that mergers will also be assessed beyond the efficiency-gains test They will be measured in terms of broader socioeconomic goals such as the effect a merger will have on employment

Perhaps the act's test will be in its application, that is, whether it raises compliance costs for business, achieves its goals of making SA markets contestable and provides a platform for SA firms to be internationally competitive

Competition campaign set to launch

(232) BD 31/8/99

Commission explains new act to business sector

John Dludlu

SA's new competition authorities will mount an aggressive education campaign to familiarise business and labour with the revamped legislation

Alistair Ruiters, the head of the Competition Commission, said yesterday the commission had taken a decision in principle to launch the campaign

The campaign, expected to run for three months, would explain the provisions of the Competition Act of 1998 to the business sector

Following the publication of the act's regulations last Friday, which come into effect tomorrow, businesses are reportedly anxious to find out if they comply with the new law or not

Industry sources say the campaign should help allay business's anxieties

The campaign will be conducted by a recently established compliance division of the commission The division will investigate and grant exemptions under the act Apart from business, the campaign will also target unions and small and medium-sized enterprises

The division was set up to ensure greater compliance with the legislation that replaces the ineffectual Promotion and Maintenance of Competition Act

Ruiters said the new law sought to change corporate behaviour and make SA competitive The commission would also like to give businesses time to change their behaviour

However, Ruiters was adamant the law would be applied in cases where there was resistance

The law, negotiated with business and labour at the National Economic, Development and Labour Council, provides for severe penalties, including divestiture, for repeat offenders

Yesterday Ruiters briefed the council's business and labour representatives on progress made in the implementation of the new law

In addition to the planned awareness campaign, the commission's website would go live tomorrow Anxious businessmen are advised to read the 40 frequently asked questions before calling the commission for advice

The new law allows for exemptions to be granted to deals that promote exports, contribute to the ability of firms owned by previously disadvantaged groups to compete, promote small business development, as well as transactions that contribute to the stability of an industry designated by government

The law provides for a competition tribunal The tribunal will either veto or approve large mergers, that is ones that result in a combined turnover of R3,5bn or above

It also provides for an appeal court and calls for notification on all mergers

Act rules out 'opportunistic' mergers

BD 2/9/99 (232)

Jethro Goko

THE Competition Amendment Act 35 of 1999 — scheduled to come into effect yesterday — has effectively closed the loophole on "opportunistic" mergers aiming to take place before the enactment of the new Competition Act

Pieter Steyn, a partner at Werksmans Attorneys, says delays in bringing the new Competition Act into operation and determining merger thresholds had led to an understanding that mergers occurring in the interim would not be subject to the requirements of the new act

"The new act states that competition authorities must be notified of and must approve mergers and acquisitions exceeding certain limits

"However, the act is not yet in operation, nor have the thresholds of combined annual turnover or assets yet been determined by the trade and industry minister " he says

The notification and approval referred to by Steyn was not required under the former Maintenance and Promotion of Competition Act of 1979, which has been repealed

A merger is defined broadly in the new act as the direct or indirect acquisition or establishment of control over all "significant interests" in the whole or part of any person s business

According to the Amendment Act, any merger which exceeds the relevant thresholds and occurs between October 30 1998 and the advent of the new Competition Act will be in contravention of the new act.

This situation can be avoided only if the merger is approved by the Competition Board or application for approval is made to the new competition authorities within three months

In addition the first thresholds must be determined by the trade and industry minister before the new act comes into operation, at which time they will be enforced immediately

"Although the Amendment Act has been passed by Parliament, it like the Competition Act, has not yet been enforced

"It has significant implications because it closes the previous window of opportunity and applies the new act's merger control provisions retrospectively, Steyn says

The minister s determination of the initial thresholds is now urgently required to allow proper planning and to avoid uncertainty," Steyn says

Parties to mergers occurring after October 30 1998 are required to notify the new competition authorities of the merger during the three-month period after the act comes into operation, or obtain approval from the Competition Board.

Commenting on the implications for implemented mergers and acquisitions, Steyn warns that the new act requires that notice of mergers be given to labour and that mergers exceeding the thresholds must be justified on "substantial public interest grounds"

"The act is particularly stringent in terms of the effect of mergers on employment and the ability of small businesses and historically disadvantaged people to become competitive," Steyn says

SA News Digest

□ WATER

CT(BR) 2/9/99 (123)

Researcher says no to 'incompetent' UK water privatisation industry (232)

The labour movement yesterday lambasted an offer by Richard Caborn, Britain's trade minister, for the UK to help South Africa with water privatisation projects. Caborn made his offer to "forge new partnerships" during a Johannesburg workshop on private sector finance for the water industry.

David Hall, the director of the London-based Public Services International Research Unit, said. "Unfortunately, the facts do not support the claims that the UK water companies have anything to offer the world." The unit is mainly funded by public service unions. Hall said UK water companies were unpopular in the UK for exploiting an essential service, and outside the UK they had failed to provide a better and more profitable service than local authorities.

Hall provided examples of UK water company failures. These include Biwater in the Philippines, which had been "charging the highest water rates in the world" and Thames Water in Jakarta, which is accused of overcharging. – *John Fraser, Johannesburg*

Sniffing privatisation's rosy future

(232) BD 2/9/99

Deregulation of agriculture under the ANC has meant greater efficiency, higher investment and lower food price inflation — but job creation lags, write **Johan Kirsten** and **Nick Vink**

ACCELERATING the rate of privatisation is already a key goal of President Thabo Mbeki's government We are to expect a more robust approach to the divestiture of assets in public ownership and more private-sector participation in activities previously subject to state monopoly

However divesting state assets is simply one means of promoting competition and efficiency It is not always the most critical step in the wider process of encouraging an economic system where private business development serves the public good Deregulation and trade liberalisation are often more important

With this wider definition of privatisation it is clear that SA has already moved a long way from the state monopolies and interventionist policies of the recent past In particular agriculture has been subject to a radical restructuring — especially in the period after the departure of the National Party from government of national unity and the arrival of an African National Congress (ANC) agriculture minister, Derek Hanekom

The most radical move has been the deregulation of agricultural marketing This began in the 1980s but the measures then were piecemeal, uncoordinated and accomplished within the framework of interventionist legislation

The Marketing of Agricultural Products Act of 1996 by contrast, sets out to promote efficiency increase market access optimise export earnings and enhance the viability of the sector

The act states that intervention is only allowed on condition that at least one of these objectives is substantially furthered without being substantially to the detriment of any of them In addition the National Agricultural Marketing Council was set up, with the main function of monitoring remaining interventions to ensure that they did not create market distortions that could adversely affect the welfare of the sector or SA as a whole

This represented and still represents a major challenge to the range of monopoly interests that the state had encouraged over five decades and, more importantly, a similar challenge to all types of farmers whether large agribusinesses or small family-run units striving for access to markets

For agriculture privatisation in competition is now a fact of life the reforms have been put in place and cannot be easily reversed

The question is whether the forms are working If not the entire direction of government economic policy on market liber-

For Public Enterprises Minister Jeff Radebe, privatisation has yet to bloom fully

Graphic MATTHYS MOSS

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A deregulated agricultural sector should be expected to attract new business from both domestic and foreign investors

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This trend is confirmed by a calculation of the average annual growth rate in the consumer price index for food This shows that between 1990 and 1994 the average annual [illegible]

Most of these distortions have now been removed

Nevertheless it is evident that the commercial sector as currently constituted will not employ more labour than it does today

While statistics on the size of the farm labour force are notoriously outdated and inaccurate all the available evidence shows that the decline in employment has continued despite the steps taken to liberalise the sector

Whether this trend can in future be turned around through the encouragement of a small-scale commercial farming sector under the land reform programme for example, is a major post-deregulation issue for new Agriculture and Land Affairs Minister Thoko Didiza.

Small-scale farmers are not yet competing on a significant scale

Jeff Radebe must confront the Sun Air unravelling and find long-term solutions at Transnet, writes **Robyn Chalmers**

OVERSEEING SA's privatisation programme Public Enterprises Minister Jeff Radebe arguably has one of the toughest jobs in the cabinet Within the first month of his appointment Radebe was presented with a virtual ultimatum from Spoornet management They said the rail parastatal had to be restructured immediately with the retrenchment of up to 27 000 people and the closure or outsourcing of more than half of the national rail network.

There were dire warnings that any delays in the cutback would cost up to R100m and an additional 400 jobs a month

Hardly a month later, Sun Air, government's first real privatisation exercise, collapsed majority state-owned SA Airways (SAA) assumed the role of white knight

Radebe has also had to deal with fallout from the failure of the Aventura privatisation and make a quick decision on the future of the ailing leisure group.

In the coming five years he and his team will have to take decisions on the reshaping of enterprises like Transnet Telkom Denel and Eskom These provide strategic services to SA, employ hundreds of thousands of people and influence the country's economy

There has been little time for Radebe to ease into his portfolio He could be looking with concern at the scorecard of government's privatisation initiatives to date, although there have been several sales that the market agrees have been broadly successful

The purchase of a 20% stake in Telkom injected R5 63bn into SA and will lead to the delivery of 2 8-million new telephone lines, although the onerous conditions placed on Telkom in return for a five-year monopoly are placing a huge strain on the utility

The partnership between the Airports Company and Aeroporti di Roma brought R991,3m into SA and could lead to improved airport services The sale of SA Broadcasting Corporation (SABC) radio stations injected R510,4m into state coffers Swissair's acquisition of a 20% stake in SAA brought in R1 4bn as well as international skills and a host of new alliance routes

On the other hand government has watched three of its restructuring deals come apart or encounter major obstacles The state failed to privatise the loss-making Aventura after winning bidder Kopano ke Matla could not find financing for its R93m bid At state-owned diamond mine Alexkor allegations of financial mismanagement have

the privatised airline's first board meeting following the acquisition

Aventura, Alexkor and Sun Air are all relatively small operations that are not central to government's activities Some of government's advisers believed, mistakenly as it turns out, that they would be easy sales

The market impression is that these entities were simply offloaded to the highest — and sometimes the only — bidder rather than ensuring that they ~~could be~~ developed profitably into the future.

This is the situation that Radebe has inherited at enterprise level He must also overcome the negative perceptions that many in the local and international community have about SA's privatisation programme.

The most important pointer to date on government's commitment to privatisation was President Thabo Mbeki's decision to announce the SAA-Swissair deal in his inaugural speech to Parliament. Mbeki's decision to replace former public enterprises minister Stella Sigcau signalled that no ministry is a fiefdom and that ministers will be chosen on their ability to drive the programmes at hand

Radebe has already moved rapidly to raise the profile of the public enterprises ministry

First the ministry was elevated from a relatively junior one with a public enterprises office, as opposed to department, to a fully fledged department with a director-general, who has yet to be appointed

Second the department is busying itself with legislation that will outline the rules of the game for all state-owned enterprises as well as potential investors

"We must give certainty on the way forward and we believe the legislation will ease any doubts about government's commitment to the programme," says Radebe

In the longer term, his tasks will be the reduction of state debt, transfer of skills, empowerment of previously disadvantaged communities and meeting government's macroeconomic objectives

SA Chamber of Business senior economist Bill Lacey says an important objective of privatisation is to encourage the development of capital markets and make them attractive to domestic and foreign investors alike.

This will contribute to reducing macroeconomic imbalances by raising the level of domestic savings and decreasing the level of dependence on foreign borrowing

With the benefit of hindsight the restructuring of entities like competition and efficiency It is not always the most critical step in the wider process of encouraging an economic system where private business development serves the public good. Deregulation and trade liberalisation are often more important.

With this wider definition of privatisation it is clear that SA has already moved a long way from the state monopolies and interventionist policies of the recent past. In particular, agriculture has been subject to a radical restructuring — especially in the period after the departure of the National Party from government of national unity and the arrival of an African National Congress (ANC) agriculture minister, Derek Hanekom.

The most radical move has been the deregulation of agricultural marketing. This began in the 1980s but the measures then were piecemeal uncoordinated and accomplished within the framework of interventionist legislation.

The Marketing of Agricultural Products Act of 1996, by contrast, sets out to promote efficiency, increase market access, optimise export earnings and enhance the viability of the sector

The act states that intervention is only allowed on condition that at least one of these objectives is substantially furthered without being substantially to the detriment of any of them. In addition, the National Agricultural Marketing Council was set up, with the main function of monitoring remaining interventions to ensure that they did not create market distortions that could adversely affect the welfare of the sector or SA as a whole.

This represented, and still represents, a major challenge to the range of monopoly interests that the state had encouraged over five decades and, more importantly, a similar challenge to all types of farmers, whether large agribusinesses or small family-run units striving for access to markets

For agriculture, privatisation in competition is now a fact of life: the reforms have been put in place and cannot be easily reversed.

The question is whether the reforms are working. If not the entire direction of government economic policy on market liberalisation is open to doubt.

The impact of deregulation on production and incomes is impossible to quantify over the short term because of nonpolicy factors such as climate.

Not too much should be made of a short data series, although there is clearly encouragement for government in the substantial increase in the volumes of field crops horticulture and animal products in the 1995-98 period compared with 1990-94

The value of agricultural exports is also rising — sharply in the case of horticulture. In terms of net incomes, however, rising input costs and high interest rates have

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Graphic: MATTHYS MOSS

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A deregulated agricultural sector should be expected to attract new business from both domestic and foreign investors

A large part of the post-1990 foreign investment can be ascribed to investment in the wine industry in the Western Cape. Foreign investors have since tended to concentrate on value-added activities such as fruit and milk processing and marketing rather than in primary production

On domestic investment the figures also show an increase in the period after the 1994 elections, with an increase of 24% in real terms in 1996 increased export opportunities, as well as more opportunities in marketing and processing appear to be the major reasons

The impact of deregulation on business opportunities is also seen in new company registrations in agriculture There is a rapid increase from 1994 with a record level in 1997

Has deregulation reduced food price inflation and benefited the majority of poor consumers for whom food makes up an important part of total expenditure?

During the early 1990s the Board on Tariffs and Trade released a report implying that the controlled marketing system was largely responsible for SA's high food inflation rate.

The annual increase in consumer prices for food has been much lower in recent years The increase from 1997 to last year was slightly more than 6%, a considerable drop from 1992 (25%) and 1994 (14%).

This trend is confirmed by a calculation of the average annual growth rate in the consumer price index for food This shows that between 1990 and 1994 the average annual growth rate was 16% During the past four years the figure has fallen to a mere 7%

This is a very positive trend, and it is fair to argue that this can largely be attributed to the process of market deregulation although general economic conditions and lower inflation rates overall will also have contributed

There is little question however that the structural changes in agriculture have resulted in a decline in total employment in the sector This process began in the 1960s when grain harvesting became mechanised and was exacerbated by policies allowing capital concessions such as tax breaks and direct interest rate subsidies

Most of these distortions have now been removed

Nevertheless, it is evident that the commercial sector as currently constituted will not employ more labour than it does today

While statistics on the size of the farm labour force are notoriously outdated and inaccurate all the available evidence shows that the decline in employment has continued despite the steps taken to liberalise the sector

Whether this trend can in future be turned around through the encouragement of a small-scale commercial farming sector under the land reform programme for example, is a major post-deregulation issue for new Agriculture and Land Affairs Minister Thoko Didiza

Small-scale farmers are not yet competing on a significant scale with established commercial agriculture Growth is not yet creating enough jobs or higher wages Economic policies apart there remains the formidable challenge of improving security and reducing crime in all farming areas

While this picture is not uniformly rosy the overall record of deregulation shows a highly encouraging response to ANC policies under Hanekom to promote efficiency and competition It is a strong basis on which to build

□ *Kirsten is dean of the faculty of agriculture at Pretoria University and Vink is head of the department of agriculture economics at the University of Stellenbosch*

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On the other hand government has watched three of its restructuring deals come apart or encounter major obstacles The state failed to privatise the loss-making Aventura after winning bidder Kopano ke Matla could not find financing for its R93m bid At state-owned diamond mine Alexkor allegations of financial mismanagement have emerged

Now Sun Air formerly state-owned, has ceased operating The public enterprises ministry is considering the possibility that a key reason for the failure is the way in which Sun Air's 100% privatisation was initially structured

Government allowed one of the airline s key competitors, Comair to buy a 25% stake in the airline along with empowerment group Rethabile which has limited — if any — skills in the airline business

It also failed to create an anti-trust environment capable of protecting smaller fish from bigger predators The Sun Air staff action committee says that Comair proposed that Sun Air be liquidated at

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"We must give certainty on the way forward and we believe the legislation will ease any doubts about government's commitment to the programme," says Radebe

In the longer term his tasks will be the reduction of state debt, transfer of skills empowerment of previously disadvantaged communities and meeting government s macroeconomic objectives

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This will contribute to reducing macroeconomic imbalances by raising the level of domestic saving and decreasing the level of dependence on foreign borrowing

With the benefit of hindsight the restructuring of entities like Transnet and arms manufacturer Denel should have been a top priority for the ministry five years ago As Transnet's debt rises steadily — it now stands at R27bn from R23bn a few years back — it becomes more urgent, and difficult to reshape the organisation

Instead, Radebe finds himself putting out fires with his immediate priorities being to find a forward path for both Sun Air and Spoornet.

The way in which he deals with these seemingly intractable problems will serve as an important pointer on government s attitude towards and ability to successfully undertake the restructuring of core enterprises in the future

Department will boost privatisation

(232) BD 9/9/99

Role of restructuring, privatisation programme is to make state-owned enterprises more economically viable

Robyn Chalmers

SIVI Gounden, former public works acting director-general, will head up government's restructuring and privatisation programme in his new position as director-general of public enterprises

Gounden is to oversee a significantly expanded public enterprises department which will ultimately comprise 120 people, increased from the current 41 employees The focus will be on attracting highly skilled people, with those in management positions likely to be employed on five-year performance-based contracts

The move was welcomed yesterday by analysts Several believed that a stronger, more focused department would bolster the privatisation programme which has taken a knock recently with problems encountered in the Sun Air and Aventura privatisation exercises

Public Enterprises Minister Jeff Radebe told the Pan-African Investment Summit, being held in Accra, Ghana, that Gounden began work at the department on Monday Cabinet approved his appointment on September 1

Gounden said yesterday that the first task was to embark on a comprehensive audit of state-owned enterprises to determine where the state should concentrate its efforts

"The key point of departure is to restructure and transform state-owned enterprises to ensure they play a proactive role in SA's economy. We need to concentrate our energies where we will make the best gains, and the audit will help establish this," he said.

Gounden stressed that transactions currently under way, notably the sale of the state's commercial forests and negotiations to secure a management partner for the Post Office, will not be adversely affected by the audit

Radebe said there were between 600 and 800 state-owned entities in SA with an estimated monetary value of about R150bn He said, however, it was extremely difficult to calculate their value as state-owned enterprises had an important role to play in transforming the country

Government remained committed to accelerating the privatisation programme, although this did not mean selling off the family silver faster at bargain prices

"Rather, we see our task as providing rapidly the necessary direction and frameworks that will ensure that the partnerships we encourage and implement provide the best socioeconomic development returns for the country as a whole," he said

Radebe said his officials were preparing the groundwork for legislation and a regulatory framework to provide stability and security to the sector

Several state-owned enterprises were not performing well but the state did not believe it made political or economic sense to simply discard troublesome entities

It was difficult to say whether poor performance from these entities was the result of deliberately poor or reckless management, outdated managerial and financial systems or simply because they did not have a role to play because their product was not useful

New act declares war on unfair advantage

(323) BD 9/9/99

Anton de Bruyn

IGNORE the provisions of the new Competition Act and you could face an administrative fine of as much as 10% of your annual turnover and exports for the preceding financial year

In certain circumstances it may result in a criminal fine of up to R500 000 and/or imprisonment of up to 10 years

On September 1, the old Maintenance and Promotion of Competition Act was replaced by a new act called the Competition Act no 89 of 1998

In terms of the new act, the Competition Board has made way for a competition authority consisting of the Competition Commission, the Competition Tribunal and the Competition Appeal Court

The new Competition Act prohibits restrictive horizontal practices, which is where a group of firms on the same level of a market fix prices or divide markets unfairly, and restrictive vertical practices, which is where a firm or firms operating in successive levels of a supply chain use that advantage unfairly

These practices have the effect of substantially preventing or lessening competition in a market

The act further prohibits certain actions by dominant firms — dominance being determined by the concept of market power — for example the charging of excessive prices to the detriment of consumers or refusing a competitor access to an essential facility when it is economically feasible to do so

Of importance to firms which are contemplating mergers or acquisitions are the new merger control provisions

These provisions require a party to an intermediate or large merger to notify the Competition Commission of a merger and they prohibit the implementation of the merger until the approval of the Competition Commission has been obtained

A failure to comply with prescribed provisions may be met by an order of the Competition Tribunal compelling a party to a merger to sell any shares, interest or assets it has acquired pursuant to the merger or it may declare any provision of the merger agreement void

Do the provisions dealing with restrictive horizontal practices, restrictive vertical practices, abuse of a dominant position and merger control apply to any SA company, regardless of its size?

The answer is yes in respect of restrictive horizontal practices and restrictive vertical practices, but the answer is no in respect of the abuse of a dominant position and merger control

Trade and Industry Minister Alec Irwin has recently determined that only firms with an annual turnover or assets in SA valued at or more than R5m will be governed by the provisions dealing with the abuse of a dominant position The minister has also determined thresholds for the classification of mergers as intermediate or large mergers

A merger will be regarded as intermediate if the combined annual turnover or assets — or a combination of turnover and assets — in SA of the acquiring firm and certain related firms and the target firm (and its related firms as well) is valued at or more than R50m but less than R3,5bn In addition the annual turnover or assets of the target firm must be valued at more than R5m

Similarly, a merger will be regarded as large if the combined annual turnover or assets, or a combination of turnover and assets, in SA of the acquiring firm and the target firm is valued at or more than R3,5bn and the annual turnover or assets of the target firm is valued at above R100m

Intermediate mergers will be considered by the Competition Commission Large mergers must be referred to the Competition Tribunal and the minister of trade and industry

The Competition Amendment Act no 35 of 1999, which also came into operation on September 1, gives the merger control provisions retrospective effect

An interesting feature of the rules of the Competition Commission is the charging of filing fees payable to the commission within five days of submitting an application for the approval of a merger

For mergers where the combined figure is valued at or above R50m, a filing fee of R5 000 is payable This fee increases to R125 000 if the combined figure is valued at or above R100m, R250 000 if the combined figure is valued at or above R1bn and R500 000 if the combined figure is valued at or above R3,5bn

These filing fees are based on a combined figure of the merging firms, and not on the annual turnover or assets of the target firm or on the purchase price

For example, if a company with an annual turnover of R100m acquires the shares in a company with an annual turnover of R90m, a filing fee of R125 000 will be payable to the commission — based on the combined annual turnover of the two companies exceeding R100m

If the same company acquires the shares in a substantially smaller company with an annual turnover of say R6m, the filing fees will still be R125 000

The filing fee is determined with reference to the impact of the merger on the market as a whole and bears little resemblance to the purchase price payable by the acquiring firm

This means that the acquisition costs will be proportionally higher for smaller acquisitions

□ *De Bruyn is a manager at Arthur Andersen's Corporate Legal Division*

Eskom privatisation warning

MINING group Billiton Plc said on Tuesday that there is no reason why South Africa should privatise electricity utility Eskom, which supplies some of the world's cheapest power to Billiton's smelters

"We find it difficult at present to make a case for privatising Eskom," Billiton energy group manager Emil Rorke told Parliament's public enterprises committee

"I don't think we really appreciate the national value of a utility like Eskom," he continued

Rorke said Eskom provided the lowest or second-lowest priced electricity in the world and was a reliable supplier – two main reasons for operating aluminium smelters in the region

"Whatever happens at Eskom is important to us Our business is adding value to electricity via alumina," he said

(55) (232)

The South African Government has begun to restructure the electricity giant so it operates more like a private sector business and it will start paying corporate tax next year

No concrete plans have yet been made to privatise Eskom but analysts say South Africa could raise up to 20 billion dollars if the Government did decide to sell it

Billiton, one of the world's biggest aluminium companies, said it spends R2 billion (332 million dollars) a year on electricity, providing Eskom with 10 percent of its revenue

The price Billiton pays Eskom for its electricity is linked to the current London prices of the metals it produces

Billiton also provides Eskom with 35 million tons of coal a year for electricity generation and pays R1,4 billion a year for freight transport to state-owned Spoornet

Rorke said factors such as contractual commitments, prices, debt and employment had to be taken into account when considering privatising a utility like Eskom

He also defended the current system of Government subsidies for Eskom, which is working hard to give electricity to millions of black citizens who were excluded under apartheid

"The industrials subsidise the domestic sector but the system works The grave danger would be in unravelling the system The system works with the existing subsidies," he said – Reuters

Sowetan 8/9/99

Competition board's controversial findings

BD 13/9/99 (269) (232)

David Lewis questions decisions made on alleged irregularities in airline industry

WITH the repeal of the Maintenance and Promotion of Competition Act the Competition Board ceased to exist The new Competition Act has come into force — a new legislative and institutional framework now regulates competition However, certain decisions taken by the board in the last period of its existence have raised considerable controversy

I refer, firstly, to the complaint submitted to the board by Comair, Sun Air and Nationwide that alleged predation on the part of South African Airways (SAA), secondly, to the board's decision to condone a proposed transaction that, if implemented, will enable SAA to acquire a majority stake in Sun Air

In late 1998 the smaller airlines Comair, Sun Air and Nationwide approached the board alleging that SAA was engaging in a practice known as predation'

Predation investigations are notoriously complex. In order to sustain a predation charge it must be demonstrated that the alleged predator was pricing at below average variable cost for a sustained period That is that the predator was willing to sustain an operating loss to drive its smaller competitors into a similar loss-making situation

With shallower pockets, the competitors would be driven out of business and the dominant company would then be able to recoup the losses by charging monopolistic prices In support of their claim, the complainants referred the board to fare cuts and increases in seat capacity (particularly in the lower priced travel classes) introduced by SAA on the Johannesburg-Cape Town and Johannesburg-Durban routes

SAA insisted that it was simply reducing prices and increasing output to competitive levels SAA management claimed that its predecessors had set uncompetitive prices and load structures SAA argued that its competitors were not being subject to predation, but simply to the sort of robust competition that is both legitimate and desirable under competition law

> There is a thin line between predation and robust competition

Competition authorities must treat predation claims with caution There is a thin line between predation and robust competition Competition, by definition, hurts competitors but it does so by lowering prices or by innovation that differentiates a competitor's products from those of its rivals

However, because predatory behaviour harms competition, the authorities will step in and take action against the predator In so doing the competition authorities effectively defend the competitor under attack The task of the authorities is to defend competition — they are not charged with protecting individual competitors from the process of competition

A full-scale charge of predation can only be sustained after a detailed forensic audit

Mindful of the complexity of a formal investigation and of the legal requirement to establish a prima facie case of predation before launching a formal inquiry, the board elected to undertake an unusually elaborate informal investigation

The parties committed themselves to provide the information required Board officials undertook this informal investigation although in April 1999 one of the complainants, Sun Air, withdrew its complaint without explanation

This further investigation similarly failed to establish predation

It appeared that SAA was showing a profit on both routes on which the predation was alleged to be taking place

Subsequent information confirming that SAA, Comair, and, it appears, Sun Air, were profitable during the period of the alleged predation cast further doubt on the validity of the complaint

Despite the thin evidence, the board attempted to resolve the differences between the remaining parties to the dispute Under the board s auspices the parties met to consider a mechanism that would maintain competition while simultaneously limiting the possibility of predation

The parties were unable to reach a mutually satisfactory arrangement This investigation had taken the board to the end of its statutory life and the matter could proceed no further under its auspices

In the midst of this SAA approached the board with a proposal to purchase a majority share in Sun Air

This proposed transaction originated in an approach by Sun Air management and shareholders to SAA in April this year, precisely the time at which it withdrew its allegation of predation

Sun Air already in distress, was looking for a 'white knight' When information regarding these discussions surfaced, the board reminded SAA that any change in the relationship between SAA and Sun Air would require its authorisation

SAA subsequently reported that it had considered various optional relationships with Sun Air

However, it had concluded that it was unable to construct a commercially viable arrangement It concluded that Sun Air's high cost structure was undermining its profit potential

This high cost structure stemmed, it appears, from a variety of factors, including the high level of service offered as well as the decision to operate a small fleet with three different aircraft types

Much has been made of a media release by the board arguing that the size of the domestic market limited the number of potential participants in the airline industry

There is of course, not a predetermined, finite number of players in any market

If a player with very deep pockets, experience in airline management, and a creative strategy entered the market, then a fourth airline may prove viable

However, in the board's research it has encountered no case where a domestic airline market of similar size to the SA market, has been able to sustain four competitors This factor, in combination with spiralling costs appear, on the face of it, to underpin Sun Air's problems

On August 3 1999, the board was again approached by SAA The company averred that Sun Air was threatened with imminent collapse It appeared, from the information at our disposal — information provided by SAA in the aftermath of its discussions with Sun Air and confirmed by Comair, a major shareholder in Sun Air — that key trade creditors were refusing to extend further credit to the company and were threatening its liquidation in order to protect their interests

This squared with information received over the previous months In taking its decision, the board was confronted with important questions that had to be answered Immediately would competition be impaired if SAA were allowed to purchase a majority share in Sun Air, bearing in mind also that Comair, SAA's largest competitor, is a shareholder and board member of Sun Air

Secondly, would the public benefit from the planned acquisition?

The board concluded that competition would not be impaired provided that SAA was required to liquidate Sun Air

SAA could not be permitted to operate Sun Air because this would indeed diminish competition, especially if it did so in a control situation in which Comair participated

Certainly, the upshot was the disappearance from the market of a competitor However the information at the board s disposal led it to conclude that Sun Air would, as a result of its parlous financial situation, exit the market anyway

The board was then effectively faced with deliberating alternative mechanisms whereby Sun Air exited the market The first alternative was an SAA acquisition conditional upon immediate liquidation, alternatively liquidation at the instigation of its creditors

The public interest appeared better served by the first option In an airline liquidation, a key public interest question concerns those holding tickets on the failed carrier Comair and SAA were under the first option, prepared to guarantee these tickets and to absorb certain of the staff of Sun Air

Accordingly on competition and public interest grounds, the board condoned the transaction Competition board authorisation is only one regulatory hurdle that has to be cleared before the transaction can be concluded

It appears that in privatisation transactions there is a standard limitation, for a specified period, on the resale of the privatised assets There are also air transport regulations that have to be complied with

These are not matters within the board s jurisdiction and the relevant authorities may justifiably turn down the transaction on these various grounds The board simply adjudicated competition and certain public interest matters and on these grounds the transaction was acceptable

Two final points the most disturbing competition aspect of this whole sorry affair is that Comair was ever permitted to hold an interest in Sun Air This has certainly immensely complicated matters

The new Competition Act expressly discourages cross shareholding and common directorships between competitors

Finally, it is, of course, wholly possible that competition law violations may occur in future in the airline market These would be fully subject to the jurisdiction of the new competition authorities

□ *Lewis is the former chairman of the competition board and recently appointed chairman of the competition tribunal*

Telkom found guilty of anticompetitive practice

Lesley Stones (232) (267)

TELKOM has been found guilty of anticompetitive behaviour and has been ordered to stop harassing companies which provide their clients with value-added data networks

The SA Telecommunications Regulatory Authority (Satra) censured Telkom at the weekend and ordered it to stop threatening to axe services to about 40 networking companies

Satra told Telkom also to stop spreading rumours that the private networking companies were acting illegally, and ordered it to "refrain from implying that their services will be terminated"

The ruling was made after the SA Value Added Network Association (Sava) complained that Telkom was threatening to cut off services to its members. That would not only put the networking companies out of business, but would bring down networks used by about 500 corporations such as banks and manufacturers to transmit their data.

One networking company, Omnilink, was told by Telkom that it would not fulfil orders for an additional 550 lines which Omnilink needed to meet customer demand

Satra councillor Tshidi Mayimele-Hashatse said investigation made it clear that Telkom was involved in anticompetitive behaviour

Statements by Telkom representatives had created instability in the industry, by creating the impression that the private operators were acting illegally and may not be allowed to operate in the future, she said

Mayimele-Hashatse said Satra would continue to investigate the alleged failure of Telkom to comply with its licensing conditions

The verdict was welcomed by Sava chairman Mike van den Berg. "Satra has told Telkom not to continue to threaten to turn off the value-added network providers or to imply that they are operating illegally We are happy about that."

Telkom, however, may contest the verdict. Spokesman Amanda Singleton said it would study the decision in detail before deciding on an appropriate response.

Its initial reaction was concern about the action Satra had taken, she said, since it had issued a decision before concluding its investigation into the complaints Telkom had requested Satra to hold a full inquiry before making any decision

BD 13/9/99

NATIONAL

'Lack of structure hampering privatisation'

(232)

Law firm partner recommends restructuring by utilising private-sector investors who can run new businesses

Robyn Chalmers

THE current lack of privatisation and restructuring legislation in SA is causing extensive uncertainty for government bidders and advisers, says William Mthembu, partner of Werksmans Attorneys.

Mthembu said SA did not have legislation to regulate the conditions under which state-owned enterprises such as Transnet, Eskom Telkom and the SA Post Office may be restructured or privatised.

Public Enterprises Minister Jeff Radebe announced recently that his officials were preparing the groundwork for legislation and a regulatory framework to provide stability and security to the sector.

Mthembu said that to date, the restructuring process in SA had been governed by a number of principles. The first calls for government to follow a strictly non-ideological, pragmatic approach. Secondly, government seeks to carry out restructuring on the basis of consensus.

He said considerable importance had been attached to the transparency, fairness, consistency and credibility of the restructuring process.

"Some of these principles mirror restructuring programmes in other countries," Mthembu said. "SA is certainly not unique in adopting a non-ideological approach or in attaching importance to the credibility of the restructuring process."

Meanwhile, he said the debate on how state-owned enterprises should be privatised in the future continues. There are two main schools of thought. One believes there should be an outright sale by the state, while the other plan is to follow a restructuring programme.

The first view is supported by those who advocate moving as quickly as possible. There is a powerful lobby which is trying to persuade government to speed up the privatisation process.

Mthembu believes government must make fundamental distinctions in developing a restructuring programme for state-owned companies.

"The first is between restructuring and privatisation, and the second between internal and external restructuring," he said. "Restructuring involves a variety of operational changes which theoretically can be achieved by existing management and are therefore internal.

"However, the existing management does not always have the will or the capability to execute and maintain the ongoing internal restructuring process. As a result, the company fails to produce and deliver its products and services efficiently."

Due to these implications, Mthembu recommends bringing about restructuring through the agency of external parties, usually private-sector investors, to operate the businesses concerned. This approach does not necessarily involve a full change of ownership from the state to the private sector.

16/9/99

PUBLIC ENTERPRISES

(337) FM 17/9/99

RADEBE TIGHTENS THE NOOSE ON PRIVATISATION

Minister wants restructuring to serve interests of the State

Public Enterprises Minister Jeff Radebe is moving swiftly to tighten government control of parastatals

He plans to do this by redefining the autonomy of their boards of directors, the role of management and their relationship with government to ensure they "do not run into collision with one another"

Radebe s proposals are part of a broader rethink by government on how public enterprises should be restructured, a generic term covering the various measures taken to improve the financial performance of parastatals including full or partial sale to the private sector

SA has between 600 and 800 public enterprises with a combined net worth of about R25bn Since 1994, nine have been restructured including the sale in 1997 of a 30% stake in telecommunications group Telkom to strategic equity partners SBC of the US and Malaysia Telekom, this year's sale of equity stakes in the Airports Company to Italy's Aeroporti De Roma and the disposal of a 20% share of SA Airways to Swiss group SwissAir

Government has also entered into management contracts with private-sector companies — the Nabera consortium and the Protea Hotel group — to nurse back to financial health diamond miner Alexkor and holiday resort group Aventura, respectively The rethink is being driven by growing concern within government that restructuring has not always met government expectations, particularly on preserving jobs and the provision of social services

How parastatals will be more tightly controlled is not yet clear but there could be serious implications for entities such as transport group Transnet, electricity utility Eskom, the Post Office and the Airports Company

In particular it could heighten tensions between government and the directors of parastatals as they are caught between acting in the best interests of the companies, as set out under the Companies Act, and making decisions that are in the interests of government as the controlling shareholder

Such conflicts arise in the private sector, too But they are likely to be more pronounced in parastatals because of government's other interests, such as the preservation of jobs

Government's plans to become a more active shareholder may be hamstrung by its inability to attract highly skilled financial and other experts because of stringent public-service regulations which make it difficult to match remuneration packages offered by the private sector

Radebe who took over the public enterprises portfolio in June after the elections plans to increase the size of his department He will create a new division to monitor the performance and corporate governance practices of State-owned enterprises

Speaking at the Pan African investment and privatisation summit in Accra the Ghanaian capital, last week Radebe said government does not as a matter of principle believe in the privatisation or partial sale of State assets

He emphasised that restructuring should be driven by the shareholder and not management

"We need to avoid situations where restructuring is driven by the SOEs (State-owned enterprises) themselves as this frequently dilutes the State s ability to optimise economic impact or can even lead to a diversion from government policy," he said, citing the question of retrenchment as one example

He cautioned African governments to be sensitive to the employment question Sometimes the larger interests of society, the State and the workers themselves need to take precedence over narrow managerial solutions," he said

Taking a broad swipe at the management of parastatal companies, he questioned whether the poor financial performance of some State-owned enterprises was a result of "poor or reckless management or outdated managerial and financial systems" that have not adapted to competition

He said the autonomy of the board of directors of parastatal companies "needs to be defined within the parameters of State ownership and control, even when this is mitigated with the participation of other shareholders"

Radebe later told the *FM* in an interview that government will seek a vigorous implementation of the corporate governance principles as laid down by the King Committee on Corporate Governance

"We need clearly defined roles for management the board and government as the shareholder so that we do not run into collision with one another," he said

In his speech Radebe also questioned the "over-reliance" by government on external advisers, particularly those from financial institutions whom he said may be influenced more by their client base than the requirements of government policy

He added that under-resourced government departments were also "unlikely to be able to give sound financial judgments about the financial performance of SOEs, their compliance with corporate governance conventions the impact of restructuring on broader, macro-economic levels or indeed, in their ability to assess the relationship between objective and result."

He said he was not in favour of having a general government adviser on SOE restructuring but preferred having advisers appointed for each transaction

Signs that Radebe seeks to play a more active role in the affairs of parastatals first surfaced in mid-July when he rebuked Transnet management for announcing plans to lay off between 18 000 and 27 000 employees at its railways subsidiary, Spoornet

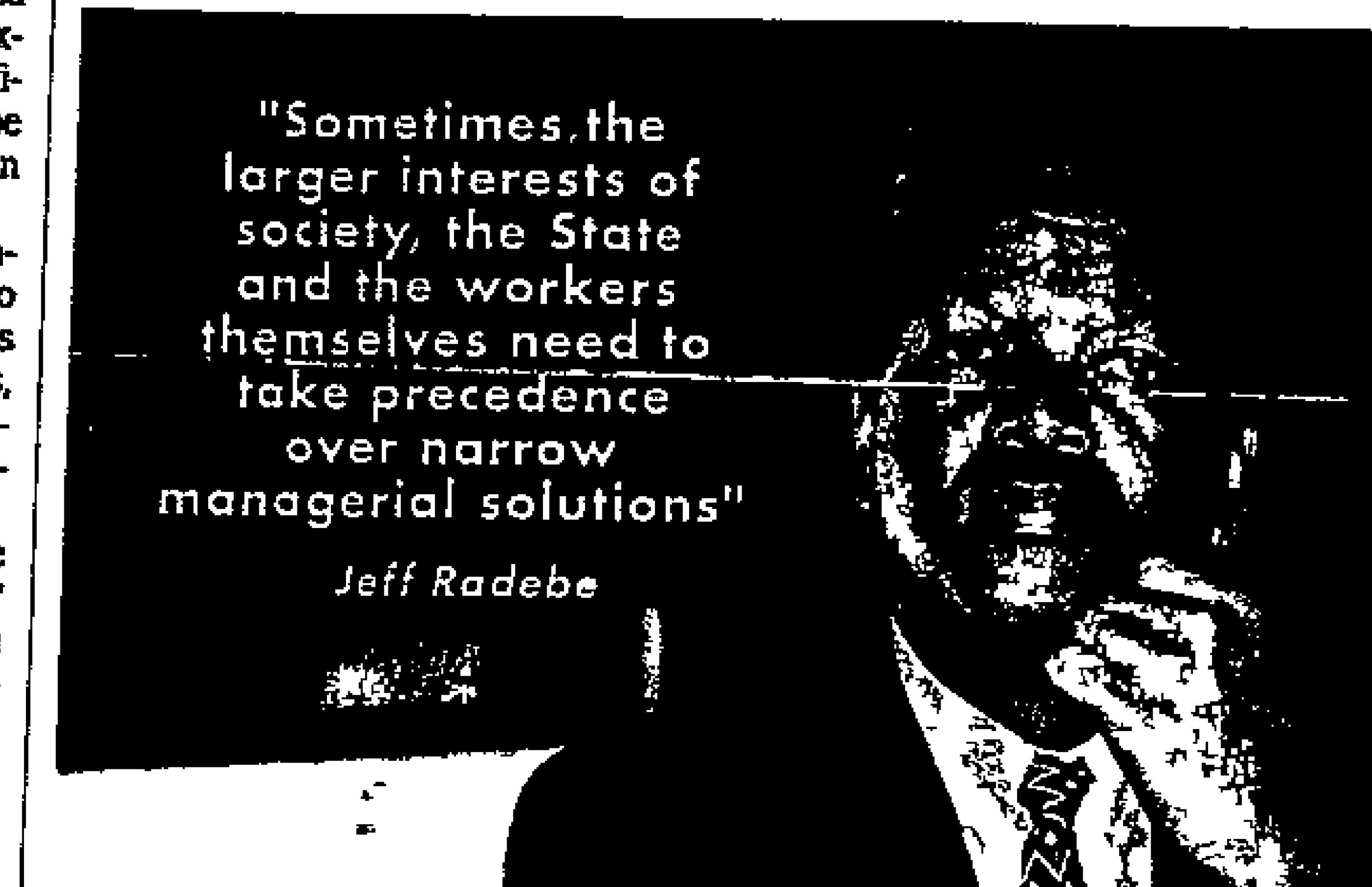
Transnet has delayed the Spoornet restructuring pending a decision by Public Enterprises which is studying a report prepared by Spoornet management and another by the railways workers' unions

Radebe's redefinition of the role of the board of directors could have serious governance implications, particularly for Transnet, where MD Saki Macozoma has a higher public profile than that of chairman Louise Tager At Eskom, the electricity utility, chairman Reuel Khoza plays the lead role.

For parastatals in general, the changes could heighten tensions between government and the directors if they are made without the concomitant redefinition of the legal status of the directors as laid down by the Companies Act

Though appointed by government, the boards of directors of parastatals are constituted in terms of the Companies Act. This imposes certain responsibilities and duties on directors, including the requirement that they act in the best interest of the company at all times and do so with care and skill.

Until recently, the only exception was Eskom, which was governed by the electricity council and the management board (made up of the utility's executive management) in terms of the Eskom Act of 1987 the two bodies fulfilled the role of the board but weren't subject to the sanctions of the Companies Act. The electricity utility has now been reincorporated in terms of the Companies Act to make it a tax-paying entity



Radebe's plans could lead to heightened tension between government and parastatal management. They are also likely to slow down the decision-making process, particularly if government insists on reviewing all corporate stratagies

Jabulani Sikhakhane

State enterprises 'need laws on privatisation and restructuring'

CT (MR) 22/9/99 (260) (232)

ZINTLE FILTANE

Johannesburg – The lack of privatisation and restructuring laws was causing extensive uncertainty for the government, bidders and advisers, William Mthembu, a partner of Werksmans Attorneys, said this week

"South Africa does not have legislation to regulate the conditions under which state-owned enterprises may be restructured or privatised," he said

Zaid Nordien, a spokesman for the public enterprises department, said the department would clearly define the legislative framework "This is a priority and work has already started on it," Nordien said

Mthembu said conflicts arose because it was commonplace for objectives to clash during a restructuring process But the degree of conflict was unusually high in South Africa because of the emphasis the government had given to social considerations and consensus with labour

Mthembu said that without official legislation the restructuring process was governed by calls for the government to follow a strictly non-ideological and pragmatic approach, seeking to carry out restructuring on the basis of consensus with all stakeholders

"Although the government works according to general sectorial priorities, a detailed overall plan for restructuring the state sector has not been produced Considerable importance has been attached to the transparency, fairness, consistency and general credibility of the restructuring process"

Experts were divided as to how state-owned enterprises should be privatised in the future Some advocated an outright sale by the state, while others chose to follow a restructuring programme.

Jeff Radebe, the public enterprises minister, said at the pan-African privatisation summit in Ghana recently that the government considered options against a strategic assessment of a particular enterprise and did not sell off state assets completely This would be influenced by whatever role the state saw it play in the government's overall economic policy framework

"We believe state-owned enterprises still have an important role to play in transforming our country We do not agree with the view that we should sell off state assets completely, or even in part, as a matter of principle," Radebe said

South Africa has between 600 and 800 state-owned entities

Rather than perpetuate inefficiencies through converting state monopolies into private monopolies, it was better to ensure development policy was steered according to the priorities of government authority but was managed according to partnership agreements

Mthembu said in developing a restructuring programme, the government needed to distinguish between restructuring and privatisation, as well as between internal and external restructuring Restructuring involved a variety of operational changes that, theoretically, could be achieved by existing management and were therefore internal

"However, the existing management does not always have the will or the capability to execute and maintain the ongoing internal restructuring process"

He recommended bringing about restructuring through the agency of external parties, usually private sector investors, to operate the businesses concerned

Policeman denied amnesty after ordering murder

(232) BD 23/9/99

THE truth commission's amnesty committee said yesterday it had decided to grant amnesty to eight former security policemen and a man convicted in terms of the Riotous Assemblies Act

However one of the policemen was denied amnesty for one of the killings because he went against the orders of his superior and ordered the death of an informer

Wikus Johannes Loots, a regional commander of the Western Transvaal security branch, was instructed in 1983 to kill two members of Umkhonto we Sizwe (MK) who were being transported into SA. He was told to spare the life of the driver, who had informed the police of his route

A Botswana citizen, named only by the commission as Moatshe, informed the police he would be bringing Solomon Mlonzi and Schocman Ramokgoba into the country through the Derdepoort border post on May 4 1983

Loots and other security policemen were assigned to kill Mlonzi and Ramokgoba Before the incident Gen Johannes Steyn told Loots that Moatshe should not be killed However, Loots later ordered Moatshe's killing He said Moatshe had to be killed due to the danger posed by the MK operatives.

Loots was granted amnesty only for killing Mlonzi and Ramokgoba.

Steyn, Phillip Crause, who received the information from Moatshe, and the other security policemen — Gideon van Zyl, Christoffel Smit, Isak Marais, William Smit and Daniel Niewenhuis — were granted amnesty — Sapa.

SA companies fail to report deals

BD 22/9/99 (232)

Hilary Joffe

SEVERAL companies have announced mergers and acquisitions without notifying the Competition Commission as they are required to do in terms of new legislation

Under the new Competition Act, which came into force at the beginning of this month, the commission must be notified of every merger or acquisition in which the new, combined entity has turnover or assets of more than R50m.

The commission is entitled to ask the competition tribunal to levy fines of up to 10% of annual turnover on companies that fail to comply with the legislation Companies can also be ordered to dispose of acquisitions

The commission has been notified of only three mergers or acquisitions this month but has identified 17 deals reported in the media which appear to fall within its ambit

Competition commissioner Alistair Ruiters said the commission had issued letters to 12 companies informing them that they might be in violation of the law This stipulates that parties involved in a deal must notify the commission within seven days of the public announcement of a proposed merger bid, or at the conclusion of a merger agreement or acquisition by any of the parties of a controlling interest in another, if this is earlier

Ruiters cautioned companies against taking too narrow a view of the merger provisions, which apply to acquisitions of competitors, suppliers, customers or "other persons"

"If you are in doubt, contact the commission, because the consequences of not doing so could be severe," he said Companies will be charged fees for investigations, which range from R5 000 to R500 000

The commission is the investigative arm of the new competition structure, which also includes the competition tribunal and the appeal court.

The commission will approve or veto "intermediate" mergers or acquisitions, where the combined entity has turnover or assets of between R50m and R3,5bn, but larger deals must go before the 10-member tribunal

Ruiters said the commission was also investigating 11 complaints of anti-competitive behaviour

Most of the complaints were lodged by small firms against larger firms which they accused of abusing their market dominance by, for example, refusing to supply small companies.

The commission is obliged to investigate every complaint it receives unless the complaint is deemed to be outside its jurisdiction or frivolous

CAPE TIMES
THURSDAY, SEPTEMBER 23, 1999 ★

'ENTIRE SYSTEM PARALYSED'

High Courts collapse while judges on recess

CT 23/9/99 (232)

THE LEGAL AID system will have to be reviewed, otherwise there will be no money by the end of the year, Parliament's Justice Portfolio Committee was told yesterday.

SOUTH AFRICA'S High Court system was paralysed while judges were on prolonged recesses and administrative staff accumulated huge amounts of their annual leave in the process, Parliament's Justice Portfolio Committee was told yesterday

Briefing the committee, Justice Minister Penuell Maduna said the country's judges took up to 3½ months' recess annually and their secretaries also went on recess.

The secretaries' annual leave accumulated, and they took this in cash on retirement.

Maduna said secretaries should be assigned other tasks during recesses, as in terms of public service regulations they were only entitled to annual leave

He said a study had shown that 10 Cape High Court judges handled only 85 cases in a year while 59 judges in New York dealt with 100 000

Deputy Minister Cheryl Gillwald said the issue was not whether judges should take recesses — "It is that the entire system is paralysed (while courts are in recess)"

Administrative staff had accumulated up to 604 days' leave, she said.

Turning to the legal aid system, Maduna said the requirement for such aid had increased by 500% since 1994

The system would have to be reviewed, "otherwise at the end of the year we will not have a cent in the kitty"

Altogether 2 000 cases of the "poorest of the poor" suffering from exposure to asbestos were shelved due to a lack of money

The fee structure was being reviewed, with the private sector expected to submit proposals by tomorrow

Johnny de Lange, the committee chairperson, said that in the United Kingdom prosecutors had left their profession as legal aid could keep them going as advocates and attorneys.

"If legal aid fees were to be cut by 50% this week, I'll be the first to support it," he said.

Maduna said the costs of building a new Constitutional Court complex in Johannesburg had escalated from an initial budget of R58 million to R127m

"We don't have the rest of the money if we could find more money, we'd start construction now"

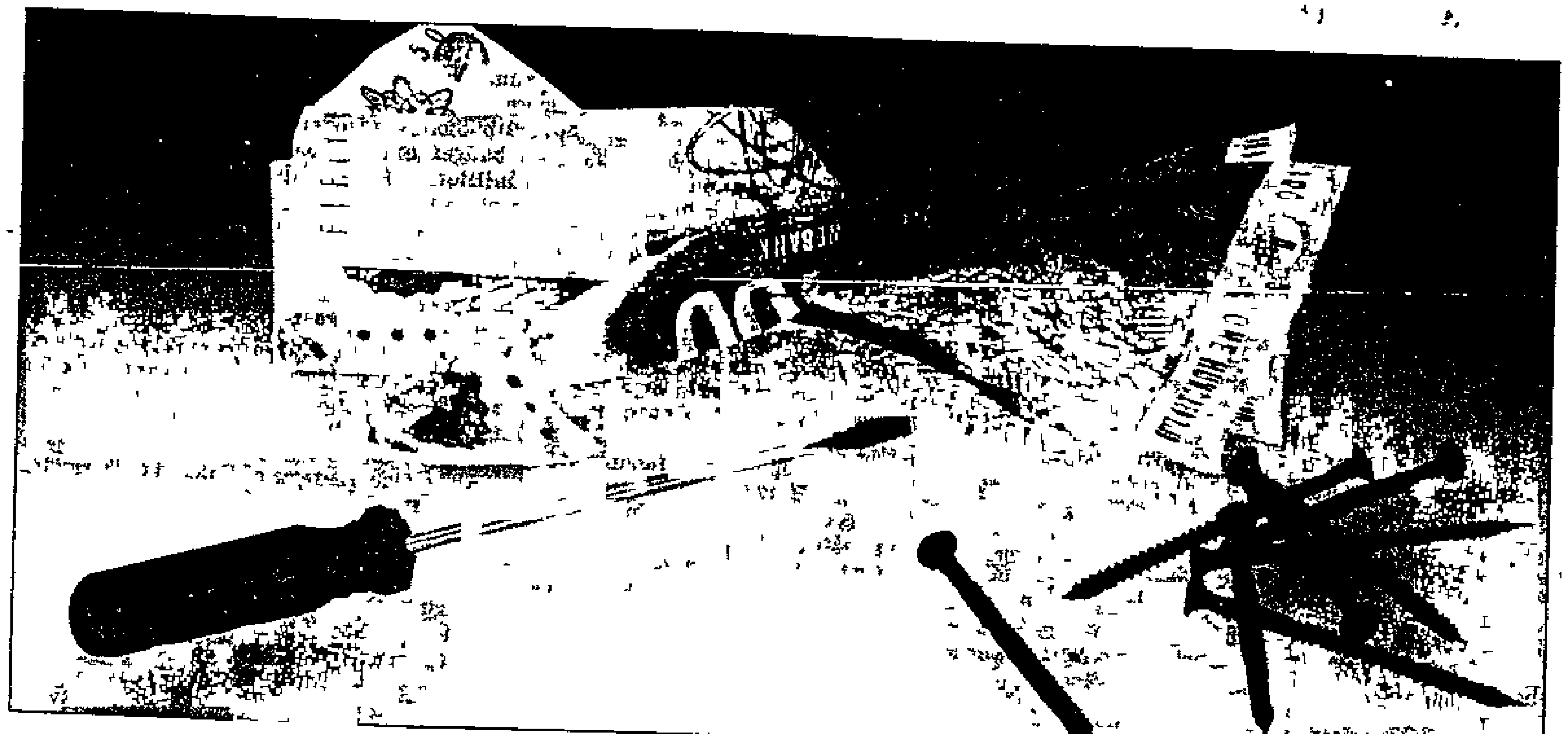
The Supreme Court of Appeal in Bloemfontein also needed a refurbishing which would cost R43m, Madunasaid. — Sapa

COMPETITION

(232) CT(BR) 23/9/99

Never too big to pay the price for breaking antitrust laws

ANTHONY NORTON & VERONICA BOSTOCK



In his address to the Senate subcommittee on antitrust, business rights and competition in May, Joel Klein, the assistant attorney general in charge of the US department of justice's antitrust division, reported record results in bringing international cartels to book.

He said: "Vigorous enforcement against international cartels is a top priority for us. As a result of our aggressive overall criminal enforcement efforts against hardcore antitrust violations such as price-fixing and market allocation, we have set records in the past two fiscal years in the level of fines collected. In fiscal year 1997, criminal fines totalling $205 million were secured in cases brought by the antitrust division.

"This total is five times higher than during any previous year in the division's history. We broke that record in fiscal year 1998, with more than $267 million in fines secured.

"Of the roughly $472 million in fines secured in the last two fiscal years, nearly $440 million – well over 90 percent – were in connection with the prosecution of international cartel activity, a graphic illustration of the increasingly international focus of our criminal enforcement work, and our success in cracking international cartels."

The department of justice's renewed focus on the dismantling of international cartels can be clearly seen in two recent cartel related antitrust indictments, including the indictment of German firm BASF among others, for its role in the vitamin cartel.

The other was the claim brought by the Foundation on Economic Trends together with the Family Farm Coalition against Monsanto, Du Pont and Novartis for attempting to control the market relating to bio engineered seeds for farming. It will be brought in more than 30 countries and promises to be the biggest antitrust claim ever, aside from the now well known Microsoft case.

But to what extent is the the trend towards a renewed focus on cartels reflected in South African competition legislation? The new Competition Act came into force on September 1 and heralds a new era in the field of competition law and regulation.

The act prohibits a wide range of both horizontal and vertical restrictive practices. However, it is the prohibition contained in section 4 (1)(b) that is most germane to cartel type activities.

It states: "An agreement between or concerted practice by firms or a decision by an association of firms is prohibited if it involves any of the following restrictive horizontal practices:

- ☐ Directly or indirectly fixing a purchase or selling price or any other trading condition
- ☐ Dividing markets by allocating customers, suppliers, territories, or specific types of goods or services, or
- ☐ Collusive tendering."

Clearly it seeks to prohibit three standard methods that firms within a cartel use to perpetuate the existence and ensure the profitability of the cartel: artificially fixing the price of goods, dividing markets (whether in relation to geographical areas or products) and collusive tendering, which occurs, for example, when firms agree among each other to tender their services at a particular price to ensure that they are each awarded an equal proportion of the work available.

Price-fixing is one of the traditional methods of cartel style operations and involves some form of express or implicit co-ordination between firms with regard to pricing policies.

The BASF case is the most recent example of an international price fixing cartel where the members of the cartel, including Roche of Switzerland, Rhone-Poulenc of France and BASF, entered into an agreement to fix prices.

The member firms agreed on the prices and volumes of certain vitamins among them vitamins A, E and C. They further decided to fix, and increase and maintain prices at certain levels in the US and elsewhere.

They exchanged sales and customer information and issued price announcements and quotations for the purpose of monitoring and enforcing adherence to the quotas and prescribed prices.

Price-fixing is inimical to consumer interests in the sense that it artificially inflates the cost of the goods in question beyond the level that would normally exist in a competitive market environment.

The second restrictive practice perpetrated by cartels is that of market sharing, whether of customers, territories or specific types of goods or services. It is evident from the act that any attempt by firms within the same industry to divide up regions between them or to allocate groups of customers among each other will be prohibited.

The final prohibition introduced by section 4 of the act is that against collusive tendering; in certain industries competitors agree to divide contracts between them by agreeing on tender prices for particular contracts.

While collusive tendering will always be difficult to prove, the risk exists for cartel participants that a disgruntled member of the cartel may elect to reveal the practice at some later stage.

The act makes provision for fines of up to 10 percent of a firm's annual turnover to be levied in instances of a ~~contravention of section 4 (1)(b)~~.

While the act does not contain criminal sanctions for contraventions of the legislation, it does provide for civil actions by persons who suffer loss or damage as a result of a prohibited practice. In the BASF case vast civil claims are being brought against the cartel members.

This may be a salutary lesson to South African cartels that cartel-style operations can prove an expensive rather than a profitable enterprise.

It will be interesting to observe whether the South African competition authorities emulate the approach their US counterparts have adopted to the issue of cartels.

While cartels that prejudice consumer interests by charging inflated prices are inimical to the interests of the economy and consumer welfare, it could also be argued that in certain industries some form of co-ordination between the participating companies is often important to the survival of the industry in question.

It would seem, however, that section 4 (1)(b) does not make allowances for such an argument and accordingly companies would be well advised to steer clear of any arrangements or activities which could be construed as collusive in nature.

☐ *Anthony Norton and Veronica Bostock are attorneys at Webber Wentzel Bowens. The law firm, in association with Business Report, is hosting a competition law conference in Johannesburg today. For details contact Lindie Dlamini on 083 772 8438.*

LETTERS TO THE EDITOR

Management creates its

INSIDE TRACK

Competition laws to put multinationals in spotlight

BD 29/9/99 (232)

Growing effort in Africa aims at free trade, writes John Dludlu

IN RECENT times, several African countries have been formulating or rewriting laws that deal with competition policy.

At least 20 African countries, including SA, are known to have gone through these exercises This area of public policy is taking centre stage in the field of economic regulation

After revamping the Maintenance and Promotion of Competition Act, SA policy makers and academics have been invited to neighbouring countries to share their expertise Botswana, Zimbabwe, Egypt and Swaziland have begun moves to reshape their policies

The apparent rush shows a growing interest by policy makers in both the developing and the developed world in policing the activities of powerful multinational and transnational corporations.

According to the UN Conference on Trade and Development (Unctad), 60 000 transnational companies — firms that engage in international production — now have 500 000 foreign affiliates, most of which have nonequity relationships with a large number of independent companies.

Unctad says that 100 nonfinancial transnationals sold products worth $2,1-trillion in 1997.

With the global trend towards mergers and acquisitions, it has become urgent for the governments of developing countries to vigilantly scrutinise the behaviour of these companies, say analysts

Speaking in his personal capacity, Menzi Simelane, the chief legal counsel at the Competition Commission, SA's new competition authority, says the moves by African governments also reflect the impact of globalisation and the dismantling of trade barriers

Like their First World counterparts, African countries have been loosening trade restrictions as part of their commitment to the World Trade Organisation (WTO). These efforts are also aimed at creating the building blocks of an African economic community through regional agreements.

Pierre Brooks, ex-chairman of the Competition Board, SA's former competition authority, says economic integration requires that governments take steps to defend the benefits of free trade by dealing with anticompetitive behaviour by companies.

The present trend is also an attempt to deal with the effects of the investments made by the multinational companies in African countries, says Simelane.

For example, some companies will demand of governments that they be granted exclusive monopoly in newly privatised sectors. Such arrangements may affect the level of competition in domestic markets

Due in part to the size of the SA economy, SA companies have often been accused of abusing their dominance in neighbouring states, hence the need by these states to draft effective competition laws.

Apart from protecting consumers and ensuring the contestability of markets, competition law traditionally seeks to either prevent or ban certain practices such as price fixing, collusive bidding, and cartel and predatory pricing

Because of the size of neighbouring markets, Brooks says dealing with the abuse of dominance by multinationals may be the challenge for the new and existing competition agencies in the region.

SA's new law is also fashioned to deal with sophisticated and complex mergers and acquisitions transactions.

"The rise in the importance of competition law has also raised the question of where enforcement has to be located. whether there should be one single supranational body that polices companies, or whether one international agreement can do the job.

The answer to this question is not easy The WTO's 135 members have yet to agree whether to include competition policy in the next set of trade talks

But in southern Africa, there are several possibilities Brooks advocates co-operation by the various agencies, while Simelane, who was instrumental in writing Pretoria's new law, says regional enforcement of competition law may not be far off in the Southern African Development Community (SADC). Of course, this will depend on regional governments' commitment

Temptation for SADC governments to agree to joint competition enforcement may grow when the proposed free trade area is created in eight years.

The European Union governments, which wrote this function into the founding treaty of the union, have an EU-wide agency as well as national agencies enforcing competition law

The benefit of a competition authority in the SADC would lie in the ability to police the activities of one multinational throughout the region. "It is up to companies to (then) familiarise themselves with the laws and not avoid them", says Simelane

However, he warns that while it makes sense to have a regional authority, governments should not see this as a solution to other trade-related problems such as dumping — that is, the sale of goods in export markets at prices far below those charged at home

Other analysts say it is important that in the interim African governments harmonise their competition laws before considering a single regional or continental body to police corporate behaviour.

(232)

Competition body holds talks with regulators

John Dludlu (232) BD 30/9/99

THE Competition Commission, SA's new competition policy authority, is holding talks with parastatals and independent sectoral regulators to ensure the state-owned corporations do not fall on the wrong side of the new competition law, says commission head Alistair Ruiters

Ruiters said yesterday the commission had written to 21 bodies which had been granted exemptions from competition laws by the now defunct Competition Board The board is the commission's predecessor

In terms of transitional arrangements, these exemptions will have a one-year validity

The commission, which began operating this month, has already held about four meetings with officials from the Transnet group at the request of the state-owned transport empire

Transnet officials had sought clarity on the Competition Act of 1998's provisions regarding publicly licensed operations, Ruiters said

Together with Telkom, forestry company Safcol, arms manufacturer Denel and the Council for Scientific and Industrial Research, the group has been a subject of complaints by private operators who accuse the groups of unfair competition under the previous law

The old Maintenance and Promotion of Competition Act, under which the board operated, could not adequately deal with such complaints

The new authorities have made it clear that they will not tolerate violations of public licences by the parastatals anymore

Ruiters said his body, which investigates complaints about corporate behaviour and polices mergers and acquisitions, could not act on complaints made to the old board It had yet to receive a complaint against a parastatal

Officials have, however, said they are aware that pressures to be financially self-sufficient have forced some parastatals to use their privileged position to generate more revenues

The commission had asked Satra, the independent telecoms regulator, to set up a joint working group Talks were under way with the Independent Broadcasting Authority, the Securities Regulatory Panel and the Financial Services Board Discussions may be held with the National Electricity Regulator

COMPETITION LAW

(232)

A PACK OF QUESTIONS HUNTING A HANDFUL OF ANSWERS

FM 8/10/99

The Competition Commission is in place. But confusion reigns

Competition policy one of the most tangled areas of economic policy, is about to be tidied up And that is causing anxiety in the market which has lived in relative comfort with the old ineffectual Competition Board for 20 years

There are always trade-offs between regulation and efficiency But, in SA competition law has been complicated by past agendas Legislation that took effect last month has what Competition Commissioner Alistair Ruiters describes as features unique to SA" — because it is the outcome of seven months of negotiations with business and labour

That is precisely what worries its critics Among other problems, there is an inherent conflict of interests in the Act It explicitly requires the commissioner to take account of the public interest — and this includes social and political factors — as well as economic interests

This opens the way for the commissioner to endorse mergers or practices that advance previously disadvantaged people but are anticompetitive It also opens the way for him to block economically efficient mergers if they seem likely to increase unemployment

However Ruiters is clear on one point that will reassure SA's big companies he will focus on behaviour in the market rather than structure of the market which should dispel concerns about a bias against the creation of large companies

"We will always take into account the market dynamics when making a decision " says Ruiters

A serious criticism is that there are a host of issues to be clarified Uncertainty persists in a business environment already subject to many uncertainties, says Wits Business School professor Saul Klein

Ruiters says he and his office are accessible to practitioners and business people who need to clarify issues But he is not prepared to issue guidelines "Experience in other countries shows that issuing guidelines before a body of case law has been built up is imprudent" And he argues that guidelines would not buy business certainty — this can only happen over time"

Klein points out that once case law comes out, the market won t need the guidelines "People need to know the commissioner s views on certain issues now he says David Unterhalter professor at the Wits Centre for Applied Legal Studies agrees

An example of a critical subject on which there is no clarity he says is the impact of the legislation on franchise and joint venture arrangements They are vitally important to growth and development but run the risk of being unlawful because their arrangements could constitute a collusive practice he says

Some of the implementation rules have also drawn criticism One is the fees that companies have to pay (see table) Klein describes them as exorbitant and way above international norms The other complaint is that the threshold at which companies have to seek permission to merge is too low

Klein fears the requirements will deter small companies from striking deals that make good economic sense Or that small companies will ignore the rules and leave it to the commissioner to track down their transactions if he can

Unterhalter argues from another perspective He says the level at which the threshold is set could net so many potential mergers that the 12 people running the commission s mergers & acquisitions section would be unable to cope This would cause costly delays for the businesses concerned and undermine the implementation of the Act

On the issue of fees Ruiters argues they should be appropriate to the level of skills required and are not out of line with the international norm

In the US a flat fee of US$40 000 is charged Our fees are graduated to ease the burden on small businesses They range from $800 to $80 000 " he says

Klein points out however that small businesses in the US wouldn t have to file merger notifications at all And the large businesses that would have to pay $40 000 would be charged double that sum in SA.

Ruiters defence of the threshold is that he has no powers to respond retroactively, so he has to be sure he pre-empts undesirable transactions Moreover "a lot of things emerged during the negotiations as concessions For instance instead of forced unbundling of existing companies we settled for a low threshold," he says

He points out there is nothing to stop companies merging incrementally

As to delays Ruiters says his turnaround time is only 30 days and when the period expires, companies are free to proceed

"For some companies 30 days can make or break a deal,' says Unterhalter His solution is the publication of guidelines to exclude uncontroversial mergers

Ruiters has no fear as to his office's ability to handle the workload

"There are 12 people in our merger section as many as the old Competition Board had altogether The commission has 60 lawyers economists and forensic accountants and we have 31 more positions to fill In addition we have the services of two international consultants from the US Department of Justice and the Federal Trade Commission and the services of an Australian consultant for six months."

Clearly some of business's concerns can only be addressed over time

One is whether the independence of the commission the Competition Tribunal and the Competition Appeal Court will be compromised because the people staffing the three bodies have worked together drafting the legislation and are known to lean towards intervention

Ruiters insists the three institutions will act independently of each other

"Even within the commission people have different opinions of what competition law should be — how much more so when people are in three different institutions " he says

The creation of two sector regulators — the Independent Broadcast Authority and the SA Telecommunications Regulatory Authority — before the inception of the Competition Commission is another potential pitfall facing the commission

Ruiters, however, distinguishes between the functions "We don't regulate the economy We are the watchdog of competition The IBA and Satra regulate the players in the sector The only thing that would concern us about their role is that the Act should be applied consistently, conforming to underlying principles, and we would want to deter forum shopping — looking for the weakest link."

The fees and thresholds are not set in stone but they look like being around for a while.

But at least some of the controversies surrounding the new legislation could be resolved by guidelines or public statements by the commission on issues that might be causing unnecessary concern

A few words from Ruiters now could save business time money and opportunities and improve the image of the Competition Commission in the market.

Ethel Hazelhurst

THE COSTS THAT MAKE COMPANIES SQUEAL

Alistair Ruiters

Mergers with combined annual turnover/assets of	Must pay the Competition Commission:
R50m-R100m	R5 000
R100m-R1bn	R125 000
R1bn-R3,5bn	R250 000
R3,5bn+	R500 000

Targets set for privatisation

(232)
(26)

Sowetan 11/10/99

By Shadrack Mashalaba

THE privatisation of state-owned enterprises will be completed by 2004 according to Public Enterprises Minister Jeff Radebe

Addressing a business dinner in Johannesburg on Friday Radebe said the Government was on course in reaching its targets according to a set timetable

He said the Government had adopted various models such as wholesale disposal partial privatisation and concessioning to drive the process

Radebe said privatisation was a complex issue and there is no easy road to privatisation Our objective as the Government is to realise the optimum returns for the people of South Africa

He said if carried out to its conclusion privatisation would net the fiscus R150 billion

'The sale of state-owned assets is an important policy decision said Radebe As part of our drive we will insist on black economic empowerment, employee share schemes and the enhancement of the competitive environment and investment into technology to promote public private partnership

'Our approach is sound and scientific We have also established the National Framework Agreement and the Interministerial Committee to look at the social impact of the disposal of government assets

'The forums are mechanisms to cushion the devastating blows caused by privatisation," said the minister

He added that South Africa was moving positively in the right direction, despite the fact that privatisation in other African countries had gone faster than in this country

But South Africa is leading the pack when it comes to proceeds raised from the process The investment from these resources must yield shareholder value he argued

So a number of state assets have been disposed of or partially sold and in some cases a strategic management agreement has been entered into

These include six radio stations Aventura, Sun Air Connex the Airports Company South Africa Telkom the Post Office South African Airways and Alexkor

The unintended consequence of privatisation was job losses and even if jobs are not lost there is the issue of a change in personnel Radebe said

Ruiters says it will not end up as a centralised bureaucracy

Competition body 'to pay its way'

CT (BR) 14/10/99 (232)

LYNDA LOXTON
PARLIAMENTARY CORRESPONDENT

Cape Town – South Africa's competition authorities hoped that soon half of its operating income would come from user fees, Alistair Ruiters, the new Competition Commission commissioner, said yesterday.

Briefing a joint sitting of the trade and industry committees of the national assembly and the National Council of Provinces, Ruiters angrily rejected charges that the commission might end up as another centralised bureaucracy with "motherhood and apple pie" ambitions that cost the state a lot of money

MPs criticised the fact that the Competition Commission, tribunal and appeal court would be based in Pretoria with little or no apparent links with, or relevance to, ordinary South Africans

Ruiters said an extensive campaign was planned for countrywide workshops to make small and large businesses, consumers and the unions aware of the role of the authorities in ensuring consumers received a fair deal

The workshops would also ensure that small business was not squeezed out of the market by monopolies They would also monitor public interest issues such as the effects of mergers on jobs and regional development.

"The provisions of this legislation have a direct and real effect on the lives of ordinary working class people in South Africa, who are at the bitter end of the effects of the concentration (of production) of consumer products," said Ruiters

Though there had not been a marked increase in the concentration of ownership in South Africa over the past 20 years, it was still highly concentrated and had put off many potential foreign investors.

The real challenge was to get the three institutions up and running to put into effect the public interest considerations contained in the legislation Similar issues were increasingly being considered by several overseas competition authorities, he said

On the financing of the authorities, Ruiters said that their R45 million budget was "extremely small for the task that we have been given"

The commission would, however, be allowed to charge notification fees These included a R2 500 fee for an advisory opinion and a R5 000 fee to consider a merger

"We hope that in years to come we will rely less and less on transfers directly from the department of trade and industry," he said

Since the Competition Commission was established in September it had dealt with 450 telephone inquiries and given 20 advisory opinions.

It had received 22 notifications of mergers and approved two, 17 complaints were lodged with it, two investigations were undertaken and one exemption lodged A website (www compcom co za) and an e mail address (CCSA@compcom co za) had been established

Dave Lewis, the chairman of the Competition Tribunal, said that, unlike the old Competition Board, the tribunal could award interim relief orders for companies affected by uncompetitive behaviour while their complaints were being heard

Privatisation often leads to corruption

(232) (34) Sowetan 14/10/99

By David Hall

AS TRANSPARENCY International's ninth anti corruption conference takes place in Durban this week it is time to recognise that the mother of much recent corruption is privatisation

It gives lucrative business to multinationals and provides great economic incentives to corruption

Most of the multinationals involved in the recent dam scandal in Lesotho are based in Europe – a continent where corruption has become entrenched

Politicians in Britain France Italy Spain and Belgium have been convicted in scandals associated with bribery in the last decade The entire European Commission had to resign this year over corruption

Multinationals are so used to using bribes to obtain contracts that they do it to each other Oil group BP started prosecuting construction multinationals for bribing their officials to obtain contracts

It is well known that concessions are a major source of corrupt practices by groups intent on winning favourable terms A report by the French audit commission the Cour des Comptes in January 1997 said that the system of privatised concessions had led to wide spread corruption – both Suez Lyonnaise and Vivendi have been convicted of this

Even the World Bank acknowledges "The privatisation process itself can create corrupt incentives" All around the world there are reports of allegations where multinationals are seeking such contracts

In Indonesia the public authorities in electricity and water are insisting that the contracts given to multinationals under the old dictatorship were corrupt and based on extortionate profits

Yet the multinationals, supported by their Organisation for Economic Cooperation and Development (OECD) governments and the World Bank insist on the sanctity of these contracts

One former official of the Lesotho Highlands Water Project has been charged with taking R12 million in bribes from a dozen international companies over 10 years

According to the charge sheet the official did unlawfully, intentionally and corruptly accept bribe moneys, over the period February 1988 to December 1998, from Lesotho Highlands Water Project contractors"

The charge sheets list the precise amounts of all the bribes supposed to have been received by this official, naming the contractors from which the money allegedly came

None of these multinationals is being prosecuted for paying bribes None of their OECD home countries is taking action against the companies

Instead, many of these multinationals are gaining new profitable business from privatisation One company for example is being given a water concession on the Dolphin Coast.

If this happened in Singapore, these multinationals would be prosecuted – and on conviction they, and all their subsidiaries, would be banned from bidding for any public sector contracts for five years

James Wolfensohn, the World Bank's director, makes fine speeches about the bank's opposition to corruption But the practice of the bank is quite different.

It forms partnerships with multinationals which have been convicted of corruption One example is Aguas Argentinas, where the bank, through its International Finance Corporation (IFC), is an equity partner alongside Lyonnaise des Eaux (now Suez-Lyonnaise) and Générale des Eaux (now Vivendi), both of which have had executives convicted of bribing French public officials to win contracts (in Grenoble, Réunion, and Angoulême)

The bank helps companies keep contracts which may have been obtained corruptly Hubco, Pakistan's largest power company, is accused by the government of obtaining its contract corruptly

The World Bank has insisted that Hubco's contract to sell electricity should not be affected by this, whatever the result of the investigation, and asked the International Monetary Fund to hold back a loan to Pakistan until the bank was satisfied that Hubco's contract would not be cancelled because of the corruption proceedings.

In 1996 Wolfensohn announced that he had hired an international inspection company, Société Générale de Surveillance (SGS) of Switzerland, to audit bank projects for evidence of corruption in three countries – Poland, Kenya and Pakistan

But within months the *Financial Times* reported that "SGS has admitted that it paid a substantial commission to a Geneva lawyer for 'assistance' in negotiating a pre-shipment inspection services contract with Pakistan"

In April 1999, the former prime minister of Pakistan, Benazir Bhutto was found guilty of accepting bribes worth R72 million from SGS and banned from holding a seat in Parliament for seven years

But SGS has not been tried for any offence in Pakistan or Switzerland, and has not been banned by the World Bank

The bank also insists on privatisation as a condition for loans – regardless of corruption allegations In Uganda, the bank's IFC is financing 80 percent of a R4 000 million hydropower scheme involving multinational AES, and has also agreed to guarantee the scheme against political and other risks – on condition that the Ugandan government agrees to privatise the Ugandan Electricity Board

But the bank has ignored all allegations of corruption over the power purchase agreement on which the scheme depends – in April the minister for energy resigned because he was accused of bribe taking in his brokering of the power purchase agreement between the American British AES and government

South Africa can lead the world by using the opportunity of the Transparency International conference to announce that it will

- Prosecute all multinational bribe givers and follow the example of Singapore in imposing five year bans on all convicted groups and their subsidiaries and their partners
- Place a moratorium on privatisations and a complete ban on any negotiated concessions and
- Prioritise the public sector option

The conference in Durban should

- Urge South Africa and other countries to prosecute multinational bribe givers and ban offenders from public sector contracts,
- Urge the World Bank to refuse grants or partnerships to multinationals who have been convicted of bribery – anywhere,
- Restore its credibility and balance by publishing a list of multinationals involved in bribery, and
- Call on the World Bank and governments to impose a moratorium on privatisations and concessions

It is time to end the international scandal of bribery and corruption

(The writer is director of the London based Public Services International Research Unit which maintains a data base and publishes papers on privatisation worldwide)

World Bank president James Wolfensohn and Finance Minister Trevor Manuel meet before a news conference in Pretoria on Tuesday Wolfensohn is in South Africa to promote the lending agency's tough anti-corruption message and meet with Government officials on development issues PHOTO REUTERS

Law will force business to tell secrets, but protect Cabinet

ST 17/10/99

CAROL PATON

PARLIAMENT is planning to extend the scope of the new Open Democracy Bill to give the public the power to force businesses to disclose information such as the salaries they pay and how they make decisions on price increases

And banks could be forced to disclose reasons for turning down loan applications

But the Cabinet has ordered the Bill's drafters to exclude it from having to disclose anything

Johnny de Lange, the chairman of the parliamentary committee which began processing the Bill this week, said its provisions would be extended to include public access to privately held information This would allow individuals, trade unions and consumer and community organisations to gain access to information often withheld by corporations.

Cosatu's Oupa Bodibe said unions could demand information on salaries and other collective bargaining issues.

"The Constitution gives you the right to food. If prices are raised in a way that deprives you of food, then you can demand information on pricing policies"

The disclosure of some Cabinet information had been included in earlier drafts of the Bill — until Cabinet instructed the drafters that it should have a blanket exclusion.

Even in the earlier version, although the Cabinet was not excluded, sensitive government information remained protected through a detailed set of exclusions. The exclusions, which are still contained in the new draft, include information which may: interfere with law enforcement; harm the security of the state or international relations, or jeopardise the financial welfare of the country or the government's attempts to manage the economy.

Dene Smuts, a Democratic Party representative on the committee, said her party would fight to have the Cabinet reinstated within the ambit of the Bill

Richard Calland of the Institute for Democracy in South Africa, one of 10 non-governmental organisations campaigning around the Bill, also questioned the Cabinet exclusion

He said: "The question is whether the information deserves exemption Under a blanket exclusion there'll be loads of things that the public will not be able to see."

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Competition law leaves lawyers in wilderness

ST (BT) 17/10/99

MERGER CONFUSION

By JULIE WALKER

SOUTH AFRICA is in desperate need of guidelines regarding the implementation of the new Competition Act, which was promulgated on September 1

Stephen Langbridge, a director at law firm Bell Dewar & Hall, says while it is important to recognise and welcome the provisions of the Act, some of it has been poorly drafted and lacks certainty

There are also very costly implications for many companies which wish to undertake ordinary corporate activity involving mergers and acquisitions

The main purpose is to promote and maintain competition, taking account of social objectives

"Generally, from a practitioner's point of view, the new Act is to be welcomed in terms of its objectives, rules and regulations, which should create more certainty in mergers and acquisitions. But there is a great deal of confusion. While the Act is meant to check anti-competitive behaviour, some of its implications are absurd if the words of the Act are given their usual interpretation," says Langbridge

He says the definition of a merger is the main problem The Act defines a merger as "the acquisition or establishment, either directly or indirectly, of control by one or more persons over all significant interests in the whole or part of the business of a competitor, supplier, customer or other person".

"Why bother to define the first three categories then add 'other person'?" asks Langbridge. Legally, "other" can either mean "of a like kind", or in the plain meaning of words, any other Clearly competitor, supplier and customer are not alike.

Given the possible wide interpretation, the new Act obliges parties to notify the Competition Commission by filing an application and paying a filing fee, even if the deal does not involve an anti-competitive aspect. Employee representatives must also be informed and have an opportunity to participate in proceedings.

"Notification brings several consequences: transparency, delay and cost," says Langbridge.

There are minimum thresholds before an application must be notified They start where the combined value of either turnover or assets of both acquiring firm and target firm exceed R50-million. The fees range from R5 000 to R500 000.

"The thresholds take no account of the size of transaction where only part of a business is being acquired. It may be a very small part, yet the Act may require a filing fee of half-a-million rand based on the turnover of the whole business."

Langbridge says all major deals will now be subject to suspensive conditions pending approval from the competition authority. There is concern that approvals will take too long. There is no procedure for urgent approval.

"There is too much uncertainty about the Act's interpretation, the filing fees are too high and the thresholds too low Delays are inevitable and the Act is rigid Failure to file could result in a fine of up to 10% of turnover, and many companies may be put off even trying."

Langbridge says without guidelines, it is difficult to advise clients. It may be best to file under protest and ask for the fee back if the proposed merger falls outside the commission's authority.

He says transactions since last November must now be notified within three months unless approval was given by the old Competition Board. Again, the interpretation is not clear Failure to notify may result in the merger being in contravention of the Act.

The chief executive of an acquisitive information technology company listed on the JSE says the Competition Commission requires confidential details on market shares, patents and so on that he would be loath to disclose under any circumstances

Privatisation pains for parastatals

(232) ST(BT) 17/10/99 (260)

Unions and management are talking about how to make SA's cumbersome parastatals more globally competitive, writes S'THEMBISO MSOMI

STATE-owned enterprises look set to retrench thousands of workers in the restructuring process aimed at turning parastatals into globally competitive companies.

Although the labour movement previously professed its total opposition to the process, labour analysts believe trade unions are now beginning to accept the inevitable.

Faced with the pressures of a rapidly changing global economy, parastatals are being forced to restructure and become leaner, more competitive organisations

The challenge is greater because, historically, public enterprises followed employment policies which had little to do with efficiency.

Telkom, which is in protracted talks with unions on downsizing, says it has far more support and administrative staff than the international norm Illiteracy levels among staff are high and the company has a scarcity of technical and business skills.

"Not only does Telkom's current staff profile have an impact on overall productivity, but it contributes significantly to high operating costs with 47c of every rand in value created being spent on staff costs," says Telkom representative Amanda Singleton.

The telecommunication utility is reorganising itself in preparation for the introduction of fixed-line competition within the next three years and this has resulted in the duplication of a substantial number of jobs

On Wednesday, Telkom concluded the first round of talks with unions. The parastatal explained its comprehensive plan to cut labour.

It is not clear how many workers might be retrenched, although unions previously put the number at between 5 000 and 11 000 employees.

The Communications Workers' Union (CWU), which represents most of Telkom's employees, is holding its National Executive Committee meeting and is expected to announce its response to Telkom's proposal this afternoon.

Not wanting to give away much before the NEC meeting, CWU's chief negotiator Kathy Pillay says their main objective is to save jobs.

In the transportation sector things are more difficult. Transnet MD Saki Macozoma told parliament earlier this year that Spoornet was losing R120-million a month and expressed the need for urgent downsizing Spoornet management has proposed the shedding of 27 000 jobs in the next three years

A thousand jobs per month were to be done away with through voluntary retrenchment packages, but opposition by organised labour prompted government to halt the process and insist on further discussions in line with the National Framework Agreement.

Public Enterprises Ministry spokesman Zaid Nordien says alternative proposals by labour unions to the inter-ministerial committee are now being considered through NFA structures.

SA Transport and Allied Workers' Union's (Satawu) general secretary Johnson Gamede says unions are committed to resolving the matter through the NFA but are frustrated that Spoornet management is still telling workers to take the voluntary package even before a final decision has been made.

Economist Tony Twine of Econometrix believes the talks on retrenchments indicate a change of approach by unions He says unions are beginning to understand problems facing parastatals.

"Downsizing is certainly unpopular with the unions but the very remote possibility of them accepting it has suddenly improved.

"Telkom unions, for instance, were very opposed to it a few months ago but the fact that they have now agreed to sit and discuss the issues indicate a change in approach and attitude," he said

Twine says the current retrenchment plans in public enterprises and government departments are necessary.

"It might sound ironic, but for South Africa to create more jobs we need to restructure and be more competitive — and that means losing jobs in the parastatals.

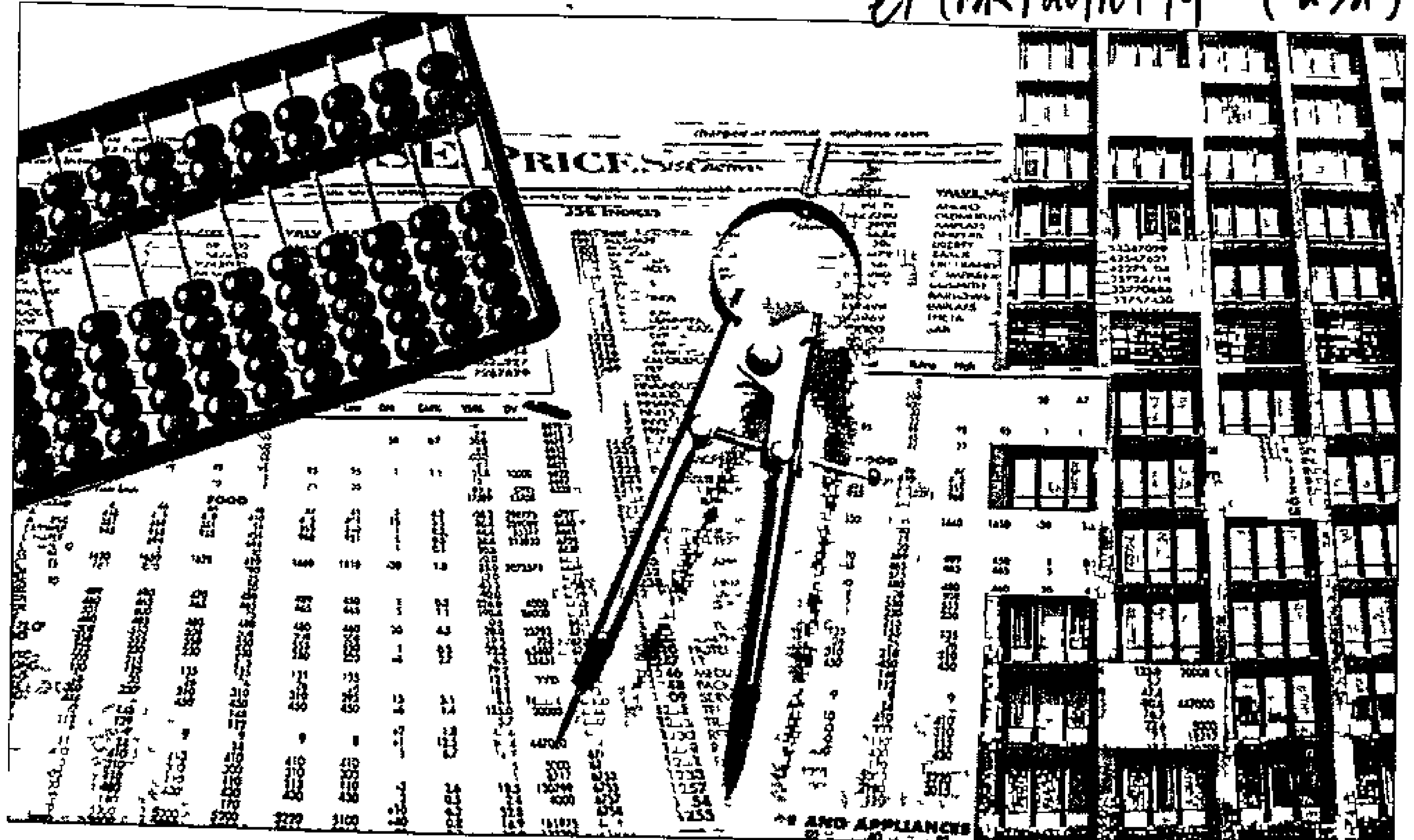
"Creating more jobs in the current badly constructed framework will not yield the desired results," he says

PRIVATISATION

Time is running out for Pretoria's credibility

ET (AR) 20/10/99 (232)

Stewart Bailey



The government's declaration that it would meet its state asset restructuring targets by 2004 has been met with scepticism, with many doubting its commitment to the process which has had an inauspicious start.

Sun Air's crash earlier this year the faded sparkle of Alexkor and the management contract of last resort given to Aventura following allegations of mismanagement and nepotism do not bode well for the government's timetable.

Gary van Staden a political and privatisation analyst at SG Frankel Pollak, says the five-year deadline is not unrealistic; if anything it allows the government some margin for error. He places particular emphasis on the time lapse between a "stated intention to sell and the conclusion of the bidding process."

Research conducted at Harvard University in 1995 by a team of analysts from emerging economies, with Van Staden representing South Africa concluded that governments should aim at identifying an optimal timeframe within which state-owned enterprises (SOEs) should be privatised.

The procedure in developed countries was estimated to be most effective if wrapped up within 180 days, while developing countries were given 600 days. The UK and Latin America were used as case studies.

South Africa is a unique case in many aspects because of the massive social restructuring that has taken place since 1994, so it would be safe to add 100 days on to that total," said van Staden.

Once that timeframe has lapsed the state will inevitably receive lower than expected bids for the assets that are up for sale." He gauges the probable discount at between 10 and 30 percent.

Conversely he says there are examples of privatisation in Latin America where the process was concluded at a remarkable pace without the necessary attention to due diligence. As a result, many of the privatised assets had to be renationalised, restructured and resold.

Clearly, though South Africa's problem is not one of over-eagerness.

An eloquent demonstration of this is the sale of the South African Forestry Company Limited (Safcol) which began in 1995 when Pretoria announced its intention to privatise state forests and mills with a value of R693 million and turnover of more than R550 million.

It was originally estimated that the extensive plantations would fetch about R1 5 billion and some of the biggest names in the global forestry industry would bid.

However as the sale faced delay after delay Weyerhauser the world's largest wood products company, withdrew from the bidding process and promptly invested heavily in more than 2 million hectares of plantations in Australia and Canada.

Interested parties from Portugal, Sweden and Saudi Arabia also pulled out at the eleventh hour, leaving the tender process devoid of much needed foreign capital and expertise.

To add to the problem Mike Edwards the chief executive officer of the Forestry Owners' Association voiced concerns over the expected value of the bids. A more realistic value for the assets at this stage would be about R1 billion said Edwards.

Safcol he said had been devalued by a combination of a slump in the global hardwood market and investors unwillingness to wait indefinitely for the government to make a final decision on its sale.

At last month's Pan African Investment Summit in Ghana, Jeff Radebe the minister of public enterprises said the government would not privatise willy nilly.

Radebe said it "would help little if SOEs are undersold or privatised as if they were items in a bargain basement sale"

This is a noble intention but it will help little if the market will not support the asking price. The way in which the government deals with what are expected to be sub-standard bids for Safcol will be interesting.

Will it hang on to the company and restart the process, or will it cut its losses and write it off to experience albeit an expensive one?

Van Staden speculated that key assets were identified by the public enterprises department at the outset of the process as non critical and therefore as useful privatisation dummy runs in the run up to the sale of higher value assets.

Alexkor Aventura, Safcol and Sun Air could well have been used to tweak the state's privatisation programme and to push a relatively inexperienced government higher up the learning curve before tackling behemoths like Eskom.

That done, the time has now come for results.

"The groundwork appears to have been laid for the sale of many SOEs by Stella Sigcau during her tenure at the public enterprises department, said Van Staden. 'So an acceleration of the process is likely under Radebe's reign, he is widely regarded as a deal closer.

Van Staden did warn however that the government should see the beginning of its second term as "the beginning of the crucial 700 day period" within which maximum value can be realised for the bids.

Piecemeal privatisation of radio stations and holiday resorts satisfied the global community that the government was committed to privatisation," he said.

"(But) something spectacular like real movement on the privatisation of Eskom, must come soon to keep interest in the process alive."

What is perceived by many to be heel-dragging by the government on Eskom's privatisation is more likely a cautious approach after the surprisingly quick sale of 30 percent equity in Telkom to Thintana communications for R5,58 billion earlier this year.

Van Staden said the government was largely unaware of "embedded values in Telkom" and the final selling price reflected a discount of between 10 percent and 15 percent.

So a guarded approach where Eskom is concerned is to be expected.

Interestingly though, Van Staden said there were few real efficiencies, in terms of price and service, to be gained from privatising Eskom, but its sale would facilitate better investor perception in South Africa.

He also singled out management contracts very much in vogue as a precursor to final privatisation, for scrutiny.

He said they should be used "cautiously and in tandem with rigorously applied timetables and performance targets"

Failure to do this, he said, could result in the postponement of the process as private sector managers were in a no-risk position where monthly invoices to the government were the only real certainty.

Aventura and Alexkor were cases in point, where a strict turnaround and offload strategy should be applied as quickly as possible.

Whatever its final approach, quick results are now non negotiable and the government will have to start producing some flawless privatisations to give the process real credibility.

Council dismayed by union's claims

(232) (127)

NELSPRUIT — The Nelspruit town council said yesterday it regretted that the SA Municipal Workers' Union (Samwu) had spread untruths about the 30-year water privatisation contract won by British multinational company Biwater in April

Samwu said on Tuesday Biwater had begun to break promises made when it was awarded the contract Samwu provincial secretary Steve Sihlangu said although Biwater promised to take over all water workers, they were being approached individually and told to take "early retirement" by the end of October Biwater begins its contract at the beginning of November

Nelspruit CEO Roelf Kotze denied the claim yesterday, saying "In terms of the concession contract, workers have to be taken over by the concessionaire on the same or better conditions of services and no retrenchments may take place "

He denied Samwu's claim that the concession agreement did not comply with requirements of the sectoral framework agreement Kotze said the council twice postponed the signing of the contract during April in order to amend the document to accommodate union concerns

It was not true that the council refused to disclose any of the terms of the contract to the union, including future water tariffs — Sapa

BD 21/10/99

ANALYSIS

Ref who wants players to get on with it

Alistair Ruiters talks to MARCIA KLEIN about how he intends to create a level business playing field as Competition Commissioner

ST (MT) 24/10/99

(232)

AS South Africa becomes more and more insignificant in an increasingly competitive world, one may ask whether it really needs a stronger and more powerful body to oversee competition within its borders.

The issue of dominance in the relatively tiny local economy is less relevant than ever as local companies fend off global competition and, also, go out to take it on. There is also the argument that an economy of our size does not warrant a multitude of players and it might be necessary, for the sake of economies of scale, to have few, or a sole player in some industries

SA companies which have succeeded internationally are those which dominate locally

Naturally, the new head of the Competition Commission, Alistair Ruiters, thinks the commission has an important role.

Last week, presenting the commission's progress since the new Competition Act came into force last month, he alluded to the rugby World Cup, saying although every player is aware of the rules, a referee is needed.

He points out there are different kinds of referees — those who interfere with play and those who want to get on with it. The commission aims to be the latter Its US equivalent spends its time fighting cartels "But we need a SA approach We want the best way to encourage competition We want to get the best out of players on the field "

The commission was set up in tandem with the new Act, promulgated last month. It was set up to increase market transparency, develop awareness of the Act, investigate prohibited trade practices, review legislation and ensure the Act is applied The Act aims to eliminate discriminatory practices weak enforcement of anti-competitive trade practices and unjust restrictions on free participation in the economy Non-compliance could result in a fine of as much as 10% of turnover

Parties to a merger or acquisition must file an application and pay a filing fee. Potential mergers must be announced to the commission and "to relevant trade unions and other interested parties" This process has not necessarily been welcomed for the delay and cost implications There is also no procedure for urgent approval.

Now that unions need to be brought into the early stages of negotiations, they might have significant control not only over labour-related issues but over business considerations too

Ruiters argues that "this is more about getting people around a table discussing developmental considerations versus economic efficiency

"Our objective is not to change the way business is done in SA, we are trying to instil certainty in the process There are specific time frames and the onus is on the commission to get the job done."

Anyone who knew former Competition Board chairman Pierre Brooks would be aware that he was always just a phone call away Some would argue this informal type of management was an old era "buddy-buddy" system of getting pre-merger approval, but it can also be argued that his accessibility saved a lot of time and effort

Another concern is that the commission perhaps delves too deeply into some sensitive aspects of business

WHISTLE BLOWER. Alistair Ruiters wants to instil certainty

Ruiters argues that legislation is seen as punitive, but it is really protective. The commission "is aiming not for bureaucracy but for transparency"

"We want to be seen as fleet-footed and lean and mean."

There is no doubt that the intention of the Act is good

As Ruiters points out, the emphasis is on anti-competitive behaviour "We don't necessarily see a relationship between structure, conduct and performance. We will approach . on a case-by-case basis."

The commission is currently complaints-driven, but is trying to play a more proactive role. "We are alerting ourselves to where we believe there is anti-competitive behaviour."

This could be dangerous There is no reason to suspect the Act and the commission will abuse this, but in years to come, perhaps under a new commissioner, there may be a temptation to investigate a deal which irks a particular individual.

Ruiters says the commission's power is limited as people have access to the investigative unit, the tribunal and the appeal court. "If they still feel there are gaps in the way the investigation was carried out, they can appeal to the high court," he says. "The approach is cautious. But where there are abuses of the law we also have a responsibility as a custodian of the Act to impose penalties "

Ruiters says he has been heartened by the number of companies which have readily approached the commission It has handled more than 450 calls and offered 20 advisory opinions. It has issued letters to 12 companies saying they might be in violation of the law

Most of the complainants are small firms alleging that dominant companies refuse to supply them goods and services or are using predatory pricing.

Importantly, the commission accepts there is no critical market share level which will automatically determine anti-competitive behaviour

"In more than 50% of the industry sub-groups, the top four firms control 60% of the market. In the butter and cheese market, for example, there are 14 firms but four control 90% of the market. In pulp, paper and paper board, there are 21 firms but the top four control 91% But dominance is just one of nine factors we consider The Act does not have a problem with dominance but the conduct that will flow "

The market share figures do not include import competition so the commission might therefore be understating the competition in these markets

Legislation is also there to ensure SA is internationally competitive, and sometimes firms can engage in restrictive practises, like export cartels

Ruiters says there is an expectation on the part of the public of dawn raids on a group of people sitting around price fixing This doesn't happen.

"In the US, they use cameras and bugging devices but our challenge is to develop a credible institution with a good understanding of the economy We are not going to bed feeling good every night because we put someone behind bars "

Ruiters seems genuinely positive about the good relationships that have been struck with corporate SA. "There is a healthy respect for the fact that they have been challenged, not just setting their own goals "

That's how he sees it, but there may be a small matter of self preservation at play

But as Ruiters points out, in each deal there are numerous interested players including the target firm, the acquirer, management and employees — World Cup referees have it relatively easy

Govt takes over SAA's pension debt

BD 4/11/99 (232)

Move could assist airline's further privatisation and the possible sale of other Transnet units

(269)

Robyn Chalmers

GOVERNMENT has taken a crucial step in restructuring Transnet's crippling pension fund liabilities by taking over SA Airways' R1,3bn deficit

The move lays the groundwork for the further privatisation of the airline, as well as the unbundling and possible sale of other Transnet units.

The cabinet said yesterday that it had approved draft legislation enabling the finance department to take over R1,3bn of SAA debt from Transnet. This amount consists of mainly the airline's portion of Transnet's estimated R9bn pension fund deficit. The move will be achieved by swapping Transnet debt securities, known as T11s, for tradable government bonds.

SAA CE Coleman Andrews said the decision made good business sense for both the airline and government

"We appreciate the continued support in building SAA into a world-class organisation," he said Transnet officials could not comment, saying they had not been informed yet of the cabinet's decision

Government recently sold 20% of SAA to Swissair for R1,4bn, placing an unexpectedly high value of R7bn on the domestic airline. The cabinet agreed that the sale proceeds from Swissair would be shared with Transnet

SAA's partial privatisation was given the go-ahead only after the state agreed last year to "warehouse" some of the airline's pension deficit, paving the way for the restructuring of SAA's balance sheet

Public enterprises officials said SAA's portion of Transnet's debt amounted to R3bn This meant Transnet would get the biggest slice of the proceeds from the sale of SAA.

The pension liabilities have held up the restructuring of several other Transnet units, such as rail operator Spoornet, port authority Portnet and pipeline company Petronet These subsidiaries are also slated for some form of private sector involvement, although government is likely to retain control of the infrastructure

The pension problem surfaced when the former SA Transport Services (SATS) was hived off as a separate entity, renamed Transnet, in 1990 At that time the pension fund for SATS employees was only about 22% funded.

Transnet management issued the T11s to strengthen the funding to 64% Since then management has used additional contributions and more debt to improve the funding level to about 90%.

Both government and Transnet management have been grappling with the pension fund liability for more than three years

Gloria Serobe, Transnet finance executive director, has said that the group is investigating a method of changing the valuation assumptions of the pension fund to deal with the deficit The fund is also being changed from a defined benefit to a defined contribution plan

Public Enterprises Minister Jeff Radebe said recently Transnet was forced to raise its debt burden to fund its pension liabilities Its total borrowings rose by about R4,2bn to R27,2bn in the two years to March 31, boosting the funding of its pension scheme to 90% from 22% in 1990

Radebe said the debt was a significant constraint in restructuring Transnet The debt has several components, but the biggest was the pension fund deficit and provisions for pensioners' benefits

The cost to Transnet of providing retirement benefits has averaged about R1,4bn annually

This has consistently pushed Transnet into the red, with the exception of the 1998 financial year

In the year ended March 1999 Transnet made a profit of R973m, but a R1,4bn payment to the pension fund led to a total loss of R426m

FM 5/11/99

IGOLI 2002

JO'BURG'S POLITICAL BOSSES UNDER FIRE FROM WORKERS

Betrayal of workers alleged and denied (266)(232)

The series of political skirmishes between the ANC-led government and public-sector trade unions on the national terrain is duplicated at local government level in SA's largest city, where ANC councillor Kenny Fihla was nearly assaulted by angry workers during a protest march last week

The adversaries in Johannesburg are the Greater Johannesburg Metropolitan Council (GJMC) and the SA Municipal Workers' Union (Samwu) backed by its ally, the Independent Municipal & Allied Trade Union (Imatu) At issue is the GJMC plan, known as iGoli 2002, to overhaul local government in the metropolis and to resolve its recurring financial crises and the associated problems of unreliable service provision and decaying infrastructure

The plan rests on two pillars

- Conversion of strategically important functions fulfilled by the GJMC into commercially run utilities (water and sanitation electricity and waste management), agencies (roads, storm-water drainage and parks) and corporations (zoo, civic theatre and bus service and council-owned farms) Responsibility for financial viability and efficiency will rest with the CEO in charge of these entities and
- Privatisation of unprofitable GJMC assets, including Johannesburg Stadium Metro-Gas, Rand Airport and the Fresh Produce Market

Trade union anger at iGoli 2002 is fuelled by several factors One is the contention that the plan has been foisted on them by the GJMC and is not a negotiated response to the problems facing local government in Johannesburg Another is that the plan is weighted in favour of the business sector at the expense of the workers particularly the GJMC's 27 000 employees A third is that as it stands iGoli 2002 contradicts the ANC's Reconstruction & Development Programme and even the constitutional obligations of local governments to provide services to the poor

Thus a joint Samwu and Imatu memorandum, now being studied by the GJMC, states of iGoli 2002 "Its motive force is advancement of business sectional interests in the main thereby ignoring the needs of communities at large (It) will not deliver to the historically disadvantaged communities who constitute the majority in the city"

The memorandum charges that iGoli 2002 surrenders to 'managing directors and their boards" the political authority invested by city residents in their elected representatives

It challenges what it sees as the plan's bias in favour of the private sector at the expense of the public sector asserting that the involvement of the private sector in the provision of fundamental services "in many parts of the world has been marred by inefficiency and corruption"

Countering the GJMC contention that the privatisation forms only 1% of iGoli 2002, the memorandum states "(The) 1% is a veil for concealing far greater privatisation in the form of subcontracting and managerial contract as well as the potential to privatise in future"

Underpinning and reinforcing these objections is the more direct fear that iGoli 2002 will open the way for retrenchment of workers in the name of commercialisation, aka profitability

As Samwu general secretary Mricedisi Nontsele notes, the CEOs of council-owned agencies and corporations will have the power to accept tenders from the private sector at the expense of the entities they are mandated to manage Therein, he says lies the danger of demoralisation of council workers and, worse still, redundancy layoffs

Anger is rising in union ranks, as evidenced by the intervention of police to rescue Fihla from the protesting workers

Fihla acknowledges that responsible union leaders, realising they could not guarantee his safety, called on the police to intervene and escort him to safety

He downplays the significance of the protest march, describing the turnout as "poor" — not more than 2 000 — and certainly not enough to fulfil union leader predictions of 20 000 demonstrators. He agrees that council workers are genuinely anxious about the security of their jobs, pensions and medical aid funds But, he says, the objective is to extend services to the poorest residents and to do so "without shedding a single job"

Fihla agreement to submit union dispute to mediation

Fihla denies that he is responsible for the suspension of a dissident ANC councillor, Trevor Ngwane He says the decision to suspend Ngwane after he publicly aligned himself against iGoli 2002 was taken by the ANC 40-member regional executive council, not by an individual

He insists the council has consulted continuously since February with the unions on iGoli 2002, charging that Samwu brought "new representatives to every meeting" between February and June and, therefore, was unable or unwilling to respond to GJMC presentations of the plan

But Fihla says the GJMC has agreed to submit the dispute with the unions to mediation by a mutually acceptable neutral party Discussions to that end are in progress

Patrick Laurence

Unions lodge complaint against Jo'burg metro council

(266)(232) BD 5/11/99

Xolani Xundu

THE Johannesburg metropolitan council is being taken to the National Economic, Development and Labour Council (Nedlac) over its unilateral implementation of Igoli 2002.

The Federation of Unions of SA (Fedusa) and the Independent Municipal and Allied Trade Union lodged a section 77 notice on Wednesday, allowing for a protest to be lodged on socio-economic issues in terms of the Labour Relations Act, with Nedlac. The case will be heard on Monday in Kempton Park.

Fedusa general-secretary Chez Milani said yesterday that as a result of the council's plan, there were possible job losses, services were becoming unaffordable and the Johannesburg council was not carrying out its constitutional duty to remain a service provider.

Milani said the Johannesburg metropolitan council must stop the unilateral implementation of the plan, developed to tackle challenges of finance, institutional arrangements and service delivery.

The council must adhere to the stipulations contained in the national framework agreement on municipal service restructuring.

"The plan must be workable in the interest of the community and the country at large. We are dealing with a sector that is there to provide services to all."

Meanwhile, the African National Congress (ANC) in the Johannesburg region came out in support of the plan yesterday, saying it was its policy.

Regional secretary Louis Ramaro said the plan was adopted by the ANC before it was implemented by the Johannesburg metropolitan council's transformation committee.

He said Igoli 2002 has been a subject of "extensive" debate within the organisation since its inception. Labour concerns were noted, but the consultation process could not be an unending one.

"Consultation is not being discouraged, but the council cannot stop functioning and allow the city to go into further ruins," said Ramaro.

The SA Municipal Workers Union has also declared a dispute with the council on the plan and the process is to go to arbitration.

Radebe steps up privatisation plans

(232) M+G 5-11/11/99

Minister of Public Enterprises Jeff Radebe plans to sell R170-million in state assets by 2004

Donna Block *and* **Mungo Soggot** *report*

In a move aimed at speeding up the privatisation and restructuring of state assets, the Department of Public Enterprises is not renewing its contract with the banking group HSBC Simpson McKie the government s adviser on privatisation for three years

The department says it wants to expand its own internal brains trust on privatisation and recruit separate advisers for specific sell-off transactions rather than have a single catch all adviser

The department s representative, Zaid Nordien, said this week that HSBC s departure fitted in with the government's plans to step up its privatisation drive which, he said, was likely to include the sale of R170 billion in state assets by 2004

HSBC was appointed under the former minister of public enterprises Stella Sigcau on a R12 million a year contract. Nordien said the problem with relying on one adviser was that the adviser ' could serve a number of different clients"

"We need to be able to assess whether the advice is in our best interests We will get specialists where we need external advice but we also need the capacity to investigate options placed before us "

Nordien said HSBC s role over the past three years would not preclude it from getting involved in privatisation deals. He said HSBC was currently wrapping up its existing work for the department

Since his appointment in the June Cabinet reshuffle, Minister of Public Enterprises Jeff Radebe has signalled several times his intention to speed up the government s privatisation plans

Apart from repeating his 2004 target Radebe is pushing ahead with plans to privatise the state forestry company, Safcol — albeit amid a lack of international interest — and also recently announced plans to sell off a string of small assets such as Abakor the state abattoir operation and some of the state s national park interests

Radebe is also awaiting the proceeds of the R1 4 billion stake in South African Airways (SAA) that was sold to Swissair the deal still has to be ratified by the European Union. The transaction was announced by President Thabo Mbeki at his inaugural address to Parliament, a sign of the president s own political commitment to state sell-offs

HSBC was appointed in 1996 after much debate over whether the Department of Public Enterprises needed a catch all adviser or separate sectoral advisers The department with which HSBC had to work is widely regarded as having been ineffective, having presided over several major hitches.

Man of action: Minister of Public Enterprises Jeff Radebe

There is the sale of Sun Air, which fell apart after infighting between SAA and the consortium that bought the airline.

The sale of the state s holiday resort arm Aventura, suffered a similar fate, the union investment company that bought it could not pay for it within the agreed deadline.

And then there is the current controversy at Alexkor, the state diamond mine, where the public enterprises department is still negotiating with Nabera, the company awarded a management contract for the mine in February.

Nabera has to date failed to comply with its contractual obligations, and has now lost the key empowerment company in its consortium — Mmkau Mining, the company headed by Bridgette Radebe, the minister's wife, who has pulled out of the contract.

Radebe's department has borne criticism for being excessively lenient with Nabera, but it has a good excuse the contract drawn up by Sigcau s department is hopelessly vague in crucial areas, especially how and when Nabera must comply with their contractual obligations

One indication of the low esteem in which Sigcau's department was regarded was that Radebe brought across his director general and other key civil servants from his previous portfolio, public works.

As a staunch member of the South African Communist Party, Radebe will be well placed to deal with the inevitable union hostility that will meet the government s privatisation drive.

HSBC did not respond to numerous requests for comment

EU expert says SA's new competition law is flawed

BD 18/11/99 (232)

Belinda Anderson

SA's new competition law, relating to corporate dealmaking, is flawed and will have to be amended, says a European Union (EU) expert

Frank Fine, a Brussels-based competition lawyer at Dibb Lupton Alsop, said chapter three of the new legislation would have to undergo changes However, he said this was normal in any country starting to formulate competition policy

Speaking at a seminar organised by Board of Executors (BoE) yesterday, Fine said the issue of timing was the most confusing aspect of the legislation

"The deadlines are the most idiosyncratic, convoluted and confusing I have ever seen in any antitrust legislation," he said

The Competition Commission must reach a decision on whether mergers are anti-competitive within a certain time depending on the size of the deal Industry players fear the process could be drawn out

An intermediate merger, when the target firm has SA assets or turnover above R5m, must be decided within 30 days, although this can be extended by a further 60 days

A large deal, when the combined SA turnover and/or assets is more than R3,5bn, must be handed to the Competition Tribunal by the commission within 60 days This can be extended 20 days at a time, and the former must set a hearing date at its discretion

Fine recommends that firms put pressure on the tribunal to set the earliest possible date

Another cause for concern is the time allowed for merging parties to submit details to the commission, seven days after the conclusion or announcement of the deal

"In the case of a large deal such as Nedcor/Stanbic, the paperwork is likely to take a lot longer," Fine said

The EU, on which much of the SA legislation is modelled, has granted extensions of up to 30 days in the past

A further difficulty illustrated by the Nedcor/Stanbic deal is the hostile nature of the acquisition The SA act makes no provision for hostile takeovers or joint ventures

Nor does it include a situation of corporate raiding, where one firm buys a controlling stake in the shares of another over a period of time Fine says this is a "a major hole in the act"

Competition Tribunal faces its first test

(232)

(3) FRUIT

Dispute between two raisin producers could have a wider impact, writes S'THEMBISO MSOMI

ST(BT) 21/11/99

THE legal dispute between two raisin producers, currently before the Competition Tribunal, could have a serious impact on other major companies who have dominated the agricultural sector since it was deregulated

The conflict is between SAD Holdings, which controls most of the raisin market in SA, and South African Raisins (SAR), a fairly new company which exports locally produced raisins

SAR has filed a complaint to the Competition Commission alleging that several agreements between SAD and grape producers have had the effect of excluding it from the market, and that SAD and its subsidiary, SA Vine Products, have abused their dominant position in the market

SAD Holdings was established in the wake of the demise of the Dried Fruit Board after the repeal of the Marketing Act, which encouraged single-channel marketing in the agricultural sector Prior to the repeal of this Act, the processing and marketing of dried fruit was the exclusive statutory preserve of the SA Dried Fruit Cooperative, which acted as the agent of the board

Now SAR claims that although the industry has been deregulated, SAD and SA Vine Products have been guilty of prohibited restrictive practices

Similar claims were made two weeks ago by the Independent Fruit Exporter/Producer Association against industry giant Capespan. SAD and SA Vine Products MD Daniel van Schoor told the Competition Tribunal last week there would be serious consequences for other leading agricultural companies should SAR's application succeed

The tribunal, established as the adjudication agency in terms of the Competition Act, will announce its decision on Wednesday on SAR's application for an interim relief against SAD and its subsidiary This is the first case to come before the tribunal since it was established in September and its CE, Shan Ramburuth, says the tribunal wants to use it to create a reputation of being quick and responsive

There could be serious consequences for other leading agricultural companies should SAR's application succeed

In terms of the new law, a complainant can apply for interim relief if it believes it will continue to suffer irreparable damage in the course of investigations by the commission

In its application, the SAR wants the tribunal to suspend those parts of the articles of association entered into by SAD and grape producers which prohibit the latter from selling their products to any other raisin distributor.

Most local producers are SAD shareholders and are therefore obliged to sell their grapes to the company. SAR claims that several of these producers have indicated their willingness to sell grapes to the new company but fear being penalised by SAD.

But Van Schoor argued before the tribunal — consisting of chairman David Lewis, Christine Qunta and Prof Frederik Fourie — that shareholders were free to sell their stakes if they wanted to sell their products elsewhere

SAR's legal representative, Advocate Lionel Bowman, said many could not afford to do so because of a ruling by SAD that a shareholder who wanted to leave would have to settle any loan he may have with the company in full

SAR also wants the tribunal to order SAD to allow its members the freedom to use its existing storage containers even if the grapes are to be sold to another company. SAR says the containers were bought with compulsory contributions by producers

Commission responds to frustration at M&A notification threshold

Public comments to change competition act

(Star) 24/11/99 (232)

STEWART BAILEY

Johannesburg – Alistair Ruiters, the head of the Competition Commission, said this week changes to the Competition Act of 1998 would be made early next year in response to comment from interested parties

The threshold at which companies were obliged to notify the commission of mergers and acquisitions (M&A) had been a contentious point since the law was enacted

"At present we look at the turnovers of both the primary and target firms, as well as their asset values, when determining if an application must be made There has been some unhappiness at the notification threshold as well as the fee structures, which has prompted us to respond in line with recommendations made by industry," he said

Ruiters said the amendments would first have to be approved by the minister of trade and industry

"We are providing a service to business and are not here merely to provide more red tape," said Ruiters

Turnover or total assets of the target firm which would prompt notification had been set at R5 million The combined assets or combined revenue of both target and primary firms together was R50 million

This had made it expensive for large firms to apply for approval of acquisitions regardless of the size of the target companies or the competitive implications of the deal

Companies in the highest turnover-asset bracket had to pay as much as R500 000 for each application regardless of the size of the company acquired, as long as it had assets or turnover of over R5 million

Gareth Driver, a competition specialist at law firm Werksmans, said the solution would be to increase the application thresholds

"Clarifying certain definitions in the act would also be helpful," Driver said

"The fact that M&As which do not have competitive implications are not excluded from the notification process have proved irksome to many investors, particularly foreigners," said Driver

A corporate banking source agreed, and recommended that the primary consideration in determining application fees should be the size of the deal, not the size of the acquiring company

Menze Simelane, the chief legal counsel for the commission, said changes were being considered

"The competitive implications will not be considered in determining application fees Competitive issues will only be used as analysis guidelines to determine whether or not the transaction will be approved," said Simelane o ranks in their co[illegible]ers [illegible] fact, they rely on monthly subscriptions from members Should Samwu fail in its appeal, the ma aged to negotiate with the council to reappoint the workers The employees who remained members of the union, Samwu provincial secretary Silas Letsimo said yesterday that the union had advised members that the strike was illegal and for giving bad advice, because everyone else is and I do not see how they can enjoy some degree of immunity because they are [illegible] an informed decision "Unions will have to be careful in future of the type of advice they give to members Unreason- [illegible] out for them is, in my view a very dangerous precedent "

Comment, Page 19

Raisin producer granted order

BD 25/11/99 (232) (3) FRUIT

Hilary Joffe

A SMALL raisin producer, South African Raisins, has won an interim order from the new competition tribunal against SAD Holdings, the former agricultural co-operative, and its subsidiary SA Vine Products, which were accused of preventing grapes-for-raisins growers from supplying SA Raisins

The order, which is for six months and is the competition authority's equivalent of a high court interdict, is the first judgment the tribunal has delivered since it was set up in September under the new Competition Act.

Tribunal chairman Dave Lewis called on companies yesterday to accept regulation by the competition authority as a fact of life. "Instead of ignoring it or imagining that fancy legal footwork will see it off, rather think seriously about how you adjust business behaviour in the context of this new reality," he said at a conference on mergers and acquisitions

SA Raisins has submitted a complaint to the Competition Commission, which is investigating the case, but the company is entitled in the meantime to apply for interim relief

It argued it would suffer serious damage this season because it had entered into forward contracts to deliver raisins to buyers in Europe, and restrictive practices by SAD and SA Vine meant it could not meet its commitments

SAD and SA Vine were created out of the old Dried Fruit Board after the old statutory single-channel marketing system was stopped.

The grapes-for-raisins farmers who used to be members of the co-operative became shareholders in the companies, allegedly retaining the exclusive supply arrangements which used to prevail under the old single-channel system.

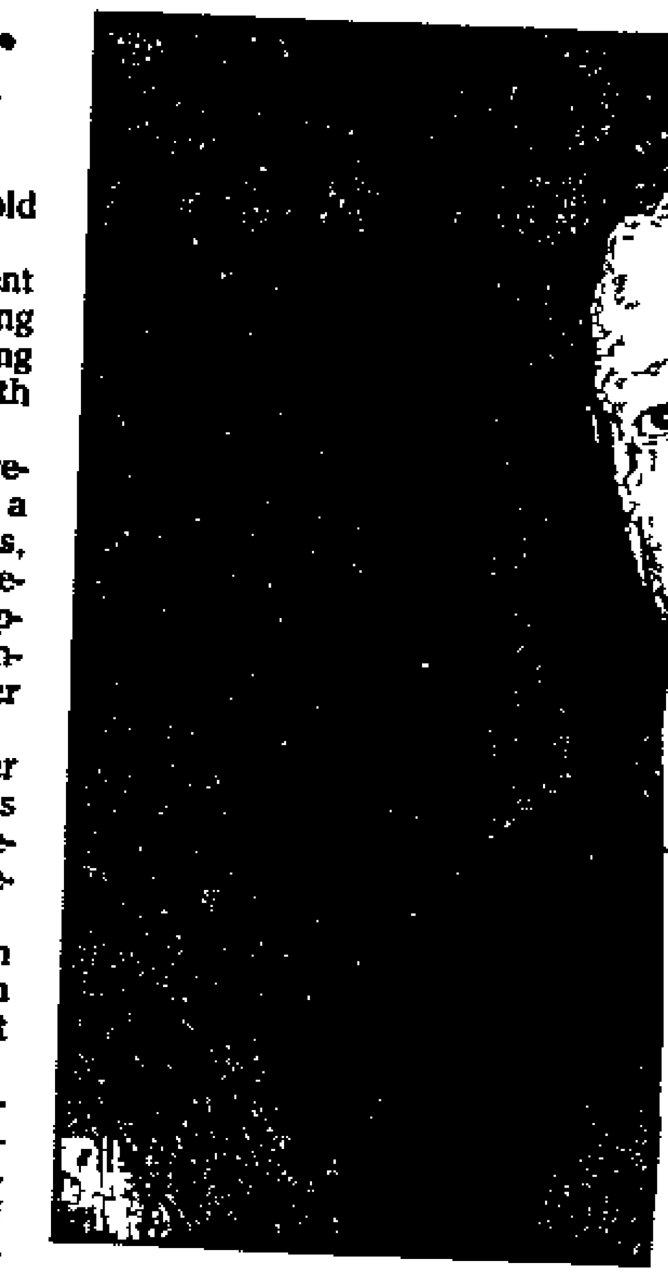
The tribunal found sufficient evidence that SAD was abusing its dominance by inducing its suppliers not to deal with competitors

It also granted an interim relief order to Johannes Slabber, a producer of grapes-for-raisins, who alleged he was being prevented from competing as a supplier because of the exclusionary agreements between other producers and SAD

The tribunal has to consider whether pro-competitive gains outweigh anticompetitive behaviour or mergers which it believes will lessen competition.

The judgment on the raisin case said SAD's arguments on these lines were assertions not supported by evidence.

Lewis called on firms proposing mergers to present the tribunal with "data and sound analysis" not anecdotal evidence if they want to argue that efficiency gains will counterbalance the negative impact on competition



Competition tribunal chairman Dav[illegible]
companies [illegible]

Tribunal finds SAD and subsidiary abusing their position in raisin market

BR 25/11/99 (3) FRUIT (232)

Roy Cokayne

Pretoria – A panel of the Competition Tribunal, the adjudicative arm of the recently established Competition Commission yesterday said it had unanimously found that SAD Holdings and its subsidiary SA Vine Products, an operator in the raisin market were abusing their dominance in the raisin market.

The tribunal said the circumstances of the case justified an order for interim relief in terms of the new Competition Act

The new act provides for interim relief if the complainants believe they would suffer continuing and irreparable damage before an investigation by the Competition Commission was completed

The application was brought against the two companies by South African Raisins and a raisin farmer on the basis that the two SAD companies had allegedly engaged in practices designed to exclude new entrants from the market, practices prohibited in terms of the Competition Act.

South African Raisins alleged it was being prevented from participating and competing in the raisin market by a horizontal agreement between grapes for raisin producers a vertical agreement between grapes for raisin producers and SAD and its subsidiaries, SAD was abusing its dominant position in the market by exclusionary acts and SAD was denying the claimants access to an essential facility

South African Raisins claimed interim relief pending a full investigation of its complaints by the commission

The Competition Tribunal panel comprising David Lewis the presiding member Christine Qunta and Frederick Fourie found the evidence showed that certain provisions in SAD Holdings articles of association induced its shareholders, who were producers of raisins not to deal with SAD's competitors or prospective competitors

The Competition Tribunal interdicted the SAD companies from continuing the restrictive practices for the next six months or until the commission had concluded its investigation of the complaint and a final decision was taken whichever occurred first.

The tribunal said its view of the need for granting interim relief was strengthened by its assessment that harm of this nature was likely to result in business failure that could not adequately be compensated by a later award for damages

It said there was every prospect that South African Raisins may lose its business as a result of the potential harm arising from the failure to grant interim relief

MONITOR

A BAROMETER OF GOVERNANCE AND DEVELOPMENT

iGoli 2002 will send Jo'burg down the drain

MTG 19-25/11/99 (232) (266)

The Greater Johannesburg Metropolitan Council's plan to rejuvenate the city is nothing more than a localised version of Gear in which privatisation is central, writes **Ebrahim Harvey**

Unhappy: Head of GJMC transformation Kenny Fihla has called opposers of the council's iGoli 2002 plan 'ignorant workers' manipulated by a few union leaders with hidden political agendas PHOTOGRAPH RUTH MOTAU

The most tragic thing about the Greater Johannesburg Metropolitan Council's (GJMC) iGoli 2002 plan is that it is not only the council's 29 000 employees who will be adversely affected by the privatisation drive. Many poor communities who rely on the provision of basic services — electricity, water repairs, rubbish removal, sanitation and so on — will too

What lies at the heart of the iGoli 2002 plan and the growing conflict it has engendered between the parties is one word privatisation The term 'transformation' is misleading since it is understood to apply to fundamental change for the better and not to the impending consequences of privatisation job losses tariff increases and greater hardship

As the biggest and most powerful city in South Africa and Africa, Johannesburg is very important for our future We urgently need a plan to revive a city which has faced a growing crisis over the past few years. We need more efficient and effective delivery of services to communities. The unions, led by the South African Municipal Workers Union, and civics agree with this.

But the biggest problem right now, which threatens to worsen the crisis, is the iGoli 2002 plan which is pivoted on privatisation

How can the city be turned around when it is a foregone conclusion contrary to the denial by the council's head of transformation *lekgotla* Kenny Fihla that privatisation will inevitably lead to cost-cutting measures such as retrenchments, and tariff increases, in order to ensure profitability. This is what has happened elsewhere in the world where municipal services have been privatised What will make Johannesburg different?

While the services may become more efficient and effective, a consequence of greater capital and technology, it will be at costs increasingly out of the reach of most people who live in the GJMC townships, many of whom are already in arrears and struggling to pay current municipal rates Add to that the widespread poverty and unemployment and it is very clear that iGoli 2002 is going to worsen the situation

What will happen to all those who cannot afford to pay for these services? The inescapable logic of privatisation which is driven not by satisfying the basic needs of people but by profits, means that these people will not get basic services because the current subsidies will fall away together with the provision of services by the municipality.

The claims by Fihla that unions and other stakeholders were adequately consulted just cannot be true. Fihla has gone further to claim that of the more than 300 organisations who attended the iGoli 2002 summit in August all, except for a few endorsed the policy.

How can this be true when unions, civics the South African Communist Party and others demonstrated their opposition to iGoli 2002 a few weeks ago? Fihla called the protesters "ignorant workers" who were manipulated by a few union leaders who had hidden political agendas. Rings a bell with our apartheid past, doesn't it?

It is interesting to see how some former unionists, once they enjoy big salaries bonuses and benefits in top managerial posts, become just like the bosses they fought against earlier

Fihla, a former leading shop steward and Makgane Thobejane, former general secretary of the National Education, Health and Allied Workers Union and now the GJMC's labour relations specialist, are examples of this trend Lets face it money and the promise of more can work wonders in quickly changing militant leaders into arrogant bosses.

The suspension of councillor Trevor Ngwane has reinforced the demands of the opposition has sinister implications for local government and is yet another stark reminder of how the African National Congress tends to deal with criticism and opposition from within its ranks. The ANC can not bludgeon its way through legitimate opposition, both within and out side its ranks.

However in the final analysis, Fihla is a cog in a big machine. He cannot do other than what he is doing Having adopted it as policy the ANC must take political responsibility for iGoli 2002, its consequences and Fihla's actions. iGoli 2002 is a localised and customised version of the government's growth, employment and redistribution strategy (Gear), in which privatisation is central That is why both Gear and iGoli 2002 have been welcomed by the World Bank

Fihla's denial that iGoli 2002 will lead to privatisation and retrenchments is misleading. He has stated earlier that privatisation will bring much needed capital to relieve mounting debt Besides, one of the main objectives of the Social Plan Fund which emerged from the Jobs Summit of 1998 was to make provision for municipalities affected by large-scale retrenchments. That in itself confirms that retrenchments will most likely occur.

How does the council reconcile its increasing emphasis on development and satisfying the basic needs of the disadvantaged while at the same time embarking on privatisation which is certainly going to undermine development and the capacity to satisfy those needs?

How will it improve service delivery and extend services to those who don't have it when responsibility for this will be removed from the council and placed in the hands of private companies whose main concern will be a profitable return? There is no consistency between these declared objectives and privatisation. That is the most glaring problem.

The argument of Khehla Shubane of the Centre for Policy Studies in defence of Fihla, that iGoli 2002 will be beneficial to communities if the debate is taken out of the realm of ideological commitment, is nonsense.

Where has privatisation or the fight against it occurred on a strictly non ideological basis? This is the same arguments the World Bank and the International Monetary Fund have used over the years. It is an attempt to depoliticise the issues of privatisation and transformation. Every major policy decision, in the final analysis, has an ideological underpinning. That is the ABC of policy studies. Shubane must spell out what he means.

The citizens of Greater Johannesburg, if they wish to build and revitalise this city, and prevent it from going down the sewage tubes, are left with no alternative but to unite in opposing iGoli 2002. When satisfying the most basic needs of people is abdicated by the municipality and placed in the hands of capital for a profitable return, then clearly the time has come for affected communities to take a stand This city belongs to all its citizens and not to the council or the ANC

Ebrahim Harvey is a former member of the Congress of South African Trade Unions. He is currently a freelance writer

Privatisation accelerated

(232) (260) BD 1/12/99

Robyn Chalmers

Telkom counts days to listing while bidders are chosen for state forests

GOVERNMENT has moved to speed up the pace of privatisation with several significant new initiatives in telecommunications, forestry and defence

Public Enterprises Minister Jeff Radebe said yesterday Telkom would be listed by 2001 and a further 5% had been sold for almost R1bn Four preferred bidders had been selected for the state's commercial forests the SA Special Risks Association (Sasria) was to be sold immediately and several of Denel's interests would be placed on the market

The decisions were taken at a meeting on Monday of the interministerial cabinet committee, a forum of ministers which decides on privatisation

The meeting followed a workshop on privatisation attended by President Thabo Mbeki Government officials said Mbeki made it clear privatisation was a key tenet of government's macro-economic policy, and the acceleration of the programme was a priority

Radebe said Telkom would be listed on the Johannesburg Stock Exchange in two years, ahead of its telephone monopoly ending in May 2002 The percentage government will release to the market has not been finalised but analysts believe the state will retain a majority stake in Telkom in the short term. US-based SBC Communications holds 18% of Telkom and Telekom Malaysia 12% A further 5% is earmarked for the National Empowerment Fund

Communications Minister Ivy Matsepe-Casaburri said 3% of Telkom had been sold to four empowerment companies for R680m and the sale of a further 2% to Telkom staff for R310m was approved This will bring in R990m and reduce the state s share to 60%

The empowerment companies that had bought 3% of Telkom were Ucingo Holdings Mehaleng Investment Holdings New Horizon Group and Akulalwa Matsepe-Casaburri also said Gemini Consulting had been appointed as adviser on the restructuring of the SA Broadcasting Corporation

Water Affairs and Forestry Minister Ronnie Kasrils said preferred bidders were selected for three commercial forestry packages in the Cape and one in KwaZulu-Natal. These were the Thesen Consortium Amathole Timber Holdings Singisi Forest Products and the Siyaqhubeka Consortium which includes Mondi The African Forestry Consortium, which included Sappi and was shortlisted for the Mpumalanga forests, did not succeed with its bid

Kasrils said work would now begin on finalising the sale process, and he hoped to make further announcements next month "These transactions will ensure greater competition in the forestry and sawmilling industry Black empowerment groups will become more significant players in this sector of the economy," he said

Radebe said the cabinet committee approved the sale of Denel's loan book in Bonaero Park and the sale of Denel/Ariel's 50% shareholding in Debis IT Services SA. The committee also approved a R70m loan facility from BoE Merchant Bank for Alexkor

The privatisation of political risk insurance company Sasria had been accelerated and would start immediately Government hoped to receive at least R3bn from the sale, over and above the R7,1bn of free reserves transferred to the state

Safcol's second sale: Page 2

Heady

(232) ARG 1/12/99

CLIVE SAWYER
POLITICAL CORRESPONDENT

Government moves to speed up privatisation have come under fire from the official opposition Democratic Party as inadequate.

"Restructuring announcements do not go far enough to capture the imagination of emerging market investors on the eve of the millennium," said Raenette Taljaard DP spokesperson on public enterprises

Jeff Radebe Minister for Public Enterprises announced yesterday·

*Telkom, of which 3% was being sold to black empowerment companies for R680million would be listed on the Johannesburg Stock Exchange by 2001

*The SA Special Risks Association (Sasria) was to be sold meeting, which the government hoped would yield R3billion.

*Four preferred bidders have been chosen for the state s commercial forests, currently controlled by Safcol and

*A range of Denel's interests were to be sold.

Ms Taljaard said privatisation and labour market reform needed to go ahead urgently because they were the "missing links" of the government's macro-economic policy

Such moves were essential if South Africa s growth rate was to be lifted above its current 3,1% "onto the path of accelerated prosperity for all our people and not merely selected economic empowerment partners"

While the announcements about Telkom, Safcol, Sasria and Denel were to be welcomed, some "tough and harsh" questions still had to be asked, she said.

These included issues like the demanding conditions the government put on contracts effectively limiting profits

Ms Taljaard also criticised the government for what she termed its fallacious belief that it was best placed to carry out a "turnaround strategy" for beleaguered transport parastatal Transnet.

Cabinet privatisation watershed

Howard Barrell and Barry Streek

M+G 3-9/12/99 (260) (232)

The decision by top government leaders at an all day meeting in Pretoria on November 29 to accelerate privatisation of state-owned enterprises is of great political and economic importance, according to officials who were present

The meeting represented a commitment by the government to economic restructuring — whatever the potential for conflict with groups in the Congress of South African Trade Unions and the South African Communist Party

The main goal set out at the meeting is to earn the state billions in extra revenue from restructuring in order to be able to reduce government debt and create an environment for economic growth

At the same time the government is determined to use the restructuring to release funds for the recapitalisation of infrastructure and advance black empowerment on a sound financial base

Forms of restructuring range from outright sale to strategic equity and management partnerships with black empowerment components While opposition representatives have said the government s proposals do not go far enough to capture the imagination of emerging market investors this does not detract from the significance of the decisions

Observers see the clarity of the decisions as demonstrating President Thabo Mbeki s determination to go down as "the delivery president" and his acknowledgment that restructuring is the path he must take to free up the financial resources to do this.

This should make it easier for the government to maintain the fiscal discipline that forms the basis of the its policy for growth, employment and redistribution while improving service delivery and social provision

Restructuring receipts over the past five years have brought in R8-billion Estimates of the value of state owned assets available for restructuring are around R160-billion An earlier study by the Department of Finance showed that restructuring could earn about R15-billion in a year. This could have an influence on South Africa's budget deficit, total debt and interest rates.

"The consensus at the meeting was we must now urgently turn things around, unlock value in our economy, accelerate growth and demonstrate improved service delivery," said a government official

Mbeki is reported to have set a two-and a half year deadline for progress on service delivery and job creation

The meeting — a special policy session of the interministerial Cabinet committee on the restructuring of state assets — was attended by Mbeki Deputy President Jacob Zuma, Minister of Finance Trevor Manuel and their top officials. Minister of Trade and Industry Alec Erwin was represented by Alistair Ruiters

Minister of Public Enterprises Jeff Radebe was also present, as were several other ministers including Ivy Matsepe Casaburri (posts, telecommunications and broadcasting), Membathisi Mdladlana (labour) Phumzile Mlambo Ngcuka (mineral and energy affairs) Stella Sigcau (public works) Abdullah Omar (transport), and Ronnie Kasrils (water affairs and forestry)

Cosatu wants changes to IDZ regulation

(2372) CT(CPT) 7/12/99

FRANK NXUMALO
LABOUR EDITOR

Johannesburg – The submission by Cosatu, the union congress, on draft legislation governing Industrial Development Zones (IDZs) called for fundamental changes to reduce the role of private companies and to make the programme more state-driven

Cosatu said yesterday regulations were needed to set out a clear role for parastatals in relation to IDZs

"If the establishment of any IDZ results in the use of state assets or services under privatised conditions, via concessioning, sale, leasing, public-private partnership, then these issues should be processed via the National Framework Agreement process first," Cosatu said

"The list of requirements for applying for a provisional IDZ operator permit should be expanded to include a demonstrated commitment to best practice labour standards, the development of the area around the IDZ, and to substantial employment generation The business and other plans stipulated in the draft regulation should also provide for the concrete meeting of these commitments "

The awarding of an IDZ operator permit should depend on projected direct and indirect employment arising from the IDZ, including a breakdown of the types of jobs, their sustainability, and the proportion of jobs expected to go to women

The present provision for the withdrawal of an IDZ operator permit if the objectives set out in the business plan were not reached should also apply to the failure to meet the employment generation projections

Cosatu also proposed the addition of a clause prescribing that IDZ enterprises honour bargaining council agreements

"Cosatu proposes that health and safety standards should be jointly formulated and agreed to by the IDZ operator and the relevant trade unions rather than being the sole responsibility of the IDZ operator as is currently envisaged by the draft regulation "

BD 8|12|99

Utilities to be privately managed (232)

Xolani Xundu

THE Johannesburg metropolitan council's water and sanitation utility is up for grabs and major players in the industry have indicated that they will tender for its management

Among those who have shown interest is Concor-Thames, a joint venture between the British based Thames Water International and SA's construction company, Concor; Water and Sanitation Services SA a joint venture between SA's Group Five and Northumbrian Lyonaisse, a French and British-based company, and Saur SA, a French-based company

Ketso Gordhan, Johannesburg metropolitan council's city manager, said yesterday companies interested in bidding for a management contract of the utility would go through a pre-qualification stage

The closing date for this is January 25 and tenders would be issued only in March

According to Johannesburg's three-year Igoli 2002 plan — developed to tackle challenges of finance, institutional arrangements and service delivery — the water and sanitation utility will remain council property, but will be managed by a private company for a certain time

The council will also retain the ownership of the city's water storage and supply infrastructure, but contract out its management and operational components

Other utilities soon to be put to tender are electricity, waste management, the Johannesburg Zoo the fresh produce market and the bus company

The Igoli 2002 plan which is being opposed by the SA Municipal Workers' Union and the Independent Municipal Allied Trade Union, has privatisation aspects which include the sale of the Rand Airport, Metro Gas non-strategic council land and the Johannesburg metropolitan centre

Ian Symon Concor director for facility management said yesterday its partner, Thames Water International, had vast experience in public, private partnerships across the globe and would bring international best practices if awarded the tender

Archer Davis, Water and Sanitation Services SA MD, said the main issue was what the client wanted, adding that they would meet those requirements

'Government prepared to take hard decisions'

(232) (260)

Robyn Chalmers

GOVERNMENT's decision to re-evaluate and accelerate its privatisation programme is largely due to problems arising from the limited progress made during the first years of its implementation, say analysts

This has led to the financial deterioration of several large utilities, the most obvious example being Transnet which posted a R700m loss in the six months ended September "It is clear that government has realised it must take the hard decisions and move ahead rapidly," said one analyst

Public Enterprises Minister Jeff Radebe said yesterday that last week's workshop on privatisation, led by President Thabo Mbeki, has given the process new impetus "The central issue was how to derive maximum impact from state-owned entities through effective restructuring," he said

Radebe said the outcome of the workshop demonstrated the commitment of the Mbeki government to enhanced service delivery, improved efficiency and effectiveness

Cabinet members attending the meeting examined government's restructuring objectives, which included mobilising private-sector capital, reducing state debt and creating wider ownership in the economy Other priorities were to promote fair competition, finance growth and enhance the competitiveness of state enterprises

One official said that while a platform for restructuring had been laid, the consensus was that the process had not been well managed A key factor lacking was an integrated policy framework. Radebe said this would be addressed by reviewing prior policy, past decisions made by the interministerial cabinet committee and developing an integrated policy document on restructuring by the end of this financial year

"Various mechanisms would be considered to give effect to the restructuring," he said

These included management contractors, strategic equity partners, initial public offerings, the full sale of an entity and a host of other alternate service delivery strategies

BD 8/12/99

Transnet restructuring to focus on loss-making Spoornet, says Radebe

(269) (232) CT(BR) 8|12|99

Stewart Bailey

Johannesburg – The government yesterday announced restructuring plans for Transnet, the loss making, state owned transport company, which included the introduction of a strategic equity partner for Spoornet's lucrative iron and coal freight lines.

Jeff Radebe, the minister of public enterprises, made the announcement just a day after Transnet management had been informed of the pending changes.

Spoornet lost more than R266 million in the six months to September this year.

Radebe said the partner would be found for Spoornet's iron ore line between Sishen and Saldahna Bay (Orex), as well as its coal lines to Richards Bay (Coal Link)

"We will initiate the process of identifying strategic equity partners for Orex and Coal Link by September 30 next year," he said.

The two wide gauge lines are Spoornet's most lucrative and have guaranteed business tied in by long term contracts with mining houses and Iscor

Spoornet management would also be "augmented" to focus on general freight business and main line passenger services.

This included the appointment of Sandile Jagavula, Metrorail's managing director, as Spoornet's new chief executive

Jagavula was aware he had been "put forward" for the post but had not been formally advised of his appointment

Wisconsin International, a US based transport company, was recently in South Africa to survey potential investment opportunities in Spoornet.

John Bradshaw, a spokesman for Wisconsin International, said on Monday there were synergies between Spoornet's narrow gauge lines and Wisconsin's rail infrastructure in New Zealand Orex and Coal Link fitted in with its US business.

"We have looked with interest at Spoornet's business and will consider any opportunity that presents itself, whether it involves a strategic equity partnership or a management contract But as yet we have not conducted any due diligence exercises," said Bradshaw.

He said the company would prefer to manage Spoornet's entire operation as it would be "best done as an entire unit"

Radebe said Transnet would also have to undergo debt restructuring to deal with its estimated R25 billion debt This would include an audit to determine the values and terms of the company's liabilities A task team would announce the audit results in January next year

Radebe said a burden-sharing arrangement between the government and Transnet would be considered. Sivi Gouden, the director-general of public enterprise, said Transnet's plans to spend R2,7 billion on upgrading its coal and iron ore operations would be reviewed in the light of yesterday's announcements.

The government would sell off non-core assets to finance the recapitalisation of certain state enterprises.

Thami Didiza, Transnet's spokesman, said Transnet welcomed this strategy to get rid of the problems at Spoornet

Why the renewed push for privatisation?

(2327)

Govt has made it clear to international investors that it is serious about selling assets, writes associate editor Robyn Chalmers

BD 13/12/99

FOR the first time since 1994, the cabinet has publicly thrown its political might behind a co-ordinated and focused privatisation programme.

This is important not just because it will lead to accelerated policy implementation, but because it signals the international community that the state is serious about privatisation. Privatisation advisers generally agree that for a state asset sale programme to work, it must be publicly supported by top politicians.

President Thabo Mbeki demonstrated his government's support for privatisation when he announced the partial privatisation of SA Airways (SAA) in his inaugural speech to Parliament earlier this year. He went further last week by gathering his ministers in one room, for a 12-hour stretch, to thrash out the problems facing the policy and the way forward.

What has brought about this new dynamism around the issue of privatisation which appeared to languish in the first years after the advent of democracy?

Critically, Mbeki has made a promise that his term of office will be about delivery. That includes the delivery of strategic services like power, telephones, postal services and public transport — the bedrock of a growing economy.

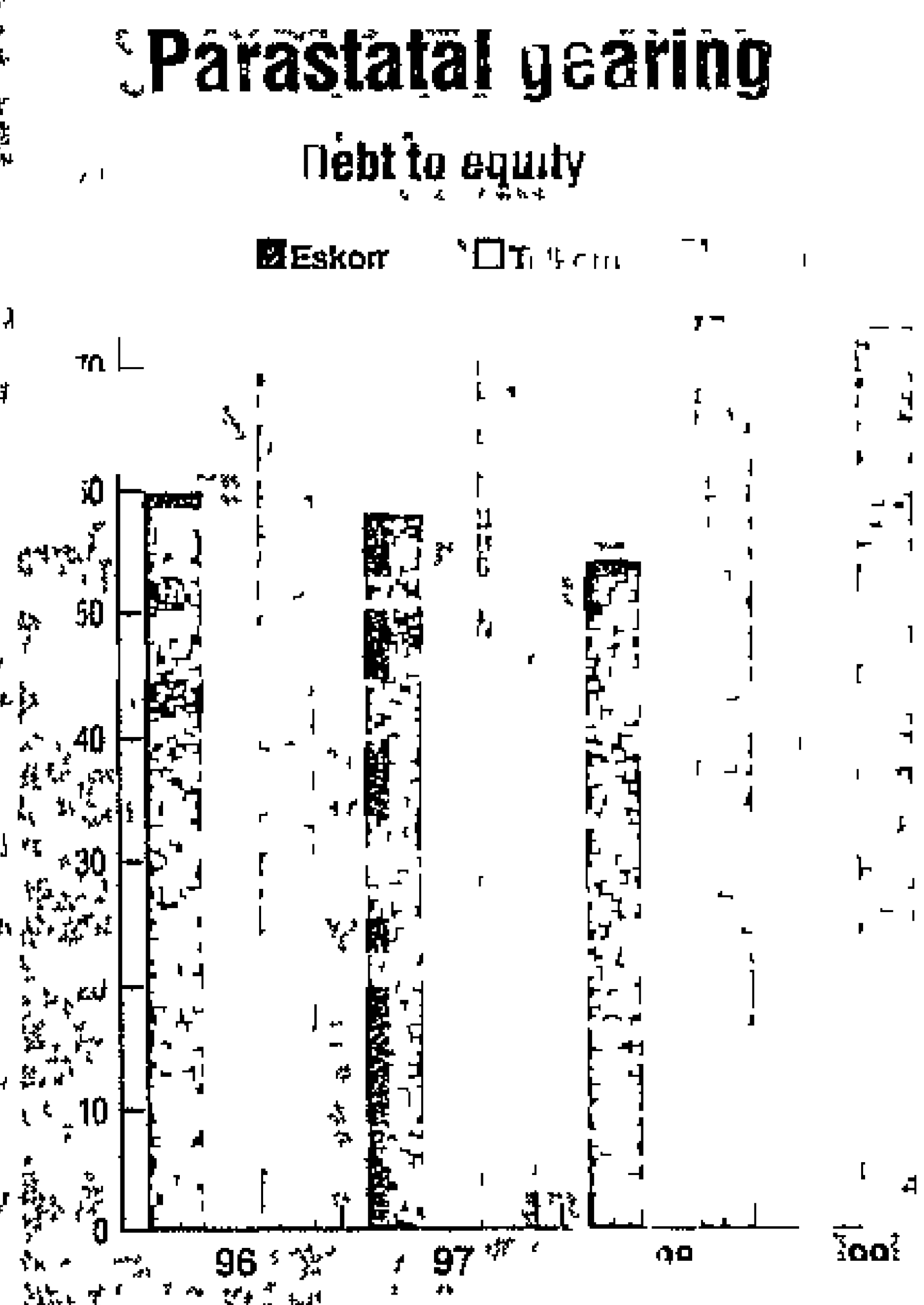
Arguably the most important factor in SA's privatisation story is attracting foreign direct investment with the potential to catapult SA into a new growth phase. It is the one initiative that can help drive the economy towards the magic 6% growth rate that consensus says is needed in a relatively short time.

SA has largely failed to sell itself as a success story to international investors in the past five years. This is due in part to the fact that privatisation has not been the driver of positive sentiment that it should have. Contradictory objectives, the lack of a comprehensive policy framework and the past poor handling of the process has left investors confused and increasingly uninterested.

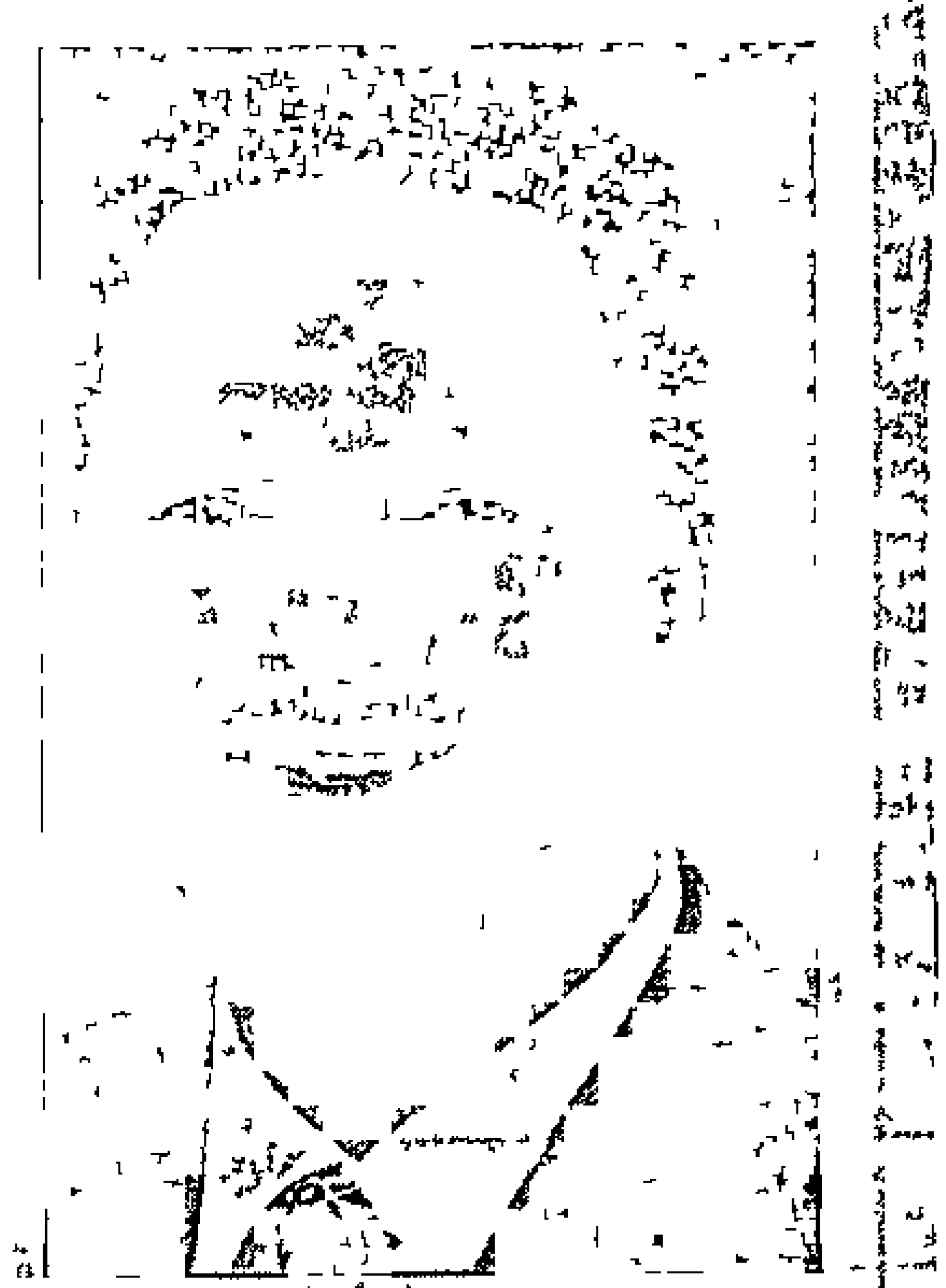
Privatisation is not the panacea to SA's structural problems, but it is a saleable commodity that can bring swift economic benefits through the more efficient management of key parastatals. And this is the starting point for Mbeki. It has become abundantly clear that if his government is to meet its delivery promises, those parastatals responsible for driving infrastructure development have to be able to do their jobs.

All the big utilities have been hit hard in the past two years by tough trading conditions. Loss makers like Transnet have been pushed deeper into the red, and the profitable Telkom and Eskom are struggling to remain so.

In order to deal with the problems facing these parastatals and capitalise on their strengths, a co-ordinated approach between ministries is required. The future viability of Spoornet, for example, relies to some extent on the willingness of the transport ministry to re-examine its policy on road haulage and consider reducing the high tonnages trucks are allowed to carry on SA's roads.



Eskom's gearing for '99 is not available as it has a December ye...



An interesting aspect in last week's privatisation announcement by Public Enterprises Minister Jeff Radebe, was the lack of emphasis on black economic empowerment, previously a key tenet of the programme. The focus now is on creating wider ownership in the economy and ensuring the greatest possible level of private sector involvement.

This may signal that the state has taken a step back to consider the disasters of Sun Air and Aventura. Black empowerment must remain a critical aim in privatisation, the mechanism of ensuring that it is will need to be re-examined.

A key task set by the workshop for Radebe and his team is to recapitalise those utilities in need of cash. While most analysts agree on the need for such a move, the manner in which it is achieved has drawn mixed reaction.

Democratic Party public enterprises spokesman Raenette Taljaard, for example, believes the focus must be on unleashing revenue via privatisation proceeds, rather than recapitalisation costs draining government revenue.

"Government must not fall into the trap of trying to turn itself into the corporate turnaround king for these industries. The private sphere is much better positioned to do so," she says.

One analyst says that, as finance department officials are part of the recapitalisation team, the chances of large capital injections from the state are slim. "The finance ministry will keep a watch on deficit targets. As it has been reluctant to take on Transnet's debt to date, there is not much chance of large amounts of state funds being pumped into parastatals."

The financial fortunes of utilities are mixed, although most are struggling with big debt burdens. On the positive side, Eskom's debt is reducing, with its debt to equity ratio — also called gearing or leverage — having fallen from 64% in 1995 to 54% last year and is expected to drop to 40% by 2001.

The declining trend is largely due to the costly electrification programme drawing to an end along with the price compact. No big increase in capital expenditure is expected for several years, freeing up cash to pay debt which stood at R32,8bn last year. The problem facing Eskom, and government, is the effect of an earlier decision that the utility will pay tax and dividends by next year, which could reverse the downward gearing trend.

Telkom's debt is set to continue rising in coming years as the group strives to pay for its telephone investment programme. Telkom's partial privatisation in 1997 led to a capital injection, strengthening its capital structure, but the R45bn cost of the five year expansion programme resulted in gearing rising to 47% this year from 31% last year.

Total debt stood at R13,5bn in March 1999. Telkom's listing in 2001 should free up some funds to inject into the investment programme, but gearing can be expected to rise substantially in the interim.

The big problem is Transnet, which posted an alarming R700m loss in the six months ended September. Transnet's problems are somewhat different to the other parastatals, due to the R17bn pension fund deficit it inherited in 1990. Although this has been reduced to about R10bn, Transnet's gearing is close to 70%.

Transnet is one case where an argument can be made for the state to take on a portion of the pension fund debt — as it did to facilitate the SAA sale. At the very least, government should accept responsibility for the pension liabilities of staff who retired before Transnet was formed.

The debt is a burden from the apartheid era. Transnet cannot be restructured into an efficient, streamlined entity until it has been retired. Only then will funds be freed to invest in deteriorating infrastructure in SA's ports, the urban and freight rail network, and the pipeline operations. This in turn will help drive SA's industrial policy and facilitate regional and international trade.

The future of SA's privatisation programme is brighter than it has been since its launch. If government can get its big parastatals fit enough to compete effectively in the international arena, it will have taken a crucial step to meeting its delivery promises.

Gordhan bets R1m on privatisation

(232) CT(MR) 13/12/99

STEWART BAILEY

Johannesburg – Ketso Gordhan, the chief executive of the Greater Johannesburg Metropolitan Council, has issued a R1 million challenge to unions trying to block his plan to privatise the city's assets

Gordhan said yesterday he would give the South African Municipal Workers Union (Samwu) R1 million in cash if it found more favourable conditions than those offered to workers by the council

He said the council had given Samwu a binding undertaking that no retrenchments would be made for three years after the sale of the assets "If they (Samwu) can find an employer anywhere else in the country with a better offer we will match their offer and give the union R1 million in cash," Gordhan said

Samwu and the council have been locked in arbitration over the sale of key assets by the council as part of its iGoli 2002 restructuring plan

Last week's sale of Metro Gas for R110 million to the Egoli Gas consortium drew strong criticism from Samwu

Anna Weekes, Samwu's spokesman, said the council had refused to explore any of the feasible options to turn the utility around

"Their managerial incompetence has meant that Metro Gas has become inefficient, yet they have refused to discuss any managerial solution to the problem," Weekes said

She added that the Transformation Lekgotla, the body tasked by the council with driving the privatisation process, had undermined a framework agreement on privatisation which stated that the socio-economic benefit of the people must be the driving force behind privatisation

"The main thrust of our campaign is to secure service provision for those communities which previously had no access to basic services Job security is not the primary aim"

Gordhan said the council had informed the union of plans to privatise Metro Gas two weeks ago

"We explained to Samwu exactly where we were with the process around Metro Gas," said Gordhan The mediator announced that final views on the sale were to be provided on Monday (last week) and we received nothing from them"

Ketso Gordhan PHOTO JOHN WOODROOF

COMPETITION *Seemingly innocuous clause creates confusion*

Navigating the regulatory minefield

CT (MR) 14/12/99 (232)

ANN CROTTY

Johannesburg – Section 3 (1) d is one of the briefest and easy to read sections of the Competition Act, it is deferential and seems almost innocuous

It has, however, created a minefield for the competition authorities and how they interact with other regulators and is the source of the heated dispute about which regulator has authority over Nedcor's bid for Standard Bank Investment Corporation (Stanbic) – the registrar of banks or the Competition Commission

Section 3 (1) states that the Competition Act applies to all economic activity within, or having an effect within, the republic, except (d) "acts subject to or authorised by public regulation"

This throws wide open the position of the act and the commission in economic areas covered by other regulators and has created what Alistair Ruiters, the outgoing competition commissioner, described as a very untidy state of affairs Legal sources said it also led to an unexpected degree of uncertainty

This uncertainty prevails despite the application of section 21 (h), which refers to the Competition Commission's responsibility "to negotiate agreements with any regulatory authority to co-ordinate and harmonise the exercise of jurisdiction over competition matters within the relevant industry or sector, and to ensure the consistent application of the principles of this act"

Even without the battle between Nedcor and Stanbic it is likely this section of the act would have been amended or even deleted within the next six months

Deletion of section 3 (1) d would imply that the jurisdiction of the Commission Act is without exception By contrast, an amendment to the act would probably provide for the Competition Act to have concurrent jurisdiction with other regulators

Nedcor may be able to make a strong prudential argument in support of the merger that might persuade the competition authorities to give approval with some amendments

But legal sources said if there were serious competition-related considerations, including public interest issues, it would be difficult to say what such an argument would be

"Nedcor certainly cannot make the 'failing firm' argument, perhaps Nedstan would enjoy a significantly reduced cost of capital, but there is little evidence internationally of such benefits being passed on to the public," one competition lawyer said

The lawyer said that being a global participant was persuasive in some instances – such as the Sasol bid for AECI with regard to their combined ammonia operations – but in many cases – such as AECI/ Sasol's combined explosives' operation – it was far from persuasive

Ruiters said on the basis of the commission's three-month history, he would prefer to see section 3 (1) d deleted He referred to advances made by Australia, where the competition authority had jurisdiction and there were no sectoral regulators "We need to be clear why we need a separate regulator, it is understandable in the case of something like airline safety but wherever it exists we must define its mandate specifically"

If this tougher stand was applied to the Nedcor/Stanbic battle the Competition Tribunal would have the final say But that could be appealed in the Competition Appeal Court

One thing is certain a final outcome for Nedcor and Stanbic is a long way off

Unions slate Govt over plan for Eskom

(232) ~~(125)~~

Sowetan 20/12/99

By Mzwakhe Hlangani
Labour Reporter

IN a major rebuff to the Government's accelerated privatisation of electricity, labour unions have criticised it as a step to undermine the objectives of reconstruction and development programme

The unions claimed the restructuring of electricity industry and incorporation of Eskom into companies Act of 1973 would have disastrous effects and thus result in high electricity costs which cannot be afforded by poor communities

Public Enterprise Minister Jeff Radebe announced recently that the Government would recapitalise state-owned enterprises, including Eskom, and improve their governance as part of new plans that could ensure "a substantial injection into fiscus"

Radebe said it was necessary to speed up the unbundling of Eskom by splitting up the business units of regeneration, transmission and distribution for improved business efficiency

Meanwhile, Minerals and Energy Affairs Minister Ms Phumzile Mlambo Ngcuka has said the Government's vision was to optimise the electricity supply industry and provide adequate, reliable and quality low-cost electricity for all

National Union of Metalworkers of SA president Mr Mtutuzeli Tom said Eskom's recent application for a seven percent increase in electricity tariffs vindicated the labour unions' position that incorporating Eskom into the companies Act will reverse the realisation of universal household access to electricity

The restructuring process of the industry had not been researched thoroughly and was not transparent enough, the union claimed They also charged that it was fraudulent since state assets were critical for the delivery of basic services to the poor, Tom said

The Congress of South African Trade Unions objected to the privatisation of the electricity industry in a recent submission to the parliamentary committee and urged the Government to reconsider its position on Eskom

National Union of Mineworkers general secretary Mr Gwede Mantashe said the union believed Eskom should be restructured to focus on improving efficiency levels rather than privatisation He said public utilities should give the Government the leverage required to enhance transformation

A dispute has been declared with the Government on privatisation and the Government has been unreasonable in dealing with the unions on this issue, Numsa said