Presentation Outline

• What is Transformation
• Key Legislation
• Evolution of Transformation
• General Challenges
• Why transformation
• LFC Shortfalls
• New B-BBEE Shortfalls
• Current developments
• Barriers to Entry
WHAT IS TRANSFORMATION?

• The BBBEE Act aims to redress the inequalities of the past. The main objectives are to:
  ➢ Increase broad based and effective participation of black people in the economy
  ➢ Promote economic growth

• Energy Policy White Paper: To achieve 25% of sustainable presence ownership or control of all facets of the industry of the various entities that hold the operating assets of the South African oil industry.

• Section 9(2) of the Constitution of the Republic of South Africa:
  ➢ “Equality includes the full and equal enjoyment of all rights and freedom.
Key legislation

- The White Paper on Energy Policy
- Petroleum and Liquid Fuels Charter
- Petroleum Products Amendment Act (58, 2003)
- Preferential Procurement Policy Framework Act (51%)
- The Broad Based Black Economic Empowerment Act
EVOLUTION OF TRANSFORMATION IN SA

First wave of BEE (2003)

• Aimed to create meaningful participation by black people in the economy

• Very little change as the economy remained mainly in the hands of a minority.

Second wave of BEE (2015)

• Primarily driven by charters to fortify the already existing extensive BEE and EE legislative framework.
GENERAL CHALLENGES OF TRANSFORMATION

• Perceptions, myths and misunderstanding of the intent of BEE
• Companies have to compromise to comply:
  • Funding
  • Reporting
  • Training
• Procurement: suitable service providers & accreditation
• Finding suitable EE candidates for senior positions
• Changing cultures and mind-sets
• Different legislative reporting structures and targets
Why Transformation???
## Retailing

### LFC Key Percentages and Compliance Status

<table>
<thead>
<tr>
<th>% HDSA Retailers</th>
<th>% HDSA Volumes</th>
<th>African Total Owned</th>
<th>Coloured Total Owned</th>
<th>Indian Total Owned</th>
<th>Analysis of BEE Ownership %</th>
<th>Equitable Retail Opportunities to HDSA’s</th>
<th>Average Compliance Status of the Industry</th>
</tr>
</thead>
<tbody>
<tr>
<td>40%</td>
<td>41.25%</td>
<td>13%</td>
<td>5%</td>
<td>23%</td>
<td>30%</td>
<td>32%</td>
<td>31%</td>
</tr>
</tbody>
</table>

### Dealer Owned

#### Transient Race% - Volume

- Black: 78%
- Coloured: 22%
- Indian: 0%
- White: 0%

### Company Owned

#### Transient Race% - Volume

- Black: 6%
- Coloured: 0%
- Indian: 1%
- White: 93%

### Status Quo

- **Indians do better** in volumes than other black groups
- The Ownership of and volumes pumped by Whites outnumber those of the HDSA’s collectively.
- White dealers pump 3 x more than Indians who are 2nd in dominance.
- There is still a challenge of ensuring equitable site allocation to HDSA’s for various reasons, including **limited site availability**.

### Oil Company challenges

- Some **old evergreen agreements** with white retailers, property owners and developers.
- Especially with respect to the more lucrative opportunities e.g. transient sites.

### HDSA Retailer challenges / needs

- Lack of Capacity to negotiate and manage contracts
  - e.g. the structure of royalties and rental payments
  - And the treatment of unreliable product suppliers.
- Regulatory process anomalies and turn-around times.
- **Goodwill** is not regulated, therefore the seller is at liberty to charge any price.
- Entrepreneurship and business skills are not provided in the initial training.
- The **modus operandi for stock items** is not friendly towards local small businesses.
LFC Shortfalls

• HDSA vs Black person
• **Weights:** it’s not clear which requirements carry more weight and should thus to be prioritized by companies.
• **Targets:** there are no clear compliance targets for all elements except ownership.
• **Broad Base:** the LFC is biased towards ownership and enterprise development.

**NB:** It should, however be noted that the LFC has a number of key requirements to underpin transformation in the sector, that are not accommodated in the generic codes of good practice, e.g.:
• Crude procurement
• Specific ED initiatives – e.g. access to joint facilities for HDSA wholesalers.
New B-BBEE generic codes Shortfalls

- LFC ownership requirements is 25%, the new codes recognise product procurement from 51% black owned companies with additional penalties for not complying
- EME’s and QSE’s lose their status after one year by exceeding their turn-over thresholds.
- Enterprise Development: support to smaller entities is not sustainable (QSE vs EME thresholds)
- Retailers have very little discretion when determining where and whom to procure from and are prejudiced where they have no control over the outcome.
- Access to infrastructure: not addressed in the B-BBEE
<table>
<thead>
<tr>
<th>Key Principles</th>
<th>Description</th>
<th>Implication</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adjusted Threshold</td>
<td>Exempted Micro Enterprises (EMEs) : Annual Total Revenue</td>
<td>An average Benchmark Service Station: Annual Total Turnover</td>
</tr>
<tr>
<td></td>
<td>R 0 - R10 million</td>
<td>R50 400 000 (on average)</td>
</tr>
<tr>
<td></td>
<td>Previously R 0 – R 5 million</td>
<td>Inclusion of Levies and taxes</td>
</tr>
<tr>
<td></td>
<td>Qualifying Small Enterprises (QSEs): Annual Total Revenue</td>
<td></td>
</tr>
<tr>
<td></td>
<td>R10 million - R50 million</td>
<td></td>
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<tr>
<td></td>
<td>Previously R 5– R 35 million</td>
<td></td>
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<tr>
<td></td>
<td>Large entities: Annual Total</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Revenue of R50 million and above</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Previously R 35 million and above</td>
<td></td>
</tr>
<tr>
<td>Recognition Level</td>
<td>Old Codes</td>
<td>Revised Codes</td>
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<tr>
<td>-------------------</td>
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<td>---------------------</td>
</tr>
<tr>
<td>Level 1</td>
<td>≥100 points</td>
<td>≥100 points</td>
</tr>
<tr>
<td>Level 2</td>
<td>≥85 but &lt;100</td>
<td>≥95 but &lt;100</td>
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<tr>
<td>Level 3</td>
<td>≥75 but &lt;85</td>
<td>≥90 but &lt;95</td>
</tr>
<tr>
<td>Level 4</td>
<td>≥65 but &lt;75</td>
<td>≥90 but &lt;95</td>
</tr>
<tr>
<td>Level 5</td>
<td>≥55 but &lt;65</td>
<td>≥80 but &lt;90</td>
</tr>
<tr>
<td>Level 6</td>
<td>≥45 but &lt;55</td>
<td>≥75 but &lt;80</td>
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<td>Level 7</td>
<td>≥40 but &lt;45</td>
<td>≥70 but &lt;75</td>
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<tr>
<td>Level 8</td>
<td>≥30 but &lt;40</td>
<td>≥40 but &lt;55</td>
</tr>
<tr>
<td>Non-Contributor</td>
<td>&lt;30</td>
<td>&lt;40</td>
</tr>
</tbody>
</table>
1. Retail Audit

• A service provider has been appointed to conduct the audit on retail ownership

• **Partners**: Oil majors (SAPIA); Independent suppliers; Retail Agricultural Cooperatives, Petroleum Retail Associations and DoE Regional office

• All retail sites would be assessed and a **sample of 200** site would be verified (full audit process)

• National workshop (November-December 2016)

• Phase two (2) consultation workshop (**Nov-Dec 2017**)

• Phase three (3) consultation workshop (**Jan 2018**)

• **Final report**: 31 March 2018
2. LFC alignment to B-BBEE (*Statement 003*)

- **Public Proclamation**: gazetted on the 13 September 2017
- **Appointment of a steering committee**: the DoE, DTi and industry stakeholders established the Interim Steering Committee (ISC) (December 2016).
- **Appointment of relevant Working Groups**: the ISC formulated six (6) working groups to aid in drafting the Charter.
- **Appointment of Charter Council**: Nomination of Charter Council members in process
- **Publication of Draft Sector Codes**: targeted before end of the year (2017)
- **Roadshows**: national advocacy to communicate key elements of the first draft of the sector codes.
- **NAEWASA National African Energy Wholesalers Association of South Africa**
2. Extract from the Public Proclamation

• The purpose of this proclamation is to inform the South African public of the intention of the Minister of Energy to align the Petroleum and Liquid Fuels Sector Transformation Charter ("the PPA") with the BBBEE policy framework;

• Through a consultative process with all major stakeholders;

• The B-BBEE Petroleum and Liquid Fuels Sector Transformation Charter will, upon promulgation in terms of Section 9 of the B-BBEE Act, serve as the Petroleum and Liquid Fuels Sector Codes of Good Practice.

• Stakeholder consultation will be undertaken to endeavour for inclusive participation by all major sector stakeholders, in compliance with Section 12 of the B-BBEE Act.
IDENTIFIED BARRIERS TO ENTRY

• Access to infrastructure (site, pipeline, depots, SBM)
• Access to market (product, customer, supply)
• Access to opportunities (supply, enterprise dev)
• Oil majors competing with SMME’s
• Franchise agreements (un-progressive)
CONSIDERATIONS

• One size does not fit all
• Captains of the industry must take charge in the successful implementation of the Charter
• Focus must change from development to implementation of BEE as a way of business
“BEE is not a zero sum game. It doesn’t mean that for some to win others must lose.”

Desmond Lockey, Channel Life
THE END
THANK YOU

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