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A society free from gender oppression and inequality

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# REPORT ON FOLLOW-UP HEARINGS ON EMPLOYMENT EQUITY AND GENDER TRANSFORMATION IN THE PRIVATE SECTOR FOR THE FINANCIAL YEAR 2019/2020

# **REPORT ON FOLLOW-UP HEARINGS**

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# Abbreviations

<b>Ab InBev</b>	Previously known as South African Breweries
<b>CEDAW</b>	Convention on the Elimination of all Forms of Discrimination Against Women
<b>CGE</b>	Commission for Gender Equality
<b>CGE Act</b>	Commission for Gender Equality Act, No. 39 of 1996, as amended
<b>CSI</b>	Corporate Social Investment
<b>ECD</b>	Early Childhood Development
<b>EE</b>	Employment Equity
<b>EEA</b>	Employment Equity Act, No. 55 of 1998, as amended
<b>HIV and AIDS</b>	Human Immunodeficiency Virus and Acquired Immunodeficiency Syndrome
<b>ILO</b>	International Labour Organization
<b>MBSA</b>	Mercedes Benz South Africa (Ltd)
<b>NWK</b>	Noord Wes Korporasie
<b>OVK</b>	Oos Vrystaat Korporasie
<b>PEPUDA</b>	Promotion of Equality and Prevention of Unfair Discrimination Act, No. 4 of 2000
<b>PnP</b>	Pick n Pay
<b>PwD</b>	Person/s with Disability
<b>RFG</b>	Rhodes Food Group
<b>SAB</b>	South African Breweries (now known as Ab InBev)
<b>SADC</b>	Southern African Development Community
<b>SAPS</b>	South African Police Service
<b>SDG</b>	Sustainable Development Goal
<b>WEP</b>	Women's Empowerment Principle

# 1. Introduction and Background

The Commission for Gender Equality (CGE) is an independent statutory body established in terms of Chapter 9 of the Constitution of the Republic of South Africa. The CGE is mandated to promote and protect gender equality in government, civil society and the private sector. To this end, the Commission for Gender Equality Act, No. 39 of 1996, as amended, (CGE Act) gives the CGE the power to monitor and evaluate policies and practices of: organs of state at any level; statutory bodies and functionaries; public bodies and authorities; and private businesses, enterprises and institutions, to promote gender equality and make any recommendations that the CGE deems necessary.

During the 2016/2017 financial year the CGE embarked on a public investigative process focusing on employment equity and gender transformation within the private sector.

This process was the baseline created to assess compliance by employers with employment equity legislation within the private sector, and to establish challenges experienced and measures put in place to advance the position of previously disadvantaged groups due to discrimination based on gender and disability.

The CGE selected the following private entities to take part in this process:

- Mercedes Benz South Africa
- EH Hassim Builders World
- Moorddrift Dairy
- RCL Foods
- Jonsson Workwear
- Sasol
- Six Sons t/a Kloppers Six Sons (Pty) Ltd t/a Kloppers
- Vermeulens Build It
- SAB
- Tiger Brands
- Mafikeng Toyota
- Noord Wes Korporasie (NWK)
- Oos Vrystaat Korporasie (OVK)
- Pick n Pay (PnP)
- Rhodes Food Group
- HL Hall and Sons Ltd.

Employers are bound by various pieces of legislation to create equal employment opportunities for women and persons with disabilities, and to address the barriers to their entry, advancement, development, remuneration, and retention.

The process followed by the CGE included sourcing information by way of a questionnaire and holding public investigative hearings. In analysing the data provided, the CGE used both qualitative and quantitative methodologies and further took into consideration local and international legislation/prescripts applicable, amongst others the Employment Equity Act, No. 55 of 1998 (EEA), the CGE Act, as amended, and the Promotion of Equality and Prevention of Unfair Discrimination Act, No. 4 of 2000 (PEPUDA). These prescripts were used as a yardstick to determine compliance by the selected entities.

The CGE embarked on a second process during the 2017/2018 financial year to track the progress of the selected entities. The progress report was completed and published in April 2018.



## 2. Purpose of Follow-up Hearings

The Commission observed in its progress report that the private sector is fraught with challenges, including *inter alia* the lack of a policy framework to promote the needs and challenges of women in the workplace. To this end the Commission resolved to conduct follow-up hearings to monitor and evaluate progress made in complying with the recommendations of the CGE and the necessary provisions of law that promote gender equality.

The procedure for the determination of any investigation is provided for in terms of Sections 10 to 18 of the CGE Act as amended and regulated in terms of the procedure set out therein, read in conjunction with the relevant CGE Complaints Manual, a public document gazetted in July 2016. These procedures apply to all persons, including Commissioners and Officials of the CGE, entities and individuals subject to an investigation, and any other person or organisation which has been appointed to assist or participate in an investigation.

Section 12 (4)(b) of the CGE Act provides that the CGE may:

“Require any person by notice in writing under the hand of a member of the CGE, addressed and delivered by a sheriff, to appear before it at a time and place specified in such notice and to produce to it specified articles or documents in the possession or custody or under the control of any such person: Provided that such notice shall contain the reasons why such person's presence is needed and why any such article or document should be produced.”

The CGE dispatched letters listing the recommendations made by the CGE and requesting written progress reports from the entities who participated in the initial transformation hearings.

When analysing the information submitted, the CGE considered the level of progress and compliance by the entities as well as reasons provided for the non-implementation and/or lack of measures put in place to achieve full compliance with the recommendations.

The CGE issued notices to appear in terms of Section 12(4)(b) of the CGE Act to nine (9) of the selected private entities that had not shown notable progress. These entities were invited to participate in follow-up hearings in the 2019/2020 financial year to report on progress in the implementation of the recommendations made by the Commission and on measures put in place to address employment equity issues within their respective entities.

## 3. Legal framework

### Domestic

#### 3.1 Constitution of the Republic of South Africa

**Section 7(1)** of the Constitution states that the Bill of Rights is a corner stone of democracy in South Africa. It enshrines the rights of all people in our country and affirms the democratic values of human dignity, equality and freedom. Section 7(2) states that the State must respect, protect, promote and fulfil the rights in the Bill of Rights. Section 7(3) states that the rights in the Bill of Rights are subject to the limitation contained or referred to in Section 36, or elsewhere in the Bill.

**Section 9(1)** of the Constitution states that everyone is equal before the law and has the right to equal protection and benefit of the law.

**Section 9(3)** states that the State may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language or birth.

**Section 23** of the Constitution provides that everyone has the right to fair labour practices.

#### 3.2 Commission for Gender Equality Act, No. 39 of 1996, as amended

The Commission for Gender Equality Act (CGE Act) was promulgated into law in 1996. The CGE was established in accordance with the CGE Act to promote respect for, the protection of, and the development and attainment of gender equality. In terms of Section 11(1)(e), read with Section 12, the CGE is mandated to investigate any gender-related issue on own accord or on receipt of a complaint and should endeavour to resolve same. The procedure to be followed in any investigation should be determined by the CGE in terms of Section 12 of the CGE Act.

Furthermore, in terms of Section 12 of the CGE Act, the CGE is obliged to make known the procedure that it has determined by way of notice in the *Government Gazette*. Accordingly, the CGE sets out the procedure to be adopted in respect of investigations relating to gender discrimination in the CGE Complaints Manual.

### 3.3 Promotion of Equality and Prevention of Unfair Discrimination Act, No. 4 of 2000

The Promotion of Equality and Prevention of Unfair Discrimination Act (PEPUDA) came into effect in 2000. This law prohibits gender-based discrimination and provides for remedies designed to protect any person who is subjected to discriminatory practices, including gender-based discrimination, across the full spectrum of society. PEPUDA was enacted as a result of Section 9(4) of the Constitution which requires the State to pass legislation which promotes equality and prevents unfair discrimination. PEPUDA therefore gives effect to Section 9 of the Constitution and binds the State and all persons in South Africa.

Neither the State nor any person may unfairly discriminate against any person.<sup>1</sup> The act further entrenches a responsibility to eradicate impediments that unfairly limit or restrict persons with disabilities from enjoying equal opportunities, including taking steps to reasonably accommodate the needs of such persons.<sup>2</sup>

PEPUDA therefore addresses systemic inequalities and unfair discrimination that manifest in institutions of society and the practices of South Africans insofar as they “undermine the aspirations of our constitutional democracy”.<sup>3</sup> PEPUDA thus enacts two responsibilities to promote equality, one relating to persons who are operating in the public domain and the second relating to all persons in general.<sup>4</sup>

### 3.4 The Employment Equity Act, No. 55 of 1998

The Employment Equity Act (EEA) effectively prohibits discrimination. The purpose of the act is to achieve equity in the workplace by promoting equal opportunities and fair treatment in employment by eliminating unfair discrimination and implementing measures to redress disadvantages in the workplace.<sup>5</sup> Section 60 of the EEA provides that, if the employer fails to take the steps necessary to deal with unfair discrimination or sexual harassment and it is proven that an employee has contravened the relevant provisions, the employer must be deemed also to have contravened that provision (*Christian v Collers Properties 2005, 5 BLLR 479*).

<sup>1</sup> Section 6 of PEPUDA

<sup>2</sup> Sections 7, 8 and 9 of PEPUDA

<sup>3</sup> Preamble of PEPUDA

<sup>4</sup> Section 26 of PEPUDA states that it is the responsibility of any person directly or indirectly contracting with the State or exercising public power to promote equality by –

- (a) adopting appropriate equality plans, codes, regulatory mechanisms and other appropriate measures for the effective promotion of equality in the spheres of their operation;
- (b) enforcing and monitoring the enforcement of the equality plans, codes, regulatory mechanisms developed by them; and
- (c) making regular reports to the relevant monitoring authorities or institutions as may be provided in regulations, where appropriate.

<sup>5</sup> <https://www.saica.co.za/Technical/LegalandGovernance/Legislation/EmploymentEquityAct-No55of1998/tabid/3041/language/en-ZA/Default.aspx>

### **3.5 Labour Relations Act, No. 66 of 1995**

The Labour Relations Act not only protects all parties in the workplace but also promotes economic growth, fair labour practices, peace, democracy and social development.

### **3.6 Basic Conditions of Employment Act, No. 75 of 1997**

Section 2 states that the purpose of this Act is to advance economic development and social justice by way of giving effect to the right to fair labour practices, as referred to in Section 23(1) of the Constitution.

The main objective of the Act is to ensure social justice by establishing basic standards for employment regarding aspects that affect the employee-employer relationship such as working hours, leave, remuneration, dismissal and dispute resolution. The Act further aims to regulate the variation of basic conditions of employment.

### **3.7 Skills Development Act, No. 97 of 1998**

The development of skills within the workforce is an important aspect to be considered by employers. Section 2(e) specifically states that part of the primary purpose of this Act is to improve the employment prospects of persons previously disadvantaged by unfair discrimination and to redress those disadvantages through training and education.

### **3.8 Broad-Based Black Economic Empowerment Act, No. 53 of 2003 as amended**

The Broad-Based Black Economic Empowerment Act (BBBEE Act) establishes the legislative framework for the promotion of Black economic empowerment and the codes of good practice that stipulate a preferential point system to encourage the use of women-owned enterprises to benefit from preferential procurement for all state organs.

### **3.9 African Charter on Human and People Rights**

Article 18(3) of the Charter states that the State shall ensure the elimination of all discrimination against women, and ensure the protection of the rights of the woman and children, as stipulated in international declarations and conventions.

### **3.10 Southern African Development Community Protocol on Employment and Labour**

Employment and labour productivity in the Southern African Development Community (SADC) region are commonly low, and directly linked to social and human development challenges. Gender inequality, HIV and AIDS, a lack of social protection and

vulnerable employment all greatly impact on labour productivity.<sup>6</sup> The prime objective of the SADC's employment strategy is to increase the rate of labour absorption in the economy. Some of the main challenges in achieving this objective are the high levels of unemployment and/or under-employment, especially among women and youth, and gender inequality in the labour markets inclusive of inadequate mainstreaming of gender concerns in policy development.

The main purpose of the employment and labour sector within the SADC is to enable and coordinate the development, harmonisation, and monitoring of the implementation of policies and programmes on employment and labour matters within the context of the Regional Indicative Strategic Development Plan.<sup>7</sup>

## International Law Instruments

### 3.11 Convention on the Elimination of all Forms of Discrimination Against Women

In its preamble, the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) recognises that "extensive discrimination against women continues to exist" and states that such discrimination "violates the principles of equality of rights and respect for human dignity."

**Article 1** defines discrimination as "any distinction, exclusion or restriction made on the basis of sex...in the political, economic, social, cultural, civil or any other field."<sup>8</sup>

**Article 11** of CEDAW, obliges the South African Government to take all appropriate measures to eliminate discrimination against women in the field of employment to ensure, on the basis of equality of men and women, the same rights in the workplace.

### 3.12 The Sustainable Development Goals

The Sustainable Development Goals (SDGs) are set by the United Nations. The goals cover the range of social and economic development issues. Gender Equality is one of the goals, targeting the empowerment of women and girls.

**SDG 5** provides that gender equality is not only a fundamental human right, but a necessary foundation for a peaceful, prosperous and sustainable world. It further specifically addresses the attainment of gender equality and empowerment of women,

<sup>6</sup> <https://www.sadc.int/themes/social-human-development/employment-labour/> Accessed on 03/03/2020

<sup>7</sup> <https://www.sadc.int/themes/social-human-development/employment-labour/> Accessed on 03/03/2020

<sup>8</sup> <https://www.ohchr.org/en/professionalinterest/pages/cedaw.aspx> Accessed on 17/03/2020

and highlights the need to significantly increase investments in gender equality and track public allocations for gender equality. Target 5.c of SDG 5 calls for the adoption and strengthening of sound policies and enforceable legislation for the promotion of gender equality and the empowerment of all women and girls at all levels.

**SDG 8** focuses on the promotion of sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all.

**SDG 10** provides that to reduce inequalities, policies should be universal in principle, paying attention to the needs of the disadvantaged and marginalised populations.

### 3.13 Women's Empowerment Principles<sup>9</sup>

**WEP 2** of the Women's Empowerment Principles (WEP) provides for equal opportunity, inclusion and non-discrimination, with sufficient participation of women – 30% or greater – in decision-making and governance at all levels and across all business areas.

**WEP 5** provides for enterprise development, supply chain and marketing practices, with expanded business relationships with women-owned enterprises, including small businesses, and women entrepreneurs.

**WEP 7** provides for transparency, measuring and reporting, making public the company policies and implementation plans for promoting gender equality; establishing benchmarks that quantify inclusion of women at all levels; measuring and reporting on progress, both internally and externally, using data disaggregated by sex; and incorporating gender markers into ongoing reporting obligations.

### 3.14 Beijing Declaration and Platform for Action

**Article 35** In accordance with this article of the Beijing Declaration and Platform for Action (Beijing Platform), the governments participating in the Fourth World Conference on Women held in 1995 declared their determination to “Ensure women's equal access to economic resources, including land, credit, science and technology, vocational training, information, communication and markets, as a means to further the advancement and empowerment of women and girls, including through the enhancement of their capacities to enjoy the benefits of equal access to these resources, *inter alia*, by means of international cooperation.”

<sup>9</sup> UN Women and UN Global Compact Office “Women's Empowerment Principles”, Equality Means Business, second edition 2011, 2. The list of WEPs is as follows: 1. Leadership Promotes Gender Equality; 2. Equal Opportunity Inclusion and Non-Discrimination; 3. Health, Safety and Freedom from Violence; 4. Education and Training; 5. Enterprise Development, Supply Chain and Marketing Practices; 6. Community Leadership and Engagement; and 7. Transparency, Measuring and Reporting.

**Article 36** provides for the parties' determination to: "Ensure the success of the Platform for Action, which will require a strong commitment on the part of governments, international organizations and institutions at all levels.

The Commission is persuaded that economic development, social development and environmental protection are interdependent and mutually reinforcing components of sustainable development, which is the framework for our efforts to achieve a higher quality of life for all people. Equitable social development that recognises empowering the poor, particularly women living in poverty, to utilise environmental resources sustainably is a necessary foundation for sustainable development. The Commission recognises that broad-based and sustained economic growth in the context of sustainable development is necessary to sustain social development and social justice.

"The success of the Platform for Action will also require adequate mobilisation of resources at the national and international levels as well as new and additional resources to the developing countries from all available funding mechanisms, including multilateral, bilateral and private sources for the advancement of women; financial resources to strengthen the capacity of national, sub regional, subregional, regional and international institutions; a commitment to equal rights, equal responsibilities and equal opportunities and to the equal participation of women and men in all national, regional and international bodies and policy-making processes; and the establishment or strengthening of mechanisms at all levels for accountability to the world's women."

**Action 166(h)** of the Beijing Platform provides that governments must take action to review, reformulate, if required, and implement policies, including business, commercial and contract law and government regulations as to ensure that they do not discriminate against micro, small and medium-scale enterprises owned by women in rural and urban areas.

**Action 176(d)** of the Beijing Platform provides for the "participation of women, including marginalised women in production and marketing cooperatives by providing marketing and financial support, especially in rural and remote areas."

**Action 177(b)** of Beijing Platform provides that the private sector, including transnational and national corporations, should: "Recruit women for leadership, decision-making and management and provide training programmes, all on an equal basis with men."

**Action 177(c)** of Beijing Platform provides that the private sector, including transnational and national corporations, should: "Observe national labour, environment, consumer, health and safety laws, particularly those that affect women."

### 3.15 International Labour Organisation

International labour standards are legal instruments drawn up by the constituents (governments, employers and workers) of the International Labour Organisation (ILO), and set out basic principles and rights.

**Article 24** of ILO Convention No. 110 refers to the fixing of minimum wages by collective agreements negotiated between trade unions which are representative of the workers concerned and employers or employers' organisations. It further states that: "In the absence of adequate measures in place for fixing of minimum wages by collective agreement, the necessary arrangements shall be made whereby minimum rates of wages can be fixed where appropriate, by means of national laws or regulations, in consultation with representatives of the employers and workers, including representatives of their respective organisations, which consultation should be on the basis of complete equality."

**Article 1(1)** of ILO Convention No.111 states that the term "discrimination" includes –

- a) any distinction, exclusion or preference made based on race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation;
- b) such other distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation as may be determined by the member concerned after consultation with representative employers' and workers' organisations, where such exist, and with other appropriate bodies.

**Article 1(2)** states that any distinction, exclusion or preference in respect of a particular occupation based on the inherent requirements thereof shall not be deemed to be discrimination.

For the purpose of this Convention the terms *employment* and *occupation* include access to vocational training, access to employment and to occupations, and terms and conditions of employment.

**Article 2** of the ILO Convention 190 states that each member for which this Convention is in force undertakes to declare and pursue a national policy designed to promote, by means appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof.



**Article 3** of the ILO Convention No. 190 is applicable to violence and harassment in the workplace occurring in the course of, linked with or arising out of work. This is complemented by **Article 10** of Convention No. 190 which provides for easy access to appropriate and effective remedies, safe, fair and effective reporting and dispute resolution mechanisms and procedures in cases of violence and harassment in the workplace.

**Article 4** of the ILO Convention No. 197 states that members should take measures to protect the safety and health of workers of both genders, including the protection of their reproductive health.

### 3.16 International Covenant on Economic, Social and Cultural Rights

**Article 6** states that:

(1) The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts and will take appropriate steps to safeguard this right.

(2) The steps to be taken by a State Party to the present Covenant to achieve the full realisation of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

### 3.17 Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol)

**Article 13** provides for the economic and social welfare rights of women and requires that all States Parties adopt and enforce legislative and other measures to guarantee women equal opportunities in work and career advancement and other economic opportunities.<sup>10</sup>

<sup>10</sup> [https://www.un.org/en/africa/osaa/pdf/au/protocol\\_rights\\_women\\_africa\\_2003.pdf](https://www.un.org/en/africa/osaa/pdf/au/protocol_rights_women_africa_2003.pdf) Accessed on 17/03/2020

## 4. Analysis of Follow-up Hearings in the Private Sector

The information below provides for the recommendations made by the CGE in its initial progress report as well as the response from the respective entities. The analysis demonstrates the strides made by some entities in support of employment equity in their organisations and highlights the challenges employers are still facing to reach their equity targets. It should be noted that notices to appear before the CGE for further representations were not issued to all the entities that were requested to provide the CGE with their progress reports. It is further recorded that the decision not to recall certain entities is not indicative of full compliance, but rather that they demonstrated substantial progress and commitment. This decision was taken with the full understanding that transformation is a lengthy process, which can only be achieved once there is continuous improvement and commitment.

### 4.1 Mercedes Benz South Africa

During the 2017/2018 financial year, the CGE held a follow-up engagement with Mercedes Benz South Africa (MBSA) to track progress on the implementation of its recommendations. In continuance of its monitoring role, the CGE sought a progress report from MBSA regarding three aspects that had been raised. MBSA promptly responded with the required information which is detailed in the form of a table for ease of reference.

Recommendations	Progress															
<p>Gender transformation in upper echelons of MBSA to be improved.</p>	<p>MBSA noted that the MBSA Group's Executive Team remained unchanged since the last report to the CGE.</p> <p>The statistics regarding top and senior management showed a slight increase in women representation with a 1% increase from 25% in 2017 to 26% in 2018.</p> <div data-bbox="751 584 1433 1016" data-label="Figure"> <table border="1"> <caption>Gender Representation in Top and Snr Management</caption> <thead> <tr> <th>Year</th> <th>Male (%)</th> <th>Female (%)</th> </tr> </thead> <tbody> <tr> <td>2015</td> <td>59</td> <td>13</td> </tr> <tr> <td>2016</td> <td>56</td> <td>13</td> </tr> <tr> <td>2017</td> <td>50</td> <td>17</td> </tr> <tr> <td>2018</td> <td>43</td> <td>15</td> </tr> </tbody> </table> </div> <p>Since its last report to the CGE, MBSA pointed out that appointments to middle and senior management favour women in the sum of 54% as opposed to 46% in respect of representation of men.</p> <p>However, within the East London plant there were more promotions to senior management in the plant in respect of men, largely due to lack of crucial skills. There is a clear commitment to increase women representation with a 60% target for women in the pipeline development programmes.</p> <p>Apt examples of the pipeline development programmes include the Management Development Programme and the Accelerated Management Leadership Programme with 55% and 71% women representation respectively in the 2019 financial year.</p>	Year	Male (%)	Female (%)	2015	59	13	2016	56	13	2017	50	17	2018	43	15
Year	Male (%)	Female (%)														
2015	59	13														
2016	56	13														
2017	50	17														
2018	43	15														

<p>Sexual harassment awareness to be addressed.</p>	<p>MBSA recorded continuous commitment in the implementation of its anti-sexual harassment awareness campaign and promotion of a zero-tolerance stance on sexual harassment in the workplace.</p> <p>In the 2018/2019 financial year, MBSA renamed its sexual harassment campaign, which is now known as the Anti Sexual Harassment Campaign, with the hashtag #notinourname. The campaign was formally launched from 26 November 2018 through to 10 December 2019 to align with the national observation of 16 Days of Activism for No Violence Against Women and Children.</p> <p>Accordingly, MBSA used educational initiatives such as the provision of lanyards and educational information on sexual harassment and included training sessions at both its East London and Pretoria locations.</p> <p>As a constant reminder, MBSA provided employees with desktop calendars with anti-sexual harassment tips. For employees working on the manufacturing shop floor, MBSA used television screens across the plants to reiterate the key messages of the #notinourname campaign.</p> <p>The above campaign was additional to the continuous communication and education of MBSA's stance and policy which is communicated via various channels such as videos, newsletters, payslips and notice boards, amongst others.</p> <p>During the 2019 period, MBSA highlighted Anti Sexual Harassment training during the layoff period, when approximately 2 000 shop floor workers were trained on the sexual harassment policy. At the training, it was emphasised that harassment can be male on female, female on male, female on female and male on male.</p> <p>Lastly, as part of its upcoming initiatives, MBSA outlined the following:</p> <ul style="list-style-type: none"> <li>• Leadership training focusing on how to manage a sexual harassment complaint.</li> <li>• Putting faces to the hashtag #notinourname. A video will be created with the HR Executive Director encouraging all employees to pledge their support to the hashtag.</li> <li>• While MBSA has included same sex harassment in various training initiatives, it has undertaken to make it a focus area in the upcoming interventions.</li> </ul>
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<p>Provide an update report on the outcomes of the 2018 Daimler Diversity Summit<sup>11</sup></p>	<p>MBSA hosted the Global Daimler Diversity Summit in October 2018. The overarching theme was diversity in the workplace. Accordingly, gender inclusion was referred to in parallel with other topics relating to diversity. These included, but were not limited to:</p> <ul style="list-style-type: none"> <li>• Disability in the workplace</li> <li>• Culture creates diversity</li> <li>• Hiring autistic people</li> <li>• Pipeline diversity</li> <li>• Human library</li> <li>• Diversity and inclusion training</li> <li>• Joining forces – increasing impact</li> <li>• Transgender@daimler</li> </ul> <p>MBSA noted that during discussions relating to pipeline diversity, the barriers to hiring women were interrogated specifically regarding senior management level appointments.</p>
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## Analysis, Concluding Comments and Recommendations

- a) In respect of gender disaggregated statistics, a slight increase in women employees was noted; however, this remains skewed in favour of men, specifically in the upper echelons of the entity. MBSA acknowledged that given time and the strides being made towards transformation, and despite attrition, the data would improve.
- b) Given that the industry is historically male dominated, the starting platform was considerably more unfavourable than in comparison with other sectors. MBSA interventions show an increase in women representation with the pipeline programmes aimed at creating a more diversified workforce. The Accelerated Management Leadership Programme is indicative of MBSA's commitment to gender diversity, with women representation at 71%.
- c) Within its Pretoria offices, MBSA reported that the Anti Sexual Harassment Campaign was being rolled out and all employees would receive a postcard version of the cartoon. Moreover, the video and an invitation to the contact sessions would be sent to employees.
- d) As in the East London Plant, the video is displayed on all available platforms as a constant reminder. Lastly, the Employee Relation's Specialist would

<sup>11</sup> ... which it had said would be held in South Africa in 2018 with a strong focus placed on Gender Transformation.

facilitate contact sessions where employees would be encouraged to engage around the topic of Sexual Harassment and Diversity.

- e) MBSA's multifaceted approach to educating its employees on sexual harassment is applaudable. The recent inclusion of a hashtag campaign illustrates insight into the immense "latch on" effect that social media and hashtags have.
- f) In addition, MBSA has taken heed of the CGE's recommendation to include same sex harassment as part of its campaign and initiatives. It is encouraging to note that its 2019 interventions include a focus on same sex harassment.
- g) MBSA displayed its intention to be more deliberate with its pipelining of women talent with a view to implementing best practices from other Daimler-owned companies. Such intention was evident in the representation of women as cited above. It is inspiring that MBSA engages in global conversations on gender transformation and measures to improve diversity within the workplace.
- h) Once more, the CGE noted the efforts made as a benchmark for other entities to strive for, specifically the cartoon video which is relevant to the South African context. It however commented that same sex harassment should be included in the video.
- i) The CGE observed that the entity showed positive progress in respect of all recommendations listed above. The pace at which the entity progressed to address issues outlined by the CGE was satisfying and it was deemed unnecessary for MBSA to appear again before the CGE to make further submissions.

## 4.2 South African Breweries (SAB), now known as Ab InBev

SAB was called in by the CGE in the 2016/2017 financial year during the employment equity hearings. As a result of the hearing, the CGE made recommendations which SAB was requested to implement. Part of its submission was that it was anticipating changes to leadership structures, and as a result the name SAB would change to Ab InBev. During the hearings the company was still known as SAB, hence for the purposes of this report, the name SAB is used. Below are the recommendations made by the CGE, and the progress that has been made thus far.

Recommendations	Progress
<p>The company should provide disaggregated data on the 105 university graduates mentioned in its presentation made in 2016/17.</p>	<p>SAB provided a thorough analysis, with disaggregated data confirming 105 graduates in its various employment programmes.</p> <p>Of these graduates, 58% were women, 42% men, and 92% equity candidates.</p>
<p>As the company referred to global management, it should grow the numbers in order to boost the junior global management pipeline.</p>	<p>SAB has a pre-hire project, where potential employees are provided with tools for skills development and preparation for the workplace. This assists in boosting junior global management.</p> <p>The Global Management Trainee Programme has a higher placement rate in South Africa than in other African countries where SAB is involved. Of the selected candidates, 50% are women and 31% are equity appointments. The vast majority of employees from the graduate programme are filtered to junior and middle management positions within the business.</p> <p>The selected candidates for 2019 were 38% women, 62% men and 53% equity appointments.</p>

<p>The company should give a clear picture of how much of the 7% supplier development allocation is allocated for women, in monetary terms.</p>	<p>The company had established that 18.8% of businesses in South Africa are owned and/led by women. It had also established that women in South Africa tend to go into business due to constraints rather than an interest to pursue such avenues. To address some of these challenges SAB adopted a 3 (three) pronged approach to assist in empowering women-owned businesses. Namely:</p> <ul style="list-style-type: none"> <li>• Ensure gender parity amongst beneficiaries of enterprise and supplier development initiatives</li> <li>• Create a dedicated programme towards female entrepreneurs, (SAB Lerumo)</li> <li>• Deliberately divert spending towards Black women-owned businesses.<sup>12</sup></li> </ul> <p>In 2018, SAB invested R240 million in Enterprise and Supplier Development initiatives, with many of the programmes aimed at the development of women. Among others, these included:</p> <ul style="list-style-type: none"> <li>• The SAB Foundation, which is a Trust aimed at developing and empowering women and youth in rural areas. According to the data provided, in 2018, 70% of the participants were women.</li> <li>• SAB Kickstart, which is focused on developing entrepreneurs, especially amongst the youth. It became operational in South Africa in 1995.</li> <li>• The SAB Accelerator Programme, which is used to enhance business management and technical skills through its in-house incubator. Its main focus has been on Black-owned suppliers and Black-owned women suppliers.</li> <li>• The SAB Thrive Fund, which is an equity fund that is aimed at providing growth capital to businesses in the SAB supply chain.<sup>13</sup></li> </ul> <p>These programmes have allowed for women participation and growth within SAB.</p> <p>Other programmes include the Taung Barley Farmers and Women in Maize. These aim to develop women who are in farming.</p> <p>SAB Lerumo has helped participants to improve their procurement success by finding contract opportunities for them and helping them to understand the compliance requirements in large supply chains.</p> <p>The strategy that was developed to divert moneys to Black women-owned businesses resulted in significant improvements, increasing spend on women-owned suppliers from R1.25 billion in 2017 to R2.4 billion in 2018.<sup>14</sup></p>
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<sup>12</sup> Supplier development allocation, as per the SAB response

<sup>13</sup> Supplier Development Allocation, as per the SAB response

<sup>14</sup> Deliberately diverted spend towards Black women-owned business



<p>The company should consider international treaties: Minimum Wage Fixing Convention No. 131 of 1970 and Equal Remuneration Convention No. 100 of 1951 in order to move towards parity in terms of wages.</p>	<p>SAB indicated that it complies with the Minimum Wage Fixing Convention No. 131 of 1970 and Equal Remuneration Convention No. 100 of 1951, as it pays above the average minimum rate prescribed in South Africa. Each worker is paid according their job grade and skill. In terms of the minimum wages as prescribed by the President, which is R20.00 an hour, SAB remunerates above the prescribed rate, paying an estimated rate of R67.61 per hour for a Grade 1 employee. Workers on farms earn an average of R36.55 per hour as opposed to the prescribed rate of R18.00 per hour.</p> <p>SAB amended its leave policy to suit both the primary and secondary care giver, with a maximum of 16 weeks fully paid maternity leave for a primary care giver and two full weeks fully paid for a secondary care giver, to ensure that workers adjust and enjoy this new stage in life.</p> <p>Individuals requiring <i>in vitro</i> fertilisation are provided with leave during the IVF period.</p> <p>SAB has incorporated a Return to Work Programme which includes half-day work, nursing rooms, pregnancy parking, and tips and tools for primary care givers. This affords primary care givers the opportunity to readjust to the working environment and ensures they receive the necessary support.</p>
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## Analysis, Concluding Comments and Recommendations

- a) Based on the submission and data provided, SAB has shown positive progress in ensuring that it complies with the recommendations of the CGE, with specific reference to the graduate programme.
- b) A significant improvement was presented by the SAB to ensure that it adheres to the principles of the EEA and other relevant legislation such as the Wage Fixing Convention No. 131 of 1970 and Equal Remuneration Convention No. 100 of 1951 to create an environment that is free of oppression or any forms of discrimination.
- c) Budget allocation programmes are now more focused on enhancing and developing women and equity groups, which were in the past classified as previously disadvantaged according to Section 1 of the EEA.
- d) In its effort to comply and enhance a culture of diversity and improvement, the CGE applauds SAB for its visible commitment and dedication in ensuring transformation within the workplace.

### 4.3 Mafikeng Toyota

Mafikeng Toyota is a Toyota vehicle dealership and service centre, situated in Mafikeng, North West. During the 2019/2020 financial year, the CGE sought a report from Mafikeng Toyota in relation to its progress with the implementation of recommendations made by the CGE.

Recommendations	Progress
<p>The company must develop a plan to expose women to management positions.</p>	<p>According to Mafikeng Toyota, the current economic environment had not contributed positively, and expansion had not been possible for the company. While there had not been retrenchments there had also not been any new appointments.</p> <p>The company also indicated that it did not foresee any growth in the next financial year; on the contrary sales losses were possible. However, the company indicated that it had implemented commitments made to the CGE as far as possible.</p> <p><b>Management:</b></p> <p>Mafikeng Toyota has a management coaching programme in place for existing previously disadvantaged women staff occupying skilled positions within the sales division. This is coordinated by the Sales Manager. The programme entails:</p> <ul style="list-style-type: none"> <li>• Monthly feedback reports to the Dealer Principal</li> <li>• Sales target planning</li> <li>• Managing sales and identifying potential areas to foresee when planning department sales</li> <li>• Client management</li> <li>• Personal management and time management.</li> </ul>
<p>The company must develop a training programme.</p>	<ul style="list-style-type: none"> <li>• Current trainees included three (3) Black men, training as diesel mechanic and auto electrical apprentices</li> <li>• Two (2) of the three (3) trainees were sourced from the local TVET college in Mafikeng. They completed their required N2 subjects and required formal apprenticeship to qualify.</li> </ul>
<p>The company must source talent from the local university, because it had indicated that it was difficult to get qualified people.</p>	<ul style="list-style-type: none"> <li>• External service providers such as "I can SA" were contacted to determine their aim and areas where they might assist</li> <li>• At this point, however, the company is not hiring</li> <li>• The company had six (6) terminations at the beginning of 2018 of which two (2) were semi-skilled and were replaced as they were crucial technical positions.</li> </ul>

<p>The company must engage the Sector Education and Training Authority (SETAs) in order to attract persons with disabilities.</p>	<ul style="list-style-type: none"> <li>• Merseta was contacted to obtain a list of persons with disabilities; however they did not have such a database</li> <li>• Mafikeng Toyota has previously indicated that the company is very small and this fact was reiterated</li> <li>• The company also did not foresee any possibility of growth; however, it must be commended for putting a management coaching programme in place for its existing previously disadvantaged women staff.</li> </ul>
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## Analysis, Concluding Comments and Recommendations

- a) The CGE observed a lack of women included in apprenticeship programmes which contributes to the lack of skills development of women in the organisation. This is, however, an ongoing process which will be monitored by the CGE.
- b) It was recommended that the company should engage relevant entities in order to source persons with disabilities (PwD) should there be available space for apprenticeships. The CGE avails itself to assist Mafikeng Toyota by engaging with entities that would be able to provide a database of PwD.
- c) In respect of training and education, the information provided demonstrates the willingness of the company to ensure that Black women in particular are in the succession pipeline. The CGE is concerned though, that all the trainees are male. Toyota should elaborate on why women were not among the trainees.
- d) Considering the progress made by Mafikeng Toyota in terms of gender transformation and compliance with recommendations, the CGE did not deem it necessary to call the entity to account again.

### 4.4 NWK

NWK is an agricultural business and has been participating in the grain and food value chain of southern Africa, mainly in the North West, for more than a century.

NWK's main objective is to trade in agricultural and related products and services at a retail level and to undertake associated activities. It also participates in the upliftment and development of local communities and beginner farmers.

Recommendations	Progress
<p>The company's representation of persons with disabilities was very low. It was therefore recommended that the company use the university's disability desk.</p>	<p>NWK liaised with North-West University's Disability Centre and received a list of eight (8) students with disabilities.</p> <p>Unfortunately, the NWK could not match any of the persons on the list with available positions. NWK did include two (2) of the students on its graduate programme; however, due to financial constraints facing the company, the programme had to be rescheduled for 2019. The CGE will follow up in the 2020/2021 financial year on whether the programme ensued and met its intended objectives.</p> <p>NWK indicated that it had since struggled to get an updated list of students for the graduate programme, however the company is cognisant of the fact that the university's centre cannot be its only avenue for seeking PwD.</p> <p>NWK makes use of the North-West University's career centre in Potchefstroom and Mafikeng to advertise available positions.</p> <p>To ensure that advertisements are distributed as broadly as possible, NWK engaged with the Department of Labour regarding the possibility of advertising its vacancies through the department. NWK also made the department aware that its vacancies are advertised on the NWK website.</p> <p>NWK also requested a database of persons with disabilities from the department. Unfortunately, the department did not have such a database and had no infrastructure or system in place for persons with disabilities.</p> <p>NWK persisted by engaging with the Department of Social Development and worked closely with them in order to provide learnerships at the Itsoseng Disability Centre. The CGE will follow up with NWK in the 2020/2021 financial year to ascertain whether the partnership was successful.</p> <p>NWK had started to provide learnerships for people with or without work experience, especially learners with disabilities. Some of the learners were absorbed and appointed after completion of the learnerships, either for a second learnership or permanent employment.</p> <p>NWK's numbers in terms of PwD have grown since its appearance before the CGE in November 2017. At that time NWK had 10 PwD on its payroll. This number has grown to 21.</p>

<p>The company should consider ring fencing top management positions for women.</p>	<p>NWK has ring fenced the following positions exclusively for women, in the event that they become vacant:</p> <ul style="list-style-type: none"> <li>• Company Secretary</li> <li>• Group Manager: Internal Audit</li> <li>• Group Manager: Finance</li> <li>• Group Manager: Human Capital</li> <li>• Group Manager: Corporate Communication and Marketing.</li> </ul> <p>NWK indicated that other top management positions may be filled with women when positions become vacant but the above five (5) have been ring fenced exclusively for women.</p>
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## Analysis, Concluding Comments and Recommendations

- a) NWK has shown not only commitment but concerted efforts to comply with the recommendations of the CGE.
- b) NWK has taken the CGE's recommendation in relation to ring fencing for women seriously in that five (5) top management positions have been ring fenced exclusively for women, with one (1) post already filled by a woman. This shows NWK's commitment to transforming its workplace and ensuring that women also hold positions in top management.
- c) NWK is commended on the robust way in which it approached its journey towards transformation. Strides have been made to build a workforce that reflects the demographics of South Africa.
- d) NWK took the CGE's recommendations to heart in that it made a concerted effort to contact the university's Disability Desk to secure PwD, and went further by engaging with the Department of Labour to request a database of PwD.
- e) The CGE did not deem it necessary to call NWK to make further representations.

### 4.5 Moorddrift

Moorddrift Dairy is a Limpopo-based company that specialises in dairy products. The company appeared before the CGE during the transformation hearings in the 2016/2017 financial year and again in the 2017/2018 financial year. The company has demonstrated substantial progress in complying with the recommendations of the CGE.

Recommendations	Progress
The company must ensure active participation of women in the unions.	The company submitted that it had engaged several times with the unions regarding women participation. The selection of three women shop stewards would be finalised by the workforce. It had recommended to unions to that women be separated in union meetings to ensure meaningful participation, unhampered by traditional/cultural influences.
Reasonable accommodation should be provided for persons with disabilities in the workplace and concerns should be addressed that PWD are side-lined by fellow employees.	The Company stated that the relationship between PWD and their fellow employees was improving. This was achieved through awareness campaigns which focused on diversity and disability. The company indicated that in the past it had tried by means of learnership programmes to employ PWD. Currently, however, PwD were appointed through workforce referrals.
Minutes of meetings held with the unions should be signed by the CEO and the Employment Equity Manager.	The company submitted copies of the minutes of a meeting held with the unions and the CGE accordingly verified that the CEO had signed same.
The CGE must conduct workshops to address issues of gender-based violence at the company.	The CGE Limpopo Office was invited to, and attended, an awareness campaign in 2018 and another one on 16 August 2019.
The company must appoint an Employment Equity Manager.	The HR Manager was assigned the duties of Employment Equity Manager. The appointment is progressive and in accordance with the EEA. The assignment of an employment equity manager has the effect of ensuring that equity and gender equality in the company are prioritised.

## Analysis, Concluding Comments and Recommendations

- a) The company has complied with most recommendations of the CGE.
- b) The critical recommendation outstanding was addressing gender-based violence in the workplace. The company has strengthened relations with the South African Police Service (SAPS) in order to address this challenge. Regular awareness campaigns on gender-based violence have been accommodated by the Company and SAPS. Moreover, SAPS has committed to readily avail itself for any challenges encountered by employees at the company.
- c) The CGE, together with SAPS, attended a session with employees in 2018 where gender-based violence was discussed. Similarly, during August

2019, the CGE together with the Department of Social Development attended a session with employers to discuss issues of gender-based violence.

- d) The company has created an enabling environment for employees with disabilities. Awareness campaigns on disability have been held to ensure that employees are sensitive to various disabilities. Moreover, the company has provided listening devices to one of its employees in order to reasonably accommodate them.

#### 4.6 EH Hassim

EH Hassim Builders World is a Limpopo based company that specialises in hardware products. The company appeared before the CGE during the transformation hearings in the 2016/2017 financial year and again during follow-up hearings in the 2017/2018 financial year. The company has demonstrated substantial progress in complying with the recommendations of the CGE.

Recommendations	Progress
The company needs to conduct sexual harassment workshops for employees who are stationed in the yards.	Workshops were conducted in the yards during 2017 and 2018 but no attendance registers were completed. The company further submitted that on 26 June 2019, sexual harassment training was done with yard employees by the HR Manager and Health and Safety Officer. The attendance register for 26 June 2019 was submitted to the CGE. The attitude of male employees towards women in the yards had changed since the sexual harassment training took place. The company submitted that employees understand the seriousness of sexual harassment in the workplace. The CGE records that it conducted a sexual harassment workshop with the company during 2017.
The company's Training Centre needs to take in female learners to learn the necessary skills to be appointed in the yards.	<p>The company submitted that:</p> <p>Total Learners in 2018/2019:</p> <ul style="list-style-type: none"> <li>• Women = 45 (85%)</li> <li>• Men = 8.</li> </ul> <p>Total Learners in 2019/2020:</p> <ul style="list-style-type: none"> <li>• Women = 11 (85%)</li> <li>• Men = 2.</li> </ul> <p>The company explained, however, that it had found that women did not want to work in the yards because of the physical labour required. The working environment in the yards is harsh, and employees need to be on their feet the whole day. It was further submitted that the Yard employees carry heavy objects and most women are not able to pick up or load these products. The company indicated that it was looking for women willing to use the forklifts in the yards but had not received CVs to this effect.</p> <p>The CGE recorded that women can use forklifts like men in the yards and therefore should be considered for such roles.</p>

<p>Representation of women in management positions needs to be improved.</p>	<p>The company submitted that women in top management were as follows:</p> <ul style="list-style-type: none"> <li>• Total in 2017 – Zero (0)</li> <li>• Total in 2019 – Two (2)</li> </ul> <p>Mrs Fatima Tayob was appointed as a Director in 2018. Mrs Christene Pienaar was appointed as CFO in 2018.</p> <p>The overall women representation in top management positions improved from 27.91% in 2017 to 48.64% in 2019.</p> <p>The company submitted that in 2017 there had been some retrenchments due to restructuring and this had resulted in fewer management positions overall.</p> <p>The CGE observes that senior management is still dominated by men, notwithstanding a slight improvement in women representation, i.e. 31.25% in 2017 and 33.33% in 2019.</p>
<p>Representation of women with disabilities needs to be improved, including headhunting at the University of Limpopo.</p>	<p>The company submitted that it had contacted the QuadPara Association of South Africa; National Council of and for Persons with Disabilities; Disabled People South Africa and the Department of Labour to recruit PwD. Numerous applications had been received for the positions advertised, but most candidates did not meet the requirements as stated in the advertisements.</p> <p>The company did not indicate what the advertised positions were and the reasons why the candidates did not meet the requirements.</p>
<p>The race representation of Indian and Coloured people needs to be improved.</p>	<p>The company submitted that race representation had improved since 2017 by an average of 20%. Indian representation improved the most with eight (8) new employees. However, no CVS had been received from Coloured persons, probably due to the location of the company.</p>
<p>A succession plan for female employees must be created.</p>	<p>The company had developed a Succession Policy that seeks to employ women within the company. The policy recognises mentorship and coaching as important elements for the purposes of succession. The CGE noted with concern the principles set out in the policy, particularly a clause that states: "Succession planning aims to obviate the premature promotion of women employees who may not yet be capable of fulfilling the appropriate tasks." The clause must be gender neutral.</p>

## Analysis, Concluding Comments and Recommendations

- a) The Company demonstrated its commitment to complying with the recommendations of the CGE and most recommendations were complied with.
- b) The CGE observed that middle management improved significantly to ensure the representation of women i.e. from 29.17% in 2017 to 54.17% in 2019.



- c) It was observed that retrenchments in 2017 resulted in an increase in women employees in that more men were retrenched.
- d) The Commission recommended that the Limpopo Office of the CGE continue to work with the company and assist with the drafting of policies. As such, policies such as gender policies, breastfeeding policies and succession policies have subsequently been redrafted and scrutinised by the CGE.

#### 4.7 Oos Vrystaat Korporasie (OVK)

OVK, a well-known agricultural entity situated in the Free State, participated in the Employment Equity hearing in the 2017/2018 financial year. Following its response on progress with recommendations made by the Commission, it was decided to recall the entity to a follow-up hearing.

The entity was scheduled to reappear before the Commission during November 2019. Pursuant to the Notice to Appear being served, a company representative informed the Commission of a possible amalgamation with a major agricultural company, namely Suidwes Landbou. The company submitted that the process still required various negotiations and meetings, and if successful would have a direct impact on its staff establishment and organisational policies. The Commission agreed to a postponement on condition that a follow-up meeting be held in early January 2020 to track progress of the amalgamation. In January 2020 the entity informed the Commission that the said amalgamation would no longer take place. The decision was then taken to proceed with the follow-up hearing.

Recommendations	Progress
<p>Gender transformation should form part of the performance reviews of the company.</p>	<p>OVK indicated that gender transformation was addressed in Employment Equity Committee and Management meetings. The company was requested to submit minutes of the meetings to establish the nature of discussions on transformation. After a telephonic conversation with a representative of the company it was recorded that there had been no meetings wherein gender-related matters had specifically been discussed. Following the first follow-up hearings, it was submitted that meetings were to be held with the Board and Head Office, however same never materialised. This contradictory statement was flagged as a major concern to the CGE as the company showed no intention or commitment to address gender transformation or link accountability for the non-achievement thereof.</p> <p>It was indicated that a proposal for these meetings would be put forward to the management team.</p>

<p>Capacity-building programmes need to be introduced aimed at accelerating women and people with disabilities to senior and top management positions.</p>	<p>OVK indicated that fair opportunity is given to all employees, irrespective of diversity, to progress to senior roles.</p> <p>No statistics were provided and no supporting documents were given to support this statement.</p> <p>However, the company indicated that three (3) women employees had recently been promoted to managerial positions, which suggests a slight improvement in respect of gender transformation.</p>
<p>Childcare facilities need to be provided and there is no provision for flexitime within the company.</p>	<p>OVK indicated that it does not provide childcare facilities and no provision is made for flexitime within the company.</p> <p>The company pointed out, however, that it operates in small towns, which allows for women employees to take two childminding breaks per day. This has been an ongoing practice, and although not formally communicated in writing, employees are aware of the practice and need only to make arrangements with their direct line managers to make use of this opportunity.</p> <p>The lack of formal communication in this regard was noted with concern. The absence of a policy directly impacts on implementation processes and accountability.</p>
<p>Progress made in terms of transformation must be reported. It was recommended that the company should have a memorandum of understanding with schools, technical colleges and universities.</p>	<p>It was previously stated that the Human Resource section and branch managers embarked on a process of approaching schools to identify potential employees from learners in designated groups.</p> <p>OVK indicated that a partnership had been formed between the business representative and several schools in the area.</p> <p>The entity confirmed that it had identified several tertiary institutions to be used as feeders of possible interested candidates. These include: Sol Plaatje in the Northern Cape, University of Free State and North-West University.</p> <p>The Department of Labour had also been approached to assist with recruitment opportunities at OVK.</p>
<p>Disaggregated data must be provided in terms of race and gender regarding the 14 employees previously reported to be disabled.</p>	<p>Because no information had been submitted, the CGE was not in a position to express its view on whether more or less women with disabilities had been employed by this entity.</p> <p>It can therefore not be said that there is positive progress in terms of transformation relating to PwD.</p>
<p>Submit a transformation plan.</p>	<p>No information was submitted despite the request for additional information. This is a clear indication of the lack of commitment from the entity to comply with the EEA.</p>

## Analysis, Concluding Comments and Recommendations

- a) The contradictory statement in terms of Employment Equity meetings, which had not been conducted since the previous hearings, was flagged as a major concern to the CGE, indicating that the company showed no intention or commitment

to address gender transformation or link accountability for the non-achievement thereof. The company later submitted minutes of a meeting that took place in October 2019 which can be construed as either an attempt to make up for this failure or merely to comply with the recommendation for reporting purposes.

- b) It would appear that the staff establishment in terms of management is largely occupied by White men, which shows that no transformation has taken place in this regard. The company needs to take a robust approach in terms of its turn-around strategy in achieving gender transformation.
- c) The lack of formal communication in relation to child minding and/or flexitime was noted with concern. It is recommended that this be formalised by way of a policy and communicated to employees.
- d) OVK provided no information in terms of the memorandums of understanding with schools, technical colleges or universities as recommended by the CGE.
- e) No progress was shown in terms of transformation relating to PwD which further speaks to the need for the development of a Transformation Plan with specific measures in place to achieve transformation.

## 4.8 Kloppers

Kloppers is a privately-owned family retail store, situated in Loch Logan Waterfront, Bloemfontein, Free State. The entity appeared before the CGE in the 2016/2017 and 2017/2018 financial years. During the follow-up engagement the company acknowledged that the environment is still male dominated and linked this to the nature of its business which is retail. The company, however, conceded that it cannot shy away from transformation and emphasised the need to have an on-going relationship with the CGE in its journey to realise transformation.

It was positively received that since the previous hearings before the CGE, the company had shown some improvements in that women had been appointed in the maintenance, firearms and gardening sections. This effort was commended by the CGE as it is empowering and promoting a diverse culture within the workplace. The following recommendations were captured in the progress report to which the entity responded as follows:

Recommendations	Progress
<p>Introduce a system to track upward movement of women and people with disabilities to top management positions.</p>	<p>Kloppers indicated that with the appointment of LabourNet, a specific system has been put in place to track upward movement of staff and specifically PwD.</p> <p>The company uses the Paterson Job Grading System for job evaluation purposes. In addition, since 2018, a total of 13 women had been promoted.</p> <p>Subsequent to the hearings the company appointed a Black woman, recorded in the statistics as a PwD. Information provided suggests that the staff complement relating to PwD is still male dominated.</p> <p>An Employment Equity Committee had been established with diverse individuals forming part of the committee.</p> <p>It was submitted that the company had previously relied on outside advice with regards to transformation and diversity but had subsequently recruited its own in-house specialist. The newly appointed Employment Equity Manager is responsible for Employment Equity and skills development programmes.</p> <p>An Employment Equity Plan and a Workplace Skills Development Plan for 2019/2020 were established and will end on 31 March 2020. The next Skills Development Plan will include Diversity and Change Management.</p> <p>One of the barriers identified in the Employment Equity (EE) Plan was the fact that training currently only takes place at management level. The CGE noted this with concern as this will result in a huge skills/development gap since the majority of management is male.</p>
<p>Capacity-building programmes, aimed at accelerating woman and people with disabilities to top management positions, must be introduced.</p>	<p>The company submitted that LabourNet would be assisting in providing programmes directed to fast track women and disabled individuals into managerial positions. The company reiterated its commitment to gender transformation and advised that more training on diversity management would be conducted in the coming financial year.</p> <p>The CGE observed positive feedback from the company in relation to the establishment of the Workers Forum. The company submitted that having women as part of the platform to address issues in the workplace has proven very valuable. Issues identified by this forum are escalated to the Employment Equity Committee for discussion and/or consideration.</p>

<p>In-house childcare facilities and flexi-time must be introduced. The company indicated that a crèche would be built within the coming three to five years. The CGE suggested that the company should partner with other facilities in the vicinity.</p>	<p>Kloppers indicated that since it is situated in a mall surrounded by other businesses, an in-house childcare facility would not be achievable, which statement is contrary to the submission in the previous follow-up report.</p> <p>It was further recorded that the current staff establishment does not require such a facility since most of their children fall outside the age group of a crèche.</p> <p>It was, however, recorded that alternative measures had been put in place in terms of more flexible working hours for staff, with an extra day off work every month to attend to responsibilities such as clinic visits etc.</p> <p>Kloppers acknowledged that it does not oppose the original recommendation and will re-evaluate the feasibility as soon as an actual need arises.</p>
<p>Women should be represented on selection panels and PwD should also be represented.</p>	<p>This recommendation was addressed through the establishment of several committees. Amongst others, the committees include the Workers Forum Committee, consisting of diverse members representing each of the occupational levels as well as race, gender and disabled employees.</p> <p>This committee received training on its role and responsibilities within the workplace and meetings are held on a monthly basis.</p> <p>The company is applauded for this initiative, since employees will be more comfortable in discussing matters of any nature with their own rather than directly with management.</p>
<p>A sexual harassment policy is needed as it does not suffice to only follow the Code of Good Practice.</p>	<p>A Sexual Harassment Policy was drafted and implemented. Training relating to the policy was conducted and attendance registers in support thereof were submitted.</p>

## Analysis, Concluding Comments and Recommendations

- a) Reference was made to an in-house doctor and social worker. The company reported that the health of its employees is of great importance and as such it had made the above services available to staff free of charge. Medical information is kept confidential and as an additional benefit, the company contributes 50% to its employees' medical aid funds. The company further reported that employees may make use of any medical practitioner of their choice and are not obligated to make use of the in-house doctor.
- b) Top management comprises of White men only, and the company indicated that it did not foresee that this would change since it is a family-owned company.

- c) The workforce profile submitted indicted a clear under-representation of Indian women at all levels within the company.
- d) It was observed that transformation within the institution had progressed at a very slow pace, which was a concern to the CGE. It was resolved during the hearing that Kloppers would furnish the CGE with all policies to analyse as part of tracking compliance with recommendations made by the CGE during the 2017/2018 assessment.
- e) A Transition Policy is to be drafted and submitted to the CGE for review. This is to make provision for employees who wish to transition and indicate how the employer will accommodate this transition. Kloppers welcomed this recommendation and undertook to release the first draft to the CGE by February 2020.
- f) Progress reports on diversity management and change management training are to be submitted to the CGE.
- g) All organisational policies are to be submitted to the CGE for review, after which Kloppers will need to ensure that the said policies are all engendered. The company submitted that it had embarked on a major project to update and translate current workplace policies and requested the assistance of the CGE to ensure that all policies are engendered before these are put into operation in the workplace.
- h) Quarterly progress reports are to be submitted to the CGE to monitor progress in terms of gender transformation.
- i) The purpose of the Skills Development Act is to develop the skills of the workforce and to improve the quality of life of workers, their prospects of work, and labour mobility. It was observed that training at Kloppers mostly takes place at management level resulting in the skills gap being ineffectively addressed and previously disadvantaged employees not being empowered as outlined in the mentioned act.

#### **4.9 Jonsson Workwear**

Jonsson Workwear is a KwaZulu-Natal based company that produces workwear for the South African and international markets. The company first appeared before CGE in the 2016/2017 financial year, at which time certain findings and recommendations were

made. Jonsson Workwear was recalled by the CGE in the 2017/2018 financial year to provide an update on its compliance with the CGE's findings and recommendations.

Pursuant to the employment equity hearings on the 23 November 2017 the CGE made further findings and recommendations that are tabled below.

The Chief Executive Officer of Jonsson Workwear could not attend the hearings and was permitted by the CGE to be represented by a delegation from the company.

Recommendations	Progress
<p>The company should put all its policies in writing and conduct awareness campaigns on all its policies. Specifically, it should have in place:</p> <ul style="list-style-type: none"> <li>• Transformation Policy</li> <li>• Develop a succession plan/policy</li> </ul>	<p>Jonsson Workwear provided the CGE with an update, confirming that all company policies had been published on Engage (its intranet site), and that the policies are updated on an annual basis or when there are new legislative promulgations.</p> <p>Jonsson Workwear provided a list of awareness campaigns that had been conducted as well as the number of attendees at each training session. These are additional to the company policy training/awareness campaigns.</p>
<p>The company should conduct sexual harassment awareness campaigns.</p>	<p>In 2017 Jonsson Workwear launched an ethics hotline which is managed by Deloitte. Ms. Chantelle Fuchs, a director at Jonsson Workwear conducts annual workshops focusing on the importance of the hotline, including topics on sexual harassment. To date no cases had been reported.</p>
<p>Submit plans to improve the number of individuals with a disability at Jonsson Workwear.</p>	<p>Jonsson Workwear established a disability focus group to drive recruitment, awareness and upliftment and inclusion of PwD in the workplace. As a new initiative, it had not yet produced the expected results, but is focused on producing results in the future. The group meets on a monthly basis to discuss and work towards the following goals:</p> <ul style="list-style-type: none"> <li>• Recruit and retain people with disabilities who are effective, well trained and appropriately supported</li> <li>• Increase knowledge, awareness and skill to appropriately support people with disabilities</li> <li>• Grow the pipeline of people with disabilities with identified skills sought.</li> <li>• The monthly meetings have not resulted in an increase of people with disabilities working at Jonssons Workwear.</li> </ul>

<p>Develop a Succession Plan for Jonsson Workwear.</p>	<p>Jonsson Workwear is committed to identifying and developing talented individuals within the organisation and building a talent pipeline. It is however, not in the ethos of the company to implement conventional succession plans. Jonsson Workwear is of the opinion that conventional succession plans limit employees' potential and or opportunity.</p> <p>Jonsson Workwear indicated that the company does not define its roles by titles and all employees are expected to work together and collaborate, irrespective of their levels in the organisation.</p> <p>Jonsson Workwear has an Employment Equity Policy that seeks to regulate issues of succession at the company. This is supplemented by its Performance Management Policy that addresses and accentuates the company's culture of self-development.</p> <p>Both policies address the need to grow the company's own timber to develop future leaders of the company.</p>
<p>Jonsson Workwear to develop a Transformation Policy.</p>	<p>The company reported that no Transformation Policy had been developed, since it believes that the principle of transformation is embedded in three of its policies as well as through its Social, Ethics and Sustainability Committee and the work of the Jonsson Foundation.</p> <p>The company submitted that it relies on the following policies to drive transformation within the workplace:</p> <ul style="list-style-type: none"> <li>• Broad-Based Black Economic Empowerment Policy</li> <li>• Employment Equity Policy</li> <li>• Non-Discrimination Policy</li> <li>• Social, Ethics and Sustainability Charter as legislated in the Companies Act of South Africa.</li> </ul> <p>The above policies enhance Jonsson Workwear's statutory requirements such as the Employment Equity Act where the company is required to drive transformation and align its demographics in accordance with the economically active population of South Africa. This ensures that Jonsson Workwear's profile meets the required target as set out in the EEA, reflecting the economically active population. Jonsson Workwear therefore submitted that it did not develop a separate policy because the Employment Equity Act addresses same.</p> <p>The three policies above, together with the Social, Ethics and Sustainability Committee emphasise the responsibility of the company and the leaders in the business to ensure that they address transformation and any short comings in the business relating to transformation.</p>



## Analysis, Concluding Comments and Recommendations

- a) The Commission resolved to do an *inspection in loco* in 2020 at the offices of Jonsson Workwear to gain an understanding of the culture and operations of the company.
- b) Jonsson Workwear has made great strides in transforming since originally appearing before the Commission and the company is applauded for its continued compliance with the Commission's findings and recommendations. Section 15(a) of the Employment Equity Act provides for the employer to ensure that all designated groups are equitably represented in all the occupational levels of the workforce. At Jonsson Workwear there is representation of the designated groups. At the top level of the company there is a Black woman who works directly with the CEO as his right-hand woman.
- c) Jonsson Workwear has adopted a flat management structure that provides equal opportunity for all its employees to develop to reach their full potential. This is in alignment with Goal 5 of the Sustainable Development Goals, which seeks to end gender inequality and provide economic opportunities for women.

### 4.10 Pick n Pay

Pick n Pay (PnP) is one of the largest chain supermarkets in South Africa. The entity participated in the previous investigative hearing and was called again during the 2019/2020 hearing to present its progress on recommendations made. The positive approach by PnP to transform its work environment to equally benefit all employees was well received by the Commission. Recommendations made, together with the progress report are presented in the table following.

Recommendations	Progress
<p>The company must establish working relations with institutions of higher learning in order to attract graduates from various backgrounds.</p>	<p>Sourcing teams within the company have developed good working relationships with several career services and faculty departments from a range of top universities, including the Universities of Johannesburg, Cape Town and KwaZulu-Natal. PnP also reached out to TVET colleges in this regard.</p> <p>PnP's interventions with its pipeline programmes aimed to create a more diversified workforce. In the first three years, 82 of the 87 graduate trainees were Black, and well over half were women.</p> <p>The re-designed Graduate Development Programme was aimed not just at developing new graduates but at ensuring they would be successfully placed in permanent positions within the business. Once permanently placed in the business, the graduates form part of a talent pool where-after leadership teams are responsible for ensuring that they are encouraged and developed for future, more senior positions within the company. The career progression of these graduates is monitored by the Talent Team to ensure that their career aspirations, performance and engagement levels are optimised. Two (2) Black men and one (1) Black woman have been promoted to middle management since their placements in 2018 and 2019, which is an indication of the extent to which these high potential individuals are fast-tracked, based on their performance and contribution to the business.</p>
<p>The company should consider having its sexual harassment awareness material available in languages other than English.</p>	<p>PnP confirmed that its national Sexual Harassment Workshops were conducted during 2018 for all employees. The nature of these workshops was interactive, and participants were encouraged to ask questions to enhance their understanding of what constitutes sexual harassment and how this should be effectively managed.</p> <p>PnP has adopted English as its medium of instruction and business language, to be used by all employees and trade unions, and has successfully communicated with same in this manner. The English language is necessarily a requirement because staff members need to be able to communicate with customers, hence by logical inference, all staff are sufficiently conversant with the language to understand the policy and training.</p> <p>All sexual harassment awareness materials are in English. The policy is available on an application (app)<sup>15</sup> via smart phone, in-store till points<sup>16</sup> and discussed during staff meetings.</p> <p>It was submitted during the hearing that some attempts had been made to translate the Sexual Harassment Policy, making use of staff as translators. The CGE suggested that a linguist and/or lawyers assist with this process.</p>

<sup>15</sup> The name of the application is PnP Vuzu, which is available to download from Play Store

<sup>16</sup> It was submitted that till points were turned into functional laptops which are utilised for e-learning purposes

<p>The company needs to put concerted effort into the transformation of its senior management.</p>	<p>PnP advised that the following programmes had been implemented since 2017, as part of its transformation efforts:</p> <ul style="list-style-type: none"> <li>• Retail Business Performance Programme – University of Pretoria Enterprise</li> <li>• Retail Management Development Programme – University of Pretoria Enterprise</li> <li>• Management Advancement Programme – Wits Business School.</li> </ul> <p>These programmes are run by external Higher Education Institutions to ensure that the content and outcomes are aligned with industry standards and that managers receive formal recognition for their achievements.</p> <p>The company submitted that since 2017 it had been able to enrol 254 managers on these programmes. Of these, 73% were from previously disadvantaged groups and 34% were women.<sup>17</sup></p> <p>In addition to these formal management programmes, PnP confirmed that it had also initiated an internal development programme for regional line managers to ensure that they are exposed to ongoing management development practices and are kept up to date on operational changes. This programme commenced in 2018 and is an ongoing initiative covering all regional line managers. To bring the above statement in line with transformation the following breakdown was provided:</p> <p>Of the total complement of 50 regional managers:</p> <ul style="list-style-type: none"> <li>• 60% are people from previously disadvantaged backgrounds</li> <li>• 10% are women.</li> </ul> <p>Apart from these initiatives, PnP continues with other programmes that contribute to management and leadership development, including company-sponsored MBAs and the International Leadership Development Programme, sponsored by the Wholesale and Retail SETA.</p> <p>PnP further runs a Woman in Leadership Programme aimed at developing high potential and high performing female talent in PnP, whilst also addressing its EE aspirations.</p> <p>PnP confirmed that the appointment of women into senior retail positions remains a priority. Currently, out of 1 359 positions, 486 are filled by women, representing 36% of the group. Of the 486 women, 17% (82) are Black, 9% (43) are White, 6% (29) are Coloured and 3% (15) are Indian.<sup>18</sup> The company further showed its commitment in this regard through the recent appointment of a woman to the position of Group Chief Financial Officer.</p>
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<sup>17</sup> Response letter dated 13 August 2019

<sup>18</sup> Response letter dated 13 August 2019

	<p>PwD still forms part of the transformation process in that during 2018, 100 people with disabilities were placed on a 12-month learnership programme. Of these learners, 88 completed the programme and were all permanently employed. PnP currently had 50 people with disabilities on a retail learnership programme and was committed to employing those who successfully completed the programme at the end of the 12-month period.</p> <p>A further R4 million had been earmarked by the company for disability learnerships. The aim is to provide for further inclusion and a support structure to ensure an enabling environment for PwD.<sup>19</sup></p> <p>The company acknowledged that disability refers to more than just physical disabilities and pledged to ensure that its recruitment process would consider a range of disabilities. The company further pledged to highlight issues related to disability and what this entails through staff communication. Staff will be encouraged to talk about mental health and where needed, register same with the medical aid.</p>
<p>The company must address the need for child-care facilities.</p>	<p>PnP submitted that it had assessed the feasibility of such centres and concluded that the cost in the current economic climate was unaffordable. The company submitted that practical implementation posed a further challenge in that additional space would be required that would need to be legally compliant and conducive to housing and looking after children whilst their parents were at work. The additional cost linked to this project could lead to retrenchments.</p> <p>However, PnP submitted that it remains committed to this recommendation through other means such as the provision of extended maternity leave (11 months) and paternity leave. Included in this is occasional leave for childcare beyond the maternity leave period.</p>

## Analysis, Concluding Comments and Recommendations

- a) Overall Pick n Pay showed consistent improvement and commitment to achieve transformation, which efforts were noted and commended by the CGE.
- b) Considering the above statistics, the line management positions still leave room for gender transformation. A concern regarding crime in South Africa was cited as one of the challenges faced by the company in relation to the promotion of women to the position of store managers. This is largely due to the fact that stores close late which poses a risk for the safety of the staff, especially women. The company indicated that it proactively assists staff by providing transport which takes them to their respective homes. Store managers are provided with a company

<sup>19</sup> The company explained how it had assisted a disabled employee by allocating funding to purchase a wheelchair, and had equipped/adapted his apartment and workplace to enable him to continue work

vehicle and are accompanied by security officials when opening their stores. PnP however undertook to continue to look into this matter and re-evaluate measures in line with other best practices in the industry.

- c) The CGE commented on the Women in Leadership initiative, suggesting it should also focus on skills development for women, which will create economic empowerment and growth as well as the confidence the company referred to in its presentation.
- d) PnP was commended for its maternity leave provision. The recommendation on childcare facilities, however, remains under careful review.
- e) Spousal Benefits:  
The CGE requested confirmation that same sex couples are allowed the same benefits. This is linked to the *Satchwell*<sup>20</sup> case where the court ruled unanimously that the law violated the equality clause as set out in the Constitution<sup>21</sup>, which prohibits unfair discrimination based on sexual orientation. The judgment consequently resulted in amendment to the law to extend spousal benefits to same-sex partners who had undertaken “reciprocal duties of support.”

The company submitted that it continuously reviews employee benefit policies to ensure alignment with the industry and with the current legislative framework. The parental leave policy was cited as an example, allowing for changes with reference to gender thereby equalising benefits.

The company medical aid, however, is governed by rules set by the scheme, which is understood by the company to be in line with the relevant legislation. In respect of payment for hormone treatment, the company submitted that the medical aid regarded hormone treatment as an elective process which is not covered by the scheme.

Further discussions were held on the registration of customary marriages of staff in rural areas. The CGE offered its assistance in the education of these staff members on the registration of such marriages and the benefits thereof. PnP welcomed this suggestion and submitted that these information sessions not be limited to rural areas only but also extended to urban areas.

<sup>20</sup> *Satchwell v President of the Republic of South Africa and Another* (CCT48/02) [2003] ZACC 2; 2003 (4) SA 266 (CC); 2004 (1) BCLR 1 (CC) (17 March 2003) [2002] ZACC 18; 2002 (6) SA 1 (CC); 2002 (9) BCLR 986 (CC)  
<sup>21</sup> 108 of 1996

It was concluded that Pick n Pay should submit its definition of the term “spousal” within its spousal benefit policy to CGE, to ensure that same sex partners receive the necessary spousal entitlements as per the *Satchwell* decision.<sup>22</sup> All other organisational policies are to be amended to include this position.

- f) The CGE raised the issue of large companies being indifferent to space for taxis (public transport) and extended a request to PnP to be more accommodative in this regard, especially in areas where the property is owned by the company.
- g) The CGE recommended that PnP acquire the services of a professional linguist and/or professional lawyers to assist with the translation of its sexual harassment policy.
- h) A Bullying Policy is to be drafted and implemented in addition to the Sexual Harassment Policy.
- i) PnP should provide its Childcare Feasibility Study to the CGE for further engagement.
- j) The CGE recommended that the Disability Policy be updated to include all forms of disability. The said policy should be submitted to the CGE for review. Disability within the organisation must be mainstreamed and proof thereof must be submitted to the CGE.
- k) Pick n Pay should submit their definition of the term “spousal” within their spousal benefit policy to CGE. This is to ensure that same sex partners receive the necessary spousal entitlements as per the *Satchwell* decision. All other organisational policies are further to be amended to include this position.
- l) Provision should be made to ensure that transformation is achieved at all levels of the organisation. A report is to be submitted to CGE on the implementation plan.
- m) In terms of management positions, the CGE recorded that the 30% growth in women representation in senior management levels was insufficient. PnP should therefore progressively move towards realising the 51.2% demographic of the country.

<sup>22</sup> *Satchwell v President of the Republic of South Africa and Another* (CCT48/02) [2003] ZACC 2; 2003 (4) SA 266 (CC); 2004 (1) BCLR 1 (CC) (17 March 2003)

## 4.11 Sasol

Sasol is a global integrated chemicals and energy company with its head office based in Sandton, Johannesburg. It has operating hubs in Secunda in Mpumalanga and Sasolburg in the Free State.

Sasol first appeared before the CGE during the transformation hearings in the 2016/17 financial year. A number of recommendations were made. Progress in this regard is recorded in the table following.

Recommendations	Progress																				
Sasol should relook at its commitment to promote people with disabilities.	<p>The CGE observed growth in representation of women in the top, senior, middle and junior management levels.</p> <p>Growth of 0.6% across the entire workforce was recorded between September 2016 and May 2019.</p> <p>Additional measures implemented by Sasol to promote persons with disabilities include:</p> <ul style="list-style-type: none"> <li>• Integration</li> <li>• Enablement</li> <li>• Accessibility</li> <li>• Performance measurement.</li> </ul> <p>Further success includes bursaries, a PwD video increasing awareness, and online training for emergency evacuation of PwD.</p>																				
Sasol should increase the number of women taking up bursaries.	<p>The company has shown progress in this regard with an increase from 44% to 49% in women bursary holders since 2016/2017.</p> <p>The company's attraction strategy is to retain women employees, focusing on critical and scarce skills, as well as the needs of Sasol's business sectors. The table below provides a breakdown outlining progress made herein:</p> <table border="1" data-bbox="767 1563 1374 1919"> <thead> <tr> <th>Race</th> <th>Year and %</th> <th>Year and %</th> <th>Year and %</th> </tr> </thead> <tbody> <tr> <td>Black</td> <td>2017 – 57%</td> <td>2018 – 59%</td> <td>2019 – 61%</td> </tr> <tr> <td>Coloured</td> <td>2017 – 22%</td> <td>2018 – 19%</td> <td>2019 – 4%</td> </tr> <tr> <td>Indian</td> <td>2017 – 8%</td> <td>2018 – 5%</td> <td>2019 – 17%</td> </tr> <tr> <td>White</td> <td>2017 – 13%</td> <td>2018 – 17%</td> <td>2019 – 18%</td> </tr> </tbody> </table>	Race	Year and %	Year and %	Year and %	Black	2017 – 57%	2018 – 59%	2019 – 61%	Coloured	2017 – 22%	2018 – 19%	2019 – 4%	Indian	2017 – 8%	2018 – 5%	2019 – 17%	White	2017 – 13%	2018 – 17%	2019 – 18%
Race	Year and %	Year and %	Year and %																		
Black	2017 – 57%	2018 – 59%	2019 – 61%																		
Coloured	2017 – 22%	2018 – 19%	2019 – 4%																		
Indian	2017 – 8%	2018 – 5%	2019 – 17%																		
White	2017 – 13%	2018 – 17%	2019 – 18%																		

<p>Sasol should establish childcare facilities at all Sasol sites.</p>	<p>One crèche has been built in the Secunda region. Sasol reported that all building plans of Sasol sites have childcare facilities, but these were placed on hold due to cost. However, there are nursing rooms for breast feeding.</p> <p>Sasol submitted that it continues to invest in early Childhood Development Centres within its communities.</p>
<p>Sasol to provide details of the sexual harassment cases that the company dealt with where no sanction was imposed.</p>	<p>Sasol established an anonymous Ethics Hotline to report and register sexual harassment cases. It is the responsibility of the Sasol Forensic Division to investigate cases reported through the hotline.</p> <p>The impact of the hotline could not be determined because only one case of sexual harassment had been reported. The victim, an employee, refused to avail herself at the enquiry, hence the perpetrator was not prosecuted due to lack of evidence. There were other reported incidents of sexual harassment during 2019.</p> <p>Sasol further stated that it has a Code of Conduct which is communicated to all employees. Sexual harassment is not treated lightly and is seen as serious misconduct.</p> <p>It was noted that Sasol initiated awareness and conduct training sessions on handling sexual harassment throughout its regions.</p>

## Analysis, Concluding Comments and Recommendations

- a) The Commission applauded Sasol's initiative to sponsor the Banyana Banyana Football Team.
- b) The CGE noted that Sasol experiences challenges in recruiting PwD, especially those in possession of specialised skills. The CGE recommended that Sasol consult relevant stakeholders in order to recruit PwD.
- c) The CGE observed that Sasol confuses Early Childhood Development (ECD) with Corporate Social Investment (CSI) in Zamdela, a township near Sasolburg, where the majority of Sasol employees reside. Unlike CSI, ECD in Zamdela only benefits Sasol employees and their dependants and not the community. As such it cannot be regarded as a social project.



## 4.12 HL Hall & Sons

HL Hall & Sons is a vertically integrated, sub-tropical fresh produce business with global reach. It specialises in the growing, sourcing, packing, ripening, distribution and marketing of quality sub-tropical fresh produce, especially avocado. Its expanded product suite includes mango, litchi, lime and pecan in addition to an ever-expanding range of other sub-tropical exotics and associated product lines. There are farms in Mpumalanga and Limpopo under management, with other operations outside South Africa.

Recommendations	Progress
<p>The company must assign one or more senior managers to ensure implementation and monitoring of employment equity in terms of Section 24 of the Employment Equity Act. The EE Plan must disclose recruitment of Indian, Coloured and Black candidates.</p>	<p>The CGE noted that the company had successfully appointed an Employment Equity Manager, who forms part of the EE Committee.</p> <p>The Employment Equity Manager has executive authority and a mandate to make decisions regarding the company's employment equity initiatives, appropriate budget and access to the required resources in order to promote equitable representation.</p> <p>HL Hall &amp; Sons could not provide the CGE with a redraft of its EE Plan that included Indian, Coloured and Black candidates as part of the recommendation.</p> <p>The EE Plan submitted to the CGE was for the period 01 October 2019 to 30 September 2022.</p>
<p>The company's Sexual Harassment Policy must be revised to include a clear definition of sexual harassment, the ways in which it is perpetrated, and must be aligned with recent case law and legislation.</p>	<p>The company had not conduct sexual harassment awareness sessions pending the approval of the Sexual Harassment Policy.</p> <p>The company then expressed its intention to conduct sexual harassment awareness sessions during the month of August 2019 to include "16 days of Activism for No Violence against Women and Children." This did not take place and no reasons were provided to the CGE.</p>
<p>The company must run disability awareness programmes to enable employees to disclose their disability, especially during campfire meetings, for disability audit purposes. As per the White Paper, disabled persons have a right to be represented through disabled person's organisations in all matters and processes impacting on their lives.</p>	<p>The company held a 2-hour Disability Awareness Campaign on 10 April 2019 for farm, fresh produce, value-add and export workers. Participants were invited to disclose their disability. EEA1 Forms were completed for record purposes. The content of the sessions was not made available to the CGE to analyse.</p>

<p>The company was advised to approach Mpumalanga University to recruit female candidates from the Faculty of Agriculture and Natural Sciences.</p>	<p>The company submitted that the lack of women skilled in the agricultural sector directly impacts on recruitment of employees from the designated groups. To address this challenge it had recruited graduates for internship and learnership programmes.</p> <p>A total of 29 women students, of whom 20 are Black, were accommodated from the Universities of Mpumalanga, Venda and Limpopo respectively. The following are new appointments since November 2017:</p> <ul style="list-style-type: none"> <li>• Top management, CEO – White woman</li> <li>• Middle management, Human Capital Manager – Black man</li> <li>• Middle management, Technical Manager – White woman</li> <li>• Junior management, Farm manager &amp; Communications officer – 2 Black women</li> <li>• Junior management, Technical officer – Black man</li> <li>• Junior management, Accounts officer – White woman</li> </ul>
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## Analysis, Concluding Comments and Recommendations

- a) The CGE expressed its dissatisfaction with the overall lack of progress made by HL Hall & Sons regarding the implementation of recommendations made during 2018.
- b) The CGE observed that the EE plan is silent on race targets within the workforce. The plan further does not identify the objective of recruitment and selection of employees as well as time frames for recruitment procedures and selection criteria.
- c) The CGE will conduct an inspection *in loco* in October 2020 in terms of Section 11(1)(h) of the Commission for Gender Equality, Act No. 39 of 1996, as amended.
- d) HL Hall & Sons should conduct a refresher workshop on sexual harassment for employees and provide a report to the CGE by October 2020.
- e) Engagement between CGE and HL Hall & Sons on implementation of recommendations will continue.

### 4.13 Rhodes Food Group

Rhodes Food Group (RFG) is an internationally recognised manufacturer of convenience meal solutions for customers throughout South Africa, sub-Saharan Africa and major global markets.<sup>23</sup> The entity appeared before the CGE in both the 2016/2017 and 2017/2018 financial years.

Since prior commitments resulted in the unavailability of the CEO to attend the scheduled hearing, the CGE, after due consideration, deferred the hearing to 09 December 2019. The company was given the opportunity to present its progress on recommendations as listed below.

Recommendations	Progress
<p>The company should transform management by <i>inter alia</i> creating a position on the Board with responsibility for transformation.</p>	<p>In September 2017 a new director's position was created (Director Corporate Affairs) which is currently occupied by a Coloured woman who was internally promoted. Transformation falls within the ambit of the said employees' responsibilities.</p> <p>In terms of the executive management structure, women representation increased from 0% to 28.6%.</p> <p>As part of the transformation journey the company engaged the services of an external training provider to assist with Diversity Workshops across the Group, which covered sexual harassment. Ten workshops had been conducted across the various sites, and a further two workshops were to take place at the remaining sites.</p> <p>The company confirmed that the workshops were interactive and covered broad areas of diversity, including the importance of identity, personal and cultural differences, stereotypes, prejudice, discrimination as well as best practices in managing diversity.</p>
<p>The company should be involved in the redistribution of equity in farms and consider equity-shared farms in its procurement of farm produce.</p>	<p>The company had embarked on a process of sponsoring small businesses with interest-free loans to assist in the development of their businesses.</p> <p>A supplier development initiative of RFG, namely Constitution Road Wine Growers (Pty) Ltd., is a black economic empowered company that owns the Klipdrift farm in Robertson. The property was purchased with the assistance of the Department of Land Reform. The shareholders are represented by the Le Chasseur Trust (66%) and Robertson Co-operative Winery Ltd, which holds a 34% share. A total of 183 Black women are the beneficiaries of the worker trust. Various production lines were reported showing continuous expansion of this flagship project. RFG is regarded as an off-taker, with long-term rolling contracts for fruits and grapes. Interest free loans of R5.86 million had been granted over the years, providing for additional hectares for planting purposes. The Canning Fruit Producers' Association further provides support and mentorship services.</p>

23 <http://www.rfg.com/> Accessed on 17/02/2020

<p>The company should develop a policy on maternity and flexitime and should make provision for on-site childcare facilities.</p>	<p>RFG stated that it had implemented a work environment that is conducive to mothers, piloting a 'Mother's Room' at Groot Drakenstein, which is one of its largest sites and where women constitute the majority of the workforce. This facility is based at the clinic and is safe and private with comfortable chairs, fridge and a table. The company confirmed that new mothers are aware of the facility and are using it, as confirmed by the uptake system they have in place to monitor use. The same will be rolled-out across the group over the next year.</p> <p>As a manufacturer, however, the majority of the company's employees are shop floor workers. The company is unable to provide the same benefit in this environment and wishes to prevent differentiation in this regard.</p> <p>It was submitted that where a mother has to take a child to a clinic, flexitime is available. Compassionate leave is also provided, but is not formalised.</p>
<p>The company should provide a revision of the Employment Equity Plan.</p>	<p>It was submitted that the review of the current Employment Equity Plan would only take place in 2020, however the company recorded that it does have various internal targets and reporting systems tracking quarterly progress.</p> <p>It also confirmed that the EE Committee is functional.</p>

## Analysis, Concluding Comments and Recommendations

- a) The company provided the CGE with an overview of progress made from 2016 to date. It was, however, observed that no grading system was in place. The company took cognisance thereof and undertook to put such system in place.
  
- b) The company was further requested to elaborate on the number of PwD appointed at the different levels within the organisation. It was observed from the information provided that the total number of PwD appointed is 96 of which there is one woman represented in top management.
  
- c) Health and wellness  
 RFG submitted that it had launched an Employee Wellness Programme in November 2019. This is inclusive of medical aid and wellness programmes are available for employees should the medical aid have limits on available funds. Where employees have psychosocial situations or challenges, the wellness programmes are utilised. The company further recorded that this service was extended to family members of employees. The Financial Wellness Programme is part and parcel of the wellness programmes and aims to raise awareness about retirement/ budgeting etc. Employees are also provided with legal assistance in terms of preparation of documentation up to the court appearance stage.

d) Organisational policies submitted

The company submitted that it has zero tolerance for any form of racism, sexual harassment, bullying or discrimination in the workplace. Policies are in place and where there is contravention of the same, offenders are subjected to a disciplinary process in line with the company Disciplinary Policy and Procedure.

e) In terms of the Sexual Harassment Policy, the company is commended on its approach, which includes a risk assessment after a complaint of sexual harassment has been lodged and is undertaken in the event that the victim chooses to follow an informal procedure. In such an event, the company obligates itself to assess the risk to other employees. The assessment includes, amongst others, the severity of the sexual harassment and the history of the perpetrator. The company submitted that in an effort to encourage reporting of sexual harassment cases an anonymous hotline had been introduced in 2015. Since the inception of this mechanism a total of two (2) sexual harassment cases had been reported.

f) The company Leave Policy provides that employees at different levels qualify for a different number of leave days. The policy makes provision for extended unpaid maternity leave which is over-and-above the four-month designated period. The HR Director, however, needs to approve such a request. Maternity/adoption leave benefits are applicable to employees after completion of 12 consecutive month's service to the company and employees are remunerated during this period at a rate of 75% of their cost to company package. No reference was made as to whether this benefit is also applicable to contract workers. In terms of the 10-day paternity leave, only five (5) days are paid and the rest is expected to be claimed from UIF.

g) Training

The table reflects all RFG PIVOTAL programmes implemented in the previous financial year. The company submitted that its aim is to develop individuals in these specific areas, thereby closing the skills gaps that exist between the different employee demographics. Wherever possible, priority is given to women, as can be seen in the Internships, Learnerships and Management Development Programme highlighted in the table below:

## Training Programmes Implemented

Programme Name	Total	BM	CM	IM	WM	BF	CF	IF	WF
Apprentice Programme	33	12	14	-	5	1	1	-	-
Internship/Graduate Programme	28	8	-	-	2	14	2	-	1
Employed Bursary Programme	20	7	2	-	3	5	1	1	-
Literacy LI-3 & Numeracy LI-3	42	26	-	-	-	16	-	-	-
Learnerships	125	49	3	-	1	53	12	3	-
Senior Management Development Programme	34	2	2	-	11	9	2	1	5
Management Development Programme	28	3	1	-	4	15	1	2	2
Skills Programmes	660	121	223	-	56	109	88	10	45
People with Disabilities – Learnership	73	40	3	-	-	23	4	1	-

- h) It was observed that RFG has shown improvement in terms of gender transformation since 2016.
- i) The CGE applauds the company for its efforts in respect of transformation, as a positive impact is seen internally in respect of promotions, as well as externally in terms of new appointments.
- j) The CGE recommended that RFG look into the possibility of including a policy making provision for mothers who need to attend to their children during working hours.
- k) It was further recommended that the company implement a grading system to determine equal pay for work of equal value.
- l) The company positively accepted the recommendation by the Commission that flexitime should be formalised and noted it as an opportunity to see how it can be built into current organisational policies.

#### 4.14 Tiger Brands

Tiger Brands was selected to participate in previous investigative hearings in 2017/2018 and 2018/2019 relating to gender transformation and employment equity. A communiqué was dispatched to the entity requesting a progress report on recommendations made by the Commission during the previous processes. Based on the submission received, it was resolved that Tiger Brands had not provided sufficient information to the Commission and should be recalled to report on progress made.

Recommendations	Progress
<p>Tiger Brands should take into consideration recent Labour Court decisions on CCMA cases for the employer and put specific measures in place for dealing with sexual harassment grievances.</p>	<p>Musina:</p> <p>Tiger Brands submitted that it had appointed a service provider on all sites affected with alleged sexual harassment cases.</p> <p>Seventy-nine (79) employees, including management, were trained on sexual harassment in November and December 2018. Further training was anticipated for seasonal employees in July 2019.</p> <p>Enterprise Foods:</p> <p>Employees, numbering 1 032, were retrained on the company's Disciplinary Code, Grievance Procedure and its Sexual Harassment Policy.</p> <p>Although awareness was created to deal with issues of sexual harassment and grievances, it was not clear what the training entailed and as a result, the CGE could not make proper findings until satisfied with the contents thereof. It is imperative that the CGE obtains the information, together with the registers of these awareness programmes.</p>
<p>The company should provide disaggregated information on its leadership programmes (550) and submit the actual numbers.</p>	<p>The Company provided disaggregated data on the various employees employed at Tiger Brands, categorising and providing a breakdown of the gender in relation to the various classes and/ categories of management.</p>
<p>The company should put more effort into recruiting PwD as their presentation did not disclose the percentages and it was not easy to categorise.</p>	<p>Tiger Brands submitted a plan that targeted PwD, guided by the National Employee Assistance Programme benchmark of 2% of the workforce. Tiger Brands aims to achieve a target of 1.68 % of the workforce by 2023.</p> <p>It was noted that the plan would be integrated from 2019 until 2023, but it was not clear whether the process had commenced, or if it was still in the planning phase.</p> <p>During the consultative hearing Tiger Brands indicated that it had reviewed and submitted its Employment Equity Plan to the Department of Labour in January 2019. This includes the Disability Activation Campaign which resumed in 2019, with projected implementation plans in the 2020 financial year.</p>

<p>Clarity was required on whether the Talent Acquisition Team and the Women's Forum have decision making powers. The company should map out a strategy to have both the Team and the Forum enforcing those powers.</p>	<p>Tiger Brands explained that the mapping for shortlisting targets is done with full authority by the Talent Acquisition Team, based on EE targets, and signed off by EXCO.</p> <p>The Women's Forum is an advisory body to EXCO on matters relating to gender equality (e.g. culture and representation).</p> <p>Group HR is responsible for the implementation of guidelines on how to utilise opportunities for appointments and promotion of culture to achieve this.</p> <p>From the presentation, the different roles of the structures within the organisation were made evident, but it remained unclear what actual strategy had been employed by the company.</p>
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## Analysis, Concluding Comments and Recommendations

- a) A delegation from Tiger Brands presented to the CGE on 20 November 2019 regarding the recommendations.

The presentation included *inter alia* the Diversity and Inclusion Framework, the 5-year Plan on Employment Equity and the Gender Equity Strategy. The CGE pointed out that the presentation did not capture what had been requested by the CGE as per its recommendations, and the following findings and recommendations were made:

- b) That there should be better communication between the Tiger Brand employees who are responsible for providing the CGE with updates in relation to transformation within the workplace
- Tiger Brands should submit its Sexual Harassment Policy
  - Content of training on sexual harassment should be shared with the CGE
  - Tiger Brands should provide statistics on sexual harassment cases for the past financial year
  - A risk assessment should be conducted on the possible numbers of sexual harassment cases and a further study on the absence of breastfeeding facilities and how same affect breastfeeding mothers.
  - Information must be provided on how alleged perpetrators and victims of sexual harassment are dealt with, and measures in place to provide protection and avoid secondary victimisation
  - The different wages for different bands per gender should be provided to establish equal pay for work of equal value;

It was resolved that Tiger Brands would provide the information to the CGE on or before 13 December 2019.



c) Tiger Brands provided the additional information on 13 December 2019 in the form of a presentation, including:

- The presentation by Tiger Brands from 20 November 2019
- Tiger Brands' Profile for Management
- Sexual Harassment Policy
- Sexual Harassment Training content as provided by Tokiso (an external service provider)
- How sexual harassment perpetrators are dealt with and how victims are protected at Tiger Brands
- Tiger Brands' status regarding the building of breast-feeding facilities
- Gender Equity Pay Gap Report.

d) Staff Management profile

Tiger Brands provided information regarding top management, senior management, middle management, and junior management. Although it had been submitted during the hearing that there had been significant improvement in relation to representation of women in management positions, there remains a gap. The majority of those represented in the various levels are men. It is imperative that, for Tiger Brands to achieve its targeted projections, more women should be attracted to ensure fair representation and eliminate any form of discrimination as required per the EEA.

e) Sexual harassment in the workplace

Based on the information submitted there had been only one reported case of sexual harassment in 2019, for which a sanction of dismissal was imposed. The CGE requested information on the number of sexual harassment training sessions held, whether employees understand what sexual harassment entails, whether they have experienced such incidents and whether issues were adequately dealt with.

f) Clause 6 of the Code of Good Practice for the Handling of Sexual Harassment Cases in the Workplace, 2005, provides employers with guidelines that assist in ensuring that a good working environment, free of any form of harassment, is maintained. In terms of Tiger Brands' Sexual Harassment Policy, there is little detail around ways in which the employer can provide a safe working environment in line with the Code. It is also imperative that the Sexual Harassment Policy is gender neutral to accommodate the needs of those in the LGBTIQ+ community. The stereotype is that sexual harassment only takes place between people of the opposite sex, however it should be noted that it can take place

between people of the same sex. The sexual harassment policy also makes no provision for those who are bullied in the workplace.

- g) The CGE further noted from the sexual harassment training content, that reference is still made to the 1998 Code, which has been repealed. It is imperative that Tiger Brands reviews the content of its training. No risk assessment was included in the submission and the company indicated that this would only be supplied in the 2020 financial year.
- h) Plan to Build Breastfeeding rooms  
According to the Tiger Brands 2022 Transformation Strategy, provision is made to build breast feeding facilities which will include space for a visiting doctor, breastfeeding, a hand basin, fridge, and sick/recovery room. This will assist women who are visiting the premises with their children, and those employees who are at work and have to breastfeed their children. The assistance of the doctor will help mothers who need to monitor their sick and/or recovering children in the absence of a nanny.
- i) Gender Equity Pay Gap Report  
Tiger Brands indicated that it is committed to fair and equitable pay and that it adopts a proactive and holistic approach to pay within the organisation, with equitable pay being a key part of the Remuneration Strategy. Graphs were provided by Tiger Brands on the average pay for both men and women. It is not clear to the CGE what percentage criteria was used in the determination of the reflected pay averages, but at face value it was noted that a man's average pay is slightly higher than that of a woman counterpart. This could be affected by the percentage in representation and numbers, and Tiger Brands needs to provide clarity on this.
- j) Although it was expressed during the hearing on 20 November 2019 that Tiger Brands presentation did not reflect much on the CGEs previous recommendations, it is acknowledged that Tiger Brands has made significant improvement especially on issues of women development and disability management.
- k) It is evident from the disaggregated data that there is fair representation of women in top management, although men are still in the majority by about 1%. In middle management there is fair representation, with more women than men. However, in junior management there is a large gap with regard to women representation, with more men occupying this segment.

- l) It would be prudent for Tiger Brands to provide proper disaggregated data and a breakdown with regard to race and PwD. The CGE however applauded Tiger Brands on its initiatives and programmes specifically aimed and targeted at PwD.
- m) It was noted that few cases of sexual harassment had been reported and as a result it cannot with certainty be concluded that there were no alleged incidents. It was recommended that Tiger Brands conducts a survey with employees on issues of sexual harassment to establish whether they understand what it entails, whether they reported it, and how the matter was dealt with. Tiger Brands must, after conducting these surveys, provide the CGE with a report detailing the process and the results thereof. This must be done within 6 (six) months of issuing this report.
- n) Tiger Brands must review its Sexual Harassment Policy. Focus must be placed on issues of gender including the LGBTIQIA+ community, as well as issues of bullying. Tiger Brands must follow the Code of Good Practice on the Handling of Sexual Harassment Cases in the Workplace (2005), as a guideline for its sexual harassment policy. The reviewed policy must be submitted to the CGE within six (6) months after the issuing of this report.
- o) Tiger Brands must create awareness and conduct sexual harassment training and provide the CGE with the registers of that training.
- p) Tiger Brands must provide the Risk Assessment Report on sexual harassment after its implementation in the 2020 financial year.
- q) Tiger Brands must provide the CGE with detailed data on its Gender Equity Pay Gap Report, properly reflecting the percentages and measures put in place for the breakdown of such pay gaps.

#### **4.15 Vermeulens Build It**

Vermeulens Build It is located in Kimberley Northern Cape and is the largest Build It store in South Africa. It specialises in building materials and hardware. In the CGE Employment Equity Progress Report into the Private Sector 2017/2018, the CGE made recommendations to Vermeulens Build It (the company). Progress on the recommendations is reflected below.

Recommendations	Progress
<p>Provide the CGE with the minutes of the Employee Forum meetings conducted subsequent to the hearing of 2017/18 financial year.</p>	<p>The company conducted Employee Forum meetings in 2018 and 2019. A baby changing table was installed in accordance with the resolutions of the meetings. The room is accessible to employees with babies. The CGE observed that the wooden table installed had no covers or bedding. It should at least be conducive and user-friendly for babies.</p> <p>The company identified in its Employment Equity Plan that designated groups are underrepresented. A challenge for the company, being in the hardware industry, is that most of its work involves physical labour, e.g. carrying paint and cement, which negatively impacts woman who have limited endurance. The company submitted that it would, however, examine the provincial Economically Active Population (EAP) statistics and recruit accordingly to address these challenges. Furthermore, the company confirmed that it would conduct audits on terms and conditions of employment to ensure that employees are not unfairly discriminated against on prohibited grounds.</p> <p>The company has benchmarked its transformation progress against similar companies (within the same industry) and observed that it is slightly ahead of them but wishes to achieve more.</p> <p>The company had improved its facilities for PwD and new audits would be conducted to improve accommodation for PwD. The company had recruited one (1) person with a disability on a permanent basis between 2017 and 2019.</p>
<p>The company must engage with employees to encourage them to declare their different forms of disability, not only restricted to physical disability or blindness. The company could make substantial gains in improving the representation of people with disabilities by encouraging voluntary declarations by employees.</p>	<p>The company discussed this aspect in a meeting on 19 April 2019 and resolved to distribute a memorandum encouraging employees to declare their different forms of disability. The memorandum defined the different forms of disability and was circulated but no further disabilities were declared by employees. Build It undertook to consult the Department of Labour, other stakeholders and the EAP statistics in an effort to include more PwD in its employment.</p>
<p>The company must conduct workshops on the newly introduced company policies and amendments. In communicating the policies, the company may also use posters and induction to communicate the new policies, instead of overloading the Employee Forum. Raising the profile of the Sexual Harassment Policy may encourage increased reporting of incidents. The training may also improve the reporting structures.</p>	<p>The company submitted that it was conducting training for newly recruited employees. A Training Manager had been appointed for this purpose, with emphasis on empowering women and men. The Training Policy had been updated, circulated and made accessible to all employees within the institution.</p> <p>The company stated that the process of developing Sexual Harassment, Bullying and Transition policies was under way, after which training would be conducted.</p>
<p>The company should direct some of its training budget towards training females on scarce skills to prepare them for future positions.</p>	<p>It was submitted that a budget had been allocated to appoint a training officer, who is a White woman. Subsequent to her appointment, 2 Black women had been promoted, as a direct result of the training programme.</p>

The company was directed to invite the CGE to its Employment Equity Forum meetings for observation and assistance where necessary.	On 13 September 2018 the CGE made a presentation to the company on the CGE mandate, sexual harassment in the workplace, employment equity and gender equality in general.
The company should delegate appropriate powers to the Employee Forum to enable it to make binding decisions, and not limit it to advisory duties.	The company recorded that the Employee Forum does have autonomy and authority in terms of recommendations and implementation thereof. This can be seen from the recommendation to adapt the restrooms to be more accessible to people with disabilities and the installation of the baby changing table referred to above.
The company must do self-monitoring and assessment to improve the employment equity profile, and not wait for the intervention of the CGE.	The company submitted that it conducts quarterly employment equity meetings to monitor the barriers to affirmative action, as well as reach objectives and numerical targets that include the appointment of under-represented groups.

## Analysis, Concluding Comments and Recommendations

- a) The CGE observed that the representation of women at the company had decreased. There had been no significant change to the racial component. The company remained 100% White male dominated at top and senior management levels due to the sole ownership. The aspect of inadequate racial representation was identified as a barrier but was not adequately addressed in accordance with Chapter 3, Section 15(1) of the Employment Equity Act, No. 55 of 1998.
- b) It was observed that the company had employed one PwD. The company improved its facilities to be friendly to PwD and persons with babies. More improvements are necessary to make the facilities user-friendly for babies and for persons with forms of disability other than physical disability.
- c) The company appointed a training officer to capacitate and empower the underrepresented. However, the appointment has not shown impact regarding the improvement of the company's representation profile.
- d) The company is in the process of developing Sexual Harassment, Bullying and Transition policies.
- e) The CGE commends the company for benchmarking its transformation progress against similar companies (within the same industry) with the aim of achieving more than them.

- f) The company should examine the provincial EAP statistics and recruit to address the challenge of underrepresentation of the designated groups. Furthermore, the company should conduct audits on the terms and conditions of employment to ensure that employees are not unfairly discriminated against by same.
- g) The company should liaise with entities such as DeafSA to source and/or capacitate PwD with the aim of including them in the company's representation.
- h) Progress regarding the above recommendations should be reported to the CGE within the next financial year, i.e. by March 2021.
- i) The company should finalise the development of its Sexual Harassment, Bullying and Transition policies by June 2020.

## 5. Conclusion

Transformation in the private sector remains a challenge, particularly in terms of implementation of the EEA. Previously disadvantaged groups continue to be under-represented at managerial levels despite numerous policies and measures explored by the private companies. The Commission submits that robust mechanisms need to be introduced to ensure that the private sector prioritises transformation in the workplace.

To this end, the Commission supports the establishment of sectoral targets, as introduced by the Employment Equity Amendment Bill and Regulations, in order to transform the private sector. Sectoral targets are key to responding to the slow pace of transformation in the private sector. The Commission is, however, encouraged by the willingness of some of the private sector companies to transform their workplaces by ring fencing positions or head hunting previously disadvantaged groups for managerial positions.

The continuous sessions such as sexual harassment dialogues have created an enabling environment and improved reporting channels to most private sector companies.

The Commission is further encouraged by various skills development programmes that have benefited previously disadvantaged groups. Nevertheless, the Commission asserts that transformative measures in the workplace must result in women and PwD occupying meaningful, key positions in the private sector.

The Commission must therefore continue to monitor this sector.