

BRIEFING TO THE PORTFOLIO COMMITTEE ON TRADE AND INDUSTRY OF THE NATIONAL GAMBLING AMENDMENT BILL

15 November 2018



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Department:
Trade and Industry
REPUBLIC OF SOUTH AFRICA



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PURPOSE

To brief the Portfolio Committee on Trade and Industry on the Committee in the Bill.



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Presentation outline

- Agency rationalization
- Challenges with Board
- Model of the NCR
- Formation of a Committee in NGAB
- Structure of the NGR-Committee
- Conclusion



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AGENCY RATIONALISATION

- A status quo analysis of each of the identified CCRD entities has been done.
 - **NCR, NCC, NRCS, NGB, NLB, CIPC.**
- The focus was to identify whether these entities perform their mandate as compared to the enabling legislation and other norms, including the Constitution and the PFMA.
- A comparison of the effectiveness of entities with boards as opposed to those formed part of the investigation.
- All of the entities have a reporting function to the Minister that require, based on the respective statutory legal bases, disclosure of activities against their mandates.

AGENCY RATIONALISATION

- The CCRD has an oversight function in respect of the operation of the various entities, though not including the NRCS.
- Some operate through a commission structure, while others have a board structure.
- **the dti** reviewed the structures of entities to refine its oversight function.
- Where commissions replaced boards, this improved management of such entities while also assisting **the dti** in its oversight function.
- The NLC is an exception with the Board because of its mandate.

CHALLENGES WITH BOARDS

- It has emerged from entities that have a “board system” in place that very apparent conflicts of interest have not been addressed and that members are usually consultants that may take decisions to protect their interest.
- Stability of leadership and accountability: It would also seem that though entities prepare reports, the details may sometimes not be sufficient to comply with the reporting modalities.
- In some instances the Auditor-General has issued qualifications in respect of shortcomings.
- Procurement seems to be a specific problem in some of the entities and this has delayed the implementation of critical programmes within the legislative and operational mandate of said entities.
- There was a failure of corporate governance with very little appreciation of the important role of the risk and audit committees in this respect.
- Key performance measures and indicators for assessing the entity’s performance in delivering the desired outcomes and objectives were (sometimes) not clear and it is not entirely certain whether some of the entities achieve stated objectives.

MODEL OF THE NCR

- The NCR is a public entity with the CEO with the Deputy CEO.
- There are 170 staff members, that include the CFO and Company Secretary.
- The debt book is R1.8 trillion.
 - More than 6000 credit providers
 - More than 23 credit bureaus.
 - More than 1800 debt counsellors
- 3 Payment Distribution Agencies (PDAs)
- Had clean audit for 2 consecutive years after the Board was removed.

AGENCY RATIONALISATION

- “The NCR seems to be operating on an optimal trajectory in respect of its mandate.
- However the purpose of the board is fairly diminished in this process, the CEO is responsible for the fulfilment of the mandate, the audit and risk management committee has an oversight function and it may be questioned whether it is essential to have a board in place. As there is merely a duplication of processes, a decision would have to be made to streamline the parts of the agency that provide the duplicate function.
- In fact it is advised that the board be made redundant as there is a specific management committee that provides a similar function, this will bring the agency in line, by way of its structures with the other agencies.
- A commission structure seems more appropriate for the mandate and function of the NCR”.

MODEL OF THE NGB (current)

- The NGB is a public entity with an Administrator with a Chief Strategic Advisor, Chief Financial Officer, Chief Compliance Officer, Chief Operations Officer and Chief Technology Officer (Executive management team).
- The total staff complement is **33**.
- An indicative comparison would be **total revenue** of R213 million for 2018/19.
- The NGB does not approve licences applications.
- Had clean audit for 3 consecutive years after the Board was removed.

FORMATION OF COMMITTEES IN B-BBEE ACT

- A model of how committees could be formed can be found in Section 13I of the Broad-Based Black Economic Empowerment Act, (Act 53 of 2003 as amended by Act 46 of 2013), as follows:
- **Specialist committees**
 - 13I. (1) The Minister may appoint one or more specialist committees to advise the commission on the management of its resources or the performance of its functions.*
 - (2) The Minister may assign specific powers to the members of a specialist committee for the purposes of performing any function contemplated in subsection (1).*
 - (3) A specialist committee may—*
 - (a) be established for an indefinite term or for a period determined by the Minister when the committee is established; and*
 - (b) determine its own procedures.*
- The effect of such a committee would be more effective regulation of gambling and enhanced punter protection.

FORMATION OF A COMMITTEE IN NGAB

- A draft clause for insertion into the NGAB on how a committee could be formed is as follows:
 - (1) *The Minister may appoint a committee to advise the National Gambling Regulator in its performance of any of its functions.*
 - (2) *The Minister may assign specific powers to the members of such a committee for the purposes of performing any function contemplated in subsection 1.*
 - (3) *A committee may—*
 - (a) *be established for a period determined by the Minister when the committee is established;*
 - (b) *determine its own procedures; and*
 - (c) *will report to the Chief Executive Officer of the National Gambling Regulator.*



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STRUCTURE OF NGR – COMMITTEE

- This committee would be appointed by the Minister, but would do its work and report to the CEO of the NGR.
- The committee can be appointed for 3 years as an advisory committee reporting to the CEO of the NGR, meeting only when necessary,
- The committee may focus on specific functions, namely:
 - Review of unlawful winnings reports and determine whether to forfeit or refund punter
 - Review LPM Regulation 3(2) applications report and issue recommendations to PLAs
 - However it would not be advisable to specify these in the Bill.

CONCLUSION

- **the dti** entities have no such Committees as envisaged in the Bill.
- It is proposed that the Committee can be removed from the Bill.
- This will be consistent with the policy decision of the Department to rationalise entities.
- Mechanisms for oversight / review of the decisions of the NGB Administrator has been provided for the past 4 years (Minister, DG, Portfolio Committee, Audit and Risk Committee of NGB).
- **the dti** will be guided by the Portfolio Committee.

THANK YOU



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