OWNERSHIP AND CONTROL

1997
Bid to keep unions in Eskom committee

Mboneni Mulaudzi

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

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

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

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

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

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

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

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

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

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

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

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

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Eskom

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

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

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

Zota said the minister had not seen the memorandum, as she was not in the office. He condemned the withdrawal of the unions saying "one does not in the absence of a response decide to withdraw".
Unions won’t delay privatisation, says Sigcau

**By Thabo Leshilo**

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

The minister told a press conference at Johannesburg International Airport she was confident Eskom and the unions would resolve their disagreement.

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

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

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

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

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

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

See Business Report
Shortlist for Sun Air

Mungo Sogot

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

The shortlist of three possible advisers for the R600-million airline sale comprises banking group Investec, a partnership between investment bank BoE NatWest and Johannesburg law firm Messene & Partners, and Real Africa Durblink, the investment banking arm of Don Neube’s Real Africa Investments.

The Transport Department advertised for advisers over the Christmas break. Industry observers say transport director general Ketso Gordhan’s appointment of advisers for the Sun Air privatisation has been rapid and efficient. This stands in contrast to the

to lure their own advisers, as are parastatal heads themselves.

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

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

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

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

Ron Grady

In a bid to oppose Alexkor privatisation, the NUM (National Union of Mineworkers) has announced that it will seek to unite with other trade unions and community organisations to oppose the privatisation of the company.

NUM General Secretary, John Reynolds, said: "We cannot allow Alexkor to be privatised without a fight. The NUM is committed to ensuring that any privatisation is conducted in a way that protects the interests of workers and the communities they serve."

The announcement follows a recent report by the Commission on the Future of Energy, which recommended the privatisation of Alexkor. The report argued that privatisation would improve efficiency and innovation in the mining industry.

However, the NUM says that privatisation would also lead to job losses and a decline in community support for the company. The union is calling for a public enquiry into the privatisation plans and for the government to conduct a thorough examination of the impact on workers and communities.

"We are concerned that the government is rushing into privatisation without proper consultation," said Reynolds. "We believe that any privatisation should be done in a way that protects the rights of workers and ensures that they are not left behind."
Govt hopes to prosecute MTN, Vodacom

Ingrid Salgado

The government is hoping to prosecute cellular network operators MTN and Vodacom for alleged collusion before a new competition law is introduced. Competition Board chairman Pierre Brooks said at the weekend, the decision to prosecute hung on the outcome of MTN's court challenge to a 1986 regulation used to investigate the two operators.

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Competition

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

News of government's intention ended speculation that operators would evade prosecution if action against them was overtaken by legislation. A new competition law, which would probably be introduced next year, would render the regulation null and void.

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

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

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

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

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

THABO LESHTLO

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

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

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

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

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

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

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

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

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

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

Mantashe said it was unfortunate that the issue of restructuring was being overshadowed by the emphasis which the media had placed on the process of privatisation.
PUBLIC Enterprises Minister Stella Sigcau has again stepped in and squashed Transnet's unauthorised attempt to sell off its loss-making cellular phone division.

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

"This is a restructuring issue and has implications for broader telecommunications strategy," the ministry said.

The ministries of public enterprises and post and telecommunications would have to be informed of the process before any decision could be made," the ministry said.

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

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

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

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

It also emerged yesterday that a former agent was suing Transtel Cellular for R41m for allegedly failing to provide cellular facilities and infrastructure, in breach of contract. Krugersdorp-based Office Style claimed in court papers filed in October that incompetence at Transtel Cellular, including failure to activate lines, had lost it clients and demanded compensation for loss of income.
Pretoria — The Competition Board has decided not to launch a formal investigation into allegations that South African Breweries (SAB) employees influenced an international equipment supplier to grant its agency to one of their former colleagues.

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

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

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

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

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

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

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

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

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

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

Brooks said last year that SAB had responded to the allegations and informed the board it had conducted two separate inquiries but could not find anything that was improper or that involved interference on the part of their officials."
Estonia's situation depends on its electricity program. However, the new transition strategy was not expected to fully meet the country's needs. The new strategy focuses on reducing the country's dependency on the former Soviet Union's electricity. The new strategy is expected to reduce Estonia's energy consumption by 20% in the next five years.

In conclusion, Estonia's electricity program is crucial for the country's economic development. The new strategy aims to reduce energy consumption and improve the country's energy efficiency. The government hopes that this new strategy will help Estonia achieve its energy goals and become a leader in sustainable energy.

Estonia's new electricity strategy is expected to reduce energy consumption by 20% in the next five years.
Eskom's [redacted] on its [redacted].

[Redacted text]

Eskom's [redacted] on its [redacted].

[Redacted text]
A widely respected telecommunications company, Telkom, is struggling with a labor dispute that has dragged on for months. The workers, represented by the National Union of Communications Workers, have been demanding better wages and working conditions. Telkom, on the other hand, has been holding firm on its current offer, citing financial constraints.

The dispute has led to a slowdown in operations, impacting both Telkom's customers and its employees. The company has been forced to lay off a significant number of workers, exacerbating the situation further.

Union leaders have called on Telkom to negotiate in good faith and resolve the dispute. They argue that a prolonged strike would be detrimental to both the company and its customers, and that a resolution needs to be found to ensure the smooth functioning of the telecommunications network.

Telkom, however, maintains that it is acting within its rights as a business entity. The company has also been criticized for its handling of the dispute, with accusations of poor communication and a lack of transparency.

The situation is tense, with both sides dug in and negotiations appearing to deadlocked. The union is calling for a mediator to be appointed to help facilitate a resolution. The outcome of this dispute will have far-reaching implications for the telecommunications sector in the country.
Safcol to discuss privatisation option

Robyn Chalmers

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

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

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

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

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

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

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

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

Van Vuuren declined to give further details.

Sources close to the process and US forestry giants Weyerhaeuser, Rayonier and Georgia Pacific were possible candidates. Local forestry companies Seppi and Mondi could also be contenders.

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

Turnover rose 30% to R468,9m, but operating income dipped to R34,5m (1995: R36,4m) while share earnings fell to 4,3c from 7,3c previously.

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

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

Robyn Chalmers

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

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

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

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

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

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

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

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

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

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

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

Its decision meant up to 100 underperforming municipalities stood to lose their licences to supply electricity while the voluntary merger of the electricity function of some municipalities into clusters could also take place.
Govt announces time frame for partnerships in airway

Stephané Bothma

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

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

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

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

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

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

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

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

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

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

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

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

It is widely expected that the independent UK carrier Virgin Atlantic will buy a 25% stake in Sun Air. The two airlines entered into a code-share agreement last year.
Mineworkers' Union members listen as Free State University senior lecturer Louis Bothma addresses them yesterday on affirmative action and its effect on the mining industry.

Government 'is playing games with labour'

Reneé Grawitzky

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

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

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

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

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

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

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

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

Reinie Booyzen

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

The Competition Board said on Friday that it, too, was investigating the scheme on grounds it could be anti-competitive.

In terms of the scheme, the group of anaesthetists have subscribed for shares in a company called Anestacum, which will hold 49.9% of Pulseline. The remaining shares of Pulseline will be owned by Medhold, a Johannesburg Stock Exchange-listed company engaged in the medical and pharmaceutical sector.

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

“This rule would therefore apply to these anaesthetists,” said Prinsloo, referring to the Pulseline scheme.

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

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

Prinsloo said there were two exceptions to this rule. The first was to enable medical practitioners to dispense medicines to their patients, and the second entitled medical practitioners to own shares in large companies in a manner which would not have an influence on their choice of medicines for their patients.

He noted that the section enabling doctors to dispense medicines was under debate, as there had been calls for it to be scrapped.

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

It said “the essence of the complaint centres on Pulseline, allegedly benefiting from an unfair relationship with practising anaesthetologists — the more shareholding anaesthetists prescribe Pulseline products, the greater will be their divi-

dend income.”

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

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

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

Robyn Chalmers

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

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

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

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

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

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

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

Chairman John Maree has indicated he would resign and an Eskom spokesman said the final decision would be made by Sigcau.
Energy competition ‘after 2000’

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

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

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

Minerals and Energy Minister Penuell Maduna said government’s eagerly awaited draft white paper on energy policy was “nearing completion.”

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

JEEP GRAND CHEROKEE
By Shadrack Mashalaba

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

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

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

“After the 17th March, the government will be launched in March and will be accompanied by a massive public campaign including rural areas,” Sigcau said.

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

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

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

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

She said the Government was in support of competition “However, competition should have safety nets”.

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

Affirming projects

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

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

“As such, financial institutions also have a role to play in propelling small businesses forward,”

“Government, however, must take a lead in implementing Affirmative Action,” More said.
Foreigners to get 49% of Sun Air

JABULANI SIKHAKHANE
BUSINESS EDITOR

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

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

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

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

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

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

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

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

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

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Privatisation drive to be stepped up a gear this year

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

BY MONDUL MAHANYA
Cape Town

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

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

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

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

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

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

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

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

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

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

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

Capetown – The Government plans to place some of the millions raised from privatisation of state assets into the hands of people disadvantaged by apartheid. Deputy Minister of Trade and Industry Phumzile Mlambo-Ngcuka said at a briefing in Parliament the plan was to spread wealth as widely as possible. Instead of creating a handful of millionaires the goal was to create ‘millions of thousandaires’. The fund should be working in the first half of this year so that its operation could be linked to the privatisation of Telkom, SunAir and other parastatals.

As much as 10% of the money flowing in from the sale of Telkom would be set aside for the fund, which, in addition to an “active” portion lending money to entrepreneurs, would have a “passive” portion to “warehouse” equity holdings on behalf of the previously disadvantaged, possibly through a mutual fund. There would be strict rules preventing the sale of investments to make a quick profit.

The disadvantaged would be defined in terms of lack of ability to establish businesses in certain areas or in terms of education. Asked to be more specific, she said that “ultimately, we all know who we are talking about”.
JUMPING THE GUN

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

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

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

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

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

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

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

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

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

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

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

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

“Once all this remains to keep in mind that, following SA’s successful political transition, we are now also involved in the harder task of economic transformation. State enterprises could play a major role in achieving economic parity.

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

“If economic distortions can be removed, I see no reason why this route cannot be followed rather than just being driven by a philosophy of get-rid-ism.”

Arnold van Hayssteen

GENERAL EXPORT INCENTIVE SCHEME

Generosity excludes indigent suckers

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

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

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

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

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

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

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

Arnold van Hayssteen

Financial Mail February 14 1997
Province's bus privatisation plans threatened

**THABO LESHILO**

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

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

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

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

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

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

Vaal Transport operates in the Vaal region, while Eastern Express operates in Mpumalanga.
Accountants' row may go to Competition Board

Amanda Vermeulen

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

Last week the association said it would consider taking legal action against the auditors' board for delegating its statutory recognition in SA.

This recognition would allow association members to conduct audits without having to write the board's exam.

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

He said the chartered accountants' institute had been given a monopoly to provide auditing services in SA by virtue of the fact that the board would not recognise other institutes.

No other association was represented on the board, which was dominated by institute members.

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

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

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

By SVEN LUNSCHHE

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

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

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

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

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

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

SATISFIED . . . Postmaster-General Andile Ngcaba

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

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

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

"Our offer has been widely welcomed by our trading partners as well as multilateral bodies such as the International Telecommunications Union," says Ngcaba.

He says South Africa is one of the few African countries that has submitted an offer. He adds that a progressive regulatory structure also worked in the country’s favour during the WTO talks.

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

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

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

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

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

Reuter reports.

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

Company should seek a foreign equity partner.

The government plans to sell 49% stake for at least R1.2bn.
Fisheries white paper seeks to strike a balance, Jordan says

Linda Ensor

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

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

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

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

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

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

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

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

Pick 'n Pay in deregulation bid

Business Day Reporter

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

Pick 'n Pay has been advocating the relaxation of the current regulations governing the oil industry in a bid to bring down petrol prices at the retail level.
Eskom's bid to sell power stations angers union

[Signature]

26/1/97

Bobby Chimanes and

Power Station - after paper can
Eskom faces another showdown with labour

Fire sale draws union heat

THABO LESEHO

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

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

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

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

Stella Sgcw, the public enterprises minister, intervened, urging the knuckles of Eskom’s management and persuading the unions to rejoin the transformation committee last month.

The two unions, Esco and Sgcw agreed that the parties would resolve their differences over decommissioned stations within the committee. The committee has met since December 6, despite the agreement.

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

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

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

Conflict delays choice of chairman

DUMA GOU'RE

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

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

One source said, “There is a view that Ramaphosa’s hands are full with Johnnie, Nai, Times Media and South African Breweries.

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

“The problem is that Nai will have two deputy chairmen, Dikgang Mosekile and Ramaphosa, in charge of Telkom and Eskom, two of the largest companies in the country. Also, because government cronies cross-directorships, it cannot appear to be creating a new elite or give the impression that the only talent we have is a handful of people.”

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

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

Khoza is also expected to appoint two deputy managing directors for Eskom.

The positions will most likely be given to insiders Ray Dabengwa, the executive director for electrification, is considered a hot favourite for one of these positions.
Timetable for Safcol’s restructuring is drawn up

Robyn Chalmers
PB 21/2/97

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

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

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

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

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

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

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

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

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

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

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

Safcol is one of the state’s more profitable assets, although operating income dipped to R34.6m (1995 R36.4m) and share earnings to R4.8c (1.3c) in the year to June 30 on a 30% rise in turnover to R466.6m.
Eskom reproached for hasty sales

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

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

That was the last time the de-commissioned stations were discussed. Sugeau, the NUM and Numsa were surprised when the sale was advertised this week.

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

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

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

Eskom CE Alan Morgan, who says equity partners will be sought

CLEANING THE STAGE...

By SEVEN LUNCHEN

Eskom's long and complex process of restructuring and privatisation has been received with mixed feelings in the industry. While some see it as a means to improve Eskom's financial health, others argue that it will lead to a loss of control over the national grid.

The decision to privatise Eskom has been met with both support and criticism. Proponents argue that it will attract private investment and enhance efficiency, while critics fear it will lead to higher prices and reduced service.

Eskom's challenges in recent years have been well-documented, with frequent power outages and financial difficulties. The government has set a target to privatise 49% of Eskom, with the remaining 51% owned by the state.

The process will involve the sale of Eskom's assets and the creation of a new entity to operate the grid. This new entity will be responsible for the transmission and distribution of electricity, while Eskom will continue to own and generate power.

The privatisation process is expected to take several years and will require significant regulatory changes. The government is eager to see the benefits of privatisation realised as soon as possible.

In the meantime, Eskom is working to improve its performance and address the challenges it faces. The utility is investing in new infrastructure and working to reduce outages and improve customer service.

As the process continues, there will be close scrutiny on how the new entity is managed and how it will be integrated into the broader energy market.

The ultimate goal is to ensure that Eskom remains a reliable and affordable source of electricity for all South Africans, while also attracting the investment needed to modernise the grid and meet future demands.
Cosatu outlines privatisation approach to top UK officials

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Important criteria for choosing the winning bidder would include black economic empowerment and the ability to grow the airline. “The partner must bring aviation expertise and cash for expansion. Sun Air has lots of potential. All we need is capital to unlock that potential,” Borstlap said.

The advisers would announce the winner of the bid by early July, and the transaction was likely to be done the following month.

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

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

“We do not prefer anyone. It will be an open bid. The government will obviously see who puts what on the table,” Borstlap said.
Privatisation should aim to boost jobs

Robyn Chalmers

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

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

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

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

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

Government had begun a broad restructuring and privatisation initiative.

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

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

He said the private sector needed to be restructured to address the problems of poverty, skills and low economic growth.
PUBLIC WORKS (232)

PROCUREMENT SWITCH
FM 28 A 1997

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

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

Contract criteria will take into account economic empowerment.

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

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

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

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

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

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

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

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

SA Association of Consulting Engineers’ CEO Graham Pine does not think the roster should be extended as it is: “You cannot be an emerging professional forever.”  Times have changed and the roster needs to be made more accessible.

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

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

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

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

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

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

Claire Bisseker
The less than public service

CAROL PATON

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

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

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

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

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

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

Robyn Chalmers

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

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

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

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

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

The ministry declined to comment on the price of the stake, but analysts have placed it at R25bn-R35bn. This could be reduced if agreement is forged on more aggressive market share targets and transformation targets.

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

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

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

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

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

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

The licence said for the first three years the overall basket of Telkom’s tariffs could not increase at more than the rate of inflation minus 1.5%, and increases for individual services could not be more than 20%.

Nk BOOL said the ultimate aim in issuing the licenses was to provide appropriate and affordable telecommunications services to as many people as possible within the shortest time.

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

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

Continued on Page 2
No timetable for competition policy talks, although Erwin ‘has received document’

John Dludlu

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

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

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

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

Erwin, who replaced Trevor Manuel, now finance minister, has undertaken to table proposals at Nedlac. Both have ruled out “line-by-line” discussion.

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

Previously, sources within the team, which included Competition Board chairman Pierre Brooks, Cape Town academic David Lewis and parliamentary trade and industry committee member Tseliso Ntsumane, have ruled out harsh US-style antitrust laws for SA, saying the country’s economy does not require such a model.

Observers have said that the debate was moving towards the EU model.

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

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

By Abdul Millazi

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

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

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

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

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

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

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

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

Black entrepreneurs entering the sector should also be empowered, it was agreed.

Cosatu's Vusi Nhlapo said: "All parties committed themselves to co-operate in achieving the success of this project which is designed to deliver a better quality of life to our people and create a more competitive economy."
Privatisation: ANC has done an about-turn

IN THE SECOND of a two-part series, DONALD MCNEIL JUN examines the state of privatisation in South Africa and possible obstacles to the process.

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

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

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

But, by 1994, some ANC ministers had become free-market enthusiasts. They talked about selling the post office, privatising water and selling the country's gold reserves.

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

In "a matter of months", he said, all of South Africa's main companies would be sold, as would the long-distance phone services.

Airports Co., which manages the nation's airports, and Safeco, would "compete with private companies".

By next year, South African Airways and Zuma, the state bus and trucking company, would be privatised.

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

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

The matter of who really owns Sasol, which is worth R3.2 billion on the stock exchange, is still unresolved. The pension fund for employees of Transnet, a holding company for transport-entreprenuers, is thought to be underfunded by R3.2 billion.

The fourth obstacle is bureaucratic delay and red tape. The ANC, as it revamps everything from the army to primary health care, chooses to move slowly - convening hearings, hiring consultants and grinding out reports.

The fate of Sasol, for example, will not even be discussed until the cabinet has officially responded to a parliamentary report.

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

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

The government's chief adviser on the process is HSBC's Sampson Makin, part of HSBC Holdings. But each proposed deal seems to get its own adviser, investors and corporate executives say that speed has to pick up, and the government has come around to agree.

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

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

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

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

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

At the end of last year, the public service employed 1.2 million people and the government said it expected to reach its target by the end of this month.

The process of restructuring the public service should now be completed by March 2000.

"The team of experts will also help with retrenchment management," Skweyiya said.

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

A working committee of the public service and administration and state expenditure departments recently completed its research into the staffing needs of departments and provincial administrations.

It would suggest to the Cabinet how many jobs the public service should shed in the financial year which starts on April 1 this year.

The British experts will set the targets for the 1998-99 and 1999-2000 financial years. They will study all the functions the public service performs and propose which should be abolished or transferred to the private sector.

They will then determine how many public servants are required to deliver an adequate service.

They have also been asked to study successful right-sizing exercises in two countries in Africa at similar levels of development and in two other countries in the world to "identify the best practices and techniques for right-sizing."
**R189m waste management merger queried**

**Edward West**

11/3/97

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

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

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

Water and forestry affairs department

Continued on Page 2

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**Merger**

Continued from Page 1

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

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

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

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

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

Domestic waste disposal was another growth area. The company had 8% of this market, with government services making up the rest.
Privatising the government garage ‘could save R100m’

Linda Ensor

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

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

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

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

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

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

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

Legislation to establish a roads agency and an aviation and maritime safety agency should be ready in two months’ time. Also planned was the creation of a commercialised permit agency to deal with the issuing of about 40 000 cross-border permits annually.
Union agreement paves the way for Telkom sale

Renee Grawitzky

LABOUR has finally given the go-ahead for negotiations on a joint agreement on the future of the communications sector to be concluded. The agreement, which should have been signed last week and faced overtures, has been signed in the wake of the announcement of the sale of Telkom to a South African consortium.

The agreement, which was signed between the government, Telkom, and the National Union of Metalworkers of South Africa (NUMSA), will pave the way for the sale of Telkom to the South African consortium. The agreement will ensure that the interests of the employees of Telkom are protected during the sale process.

The agreement includes provisions for the protection of the employees of Telkom, including the provision of job security and the maintenance of current wages and benefits. It also includes provisions for the transfer of employees to other positions within the company.

The agreement is expected to be signed in the coming weeks and will be submitted to the Department of Communications for approval.

The government has committed to ensuring that the sale of Telkom proceeds in a manner that is fair and equitable to all stakeholders. The government has also committed to ensuring that the sale process is transparent and that all interested parties have the opportunity to participate.

The sale of Telkom is expected to generate significant revenue for the government and will help to stimulate the local communications sector.
Privatisation on high-level forum agenda

By Shadrack Mashalaba

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

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

Sigcau will deliver her keynote speech on March 17.

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

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

Union expectations and fears will also be discussed.

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


International support

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

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

For more information contact John Victor Promotions (011) 789-6793.
Eskom's privatisation on hold

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

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

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

Meanwhile, the national electricity supplier increased its revenue by 9 percent to R18,7 billion last year, John Maree, the TIGHT REIN Allen Morgan, the chief executive of Eskom group's outgoing chairman said yesterday.

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

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

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

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

He said that there were a number of issues that needed to be settled before clarity was obtained about the structure of Eskom and the industry as a whole.
Competition Board probes video pricing policy

David McKay

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

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

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

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

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

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

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

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

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

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

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

Interested parties would be given 30 days to submit written representation concerning the probe, the board said.
Video dealers go up against distributors

**Competition Board to probe pricing, ‘anti-competitive behaviour’**

*Llewellyn Jones  
Business Reporter*

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

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

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

In 1998, the board had to intervene when it became apparent that some distributors were engaging in restrictive practices which were subsequently outlawed.

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

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

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

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

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

The result is that if a store wants to buy top titles, it has to buy too many titles to get decent prices as low as R500 or pay top prices, as much as R2000, for blockbuster films.

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

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

Government is steering away from alliance perspective, says union

By Abdul Mlazi

The National Union of Mineworkers (NUM) has called for the nationalisation of the mines and for the Government to take up 60 percent of shareholdings in all mining companies.

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

The congress called on the Government to speed up the finalisation of a state policy on minerals and energy and to ensure that it favoured the working class.

The NUM also warned that any restructuring of state-owned assets should be done in consultation with the labour movement.

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

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

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

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

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

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

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

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

Industrial policy

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

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

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

NUM president James Motlatsi said the macro-economic strategy represented "95 percent of the views of five percent of the population and five percent of the views of 95 percent of the population."
'NO QUICK FIXES'

West Cape looks to privatisation

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

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

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

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

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

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

An expensive and faltering attempt, costing millions, was the Nsec pensions contract debacle and Stegmann warned that there were “no quick fixes”.

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

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

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

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

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

Stegmann warned consumers that if they wanted extended public services then “they must expect to be taxed locally.”
Opposition to KWV’s privatisation plans

Samantha Sharpe

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

About 85% of the KWV’s members approved the plan last year, and a favourable court decision would see the distribution of all benefits accumulated over the years to the KWV’s members.

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

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

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

“But, last Monday afternoon Mr Hanekom indicated to KWV that he was not prepared to meet KWV’s staff, only with Fawu management and shop stewards,” he said. “This is a clear case of organised labour being coerced to support the minister, despite disadvantages it may hold for their members,” Pegel said.

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

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

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

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

The third report said although the KWV had statutory powers, these had not boosted its reserves or allowed it to acquire undue assets. Auditors Puder-Hoffman Sithole were appointed to investigate how the KWV’s assets were derived after ambiguity in the initial report.
Sun Air set to be privatised by August

Robyn Chalmers

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

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

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

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

Linda Ensor

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

A committee meeting scheduled for yesterday was postponed.

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

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

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

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

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

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

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

Masakhane paperwork ‘outweighs success’

EAST LONDON — The Masakhane campaign came in for a drubbing from the South African News. On Wednesday, when he said the amount of paperwork involved outweighed the campaign's achievements.

Addressing a workshop on the campaign, Stofile said it had been inept and ineffec- tual since its inception in 1994 because it had focused too heavily on appeals for citizens to pay for rates and services and not on other aspects of nation-building. He stressed that the payment of rates was only one facet of the campaign, and that the overall aim was to reconstruct a nation. He said the size of the workshops and documents was the major factor that had led to the campaign's failures.

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

20 000 marchers disrupt Jo’burg CBD

Renee Gravenorst

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

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

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

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

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

Sun Air sale process lifts off

Duma Gqubule

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

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

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

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

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

“Certain weights will be attached to each criterion. Government wants cash so price will be an important consideration. But government has also said this sale will not be an auction,” a source close to the government said. The selection of a final bidder would be based on “fundamental issues rather than hype,” the source said.

Meanwhile, Massmo Investments, an empowerment vehicle set up by the National Black Business Caucus, has put its weight behind a bid by entrepreneur Moss Nqwenya’s Rothabile Leisure and Tourism group.

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

The Rothabile group consists of trade unions, Pulanala Tourism, Hotels and Leisure, a consortium of black tour operators and travel agents and Matla Leisure Holdings. Rothabile has been joined by Jeebulan, a Durban-based consortium led by businessman Dliza Ml, which includes two women’s groups, Aghana Trade and Investments and Akhwen Public Investments.

Another black consortium, Bophirima Investments, is believed to be in the running. The group recently won the bid for government’s stake in Yabeng Investments, which, like Sun Air, was owned by the former Bophuthatswana government.
Sakhawu urges Govt to reconsider, claiming that involving private sector would lead to drop in quality of service, higher prices, retrenchments and job insecurity.
Lawyer moots KWV probe

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

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

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

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

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

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

The CSWI, which includes among others the Stellenbosch Farmers' Wines, Distillers Corp, Douglas Green, Bothalala, Gidleys and Seagram, mutually opposed the KWV's privatisation plan on the grounds it would pose unfair competition in the local market.

Sources close to the agreement said that when the KWV had given the CSWI assurances of its marketing efforts would remain focused on exports, at least in the short term. They said that KWW believed its current activities were generating sufficient profit and that trying to break into the domestic market would not be attractive to the co-operative.

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

It provided about 50% of the brandy sold in SA. According to court papers, the KWV had accumulated R1bn worth of assets. — Reuters.
Telekom Malaysia, SBC get Telkom slice

GOVERNMENT has finalised the sale of a 50% stake in Telkom to US-based SBC International and Telekom Malaysia which will net the state $1,26bn — or R5,54bn — and lead to the delivery of 2,8-million lines over five years.

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

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

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

Post, Telecommunications and Broadcasting Minister Jaya Naidoo said Telkom would also commit almost $12bn (R53bn) capital expenditure over five years, almost doubling its current programme. "The deal is highly satisfactory... it far exceeds our initial expectations," he said.

The possibility of listing Telkom could be considered after the five-year exclusivity period ended. Any further sale of government’s shareholding was likely to take the form of an initial public offering.

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

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

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

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

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Telkom

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

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

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

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

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

See Page 3
SA arrives late at privatisation party

FROM: REUTER

Johannesburg — In making up for a late start, South Africa has pulled off the continent's biggest privatisation deal to date by selling 30 percent of Telkom for $1.28 billion, analysts said yesterday.

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

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

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

With the Telkom deal, the process should start to accelerate, they believed.

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

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

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

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

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

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

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

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

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

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

During 1995, net foreign direct investment into developing countries was about $97 billion, of which Africa received a mere $3 billion.
Slowly but surely corporate South Africa is untangling the complex web of cross-shareholdings that built the inward-looking conglomerates of the apartheid era.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Robin McGregor, an independent analyst and member of the government's Competition Board, says Anglo's industrial holding concern Anglo American Industrial Corporation (Ammco) would be a natural for unbundling.

But Leslie Boyd, the chairman of Ammco, rules out such a move: "If you haven't got big companies, you can't do big things. And if you can't do big things, then you can't compete in the global village," said Boyd.
Govt outlines strategy to privatise SAA

Robyn Chalmers

GOVERNMENT has given details and broad timetables for restructuring the transport industry for the first time, including the possibility that SA Airways (SAA) could be fully privatised and listed within seven years.

Transport director-general Ketso Gordhan told a transport restructuring seminar yesterday that the restructuring of Transnet was “hugely complex”, but there were several developments government would like to see take place within the next four to seven years.

Gordhan admitted the task was made more difficult by the fact that the transport ministry had no direct say over Transnet, which falls under public enterprises despite the ministry having no transport skills or capacity.

He said government wanted to secure a strategic equity partner for a minority stake in SAA in the short term. While no decision had been taken yet on SAA’s future, there was the possibility of listing a larger proportion or all of the state’s shares in the airline over a number of years. These and other restructuring plans were still being negotiated with trade unions.

Gordhan said the reasons government wanted to privatise SAA mirrored those applying to Telkom: Government recently sold a 30% stake in Telkom for R1.26bn, of which the major portion will be ploughed back into boosting infrastructure. Skills transfer, improved customer service and technological advancements were also priorities.

He said government was finalising a concession-type contract for Metrorail, which became a separate division of Transnet in February. This was the first step towards allowing private operators to compete with Metrorail in providing commuter rail services.

“I can confidently predict that in the first year of operating on a more commercial business footing there will be a saving to the state of about R60m,” Gordhan said. A demonstration concession on 10% of the network was planned for October next year, with full concession planned for 2001.

Passenger and freight transporter Autonet would be fully privatised in four to seven years, but loss-making consignment distribution business PX was more problematic.

PX posted a net loss of R43m (1995: R297m loss) in the year to end-March last year and Gordhan said a major internal restructuring was needed before considering the possibility of privatisation or the introduction of joint venture partners.

Transnet chairman Louise Tager said recently that restructuring was moving ahead well, and negotiations were underway with unions to move 3 000 people out of the division.

Gordhan said internal restructuring was also needed at Spoorsnet before other options were considered to deal with the “high levels of overemployment” and other problems at the parastatal. The first step could be the introduction of concessions.

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SA

SAA

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Government was working on plans to separate the port authority element from the port operations within Portnet, after which it was possible that the port would be privatised or a joint venture partner brought in and the authority restructured.

Petronet, which operates Transnet’s liquid petroleum pipeline network and transports petroleum products, would be regulated but would remain a state utility, as it provided an important and basic service, he said.

There were plans to find a strategic equity partner for a minority stake in the Airports Company, but no decision had been made on the parastatal’s long-term future. A further tranche might be sold via a listing, or the state could remain the majority shareholder.

Gordhan said Sun Air would be privatised this year, with a short list of possible partners who would qualify to tender for the sale to be published on April 10. Government also planned to shift the focus of the transport department, with agencies overseeing roads, permits, shipping and aviation to be established next year to assume many of the department’s tasks.

The transport white paper outlined a fundamental policy shift towards private sector partnerships and signalled a move in government’s role towards formulating policy and strategy.

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Meiring plans to sell off assets to raise funds

Cosatu slams privatisation plan

WILLIAM-MERVIN GUMede
Political Staff

The Western Cape government plans to sell off assets to fund capital projects such as the construction of roads and buildings.

The provincial government also plans to rationalise office space in Cape Town, saving up to R110-million over three to four years.

Finance MEC Kobus Meiring announced in his budget speech in the provincial legislature that all unused and costly fixed assets in the province would be sold and the proceeds transferred to a loan fund to bankroll new capital projects.

He said an amount of R13-million had been provided in the 1997-98 budget to kickstart a downsizing and privatisation programme – the most ambitious to date for any of South Africa’s provinces, he said.

“We (provincial government) will introduce a level of asset management never seen before in the civil service and look at the optimal and economic use of state fixed assets,” Mr Meiring said.

A team of experts from the private sector would be recruited by the transport and public works department to speed up the compilation of an inventory of all state assets.

He said the provincial administration’s lease account was far too expensive and the province’s cabinet had decided that office accommodation in the Cape Town metropolitan area should be rationalised over the next three to four years.

“We expect to realise eventually savings of R110-million through this.”

The Congress of South African Trade Unions has slammed the privatisation plan which it and said it would “vigorously” oppose such moves.

“Organised labour has not been consulted, although Mr Meiring once gave us a presentation in which he mentioned the province thinking of privatising some of the province’s public assets,” said the provincial secretary of Cosatu Tony Ehrenreich.

Democratic Party provincial leader Henrie Bester called on central government to give provinces full power to privatise public services.

“The major functions performed by the provincial government – health, education, social welfare, public roads and local government – are functions where the provincial government only has concurrent legislative power with the national government,” Mr Bester said.

“The Western Cape is in a Catch 22 situation. The national government cuts its allocation from the national budget, but the same national government prevents it from either generating its own resources or rationalising its administration in a rational and efficient manner,” Mr Bester said.

The province was caught in a legal and managerial straitjacket as it could not raise taxes, could not retrench staff and could not privatise public services,” he added.
**Numsa rejects Eskom privatisation**

**FRANK NEUMAID**

Johannesburg — The possible privatisation of Eskom was thrown in the balance yesterday when Numsa, the largest affiliate of Cosatu, called for the electricity utility to remain 100 percent state-owned.

Enoch Godongwana, Numsa’s general secretary, said the union’s position was based on the critical role that electricity played in the lives of South Africans. Numsa’s opposition to any form of privatisation, partial or total, was likely to cause problems should the government go ahead with plans to restructure Eskom.

“The generation, transmission and distribution of electricity must remain in state hands,” Godongwana told Numsa’s national bargaining conference in Johannesburg.

Referring to the partial privatisation of Telkom, Godongwana said Numsa was in agreement with government because the union viewed the communications company as a highly competitive entity which needed to outsource state-of-the-art technology if it was going to remain relevant.

“We also needed a lot of capital to finance expansion. There was no way we could have done this without a strategic partner,” said Godongwana.

Referring to media reports that cast aspersions on the future of the alliance between Cosatu and the ANC, Godongwana said the future of the alliance was only “an area of concern for sceptics and prophets of doom.”

Godongwana said “Those who understand the nature of the struggle for democracy in South Africa and the kinds of problems we face in trying to transform our country’s economy will agree that the alliance is a critical instrument for achieving that transformation.”

“The ANC needs Cosatu badly. In as much as Cosatu needs the ANC badly for friendly labour relations to exist in the first place. Anyone who thinks either the ANC or Cosatu can survive effectively one without the other, is living in a dream world,” Godongwana said.
Govt transport services to go commercial

Plan includes independently operated ports and airlines within seven years

By Anna Cox

Government transport services around the country are to be commercialised.

The Department of Transport yesterday announced changes within the industry to introduce private sector partners for all modes of transport including aviation and shipping.

The changes will also bring bus and rail monopolies to an end.

The plan is to have independently operated airlines, ports and railways within the next four to seven years. South African Airways could also be privatised.

Announcing the moves in Pretoria yesterday, director-general Ketso Gordhan said they had become necessary because of the Government's changing role.

At present it was the biggest transport operator in the country, responsible for between 70% and 50% of all transport. The changes would bring about a reduction in the Transport Department's staff from 1,053 to 270.

A series of agencies would be set up and run by the private sector. Each would employ its own staff and have chief executive officers to run them.

A roads agency would take care of the country's 70,000km of national roads. The department was investigating a 0.6c fuel levy for a dedicated road fund.

Here a Government representative would be appointed to the board to oversee financial control. The board would also take control of the 650km of toll roads.

Urban transport faces radical changes. Most of the department's powers will devolve to provincial and metro transport authorities.

Bus and rail operators' monopolies would end. This has already started taking place. From the beginning of this month, bus operators have been given interim contracts for their routes. When these expire, the routes will be put out to tender.

Commuter rail would be put out to concession by 2000. A maritime safety agency will operate shipping functions and a similar agency will regulate air transport.
Unions set to declare dispute over govt plans for electricity

Renee Grawitzky

THE National Union of Metalworkers of SA (Numsa) and the National Union of Mineworkers (NUM) are to declare a dispute against Eskom over government's plans to privatise the electricity supply sector.

This emerged yesterday after Numsa's four-day national bargaining conference, which adopted a resolution calling for wage increases of more than 20% for metal and motor sector employees and the defence of jobs, especially in parastatals such as Eskom.

Numsa general secretary Enoch Godongwana said the union could not pre-empt negotiations. However, the union expected a major battle over its demands for 200 hours' paid training, payment for skills acquired and four training modules for each job grade.

The union opposed the government's decision to restructure the electricity supply sector, announced last month, and if necessary would take action against Eskom and the government.

A Numsa official said the proposal called for decentralising distribution, which was privatisation in disguise.

Eskom was preparing to allow an independent private company it owned to distribute electricity, as well as local authorities. It wanted to contract out all non-core businesses and would eventually own nothing.

The union said 80 000 workers were involved in the electricity supply sector and therefore should be involved in making decisions on distribution.

The issue would be discussed by Eskom's restructuring transformation committee when it met today.

Numsa indicated that a dispute could be declared after the meeting.

The union's bargaining conference focused on five core areas — wages, training and grading, productivity, levels of bargaining and demarcation, and work reorganisation — and emerged with a programme of action to tackle these issues and defend jobs.

After the conference Godongwana said 200 000 jobs had been lost in the metal and related sectors since 1982.

Numsa

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Industry-specific industrial policy, jobs would continue to be lost. The defence of jobs campaign would target parastatals, including Eskom. Restructuring would be resisted if it affected jobs.

Steel and Engineering Industries' Federation of SA (Seifisa) talks start on April 25.

Employers face demands of inflation plus 12% for workers on the bottom grade. Employers in the motor sector (garages, panel beaters) face demands of inflation plus 16% for the lowest-paid workers, with rates based on actual rates, not minimum rates, as was the case previously.

Delegates at the conference agreed to begin mobilising workers in support of a single bargaining council covering workers in metal and engineering, electrical contractors, and auto manufacturing and component sectors.

"We have to defend our members' jobs, particularly in the domestic appliance industry, by questioning the high cost of steel inputs, and in telecommunications, where we believe the government has gone over the top by reducing the General Agreement on Tariffs requirement from 20% to 0%.

Godongwana said the union would have to target those on steel pricing. He and assistant general secretary Mipho Gwenda said that in the absence of an..."
Town sparks privatisation outcry

Union vows to fight new water plan

Terry Bell

Cape Town — The municipal workers' union, Samwu, has declared war against privatisation. In a four-day executive meeting starting today, the Cosatu executive will decide what action to take following the effective privatisation this morning of the water and waste services of Nelspruit, the capital of Mpumalanga.

At 10am today the Nelspruit council is due to announce the winning bid for a 30-year contract to manage water and waste services for the city. One of the most significant aspects of the tender was that companies had to agree to undertake the collection of service charges.

"When that provision (collection of charges) was included, we thought private companies might not be interested," said Moeletsi Mosola, the director of the constitutional development department. However, such fears had been misplaced and a number of companies — including multinationals — had tendered.

Among those short-listed for the contract is understood to be a consortium headed by Britain's Bwater and the national civic organisation investment company, Sanco Investment Holdings. Sanco has spearheaded the largely unsuccessful MasiKhana campaign aimed at encouraging non-payers to pay for municipal services.

Now the row over water provision between the government and the unions threatens to erupt into the open and to expose a number of embarrassing rifts in the ruling alliance. "There has been a lot of dishonesty," said a leading trade unionist. "We have been lied to and feel cheated."

The announcement of the award of the Nelspruit contract also flies in the face of an agreement reached between Samwu and local authorities. At a meeting on March 17, the union obtained an undertaking that the award of contracts would be postponed until the various alternatives had been analysed further.

A similar plea, 10 days earlier, to the constitutional development department — it is responsible for local government — was rejected. The department maintained that decisions "on the ground" were the province of local authorities.

However, the department rejected a business plan put forward by the Cape Town council on the grounds that it did not comply with the provisions outlined in "public-private partnerships" which is the ruling government programme. But Mosola maintained that the partnerships programme did not amount to privatisation.

It provided for funds to be "leveraged from the private sector" and for "risk sharing." Samwu could be catered for within these provisions.

Ronnie said: "We are raising the matter of water provision with Cosatu this week — and we are going ahead with our plans."

Samwu's plans so far are to stage pickets across the country, starting on May 1, to raise the issue of water privatisation.
SAA Maharaj cites worldwide trend

Privatisation of SAA will be ‘pragmatic’

AUDREY D’ANGELO

Cape Town — The government should adopt “a pragmatic rather than an ideological approach” to the privatisation of SAA, Mac Maharaj, the transport minister, said yesterday.

He said a statement by Stella Sigcau, the public enterprises minister, that SAA could be sold off completely over time, was “in line with our thinking.”

Maharaj said state-owned airlines all over the world were normally run at a loss but those in the private sector usually made some profit. It had taken seven years for British Airways to be privatised. “I don’t think it will take us as long,” he said.

Maharaj emphasised the importance of reaching agreement with the unions on how privatisation should be handled. Discussions with the unions were now in progress.

“We first need to arrive at an agreement with the unions over various strategic equity policies. We must ensure there will be direct benefits to the airline and the economy. Jobs must be safeguarded, skills transferred and management strengthened.”

Pointing out that the formation of alliances between airlines affected the market and that there was a global movement towards deregulation of the industry, he said the privatisation of SAA had to be “put in the context of global developments.”

“We must look at South African interests. There must be substantial benefits from privatisation. We must ensure that transforming the economy brings black empowerment.”

Sigcau said in Japan this week that British Airways and Lufthansa had “expressed interest in buying a stake in SAA.”

John Hanlon, British Airways’ general manager in southern Africa, said his airline would need to look carefully at the terms and conditions of the sale and the value placed on the shares before deciding whether to bid for a stake in SAA.
Nelspruit workers left out of Samwu’s fight against privatisation

Sharon Hammond

Nelspruit — The Nelspruit branch of the South African Municipal Workers’ Union (Samwu) said yesterday that it did not know about the union’s plans to protest against Nelspruit’s plans to privatise its water and waste services.

Louis Mthusi, Samwu Nelspruit’s secretary and an employee of the town council, said any action would only be taken after the council had explained what it meant by privatisation.

Samwu, at national level, “declared war against privatisation” in reaction to the council’s plans and said marches would be held across the country on May 1.

He said the issue had only so far been discussed with shop stewards at the council, and that Samwu, at national level, would first attend a conference organised by the Development Bank of SA about public-private sector partnerships, before discussing the matter with the council.

“After that, I’m not sure what resolution will be taken,” he said.

Samwu’s “war” declaration might also be premature, after the council postponed announcing the winner of the bid for the contract from Monday to April 30, Etienne Garnett-Bennett, a council spokesman, said the date had possibly been postponed to allow for further discussion.

This (public-private sector partnerships) has never been done in South Africa before, which probably explains why the unions are reacting this way,” he explained.

Also unaware of the brewing “war” is Cosatu’s Nelspruit branch. Cosatu said this week that it would hold a conference to decide what action to take against the council for its privatisation bid, but Michael Nkosu, its local chairman, said he was unaware of the conference and, in fact, favoured privatisation.

“We believe service would be better from a private company,” he said.

Vying for the tender are eight companies including Sanco Investment Holdings and a consortium headed by Britain’s Bwater.

— African Eye News Service
Privatisation divides top Cosatu executives

Joanne Sibale

Johannesburg — Sharp divisions within Cosatu, South Africa's largest trade union federation, emerged yesterday over privatisation policies and the planned nationwide strike on May 12 against the government's Employment Standards Bill, according to union officials and sources.

Cosatu's four-day executive committee meeting ended yesterday amid bitter infighting and what some inside sources said were irreconcilable differences over organised labour's position on the government's policies of privatisation.

Two unions affiliated to the 1.3 million strong federation opposed endorsing privatisation as a federation policy.

Harold Harvey, the general secretary of the Transport and General Workers' Union, confirmed yesterday that his union was opposed to any sort of privatisation of state assets.

In a statement yesterday, the South African Municipal Workers' Union said it rejected "privatisation of any municipal sector."

But according to union sources, Sam Shilowa, the general secretary of the federation, has endorsed the ANC's policies of restructuring.

The federation has postponed until April 13 a decision on the nationwide strike, three days after Tito Mboweni, the labour minister, is expected to have promulgated the Employment Standards Bill.

The bill seeks to reduce the 46-hour working week to 45, then phase it down to 40 hours over a period of five years.

Cosatu has demanded a legislated 40-hour week.

Meanwhile Business South Africa, a business lobby, has warned that it will take legal action against Cosatu if the May 12 strike proceeds.
While the government has committed itself to at least partial privatisation of state assets and is gingerly parring its left wing in order to implement this, socioeconomic developments in society indicate that South Africa is privatising willy-nilly.

Much of this has to do with the crushing public debt and a skewed pattern of state expenditure. The homeland system not only allowed the white minority government to strip black South Africans of their citizenship, it also provided massive savings for the central exchequer. Expenditure transfers to homelands — from education to health — were always at a lower per capita level than the amount spent on Africans in the “republic.” Correcting these expenditure patterns requires political courage, diverting funding away from urban areas (including townships) towards rural areas.

By international standards South Africa spends a high proportion of its national budget on education. However, the limits of its resources and the need for redistribution have meant that funding priority will be given to primary and secondary education at the expense of tertiary education. Pupil-to-teacher ratios will also have to rise in most areas to reach the government’s target of 40 to 1 in primary schools.

While disruptions have declined in schools, financial pressure has seen an increase in disruptions at tertiary institutions and the relatively new phenomenon of a private tertiary education sector.

So, while the universities find themselves under siege because of decreasing state subvention and increasing political tensions surrounding “transformation,” this does not necessarily mean the end or even terminal decline of tertiary education. It implies merely that much of this education could in future occur through private initiative.

Similarly, moratoriums on police recruitment, corruption in the police services and underfunding and undermining of morale in the justice system do not necessarily mean that full-scale anarchism will be South Africa’s lot. Personnel employed in the private security industry are already outnumbering those in the police services by about 2:1 to one.

The government may in time be forced to co-operate with private services to arrest the crime rate.

The welfare department seems to be redirecting its focus to the poorest of the poor and seeks to assist only those single mothers who have little or no means to subsist, cutting funding to those previously most benefited — the largest group of beneficiaries having been single coloured women.

The health department, on the other hand, still seems to think in terms of maximum state intervention in the health sector and is considering compulsory service for medical graduates, a compulsory national health scheme, a new system of primary health care to lower access to tertiary health institutions and massive intervention in the prescription and sale of medicines. The provision of free care to pregnant women and young children has, in addition, placed the system under enormous strain — as could the recent introduction of free abortion on demand.

And while the ANC often promises an increase in housing provision, government policy — unlike that of previous administrations — is based on a partial subsumation of private property for employed people (rather than the provision of houses per se). Whereas about half of South Africans are urbanised now, this will have increased to about three-quarters of the population in 2010.

Overall, the burden on the state’s resources will decrease only if economic growth occurs. The number of jobs in the formal sector of the economy matches the number that existed in 1982. At the end of 1995 the number of jobs in the public sector had increased by 3,3 percent since 1990, but the private sector has experienced a drop in jobs of 5,6 percent.

A further impediment to state provision of social and other services is the rate of immigration to South Africa. The government guesses that illegal immigrants constitute anything between 5 percent and 20 percent of the population.

Increased urbanisation in particular is expected to halve population growth by 2036. But viewed against increasing boycotts of rates and payments for state services, a public debt of about 60 percent of gross domestic product, declining standards in some health and education provision, general lawlessness, the need to redirect funding to rural areas, ongoing immigration to the country from the rest of Africa and growing unemployment, the government is in no position to provide services to people at the level or intensity once experienced by whites.

Step by step the state is being forced to withdraw from implementing welfare-state-style in the private domain and is being forced instead to encourage a process of privatisation and self-reliance.

At the same time it is coming under pressure to concentrate on its core responsibility: ensuring a safe and secure environment. This is a process the country is being forced into by demographic and financial realities. There is no getting away from it, and it makes the debate between interventionists and abolitionists in a very real sense irrelevant.

Paul Pereira is the senior public affairs and policy manager of the South African Institute of Race Relations. This article has been edited and first appeared in the Institute’s April edition of PediFact.
Thatcher's pals bid for SA water

A controversial UK firm is at the centre of a growing row over Nelspruit's water privatisation, report Eddie Koch and Sharon Hammond

BRITISH firm linked to a secret clique which ran the United Kingdom's Conservative Party's controversial aid-for-trade programme in the Third World is at the centre of a growing row between organised labour and the government over plans to privatise municipal water services in Nelspruit.

The South African Municipal Workers' Union (Samwu) this week announced it will begin a week-long series of protests on May 1 to oppose efforts by foreign companies to "buy" South Africa's water supply services from local authorities — a move it believes will lead to job losses and tariff hikes.

The union says plans to privatise water and waste services in Nelspruit are part of a wider scheme by the British company, Biwater, and other multinationals to obtain lucrative contracts to control municipal water in South Africa.

In a bizarre twist to the controversy, Sanco Holdings — the investment company run by the South African National Civic Organisation (Sanco) — has teamed up with Biwater to bid for commercial rights to manage Nelspruit's water. The consortium is tipped to win the tender.

The partnership appears to put Sanco Holdings — headed by former Congress of South African Trade Unions militant Moses Mayekiso — in direct conflict with organised labour and in an alliance with conservative British capital on the issue.

Reports in the British Independent newspaper show Biwater was among a select group of civil contractors and defence manufacturers which benefited from a secret network that controlled the supply of British aid to arms and to and trade with overseas countries initiated at the start of former prime minister Margaret Thatcher's rule.

The network, an inner circle of senior civil servants, government and industry figures, effectively decided how the Britain Aid and Trade Provision Programme (ATP) — a key source of help from overseas governments — should be allocated, and how contracts for arms sales should be won.

Biwater was among five companies which accounted for almost 40% of the ATP budget between 1978 and 1992. Its contracts included projects in Malaysia, Sri Lanka and Thailand — some linked to efforts by the British government to sell advanced defence equipment to these countries. Biwater has also been a generous supporter of the Conservative Party — one of 18 companies which gave the party directly or through a middleman more than £2 million between 1979 and 1993.

Mayekiso was unavailable to comment about Sanco Holdings's consortium partner.

Meanwhile, though Samwu has "declared war against privatisation", its members in Mpumalanga appear to be taking a more cautious stance, waiting to see if the plans will generate advantages or job losses for the workforce.

Samwu's Nelspruit secretary, and employee of the town council, Louis Mtshwini, said earlier this week that his organisation wanted a law that would explain what it meant by "privatisation" before deciding on a course of action.

"The council says it's not really privatisation but delegated management. Now do they mean that all assets will go to the private company that wins the tender or that the water and sewage will only be managed by the company?" asked Mtshwini.

Nelspruit council spokesman Etienne Immert-Bennett said a decision about which of the two bidders should win the tender for the town's water management had been postponed. This is probably to allow more time for the union movement and the civic organisations to explore and discuss issues surrounding water privatisation.

The council has asked the union to elect representatives to a committee that will decide which bidder should be awarded the contract.

The chairman of Cosatu's local branch, Michael Nkosi, has also added to confusion at rank-and-file level by saying local residents and workers will probably support privatisation "where we live there is no water supply. We believe service would be better from a private company," he said.

The union says international experience showed workers lose jobs, water prices rise and quality drops when private companies take over concessions to manage municipal supplies.

Samwu is demanding a moratorium on all negotiations between local authorities and the private sector over privatisation of municipal services. The union wants "restructuring of the public sector" to be dealt with only through the National Labour Relations Forum.

The Department of Water Affairs and Forestry cannot, in terms of the Constitution, intervene in decisions taken by local authorities over how to manage their water.

"But the department is trying to ensure that municipal water is managed efficiently and in the interests of the poor by promulgating regulations and standards and guidelines for local government. The proposed water services Bill will give national government a mechanism to promote the public interest," said department deputy director general Mike Muller.

The outcome of the Nelspruit debate will have crucial implications for municipal water management around the country. Several multinationals, including Biwater and French-owned Lyonnaise Des Eaux, see Nelspruit as a place to test the waters before moving on similar bids in Cape Town, Johannesburg and other big cities.

In the middle: Moses Mayekiso

Photographer: BIDIQUE DAVIES

Members of the Independent Municipal and Allied Trade Union could also be affected by the possible privatisation of services delivered by Nelspruit's water and sewage department. But representative William Spencer said: "We don't approve of privatisation but understand the council cannot provide the services the public expects until 10 or even 20 years down the line."

Samwu's national leadership is adamant that planned protests will go ahead, and that these will be supported by its members in the Nelspruit area. The union says international experience showed workers lose jobs, water prices rise and quality drops when private companies take over concessions to manage municipal supplies.
A DRAFT report to Public Enterprises Minister Stella Sigcau by her private-sector advisers recommends widespread privatisation of the company's numerous subsidiaries, including rail operator SpoorNet.

The report (dated March 24), by UK investment bank HSBC and its local stockbrokers Simpson McKie James Capel, goes further along the privatisation route than Sigcau has publicly wanted to acknowledge to date.

It suggests that the difference in outlook between Sigcau and the Department of Transport is narrowing. Earlier this month Ketso Gordhan, director-general of Transport, expressed frustration about the divided government responsibility over Transnet.

The drive to restructure Transnet will be given a further push soon when, as expected, cabinet accepts recommendations by the Department of Finance to restructure the group's pension fund, which is saddled with an actuarial deficit of R8-billion.

HSBC and Simpson McKie James Capel were appointed advisers to Sigcau in December last year. They acknowledge in their report that they have not represented all the possible options.

"However, it focuses on those options which, in our preliminary opinion, are most likely to be practicable," they say.

Their most surprising verdict is that on SpoorNet, Transnet's largest subsidiary and previously considered a candidate for restructuring only. The report suggests that SpoorNet be maintained either as a single entity or split into several operations running the various industrial lines, such as coal, iron ore or timber. Thereafter the new company, or companies, should be "privatised by means of trade sales or flotation." The advisers recommend the concessioning or elimination of SpoorNet's unviable passenger service.

Concessioning (contracting private-sector operators to run a business) is also the favoured option for commuter rail group Metro.

The advisers recommend only one option for SA Airways: "Privatisation by means of a strategic equity partner or flotation." This option was expressed by Gordhan earlier this month and echoed by Sigcau this week after it emerged that the airline will report a loss of R345-million in financial 1996/97.

Among the other Transnet operations that should be privatised, according to the report, are pipeline operator Petronet, road freight and passenger operator Autonet, the heavily indebted parcel group PX, its telcos arm TransTel, IT subsidiary Datavis and most of the properties once they are transferred to the relevant businesses.

HSBC and Simpson McKie James Capel also advise a separation of the port infrastructure and operations currently falling under harbour operator Portnet. Both divisions could subsequently be privatised. An alternative to this option would be the creation of companies around individual ports, to be privatised later.
Erwin delays policy revamp

**ET** 13/4/97

COMPETITION RULES

By THABO KOBOKOANE

TRADE and industry minister Alec Erwin surprised observers on Friday when he announced a further delay in revamping the country's competition policy.

Erwin revealed that he was further behind than he had hoped, but expected to present a working document to the National Economic Development and Labour Council in late May or June.

If targets were met, the draft Bill would be ready for parliament next year. The Bill would be drafted by a team, 'solely picked by me', once Nedlac had reached consensus on policy frameworks.

He said if the actual competition law was going to achieve some of its objectives it would have to be located within a wider set of legislative instruments. "I hope to table the working document before Nedlac either in late May or early June," Erwin said.
HUNGRY of Eskom workers marched on the Pretoria offices of Minerals and Energy Minister Penuel Maduna yesterday to highlight opposition to government’s plans to restructure the electricity supply industry.

The National Union of Mineworkers (NUM) and other unions in the industry claimed that they had not been party to any consultation on the positions adopted by government in March.

Union spokesman George Molebatsi said a memorandum was presented to Maduna, who indicated that nothing would happen regarding the restructuring until all the parties discussed the issues. Molebatsi said Maduna had hoped that discussions around restructuring would have been finalised by the end of August.

NUM said the report compiled by the electricity working group, which proposed autonomous regional electricity distributors, was about “taking us away from the employer we have been associated with many years without getting our views”. This was contrary to what was discussed in Eskom’s restructuring and transformation committee, the union said.

The only way to make conservation work in Africa is to make it pay, Mokaba told a seminar of the Wildlife Utilisation Forum of SA at Suikerbosrand, near Heidelberg.

Hunting for trophies and venison had developed into a very lucrative industry. Annual income for SA from foreign hunters was almost R117m in a 1996 survey, which did not include airfares, taxidermy and other expenses.

In places such as Namibia and Botswana, game farming was more profitable than stock farming.

Mokaba said the realisation of game as a valuable resource contributed much to securing the continued existence of many species. The availability of suitable habitat is therefore essential, he said.

He said draft policy on conservation, due to be tabled in Parliament during the current session, contained the sentence, “Government will continue to support programmes that utilise indigenous wildlife sustainably for subsistence purposes and commercial gains.”

Mokaba also said SA would back a proposal by Zambabwe, Botswana and Namibia to have the world ban on trade in elephants and ivory lifted at the Convention on International Trade in Endangered Species (Cites) meeting in Harare in June.

SA’s neighbours managed their elephant populations well and government was convinced that controlled international trade in ivory would not have a detrimental effect elsewhere in Africa. Conservation in the three countries was in dire need of the funds which could be realised from ivory stockpiles, said Mokaba.

At the Cites meeting, SA is to argue for the easing of restrictions on the trade in rhino horn.
Eskom workers march to protest to plan to privatise

THABO MARASO
Business Reporter

Eskom employees have slated Government proposals to partly privatise the electricity utility, saying the move would lead to job losses.

Interviewed during a march by 200 workers to the company's Bellville headquarters yesterday, NUM's Western Cape co-ordinator, Mario Wanza, told the Cape Argus that the restructuring would also result in a drop in service standards.

"We understand the fact that the Government inherited a bankrupt state, but we cannot accept them selling off an asset that provides the basic needs of the population," Mr Wanza said.

He said the Government had plans in a soon-to-be-released white paper on energy policy to break Eskom up into regional energy distributors.

"This in essence would mean privatising Eskom, and we know that as soon as you privatise workers lose their jobs and electricity costs will rise."

Mr Wanza said marches opposing the proposed privatisation were also held in other provinces yesterday.

Eskom was an efficiently run parastatal which had met its Reconstruction and Development Programme targets and did not need to be privatised, he said.

"This is the start of an ongoing process of mass action and until the Government comes to its senses, we will continue with this action," he said.

The Government, unions and Eskom's management have been involved in negotiations during the past few months on proposals to restructure and transform the parastatal.

The discussions were initiated in February last year after unions complained that the Government was not consulting them on its proposals for privatising parastatals.

Despite persistent rumours of plans to privatise Eskom, the company's executive director of finance, Willem Kok, said last month that the Government had put plans to sell the electricity utility on hold for the next two to three years.

An Eskom spokesman was not available for comment yesterday.
Hanekom wins first round against KWV

Samantha Sharpe

CAPE TOWN — The Cape High Court granted Agriculture Minister Derek Hanekom leave yesterday to intervene in wine co-operative KWV’s planned conversion into a public company, effectively placing an obstacle in its road to privatisation.

The decision would give Hanekom until July 14 to file papers relating to his concerns about the conversion, which included the future regulatory environment for the wine industry, competition implications and distribution of KWV’s assets.

The matter would be heard in court on August 15.

Hanekom said that while he welcomed the High Court ruling, he did not want to be seen “to stand in the way of the KWV’s plans to become more competitive and to be in a better position to develop its foreign markets.”

But the additional time granted by the ruling would allow for the completion of a second investigation into the value of assets built up by KWV as a result of its statutory powers as well as time to enter into discussions about the competitive aspects of the conversion.

“The ruling confirms that my department does indeed have a bona fide interest in KWV’s scheme of arrangement. I do hope that in the time granted it will be possible for all the parties to arrive at a negotiated settlement that addresses all the issues.”

KWV MD Willem Barnard said he was disappointed that Hanekom had found it necessary to postpone the conversion. “The delay puts on hold KWV’s plans for the international market for another financial year, with the forced continuation as a co-operative being costly.” The conversion was originally planned for April.

Barnard said KWV was in talks with three investment houses, including a black empowerment group and an international party, involving separate deals of R100m each — all of which hinged on the restructuring process. He said KWV had agreed in December to give Hanekom three months for his investigations, giving its full cooperation to the commissions which gathered information.

While it would continue to cooperate with Hanekom regarding his concerns about the regulatory framework, the competitive implications had been resolved by an agreement with the industry’s wholesalers represented by the Cape Wine and Spirit Institute. Any question about the distribution of KWV’s assets to its members was “non-negotiable”, he said.

KWV

Continued from Page 1
Union ‘broke rules in bid for Sun Air’

THE SA Railway and Harbour Workers’ Union (Sarhuw) had, in broad principle, transgressed the rules of Sun Air’s restructuring committee, the transport department and yesterday, but it said it was satisfied there had not been any potential conflict of interest.

Transport director-general Khetso Gordhan said the union was unaware of the investment arm’s involvement in the restructuring committee while its investment arm was bidding.

These parties felt that conflict existed because there was no real difference between the investment arm and the union and, therefore, the investment arm would have access to confidential information.

In fact the investment arm had written to Gordhan last week telling him of the distinction between the two structures, Zungu said.
TRAPPED ON AN ELEPHANT

When former Trade & Industry Minister Trevor Manuel was tackled on delays in formulating competition policy he had a ready answer. "We are dealing with a pregnant elephant rather than an ant."

That was in February last year, when he united protesting business and labour lobbies at Nedlac by refusing to discuss details of draft legislation with them.

Gestation in an African elephant is about 22 months. So, 14 months and two task teams later, his successor in the post, Alec Erwin, has eight months to go.

It seems he will need them. Guidelines were expected at a policy meeting between the Minister and the Nedlac Trade & Industry Chamber last week. They were not forthcoming, however.

Erwin reportedly told the chamber he had sacked the task group, which included Competition Board chairman Pierre Brooks, appointed to draft legislation, and was setting up a new team.

The Minister was in Cuba and could not be contacted to confirm the report. But spokesman Ismail Lagardien says as far as he knows, Erwin has not axed the team. Brooks says neither he nor any of the task group, which, he says, was informally constituted, "has been informed of any axing."

Business SA representative Stef Naude says Erwin explained to the chamber he was "taking a holistic view of corporate governance, competition policy, insolvency and consumer protection."

"This involves five Acts," says Naude, "Companies, Close Corporation, Harmful Business Practices, Insolvency and Maintenance & Promotion of Competition. The Minister said we would get a document with proposals on competition law principles by June."

The Minister will also appoint a technical drafting committee.

While the task force has been debating new ground rules to prevent anti-competitive behaviour, the ground has been changing.

Standard Bank group economist Nico Czepionka says competition policy needed for an open economy is very different from that needed for a closed economy.

"Over the past few years, SA has become increasingly open to international competition because tariff reductions make it easier for foreigners to enter the market. In some critical areas — the motor industry, for instance — reduction of tariffs has fundamentally changed the competitive situation."

"This is illustrated by the fact that, for the first time, a depreciation of the currency was not immediately followed by soaring consumer prices."

There are remaining areas of abuse to be addressed.

"The contentious issue," says advocate Willem Pretorius, who co-authored an earlier working paper on competition policy reform, "has always been whether to address conduct or structure."

This issue was raised in the paper. "It is important not to assume any direct or automatic link between positions of dominance (concentration) and undesirable behaviour."

"Nevertheless, many instances can be found of undesirable behaviour in markets dominated by a few enterprises."

The policy which government decides on will have to be consistent with its economic policy package.

"The Growth, Employment and Redistribution strategy is essentially pragmatic," says Anglo American's Mike Spicer.

So earlier fears of draconian antitrust legislation are likely to prove unfounded. But meanwhile competition policy remains in limbo — creating an uncertain business environment. Ethel Hazelhurst.

PRIVATE EQUITY FUND

HAMBROS SA LAUNCH

Bridging finance for medium-sized and larger unlisted companies has traditionally been in the form of loans from banks. Now medium-term investment is coming to SA in the form of equity investment in private companies.

The latest initiative is a R200m fund launched by the UK-based bank Hambros, through its SA subsidiary, Hambros Private Equity. Funding for Hambros Private Equity investors is coming mainly from institutions. They include Anglo American Corp Pension Fund, De Beers Pension Fund and Eskom Pension & Provident Fund.

Hambros Private Equity chairman Tony Williamson (68) is the former CEO of Woolworths. He resigned in 1988 to go to Vancouver, where he ran a small portfolio of private equity investments.

On his return in 1995, he was offered his present position by Hambros' newly established representative office.

Hambros Private Equity director Patrick Maxwell (31), a chartered accountant, joined Hambros European Ventures — the UK and Western European buyout and development capital arm of Hambros — in 1990. "In SA we are modelling ourselves along the same lines as in the UK," says Maxwell.

Hambros European Ventures now has...
Water privatisation plan is outlined

By Russel Molefe

WATER Affairs and Forestry Minister Professor Kader Asmal has outlined Government policy on the privatisation of water services, the issue which angered trade unions and sparked labour unrest in Mpumalanga.

Asmal said Government policy recognised the need for local governments to adopt different approaches, which included the use of private sector service providers, to "ensure that all South Africans gain access to basic services on an equitable and efficient basis.

Other alternatives, apart from direct service provision, which local governments could adopt are:

- The strengthening of public utilities such as water boards to undertake distribution as well as bulk supply, the use of non-governmental organisations, particularly in rural areas; and, co-operation between local authorities.

"No particular solution is being favoured. The programme of local government support is providing technical and financial assistance to local authorities and assistance to NGOs, channelled principally through the Mvula Trust, is in place."

Hw explained that his ministry also made extensive use of the private sector to implement its programmes. The Government is to introduce a new Water Services Bill that "will help to build the framework for service provision."

Sowetan 17/4/97
Telkom to defy Competition Board 'request'

Lukanyo Mnyandana  22/4/97

TELKOM said yesterday it would defy a Competition Board "request" to release financial information on the SA Internet Exchange (SAIX), following accusations of restrictive practices from the Internet Service Providers' Association.

The board became involved in the matter late last year when the service providers complained about the Internet exchange, saying its product benefited unfairly from Telkom's monopoly.

The service providers said the exchange was being unfairly cross subsidised and they feared that cross subsidisation could create scope for predatory or transfer pricing. There were concerns Telkom could discriminate against non-Internet Exchange-aligned service providers in service, installation and maintenance.

Telkom public affairs group executive Victor Moche said yesterday that the parastatal would not release financial information on the Internet exchange until a number of "industry issues" were resolved. Telkom believed the matter should be handled by the SA Telecommunications Regulatory Authority and that the Competition Board's involvement could lead to an infringement of its exclusive rights as stipulated in the Telecommunications Act and its licence. Telkom would take the matter to the authority.
Hanekom keen to settle dispute

CAPE TOWN—Agriculture Minister Derek Hanekom would do everything in his power to settle out of court the dispute over turning KWV into a private company, he said yesterday.

It was the "right thing" to turn KWV into a company but a number of issues, including what was best for everybody concerned, had to be sorted out first, he said in reply to debate on agriculture policy.

Hanekom defended his use of adviser Michael Fridjhon, whom the National Party claimed had vested interests in the wine industry.

Fridjhon had been used by KWV itself as an adviser and consultant, and a number of interested parties in the industry had faith in him, Hanekom said.

His knowledge of the industry was also extensive. "I have trust in his integrity," Hanekom said.

BD 23.4.1987
Govt’s attempts to devise competition policy shelved for this year

Wyndham Hartley
Cape Town — Government’s attempts to devise new competition policy and legislation to govern it would not happen this year, Parliament’s trade and industry committee was told yesterday.

Committee chairman Rob Davies told the committee that while competition legislation was on the schedule for the committee for this year he had been told by Trade and Industry Minister Alec Erwin that it was most unlikely that this would happen in 1997.

Yesterday’s announcement by Davies follows announcements last week by Erwin that the process of developing competition policy had taken longer than expected. He also said he would be involving cabinet colleagues more in developing policy and that he hoped to have a mandate from the cabinet on competition policy for the National Economic Development and Labour Council in June.

Sources close to the committee said they perceived the real problem to be trying to develop policy and legislation in areas which were problematic, such as unbundling and the management of cartels. They said the entire issue of competion policy was in disarray.

The committee, in its report on the budget for the department for 1997/98, also expressed its concern at the death pains of the general export incentive scheme (Geis) and the payments which had to be made in terms of the system, which will cease to exist at the end of this year.

The report, adopted by the committee for tabling in the National Assembly, says the issue is that payments under Geis are post hoc, meaning that the growth in exports firms that qualify for the payments "could exceed the amount budgeted". Thus, the committee said, could significantly reduce the new supply-side measures being contemplated for the promotion of exports.

Avoidance of the Geis programme was supported by the trade and industry committee, the report says, and this should be "explored with Neda".

The report implies that the use of funds which are needed for other measures should not be used on Geis.

It was noted by the committee that there would be a further 30% decline in Geis payments compared with 1996/97, but this would still consume about 35% of the department’s budget for the 1997/98 year. Geis accounted for almost 50% of the department’s budget in 1996/97.

The committee also expressed concern over the lack of criteria to measure the success of mechanisms designed to promote employment.
Govt urged to privatise harbours

Nicole Jervé

DURBAN — Grindrod Unicorn chairman Murray Grindrod has urged government to move forward with its port privatisation plans, despite the difficulties associated with the release of state assets.

Grindrod said in its latest annual report that privatising the ports and their facilities remained "a desirable move" for the SA marine industry, as the group continued to be adversely affected by port delays while these were state-owned. Although he acknowledged that privatisation was "not without its difficulties", he urged government to proceed as soon as possible.

During last year Unicorn's tanker division took delivery of two new product tankers, the Engen Rainbow and the Engen Simunye, and bought another tanker, the Ergos, for delivery in the second half of this year.

Grindrod said the prices paid had been highly competitive and the investment would stand the group "in good stead" in future. He expected that the state-of-the-art vessels would produce significant benefits in the current year.

The international shipping and transport market had been influenced by the level of international trade, and the group had positioned itself to minimise the effects of fluctuations.

Trading income rose 48% to R160m in the year to December, while attributable income increased 38% to R54m.
We like to give our offshore investors a few little extras.

(like more money)

Privatisation is not a panacea for all economic problems, particularly in Africa, where it is frequently part of structural adjustment programmes, writes Asghar Adelzadeh of the NIEF in the fourth of a series on economic policy.

Privatisation has become increasingly prominent worldwide in the past 15 years and has now become an extremely important policy debate for developing countries. Outside of the developed countries, discussion has however typically focused on the successful experiences in Latin America and South-east Asia, or opened up a debate about lessons learned from failed projects by the economies in transition from central planning to predominantly those in Eastern Europe.

In the African context, there seems to be a consensus that state-owned enterprises (SOEs) have not been performing well and various reasons have been put forward including poor investment decisions, mismanagement, pricing policies, non-payment of taxes, and even theft of state-owned assets. In 1992, there were also 600 technical assistance grants to African governments. The growing trend in privatisation efforts has also been to privatise those that were not as a panacea for all economic problems. In 1992, there were also 40 technical assistance projects aimed at strengthening capacities to privatise.

This model has been shown to have an impact on enterprise performance at low cost. The government has a macro-economic position because state enterprises are open and honest in their dealings with the government. This openness makes it easier for new participants to enter the market and for state enterprises to be more efficient.

The market structure in which an enterprise operates is also important. The following is a list of some of the factors that may impact on the efficiency of an enterprise.

- The relationship between the state and the enterprise. This is important because the state may influence the enterprise to produce goods that are not in the best interest of the enterprise. The state may also interfere with the internal management of the enterprise, which can lead to inefficiencies.
- The availability of resources. This is important because the enterprise may not have access to the resources it needs to produce goods efficiently.
- The existence of competition. This is important because competition can lead to increased efficiency as enterprises compete to produce goods at the lowest cost.
- The level of government intervention. This is important because too much government intervention can lead to inefficiencies, while too little government intervention can lead to a lack of accountability.

Privatisation in Africa has a range of economic and political effects. These effects are not always positive, and can lead to a number of negative outcomes. For example, privatisation can lead to a decrease in the quality of public services, as private companies may be more concerned with profit than with providing quality services.

When privatising, the government must consider the impact of privatisation on the economy and society. This includes the impact on employment, wages, prices, and the environment. The government must also consider the impact of privatisation on the distribution of power and wealth.

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Ramos outlines privatisation rules

AUDREY D'ANGELO

Cape Town — Private sector companies taking a stake in state-owned enterprises must accept a share of the risk rather than structuring the deal around tax concessions, Maria Ramos, the director-general of finance, said yesterday.

Ramos said such deals would be looked at very carefully to ensure the company was not passing the costs of the risk on to the taxpayer.

Ramos spoke at a finance workshop organised by the British consulate during its "Britain Means Business" week.

A British participant, Richard Oliver, the head of structured financing at BWZ, said concession financing was a suitable way for a government to transfer the cost of risk to the private sector.

He said it was normal for a government to grant concessions to build, finance and operate projects until the asset passed into public ownership.
There were 45 black empowerment deals valued at R7-billion compared with 23 deals (R12 4-billion) in 1995.

Details of the report and an analysis of the M&A industry is provided in our survey on pages 6 to 9 of the first section of Business Times. A survey on rating agency IBCA appears in the FT Money section on pages 18 to 20.

Business Times will be offering a daily interactive labour service, Business Times Labour Guides, in association with The Labour Consultancy. It will assist you to unravel some of the confusion arising out of labour legislation.

Regular labour law seminars will be hosted on BT Online, starting on May 18. This week’s edition carries a brief overview of some of the structures and issues pertinent to the new labour regime. Next week, Labour Guides tackles the minefield of probationary periods for new employees.

You can find the Labour Guides on our homepage <www.btimes.co.za>.
Qualifiers in
sale of Sun
Air named

Robyn Chalmers

THE 100% sale of Sun Air, SA's first full privatisation exercise, should be completed by the end of July, with eight local and international consortia having qualified to bid for the airline, Public Enterprises Minister Stella Sigcau said yesterday.

Qualifying bidders included Virgin Atlantic of the UK — in partnership with six black empowerment groups, among them African Renaissance and the SA Railway and Harbours Workers' Union Investment Company — Malaysia Air, Air France and Comair in consortium with NSA Investments.

Other qualifiers were the Rethabile Consortium, consisting of black businessmen involved in the tourism industry together with broadly based black investment groups, and the Ukhosan Sanco Consortium, comprising a newly formed black empowerment group and the investment arm of the SA National Co-ops Organisation.

Phoenix Venture Partners, an investment banking and emerging markets advisory consulting company, and Maru Investment Holdings, a black economic empowerment group from North West, also qualified.

The consortium of Virgin Atlantic and its partners has been widely tipped as a frontrunner, but analysts were optimistic yesterday that the other bidders would ensure a highly competitive environment.

Both Sigcau and Transport Minister Mac Maharaj expressed satisfaction that significant progress had been made on the privatisation of Sun Air. Initially there were 18 applications for prequalification.

Sigcau said tender documents would be made available to the various parties from today. The deadline for submissions was May 25, after which a short list would be announced. A decision on how the sale proceeds would be employed would be negotiated along the lines of the recent sale of a 30% stake in Telkom.

Sigcau announced earlier this year that the stake in Sun Air to be made available to offshore buyers had been increased to 49% from 25%. This paved the way for possible foreign control of a privatised Sun Air.

BoE Natwest corporate finance manager Steve Naude declined to comment on Sun Air's value, but said the airline had eight aircraft and operated on the profitable routes between Johannesburg, Cape Town and Durban. Analysts have estimated that government could garner R100m-R200m, depending on the goodwill factor.

Naude said the criteria for prequalification had depended on three issues — identity of the parties involved, the level of financial backing and the motivation behind the purchase.

Restructuring and transformation committee co-chairman Donald Keth, who represents the views of labour, said the trade union movement fully backed the privatisation of Sun Air and no job losses were expected. "In order to ensure there are no job losses we have to have a growing and dynamic company, and for that reason we are behind the sale of Sun Air."

An employee share ownership scheme which would be established was still under discussion.
The MINISTER OF DEFENCE

(1)(a) Yes As the hon member is aware the transformation and restructuring process of the Department of Defence is still in progress. The decision regarding the replacement of certain officers who took their place in the Defence Package will depend on the results of the restructuring exercise, and as such no replacements have been appointed yet.

(b) and (c) Regarding the following five officers, the details are as follows:

(i) Lt Gen W G Kritzinger will be replaced by Maj Gen D Ferrera. This appointment is in the post in Chief of Joint Operations and not in the post of Chief of Staff Operations which will disappear. He is Senior Command and Staff Course as well as Joint Staff Course qualified. He has had ample experience in the former SA Defence Force and in the SA National Defence Force in terms of command and operational experience. He is an appropriate successor.

(ii) Maj Gen G M Opperman was replaced by Maj Gen A M L Masondo, who was appointed to the Placement Board as a Maj Gen and has proven himself to be a suitable successor. He was a member of the former MK, with ample experience and knowledge regarding communication and external liaison. He is Joint Staff Course qualified.

(iii) Maj Gen F A Botha was replaced by Maj Gen Ramano, a former member of MK, who was appointed by the Placement Board as a Maj Gen and has distinguished himself as a command, with ample skills and expertise, during his appointment as General Officer Commanding Northern Cape Command. Although his appointment as General Officer Commanding Northern Cape Command has been relatively brief, he has acquired the basic attributes which are needed to manage the post of Deputy Chief Army. He is Joint Staff Course qualified.

(iv) Maj Gen D P Lamprecht was replaced by Maj Gen C H van Zyl, who is Senior Command and Staff course as well as Joint Staff course qualified. His experience in the former SA Defence Force made him a most suitable replacement for appointment as General Officer Commanding Western Province Command. He also proved his skills and expertise during his appointment at Army Headquarters as the former Director Communications.

(v) Maj Gen D C Benade, former General Officer Commanding Western Province Command was replaced by Maj Gen W G Lombard, who is Senior Command and Staff Course as well as Joint Staff Course qualified and has proven his expertise during his appointment as the former SA Defence Force command appointments. He replaced the General Officer Commanding Gauteng Command. He is an appropriate successor for Lt Gen S Nyanda, who was the previous General Officer Commanding Gauteng Command.

Competition policy for SA

*45 Mr D DE V GRAAFF asked the Minister of Trade and Industry

(1) Whether the process of drawing up a competition policy for South Africa is behind schedule, if so, (a) why and (b) what steps does he or his Department intend taking in this regard.

(2) whether he intends tabling in Parliament or making public a written policy statement on this issue if not, why not, if so, when?

N1153E

The MINISTER OF TRADE AND INDUSTRY

(1) There is not a fixed schedule for the revision of the competition laws. However, it is going slower than most would have liked.

(a) because of the pressure of the Ministers work programme and because of related recommendations on overall corporate law

(b) a memo will be piloted through Cabinet in June and the agreed process in Nledie will start.

(2) Not at this stage since it has not gone before Cabinet. I will make a statement at an appropriate time but did of course address this matter in my Budget speech.

For written reply

SADF property acquired clandestinely

197 Mr L T LANDERS asked the Minister of Public Works

(1) Whether his Department's investigation into state-owned property included an investigation in respect of property acquired clandestinely for the purposes of the South African Defence Force's Project Coast if not why not, if so, (a) what was the original value of the property in question, (b) where is this property located and (c) what are the further relevant details.

The MINISTER OF PUBLIC WORKS

(1) No Cabinet mandated the National Department of Public Works to compile a National Register of state-owned fixed property. This refers to properties registered in the name of the Republic of South Africa and/or Provincial Governments (including the various descriptions, of which 149 are known such as 'The Minister of Public Works, Transvaal Provincial Administration', etc.). The task does not include properties of parastatals, local authorities, state-owned companies such as Escom, Telecom, etc. which is presently being researched by the Department of Land Affairs. The latter will be incorporated in the database of the Department of Public Works on completion of the project on all known and traceable State properties. An investigation into properties that were acquired and sold clandestinely in and outside the country will ensue.
**ANALYSIS**

**Political will must triumph over the trade unions on privatisation**

The privatisation process, which could be very beneficial to SA's economy, has been hampered by what amounts to a trade union veto, argues Inkatha Freedom Party MP Mandla Msomi.

Our parliamentary portfolio committee went around the world to look at processes and techniques. We realised that there were flaws in the system and the process had to be politically refined. We had to do a process, including the parliaments' role in the portfolio committee, to ensure the accountability of the executive to the legislature, as much of the privatisation effort was originally conceived as an administrative rather than a legislative matter.

Thereafter, we had to design a legislative framework for a developmental strategy to privatisation. Speculative and unproven media reports then divided the debate on the role played by government in steering transformation within the context of privatisation, strategic partnerships and black empowerment as a component of the privatisation process, and its relation to the success of the macro-economic strategy. Rausing management, investor and trade unions fears about empowerment weakened the political will to push privatisation forward.

We found therefore on strengthening this political will by broadening the base of consensus at the decision-making stage, to avoid resistance during implementation. We all stressed the need to proceed on the basis of a package of assets so as to define political or parochial issues. However, until the agreement on whether privatisation should take place became understood by a long debate on whether to proceed, we cannot afford to do what cannot be afforded to do. Such a political will had to be found to make privatisation happen now and for the future.

Ruthlessly, the portfolio committee worked to drive the privatisation effort rather than seeing it as a necessary tool to the executive. The proposal to have a law for each privatised asset — rather than executive actions adopted under an umbrella statute — indeed, parliamentary involvement enables transparent canvassing of all stakeholders and provides political legitimacy. However, this approach undermined the process of packaging and delayed the political will to put the job done.

Once the assets of privatisation were entrenched in the interplay between government, parastatals, trade unions and the other stakeholders, it became clear that trade unions had acquired a vertical veto power on the issues of whom and how much to privatisate, and could delay privatisation. The point was made about the inevitability of making it economically viable.

The national framework's agreement was created as a forum to generate consensus between government and trade unions on privatisation. However, the unions were given power to prevent agreement on any restructuring of assets, including privatisation. Basically, a veto power on the process. The public enterprises minister tried to sell potential deal-breakers by creating additional reasons within the NPA to mediate conflicts. The "models" meetings to reduce disagreements down to practical steps on how, when and why of privatisation.

These steps undermine negotiations at the sectoral level. This means that each sector, such as transport or minerals and energy, must unite strategies and negotiate with government on how it wishes to proceed to the process to proceed. This step has effectively given to the trade unions an additional opportunity to put privatisation at an early stage.

Then, if a second stage at the parastatals level — at transformation and reconstruction committees which determine internal restructuring processes and recommended to government how the process should take place. Government has given agreements to the parastatal frameworks for the privatisation of each parastatal. The public enterprise ministry and the portfolio committee agreed to develop a set of criteria to determine the conclusion of each proposal with respect to black empowerment.

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Robyn Chalmers

MALAYSIA Air and Air France would have to link up with a local black empowerment group should either succeed in its bid to buy Sun Air, the public enterprises ministry said.

Public Enterprises Minister Stella Sigcau and Transport Minister Mac Maharaj announced earlier this week that eight local and foreign companies and consortia had qualified to bid for the airline in SA's first full privatisation.

Sigcau announced in February that foreign investors would be able to buy a maximum 49% of Sun Air, rather than the 23% previously offered. This was in response to concern that 26% was not large enough to attract foreign bidders and that there was a need to inject foreign capital into the organisation.

Sun Air bid linked to empowerment

While bidder Virgin Atlantic has linked up with six local empowerment groups, neither Malaysian Air nor Air France have indicated that they are planning to go a similar route. Both have entered the bidding fray in their own right.

"The stake they can hold will be limited to 49% and government has made it clear it wishes to sell 100% of Sun Air, so logically any successful foreign bidder would need a local partner," said Wandle Zote, a ministry spokesman.

Analysts said it was possible that Virgin, which many industry observers believed to be the bidding frontrunner, could take 49% of Sun Air if it won, with the remaining 51% divided among its local partners.

One analyst said that should this materialise, it was possible that a single foreign operator could end up with a controlling stake in Sun Air.

The other bidders for Sun Air announced this week were Comair/NSA Investments, Rathibe Consortium, Ukhosi Sanco Consortium, Phoenix Venture Partners and Maru Investment Holding.

The sale is expected to be completed by the end of July. Tender documents were made available this week and bids have to be made by May 22, after which a shortlist will be announced.
Land claims put the brakes on negotiations to sell state

Robyn Chalmers

TALKS on the restructuring and sale of state-owned resort company Aventura had been temporarily halted as claims on Aventura-owned land were being investigated, industry sources said at the weekend.

They said an unspecified number of land claims had been lodged over the past few years on land owned by Aventura around SA, but particularly in the North West. As a result, a decision had recently been reached to call a temporary halt to the talks while advice was sought from Land Affairs Minister Derek Hanekom.

“it would be pointless to move ahead with the restructuring and sale of Aventura while there are land claims which have not yet been resolved. The issue needs to be carefully considered,” said one source. Government spokesmen declined to comment.

Renéé Grawitzky reports that a union spokesman said the land claims were an important issue. An industry source indicated such claims had been raised with Aventura three years ago, but action had been taken only recently. Besides the land claims there were other issues which parties would not disclose, hampering the talks.

The public enterprises ministry said last month it planned to sell 100% of Aventura after government and labour representatives agreed to its full privatisation.

Industry analysts generally expected Sun Air to be SA’s first full privatisation exercise, with talks on track for a sale to be completed by the end of July. The sale of Aventura had also been scheduled for end-July, but the decision to halt talks would probably delay the sale.

It is understood 10 local and foreign organisations have expressed interest in buying Aventura. One is believed to be a major financial services group with a strong economic empowerment core. Sources said others could include Malaysian company Samrand, a number of US insurance and industrial companies, and Safren and Keraaf.

Another could be the controversial Dubai-based Dolphin Group, which recently forged a deal with the Mpumalanga Parks Board for exclusive development rights on parks board land — including prime Aventura properties Blydepoort, Loskop Dam and Swadini.

Industry sources said Kopano Ke Mafia — union federation Cosatu’s investment trust — was also understood to be contemplating putting in a bid while the SA Commercial Catering and Allied Workers’ Union’s investment company had indicated it might also wish to go this route.
MOVES to privatise the marketing of government stock have gained momentum, with the finance department asking banks for their views on two key issues — capital requirements and exchange controls.

The department wants private banks to make a market in its stock, rather than the Reserve Bank, in a bid to manage state debt more effectively. Private market-makers of government bonds would have to be prepared to buy and sell stock at all times in the market, just as the central bank does now. According to a discussion document just sent to bond market players, foreign banks would have to make a direct investment in SA before they could become market makers. The document tentatively suggests a capital base of R1bn for a banking group as a means to avoid systemic risk.

Offshore players would have to invest a portion of R1bn and provide guarantees for the rest. Local market sources said the figure — which was still only a suggestion — would make it easy for large foreign players to enter the market, as well as for most local banks. "It is by no means an onerous requirement," one source said.

Foreign banks such as JP Morgan, and possibly Goldman Sachs and Deutsche Bank, are chomping at the bit to become market-makers. Local banks, believing to include Absa, Investec, Standard Bank and Rand Merchant Bank, are also keen but are worried about unfair competition from the foreign players.

The department tackled the issue of unlevel playing fields in the discussion document. Market sources said the department had asked the banks to outline the type of foreign investments they would have to undertake to hedge their exposure in the local gilt's market.

"This could signal a major shift in thinking, as at present local banks are not allowed to take positions in overseas capital markets," a source said.

While the discussion paper did not

Continued on Page 2

Govt stock

Continued from Page 1

A controversial aspect of the department's present thinking was the scrapping of the need to create "Chinese walls" around the market-making and jobbing activities of a bank. The fence around the different activities was needed to avoid speculators "front-running" government funding and making lucrative trading profits on the company's knowledge of government's finances.

It was understood that the department believed Chinese walls were too difficult to monitor, and that supervision was best left to the Registrar of Banks. However, market sources said there would still be some debate about the issue.

Some bankers and brokers were sceptical about the move towards private market-making, saying they felt there was not enough money in it to make it worthwhile. However, brokers who were keen argued that there were lucrative spin-offs to be had.

The foreign banks indicated they would not enter the SA market in such a big way until some regulatory problems had been sorted out, notably the long settlement period for gults.

Finance director-general Maria Ramos last month said government would force the market into a shorter settlement period by the end of the year if it was unable to get its act together without interference.
12 000 E Cape workers to protest privatisation

Demos planned for municipal offices

East London - More than 12 000 Eastern Cape municipal workers will join a nationwide protest action today against the threatened privatisation of aspects of the public service like water and electricity provision.

A national South African Municipal Workers' Union (Samwu) nine-day protest campaign was launched on Workers' Day last week but Eastern Cape participation has been delayed to allow for thorough preparations.

Samwu Eastern Cape secretary Nicholas Ndyalvani said the campaign involved lunchtime demonstrations outside municipal offices until May 9.

Mr Ndyalvani said it was not expected that the campaign alone would shift the government trend towards privatisation but it would educate local councillors on the negative side of privatisation.

The campaign would be followed up by more vociferous anti-privatisation action.

He said Samwu was against the privatisation of health services, including hospitals and ambulances, and water and electricity because this would make them unaffordable for most people.

Samwu national spokeswoman Anna Weekees said: "Samwu is of the opinion that services should be provided in the spirit of the RDP - to meet needs, not for the profit of foreign companies."

"It is rumoured that Bwater, a British company, has offered the Department of Water Affairs and Forestry R12-billion to privatise the water and waste services of the entire country. Samwu will not allow our water to be handed over for the profit of unsavoury multinational companies without a fight."

She said Samwu research showed that privatisation resulted in:

- a "drastic" rise in prices within two years of privatisation.
- a drop in quality of service because multinationals were difficult to control.
- workers losing their jobs, with assurances of "no retrenchments" being broken within two years.
- corruption when private companies resorted to bribery to win tenders.
- wastage of public money.

Ms Weekees said Samwu was developing pilot project proposals for public sector alternatives to the privatisation of water and waste services.

- Ecn
Privatisation needs legal basis, says PAC

Cape Town — The Pan African Congress (PAC) wants the process of restructuring and privatisation to be formalised with legislation "to ensure new owners of state assets have a good title which will be legally defensible."

The legislation must spell out who will have the power to engage the state in transactions which will pass title from the state to the private sector.

Patricia de Lille, PAC MP, will call on government in parliament today to introduce legislation which will spell out how and by whom the process of restructuring and privatisation should be implemented.

Mandla Msem, the Inkatha Freedom Party MP and chairman of the parliamentary public enterprises standing committee, has also called on the government to introduce legislation which would "create an independent privatisation commission to drive the process and write legislation necessary to restructure the different assets."

The parliamentary standing committee on public enterprises went on a worldwide trip to study how other countries have implemented privatisation.

The independent privatisation commission would break the hold the unions had over the process and put it in the hands of parliament, Msom said.

De Lille said legislation should promote transparency, work against corruption in the process and ensure the interests of ministers did not prevail above those of the nation.

A motion tabled in parliament on Friday by the PAC said the legislation should provide a legal framework within which privatisation could take place.

"The legislation must contain a full list of state enterprises with their values, define the objectives of the programme and create the structures to execute the programme of restructuring and privatisation."

"It must give parliament the opportunity to participate fully in the process of restructuring and privatisation."
Samwu’s anti-privatisation campaign picks up speed

Johannesburg — Thousands of workers allied to the South African Municipal Workers’ Union (Samwu) had responded positively to the union’s anti-privatisation campaign which began last week, said Anna Weekes, a union official.

In Cape Town, 12 000 workers met to state their demands on privatisation, and on the East Rand 600 workers demonstrated, said Weekes.

Samwu’s Eastern Cape region would be taking its protest to Humansdorp today, while 1 000 municipal workers were expected to turn out on Thursday in King Williams Town, Queenstown and East London, she said.

In Nelspruit the action was suspended while Samwu officials met with the council. It would resume today, however, with workers involved in lunch-time demonstrations.

Weekes said Samwu was working hard on developing “pilot proposals for public sector alternatives to privatisation of water and waste services”.

The water and forestry affairs minister, Kader Asmal, said at the weekend that while his department “had to accept working in new ways with the private sector”, Samwu’s claim of a R12 billion offer to buy out South Africa’s water resources by Biwater, a British company, was “nonsensical.”
Parliament demands say in restructuring

New bill to rule sale of state assets

CHRISTO VOSCHENK
ECONOMICS EDITOR

Cape Town — A bill would be tabled in parliament to regulate privatisation and the restructuring of state assets, Stella Sigcau, the public enterprises minister, said in parliament yesterday.

This followed comments by Patricia de Lille, the PAC minister of parliament, that shares in some state assets, including Aventura and Safcol, could only be sold with the approval of parliament.

De Lille said she would call on parliament today to put pressure on the government to table a bill "within two to three weeks" which would implement the restructuring programme and what parliament's role would be.

"Almost all the laws governing state entities contain clauses which prohibit the sale of shares without parliament's approval and, until now, no such legislation had been drawn up. Even the national framework agreement between labour and government did not mention the need for these laws," De Lille said.

De Lille said thus far parliament had been excluded from decisions on restructuring and privatisation.

"Members of parliament have had to read in the newspapers about decisions taken by government and labour regarding privatisation.

"For instance, the equity ownership of 49 percent of Sun Air to be sold to foreigners was decided in this way, and parliament had no say. The 49 percent ceiling is far too high and unacceptable," she said.

Reuters reports that Sigcau said the government was likely to sell a strategic stake in national carrier SAA next year. She said the overhauling of SAA, which faces increased competition from other airlines operating on its routes, was a priority.

"The government's preferred method is to seek a strategic equity partner (SEP). Labour has shown support for the SEP route, and the government expects the restructuring of SAA to be complete during 1998," she said.

Sigcau said the SEP route was also the government's preferred option for the Airports Company, which runs South Africa's main airports. The restructuring of this company was expected to be complete by the end of the year or early next year.

The restructuring of Safcol, the state forestry company, complicated by the issue of land claims, should be achieved in "some form" by the end of the year or early next year, Sigcau said.

Land claims are also complicating the restructuring of resorts company Aventura, where a tender process has been started for the sale of 100 percent of the equity.

Sigcau was non-committal on the future of electricity producer Eskom, South Africa's biggest state company.
Disadvantaged to benefit from privatisation

By JOVIAL RANTAO
Political Correspondent

Cape Town — The Government has agreed to two policy objectives that would enable historically disadvantaged businesses and the 174 430 employees at the five state-owned enterprises to benefit directly from the enterprises' privatisation. Public Enterprises Minister Stella Sigcau announced yesterday.

Introducing a debate on her ministry's budget vote, Sigcau said an interministerial cabinet committee (IMCC) had agreed that shares in restructured enterprises should be sold, at a discount, to the National Empowerment Fund (NEF) that would be set up to empower historically disadvantaged communities.

Sigcau said it was the Government's intention that funding schemes would be developed with the private sector to enable the disadvantaged to acquire shares in the NEF.

"These principles were accepted by the IMCC and will be discussed at the portfolio committee and with labour and other stakeholders," she said.

She said the Government had also agreed to give the workforce of state-owned enterprises more say by using employee-share ownership schemes. The IMCC had endorsed the share scheme with a limit per employee of about R10 000.

Sigcau also announced that the Government expected the restructuring of the five state-owned enterprises, with a joint turnover of R40-billion, to be completed or nearing completion in the next 12 to 18 months.

Unveiling the time-frames for the first time, Sigcau said "some form of restructuring" would be achieved at timber-growing and processing company Sappi by the end of this year or early 1998.

Sigcau said the tender process for the sale of 100% of the equity at Aventura holiday resorts to a consortium of sector-specialist companies and groups of historically disadvantaged investors, which was started earlier this year, would be completed within the next 18 months.

She said the restructuring of the Airports Company and South African Airways would be completed this year, SAA experiencing a net loss of more than R300-million. The loss was attributed to higher fuel prices, increased foreign and local competition, the unfavourable rand-dollar exchange rate, and industrial action by staff of SAA's technical division.

Turning to Eskom, Sigcau said 1996 saw an increase in payment levels from previously black local authorities, from 39% in 1995 to 62% last year. The amount owed to Eskom increased to R1 413-million in 1996 from R1 192-million in 1995.

The NP's Dr Dawie de Villiers accused the ANC of committing itself internationally to a liberal market economy, while at home it clung to "remnants of a socialist Marxist approach".

The DP called on the Government to announce a policy on privatisation for state enterprises through a mix of stock market listings and selling stakes to strategic foreign investors.

Sale of state assets
Stride report ‘could pave way for Transnet privatisation’

Robyn Chalmers

THE Stride committee recommendations had the potential to overcome the biggest obstacle to Transnet’s future privatisation, namely the R13bn pension fund burden, analysts and government spokesmen said yesterday.

Public Enterprises Minister Stella Sigcau said in her budget speech this week that the committee had recommended the Transnet debentures be cancelled and that all Transnet pensioners be taken over by the state.

Public enterprises ministry spokesman Wandle Zote said it had been hard to proceed with Transnet restructuring as the pension fund obligations had been problematic. “The Stride committee recommendations are positive and should pave the way for restructuring to move ahead far more rapidly,” he said.

A transport spokesman said the pension fund was “in chaos” It was imperative to sort out its problems as soon as possible, before progress on restructuring talks could be made.

The report is before the interministerial cabinet committee, and other talks must still take place before it can be implemented.

A top Transnet finance division spokesman said recently Transnet would be burdened with payments of R2bn a year for the next five years from pension and medical aid fund deficits. The spokesman said Transnet was paying 16.5% interest — or R1.4bn a year — on R10bn stock it had issued to reduce the pension fund’s deficit. The parastatal was also paying an additional R200m to the pension fund and R400m to the medical aid fund.

Comment: Page 9
SA AIRWAYS

Trouble on flight deck lands slap in Sigçau’s lap

Going cheap, loss-making State enterprise with ageing fleet and staff morale spread-eagled on the runway

Public Enterprises Minister Stella Sigçau is to revamp SA’s ailing national airline. She considers the matter crucial, due to its importance as a national asset. SA Airways, say observers, is just about as important as the Voortrekkers Monument in terms of national assets. National airlines have traditionally hemorrhaged cash. Altitalia, Lufthansa, British Air to name a few.

It was only privatisation that saved Lufthansa and BA. Altitalia continues to bleed. To her credit the Minister realises an equity partner is required. But who will come aboard under present management?

The airline lost R350m for the year to March and all indications are that it will continue to freefall. The dive looks like putting paid to any lofty thoughts of selling the airline (or part thereof) to the private sector.

Who would pay top dollar for an enterprise that is losing nearly R1m a day? The carrier has had a downturn of almost R700m on the pre-audit R340m profit it made in fiscal 1996.

Ever-faithful CEO Mike Myburgh attributes the loss to last year’s fall in the rand, and a hike in fuel prices.

Those in the know don’t buy that. They blame changing management styles for the airline’s woes. While he had sole responsibility, Myburgh turned a loss of R33m in 1994 into a R217m profit in 1996 — a turnaround of R240m. He then went on and turned in a creditable R340m profit for 1996.

Myburgh now has to report to executive director Zakhele Nomvete, appointed this year.

On a turnover of more than R4bn, pundits say the airline should have been able to absorb the R60m lost during a technical workers’ strike earlier in the year and still show a profit.

SAA’s load factors are mostly good. It has 75% of the domestic scheduled market, and most of its aircraft flying between SA, the UK, and the US are full. What has gone wrong?

The change in management style triggered off a number of repercussions.

The most serious is the drop in morale following the loss of senior executives. Former GM Nick Vlok, who was with SAA for 30 years, joined Comair. Next to go was Gary Webb, executive manager of marketing planning. It also lost advertising chief Ian Bromley. The list continues. Steve Donnelly, responsible for international marketing, Eric
Monopoly accusations greet Outspan's venture with Metro

Ann Crotty
Consumer Industries Editor

Johannesburg - Metro Cash & Carry (Metro) has established a multimillion-rand joint venture with Outspan, the citrus fruit export agent, for the marketing and distribution of citrus fruit to Hong Kong, the Philippines, Thailand and China. Metro sources said last week.

The launch of the joint-venture company, called Metspan, has been greeted with criticism from independent agents who charge that Outspan is using the last days of its statutory power to attempt to replace a statutory monopoly with a commercial monopoly.

One agent argued that it was inappropriate for Outspan to enter into an exclusive commercial agreement with a dominant player like Metro while Outspan was still enjoying the benefits of being the dominant agent of the Citrus Board. "How can they be doing private commercial deals if they are still effectively an instrument of state policy?" asked an independent agent. The agent added that, in terms of legislation, Outspan's privileged position would continue for several more months.

His concern, which is shared by other independent agents, is that the combination of Outspan's traditionally strong procurement position with local producers and Metro's strong position as a South African export agent in Hong Kong will effectively prevent independent agents from making any inroads into what is believed to be a highly lucrative and fast-growing market.

An additional concern is that this joint venture may be the first of many Metro has a formidable international network that includes interests in Israel, Russia, the Middle East, Malawi and Botswana. There is also concern that Metro might look at similar deals with Unifrusco which for years was the exclusive export agent of the Deciduous Fruit Board.

John Grainger of Metro's international division said at this stage there were no plans to extend Metspan's brief beyond citrus fruit and the Far East. "At this stage we just want to see how Metspan will do. There are no discussions about Unifrusco or Africa."

The joint-venture agreement provides for an exclusive supply of citrus fruit from Outspan to Metspan for distribution in the Far East. If Outspan was unable to supply sufficient fruit, Metspan could then use other sources.
In the public's interest to go pri

Minister Stella Sigcau spells out why State is selling off...

PUBLIC ENTERPRISES MINISTER STELLA SIGCAU recently announced the
TEN FRAMEWORK ON THE LARGEST AND MOST PROSPECTIVE REACHING PROCESS
OF RESTRICTING STATE ASSETS ON THE AFRICAN CONTINENT. WRITES
WILLIAM HENRY ITSBEKE OF OUR

 barely a month after pulling off the contin-
ent’s biggest privatisation deal to date by
selling 50 per cent of Telkom for $1.75 billion
($2.3 billion). Public Enter-
prises Minister Stella Sigcau rolled out the
Government’s plans to put another five state-owned companies under the hammer.

She briskly announced in Parliament last week that the privatisation of five State-owned companies with a joint turnover of $400 million was expected to be com-
pleted or would near completion in the near future.

The companies in which significant restructuring progress should be made were: South African Container Company (SACCO), Sappi, Avensa and Abscor.

A new bill also was tabled in Para-
liament to regulate the privatisation drive and the restructuring of State assets, added Ms Sigcau.

South Africa’s, the continent’s economic
leader, had been very careful to embrace privatisation reforms, with the ruling class in the African Na-\ntional Congress only recently being pre-
pared to use the word.

Zimbabwe, arguably the continent’s fore-
most privatiser, moved up to top the rank-
er this year with the sale of Zambian Consolidated Copper Mines, the mining company which accounts for about 90 per cent of its nation
economy.

Ghana, Kenya, Uganda, the Ivory Coast, and Mozambique were among other countries that had opted to go on a privatisation spree.

When South Africa has changed since
with the sale of the 50 per cent stake in
Telkom to SBC Communications and
telecoms giant,

Communications

Minister John Nkomo said “Even though we have decided such restructuring
will be done on a case
case basis, the idea is to put in place a number of very important milestones in the
Telkom process.”

Ms Sigcau’s

proposals had embarked

on the largest and most far-reaching process of restructuring State assets on the
African continent.

The sale of the five State-owned compa-
nies now, according to Ms Sigcau, would
bring South Africa up to speed with sever-
of other African countries where re-
government had been pushing privatisation aggressively.

The radical increased activity on South
Africa’s privatisation front comes as a bit of a surprise, although President Mandela had referred to it back in 1994.

Introducing the new bill, the minister

said, “The restructuring process should be considered an important part of the economic role it plays in Namibia.”

She anticipated that the restructuring process would be complete by the end of 1997 or early next year.

Ms Sigcau – the State company which runs commercial plants – would be restructured by the end of this year.

The restructuring of the

Airports Company of South Africa and the

South African Airways would be completed this year.

It had been acknowledged that in
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Africapreneur

Public Enterprise Minister Stella Sigcau, who has announced more privatisation plans

“Safcol – the State company which runs commercial plants – will be restructured by the end of this year.”

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crest to go private

why State is selling off its assets

(232)

from previously black local authorities, from 59 percent in 1995 to 62 percent last year.

The amount of money owed to Eskom increased to R1.413 million in 1996 from R1.986 million in 1995.

Eskom was on track with its aim to reduce the real price of electricity by 10 percent by the year 2000.

Since it had spelled out the commit ment in 1996, the actual reduction in price had been 3.1 percent, she said.

The corporation had set itself the target of electrifying 1,750,000 homes by the year 2000 and since the start of its programme 1,269,500 homes had been electrified.

Eskom's success in providing electricity to hundreds of thousands of South Africans who were traditionally not served part of the electricity market "is a success we must look up to".

Referring to Spoorset, Ms Sigcau said it had developed world market leadership over the years in the running of heavy haul trains carrying minerals such as coal and iron ore.

The technologies and competencies it had developed were not only sought after the world over, but they provided the company with a competitive tool that had the potential to carve out a niche for it in the global market.

Therefore Spoorset was in the process of bidding, in the context of local and international partners, for the operation of freight and heavy haul systems in Brazil.

Ms Sigcau said one of the challenges her department had faced had been to nurture public enterprises to move from antiquated and authoritarian management styles and to embrace all management levels that flowed from South Africa's new constitution.

The public enterprises committee had passed a year's budget "not without reservations" which included greater clarity on how the restructuring of enterprises was to serve black empowerment.

Patricia de Lille said she would call on Parliament to put pressure on the government to table a bill "within the next two or three months" which spelled out who would implement the restructuring programme and what Parliament's role would be.

Rex Jordan of the Democratic Party said privatisation would succeed only if the process was transparent, and quoted an economist saying that the sale of equity to foreign investors could provide South Africa with more than R60 billion.

The DP called on the Government to announce a policy on privatisation for the major state enterprises through a mixture of stock market listings and selling large stakes to strategic foreign investors.

"The privatisation of large state enterprises could only boost the market's capitalisation by 36 to 56 percent. If foreign investors purchased only 20 percent, it would provide SA with an additional R1 billion (about R2.2 billion) to R2 billion (about R4 billion) in foreign investment," said Mr Jordan.
Banks warned on home levies

By Troye Lund

The Competition Board has demanded banks and the National Home Builders Registration Council reply to its warning that their collusion had led to millions of rand being illegally levied on homeowners.

The board's warning to the Council of South African Banks (Cosab) and the NHBRC came after 17 of Gauteng's 20 major residential developers complained that they were being forced to act as tax collectors.

They said the banks would approve the loans of developers' clients only if the developer was registered with the NHBRC and had paid over a levy that equated 1.2% of the home's selling price – even if the loans were more than R65 000, which is the maximum loan amount on which the levy may be charged.

The developers told the board that about R85 million would have been levied on homeowners unlawfully by the end of this year if the banks and the NHBRC continued to collude and levy clients with home loans over R85 000 and up to R230 000.

After investigating the complaints, the board issued a stern warning to Cosab and the NHBRC.

The developers said they were seeking legal opinion on "this gentleman's way of extortion".

The board gave Cosab and the NHBRC permission to collude in April 1995 to encourage the financing of small housing loans. Developers had to be registered with the NHBRC and had to have paid the levy before the bank approved home loans under R65 000.

Levies, handed over to the NHBRC, would act as a warranty to protect consumers against defectively built homes.

But, without further reference to the board, the colluding partners raised the levy ceiling in February last year to include loans up to R230 000.

Star 13/5/97
Metrorail to be opened up to private competition

Robyn Chalmers

STAKEHOLDERS have agreed to open commuter rail service provider Metrorail up to private sector competition via concessions within four-and-a-half years, depending on the outcome of a pilot project scheduled to kick off soon.

Transport department director-general Koos Gordhan said the decision to introduce competition to commuter rail services was the result of negotiations with labour and other stakeholders.

"Government initially intended to introduce concessions on significant portions of SA’s rail network within three years with labour looking at 17 years, but the final outcome was a continued monopoly for four and a half years," he said.

Gordhan said talks were under way on the introduction of a pilot project on a specific route to test the viability of granting concession agreements.

"We want to ensure the route is representative of the SA rail commuter situation — one which is neither too lucrative or too unprofitable. We are also looking for a route on which we can introduce a build, operate and transfer (BOT) system," he said.

Gordhan said it was expensive to expand the rail network in SA and government was considering the possibility of the private sector both operating and expanding portions of the rail network.

The BOT mechanism envisaged the private sector raising funds for public projects, building and operating them, after which they would revert to the state at the end of the contract period. Concessions would see the private sector entering into an agreement with government to build or rehabilitate infrastructure and operate a facility for a fixed period.

Transport department land transport chief director Theo Maeder said Metrorail’s contract with the SA Rail Commuter Corporation had been restructured to allow private sector competition.

"The target is to introduce full concessions in four and a half years and to bring in both local and international operators," Maeder said.

Transport Minister Mac Maharaj said recently Metrorail had been separated from Spoornet from January 1, and was operating as a separate division.

Analysts said Metrorail would have to be convincingly turned around if it was to compete effectively with the private sector.

The corporation posted a deficit of more than R1bn for the 1994/95 financial year, before a R1,2bn state subsidy.

Metrorail said it had made strides toward transformation by setting aside R2,8bn to upgrade its coaches over the next 15 years and committing itself to improved customer service practices. Measures being put in place included mobile ticket selling points, customer care programmes for all front line staff, station upgrades and a zone fare structure.
Dispute with govt stalls Alexkor’s restructuring

Reneé Grawitzky

THE privatisation and restructuring of Alexkor, a diamond mine in the Northern Cape, was suspended by the mine’s restructuring committee yesterday and it declared a dispute with government and Alexkor’s board.

The committee said the dispute arose when Public Enterprises Minister Stella Sigcau ignored its recommendations on corporate governance and announced a new, non-negotiable management structure.

Sources close to the process said four board members who did not agree with the decision were considering resigning over this issue. The committee consists of representatives of Alexkor management, labour, community and provincial government.

Diamond analysts warned the dispute, which could stall restructuring, placed the mine’s future in jeopardy as it was unclear whether reserves could extend beyond six months.

The mine’s poor financial position could be exacerbated by the high level of diamond theft.

Industry sources said international syndicates operating out of Port Nolloth smuggled out about R130m worth of diamonds annually from west coast mines, including Alexkor.

The committee said about R5m worth of diamonds were smuggled from the mine last weekend. An industry source estimated that between 20% and 40% of Alexkor’s total turnover was smuggled from the mine and production was down to 30%.

Robyn Chalmers reports that Sigcau said it was not within the mandate of the committee to declare a dispute over a corporate governance issue.

“It is the clear mandate of the shareholder (government) to deal with corporate governance,” she said.

She declined to comment further.

The committee said Sigcau had made a management decision by which she would implement what she regarded as an informed management structure, which in fact was nothing more than a repetition of a structure implemented and scrapped two months ago because it was not working.

The committee proposed a structure whereby an interim management team could be brought in to assist current management to recover the situation and bring the mine back on track.

A diamond analyst said government was dealing with a mine on its knees. The restructuring committee could either be seen to be part of the problem or solution. However, the mine’s life depended on proper management. Two Alexkor chairmen had resigned in the past year while numerous top management reshuffles had occurred, with some being fired or resigning. The committee said the current management was incapable of running Alexkor.
Cape Town — The Competition Board is investigating whether an objection by African Sun Mpumalanga (Afrisun) to a rezoning application by Tsogo Sun contravenes the competition legislation, Pierre Brooks, the board chairman, said in parliament yesterday.

"Tsogo Sun has lodged a complaint with the board saying Afrisun's objection to the rezoning application constitutes an abuse of process and restricts competition. As such, the board has launched a formal investigation," he said.

The Mpumalanga Gaming Board awarded Tsogo Sun a gambling licence earlier this month for a casino in Witbank on condition that it received approval for the rezoning of a site on the N4 freeway about 3km outside Witbank's CBD.

Afrisun was also in contention for the licence and filed a last-minute objection to Tsogo Sun's rezoning application after it was announced Tsogo Sun had been awarded the licence.

At the time, industry sources speculated that Afrisun's objection to the rezoning application could delay the opening of the casino by up to three months from the end of this year to early next year.

"The questions whether the objection constitutes an abuse of process and, as such, is a restrictive practice outlawed by our competition legislation are difficult ones to answer. But the complaint has been lodged and we are investigating the matter.

"In American case law there are examples where similar situations have been condemned as an abuse of process and therefore anti-competitive," Brooks pointed out.
Privatising railways while there's still time, expert warns countries of southern Africa

By PETER FABRICIUS

Harare - Southern African countries were warned here that they should privatise their railways soon, while their economies still had the high growth potential to attract investors.

Global management consultant Peter Wagner was speaking at a seminar on privatising transport during the World Economic Forum's fifth southern African summit in Harare.

Wagner said the old industrialised countries were having tremendous difficulty selling their railways because investors were reluctant to make such large investments. In low-growth economies, they would take too long to get returns on their investments.

SA Transport Minister Mac Maharaj said his department had not rushed into restructuring the transport sector for the sake of novelty. It had been guided by the reality it found and the need to be competitive.

It had undertaken a comprehensive review of the transport system and policies it inherited to determine what was the proper role for the Government in transport.

It had decided that the Government's role was to guard the national interest - to deracialise a fragmented society and focus on job creation.

Its role included co-ordinated planning and development strategies, and giving transport planning a regional focus.

The private sector's contribution to transport included the profit motive, technology development of human resources, project management skills, access to capital, and making markets through user charges. Taking these into account there were several different possible public/private-sector relationships - from government agencies which included private-sector representatives, through public/private partnerships, such as concessions and strategic equity partnerships, to full privatisation.

Maharaj said that when he had completed his restructuring, the number of officials in the Transport Department would be down from 1 100 to 250.

In railways, the Government had asked for bids for a concession to operate and maintain the commuter rail system.

This system was being subsidised by the Government for 70% of its costs.

The aim was to move from a deficit subsidy to profits, because the operator would have to carry the risks.
Samwu steps up anti-privatisation

By Abdul Milazi

The South African Municipal Workers Union (Samwu) is to petition the Government next month on the privatisation of municipal services as part of its ongoing campaign aimed at putting an end to the planned handing over of the provision of basic services to the private sector.

The Nelspruit, Johannesburg and Cape Town municipalities were already looking at offering tenders to interested companies, as water and waste service provision becomes more expensive because of the failure of the Masakhane campaign to get people in black suburban areas to pay for services.

Samwu has extended the deadline for signatures to June 30 to give people more time to join the petition. It has also vowed to intensify its anti-privatisation campaign this week.

Samwu general secretary Roger Ronnie said the union had launched a worker education campaign called How to deal with Privatisation.

Community awareness

"Workers need to be educated how to negotiate with councils on the issue of privatisation. We are finding that many municipalities across the country are taking it upon themselves to privatise services as they see fit," said Ronnie.

Ronnie said Samwu decided to intensify community awareness of privatisation after the recent 10 percent increase in water prices "which many communities are not even aware of."

"The Government and city councils are saying that privatisation is the only means of escape from the local government funding crisis."

"This is why Samwu is currently drawing up proposals for public sector alternatives to privatisation of water and waste services in Nelspruit, Johannesburg and Cape Town."

"We recently found out that the Government intends carrying out privatisation regardless of any public sector alternatives or union opposition."

Planned handing over of basic services to private sector rejected
Call for privatisation lead

Christo Volschenk
Cape Town — A privatisation agency may be formed in the office of Deputy President Thabo Mbeki to co-ordinate the process of restructuring state assets, Mandla Msomi, IPP MP and chairperson of the portfolio committee on public enterprises, said in parliament yesterday.

Msomi said the envisaged agency would answer the suggestion, made by a delegation of privatisation experts from the Commonwealth Secretariat in London, that a single privatisation agency be formed and a strong leader appointed to take control of the restructuring process.

Msomi said the ministry of public enterprises and portfolio committee on public enterprises agreed parliament should be part of the restructuring process.

"To that end we have agreed to establish an ad hoc committee comprising representatives from all portfolio committees. The ad hoc committee will link with the existing interministerial committee on state asset restructuring."

"We will decide whether a separate law should be drafted for every restructured asset, or whether a single umbrella statute will suffice," he said.

He also announced a two-day workshop on the issue.
Privatisation move will save public R43-million

BY JOVIA RANTAO
Political Correspondent
8 Jan 29/5/97

Cape Town - The Government is to privatise some of its services in a move that will save the taxpayer at least R43-million annually and encourage emerging entrepreneurs by encouraging public and private partnerships.

The move will affect 3,600 workers who, officials say, will be accommodated by the companies which win the contracts.

Public Works director-general Sipho Shezi told Parliament's public works committee that the Government planned to outsource its cleaning and horticultural functions, security and access control, and maintenance units and workshops.

"He said the Government was paying in excess of R60-million a year for the services, and was receiving only 10% in value.

Shezi said he had run a pilot programme in Durban which had proved highly successful.

"We outsourced the cleaning of 40 Durban magistrates' courts to a private company. The Government would have spent R7-million for the job, but we had to pay the contracted company only R3.8-million."


Labour accord 'negative for privatisation'

Lukanyo Mnyanda

THE rational framework agreement between government and labour, which excluded the management of state enterprises targeted for privatisation exercises, would negatively affect future sell-offs, SA Avlink joint MD Rodger Foster said yesterday.

Foster said at an airports and aviation conference yesterday the role played by organised labour in the process was unique to SA and a trilateral agreement including management would have been preferred.

Labour would have to recognise market forces which determined revenue streams would play a role in determining cost levels, particularly salary and wage agreements. The process would also be accelerated by the fact that government was under considerable international pressure to deliver on privatisation.

With the trend towards globalism, international and local markets were likely to be dominated by a few global mega-carriers, and this was borne out by the emerging trend towards mergers, alliances and franchising.
Privatise municipal services — Sacob

JOHANNESBURG: There should be no political appointments at any level of local government. Staff should be able to do their jobs and reflect the population make-up of their area.

The SA Chamber of Business yesterday urged the large-scale privatisation of local government services.

The proposal is contained in a memorandum on a local government discussion paper issued for comment by the Ministry of Provincial Affairs and Constitutional Development.

As many products or services as possible should be privatised, Sacob said.

Services the private sector could deliver at lower cost and with greater efficiency included water treatment, sewage disposal, legal services, vehicle maintenance, refuse collection, street repairs, streetlight maintenance, traffic signal maintenance, solid waste disposal, catering, data processing, ambulance services, meter reading, security, and accounts and payroll preparation, said Sacob.

Cape Town city manager Mr Andrew Boraine welcomed the Sacob proposals but warned that it was a “complicated debate”.

Some services, such as water provision, were a “natural monopoly”, as there was only one provider, and it would not necessarily make sense to run them as a business.

Although he advocated running the Cape Town municipality on “more business-like lines”, he was opposed to its being managed as a business.

“A public authority is not a business,” Boraine said. “The solutions put forward by business are not the only solutions.”

However, debate around local government management was desirable and necessary, he said.

Sacob also said that the cost of redressing service backlogs should be borne by the fiscus, not by the provincial or local authorities.

Business representatives should be co-opted to serve on local councils in an advisory capacity, Sacob said.

Local government should be run on business lines with government managers appointed through a market process.

There should not be political appointments at any level of local government. Staff should be capable of doing their jobs, and should reflect the population make-up of their area.

Local government and business should raise on infrastructure provision, Sacob said.

Infrastructure should be privately financed, and operating agreements signed.

On public representation, Sacob said it favoured a ward system to promote accountability of councillors.

A charter of accountability should be drafted. Proportional representation did not serve the interests of citizens as well as a ward system, Sacob said.

However, Sacob accepted proportional representation in metropolitan areas, provided elections were open to constituencies other than political parties.

Sacob said there should be maximum devolution of state powers to local authorities, and that they should be smaller rather than larger, to increase their responsiveness to local needs.

Costly, duplicative bureaucracies were a feature of mega cities and their substructures. A complete overhaul of local government legislation was needed, Sacob said — Sapo, Staff Writer.
Union hits at Govt for privatisation

By Abdul Milazi

The South African Municipal Workers Union (Samwu) has criticised the Government for awarding tenders to the value of R700 million to the private sector to carry out water and waste services.

Samwu said yesterday that it was surprised by the Ministry of Water Affairs and Forestry when it announced the awarding of the tenders to four consortia last week, while the union was still investigating alternatives to the planned privatisation of municipal services.

Samwu president Petros Mashishu said the privatisation of municipal services would put basic services out of reach of the poor, and particularly people in the rural areas.

"Samwu is of the opinion that basic services should be provided in the spirit of the RDP (Reconstruction and Development Programme) to meet the needs of people, and not for the profit of foreign companies," said Mashishu.

Mashishu said the union was also concerned about the presence of major international companies like Aquafund and Water and Sanitation Services SA (WSSA), a subsidiary of Lyonnaise Des Eaux, which is one of the major water controllers in the world.

"In other words this programme Water Affairs and Forestry has initiated is perpetuating the international trend where very few companies dominate water services," said Mashishu.

Mashishu said the tenders which were, according to Government, awarded on the basis of the Build, Operate, Train and Transfer (BOTT) concept, had many positive aspects such as community empowerment, job opportunities and building capacity among local authorities. However, "the bottom line is profit."

However, the director-general Mike Muller said the Government did not have the capacity to meet the needs of the communities "and needed assistance from the private sector."

He explained that the tendering was necessary as a mentoring programme to help build capacity among local authorities and train them in the operation of water systems.

Mashishu argued "The way these particular BOT schemes will work is that the Government had paid the winning consortiums a fixed rate to build, operate and manage the service. In other words the consortiums won't be paid out of the tariffs they collect."

The consortia which won the bid are WSSA, Group Five Civils, NQunha Shand, Pongoula Skude and Associates, Jakost and Associates and VSA Geoconsultants.
CWIU rejects ‘neo-liberal agenda’

The Chemical Workers' Industrial Union (CWIU) has rejected union investment and the restructuring of state assets as solutions to the country's economic problems, Sphiwe Mgcina, the union's spokesman, said yesterday. Mgcina said these positions were adopted at CWIU's recent congress. They called to reject the setting up of union investment companies and called for continued state ownership of strategic state assets such as Eskom, Telkom, water and health. They reject globalisation as a neo-liberal agenda which causes unemployment.

He said the union had also decided to merge with the Paper Printing, Wood and Allied Workers' Union. The province of a merger with the South African Chemical Workers Union was discussed, as the "political stumbling blocks of the past no longer exist". The CWIU supported Cosatu's demands on the draft Basic Conditions of Employment Bill, he said. — Frank Nxumalo, Johannesburg
Private solutions for public problems

Government is increasingly turning to business to help kick-start delivery, reports Marion Edmunds

The high-profile appointment of South African Breweries chief executive, Meyer Kahn, to the police service is just one example of a growing trend in government to rely on private-sector management skills to kick-start delivery.

The departments of justice, welfare, safety and security and correctional services are being boosted by a five-person team from a private company to help implement strategic anti-crime programmes.

The initiative will cost R502-million, to be funded by the Reconstruction and Development Programme (RDP). The private-sector managers will cost the taxpayer about R8-million — 3% of the programme costs — and they will be seconded for two years. Their role will include assisting in setting up programmes to improve law court management, upgrade prisons and to provide skills training for convicted criminals.

At the same time, the managers will be training their civil servant colleagues, and introducing new, efficient working methods to a sluggish public sector.

The Department of Education is to follow suit, hiring private-sector managers to assist in a R160-million programme to establish youth colleges in all nine provinces.

The departments of housing, constitutional development and health are hooking into private managers too, with health, for example, having already contracted out the management of the key RDP project, the Primary School Nutrition Feeding scheme, to Ernst & Young at a cost of R7-million last year.

The basis for the introduction of private-sector managers to the heart of the public sector has in part been laid by a small team of people originally seconded from the private sector and seconded to work in the RDP office. They are called the Procurement Management Service. And it seems their salaries are paid by the department they are seconded from, which is not always popular with the public service.
**Competition Board renews probe into liquor industry**

ACTIVITIES of KWV and SA Breweries are to be closely scrutinised by the Competition Board as part of its investigation into the liquor industry.

Chairman Pierre Brooks says an area that will be examined is KWV's and SAB's shareholdings in enterprises with which they compete.

Other issues include the possible foreclosure effects of KWV's decision to convert itself into a company and an agreement struck between KWV and the Cape Wine and Spirit Institute.

SAB's distribution systems and licensing agreements will be probed.

The current investigation, started in January 1995, has looked into aspects like the industry's structure, its vertical integration and licensing policies.

Brooks says this has provided the board with useful insights, but various developments have since taken place which require that it have "a more specific enterprise and issues focus."

Meanwhile, SAB has dismissed as "indisputable" a claim by Namibia Breweries that the SA beer giant is employing "bullying tactics" in Namibia.

Norman Ashani, managing director of SAB Beer Division, disputes the claim and says it is ironic to be accused of unfair competition when Nambrews is free to compete in South Africa.

He says Namibia has created unfair conditions, obstructing SAB's attempt to enter the Namibian market.

The Namibian brewer this week accused SAB of attempting to disrupt its market with a non-refundable 750ml bottle Bob Masche, MD of Nambrews, says the non-refundable bottles look similar to bottles used by Nambrews and that it will be unable to sort out SAB's bottles from its own.
Cape Town — The Competition Board has decided to broaden the scope of its investigation into the liquor industry to focus on KWV and South African Breweries (SAB), Pierre Brooks, the board's chairman, said on Friday.

Brooks said he planned to investigate the effects of KWV's plans to convert itself into a company. He would also focus on shareholdings by KWV and SAB in enterprises with which they compete, SAB's distribution system and "other related matters."

The industry has been hit by controversy recently Derek Hanekom, the agriculture minister, took legal action to prevent KWV's move because he wanted clarity on how it would affect the wine industry and its assets. Brooks said he also wanted to investigate an agreement between KWV and the Cape Wine and Spirit Institute, which had initially also opposed KWV's move to become a company.

SAB dominates the South African beer market and has been engaged in a war of words with Namibian Breweries, which has been making steady inroads into the market.

Brooks said the apartheid-era government had rejected certain reforms the board recommended for the liquor industry in the 1980s, and approved a corporate structure that still existed today.

He said "political considerations" probably influenced the decisions taken at that time.

In 1996, the board decided to investigate the industry again because of "developments which require it to have a more specific enterprise and issue focus."
KWV to meet Competition Board today

THE KWV would meet Competition Board chairman Pierre Brookes today to establish the reason for the board's "unexpected" decision to launch a full-scale investigation into the wine co-operative, Kooperatiewe Wynhonders' Vereeniging (KWV), corporate services director Theo Pegal said yesterday.

He said the co-operative was "completely in the dark as to what is going on" since the competition board had undertaken a report on KWV in January this year.

The board found that, should KWV transform into a company, it would be subject to the same rules and regulations as any other company, Pegal said.

Competition Board chairman Pierre Brookes said developments in the liquor industry had now necessitated a comprehensive probe into various aspects of KWV as well as SA Breweries (SAB).

"In the case of KWV we will be looking at the effect of the conversion to a company on competition and new market entrants, possible anticompetitive aspects of the co-operation agreement between KWV and the (Cape) Wine and Spirits Institute, as well as KWV's shareholding," Pegal said.

The probe into SAB would cover its distribution network and licensing arrangements. SAB has about a 30% shareholding in Stellenbosch Farmers' Winery and Distillers, Brookes said.

SAB corporate manager Dunbar Bucknall said that despite its shareholding, SAB had no managerial control in the companies.

The shareholding was a move for SAB to diversify after increased discriminatory excise tariffs. Other large international beer groups have already diversified, Bucknall said.

He also denied that SAB's distribution network discouraged competition. "As with any company, SAB is entitled to secure the most effective distribution network possible. It would be ironic if government and the Competition Board want to penalise success," he said.

The Cape Wine and Spirits Institute was not available for comment.

Meanwhile, KWV and government negotiating teams were racing to reach an out of court settlement on the issue of KWV's planned conversion to a company before the next Cape High Court hearing in August.

Pegal confirmed that talks between the parties - at this stage focusing on future regulation of the wine industry - started for the first time last week.

Asked if the talks would cover the controversial issue of who owned KWV's R1bn assets, he said it would come up when an auditors' report was completed.

KWV and Land and Agriculture Minister Derek Hanekom had been locked in a legal battle over KWV's planned conversion to a company. At issue was whether farmers were the sole owners of the co-operative's assets.
Privatisation the issue in municipal march

BY CECILIA RUSSELL

An SA Municipal Workers' Union (Samwu) protest hit Johannesburg today, hamstringing council bus services and disrupting other services.

Only 20% of metropolitan bus services were operating as drivers joined the 20 000 Samwu members expected to take to the streets to march against privatisation of services.

There were no refuse removal services. Greater Johannesburg council labour-relations executive Potzo Mohajane said the council had made plans to keep essential services - like emergency services, traffic, water and electricity - running.

A protest march by the union started with workers gathering at the Library Gardens and is set to continue into the afternoon with a march to the Metro Centre in Braamfontein.

Mohajane said the council was upset about the march because it was being targeted for a policy of privatisation which it had "not even contemplated."

"We are bearing the brunt of decisions made in other municipal areas," he said.

Samwu branch secretary Themba Nxumalo said many municipalities were privatising services at the expense of workers and consumers.

"When the Government came into power they promised effective, efficient and accessible services," Nxumalo said.

But, he said, privatisation lowered standards of services, made them more costly for the consumer, and led to job losses.

Today's march is a build-up to a national campaign against privatisation.
**Competition policy review delayed again**

John Dladlu

PLANS to review the country's competition policy have been delayed again, this time as a result of the winter break of parliamentarians, it has emerged.

At a high-level policy session at the National Economic, Development and Labour Council in April, Trade and Industry Minister Alec Erwin promised to table a discussion document in Nedlac in late May or early June after obtaining a broader mandate from his cabinet colleagues.

However, Nedlac executive director Jayendra Nadoo said yesterday: "Despite the fairly lengthy delays in the process, Erwin had informed the body that he had completed internal consultations on the competition proposals."

Erwin was expected to discuss them with the cabinet this month before being in a position to table them at Nedlac.

Nadoo said Nedlac would organise this year's second policy session - a high-level meeting normally addressed by cabinet members - with Erwin. Though Erwin was said to be on vacation, his spokesman, Lennart Lagardien, yesterday confirmed Nadoo's scenario.

The competition policy review, which has been on the Nedlac trade and industry chamber's agenda for some time, has missed several deadlines.

Despite indications that government lacked the resources to drive the review process, the state's official line has been the need to have thorough, internal consultation, and Erwin's busy schedule.

Business, which has been waiting for government's proposals, is expected to seek an update from government representatives at the trade and industry chamber's meeting today.

However, fears of a harsher competition law have been allayed, thanks to the realisation that the SA economy would not be suitable for such laws. Erwin has signalled that he would take a much broader approach to economic governance, with the revamped competition law forming "part of a set of legal instruments" to be effective.

Although he has promised business and labour a chance to consider the policy, Erwin has made it clear that if there is no consensus among social partners, government will have to take a position on the draft.

Drafters would also be appointed solely by him.
Metro will heed Samwu's call

The South African Municipal Workers' Union (Samwu) and the council yesterday agreed to a 14-day moratorium on privatisation of the Johannesburg Metropolitan Council. This follows a protest march by the union which they presented a memorandum to metro officials.

Samwu said it wanted an end to consulting without labour first — Frank Neumla, Johannesburg.
Total US-SA trade drops 6%

WASHINGTON — Total trade between the US and SA in the first four months of the year was 6% off last year's pace, reflecting reduced shipments of platinum group metals to the US, and a sharp but expected fall in SA imports of US wheat and corn.

SA chemical exports to the US continued to show strength as did certain SA clothing shipments of organic and inorganic chemicals reached $315m as of April, a 31% increase from the same period last year.

US imports of SA knitted apparel dropped 19% to $12.5m. “This suggests that in selected areas of textiles, SA is capable of competing,” commerce department Africa bureau director Sylly Miller said.

Shipments under the tariff heading that includes platinum group metals, diamond and other precious metals, which together account for around 40% of US imports from SA, were down 17% as of April, to $225m from $303m.

US imports in the same category from Russia, America's other major supplier of platinum group metals, were off 40% to $75.5m.

Miller suggested that the downturn was cyclical, but could also reflect changes in the automotive industry, which is the major customer for platinum group metals.

Meanwhile, US imports of SA iron and steel — SA's second largest category of exports to the US — were also off 15% from last year to $88.2m, well behind the pace of the past three years.

Big drops were discernible in ferro-manganese, ferrochromium, manganese and, to a lesser extent, in ferrochrome.

Total SA exports to the US as of April were $894m, down from $732m a year ago.

Total US exports to SA were $968m, down from $1,036bn.

The US trade surplus with SA narrowed to $274m.

Labour team set to review competition policy

THE labour constituency at the National Economic Development and Labour Council (Nedlac) has set up a task team to help review the country's competition policy.

Herbert Mkhize, assistant general secretary of the SA Commercial, Catering and Allied Workers' Union, said yesterday the task team, including union representatives outside the CoSATU fold, would bring in outside expertise to advise the cabinet.

Labour and business representatives yesterday appeared less than perturbed by the delay. "We are letting him (Erwin) take his time, but we will deal with the document when it comes," a business source said.

Mkhize, who co-ordinated the labour element at Nedlac, supported Erwin's cautious approach.

Labour's preparation for the debate is on hold while parliamentarians take their winter break. Trade and industry minister Alec Erwin intends to table a discussion paper at Nedlac next month after obtaining a mandate for his ideas from the cabinet.

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Boost for empowerment in privatisation plan

THE government is close to finalising the shareholding in privatised public sector corporations that will be reserved for empowerment purposes.

According to government sources, up to 10% of each parastatal could be sold into the proposed National Empowerment Fund (NEF), which will offer historically disadvantaged communities the opportunity to buy units in the fund at a considerable discount.

Furthermore, each employee of a public sector corporation will be allocated shares to the value of R10 000 at the time the company is privatised. The share allocation falls under the Employee Shareholder Option Programme (Esop) negotiated between government and trade unions.

Shares in both the NEF and Esop will be offered at a much lower price than that paid by other investors in privatised corporations. No finality has been reached on the discount, which is expected to vary from case to case.

The Department of Trade and Industry, which is devising the structure for the NEF, is believed to have asked Telkom for a 20% discount on its shares.

A 10% stake in Telkom would dominate the portfolio of the NEF, and to achieve a greater diversity, a large portion of shares earmarked for the NEF could be offered initially to black-controlled companies operating in the telecommunications sector.

The NEF is modelled on Malaysia’s successful, ethnically exclusive Bumiputra national unit trust scheme. The government is still debating whether to allow all South Africans to buy a stake in the trust, or whether to reserve it for previously disadvantaged communities.
Sarhwa ‘on collision course’ with private hauliers

Union slates port ruling in Durban

Jonathan Rosenthal

Durban - The South African Railway and Harbours Workers' Union (Sarhwa) said this week it saw the landmark court decision, which last week opened the Durban harbour's container terminal to private sector truckers, as an act of privatisation.

Sarhwa said it would take whatever steps were necessary to protect its members' interests.

"Whether we like it or not, it is a change of ownership. This is the function that has been done by our members, and the court decision puts us on a collision course with the private haulers," a senior union official said.

The decision allows companies that have access to the container terminal to make investments in handling the containers and gives them the right to collect and deposit containers in the harbour if they were to be transported within a 110km radius of the port. At the time, freight forwarders said in some instances Portnet's rates were double those quoted by private haulers.

Bax Nomvete, Durban's port manager, said this week the court decision, which last week opened the harbour's container terminal to private sector truckers, could disrupt the flow of containers through the already stretched facility.

He said Portnet, which is both the port operator and its regulator, had asked for between a year to 18 months to establish a truck-stop, improved security and computer systems before opening the facility to private truckers.

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"Whether we like it or not, it is a change of ownership. This is the function that has been done by our members, and the court decision puts us on a collision course with the private haulers," a senior union official said.

But he would not say what action the union might take. The union is believed to have about 20000 members, or about 80 per cent representation among the estimated 40000 organised workers in the port. About 10000 workers are directly involved in work at the container terminal and the associated road transport company, Portnet Cartage.

Last week, the Durban Supreme Court ruled in favour of two transport companies and the KwaZulu Natal Association of Freight Forwarders, which brought an application in February challenging Portnet's restrictive practices.

The restrictions gave Portnet Cartage, a Portnet subsidiary, exclusive rights to collect and deposit containers in the harbour if they were to be transported within a 110km radius of the port. At the time, freight forwarders said in some instances Portnet's rates were double those quoted by private haulers.

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He said Portnet, which is both the port operator and its regulator, had asked for between a year to 18 months to establish a truck-stop, improved security and computer systems before opening the facility to private truckers.

"If you have congestion in the terminal, it will have a knock-on effect, which will affect the ship turnaround times, costing ship owners more than R10 000 to R15 000 a day," said Nomvete.

Portnet has lodged an appeal against the ruling, which was handed down in response to a legal challenge by Durban trucking companies and the freight forwarders' association.

Nomvete said that, subsequent to last week's ruling, Portnet had established a temporary truck-stop and processed truckers by hand. But he did not expect a "train smash" because the number of private truckers entering the terminal was likely to grow relatively slowly, he said.
Airports Company starts privatisation in earnest

Robyn Chalmers

PARTIAL privatisation of the Airports Company has started in earnest with government tendering for a transaction adviser to oversee the sale of up to 49% of the parastatal.

Airports Company MD Dirk Ackerman said yesterday that successful negotiations with labour and government over the past months had resulted in the agreement by all parties on the need for a transaction adviser.

"It has been agreed that a minority stake in the Airports Company will be sold, although the exact percentages will be finalised only once the transaction adviser has been appointed and can give input," he said.

In May, government, labour and the Airports Company agreed within the auspices of the restructuring committee that an international strategic equity partner should take a minority stake in the parastatal which has minimum assets of R2,5bn.

In its tender invitation, the government said that tenders closed on July 14 and short-listed candidates would be notified on July 17 with interviews by the transport ministry taking place on July 26.

It said the transaction adviser would be required to work closely with the Airports Company restructuring committee and HSBC Simpson McKee, the overall advisers to government on privatisation.

Ackerman said he was encouraged by the number of foreign organisations which had expressed interest in buying into the Airports Company. "It is indicative of the type of progress the Airports Company has made in improving its operational capabilities and its bottom line," he said.

Industry analysts said that, as with other asset sales under way such as Sun Air, government was likely to stress that bidders should have black economic empowerment partners or should find concrete ways to boost such empowerment.

One analyst said companies understood to have expressed interest in the Airports Company included Lockheed Martin AG, Soros Investments, the British Airways Authority, Schiphol Amsterdam, Daimler-Benz, the Malaysian Airports Authority, Vienna Airport, Singapore Airport and the Challenger Group.

Apart from negotiations on the partial privatisation of the company, Ackerman said the Airports Company was making solid progress on its drive to transfer skills and technology to African countries.

"We have been assisting authorities in Ghana with training courses and technology, and we hope to expand this over time. In the future, we could look at forging management contracts with airport authorities in Africa and already assisting some of the local airports run by municipalities," he said.
Deregulation must await mass roll-out

The restructuring of SA's telecommunications sector is in line with world trends, says Posts, Telecommunications and Broadcasting Minister Jay Naidoo

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Competition Board to the rescue as doctors close ranks on fees

The board's entry into the health care war is good news for the general public, writes PAT SIDLEY

The Competition Board is looking at doctors and other suppliers of health care services with a fresh eye on whether or not their behaviour is anti-competitive or not. This scrutiny means patients' interests will at last be looked at while health care suppliers battle to keep their pockets full.

Doctors, specialists and other health care providers have been getting together in various groups to the effects of managed care.

The advent of managed care in BC means that medical aids, insurance companies and dedicated managed care companies will ensure that prices of health care cannot continue to rise as steeply as in the past. In some areas, prices may fall.

This is done by imposing limits on how doctors and other health care suppliers can charge patients and on what basis in many cases this means that medical practitioners are given an upper limit on what they can charge hospitals, pharmacists and other suppliers. Also, managed care companies are also limited by negotiations with managed care companies in what they can charge and how they can earn it.

In order to fight the pressure from managed care companies and medical schemes, doctors are forming preferred provider networks. Surgeons have formed a group which represents around 80% of surgeons. They have simply laid down the gauntlet: "These are the prices - take it or leave it."

These moves are seen by some as price-fixing or collusion. And where this works against competition, it might be regarded as contrary to public interest. Doctors have generally been exempt from this type of scrutiny, but the Medical Association of BC has been able to recommend tariffs to its members without interference from the Competition Board.

MS Gagnon, managing director of MedMarine, says the medical schemes law was designed for a central pricing mechanism which would set "scales of benefits" paid to doctors and "blue book" prices for pharmaceuticals. Managed care has spawned groups of preferred providers, and there are now groups of doctors tendering against other groups, says Gagnon. Following the doctors, hospitals have formed networks and pharmacists have also banded together into groups. The group activity is what Gagnon describes as a "battle in health care."

In this scenario the Competition Board is defending competition on behalf of the public. The board will be meeting with doctors later this month, and has asked for a submission to the Board of the Competition Board. The board will base its conclusions on the submissions it receives from the public.

As for the public, the scrutiny of the Competition Board should be welcomed in a true sense, the board represents the interests of the public at large.

"The public can't shop around for a different price," says board chairman Dr Pierre Brooks. "The effect of doctors fixing non-negotiable prices is to cut prices down."

The scrutiny of the Competition Board, with its longstanding tradition of fairness, into the debate will ensure that the needs of the public are incorporated into the eventual outcome of the war being waged in health care.

AZT generic may become available

Glxz-Wellcome, manufacturers of AZT, one of the more frequently used drugs for the treatment of AIDS, may face a challenge to its patent from a Canadian generic drug manufacturer Apotex Inc.

Apothecary president Jack Kay says the basis of Apotex's challenge to the patent lies in the company's contention that the drug was not invented by Glxz-Wellcome, but by the National Institute for Health in the US. It therefore does not merit the protection of a patent.

It is not a similar challenge in the US, but has already been selling for a generic equivalent, Aprena-doxil, on the Canadian market and in other countries where the patent system does not protect Glxz-Wellcome's patent sufficiently.

AIDS patients currently relying on the state for treatment are unlikely to get AZT because of the cost. The state called for tenders for a one 1,000,000 package of the drug and Glxz-Wellcome was the tender at R520 per 100 tablets. There are some 35 million AIDS patients in SA who might get the state for their treatment.

Apothecary SA chief executive officer Gerard Pienaar says that his company can supply the drug to the state for R520 per 100 and still make a profit. Peter says the Department of Health has taken an interest in this drug and the Medicines Control Council has approved the company's application to have the drug registered on the new fast-track registration process. This means that the process for registration can be speeded up through the registration itself by no means automatic.

Kay and Apotex SA would be willing to challenge Glxz-Wellcome's patent in SA if it succeed- ed in the Canadian courts. It would help the country's AIDS patients if the government were able to help ensure that the cheaper generic equivalent drug was available.
IT TOOK the government almost two years to commit itself to the sale of state-owned enterprises— but, since early last year, there are few ministers who still question the wisdom of privatisation.

The implementation of this policy has, however, been slow and tedious, bogged down by trade union resistance and a labyrinth of consultative and negotiating forums.

Two privatisations have, to date, been completed—the sale of six SABC radio stations and 30% of Telkom—and a third (San Air) is imminent. But a long waiting period is scheduled thereafter.

Although Minister of Public Enterprises Stella Sigcau committed herself to the full or partial sale of all parastatals this year, the remaining five (Sasol, Allecor, Aventura, Autonet and Airports Company) are only likely to come under the hammer next year. None of the four have yet appointed advisers suggesting differences between labour, government and management on how to proceed with the sales.

In a recent speech Sigcau insisted that the trade unions are being won over and there is growing consensus on the need for restructuring and privatisation.

Yet, on the shopfloors and in the office corridors of major parastatals, the differences in approach between managers and trade unions are still evident, leading to costly delays.

These are largely of the government's own making. Eager to appease the unions, which were, and still are, horrified at the government's backing of privatisation, Sigcau agreed to put in place numerous restructuring committees and add a considerable list of social obligations to the process.

The number of committees that have to back a restructuring move can be as high as eight, from a parastatal's shopfloor via sectoral meetings and culminating in a six-a-side session between labour and government.

The delays arising from government dithering, as well as the sheer volume of negotiations, are of concern to analysts. While a number of parastatals, such as the Airports Company, have benefited from that little bit of extra time to ready themselves for privatisation, others (Sasol, SAA) have lost considerable value, says Pieter Van Huyssteen, head of Price Waterhouse's corporate finance division.

Sigcau also agreed that government should retain a majority stake in the bulk of restructured enterprises, a move which could alienate potential foreign investors.

Colin Coleman, director of Standard Bank's public finance division, warns that while government should not discard its social obligations, it must look at the cost that goes with them. He adds, 'Investors will always price these obligations into the bid, the more

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**22.2**

Telekom Malaysia for R5.8 billion has provided some clarity on what government plans to do with the proceeds from privatisation. Income from the sale of so-called non-strategic assets, such as Aventura, Allecor and Sasol, are likely to be used to redeem state debt. This is the intention with the proceeds from the radio stations, although the issue still has to be finalised with the SABC.

Parastatals that provide a crucial socio-economic function are likely to retain the bulk of their proceeds. Telkom had to surrender about 20%, or R2.8 billion, to the state but retained the remainder (R4.4 billion) to finance the roll-out of the telecommunications network. Were the government to sell Allecor, a similar equation could be used.

The sale of Telkom has been widely rated as a success. Not only did the two telecoms operators invest a considerable amount for a minority stake, but they also committed considerable resources to the expansion of telephony in South Africa, particularly in poor rural and urban areas.
Sections of the public sector freed from political objectives are providing encouraging lessons in profitability, writes SVEN LUNSCHHE

**Bureaucrats get a kick up their parastatals**

LAN, means and state-owned. This is not a euphemism easily applied to South Africa’s public sector, where many dinosaurs remain mired in inefficiency, red ink and are subjected to the whims of political objectives.

But amid the sluggish bureaucracy there are an increasing number of corporations who are turning the parastatal sector upside down.

They are largely led by a new generation of hard-driving executives who apply private sector fundamentals to their companies. While they do not have carte blanche from Pretoria — empowerment objectives remain an important element in the privatisation process — they seek to achieve these by relying on one principle only: to run efficiently profitable organisations that do not rely on hand-outs.

The list of these entrepreneurs is still relatively small, but it includes some powerful names: Telkom chairman and acting chief executive Dikgang Moseneke, Telkom chairman Reuel Khoza, Airports Company chief executive Dirk Ackerman, IDC chief executive Khaya Nkula and Sun Am executive managing director Johan Honibap.

Even at beleaguered Transnet, some names spring to prominence: Spoornet’s Mdubhile Mbambo and Aviation’s Terence May. Their efforts are largely overshadowed by the ongoing financial malaise at the state-owned behemoth.

Transnet, which is set to report large losses in its 1996/97 financial year, stands out among those parastatals struggling to make the transition to the new environment, along with the SABC Post Office, Amtco, Safcol and Aventura.

The Department of Transport has frequently bemoaned the fact that Transnet, as the country's largest transport entity, does not report to it, thus making the creation of an Integrated Transport Authority (ITA) more difficult.

Another example of political expediency is the public service obligations imposed by the BSA on the SABC — obligations which are now being reviewed after the SABC has run up huge losses in meeting them.

Traditionally, the coexistence between the executive suite and a ruling political party fosters not only inefficiency and inflation but outright corruption. This was too frequent during the years of National Party rule and continues to prevail.

For example, the appointment of seven black executive directors — some of them last-minute appointments, others not sufficiently qualified — has cost Transnet dearly as the group is set to record its second consecutive financial loss in the 1996/97 financial year.

The Department of Transport has frequently...
State finds its infrastructure by another road

The provision of infrastructure is one of the key elements of the government’s growth strategy. This policy also dictates that state spending be curtailed sharply, forcing the government to seek infrastructure funding from other sources.

The obvious answer was to mobilise private sector finances, an approach that met with some resistance initially but has now been embraced by government.

Mac Maharaj, the Minister of Transport, said this month that of the R170-billion government has to invest in infrastructure over the next 10 years only about R70-billion would be available through the Budget.

The remaining R100-billion would be sourced from public-private partnerships.

Maharaj’s department is leading the development of private financing of infrastructure by concessioning the building and operations of toll roads. The concept has also been adopted by the Department of Correctional Services which is planning nine new prisons for a total cost of about R15-billion.

But private-public partnerships are not limited to national projects — they have found willing promoters at the local government level where numerous projects, ranging from water provision to waste disposal and small airports, are on the drawing board.

The partnership concept has taken off internationally and the World Bank estimates that the market was worth R300-billion over the last decade of which new investment accounts for R100-billion alone.

Colin Coleman, director of Standard Bank’s public finance division, says dynamic private sector developers “are making the most of these opportunities.”
Bank estimates that the market was worth $300-billion over the last decade of which new investment accounts for $100-billion alone.

Colin Coleman, director of Standard Bank's public finance division, says dynamic private sector developers "are pushing the frontier of reform the world over enlarging the scope for effective competition between infrastructure service providers.

He says that in order to promote private sector investment the government should adhere to a few ground rules offer competitive returns on investment, promote competition for the tenders, allocate risks on an equitable manner between the public and the private sector and win the support of labour.

Standard Bank itself is a key partner in the SA Infrastructure Fund, which was established last year with initial funding of R500-million. It now has a capital base of almost R1-billion and is set to announce its first major investment - a R100-million stake in the N4 toll road between Witbank and Maputo.

The Development Bank of SA has also become a major player in this field with the establishment of a private sector investment unit. It is also involved in the R200-million in the N4 project.

Private sector involvement in infrastructure can take numerous forms but two stand out in South Africa:

- Simple, delegated management operations, where government undertakes the capital expenditure but a private contractor provides the working capital and runs the asset.
- The so-called build-operate-transfer, or BOT system. Under BOTs government issues tenders for a project for a specified number of years. Over that period the private sector contractor has to complete the project and run it on a profitable basis so that a return on investment is offered after the period has expired.

The Department of Transport is making extensive use of BOTs in the development of its national toll road network. Altogether five toll roads are either in construction or on the drawing board, projects with a total value of over R5-billion.

The recent tender for the N4 toll road gives the winning consortium between 25 to 30 years to achieve a return on an investment which could be as high as R1.4-billion. The government reserves the right to set the toll levy and could extend the period of operations once the current contract expires.

The Department of Correctional Services has also jumped on the bandwagon. In May it invited tenders for several new jails estimated to cost an initial R1.5-billion. The offer has attracted considerable international attention, including from Group 4 in Britain and Correctional Corporation in the US, two leading companies in "prison concessions." The tender includes juvenile centres, super-maximum security prisons and an awaiting trial facility.

### PUBLIC-PRIVATE PARTNERSHIPS

<table>
<thead>
<tr>
<th>PROJECT</th>
<th>TOTAL COST</th>
<th>STATUS</th>
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<tbody>
<tr>
<td>Komatipoort Venture Capital</td>
<td>R450-m</td>
<td>Completed</td>
</tr>
<tr>
<td>R1 toll road</td>
<td>R262-m</td>
<td>Approved</td>
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<tr>
<td>Beithbridge - Bullwayo road</td>
<td>R1.5-bn</td>
<td>Approved</td>
</tr>
<tr>
<td>Tshwane municipal boundary</td>
<td>R271-m</td>
<td>Approved</td>
</tr>
<tr>
<td>N3 Heidelberg - Cedara toll road</td>
<td>R250-m</td>
<td>Approved</td>
</tr>
<tr>
<td>Wild Coast toll road</td>
<td>R400-m</td>
<td>Approved</td>
</tr>
<tr>
<td>N11 Local Government waste disposal, water treatment and airport projects</td>
<td>R1.25-bn</td>
<td>Proposed</td>
</tr>
</tbody>
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Graph: FIONA KRISCH
Source: DOTA, DEPARTMENT OF TRANSPORT, DEPARTMENT OF CORRECTIONAL SERVICES
Of the results of privatisation is that it removes a company from the protection of the public sector into the competitive realm of the private sector.

It is, therefore, not surprising that the government's demand for greater competition as one of the aims of its privatisation programme.

Pierre Brooks, chairman of the Competition Board, says that to date, the board has had limited feedback from the Department of Public Enterprises about the role of competition in the privatisation process.

The need to entrench and foster competition was a major contribution to the success of Britain's privatisation programme in the 1980s.

Brooks says it is vital that the impact of competition is considered when selling off a parastatal. "We do not want to see a public sector monopoly into one owned by the private sector. At least in the public sector the government still has a measure of influence which it loses once the company is in the private realm."

He adds that the promotion of competition could, for example, force a company to sell off various operating divisions instead of putting itself on to the block as a going concern.

While Brooks stresses that the form of sale will depend on the company involved — "Bravo, for example, is easily broken up, whilst SAA is not" — splitting up a dominant public sector company is advantageous for competition, since it generally rules out vertical integration within one industry sector.

Furthermore, says Brooks, a corporate shake-up would allow qualified black firms to establish their own, but more feasible, joint ventures instead of simply installing them at board level as directors.

The board is currently involved in these investigations concerning possible competition policy infringements by public sector corporations.

The best-known case has been Telkom's attempt to nationalise the Internet. Brooks says there is nothing the board can do about Telkom's monopoly in the telecommunications sector. "That was a political decision," Brooks adds. "But we can investigate when that monopoly abuses its powers in an anti-competitive manner."

Telkom is attempting to extend the Internet service as a basic service, thus including it in its five-year period of exclusivity, during which it does not have to face competition. During this period, independent Internet service providers (IPS) could have to pay R100 per month to Telkom for its Internet access, instead of the more direct and cheaper link.

The Competition Board initially interceded after protests from the IPS and asked Telkom to provide it with detailed accounts on SAD instead of the higher fees charged to its competitors.

When Telkom subsequently submitted the board, it sought the assistance of the SA Telecommunications and Regulators Authority (Sotr), which has direct jurisdiction over the issue. The Telkom board's indications are that Sotr will rule against Telkom.

The board is also debating the future of the forestry company Sasco's in one of its widest and most lengthy investigations to date. It has been deliberating for almost one and a half years on two crucial aspects of Sasco's operation: its strategy as the sole supplier of timber for most of the country's independent sawmills, and its expanding role as a sawmill itself.

Brooks says a ruling on Sasco is imminent and could severely impact on the privatisation of the forestry company. Sources at Sasco say plans for its privatisation are proceeding nonetheless.

It is understood that both management and labour at Sasco envisage an unchallenged company when it is transferred to the private sector with considerable value added to it. The downstream (sawmilling) part of the group
A UK guide to restructuring

Top SA corporate tax lawyer, Michael Katz of Edward Nathan & Friedland, takes a look at the privatisation process

The objective of this brief article is to give some observations on the objectives of the restructuring of state assets in South Africa and the methods by which it can be achieved.

I have relied on the experience in the United Kingdom and in this regard have found very useful the book entitled Selling the State — Privatisation in Britain by Cento Veljanovski.

As explained by Veljanovski, the major objectives of privatisation which emerged during the debate in the United Kingdom include the following:
- To reduce government involvement in the decision-making of industry.
- To permit industry to raise funds from the capital market on commercial terms and without government guarantee.
- To raise revenue and reduce the public sector borrowing requirement.
- To promote wide share ownership.
- To create an enterprising culture.
- To encourage workers to share ownership in their companies.
- To increase competition and efficiency.

As Veljanovski points out, during the early days of the debate in the United Kingdom the objectives of privatisation appear to be purely financial and managerial. It seems that the original impetus for privatisation came from a desire to discipline the nationalised industries by subjecting them to market forces. This in turn derived from the realisation that the administrative methods of controlling and monitoring the performance of the nationalised industries had largely failed and in its existing institutional form would continue to do so.

Veljanovski points out that from these relatively esoteric beginnings, privatisation began to acquire a set of more specific and often conflicting objectives.

In this regard some commentators have pointed out that a less tangible yet nonetheless politically important objective which drove the privatisation process was the desire of the government to create a more entrepreneurial society.

With the sale of British Telecom another reason, or as Veljanovski points out rationalisation, for privatisation emerged. Regulation of private monopoly was seen as a more effective and efficient form of production than nationalised public monopolies.

"Private monopoly produces goods and services more cheaply, and any abuse of monopoly power can be controlled by setting up of a new framework of regulation administered by a new regulatory agency and competition law. Thus, for the public utility industries, privatisation means a change from public production to what is regarded by the government as more efficient, private but regulated production."

Finally, in the context of the philosophical approach to privatisation in the United Kingdom it is instructive to reflect on the following observation of Veljanovski. "The benefits which are expected to flow from privatisation are, in the government's view, numerous. Customers will benefit from the prospect of higher standards, greater efficiency in the provision of services, a charging policy designed to pass on efficiency savings and keep bills down, and the opportunity to hold shares. Employees, because they are given an opportunity to buy shares in their own companies at preferential terms, will identify with their businesses and have greater job satisfaction and better motivation, so industrial relations will improve."

The philosophical justification for the restructuring of state assets also provides an indication as to the methods of achieving it. Should it be an outright sale, or should it be an offer of shares by the privatised entity so that the money comes into that entity?

If the raising of money is the objective of privatisation then the former method will be selected whereas if some of the other objectives referred to above are important then the latter method will be selected.

Furthermore, outsourcing and sub-contracting of state activities also flows from some of the objectives referred to above.

As appears from the comments set out above, once a public entity is privatised it is essential that it be subject to a regulator and the normal competition laws of the land...
Selling the message of buying into private ownership

A CRUCIAL pillar of the privatization programme is the participation of employees and previously disadvantaged communities.

The government is close to finalizing the percentage of shares to be privatized in public sector corporations that will be reserved for empowerment purposes and for staff.

According to government sources, up to 10% of each component will be sold into the proposed National Empowerment Fund or NEF, which will offer historically disadvantaged communities the opportunity to buy units in the fund at a considerable discount.

Furthermore, each employee of a public sector corporation will be allocated shares to the value of R10,000 at the time when the company is privatized. The share allocation falls under the employee shareholder option programme, also known as Esop, negotiated between the government and trade unions.

Shares to both the NEF and Esop will be offered at a considerable discount to the price paid by other investors in privatized corporations. The discount has been matched on the shares, which is expected to vary from case to case.

The Department of Trade and Industry believes the NEF, along with the structure for the NEF, is needed to have asked Telkom for a 25% discount on its shares.

Financial advisers are also working out the details of how to make the schemes affordable given the average South African or civil servant is not terribly cash-rich.

Arrangements may include delayed payment terms, low-interest loans, or an interest-free salary advance to buy shares for a limited period. Return employees or buyers of NEF units will be prohibited from selling those shares for a fixed period to avoid speculative price variations.

The NEF is modelled on Malaysia's successful ethnically exclusive Bumiputra national unit trust scheme and is part of the government's strategy to make privatization more attractive to the majority of the population.

The NEF will be structured into three separate funds, according to proposals devised by the Industrial Development Corporation for government.

- The fixed fund is the investment trust, which will hold the bulk of the NEF portfolio. The fund will receive seed capital from government and will also rely on investment returns for diversification into other equity investments.

- A second fund, a so-called 'warehouse' trust, will be used to offer equity stakes in restructuring companies to black-controlled companies.

- The third fund, a target trust, will be used to invest in unlisted equity stakes in unbundled companies.

-The third element of the NEF will be an entrepreneurial trust financed by the IDC, other investors, the government, or other fund. This fund will take equity holdings in small and medium-sized companies owned by disadvantaged communities.

While the warehouse and entrepreneurial legs of the NEF are reserved for disadvantaged communities, the government is still debating whether to allow all South Africans to buy a stake in the investment trust.

"It is going to be a nightmare to administer the investment trust if a racial check has to be made on every applicant who wants to buy units," one source said.

Gert Goosen, the IDC's finance general manager, says it is important that the investment trust's portfolio is suitably diversified in order to offer balanced growth.

There is thus the danger that a 25% share of Telkom would dominate the fund for some time to come. The NEF's initial investment of a 10% interest in Telkom is valued at about R1.8 billion, although the NEF will probably buy the stake at a discount of about 20% and be offered deferred payment terms.

Once all holdings in other partners are included, and the NEF diversifies into private corporations, the required diversity should be achieved, Goosen says, adding that the NEF could also buy into unbundled conglomerates.
Call for closure of Transnet subsidiary PX

Lucia Mutikani

THE Road Freight Association accused Transnet of unfair competition yesterday and urged government swiftly to close or privatise its loss-making subsidiary, PX.

Association chairman Roger Naisby said that it was necessary to privatise or terminate some or all of PX’s activities. The division had been recording losses of between R400m and R500m yearly over the past three years.

“We see this as unfair competition in that anyone who can record that magnitude of losses must of necessity be a drain on the taxpayer or certainly be cross-subsidised by other divisions within the Transnet stable,” he said.

PX head Nico Heyns said recently that a huge restructuring at the company aimed at improving its financial situation had led to a backlog of about 25,000 parcels.

Heyns said the company was now trying to source additional manpower to deal with the backlog.

Naisby said that the association had, to some extent, similar views on Autonet, another Transnet division, which was competing in the road freight industry.

“We are aware that they are profitable, they have certainly not produced an acceptable return on capital invested,” he said.

“The fact that these companies are divisions of Transnet means that the taxpayer cannot establish whether there is, in fact, cross-subsidisation from the more profitable division of Transnet to those which are underperforming,” Naisby said.

Naisby said that while the association appreciated that government had identified the need to privatise a number of Transnet’s divisions, it was concerned that the process was progressing too slowly.

He said he understood the unions had expressed concern about potential retrenchment which might arise from the privatisation.

“We believe that if they (PX) have to privatise, which indeed they must with losses of R500m a year, the sooner they face up to the real price which has to be paid the better it will be for the taxpayer,” he said.

While many people saw SpoorNet as another area with which the association had a major problem, it viewed the parastatal as a potential partner, he said.

“We see it as an opportunity for intermodal freight transport co-operation. We do, however, have one concern with SpoorNet in that we believe that they are cross-subsidising the gross freight haulage from their more profitable bulk haulage of ores and minerals.

“This, we believe, is creating unrealistic competition in terms of haulage of general goods and forcing up the prices of haulage of bulk ores and minerals.”

He said government should look into the possibility of opening harbours to competitive businesses.

“Some of the rates being quoted for harbour activities and the handling of products, such as steel at Saldanha Bay, are unrealistically high and appear to be typical of monopolistic practices.”

He said it was difficult to put a figure on the losses incurred by the association’s members as a result of unfair competition from the parastatals. This could only be done through the intervention of the Competition Board.
Selloffs on the go again soon

Duma Gqubule

South Africa’s privatisation programme appears to have lost momentum after the spectacular R5.5 billion sale of a 30 per cent stake in Telkom to Thintana, a joint venture between Telekom Malaysia and SBC Communications, in March this year. But there could be another five companies on the block next year, according to a Reuters survey.

The privatisation programme was a key element of government’s growth, employment and redistribution (Ged) strategy. It was one of a package of policies designed to improve foreign and local investor confidence in the economy which had been dented by last year’s currency crisis.

One year later, Servaas van den Bergh, one of the authors of the Ged document, says “Improving investor confidence was one of the most important aspects of Ged in the medium term. Government has done well on this score, but I would like to see more speed on the privatisation front.”

The Telkom part-privatisation, a complex transaction, took less than a year to conclude after Jay Nadoo, the minister of telecommunication, took the process over from his predecessor, Palo Jordaan.

But Stella Sigcau, the minister of public enterprises, will conclude her department’s first privatisation (a relatively easy one) sometime next month, more than three years after she was charged with the responsibility of looking after many of the nation’s crown jewels.

Sun Air will be sold to one of four consortia which prequalified to submit non-binding offers for the airline. The consortia are Rehoboth/Comair, Bhekanga, Phoenix Venture Partners, and a group led by Malaysian Airlines. The government will pocket R50 million to R100 million for its 100 per cent stake.

In Sigcau’s defence, the privatisation process was only kickstarted on December 6, 1995 when Thabo Mbeki, the deputy president, said the government was ready to dispose of certain non-strategic assets. The labour unions were on the streets the following day — the government had forgotten to consult a key alliance partner before making the announcement.

After urgent bilateral negotiations between the government and labour, the two parties signed the National Framework Agreement in February last year which paved the way for the Telkom part-privatisation.

A second factor in Sigcau’s defence is that Telkom was the quickest national asset. There is not much in her department that will raise the temperatures of foreign investors. The proceeds from the privatisations over the next year will not be significant, analysts say.

Since the Telkom announcement, there has been little to report on, except the prequalifiers for the Sun Air privatisation. But there could be another five companies on offer next year after the Sun Air privatisation has been concluded, according to Reuters.

There will first be some unfinished businesses to take care of the sale of a further 10 per cent stake in Telkom to black investors by the end of the year. The biggest privatisations, which are possible next year include the sale of a 49 per cent stake in the Airports Company for an expected R1.2 billion, and the sale of an equity stake in South African Airways (SAA), the national carrier.

There are nine companies interested in the Airports Company, according to Reuters. The privatisation should be relatively straightforward because it has received qualified labour support. Randall Howard, the secretary-general of the Transport and General Workers’ Union, says “Airports are not a basic necessity used by most of our people.”

The SAA part-privatisation will be more complex. Unlike the Airports Company, which is in a healthy financial condition, the national carrier is expected to report huge losses (of about R233 million) in two weeks’ time.

The airline could be sold in one piece — SBC Warburg, the government’s advisor, values the airline at about R4 billion, sources say — or be broken up into companies, with foreign investors allowed to cherry-pick the international operations British Airways, Virgin and Deutsche Lufthansa have already expressed an interest in SAA.

Other state-owned companies which could be sold next year are Safcol, a forestry company which is valued at about R1 billion, Avengence, the holiday resorts company valued at R20 million to R100 million; Alexkor, a small Namibian diamond mine, and Autonet, a small Transnet road transport subsidiary.

Other big issues on Sigcau’s plate include the restructuring of loss-making Transnet, which could soon start selling off chunks of its subsidiaries to strategic equity partners, Denel, whose transformation should gather pace next year, and Falcon, which will not be privatised in the near future, but will start paying taxes.
Transnet hits back at claims of unfair competition

Lucia Mutikani

TRANSNET has shrugged off allegations of unfair competition levelled against it by the Road Freight Association (RFA), saying that the accusations are “nothing new”.

Last week RFA chairman Roger Naashy urged government to urgently close or privatise Transnet’s loss-making subsidiary, PX, which he said had been recording losses of between R400m and R600m a year over the past three years.

He also accused another Transnet division, Autonet, of failing to produce an acceptable return on capital invested.

Naashy said SpoorNet was creating unrealistic competition in terms of haulage of general goods and forcing up prices of haulage of bulk ores and minerals through cross-subsidisation.

However, Transnet media liaison and corporate marketing manager Tsami Didiza described Naashy’s allegations as “unfortunate”, saying he had implicated four of the parastatal’s divisions “without the necessary facts”.

“Transnet is a public company operating in terms of the Companies Act All Transnet financial obligations are therefore met through revenues generated by its operations and not taxpayers’ money as alleged by Naashy.”

Didiza said PX was operating on sound business principles, while Autonet operated in an open market and its rates and service levels were in line with market demands.

“The acceptability of Autonet’s returns produced is determined by the shareholder and (they) are in line with the shareholder’s expectations as agreed with the Transnet board.”

“The cost of capital to Autonet is determined by Transnet on the same risk evaluation as any tender would and with the expected returns.”

In response to claims of unrealistic rates for harbour activities, Didiza said Portnet had quoted preliminary tariffs for the Saldanha steel project based on estimates regarding capital investment. These tariffs had not been finalised.

“SpoorNet’s price to the market is determined in a responsible manner, like any other business with a profit motive. It is not in SpoorNet’s interest to help create a fundamentally unprofitable industry for the general freight,” he said.

“To the contrary, this segment is a substantial portion of SpoorNet’s business portfolio and SpoorNet is striving for a healthy industry that can facilitate long-term profitability, with sound competition.”

Didiza said SpoorNet was in the process of aligning its total business portfolio to world class business practice.

“This exactly excludes any cross-subsidisation strategy as part of an envisaged future.”

“SpoorNet’s transformation is closely linked to the revamping of the total regulatory environment, despite the apparent disregard for the current laws by many transport operators.”

“Government has made a principled decision to privatise non-core assets and the process is under way and will be fulfilled within the necessary timeframe,” Didiza said.
Privatised
telecoms
‘vital’ to SA’s
IT progress

Cape Town — The accelerated
privatisation of all telecommunications
services was vital if South Africa wanted to keep
abreast of international developments in information
technology (IT), two University of Cape
Town (UCT) academics said in an
article published yesterday.

James Hodge and Jonathan
Miller said in the latest edition of
UCT’s Trade and Industry Moni-
tor that the decision to partially
privatise Telkom with a five-year
exclusivity period could harm
the development of other informa-
tion infrastructures.

“For instance, the Council for
Scientific and Industrial Res-
search’s community information
delivery system based on wire-
less technology has run into
problems with Telkom when
attempting to move beyond the
pilot stage,” they said.

The present arrangement did
not provide a level playing field
in all services, they said.

“One example is the role of
Telkom as a network provider
and Internet service provider,
which has already led to allega-
tions of unfair competition
through hidden subsidies,”

Telkom responded to the allega-
tions by asking the South
African Telecommunications
Regulatory Authority to classify
Internet access as a basic service.
This application had failed.

These developments high-
lited the need for government
to adopt a regulatory environ-
ment that allowed for the rapid
growth of all telecommunications
networks, Hodge and
Miller said.

They said that while the
financial services and retail
sectors appeared to be making
the most effective use of infor-
mation technology, manu-
facturing was lagging behind and
needed to get up to speed if it was
to become competitive around
the world.

Given the low level of com-
puter literacy in South Africa,
especially among blacks, the
professional training and educa-
tion of IT users would also be
important, they said.
Telecoms privatisation urged

CAPE TOWN — The accelerated privatisation of all telecommunications services was vital if SA was to keep abreast of international developments in information technology, two University of Cape Town academics said in an article published yesterday.

James Hodge and Jonathan Miller said in the latest edition of UCT’s Trade and Industry Monitor that the decision to partially privatise Telkom but give it a five-year exclusivity period could affect the development of other information infrastructures.

“For instance, the Council for Scientific and Industrial Research’s community information delivery system based on wireless technology has run into problems with Telkom when attempting to move beyond the pilot stage,” they said.

The arrangement did not provide a level playing field in all services.

“An example is the role of Telkom as a network provider and Internet service provider, which has already led to allegations of unfair competition through hidden subsidies,” Hodge and Miller said.

Telkom responded to these allegations by asking the SA Telecommunications Regulatory Authority to classify Internet access as a basic service. This would have allowed it to continue providing the service regardless of the outcome of Competition Board investigations. The application failed.

These developments had highlighted the need for government to adopt a regulatory environment that allowed for the rapid growth of all telecommunications networks, Hodge and Miller said.

They said that while the financial services and retail sectors appeared to be making the most effective use of information technology, manufacturing was lagging behind and needed to get up to speed if it was to become internationally competitive — Reuter.
Johannesburg — The government intended to privatise 100 percent of PX, Transnet's loss-making parcel delivery subsidiary, and Autonet, the road transport operator, Mac Maharaj, the transport minister, said yesterday.

Transnet is expected to report huge losses next week after absorbing PX's R600 million deficit.

"PX has been put on the table with government saying it intends to wholly privatise it, as is the case with Autonet," Maharaj said.

But senior government, Transnet and trade union sources were annoyed yesterday that Maharaj had jumped the gun by announcing the privatisation of PX and Autonet before consultations with labour.

Tadiso Moshau, the assistant general secretary of the South African Railway & Harbours Workers' Union (Sarhwu), said: "It (the privatisation of PX) would have to be discussed at the National Framework Agreement's (NFA) transport sector meeting. We had an NFA six-party meeting last week and Mac said nothing about PX."

Sarhwu opposes piecemeal privatisation of Transnet subsidiaries. It prefers to negotiate a holistic strategy for all Transnet subsidiaries. But the union recently said SAA would be an exception to the rule because of its large losses.

A ministry of public enterprises source said: "The privatisation of PX is not on the agenda yet. It has not even been discussed." A senior Transnet source said: "This is news to me, just like a statement he (Maharaj) made last week that the ports would be privatised. Nobody would buy PX as it is. And the unions would kill me if they heard we were secretly planning to sell the company."
Competition Board to probe Telkom tender

Lesley Stones

THE Competition Board is to investigate a Telkom tender on grounds that it favoured one specific manufacturer.

Black-owned computer company Afro-Comp International (ACI) has forwarded more than a year's worth of communications with Telkom to the board to back up its complaint that the tender violated procurement regulations. The proposal, estimated to be worth more than R50m, cited specific models of computers, file servers and notebook PCs made by Compaq.

Board chairman Pierre Brooks confirmed yesterday that an investigation would be held. He said a government body was obliged to issue competitive tenders and if clauses precluded other bidders it obviously raised some concerns. "If tenders are anti-competitive we have to take complaints seriously. If a contract is drafted in a way that is company-specific that might be frowned upon," he said.

ACI MD Joey Fleming said he had referred the matter to the board at the urging of several other PC vendors equally unhappy at the way Telkom structured its tender. In addition to complaining directly to Telkom officials, Fleming had also lodged complaints with the posts, telecommunications and broadcasting and the public enterprises ministers.

"We have fought from the day the tender came out. I hope the Competition Board will investigate this blatant move to keep other computers out of Telkom," Fleming said.

Fleming said he did not have any complaint against Compaq itself, but against Telkom which refused to consider any other models.

The contract was awarded last week to Perastel and PC distributors Sourcecom, both suppliers of Compaq.
Big losses could force pace of change at Transnet

Stella Sigcau is backing the parastatal in the dispute with Mac Maharaj over its privatisation, write SVEN LUNSCHÉ AND DON ROBERTSON

TRANSNET looks set to report a record loss of between R250- and R750-million for the year to end-March 1997 when the state-owned transport giant releases its financial results tomorrow.

In anticipation of the large losses, some government sources are calling for an acceleration of Transnet’s restructuring and privatisation programme. But the pace of change led to a public alteration between Transport Minister Mac Maharaj and Public Enterprises Minister Stella Sigcau this week.

Transnet’s commitment to servicing its bank debt by cutting its pension and medical funds is likely to cost the group at least R1 4-billion in 1996/97 and wipe out any surplus funds that could arise out of potential combined trading profits of about R1 22-billion from its six main operations.

The overall trading profit hides a large loss at two of the operations — the PX parcel division and SA Airways.

The pressure on Transnet to increase its earnings was put forward by Maharaj in Friday’s budget speech. Maharaj was backed by the Transnet board and by Sigcau, who is responsible for Transnet’s spokesperson Wandle Zote said the ministers were concerned about the group’s performance.

Macaoza’s attack, which labelled Maharaj’s speech as reckless and as underlining the negotiation process with labour, brought to a head differences between Maharaj and Transnet/Sigcau about the extent of change at the group.

Government sources, how- ever, say that Maharaj’s proposals for the variances of directions at Transnet have generally been backed by his cabinet colleagues. The proposals include the full or partial privatisation of Autonet, PX, SA Airways, and Portnet’s harbour operations.

An inter-ministerial government committee, chaired by Deputy President Thabo Mbeki, will soon examine a master plan for Transnet. According to sources, the plan could entail the allocation of pension-fund deficits to the various operations and their subsequent ring-fencing.

This would provide potential investors with a clearer financial picture as well as eliminate cross-subsidisation.

The committee will also examine whether future investors could pay off the pension deficit instead of paying taxes, as recommended by the Finance Department.

Analysts are confident that Transnet will report a good overall profit from its six major divisions, but stress that its commitment to providing a R10 3-billion of debentures to raise short-term in the pension fund will wipe out any surplus funds.

They also warn that the financial provisions could be even larger. In the 1995/96 financial year, the total commitment for the pension fund and medical aid was R1 3-billion, which included an additional R175-million for increased operating costs including higher fuel prices.

A breakdown of expected earnings shows that SAA has set to post a loss of about R250-million as increased operating costs including higher fuel prices take their toll. This compares with a profit of R324-million in the 1996/97 financial year.

In the current (1997/98) financial year, although SAA executives forecast a return to the black.

In spite of efforts to restructure the PX parcel division, a loss of at least R500-million is expected compared with the R433-million loss in the previous period.

Executive director Peter Nthela said the division had hoped to keep losses down to about R475-million, but the provisions for 2 000 staff members who took voluntary retrenchment would increase this figure.

He added that PX would not be profitable until 2000 and that the loss in the 1997/98 financial year would be about R250-million.

Spoornet will probably show a profit of R350-million against a loss of R38-million in 1995/96, but only about R1 5-billion is expected compared with the R433-million loss in the previous period.

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Privatisation ‘set to gain momentum’

Robyn Chalmers

MAPUTO — Government could receive up to R2bn over the next year from the sale of several state assets, notably the Airports Company, finance department deputy director-general Andre Roux said at the weekend.

Speaking at a Société Générale Fransel Pollock conference, Roux said government had received almost R2bn over the past six months from an asset sale, and the process was set to gain momentum. The funds came from the sale of 26% of Telkom, although a significant portion was being used to expand telecommunications structure.

Roux said no projections had been done on how much the state was likely to receive from assets over the next five years.

“We have not included funds received from the sale of state assets into our deficit targets. Whatever is received, however, will go into debt reduction,” he said.

Government was likely to take a pragmatic approach towards the use of funds received from the sale of state assets. Depending on the needs of the various organisations, some entities could be sold and all the funds would go to the treasury while funds received from the sale of others could be re-invested — as with Telkom.

The sale of a 50% stake in Telkom was the first major privatisation exercise undertaken by government, and was likely to be followed by the 100% sale of San Air this year. Other privatisation exercises under way or on the cards included the sale of up to 49% of the Airports Company — to be concluded by next March — and the sale of tourism group Aventura.

Talks on the restructuring and possible sale of the SA Forestry Company have started while government has said discussions on loss-making parcel group PX, SA Airways and Autonet would be speeded up.

Roux said the issue of subsidising parastatals was under scrutiny, with government having eliminated the

Continued on Page 2

Privatisation

Continued from Page 1

subsidisation of some entities. The Post Office’s subsidy — which has averaged about R500m over the past five years — would continue for a limited period and Roux said the SABC had requested a subsidy to allow it to fulfil its mandate of a public broadcaster. However, any subsidy would be aimed at particular programmes rather than the entity itself.

Government was considering imposing a tax and dividend policy on Eskom — which is currently exempt — in a bid “to level the playing fields”.

Katz Commission head Michael Katz said the commission was keen to ensure that all parastatals paid tax and were corporatised.

“The argument that government has not taxed parastatals like Eskom in order to sell earnings and thereby get a better price for entities is not true. It’s just that there are complications, and the issue needs to be carefully considered,” he said.

See Page 3
SAB challenges inquiry

ROY COXHINE

Pretoria — South African Breweries' (SAB) lawyers have challenged the Competition Board's notice of its investigation into the company on procedural grounds for being "vague", Pierre Brooks, the chairman of the Competition Board, said yesterday.

The board announced early last month it had launched a formal investigation to determine whether SAB had a monopoly in the alcoholic beverage industry and whether any agreements or arrangements it had with anyone in the industry constituted a restrictive practice.

The notice, published in the Government Gazette, said the investigation would also attempt to determine if the shareholding that SAB has in any other enterprises operating in the industry or any representation it may have on the directorates of such enterprises, gave rise to a monopoly or constituted a restrictive practice.

The Government Gazette notice said the board's investigation would also focus on other issues, including:

- SAB's distribution system in the industry;
- Its licensing agreements with any person or group of persons;
- SAB's launching of brands;
- Agreements, arrangements or understandings not to compete with any other participant in the industry;
- Agreements with, or inducements offered to, any person relating to the allocation and position of space for particular products in alcoholic beverage retail outlets, and
- Threatening or acting against any existing or potential competitors in an improper manner.

At the time, Norman Adams, the managing director of SAB's beer division, welcomed the investigation and pledged the company's full co-operation.

SAB spokesmen were unavailable for comment yesterday.
Competition Board to scrutinise Pepsi sale

Johannesburg — The Competition Board would meet the liquidators of New Age Beverages, the failed Pepsi bottler, today to discuss the implications of selling the plant to one of the market leaders, Pierre Brooks, the chairman of the board, said yesterday.

Les Cohen, the liquidator of New Age, said Amalgamated Beverage Industries (ABI) and other large bottlers had looked at the plant and expressed an interest in acquiring it.

Details of the bids received for the bottling plant on the East Rand would be made available tomorrow, Cohen said.

Smaller bottlers have expressed concern that ABI might buy the facility, cementing its stranglehold on the local soft-drink bottling market.

One of the bidders, who is a member of a consortium of small companies, said they were relying on the board to break up the power enjoyed by large concerns.

Brooks said if the successful bidder had a greater market share than others, it would be appropriate to take action in an effort to maintain economic democracy.

He said the board had pointed out to the liquidators in writing the possible ramifications of selling the New Age facility to a large company. If the buyer was not consistent with competition policy the board would set in motion a process to stop the transaction. Even if the plant was sold, the deal could be undone.

An analyst said when the board looked at any deal it would have to take into account that South Africa was a country with a large concentration of conglomerates and was not a mature industrial society.

New Age was liquidated last month after attempts to find a buyer proved unsuccessful.
The Competition Board and the liquidators of New Age Beverages (NAB), the failed Pepsi bottler, reached an understanding of each other's positions during an exploratory meeting yesterday, said Pierre Brooks, the chairman of the board.

Brooks said the liquidators would keep the board informed on further developments relating to the sale of NAB's bottling plant.

"We promised each other to liaise as the event unfolds," Brooks said. "The liquidators said their responsibility was towards the creditors, who are owed about R39 million. The board has expressed concern that NAB's plant would be sold to industry leaders. Amalgamated Beverage Industries and Suncrush, cementing their stranglehold on the local bottling industry.

Sources said there was a possibility PepsiCo, the US-based beverage company, would seek to return to South Africa and might be interested in purchasing the plant." — Mopo Mopeli, Johannesburg
Board seeks temporary ban on Pulseline

Ingrid Salgado

A ban is being sought on the activities of Pulseline, the medical products company in which up to 180 anaesthetists are shareholders, pending the outcome of a Competition Board probe into whether it is anticompetitive.

Competition Board chairman Pierre Brooks said yesterday that the application by the SA Medical and Device Industry Association (Samed) to halt certain business operations at Pulseline was being investigated, and a decision would be reached "very shortly".

The anaesthetists last year bought shares in Pulseline, a Medhold-controlled company, retailing anaesthetic products, a move described by the medical equipment and private hospitals as monopolistic and unethical.

A recommendation to Trade and Industry Minister Alec Erwin on whether to act by imposing a temporary ban in terms of the Maintenance and Promotion of Competition Act would follow. The matter had to be finalised before the board could begin a more earnest probe into whether Pulseline was anticompetitive "It obviously requires urgent attention," Brooks said.

The board's investigation centres on whether shareholding by anaesthetists, who had access to major hospitals, would distort the market for disposable products used in anaesthesia.

The SA Medical and Dental Council said an investigation into whether the anaesthetists' scheme had breached the council's code of ethics was still in the preliminary stage. The council probe — separate from the Competition Board probe, although the two were co-operating — was initiated after a complaint by Samed, which represents manufacturers, importers and distributors of medical services. Samed alleged the scheme was monopolistic and unethical.

The medical council said it would decide whether Samed's allegations warranted further investigation after a meeting next month.

The anaesthetists hold their stake in Pulseline through Anaesthem, which owns 49.9% of Pulseline. The balance of shares belongs to pharmaceutical company Medhold which posted a 7.2% drop in attributable income to R1.86m for the year to April. The group said its investment in Pulseline had contributed to a 77% fall in operating profits.

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Privatisation of Sun Air looks doubtful

By Maxwell Plrilski

Delays in the privatisation of Sun Air have cast doubt on whether South Africa is serious about the restructuring of state assets.

Analysts suggest that the Government might be forced to abandon efforts to privatise the airline, a move which could question the Government's capacity to successfully manage its privatisation campaign.

Sun Air's privatisation was to have been finalised at the beginning of this month.

Concern

Concern about the pace of privatisation follows recent speculation that the Government might not want to sell Sun Air at a price below valuations determined by its advisers.

Initially it was believed that the Government could raise about R200 million from the sale of Sun Air before the figure was later revised down to R100 million.

However, it was rumoured last week that one of the two remaining bidders had offered less than R30 million for the airline. The two bidders are Rathabule/Comair Consortium and Phoenix Venture Partners.

Public Enterprises Ministry spokesman Mr Wandile Zote would not be drawn into discussing the possibility of the Government abandoning Sun Air's privatisation in view of current offers for the enterprise which are thought to be lower than expected.

A few months ago Public Enterprises deputy director-general Professor Sipho Tshabalala was quoted as suggesting that if offers for Sun Air fell far short of Government expectations, the sale might be re-negotiated.

Yesterday University of South Africa senior lecturer in the Department of Public Administration, Dr Frank Smith, who is an expert on privatisation, said although privatisation seemed to be on track, there "could be signs that the Government had its own problems."
Pretoria — The Competition Board has completed its investigation into alleged restrictive practices by the SA Forestry Company (Safcol), the parastatal to which the state's commercial forestry interests have been transferred.

However, Pierre Brooks, the chairman of the Competition Board, said yesterday other matters had prevented the report being discussed at the board meeting last week and it had been deferred to next month.

The investigation has delayed Safcol's proposed privatisation.
Partnerships unlock private sector resources for delivery

The emergence of public sector-private sector partnerships has become an increasingly pervasive international trend. While some problems have occurred, there is a growing list of successes. Although a limited number of such partnerships have been tried domestically, SA lags significantly behind many other parts of the developing world.

While this is problematic, it also provides SA with the opportunity to learn from international experience and to adopt international best practice.

Accordingly, SA is increasingly recognizing the importance of public-private partnerships in the delivery of services. Government has encouraged partnerships to address the country's development challenges. This requires that public and private sectors, as well as labour and communities, work together to achieve sustainable socioeconomic development.

Because the concept of public-private partnerships is relatively new to SA, a number of challenges need to be addressed in order to establish them in the infrastructure and service delivery arena. These challenges include:

- Lack of capacity at local government level to design and implement partnership projects.
- Financial constraints at all levels of government in relation to infrastructure backlogs and growing needs.
- Poorly functioning municipal administration and management.
- A culture of nonpayment for services and related poor quality of existing services.

The fundamental reason for partnerships is their capacity to unlock resources from the private sector in order to assist in delivery of the basic infrastructure goals of the reconstruction and development programme. Massive infrastructure backlogs and upgrading needs are beyond the capacity of the public sector to deliver alone.

Characteristics that allow partnerships potentially to make a positive contribution to government's objectives in providing municipal services include:

- Unlocking investment capital from the private sector.
- Promoting efficiency and effectiveness.
- Providing access to nonfinancial resources.
- Continuing fiscal and macroeconomic benefits.

However, major concerns regarding public-private partnerships have been expressed in SA. And it must be acknowledged that private sector involvement in what are traditionally public sector functions can lead to problems.

Some of these are:

- Loss of sovereignty. Delegating local government functions to private sector operators implies some responsibilities must be handed over for a specific period of time. It is usually possible to accommodate these concerns through contractual arrangements for key areas of responsibility.
- Job security. Organised labour is rightfully concerned about the loss of jobs associated with private sector involvement. In many countries, like the UK, privatisation of municipal assets has disadvantaged workers considerably. However, our proposed scale of expansion of municipal infrastructure means that there will be a net increase in employment in the municipal sector even with private sector involvement. Indeed, some partnership arrangements in SA have improved worker conditions significantly.
- "Cherry-picking." The profit motive and risk aversion of private operators means that they are often inclined to service affluent communities and exclude communities which have problems meeting service charge payments. Such "cherry-picking" can be conclusively avoided by contractual obligations.
- Profiteering and corruption. The awarding of contracts can be associated with corruption of politicians and officials. It is important to ensure a sound competitive process that is open to public scrutiny.

Local authorities entering into partnership arrangements might not have the necessary skills and capacity to address all of these concerns, but it should be possible to ensure that correct approaches are adopted through a regulatory framework.

This framework must ensure that benefits accruing for partnerships are actually achieved, that consumers are protected, and that the problems are avoided. It must create an environment conducive to private sector activity while at the same time achieving government's socioeconomic and macroeconomic goals.

Some of the following are aspects of the constitutional development department that meet a proper regulatory framework:

- Good governance (accountability and transparency);
- Protecting consumers (standards and tariffs);
- Efficiency (competition and periodic regulations);
- Monitoring performance, and
- Involving stakeholders.

The department is acutely aware that the success of public-private partnerships depends on building good relationships among all stakeholders. These include labour, local government, business and nongovernmental organisations. To this end, the department has been consulting all stakeholders to ensure success and has put a comprehensive policy programme into place.
New unit will help local govt in partnerships with private sector

Deborah Fine

A MUNICIPAL infrastructure investment unit is being set up by the provincial affairs and constitutional development department to help local authorities to engage in service delivery partnerships with the private sector.

Municipal economic development and partnerships director Moeckota Mosola said last week that the unit would provide top level technical advice and support to local councils wanting to enter into public-private partnerships to speed up the creation of municipal infrastructure and acceptable levels of service delivery in their areas of jurisdiction.

Apart from advice about issues such as tenders and the drawing up of contracts to give adequate protection and safeguards to local authorities and ratepayers, the unit will offer financial grants to assist with feasibility studies, tender procedures and hiring private consultants to oversee the partnership process.

The unit will include a board made up of members of the national finance and constitutional development departments, the Development Bank of SA, the SA Local Government Association, investors and donors. The board will act as trustees for the unit's grant fund, which had already been allocated R20m in addition to donor funds.

Mosola said the department hoped the unit, which would also provide the necessary technical assistance to local authorities, would be fully operational by the end of October.

The unit's creation followed an acknowledgement by government that the public sector simply did not have the funds and other resources to create bulk infrastructure and deliver municipal services at the required rate.

Involving the private sector would bring additional capital, management capacities and technical skills into the delivery process. Private sector involvement could also bring about service delivery improvements, cost-efficiency and recovery.

Government was thus encouraging local councils to consider private sector partnerships by means of 25 to 30 year concessions or 6 to 10 year leases whereby private companies would manage and operate infrastructure facilities on the council's behalf at commercial rates. Firms would derive income and recoup capital spending directly from service tariffs.

Other public-private options included service or management contracts by contracting out specific operations and maintenance activities. Such contracts could be used for the operation and maintenance of standpipes, meter reading, billing and collections, park and garden maintenance, refuse removal, ticketing, cleaning and catering.

Provincial Affairs and Constitutional Development Minister Valli Moosa has stressed, however, that final responsibility for service delivery would always remain with local authorities.

For this reason his department had set up the new investment unit to ensure that inexperienced local authorities were not "left at the mercy of unscrupulous profiteers" who could seek to draw up "one-sided" partnership contracts with which to exploit both councils and ratepayers.

In addition, his department was also devising a regulatory framework for such partnerships.
Privatisation plan to save ailing province

CAROL PATON

THE Northern Province may privatise a number of government enterprises in an effort to save the provincial administration.

This proposal was made by Premier Nqoko Ramathodi a week after a provincial audit report compiled by the Department of Public Service and Administration described his 125 000-strong provincial administration as being "on the verge of collapse".

Other radical reform proposals made public by Ramathodi and his cabinet this week include:

- Cutting the size of the public service;
- The reconsideration of all capital projects already planned or under way;
- The appointment of financial managers in government departments;
- A moratorium on the purchase of vehicles and stringent measures to curb the misuse of vehicles; and
- Cutting back on telephone bills and other unnecessary expenditure.

Heads of department will also be made accountable for finances and overspending in their own departments.

In July the Semenya commission identified widespread financial mismanagement, chaotic administration and a failure to follow accounting and tender procedures.

However, no one was found guilty of corruption.

A spokesman for Ramathodi, Kenny Mathiva, said that assets that were likely to be privatised included the Gateways International Airport, 25 game farms and the Northern Province Development Corporation. Non-core government functions such as laundry and catering services would also be privatised.

Other government activities may be continued in joint ventures with the private sector. One example of these are the proposed "peace parks" — nature conservation areas on the borders of Botswana and Zimbabwe — which are to be developed for tourism.

Ramathodi has also ordered the temporary suspension of the building of a multimillion-rand government complex in Pietersburg.

All government departments will be asked to examine their functions to determine which can be privatised or outsourced.
Big march may halt services

FRANK NXUMALO

Johannesburg — More than 20 000 South African Municipal Workers' Union (Samwu) members in Gauteng are expected to take part in today's march against the privatisation of municipal services.

The action is expected to cripple local government services across the province.

Workers will gather at the Library Gardens in central Johannesburg this morning and will be addressed by Roger Rome, Samwu's general secretary.

They will march to the offices of the MEC for local government in Sauer Street to hand over a memorandum calling for "an immediate moratorium to be placed on all major contracts currently under negotiations between the private sector and local authorities".

A union spokesman said at Samwu regional meetings last week leaders expressed their members' frustration at the apparent "continued local and provincial plans to privatise services", and they have endorsed a call from members to take the battle against privatisation "to the employers' doorstep".

The spokesman said Samwu's central executive committee also gave "their whole hearted support" to the march.
Everyone gains from rail concessioning

"Metro Rail is now on an equal footing with Spoor-net, Portnet and Autonet.

The South African Rail Commuter Corporation (SARCC), a state corporation formed in April 1990, is dipping its toes deep into the privatisation waters. Established to provide rail commuter services to the people of South Africa, SARCC operates Metro Rail Services, which employs more than 10 000 people, under contract to Spoor-net.

Wynand Burger, the managing director of SARCC, has been restructuring the corporation along commercial lines.

"In the early days, the regional Metro managers fell under Spoor-net. It had to change. First we merged the regional activities. The suburban activities were completely divorced from other Spoor-net activities. At the same time we ceased to establish, together with Spoor-net, its Metro Rail head office. I am proud to have been part of that transformation process," says Burger.

The result was a properly structured Metro Rail head office. Spoor-net's influence was reduced, with the Metro Rail regional offices reporting direct to SARCC's head office. Earlier this year, Metro Rail became an independent division of Transnet. The Metro Rail now ranks pari passu with Spoor-net, Portnet and Autonet.

John Spiia

"With Spoor-net having been established as a separate entity within Transnet, the six Metro Rail regions are well defined. We are a small, lean and agile operation. We regard ourselves as an agent of central government's department of transport."

SARCC owns all Metro Rail's assets and provides all capital funding, which stands at R3 billion. A year plus a subsidy of R1.6 billion a year.

Metro Rail is a contractor, running the suburban services on SARCC's behalf.

The privatisation story begins with the concept of concessioning, which Burger regards as a crucial factor in SARCC's future because it opens up the possibility of bringing in private sector consortia or joint ventures to run suburban services on a cost-recovery basis on SARCC's behalf.

"We would retain ownership of the assets but entrust the operation and maintenance to someone else," says Burger.

SARCC's concessioning strategy takes a leaf out of the Argentinean model employed in Buenos Aires, which sold its metro rail assets and split the country up into 26 operational, franchised units with franchises extending from seven to 15 years.

Burger says that from the start many of those units broke even, with some paying dividends to the government from their profits, at which stage the subsidies they had been receiving were discontinued.

"The successful franchises have achieved profitability through efficiencies, improved services and higher passenger loads. It has been working well."

As one of the first steps along a similar road, SARCC intends the agreement it has with Metro Rail until December 2001, however, it will maintain the status quo with the exception of what it has styled "a demonstration project."

"We have an agreement with the unions and the Metro Rail management until the end of 2001 that we will keep them on as contractors, but not on the old agreement, which is mostly cost and input based. We're busy finalising a new agreement, all with the same contract, but operating under new criteria that will be mostly delivery based," says Burger.

"In other words, we will measure service. Inputs won't be measured in such detail, the agreement being that input is reflected in the output. At the end of the day, we'll either penalise them or reward them.

"This way we'll be sure that we and the taxpayers are getting value for money."

In the meantime, the demonstration project is attracting keen attention. "We still have to decide the margins and locality thereof. It has to be representative of the kind of business we run. We can't cherry-pick the bus and have no challenges, but it has to be attractive enough for outsiders to operate. The idea is to throw it open to public tender towards the end of this year or early next year."

Burger expects tenders to be forthcoming from national and international sources, with the successful tenderer becoming operational by the middle of next year on a 10-year concession basis.

"Taking a line through the passenger numbers and the revenue, and looking at our total business, it is possible that about 10 percent of the current business will be set aside for the demonstration project. Metro Rail will run the other 90 percent in the meantime."

Will Metro Rail staff be involved in the demonstration project?"

"Very likely so I expect, though a large proportion of the affected people will be accommodated within the demonstration project. Those who aren't will probably be accommodated within Metro Rail."

For the next five years at least, Metro Rail will be able to benchmark itself against the demonstration project and vice versa. At the end of the five years, and this is perhaps the bottom line, we will open up the rest of the country, including Metro Rail, to the private sector. At that stage, Burger hopes, Metro Rail will be so efficient that it will be in a position to get some of it not all, of the concessions.

Burger is acutely conscious of the need to avoid perpetuating the "old civil service attitude."

"If that happens, we won't move forward. If not, people will work harder and smarter because of the threat of competition. There's nothing better than that to keep people on their toes."

"At the end of the day, all will be in the street benefits from a more efficient service, the taxpayer benefits from the privatisation process, and the private sector gets the opportunity to participate. Ideally one would like to see these things happen overnight, but it will be a long-term process. In the meantime, the service should steadily improve."

"Our revenue has improved dramatically over the past four years, partly from improved efficiency. If I were an outsider I would certainly start preparing myself for a concessioning investment down the line."

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"For the private sector to run suburban routes on contract, SARCC paves the way. Everyone gains from rail concessioning."

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**Rumbles from unions over Sun Air sale**

**Robyn Chalmers**

LABOUR would support halting the Sun Air privatisation process as it had failed to meet a range of objectives, including attracting a capable international trade partner, high-level sources close to Labour said at the weekend.

This followed a report that the Rethabile-Comair consortium was the sole bidder negotiating with government for the 100% sale of Sun Air.

A Labour source said as far as Labour was concerned there remained two bidders in the process — the Rethabile-Comair consortium and the Phoenix group — which had put binding offers before government.

"No evaluation or negotiation has yet been done on the final offers by the restructuring and transformation committee despite repeated attempts to get government to do so," said a source if the Rethabile-Comair consortium was the sole bidder, this had been an unilateral decision taken by government and was not in line with the agreed procedure. This would not be accepted by Labour and it would have to consider "further options and actions."

The source said Sun Air "should not become a political football to satisfy government's privatisation agenda."

Public enterprises minister spokesman Wandile Zote denied that government had taken a unilateral decision on the bids, saying discussions were under way and a decision still had to be made. "We will meet today to make a final decision and (government's official adviser) HSBC is confident the deal will be clinched today."

Transport ministry spokesman Didi Moyle declined to comment, saying discussions were taking place and a statement would be released soon.

Labour sources said the Rethabile-Comair consortium was not Labour's first choice because of the involvement of Comair, which was Sun Air's main competitor. "We need to be mindful of the future implications that the involvement of Comair potentially has for the viability and sustainability of Sun Air," the source said.

Another Labour source said that Telkom had ended up with only one bidder and Sun Air appeared to face a similar situation. The difference, however, was that the Telkom bidding consortium was a capable international trade partner and was able to meet the privatisation objectives.
Patrick Wadule

PUBLIC Enterprises Minister Stella Sigcau has set further targets for the privatisation programme, saying SA Airways (SAA) should be restructured by next year and restructuring at Eskom has kicked off.

At an Engen development forum on privatisation and empowerment, Sigcau said government had a major political commitment to the privatisation process. The right macro-economic conditions were prevailing and effective regulatory mechanisms were being pursued.

She said that in view of the importance of SAA as a national asset and the highly competitive market within which it operated, the restructuring of the airline had to be considered a priority.

Government had started on its "corporatisation" and expected the restructuring of the national airline to be completed during next year.

"Transparency is the key to the process and government has started with the process in earnest and is never going to look back," she said.

On Eskom, discussions with relevant stakeholders within the distribution industry had taken place and a task team was to be appointed to move the process forward.

"The restructuring and transformation committees within Eskom have started working on the restructuring process," she said.

Eskom was committed to maintaining its position as one of the world's lowest cost providers of electricity for growth and development. "This will continue to create investment opportunities for infrastructure development in the region, in particular as far as electricity initiatives are concerned," she said.

The restructuring process at Alexkor was at a fairly advanced stage with options for its restructuring due to be taken to the interministerial cabinet committee. The committee had endorsed the introduction of a strategic equity partner for the Airports Company, with a stake of up to 49% initially up for sale, and had also agreed to its listing within two years.

Some form of restructuring at the SA Forestry Company would be achieved by the end of this year or early next year, while a similar timetable had been set for Aventura, the state-owned resort centre.

"In the government's macro-economic strategy, privatisation is regarded as one of the elements key to economic growth, job creation and wealth redistribution," she said.
Council workers' jobs 'not at risk from privatisation'

Pule Molebeledi

THOUSANDS of council workers who took to the streets yesterday in protest against the proposed privatisation of municipal services were assured by the Johannesburg metropolitan council that their jobs were not at risk.

The undertaking came from greater Johannesburg metropolitan councillor Patrick Flusk, who was addressing members of the SA Municipal Workers' Union (Samwu).

The workers said the privatisation of some responsibilities of local government would result in job losses and lead to the deterioration in the provision of services.

Flusk said negotiations with the union were continuing on the restructuring of the council which was in a financial crisis.

He questioned the continued subsidisation of the airports, petrol stations and beer halls by the council. "How could we pay you better when we are subsidising services that have got nothing to do with council?"

Samwu's Gauteng secretary Victor Mhlongo said the union opposed government moves to involve the private sector in the provision of basic services. He said the union would canvass support from the African National Congress, SA Communist Party and labour federation Cosatu.

Samwu also sought the intervention of Gauteng development, planning and local government MEC Scego Shokeka. They handed over a memorandum which was accepted on Shokeka's behalf.

Council spokesman Mxolisi Ngqunyana confirmed there were plans to privatised. He said the council would apply a "no work, no pay" policy to those workers who did not report for work.

He said the march had not affected the provision of essential services, as measures had been put in place to minimise the effect of the protest.
Govt clinches Sun Air privatisation with R50m deal

By Lukanyo Mnyanda

SA had completed its first full privatisation with the sale of state-owned airliner Sun Air to the Rethabile/Comair consortium in a deal valued at R50m, the transport and public enterprises minister said yesterday.

The Rethabile empowerment consortium and black-owned investment company Co-ordinated Network jointly would hold a 55% controlling stake, with Comair acquiring 25%.

Sun Air employees would take up 5% through an employee share ownership trust while the remaining 15% would be earmarked for the National Empowerment Fund set up for black investors.

Government said it would continue negotiating with the consortium with a view to finalising a share sale and purchase agreement.

The successful bid, subject to "certain conditions precedent", placed a R50m value on Sun Air's equity and incorporated "positive provisions" for the company's employees. Sun Air had interest-bearing debt of R47m.

Sun Air's sale represents SA's first successful full privatisation following the partial sale of Telkom which raised more than $1bn.

The R50m was at the lower range of expectations and government initially expected a price between R50m and R100m.

The sale, to the sole bidder after the Phoenix group withdrew from the race, followed concerns expressed by labour which said at the weekend it would support the halting of the process as it had failed to meet a range of objectives, including attracting a capable international trading partner. Labour sources said the transformation committee had not evaluated or held negotiations on the final offers, despite attempts to get government to do so. The sources declined to comment yesterday.

Government said that the consortium believed that Sun Air represented a sound base which would yield "exciting" earnings growth.

See Page 4
Board will not probe claims of collusion

Lucia Musinkal

THE Competition Board would not be formally investigating key players in the nuts and bolts industry for possible price collusion because a similar investigation had been carried out about 13 years ago, executive director Wouter Meyer said yesterday.

The board had received an anonymous complaint against the nuts and bolts industry in July alleging that the key players had colluded to increase their prices by about 30%.

"We are not doing a formal investigation. "We cannot undertake another investigation because an investigation into collusion has already been done," Meyer said.

"In 1985 we did an investigation and made recommendations to the (trade and industry) minister which resulted in a notice being published in the Government Gazette prohibiting cartels.

"The enforcement of such a prohibition does not lie with the Competition Board, but with the SA Police Services and the attorney-general's office.

"The prohibition of collusion applies to all industries."

However, he said the board would see if it could gather information and enough evidence to refer the case to the police for prosecution.

"It is extremely difficult for us to gather information because we need somebody to come up with a copy of an agreement or a tape indicating the market players colluded to increase prices," Meyer said.

"We really need anybody who has proof of collusion to lay it before us or the police."
Govt considers privatising printing works

Lucia Mutikani

GOVERNMENT was considering privatising its printing works, with a decision expected by the end of next year, government printer Mesuh Dondolo said yesterday.

The Government Printing Works was drafting the tender documents for a consultant to advise it on whether privatisation was feasible.

All over the world governments are relinquishing control of printing and privatising these institutions. The home affairs department, to which the printing works belongs, is investigating this trend," he said.

The printing works might approach the Printing Industries Federation of SA to make available a suitable official to assist in the selection of the tender.

Meanwhile, Dondolo said the printing works was in the process of acquiring digital printing technology for production of confidential material in an effort to improve security.

The technology would also help to reduce wastage.
Breaking out of the debt trap

It seems like simple arithmetic, but nobody’s doing the sums

The cost of servicing SA’s debt has tripled over the past six years, doubled over the past four and could be the biggest expenditure item in next year’s Budget. But there is a way out, says the Democratic Party in its economic policy statement, released this week.

If R20bn worth of public corporation assets were to be privatised, the State’s financial equilibrium could be restored at one stroke. By way of illustration, the statement looks at this year’s Budget figures.

Government’s borrowing requirement would drop from R37bn to R17bn in the year — a reduction of 54%. The cost of servicing debt would go down from R39,6bn to R36,6bn to start with, a saving of R3bn.

“The massive reduction in the borrowing requirement would push interest rates down significantly,” says the DP, “and bring about further reductions in the borrowing requirement and debt servicing costs.”

This would reverse the spiral of debt and debt servicing, liberating government from the debt burden it inherited from the previous administration and freeing funds for government’s real priorities: education, health and development.

The real benefits, as the multiplier effect of better health, greater skills and more effective social infrastructure works its way through the economy, are incalculable.

The DP advocates the sale of government’s shareholding in Iscor, Sasol, Alusaf, the Airports Company, Alexkor, Autonet, Abakor, Armscor, Aventura, Denel, Petronet, Portnet, PX, SAA, Safcol and Soekor before the end of 1998.

Ethel Hazelhurst

Financial Mail September 5, 1997
Sun Air sale raises crucial issues

The first round of privatisation in SA has revealed procedural problems which need to be addressed, writes specialist writer Robyn Chalmers and labour reporter René Grewitzky.

This recent agreement on the sale of Sun Air raises crucial questions about the future of SA's privatisation initiative, a programme which is integral to government's overall economic policy.

Government, under enormous pressure from business to be seen to be implementing its growth, employment and redistribution (Grew) strategy, is facing pressure also from the same source to ensure its privatisation programme gains maximum momentum.

It is being argued in some quarters that the privatisation may have been a factor in government pushing through the sale of Sun Air. Cross-government revenue has been significantly lower than expected short- and long-term debt.

It is becoming clearer the " secretive" bidding process employed is flawed as it allows bidders and government to manipulate public opinion, leaving confusion and anxiety in its wake.

Valid or not, serious questions are being raised about whether the bidding process is above board or whether it is falling victim to political maneuvering in the usual manner.

As with Telkom, government effectively pulled up negotiations with a single bidder for the 100% sale of Sun Air. The full explanation and understanding offered by the government and any which many believed would signal the start of real commitment to privatisation.

Questions about government's real intentions on privatisation have been raised mainly because it has taken to get the process off the ground (see Deputy Prime Minister Thabo Mbeki outlined government's policy on privatisation in December 1998, months after South Africa had pulled out of the Sun Air sale before government officials announced that Sun Air was placed on the block in order to protect the pre-sale SAA sale - could have caused Vunge and other international companies to stay away. If, however, SAA had been sold first, leading international bidders were likely to have stepped in at Sun Air more favourably, and the pressure would have been on the government.

Government argues that it is well satisfied with the deal it received for Sun Air, when bidders assumed by the winning consortium are taken into account, it received close to R10 billion for the airline along with a range of other concessions.

Objectives

The State Enterprises Minister Stella Matshikane says while the focus of government's policy is to use privatisation proceeds to reduce state debt and fund the huge costs of infrastructure, there are several other objectives as well.

These are: to create wider ownership in the SA economy; promote employment; enhance competitiveness and promote fair competition; facilitate growth, and assist in meeting the basic needs of the population and the objectives of the reconstruction and development programmes.

Government has been criticised in certain quarters for the apparent delay in the restructuring process. However, these delays reflect the concern of government to consult all stakeholders, says the Minister.

As for the restructuring programme, concerns about government's objectives and the over-riding objective is to restructure the state-owned sector into a mixture of efficient, well-managed and financially independent companies capable of providing goods and services at affordable prices to all SA, particularly the previously disadvantaged.

Chalmers government is committed to consulting all stakeholders on the restructuring process under way. The sale of Sun Air raises crucial questions for labour, particularly the extent to which it can influence the process and whether the involvement of union investment companies in bids could create a conflict of interest.

The National Framework Agreement (NFA) signed last year outlines the commitment of labour and government to restructuring. However, some would argue that labour failed to secure a broader role for itself in the process. The NFPA's role and participation in "policy formulation processes" but it is silent on its role in the transaction phase - perhaps the most crucial phase of the whole process.

A union source says the Sun Air deal was a total "disappointment" for the union and identified the "blind spot" in the transaction phase - perhaps the most crucial phase of the whole process.

Final transaction phase of the SAA deal in London. A labour source says that, despite this, it was kept in the dark about the final bid plan and certain decisions and documents.

In the case of Sun Air, labour was totally excluded from the transaction phase, which a labour source says is like "a horse as a nurse in the whole restructuring process".

Union analysts believe that should be involved in the negotiation of the outcome and not merely in the process. In the case of SAA, it was taken for granted that the Blaas will not be placed solely at the door of the government. In some instances, labour has been rejected to positions proposed by government and not pursuing its own clear position.

It is important, says a union source, for labour to be involved in the transaction process so that it is where it is in the process.

The source said that at the beginning of the process they tried to get assurances from Sun Air that any agreements reached on these issues would be binding on the buyer. At that stage it was conveyed that this could prove to be difficult.

The final transaction phase is secretive and not transparent. The source, labour, is not sure whether prior agreements reached with Sun Air and the labour union have been taken on board by the buyer. A reason given for keeping labour out of the transaction process was that, at that stage, all the information was needed to protect the whole process.

Involvement

The SA Railway and Harbour Workers' Union (SARWA) says it wants agreement on a five-year retraining clause if the buyer had problems with this, the union would have been prepared to negotiate on this issue. In the middle of this exclusive process, however, SARWA removed itself from the restructuring process because the investment arm was part of the Virgin Group, which owns the majority of the bidding.

SARWA says government needs to be more sensitive to its attempts to make sure that the new owners invest in the workers and the investment arm.

As the privatisation programme unfolds, it is becoming clearer that weaknesses need to be addressed. Failure to do so could lead to government discarding its own programme.
questions for labour, particularly the extent to which it can influence the process and whether the involvement of union investment companies in bids could compromise labour.

The National Framework Agreement (NFA) signed last year outlines the commitment of labour and government to restructuring. However, some would argue that labour failed to secure a broader role for itself in the process. The NFA assures labour's participation in "policy formulation processes" but in essence, it is still unclear what its role in the longer term will be, whether it is necessary to achieve a "Chinese wall" does exist between the union and its investment arm.

As the privatisation process unfolds, it is becoming clear that weaknesses need to be addressed. Failure to do so could lead to government discrediting its own process.

Labour, on the other hand, has been more proactive in its attempts to influence the process if it is to avoid government overruling it.
KWV and Hanekom settle dispute

Samantha Sharpe

CAPE TOWN — Wine co-operative KWV's privatisation plans will go ahead following an out-of-court settlement with Agriculture Minister Derek Hanekom, which will result in KWV paying R477m to a new nonprofit company responsible for management of the industry.

The parties have been at loggerheads over KWV's plans to restructure into a private company, with the establishment of the section 21 Wine Industry Trust, effectively smoothing the conversion process. Government claimed in court papers that it was entitled to certain assets KWV had accumulated as a statutory body.

In terms of the agreement, KWV will pay R477m to the trust over a 10-year period, of which R200m will be from annual subscriptions and R277m a contribution to financial and running costs. Additional input from other industry players is expected to grow to more than R500m.

The agriculture ministry will retract its opposition to the restructuring plans and assist in the acquisition of appropriate land for viticulture and other development purposes.

In a joint statement yesterday, the ministry and KWV said the funds would be used for research and advisory services, encourage training, support the wine industry's export drive, promote the entry of new farmers and other "various services…especially to the labour community on wine farms."

The trust would be managed by a board of directors representing interested wine industry parties as determined by the minister and run by a professional manager and a small staff complement appointed by the board.

KWV MD Willem Barnard said industry services already provided by KWV and the SA Wine and Spirits Exporters' Association would be contracted out by the trust on a tender basis, following a five-year transition period, during which KWV would continue to manage the industry. This would prevent duplication of services.

On the investigation by the Competition Board into KWV, Barnard said this would probably form the basis of the trade and industry minister's plans to restructure the Wine and Spirit Control Act. "Competitive positioning and partial industry stratification will form part of that exercise."

He said KWV, while under no formal obligation to do so, would use the privatisation process to fund expansion internationally and would not attempt to compete locally — the possibility of which had raised alarm among local distributors.

"The international market is far more attractive than the domestic market, especially given the benefits of a weaker rand, and as such a huge market that our ability to win market share at little additional... spend is very good."

Hanekom said he was pleased with the new development, as well as with KWV's contribution, and he was happy to withdraw his opposition to the KWV's conversion into a company, which is scheduled for December 2.

"No single party is claiming victory, jointly this is a great victory for the wine industry and for our country."
Sigcau details Transnet restructuring

By SVEN LUNSCHIE

PARASTATALS

be scaled back next year once the privatisation programme "is fully in place".

Sigcau has had a difficult few months. Calls have been mounting for an acceleration of the privatisation plan and for her department to cede authority over parastatals to operational ministries.

Late last year Sigcau said up to seven parastatals could be privatised this year. She now concedes that only two will materialise (30% of Telkom and Sun Air).

"The process has been slower than we had wanted, mainly due to unforeseen events such as land claims against the SA Forestry Company, and we have bent over backwards to accommodate the unions," she said. "But the end result will be that we will not regret any of the planned sales to the private sector," she said.

Transnet is at the heart of Sigcau's restructuring process. In terms of the masterplan, which Sigcau said would be concluded by next month, governance structures would be introduced at Transnet over the next few months. Most divisions would be set up as separate companies with their own board of directors "ideally led by a chairman from the private sector." The Transnet board would be retained.

The government is also set to take over the pension fund liabilities for Transnet's pensioners.

Sigcau said the corporatisation of South African Airways, which reported a R2350-million loss for 1996/97, was expected to be completed by March. This would be followed by its 49% sale, a percentage still to be ratified by Cabinet.

Sigcau said government had proposed the 100% sale of Autonec, while restructuring at loss-making PX would continue.
Guide details success stories of municipal ‘privatisation’

DEBORAH FINE

SEVERAL SA local authorities had contracted out certain municipal services to the private sector, which had resulted in notable savings, prevention of retrenchment, creation of jobs and more effective delivery.

This was according to guidelines developed by the National Business Initiative and First National Bank’s Development Investment Unit to inform local authorities about alternative methods of service delivery and private sector involvement in line with global trends.

Government has committed itself to private-public sector partnerships as a means of leveraging funds, management and technical expertise to meet SA’s huge demand for municipal infrastructure and provision of basic services.

The move has been criticised by organised labour, which has expressed concern that privatisation would lead to retrenchments, increased service costs and loss of state control over essential services.

The guide, however, cites a decision by the Benoni Town Council to contract out its fire and emergency services operation to a private company in 1992. Stringent performance standards, financial penalties should the standards not be met and the presence of two city councillors on the company’s board has enabled the council to effectively monitor the service.

At the time of the takeover the company took over all 178 people employed by the council to carry out the service, with no loss of benefits. The company’s staff had since risen to 200, with staff owning 20% of the company’s shares.

The contracting-out had resulted in estimated savings of R16m for the council over the first contract period of five years. The contract was renewed earlier this year.

The Stilfontein Municipality, near Klerksdorp, had opted to privatise its town engineering department to prevent re-trenchment of half of its staff in 1990 when operating costs exceeded budgetary allocations.

The company took over the department’s 182 employees, offering similar salaries and benefits. The company is obliged to maintain water, roadworks, stormwater systems and kerbstones and has saved the council an estimated R1m a year.

The Springs Town Council, also on Gauteng’s East Rand, had elected to open its bus transportation services to the private sector in 1993 as a result of annual losses of about R2.4m. Contracting out the service had saved the council an estimated R2m a year in capital expenditure. In addition, the council earned extra revenue by leasing out its bus terminus, depots and offices to the company. Service standards were monitored.

The guide said it had been acknowledged that “the role of local government is not to do everything but to make sure everything is done”.
Councillors under siege over plan to privatise cleaning

NORMAN JOSEPH
City Reporter

About 50 municipal workers disrupted a Tygerberg executive council meeting in Parow, keeping councillors and officials under siege for more than three hours.

The workers, members of the South African Municipal Workers' Union, and shop stewards from various branches, demanded that a council decision to privatise the cleaning department in Khayelitsha be reviewed with the union's involvement.

A large contingent of municipal law enforcement officers tried to keep the protesters outside the municipal building in Voortrekker Road during the meeting yesterday. But they forced their way into the council chamber, driving several councillors to their offices.

Andre Adams, chairman of the union's Tygerberg branch, told the remaining committee members that if a private company took over cleaning in Khayelitsha, most of the 230 workers would lose their jobs.

Mr Adams told committee vice-chairman Vuyane Ngcuku that the private company, Billy Hattingh Refuse Removal System, could employ only 117 casual workers at R1,000 a month. They would have no benefits, like a medical aid or a pension fund, and could not be sure of permanent jobs.

Mr Ngcuku told the protesters their actions were unacceptable, and promised that their grievances would be addressed later.

But union members, chanting and singing, demanded that the committee make an instant ruling that the decision be reviewed at a meeting with the union.

Mr Ngcuku called off the meeting, saying there was no quorum.

As councillors gathered in another room to discuss the union's demands, protesters ran amok in the council chamber, sitting in executive seats and chanting slogans.

Officials locked their offices and fled the building.

After about two hours, workers attempted to force their way past law enforcement officers into the room where councillors were talking.

Tempers flared and a brief scuffle broke out, but law enforcement inspectors Floors Coetzee and Arthur Booyens restored order.

Mr Adams said 1,000 municipal employees would march tomorrow from the Bellville Civic Centre to the Parow administration offices.
Competition law
'to curb privileges'

John Dluudlu

SMALL and medium-sized firms in SA should not be granted special privileges by a revamped competition law, a small business policy think-tank has recommended.

However, the Small Business Project has called for far-reaching powers to be given to a reshaped competition policy watchdog, including the power “to strike down, or take some sort of action where small enterprises are unduly affected by government regulation which has reduced the levels of competition in any market”.

These thoughts are contained in a policy paper prepared by the project with the support of the Friedrich Naumann Foundation.

Trade and Industry Minister Alec Erwin is widely expected to make known his ideas next month. A high-level policy session with him is due to be held late next month at the National Economic, Development and Labour Council (Nedlac).

In the paper, the call for an interventionist role by the competition policy authority is based on the fact that the present small business law “does not provide immediate relief to aggrieved parties”. This relief should also be available to other firms.

The document stresses competition policy goes beyond dealing with anticompetitive behaviour by firms. The paper’s approach is expected to generate hot debate in small business circles where the feeling is that the sector needs nurturing, including exemptions from laws, sources say.

Trade and industry department director-general Zavarah Rustomjee said that government would also review more than 50 other laws which had competition elements.

Business has warned that the competition policy review process should not seek to use competition law to achieve sociopolitical goals, while labour—which has yet to make its views known—has set up a task team ahead of the official debate at Nedlac.
Lufthansa reaches end of privatisation process

CT (82) 19/9/97 (232)

Audrey D'Angelo

Cape Town — Lufthansa, SAA's commercial partner, has announced the final stage of its privatisation.

The German government, which once owned the airline completely, has sold it off in phases to the private sector. The shares are traded on the Frankfurt stock exchange.

The government's final 37.5 percent stake of about 1.5 million shares will be offered to private investors through a consortium to which most German banks belong.

A spokesman for Lufthansa said the consortium would offer private German investors attractive discounts on the placement price — which has not yet been announced — and they would be given preference in the subscription period.

The subscription period for private investors begins on September 29 and ends on October 10. During this period, the issue price will be determined in a book-building process and will be fixed in the second week in October. The shares will be issued on October 13.

Lufthansa entered a commercial partnership with SAA two years ago. Since then, the two airlines have operated codeshare agreements, selling seats on each other's aircraft as though they were their own on routes between South Africa and Germany and allowing passengers to earn points on each other's frequent flyer programmes.

There have been rumours that Lufthansa was likely to contend for an equity stake in SAA when the South African airline was privatised. However, Juergen Weber, Lufthansa's chief executive, has said repeatedly it was not Lufthansa's policy to take equity stakes in allied airlines.

SAA was excluded from the Star Alliance formed recently by Lufthansa and other partner airlines because of uncertainty about the future of the SA airine.
Nuts and bolts of pricing

When is the practice of price leadership — where one party sets the price and the other follows — justified? Or, more importantly, when can it be construed as collusion?

A case in point is that of SA’s two largest industrial fasteners manufacturers, National Bolts (Natbolt) — a subsidiary of the Forward Corporation — and listed engineering company TPN Investments.

Both have been accused by an unnamed complainant of price collusion. This has sparked a preliminary investigation by the Competition Board.

The board’s director of investigations, Johan Liebenberg, says it has asked Natbolt and TPN for comment on the allegations. The companies have denied there is any such practice.

“At this stage we do not have enough prima facie evidence to refer the matter to the SA Police Service,” Liebenberg says.

However, within the industry, the two companies have been criticised for consistently producing identical price lists, even though they have different cost structures.

One critic estimates that they have about 75% of the total market for bolts. Despite this, both companies have failed to convert their commanding position in this R450m market into profits. Natbolt hasn’t made any money for Forward, listed in the industrial holdings sector, in the past eight years. It is one of three problem companies (together with Gen-tyre and MacPhail) receiving urgent management attention.

TPN profits have been inconsistent and generally appear to be on the down with half-year results to December showing a 36% decline in EPS. The company blames the competitive domestic market for its problems and, like Natbolt, looks to the export market for its salvation.

Natbolt MD Dennis Dedwitz denies price collusion, and says fasteners are commodities and prices are set by the market.

The FM was unable to contact TPN for comment.

Liebenberg says the Competition Board has decided to assist the complainant by helping to accumulate evidence, after which the board may decide to refer it to the police.

Competition Board chairman Pierre Brooks says, however, that it’s possible these practices may amount to price leadership, which is acceptable.

Stuart Rutherford
Robyn Chalmers

MORE than 90% of SA’s road network could be managed by the private sector in the longer term, with discussions on the way forward planned over the next few months, transport department director-general Khteto Gordhan said at the weekend.

He said government wished to move towards the New Zealand model of greater private sector involvement in the management of the road network.

He said the first phase of achieving this was through the National Roads Agency, legislation for which was recently approved by the cabinet. The agency would initially manage, construct and maintain SA’s 7 000km national road network, but this was likely to be extended to the 20 000km of primary roads in five to six years.

“Ultimately we would like to set up a holding company for the National Roads Agency with nine provincial agencies in place as well but this is further down the line.”

The agency would be set up by April next year, and the board would be made up of eight people, one from the finance department and the remaining seven from the private sector.

Retired chartered accountant Barry Adams and Grinaker Construction MD Bernhard Bornheimer had been approached to play a role in setting up the agency. National road chief director Nazir Ahad had been offered a two-year contract as CEO of the agency in the next two months, directors for financial, engineering and corporate services would be appointed.

The agency would initially be responsible for operating the national road network, including overseeing toll roads and managing the build-operate-and-transfer system.

Gordhan said there was growing acceptance of the need for a dedicated fuel levy to fund the national road network, with a 5c levy likely next year raising later to 6c. It was estimated that a 1c levy at the current petrol price would garner R160m.

“The levy will be transparent as it is being promoted as a user charge. As the current (budgetary) allocation is roughly equivalent to a 5c levy, and if the proposed additional 1c is approved, this will effectively amount to a 1c increase in the petrol price,” he said.

There would be four agencies at provincial level in Gauteng, KwaZulu-Natal, the Western Cape and the Eastern Cape which would not be mere “appendages”, but would have responsibility for budgets, planning, toll road operations and maintenance.

“This is not going to happen overnight, and the national head office could keep responsibility for about six months before it is devolved,” he said.

The National Roads Agency would have a staff of about 150 with about 30 people in the national head office.
Decision on SAA privatisation soon

Ingrid Salgado

THE interministerial cabinet committee was likely to decide on the process of privatising SA Airways next month, a spokesman for Public Enterprises Minister Stella Sigcau said yesterday.

No decision had been made on the percentage stake for sale, Wandile Zote said. However, he was certain the committee would decide on October 16.

Transnet MD Saki Macozoma said in London on Tuesday that government would sell 25%-30% of SAA to a strategic equity partner. The number of shares sold could be boosted by sales to employees and an allocation to enhance black economic empowerment.

Macozoma's comments appear to bring him closer to Transport Minister Mac Maharaj after they clashed in public recently over the percentage stake in SAA to be sold.

Maharaj had said the initial stake of SAA to be sold could rise to 49% from 25%. Macozoma disassociated himself from the statement, saying it undermined the restructuring process.

Zote said Macozoma's comments did not contradict Maharaj's earlier statement that the initial stake could rise to 49%. "That 49% is not the chunk that will go to the foreign investor." Should the higher percentage be accepted, it would include stakes for the National Empowerment Fund and the employee share ownership plan.

Sigcau has indicated it was "unlikely" that less than 49% would be sold.

Asked whether Maharaj and Macozoma had resolved their differences, Zote said, "They are both very important to the process. That whole incident was unfortunate. My guess is that they have resolved it."

Macozoma said Transnet and SAA were looking for a privatisation adviser for the sale. In the interim they were using HSBC, the overall adviser on restructuring state assets.

Several carriers have expressed interest in acquiring a stake in SAA, including British Airways, Deutsche Lufthansa and Virgin Atlantic.
Privatisation

Coallink a precursor to Spoornet going public

Jonathan Rossenthal

The still air of northern KwaZulu Natal's Umzimkulu river valley is shattered 24 times a day by the sound of trucks trundling to and from the world's largest coal terminal at Richards Bay. Look down from the high bridges and your perception of foreshortening is blurred by the villages, veggie patches and goat herds below into the town curiosities of hidden poverty.

Look back again at the soaring arches which carry some of the world's heaviest coal trains and one cannot help but be left with a feeling that apartheid's planners simply hoped to bypass most of the country in its unrelenting drive of progress for a few.

And yet the change in years has been so complete that the land reclaimations for the next power and mine phase of the Richards Bay coal terminal will have to wait until a fish eagle has hatched her eggs and left her nest.

But perhaps the greatest change to Spoornet's coal line, which carries South Africa's second largest foreign exchange earner, is a change of attitude and culture to place the bottom line first and make the railway look like an attractive prospect for private investors.

In 1994 Spoornet brought in consultants to benchmark the Richards Bay coal line, which was upgraded in the 1980s to carry 250 trucks a week, against similar heavy haul operations around the world. The consultants realised that the world leader in efficiency by a margin of 12 percent.

In the past three years that margin has been reduced to 10 percent.

Infrastructure while its foreign competitors began installing the latest in electronic gauges.

Spoornet's response earlier this year was to streamline the coal line into Coallink, a dedicated coal export operation with control over its own assets and budget.

The official rationale at the moment is that this allows it to focus better on serving the coal industry and on identifying its capital needs to keep the line going. In fact Coallink's executive manager, referred questions on privatisation to his superiors. And while splitting the line off into a semi-autonomous business unit should do wonders for efficiency, it is also clear that the formation of Coallink cannot be anything but a precursor to privatisation.

And when that occurs it is likely to be a very different model from those currently envisaged. The privatisation of most railways has followed a path of splitting railway operations away from ownership of the infrastructure. Spoornet executives have previously hinted that privatisation would likely see the railway lines themselves remain in state hands as a common carrier almost like the normal road network, and several competing railway operators would run their own trains on those lines.

What makes the coal line different is the heavy loads of South Africa's most desired coal, which makes the rail wheel interface crucial aspect of the line's competitiveness. Spoornet has already doubled the theoretical lifespan of the railway by meticulously planning, planning and publishing the rails into a profile which reduces stress and metal fatigue.

The flip side of this is that it not only allows railway wagons onto the line if they have proved a "roadworthily" to ensure that their wheels are as meticulously groomed so as not to damage the track. Most of Coallink's capital spending over the next few years is likely to be spent on new rolling stock to increase capacity but in the new century it is also going to have to significantly ramp up its spending on progressively renewing and replacing parts of the line.

Spoornet has already given Coallink exclusive control over a significant chunk of the rail network stretching from Waingkoep to Richards Bay to Richards Bay. Selling this off from the rest of the network has been made easier by the fact that it is already relatively self-sufficient and the general freight it carries to and from Richards Bay is handled by its own locomotives.

Combine these factors with a 10-year contract to haul coal to the terminal at tariffs that will decline in real terms and it seems that splitting infrastructure from operations is a remote possibility.

For punters, the best odds offered are that Coallink will be sold to the Richards Bay Coal Terminal, a joint venture run by a profit export facility owned by the seven coal groups including Ingwe, Amcucoal and Tavener. The terminal already schedules Coallink's trains and matches them to stockpiles at the port.

Some sort of staff or management buyout, perhaps with outside partners, should also not be ruled out.

Within the heart of Spoornet's new forms are beginning to take shape, cutting off the mould of the old bureaucratic arrogance of state-controlled industry. But when the fish eagle has flown from her nest and Coallink's line is more like a normal road network, and several railway operators would run their own trains on these lines.
Row over pension surplus

Pensioners angry because they weren’t consulted.

Financially strapped Golden Arrow Bus Services, which operates Cape Town’s famous orange buses, is to get an R85m handout from its members’ pension fund — though employers have been on a contribution holiday since its owners took over in 1992.

The payout has infuriated a handful of pensioners, including a former chief executive of the company’s previous owner, Tollgate Holdings.

Employers have no statutory right to dip into company pension funds, though this will change under new Pension Funds Act legislation proposed by the Financial Services Board (FSB) which could become law later this year.

However, the FSB has given the green light to the massive payout — and formal approval by the Registrar of Pension Funds appears to be imminent.

This follows a 1999 precedent, when the Lintas advertising company successfully appealed to the FSB to allow it to change its rules and release monies from its R5m pension fund to the company.

The FSB’s chief actuary, Peter Milburn-Fyle, is reluctant to discuss the present application. "The Golden Arrow pension fund as a whole is in a delicate state at the moment," he says.

Milburn-Fyle is behind the new legislation, which will make the estimated R500m surplus in company pension funds available to employers.

Pressure groups are fiercely contesting such payouts. Campaigner Basil Kranzendorf says he is fighting the actuarial process of "levying workers’ retirement funds to finance their employers’ agendas."

Golden Arrow Bus Services was formed in 1961 under the name Cape Town & Green Point Tramways and is one of SA’s oldest companies. As City Tramways it was part of Tollgate Holdings, but changed its name to Golden Arrow Bus Services after a management buyout in 1992, just months before Tollgate went into liquidation.

The buyout included Golden Arrow’s pension fund, chaired by Mr Cronje, and MD Barry Gie.

By last year the company had a debt burden of R79m and accumulated losses of R95m. It also had a pension fund with assets and investments totaling R407m. And it is from this kitty that the R85m lifeline will be paid.

The assets of the Golden Arrow Retirement Plan are disclosed in a preliminary statement of funds drawn up in March by liquidator Leon Lewis, of actuaries Alexander Forbes.

Golden Arrow’s Gie is chairman of the fund trustees. The company says he is overseas and unavailable for comment.

After liquidation expenses of R1.7m, Lewis states that R194m will be spent buying with-profits annuities for pensioners and R122.7m will go to a new retirement fund for "active" members.

Each pensioner would receive a 25% enhancement of their actual reserves and a bonus equal to one month’s pension.

And R80m would be "reapatrtated to the employer," plus 40% of residual assets, bringing Golden Arrow’s payout to R85.6m.

The term "repatriated" Airways pension Roy Fisher, who points out that Golden Arrow Bus Services has been on a contribution holiday since the present owners took over in 1992.

Fisher, a former bus inspector with Golden Arrow, is 62. He retired in 1986 after a heart attack. Like the other 150 pensioners, he received news of the proposal to liquidate the fund and revert a minimum of R50m to the company in a letter dated August 22, 1996.

Fisher refused to sign his acceptance of the proposal, though the arrangement has nearly doubled his monthly pension, from R752 to R1,145.

And he received a bonus of R1,145. "I feel the company is not entitled to any money," he says.

He claims his requests to Golden Arrow for the names and addresses of fellow pensioners to call a meeting to discuss the proposal was refused.

Though 95.7% of pensioners and 98.1% of the 1,785 active members accepted the distribution proposal, Fisher’s view is shared by fellow pensioner, former Tollgate Holdings CEO Johan Barnard.

"Why should the company get anything — let alone R80m?" asks Barnard.

Barnard, who is a senior advocate, says "The crux of the matter is they didn't consult the pensioners."

On November 4, 1996, three months after the proposal went to members, a new "overriding" rule, number 26, was added to the fund’s rules. This allowed the balance of the fund’s assets to be paid to Golden Arrow Bus Services.

"The actuarial valuer of the Golden Arrow Retirement Plan, Simon Peile of Alexander Forbes, says the R80m pension fund was not a consideration when the company was bought in 1992. It did, however, become an issue after Lintas broke the ground.

Peile agrees Golden Arrow has been on a lengthy contribution holiday.

He describes Golden Arrow Bus Services (Pty) as a "progressive company." Half its shares are owned by a community foundation — the Golden Arrow Foundation. The balance, says Peile, are held by the directors and workers.

In April 1996, the in-house newsheet, Gazette said the R80m "reversal" would enable the company to sell its debt and "earnest — R80m had been lost in 1993-1994 because violence prevented operations in Khayelitsha."

The aged bus fleet needed upgrading "One new single-decker bus costs R500,000," said Gazette. "Thus the injection of enough capital into the company to allow it to build the necessary safeguards for its survival will benefit everyone.

In the newsheet, chairman Cronje described the pension fund distribution as "a once-in-a-lifetime opportunity for all members to have their benefits enhanced by a sizable amount."

Golden Arrow still has to receive the R80m. But Milburn-Fyle says he sees no reason why the Registrar of Pension Funds of the fund’s asset distribution. The fact that the company has been on a contribution holiday is a "red herring," he says.

"We have an obligation to all interested parties in a pension fund — and that includes the employer," he says.
Unifruco chiefs quick to cash in on deregulation

Louise Cooke

FORMER Unifruco executives have wasted no time in taking advantage of the deregulation of SA's fruit industry, with confirmation yesterday that Cape-based food, fruit and flower exporter Fruvec, and the UK's largest fruit juice manufacturer, Gerbers Food Group, were close to finalising an export joint venture.

SA citrus and deciduous fruit marketing was opened to free trade this week after being restricted to a single channel--Unifruco--for decades.

A number of free agents have entered the market, but the Fruvec-Gerbers joint venture will establish a new company headed by former Unifruco chairman Leo Fine and will include former GM Denis Searson, among others.

Roy Fine, MD of Fruvec, which has been involved in cut flower and fresh produce exports from SA for 80 years, said SA fruit would be sold on the prime European and UK markets under the brand name Sunpride from next year. Sunpride was well-established in Europe and the UK as Gerber's choice fruit juice brand, he said, which would give the company a head start when breaking into the market.

The deal with Gerbers would establish a new company, also to be called Sunpride, and was close to being finalised. Gerbers would be a minority shareholder in the venture, which would target Europe but also could enter other international markets.

"Sunpride is being formed to take advantage of the newly deregulated export market and is designed for the producer who wants an own identity without any pooling system," he said.

Fine would not disclose the expected cost of setting up the new company, saying negotiations on such details would be completed this week. But turnover of about R150m was expected next year through the export of 3-milllion cartons of citrus and deciduous fruit. "This will be a major breakthrough. SA fruit will be marketed under a brand name associated with choice fruit juices in Europe and the UK," he said.
20% of parastatal to go to foreign partner

Linda Ekar

CAPE-TOWN — Twenty percent of the Airports Company would be sold to a foreign equity partner, Transport Minister Mac Maharaj said yesterday.

Maharaj told a joint meeting of Parliament's transport and mining enterprises committee that government planned to list the Airports Company in a few years' time, when the strategic equity partner would have the option of increasing its stake to 30%.

The operator, which could be any

one or two of 15-16 interested parties — including the British Airways Authority and the airport authorities of Malaysia, Frankfurt and Schiphol — would be obliged to second several key managers to SA for 2-5 years.

The consensus sale plan was approved by the inter-ministerial cabinet committee for final implementation by March next year.

Government expected to raise more than R1bn from the sale of 49% of the company, with the proceeds to be used to fund the company's expansion plans.

The strategic equity partner would have to be committed to affirmative action targets, training and skills transfer programmes, and co-operation with the rest of Africa.

Maharaj stressed that the acquisition of world-class skills — vital for the implementation of the company's rapid expansion plans — was one of the prime reasons for the sell-off. In particular, retail outlets in terminal buildings required global economies of scale to succeed.

In the year to end-March 72% of the 19% profit increase was derived from retail operations.

The proceeds of the sale would flow to the treasury and the planned capital expenditure of R1.4bn over the next three financial years would be funded from cash flow and future profits, transport director-general Ketsi Gordhan said in an interview. Of this R900m would be devoted to Johannesburg airport and about R300m-R400m to Cape Town.

Continued on Page 2

Airports

Continued from Page 1

which 10% would be offered to investment institutions owned by historically disadvantaged people and trade unions, 9% to management and employees; and 10% to the National Empowerment Fund.

To ensure the broadest possible representation of the disadvantaged, the minimum and maximum stakes held by them would be 0.25% and 5% respectively. They would pay the same price as the strategic equity partner for their shares.

Maharaj said due diligence would be undertaken between December and February, and legislation would hopefully be passed by Parliament by end-February — the deadline for bids.

The bids would be adjudicated by early March and the deal finalised by the end of the month while the market empowerment transaction was planned for April. All the empower-

ment and employee transactions were expected to be finalised by mid-June.

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Privatisation of SA's grain industry takes leap forward

The privatisation of SA's grain industry has taken a leap forward with the announcement of a healthy return to market equilibrium, said the president of the South African Grain Marketers Association (SAGMA). "The new pricing structure, which has been in place since the privatisation, has resulted in a significant increase in returns to farmers." The president also highlighted the importance of the privatisation process in improving the efficiency of the grain industry.

The new pricing structure, which was introduced in 2010, has been designed to ensure a fair return to farmers and to reflect the value of the grain in the market. The system has been praised for its ability to reflect the supply and demand in the market, and has resulted in increased returns to farmers.

The private sector has also been involved in the privatisation process, with several companies bidding for the opportunity to manage the grain market. The successful bidder will be responsible for managing the grain market, ensuring a fair return to farmers, and maintaining a healthy competition in the market.

The privatisation process has been praised for its ability to improve the efficiency of the grain industry and to ensure a fair return to farmers. It is hoped that the privatisation of SA's grain industry will set a precedent for other industries in the country, and will result in increased returns to farmers and improved efficiency in the market.
Privatisation finally lifts off

Maharaj offers added inducement to strategic equity partner

Transport Minister Mac Maharaj's carefully laid-out programme to sell off 49% of the profitable Airports Company of South Africa (Acsa), may be disentangled by parliamentary delays in changing the legislation governing the company.

Maharaj this week unveiled a tight, step-by-step plan to privatise the R2bn industry-valued public corporation — and added a fillip. The Strategic Equity Partner (SEP) that will bag the initial 20% on offer will be allowed to increase its stake to 30% in an initial public offer.

This may be enticing to international airport operators preparing to bid for Acsa. But a departmental law adviser admitted that the legislative programme to make Acsa a commercial enterprise had been cut "tight, tight, tight."

Transport director-general Khetso Gordhan said the amendments to the Airports Company Act of 1993 had to be ready by early March 1998 — before the sale and purchase agreement.

"It could affect our programme if it is not ready," said Gordhan, adding, however, that it was unlikely that there could be hitches as the amendments were "not controversial." The amendments to the Act are to bring about the transactions with an SEP and empowerment groups, define the scope of the company's activities, limit risk to the core of the aeronautical activities of the company and provide for treatment of Acsa as a commercial enterprise.

But there are only 12 weeks of parliamentary activity left before March 1998 — and in that period the Bill has to be approved by Cabinet then go to parliament's transport committee in mid-February for any amendments. The committee has been given two weeks to consider, or amend it if necessary before referring it to the National Assembly. More time may be needed for this as MPs had already started nit-picking on Monday. One of the questions centred on the role of parliament as watchdog over the 51% government stake in Acsa.

Maharaj and his team are confident that the deadlines will be met and the sale wrapped up by mid-June next year.

Maharaj said the SEP would participate by appointing additional directors, seconding several key managers for between two and five years, and undertaking short-term focused consulting exercises.

"The SEP will have the power to make constructive input to existing management but not outright control," he said.

An airport operator, or two operators, will lead and control the SEP, who will be committed to affirmative action targets, training and co-operation in Africa.

The Acsa cake will be divided between the State (51%), SEP (20%), investment institutions, the historically disadvantaged and unions (10%) management and employees (9%) and a 10% stake will go to the National Empowerment Fund when it is established.

Acsa MD Dirk Ackerman said international traffic had grown by 8% in the past year, and profits after taxation by 19% to R159m from R134m last year. Turnover had increased by 27%.

"We've had an exceptionally good year," Ackerman said, adding that privatisation would lead to even better performance.

Asked why it was necessary to sell off Acsa when it was doing so well, Maharaj replied: "Yes, the company has performed robustly. But that does not mean we must rest on our laurels. We need to develop our nonaviation business and no matter how well Ackerman and his team have done, we can do better."

Ackerman said it was not advisable to unbundle Acsa now. "It would be difficult to run the smaller companies. Two years ago they were losing R20m a year and now it is under R4m. We feel it is better to leave them as a package and we will get a better deal for them and help improve the economies of the provinces they are in."

A labour representative said that "on this one" there was total agreement by Cosatu that the sale should proceed.
Decision this week on privatisation of state mine

Renée Grawisky

THE interministerial cabinet committee is expected to take a decision this week on how Alexkor, a state-owned diamond mine in the Northern Cape, is to be privatised.

Industry sources indicated that 60% of the mine could be sold to a potential strategic equity partner. The sources said it was unlikely government would agree to proposals tabled by Alexkor's restructuring and transformation committee which called for a 30% stake given to the community, 33% to labour, 13% to the national empowerment fund and 36% to an equity partner.

Government was likely to agree to the sale of up to 60% of the mine to a potential equity partner, he said. Government would also have to decide if the mine would be split into onshore and offshore operations and sold off separately. The future of the mine's other activities such as farming would also have to be considered.

At the same time a number of consortia are being formed to bid for the mine while established companies such as De Beers and Trans Hex are potential buyers.

However, industry sources said there was some resistance in government for De Beers to buy the mine, even though it had the expertise to run the mine around.

The interministerial cabinet committee meets on Thursday to discuss recommendations put forward by the sectoral task team and considered by the oversight committee which met last week.

Public enterprises and the mineral and energy affairs department said they were not in a position to comment on the outcome of the deliberations.

The model proposed by Alexkor's restructuring committee was motivated by the fact that the mining industry played a crucial role in the Namibian economy and the lifespan of the mine was limited.

The model was to ensure the mine and other activities could act as a vehicle for future sustainable regional development.

A report conducted last year by the Mineral and Energy Policy Centre highlighted the importance of the mine to the regional economy. The committee proposed that 30% of the mine be given to the community, 33% to the national empowerment fund and 36% to an equity partner.

The report said it was questionable whether a private owner could sustain the development and corporate social investment programmes.
Searching for a perfect partner

Members of a committee advising on the privatisation of Airports Company SA (Acsa) set off this weekend to assess nine mystery contenders for the 20% stake of the public corporation earmarked for a strategic equity partner.

Since the nine represent an unofficial shortlist — and the deadline for pre-qualification bids is only a month away — their identity is a secret. One, however, can be named: the British Airports Authority is set to receive the committee's report on October 21. BAA, which owns and operates seven UK airports including Heathrow, must be considered a lead contender. "We are deadly serious about SA," confirms Europe and Africa MD Richard Jeffrey.

A fly in the ointment could be the disappointingly low stake on offer. However, BAA believes that a controlling stake could be in the offing.

Publicly, Transport Minister Mac Maharaj has said initially 49% of Acsa is to be privatised — only 20% of which will be made available to the overseas strategic partner.

Bidders agree that R2.5bn is not an unrealistic price tag for Acsa. So 20% will cost £340m — probably as much as any foreign operator is prepared to punt at this stage.

However, some potential investors have been told that government plans to sell the remaining 51% once the initial deal has bedded down. This strategy would enable it to benefit from the foreign investor's input, with some predicting that the present worth of the 51% stake could double within two years.

Though the destinations for the Road Show have not been announced, it is possible to predict some likely touch-downs. Frankfurt airport is a cert. So is North America's Airports Group International (AGI), a privately held company which runs a host of medium-sized airports in the US.

In Europe, the Road Show will embrace Amsterdam's lauded Schiphol airport, Ireland's Aer Rianta and Rome airport, listed in July.

The Far East leg will embrace Malaysia and Singapore.

However, Maharaj must tread cautiously. There are now more airports wanting to privatise than there are top operators, potential partners are pulling out if deals look like going sour.

Dusseldorf (16m passenger/year) is in the final stages of offering a tempting 50% of its equity, but has shown reluctance at handing over the reins.

Says one cooling bidder: "They haven't come to terms with the fact that they're going to give up control. They want the money and the expertise, but they don't really want to be owned by foreigners."

Jack Lundin

FINANCIAL MAIL - OCTOBER 17 - 1997
Aventura to be sold despite land claims

Robyn Chalmers and Jacob Dlamini

Government is to press ahead with the 100% sale of state-owned holiday resort group Aventura, despite unresolved claims on Aventura-owned land, and hopes to remove a restriction on the size of a foreign shareholding.

Public enterprises minister spokesman Wandle Zote said notices inviting participation in the tender process should appear this week.

"We have decided to go ahead and sell the company anyway. We will leave the issue of land claims to be sorted out separately," he said.

Talks on the restructuring and sale of Aventura were halted in August while the claims were being investigated. A decision was taken at an inter-ministerial cabinet committee meeting later in August to fast-track the land claims, and methods to do this were being explored by the land affairs ministry. The sale of Aventura has been on the cards for more than a year.

Public enterprises director-general Sipho Thababalala yesterday submitted to the National Council of Provinces' select labour and public enterprises committee an amendment designed to remove restrictions placed on the total shareholding of foreign companies.

He said government attempts to privatise Aventura could be thwarted by legislation allowing foreign shareholders to own only 30% of the chain.

He said Aventura had been commercialised and privatisation would provide capital to unlock its growth potential and allow for expansion.

It is understood that 10 local and foreign organisations have expressed interest in buying Aventura. It owns 15 resorts in six provinces, with turnover of about R124m a year.

The cabinet committee decided that Aventura would be restructured as a single component and that 100% of equity would be divested to an investor, empowerment groups and labour.

National Party spokesman Louis Swanepoel supported the amendment as restrictions would discourage potential investors, he said.
Nelspruit services privatisation opposed

Deborah Fine

Members of the Congress of SA Trade Unions, the SA Municipal Workers’ Union and the SA Communist Party (SACP) staged a march on the Nelspruit town council yesterday to protest against a recent council decision to allow a private consortium to deliver water and sanitation services in the area.

The council announced last month that SA consortium Metsi A Sechaba, backed by British firm Euwater, was the preferred bidder for a 30-year water and sanitation concession in the greater Nelspruit area. The exact nature of the services-delivery partnership between the council and the consortium was expected to be finalised by the end of the year.

The council opted for the public/private sector partnership after it was decided that the council on its own could not deliver water and sanitation services to all of Nelspruit’s residents within a reasonable time period.

The Nelspruit project has received financial and technical backing from the national provincial affairs and constitutional development department, as well as support from Mpumalanga premier Mathews Phosa.

The trade unions and the SACP, however, have vowed to launch countrywide protests against the semiprivatisation of municipal services, claiming that the process will lead to job losses, massive increases in service tariffs and the perpetuation of service inequalities.

In a memorandum handed to Nelspruit deputy-mayor Fatma Mabuza yesterday, about 400 marchers demanded the suspension of the concession process. An urgent meeting between the council and the trade unions is expected to be held tomorrow.
Protest spells big clean-up for Khayelitsha

LENORE OLIVER
Staff Reporter

About 3,000 municipal workers streamed in to clean the streets of Khayelitsha in defiance of moves to privatise municipal services.

The SA Municipal Workers Union (Samwu), armed with spades, wheelbarrows, compactors and black bags, arrived in truckloads yesterday at Sites B and C to tidy the area and collect waste for five hours.

"These areas were targeted because refuse collection was the poorest," Samwu has embarked on a national campaign to oppose privatisation of municipal services on the grounds that the quality of services delivered to communities will suffer.

The union also fears that many of its members could lose their jobs.

Yesterday's action was intended to demonstrate Samwu's contribution to the Masakhane campaign, and to show the Tygerberg council that with the "political will and the re-organising of the workforce, local government workers are able to provide an effective and efficient service."

Mark Tinkler, chairman of the Cape Metropolitan Samwu branch, and members wanted to show local authorities that it was not necessary to privatise - there were resources.

"We are trying to say that we have the resources within the existing structure," he said.

"The workers just have to be re-organised and redeployed in order to have efficient service within the City of Tygerberg," Mr Tinkler said.

Samwu felt that privatisation would widen the gap between councils and communities, and that the substructure was simply extending its services to areas deprived for many years.

Mr Tinkler said the union would investigate other forms of action if its demands were not met.
Samwu condemns privatisation

FRANK NXUMALO

As much as the government may trumpet the virtues of privatisation, outsourcing and other economic policies aimed at reviving the economy, the union representing public servants in the sector, Samwu, yesterday condemned the latest round of attempts to privatised the public water sector.

The union said at its national congress that its anti-privatisation campaign had been initiated by the government’s failure to embrace micro-economic reforms that are necessary to keep its involvement in the economy as minimal as possible.

"These policies characterise the union and have turned the union into an organisation which is not prepared to allow these developments to continue," said a Samwu official.

The union has stood strongly against attempts to privatise departments such as the national railway service, and the union has been vocal in its opposition to the latest round of attempts to privatise the public water sector, which it says will only lead to increased costs and reduced services for the public.

The union has also called for the government to address the underlying problems that have led to the current economic crisis, such as corruption and mismanagement, rather than trying to privatise its way out of the problems.

The union has also warned that the attempt to privatise the public water sector will lead to increased costs for consumers and reduced services for the public.

The union has called on the government to reverse its decision and focus on improving the existing public water services, rather than attempting to privatise them.

The union has also called on the government to ensure that the rights of workers are protected and that they are not exploited in the process of privatisation.
Competition body says OK to Shoprite

COMPETITION Board clearance should pave the way for a speedy conclusion to Shoprite Checkers' acquisition of OK Bazaars in its entirety, quashing earlier speculation that it will handpick about 50 stores.

On Friday Competition Board chairman Pierre Brooks said he had given his blessing for a takeover of all OK's stores. "We believe they have not finalised negotiations on financial issues but we have indicated we will not oppose the deal," he said.

OK has 144 stores and 20 Hypermarts which collectively brought in R6.4 billion in sales in the year to March. But the company's bottom line losses amounted to R74 million from a R1-million loss in the previous year.

The OK's net asset value was R950-million at end-March, and there is speculation that the asking price for OK was R400-million, less R100-million of debt.

Six years ago Shoprite, then a relatively small, Cape-based retail chain, bought 186-store Checkers for a song, and has turned it around to such an extent that its operating profit is now around R200-million.

It is estimated that Shoprite Checkers holds between 23% and 24% of the food retail market, while the OK Bazaars has 17% to 18%, giving them a combined market share of more than 40%.

But the board has indicated that a merger will not be uncompetitive. Brooks said that an analysis of the proposed merger, which followed an approach to the board by the parties involved, indicated there was no cause for concern.

He said the decision was based partly on the fact that OK Bazaars is "an ailing company, and people have known for a long time that they are going out of business in any event."

The transaction could benefit the trade unions that are involved, and contribute to black economic empowerment.

"We looked purely and simply at competition issues and looked at various categories including where consumers are and where they buy," Brooks said.

"We usually look at concentration ratios, and while they can never be decisive, they are at levels which do not warrant intervention."

Manufacturers of products sold in supermarkets were canvassed on the situation.

By MARCIA KLEIN

ACQUISITIONS

Brooks said it was important to establish whether the company's combined purchasing power would enable it to be coercive in its dealings with suppliers.

It had been established that this was not the case.

Brooks said he was aware that other parties were also interested in the whole or part of OK Bazaars.

A spokesman for Shoprite's managing director, Whitney Basson, said he would not comment on the deal as a cautionary notice was still in place.

It is not clear when the deal will be announced.
LEGISLATION DELAYED ON PRIVATISATION OF STATE-OWNED AVENTURA

Cape Town — Legislation on the privatisation of A Ventura, the state-owned holiday resort company, was slightly delayed yesterday as ANC members of the labour committee of the national council of provinces insisted that it stipulated that local interests be given priority.

They were not completely united on the issue, however, with some fearing that this stipulation could deter foreign investors by "placing too many tight screws".

But delegates from Gauteng won the day after they insisted that one of the aims of privatisation was to ensure wider control of state assets, particularly by empowerment groups.

An amendment to the bill will be considered by the committee on Monday.

Sipho Tshabalala, the public enterprises director-general, said eight bids had already been received.

— Lyndal Loxton
STATE SHOULD NOT PRIVATISE BLINDLY

Aviation companies have no affirmative action policies

By Selto Rasethaba

The Airports Company Limited (ACL) and the Air Traffic and Navigational Services Company (ATNS) were both formed in 1993 to co-ordinate the provision of services at the state airports and the air traffic control and navigational aids infrastructure. These companies are presently 100 percent government-owned and are responsible to the Department of Transport.

The motivation to commercialise these entities, namely in order to achieve financial efficiency, were charging and cost effectiveness was valid and a true test of the globalisation process.

However, the timing of the commercialisation process (just before the 1994 elections), suggests that there were other agendas - to keep certain crucial areas of the aviation industry away from the new government and to keep the hands of a few vested interests intact.

It is important to examine whether this has been carefully in the context of the impact on the operation of the government of the day, namely human resource development and transformation.

One can argue that hardly any attempts have been made by the ATNS and the ACL to make them representative, in terms of race and gender, to properly reflect the demographics of the country.

Imbalances

The argument put forward by these companies is that they operate in highly specialised and technical areas and that because of the legacy of the past, not enough black and female candidates are trained in these areas.

But then what training programmes have been implemented by these companies to address these imbalances since their creation some five years ago?

The ATNS boasts one of the most sophisticated air traffic control training facilities in the world, yet many South African black and female students have been trained there.

How has the government pushed for infrastructure that the ATNS owners been utilised to develop the human resources of those from previously disadvantaged backgrounds in technical areas?

What efforts have been made to introduce bursary programmes for promising matriculants to study in various disciplines (technical, management, economics and so on) at tertiary level?

And what is the intensity of recruitment of young black and female graduates from tertiary institutions?

By looking at the present composition of these companies, it is clear that the answer to these questions is that hardly any initiative has been taken with regard to human resource development.

There are no black, female employees in management positions hardly any black air traffic controllers and technical personnel practising in their areas of qualification, and no formal affirmative action programme at the ATNS.

Furthermore, former employees of the former Translux Aviation, Venda and Coles households, who are now air traffic controllers or qualified, as well as some in the aviation industry who have been trained at the ATNS are still employed by their former employers as air traffic controllers.

There is talk that a separate group, comprising the ATNS, the ACL and another party to establish an aviation training institute to offer programmes in various disciplines of aviation.

Given the past record of these entities, one asks whether programmes that are committed will go a long way towards the transformation of the company?

Even very senior persons such as former directors of Aeroflots Training, who were trained at some of the largest international air traffic control schools, are denied the opportunity of practising these professions and find themselves behind desks as these organisations are mainly staffed by male employees.

The ATNS is on the verge of, being run by the Department of Transport or the government's Development Programme (RDP).

The Aviation Training and Development Programme (ATDP) was established by various stakeholders in the aviation industry to enable previously disadvantaged persons to pursue careers in the industry. The ACL and the ATNS are both affiliated to this body.

The policy of the ATDP is to overcome the present educational inequities and imbalance which causes barriers to entry into the industry and to ensure an adequate supply of suitably qualified candidates for the industry.

This body hopes to achieve this through programmes such as:

- Adult basic education and development.
- Preparatory programmes aimed at upgrading basic academic skills.
- Creation of a customer service culture.
- Art tourism awareness programmes.
- Avionics industry administration.
- Adult literacy and computer literacy.

Both of these initiatives are important but where are the programmes with more content and relevance to the aviation industry (technical, business management, economic areas) for black and female candidates who do possess computer literacy and basic academic skills?

Is this how these stakeholders hope to address the imbalance that exists in the industry?

If so, how will these stakeholders hope to address the imbalances that exist in the industry?

The privatisation of the ACL is gaining momentum, with the Department of Transport having already sold 20 percent of its shareholding.

The ACL, how will it then effectively control transformation in terms of demographic representation?

In principle one can argue that against the privatisation process, but causes must be exercised without the undermining of the RDP, the ACL.

No rush

There should be no rush at transferring the assets of South Africa to private hands. The company should be kept in government hands until such a time that the RDP can manage to take over.

The Department of Transport's plan to sell 20 percent of its shareholding to black economic empowerment investment groups will not cause fundamental transformation of the company and the empowerment of blacks and females in a management and functional level in the company.

Government has to take the initiative and control in ensuring that training affirmative action and skills transfer occurs to all levels of the organisation, in line with the human resource development policies as directed by the RDP.

This process is crucial in addressing the imbalances of the past.

(End)

(On a note to the board number of North West Transport)
Privatisation of electricity industry 'vital'

Robyn Chalmers 19/11/97

The privatisation of the electricity supply industry should be regarded by government as a priority, Eberhard von Koerber, executive vice president of engineering group ABB in Europe, the Middle East and Africa, said yesterday.

Von Koerber, who has held talks with government and business leaders in SA, said it was vital that large parts of the electricity sector be handed over to the private sector as soon as possible.

The distribution sector should be the first to be privatised into a deregulated environment. Government's concept of setting up a number of regional electricity distributors was a solid one, but they should be opened up to the private sector rather than being managed by Telkom and municipalities. "As opposed to stifling employment opportunities, this will create new avenues of investment for black entrepre-

The global trend was towards splitting the transmission, distribution and generation functions and opening them up to the private sector in a phased manner. Government was unlikely to meet the electrification needs of the population unless it went the private sector route.
Consolidation of accounting firms causes jitters

The planned mergers among the 'big six' accounting firms could face regulatory intervention, writes Jim Kelly

The planned mergers among the 'big six' accounting firms could face regulatory intervention, writes Jim Kelly.

The concerns raised in the European Commission's competition rules that the mergers may lead to a reduction in competition and a decrease in audit quality are valid. The European Commission has already taken steps to address these concerns by imposing conditions on the mergers.

However, there are also concerns about the potential for conflicts of interest and the impact on audit independence. The regulators are closely watching the developments and are likely to take action if necessary.

The 'big six' accounting firms are facing increasing regulatory scrutiny, which is expected to continue in the coming years. The European Union and other regulatory bodies are likely to impose more stringent regulations on the accounting industry to ensure audit quality and independence.

In conclusion, the planned mergers among the 'big six' accounting firms are facing significant regulatory challenges, which could have a significant impact on the industry. The regulators are closely watching the developments and are likely to take action if necessary.
Drafting of competition policy gains

Ingrid Salgado

THE process of rewriting the country’s competition policy is set to gain momentum next week when the Trade and Industry Minister Alec Erwin presents his long-awaited competition policy review to business and labour.

Erwin would table the document at a meeting of the National Economic, Development and Labour Council’s (Nedlac’s) trade and industry chamber on Thursday, trade and industry department communications director Themba Rubushe said yesterday. Department officials were working around the clock to have the revamped policy ready on time, he said.

Government has already missed several deadlines on the review-process, fuelling uncertainty and anger in business.

Reasons cited for the delays included Erwin’s workload, the need for thorough internal consultation and alleged disagreements in a task team advising government on the review.

The team includes Competition Board chairman Pierre Brooks, Cape Town academic David Lewis and trade and industry portfolio committee member Tshehiso Ntuli.

Portfolio committee chairman Rob Davies said it was “very possible” that a new competition law could be passed by Parliament by the end of next year.

Erwin’s concept document was likely to be debated by Nedlac for some weeks, after which a bill would be drafted based on these discussions.

Failure to reach consensus at Nedlac would not necessarily stall the process, Davies said. “The matter could go straight to the parliamentary process where a lot of representations would take place.”

There could also be ways to reach consensus about general principles in Nedlac.”

There are signs that organised labour intends lobbying for tough competition laws, with Nedlac’s labour constituency having set up a task team to help prepare for the policy debate.

Business has called for a policy that deals with anticompetitive corporate behaviour, rather than legislation that deals with the economy’s structure.

SA Chamber of Commerce senior economist Bill Lacey warned yesterday against using competition laws to achieve socio-economic ends. He said it remained unclear whether government’s review would follow the thinking of the recently released Liquor Bill which had included elements of competition policy by prohibiting overlap between the wholesale, retail and manufacture of liquor.

“If the review does broadly follow that document, I will be somewhat distressed,” Lacey said.

Erwin has previously indicated that a harsh competition policy along the lines of US antitrust laws would be unsuitable for SA.
Aventura qualifiers identified

LYNDA LOKTON
PARLIAMENTARY CORRESPONDENT

Cape Town — Five, mostly local, consortia, including companies such as Korsaf and Protea Hotels, have been identified as prequalifiers in the privatisation of Aventura, the state-owned holiday resort company, Stella Sgcau, the public enterprises minister, said yesterday.

She also said SAA, the state-owned airline, would advertise today for a transaction adviser to help with its partial privatisation, to be completed by the second half of next year.

At the same time, the inter-ministerial cabinet committee had agreed on the general principles for the privatisation of Safcol, the forestry parastatal, and would advertise soon for a transaction adviser.

Sgcau said the restructuring of state enterprises had not been happening as quickly as promised this year, mainly because of shortages of skilled staff. She expected much more rapid progress next year.

The five prequalifiers for Aventura are Kopano Le Matla, which includes Protea Hotels, Rennies Travel and Samrand, Phalafala Leasure Consortium, which includes Korsaf and Genbel Securities, Samco Consortium, comprising Samco Devel-

ment Trust, Protea Hotels and Southern Development Trust, Boieldroyd Investment Consortium, which is comprised of Trade First 187 trading as Kot Investments, Nozakho Investment Holdings, Embhule Tribal Authority and Embhuleni Business Trust, and Shoman Investment, which includes the South African Development Corporation, Hospitality Worldwide Service and the South African Casino Development Fund.

Sgcau said she hoped the involvement of local communities in the privatisation process would help resolve the land claims that have dogged the process to date.

She said she hoped to announce the name of the SAA transaction adviser on about December 12.

Sgcau said the privatisation plans for Transnet were nearing conclusion, while the first report on Alexkor was due to go to the relevant committees soon.
Portnet to be split in two, says Sigcau

A short list of five bidders had been announced. The privatisation of the SA Forestry Company (Safcol) was back on track although the overall strategy was being re-examined, particularly in the light of spatial development initiatives under way in provinces where Safcol had major forestry holdings.

Other developments included a significant increase in the number of black people and women who were represented on boards.

On Eskom’s electricity council, for example, the number of black members had increased to 52.6% this year from 30% in 1994, Sigcau said.

PORTNET would be split into two entities by next year to separate its port authority and operational elements, Public Enterprises Minister Stella Sigcau said yesterday.

In an overview of her ministry’s work for the past three years, Sigcau defended delays in the privatisation process, saying much work and consultation had to be done first and solid progress was being made now.

She said it had been decided that the operations and authority functions of Portnet would be separated next year and a regulator would be established, as it was government’s function to oversee the regulation of ports.

A decision had been made at a recent interministerial cabinet committee meeting to significantly increase the public enterprises ministry’s capacity next year to cope with its greater work load. The ministry and offices of public enterprises had a staff complement of 39 but was responsible for state-owned enterprises which employed more than 300 000 people.

Sigcau said there was a need to accelerate implementation of the national empowerment fund and the employee share ownership scheme. A strategy for the development of human resources and a management cadre in SA in general, and in state-owned enterprises in particular, was vital.

“We must explore the need for and possibility of establishing new strategic state-owned enterprises, for example, in the liquid fuels industry. The possibility and feasibility of consolidating the housing portfolio of state-owned enterprises and combining them with existing housing parastatals (is being considered),” she said.

On privatisation, Sigcau said despite problems with land claims, the sale of holiday resort company Aventura would be completed by next year.
Transnet's first step to privatisation

Robyn Chalmers

TRANSENt had invited black economic empowerment groups to bid for a 30% equity share in the restructured Viamax Fleet Management, MD Saki Macozoma said yesterday.

This is Transnet's first step down the privatisation road, although government has indicated it planned to sell passenger and freight transport group Autonet and a stake in SA Airways — possibly by next year.

Macozoma said agreement had been reached on structures that would facilitate the restructuring of Viamax Fleet Management. The company provided a maintenance leasing service of company vehicles at Transnet and for the private sector market.

He said Viamax Fleet Management would be separated into a fleet asset-owning operation and a fleet management services operation. This would be known as Viamax Fleet Solutions.

The restructuring of Viamax Fleet Management was seen as the beginning of the privatisation process for the rest of the Viamax group, a wholly owned subsidiary of Transnet.

Transnet executive director Mafika Mkwanaaz said the preferred criterion for the black economic empowerment partner would be that it was a local company which was black controlled or managed.

Interested companies had to make submissions by December 31 after which a short list would be drawn up. He said a 10% equity stake in Viamax Fleet Solutions would be available for employees to participate in a share option scheme.
Dept responds to privatise issue

By Khangale Makhado

THE Gauteng health department said yesterday that it had not privatised its ambulance service in toto, but only the section responsible for the maintenance of vehicles. This was done with a view to improve the service.

This follows accusations that the department had privatised the facility and that the move would lead to job losses.

Spokesman for the department Mr Popo Maja said yesterday that all they had done was to opt for leasing, in that the private sector would lease the ambulances to the department. The ambulances would be manned by government staff, but maintained by the private sector.

"In the past we had a situation where ambulances were owned and maintained by the state and this resulted in the government encountering huge problems whereby broken down vehicles took longer to repair, causing the public to suffer.

"The delay in making available the vehicles endangered lives of people and, in a bid to address the imbalances of the past in the health service delivery, we had to ensure that we opted for the most efficient, reliable and effective way that would ensure the availability of ambulances when they are needed," Maja said.

Fierce opposition

He said there was fierce opposition to the new arrangement, launched in February this year, with fears that if the department was to privatise the service workers would lose their jobs.

"The new arrangement will ensure that there is a definite number of vehicles on the road and ready to be there at any given point in time when needed. And if a vehicle breaks down it would be replaced within an hour," said Maja, adding that they were saving a great deal on costs, time and the lives of people.
Competition policy blueprint will cast a wide net

Erwin Win"
Tug of war on privatisation

The City of Tygerberg municipality is still locked in arbitration with the South African Municipal Workers' Union over the privatisation of cleaning services in Khayelitsha.

Municipal officials are studying video recordings of several clashes between union members and the police recently when dozens of council vehicles were damaged and councillors were assaulted in Langa West.

Sixteen municipal workers may lose their jobs if they are identified among the culprits. - Staff Reporter

Aug 28, 1997
Erwin spells out new deal on monopolies legislation

A new Monopolies Law should be in place before the end of next year, says Trade and Industry Minister Alec Erwin.

Presenting his long-awaited competition policy guidelines to the National Economic Development and Labour Council (Nedlac) in Johannesburg yesterday, Mr Erwin said the document would lay the basis for making production and distribution more efficient by stripping out anti-competitive conduct.

This was important for South Africa because international competitors complained of uncompetitive local markets with artificial barriers to entry.

Economic distortions caused by high levels of concentration prevented South Africa from being a world-class exporter in many fields, Mr Erwin said.

The competition policy would open new doors for those who had previously been excluded from economic activity. This included consumers and emerging entrepreneurs, Mr Erwin said.

Labour union concerns about job losses due to competition and to mergers and acquisitions would also be built into the policy process.

Concentrations of wealth and power which did not serve the public interest would be tackled head on, he said.

But, Mr Erwin said, the policy was not aimed at big companies just because of their size, and nor would it prohibit mergers and acquisitions, enforce unbundling, or necessarily dismantle monopolies. Each situation would be judged on its merits.

The policy guidelines would now be discussed in Nedlac's trade and industry chamber for three months before legislation was tabled, Mr Erwin said.
Erwin presents policy guidelines

LYNDA LOXTON
AND CYDE RUSSELL

"Cape Town — Anti-competitive behaviour and the broad structure of industries, including ownership patterns, would come under the spotlight in a review of competition policy. Alec Erwin, the trade and industry minister, said yesterday.

He presented his long-awaited guidelines for a new competition policy to Nedlac and said he hoped that legislation would be in place by the end of next year.

The guidelines do not provide specifics on what should or should not be regarded as monopolies, but are broad principles that should guide the negotiations in Nedlac.

"Where artificial, non-economic concentrations of wealth and power exist — and so do not serve the public interest — these will be addressed forthrightly," said Erwin.

"Yet the policy is not aimed at the absolute size of enterprises, competition authority that will implement competition law and penalties without ministerial or political interference. There will be a basis for appeal.

Pierre Brooks, the chairman of the Competition Board, said yesterday that there were several areas of competition law that needed to be reviewed.

He told the British Chamber of Business in South Africa that he wanted a co-ordinated approach to competition policy. He also said the present system of criminal sanctions was not working well.

Brooks said he was in favour of a flexible approach to competition policy and not one based on doctrinaire principles. He said this had led to criticism of inconsistency in decisions, but he believed a case-by-case approach was best.

Brooks said South Africa would also have to integrate its competition policy with that of other countries.

□ Business Watch, Page 16
Competition law may get sharper teeth

Greta Steyn

GOVERNMENT has proposed beefing up competition policy through the creation of a new watchdog that would have sweeping powers to crack down on abuses of market power.

The proposal is contained in a document tabled yesterday for discussion with labour and business in the National Economic Development and Labour Council (Nedlac).

Business groups have been waiting for three years to see if the government had its sleeve on competition policy, after hints by the newly elected government that it could break up conglomerates.

The document suggests that the proposed new monopolies act should target anticompetitive behaviour, rather than size or concentration of market power. However, the government should be able to dilute market power when necessary. It should be able to prevent mergers and acquisitions, and to compel companies to withdraw from particular markets.

"Government is obviously cognisant of the link between structure and conduct," the document said. Conglomerates did not necessarily lead to anticompetitive behaviour, but some corporate structures facilitated "improper conduct. Hence, the authorities should be able to "trigger structural remedies, both pre-emptively and with respect to compelling disinvestment or exit from particular markets."

The government proposed to take the enforcement of the monopolies act out of the hands of criminal courts, as is the case with current competition law. The idea is to create a professional agency with powers to investigate and to respond "rapidly and robustly" to anticompetitive behaviour. It said the present system of prosecution in the criminal courts had failed - "there have been no prosecutions, let alone convictions, for contravention ... since 1986". Reasons for the poor record included the high rate of more serious crimes and investigating officers' lack of expertise in competition matters.

"Enforcing the rules governing competition and ensuring that wrongdoers do not flout the rules with impunity are crucial facets of any credible competition law," the document said.

The new monopolies law would also remove the possibility of politically inspired intervention. At present the trade and industry minister is allowed to intervene at his discretion.

There were four reasons why a new monopolies law was necessary: the current act did not address the extent of concentration of ownership or market share; there were no provisions relating to vertical or conglomerate relations, there were few mechanisms to prevent (or even know about) advance mergers and acquisitions which intensified concentration, and the act did not contain strong prohibitions of anticompetitive activity.

The document said the drafting of the monopolies bill would take place in tandem with the Nedlac discussions. It would be published at the beginning of March followed by 12 weeks of public consultation afterwards.

See Page 3
Privatisation of Airports Company gains speed

Six bidders have been named but only three have a realistic chance, writes THABO KOBOKOANE

GOING, GOING... international airports authorities are competing for a 20% stake in Acasa
GOVERNMENT's revamp of its competition law, almost three years in the making, is unlikely to cause a major rift between government and business.

The bill, tabled in the National Economic, Development and Labour Council (Nedlac) by Trade and Industry Minister Alec Erwin, proposes reforming existing competition law. Furthermore, it will establish a new policing authority, with significant statutory powers.

The feared antitrust action, modelled on US competition law, failed to materialise.

The measures have impressed black business and the SA Chamber of Commerce (Sacob).

National African Federated Chamber of Commerce general secretary Mashudu Ramano says the proposals will address SA's "fairly weak" competition law. "SA needs a much stronger competition policy that will limit, among others, excessive concentration in particular markets."

Sacob's economics director, Ben van Rensburg, welcomed the comprehensive approach of the proposals, which plan to merge competition policy with issues such as industrial development and international trade.

"This would make sure all laws governing business move in a similar direction," but he warned that a significant number of issues had yet to be detailed including concentration and conglomerations.

The proposed law will "prohibit anti-competitive conduct and abuses of dominant market position", as well as "ownership concentrations leading to excessive control over economic activity."

Competition Board chairman Pierre Brooks says the new law effectively prohibits anticompetitive behaviour from the outset. "Our present law merely warns of the potential consequences of such behaviour."
Draft on policy welcomed (282)

By Isaac Moledi

The Government has welcomed new draft guidelines on competition policy, saying these were part of its plan to align its overall economic policy.

Deputy President Thabo Mbeki's office said on Friday that the opportunity provided by the release of the draft "Guidelines on Competition Policy" served to integrate competition policy "with our overall national policy objectives and the particular objectives of our industrial and macro-economic policies."

They were in line with both the Growth, Employment and Redistribution macro-economic strategy and the Reconstruction and Development Programme.

Proposals for strengthening competition policy through the creation of a new regulatory body, which would crack down on abuses of market power, were submitted to the National Economic Development and Labour Council last Thursday.

Mbeki's office said a number of areas now needed immediate attention.

These included:
- The establishment of a competent, professional and powerful competition policy authority,
- A reformed and much strengthened monopolies law directed at anti-competitive conduct,
- A review of current practices and regulations in the area of corporate governance,
- A review of the Harmful Business Practices Act which bear principal responsibility for protecting consumer interests, and
- A review of the competitive interface between public corporations and the private sector.

"There are opportunities for these large firms, as we reform state institutions with which they should now have an opportunity to compete," the statement said.

The policy is expected to give a new voice to emerging enterprises that have been complaining about barriers to entry and other anti-competitive practices.

Consumers, communities, labour and the unemployed will also benefit from greater competition, particularly in areas associated with basic needs and also in light of forthcoming improvements to consumer protection laws, the statement said.

"The steps we take towards codifying our new Competition Policy Guidelines into law begin this week with debate in Nedlac."
Erwin's delicate balancing Act

The first problem is to define the public interest

Last week, Trade & Industry Minister Alec Erwin ended three years of suspense over the form which ANC competition policy would take when he presented his 'guidelines' to the National Economic Development & Labour Council (NEDLAC) last week.

Though he has underplayed some of the problems which may arise, his proposals should appeal both big and small business and put the consumer in a better position than ever before.

The problem with formulating competition policy is that it has to interact with industrial strategy and trade policy - and the imperatives of the three are often mutually exclusive.

There have been several areas of controversy over the years.

One is whether large concentrations of corporate power deter foreign investors. Offshore investors, the argument goes, find it difficult to take over existing companies because of their intricate system of cross-holdings and the pyramid structures which allow control of many companies by a few individuals. They must either form joint ventures with local businesses or establish new operations.

Another problem is that the comparative freedom of competitors to merge or acquire other companies without any effective barrier to the process and sometimes without the prior knowledge of the authorities in theory means there is little to prevent the creation of monopolies.

Next is the debate over efficiency. One view is that the obstacles to hostile takeovers allow managers to perform at less than the maximum efficiency. The counter view is that the presence of strong controlling shareholders ensures peak efficiency because they are in a position to act against bad managers.

A separate issue is whether the concentration of companies actually abuse their dominant position in the market with 'repressive practices' such as price fixing or production or distribution restrictions.

Concentrations are also accused of operating at an unfair advantage to smaller domestic competitors. And they are perceived to be disadvantageous consumers - as major suppliers of certain products.

These weaknesses in existing legislation are seen to work to the benefit of entrenched white businesses.

Since the advent of the ANC in power, another dimension has been added to the debate. It is how far legislation can assist development, black empowerment and affirmative action without compromising market efficiencies.

This complex problem of competitiveness and political but not private accounts for the long delay in introducing a policy once seen as a priority of the ANC.

Erwin has put his proposals on the table and he is optimistic about reconciling conflicting interests.

And where complementarity is not possible explicit trade-offs have to be made between objectives of various policy fields, it concludes.

Erwin may be underestimating the difficulties that will arise when attempting to implement the various measures. But he has set out clearly the two central trade-offs in the proposed guidelines.

The first is a concern that big is not necessarily bad and therefore large corporates are not in themselves to be targets of future legislation. The rationale behind this is that competition is responsible not only for domestic competition but for SA's competitiveness in trading with the rest of the world. And size is needed to achieve the economies of scale that global competition demands.

To compensate for the advantages that big may have it is proposed to make the large corporates not the targets of competition a target of competition. It is envisaged that they will be subject to the same scrutiny as smaller domestic businesses.

The second is that the various policy fields - trade, industrial policy, and pricing - have to be reconciled. It concludes that the best way to do this is to have a multi-disciplinary approach to competition policy.
Call to speed up water, electricity deregulation

Lucia Mutikani

GOVERNMENT should speed up deregulation of the electricity and water industries to ensure greater transparency and competitive prices for consumers, utility consultant Drew Stein said at the weekend.

Stein, a director with Deloitte & Touche Consulting Group, said SA had been talking about deregulation of the utilities sector for years, but progress had been slow so far.

The first step in deregulation was to pull out the natural monopoly, the “transmission” system, and place it into its own corporate structure.

“The reason for this is that the natural monopoly needs to be open and transparent so that all the users of the system are treated equally,” said Stein.

“It appears that in the current structure, with transmission being in Eskom, it is extremely difficult for any one wishing to use the system to be sure there are no cross subsidies and that the transmission system is operating as a neutral carrier.

Referring to electricity utilities, he said the key to deregulation was to ensure that the structures inhibiting the process were broken into their various natural components.

On bulk water, he said it was unusual that central government was still involved in management. Governments all over the world were departing from the operational side of the water industry after regulation and solid control mechanism had been established “I believe the SA water industry will follow the same route,” said Stein.

Most importantly, government needed to establish acceptable robust governance procedures and policies. Each corporate structure should produce a statement of corporate intent on an annual basis.
REVIEW 97: PRIVATISATION

Rough and bumpy trot to sell assets

Johannesburg — The drive by government to privatise its parastatals has been an admittedly painful, but rewarding, experience.

If President Nelson Mandela, discovered that it was no easy walk to freedom, Stella Sigeau, the public enterprise minister, would be entitled to write a book called “No easy trot to privatisation.”

It became necessary for the minister to “trot” as she was under pressure from business to be seen to be accelerating the implementation of the tenets of the growth, employment and redistribution (Gear) strategy.

Gear is premised on the conviction that the government should concentrate on the creation of an enabling environment for private entrepreneurs to run businesses on market principles.

Whether involving the sale of a stake or full-scale unbundling, the route has been a rough and bumpy road marked by an odd mixture of a heavy dose of uncertainty, delays and minimal successes.

The government embarked on a multi-pronged programme to privatise its assets, primarily because they were loss-making.

These included South African Airways, Aventura, Sun Air, the Airports Company of South Africa, Telkom and several radio stations formerly operated by the SABC.

To date the government has netted R6.5 billion in proceeds from the sale of the 50 percent stake in Telkom and the 100 percent stake of Sun Air and the radio stations.

Though the sale of the radio stations and the Telkom stake to a consortium of SBC Communications in the US and Telekom Malaysia for R5.58 billion and marked a positive start, the rest of the programme has moved slowly.

“Without sounding too apologetic, the privatisation process has experienced problems such as the land claims issue encountered with Aventura, which delayed the process. But it has been a necessary experience,” Wandile Zote, the public enterprise spokesman said.

The sale of Sun Air was delayed and almost scuppered by disputes over the more lucrative domestic routes between Comair and Sun Air.

The final nod was given to the Refhable-Comair consortium with its offer for R50 million, which had to shoulder Sun Air’s R47 million interest-bearing debt.

Zote said the government was developing strategies to skirt hurdles that hamstrung the pace of the programme and would accelerate its delivery capacity next year.

The government would fast-track the resolution of land claims at Aventura and wrap up the process next year. It would also advertise shortly for a transaction adviser to administer the unbundling of Safcol.

However, Safcol’s privatisation could still be delayed as the common slow state bureaucracy would be expected to decide whether it should be sold as a single company, in separate parts or include the former homelands forests.

Questions have been raised about whether the government should shelve the sale of its loss-making operations until they are restructured and restored to full health. Some managers of loss-making companies have rejected the logic of: hanging under the cloud of an uncertain future while losing lucrative offers from the private sector.

At some point the government has even been accused of being reluctant to relinquish control of its entities and instead setting for partial privatisation.

However, the government has also dovetailed the privatisation programme to its regional and local levels and tied it to outsourcing and build, operate and transfer (BOT) programmes.

“We have learned a lot this year as we laid the foundation for more delivery next year,” Zote said.
Four banks vie for SAA privatisation role

Robyn Chalmers

GOVERNMENT has short-listed four merchant banks for lead transaction adviser to oversee the partial privatisation of SA Airways (SAA), expected to be completed by October.

The candidates are Goldman Sachs, Merrill Lynch, SBC Warburg and UBS Real Africa Durhink with the winner to be announced on December 18. Public Enterprises spokesman Wandile Zote said the adviser would oversee the process, including determining a share value, controlling the tender process and managing legal aspects.

A second adviser — likely to be a local black merchant bank — was being sought to oversee the employee share ownership scheme and the transfer of an unspecified stake to the National Empowerment Fund (NEF). It remains unclear how much of SAA will be sold, although government will retain a majority stake. It is estimated that 25% to 30% will go to a strategic equity partner, between 5% and 10% to employees and up to 10% to the NEF.
Ministers slowly opening doors to private sector power distributors

Robyn Chalmers

TWO cabinet ministers have held out the prospect of private sector competition in the Ribbin electricity distribution industry.

However, Minerals and Energy Minister Pemvel Maduna and Provincial Affairs and Constitutional Development Minister Valli Moosa have indicated Eskom and municipalities will retain control for several years, until the turmoil in the sector is resolved.

The National Electricity Regulator and international electricity distributors, many of them the product of foreign privatisation, have called repeatedly for greater private sector involvement in the struggling sector.

The cabinet has voiced support for a restructuring of the industry. Once implemented, the industry would be consolidated into an as-yet-undecided number of regional electricity distributors, cost-effective tariffs would be introduced along with an electrification levy, and a capped tax implemented.

As part of the restructuring, Maduna said recently that independent power producers might be allowed to enter the electricity supply sector.

"We are grappling with the crises in the industry, but over time we will have to address the issue of private sector involvement," he said.

In a speech read on his behalf at a recent electricity conference, Moosa said there was much uncertainty about the restructuring process. He made it clear that the electricity supply industry would remain under public ownership for the time being, with municipalities and Eskom as equal partners.

The situation would be reviewed later. "Any changes should take place within the framework of government's policy on the restructuring of state assets," he said, referring to the National Framework Agreement, government and labour's blueprint for privatisation and restructuring.

Moosa said restructuring would not result in forced retrenchments and municipalities would continue to play a key role in the industry.

One concern for municipalities is the loss of electricity revenue, which makes up more than 41% of local governments' total income. Moosa said they would still be able to contribute to the funding of other municipal services from surplus electricity revenue.

Association of Municipal Electricities Undertakings president Jan Malan called for regional electricity distributors to be floated and fully established by July 1 next year. All employees should hold shares and customers should ultimately also have access to shares in distributors.
OWNERSHIP & CONTROL

1998

OCT. - DEC.
Plan to privatise services

By Sharon Cheat

(832) KOVON 1110 1968

[Image of a page with text and a signature]
Cape Town — The proposed merger between Sasol and AECI probably would have been approved if the new Competition Bill had already been passed, Simelane Menzi, a government law advisor, said yesterday.

Briefing the National Council of Provinces' select committee on economic and foreign affairs, Menzi said the deal probably would have met one or more of the four public interest grounds necessary for a merger.

These grounds are whether the deal would benefit a particular industrial sector or region, affect employment, allow the entry of small businesses and make industries more competitive internationally.

Alistair Ruiters, the chief director of business regulations, confirmed that the department of trade and industry had been in favour of the merger, which was called off because the Competition Board gave it only qualified approval.

Ruiters said he was not sure whether the board examined the merger in terms of its effects on the national or international market.

"Had one looked at it in terms of our public interest criteria, which include international competitiveness, we believe this merger might actually have been approved."

The committee was also briefed on the National Empowerment Fund Bill and the Estate Agents Amendment Bill, both of which were passed by the national assembly last week.

Sibonile Mbongo, the director in charge of policy analysis and strategy, said the South African Revenue Service had turned down a request to exempt the National Empowerment Fund from taxes, duties and levies.

Sango Ntsaloga, the project director of the fund, said that it would not be a catalyst for the restructuring of state assets, but would buy shares in public enterprises and private companies for historically disadvantaged South Africans.

Regarding the concern that black investors might use black people as proxies to buy shares, Mbongo said checking identity documents of shareholders might be necessary.

The vote on the bills is on Monday.
Cosatu, govt look set to reach privatisation deal

Last month the federation suspended a planned protest against privatisation after making progress in talks with government negotiators. Labour sources said the draft agreement, yet to be finalised, contained a broad framework on the restructuring of local government similar to the National Framework Agreement for restructuring state assets.

It also contained a regulatory framework dealing with cases in which the private sector was involved in service delivery.

The parties were also expected to consider whether initiatives in Nelspruit and the Dolphin Coast, where municipalities had privatised some services, adhered to the agreement.
Union intends to march

THOUSANDS of South African Municipal Workers Union (Samwu) members are expected to take part in an anti-privatisation demonstration at the offices of the Greater Pretoria Metropolitan council at 10am today.

The march, also part of the nationwide Samwu campaign against proposed privatisation of municipal services, is in response to the proposed outsourcing of some municipal services by the Centurion and Akaia, Bronkhorstspruit and Coolman local councils, according to the union's spokesman, Mr Aaron Maphosa.

Resistance to privatisation mounted since Dolphin Coast municipality in KwaZulu-Natal announced its plans to privatised water services.

A British transnational, Biwater, is the preferred bidder for a 30-year water contract in Nelspruit.

Samwu believes that privatisation of water, electricity, refuse removal and other services will lead to corruption and exploitation by unscrupulous private companies whose sole motive is profit.

Samwu hopes that the demonstration will send a clear message to the council in the Pretoria Metro that their privatisation initiatives have no backing from the union, Maphosa said.

Councils should seek ways of transforming delivery by expanding the existing services, he said.
7 000 protest privatisation of services

By Mzwakhe Hlangani
Labour Reporter

AT LEAST 7 000 municipal workers in Pretoria demonstrated yesterday to put pressure on Government to reverse its plans to privatise five municipalities.

The march on the Pretoria Metro Council in Church Street was part of the nationwide anti-privatisation campaign by the South African Municipal Workers Union to protest outsourcing of municipal services.

Forty-eight municipal services have been privatised. South African Municipal Workers Union (Samwu) spokesman Mr Godfrey Sekela said the message from workers to Pretoria Metropolitan and the local councils of Akaas, Bronkhorstspruit, Centurion and Cullinan was that contracting out basic services would undermine the living standards of workers.

A memorandum presented to Greater Pretoria Metropolitan Council chief executive officer Mr Henry Ensln warned that privatisation “will exacerbate apartheid inequalities”.

“We have no alternative but to mobilise our members, our communities and the public against all tiers of government, particularly local government, to stop privatisation of basic services,” said Sekela.

Ensln told the marchers that he, together with chief executive officers from respective local councils, would brief councillors about the workers’ demands and report back within a week.

● The strike by 3 000 Edgars workers gained momentum yesterday when 2 500 members of the Federation of Retailers and Allied Workers Union indicated their willingness to join the protest.

Union spokesman Mr Nati Kellele said the union had notified management that they would be joining the strike tomorrow.

Meanwhile, South African Commercial Catering and Allied Workers Union spokesman Mr Priso Tshakura said Edgars management had invited the union to a meeting.

● Sapa reports that all nine regions of the National Union of Metalworkers agreed yesterday to end their five-week motor industry strike, paving the way for workers to return to work within the next five days.

Union spokesman Mr Dumisa Ntuli said “Workers must be given grace of four to five days to return to work. Some stay in rural areas where the channels of communication are quite poor.

“The biggest problem employers will face is laying off the scab labour they employed”.

South African Motor Industry Employers Association spokesman Mr Vic Fourie said “We don’t think we’ll have everything back to normal so quickly but things are settling”.

The union and management have agreed in principle that from next year annual wage negotiations will be "based on actual rates of pay and not minimum rates".
National Council of Provinces rejects eleventh-hour changes

Cosatu, De Beers fail to shake Competition Bill

LYNDA LOXTON
PARLIAMENTARY CORRESPONDENT

Cape Town — Last-minute efforts by Cosatu and De Beers to introduce changes to the Competition Bill were rejected by the National Council of Provinces’ select committee on economic and foreign affairs yesterday.

Cosatu argued that the bill be amended to ensure that trade union representatives could participate in merger control proceedings.

But Alistair Ruters, the chief director of business regulations, said this was the intention anyway. If it did not take place because of the way the bill was worded now, it would be addressed by an amendment later.

In a written submission, De Beers said it was undesirable to place the onus of proof on firms charged with anti-competitive behaviour while procedural safeguards were needed for divestiture.

It also claimed that the fact that the Competition Appeal Court had final jurisdiction over competition law matters was unconstitutional, while the criminalisation of the failure to comply with orders by the Competition Tribunal should be replaced with a system of daily fines.

Ruters and Norman Manoum, his legal adviser, said these issues had been raised during the public hearings by the national assembly and had all been rejected. It would not be difficult for firms to prove they were not anti-competitive, or that there were efficiency or technology reasons why they held a monopoly.

Divestiture would only be ordered when there was no other remedy while the Competition Appeal Court would be a specialist court very much like the labour court.

The committee approved the bill without any amendments. It also approved the National Empowerment Fund Bill, even though some committee members were concerned about an amendment suggested by Thembile Mthlongo, the director of policy analysis and strategy in the department of trade and industry.

The amendment removed a clause stipulating that the minister had to be consulted before the chairman of the board used his vote to break voting deadlocks. Mthlongo said the fund would be a commercial entity and needed to be able to take decisions quickly without waiting for ministerial approval.

“Currently, no state-owned commercial enterprise has such a provision where the minister influences the exercise of a casting vote by the chairperson of the board,” he said.

The committee accepted his argument and amended the bill.
SAA is the first parastatal to take on part of Transnet's pension fund and medical aid debt

Sigcau justifies privatisation strategy

CT (BR) 7/10/98 (272)

LYNDA Loxton
PARLIAMENTARY CORRESPONDENT

Cape Town — Transnet's pension fund and medical aid liabilities would be shared out on a case-by-case basis as the different business sectors were restructured, Stella Sigcau, the public enterprises minister, said yesterday.

In a written reply to a question in the National Council of Provinces, she said the first decision of this kind would be on SAA's balance sheet.

An announcement is expected soon on how much debt and other liabilities could be taken on by SAA, retained by Transnet or handled under arrangements underwritten by government.

Sigcau said SAA's revised business plan was expected within the next few weeks, when the government would decide on its opening balance sheet.

Up to 49 percent of the shares in the newly incorporated SAA would be sold. Up to 25 percent would be held by a major airline.

"Moves have also been made to fast-track the restructuring of Autonet and PX," she said.

"Much work has already been done to prepare for the restructuring of the forests belonging to the South African Forestry Company (Safcol) and the department of water affairs and forestry.

This includes finalising the National Forests Bill covering Safcol's pension fund deficit and working out a detailed strategy for selling the business.

"The government expects to issue invitations to potential investors to bid for majority shareholdings later this year and to have completed restructuring by the middle of 1999," Sigcau said.

It had been decided to appoint one or more private sector companies to manage the different units of Alexkor, the diamond mining parastatal.

They would undertake and fund exploration programmes to secure its long-term future. Invitations to bid for the management contracts would be sent out by the end of the year, Sigcau said.

Sigcau said all the preparations had taken place within the framework of Gear and in accordance with the National Framework Agreement.
Jobs summit plans to fast-track its decisions

ROY COKAYNE

PRETORIA — Important agreements and a range of processes to address unemployment would be announced at the presidential jobs summit on October 30, Alec Erwin, the trade and industry minister, said yesterday.

He said actions would be started at the summit from prior discussions and agreements between the government, business, labour and other parties.

Erwin said consultations were continuing, and the parties hoped to reach agreement on the structural dimensions of the summit and finalise the lead projects next week.

The initial and lead projects would be “fast-track.” Some of them would be infrastructural programmes, which would link into the housing and public works campaigns, working for water and clean city projects.

“The jobs summit will agree on a number of processes and programmes for job creation.”

Erwin said there were differences between the parties but they would work together in areas where they had agreement.

He said the government had called for submissions on the jobs summit and a range of inputs, views and comments had been received. Some of these might be incorporated in the action plan for the summit or recorded and included in the document.

Erwin said the parties were trying to find, from the submissions, the concrete agreements and programmes that could take the process forward.

The groups had agreed to commit themselves to working together on a range of programmes, some short to medium term and others longer term.

These involved industrial policies and support for the disabled and women. It was necessary to see if they could be “implemented in a joint and practical way.”

It had been decided during talks in Nedlac that there would be a second round of discussions from October 13 to 16 in the nine provinces for “structured inputs from the provinces.”

He said that they had worked with a fully representative major business initiative for the first time in South Africa’s history.

The state had R800 million for infrastructural projects this fiscal year, but was looking at the medium-term expenditure framework and the commitment of business and labour.
African gains through privatisation

Sowetan Business Reporter

THE privatisation of 2,700 enterprises in sub-Saharan Africa raised almost R1.8 billion in foreign exchange by 1996, says the International Finance Corporation in its annual report for 1998. The IFC said the private sector’s role is expanding as most countries have implemented market reforms intended to free entrepreneurial energies. Regulatory reforms have made it easier for private companies to operate.

"Moreover, capital markets are starting to develop in several countries. Equally encouraging is the progress of democratisation and of civil society at sub-regional level, a democratic, open South Africa has had positive implications for trade and investment in the Southern African Development Community (SADC) and beyond, improving business opportunities for private investors and the IFC," says the report.

"Prospects are brightening as many sub-Saharan African economies have consolidated recoveries. The region’s economies are growing, although at an uneven pace. Countries with strong economic performance owe their success to strengthened macroeconomic fundamentals, resulting from structural adjustment and liberalisation."

The IFC is the private sector arm of the World Bank. Since 1955, the IFC’s fundamental role has been to promote economic development by encouraging private investment, both foreign and domestic, in developing member countries. It provides long-term, market-related capital in the form of loans and equity.

This year the IFC has approved two loans worth R240 million in South Africa. Some of the local projects that have benefited from this funding include Constantia Days Inn Hotel, which got cash to establish and operate a limited service hotel, and Cash Bank, which will receive a loan to market its products and services.

Lesedi Private Hospital will get funding for the establishment of an intensive care unit.

Liquidity crises

In his message, outgoing IFC deputy executive vice president Janus Landbaek said 1998 was a very difficult year in Asian markets.

Landbaek said IFC mobilised an Asia Fund by helping existing clients survive the liquidity crisis: "By providing long-term capital to strengthen clients’ balance sheets and by quickly identifying new investment opportunities, IFC was working to restore confidence in the Asian economies."

"Perhaps more than anything, the events in Asia this year reminded us of the critical value of effective domestic financial regulatory systems and transparency in financial markets," he said.

"Although the recent problems in East Asia represented the most far-reaching threat to global prosperity since the Latin American debt crisis of the 1980s, we firmly believe that the decade-long trend of private sector-led development will continue."

"For private investors, nothing has changed the fact that the developing world – with its large, relatively young, and growing population – holds great promise."

Developing countries

He said people in developing countries needed strong infrastructure, a healthy financial sector, industrial production and consumer goods and services.

The IFC says the next century will pose serious challenges. "The organisation is on the threshold of a major change," it says.

It argues that a dozen nations garner more than 75 percent of the world’s private investment capital flow, leaving entire regions of the world vastly underfunded.

In the effort to eliminate poverty through economic development, this reality represents a large unfinished agenda for the IFC."
NELSPRUIT TURNS ON THE TAPS OF PRIVATISATION

Hour of truth nears as State gets set to call Cosatu’s bluff

NELSPRUIT may seem an improbable epicentre for a revolution, water and sanitation its unlikely seeds.

If revolution is too strong a word, there’s no doubt that a seismic shift will occur in local government when, as is expected this month, Provincial Affairs & Constitutional Development MEC John van Rooyen signs a R30m deal with the Water and Sanitation Department.

Nelspruit is no place for ritualistic displays or symbolic acts, but it opens the door to a new era in the management and delivery of municipal services.

The move is in line with the ANC’s new policy of devolution and empowerment through the creation of municipal entities.

In doing so, the ANC government will unleash the first of what is likely to become a spate of public-private partnerships and privatisation projects of possibly hundreds of the municipalities across the country.

The variety and extent of these projects — and the fact that many will be accessible to the small entrepreneurs — could encourage black empowerment and stimulate social upliftment.

That the ANC government is pressing ahead in the face of union resistance, within sight of the general election, illustrates its conversion to private enterprise.

Nelspruit's initiative is being closely watched by dozens of other cash- and resource-starved local councils.

Nelspruit’s scheme as a watershed for municipal service provision — a blueprint for their own plans to privatise or part-privatise costly or inefficiently run services such as water, waste management, housing, garbage disposal, revenue collection and even electricity generation.

Already a cluster of small municipalities in and around Ballito, north of Durban (the Dolphin Coast), have drawn up plans to do much the same.

Concessions have even been approved, and the Development Bank for South Africa has applied for a loan.

Almost all the municipalities in South Africa are not far behind.

CONDOLENCES:

The ANC government is pressing ahead in the face of union resistance, within sight of the general election, illustrating its conversion to private enterprise.

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TOWARDS EFFICIENCY:

Business solutions available to ensure minimum cost, maximum value of municipal services.

FULL PRIVATISATION:

A private firm runs a municipal service; finances, investments and working capital. The service reverts to the municipality on expiration of the contract.

BUILD-OWN-OPERATE-TRANSFER (BOOT):

A firm builds, operates and transfers a service facilities to the municipality on expiration of the contract.

LEASE (AFFIRMATIVE):

A private firm rents service facilities to a municipality and is responsible for operation, maintenance and working capital. Fixed assets remain responsibility of municipality.

SERVICE CONTRACT:

A municipality pays a private firm to provide specific operational services, such as meter reading, billing and collection.

CORPORATISATION:

A municipality forms a separate legal entity to run municipal services.

DEBT ISSUANCE:

A municipality issues bonds to raise capital directly from private investors for capital costs of building or expanding service infrastructures.

PUBLIC-PUBLIC PARTNERSHIP:

A separate entity enters into a contract with a public entity to run municipal services.

Remarkable progress has been made already.

The Nelspruit Toward Efficiency initiative has been designed to ensure minimum cost, maximum value for municipal services.

Full privatisation:

A private firm runs a municipal service; finances, investments and working capital. The service reverts to the municipality on expiration of the contract.

Build-own-operate-transfer (BOOT):

A firm builds, operates and transfers service facilities to the municipality on expiration of the contract.

Lease (affirmative):

A private firm rents service facilities to a municipality and is responsible for operation, maintenance and working capital. Fixed assets remain responsibility of municipality.

Service contract:

A municipality pays a private firm to provide specific operational services, such as meter reading, billing and collection.

Corporatisation:

A municipality forms a separate legal entity to run municipal services.

Debt issuance:

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Ms. James Privaition

MPL says the notion that privatization could save millions is a myth.

Valentine says the notion that privatization could save millions is a myth.

Millions
NEWS

Unions accept outsourcing of municipal services if public sector is preferred choice

Agreement in privatisation dispute takes step forward

TERRY BELL

Cape Town — The long-running row over the privatisation of municipal services should be resolved later this week. An agreement is expected which concedes that the public sector should be the “preferred option” for service delivery.

In an exclusive interview last week, Mohammed Vally Moosa, the constitutional and provincial affairs minister, said a draft agreement had been reached between the government, the Cosatu trade union federation and local authority employers.

The draft agreement was adopted on Friday, at a closed executive meeting of the municipal union Samwu, which has been a leader in the Cosatu anti-privatisation campaign.

Although details will not be made public, Petrus Mashishi, the Samwu president, acknowledged that the agreement gave “first option” to public sector delivery of services — such as water, sanitation and rubbish collection — which several councils had already moved towards privatising.

The agreement does not rule out participation by the private sector in “public-private partnerships” (PPPs), but states that these may only be adopted where there is no public sector structure willing and able to provide the service.

Another task team, set up in June and which includes nine experts from the US, is charged with drawing up a “framework agreement” for PPPs.

But so far as Mashishi — the only Samwu official now permitted to speak on the issue — is concerned, all local government restructuring proposals must first be evaluated against the final version of the draft agreement adopted last week.

Samwu still had a “community-controlled” proposal for water and sanitation delivery “on the table”, he said.

The Samwu scheme has been the focus of the battle over the controversial Nelspruit and Dolphin Coast PPP proposals.

Last month, the row reached a peak with Cosatu’s threat of a general strike. Notice of the strike through the National Economic Development and Labour Council resulted in the task team which drew up last week’s draft.

However, so far as Vally Moosa was concerned, Nelspruit, where Biwato, the British conglomerate, stands to win a 30-year water and sanitation services contract, should be regarded as a “pilot project” for PPPs.

PPPs, he said, had “proved themselves around the world.”
Public enterprises from gapping hole in SA’s new competition policy

(99)
PORTNET wants private sector to run ports

PORTNET has proposed a strategy which will see the private sector running port operations under an independent national port authority.

The Transnet division also sounded a warning bell about infrastructure investment, saying the past government had underinvested in ports at "a delinquent level." About R12.5bn was needed over a decade to catch up and maintain growth against current investment of R1.5bn a year.

A review of wharfage and all other charges was under way, even though the total cost of doing business with SA's ports was not excessive. Wharfage rates were high by international standards although Portnet generally undercharged for services by 40%-50%.

An across-the-board review of Portnet's roughly 70 terminals was also under way to improve operational performance and eliminate services which were not cost-effective.

Rob Childs, Transnet executive director in charge of Portnet, said the strategy was proposed by Portnet management and was not official policy. Government has, however, indicated that a fundamental restructuring of ports is on the cards.

Childs said a key proposal was that SA should establish a national port authority as landlord which would concession private firms to undertake operations in a competitive environment.

A port consulting company should be established to furnish advice to new entrants to port business. An independent port regulator was needed to oversee the supply of services, ensure competition and prevent exploitation.

Childs also fired a broadside at the transport ministry's Moving SA strategy which aims to provide a platform for transport over the next 20 years. He said Portnet had "commented critically" on certain aspects of the Moving SA report. The report recommended consolidating SA's ocean freight and port systems, identifying core container ports and prioritising infrastructure investment around these. Transnet had also recorded numerous concerns about the report.

Portnet's view on an integrated port strategy was that it supported the participation of all SA's ports in economic development. The selective development of certain ports to the detriment of others would not seem to hold net economic benefits for the country. Childs said separate ports policy was urgently required and should be integrated with trade policy. It should also take cognisance of the strategies of all interested parties.
The system of government in a democracy is designed to ensure that the voice of the people is heard and that the government acts in the best interests of its citizens. This system is based on the principles of checks and balances, where power is divided among different branches of government to prevent any one branch from becoming too powerful.

In a democratic government, the legislative branch is responsible for making laws, the executive branch is responsible for enforcing those laws, and the judicial branch is responsible for interpreting them. This division of power helps to ensure that no one branch of government can become too powerful and that the government remains accountable to the people.

The role of the government is to provide public services such as education, healthcare, and public safety. The government also plays a role in regulating the economy to ensure that it remains stable and that everyone has access to basic necessities.

By using the principles of democracy, we can create a government that truly represents the will of the people and works to improve the lives of all citizens.

By Nestor Malos

Privatization

Press on Workers
SA AIRWAYS has entered into far-reaching bilateral agreements with three major carriers which could see the value of the airline improve markedly when it comes to choosing a foreign equity partner.

The airline this week said it had signed memorandums of understanding with Swissair and Singapore Airlines, shortly after a similar deal with Lufthansa was announced which will see greater cooperation between the carriers.

This will include reciprocal wet-lease of aircraft, engine and hull maintenance, the integration of cargo networks, common frequent flyer benefits, the leasing of aircraft, and management and cabin crew training.

The deal will also see the replacement of about nine ageing SAA Boeing 747SP’s and 747-200’s in a possible one-to-one swap with the three carriers.

Coleman Andrews, SAA’s chief executive, said this week that the airline’s options on privatisation remained open.

“Swissair, representing the Qualiflyer global alliance, and Lufthansa/Singapore of the Star global alliance are interested in participating in our privatisation, as are the Continental/Northwest/KLM Alitalia grouping,” he said.

But Andrews would not be drawn on which alliance was favoured by SAA or when a foreign equity partner might be announced, although this is widely expected in the next few weeks.

“The deal could end up happening not one but two equity partners and they do not necessarily have to be from the same alliance,” he said.

Global alliances are keen to get their hands on SAA’s regional services in sub-Saharan Africa, which would, in effect, give them global coverage.

The struggle for a stake in SAA is expected to be fierce. A cash-flush British Airways and Lufthansa are arch-enemies and both desperately want to expand their influence in Africa — one of the last remaining untapped continental areas in global alliances’ networks.

Also, Swissair seems to be bringing much focus to the party — and strong allies in the process.

Although the government has stated that it will initially sell off 49% of SAA, only 30% to 35% of the carrier will go to a foreign partner or consortium, the rest finding its way to the National Empowerment Fund and staff.

It has, however, been said that in time, probably within five years, the balance of the airline will be sold off — with a foreign equity partner probably gaining control.

Interest in acquiring SAA is strong because global alliances are running out of quality partners to join their consortia as they vie for international domination.

Lufthansa, say observers, has the upper hand because of its already close association with SAA — in particular the fact that Lufthansa could soon be overhauling SAA engines and SAA overhauling Lufthansa’s 747 airframes.

The two carriers plan to use each other’s aircraft and crews on their own routes to boost utilisation, and they are planning to integrate a cargo network between Lufthansa, SAA, Singapore Airlines and DHL.

Andrews, who was in Frankfurt, Zurich and Singapore this week, said recently: “We will make alliance deals only with partners who want to help us build and not with those who want to exploit what we have to offer.”

Sources say this sentiment may put BA out of the running. BA is seen as a somewhat ruthless global player intent on empire-building with little thought to the preservation of its acquisitions.

But the government is keen to get the best price for SAA, and it will be hesitant to write off BA as a contender.
US 'jumps gun' on concessioning of ports

Simon Barber and Robyn Chalmers

WASHINGTON - Portnet says US consular staff have 'jumped the gun' in issuing a bulletin to US business outlining a possible timetable for the private concessioning of ports.

The bulletin - prepared by US consular staff who were briefed by SA officials - said that government was likely to announce a timetable to concession Portnet's operations at Durban and six other harbours this year by the end of the year.

It said the process would start with Portnet's conversion into a "landlord-type port authority granting private concessions for terminal and other businesses" within the next two months. At the same time a port regulator would be created and a consulting company appointed to provide technical, financial and managerial advice.

The bulletin said Portnet would start buying off "portions" of its operations.

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ations. By the second half of next year it would invite tenders to operate the terminals under its jurisdiction, including the Durban container terminal, the largest such facility in Africa and the 12th busiest in the world.

Portnet MD Rob Childs said yesterday that the bulletin related to an internal management discussion document which had yet to be discussed with government or Transnet.

"The timing is news to me. There is a specific process on the restructuring of state assets. This will not begin until the interministerial cabinet committee has appointed a restructuring committee which has yet to happen."

Childs said although labour was briefed on the concessioning proposals it had not been asked to comment as the process had yet to get under way. Portnet had not yet begun preparing tenders and should it do so, it would be undertaken in a transparent manner.

The bulletin said Portnet officials were "confident" that before the end of next month, the cabinet would give its blessing to the Durban South Port project. This involved the construction of a new harbour and car terminal on the site of Durban's international airport.

Childs said that this was "no more than an idea - if anything Portnet's view is that this is a remote possibility in the short term."
Privatisation to move into fast lane, pledges Sigcau

By THABO KOBOKOANE
STATE ASSETS
ST 15/11/98

PUBLIC Enterprises Minister Stella Sigcau on Friday promised privatisation was set to start moving, but having heard these assurances before her critics will be wondering if this is really the real thing.

Her optimism is fuelled by efforts to strengthen the capacity of the directorate of privatisation within the department by the end of the year in order to fast-track privatisation. "I am optimistic people will start to see movement in that direction once the directorate is in place," Sigcau said in an interview.

She first announced plans to do this two months ago. Her plans then included the option to set up a dedicated agency outside of government.

"We are more comfortable with a vehicle inside government," she said on Friday, adding she would soon visit Germany and Zambia to study their privatisation agencies — both of which are independent of government.

But Sigcau was in no mood to set deadlines. Failure to meet numerous targets in the past have been used by her critics to show up the slow pace of privatisation. She defended her department's track record, which has seen only two minor sell-offs in the past three years. "I have always said you can't compare bananas with apples," she said, referring to the comparison drawn between her track record and those of the communications and transport departments. She argued that she had more problems to contend with, such as land claims.

The biggest challenge remained transport giant Transnet, whose privatisation was being hampered by the parastatal's R12-billion pension and medical fund deficit, she said. For the moment, Transnet's various businesses were being corporatised. Core assets such as Connex and Transwerk would be sold in the next 18 months. National car maker SAA was also likely to get a strategic equity partner next year — Sigcau previously promised to have this deal secured by the end of the year.

Denel was to be grouped under five subsidiaries: aviation, artillery, civilian products, information technology and property. The privatisation of information technology arm Arel Technology was still on track, she said. "The idea is to corporatis it, identify other parastatals with similar IT synergies and then consolidate these under one group."
The Competition Board had launched an investigation to determine whether a restraint of trade clause in a sale agreement for the Eastern Cape milling operations of Premier Food Industries constituted a restrictive practice, said Pierre Brooke, the chairman of the board, last week.

The agreement was between Premier Food Industries and entrepreneur Bruce Spangeard in his capacity as a trustee for a company that was in the process of being established.

Premier was part of the Premier Group before it was sold and incorporated into General Food Industries (Genfood), the Pretoria-based milling company.

Brooke said the Premier Group, in the process of unbundling, had closed down and sold to Spangeard the land and assets of certain mills in the Eastern Cape. He said the sale agreement included a restraint of trade involving maize and wheat milling.

Brooke said his company was subsequently sold to Genfood, which took over the rights and obligations in relation to the land and assets sold to Spangeard.

He said the new owners wanted to start up a business, possibly for milling, which would create a few jobs in an economically depressed area.

But Brooke said the new owners had approached the Competition Board about the restraint of trade clause in the sale agreement.

He said it was an interesting case because it involved a small company that was trying to move into the milling industry to create jobs, but was prevented from doing so by a major player in the industry.

Genfood's spokesman refused to comment as the legal dispute is in progress.
Worry over lawyers

By Mbuli Buley

The Lawyers' Association has raised the possibility of the creation of a public company to be controlled by the Law Society.

This would, according to the association, provide an opportunity for lawyers to participate in the management of the society.

The association has also been discussing the possibility of establishing such a company with the Law Society.

The association has been working closely with the Law Society to ensure that the new company is set up in a way that would benefit all members.

The association's proposal is expected to be presented to the Law Society's council for further discussion and possible approval.

The association's members are excited about the possibility of setting up such a company as it would give them a say in the management of the society.

They believe that this would go a long way in ensuring that the society is run by lawyers for lawyers.


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Nelspruit water deal angers union

Reneé Gravitzky

THE Nelspruit town council plans to sign a 30-year contract with the UK-based Bwarter within the next two to three weeks amid calls by Public Services International (PSI) to suspend the privatisation of water services in Mpumalanga.

The SA Municipal Workers' Union (Samwu) warned that any municipality that independently privatised while government and the Congress of SA Trade Unions (Cosatu) were still engaged in talks to finalise a framework agreement governing the restructuring of municipal services would be "very much out of order and could derail the whole process."

Talks have been under way between government and Cosatu since September to finalise a framework.

Samwu general secretary Ronnie said there was "no provision in the framework talks currently under way for Nelspruit to go ahead independently and privatise services to Bwarter."

Samwu's national executive committee resolved last week that the Bwarter issue should be referred to a sectoral committee for debate after the framework talks have been concluded. The union said the sectoral committee was being set up as a result of the current discussions.

Samwu believed the Bwarter/Nelspruit issue should be referred to this sectoral committee for further discussions.

Sources close to the process said there were indications from government that they wanted to speed up the Nelspruit deal as Bwarter had "allegedly threatened to withdraw its offer. This deal has been on hold since April last year."

PSI, which represents 20-million public service workers worldwide, published a report this week alleging "financial, operational and political problems associated with Bwarter."

It claimed Bwarter faced formal accusations of corruption in the Philippines and "allegations of improper conduct related to other cities."

Ronnie said the allegations against the UK-based company "strengthen Samwu's arguments that privatisation processes are extremely open to corruption."

The union felt it would be "highly problematic if a company already alleged to have acquired contracts by dubious means is allowed to take up another multimillion-rand contract."

"Bwarter's role in these allegations of corruption needs to be investigated urgently," Ronnie said.
IFP attacks findings against Buthelezi

The Inkatha Freedom Party said yesterday a finding by the truth commission that its leader Mangosuthu Buthelezi violated human rights was legally obscene and morally repugnant.

In a paid advertisement in a Sunday newspaper the IFP said KwaZulu-Natal was singled out in the 1980s by the African National Congress as part of a larger campaign to make the country ungovernable.

"The truth commission is fully aware of a mass of official ANC documents that prove this beyond doubt," the advertisement read.

The party said the commission knew that a cabinet member publicly called for Buthelezi to be "got rid of".

"It knows too that the same individual told Richard Goldstone that the policy to use violence had been dropped.

"This despite the fact that the truth commission knows full well that the very people involved were caught red-handed smuggling large quantities of the tools of assassins into KwaZulu-Natal long after the transition to democracy had begun and for the express purpose of murdering members of the IFP."

The party said despite all these documented facts, the truth commission instead chose to focus its attention on the so-called 300 Caprivu trainees who were trained to protect government property.

"While it has found no evidence of any wrong-doing or a violation of human rights by Mangosuthu Buthelezi, it seeks to hold him accountable for the violation of human rights."

"This is legally obscene and morally repugnant," the party said.

The truth commission's final report was released in October. — Sapa
Govt budgets R40m for competition policy

New institutions include a tribunal, commission and appeal court

John Diudiu

Government has set aside about R40m to fund the establishment of new competition-policy institutions following newly legislated policy on competition, says a senior trade and industry department official.

Alastair Rutters, the chief director for business regulation and consumer services at the trade and industry department, said yesterday the R30m-R40m would come from the department's 1999/2000 budget.

Rutters pointed out that government was still hoping to raise additional funds from donors.

The new institutions, to be set up early next year, include a competition tribunal, commission and an appeal court.

This is the first time that government has shed light on the costs of the new bodies since the revamp of the competition law began about a year ago.

Rutters said that foreign competition authorities abroad were due to make agreements for the training of SA personnel officials next year.

Several jurisdictions, including the European Commission, Dutch, US and Canadian authorities, had already expressed interest in training SA officials.

Rutters, who led government's team in the competition negotiations, said the proposed review of SA's corporate laws had "taken a bit longer" than expected to get off the ground. According to an earlier timetable, Rutters was hoping to unveil proposals on the review project for public comment by September.

However, he had now set aside next year as the period for negotiating and drafting changes to SA's body of corporate laws, including company law, bankruptcy laws and securities law.

The review, by far the most comprehensive to be undertaken in SA to date, forms part of government's plan to reduce the costs of compliance for business and seek to enhance business regulation.

Internal departmental consultations on company law reform were already taking place, he said. He would meet a UK counterpart involved in a similar project next week.

Prior to this review, amendments to company law were carried out in a piecemeal fashion, on the recommendations of the department's standing advisory committee on company law.

Rutters also disclosed that the department was conducting a review of the legislative programme so that urgent laws could be placed before Parliament next year, given the fact that next year was a shorter legislative year.

Apart from the competition policy review, Rutters said this year's achievements included reforming the Harmful Business Practice Act, completing the Liquor Act and reviewing the Estate Agents Act to enhance consumer protection.
SAA deal paves way for partial privatisation

Robyn Chalmers

"GOVERNMENT" has agreed that SA Airways will take responsibility for R1bn of Transnet's pension fund deficit and debt, paving the way for SAA's balance sheet restructuring and partial privatisation. In terms of an interministerial cabinet committee agreement, government and Transnet will absorb SAA's remaining R1bn portion of Transnet's liabilities. The committee is still assessing the financial mechanism required to take over this burden, the impact of such a move and how to deal with the remainder of the R1bn pension fund liability and debt.

Government, Transnet and its employees recently agreed to share the huge pension fund and debt burden. This raised problems as the loss-making SAA, up for partial privatisation by next April, could not absorb its R1bn portion of the debt and remain viable.

Public enterprises department head Nompilo Mqwebi said yesterday the deal unblocked the path for SAA to be set up separately. However, by taking responsibility for R1bn, SAA was likely to be profitable only in two to three years.

SAA moved further into the red for the six months to end-September, reporting a net operating loss of R207m from a R145m loss in the previous six months.

Mqwebi said there was interest in SAA from international airlines including Swissair, British Airways, Virgin Atlantic, Air Malaysia and Lufthansa. Government is expected to sell 49%, with between 30% and 35% going to a foreign partner and the rest likely to go to employees and the National Empowerment Fund.

She said SAA had completed its business plan, focusing on routes, aircraft, marketing and a new corporate structure. A number of Transnet executives were abroad on a second international roadshow, at which the new business plan was being presented to international lenders.

Transnet has accrued about R22bn in debt through, among other things, bonds, direct loans and syndicated loans. In terms of its unbundling, Transnet plans to apportion much of this debt to its businesses units.

Crisis-hit Japanese banks only recently withdrew key objections to the debt-transfer proposal. Government had to postpone the privatisation exercise to early next year after Asian lenders objected to a balance sheet restructuring.

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Samwu is backed by world body

Johannesburg — Public Service International (PSI), the world trade union federation for public sector unions representing more than 20 million workers in 140 countries, last week pledged its unconditional support for the South African Municipal Workers Union (Samwu) in its fight against the privatisation of water and municipal services and assets, especially in Nelspruit and on the Dolphin Coast.

"We support what Samwu is doing and we will work out alternative proposals," said Hans Engelsberts, the general secretary of PSI. "We think there are other ways that you can use to deliver water services without going to foreign companies."

His remarks were in apparent reference to Biwater, the British multinational that has been named as the preferred bidder for the Nelspruit contract.

Samwu wants the government to take "strong" action against Koel Kotze, the town clerk of Nelspruit, for allegedly making a mockery of the local governments' asset restructuring talks between Cosatu and the central government.

"The proposed framework agreement covers each and every municipality in the country and Nelspruit is no means excluded in any way," the union said.

Samwu questioned Kotze's motives, saying he had an "unwavering dedication" to Biwater and an "overwhelming disregard" for the government and Cosatu.

Kotze said he regarded Samwu's allegations with the "utmost contempt".
SAA accused of anti-competitive behaviour by three airlines

Three domestic airlines – British Airways-Comair, Nationwide and Sun Air – said they had filed a complaint with the Competition Board yesterday arising from South African Airways conduct in the market.

They said in a statement that the board's attention had specifically been drawn to large capacity increases in a number of domestic routes combined with pricing policies which, in the view of the carriers, were clearly below cost and therefore constituted predatory behaviour on the part of a dominant market shareholder.

On the Johannesburg-Durban route, SAA had seen fit in an overall declining market to increase capacity by 50% and to market this increase at fare levels that in terms of the number of seats offered could not achieve full cost recovery they said.

SAA for the first six months of the current financial year had reported a record financial loss of R204-million. The three airlines stated that SAA's conduct was a clear case of anti-competitive behaviour.

SAA spokesperson Leon Els said the airline had not received official notification of the complaint from the board and he was not able to comment. – Sapa and Staff Reporter.
Board recommends veto of Nampak merger plan

THE Competition Board has recommended to Trade and Industry Minister Alec Erwin that the proposed merger of Nampak's metal packaging business with US-based Crown Cork be vetoed.

The board said the deal, announced in August, would give Nampak 100% of the SA food can market from 87%.

The board declined to comment yesterday, saying details of the investigation would be made available today, once Erwin had a chance to go over its report.

Nampak chairman Brian Connellan said the decision was disappointing as both parties were keen to carry out the deal, but all was not yet lost.

"The Competition Board, while recommending against the merger, has suggested that Nampak and Crown Cork make direct approaches to the minister to discuss the matter further," Erwin is not bound by the board's ruling and can overturn the recommendation if he deems it to be in the public interest.

Connellan could not say when talks with Erwin would be held. He had to confer with Crown Cork, which had its head office in Philadelphia.

The board's recommendation comes as a blow to Nampak, as a merger could have significantly enhanced earnings. About 30% of the company's profits are generated from its canning operations.

Headline share earnings in the year to September came in at 112c from 106c the year before. Attributable profit was R572.9m from R547.1m.

Had the deal been approved SA would have been left with only one producer of food cans and two of beverage cans, and Nampak would have had a controlling interest in the entity. Its share of SA's beverage can output is estimated at 74%, after the merger it would have been 91%.

Analysts said Nampak was under pressure as many of its business were geared to the slowing economy. "But there are still a number of positive strategic moves under way, and I do not foresee a decline in earnings," said one analyst.
Competition Board chairman Brooks retires

Amanda Vermeulen

COMPETITION Board chairman Pierre Brooks has retired with effect from January 1, ending a decade as the country's chief competition watchdog.

Brooks, who signalled his intention to retire to Trade and Industry Minister Alec Erwin several months ago, went on leave this week and will not return to his office.

His interim replacement is Dave Lewis, a director on the 12-member board.

Erwin also announced other changes to the board yesterday, including the appointment of new members Menzi Simelane and Norman Manom.

Brooks said he had wanted to leave for some time, but was persuaded to stay on until new competition legislation had been passed — this happened in October.

He wanted to act as a consultant on competition policy and concentrate on a number of projects, including writing a commentary on the new Competition Act.

Brooks was a law professor at Unisa before he assumed his post at the board.

The trade and industry department thanked Brooks for his dedication, loyalty and hard work, saying his valuable contribution to the department, the board and the country was greatly appreciated.

Board member Alastair Ruters said Brooks would still be involved in finalising the report on the proposed Adcock Ingram acquisition of Pharmacare, even though he was now officially on leave.

A staff member at Brooks's office said there was nothing controversial or sinister in his departure.

The Competition Board, which will make way for a new-generation competition authority in June in terms of legislation drafted by the trade and industry ministry, has attracted much criticism in recent months. This week it recommended that packaging group Nampak's proposed merger with Crown Cork be vetoed, while a few months ago it torpedoed Sasol's takeover of AECI.

At the time, analysts were mixed in their opinions of the R6bn Sasol deal, but the majority view was that the board's decision could have a negative effect on the international competitiveness of the SA petrochemical industry.
MUNICIPAL PRIVATISATION

PARTNERSHIPS IN THE PIPELINE

Cosatu and government agree

A stubborn 15-month row between government and unions over municipal privatisation policy is nearing resolution (see Current Affairs October 9). The Department of Constitutional & Provincial Affairs has given quiet nods to the Nelspruit and Dolphin Coast municipalities to sign water-delivery partnerships with two foreign companies — deals that will set the tone of privatisation policy at all levels of government for years to come.

It seems likely, though, that minor contractual issues and the impending Christmas break will delay signings of the pioneering projects until early January.

Two weeks ago, Nelspruit’s executive committee formally accepted the bid of the British Biwater company, and recommended full council approval. Town clerk Roelf Kotze said the signing could go ahead if, as expected, the draft concessionary agreement was found to accord with the policy negotiated by the Department of Constitutional Affairs and the umbrella union, Cosatu.

Dolphin Coast, a collection of five resort communities around Ballito, north of Durban, is almost as close to finalising a water-delivery agreement with preferred bidder Saur, a French company.

Key to the government-union agreement is a clause that states that the public sector remains the “preferred option” for service delivery — thus allowing private participation in service provision only after all avenues for public-sector delivery have been exhausted.

Though government and union officials are loath to discuss details of the framework agreement, it is understood that Cosatu has accepted the broad terms of the partnership framework.

“A few technical details must be sorted out and then it can be put before the Cabinet for approval early next year,” says a source involved in the negotiations.

The Nelspruit deal, in particular, is regarded by government as the pioneering blueprint for a broad privatisation framework which could be applied not only to municipal services, but to partnerships with the private sector at other levels of government.

Scores of other municipalities have already indicated a keenness to join the partnership bandwagon.
Nampak merger is not in the public's interest, says board

Amanda Vermeulen

The Competition Board's decision last week to recommend the prohibition of the Nampak merger with Crown Cork on the grounds that it was anticompetitive could not be outweighed by public interest, it said.

In its report, the board suggested a number of options that could have been attached to a conditional approval of the deal. Crown Cork was keen on the deal, since the loss-making operation faced closure and the loss of numerous jobs otherwise.

But the board concluded that "after careful consideration of all the facts, applicable principles, and diverse opinions ... the transaction would result in an appreciable restriction of competition in the relevant markets which was not outweighed by the relevant public interest considerations."

The board's major objection to the deal concerned the food can market. Had the transaction been approved, it would have given Nampak 100% of this sector.

In addition, the board said import penetration was negligible, customers were not as dominant as in the beverage industry, and there were no substitute products or containers in which food could be kept for long periods of time in the absence of freezers.

The other worry was that CG Smith, the parent company of Nampak, is also the parent company of CG Smith Foods — which is the largest customer of Nampak as far as food cans are concerned.

"This may give rise to competition policy concerns if Nampak applies discriminatory practices between CG Smith companies and other companies," the board said.

The board said: "We are of the opinion that competition in this market will be restricted to an appreciable extent and that it is likely to have a negative impact on consumers."

In the can sector, a Crown-Nampak merger would have resulted in the new entity having 91% of this market, but competition for cans comes in the form of glass bottles for the beverage industry, with Consal being the dominant supplier by far to both the beer and soft drink markets.

Despite submissions from both Coca-Cola and SA Breweries, the board said: "On balance it appears that (while) competition will be restricted in the beverage can market, it is unlikely that the merger will result in consumers being negatively affected to an extent that requires the prohibition of the transaction."
New deficiency in the final days of a dinosaur.
Academic chosen to usher in complex competition laws

Our temporary new competition chief may have a permanent job — if he wants it.
Associate editor John Diлюд looks at possible moves for David Lewis

It is not often that the appointment of someone to a key public policy position generates so much speculation about his future. However, the decision by David Lewis, the director of the development policy research unit at Cape Town University, to agree to replace recently retired Pierre Brooks, the chairman of the Competition Board, has failed to settle speculation about his future career plans.

That Lewis, who joined the board as a member a year ago, will be its chair only for the next six months until the board is replaced by a competition commission has, in part, been responsible for the continuation of the talk. He is now tipped to head the commission, one of the new institutions provided for in revised legislation.

The other contender for that job is understood to be Alastair Ruters, the chief director for business regulation and consumer services at the trade and industry department.

Ruters led a government team involving Lewis, which negotiated the new competition law with both business and labour at the National Economic, Development and Labour Council (Nedlac).

Speculation does not stop at the competition commission. Lewis’s name has also been linked to the job of Nedlac’s executive director, recently vacated by Jayendra Nadoo.

Sources close to Nedlac say Lewis has not applied for the job, although some say that a candidate of his calibre does not need to apply.

Lewis dismisses talk of his replacing Nadoo, who has penned business. As for the competition commission job, he says “I have not thought beyond the next few months.”

Although the job of chairing the board requires that he spend more time in Pretoria, he has not resigned his academic job in Cape Town.

Part of the reason he took the government job was that it dovetailed with his research interests in industrial, trade and technology policy. His appointment to the board has been welcomed by many stakeholders, crucially, business and labour.

The board operates in terms of intellectual legislation. Under present law it is merely an investigative and advisory body to the trade and industry minister.

It recommends to the minister who does not have to heed its recommendations.

However, thanks in part to the infusion of new blood, like Lewis and other new board members, and Brooks’s stewardship, the board has recently been seen as playing an activist role. Its tough rulings vetting the Sasol/AECI and Nampak/Crown Cork mergers have shown its willingness to take on big business.

Brooks points out that the involvement of SA’s big corporate players has raised the board’s public profile.

Some of the (latest) decisions are infused with the new seriousness with which government views competition policy. “Says Lewis. Among other things, Brooks says, the board took into account the effect the proposed mergers would have on jobs and the degree of market concentration that would have resulted.

Lewis does not seem perturbed by the fact that his tasks will include working with the frustrating old law while ushering in new institutions. “I will have a good board and support from the (trade and industry) department,” he says. “The approach (in government) is to strengthen rather than weaken competition law.”

The new law is stronger and more sophisticated than the present one.

It will also be more complex than present competition legislation. Clauses have been included to take into account SA’s particular circumstances. For example, mergers may be exempted if they contribute to the promotion of SA’s exports, support small business development, assist in the economic empowerment of previously disadvantaged communities, or if they stop the decline of certain industries.

Whether or not Lewis decides to stay beyond six months, he will be expected to keep all these factors in mind as he executes his present responsibilities.

A business economist says the fact that he was one of government’s key negotiators should assist him in interpreting the current and the new law.

Nadoo, who has known Lewis for years from their union days, describes Lewis as a committed democrat who “put the interests of the country before his own.” Though tolerant and sensitive of others’ views, he “will not be pushed around”, says Nadoo. The business economist finds Lewis to be an able and independent thinker, two important qualities in dealing with vested interests.

A labour source says “The job will be more challenging now because competition policy is becoming an important part of our industrial policy.”

The business economist says Lewis faces the challenge of finding the human and financial resources in phasing in the new sophisticated institutions.

Lewis earned the respect of business and labour when government negotiators agreed to remove a clause in the law that would have given the minister powers to review the decisions of the competition tribunal.

Ruters says this decision was inspired by the fact that government did not want the law to be turned into a law of litigation.

Before directing the research unit, Lewis spent decades in the labour movement. He has held the positions of general-secretary of the General Workers’ Union and, later, national organiser of the Transport and General Workers’ Union. He has also served as adviser to the labour minister.

Those who know Lewis say he values his independence: Which explains why he has chosen to remain in the academic world, choosing to advise government. His decision to accept the board’s chairmanship, albeit for six months, for now, may be a realisation on his part that independence of thought and public service are not mutually exclusive.
Transnet's first stop: reassembly

PRIVATISATION

The theory behind this standard applies to the value of a company on break-up. Transnet represents one of the few examples in which the theory is valid in practice.

As Wixley notes, under the previous accounting standards, it was possible to look at the total asset base and, for example, to make up for undervaluing the fuel front with generous valuations on the airline front.

In 1998 the Transnet auditors began a valuation exercise on the pipeline network, which estimates the cost of the asset according to its remaining economic life, redundancy and over-engineering of the actual assets.

In 1997 a revaluation of the port facilities began, which estimates the cost of replacing the assets with a modern system to perform the same functional operations, adjusted by the remaining economic life.

Some outsiders have pointed out that in an open market situation it is possible that many of Transnet's facilities would not be replaced. But Wixley stresses that it is the most appropriate method of valuing the assets.

He refers to AC 123, which states: "The fair value of land and buildings is usually its market value for existing use, which presupposes continued use of the assets in the same or similar business."Whatever the outcome of all the processes that are accompanying Transnet's move into the new South Africa, it must be extremely comfortable for citizens that it is all much more open and accountable.

It is also comforting to know that, in the meantime, Serobe and her colleagues are focusing on the bottom line.
Ewtn grants extension for talks on Adcock Ingram’s proposed acquisition of Pharmaceris

Competition Board gets more time

NATIONAL
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1999
Drug companies face investigation

Amanda Vermeulen

The Competition Board will launch a formal probe into pharmaceutical manufacturing companies which formed International Healthcare Distributors (IHD) and Synergistic Alliance Investments (SAI), following complaints that these exclusive distribution channels constitute restrictive practices.

The Competition Board contacted all the parties involved late last year and informed them that official notification of an investigation into the matter would be published in the Government Gazette early in the new year.

The complaints revolve around the drug manufacturers bypassing the wholesale network by distributing their products through IHD and SAI directly to retail outlets almost exclusively.

IHD MD Bobby Hammond declined to comment yesterday and SAI spokesman John Bartlett could not be reached.

IHD was established five years ago and is owned by several multinational pharmaceutical manufacturers. It distributes the products of several major drug companies including Roche, Eli Lilly, Bristol Myers Squibb, Bayer and Novartis.

SAI, which was established recently, has four key shareholders — Glaxo Wellcome, Smith Kline Beecham, SA Drugists' (SAD's) Pharmacare, Pizer and Warner Lambert.

It has bought a significant foothold in the local market with the acquisition of SAD Distributors late last year. It is believed that the company will have a similar market share to that enjoyed by IHD when it is fully operational.

IHD is believed to have about 32% of the market. When the company was formed in September 1993, the Competition Board granted it exemption from prohibition on collusion of conditions of supply, with one proviso being that it did not exceed a 10% market share. A later amendment to the shareholders' agreement rendered the exemption superfluous and it was therefore withdrawn.

Since then, IHD and its multinational pharmaceutical participants have drawn numerous complaints from various retail and professional associations, including the Interim Pharmacy Council. A formal complaint from United Pharmaceutical Distributors (UPD) was presented to the Competition Board last year.

Legal action was also taken against IHD last year when pharmaceutical wholesalers took a complaint of alleged collusion to the Supreme Court. However, the wholesalers dropped their case against IHD in August.

UPD claims that IHD's shareholders refuse to supply their products to other distributors or supply "on severely discriminatory terms in this manner it eliminated all competition for distribution of the products of the participating drug companies," it said in its submission.

UPD has also told the Competition Board that IHD was able to increase prices and offer substandard service without pharmacists being offered any alternative option to obtain their products.

"SAI and IHD will control the distribution of 70.1% of all pharmaceutical products to the private sector," UPD said in its submission.

"(They) will create 52 monopoly situations out of 83 in the distribution of the products in relevant (therapeutic) product markets." The 83 product categories represent 73% of the total value of all pharmaceutical products.

The Competition Board is also investigating the competitive implications of Adcock Ingram's plan to acquire SAD's Pharmacare division. An announcement is expected by the end of the month.
Competition chiefs tipped to fume over merger

Marc Hasenfuss

Cape Town — The R12.6 billion merger between British American Tobacco (BAT) and Rothmans International could face competition challenges in various countries around the world, it emerged yesterday.

The merger, if approved, will give the new enlarged company a 16 percent share of the world's cigarette market, just behind market leader, Philip Morris, which holds about 17 percent.

Rothmans International, owned by Riecheston and Rembrandt, and British American Tobacco, will effectively corner 90 percent of the South African cigarette market, a development that will certainly draw attention from the Competition Board.

And, according to Dow Jones, the European Commission may insist on cigarette brand disposals in the Netherlands before approving the merger. Rothmans and BAT account for about half of sales in the Netherlands.

An official at the commission dealing with such issues said "alarm bells go off" when a concentration reaches a market share of around 40 percent.

Thys Visser, the managing director of Rembrandt, said yesterday informal discussions had already been held with the Competition Board in SA, and further dialogue would take place.

"We can't contemplate which way any decisions will go at this stage. It's also too early to speculate on whether there will be any rationalisation of brands."

Visser stressed that the matter was highly complex in a number of countries where BAT and Rothmans operated. "There's lots of work ahead in this merger."

Riecheston edged down R2 to R100.40 on the JSE yesterday, while Rembrandt added 22c to R43. Batsa, the JSE-listed subsidiary of BAT, surged R4 to R32.50.
Johannesburg — The Competition Board today decides whether to accept or reject the proposed acquisition of South African Druggists' pharmaceutical interests by rival firm Adcock Ingram.

This is part of a larger deal in which Fedsure, the financial services company, has proposed to acquire the entire issued share capital it does not already own of SA Druggists, for R34,10 a share in a R2.6 billion transaction.

Fedsure is after the healthcare concerns and plans then to sell SA Druggists' pharmaceutical interests to Adcock.

The Fedsure deal hinges on whether the Competition Board approves the transaction.

The board's decision will be presented to Alec Erwin, the trade and industry minister, and made public early next month.

A report by Merrill Lynch said it expected the deal to be approved on condition the large-volume parenteral business in Intramed be excluded from the transaction. "Otherwise Adcock could have close to 90 percent of the market."

The report said the growth potential of Adcock Ingram would be greater if it merged with the pharmaceutical interests of SA Druggists.

Graeme Wald, an analyst at Merrill Lynch, said Adcock was likely to benefit from greater growth prospects if the deal went through. But Merrill Lynch nonetheless downgraded its recommendation of the company because the share had already increased from R18 to R21 at the time it was released.

"The company would carry a higher risk rating if the deal went through Adcock would have to bed down the merger with SA Druggists, and one could expect staff cutbacks," Wald said.

Adcock would pay R1.25 billion in cash and the balance in issued shares to R2.01 billion.

"In this manner Adcock would dispose of its cash, although our forecasts indicate that the company would not have to assume a significant amount of debt to fund the transaction.

"Our analysis shows that if the deal is approved, the effect on earnings per share growth in 1999 will be slightly positive, and will accelerate significantly in 2000 and 2001."

SA Druggists has said Fedsure's offer was not fair and reasonable and proposed that shareholders reject it.

Last month Argyll Scientific, a US pharmaceutical group, said it would bid for SA Druggists if the board rejected Fedsure's bid.

Adcock closed at R19.00 on the JSE yesterday.
Fresh produce market to be privatised

Louise Cook

PRETORIA — The Johannesburg fresh produce market is to be privatised, ending nearly a decade of uncertainty about its future ownership.

Land and Agriculture Minister Derek Hanekom said yesterday he would approach the Greater Johannesburg Metropolitan Council to 'express concern over the way that the financial difficulties of the council are having a severely negative impact on the Johannesburg market'.

The move follows nearly a decade of uncertainty around future ownership of large fresh produce markets which use facilities of metropolitan councils which receive a percentage of the markets' annual turnover.

The fresh produce forum, representing big and small farmers, market agents and traders, said yesterday it had lobbied Hanekom last year to prevent the Johannesburg market from being sold to the highest bidder. The forum said stakeholders had to oversee the privatisation process.

The minister's decision to have the Johannesburg market — the biggest in the country with an annual turnover of R9bn a year — privatised, was confirmed by the agriculture department yesterday. This followed a probe by the national agricultural marketing council into the finances of the market last year as allegations of gross financial mismanagement by the Johannesburg metropolitan council persisted.

A source said the accumulated cost as a result of the mismanagement totalled at least R87m. The council was meant to have used its cut of the market's income to maintain and expand the market, but 'these benefits apparently were not passed on to the market'.

Other ministerial decisions on the future of the market included the council granting the market financial independence. Privatisation of the market should happen in a 'neutral and objective way that is not unduly beholden to any set of vested interests'.

The National Agricultural Marketing Council recommended that there was no 'compelling reason why the metropolitan council should continue to own the Johannesburg market, but if it does, ownership and management should be split'.

The forum told Hanekom last year that any privatisation should be done with the full participation of the stakeholders like the SA Agricultural Union's horticultural society, National African Farmers' Union, informal and formal traders and market agents.
By Rodney Victor

The Minister of Agriculture and Land Affairs, Derek Hanekom, has accepted a recommendation that the Johannesburg Fresh Produce Market should be privatised or commercialised.

Hanekom’s office yesterday said he had approved a report by the National Agricultural Marketing Council (NAMCO), which investigated operations at the market after reports in The Star three years ago revealed widespread corruption and losses running into millions of rands.

Some of the NAMCO recommendations are:

- That the minister ask the Greater Johannesburg Metropolitan Council to give management at the market financial independence and authority as soon as possible.
- That consideration be given to commercialising or privatising the market.
- That market authorities upgrade its operations.
- That market authorities allow wholesalers to receive produce directly from producers.

That the Agricultural Produce Agents Council improve the transparency of market operations by clarifying procedures regarding interest accounts, levels of supervision, the provision of credits and record keeping, and that the composition of the council itself should be clarified.

Starline Investigator June Bezia, who first blew the whistle on corruption at the market, and who was attacked and beaten up by market agents and their henchmen for exposing the situation, was delighted to hear of the recommendations.

Bezia said: “Some of these agents had a whole system of siphoning off profits from the council and the farmers, saying they were cheating the council out of millions and that they were buying Ferraris and ranch houses with the profits,” she said.

Some agents also defrauded the council by selling produce without registering the sales on the council’s computers, thus avoiding payment of 5% commission to the council.

They also defrauded farmers by telling them that entire batches of produce had gone bad and had been destroyed, and by under-reporting the prices they obtained for produce sold.

“If the market is privatised, there will be more control over operations,” Bezia said.

“The council was absolutely lax and they lost millions because of that,” she added.

Kenny Fihla, chairperson of the metro council’s transformation lekgota, said the NAMCO’s recommendations were in line with the council’s own thinking.
Union lets fly at Hanekom over his privatisation plan

Louise Cook

PRETORIA - Land and Agriculture Minister Derek Hanekom's plan to privatise the Johannesburg fresh produce market has met a hurdle with the SA Municipal Workers' Union (Samwu). The union rejected the plan and accused the minister of meddling in local government affairs.

Samwu's deputy general secretary Mncedisi Nontsile said yesterday Hanekom was acting outside his jurisdiction and ignoring a key agreement between the trade union federation Cosatu and central government on the issue of privatising municipal services.

In terms of the municipal services partnership framework agreement between Cosatu and the constitutional development department thrashed out two months ago, city councils have the first option to provide services to cities and towns. Should they lack the money to do this, the private sector could be co-opted to "improve" the service, Nontsile said.

"No way can central government simply go ahead and privatise a service without the matter first being debated in the SA local government bargaining council, a forum on which unions and municipalities are represented. We find it odd that Hanekom is not aware of this agreement."

The agriculture department said last week Hanekom had accepted recommendations by the national agricultural marketing council to the effect that the Johannesburg fresh produce market be privatised. The move follows years of allegations of gross financial mismanagement of the market's affairs.

The greater Johannesburg metropolitan council receives a cut of the turnover of the R1bn-a-year market, but reportedly used the money to cross-subsidise other expenses instead of using it to maintain and expand the market.

The national agricultural marketing council recommended privatisation after a special probe last year. This should "happen in a neutral and objective way that is not unduly beholden to any set of vested interests", it said in a report to Hanekom. The national agricultural marketing council also said in the report that there was "no compelling reason why the metropolitan council should continue to own the Johannesburg market, but if it does, ownership and management should be split."

Other recommendations accepted by Hanekom include a proposal that the market authorities invest time and money in upgrading operations and that money be spent on improving the fabric of the market, especially security, wholesale facilities and the computer system.

But Samwu Johannesburg branch treasurer Mpho Mokone said the union would fight any attempt to "unilaterally" privatisethe market. "It is not possible for the council to deviate from the national agreement and privatise," he said.

The union's Johannesburg branch has more than 20,000 members.

Hanekom declined to respond. However, a spokesman for the national agricultural marketing council said a consultant was likely to be appointed to ensure the privatisation process was taken care of properly.
Competition Board blocks Adcock deal

Recommendation also thwarts Fedsure's plan to buy SA Druggists and sell Pharmacare division

Amanda Vermeulen

THE Competition Board has taken another controversial decision by recommending to Trade and Industry Minister Alec Erwin that the proposed acquisition of SA Druggists' Pharmacare division by Adcock Ingram be prohibited.

The move drew a stunned reaction from Adcock Ingram and its black empowerment partner, Sekunjalo Investments. The parties have until February 26 to appeal to Erwin to overturn the ruling.

The rejection of the R2bn transaction also means Fedsure — which planned to buy 100% of SAD and sell Pharmacare to Adcock — will abandon its intention to make an offer to SAD minorities.

The board's rationale for rejecting the deal was that the merger "would significantly restrict competition in key therapeutic drug categories" in the government and private sectors of the pharmaceutical market, the deal would have given Adcock an unacceptable share in terms of competition parameters.

The report also said the merger would lead to job losses "It has not been satisfactorily established that the merger will lead to the massive efficiency gains (claimed). We do not believe that the short-term losses in employment will be compensated for by the long-term gains accruing from an enhancement in competitiveness." The merger (therefore) appears contrary to public interest."

On the issue of promoting black empowerment by approving a deal, the board said this issue was not considered sufficiently powerful to outweigh the anticompetitive effects of the merger.

Sekunjalo CEO Iqbal Survé said the board's recommendation dealt a major blow to black empowerment "and we do not know when such an opportunity will present itself again."

Adcock CE Phil Nortier said the decision had not "dampened" the company's spirits. "It's anything, it has made us more determined to expand our business in several untapped local markets and meet our objective of increasing earnings from offshore sources." It is not yet clear whether Adcock will appeal to Erwin.

SAD is likely to open discussions with a number of parties that expressed interest in the group after Fedsure made its intentions known in September last year. One of the parties, Texas-based drug development company Argyll Scientific, said in December it would make a bid for SAD should the Competition Board go against the Adcock proposal.

No details are likely to emerge about the future of SAD until the deadline to petition Erwin has passed or Fedsure withdraws its offer. However, questions are being asked about the future of Fedsure's 34% interest in the group, and how it will now fulfil its health-care ambitions.

Merrill Lynch analyst Graeme Wald did not believe that the arguments used by the Competition Board were sufficient grounds to block the deal. He said the issue of job losses was not a competition issue, and failed to see why consumers should fund inefficient operations purely to retain jobs.

He said Adcock was "between a rock and a hard place" as it was sitting on almost R1bn, which would force it to invest offshore despite the prevailing difficulties of the rand. "Fedsure will have to find a way to get its hands on SAD's health management business. The vetting of this deal is a setback to its plans, as the transaction would have catapulted Fedsure Heath into the number one position in the health management industry."

The board also made reference to the intense lobbying that surrounded this transaction, saying consideration might be given to prohibiting this kind of activity in future investigations.

The board last year also blocked Sasol's plans to buy AECI.
Competition Board looks into SABC's pharmacies

Janet Parker and Amanda Vermeulen

THE Competition Board has launched two new investigations, one targeting the South African Broadcasting Corporation (SABC) and the other some of the largest pharmaceutical manufacturers operating in SA.

According to a complaint lodged with the Competition Board by the Association of Facility Owners, the SABC is insisting that television productions made for the SABC's three channels be produced using the SABC's Henley facilities.

The board said the practice was likely to limit the ability of independent facility houses to compete for the business of independent producers and would constitute restrictive practices.

SABC spokesman Enoch Sihole confirmed yesterday that part of the corporation's programme commissioning process was to stipulate that as much as possible "any production should be done using SABC facilities".

The SABC's Henley and artime studios had become quieter and less profitable since 1997, when the SABC began to outsource much of its production.

However, Mbuyiseni Vundla, chairman of the Independent Producers Organisation of SA, said it was not the fault of the independent industry that the SABC was burdened with redundant facilities. Independent producers and facility owners were losing business because of the SABC's strong-arm tactics, he said.

Vundla said the independents were committed to cultivating the industry, had a good work ethic, and could offer better deals and service than the SABC.

Meanwhile, the announcement of the board's investigation into drug manufacturers confirmed earlier reports of a pending investigation following complaints stemming from the establishment of two distribution companies.

The board said the agreements between the manufacturers and the two distribution companies - International Health Care Distributors (IHD) and Synergistic Alliance Investments (SAI) - appeared to constitute restrictive practices as defined in the Maintenance and Promotion of Competition Act.

The board decided to investigate as restrictive practices in the pharmaceutical industry could affect the prices of prescription medicines.

This dispute is centred on claims that SAI and IHD are single channel distributors that bypass wholesalers.

Comment: Page 7
Production houses bring case against SABC

Possible restrictive practices in broadcasting and pharmaceuticals to be heard

NEWS
Samwu shocked by Dolphin Coast deal

Union prepares legal case over privatised water

FRANK NXUMALO

Johannesburg — The South African Municipal Workers’ Union (Samwu) said this week it had instructed its lawyers to prepare legal action against the department of constitutional development and provincial affairs for approving a 30-year public-private partnership water deal between the Dolphin Coast municipality and Saur International, a French consortium.

The deal is worth about R200 million. Samwu is opposed to the privatisation of state assets and the award of the lucrative deal to the international consortium that it says has a dubious reputation.

The union says it has evidence that Saur’s top management and a subsidiary, Bouygues, are under formal investigation in France for allegations relating to water scandals.

Cosatu said it was “shocked and disappointed” at the deal.

The labour federation said the deal had not been finalised or tested in terms of the agreed Municipal Services Partnership agreement.

However, Andrew Ferguson, the acting town clerk of Dolphin Coast, said the indication from the department was that there was no reason why the deal, which had negotiated over a long time, should not go ahead.

Ferguson said the dispute seemed to be between Cosatu and the government over whether the sectoral forum should have powers to veto public-private partnership deals.

Cosatu views the government’s endorsement of the contract while negotiations were still under way as an act of bad faith,” the labour federation said.

“It is particularly worrying that executives of Saur International and its subsidiary, Bouygues, are being investigated in France for alleged corruption in water dealings.”

This was denied by the department.

“We are not aware of any corruption investigation. That is Samwu’s stock accusation against any company,” said Chuppy Olver, the deputy director-general of the department of provincial affairs.

The deal follows hard on the heels of the signing of a sectoral forum agreement on the issue between Samwu and the South African Local Government Association.

The forum agreed last week that the privatisation of water on the Dolphin Coast and at Nelspruit would be discussed at a special meeting in three weeks’ time.

“The union was shocked to learn that, three days after the sectoral forum agreed on that principle, the minister gave the go-ahead for the signing of the 30-year privatisation contract in Dolphin Coast municipality,” said Mncedisi Nontsiele, Samwu’s deputy general secretary.

“Senior department of constitutional development officials agreed at the sectoral forum meeting that the agreement would not be concluded until the parties had met again at the special meeting.”

However, Olver said Samwu was misreading the sectoral forum agreement and that, at any rate, local authorities were constitutionally independent tiers of government that were employer bodies in their right with the ability to enter into contracts.

Municipal workers accuse international consortium of involvement in scandals.
Privatisation of water shocks unions

By Mzwakhe Hlangani
Labour Reporter

The controversial privatisation of water delivery on the Dolphin Coast in KwaZulu-Natal stirred up a bitter feud this week between the departments of Constitutional Development and Provincial Affairs and Congress of South African Trade Unions affiliates.

Cosatu spokesman Mr Makozi Ratshangane said the federation was shocked by the green light given to the privatisation deal won by French multinational company SAUR. This was done before further discussions had been finalised at a sectoral forum agreed upon in terms of the Municipal Services Partnership agreement.

He said Cosatu was considering other ways of trying to get the deal cancelled and that the matter had been discussed by the alliance.

The South African Municipality Workers Union had discussed a programme of action to be taken to quash the deal, he said.

Department of Constitutional Development deputy director-general Dr Christian Olver said in a statement yesterday that the Dolphin Coast municipality had to proceed with the signing of the contract since Cosatu had failed to respond in time to a letter from Minister Valli Moosa requesting the federation to examine if the contract complied with the framework agreement.

"On the basis of legal consultations, the department remains convinced that the Dolphin Coast contract complies with the framework agreement. It has also been pointed out that during the negotiation process it was agreed that contracts would be reviewed by the parties concerned and at no stage was reference made to specific contracts being referred to the sectoral forum," Olver said.

Ratshangane maintained that the sectoral forum, set up to discuss privatisation contracts on a case-by-case basis, agreed that the contract would need to be discussed at a specially convened meeting of the forum.
JO'BURG PRODUCE MARKET

THE CUPBOARD WAS BARE (332)
Surplus grab hurts privatisation

Johannesburg Metropolitan Council's bid to privatised its fresh produce market, SA's largest, faces two big hurdles — one financial, the other ideological.

The ideological objection comes from the SA Municipal Workers' Union, which says the privatisation would breach the unions' framework agreement with government on municipal service partnerships. But that's a negotiable issue.

The more stubborn obstacle is that the market, though routinely profitable, is broke — not through any fault of its managers. An "unappropriated surplus" of about R120m that the market had accumulated by mid-1998 has been entirely appropriated by the cash-strapped metro council, say municipal officials. This emerges at a time when the market urgently needs to spend about R80m on upgrading infrastructure and facilities — without which it would not be an attractive investment option.

Since the early Eighties, the market has earned more than it has spent. In the year ending June 1998, it earned R20m in profit and R13m in interest, raising its R87.8m surplus to over R120m. That has disappeared into council coffers.

Metro CE Ketso Gordhan says "a few billion rand" that existed in various other metropolitan surplus funds are also now "non-existent." With the council owed about R2.3bn in service payment arrears, and with its operating and capital budgets having been slashed to the bone, chances of recovering the "missing" surpluses seem slim.

Arnold van Heysteen
Global union urges rethink on Dolphin Coast services move

Deborah Fine

PUBLIC Services International (PSI), a trade union federation representing 20-million public service workers across the world, has called on central government to reconsider allowing the entry of the private sector into municipal services delivery. PSI general secretary Hans Engelberts said yesterday his organisation had asked its affiliates worldwide to send letters of protest to various government ministers and officials over the Dolphin Coast water concession in KwaZulu-Natal.

He said affiliates should voice their "deep concerns" to Constitutional Development Minister Valli Moosa as well as constitutional development ministry senior officials Zam Titus, Chuppy Olver and Gugi Moloi.

Also in the firing line were Water Affairs Minister Kader Asmal along with the department's director-general Mike Muller, SA Local Government Association chairman Colin Matjila and the Dolphin Coast municipality's CE Andrew Ferguson.

The Dolphin Coast concession enables a consortium led by international firm SAUR to take over the provision of water and sanitation services in the greater Ballito area for 30 years.

The contentious deal was given the go-ahead in January by Moosa, amid protests from the Congress of SA Trade Unions and the SA Municipal Workers' Union (Sammw) that the concession was in violation of a national framework agreement signed by national and local government and labour last year.

Sammw, a PSI affiliate, accused government and the Dolphin Coast municipality of authorising the concession without first allowing it to be discussed at a sectoral forum created under the framework agreement.

Government replied that labour had misinterpreted the framework agreement, and that it was not the forum's task to approve municipal partnerships.

Engelberts called on Moosa to uphold the national framework agreement, which identifies the public sector as the preferred deliverer of municipal services.

He was supported in his calls by the Chicago-based Services Employees International Union in the US, the Bexley Trades Council in the UK and the CGT Public Services Union based in Montreuil, France.
Eskom splits to gear up for privatisation

New subsidiary will be formed to head utility’s expansion drive in Africa

Linda Ensor

CAPE TOWN — Eskom is to be split into two to lay the foundations for privatisation.

A new subsidiary, Eskom Enterprises, will take over the state-owned power utility’s unregulated businesses, which compete inside and outside SA.

The regulated power generation, transmission and distribution businesses will remain with the parastatal.

Public Enterprises Minister Stella Sigcau said yesterday that splitting Eskom would sharpen the market focus of both companies and enable Eskom to broaden its activities throughout Africa.

Sigcau said Eskom Enterprises, with about 8,000 employees, would be headed by Eskom’s former technology executive director, Jan de Beer. Eskom Enterprises would take over Eskom’s huge maintenance operation, Rotek, which is active elsewhere in Africa. It would also incorporate its technology, research, marketing, information technology and security services and supply them to Eskom on an arm’s-length basis.

Sigcau said Eskom Enterprises would be responsible for managing and developing all Eskom subsidiaries. It would also be responsible for developing markets in the rest of Africa where Eskom could sell its expertise as a power utility.

“The primary objective of Eskom Enterprises will be to maximise the value from the existing nonregulated subsidiaries and develop viable new businesses, initially related to the power industry, in Africa and ultimately around the world,” Sigcau said.

The separation would free noncore businesses from the constraints of regulation and create the flexibility to downscale, commercialise or privatise them.

Eskom said the ring-fencing of the different operations would end cross-subsidisation and allow their profitability to be determined. In the past all the utilities’ accounts were consolidated.

She said streamlining the regulated business, which would keep finance and human resources in-house, would ensure that it focused on providing “an affordable, available and reliable power supply for domestic customers, and a low-cost, high-quality power supply for industrial and commercial customers.”

The changes were similar to those being made by all major utilities in the world and represented “the first step in preparing Eskom to compete effectively in international markets while defending against competitors in the SA market.”

Meanwhile, Eskom Electricity Council chairman Reuel Khoza confirmed that the candidates to succeed Eskom CEO Allen Morgan had been selected and appointed: deputy CEOs They were Bongani Khumalo, who would head restructuring and transformation, and Thulani Gcaba, responsible for Eskom Enterprises.

Dolly Mokgatle, formerly Eskom executive director of corporate affairs, is to be executive director of transformation, and Solly Moloko, formerly senior GM (transmission) becomes executive director of human resources. Nuzwa Molepo and Judith Mhlau are to head the services and marketing groups respectively, and Steve Lennon, as acting head of technology, will oversee transfer of resources to Eskom Enterprises. He will also have responsibility of restructuring technology functions that remain with the regulated business.

Other senior executives of Eskom Enterprises will be Sam Monkiti (formerly executive director of marketing and communications), Vun Ngubeni (formerly executive director of services) and Uganda-based MD of Eskom Enterprises (Africa), Duncan Mbonyana.

Among the six nonexecutive directors will be Joe Hlongwane, Dawid Mostert and Douglas Ramaphosa.

Plans for Aventura, Safcol: Page 3
Unions to fight Eskom privatisation

Reneé Grawitzky

ORGANISED labour warned yesterday that it would challenge any moves by government to privatise state-owned power utility Eskom.

This follows an announcement by Public Enterprises Minister Stella Sigcau yesterday that Eskom would be split into two separate operations as part of its restructuring.

The split is intended to lay the foundation for the utility’s eventual privatisation.

Unions appeared divided yesterday on whether they had been consulted by government over this.

The National Union of Metalworkers of SA (Numsa) claimed Sigcau reneged on a previous commitment to refer the final plan to Eskom’s restructuring and transformation committee.

However, the National Union of Mineworkers (NUM) has contradicted Numsa.

NUM general secretary Gwede Mantashe said the plan for Eskom’s restructuring was almost in line with labour’s position.

The NUM agreed with government’s view that Eskom should become a leaner structure concentrating on international markets.

The union was, however, concerned about whether the plan would lead to the wholesale privatisation of the utility.

Mantashe warned that this would not be acceptable and that labour would fight retrenchments.

“Our understanding is that restructuring should not result in retrenchments but, that an expansion into Africa should lead to job creation opportunities,” he said.

Cut jobs would fly in the face of the commitments given by business and government at last year’s presidential job summit.

Numsa said labour had not been given the opportunity to comment on the restructuring plan before it was discussed in Parliament.

DD 18/2/99 (95) (99) (23)
No push forward on privatisation initiative

Linda Eason

and Yvon Chauveau
Uproar over municipal privatisation

THE SA Municipal Workers' Union national executive committee would reaffirm a decision it made last year to proceed with the implementation of the Municipal Services Partnership, deputy general-secretary Mncedisi Ntontsele said.

Ntontsele said at the weekend the national executive had also resolved to seek urgent legal advice about last week's signing of the Dolphin Coast municipal privatisation contract with French transnational water company Saur International.

"A sectoral forum meeting ten days ago agreed that the privatisation of water in the Dolphin Coast and Nelspruit would be discussed at a special meeting in three weeks time," he said. The union was therefore "shocked to learn that the minister had given the go ahead for the privatisation of the Dolphin Coast municipality."

The matter was also expected to be tabled at the Congress of SA Trade Unions executive committee meeting this week.
MUNICIPAL OUTSOURCING

UNION TAKES LEGAL ADVICE

State says Dolphin deal kosher

Though the ink is barely dry on a groundbreaking privatisation agreement — involving the award of a 30-year water and waste water management concession to an international consortium (Current Affairs February 5) — government and trade unions are already at loggerheads over the estimated R1bn deal.

The SA Municipal Workers' Union (Samwu) claims Provincial Affairs Minister Valli Moosa jumped the gun by allowing the concession to be signed between the Dolphin Coast Municipality (north of Umhlanga) and French multinational Saur International, before final agreement was reached with Cosatu and Samwu. They claim this happened despite an undertaking that the deal would be held back.

Government is adamant that the contract complies with a Municipal Services Partnership (MSP) framework agreement, signed with Cosatu in December.

Samwu, though committed to making the MSP work, claims, however, the matter was still under discussion at a sectoral forum — a mechanism established to deal with cases falling outside the MSP ambit.

This is denied by local government deputy director general Chippie Olver, who spearheaded the development of a formula for risk partnerships between local authorities and the private sector.

Olver says no such undertaking was given, and he has the relevant tape recording to prove it. "The reality is that the Dolphin Coast deal should have been signed at the beginning of December, but we persuaded Saur to delay until the end of January. A further delay was out of the question. Saur was on the verge of walking away from the contract."

Though government and Samwu met at a sectoral forum on Friday, union deputy general secretary Mncedisi Nontsele says the issue was not on the agenda because Samwu is seeking legal advice on the Saur agreement, and has referred it to Nedic for resolution. Samwu also hopes to pursue a "political" solution.

Rejecting charges that the union is stonewalling, Nontsele says "We recognise that where service delivery cannot be met through the public sector, there may be a role for private enterprise. It is outrageous to suggest we are deliberately stalling the process."

Herb Payne
Privatisation easier said than done

SUSPICIONS OF FAVOURITISM POINT TO THE NEED FOR TRANSPARENCY, WRITES ASSOCIATE EDITOR ROBYN CHALMERS AND SENIOR REPORTER RENÉE GRAWITZKY

T
HE second round of the privatisation process is currently focused on smaller state-owned enterprises, in growing danger of becoming discredited in the eyes of the international and local business community.

Government has done little to address the perception that privatisation is not only moving too slowly but is also being mismanaged and hampered by organised labour. This is largely due to the state's failure to explain effectively the complexity of the process and the hurdles it faces.

From the outset, government had adopted a pragmatic view to restructuring state enterprises, making the restructuring specific to the requirements of the business in question.

Ardith Shapp of HSBC Investment Bank, the government's adviser on privatisation, points to the differing requirements of SA Airways and the forestry sector as an example.

SAA needs capital, help with management and integration into an effective global airline network. This means the level of equity offered can be relatively low. The more important consideration is the strength of the new partner in the global market.

In the forestry sector, Shapp says there is a need for government-added downstream development and international marketing skills. This implies a higher degree of equity involvement by an investor.

"Government's central and overriding objective is to restructure the state-owned sector into a series of efficient, well-managed, financially independent companies capable of providing goods and services at affordable prices to the mass of historically disadvantaged South Africans. One complementary and key objective is to further the empowerment of historically disadvantaged communities, he says. Other objectives are increasing competition in sectors, improving standards of management and relieving state debt.

After almost four years, how far down the road has government gone in achieving these objectives? One answer is that with the big sales, such as 30% of Telkom and 20% of the Airports Company, real progress has been made.

But there are problems to be solved. From the outset, government adopted a pragmatic view to restructuring state enterprises, making the restructuring specific to the requirements of the business in question.

Frustrated consumers trying to get a new telephone or find parking at Johannesburg International Airport may find this hard to swallow. But real problems arise when the same organisations which will form the foundation for future growth and improved services.

Not all processes can go as smoothly as the Airports Company and Telkom, for a variety of reasons.

Analysts point to the reluctance of some organisations to work within the framework of the legislation. The merger of the two has been difficult. The merger of the two has been difficult.

The fruits of privatisation

Government also failed to factor in the time it would take to sort out land claims. In the case of Aventura, a six-week time period was predicted. The process has taken 10 years.

It was also necessary to deal with land claims, which have been ignored by the state and the community. The government's ambitious privatisation plan, expectations were raised in the time it would take to sort out land claims. In the case of Aventura, a six-week time period was predicted. The process has taken 10 years.

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Gordhman Takes on Unions Over 'Do Buy Asset Sale'
It wasn't long ago that the Premier Group was a conglomerate with extraordinary powers its tentacles reached far removed from its origins as a miller (it was once, for example, a holding company for control of SA Breweries, a key player in food production, and its influence in pharmaceuticals was pervasive).

Even a year ago Premier remained a broad industrial group with interests in food through wholly owned subsidiary Premier Foods and its 63% stake in Bonnita Holdings, in wholesaling and distribution through its 62% holding in Metro Cash & Carry (Mecash) and wholly owned United Pharmaceutical Holdings, retail and entertainment through its 33% stake in CNA Gallo and 63% in Teltron, and pharmaceuticals through a 30% stake in C G Smith Group's Adcock Ingram.

Over the past 12 months, however, Premier has shrunk further and dramatically its entire retail and entertainment division has been sold and its wholesale division was unbundled directly to shareholders.

More recently, it's disposed of its milling, baking and yeast production interests to Genfood, its fishing interests to the Sekunjalo empowerment group, Bonnita to Italian food group Parmalat and its entire cotton interests to OTK Holdings. It has distributed a further R1.1bn to shareholders and has reduced its capital base.

This group now comprises a pharmaceuticals distribution operation, some offshore fishing, a baking business in Zimbabwe (subsequently sold to Genfood as part of the baking and milling divestment), and photographic wholesaler and distributor Teltron. All this comprises a massive unbundling that is likely to lead (logically, some analysts would argue) to its eventual disappearance.

Why unbundle? The term unbundling is used loosely to describe the breaking up of a firm's operations. This may involve anything from the divestment of a single business unit to a full demerger in which significant parts of the parent company are split into separate legal entities.

Reasons given include releasing the true value of a company, defence against asset strippers and focusing on a company's core competencies. Whatever the case, the

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**THE PREMIER GROUP**

- Listed on the JSE
- Unbundled/Sold
- Dividends

*Note: Only the broad structure is shown*

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**BREAKING OUT**

Investors cash in as family jewels come under the hammer

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**SOURCE PREMIER**
roots of unbundling can usually be traced back to the influence of the stock market and changing nature of investment.

Unbundling first became a significant phenomenon in the US and UK in the late-Eighties and caught on in SA only in the mid-Nineties.

In the Sixties and Seventies, many companies followed a strategy of diversification and balanced their portfolio with complimentary businesses to ride out fluctuations in different markets. The past 20 years have seen the lowering of trade barriers and relaxation of exchange controls throughout the world and these moves have resulted in the globalisation of investment. This, coupled with the increased sophistication of institutional investors, meant that diversified companies were no longer viewed as useful vehicles for reducing risk. As a result, many of these companies found themselves undervalued on stock markets.

The value of a diversified company in the US, UK and SA is often based predominately on the fortunes of its principal business. Such companies are vulnerable to hostile takeovers by asset strippers intent on releasing the company’s true value.

Unbundling in Germany and Japan is still rare and there have been no major revamps of this type in the Far East. This can be explained by the close relationship between companies and their investors and the reduced role of the stock market as a source of capital.

In SA though, the scenario is different. Here different criteria applied which in many cases was caused by the country’s insular status due to apartheid. Cash, especially on the JSE, was trapped forcing reinvestment after reinvestment by both private and institutional investors. As a result many conglomerates evolved into pyramid-type structures driven from the top down. Most management failed to take into account the many forced diversifications which drove a wedge between them and their core business.

Shareholders’ wealth had become locked into unwieldy, overstaffed conglomerates which, given their huge asset base, failed to give acceptable returns. The companies became prize targets for foreign predators. Besides increasing shareholder value, unbundling now brings improved management focus and faster corporate decisions — vital if local companies are to make it in the fiercely bunched world markets.

Premier’s initial restructuring took place in 1996 when it raised R402m from the sale of the Clicks group to Malbak and Epol to Rainbow Chicken. It then merged Premier Pharmaceuticals with Adcock Ingram. Along the way, Premier Foods closed four mills and three bakeries as part of its programme to switch emphasis from volumes to profits. Over financial 1996 it wrote off R101m against restructuring, closure and retrenchments.

In 1997 it sold CNA-Gallo’s unexecuting stationery and retail division to Woolru for R445m and changed CNA-Gallo’s name to Mega (Millennium Entertainment Group). Before the year ended, Premier closed Epic Oils and wrote off another R133m.

The group’s second major restructuring was launched in February 1997 when it unbundled its interests in Mega (so giving Omni Media an effective 42% stake), then in Metcash and its N-shares in Adcock Ingram.

Those disposals made it look as though Premier was reverting to its original core competency in food and allied businesses. Since then, however, the latest disposals — including cotton interests to OTK Holdings for R130.5m plus shareholders’ claims against the group worth R134m (and a single acquisition, the Macsteel interest in Tellton) — are so profound that the reason for Premier’s continued existence must be in doubt. It is clear to the financial market that the company’s future is uncertain.

How all this came about is a matter that excites more than a passing interest. What is clear, however, is that it was used for purposes outside its original business at one stage as a convenient parking place for control of an even larger business (SA Breweries), in the process its managers lost sight of the bread-and-butter issues of its core businesses.

Premier lost ground steadily to its much more focused and better controlled competitor Tiger. Later it was rocked by a series of frauds. In retrospect, and while it can probably be argued that more could have been done to rescue the group temporarily, it is probably also fair to observe that the extent of the decay made it a basket case.

In another sense, however, is it also true that Premier is taking the process of unbundling to its most logical conclusion. In the process it is hard to fault new management’s claim that it has salvaged substantial sums for the benefit of all shareholders.

Starting as Premier’s history may be the most astonishing of all unbundling stories is Gencor’s. Originally used to foster Afrikaner aspirations of ownership in mining, Gencor was the first house to embrace unbundling in its business philosophy. In 1993 Gencor decided to concentrate on its mining core. That meant it would divest in favour of shareholders substantial holdings in a variety of industrial and natural resources investments. Among those were Sappi (forest products, 38.6%), Engen (oil refining and distribution, 49.9%), Genbel (investments and finance, 28.8%), South African Sugar (15.3%), Transnet (10.3%), Brait (investment fund, 25.2%) and those for which it owns no shares. But Gencor’s fortunes are fading. In 1998 the company was in a US court after its former chairman was accused of fraud.

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Unbundling

lished by Anglo American Corp, which lost the prize when its international mining arm, Minnorco, was narrowly defeated in its efforts to take over London-based Consolidated Goldfields.

GFSAs managers secured the support of the Rembrandt group and the Rupert family through a structure that effectively protected GFSAs from predators.

The acceptance of Gencor executive chairman Brian Gilbertson to GFSAs executives in preference to other suitors was the key to their preparedness, led by CEO Alan Wright, to permit this complex control structure to be unwound.

The merger, effective in January 1998, established Gold Fields Ltd, a new company whose name is intended to preserve that founded by Cecil John Rhodes in the last century, as a major world gold producer (indeed, until the forging of the new AngloGold, it was the international leader).

There is a view that this merger (Beatrix, St Helena and Oryx with Kloof and Driefontein together with associated mineral rights) was intended as a catalyst for further industry rationalisation in fact, it took advantage of an unstoppable ground swell directed at major structural change.

Since then GFSAs has embarked on its own profound restructuring. This involves the unbundling or sale of assets which include its stakes in Gold Fields and Standard Bank Investment Corp.

The GFSA agreement has major implications for Gencor because it commits it to pursuing its gold mining ambitions through new Gold Fields. At the same time, Gencor cancelled its consulting services agreement with Impala Platinum (Implats) and sold its entire group metals mineral rights to the company in exchange for Implats Platinum shares. The effect, therefore, was that Gencor ceded its operating roles in precious metals to Gold Fields and Implats.

The end result of this series of complex corporate manipulations is that all that remains of the original Gencor is its role as a passive though supportive shareholder in Implats, in which it holds a dominant 47.4% stake and Gold Fields (18.7%).

Gencor's final unbundling awaits on 2002 when obligations to Indonesia relating to the closure of the Prima Lrang gold mine expire and when the warrants given to Billiton regarding its purchase of Gencor's nonprecious metals assets have run their course.

So, in the space of five years, Gencor has gone from its role as a massive industrial and mining conglomerate to a narrower focus as a mining house with interests in gold and platinum and finally to an investment house with a staff of five.

Barring an extraordinary resurrection, Gencor is scheduled to disappear in 2002, but its demise has been orchestrated from a position of strength.

The same, unfortunately, cannot be said of Johannesburg Consolidated Investment where disbursement — after the unusual Gencor unbundling, re-bundling and unbundling saga — is nothing short of extraordinary. JCI, founded by Barney Barnato, one of the most colourful of the legendary Randlords, soon after the discovery of gold on the Witwatersrand, survived his death to become a premier mining house in time fell within Anglo American Corp's sphere of influence until Anglo's stake extended to nearly 50% of the equity.

The change in SA's political dispensation, which began with the release of Nelson Mandela from jail in 1990 and was cemented by the general election of 1994, also introduced a new imperative to empower the black community economically. Anglo American's response was to announce the separation of JCI into three discrete businesses, two of which would become vehicles enabling blacks to take ownership positions in mining and industry.

JCI was broken up into platinum (under the catch-all Anglo American Platinum, Amplats), industry, property and investments (under Johnnic), and gold, base metals and minerals under the old JCI name.

When Amplats was spun out of JCI, the greater group's original investments in the unitised diamond trading companies was included in the package. Subsequently, De Beers bought out JCI's (or Amplats') equity holdings in the diamond trading companies. Ownership of Amplats was retained by Anglo American to make it the world's principal producer of platinum.

Johnnic was the first to be auctioned and was eventually sold to the National Empowerment Consortium but not before former ANC secretary-general Cyril Ramaphosa was dragged in to resolve the differences of opinion and agenda inevitable in a grouping as diverse as that which was finally cobbling together New Africa Investments Ltd (Nail), the black investment group chaired by Nithatho Motlana and of which Ramaphosa became deputy chairman, now plays a role in Johnnic, which belies the size of its equity holding. It is worth noting that Nail executive Jozyi Sander was quoted as saying (Business Report December 3) that Nail would sell its stake if Johnnic's performance didn't improve materially.

By the time JCI was ready to be shed its new management team, led by MD Bill Nairn, had long set about rediscovering its original joie de vivre. Like a whirlwind, JCI executives spread across Africa looking for new precious metals projects. The company's interests stretched out to embrace Russia, Australia and Southeast Asia.

The impact of this activity and the forceful, persuasive manner of its presentation were quickly reflected in the market's...
Unbundling

reraising of JCI’s share price. This coincided with a contest between Niel’s Ramaphosa and the African Mining Group consortium led by newcomer Mzi Khumalo for the JCI prize. The result was a disastrous and unnecessary price war. In the end, Khumalo told Anglo American that his consortium would pay 50c a share more than whatever his competitor offered and the deal was sealed at R54.50.

The intention of the sale at R54.50 was that it would secure for African Mining Group a 34.9% stake in JCI but the plan ran aground because Khumalo and African Mining Group were unable to secure enough finance. Saffile then stepped in with a rescue plan to buy 30% of JCI while African Mining was given a one-year option to buy the remaining 4.9%. At the time Saffile was controlled by Consolidated African Mines which held a 40% equity stake in it.

Effective control over JCI was exercised by African Mining in concert with BNC.

Mzi Khumalo took flight when the gold price collapsed.

JCI – 1999

Note: Only the broad structure is reflected.

Investments, a private company then owned by the Kebble family into which Khumalo was introduced as a 30% stakeholder.

Consolidated African Mines is controlled by BNC, hence JCI is controlled by BNC which holds 6% directly in the mining house and 14% indirectly through Saffile.

The Khumalo family interest in JCI totalled about 1% and the Kebble family held around 4%.

Having surmounted the financing obstacle, things ought to have proceeded smoothly. That is not, unfortunately, how things turned out. JCI executives were repeatedly distracted by changes in strategy. An earlier Anglo American foray to take control of Lonrho Plc, the London listed multinational taken to fame by the legendary Tiny Rowland, backfired when the European Commission ruled against it. That left Anglo looking for someone to take Lonrho off its hands and JCI seemed to be the perfect patsy.

The attraction for JCI was that Lonrho appeared to offer good opportunities for both geographic and commodity diversification. It quickly became apparent that the personal animus which emerged between the two chairmen, JCI’s Khumalo and Lonrho’s non-executive Sir John Craven, ran too deep to be resolved easily. A deal between JCI and Lonrho, expected to be announced in May 1997, didn’t get near the finishing line.

The result was an uneasy stalemate compounded by a fall in the gold price (which unnerve Khumalo) and by his sudden desire to move away from precious metals and into base metals and minerals. At the forefront of Khumalo’s strategy appeared to be his support for newly listed, unproven mining company, Southern Mining, which had secured the mineral rights over the tiniferous deposits of the Northern Free State.

At about this time, Khumalo was persuaded by its blue-chip London advisers, SBC Warburg, that an offer to sell its brightest gold mine jewels, Western Areas and Joel, to Anglo American, then putting the final touches to the restructuring of Anglogold, might produce a warm response. The upshot was that JCI and Anglo agreed to deal in terms of which Anglo would get 36.6% in Western Areas plus 60% in Joel plus the management contracts related to those mines and JCI’s remaining 3% stake in Amplats. In exchange Anglo would deliver its 26.2% holding in Lonrho Plc plus cash.

This plan wrote an end to JCI’s hopes of becoming a major international mining house. Almost simultaneously it transpired that Khumalo had entered into a deal to buy a 20% stake in Southern Mining for R252m. The result was a row of major proportions, one which led ultimately to Khumalo’s decision, under pressure from colleagues, to resign all his posts at JCI. He has since been replaced as non-executive chairman by Wiseman Nkuhlu.

Meanwhile, trades union representatives (trades unions formed an important bloc of the black empowerment element of the JCI purchase) made sure Anglo American was under no misapprehension of the extent of their opposition to the Joel–Western Areas–Lonrho scheme. In the end, a substantially watered-down scheme was resubmitted which left Western Areas with JCI and also linked the sale of JCI’s coal assets (Tavistock and United Carbon Producers) to Duiker, an SA-based Lonrho-controlled company, along with the purchase by Lonrho of 21% of itself from JCI.

Anglo got control of Joel and JCI’s 3% stake in Amplats. It paid JCI R12.5m to reimburse it for what were called protracted reorganisations. JCI got 21% of Lonrho for which it paid Anglo R219m. Duiker bought Tavistock for a net R138bn. JCI then sold its 21% Lonrho holding to Investec which then sold it on to Lonrho.

Out of all this was spawned JCI Gold, to be merged with Consolidated African Mines (which owns 57% of it) and both will be merged into JCI. It will be left with three arms (Randfontein Estates (26%), Western Areas (45%), which also owns 48% of Barnes, and JCI Projects).

After the sale of Duiker, antimony producer Consolidated Murchison was sold to Metorex and ferrochromium producer Consolidated Metallurgical Industries was sold to Sudelektro. 40% owned by Switzerland-based international metals and minerals
trader Glencore
These moves also meant the control structure of JCI had been greatly simplified Deputy chairman Brett Kebble says the new JCI will be jointly controlled in a pool agreement between the family and the African Mining Group consortium now led by Nkulu. The group holds more than 70% of Wit Nigel whose major asset is 30% of Consolidated African Mines, which has 57% of JCI Gold. Five African Mining Group nominees sit on the nine-member JCI board.
In December JCI took the financial and mining community by surprise when it announced that it intended selling a one-half stake in Western Areas gold mine to Canadian-based gold major Placer Dome for an effective US$300m (about R1.7bn). The mine will be excised from Western Areas and be injected into a joint venture to be owned equally by Placer Dome and Western Areas.
The logic now suggests that Consolidated African Mines and JCI will merge with Western Areas. Later, London-listed Randgold Resources may be rolled into the combined company to provide it with a start as an international mining finance and development house.
This represents a sea change in JCI's fortunes. After the empowerment sale, its share price was depressed not only by a persistently declining gold price but by confusing strategies, poor transparency and ambitious putative deals that did not materialise. Now, however, much has been clarified.

As a commentary on changing investor perceptions the relative values attributed to SA Breweries and Anglo American Corp delivers some sharp lessons. In March last year SAB overtook Anglo American for the first time as the country's biggest commercial operation as measured by market cap with R50bn compared with R49.6bn. The situation has since fluctuated widely with Anglo American regaining its prime position and holding onto it but not by much. The table illustrates how the two have moved.

<table>
<thead>
<tr>
<th>Monthly</th>
<th>Anglo American</th>
<th>SA Breweries</th>
</tr>
</thead>
<tbody>
<tr>
<td>March 27</td>
<td>49.6</td>
<td>50.0</td>
</tr>
<tr>
<td>April 3</td>
<td>52.8</td>
<td>51.3</td>
</tr>
<tr>
<td>April 24</td>
<td>69.4</td>
<td>59.7</td>
</tr>
<tr>
<td>June 19</td>
<td>44.9</td>
<td>42.0</td>
</tr>
<tr>
<td>Jan 5 1999</td>
<td>39.1</td>
<td>35.5</td>
</tr>
<tr>
<td>Jan 12</td>
<td>39.2</td>
<td>36.8</td>
</tr>
</tbody>
</table>

Since then both companies have been substantially outplayed and overtaken in size by the merger of the tobacco interests of Richemont and Rembrandt in Rothmans International with those of British American Tobacco Plc.

In the past year, however, Anglo and SAB have progressed in different directions. Anglo has chosen to restructure along commodity lines rather than by the geographic divisions it employed formerly.
acting chairman

For Johnnie, itself the first major economic empowerment initiative undertaken by the Anglo American group, SAB is a crucial investment representing 60% of its assets. Johnnie is also known to be in need of access to large sums to finance its expansion initiatives. This is why it has suggested it may be interested in the sale of its stake in SAB.

However, the putative sale by Johnnie of its stake may trigger or encourage similar sale decisions by Anglo American and Liberty Life. If carried through to a logical conclusion, these would require the purchase of such a large controlling stake that it would also necessitate an offer to minorities. Given its size of about US$8bn, that is a mouthful that even global industry leaders would be hesitant to swallow.

Anglo American Corp. by far the largest mining house (though Rembrandt is now the biggest group), and one of the world’s most important, best fits the definition of an organisation struggling with the conundrum that small is nimble, big is robust but medium is helplessly marooned.

Anglo’s approach to unbundling is characterised by a straightforward rejection of the underlying principles. It doesn’t like unbundling and has consistently said so. One consequence is that the comprehensive rearrangement upon which it is now embarked is a restructuring rather than an unbundling.

The undeniable fact is that, despite the investment community’s love affair with single-minded focus, the lure of the conglomerate, a label used here in its broader meaning, probably remains close to its corporate heart. As the group expanded in the Thirties and Forties it became an article of faith that the purpose of its search for diversity was to equip it to ride out one commodity’s tough times by drawing on the wealth of others. If diamonds, for example, were to slump because of overproduction then gold and copper might take up the slack.

This is simplistic in the sense that we now know commodities often track together and move in concert. Executive director Michael Spier makes the point, however, that in its early years the diversity concept did indeed provide a vital safety net. This is why the concept of spreading risk remains enticing to Anglo executives.

Unfortunately, this simply isn’t the way...
investors have moved over the past decade. It may be that changes in company governance and organisation are merely matters of fashion — but fashion can also be important. To some extent Anglo accepts all of this.

The decision announced last year of a major restructuring across commodity lines, rather than the semi-geographic separation previously employed, looked at first glance as though Anglo would finally conform to investor needs for focus. In reality, however, it is a lot closer to belt and braces — a conscious plan to satisfy the investment community while preserving the safety net which diversity is thought to capture.

Restructuring a group as vast as Anglo means tackling some formidable complexities. It is no secret that international diamond giant De Beers has for decades been high on the US hit list because it is perceived to have consistently broken American commandments on anti-trust legislation. This has meant that Anglo’s own ability to do business in the world’s biggest economy was severely limited.

So first on the list was the need to demonstrate a separation between Anglo and De Beers. This was underlined by the physical separation of the two head offices in Johannesburg. The cross shareholdings remain, however, and, rather more importantly, so do the cross directorates — the element most likely to inspire American Securities Exchange Commission disapproval. Nevertheless, what this transfer of power achieved was to demonstrate that De Beers and its diamond business were no longer so closely interwoven with Anglo.

Repeating this across the board would produce a nasty conclusion for Anglo. If AngloGold could be spun off as a separately listed company (after consolidating ownership of the gold mines and buying Minorco’s American precious metals interests), and if Anglo American Coal (Amcoal), Anglo American Platinum (Amplats), Anglo American Industrial (Amic) and Minorco (stripped of precious metals and left holding the group’s base metals interests) could retain their individual listings and identities, then what would be left for Anglo itself?

It would be merely a holding company, a repository for ownership, while strategic and operational control of each entity would vest within itself. The logic of that kind of restructuring would require that the shareholding in each separate business would become, ultimately, discrete.

This takes no account of the unquantifiable but none the less valid assertion that the centre of groups such as Anglo add value because they contribute intellectual weight. In Anglo’s case, that weight is mostly accounted for by its considerable technical expertise. If, therefore, the operating divisions were to take that on themselves, the concentration of intellectual power would dissipate.

The alternative was to turn Anglo into both an operating and holding company. To do this, minorities in Minorco, Amcoal and Amic were bought out which gives Anglo itself a base as a coal mining, base metals and industrial manufacturing group while continuing to serve as the holding company for its other traditional interests (diamonds and gold). To add to this, Anglo and Billiton have jointly undertaken to buy out the minorities in Samancor, the world’s largest ferrochrome and manganese producer, which will then be held in a joint venture on 40:60 with Billiton.

At the same time De Beers has sold its holdings in AngloGold (49%), Amplats (13%), Namakwa Sands (20%), Mundi (17%) and Gamsberg and Namakwa to Anglo. The effect of these sales is that those companies are now wholly owned subsidiaries of Anglo.

The last move in this restructuring will be for Anglo American to transfer its domicile to the UK through the formation and listing of Anglo American Plc. Anglo American Corp of SA would then become a wholly owned subsidiary of Anglo American Plc.

No-one should think that this chain of events spells the end of the Anglo American group’s restructuring. It is clear that many smaller issues need to be tackled. For example, a lengthy re-arrangement of chemicals and explosives producer AECL is under way and the future of Highfield Steel, as the last remaining avenue for investment in the rapidly improving Columbus Stainless Steel joint venture, are just two areas of restructuring attention.

The group’s continuing thrust into copper has taken on added momentum after its recent announcement that it had bought back from the Zambian government most of the copper-producing assets nationalised more than 30 years ago.

The relocation of Anglo American’s domicile to London is designed, partially, to remove many of the obstacles, foreign exchange controls included, from its attempts to grow internationally. The group is already the largest producer of gold, platinum and diamonds and is the largest diversified mining company by turnover.

However, it is appropriate to point out that its strong balance sheet is an asset it shares with other London-listed mining houses and, in the short term at least, it is likely to find that efforts to add value through new investments will be as difficult for it as it has been for the others.

For Barlow, the search for focus may have been less complicated, but it has nonetheless been impressive. This company, of which Old Mutual (22.8%) is the largest single shareholder, was among the first to take advantage of legislation changes introduced to encourage companies to restructure for the sake of economic efficiency.

Grown originally out of the Caterpillar agency made famous in SA by the Barlow family, the company grew rapidly over the last Sixties and into the Seventies through a series of acquisitions. These included the SG Smith food group and mining house Rand Mines, at one time (in the first decade of the century) reckoned to be the richest company on earth and still powerful when it was taken over by Barlow through its investments in gold, coal and base metals.

Barlow’s first round of unbundling took place in 1993 when the company, then named Barlow Rand, passed its holdings in the SG Smith Group through to its shareholders. That was followed by the same process in Rand Mines, which split...
into Randcoal and Randgold. This process, in which Barlow can fairly claim to have been a trailblazer, has proved instrumental in transforming the SA mining industry and large and important elements of the industrial base.

During 1998 Barlow unbundled further. Recently appointed CE Tony Phillips says Barlow has decided to concentrate in areas of its core competency (and this boils down to a strict focus in marketing and distributing leading international brands produced by other manufacturers) capital equipment, Caterpillar, materials handling, Hyster, motor, Toyota, BMW, Ford, and the marketing, marketing and distribution of Barlow's own brands cement, PPC, scientific products, Bibby Stemlin, Melles Giot, paint and coatings, Plascon, steel tube, Robor, Monoweld.

And what this implies, of course, is the disposal of under-performing or non-core businesses. Over the past year, Barlow has sold Wrightech (capital equipment) for R50m, Circle Freight for R37.5m and some metals trading interests for R35m, its entire holding in PGM Investments for R33.7m and 11.6m Perstel shares for R355m, and post-balance sheet has sold another 26m shares for R1.4b. Artec (roof sheeting) was closed.

The other side of the coin is that Barlow has bought a host of new operations, all of which Phillips claims slot into the focus the group's executive has pinpointed for future. The R465m cost of these, the largest item by far — including buying Australian paints business Lanes for R350m — also took in the Perkins division of Atlantis Diesel Engines.

The result is that Barlow is locked into the fixed investment (capital) side of the economies within which it operates. This is true of SA and is equally the case in Europe — materials handling in the UK, capital equipment in the Iberian peninsula, and laboratory equipment across the region. In the US, it's strong in materials handling in the south-east. And Barlow claims a world-wide leadership in laser production.

The group's attributable profit is 62% from the international brands it markets and distributes on behalf of other manufacturers, with 33% from its brand manufacture and 5% from financial services.

Geographically, its net assets are spread between Europe (47%), SA (40%), North America (11%) and other African countries (2%). And its attributable profit comes from SA (43%), Europe (41%), North America (11%) and the rest of Africa (5%).

WHY TIMING WAS CRUCIAL IN MAKING THE MOST OF BARLOW'S UNBUNDLING

When Barlow began unbundling in 1993, chairman Warren Clewlow told shareholders one of the reasons for the decision was that Barlow's board found it of "great concern that the group's attributable profits have, for various reasons, declined over five years from a peak in 1989 of R1.011m, representing earnings per share of 543.6c to this year's R721m, representing EPS of 367.4c per share, an average decline of 8% per year."

Last December, however, Phillips was able to tell investment analysts that the restrucutred, unbundled group had delivered 22% average profit growth over the five years since 1993. This is a handsome improvement, but it's not been sufficient to persuade a clearly sceptical, and often jittery, market. In 1997 the Barlow counter hit a high of R1.5 and a low of R0.75. In 1998, however, this range changed appreciably, from a high of R1.5 to a low of R1.60.

The counter has also strongly underperformed the Financial and Industrial Index, further evidence, if it's needed, that the market considers those businesses almost exclusively exposed to capital spending (gross domestic fixed investment) to be an unusually high risk.

So, while Barlow has repositioned strongly, and successfully, to take advantage of any strong economic resurgence in SA or the northern hemisphere, the trouble now is that global prospects simply aren't encouraging.

There's little doubt the success of efforts like Barlow's has spurred wider unbundling. But people and personalities play a role too. The Anglovaal group was the last entrant (in the early Thirties) to the pantheon of SA mining houses and was characterised by the insistence of its two founders that it should never be anything other than controlled by two families.

This was thought to be the perfect partnership — the Hersov and Menell families contributed everything they had to each other, and the group they controlled remained indissolubly attached to them. Family control was extended through the use of as many as five share categories including loan stock and the use of the now unpopular, low-voting, "N" share.

But too many factors intervened. In the end, the families exhausted their supply of good management and failed to renew the group's capital stock, an interpretation which is challenged by Rick Menell who believes that both elements of the restructured group are equipped with high class management resources.

A failure to renew capital stock, especially in a finite industry, is central to many SA corporate stories. It was certainly the case with Rand Mines just as an example. Anglovaal mining operations were small in scope, failure to expand these and to replace wasting assets meant that its market capitalisation shrank dramatically.

Menell says, however, that they are concentrating on expanding the mining asset base — notably in Zambia, but also to bring the new Target gold mine in the Free State to higher levels of production as quickly as possible.

That aside, the market considered it quite unsurprising when Anglovaal's Basil Hersov announced a restructuring which would lead to unwinding control from the two families. The Menell heirs are to take the mining interests, the Hersovs will concentrate on the group's industrial legacy.

This means the close relationship between the families has ended, some say.
in Rhino Minerals and 50% in Nyalas Minerals, both of which are also up for sale.

Gold through Avgold (comprising its wholly-owned subsidiaries E T Cons, Hartbeesfontein, Loraine, Target, Sun and Oribi)

Menell says Anglovaal Mining's thrust will be to concentrate on a narrow spread and intense focus of its operations. He's bringing to full production as quickly as possible the recent cobalt acquisitions in Zambia (90% of the Nkana slag dumps, and the Chambishi acid and cobalt plants)

Menell will also want to bring the new Target mine in the Free State to full production swiftly. The two projects will require substantial cash injections and Menell says he's now satisfied problems delaying financing packages have now been removed. A three-year US$50m loan, bearing interest at the sharp rate of only 8.5 basis points above Libor, has been put in place for the Chambishi project. Menell, expects the feasibility study for the project to be completed and available in April

**Industrials:** At the time of AVL's annual report in September 1998, the company held effective controlling stakes in a number of operating businesses spread over a wide range

- Irvin & Johnson (frozen foods and fishing), 42.5%
- Consol (packaging), 49%
- National Brands (last moving consumer goods), 50.5%
- Fixed Investment (Alpha 18%, Bearing Man 33%, Triset 59%, Gmmaker Construction 30%)

The contrast between this portfolio and that of 1996 couldn't underline more emphatically the radical changes which have taken place in late 1997, AVL restructured its packaging subsidiary by selling off the rubber, tyre and paper packaging operations and delisting Consol itself. Gmmaker was unbundled and the electronics operation, which was then wrapped into Gmmaker Holdings and including Gmmek, Gnmaker Electronics and SiTek, was sold off to black group business group Kunene Brothers; its textile arm, Autex, was sold to Da Gama, in company with Holderbank, the Swiss-based controlling company of cement producer Alpha. AVL seeks first to increase its stake in the company and then to delist it.

Fishing and frozen food group I&J has embarked on a joint venture with Simplot Australia and also on a black empowerment deal worth R162m which will put 20% of the group into the hands of three empowerment consortia. National Brands is focusing on margins, market share, cost reductions and a general enhancement of the big name brands under its control. Consol has completed its big capital expenditure programme and is now focusing strongly on improving factory efficiencies.

In the circumstances, it is now fair to conclude that the industrial portfolio has been sensibly restructured and that the group's combined financial position has been restored to a position of sufficient strength for it to contemplate expansions. Since the realisation in early 1996 that the greater group's circumstances were hardly encouraging, the market has bludgeoned the counters AVL's share price, for example, which peaked at R172 in 1996, fell to a low of R23.50 in 1998.

It's not possible to review this kind of performance without concluding that the slump in global equity markets (Wall Street excepted), is a market verdict on what it considers a failure of family management and the passive approach of its professional managers.

But for all the noise that companies bring to unbundling the race to determine which conglomerate becomes the first to carry unbundling to its logical conclusion has resolved into a straight contest between Premier and Safren. After Safren's unbundling of Kersaf last year it disposed of Rennes Group to Bud-
SAFREN

SOURCE SAFREN

vest for R1.065bn and then sold Safair to Imperial Holdings for R230m. This leaves Safair with its substantial shipping business concentrated in wholly owned subsidary Safmarine.

Unfortunately, Safmarine constitutes the most intractable part of Safren’s operations because shipping everywhere is making heavy weather.

The difference for Safmarine is that its fleet is modern and in good condition. This ought to make it a target for shipping companies prepared to invest before the expected surge in trade volumes over the next decade.

In a depressed sector like shipping, the p/e ratios applied to global competitors ranges between five and 30. An estimate for Safmarine is six and this suggests it ought to make a tempting meal for the big boys. As it turned out, Danish ship owner AP Moller (which owns the Maersk line) has bought Safmarine liner business for US$240m. This brings the total raised in this unbundling to R2.23bn.

Transport holding company Safmarine and freight, travel and leisure group Rennes merged to form Safren in 1984. Within months the casino, resort and leisure group Kersaf was added to the portfolio.

Kersaf was the first to leave the fold when it was unbundled from Safren last year to give the conglomerate an opportunity to concentrate more closely on its transport and freight businesses. The directors believed that separating ships from the chips would unlock significant shareholder value.

That left Safren with seven related operations liner, with 39% of earnings, bulk, 10%, reefer shipping, 23%, aircraft leasing (9%), terminal management (8%), freight (7%), and travel services (4%). It was thought then by analysts that the restructuring of Rennes would suffice and that a primary listing overseas for the shipping and freight operations might be next on the list. As part of that focus, Safmarine bought the remaining 25% stake in liner subsidiary Safmarine & CMBT Lines from its joint-venture partner CMB of Belgium. A shipping merger with a foreign firm was clearly on the cards.

Then Rennes sold its loss-making XPS parcel delivery service and storage and handling operations to Island View. That was followed by an agreement between Rennes and Barlow’s Circle International SA to join with US-based Circle International to merge their domestic and global logistics and freight management interests into a new company, Renfreight Circle, with Rennes holding 80% in the business.

Rennes’ most unrelated business was Rennes Travel, which conducts a profitable foreign exchange operation.

Safren stands out as a classic example of the reason for the unbundling of conglomerates. Chairman Buddy Hawton notes, after a decade of growth in earnings and assets that went unrewarded by the market, that the logic of unbundling to realise wealth became unanswerable.

The result was that Safren’s controlling stake in Kersaf was distributed to shareholders by a dividend in specie.

Now that Rennes has gone, the company remains with its original shipping business, Safmarine, and the decision to sell it to a foreign fleet owner implies that Safren is likely to be delisted this year.
Big-time privatisation in store for Jo’burg

By Joshua Raboroko

THE Greater Johannesburg Metropolitan Council has unveiled a two-year plan aimed at saving the cash-strapped council from financial crisis, rejuvenating the city and generating millions of rand.

The plan includes privatising water, sanitation, electricity and waste systems, selling Johannesburg and Orlando stadiums and council-owned houses and hostels.

Addressing a press briefing after a two-day summit – dubbed Transformation Lekgotla – the council’s chief executive officer, Mr Kenny Fihla, said the plan, to be called “Iqoli 2002”, was aimed to set up utilities for water, sanitation, electricity and waste management. Since these utilities were commercially viable, they would operate as companies owned by the council.

Privatisation and the sale of assets including Metro Gas, Rand Airport, portions of council-owned land, the Fresh Produce Market and Johannesburg and Orlando stadiums would generate revenue and create jobs.

He said that privatisation of the assets was a minimal part of the plan and represented less than three percent of the council’s business. However, it was an important part of the plan in that it would help generate revenue to allow the new owners to make much-needed investments to grow the businesses and create jobs.

The council was losing R134 million annually on 6,000 houses and flats – presently occupied by councilors’ employees – as well as old-age homes. They were in good condition and would be put on sale.

Hostels would be converted into family units in an attempt to reduce the critical housing shortage in the city.

The council also wanted to “corporateise” Johannesburg Zoo, the Civic Theatre, its bus company, farms, housing delivery company and specific development projects such as the Newtown Development Agency.

Fihla said the council and its four substructures were collectively heading for a deficit of R257 million by the end of the 1998-99 budget year. This was the result of several factors, including water losses, wasted expenditure from unproductive systems, insufficient specific revenue received and inadequate billing.
Competition Board probes MultiChoice

Amanda Vermeulen

THE Competition Board has launched an extensive investigation into whether subscription management company MultiChoice Africa's pricing of decoders and distribution policies constituted anti-competitive behaviour.

The company would be probed over allegations of infringements of competition law, including accusations that it refused to deal with local hardware, software and satellite signal marketer DSat, the Competition Board said.

Jim Vlokwyn, MultiChoice CEO for Africa and the Middle East, said "We will co-operate fully with the board's investigation to help consumers understand the real price of DSat rentals."

Other areas of the probe would look at whether MultiChoice gave differential treatment to subscribers who had bought digital satellite television subscriptions from DSat.

DSat is a subsidiary of Paradigm Interactive Media, and sells DStv subscription and equipment rental packages in SA.

The feud between DSat and MultiChoice has been simmering for years, and dates back to about the beginning of 1997 when DSat launched its rental packages in the local market.

MultiChoice alleged DSat's contracts were misleading the public and potentially locked customers into stiff hikes in monthly rates after the first year of a multiyear contract.

DSat in return accused MultiChoice of anti-competitive behaviour after the subscription company threatened to refuse to enable the decoder equipment of DSat's customers.

The debate with the Competition Board has been taking place for some months, during which MultiChoice has enabled DSat decoders. Both groups presented their views to the board last month, after which a decision about a full investigation was taken.

The board said other areas that would be probed in the MultiChoice investigation would be the group's pricing and distribution policy on decoders used to decode programming marketed by MultiChoice, and the alleged cross-subsidisation between MultiChoice and its own rental outlets with regard to signal and/or decoders.
More talks on privatisation

By Joshua Raboroko

THE Greater Johannesburg Metropolitan Council is hoping to reach an agreement soon with trade unions about the controversial privatisation and sale of council assets, including the Orlando and Johannesburg stadiums.

The GJMC intends to privatise its metro gas, Rand Airport, a portion of council-owned land, the fresh produce market and the stadiums, all of which form a minimal part of the plan and represents less than three percent of the council's assets.

The chairman of the transformation lekgotla established to solve the financial crisis facing the council, Mr Kenny Pihla, told Sowetan that at the meeting they held with trade unions “things did not run properly.”

He said delegates had differing views on the issues. However, 60 percent of them welcomed the move to privatise some of the assets, saying that the important part of the plan was to help generate revenue and to create jobs.

He was confident that at the next round of talks this week progress would be made in the controversial privatisation and sale of the assets.

The council is unable to fund the investments needed to grow these assets.

The purpose of the meeting was to ensure that trade unions had an insight into the problems and potential solutions for the city.

He said the council intended to build a firm partnership with labour and management to ensure they worked together to achieve the shared objectives of their plan.

Much emphasis would be placed on a labour relations exercise which ensured that staff was part of all key decisions and on issues such as job security, benefits and salaries.

No retrenchments would take place during the process.
Move to stop 'opportunistic mergers'
New competition law coming

BUSINESS organisations have been urged to prepare themselves for South Africa's new Competition Act, which is expected to come into effect in June.

According to Gareth Driver, partner at Werkmans Attorneys, the companies have an opportunity to make sure that they comply with the new Act.

The Act is expected to have a serious impact in some areas, and there are stringent sanctions for the companies that do not comply, Driver said.

"Companies can be fined up to 10 percent of their turnover, civil damages claimed and contractual arrangements can be declared void," cautioned Driver.

The Competition Act aims to eliminate the business practices which stifle competition.

It will apply to all economic activity within South Africa or having an effect within the country.

Driver said the Act's scope also covered the cross-border business practices and arrangements such as the exclusive distribution agreements.

"It is expected that the scope of the public regulation exception will be hotly debated in the industries where licences or other approvals are required for the conduct of the business," said Driver.

He added that the exceptions to the Act include the collective bargaining and agreements in the employment context, professional associations and the entities authorised by public regulation.

Driver advised firms to utilise the period before the Act's commencement to review their existing arrangements and practices to ensure compliance with the new law.

-Sowetan
Labour’s future in govt privatisation uncertain

Reneé Grawitzky

LABOUR’s future involvement in government’s privatisation and restructuring programme remains uncertain as government and unions have yet to meet to discuss the way forward for the national framework agreement.

The agreement — signed by government and labour in 1996 — was intended to accommodate some of labour’s concerns about restructuring and provide broad guidelines for its involvement in the process.

The agreement expires next month and parties have yet to meet to discuss its future.

Labour would like to see the negotiation of its extension and re-evaluation to effect some amendments while government’s position in this regard is unclear.

Labour sources said if government no longer supported the framework agreement, it would send out a signal about its attitude towards social dialogue.

This could also have an effect on attitudes towards institutions such as the National Economic Development and Labour Council.

The sources said there was a view in certain government quarters that if it was not for labour, the privatisation process would have been faster. There was also an attitude that it was now time for government to govern.

The Congress of SA Trade Union’s restructuring co-ordinator, Vusi Nhlapo, said the agreement had been beneficial for both parties. It had placed certain constraints on government to negotiate but at the same time had ensured the smooth restructuring of state assets.

Labour had in many instances been able to ward off retrenchments. Labour had to examine mechanisms to protect its members while overall the agreement had to be tightened up to ensure a better understanding.

Government, he said, indicated it would be prepared to negotiate the extension of the agreement’s timeframe.

National Labour and Economic Development Institute director Ravi Naidoo said the framework agreement allowed for more dialogue about restructuring.

The process had been slow but in the last year began to pick up and restructuring would increase in the next couple of years. It would be problematic, he said, if the agreement was not extended during a period of increased restructuring and possible job losses.
Phase Two of airports sell-off on cards

APPORTS Cumber to give Passat subsidised production date this year
New legislation should ring corporate warning bells

First target of Competition Act will be a high-profile case of dominance abuse

Saul Klein (232)

WITH a few months to go before the new Competition Act is implemented, warning bells are ringing for corporate SA.

The new legislation will have a major effect on anticompetitive practices that may have been tolerated in the past. Indeed, in the past few months we have seen a reconstituted Competition Board displaying its teeth disallowing the proposed merger of ACEI and Sasol, and initiating investigations into International Healthcare Distributors and Multichoice.

The act brings with it two new dimensions that decision-makers must appreciate. First, it carries heavy penalties to ensure enforcement, providing for administrative fines of up to 10% of a firm's annual turnover, imprisonment for up to 10 years, and forced divestiture. The act also opens the door to civil damages.

Second, it is difficult to anticipate how the new authority will tackle future cases. The biggest problem that business faces is one of uncertainty as to whether particular practices are legal or not. Uncertainty is exacerbated in SA by the criteria that are to be applied.

In many instances, the act provides for a balancing of pro-competitive and anti-competitive effects in the review of restrictive practices, abuse of dominance and prospective mergers. Criteria are not restricted to consumer welfare and economic efficiency, as in other jurisdictions such as the US.

Other criteria for consideration in SA include promotion of employment, social and economic advancement, promotion of a greater spread of ownership, expanding participation in world markets, and enabling small and medium-sized enterprises.

It should be clear to the most naive observer that the various criteria may frequently be at odds with one another. What is less clear, is how the authority will trade off one criterion for another. It is likely that political forces will play a role in how this uncertainty is resolved.

Given that members of the authority will be ministerial appointees, it is inevitable that priority will be given to those people with viewpoints that the minister finds palatable. It is likely that consumer welfare and economic efficiency will be traded off for job protection.

Political considerations may also result in pressure on the new authority to act quickly and decisively to send a signal that the ways of the past are no more. It is quite probable that a short list of potential targets for investigation has already been prepared.

Given the extent of industry concentration in SA, the first target is likely to be a high-profile case under the abuse of dominance provisions of the act. There are at least 12 industries where a single firm holds a market share of more than 50%.

Other targets could reflect populist sentiment. The major banks may find their activities under greater scrutiny. Large mergers will also attract attention because of the need to send clear signals.

Faced with this uncertainty, how should businesses prepare themselves? The first step should be a complete audit of all business activities to determine anything that could fall foul of the act.

Given its scope, this determination should be wide, and worst-case scenarios should be clearly identified, even if they are considered unlikely. Such an audit is a major undertaking that could consume significant resources.

The second step is to consider those areas of possible concern, and evaluate both their business logic and whether or not they can be justified under the act. It may be necessary to make changes in how the business is conducted to conform with the act.

The third step is to prepare a defence in terms of any practices that serve a strong business objective, but could be attacked on anti-competitive grounds.

There are a number of such practices, relating, for example, to distribution arrangements, pricing and promotions.

Preparation of a defence involves considering economic and non-economic criteria, and collecting evidence to substantiate desired conclusions. This step will be expensive and time-consuming.

An important change lies ahead for business. The time to act is now, before investigations are launched and before penalties are imposed. The costs of acting now pale in comparison to costs that could be incurred later.

Saul Klein is professor of marketing and international business at Wits Business School.
Doubts abound over the future of the NFA

Johannesburg — The government and Cosatu seem less keen to include business and labour in policymaking, which was the enactment of new labour legislation in collaboration with the National Economic Development and Labour Council (Nedlac).

The completion of the programme itself has deep implications for the future of Nedlac after the elections in terms of its importance in the eyes of government, the focus of its activities and, by implication, the future of social dialogue.

The bilateral nature of the NFA is another hobbling aspect because the private sector, an important player in the question of state restructuring, is not a signatory to it.

NEW ISOLATIONIST Membathla Mandela, the labour minister, says the government can go it alone

It is highly relevant that the labour department has just completed its five-year programme of action, a large part of which was the enactment of new labour legislation in collaboration with the National Economic Development and Labour Council (Nedlac).

The workshop would also “evaluate whether the NFA served any useful purpose.”

“The workshop,” he said, “should recommend as to whether this NFA’s life span should be extended or not.”

“The May 1999 executive committee has been requested to take (some) decisions, including (one) on the engagement with the alliance and (on) a programme to defend our members’ jobs.”

But the dynamics go beyond privatisation, the NFA seems to have been overtaken by events.
Samwu opposes Igoli 2002

FRANK NXUMALO

Johannesburg — The South African Municipal Workers' Union (Samwu) yesterday rejected the Igoli 2002 plan to restructure Johannesburg and called for an immediate halt to the process.

"Samwu does not believe there is a financial crisis in Johannesburg that could be improved by selling off profit-making and job-creating assets. Any restructuring plan must first rectify areas where money is being wasted."

The union said arbitration was currently in process between employers and Samwu because of a dispute over last year's restructuring plans, since launched under another name.

Victor Mhlongo, Samwu's Gauteng provincial chairman, said "A National Framework Agreement on municipal restructuring was concluded last year between all Municipalities and Cosatu, which Igoli 2002 completely ignores.

"This brings into question the authority of national government in driving negotiations around local government."

Mhlongo said Samwu had "not been consulted" on a restructuring process that would radically alter the conditions of service of members, especially in the services designated for privatization.

He said this was a contravention of section 64 (4) of the 1995 Labour Relations Act, which stipulated that unions must be consulted in cases of workplace restructuring when this resulted in changes in conditions of service.

Some of the agreements ignored by Igoli 2002 included the Municipal Services Partnership Framework signed by Cosatu and the South African Local Government Association, and government policy that public sector service delivery should be restructured democratically by all stakeholders.
Board stops investigation into SAB and KWV

Pretoria - The Competition Board had withdrawn its notice of investigation into SAB's business practices, Wouter Meyer, the director of the board, said yesterday.

A notice of investigation into the affairs of KWV, the investment group, had also been withdrawn.

The withdrawal of the SAB and KWV notices of investigation and six other investigations were published in the Government Gazette on Friday.

Meyer said the majority of the notices withdrawals were related to the new Competition Act. Many of the alleged offending practices, including abuse of dominance, could be better dealt with through the new act.

The Government Gazette notice said the board decided to terminate a number of investigations announced in terms of the Maintenance and Promotion of Competition Act, because in some cases the need for an investigation had fallen away and circumstances had changed in others.

The board launched the SAB investigation to determine whether SAB had a monopoly in the alcoholic beverage industry and whether any agreements it had in the industry constituted restrictive practices.

SAB subsequently challenged the board's notice of its investigation on the grounds that it exceeded the board's rights and power in terms of the act.

Lourens Jonker, the chairman of KWV, said last year the board investigation into the liquor industry and the affairs of KWV had been put on hold until the new Liquor Act was passed.

Jonker said at the time the new Liquor Act would probably contain guidelines and prescriptions regarding competition which could affect the outcome of the investigation.
Rutgers tipped to be chief of competition

A top trade and industry department official is regarded as frontrunner to take charge of the

John Djudia

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GOVERNMENT is expected to name Michael
Post-election privatisation to reach R40bn

ET (ZA) 20/14/99 (23d)

LUKASNOV MANTANDA
ECONOMIST

Johannesburg - The privatisation of state assets was expected to accelerate after the election. In June and could raise as much as R6 billion in the next five years, adding about 5 percent to South Africa’s gross domestic product (GDP). First Fiducia Investment Bank said yesterday.

In its economic report for the first quarter, the bank said the government was estimated to have about R10 billion in property alone which could create an additional R15 billion if sold off or rented out. Privatisations at municipalities could raise another R4 billion over the same period.

"Together, these would double the estimated privatisation proceeds to around R20 billion, or about 6 percent of GDP," it said.

The report said that better economic prospects for the South African economy in the short term would send out a more optimistic message on longer-term growth prospects as structural reforms began to pay off. It expected an average growth rate of more than 3 percent over the next five years. This, however, growth would contract by 0.9 percent.

This is by far the most bearish estimate in the market place, with most economists expecting growth to be positive, if sluggish, at less than 1 percent.

Indicators that the decline in commodity prices was reaching a bottom support their optimism, while the positive spin-offs of the privatisation process would be reinforced by the probability of new investors introducing new and skills. The conclusion of a trade agreement with the European Union would also boost growth in the long run.

Mike Schussler, First Fiducia’s Economist, said the South African economy was more competitive already and the rainy cold seasons experienced over the past few years as key sectors restructuring to improve competitiveness should stop in the next 18 months.

The report said one of the few benefits of the economic slowdown of the past two years was that inflation had remained subdued. First Fiducia forecast it to average just 6.1 percent this year, with only a sharp rebound in oil prices expected to stop it from going much lower than 4 percent by the end of the year. At 6.9 percent, the average inflation rate for last year was the lowest for 25 years.

First Fiducia expected the current account deficit to fall to about 1.7 percent of GDP this year compared with 2.1 percent last year. The rand should continue with its relative stability and end the year at about R8.50 against the dollar.

South Africa is expected to post a healthy surplus of just over R800 million when trade data for March come out tomorrow.

Another exception in an otherwise bleak period for the economy was the continuing growth in domestic fixed investment, which grew by 7.5 percent last year as a result of the public sector and parastatals increasing their investment by 9.4 percent.
Johannesburg - The South African Chamber of Business (Sacob) yesterday called on the government to clarify its policy on competition and that associated with regulation.

In a memorandum titled "Regulation and Regulators", Sacob examined the role of regulatory bodies, advocating that in the interpretation of policy, the regulators must be seen to be impartial and independent of politics and vested interests.

It argued that while the powers and functions of regulators varied, the common feature was where there was no competition in their industries of responsibilities, Sacob stressed to serve as its substitute.

Sacob said "At times it is easy to confuse a pro-market stance with condoning the abuse of market power. Such confusion can arise whenever there exists a dual role of promoting economic growth and regulating a market.

The chamber said operational and policy formulation responsibilities should be the prerogative of the government and separate from regulatory responsibilities. This could be achieved by the establishment of independent regulatory bodies free from political interference, it said.

There are three regulatory bodies, and a fourth would be established during the course of this year.

Appointments to the Independent Broadcasting Authority as well as the South African Telecommunications Regulatory Authority are made by the state president on advice of the national assembly.

Appointments to the National Electricity Regulator and the soon to be established postal regulatory body fall under the responsibilities of the minister of minerals and energy and minister of post, telecommunications and broadcasting respectively.
Privatisation drives picks up pace

THE much-criticised slow pace of restructuring state assets appears to have built up a head of steam with various high-profile deals likely to be concluded in coming months.

Public Enterprises Minister Stella Sigcau said a management contract at state-owned Alexkor was awarded to Nebera, one of eight bidders, and the sale of Connex should be agreed this week for R18-million.

This is R3-million more than

STATE ASSETS
By ANDREW GILL
was bid just two weeks ago.

Sigcau also said 23 non-binding bids were received for forestry company Safcol, which has been languishing amid a lack of progress on its planned privatisation. Talks with preferred bidders start in August after a due diligence process by current bidders. Only four of the bids are said to be for the entire Safcol business, which is the preferred method of privatising the concern.

The developments come on the back of the expected sale of a 20% to 30% stake in SA Airways this year, while other developments include a focus on Portnet with a view to splitting it into two entities — a port authority and operations — and the privatisation of Swartkops, Elopro, Vektor, Metrorail concessions, Transwerk, Autonet, Apron Services, AirChefs, Protekon, Chemical Services and Production House. Sigcau says failure to secure a deal at Aventura, where a contract with Cosatu's investment arm Kopano ke Mafila was cancelled this month, is expected to result in a management change at the resorts company. A decision on whether to opt for a management contract at Aventura is expected this week.

Sigcau's vision: Page 7
Telkom to privatise three noncore units

Robyn Chalmers

TELECOMMUNICATIONS utility Telkom has called on the private sector to bid for three of its units which are estimated to have equity capital of about $1.27bn.

The bids have been called for Telkom's R400m fleet management division FastFleet and provision of a full maintenance lease service, the R25m electronic services workshops and the R25m light engineering workshops.

The move is part of Telkom's outsourcing policy which refers to the sale of noncore entities and their assets. The policy is to enable Telkom to focus on the core business of telecommunications and information technology.

Telkom corporate communications group executive Amanda Singleton said that outsourcing was not a new development in Telkom and had been unfolding over the past four years.

Singleton said Telkom was now preparing to outsource its fleet management division, electronic and engineering workshops, as well as non-infrastructure properties and property management.

"To this end, Telkom (has called) for potential buyers to apply for pre-qualification. This is an exploratory step aimed at enabling Telkom to test the level of interest, experience and expertise among potential buyers in the market place."

Telkom chairman Dikgang Mosekane said yesterday perceptions that Telkom's exclusivity period was anticompetitive and designed to protect a state monopoly were unfair and inaccurate.

Mosekane said "Telkom's task is a massive one and the temporary exclusivity period is intended to ensure we have the financial means to meet these obligations."
Updated Competition Act ‘will help promote trade’

ZINTLE FIKANE

Johannesburg – Companies eyeing mergers and acquisitions would be placed under tough scrutiny if their actions were found to be anti-competitive, David Lewis, the chairman of the Competition Board, said yesterday.

He described the new competition legislation as a piece of “commercial legislation” designed to promote trade and investment, which did not allow for “capricious interventions in decisions made by firms and their managers, the principal agents of trade and investment.”

Lewis said that while the objectives of the legislation were clear, firms were going to be more self-conscious about the implications of their decisions and actions for competition.

Among other differences between the current act and the new one, scheduled to come into effect later this year, the new act makes notification of mergers compulsory.

Lewis said one of the advantages of the new act was that it clearly spelt out the assessment process and criteria for mergers and acquisitions.

“Hence it will first have to be established whether or not the merger substantially prevents or lessens competition.”

He said in the event the merger was found to restrict competition, the authorities would have to examine possible countervailing efficiency grounds to justify the merger.

“If it finds that none exist, it will then have to examine a prohibition against specified public interest grounds.”

He said a merger could be blocked even if it was found that it did not impair competition, but was wanting on the specified public interest grounds.

Lewis said one of the issues that underpinned government commitment to a strengthened competition policy was the firmly held perception that South Africa’s industrial structure was highly concentrated, characterised by trading practices aimed at defending the concentration and dominance.

It was also perceived that the barriers confronting new entrants, particularly small, medium and micro enterprises, were almost insurmountable and that this contributed to a marked lack of dynamism in the economy.

IST launches on-road fuel system

ROY COLAYNE

Pretoria – IST, the listed technology group, had made history with the launch of an on-road fueling system, the first of its kind in the world. Gary Morato, the chairman of IST, said this week.

He said the new system, PetroMan, was the solution to on-road fueling problems and associated fraudulent activities in the sector.

“It is the ultimate tool for optimum fuel and lubricant dispensing control,” he said at the launch on Wednesday.

He said Petro-Man, designed by IST Industrial, was the most versatile system on the market to date. It provided fuel management with solutions from sample attendant tagging to state-of-the-art vehicle identifications and refueling technology.

Jacques Joubert, IST’s marketing manager, said the system was aimed at fleet owners. He would not be drawn on the number of units or value of orders IST hoped to sell.

Joubert said the product would be available from September this year at a rate up to 200 units a day.
NEW LAW SET TO ENHANCE THE REGULATION OF MERGERS AND ACQUISITIONS

After the Game's Rules

Competition Act Will
Cosatu warns over Job Losses
Competition board geared for action

John Dludlu

GOVERNMENT is due to release a set of rules and regulations over the coming weeks that will underpin the implementation of the new Competition Act — the final step in the state’s plan to beef up its capacity to police corporate mergers and acquisitions.

Newly appointed competition commissioner Alistair Ruters said yesterday the rules would outline procedures to be followed in notifying competition authorities of mergers and acquisitions as well as the route for instituting complaints about restrictive practices.

In terms of the new law, which replaces the present one administered by the competition board, businesses which are planning a merger or an acquisition will be forced to notify competition authorities of their intentions.

The commission, an independent investigative body, will then make recommendations to the soon to be established competition tribunal, an administrative body that will either approve or veto a merger.

The act, signed into law last year, prohibits a range of anticompetitive behaviour, including abuse of dominance and market-sharing arrangements.

Crucially, the regulations — which will be based on the act and are not negotiable — will also name the thresholds at which a company becomes dominant.

In terms of the act, a dominant firm is one operating in a market where it has “at least 45% of that market, has at least 35%, but less than 45% of that market, unless it can show it does not have ‘market power’, or it has less than 35% of that market, but has market power.”

When the act was being debated, these thresholds were criticised by business negotiators as being too low.

The regulations would also give clear details of the circumstances under which exemptions from the act could be granted.

The commission may grant an exemption to agreements if these arrangements contribute to the promotion of exports, strengthening the ability of small business or black-controlled firms to compete, or industrial policy.

Ruters said the commission was expected to have a staff of about 80 and a budget of R5bn. It would begin negotiating with other regulators such as Satra, the telecoms regulator, and the IBA, the broadcasting watchdog, to avoid overlaps and to ensure that public monopolies did not abuse their positions by frustrating private sector operators in unlicensed activities.
Union in protest at privatisation moves

Sowetan Reporter

THOUSANDS chanting members of the South African Municipal Workers Union (Samwu) demonstrated outside the Johannesburg Library Gardens yesterday in protest against the iGoli 2002 programme to be introduced by the Greater Johannesburg Metropolitan Council (GJMC) in two months.

The protesters said they were “disgusted” by the fact that no less than seven public assets had been designated for privatisation in the next two months.

The union called for the immediate halt of iGoli 2002 saying it had no economic benefits being little more than a “glossy public relations document”.

The wide-ranging programme is aimed at privatising some of the major assets owned by the cash-strapped GJMC to alleviate the financial crisis facing the council.

Chairman of the Johannesburg branch of Samwu Mr Caleb Mokoena said workers remained sceptical about the entire exercise as it would lead to retrenchments.

Mokoena added that the union had not been properly consulted on the move.

He also pointed to what he called an agreement between the union and the council in which, according to Mokoena, the council had agreed to hold back the implementation of iGoli 2002 until it had been referred to a bargaining forum.

Mokoena said a matter of contention for his union was that four council executive officers would be given bonuses amounting to more than R2 million.

The GJMC announced recently that the bosses — city manager Ketso Gordhan, transformation projects manager Pascal Moloi, chief finance officer Roland Hunter and labour relations specialist Makgane Thobejane — would be paid bonuses equal to a year’s salary if they met all their targets to turn the cash-strapped council around.
US official scolds Pretoria for slow rate of privatisation

Patrick Wadula

SA HAS been criticised for dragging its feet in the privatisation of state-owned assets by the US undersecretary of state for economic, business and agricultural affairs.

Stuart Eizenstat, speaking via a satellite transmission from the US yesterday, said SA's privatisation process was not occurring at a pace to encourage the kind of growth SA needed.

Eizenstat recently visited the southern African region for the Southern African Development Community (SADC)-US Forum held in Botswana.

"I hope after the elections that we will see an acceleration in SA's privatisation," he said.

Eizenstat said that although there was a commitment to private-sector involvement to create an investment climate that would attract private companies, there was concern that privatisation meant "taking away the crown jewels of a country" and putting them into private hands.

"If I may say so, these crown jewels generally perform very poorly in state hands. They do not perform for the people," he said.

Eizenstat said the SADC countries could take the example of successful privatisation processes taking place in countries such as Poland, Malaysia and Bolivia.

"Privatisation needed to be done openly and transparently. This meant an open bidding and ensuring it was at a fair market value."

Done correctly, privatisation would provide the treasury of the country with tremendous foreign capital. These funds could be pumped into education, infrastructure and healthcare.

It was encouraging that there was a commitment to privatisation in Nigeria, which intended using technical assistance from the World Bank.

The trade and investment framework agreement proposed by the US at the forum could be signed within several months provided SADC leaders were interested in such an agreement, he said.

Nafcoc wants unified business sector

Patrick Wadula

NATIONAL African Federated Chamber of Commerce (Nafcoc) president Steven Sosana said SA business could no longer afford to remain fragmented because of the apartheid government black business operated separately from that of the Indian, coloured and white business sectors.

"We cannot run a fragmented economy based on historical racial divisions," Sosana said.

The success of the SA economy would come about if the split between these groups were closed. Nafcoc had to widen its platform to include not only emerging business, but also lobby support of big business.

Sosana said the remaining question was whether Nafcoc would add a golden touch or seek a golden touch in the SA economy in the new millennium.

Sosana said the first five years of an African National Congress-led government was a period of planning and not delivery.

Delivery was expected in the next five years, he said.

"Water and Forestry Minister Kadar Asmal, another speaker, said the five years was a period of delivery.

Government had succeeded among other things in providing rural communities with telecommunication lines and water."
Competition Act will put the squeeze on franchisee industry

Countless standard clauses in agreements could constitute unlawful action.
Competition Board guns for drug sales 'duopoly'

LYNDA Loxton
PARLIAMENTARY CORRESPONDENT

Cape Town - Pharmaceutical companies should be given six weeks to end their monopolistic sales tactics, Dave Lewis, the chairman of the Competition Board, announced yesterday.

Lewis said the board had found that there were two exclusive distribution networks among pharmaceutical manufacturers.

These were International Healthcare Distributors (IHD), owned by 11 major pharmaceutical manufacturers, which accounted for about 33 percent of drug sales, and Synergistic Alliance Investments (SAI), owned by five manufacturers, which accounted for about 25 percent of sales.

While IHD had been in operation for some time, SAI had delayed its start-up because of the Competition Board's investigation.

Lewis said both companies accounted for a dominant share of sales for a large number of drug brands.

Each company also effectively prevented the sale of its products by the other's clients or distributors.

"The board has found that these arrangements severely compromise intra-brand competition - that is, competition between sellers of the same brand," Lewis said.

This problem was exacerbated by the fact that pharmacists had to carry the full range of drugs to accommodate all doctors' preferences.

It was difficult for retailers to shop around for the best prices.

Lewis said the board recognised that competition authorities sometimes had to accept less intra-brand competition.

In this case, however, the two companies shared a duopoly in which they produced the same kinds of products and could therefore play off prices against each other.

At the same time, extensive patenting had considerably weakened inter-brand competition already.

The board was also concerned that IHD and SAI had raised significant entry barriers to newcomers to the industry.

Interested parties have been given two weeks to comment on these recommendations to Alec Erwin, the minister of trade and industry.
**COMPETITION BOARD**

**Medicines distributors face acid test**

**ADELE SHEVIEL**

The recommendation put forward this week by the Competition Board to the minister of trade and industry that the two direct distributors in the pharmaceutical industry should stop certain restrictive practices has significant repercussions for distributors and the industry.

It also has fundamental repercussions for independent wholesalers, as there has been a dramatic shake-out in the pharmaceutical industry over the past few years, resulting in well over 3,000 job losses, with more expected.

The direct distribution companies are owned by various pharmaceutical manufacturers who distribute their products to the private sector through these companies in competition with independent wholesalers.

Before these joint ventures were developed, manufacturers distributed through pharmaceutical wholesalers, which competed with one another for sales to mainly retail pharmacists.

The two distributors, International Healthcare Distributors (IHD) and Synergistic Alliance Investments (SAI), have spent several hundred million rand on warehouse outlets alone.

They now have to decide whether to voluntarily implement the board's suggested course of action.

If they do not do this within six weeks, the board has recommended that the minister prohibit "these discriminatory practices".

David Lewis, the chairman of the Competition Board, refers to the investigation as "unusually large".

He adds that the anticompetitive practices identified are so complex and pervasive it is preferable that the parties themselves participate in removing them.

The decision also involves pharmaceutical wholesalers, pharmacists, manufacturers which are operating in the country and those that might enter at a later date.

The industry remains the highest profit-margin business worldwide, so the stakes are loaded.

IHD is owned by 11 major pharmaceutical manufacturers which collectively account for about 33 percent of the sale of prescription medicines to the private market.

SAI is owned by five manufacturers who hold about 28 percent of the private market.

Although IHD has been operating since 1993, SAI has not yet started, pending the outcome of the investigation.

Manufacturers affiliated to IHD and SAI do not supply their products to independent wholesalers on the same terms as to the direct distributors.

Independent wholesalers obtain products on terms and conditions as available to IHD's or SAI's retail customers, placing the independents at a price disadvantage.

Pharmacists and wholesalers have been vehemently opposed to these two distribution vehicles. Pharmacists complained that costs went up and prices followed, while wholesalers have been operating on tight profit margins.

Explaining its recommendation, the board says the elimination of the constraint could compromise the effectiveness of the pharmaceutical product market.

It notes that it is not concerned with the protection of wholesalers but that the elimination of these middlemen could increase the input costs and lower the service available to retail pharmacists.

This could threaten to undermine regulatory changes in support of generic substitution and parallel importation.

Lewis says the board found that direct distributor arrangements "severely compromise intra-brand competition" - competition between competing sellers of the same brand.

Doctors' prescriptions ultimately determine the consumer's choice of drug. If consumers cannot get their prescriptions filled at one pharmacist they will go to another one.

This means the pharmacist cannot refuse to stock a certain brand.

The two direct distribution vehicles were developed because other distribution chains were under pressure and were closing down fast.

The companies have been operating under tight margins.

John Bartlett, SAI's spokesman, said last year if the channel could not sustain itself, "it is up to the manufacturers to make sure they will have a channel through which to distribute".

The board considered certain public interest benefits allegedly associated with these distribution arrangements, primarily the promotion of safety and prevention of theft of medicinal products.

But the board rejected the view that these issues were addressed through these distribution arrangements.

As for allegations of collusion, the board's investigative powers were limited to investigating restrictive practices.

Only the attorneys general and the police are permitted to investigate contraventions of current prohibitions.

The board is to advise the new Competition Commission on this.

Interested parties have two weeks to provide the minister with comments regarding the board's findings and recommendations.

Other mechanisms of using voluntary arrangements to remove restrictive practices have been used to resolve competitive difficulties in the past.

The most recent was Safcol. Others were the Cape Times and Cape Argus, and Macasule and Iscor.

The fundamental question is now what route do the direct distributors take to find an alternative arrangement?
Board draws drugs distributors’ protests

John Dludlu

THE Competition Board yesterday sought to stay out of a fray sparked by its recommendation on the practices of pharmaceutical distributors

International Healthcare Distributors (IHD) this week threatened to seek a high court review of the board’s recommendation to the trade minister to empower the board to negotiate the removal of “restricted practices” with IHD and the Synergistic Alliance Investments (SAI). IHD is owned by 11 companies that account for about 33% of the sale of prescription medicines to the private market.

IHD has been advised that the report by the board is revocable to the high court under both the common law and the constitution as constituting unfair administrative action. IHD has instructed its legal representative to draft such a review. "IHD said.

IHD charged that the board’s findings were “fatally flawed”. The board’s recommendations followed an investigation into the distribution practices of pharmaceutical manufacturers, particularly those established by SAI and IHD.

The board said “Within each of these distribution companies there are manufacturers who, singly or in combination, account for a dominant share of sales in a large number of therapeutic categories. The effect of these arrangements is that the manufacturers discriminate in favour of their associated distributors, effectively preventing other distributors from competing on a level playing field.”

The board, which will soon make way for the Competition Commission, also found that the arrangements “severely compromised” competition between sellers of the same brand.

Holger Eckoldt, IHD’s executive chairman, said the report’s finding was based on the misconception of “what we do” — that is the relationship IHD had with its principals. “We are service providers, not owners.”

IHD also felt that due process had not been followed in the board’s investigation. Eckoldt said:

However, he said yesterday that the company was prepared to co-operate with the board.

Dave Lewis, the chairman of the board, last night refused to be drawn into discussing the appropriateness of SAI’s statement.

In a preliminary response, SAI, which is owned by five manufacturers that collectively account for 25% of sales of prescription medicines to the private market, said its activities helped — rather than hindered — the state’s healthcare policy.

SAI pledged co-operation with the board and the National Association of Pharmaceutical Wholesalers to resolve the board’s concerns.
Economy & Business

COMPETITION COMMISSION & TRIBUNAL

A NEW BUILDING AND A NEW BALL GAME FOR COMPETITORS

Regulator has tough task to win business confidence

In Pretoria, workmen are racing the clock to complete a custom-designed headquarters for the new Competition Commission and Tribunal. The two bodies will run the new, beefed-up competition law that comes into operation on September 1, but Competition Commissioner Alistair Ruiters intends to move in this week.

Leasing such an ultra-modern, glass building may seem incongruous for a government agency, but Ruiters says the commission has to have a professional image. Once competition policy gets into gear, it will be a regular port of call for the best company lawyers in town and for the representatives of foreign investors. “They mustn’t think we’re palookas,” he says.

This year’s budget is R50m-R60m. But Ruiters says the commission will be self-funded from merger notification fees and donor funds. He says he has already raised R4.7m for the commission from foreign donors.

There is a lot of work to do before the commission formally throws open its doors in the spring. Industry must be apprised of the new law, rules and regulations published and a team of highly skilled staff employed. On their shoulders rests the success of the new competition policy, which could fundamentally alter the way business is done in SA.

The commission is the nerve centre of the new policy—a regulator with functions similar to those of the Independent Broadcasting Authority (IBA) and the SA Telecommunications Regulatory Authority (Satra). Such commissions are part of competition policy in the world’s business centres nowadays, but it is a big administrative leap for SA from its 12-member Competition Board, which was widely regarded as a watchdog with little bark or bite.

To give the new bulldog teeth, Ruiters plans to employ 83 economists, lawyers and statisticians, among others, to fashion a new competitive terrain.

The commission will be a one-stop shop for companies that want to merge, because they must lodge notification with it. It must educate consumers and companies about the new law, investigate anticompetitive practices, recommend prosecutions to the tribunal (which has two courtrooms) and suggest sectors or companies for exemptions from the Act. Exemptions are permissible for companies geared for export, for declining industries and where exclusion can help an empowerment company gain market share.

It was this latter objective, and the charge that the commission must take account of the public interest, that raised business ire during the year-long negotiations for the new policy. Still, Ruiters says he believes business is keen to comply. He says his phone has not stopped ringing with companies wanting information on the new law. Between July and August, the commission will publish the rules, regulations and thresholds to determine if a company or merger complies with the new policy. The legislation empowers the commissioner to investigate companies or sectors of the economy. Should he find anticompetitive practices, he would negotiate a “compliance programme” with the offending company.

“You don’t change people’s behaviour by beating them up,” says Ruiters. “You must make them understand why price-fixing, cartels and vertical trade restraints are bad for business.” He pledges discipline and prudence and says he brings to the commission tried management skills (see box).

To succeed, the competition authorities must develop a strategic sense to deal intelligently with merger notifications and “to learn how to weigh up concepts that don’t necessarily talk to each other,” says lawyer Norman Manoim, who was part of the drafting team for the legislation.

“The commission and tribunal are the public guardians of competition matters,” he says. “If they cannot negotiate solutions, there will be difficult and gruelling battles. They must learn to identify those battles.”

ALISTAIR RIUETERS
FROM BRAT PACK TO BUSINESS TSAR

At the tender age of 34, Alistair Ruiters qualifies as a member of SA’s brat pack—though not without a small measure of controversy.

An industrial policy specialist, Ruiters earned a doctorate in economic history from Oxford University on an Anglo American/De Beers bursary. He was appointed Competition Commissioner in February, after leading the policy-making process.

He was previously chief director for business regulation and consumer services at the Department of Trade & Industry (DTI), where he helped manage the drafting of legislation for small business, lotteries, liquor and gambling.

Though he claims success in small business policy-making, in reality none of his policy instruments are working well. His tenure at the DTI was further complicated by a fallout with Deputy Minister Phumzile Mlambo-Ngcuka over the funding of small business.

Associates in business use words like “smart” and “bright” to describe Ruiters, but they also criticise him as having poor people skills and for being “distant.” Being a protege and confidant of Trade Minister Alec Erwin has not harmed his career, though before entering the public service, he taught industrial policy at the University of Cape Town. His brother, Tony, is a prominent businessman based in Cape Town.
Jo'burg privatisation plan on hold

Sowetan Reporter

THE contentious Igoli 2002 privatisation plan which is likely to see Rand Airport, the Johannesburg fresh produce market, power plants, the municipal bus company and Metro Gas sold off, will not be implemented until the major trade unions have participated in the advancement of the plan, it was reported yesterday.

South African Municipal Workers Union provincial secretary Mr Victor Mhlongo expressed elation that Johannesburg's city manager Mr Ketao Gordham had reportedly committed himself not to proceed with the implementation of the plan before discussions with the unions.

Samwu and the Independent Municipal and Allied Trade Unions had demanded that they form part of any decision to bring about transformation and restructuring.

A special negotiations committee meeting between the two unions and the Greater Johannesburg Metro ended in the parties agreeing that Mr Gordham sign a written guarantee placing on hold all the privatisation projects which were, before the signing, at an advanced stage, Mhlongo said.

The special negotiations committee will meet again on June 18th and 19th to decide upon a labour relations plan for the city.

Mr Gordham who was said to be attending meetings for the whole day yesterday, was not available to confirm the holding back of the privatisation scheme.
NUM rejects govt’s denials

Privatisation of Eskom ‘clearly on the agenda’

Robyn Chalmers

THE privatisation of Eskom is clearly on the agenda, despite repeated government denials that it intends selling off the electricity utility, says National Union of Mineworkers (NUM) general secretary Gwede Mantashe.

Speaking at a privatisation conference yesterday, Mantashe said that all the processes witnessed by labour over the past five years indicate clearly that government wished to privatise Eskom.

Public Enterprises Minister Stella Sigcau, who has previously said that privatisation was not currently on the cards for Eskom, said yesterday the utility provided a crucial social service with its reconstruction and development programme.

However Sigcau said that earlier this year a SA delegation went to a number of other countries to study how their electricity industries operated.

Mantashe accused the public enterprises ministry of “pushing through” last year’s Eskom Amendment Act. The act stated that Eskom would be incorporated in terms of the Companies Act and would pay tax and dividends.

“This was so despite our opposition to these amendments.

“With other unions, under the umbrella of Cosatu, we made a joint representation in opposition of these amendments,” he said. Labour wanted government to set electrification targets and benchmark Eskom against them rather than making Eskom pay tax and dividends and then asking the fiscus to provide for electrification programmes.

Mantashe criticised the energy white paper published by the minerals and energy ministry for its "blaming weaknesses.

The electricity supply industry, portions of which are up for restructuring, had been reduced to a political football and this needed to be urgently corrected, he said.

The energy white paper placed emphasis on competition in the supply sector, which Mantashe said meant breaking the industry into smaller units.

It was proposed that distribution be consolidated into a limited number of regional electricity distributors, transmission made a stand-alone company and generation broken into individual power stations as stand-alone businesses.

"In our view, this is preparation for piecemeal privatisation of Eskom," he said.

Mantashe said labour was opposed to the subtle approach to privatisation.

Government had to pronounce its intentions and engage trade unions in debate. "They must make us see what they see as advantages of privatisation."

The NUM supported Eskom’s recent internal restructuring, a process which reduced the number of groups from 10 to seven and maintained Eskom’s core functions of generation, transmission and distribution.

"In our view, this is restructuring focusing on improving efficiency levels rather than privatisation," he said.

National Union of Mineworkers general secretary Gwede Mantashe, right, and Eskom Enterprises MD Jan de Beer engage in discussion at the privatisation conference held in Sandton yesterday.

Picture ROBERT BOTHA
ZINTLE FFUANE

Johannesburg - Stella Sigcau, the public enterprises minister, lashed out yesterday at local and overseas critics of the government's record on privatisation.

She said they had "failed to grasp the uniqueness of the South African situation and concluded wrongly."

Restructuring was not driven by ideology but by pragmatism and consensus, she said.

Addressing delegates at a privatisation conference, Sigcau said there was a clear distinction between state-owned enterprises, which were "highly profitable and readily saleable and those, such as Transnet, which raise particular issues as a result of historic or continued losses or significant liabilities."

She said Transnet's restructuring and commercialisation required changes to legal, management, organisational and financial aspects and perhaps to the size and shape of the workforce before being considered for privatisation.

Sigcau said Transnet faced the dilemma of whether to cut back on investment, in which case service levels would deteriorate, or to undertake the appropriate level of investment, some of which had to be financed by additional borrowing, supported by government guarantees.

She updated delegates on privatisation activity during the past 10 months.

Transwerk, performing a refurbishment of rolling stock, would be corporatised into four companies in May Sigcau said this was because no one entity would be interested in Transwerk as a whole. Transaction advisors would be appointed before the end of July and the process would be finalised before the year-end.

A production house, chemical services and a printing business would be advertised before month-end: "These being small entities, we will not go through the process of corporatisation," she said.

Apron services and ground handling of cargo had been slowed down to avoid overlapping interests with SAA, the state airline. The process would be finalised before the year-end.

SAA's four short-listed entities had gone through due diligence and bids would be in by June 19. It was hoped to complete the process by the end of July.

The privatisation of Portnet was in progress. An inter-ministerial Cabinet committee would meet on July 17 to discuss both Portnet and Petronet.

The privatisation of the Blue Train would be complete by year-end and all work on Transnet would be completed in two to three years.

At Safcol, final and bundling bids would be in hand by July 30.

Meanwhile, Denel would be sliced into four sectors: aerospace, defence, IT and property. Decisions would be taken on consolidating the country's aerospace interests into a single entity.

The introduction of one of the major players in the international aerospace industry as a strategic equity partner was being considered, Sigcau said.
Restructuring needs a champion

A more focused and skilled public enterprises ministry could silence critics of SA's privatisation programme, writes associate editor Robyn Chalmers (232)

On its launch over a decade ago, the government's privatisation programme was heralded as a bold move to restructure and privatise South Africa's state-owned enterprises (SOEs). However, over the years, the programme has faced criticism from various quarters, with some arguing that it has not achieved its intended goals.

The case for a more focused and skilled public enterprises ministry is compelling. The ministry would be well-placed to address some of the challenges that have plagued the privatisation programme.

In recent years, there has been a growing recognition that the privatisation of SOEs has not always been successful. Many SOEs have struggled to turn around their fortunes, and some have even returned to the state's coffers.

The ministry could help address these challenges by focusing on the most promising SOEs and prioritising their privatisation. This would require a more rigorous assessment of the potential benefits and risks associated with each SOE.

The ministry could also play a key role in ensuring that privatisation proceeds are used to benefit the broader economy. This could involve setting clear guidelines for how profits from privatisations should be reinvested.

In conclusion, a more focused and skilled public enterprises ministry would be a welcome development for South Africa's privatisation programme. It would help to address some of the challenges that have arisen and ensure that the programme's potential benefits are realised.

As the government considers its next steps, it would do well to give serious consideration to this suggestion.
Economic Trends
By Adrienne Roberts

WHAT SA COULD HAVE EARNED

Slow pace of privatisation

Had SA kept up with the average rate of privatisation for other emerging markets, it would have made as much as four times more than it has since 1992, says Standard Equities analyst Philip Clayton.

Clayton estimates SA could have received US$6.4bn — $4.7bn more than the R1.7bn in privatisations since 1992. This, assuming an exchange rate of R6/$, would come to more than R28bn.

The proceeds could have been used to lower the State’s debt burden, and the finance costs saved could have been spent on social services.

Obviously, speeding up the privatisation process would boost the capital account as foreign direct investment flowed into the country.

And since privatisation is a major item on the checklists of foreign investors, it would make SA a more attractive destination.

To the extent that proceeds were used to pay off debt, they would not only cut the State’s interest bill, but they would probably also lower the interest rates paid by government on new debt. Lower public-sector borrowing would also help reduce interest rates throughout the economy.

Clayton points out the short-term benefits of greater privatisation would be immediately apparent in a stronger rand. This would improve investor sentiment and lower the inflationary pressure from import prices. It would, however, make exporters less competitive.

Nevertheless, privatised assets would enjoy efficiency gains because the private sector, being subject to the pressures of competition, is a more efficient producer.

The biggest short-term drawback remains the threat of job losses.

The effect on the stock exchange would be mixed. The number of new listings would increase, increasing investment opportunities on the JSE. The trade-off is that foreign investors would be likely to take their dividends out of the country.

Internationally, by far the most enthusiastic emerging-market privatisers have been the Latin American economies — led by Brazil, then Mexico and Argentina.

SA’s performance is tiny in comparison to Brazil’s 58.6bn, but it still beats all other African countries. SA’s closest competitor is Ghana, which has managed to sell off state assets to the value of $0.8bn (see chart).

Bolinda Anderson

WHO SOLD WHAT

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18 FINANCIAL MAIL JUNE 11 1999
Act does not narrow the information gap

Plans to commercialise the SABC may well prove to be inappropriate, costly and ultimately unworkable, writes Jane Duncan.

A CONTROVERSIAL new broadcasting act recently came onto the statute books. It was referred back to Parliament by SA's first democratically elected president, Nelson Mandela, on the grounds that powers given to the communications minister could impinge on the independence of the Independent Broadcasting Authority. The problems led to these powers being amended.

Yet, there are other substantive problems with the act that were not flagged and are in urgent need of public debate, even though it has already been passed — especially the plans to commercialise the SA Broadcasting Corporation (SABC).

It is the fears that commercialisation may result in the marginalisation of public service broadcasting rather than its protection and promotion. The right to information of the most marginalised in our society is at stake, especially of those women, the elderly, the unemployed and the rural poor, as these groups largely do not have the buying power to attract commercial services. Corporation also threatens the viability of the 11-language policy.

It is unfortunate that the act was treated as a rush job. Civil society had only a tiny window of opportunity to respond in writing to the act once it was released last August 17 working hours to be precise. This was a ridiculously short time frame to consider such a vital piece of legislation.

In terms of the act, the SABC is to be corporatised with the state, effectively the communications minister, as the sole shareholder. The services will be corporatised into public service and commercial arms, with the latter cross-subsidising the former. The minister will have the power to veto the amount set aside by the board for cross-subsidisation.

Government has also floated the option that the commercial arm could be privatised, partially or completely. These changes are being effected to gear the SABC for self-sufficiency, as footing the R1,2bn bill for its services would be a recurring drain on the fiscus.

The problem with these plans is that no one really knows whether they will work. In fact, corporatisation will be an expensive business, and may cost the SABC more than it can afford, given its commitment to fund the public service arm.

What is not clear at the moment is whether the SABC is now going to be paying company tax. If it does not, then it may well face legal challenges by commercial competitors on the grounds that the SABC's commercial services enjoy a competitive advantage. This is precisely the sort of instability that the legislators wanted to avoid.

If the SABC does pay tax, then the financial pressure may compel it to increase its income to compensate if the SABC's ability to attract advertising revenue is decreasing in the face of intensifying competition from privately owned broadcasters, then where will the money come from? The licence fee.

It has increased recently, and unemployment continues to rise. Collecting the fee in these circumstances is a Sisyphean task. To compound the financial pressures, the SABC will pay a portion of its after-tax profits to the state as a dividend.

Add to this the cost of separation of the two arms. In terms of the white paper on broadcasting — on which the act is based — arms-length contractual agreements will have to be drafted in respect of the shared facilities and infrastructure. Conceivably, thus could mean everything from the production studios to the toilets.

Arrangements could be so tortuous in their complexity that a costly array of lawyers, contract specialists and accountants would be needed to administer them. Saving money can be expensive.

Given these financial pressures, the SABC could also find it difficult to add commercial value to its operations as much of the profits would be absorbed by the public services. They could be seen as a commercial "liability", irrespective of their social value.

In fact, as competition rises, the SABC would face increasing pressure to plough its revenues largely into the commercial arm simply in order to stay ahead.

The situation could get even more serious, though, if government exercises its policy option to privatise the commercial arm, then the whole cross-subsidisation system falls flat on its face. Where will the public service arm get its money from?

The privatisation option is more likely given that the public enterprises ministry insists that it accepted that business was not the "business of government" and that privatisation was the preferred option for public businesses.

So, the government turns state-owned enterprises into public businesses and then argues that government has no business running them. In the light of this statement, it should not take a rocket scientist to see where the SABC's heading.

What if government partially privatises the commercial arm? Private shareholders would also want to see significant return on their investment, which could turn up the commercial pressure even more.

The lack of a stable revenue base is already pushing the SABC to invest heavily in sales and marketing to ensure that it continues to attract advertising. In the process, it is being geared to chase an ever-shrinking pool of middle and upper-income earners, a chase which is inherently unequal as it cannot apply the same level of freedom as its commercial competitors.

This chase has already been at the expense of the SABC's public service mandate, when it accepted a recommendation from the slash-and-burn international consultants — McKinsey and Associates — to decrease the level of local content and increase the use of the advertisers' language of choice. English. If the SABC were unable to sustain its mandate before corporatisation, heaven help it afterwards.

We are gambling with the future of a strategic public institution by putting in place institutional arrangements that could well collapse under the weight of their own logic. In the light of our contradictory realises, more equitable financial solutions than advertising and licence fee collection must be found.

The latter has been termed a "regressive form of poll tax" as a fixed amount is charged irrespective of income levels. There is something very wrong with treating unequals equally: The financing of public services through general taxation, however flawed, offers a more equitable solution than "user pays" schemes, and would have made corporatisation unnecessary.

However, given that corporatisation is now a reality, our attention should be directed to whether the SABC should be made to return a dividend or pay income tax in the light of its financial instability.

Worldwide, information gaps are widening between rich and poor. If we do not find creative national solutions to this global problem, the consequences could be terrible.

Those of us who are committed to the aims of the broadcasting system outlined in the Broadcasting Act — especially around democracy and universal service — are duty bound to rethink the current plans around the SABC, as they may well prove to be inappropriate, costly and ultimately unworkable.

Duncan works for the Freedom of Expression Institute.
MPs 'must proceed post haste with privatisation'

Lucia Mutshwane

Johannesburg - South Africa's new government needed to make up crucial time in its stalled privatisation programme, a financial adviser urging for privatisation business success today.

David Bate, ABN-Amro Johannesburg's corporate finance head, said the country's privatisation programme was a year behind schedule.

'It's time that we revisit the government's advisers and what they have done. Perhaps it's time for new advisers to come in and bring a fresh perspective to privatisation,' Bate said.

But bankers implementing the sale of state assets denied the process had dragged and said billions of rands had already flowed into the public purse.

Plans are under way to partly privatise SAA, the national carrier; Denel, the arms manufacturer; and Sappi, the forestry group, before the end of the year.

The partial privatisation of SAA was initially scheduled for last year, but was postponed to tackle the airline's R5 billion debt.

So far, the government has privatised Sun Air, the domestic airline, and sold a 30 percent stake in Telkom, the telecommunications parastatal to SBC International and Telekom Malaysia.

It has also sold 20 percent of Airports Company South Africa (Acsa) to Aeroporto Di Roma.

It has plans to dispose of another 20 percent stake in Telkom and 23.2 percent of Acra, in which Aeroporto Di Roma owns an option to buy another 10 percent. Proceeds of privatisation have so far totalled over R11 billion.

HSBC Simpson McKee was appointed key adviser on privatisation and has overseen the process since 1996. Mxolisi Mbesi, its head of privatisation, shrugged off the criticism and said a lot of progress had been made since 1996.

- Reuters
Decision fair and consistent, say analysts

**Competition Board pulps Mondi deal**

Johannesburg – Analysts yesterday welcomed a decision by the Competition Board to recommend that the trade and industry minister prohibit a proposed transaction between Mondi and Kohler, the paper and packaging groups.

In another announcement, after an investigation into alleged restrictive practices by Multi-choice, the board also criticised Multi-choice and D-Sat yesterday for unacceptably practices.

In terms of the proposed paper and packaging deal, Mondi would acquire Kohler’s corrugated packaging business and Kohler would acquire Mondi’s carton board packaging businesses. Mondi is a wholly owned subsidiary of Anglo American Industrial Corporation and Kohler is a wholly owned subsidiary of Mailubok.

One analyst said the recommendation appeared to be in line with the board’s desire to promote competition, because the transaction would have serious adverse implications for the availability of raw materials.

Another said it was consistent with the board’s earlier recommendation to prohibit the proposed transaction between Nampak and Crown Crock.

The analyst said that although the board had blocked the original Nampak proposal, it did support a revised version that transaction, showing it was reasonable and prepared to consider everybody’s concerns.

The board said yesterday afternoon that Mondi and Kohler had argued that their share of the respective markets would only match Nampak’s. Thus, would encourage competition, they said.

The companies also said there was “sufficient countervailing power in the market” to ensure that they would not be able to abuse their positions.

The board said “criticism had come predominantly from large customers” and related mainly to the availability of raw material and “possible discriminatory practices” if the transaction went through.

The board ruled the transaction would give rise to an “appreciable restriction in competition”.

The investigation into alleged restrictive practices by Multi-choice is part of a long battle between it and D-Sat, the satellite signal marketer.

The board found Multi-choice had never abused its position by refusing to enable a subscriber who had complied with Multi-choice’s subscription agreement.

But the board found Multi-choice’s pricing policy for the sale of its decoders was restrictive “insofar as it discriminates between equivalent transactions in the same market, that is the rental and retail markets”.

The board said many D-Sat customers were not aware that the cost of receiving the signal from D-Sat’s satellite equipment would escalate significantly after the first year of the contract. The board described this as part of “an iniquitous marketing ploy”.
REST OF AFRICA

African privatisation grows

Bank expects SA and Nigeria to speed up sales of state-owned corporations

After the sale of a 30% stake in telecoms parastatal Telkom, critics said Pretoria had slowed down the pace of privatisation. This is expected to pick up under the new administration.

In Zambia, until now seen as the success story of privatisation in Africa, the government has sold off 215 of its 312 companies earmarked for privatisation. However, its privatisation has been slowed down by the slow sale of Zambian Consolidated Copper Mines, notes the report.

In Zimbabwe, privatisation is expected to include offers of shares to a large foreign private investor in the Posts & Telecommunications Corporation as well as in Air Zimbabwe, says the report.

The report also mentions bad experiences in privatisation. It suggests that many of the 1,000 Angolan parastatals were sold off at prices "well below market value, in some cases as little as 5% of their value." A further 500 firms, including banks, the airline and perhaps the national oil company, have yet to be sold off.

Analysts say the main privatisation event after SA will be the disposal of stakes in Nigerian state corporations. Those earmarked for privatisation include Nidel, the telecoms firm, Nepa, the energy utility, and

Nafcon, the country's fertiliser, steel, cement and sugar producer which may get the country several billions of dollars.

In north Africa the process is likely to pick up speed when the Egyptian government finally sells the 30% stake in telecoms to private operators. In Morocco, the government has launched privatisation bonds that give holders preferential options on equity of public firms to be sold.

The study says: "Acceptance of the concept of privatisation has been viewed as an essential part of globalisation process by policy makers in the developing world. Privatisation is intended to increase economic efficiency and allows for foreign participation in the local economy. It also provides immediate liquidity for some cash hungry governments."
Mondi, Kohler seem unlikely to appeal ruling.

Siboniso Radebe

There are limited avenues available for Mondi and Kohler to influence Trade and Industry Minister Alec Erwin in his ruling on their proposed swapping of interests after the Competition Board recommended against it, say analysts.

Under the deal, ruled anticompetitive on Monday, Mondi would have acquired Kohler's corrugated packaging business and Kohler would have acquired Mondi's carton board packaging business.

The two groups may present their case to Erwin to convince him to go against the recommendation.

Mondi declined to comment on what it would do next, saying that the issue still had to be discussed at board level. Kohler CEO Clarence Miller indicated no interest in taking up the issue with Erwin.

The ruling was disappointing but not devastating, he said, and business would continue as normal.

The board was concerned that the deal would have adverse effects on raw materials availability.

Comment: Page 11
Competition Board reaches decision on swap

Moses Mlangeni

THE Competition Board has reached a decision on the proposed swapping of interests by packaging companies Mondi and Kohler Corrugated and will make an announcement before the end of the week.

An analyst said it was likely that the deal had been approved. In the proposed deal Mondi was planning to buy out the corrugated interests of Malbak. At the same time it was planning to sell to Malbak the printing side of its carton board division, Interpak.

This could see Mondi dominating the corrugated industry and Malbak dominating the carton board industry.

The Competition Board said yesterday it expected to inform Trade and Industry Minister Alec Erwin about its findings on the matter today.

80 22 6 99
SAA's privatisation stake set to be doubled

Robyn Chalmers

AS MUCH as 40% of SA Airways (SAA) could be in private hands by the end of this year, government has indicated.

This would be double the 20% stake sold to Swissair last week. Swissair will pay R1.4bn for its shares, putting the total value of SAA at about R7bn and making the deal SA's second-largest privatisation exercise. The sale of 30% of Telkom in 1997 garnered R5.6bn.

Public Enterprises Ministry spokesman Zaid Nordien said Swissair had an option to buy another 10% of SAA within six months. Another 5% stake would go to the state's National Empowerment Fund with a further 5% earmarked for black empowerment shareholders.

There has been speculation SAA could be fully privatised via a listing on the Johannesburg Stock Exchange.

SAA CEO Coleman Andrews said Transnet would retain the R1.4bn raised through the Swissair sale, using it to improve its balance sheet.

Transnet MD Saki Macozoma has indicated that to allow SAA's partial sale, the airline needs a clean balance sheet with acceptable gearing. As a result, Transnet is to retain R1.5bn of SAA's debt while government keeps R1.3bn.

The debt is the result of a pension fund deficit and operational debts.

Officials close to the process indicated that the bidding contest ended in a two-horse race between Swissair and the US-based Texas Pacific Group. Lufthansa, in partnership with Singapore Airlines, pulled out of the process, while American Airlines, believed to have been a short-listed bidder, forged a partnership with Swissair days before the SAA deal was announced.

Swissair, which has a sizeable interest in Belgium's Sabena, plans to establish a partnership with American Airlines, code-sharing on flights to Chicago, Boston and Miami.

Public Enterprises Minister Jeff Radebe said the link with Swissair would help SAA cement major relationships in Asia and North America while improving its competitive position in Europe.

The deal is expected to help SAA cut interest rates on loans to 6%-7% from 18%. The Swisss have also agreed to train scores of SAA managers and to export their apprentice programme to SA.

Swissair will help SAA negotiate cheaper aircraft deals and will have 15 wide-bodied aircraft a year overhauled by SAA, sustaining about 300 jobs in the technical field.

Something to think about: Page 2
Full speed ahead on state privatisation programme

ZINTLE FICANE

Johannesburg – Jeff Radebe, the public enterprises minister, would accelerate the process of restructuring and privatisation of state assets, ensuring a “healthy financial return for the people of South Africa”, public enterprises spokesman Zad Norden said yesterday.

Norden said this policy was in line with President Thabo Mbeki’s maiden state of the nation address to parliament on Friday, where he announced that Swissair would buy 20 percent of South African Airways (SAA) for R1.4 billion.

He said Swissair had an option to buy a further 30 percent in the next six months.

“Now that the larger percent is secure, the rest will move quickly.”

He said 5 percent was earmarked for black economic empowerment and SAA employees were expected to benefit.

Another 5 percent would go to the national empowerment fund.

The restructuring of Apron Services and Aircars, which had been put on hold until the confirmation of SAA’s equity partner, would now proceed.

Alec Erwin, the trade and industry minister, told a media conference in Cape Town yesterday that South Africa’s ports and rail network would be restructured next because fresh investments depended on the upgrading of infrastructure.

The upgrading projects will considerably improve the logistics flow, both of imports and exports, through our trade links with the rest of the world and Africa”, Erwin said.

“The priority, therefore, will be in the further restructuring of the port authority, Portnet, and in the rail network.”

He said special focus would be on the Spatial Development Initiatives (SDIs) and Industrial Development Zones (IDZs), which would kick-start economic growth and job creation by attracting local and international investors.

Erwin said this programme would facilitate investment projects in excess of R113 billion at various stages of the SDIs, with the capacity to generate more than 101,000 new jobs.

“Furthermore, there are a number of ports and airports under investigation and IDZs.”

Finance minister Trevor Manuel, also addressing the press briefing in Cape Town, said the government expected to realise some R4 billion through its privatisation projects in the current financial year.

He said Safcol, the state forestry company, was also being prepared for restructuring.
Union attacks
Telkom bidders

Reneé Grawitzky

PRIVATISATION and restructuring of Telkom and the
Post Office has come under attack from the Communica-
tion Workers Union (CWU) which has questioned
various "disturbing developments" introduced by in-
ternational equity partners.

General secretary Seleboho Kitl said in his secre-
tariat report, discussed at the union's first national
congress in Johannesburg, that the introduction of in-
ternational equity partners had not led to skills trans-
fer programmes for local workers.

He said these companies employed union bashing
tactics and were engaged in staff reduction pro-
grammes such as voluntary retrenchments, outsourcing
and increasing use of contract workers.

Kitl said talks were under way with the Post Office
on redundant staff, while Telkom was offering volun-
tary retrenchment packages and continuing with its
outsourcing programme.

The congress had to develop ways to counter these
negative developments. Kitl indicated that the parties
had not yet been able to resolve wage disputes which
were referred to the Commission for Conciliation, Me-
diation and Arbitration (CCMA).

One major stumbling block at Telkom was the in-
troduction of a performance management system that
had unleashed strong opposition from members.

Gauteng premier Mbhazima Shilowa called on CWU
shop stewards to sign up as SA Police Service res-
ervists. This is in line with his call during his first
address to the Gauteng legislature this week and a
Congress of SA Trade Union resolution calling on its
members to enrol as reservists to help fight crime. He
warned against factionalism "that destroys organisa-
tions. We must not have it in our movement."

Sahloko president Mthinti Mngwane said the
union faced greater, more complex challenges as pri-
vatisation was being implemented. If workers opposed
privatisation, it would then be introduced under a dif-
ferent guise, he said. A union's power was no longer
determined by its strikes but rather how it could ad-
cede and protect workers' interests.

Philip Dexter, African National Congress national
executive committee member, said: "We need to come
up with an alternative to globalisation. " SA could de-
termines its agenda and not be required to follow in-
ternational Monetary Fund or World Bank rules."
Telkom tightens belt ahead of deregulation

Austerity will mean substantial job losses, but will open up other opportunities

Robyn Chalmers

TELKOM plans to streamline its operations through a sweeping programme of outsourcing, retrenchment and cost containment in preparation for the deregulation of the local phone market.

The moves were unveiled yesterday in conjunction with an announcement that the utility's attributable profit fell to R2.3bn in the year ended March from R2.5bn in the previous 12 months.

Telkom, which is 70% owned by government, and 30% by SBC of the US and Telekom Malaysia, is due to lose its local phone monopoly in 2002 or 2003. While the belt-tightening moves are likely to result in substantial job losses, they could open up significant outsourcing opportunities for Telkom's suppliers in the technology, telecommunications and associated industries.

Telkom MD Sizwe Nkasa confirmed that a listing on the Johannesburg Stock Exchange remained on the cards, but said the decision on the size and timing of the listing would be made by government.

Nkasa declined to say how many of the utility's 61 000 employees were likely to be laid off.

By May this year, almost 2 500 applications for voluntary early retirement were received, of which about 2 100 had been approved, reducing the total employment figure to 59 000. "Our intention was not to grant blanket approval of applications as this could have led to a brain-drain of key skills among staff," he said.

He indicated that outsourcing of non-core assets would gain momentum in the current year. Telkom last year announced it planned to open talks with its unions on the sale of its fleet management division.

Nkasa changes for utility noninfrastructure properties, and its light engineering and electronics workshops.

Having offloaded these and other facilities would allow Telkom to concentrate its resources on its core telecommunications business, freeing outsourced divisions to use spare capacity and improve their own long-term viability.

"This year we will focus on restructuring the business and eliminating those areas considered noncore. This will (adversely) affect our results in the short term," Nkasa said.

He said the company's shareholders accepted the need to strike a balance between short-term profit and long-term viability and competitiveness, and supported Telkom's drive to position itself for competition.

In terms of Telkom's licence issued in 1997 it has a government-guaranteed monopoly on fixed-line telephony for five years. A sixth year could be introduced if it meets stringent infrastructure investment and service targets.

Telkom beat its network investment licence targets in the year to March, adding 502 750 lines against a target of 460 000 and exceeding the 5-million line mark as a cumulative total for the first time. The group modernised more than 500 000 existing lines against a target of 13 000, and installed more than 27 000 new payphones compared with a 25 000 target. It met eight out of 10 service quality targets against four out of 10 the previous year.

The two targets missed related to the percentage of business and residential faults cleared in less than 48 hours.

The group plans to continue rebalancing its tariffs, with the focus on reducing international call rates. Overall telephone rates rose 5.5% this year.

Telkom has clamped down on expenses such as travel and subsistence allowances, and tightened controls on the use of vehicles and other equipment. It has also moved from ordering stock in advance to linking component orders to current network requirements.

Profit warning: Page 15
Finally, a competitive competition milieu

Amanda Vermeulen
Examiner of the new legislative dispensation

The biggest challenge we face is in implementing and administering the new policy.
Blue Train set to steam into the private sector

Robyn Chalmers

THE Blue Train — one of the world's most famous and luxurious rail services — and SA's other long-distance passenger trains are set to be run by the private sector.

Unveiling Spoornet's transformation plan yesterday, CEO Braam le Roux declined to comment on specific plans for non-core assets, but confirmed that the focus would in future be on the core business. "Freight makes up 97% of Spoornet's turnover and as such it is certainly our core business," he said.

Government and labour sources said a decision had been made that, as non-core operations, Mainline Passenger Services and Blue Train operator LuxRail were non-core operations and did not belong within Spoornet.

Transnet deputy MD Mafika Mnyamazi said Public Enterprises Minister Jeff Radebe would make a number of announcements, including the fate of non-core assets, next week.

Industry analysts expect Transnet to follow a similar route with Mainline Passenger Services as it has done with commuter rail division Metrorail.

SA's commuter rail network is scheduled to be fully concessioned to international private operators by April 2003.

Long-distance rail transport is likely to be concessioned to the private sector, with subsidies to make the services attractive to investors.

The Blue Train could be fully privatised. Government said last year that it was among a number of Transnet's non-core assets that would be sold by early next year, but the sale was placed on hold to ascertain buyer interest, partly because of losses following hefty investments.

Analysts say there could be international interest in buying the Blue Train, but occupancy rates would have to be increased and the luxury service should be the subject of an international marketing campaign.

An estimated 50% of the Blue Train's patrons are international visitors, mostly from Europe and the US. Only 6% are from Africa.
IHB confronts Competition Board

Adile Shevel

Johannesburg - International Healthcare Distributors (IHD), direct distributors of pharmaceuticals, would take the Competition Board to court to review the board's recommendations. Johann Niehaus, the chief executive of the distributors, said earlier this week.

The Competition Board sent its recommendations to the minister of trade and industry. The board stated that the direct distributors and Synergistic Alliance Investments (SAI) should discuss ways of ending their restrictive practices. The parties had six weeks to do this, but neither had completed the process.

Robert Appelbaum, from the legal firm Moss Morris, who is acting for IHD, said the matter would be taken to court in the next few weeks. The group has an overseas team collecting information on the issue.

Niehaus said the company preferred to have the report under high court review before entering into discussions. A ruling from the minister of trade and industry on direct distributorship in the pharmaceutical industry is expected by the end of this week.

IHD is a joint venture comprising 11 multinational pharmaceutical manufacturers. SAI is owned by five manufacturers, but has not started operating. It will do so pending the board review.

The Competition Board found that the direct distributor arrangements compromised competition. Retail pharmacists have also opposed the direct distributors, saying their actions have caused prices to rise.
President calls for new commitment from OAU

By Jimmy Seepe

President Thabo Mbeki called on African heads of state attending the Organisation of African Unity summit yesterday to show a new commitment towards the objectives and programmes they had set themselves five years ago at the signing of the Abuja Treaty.

Mbeki, who was addressing the last day of the OAU summit on the African response to globalisation, said African governments must have functioning mechanisms that would allow them to start acting on five levels required in the competitive process - national, bilateral, regional, continental and global.

Mbeki was speaking before a record 43 African leaders who turned out for the 35th OAU annual summit in Algiers. Ten remaining states sent senior government representatives.

He said the challenge governments had to meet was to develop their own sovereign continental capacity to take part in the global processes aimed at producing a framework of rules, institutions and established practices to promote their own interests.

Calling on African leaders to become their own liberators in the competitive world, Mbeki said "the first thing we should do is to recall the objectives we set ourselves when we adopted the Abuja Treaty, which came into force five years ago."

The Abuja Treaty provided for six goals for implementation stages for African development, which are:

- Higher rates of economic growth and development,
- Sustained improvements in the standards of living of our people,
- Higher and sustained rates of investment,
- The modernisation of our economies,
- A cumulative process of integration of the African economy, and
- A beneficial integration of the African economy into the global economy.

He said more moral appeals from the havens to the haves are not likely to take Africa very far.

"Such is the degree of comfort among the haves, even in our own societies, that their ears are closed to the correct warnings we give repeatedly, that the worsening relative and absolute poverty of the many can never serve as assurance that the prosperity of the few is guaranteed for all time," said Mbeki.

Regarding global cooperation, Mbeki said issues which required a concerted African response were the debt issue, negotiations at the World Trade Organisation relating to the global trade system, the post-Lomé negotiations with the European Union, "obviously acting together with our ACP partners."

Another issue he identified concerned "attracting capital from the countries of the North, radically to increase the level of productive and profitable investment in our economies."

He also highlighted the importance of technological transfers, restructuring and reorientation of the World Bank and the International Monetary Fund, the issue of gold sales by the IMF and the central banks of the developed countries, and the volumes and use of overseas development assistance.

He called on the leaders to address two categories of challenges - the one subjective which involved government policies, and the other objective, which involved mobilising the intelligentsia in the process of development.

"The second is the mobilisation of our intellectual resources to provide the answers to what we should do practically to achieve the economic objectives we have already stated."

"This means we have to activate our intelligentsia to become a valued partner in the struggle to interact with the process of globalisation in a manner that benefits our peoples."
Optimistic Mbeki blows whistle of OAU change

SA leader calls for an end to military regimes and a return to democracy

Stephen Laufer

ALGIERS — On a soccer mad continent, it was perhaps inevitable that politics would turn to the language of the pitch. As Zambian President Frederick Chiluba told his colleagues at the Organisation for African Unity (OAU) summit in the Algerian capital “We should immediately show the red card to anyone who overthrows a democratically elected government.”

President Thabo Mbeki demurred. What was the point of declaratory actions, he asked, if they were not followed by real efforts to restore democracy in such countries? "I doubt that saying yellow card will result in a rapid return to democracy, failing which they will not be allowed to participate in the next OAU summit." On its own, not a major sanction, perhaps. But Mbeki argued, be complemented by workable mechanisms and an institutional capacity within the OAU and the subregional organizations like the Southern African Development Community to intensify the pressure on military regimes to move back to democracy quickly.

He argued that the OAU’s early warning system had to predict and help prevent coups. “The summit has come to the point where we’ve passed good resolutions, but now it is time to act.”

This raises the issue of OAU reform. A week on the fringes of the annual meeting of heads of state leaves little doubt. This is a council, lumbering organisation, torn between the temptation to bask in nostalgic memories of the fight against colonialism and apartheid and an uncertain but more challenging future.

It is also, say optimists such as Mbeki and Nigerian President Olusegun Obasanjo, the organisation of a continent increasingly keen to shed its slothfulness, corruption and autocracy. As in its early years, it must again become the voice of Africa’s people — this time articulating the social and political vision capable of improving ordinary lives.

With more than 40 heads of state and government present, attendance at this summit is better than for many years. Mbeki said of his colleagues had told him he came to Algeria in response to a new mood among Africans that it was “time to do something.”

It was a mood that reflected the link between democracy and economic advancement. Several countries were working for good governance, accountability and transparency. The result was confidence and democracy, it was said, thus enabling us to tackle our economic problems boldly. Without stable political conditions, and good governance, poverty alleviation will remain a pipe dream.

Obasanjo argued that poverty and conflict fed on each other and went hand in hand with bad governance, which marginalised the majority of the population.

There will be a special summit on OAU reform, in September in Libya, conveniently coinciding with the 50th anniversary of “Brother Leader” Muammar Gaddafi’s accession to power.

He may not be the continent’s most uncontroversial symbol, but his recent attempts at peacemaking in the Democratic Republic of Congo and between Ethiopia and Eritrea make it necessary to have him inside the tent, as one senior African diplomat put it, so why not let him host a very necessary meeting?

Mbeki said yesterday that at the Tripoli summit the OAU had to become an organisation “capable of moving this continent forward economically and politically.” More active intervention on economic integration, first regionally and then continent-wide, required a modern OAU.

So it cannot continue as the organisation described by diplomats familiar with its current workings in Addis Ababa. One said the OAU was a shanty town, where presidents park political has-beens and others needing grace and favour but not well equipped for a diplomatic posting.

Mbeki said he believed it would be possible to attract skilled and experienced Africans to OAU jobs. "Once we put a vision and structures in place, they will be inspired. There were many Africans in responsible jobs worldwide who would be happy to return if given the sense that they could make a real contribution."

Asked to propose the vote of thanks at the closing session yesterday, Mbeki proved again that he is an optimist, saying “Africa has in a real way taken another step towards its rebirth.” Perhaps he was right. The rumoured retirement of Sudan’s Ibrahim Dagher, for two decades the OAU’s spokesman, could be a good omen.

Dagher was the man who outraged participants at the summit’s opening day with his explanation to journalists of the chaos and lack of facilities for attending to speeches by Obasanjo, United Nations Secretary-General Kofi Annan, his OAU colleague Sahn Ahmed Sahn and Algeria’s reformist president, Abdel Azzou Bouteflika. “This is Africa,” he said. “What do you expect?”

SA to host OAU summit meeting

Stephen Laufer

ALGIERS — SA will host the Organisation of African Unity summit meeting in 2002, becoming the second of three Southern African states to do so in the new millennium.

Zambia will be the venue for the annual heads of state meeting in 2001 and Mozambique in 2003.

Meanwhile, SA has told Mozambique it will support Maputo’s bid for a two-year temporary seat on the United Nations security council, starting in 2005. SA had initially planned to run for the seat, but President Thabo Mbeki
Africa's coup leaders to get 'yellow card' (1)

Landmark decision by OAU (290)

PETER FABRICIUS
FOREIGN EDITOR

Algiers - Africa's leaders ended the Organisation of Africa summit here with a new resolve to end the economic ills and conflicts that plague the continent, adopting an historic resolution to suspend leaders who come to power through coups.

President Thabo Mbeki, attending his first OAU summit as head of state, said the meeting was characterised "by a mood of great determination to ensure that decisions on these matters are actually implemented."

In their most important decision, the 45 leaders decided that governments that took power by force from elected governments would be suspended from the OAU if they had not moved to constitutional rule by the time of the next annual summit in a year's time.

On the coup resolution, Zambian President Frederick Chiluba proposed to "red-card" coup leaders - suspending them immediately from the OAU - but he and the other leaders accepted a proposal by Mr. Mbeki and newly-elected Nigerian leader Olusegun Obasanjo that coup leaders should instead be "yellow-carded" - given a warning and a year to restore constitutional rule or be suspended at the next summit.

Mr. Mbeki said that in the meantime the OAU would have to take active measures to help those governments establish constitutional rule.

Mr. Mbeki and General Obasanjo emerged clearly as the two major players of this summit, receiving general recognition and respect.

Mr. Mbeki was chosen to deliver the final address, thanking Algeria for hosting the summit.

The summit became an important boost for the incomplete and uncertain reforms of Algerian President Abdelaziz Bouteflika, who has recently released Islamic extremist political prisoners and begun a dialogue with one of their groups.

The summit also agreed to hold a special meeting in Libya in September this year to review the OAU charter.
Radebe pledges speedier state asset restructuring

With the foundation laid, privatisation's new supremo expects a lot of activity in coming months, writes THABO KOBOKOANE

PUBLIC Enterprises Minister Jeff Radebe has promised to speed up the restructuring of state assets so that they can play a "profound and strategic" role in the economic development of SA.

"We will concentrate on accelerating changes to make sure we speed up the restructuring. There will be a lot of activity in the next 18 months," Radebe, who is expected to push privatisation, says he believes criticism levelled at the process, particularly under his predecessor Stella Siscau, was harsh. "The five years were a learning curve, during which the basis was laid," he says.

Radebe and government will certainly be buoyed by recent successes. This week a consortium of New Zealand Post International and Royal Mail (UK) was appointed as the state's preferred bidder for the Post Office's strategic management partnership.

An announcement on the successful bidder for a management contract to run Aventura with an option to buy is due next week.

British Aerospace is believed to be closer to finalising its acquisition of a 20% stake in Denel Aviation.

Three weeks ago it was announced that Sars had acquired a 20% stake in SAA for R1.4 billion, with an option to increase the stake to 30%. Further stakes of 5% each of the airline have been set aside for the National Empowerment Fund and black empowerment shareholders.

Radebe says Denel is set for attention once negotiations for the defence package are concluded. "Given trends internationally, surely Denel needs an international strategic partner to position it as a global player."

Transport parastatal Transnet, which this week reported a R2.26-billion loss for the year to March compared with the R2.78-billion profit previously, is a key priority, he says.

"The state of affairs will have to be addressed so that Transnet becomes an efficient and effective organisation. The priority will be to speed up the transformation and restructuring of Transnet."

Particular urgency is to be attached to Spoornet, which has indicated it may shed between 18,000 and 27,000 jobs. Radebe says the proposed job cuts have not been finalised; government still has to take a view.

Sources in government say the state, which has been aware of Spoornet's situation for three years, may be reluctant to allow the layoffs, given the current flood of job losses.

Radebe has come out in support of a structure like the Gold Crisis Committee to negotiate job losses at parastatals and cushion the blow.

Priority will also be given to increasing capacity and improving skills which the department clearly lacks. Radebe says a personnel audit is under way to determine the staffing needs of the department.

There is talk of a number of key appointments being made soon, starting with that of a director-general.

The department is to prioritise the issue of corporate governance based on the King report on corporate governance to ensure that state enterprises are models in the continent.

"Without governance we are dead in the water," says Radebe.
Govt 'will not be harsh on restrictive practices'

John Diedhiu

TRADE and Industry Minister Alec Erwin signalled his intention yesterday not to clamp down on allegedly restrictive vertical practices of pharmaceutical distributors, at least for now.

Erwin's decision follows a recent threat by International Healthcare Distributors (IHD) to challenge a recommendation by the Competition Board that the minister should empower the board to negotiate the removal of restrictive practices with IHD and the Synergistic Alliance Investments (SAI).

However, government's climbdown does not entirely remove the threat of action against IHD and SAI.

"The new legislation (due later this year) is, in any event, a more effective instrument for investigating and remediating the alleged vertical restrictive practices examined by the board as well as the appearance of collusion."

The board, which investigated the exclusive distribution arrangements, had found that these arrangements enabled manufacturers to discriminate in favour of their associated distributors effectively.

IHD is owned by 11 pharmaceutical manufacturers who collectively account for about 33% of the sale of prescription medicines to the private market, while SAI's five manufacturers collectively account for 25% of the sale of prescription medicines in the private market.

The board's finding prompted an angry response from IHD, which claimed at the time that the report of the board was based on a misconception of what IHD did. IHD also threatened to seek a review of the funding by the high court. Johann Nehaus, MD of IHD, last night declined to comment on the minister's statement pending the outcome of a meeting to be held with IHD's lawyers this morning.

Government's statement said: "Although the minister is advised that a procedural review is unlikely to succeed, the effective upshot of this decision will be lengthy and costly legal proceedings that will effectively delay further consideration of the important substantive matters at issue."

However, government made it clear that the decision not to act on the board's findings should not be construed as reflecting on the quality of the board's work.
Erwin won't implement board's ruling

Johannesburg – Alec Erwin, the trade and industry minister, would implement board's ruling.

The report reviewed the board's decision on the investigation into whether the three companies violated competition law. The board ordered the companies to cease their restrictive practices and pay fines.

Erwin said in a statement that the decision was made to avoid a possible high court review. The minister's decision not to act on the report will move the board for a review.

The Competition Board's decision to take the matter to court on review of the board's its decision.

Saying time Alec Erwin wants to avoid court disputes

A statement said, "Although the minister is advised that a procedural review is unlikely to succeed the effective upshot of this decision will be lengthy and costly legal proceedings that will effectively delay further consideration of the important substantive matters at issue."

The minister said the board acted fairly towards all parties concerned.

Trevor Phillips, the executive director of the National Association of Pharmaceutical Wholesalers, said the decision was "a good news that we will not be sued in the high court."

Erwin said the complainants and interested parties would be free to pursue the matter in terms of the Competition Act. The new legislation would be a more effective instrument to monitor and remedy the alleged anti-competitive practices examined by the board, as well as the appearance of collusion.

Potential bidders have week to register preliminary interests for trust

Johannesburg – Potential bidders for the South African Housing Trust had until next Tuesday to register preliminary interests. The trust, which is a government-owned entity, is looking to sell three of its subsidiaries.

The government has decided to sell the three companies to raise funds. The proceeds will be used to finance housing programmes.

The government has been selling a number of its subsidiaries to raise funds. The trust is looking to sell three of its subsidiaries to raise funds. The proceeds will be used to finance housing programmes.

Khanyisa had an asset base of about $20 million in 2011. The company, which is a developer of affordable housing, has a strong track record in this field.

The government has been selling a number of its subsidiaries to raise funds. The proceeds will be used to finance housing programmes.

The trust, which is a government-owned entity, is looking to sell three of its subsidiaries to raise funds. The proceeds will be used to finance housing programmes.
Erwin says SA needs a national liquor system to aid competition

Jonny Steinberg

WHERE the liquor bill to be ruled unconstitutional the liquor industry would be left without a national regulatory system and may descend into “chaos”, Trade and Industry Minister Alec Erwin has told the Constitutional Court.

In February, then President Nelson Mandela refused to sign the bill and instead sent it to the court to test its constitutionality. Mandela said he was uncertain whether the bill encroached on exclusive provincial powers.

The Western Cape’s business promotion and tourism MEC, Hennie Bester, who is opposing the bill, told the court in an affidavit that the bill violated provincial authority to issue liquor licences and to regulate liquor retailers.

Responding to Bester, Erwin argued that the bill was designed to address matters that “self-evidently called for national legislation”, such as the structure of the industry, the need to make the liquor industry more accessible to the historically disadvantaged and the fact that 90% of liquor retail trade was informal and uncontrolled.

Among the measures envisaged by the bill was a three-tier registration system for manufacturers, wholesalers and retailers which aimed to “hunt the excessive vertical integration in the liquor industry which creates uncompetitive practices,” Erwin said.

Erwin argued that the structure of manufacturing and wholesaling in the liquor industry required a national rather than a provincial regulatory framework.

"Taking SA Breweries as an example, it will be unduly burdensome to require it to approach regulatory authorities in all nine provinces in order to be able to operate business operations in each of those provinces. The position would be even more complicated if the different provinces applied different requirements," Bester replied that Erwin’s prognosis of confusion and fragmentation was “a gloomy and unrealistic vision”. He said Erwin had failed to show that the bill’s encroachment on provincial powers was necessary to maintain SA’s economic unity or to essential national standards, as required by the constitution.
Govt presses on with privatisation

The South African Government pledged yesterday to speed up the privatisation of state assets in the next five years but would not be drawn into setting any targets.

Public Enterprises Minister Jeff Radebe told Reuters in an interview that the framework for the sale of state enterprises had been laid by the Nelson Mandela government and the new administration was prepared to take this plan forward.

"The next five years of African National Congress government under President Thabo Mbeki will see acceleration of the restructuring of state assets," said Radebe.

However, he said no target had been set for the disposal of the enterprises, which boast an asset base estimated at more than R150 billion.

"We are going to be coming up with a business plan that will chart the way on how the restructuring of state assets is going to be accelerated," Radebe said.

Since 1996 the ANC-led government has sold a 30 percent stake in telecommunications parastatal Telkom to SBC International and Telekom Malaysia.

It has also partly privatised the Airports Company of South Africa with the sale of 20 percent to Aeroporto Di Roma and has disposed of a 20 percent stake in South African Airways to Swissair for R1.4 billion.

Last week, the Government selected a consortium of New Zealand Post and Britain's Royal Mail for a three-year management partnership with the Post Office.

These transactions have raised more than R11 billion for the public purse and the Government hopes to net four billion rand this year from the privatisation of assets.

There are plans to dispose of 60 percent of state forestry concern Safcol and 40 percent of Denel Aerospace by next April.

In addition, the Government will sell a further 10 percent in Telkom and additional stakes in South African Airways and the airport holdings.

Critics argue that the privatisation process has stalled and is at least one year behind its original targets.

"We are convinced we're on the right track but with consultations and cooperation of the stakeholders we can move forward speedily," said Radebe.

The restructuring of the transport utility Transnet has been complicated by its R22 billion pension fund deficit and debt. — Reuters
Public-private partnerships impress govt

Labour and welfare departments are in the vanguard to assess their success

Labour's deputy chief secretary, Pamela Whitby, says, "The Labour and welfare departments are in the vanguard to assess the success of public-private partnerships (PPPs) as a means of improving efficiency and reducing costs for government." She adds, "Both departments have been working on how to ensure that the PPP model is used effectively to improve services and ensure value for money."
Johannesburg vows to safeguard jobs

Johannesburg - The privatisation of the Greater Johannesburg Metropolitan Council’s utilities and assets would not result in massive retrenchments, the council said yesterday.

“We are guaranteeing jobs and that there would be no negative impact on conditions of service,” said Kenny Fihla, the chairman of the city’s Transformation Lekgote, the council’s privatisation committee.

Fihla said this was possible because the council would impose a contractual obligation on buyers of its assets to take over the entire worker complement and conditions of service at the time of the transaction.

He said the council was not only upbeat because it had “received many offers” to buy, but also because the new owners would be operating in conditions of virtual market monopoly.

The South African Municipal Workers’ Union (Samwu) said its main concern was the loss of revenue to private hands.

Themba Nxumalo, the Witwatersrand regional secretary for Samwu, said the people to be hardest hit by the sale of the fresh produce market would be Johannesburg’s unemployed, estimated at 30 percent, because private operators would almost certainly increase tariffs.

Anna Weeks, Samwu’s national spokesman, did not think it was legally possible for the council to build the compulsory takeover of staff and their conditions into a contract.

Fihla said loss-making council assets such as Metro Gas, the Johannesburg Stadium and Rand Airport would be sold.

He believed the major causes of poor performance were managerial inefficiencies compounded by a severe lack of infrastructural investments.

The council is in the red with arrears amounting to R2.1 billion, and growing by 33 million a month. It owes banks R2.8 billion but has already paid R615 million in interest this year.

These shortages of funds forced the council to cut back on capital expenditure from a planned R1.7 billion in 1994/95 to R84 million this year.

The water and sanitation, electricity and waste management would be registered as companies in terms of the Companies Act.

Fihla said this would enable them to source funds from private markets on the strengths of their balance sheets.

As the sole or majority shareholder, the council would be paid a dividend at the end of each trading period.
Economy & Business

MUNICIPAL OUTSOURCING

BREAKING WITH TRADITION TO FIND PRIVATE-SECTOR PARTNERS

Benoni fire brigade experiment produces success story

Radical alternatives are being explored by local municipalities in a bid to ensure basic services are provided countrywide. And municipalities are looking seriously at partnerships with the private sector to generate funds for maintaining or improving service levels.

The Municipal Infrastructure Investment Unit, a Section 21 company, says it has "pipeline" projects for partnerships from about 65 rural and urban municipalities. Some of these projects are at feasibility study level, others are being negotiated, while some municipalities have only expressed interest.

Municipal infrastructure specialist James Dohrmann says these partnerships offer the most promising future for cash-strapped municipalities. Among the advantages is that "with the private sector you can specify performance and hold it responsible."

Precedents exist. The Benoni local authority's foray into private-public partnerships has produced spectacular results.

Nine years ago the Benoni Fire Brigade was just another municipal department with restricted room to improve its services and revenue. It employed 170 people and had an annual budget of about R11m.

Today, the revamped Benoni Fire & Emergency Services is one of seven subsidiaries of a privately owned company, Fire & Emergency Services, that employs about 600 people and provides a wide range of emergency services in SA and abroad. It is considering a listing on the JSE in two years to fund further expansion.

The change began in 1991 in the form of a public-private partnership. Fire chief Stephen Barber, with First National Bank and the Benoni city council, had already spent years researching the possibility of contracting out the fire service.

Their intentions turned to action after parliament passed a law in 1991 that allowed local authorities to own shares in private companies — on condition the company was "established to render the services previously carried out by the local authority."

Fire & Emergency Services was formed, entering into a five-year contract with the council, which had a 30% shareholding. The council rented premises to the company and retained responsibility for the maintenance costs, while the company bought up the council's vehicles and equipment.

For the council, the arrangement represented significant savings, since the contract stipulated that the council would not be responsible for future capital expenditure.

All 174 of the fire brigade's staff opted to transfer to the company, which meant the council dispensed with administrative costs.

Barber, now MD of Fire & Emergency Services, estimates his company saved the local authority R16.5m in the first contract period. He forecasts that the current contract period, from 1997 to 2000, will save Benoni more than R20m.

The employees, too, have benefited. Not only were no jobs lost and all benefits retained, but they gained an incentive in the form of shares. 20% of the company stock is held an employee trust.

Under the agreement, the council pays an annual fee of about R15m for the service.

"We can only succeed if we render the service for less than it would cost the local council and if we maintain service standards at least equal to what the local authority would have provided," says Barber.

Five years after entering into the contract, the council sold its share of Fire & Emergency Services Holdings. The company now describes itself as "SA's leading provider of contract fire services, paramedical services and emergency communication centres."

The service provider handles firefighting, hazardous chemicals, paramedics and emergency rescue services for the 450,000 Greater Benoni community. ResQMedix is its private ambulance service. Emergency Communication Centres has the contract for all Vodacom's national and international emergency calls.

The company has been providing paramedics to the United Arab Emirates' Airforce for the past three years, and is negotiating similar contracts in Australia, Indonesia, Malaysia and the US. Barber says SA could take the public-private partnership and privatisation approach further "I believe, based on investigations with a number of local authorities around the country, that if local and regional governments contracted their fire services out they would save at least R1bn over the next five years."

Can the Benoni experience be replicated elsewhere? Dohrmann thinks so, but says much remains to be done to smooth the way for partnerships. There are delays in implementing projects, primarily because unions remain sceptical and because banks have adopted a conservative approach to financing the deals.

Sydney Coz

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Privatisation will take place under a new Act

By MABUTHO SITHOLE

THE ministry of public enterprises will go ahead with drawing up programmes for the privatisation of state assets and will outline the rules for the local and international market.

Public Enterprises Minister Jeff Radebe this week said his ministry is to prioritise and accelerate the pace of the government's "restructuring and privatisation programme".

"One of the ways we intend achieving this is by creating a legal framework for the initiative which will become an Act. We must give certainty on the way forward, and we believe the framework will erase any doubts about government's commitment to the programme," said Radebe.

The new framework will apply to all enterprises owned by the state. A significant number of these are being restructured with some sort of private sector participation or are in line for such attention.

The aim is to transform state-owned enterprises from cost centres for government into commercial businesses, many of which have a strategic role to play in South Africa.

The government will also focus on empowering small and medium-size enterprises and previously disadvantaged people.

Radebe will soon appoint a director-general, a sign that the department has been elevated to an equal footing with other state departments and has an expanded mandate.

"This is another sign of the importance President Mbeki places on the privatisation initiatives. The appointment of a director-general will also pick up the pace of the programme," said Radebe.

The ministry has prioritised transport utility Transnet and arms parastatal Denel as being in urgent need of restructuring.

Studies are being conducted to ascertain the problems facing these organisations and the opportunities they offer.

Denel needs to be positioned to ensure it plays a pro-active role in South Africa's defence procurement packages.

"A key factor at Transnet is to sort out the pension and medical aid fund liabilities, which have hindered attempts at a wholesale reshaping of the organisation," Radebe said.

Radebe urged Transnet's management and the finance ministry to agree on a solution to the pension fund issue as soon as possible.

There is a great deal of urgency over Spoornet, the rail division of Transnet, which management has indicated requires immediate transformation to ward off further losses.

Management has proposed a sweeping plan to close or outsource almost half the rail network, with the loss of up to 27,000 jobs.

Labour is to submit its proposal next week to a sub-committee of ministers set up to investigate Spoornet's transport network.

Radebe said serious consideration would be given to the concerns of labour, and he would keep an open mind throughout the process.

However, any restructuring that involves the mass closure of rail lines and job losses will have significant social implications.

"These rail routes provide the life-blood of numerous small communities across the length and breadth of the country," Radebe said, adding that the restructuring of state assets was not intended to create more pockets of poverty.

Transnet has already indicated that it plans to sell its non-core assets such as Transwerk and Apron Services over a period of 12 to 18 months, while retaining a strategic interest in many of its core assets like Spoornet, Portnet and Petronet.
Evils of privatisation

Privatisation does not solve the social problems facing humanity but is instead a mechanisms for private accumulation. Blade Nzimande explains why

Dr Blade Nzimande ...parastatals should be strengthened as key instruments for development.

Rather, they are mechanisms to turn the entire globe into a haven for private accumulation, principally for the transnational corporations.
We challenge those who claim otherwise to prove this and concretely demonstrate otherwise.

Arguments for privatisation normally point to globalisation as a force that determines a path of development for all countries.
Much as there is truth in this, sometimes this argument has been used to hide a lack of political will to struggle for the creation of spaces to implement progressive national development agendas.
Or even worse, to hide that some governments have made a choice to deliberately promote capitalism, hopefully with a human face.

Our own experiences over the last five years are instructive. The delivery of water, electricity, housing, telephone connections and education for millions of our people has been as a direct result of an aggressive state-led development programme.

This has been buttressed by hundreds of development committees and forums. This has not been as a result of massive privatisation of essential state functions and utilities.

Instead, in cases of privatisation or private sector-driven provision of essential services, the result is generally that of job losses, casualisation and outsourcing of labour with little impact on social upliftment.

This, however, does not mean that private resources should not be harnessed towards development. Indeed it is necessary. But any socially beneficial role the private sector plays always takes place within the context of state-led development programmes.

This has been the case even in developed capitalist countries. In cases where new technology, expertise and capital is needed, the state can enter into partnerships with the private sector.

But on the understanding that such arrangements are aimed at improving the capacity of the state, in the short to medium term, to deliver social services and create jobs on a sustainable basis.

When the state - at national or local level, acting in concert with the people - is capable of providing basic services without the involvement of the private sector, that should be done.

The truth is that the private sector is only efficient in delivering profits, not services to the people, particularly in relation to the working class and the poor.

One of the main aims of the working class, the urban and rural poor should therefore be towards the strengthening of the role of the state in social delivery and economic development.

This struggle should include a consistent opposition to ideologically driven privatisation instead we should struggle for the building of developmental state.

Such a state plays an increasingly intervenous role in economic development and in the delivery of key social services to the majority of the people.

If need be such a state should create new state entities in order to accelerate social delivery. Parastatals should be strengthened as key instruments for development and not merely targets for privatisation.

The key question therefore is not whether to be private or not, but how best to develop our economy on the basis of meeting the needs of the majority of the population.
Mondi and Kohler get the go-ahead

JOHANNESBURG — The Competition Board yesterday reversed a decision barring two packaging and paper firms from swapping assets after they-tabled revised proposals.

Board chairman David Lewis said approval had been given for the group Mondi to acquire Kohler's corrugated packaging unit in return, Kohler would buy Mondi's carton board packaging business. Both companies are unlisted.

Lewis said the approval followed a revised proposal by Mondi, undertaking to sell its corrugated packaging plants within three months to a buyer approved by the Competition Board.
THE SA Municipal Workers Union (Samwu)’s general secretary, Roger Ronnie, has quit his post in the fall-out from the battle over how trade unions should approach privatisation. Ronnie, who officially stood down at the end of last week, says his immediate decision was fuelled by overwhelming “mental and physical stress.”

“I can state categorically that I wasn’t pushed,” he told the FM this week.

He will remain with Samwu and continue to work in its Cape Town national office. His duties have been handed to acting general secretary Mncedisi Nonstelle.

So complete is his break with the union leadership that Ronnie, after six years at the Samwu helm, did not even attend this week’s Cosatu congress in Johannesburg.

The 230,000-member Samwu is one of Cosatu’s biggest affiliate unions. “People underestimate the pressures of being a national general secretary,” he said.

While Ronnie’s health is the official trade union line for his quitting, the decision is also intensely political. The trade unionist clashed last year with Cosatu leaders over his dogmatic stance on the privatisation of municipal services.

Samwu worker bullish about Ronnie’s departure?

Samwu sources say he is a “troublesome fellow.” He also met with strong opposition from SA Communist Party (SACP) members in Samwu who didn’t want the union to push so strongly against a government that is associated with the Tripartite alliance of the ANC, Cosatu and SACP.

Ronnie and a handful of other Samwu members led a vocal antiprivatisation drive which opposed any attempt at joint ventures — such as the public-private partnerships finalised this year between Neilspruit and Dolphin Coast municipalities and private water management companies.

Samwu’s antiprivatisation campaign co-ordinator, Mana van Driel, has also quit the union after facing attacks from leaders who opposed her militant style and ideological stance. Officially, Samwu claims that she, too, left for health reasons.

In two years, Cosatu has softened its stance on privatisation and now says public-private partnerships should not be opposed ideologically.
Unwelcome passengers in privatisation cabin

Anticompetitive moves by SA Airways and bad choices by government may have played a role in Sun Air's crash, writes Raenette Taljaard

We FREQUENTLY forget that Sun Air represented the last full privatisation of a state-owned asset. While there was no template to guide the process, the collapse of this market in 1994-1995 was a two-year affair that led to a conclusion that early warning signals of what to avoid — and the many costs involved —

There are also lessons about the competitive conditions that will be likely to foster a corrective to privatisation. The costs involved as the botched privatisation of Sun Air traversed the narrow confines of the 1990s allowed for the emergence of the Rainbow/Comair consortium or even the R550m-Sun Air, 3% of airline capacity, apart from the staff involved in the reorganisation of share and the strategies of the privatisation process and the competitive environment that are trying to forge as our economy undergoes structural change.

Questions must be asked about the role of the Competition Board and why it did not intervene earlier to curb the anticompetitive behaviour of SAA in its aggressive bid to retain that market share at the cost of competitive airlines. There was no clear case of SAA's aggressive bidding or whether its activities were in breach of its dominant position and Sun Air were incurred.

Questions abound as to whether the country's deregulated market is too small to support a fourth carrier or whether the broader interest is having to attract foreign equity into the "crowd" of SAA's privatisation process, could have stemmed some of the problems.

Some lessons have emerged from Sun Air's privatisation that could serve as a warning. The need to ensure that the company is capable of competing fairly is key to ensuring that the market does not stagnate. When Sun Air was awarded the service, it was to a bidder who had the experience of running an airline but that its competitor with representation in Sun Air's management, Comair.

The end result was that the Rainbow/Comair consortium abandoned the deal for a mere R500m. It was an expensive failure for SAA.

By all Sun Air passengers, but Sun Air's demise is strengthening SAA's dominance in the domestic sector. The SAA section of the public enterprises department reviewed the privatisation process in the following statement: "In the highly regulated domestic market, airline prices were common occurrences as airlines strive to achieve dominance in the marketplace. The counter-moves to deposits in Sun Air were a significant aspect of the market dominance. In the current environment, the airlines that are able to maintain a low-cost structure and service will be able to maintain a viable level of operations."
Encoding good corporate conduct

Act strengthens government’s hand in dealing with anticompetitive behaviour, writes John Dludlu

WITH the recent promulgation of the rules and regulations of the functions of the Competition Act of 1998, government has strengthened its hand in dealing effectively with anticompetitive corporate behaviour.

The tone of the rules, published last Friday, shows the new competition authorities’ desire to have a bird’s eye view of SA’s corporate players.

In terms of the rules, firms that generate a turnover and have assets of more than R5m in SA will not be affected by the act’s provisions on the abuse of dominant position.

According to the act, a dominant firm is one that has at least 35% share of a market but less than 45% unless it can show it has no market.

It can also be one that has less than 35% of that market, but has market power. The act prohibits such firms from charging excessive prices, refusing competitors access to an essential service and applies price discrimination.

During the negotiations of the law business felt that the 35% threshold used in determining dominance was too low.

The threshold of a “large” merger is one where both the combined annual turnover and combined assets of the acquiring firm and the acquired are valued at or above R3.5bn. The threshold for an intermediate merger is between R50m and R3.5bn.

According to the law, which carries severe penalties for anticompetitive corporate behaviour, the Competition Commission, the agency that will grant exemptions from the act and investigate mergers and acquisitions, has to refer all large mergers to the Competition Tribunal.

Pierre Brooks, retired chairman of the Competition Board, which will be replaced by the Competition Commission, says that the thresholds are "realistic" and show the legislators’ intention not to "overburden the tribunal".

“The tribunal will (effectively) be used fairly sparingly,” says Brooks.

All mergers will impose an administrative burden on both the commission and businesses.

The fee for filing a merger notice is R5 000 if the merger is valued at between R50m and R100m, R75 000 for between R100m and R1bn, R250 000 for between R1bn and R3.5bn and R500 000 for a merger that is valued above R3.5bn.

Brooks, who participated in the formulation of the policy, says thresholds will make firms more discerning when considering merging operations.

"It will focus the minds of people (They will be asking if the merger) is really necessary for our business.” The costs involved will also be a consideration, says Brooks.

The act provides for exemptions to be granted to transactions that promote small businesses and those owned by previously disadvantaged people.

Exemptions will also go to deals that contribute to the stability of an industry designated by government or those that help promote exports.

A firm applying for a single exemption will have to pay a filing fee of R5 000, plus an annual fee of equal to R500 times the number of years for which the exemption is granted.

A category exemption will cost R100 000, plus an annual R1 000 times the number of years for which the exemption is given.

Alastair Runtes, head of the commission, says the cost structures reflect the value of work entailed in assessing mergers as well as the benefits that will accrue to those receiving exemptions.

The thresholds were arrived at after workshops the commission held with lawyers and after studying the experience of six other competition jurisdictions.

The rules also detail procedure for the trade and industry minister if he wishes to participate in merger proceedings. The law, which depoliticises the policing of corporate mergers, allows the minister to participate “as a party” in any merger proceedings.

In participating as a party, on the grounds of “public interest”, it means the constitutionally enshrined independence of judicial bodies such as competition institutions is guaranteed.

Public interest means that mergers will also be assessed beyond the efficiency-gains test. They will be measured in terms of broader socioeconomic goals such as the effect a merger will have on employment.

Perhaps the act’s test will be in its application, that is, whether it raises compliance costs for business, achieves its goals of making SA markets contestable and provides a platform for SA firms to be internationally competitive.
John Diudlu

SA’s new competition authorities will mount an aggressive education campaign to familiarise business and labour with the revamped legislation.

Alistair Ruters, the head of the Competition Commission, said yesterday the commission had taken a decision in principle to launch the campaign.

The campaign, expected to run for three months, would explain the provisions of the Competition Act of 1998 to the business sector.

Following the publication of the act’s regulations last Friday, which come into effect tomorrow, businesses are reportedly anxious to find out if they comply with the new law or not.

Industry sources say the campaign should help allay business’s anxieties.

The campaign will be conducted by a recently established compliance division of the commission. The division will investigate and grant exemptions under the act. Apart from business, the campaign will also target unions and small and medium-sized enterprises.

The division was set up to ensure greater compliance with the legislation that replaces the ineffectual Promotion and Maintenance of Competition Act.

Yesterday Ruters said the council’s business and labour representatives on progress made in the implementation of the new law.

In addition to the planned awareness campaign, the commission’s website would go live tomorrow. Anxious businessmen are advised to read the 40 frequently asked questions before calling the commission for advice.

The new law allows for exemptions to be granted to deals that promote exports, contribute to the ability of firms owned by previously disadvantaged groups to compete, promote small business development, as well as transactions that contribute to the stability of an industry designated by government.

The law provides for a competition tribunal. The tribunal will either veto or approve large mergers, that is ones that result in a combined turnover of R3.5bn or above.

It also provides for an appeal court and calls for notification on all mergers.
Act rules out ‘opportunistic’ mergers

Peter Steyn, a partner at Werksman Attorneys, says delays in bringing the new Competition Act into operation and determining merger thresholds had led to an understanding that mergers occurring in the interim would not be subject to the requirements of the new act.

"The new act states that competition authorities must be notified of and must approve mergers and acquisitions exceeding certain limits."

"However, the act is not yet in operation, nor have the thresholds of combined annual turnover or assets yet been determined by the trade and industry minister," he says.

The notification and approval referred to by Steyn was not required under the former Maintenance of Competition Act of 1979, which has been repealed.

A merger is defined broadly in the new act as the direct or indirect acquisition or establishment of control over all significant interests in the whole or part of any person's business.

According to the Amendment Act, any merger which exceeds the relevant thresholds occurs between October 30, 1998 and the advent of the new Competition Act will be in contravention of the new act.

This situation can be avoided only if the merger is approved by the Competition Board or applications for approval are made to the new competition authorities within three months.

In addition, the first thresholds must be determined by the trade and industry minister before the new act comes into operation, at which time they will be enforced immediately.

"Although the Amendment Act has been passed by Parliament, it has yet to be enforced. It has important implications because it affects the previous window of opportunity and applies the new act's merger control provisions retrospectively," Steyn says.

The minister determined the new thresholds is now urgently required to allow proper planning and to avoid unnecessary delay," Steyn says.

SA NEWS DIGEST

WATER

Researcher says no to 'incompetent' UK water privatisation industry

The labour movement yesterday launched an offer by Richard Caborn, Britain's trade minister, for the UK to help South Africa with water privatisation projects. Caborn made his offer to "tackle water crises for the water industry.

David Hall, the director of the London-based Public Services International Research Unit, said, "Unfortunately, the facts do not support Caborn's claims that the UK water companies have anything to offer the world. It is not in the interest of the public to offer water companies to the UK for excluding them from the EU.

Hall said the companies were not suitable for the UK market for excluding them from the EU. Hall said the companies were not suitable for the UK market for excluding them from the EU.

Hall added that the companies were not suitable for the UK market for excluding them from the EU.
Sniffing privatisation’s rosy future

DEREGULATION of agriculture under the ANC has meant greater efficiency, higher investment and lower food price inflation — but job creation lags, write Johan Kirsten and Nick Vink

Jeff Radebe must confront the Sun Am unravelling and find long-term solutions at Transnet, writes Robyn Chalmers

ACCELERATING the rate of privatisation is already a key goal of President Thabo Mbeki’s government. We are about to see a more robust approach to the deregulation of assets in public ownership and more privatisation participation by state-owned enterprises previously subject to state monopoly.

However, diversifying state assets is simply one means of promoting competition and efficiency. It is not always the most critical step in the wider process of encouraging an economic agenda where private business development across the public good and trade liberalisation are often more important.

With this wider definition of privatisation it is clear that SA has already moved a long way from the state monopolies and interventionist policies of the recent past. In particular agriculture has been subject to a radical restructuring — especially in the period after the departure of the National Party from government of national unity and the arrival of an ANC/Liberal/Co-operative Congress (ANC) agriculture minister, Derek Hanekom.

The most radical move has been the deregulation of agricultural marketing. This began in the 1990s but the measures were precluded, uncoordinated and mainly contained within the framework of transitional legislation.

The Marketing of Agricultural Products Act of 1996 contains provisions to promote efficiency and regulate marketing access, enhance returns and increase the viability of the sector.

The set of objectives intervention in agriculture is not only important but also one of the objectives in sub-Saharan Africa. Indeed, agriculture is seen as a key factor in the continent’s development, and policies that promote and facilitate agriculture can have a significant impact on economic growth and poverty reduction.

The evidence of farm efficiency and competitiveness is associated with the removal of price support. In the case of the National Farmers’ Union, for example, farmers and the industry have shifted from a government-subsidised price support system to a more market-oriented model where prices are determined by supply and demand. This has led to a decrease in production costs and an increase in competitiveness.

Most of these distortions have now been removed.

Nevertheless, it is evident that the commercial sector is currently under-staffed and under-utilised. The government has shown a willingness to employ more labour and provide training to improve efficiency.

The SA Agricultural Marketing Board has been one of the most successful in the world in terms of the management of a small-scale commercial farming sector under the land reform programme. For example, it has implemented a programme to reduce the number of small-scale farmers and improve their productivity.

The state has also taken steps to ensure that the agricultural sector is more profitable and sustainable. This includes the provision of financial support, training and technical assistance to farmers. The government has also taken steps to ensure that the agricultural sector is more competitive, by promoting the use of new technologies and improving the quality of agricultural inputs.

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Most of these distortions have now been removed. Nevertheless, it is evident that the government sector, which is currently to a large extent responsible for the government's role in the economy, has been largely removed from the market's decision-making process. The annual increase in consumer prices for food has been much lower recent years. This increase from 1990 to last year shows that even slightly more, 0.6% higher (1994 (14)).

The trend is confirmed by a calculation of the average annual increase rate of the consumer price index for food. This shows that between 1990 and 1994 the average annual increase rate was 6%. During the previous four years the figure has fallen to a mere 1.0%.

This is a very positive trend, and it is fair to argue that this can largely be attributed to the process of deregulation affecting the political economy. Comprehensive agrarian reform has been a major factor in this. In order to make progress in this area, the government has been active in introducing new laws and regulations to promote agricultural development.

The government has been successful in raising the prices of agricultural products, which has helped to increase the profitability of farmers. This has led to an increase in the supply of food, which in turn has helped to reduce inflation rates.

The government has also been active in promoting the use of technology in agriculture, which has helped to increase productivity. This has led to a decrease in the cost of production, which has helped to reduce the prices of agricultural products.

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In summary, the government has been successful in promoting the development of new technologies, which has helped to increase the efficiency of production. This has led to a decrease in the cost of production, which has helped to reduce the prices of agricultural products.
Department will boost privatisation

Role of restructuring, privatisation programme is to make state-owned enterprises more economically viable

Robyn Chalmers

Sivi Gounden, former public works acting director-general, will head up government's restructuring and privatisation programme in his new position as director-general of public enterprises.

Gounden is to oversee a significantly expanded public enterprises department which will ultimately comprise 120 people, increased from the current 41 employees. The focus will be on attracting highly skilled people, with those in management positions likely to be employed on five-year performance-based contracts.

The move was welcomed yesterday by analysts. Several believed that a stronger, more focused department would bolster the privatisation programme which has taken a knock recently with problems encountered in the Sun Air and Aventura privatisation exercises.

Public Enterprises Minister Jeff Radebe told the Pan-African Investment Summit, being held in Accra, Ghana, that Gounden began work at the department on Monday. Cabinet approved his appointment on September 1.

Gounden said yesterday that the first task was to embark on a comprehensive audit of state-owned enterprises to determine where the state should concentrate its efforts.

"The key point of departure is to restructure and transform state-owned enterprises to ensure they play a proactive role in SA's economy. We need to concentrate our energies where we will make the best gains, and the audit will help establish this," he said.

Gounden stressed that transactions currently under way, notably the sale of the state's commercial forests and negotiations to secure a management partner for the Post Office, will not be adversely affected by the audit.

Radebe said there were between 600 and 800 state-owned entities in SA with an estimated monetary value of about R150bn. He said, however, it was extremely difficult to calculate their value as state-owned enterprises had an important role to play in transforming the country.

Government remained committed to accelerating the privatisation programme, although this did not mean selling off the family silver faster at bargain prices.

"Rather, we see our task as providing rapidly the necessary direction and frameworks that will ensure that the partnerships we encourage and implement provide the best socioeconomic development returns for the country as a whole," he said.

Radebe said his officials were preparing the groundwork for legislation and a regulatory framework to provide stability and security to the sector.

Several state-owned enterprises were not performing well but the state did not believe it made political or economic sense to simply discard troublesome entities.

It was difficult to say whether poor performance from these entities was the result of deliberately poor or reckless management, outdated managerial and financial systems or simply because they did not have a role to play because their product was not useful.
New act declares war on unfair advantage

The new merger control provisions require a party to an intermediate or large merger to notify the Competition Commission of a merger and they prohibit the implementation of the merger until the approval of the Competition Commission has been obtained. A failure to comply with prescribed provisions may be met by an order of the Competition Tribunal compelling a party to a merger to sell any shares, interest or assets it has acquired pursuant to the merger or it may declare any provision of the merger agreement void.

Do the provisions dealing with restrictive horizontal practices, restrictive vertical practices, abuse of a dominant position and merger control apply to any SA company, regardless of its size?

The answer is yes in respect of restrictive horizontal practices and restrictive vertical practices, but the answer is no in respect of the abuse of a dominant position and merger control.

Trade and Industry Minister Alec Irwin has recently determined that only firms with an annual turnover or assets in SA valued at or more than R5bn will be governed by the provisions dealing with the abuse of a dominant position. The minister has also determined thresholds for the classification of mergers as intermediate or large mergers.

A merger will be regarded as intermediate if the combined annual turnover or assets — or a combination of turnover and assets — in SA of the acquiring firm and certain related firms and the target firm (and its related firms as well) is valued at or more than R50bn but less than R5.5bn. In addition the annual turnover or assets of the target firm must be valued at more than R5bn.

Similarly, a merger will be regarded as large if the combined annual turnover or assets, or a combination of turnover and assets, in SA of the acquiring firm and the target firm is valued at or more than R5.5bn and the annual turnover or assets of the target firm is valued at above R100bn.

Intermediate mergers will be considered by the Competition Commission. Large mergers must be referred to the Competition Tribunal and the minister of trade and industry.

The Competition Amendment Act no 35 of 1999, which also came into operation on September 1, gives the merger control provisions retrospective effect.

An interesting feature of the rules of the Competition Commission is the charging of filing fees payable to the commission within five days of submitting an application for the approval of a merger.

For mergers where the combined figure is valued at or above R50bn, a filing fee of R5 000 is payable. This fee increases to R125 000 if the combined figure is valued at or above R100bn, R250 000 if the combined figure is valued at or above R1bn and R500 000 if the combined figure is valued at or above R3.5bn.
Eskom privatisation warning

MINING group Billiton Plc said on Tuesday that there is no reason why South Africa should privatise electricity utility Eskom, which supplies some of the world's cheapest power to Billiton's smelters.

"We find it difficult at present to make a case for privatising Eskom," Billiton energy group manager Emil Rorke told Parliament's public enterprises committee.

"I don't think we really appreciate the national value of a utility like Eskom," he continued.

Rorke said Eskom provided the lowest or second-lowest priced electricity in the world and was a reliable supplier - two main reasons for operating aluminium smelters in the region.

"Whatever happens at Eskom is important to us. Our business is adding value to electricity via alumina," he said.

Billiton also provides Eskom with 35 million tons of coal a year for electricity generation and pays R1.4 billion a year for freight transport to state-owned Spoornet.

Rorke said factors such as contractual commitments, prices, debt and employment had to be taken into account when considering privatising a utility like Eskom.

He also defended the current system of Government subsidies for Eskom, which is working hard to give electricity to millions of black citizens who were excluded under apartheid.

"The industrialists subsidise the domestic sector but the system works. The grave danger would be in unravelling the system. The system works with the existing subsidies," he said.

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Scanned on 8/9/98
Competition board's controversial findings

David Lewis questions decisions made on alleged irregularities in airline industry

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itr the repeal of the Maintenance and Promotion of Competitiveness Act the Competition Board ceased to exist. The new Competition Act has come into force — a new legislative and institutional framework now regulates competition. However, certain decisions taken by the board in the last part of its existence have raised considerable controversy.

Firstly, the complaint submitted to the board by Sun Air, South Africa Air and Nation

wide alleging predation on the part of South African Airways (SAA) was dismissed. Secondly, the board's decision to continue a proposed transaction that, if implemented, will enable SAA to acquire a majority stake in Sun Air in 1990.

These issues have been the subject of much debate and public discussion.

The Competition Act, which came into force in April 1999, seeks to promote and protect competition in the economy. The act is designed to prevent anti-competitive practices, such as predation, which can stifle competition and harm consumers.

Predation involves a larger entity, SAA, pricing below costs to drive other, smaller airlines out of the market. This can lead to a monopoly market, with higher prices and reduced choice for consumers.

The Competition Board's decision to continue the proposed transaction has been criticized by some who argue that it could result in reduced competition and higher prices.

However, others argue that the proposed transaction could lead to increased competition and lower prices. This highlights the complexities of competition policy and the role of the Competition Board in balancing the interests of consumers and businesses.

In the coming weeks, the Competition Board will continue to consider submissions on this matter, and will announce its final decision.

Source: Competition Board

Telkom found guilty of anti-competitive practice

The Competition Board has found Telkom guilty of anti-competitive practices in the telecommunications market.

The board found that Telkom breached competition law by charging predatory prices to competitors, thereby preventing them from entering or competing in the market.

This finding is significant as it provides a precedent for future cases involving similar conduct.

Source: Competition Board
Lack of structure hampering privatisation

Law firm partner recommends restructuring by utilising private-sector investors who can run new businesses

NATIONAL

'The current lack of modernisation and restructuring legislation in South Africa is causing severe uncertainty for government bidders and advisors,' says William Mhembu, partner of Werksman Attorneys. Mhembu said that, as a result of the uncertainty, most state-owned enterprises, such as Transnet, Eskom, Telkom and the SA Post Office, may be restructured or privatised.

Public Enterprises Minister Jeff Radebe announced recently that his officials were preparing the groundwork for legislation and a regulatory framework to provide stability and security to the sector. He said that the restructuring process in South Africa had been governed by a number of principles.

The first calls for government to follow a strictly non-ideological, pragmatic approach. Secondly, government seeks to carry out restructuring on the basis of consensus. He said that some of these principles had been attached to the transparency, fairness, consistency and credibility of the restructuring process.

Meanwhile, he said the debate on how state-owned enterprises should be restructured continues. There are two main schools of thought: One believes there should be an outright sale by the state, while the other plan is to follow a restructuring programme.

The first view is supported by those who advocate moving as quickly as possible. There is a powerful lobby which is trying to persuade government to speed up the privatisation process. Mhembu believes that restructuring must make fundamental distinctions in developing a restructuring programme for state-owned companies.

'The final result is between restructuring and privatisation, and the second between internal and external restructuring,' he said. 'Restructuring involves a variety of operational changes which theoretically can be achieved by existing management and are therefore internal. However, the existing management does not always have the will or the capability to operate and maintain the ongoing internal restructuring process.' As a result, the company fails to produce and deliver its products and services efficiently.

Due to these implications, Mhembu recommends bringing about restructuring through the agency of external partners, usually private-sector investors, to operate the business.

This approach does not necessarily involve a full change of ownership from the state to the private sector.
RADEBE TIGHTENS THE NOOSE ON PRIVATISATION

Minister wants restructuring to serve interests of the State

Public Enterprises Minister Jeff Radebe is tightening government control of parastatals. He plans to do this by redesigning the autonomy of their boards of directors, the role of management and their relationships with government to ensure they "do not run into collision with one another".

Radebe's proposals are part of a broader rethink by government on how public enterprises should be restructured, a genuine attempt to improve the financial performance of parastatals including full or partial sale to the private sector.

SA has between 600 and 800 public enterprises with a combined net worth of about R240 billion, R95 billion of which have been restructured excluding the sale in 1997 of a 30% stake in telecommunications group Telkom to strategic equity partners SABC of the US and Malaysia Telekom, this year's sale of equity in Edcon's Post Office and the Airports Company.

In particular, it could heighten tensions between government and the directors of parastatals as they are caught between acting in the best interests of the companies, as set out under the Companies Act, and making decisions that are in the country's interest, as set out under the 1994 democratic constitution.

Radebe has also suggested that his department can intervene if it believes restructuring is not working.

Government has also entered into management contracts with private-sector companies in the motor industry, for example, through the Treasury and the Post Office.

Radebe, who took over the public enterprises portfolio in June after the elections, plans to increase the size of his department. It will create a new division to manage the performance and corporate governance practices of State-owned enterprises.

Speaking at the Pan African Investment and Privatisation summit in Accra, the Ghanaian capital, last week, Radebe said government could not as a principle take part in the privatization or partial sale of State assets.

He emphasised that restructuring should be driven by the shareholder and not management.

We need to avoid situations where restructuring is driven by the SOEs (state-owned enterprises) themselves as that frequency obstructs the State's ability to overcome economic impact or can even lead to a diversion from government policy, he said, citing the question of rent seeking as one example.

We cautioned African governments to be sensitive to the employment question. Sometimes the larger interests of society, the State and the workers themselves need to take precedence over narrow managerial solutions," he said.

Radebe, taking a broad swipe at the management of parastatal companies, questioned whether the poor financial performance of some State-owned enterprises was a result of "poor or reckless management or outdated and financial systems" that were not adapted to the company's environment.

He said the autonomy of the board of directors of parastatal companies needs to be greater with the parameters of State ownership and control, even when this is mitigated with the participation of other shareholders.

Radebe later told the FM in an interview that government will seek a regional implementation of the corporate governance principles as laid down by the King Committee on Corporate Governance.

"We need clearly defined roles for management, the board and government as the shareholder so that we do not run into collision with one another," he said.

In his speech, Radebe also questioned the "over-reliance" by government on external advisers, particularly those from financial institutions whom he said may be influenced more by their client base than the requirements of government policy.

He added that under-resourced government departments were also "usually to be able to give sound financial judgment about the financial performance of SOEs, their compliance with corporate governance conventions, the impact of restructuring on broader macro-economic levels or indeed, in their ability to assess the relationship between objective, result and cost."

He said he was not in favour of having a general government advisor on SOE restructuring but preferred having interested parties appointed for each transaction.

Signs that Radebe seeks to play a more active role in the affairs of parastatals surfaced in mid-July when he released Telkom management for announcing plans to lay off between 18 000 and 21 000 employees at its railway subsidiary, Spoornet.

Telkom has delayed the Spoornet restructuring pending a decision by Public Enterprises which is due to study a report prepared by Spoornet management and another by the railways workers' union.

Radebe's redelineation of the role of the board of directors could have serious governance implications, particularly for Telkom, which is SA's top managed company, has a higher public profile than that of chairman Ernst "Zag" (Zag) Albrecht, the electricity utility, chairman Benjani Makhubele plays the lead role.

For parastatals in general, the changes could heighten tensions between government and the directors if they are made without the consultation of the boards of directors at the Companies Act, Radebe's proposal to make it a tax-payer matter.

Until recently, the only exception was Eskom, which was governed by the electricity council and the management board (made up of the utility's executive management) in terms of the Eskom Act of 1997. The two bodies fulfilled the role of the board but weren't subject to the sanctions of the Companies Act. The electricity utility has now been reconstituted in terms of the Act.

"Sometimes the larger interests of society, the State and the workers themselves need to take precedence over narrow managerial solutions," Radebe said.

Jeff Shabaas

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State enterprises "need laws on privatisation and restructuring"

Johannesburg - The lack of privatisation and restructuring laws was causing extensive uncertainty for the government, bidders and advisers, William Mthembu, a partner of Werksmans Attorneys, said this week.

"South Africa does not have legislation to regulate the conditions under which state-owned enterprises may be restructured or privatised," he said.

Zaid Norden, a spokesman for the public enterprises department, said the department would clearly define the legislative framework "This is a priority and work has already started on it." Norden said.

Mthembu said conflicts arose because it was commonplace for objectives to clash during a restructuring process. But the degree of conflict was unusually high in South Africa because of the emphasis the government had given to social considerations and consensus with labour.

"The government has considered options against a strategic assessment of a particular enterprise and did not sell off state assets completely," Mthembu said at the pan-African privatisation summit in Ghana recently. "The government is not selling off state assets completely. This would be influenced by whatever role the state saw it play in the government's overall economic policy framework."

"We believe state-owned enterprises still have an important role to play in transforming our country. We do not agree with the view that we should sell off state assets completely, or even in part, as a matter of principle," Radebe said.

"South Africa has between 600 and 800 state-owned entities. Rather than perpetuate inefficiencies through converting state monopolies into private monopolies, it was better to ensure development policy was steered according to the priorities of government authority but managed according to partnership agreements."

Mthembu said in developing a restructuring programme, the government needed to distinguish between restructuring and privatisation, as well as between internal and external restructuring. Restructuring involved a variety of operational changes that, theoretically, could be achieved by existing management and were therefore internal.

"However, the existing management does not always have the will or the capability to execute and maintain the ongoing internal restructuring process," Radebe said.

He recommended bringing about restructuring through the agency of external parties, usually private sector investors, to operate the businesses concerned.
Policeman denied amnesty after ordering murder

**DD 27/9/99**

Wilton Johannes Loots, a regional commander of the Western Transvaal security branch, was injured in 1983 to kill two members of上班族 wk Edens (IQC) who were being transported into SA. He was tried for the murder of the driver, who had informed the police of his route.

A Botswana citizen, named only as MT, attended the commission, and said Loots, a brother to the victim, was present when the killing took place. Loots was granted amnesty, but he was killed by a Botswana citizen who had been present.

SA companies fail to report deals

**DD 23/9/99**

Several companies have announced mergers and acquisitions without notifying the Competition Commission as they are required to do in terms of new legislation.

The Competition Commission, which monitors these deals, has been unable to prevent any of these mergers or acquisitions.

The commission has been notified of only three mergers or acquisitions this month, but it has identified 17 deals reported in the media which appear to fall within its remit.

The commission has also investigated 11 complaints of anti-competitive behaviour.

The commission is entitled to investigate every complaint it receives, but the complaints are difficult to investigate.

The commission is charged fees for investigations, which range from R5.000 to R5.000.

High Courts collapse while judges on recess

**DD 23/9/99**

The legal aid system will have to be reviewed, otherwise there will be no money by the end of the year, Parliament's Justice Portfolio Committee was told yesterday.

SOUTH AFRICAN High Court system was paralysed while judges were off protracted recesses and administrative staff accumulated huge amounts of annual leave in the process. Parliament's Justice Portfolio Committee was told yesterday.

Sitting the committee, Justice Minister Mohamed Maduna said the country's judges took up to 30 months' annual leave in the process. Parliament's Justice Portfolio Committee was told yesterday.

He said they did not take up all their annual leave in the process. Parliament's Justice Portfolio Committee was told yesterday.

Administrative staff had accumulated at least 500 days' leave, he said.

Turning to the legal aid system, Maduna said they had increased by 100% since 1994.

The system would have to be reviewed, otherwise the courts would face additional costs, he said.

*The Supreme Court of Appeal in Bloemfontein also needed a refurbishing which would cost R8m, Maduna said. - Sapa*
NEVER TOO BIG TO PAY THE PRICE FOR BREAKING ANTITRUST LAWS

By Anthony Norton and Veronica Bostock

The Department of Justice and Agriculture has announced its intention to file suit against the Public Enterprises Department for allegedly breaching antitrust laws.

The action follows a complaint filed by the National Agricultural Federation, which alleged that the department had failed to ensure competitive tendering in the supply of agricultural inputs.

The federation has also accused the department of granting preferential treatment to certain suppliers, thereby discouraging competition.

In response, the department has argued that it has always acted in accordance with the law and that the complaints are baseless.

The case is expected to go to court in the near future.

LETTERS TO THE EDITOR

Management creates its own problems.

Price fixing is illegal in South Africa,
and it is illegal in South Africa.

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and it is illegal in South Africa.

Price fixing is illegal in South Africa,
and it is illegal in South Africa.
Competition laws to put multinationals in spotlight

Growing effort in Africa aims at free trade, writes John Dludlu

IN RECENT times, several African countries have been formulating or rewriting laws that deal with competition policy.

At least 20 African countries, including SA, are known to have gone through these exercises. This area of public policy is taking centre stage in the field of economic regulation.

After revamping the Maintenance and Promotion of Competition Act, SA policy makers and academics have been invited to neighbouring countries to share their expertise. Botswana, Zimbabwe, Egypt and Swaziland have begun moves to reshape their policies.

The apparent rush shows a growing interest by policy makers in both the developing and the developed world in policing the activities of powerful multinationals and transnational corporations.

According to the UN Conference on Trade and Development (Unctad), 60 000 transnational companies own 5000 foreign affiliates, most of which have non-equity relationships with a large number of independent companies.

Unctad says that 100 nonfinancial transnational sold products worth $2.1 trillion in 1997.

With the global trend towards mergers and acquisitions, it has become urgent for the governments of developing countries to vigilant scrutinise the behaviour of these companies, say analysts.

Speaking in his personal capacity, Menel Simelane, the chief legal counsel at the Competition Commission, SA's new competition authority, says the moves by African governments also reflect the impact of globalisation and the dismantling of trade barriers.

Like their First World counterparts, African countries have been loosening trade restrictions as part of their commitment to the World Trade Organisation (WTO). These efforts are expected to bring about economic integration requiring that governments take steps to defend the benefits of free trade by dealing with anticompetitive behaviour by companies.

The present trend is also an attempt to deal with the effects of the investments made by the multinational companies in African countries, says Simelane.

For example, some companies will demand of governments that they be granted exclusive monopoly in newly privatised sectors. Such arrangements may affect the level of competition in domestic markets.

Due in part to the size of the SA economy, SA companies have often been accused of abusing their dominance in neighbouring states, hence the need by these states to draft effective competition laws.

Apart from protecting consumers and ensuring the contestability of markets, competition law traditionally seeks to either prevent or ban certain practices such as price fixing, collusive bidding and cartel and predatory pricing.

Because of the size of neighbouring markets, ifooks says dealing with the abuse of dominance by multinationals may be the challenge facing the new and existing competition agencies in the region.

SA's new law is also fashioned to deal with sophisticated and complex mergers and acquisitions transactions.

"The rise in the importance of competition law has also raised the question of where enforcement has to be located, whether there should be one single supranational body that polices companies, or if regional agreement can do the job."

The answer to this question is not easy. The WTO's 135 members have yet to agree whether to include competition policy in the next set of trade talks.

But in southern Africa, there are several possibilities. Brooks advocates co-operation by the various agencies, while Simelane, who was instrumental in writing Pretoria's new law, says regional enforcement of competition law may not be far off in the Southern African Development Community (SADC).

Of course, this will depend on regional governments' commitment.

Temptation for SADC governments to agree to joint competition enforcement may grow when the proposed free trade area is created in eight years.

The European Union governments, which wrote this function into the EC's Maastricht Treaty, have an EU-wide agency as well as national agencies enforcing competition law.

The benefit of a competition authority in the SADC would lie in the ability to police the activities of one multinational throughout the region. "It is up to companies to (then) familiarise themselves with the laws and not avoid them," says Simelane.

However, he warns that while it makes sense to have a regional authority, governments should not see this as a solution to other trade-related problems such as dumping — that is, the sale of goods in export markets at prices far below those charged at home.

Other analysts say it is important that in the interim African governments harmonise their competition laws before considering a single regional or continental body to police corporate behaviour.
Competition body holds talks with regulators

THE Competition Commission, SA's new competition policy authority, is holding talks with parastatals and independent sectoral regulators to ensure the state-owned corporations do not fall on the wrong side of the new competition law, says commission head Alastair Ruters.

Ruters said yesterday the commission had written to 21 bodies which had been granted exemptions from competition laws by the now defunct Competition Board. The board is the commission's predecessor.

In terms of transitional arrangements, these exemptions will have a one-year validity.

The commission, which began operating this month, has already held about four meetings with officials from the Transnet group at the request of the state-owned transport empire.

Transnet officials had sought clarity on the Competition Act of 1998's provisions regarding publicly licensed operations, Ruters said.

Together with Telkom, forestry company Safcol, arms manufacturer Denel and the Council for Scientific and Industrial Research, the group has been a subject of complaints by private operators who accuse the groups of unfair competition under the previous law.

The old Maintenance and Promotion of Competition Act, under which the board operated, could not adequately deal with such complaints.

The new authorities have made it clear they will not tolerate violations of public licences by the parastatals anymore.

Ruters said his body, which investigates complaints about corporate behaviour and polices mergers and acquisitions, could not act on complaints made to the old board. It had yet to receive a complaint against a parastatal.

Officials have, however, said they are aware that pressures to be financially self-sufficient have forced some parastatals to use their privileged position to generate more revenues.

The commission had asked Safcol, the independent telecoms regulator, to set up a joint working group. Talks were under way with the Independent Broadcasting Authority, the Securities Regulatory Panel and the Financial Services Board. Discussions may be held with the National Electricity Regulator.
A PACK OF QUESTIONS HUNTING A HANDFUL OF ANSWERS

The Competition Commission is in place. But confusion reigns.

Competition policy is one of the most tangled areas of economic policy, is about to be tidied up. And that is causing anxiety in the market, which has lived in relative comfort with the old intellectual Competition Board for 20 years.

There are always trade-offs between regulation and efficiency. But in SA, competition law has been complicated by past legislation. Today is the effect last month has what Competition Commissioner拄s Richard Ranta describes as features unique to SA — because it is the outcome of seven years of negotiations with business and labour.

That is precisely what women in crises among other problems. There is an evident conflict of interests in the Act. It implicitly requires the commissioner to take account of the public interest — and this includes social and political factors — as well as economic interests.

This opens the way for the commissioner to endorse mergers or practices that advance previously disadvantaged people but are anticompetitive. It also opens the way for him to block economically efficient mergers if they seem likely to increase unemployment.

However, Ranta is close on point that will reassure SA’s big companies will have a strong role in the market, because a change in the structure of the market is likely to cause concern about a bias against small companies.

"We will always take into account the market dynamics when making a decision," says Ranta.

"A serious criticism is that there is a hoard of means to be achieved. Uncertainty persists in a business environment already subject to many uncertainties, says Wits Business School professor Sool Kien.

Ranta says he and his office are accessible to practitioners and businesses who need to clarify policies. But he is also prepared to issue guidelines. "Experience in other countries shows that making guidelines before a body of case law has been built up is important. I also argue that guidelines would avoid building business certainty — this can only happen over time."

"Ranta points out that once case law comes out, the market would need to follow the guidelines. People need to know the commissioner’s views on certain issues now."

In the US, a flat fee of US$100 000 is charged. Ranta points out that small businesses in the US would have to file merger notifications at all and not large businesses that would have to pay US$1 000 000 would be charged double that same in SA.

Ranta defence of the threshold is that he has no powers to respond retroactively, so he has to be sure he pre-empt the undesirable transactions. Moreover, a lot of things happened during the negotiations as mergers and acquisitions for instance in stead of forced unbundling of entities, we settled for a lower threshold, he says.

"He points out that it is unique to stop companies engaging in mergers and acquisitions over thresholds.

As to deadlines, Ranta says the turnaround time is only 30 days and when the period expires, companies are free to proceed.

"For some companies, it is too much, Ranta says. The solution is the publication of guidelines to exclude under-concentration mergers.

"Ranta has no fears as to his office’s ability to handle the workload.

"As there are 12 people in our merger section, I think that the Competition Board had altogether. The commission has 60 lawyers economists and forensic accountants and we have more than 100 people in total.

In addition, we have the services of two international consultants from the US Department of Justice and the Federal Trade Commission and the services of an Australian consultant for six months."

Clearly some of business’s concerns can only be addressed over time.

One is whether the independence of the Competition Tribunal and the Competition Appeal Court can be compromised because the people staffing the three bodies have worked together drafting the legislation and are known to lean towards intervention.

Ranta insists the three institutions will act independently of each other. "Even when the commission people have different opinions of what competition law should be — we have 10 people who do not agree on how much more we would have to spend in this area."

The creation of two more regulators — the Independent Broadcasting Authority and the SA Telecoms Regulatory Authority — before the inception of the Competition Commission is another potential threat to the Commission.

Ranta, however, dismisses the functions. "We don’t regulate the economy. We are the watchdog of competition. The MBA and SARS regulate the players in the market. The only thing that would concern us about their role is that the Act should be applied consistently, conforming to underlying principles," and we would want to date forward through looking at the week and the week.

The fees and thresholds are not set at state but they look like being around for a while. Not at least some of the concerns surrounding the new law. This legislation is being reviewed by guidelines or public statements by the commission. This would not mean nothing unwise concern.

A few words from Ranta now could save business time money and opportunities and improve the image of the Competition Commission in the market.

The Competition Commission is in place. But confusion reigns.
Targets set for privatisation

By Shadrack Mashabane

The privatisation of state-owned enterprises will be completed by 2004 according to Public Enterprises Minister Jeff Radebe. Addressing a business dinner in Johannesburg on Friday Radebe said the Government was currently meeting its targets according to a plan announced in 1996.

He said the Government had obtained various models, such as wholesale disposal, partial privatisation and buy-out, to drive the process.

Radebe said privatisation was a complex issue and there was no one-size-fits-all privatisation model. "Our objective is to realise the optimal returns for the people of South Africa," he said.

But it turned out to be a "mischievous" privatization scheme that would cost the country R150 billion. "The sale of state-owned assets was an important policy decree, and Radebe, as part of the debate, will now move on black economic empowerment, employee share schemes and the enhancement of the competitive environment and investment into technology to promote public private partnerships."

The approach is sound and feasible. We have also established the National Framework Agreement and the Intermediation Committee to look at the social impact of the disposal of government assets. "The forums are mechanisms to customise the declining losses caused by privatisation," said the minister.

He added that South Africa was moving positively in the right direction, despite the fact that privatization had led to the loss of some jobs and even of some departments.

Radebe said:

"Our main concern is to ensure that the process is fair, equitable, transparent and that it benefits all South Africans."

THE TIMES

Competition body ‘to pay its way’

By Liesa Louw

The Competition Commission, which is currently considering a number of complaints against companies, has been given an additional R65 million to pay for its operations.

"The commission is currently considering a number of complaints against companies, and these investigations were undertaken without any additional funding," the commission said in a statement.

The commission has been given an additional R65 million to pay for its operations, which includes the cost of investigations and the payment of complaints.

This is in addition to the R100 million that was allocated to the commission last year.

The commission is also seeking to establish a new department to deal with mergers and acquisitions, which will be funded by the government.

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Privatisation often leads to corruption

By David Hall

A TRANSNATIONAL International south arm corruption conference takes place in Durban this week in time to recognize that the mothers of much recent corruption is privatisation.

Most of the multinationals involved in the recent days, scandal in Locals in a continent where corruption has been entrenched.

Politicians in Britain France Italy Spain and Belgium have been found in scandals associated with bribery in the last decade. The European Commission has to explain its role in these scandals.

Multinationals, we are told, used to using bribes to obtain contracts that they did not exist at all. Oil group BP started producing contracts multinational for bribing their officials to obtain contracts.

It is well known that multinational companies, a major source of illegal payments by group members in various locations.

A report by the French trade unionists, the Comité de Travaux en Janvier 1997 said that about 50 per cent of all payments had led to the failure of such contracts - both oil, gas and water.

Even the World Bank, acknowledging the problem, said that "most companies training can create corrupt incentives." All around the world there are reports of multinationals using bribes in building contracts.

In Indonesia, the unnecessary power in electricity and water are constant, despite the findings of Transparency International and based on extensive public pressure.

Yet the multinationals, supported by their organizations for Economic Cooperation and Development (OECD) and the World Bank, continue in the same terms contracts.

One former official of the Lebanese Highlands Water Project has been charged with taking R12 million in bribes from a French multinational company over 10 years.

Along with the change there was a severe reduction in the amount of money available for public sector contracts for five years.

James Watson, the World Bank's director, makes five speeches about the need to subdue corruption. But the practice of the bank is quite different.

It forms partnerships with multinationals while being contracted out of corruption. One example is Agnès Argieth, where the bank, through its International Finance Corporation (IFC), is an equity partner alongside L出版社s (now Swedbank) and Generali des Eaux (now Veolia), both of which have been executed convicted of bribery French public officials to win contracts in Grenoble, Reims, and Angers.

The bank helps companies keep contracts which have been obtained corruptly. Helvios, Pakistan's largest power company, is assisted by the government in clearing its contract corruption.

The World Bank has admitted that Helios' contract to sell electricity should not be affected by this, whatever the results of the investigation, and asked the International Monetary Fund to hold a bank in a meeting for Pakistan until the bank was satisfied that Helios' contract would not be cancelled because of the corruption proceedings.

In 1996, Watson announced that these had taken an international inspection company, Société Générale de Surveillance (SGS) of Switzerland, to audit bank projects for evidence of corruption in three countries: Poland, Kenya and Pakistan.

But within months, The Financial Times reported that "SGS has admitted that it paid a substantial commission to a lawyer who is negotiating a pre-shipping inspection services contract with Pakistan."

In April 1999, the former prime minister of Pakistan, Benazir Bhutto, was found guilty of accepting bribes worth R72 million from SGS and banned from holding a seat in parliament for seven years.

But SGS has not been tried for any offences in Pakistan or Switzerland, and has not been banned by the World Bank.

The bank also leads on privatization as a condition for loans - regardless of corruption allegations. In Uganda, the bank's IFC is financing 80 percent of a R14 million hydro power scheme involving multinationals.

A recent report by Transparency International said that the Ugandan government agency, Uganda Power, had been involved in corruption. But the bank has approved all allegations, including the corruption of UPA's power purchase agreement with the country, whose domestic market for energy is nascent because it is not a natural oil wealth. Taking in the background of the bank's purchase agreement between the Australian-British ABB and the government.

South Africa can lead the world by using the opportunity of Transnational International conventions to ensure that it will.

Promote all natural national bribe gazes, and follow the example of the Finnish government in improving five-year bars on all convicted groups and their subordinates and their part nationalisation.

Place a moratorium on privatization and a complete ban on negotiated contracts.

Balance the public sector options.

The conference in Durban should be:

- Urged South Africa and other countries to promote multinational bribe gazes and ban offenders from public sector positions.

- Urged the World Bank to refuse grants or partnerships to companies who have been involved in bribery.

- Review all contracts which have been involved in bribery.

- Call on the World Bank and governments to impose a moratorium on privatization and corruption.

It is time to end the international scandal of bribery and corruption.

(The writer is director of the London-based Public Services Internation Research Unit which maintains a database and publishes papers on privatization worldwide.)
Law will force business to tell secrets, but protect Cabinet

PARLIAMENT is planning to extend the scope of the new Open Democracy Bill to give the public the power to force businesses to disclose information such as the salaries they pay and how they make decisions on price increases.

And banks could be forced to disclose reasons for turning down loan applications.

But the Cabinet has ordered the Bill's drafters to exclude it from having to disclose anything, Johnny de Lange, the chairman of the parliamentary committee which began processing the Bill this week, said its provisions would be extended to include public access to privately held information. This would allow individuals, trade unions and consumer and community organisations to gain access to information often withheld by corporations.

Cosatu's Quipa Bodibe said unions could demand information on salaries and other collective bargaining issues.

"The Constitution gives you the right to food. If prices are raised in a way that deprives you of food, then you can demand information on pricing policies."

The disclosure of some Cabinet information had been included in earlier drafts of the Bill — until Cabinet instructed the drafters that it should have a blanket exclusion.

Even in the earlier version, although the Cabinet was not excluded, sensitive government information remained protected through a detailed set of exclusions. The exclusions, which are still contained in the new draft, include information which may interfere with law enforcement, harm the security of the state or international relations, or jeopardise the financial welfare of the country or the government's attempts to manage the economy.

Dene Smuts, a Democratic Party representative on the committee, said her party would fight to have the Cabinet reinstated within the ambit of the Bill.

Richard Calland of the Institute for Democracy in South Africa, one of 10 non-governmental organisations campaigning around the Bill, also questioned the Cabinet exclusion.

He said: "The question is whether the information deserves exemption. Under a blanket exclusion there'll be loads of things that the public will not be able to see."
Competition law leaves lawyers in wilderness

SOUTH AFRICA is in desperate need of guidelines regarding the implementation of the new Competition Act, which was promulgated on September 1.

Stephen Langbridge, a director at law firm Bell Dewar & Hall, says while it is important to recognise and welcome the provisions of the Act, some of it has been poorly drafted and lacks certainty.

There are also very costly implications for many companies which wish to undertake ordinary corporate activity involving mergers and acquisitions.

The main purpose is to promote and maintain competition, taking account of social objectives.

"Generally, from a practitioner’s point of view, the new Act is to be welcomed in terms of its objectives, rules and regulations, which should create more certainty in mergers and acquisitions. But there is a great deal of confusion. While the Act is meant to check anti-competitive behaviour, some of its implications are absurd if the words of the Act are given their usual interpretation," says Langbridge.

He says the definition of a merger is the main problem. The Act defines a merger as "the acquisition or establishment, either directly or indirectly, of control by one or more persons over all significant interests in the whole or part of the business of a competitor, supplier, customer or other person".

"Why bother to define the first three categories then add 'other person?'" asks Langbridge. Legally, "other" can either mean "of a like kind", or in the plain meaning of words, any other. Clearly competitor, supplier and customer are not alike and the Act is rigid.

Given the possible wide interpretation, the new Act obliges parties to notify the Competition Commission by filing an application and paying a filing fee, even if the deal does not involve an anti-competitive aspect. Employee representatives must also be informed and have an opportunity to participate in proceedings.

"Notification brings several consequences: transparency, delay and cost," says Langbridge.

There are minimum thresholds before an application must be notified. They start where the combined value of either turnover or assets of both acquiring and target firms exceed R50-million. The fees range from R5 000 to R5 000 000.

"The thresholds take no account of the size of the transaction where only part of a business is being acquired. It may be a very small part, yet the Act may require a filing fee of half-a-million rand based on the turnover of the whole business," Langbridge says. All major deals will now be subject to suspensive conditions pending approval from the competition authority. There is concern that approvals will take too long. There is no procedure for urgent approval.

"There is too much uncertainty about the Act’s interpretation, the filing fees are too high and the thresholds too low. Delays are inevitable and the Act is rigid. Failure to file could result in a fine of up to 10% of turnover, and many companies may be put off even trying."

Langbridge says without guidelines, it is difficult to advise clients. It may be best to file under protest and ask for the fee back if the proposed merger falls outside the commission’s authority.

He says transactions since last November must now be notified within three months unless approval was given by the old Competition Board. Again, the interpretation is not clear. Failure to notify may result in the merger being in contravention of the Act.

The chief executive of an acquisitive information technology company listed on the JSE says the Competition Commission requires confidential details on market shares, patents and so on that he would be loath to disclose under any circumstances.
Privatisation pains for parastatals

Unions and management are talking about how to make SA’s cumbersome parastatals more globally competitive, writes STHEMBISO MSOMI.

"Not only does Telkom’s current staff profile have an impact on overall productivity, but it contributes significantly to high operating costs with 47% of every rand in value created being spent on staff costs," says Telkom representative Amanda Singleton.

The telecommunication utility is reorganising itself in preparation for the introduction of fixed-line competition within the next three years and this has resulted in the duplication of a substantial number of jobs.

On Wednesday, Telkom concluded the first round of talks with unions. The parastatal explained its comprehensive plan to cut labour. It is not clear how many workers might be retrenched, although unions previously put the number at between 5,000 and 11,000 employees.

The Communications Workers’ Union (CWU), which represents most of Telkom’s employees, is holding its National Executive Committee meeting and is expected to announce its response to Telkom’s proposal this afternoon.

Not wanting to give away much before the NEC meeting, CWU’s chief negotiator Kathy Pillay says their main objective is to save jobs.

In the transportation sector things are more difficult. Transnet MD Saki Macozoma told parliament earlier this year that Spoornet was losing R120 million a month and expressed the need for urgent downsizing. Spoornet management has proposed the shedding of 27,000 jobs in the next three years.

A thousand jobs per month were to be done away with through voluntary retrenchment packages, but opposition by organised labour prompted government to halt the process and insist on further discussions in line with the National Framework Agreement.

Public Enterprises Minister Zoleka Mandela says alternative proposals by labour unions to the inter-ministerial committee are now being considered through NFA structures.

SA Transport and Allied Workers’ Union’s (Satawu) general secretary Johnson Gamede says unions are committed to resolving the matter through the NFA but are frustrated that Spoornet management is still telling workers to take the voluntary package even before a final decision has been made.

Economist Tony Twine of Econometrix believes the talks on retrenchments indicate a change of approach by unions. He says unions are beginning to understand problems facing parastatals.

"Downsizing is certainly unpopular with the unions but the very remote possibility of them accepting it has suddenly improved.

"Telkom unions, for instance, were very opposed to it a few months ago but the fact that they have now agreed to sit and discuss the issues indicate a change in approach and attitude," he said.

Twine says the current retrenchment plans in public enterprises and government departments are necessary.

"It might sound ironic, but for South Africa to create more jobs we need to restructure and be more competitive - and that means losing jobs in the parastatals. Creating more jobs in the current badly constructed framework will not yield the desired results," he says.
PRIVATISATION

Time is running out for Pretoria's credibility

STEWART BAKERY

The government's declaration that it would use its state asset restructuring to privatise its debt has been met with scepticism, with many doubting its commitment to the process which has hardly made any progress.

But Avia's crash earlier this year, the failed bid for Aloha and the management contract for the resorts atom to Adventure following allegations of mismanagement and nepotism, do not bode well for the government's timetable.

Gary van Staden, a political and privatization analyst at the Rand Factor, says the five-year deadline is unsustainable and if anything, the government's approach will worsen the government's position.

The procedure, as developed by the government, was estimated to be most effective if wrapped up within 100 days, while developing countries were given 200 days. The UK and Latin America were used as case studies.

South Africa is a unique case in many aspects because of the massive state restructuring that has taken place since 1994, so it would be bad to add 100 days to that total," says van Staden.

Once that timeframe has lapsed, the sale will inevitably receive less than expected bids for the assets that are up for sale. The government's credibility will be critical at between 16 and 19 percent.

Avia's failure is a wake-up call for all the resorts, he says, adding that if the government is to remain credible, it must make a final decision on the sale of assets.

At last month's Pan African Investment Summit in Ghana, Jeff Radebe, the minister of public enterprises, said the government would not privatize the resorts.

Radebe said it "would help if the government would resolve their financial problems and reach a settlement".

The government would not support the asking price and would not support the asking price and would not be interested in the government's offer of $5 million to buy the resorts.

Radebe said he had been lured by the possibility of a lump sum in the global state restructuring and eventually reselling the resorts to the government to make a final decision on the sale.

Alexander Adventure, Aloha and Sun Air could well have been used to test the government's privatization program rather than to test the government's privatization program to push a relatively unprepared government higher up the learning curve before tackling more complex ones.

That done, the time has now come for results.

The government has been paying over the sale of assets to the resorts for years, but Steven Slade, the chief executive officer of the forestry owners' association, placed the blame on the state's privatization policies.

In 2001, 80 percent of the assets were sold for just $1 billion, which was a realistic value for the assets on the market.

Sun Air did not pay $1 billion, even after it had been convinced to pay $1 billion, and was forced to pay the government for its losses.

Van Staden was not too sure of the government's ability to sell the resorts, saying that the government was not able to sell the resorts. He said the government was not interested in the resorts and would not be interested in the resort's assets.

A Merril Lynch report said that if the government was not interested in the resorts, it would be better to sell the resorts to the government for less than the market value. The report also said that if the government was not interested in the resorts, it would be better to sell the resorts for less than the market value.

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Council dismayed by union’s claims

NELSPRUIT — The Nelspruit town council said yesterday it regretted that the SA Municipal Workers Union (SAMWU) had spread untruths about the 30-year water privatisation contract won by British multinational company Bwater in April.

SAMWU said on Tuesday Bwater had begun to break promises made when it was awarded the contract. SAMWU provincial secretary Steve Shlangu said although Bwater promised to take over all water workers, they were being approached individually and told to take “early retirement” by the end of October. Bwater begins its contract at the beginning of November.

Nelspruit CEO Roelf Kotze denied the claim yesterday, saying “in terms of the concession contract, workers have to be taken over by the concessionaire on the same or better conditions of services and no retrenchments may take place.” He denied SAMWU’s claim that the concession agreement did not comply with requirements of the sectoral framework agreement. Kotze said the council twice postponed the signing of the contract during April in order to amend the document to accommodate union concerns.

It was not true that the council refused to disclose any of the terms of the contract to the union, including future water tariffs. — Sapa
Alistair Ruiters talks to MARCIA KLEIN about how he intends to create a level playing field as Competition Commissioner

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ANALYSIS

Ref who wants players to get on with it

South Africa becomes more and more insignificantly in an increasingly competitive world, one may ask whether it really needs a stronger and more powerful body to oversee competition within its borders. The issue of dominance is relatively small, so local companies need not fear a threat from global competition and, also, go out to take it on. There is also the argument that an economy of our size does not warrant a multi-billion rand players' pool and it might be necessary, for the sake of economies of scale, to have few, or a soft player in some key industries.

SA companies which have succeeded internationally are those which dominate locally. Naturally, the new head of the Competition Commission, Alistair Ruiters, thinks the commission has an important role. Last week, presenting the commission's progress since the new Competition Act came into force last month, he referred to the rugby World Cup, saying although every player is aware of the rules, a referee is needed. No points out there are different kinds of referees — those who interfere with play and those who want to get on with it. The competition also has the same situation to be dealt with. It is the government's responsibility as a custodian of the Act to impose penalties. Ruiters says he has been instructed by the number of companies which have already approached the commission. It has handled more than 400 calls and offered 20 advisory opinions. It has issued letters to 12 companies saying they might be in violation of the act. Most of the complaints come from small firms that are demanding that large companies lower prices. It also gets complaints from companies who are being priced. Importantly, the commission accepts there is no optimal market share level which will automatically deter anti-competitive behavior. In more than 50% of the industry, the top four firms control 60% of the market. In the buthe and cheese market, for example, there are 14 firms but four control 60% of the market. In the pulp, paper and paperboard market, there are five firms but the top four control 90%. In the alcohol market, the top four control 90%. The commission acknowledges these are anti-competitive companies. The Act does not have a problem with dominance but the conduct that will flow from it.

The market share figures do not include import competition so the commission might therefore be underestimating the competition in these markets. Legislation is also there to ensure SA is internationally competitive, and sometimes firms can engage in restrictive practices, like export cartels.

Ruiters says there is an expectation on the part of the public that SA will maintain its competitive spirit over time. It is to develop a credible view with a good understanding of the economy. We are not going to get a new league until next year because we have some local talent.

Ruiters seems generally positive about the relationship with the International Competition Agency. A relationship that has been successful with corporates SA. There is a healthy respect for the fact that they have been challenged, but not setting their own goals. All that breaks, but there may be a small matter of self-generation of play. But as Ruiters points out, in each deal there are numerous interested players including the teams, the agents, the managers and employees. The World Cup refrees have it relatively easy.

Alistair Ruiters wants to instill certainty

"We want to be seen as fair, honest and transparent." There is no doubt that the intention of the Act is good. As Ruiters points out, the emphasis is on anti-competitive behavior. "We do not necessarily deeply into some sensitive aspects of business. Ruiters argues that legislation is seen as punitive, but it is just that the emphasis is on anti-competitive behavior. We do not necessarily need to be brought into the early stages of negotiations. But it might have a significant impact on how businesses are regulated. There are also concerns that the commission will continue to use the Act to increase market transparency and to prevent anti-competitive practices. Ruiters argues that "The Act aims to eliminate discriminatory practices weak enforcement of anti-competitive practices and unfair restrictions on competition in the economy. We have also seen in a few cases that the Act is not being enforced. The Act should be a guideline to the courts. But in cases where the courts are too close to the issues, the courts should not be too close to the issues. Ruiters says there is a temptation to investigate a deal which invites a particular individual. Ruiters says the commission's power is limited as people have access to the investigative unit. In the appeal court, if they still feel there are things in the way the investigation was carried out, they can appeal to the higher court. But the approach is cautious. We need to have a balance of the law and we also have a Whistle Blower. Alistair Ruiters wants to instill certainty.

[Image of Alistair Ruiters]
Govt takes over SAA’s pension debt

Move could assist airline’s further privatisation and the possible sale of other Transnet units

Robyn Chalmers

GOVERNMENT has taken a crucial step in restructuring Transnet's crippling pension fund liabilities by taking over SA Airways' R1.3bn deficit.

The move lays the groundwork for the further privatisation of the airline, as well as the unbundling and possible sale of other Transnet units.

The cabinet said yesterday that it had approved draft legislation enabling the finance department to take over R1.3bn of SAA debt from Transnet. This amount consists of mainly the airline’s portion of Transnet’s estimated R3bn pension fund deficit. The move will be achieved by swapping Transnet debt securities, known as T1Is, for tradable government bonds.

SAA CE Coleman Andrews said the decision made good business sense for both the airline and government.

“We appreciate the continued support in building SAA into a world-class organisation,” he said. Transnet officials could not comment, saying they had not been informed yet of the cabinet’s decision.

Government recently sold 20% of SAA to Swissair for R1.4bn, placing an unexpectedly high value of R7bn on the domestic airline. The cabinet agreed that the sale proceeds from Swissair would be shared with Transnet.

SAA’s partial privatisation was given the go-ahead only after the state agreed last year to “warehouse” some of the airline’s pension deficit, paving the way for the restructuring of SAA’s balance sheet.

Public enterprises officials said SAA’s portion of Transnet’s debt amounted to R3bn. This meant Transnet would get the biggest slice of the proceeds from the sale of SAA.

The pension liabilities have held up the restructuring of several other Transnet units, such as rail operator Spoor-net, port authority Portnet and pipeline company Petronet. These subsidiaries are also slated for some form of private sector involvement, although government is likely to retain control of the infrastructure.

The pension problem surfaced when the former SA Transport Services (SATS) was hived off as a separate entity. Transnet, in 1990. At that time the pension fund for SATS employees was only about 22% funded.

Transnet management issued the T1Is to strengthen the funding to 64%. Since then management has used additional contributions and more debt to improve the funding level to about 90%.

Both government and Transnet management have been grappling with the pension fund liability for more than three years.

Gloria Serobe, Transnet finance executive director, has said that the group is investigating a method of changing the valuation assumptions of the pension fund to deal with the deficit. The fund is also being changed from a defined benefit to a defined contribution plan.

Public Enterprises Minister Jeff Radebe said recently Transnet was forced to raise its debt burden to fund its pension liabilities. Its total borrowings rose by about R4.2bn to R27.2bn in the two years to March 31, boosting the funding of its pension scheme to 90% from 22% in 1990.

Radebe said the debt was a significant constraint in restructuring Transnet. The debt has several components, but the biggest was the pension fund deficit and provisions for pensioners’ benefits.

The cost to Transnet of providing retirement benefits has averaged about R1.4bn annually.

This has consistently pushed Transnet into the red, with the exception of the 1998 financial year.

In the year ended March 1999 Transnet made a profit of R973m, but a R1.4bn payment to the pension fund led to a total loss of R426m.
JO'BURG'S POLITICAL BOSSES UNDER FIRE FROM WORKERS

The series of political skirmishes between the ANC-led government and public-sector trade unions on the national arena is duplicated at local government level in SA's largest city, where ANC councillor Kenny Fihla was nearly assaulted by angry workers during a protest last week.

The demonstrators in Johannesburg are the Greater Johannesburg Metropolitan Council (GJMC) and the SA Municipal Workers' Union (Samwu) backed by its ally, the Independent Municipal & Allied Trade Union (Imatu). At stake is the GJMC plan, known as Gijob 2002, to overhaul local government in the metropolis and to resolve its recurring financial crises and the associated problems of unreliable service provision and decaying infrastructure.

The plan rests on two pillars:

1. A conversion of strategically important functions fulfilled by the GJMC into commercially run utilities (water and sanitation, electricity and waste management), agencies (trash, storm-water drainage and parks) and corporations (200, Civic Centre and bus service and council-owned farms) responsible for financial viability and efficiency will rests with the CEO in charge of these entities.

2. Privatisation of unprofitable GJMC assets, including Johannesburg Stadium Metro-Gas, Rand Airport and the Fresh Produce Market.

Trade union anger at Gijob 2002 is fuelled by several factors. One is the contention that the plan has been foisted on them by the GJMC and is not a negotiated response to the problems facing local government in Johannesburg. Another is that the plan is weighted in favour of the business sector at the expense of the workers.

A third is that, as it stands, Gijob 2002 contravenes the ANC's Reconstruction & Development Programme and even the constitutional obligations of local governments to provide services to the poor.

Thus a joint Samwu and Imatu memorandum, now being studied by the GJMC, states: "The memorandum states: "The memorandum states: "The memorandum states: "The memorandum states: "The memorandum states: "The memorandum states: "The 1% is a vast for concealing for greater privatisation in the form of outsourcing and management contracts as well as the potential to privatise in future.""

Undermining and reinforcing these objections is the more direct fear that Gijob 2002 will open the way for retrenchment of workers in the name of commercialisation, aka profit-making.

As Samwu general secretary Mncedisi Mntambo notes, the CEOs of council-owned agencies and corporations will have the power to accept tenders from the private sector at the expense of the entities they are mandated to manage. Hence, he says, the danger of denationalisation of council workers and, worse still, redundancies.

Anger is rising in union circles, as evidenced by the intervention of police to rescue Fihla from the protesting workers.

Fihla acknowledges that responsible union leaders, realising they could not guarantee his safety, called on the police to intervene and escort him to safety.

He downplays the significance of the protest march, describing the turnout as "poor" — not more than 2,000 — and certainly not enough to fulfill union leader predictions of 20,000 demonstrators. He hints that council workers are generally anxious about the security of their jobs, pensions and medical aid funds but, he says, the objective is to extend services to the poorest residents and to do so "without shedding a single job."
Radebe steps up privatisation plans

Minister of Public Enterprises Jeff Radebe plans to sell R170-million in state assets by 2004

Donna Blok and Mungo Soggot report

In a move aimed at speeding up the privatisation and restructuring of state assets, the Department of Public Enterprises is not renewing its contract with the banking group HSBC Sampson Blacke the government adviser on privatisation for three years.

The department says it wants to expand its own internal brasses trust on privatisation and recruit corporate advisers for specific sell-off transactions rather than have a single catch-all adviser.

The department representative, Zandile Norden, said the work that HSBC Sampson Blacke did was likely to include the sale of R170 billion in state assets by 2004.

HSBC was appointed under the former minister of public enterprise Stella Sigcan on a R12 million a year contract. Norden said the problem with relying on one adviser was that the adviser 'could serve a number of different clients'.

"We need to be able to assess whether the advice is in our best interests. We will get specialists where we need external advice but we also need the capacity to investigate options shared before us'," said Norden. HSBC's role over the past three years would not preclude it from getting involved in privatisation deals. He said HSBC was currently working on a pending privatisation task.

Since its appointment in the June Cabinet reshuffle, Minister of Public Enterprises Jeff Radebe has indicated several times his intention to speed up the government's privatisation plans.

Apart from reporting his 2004 target, Radebe is putting ahead with plans to privatises the state forestry company, Sappi — albeit amid a lack of international interest — and also recently announced plans to sell off a string of small assets such as the Afriwa, the state abattoirs operation and some of the state's national park interests.

"Radebe also wants the proceeds of the R1.6 billion state in South African Airways (SAA) that was sold to SAA that the deal still has to be ratified by the European Union. The transaction was announced by President Thabo Mbeki at his inaugural address to Parliament, a sign of the president's own political commitment to state sell-offs.

HSBC was appointed in 1996 after much debate over whether the Department of Public Enterprises needed a catch-all adviser or separate sector advisers. The department with which HSBC had to work was widely regarded as the consortium that bought the airline.

The sale of the state s holiday resort arm, Aventura, suffered a similar fate, the union investment company that bought it could not pay for it within the agreed deadline.

And then there is the current controversy at Africair, the state diamond mine, where the current deputy minister is negociating with Sibanye, the company awarded a management contract for the mine for February.

Nations has to date failed to comply with its contractual obligations, and has now lost the key empowerment company in its consortium — Makiti Mining, the company owned by Bridgette Radebe, the minister's wife, who has pulled out of the contest.

Radebe's department has been accused in the press for being successively eaten by Sibanye, but it has a good excuse. The contracts drawn up by Sibanye's department is hopefully vague in crucial areas, especially when how and when Sibanye must comply with their contractual obligations.

One indication of the low esteem in which Sibanye's department is viewed was that Radebe brought his director general and other key civil servants from him previous portfolio, public works.

As a staunch member of the South African Communist Party, Radebe will be well placed to deal with the inevitable union hostility that will meet the government's privatisation drive.

HSBC did not respond to numerous requests for comment.
EU expert says SA’s new competition law is flawed

Belinda Anderson

SA’s new competition law, relating to corporate dealmaking, is flawed and will have to be amended, says a European Union (EU) expert.

Frank Fine, a Brussels-based competition lawyer at Dibb Lupton Alsop, said chapter three of the new legislation would have to undergo changes. However, he said this was normal in any country starting to formulate competition policy.

Speaking at a seminar organised by Board of Executors (BoE) yesterday, Fine said the issue of timing was the most confusing aspect of the legislation.

"The deadlines are the most ad hoc, convoluted and confusing I have ever seen in any antitrust legislation," he said.

The Competition Commission must reach a decision on whether mergers are anti-competitive within a certain time depending on the size of the deal. Industry players fear the process could be drawn out.

An intermediate merger, when the target firm has SA assets or turnover above R5m, must be decided within 30 days, although this can be extended by a further 60 days.

A large deal, when the combined SA turnover and/or assets is more than R3.5bn, must be handed to the Competition Tribunal by the commission within 60 days. This can be extended 20 days at a time, and the former must set a hearing date at its discretion.

Fine recommends that firms put pressure on the tribunal to set the earliest possible date.

Another cause for concern is the time allowed for merging parties to submit details to the commission, seven days after the conclusion or announcement of the deal.

"In the case of a large deal such as Nedcor/Stanbic, the paperwork is likely to take a lot longer," Fine said.

The EU, on which much of the SA legislation is modelled, has granted extensions of up to 30 days in the past.

A further difficulty illustrated by the Nedcor/Stanbic deal is the hostile nature of the acquisition. The SA act makes no provision for hostile takeovers or joint ventures.

Nor does it include a situation of corporate raiding, where one firm buys a controlling stake in the shares of another over a period of time. Fine says this is a "major hole in the act."
Competition Tribunal faces its first test

Dispute between two raisin producers could have a wider impact, writes S'THEMBISO MSOMI

THE legal dispute between two raisin producers, currently before the Competition Tribunal, could have a serious impact on other major companies who have dominated the agricultural sector since it was deregulated.

The conflict is between SAD Holdings, which controls most of the raisin market in SA, and South African Raisins (SAR), a fairly new company which exports locally produced raisins.

SAR has filed a complaint to the Competition Commission alleging that several agreements between SAD and grape producers have had the effect of excluding it from the market, and that SAD and its subsidiary, SA Vine Products, have abused their dominant position in the market.

SAD Holdings was established in the wake of the demise of the Dried Fruit Board after the repeal of the Marketing Act, which encouraged single-channel marketing in the agricultural sector. Prior to the repeal of this Act, the processing and marketing of dried fruit was the exclusive statutory preserve of the SA Dried Fruit Co-operative, which acted as the agent of the board.

Now SAR claims that although the industry has been deregulated, SAD and SA Vine Products have been guilty of prohibited restrictive practices.

Similar claims were made two weeks ago by the Independent Fruit Exporter/Producer Association against industry giant Cape-span. SAD and SA Vine Products MD Danie van Schoor told the Competition Tribunal last week there would be serious consequences for other leading agricultural companies should SAR's application succeed.

The tribunal, established as the adjudication agency in terms of the Competition Act, will announce its decision on Wednesday on SAR's application for an interim relief against SAD and its subsidiary. This is the first case to come before the tribunal since it was established in September and its CE, Shan Rambruth, says the tribunal wants to use it to create a reputation of being quick and responsive.

In terms of the new law, a complainant can apply for interim relief if it believes it will continue to suffer irreparable damage in the course of investigations by the commission.

In its application, the SAR wants the tribunal to suspend those parts of the articles of association entered into by SAD and grape producers which prohibit the latter from selling their products to any other raisin distributor.

Most local producers are SAD shareholders and are therefore obliged to sell their grapes to the company. SAR claims that several of these producers have indicated their willingness to sell grapes to the new company but fear being penalised by SAD.

But Van Schoor argued before the tribunal — consisting of chairman David Lewis, Christine Quata and Prof Frederik Fourie — that shareholders were free to sell their stakes if they wanted to sell their products elsewhere.

SAR's legal representative, Advocate Lionel Bowman, said many could not afford to do so because of a ruling by SAD that a shareholder who wanted to leave would have to settle any loan he may have with the company in full.

SAR also wants the tribunal to order SAD to allow its members the freedom to use its existing storage containers even if the grapes are to be sold to another company. SAR says the containers were bought with compulsory contributions by producers.
Commission responds to frustration at M&A notification threshold

Public comments to change competition act

STEWART BAILEY

Johannesburg - Alastair Ruters, the head of the Competition Commission, said this week changes to the Competition Act of 1998 would be made early next year in response to comment from interested parties.

The threshold at which companies were obliged to notify the commission of mergers and acquisitions (M&As) had been a contentious point since the law was enacted.

"At present we look at the turnovers of both the primary and target firms, as well as their asset values, when determining if an application must be made. There has been some unhappiness at the notification threshold as well as the fee structures, which has prompted us to respond in line with recommendations made by industry," he said.

Ruters said the amendments would first have to be approved by the minister of trade and industry.

"We are providing a service to business and are not here merely to provide more red tape," said Ruters.

Turnover or total assets of the target firm which would prompt notification had been set at R5 million. The combined assets or combined revenue of both target and primary firms together was R10 million.

This had made it expensive for large firms to apply for approval of acquisitions regardless of the size of the target companies or the competitive implications of the deal.

Companies in the highest turnover-asset bracket had to pay as much as R500,000 for each application regardless of the size of the company acquired, as long as it had assets or turnover of over R5 million.

Gareth Driver, a competition specialist at law firm Werksmans, said the solution would be to increase the application thresholds.

"Clarifying certain definitions in the act would also be helpful," Driver said.

"The fact that M&As which do not have competitive implications are not excluded from the notification process have proved problematic to many investors, particularly foreigners," said Driver.

A corporate banking source, who agreed, and recommended that the primary consideration in determining application fees should be the size of the deal, not the size of the acquiring company.

Menze Simeane, the chief legal counsel for the commission, said changes were being considered.

"The competitive implications will not be considered in determining application fees. Competitive issues will only be used as analysis guidelines to determine whether or not the transaction will be approved," said Simeane.
Hillary Joffe

A SMALL raisin producer, South African Raisins, has won an interim order from the new Competition Tribunal against SAD Holdings, the former agricultural co-operative, and its subsidiary SA Vin Products, which were accused of preventing grape-growers' entry into the market.

The order, which is for six months and is in the competition authority's equivalent of a high court interdict, is the first judgment the tribunal has delivered since it was set up in September under the new Competition Act.

Tribunal chairman Dave Lewis called on companies yesterday to accept regulation by the competition authority as a fact of life. "Instead of ignoring it or imagining that merely legal framework will see it off, either think seriously about how you adjust business behaviour in the sense of responding to the reality of the new regime," he said.

The tribunal has handed down several rulings since it started operations, including interim relief in two cases. In both, it ordered that companies stop performing certain activities.

In one case, it granted interim relief to SA National Wine, a company that was accused of anti-competitive behaviour.

The case involving SAD and SA Vin Products was heard by a Competition Commission last year. The commission found evidence that SAD had engaged in anti-competitive conduct, including imposing a quota system that prevented grape-growers from entering the market.

The tribunal has issued an interim order, pending a full hearing of the case, to prevent SAD and SA Vin Products from implementing the quota system.

The tribunal also ordered SAD and SA Vin Products to cease related conduct, including the sale of quota points and the provision of financial assistance to grape-growers.

The order has been welcomed by grape-growers, who have long complained of being excluded from the market.

Comment: The tribunal's decision to issue interim relief is a significant step towards ensuring fair competition in the raisin market.

Tribunal finds SAD and subsidiary abusing their position in raisin market

Protesting that in the past, SAD has not been fair to grape-growers and that it has prevented them from entering the market, a group of grape-growers has filed a complaint with the Competition Tribunal, alleging that SAD and SA Vin Products have been engaging in anti-competitive conduct.

The tribunal has found that SAD has been abusing its dominant position in the market by imposing a quota system that prevented grape-growers from entering the market.

The tribunal has ordered SAD and SA Vin Products to cease related conduct, including the sale of quota points and the provision of financial assistance to grape-growers.

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Comment: The tribunal's decision to issue interim relief is a significant step towards ensuring fair competition in the raisin market.
iGoli 2002 will send Jo’burg down the drain

The Greater Johannesburg Metropolian Council’s plan to rejuvenate the city is nothing more than a localised version of Gear in which privatization is central, writes Ebrahim Harvey.

The most tragic thing about the Greater Johannesburg Metropolian Council’s (GJMC) iGoli 2002 plan is that it is not the council’s 29,000 employees who will be adversely affected by the privatisation drive. Many poor communities rely on the provision of basic services — electricity, waste collection, water, sanitation, and so on — will be.

What lies at the heart of the iGoli 2002 plan and the growing conflict is the manner in which the council has responded to the demands of the latter and to the increasing concerns of privatization. The term "privatization" means nothing to the latter and to the increasing concerns of privatization. The term "privatization" means nothing.

As the biggest and most powerful city in South Africa and the region, Johannesburg is very important for our future. We urgently need a plan to renew a city which has faced a growing crisis over the past few years. We need more efficient and effective delivery of services to communities. The units, led by the South African Municipal Workers’ Union, and others agree with this.

But the most pressing question right now, which threatens to overwhelm the crisis, is the iGoli 2002 plan which is poised on privatization.

How can the city be saved when it is in a foreign crisis and contrary to the denial by the council’s head of transformation, Kon dhla Ngxumza, the plan is a serious threat to the city’s social and economic future.

The plan involves the divestiture of the city’s assets, such as its water and electricity utilities, to private companies. This will have far-reaching implications for the city’s residents, particularly the poor.

The iGoli 2002 plan aims to transfer the ownership and control of these utilities to private companies, which will be able to exploit their resources for profit. This will result in increased tariffs and reduced services, as well as decreased accountability and transparency.

The council’s failure to adequately consult and involve the affected communities has led to widespread opposition and protests. The privatisation drive has been met with resistance from both the city’s residents and civil society organisations.

The council’s justification for privatization is often based on the need to attract investment and improve service delivery. However, this is often at the expense of the city’s residents, who are forced to pay higher tariffs for services that are of lower quality.

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Privatisation accelerated

Telkom counts days to listing while bidders are chosen for state forests

The meeting followed a workshop on privatisation attended by President Thabo Mbeki. Government officials said Mbeki made it clear privatisation was a key facet of government’s macro-economic policy, and the acceleration of the programme was a priority.

Radebe and Telkom would be listed on the Johannesburg Stock Exchange in two years, ahead of its telephone monopoly existing in May 2002. The possibility of the government releasing the state to the market has not been finalised but analysts believe the state will retain a majority stake in Telkom in the short term. US-based SBC Communications holds 18% of Telkom and Telkom Malaysia 12%. A further 5% is earmarked for the National Empowerment Fund.

The Communications Minister, Manto Tlotlisa, said 3% of Telkom had been sold to four empowerment companies for R100m and the sale of a further 2% to Telkom staff for R200m was approved. This will bring in R150m and reduce the state’s share to 50%.

The empowerment companies that bought 3% of Telkom were Urgewal Holdings, Mhlanga Investment Holdings, New Horizon Group and Alphawise. Radebe also said Gemini Consultants had been appointed as advisers on the restructuring of the IBC Broadcasting Corporation.

Water Affairs and Forestry Minister Ronnie Kasrils said preferred bidders were selected for three commercial forestry packages in the Cape and one in KwaZulu-Natal. These were the Transvaal Consolidated Antholz Timber Holdings, Bopdfu Forest Products and the M Suzanne Corporation which includes Mndz The African Forestry Consortium, which included Sappi and was unsuccessful for the Mkuwhalanga forests, did not succeed with its bid.

Kasrils said work would now begin on finalising the sale process, and he hoped to make further announcements next month. These transactions will ensure greater competition in the forestry and sawmilling industry. Black empowerment groups will become more significant players in this sector of the economy, he said.

Radebe said the cabinet committee approved the sale of Denel’s low-end arm Ronase Park and the sale of Denel/Africa’s 50% stake in Debit IT Services SA. The committee also approved a R1bn loan facility from BofA, to a merchant bank for Almub.

The privatisation of perennial risk insurer Sanlam was expected to be accelerated and would start immediately. Government hoped to receive at least R1.2bn from the sale, over and above the R1.7bn of tax reserves transferred to the state.

Heady

DAVE SAUWER
PUBLIC CORRESPONDENT

Government moves to speed up privatisation have come under fire from the opposition Democratic Party as inadequate.

"Restructuring announcements do not go far enough to capture the imagination of international investors," said Bannette Taljaard, DP spokesperson on public enterprises.

Jeff Radebe, Minister for Public Enterprises, announced yesterday that Telkom, of which 18% was sold to black empowerment companies, would be listed on the Johannesburg Stock Exchange in two years.

"The SA Special Risks Association (SARSA) was also sold in 2001, but the government had to violate SARSA," said Radebe. "Four preferred bidders have been chosen for the state's commercial forests, currently controlled by Safcol and Forestry and Sawmilling Industry. Black empowerment groups will become more significant players in this sector of the economy." he said.

Taljaard said privatisation and labour market reform needed to go hand in hand. They were "the missing links" of the government's macro-economic policy.

She added that privatisation was essential if South Africa's growth rate was to be lifted above its current 1.8% to the path of accelerated prosperity for all our people and not merely selected economic empowerment partners.

While the announcements about Telkom, Safcol, Sanlam and Denel were to be welcomed, some "tough and hard" questions still had to be asked, she said.

These included issues like the demand conditions the government put on contracts affecting limiting profits.

Ms Taljaard also thanked the government for what she termed its "fearless" bid that it was best placed to carry out a "courageous strategy" for harmonious transport transport in Transnet.
Cabinet privatisation watershed

Howard Barnell
and Barry Steenkamp

The decision by top government leaders at an all-day meeting in Pretoria on November 29 to accelerate privatisation of state-owned enterprises is of great political and economic importance, according to officials who were present.

The meeting represented a commitment by the government to economic restructuring — whatever the pace that conflict within groups in the Congress of South African Trade Unions and the South African Communist Party.

The main goal set out at the meeting was to ensure that in a few years, re-structuring would enable it to be able to reduce government deficits and create an environment for economic growth.

At the same time, the government is determined to use the restructuring to reduce funds for the recapitalisation of state-owned enterprises and reduce the national debt.

The first phase of the process involves creating a small equity and management package with black empowerment components. While opposition representatives have said that the government needed to do more, they have also acknowledged that restructuring in the past has not always been up to the financial resources to do this.

This should make it easier for the government to maintain the fiscal discipline that forms the basis of its policy for growth, employment and redistribution while improving service delivery and social protection.

Restructuring costs over the past five years have brought in R105 billion. Preliminary estimates of the value of state-owned assets available for restructuring are around R100 billion. An auditor said that the Department of Finance should be restructuring that could earn about...
Cosatu wants changes to IDZ regulation

FRANK NXUMALO
LABOUR EDITOR

Johannesburg - The submission by Cosatu, the union congress, on draft legislation governing Industrial Development Zones (IDZs) called for fundamental changes to reduce the role of private companies and to make the programme more state-driven.

Cosatu said yesterday regulations were needed to set out a clear role for parastatals in relation to IDZs.

"If the establishment of any IDZ results in the use of state assets or services under privatised conditions, via concessioning, sale, leasing, public-private partnership, then these issues should be processed via the National Framework Agreement process first," Cosatu said.

"The list of requirements for applying for a provisional IDZ operator permit should be expanded to include a demonstrated commitment to best practice labour standards, the development of the area around the IDZ, and to substantial employment generation. The business and other plans stipulated in the draft regulation should also provide for the concrete meeting of these commitments.

The awarding of an IDZ operator permit should depend on projected direct and indirect employment arising from the IDZ, including a breakdown of the types of jobs, their sustainability, and the proportion of jobs expected to go to women.

The present provision for the withdrawal of an IDZ operator permit if the objectives set out in the business plan were not reached should also apply to the failure to meet the employment generation projections.

Cosatu also proposed the addition of a clause prescribing that IDZ enterprises honour bargaining council agreements.

"Cosatu proposes that health and safety standards should be jointly formulated and agreed to by the IDZ operator and the relevant trade unions, rather than being the sole responsibility of the IDZ operator as is currently envisaged by the draft regulation."

Transnet restructuring to focus on loss-making Spoornet, says Radebe

STEWART BARKLEY

The government yesterday announced restructuring plans for Transnet, the loss-making national transport company, which included the introduction of a strategic equity partner for Spoornet's lucrative iron and coal business.

Jeff Radebe, the minister of public enterprises, said at a press briefing yesterday that Transnet management had been informed of the pending changes.

Spoornet lost more than R1.6 billion in the six months to September this year.

Radebe said the partner would be sought for Spoornet's iron ore line between Sishen and Saldanha Bay (Graaff), as well as its coal lines to Richards Bay (Coal Link).

"We will initiate the process of identifying strategic equity partners in how to manage Spoornet by September 30 next year," he said.

The two wide gauge lines are Spoornet's most lucrative and have guaranteed contracts tied in by long-term contracts with mining houses and iron.

Spoornet management would also be "impressed" to focus on general freight business and main line passenger services.

This included the appointment of a new chief executive.

Spoornet would be considered for an equity partner if it has a market value of at least R10 billion.

"We are in discussions with interested parties on the future of Spoornet, but have not yet entered into any agreement," said Radebe.

The government would sell its R3.6 billion stake in Spoornet to a strategic partner, which would not necessarily maintain a controlling interest.

"We are in discussions with potential partners, including the business community," he said.

Radebe said that the government would also consider an equity partner for its coal business.

"We are open to the idea of inviting an equity partner to assist with the management of the coal business," he said.

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Why the renewed push for privatisation?

Govt has made it clear to international investors that it is serious about selling assets, writes associate editor Robyn Chalmers.

Parastatal gearing
Debt to equity

Parastatals continue to run up debt as they attempt to prioritise their financial stability. The government's privatisation strategy is aimed at reducing the burden on the state and making these entities more efficient.

The state is faced with the challenge of balancing the need to invest in infrastructure with the reality of limited resources.

This has led to a renewed push for privatisation, with the government identifying several key areas where it believes privatisation could be beneficial.

In the transport sector, for example, the government is considering privatising state-owned transportation companies to improve efficiency and reduce costs.

In the telecommunications sector, the government is discussing the possibility of privatising state-owned telecommunications companies to improve service quality and reduce costs.

In the energy sector, the government is considering privatising state-owned energy companies to improve service quality and reduce costs.

The government is also considering privatising other state-owned enterprises in the retail, tourism, and mining sectors to improve service quality and reduce costs.

The government's privatisation strategy is expected to provide a boost to the economy by attracting foreign investment and increasing competition.

The government is also expected to use the proceeds from privatisations to fund social programs and infrastructure projects.

The government's privatisation strategy is expected to be successful in reducing the burden on the state and improving service delivery to citizens.

The government is expected to continue to pursue a strategy of privatisation to ensure the sustainability of the state-owned enterprises.
Gordhan bets R1m on privatisation

STEWART BAILEY

Johannesburg – Ketso Gordhan, the chief executive of the Greater Johannesburg Metropolitan Council, has issued a R1 million challenge to unions trying to block his plan to privatise the city's assets.

Gordhan said yesterday he would give the South African Municipal Workers Union (Samwu) R1 million in cash if it found more favourable conditions than those offered to workers by the council.

He said the council had given Samwu a binding undertaking that no retrenchments would be made for three years after the sale of the assets. “If they (Samwu) can find an employer anywhere else in the country with a better offer we will match their offer and give the union R1 million in cash,” Gordhan said.

Samwu and the council have been locked in arbitration over the sale of key assets by the council as part of its iGoli 2002 restructuring plan.

Last week's sale of Metro Gas for R110 million to the Egori Gas consortium drew strong criticism from Samwu.

Anna Weekes, Samwu’s spokesman, said the council had refused to explore any of the feasible options to turn the utility around.

“Their managerial incompetence has meant that Metro Gas has become inefficient, yet they have refused to discuss any managerial solution to the problem,” Weekes said.

She added that the Transformation Lekgotla, the body tasked by the council with driving the privatisation process, had undermined a framework agreement on privatisation which stated that the socio-economic benefit of the people must be the driving force behind privatisation.

“The main thrust of our campaign is to secure service provision for those communities which previously had no access to basic services. Job security is not the primary aim,” Weekes said.

Gordhan said the council had informed the union of plans to privatise Metro Gas two weeks ago.

“We explained to Samwu exactly where we were with the process around Metro-Gas,” said Gordhan. The mediator announced that final views on the sale were to be provided on Monday (last week) and we received nothing from them.”
Navigating the regulatory minefield

ANN CROTTY

Johannesburg—Section 3 (1) d is one of the briefest and easiest to read sections of the Competition Act. It is deferential and seems almost innocuous. It has, however, created what Alistair Ruters, the outgoing competition commissioner, described as a very unhappy state of affairs. Legal sources said it also led to an unexpected degree of uncertainty.

This uncertainty prevails despite the application of section 21 (6), which refers to the Competition Commission’s responsibility “to negotiate agreements with any regulatory authority to co-ordinate and harmonise the exercise of jurisdiction over competition matters within the relevant industry or sector and to ensure the consistent application of the principles of this act.”

Even without the battle between Nedcor and Stanbic it is highly likely this section of the act would have been amended or even deleted within the next six months.

Deletion of section 3 (1) d would imply that the jurisdiction of the Competition Act is without exception. By contrast, an amendment to the act would probably provide for the Competition Act to have concurrent jurisdiction with other regulators.

Nedcor may be able to make a strong prudential argument in support of the merger that might persuade the competition authorities to give approval with some amendments.

But legal sources said if there were serious competition-related considerations, including public interest issues, it would be difficult to say what such an argument would be.

"Nedcor certainly cannot make the ‘falling arm’ argument, perhaps Nedstan would enjoy a significantly reduced cost of capital, but there is little evidence internationally of such benefits being passed on to the public," one competition lawyer said.

The lawyer said that being a global participant was persuasive in some instances—such as the Sasol bid for AECI with regard to their combined ammuniton operations—but in many cases such as AECI/Sasol’s combined explosives’ operation—"it was far from persuasive.

Ruters said on the basis of the commission’s three-month history, he would prefer to see section 3 (1) d deleted. He referred to advances made by Australia, where the competition authority had jurisdiction and there were no sectoral regulators. "We need to be clear why we need a separate regulator, it is understandable in the case of something like airline safety but wherever it exists we must define its mandate specifically.”

If this tougher stand was applied to the Nedcor/Stanbic battle the Competition Tribunal would have the final say. But that could be appealed in the Competition Appeal Court.

One thing is certain—a final outcome for Nedcor and Stanbic is a long way off.
Unions slate Govt over plan for Eskom

By Mzwakhe Hlangani
Labour Reporter

A major rebuff to the Government's accelerated privatisation of electricity, labour unions have criticised it as a step to undermine the objectives of reconstruction and development programme.

The unions claimed the restructuring of electricity industry and incorporation of Eskom into companies Act of 1973 would have disastrous effects and thus result in high electricity costs which cannot be afforded by poor communities.

Public Enterprise Minister Jeff Radebe announced recently that the Government would recapitalise state-owned enterprises, including Eskom, and improve their governance as part of new plans that could ensure "a substantial injection into fiscus."

Radebe said it was necessary to speed up the unbundling of Eskom by splitting up the business units of generation, transmission and distribution for improved business efficiency.

Meanwhile, Minerals and Energy Affairs Minister Ma Phumzile Mlambo-Ngcuka has said the Government's vision was to optimise the electricity supply industry and provide adequate, reliable and quality low-cost electricity for all.

SA president Mr. Mbeki said Eskom's recent application for a seven percent increase in electricity tariffs vindicated the labour unions' position that incorporating Eskom into the companies Act will reverse the realisation of universal household access to electricity.

The restructuring process of the industry had not been researched thoroughly and was not transparent enough, the union claimed. They also charged that it was fraudulent since state assets were critical for the delivery of basic services to the poor, Tom said.

The Congress of South African Trade Unions objected to the privatisation of the electricity industry in a recent submission to the parliamentary committee and urged the Government to reconsider its position on Eskom.

National Union of Mineworkers general secretary Mr. Gwede Mantashe said the union believed Eskom should be restructured to focus on improving efficiency levels rather than privatisation. He said public utilities should give the Government the leverage required to enhance transformation.

A dispute has been declared with the Government on privatisation and the Government has been unreasonable in dealing with the unions on this issue, Numsa said.