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TRADE & INDUSTRIAL POLICY STRATEGIES

WORKING PAPER

THE IMPACTS AND OUTCOMES OF BBBEE A PRELIMINARY ASSESSMENT

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CONTENTS

KEY FINDINGS

This working paper provides an initial overview of the impacts and outcomes of the Broad-Based Black Economic Empowerment (BBBEE) policy. It also draws on business responses to a questionnaire to gain insights into the implementation process. The Ministry of Trade, Industry and Competition, Business Unity South Africa and its member associations, and the Manufacturing Circle assisted in reviewing and circulating the questionnaire.

BBBEE essentially aims to overcome the profound inequalities in terms of race, gender and class in ownership and power that were entrenched under apartheid. This task is a prerequisite for both social cohesion and for stronger economic dynamism and innovation. BBBEE was structured to give individual businesses considerable leeway in deciding how best to achieve this aim. To that end, it sets outcome targets in different areas, and then lets enterprises decide which dimensions to prioritise and how to pursue the targets.

Analysis of the available data, reports from listed companies, and inputs from business respondents point to improvement over time in all of the dimensions targeted by BBBEE – namely ownership, management control, skills, support for suppliers and other enterprises, and socio-economic development. Among others, companies with their main listing on the Johannesburg Stock Exchange (JSE) report a trillion rands worth of black-owned equity (at book value). Moreover, the number of black-owned formal businesses doubled from 2002 to 2019. The representation of black people in management, executive and professional positions has also improved, but achievements in this area lag well behind the other dimensions in the BBBEE scorecard.

BBBEE also succeeded in giving business considerable freedom to seek efficient and innovative ways to comply, as reflected in the very different patterns of achievement across companies and industries. An unintended consequence, however, is that companies which do not sell to government entities or need licences have tended to lag behind on transformation. Moreover, the process leaves it to businesses to manage complex trade-offs and risks about how best to adapt to and report on BBBEE requirements. This burden has been lightened somewhat over the past 15 years with the development of a range of support systems and expertise.

This initial study points to the importance of more in-depth and consistent analysis of the impacts and outcomes of BBBEE. Outcomes-based monitoring requires a step beyond the regular analysis of companies' progress against the specifics of the scorecard. It would entail a periodic review of how economic power has evolved in terms of race, gender, market concentration and, within companies, workplace relations. Such an evaluation demands that government be more specific about the desired end-state and its alignment with the overarching economic aim of inclusive industrialisation.

In this context, a central point of contestation has long been how the benefits from increased black ownership and control should be distributed between stakeholders – in particular, between established investors, emerging business owners, employees, communities and the jobless. Typically, in the initial BBBEE deals, various kinds of black-owned groupings bought shares in existing listed businesses. That raised the concern that a few individuals would capture most of the benefits of transformation. In the past five years, however, it appears that listed businesses have increasingly met ownership targets through institutional investors ("mandated investments") combined with employee and community trusts. Still, even these more broadly held investments principally benefit black people in the most prosperous 20% of households, since lower-income groups have virtually no financial savings.

In two other areas, the BBBEE scorecard does not align well with national policy aims. First, its targets do not take local procurement into account. Regulations to ensure preference for South African producers were published five years ago, but were suspended indefinitely. Second, there has been a gradual weakening of incentives to promote more equitable workplace organisation and career mobility for lower-level workers. Most recently, in December 2019, 40% of the skills development points were reallocated to incentivise increased funding for bursaries for tertiary students, effectively reducing the points provided for skills development for employees and unemployed people.

In terms of the implementation process, the analysis underscored the extraordinary complexity of the scorecard. It incorporates four separate scoring techniques, including minimum thresholds for some priority areas; the points allocated to each target; percentage scores for each target that can exceed 100%; and bonus points for some targets. The complexity in itself makes it difficult for many ordinary workers and managers to understand the process and by extension to support and implement it. Moreover, the detail means stakeholders often focus narrowly on technical details, and lose track of progress toward priority outcomes. Finally, the complex reporting requirements and calculations add to the administrative burden of compliance.

A further problem is that the scorecard was developed initially to evaluate listed companies, which can attract financial investors and whose legal form is designed to accommodate changes in ownership. It is less suited for unlisted businesses of all kinds, including small enterprises but also professional partnerships and state-owned enterprises. Small and medium formal businesses, in particular, often find it difficult to identify potential black investors or partners, and many are not large or profitable enough to attract them.

Because the BBBEE Codes have such a significant impact on businesses, any change adds to uncertainty and costs. That means policymakers need to get the balance right between fine-tuning specific measures and maintaining a predictable framework for producers and investors. Most recently, the change in points to incentivise higher spending on bursaries was enacted in the middle of the financial year for many businesses, effectively lowering their scores retroactively.

Finally, the current rules on mandated investment require companies to obtain expert opinion on the share of black ownership in institutional investors. It would be less administratively burdensome and more reliable if the institutional investors began to track the race and gender of their clients and members.

1 AIMS

This working paper provides an initial review of the available evidence on the outcomes and impacts of the BBBEE strategy. To that end, it evaluates the BBBEE Codes against their core objectives – representivity in ownership, management and skilled occupations; support for suppliers and other small businesses; and skills development.[1] In addition, it analyses the BBBEE ratings achieved by industry. When possible, it estimates the value of the impacts and outcomes. Based on the analysis, the final section notes areas where implementation could be better aligned with the over-arching aim of inclusive industrialisation.

2 METHODOLOGY

The evaluation relates mostly to the main impacts and outcomes desired from BBBEE.[2] By definition, the impacts are affected by a host of factors beyond the regulations. They range from national and global economic trends to other policies and the unequal circumstances left by apartheid. From this standpoint, an evaluation of impacts indicates where BBBEE has fallen short of its broad socio-economic objectives, for any reason, rather than asking how well it was implemented.

The analysis draws on official statistics; the Annual Reports of listed companies; and responses to questionnaires from businesses. The questionnaires were distributed by the Ministry of Trade, Industry and Competition with support from Business Unity South Africa and its affiliated business organisations, as well as the Manufacturing Circle.

Statistics South Africa does not publish overall ownership figures by race, but its labour force surveys report on the number of employers and self-employed people. These surveys also provide information on representivity by occupation level and industry. Data on listed companies' BBBEE ratings and their annual financial outcomes are available from Who Owns Whom through its interactive dataset.

The business questionnaires were circulated in July 2020. As of 21 July, 21 listed companies and 30 unlisted businesses had responded in detail. Three other responses were too incomplete to be useable, and two business owners sent notes with their views rather than filling out the questionnaire. Qualitative differences emerged between the listed and unlisted respondents, so they are analysed separately in most cases. The average employment in the listed respondents was 12 000, ranging from 300 to 31 000; the average employment in other responding businesses was 330, ranging from seven (in a boutique financial services firm) to 3300 in a multinational subsidiary.

The limited number of responses means that the findings cannot be extrapolated to quantify the effects of BBBEE. In effect, they constitute a large group interview, which gives important insights into individual business experiences but does not provide the basis for quantifying overall impacts or outcomes. Moreover, the sample is biased, since responses were much less likely to come from managers or owners who oppose BBBEE in principle or who operate in industries with little pressure to comply. The responses lean toward companies that depend on government procurement or BBBEE-aligned licences (mostly mining, fishing, forestry and water), or that are committed to transformation.

[1] Socio-economic development, which accounts for five points in the BBBEE scorecard, was not included due to lack of time.

[2] Impacts refer to the broad socio-economic changes targeted by a policy, which are typically affected by a host of other economic and social factors in addition to the policy itself. Outcomes are the high-level changes that the policy itself brings about. For instance, the outcome of requiring drivers to get a licence might be measured by the share of drivers with a licence; the impact would be a reduction in car crashes.

3 THE OBJECTIVES OF BBBEE

This section unpacks the objectives of BBBEE as the basis for evaluating its impacts and outcomes. The strategy's core aim is to eliminate racial inequalities in economic power, income and opportunity. To achieve that end, it addresses some of the systemic foundations of racial, gender and class inequality in South Africa.

In 1994, at the transition to democracy, South Africa was one of the most unequal countries in the world. In particular, payscales and ownership of assets of all kinds, both businesses and personal property, were unusually inequitable compared to the rest of the world. Moreover, only four out of 10 adults were employed, compared to the global norm of six out of 10.

Racial, gender and class inequalities were entrenched systematically by apartheid in order to secure "European" standards for a minority. The main instruments were the following.

1. Black, and especially African, businesses and farms were heavily constrained, informalised and often shut down throughout the era of colonialism and apartheid. As a result, in 1994 the owners of capital and especially large businesses were almost entirely white. White men controlled most major productive assets across the economy, as well as the bulk of financial savings and personal property in the form of housing and land.

2. Workplace organisation was designed to enable higher incomes for a few skilled people by holding down returns to most workers. Most jobs – notably in agriculture, domestic work, mining and construction – were labelled as unskilled, with virtually no systems to acknowledge workers' competencies or define a pathway to promotion.

3. Deep inequalities in the educational system based on race and location, as well as limited access to certified skills development, effectively constrained the supply of skilled people and meant they were disproportionately white. That in turn reinforced pay differentials, effectively inflating the returns to workers who were able to get formal qualifications relative to others.

4. The destruction of black businesses stunted the institutions needed to support emerging, dynamic and small business. Credit, training, marketing and procurement systems were biased toward established big businesses, with few offerings suitable for small and emerging producers. The closed systems that resulted enabled discrimination against black and women entrepreneurs, as well as stifling innovation.

Once entrenched, these systems tended to persist even after the transition to democracy and the elimination of overtly racial laws from 1994. The resulting inequalities impose enormous hardship on the majority of South Africans, who are more likely to be jobless, often earn too little for a comfortable life, and mostly lack much in the way of productive or financial assets.

Inequitable systems also slow down economic growth and deepen social divisions. Unusually deep and unjustified inequalities undermine the legitimacy of economic relationships and democracy itself, leading to continual protest action in workplaces and communities. They fuel contestation over policies of all kinds, making it extraordinarily difficult to pursue consistent development strategies. In addition, the continued lack of diversity in private business management and ownership limits innovation and economic dynamism. Multiple studies have shown that more diverse management, including in terms of race, gender and class, leads to better economic and financial outcomes. In contrast, when dominant companies are controlled by small, effectively closed and ingrown groups, the risk of incompetence and fraud escalate.

Restructuring the systems that reproduce inequalities requires a whole-of-government approach.

In this context, BBBEE aimed to achieve the following:

1. Greater black ownership and control in existing companies, reflected by both ownership by black people and greater representivity in management and skilled positions.
2. The development of new businesses with a significant share of ownership and control by black people.
3. Greater access to skills development and higher education for black employees at all levels.
4. Enhanced business spending to support socio-economic development in black communities.

BBBEE aimed to achieve these aims in a dynamic and flexible way, reflecting the complexity of modern economies and the differences between industries and producers. Instead of setting fixed requirements, it aimed to incentivise change and let businesses respond in terms of their specific capacities, constraints and opportunities. For this reason, the Act requires that all government actions take BBBEE into account. In practice, however, the only consistent application has been for procurement and incentive schemes.

In effect, the BBBEE strategy aims to empower businesses to find the most efficient possible ways to eliminate unfair racial differences in the economy. In this context, the scorecards effectively set targets but let businesses determine how best to achieve them. The varied weights and thresholds are supposed to indicate priority impacts and outcomes. The Codes build in some core policy instruments, in particular supplier development to encourage new black-owned businesses, as well as other programmes to promote black enterprise; increased training for black employees and unemployed people; and spending on socio-economic initiatives that predominantly benefit black people.

The following table indicates the main impacts and their weighting, the core outcomes to achieve those aims, and the most important preconditions for success that fall outside the scope of the Codes. The Codes weight the elements in the scorecard out of 109. For ease of comparison, the scores in the table are provided as percentages.

Table 1. Impacts and outcomes in the BBBEE Codes

IMPACT	WEIGHT	IMPACT MEASURE (A)	OUTCOMES	PRECONDITIONS FOR SUCCESS
Increased black ownership through individuals, companies and financial schemes	23% on scorecard. Minimum levels required for BBBEE ratings.	Black shareholding in listed companies. Black ownership of unlisted businesses.	More companies report on black ownership. Companies help finance black investors and partners.	Businesses are profitable enough to attract investors, and large enough to support more than one owner. Black investors able to obtain affordable finance. Shares do not lose value, and returns suffice to pay off debt where relevant.

IMPACT	WEIGHT	IMPACT MEASURE (A)	OUTCOMES	PRECONDITIONS FOR SUCCESS
Growth in new black-owned businesses	37% on scorecard.	Number of new black-owned businesses.	Share of procurement going to businesses with a higher BBBEE rating. Other support for black enterprise (finance, mentoring, training, etc.)	Economic growth at least over the long run. Supportive eco-system for new business generally, including access to information about opportunities and to financing, skills, technologies and affordable inputs
Increased representivity in executive, management and skilled positions	17% for representivity in management and skills jobs, weighted by management or skills level. 18% for education and training.	Share of black people in executive, management and high-skilled positions. Spending on education and training for black people.	Employment equity and training plans in place. Access to training for employees and unemployed people, measured by days and spend, and expenditure on bursaries for black students.	Stable or growing employment. Improved general education. Quality and appropriate training opportunities are available. Supportive systems for women (combatting sexual harassment, recognition of dual burden, etc.).
Community development	5% of scorecard.	Socio-economic development in black communities.	Improved resourcing for organisations and projects that meet the needs of vulnerable black people.	Effective government development efforts ensure supportive context. Capacity to co-ordinate business spend with local and national development strategies.

Note: (a) Impact measures are evaluated in this document but often not included in the scorecard, in contrast to the outcomes.

A fundamental challenge in assessing the impacts and outcomes of the BBBEE Codes arises from the complexity of modern economies, and economic power relations in particular. As large institutions, big businesses have complex systems of ownership, control, and access to resources. Legally, listed companies are owned by shareholders, and therefore ultimately by individuals. The vast majority of shareholders, however, exercise no direct control over company decisions, although they enjoy a share in profits. As a rule, managers make most decisions in listed companies. The extent of influence exercised by shareholders and their representatives on the board of directors varies greatly between companies.

These realities generate hard choices for how to achieve a more inclusive economy. On the one hand, empowering black investors requires that individuals or relatively small groups of black owners have sufficient shares to influence company decisions. Enhancing the power of a few black individuals in existing companies reduces racial inequalities and, by increasing diversity, should improve decision-making. In itself, however, it does not necessarily lead to more equitable ownership or economic power across society. On the other hand, broad-based schemes with a large number of investors can ensure more equitable distribution of profits and legal ownership. These kinds of investors include employee share-ownership schemes (ESOPs), community trusts, retirement funds and other financial investment vehicles. But institutional investment often does little to modify company decision-making or workplace inequalities.

The BBBEE Codes deal with the complexity of modern ownership systems in a number of ways, which have in practice evolved over the past 15 years.

- In the section on management and control, the scorecard provides points for black membership in executive positions in the board of directors.
- The scorecard distinguishes between black investors' voting rights, economic interest (the value of shares) and net equity value, which is the value discounted by the outstanding debt owed the company.
- It sets a 40% ceiling on points awarded for black ownership through ESOPs and other collective ownership schemes, effectively increasing the incentives for companies to attract individual or corporate investors instead. From 2016, the scorecard has made it easier for companies to include black ownership through "mandated investments", which essentially mostly means retirement funds and managed investment vehicles such as unit trusts.
- In supplier development, companies gain separate points for purchases from companies owned by black people and, as a separate target, by black women.

The remainder of this working paper provides a preliminary evaluation of the success of BBBEE in terms of the impacts and outcomes listed in Table 1.

The next three sections review progress in terms of ownership, management control and supplier development. In each case, an analysis of the available data on impacts are first presented, followed by insights from the questionnaire respondents. Section 7 looks at skills development. Section 8 compares outcomes and impacts for listed companies by industry based on scorecard results. The final section summarises the key findings both in the impacts of BBBEE and areas for improvement.

4 OWNERSHIP

This section analyses the extent of black ownership of listed companies; all businesses; and mining companies.

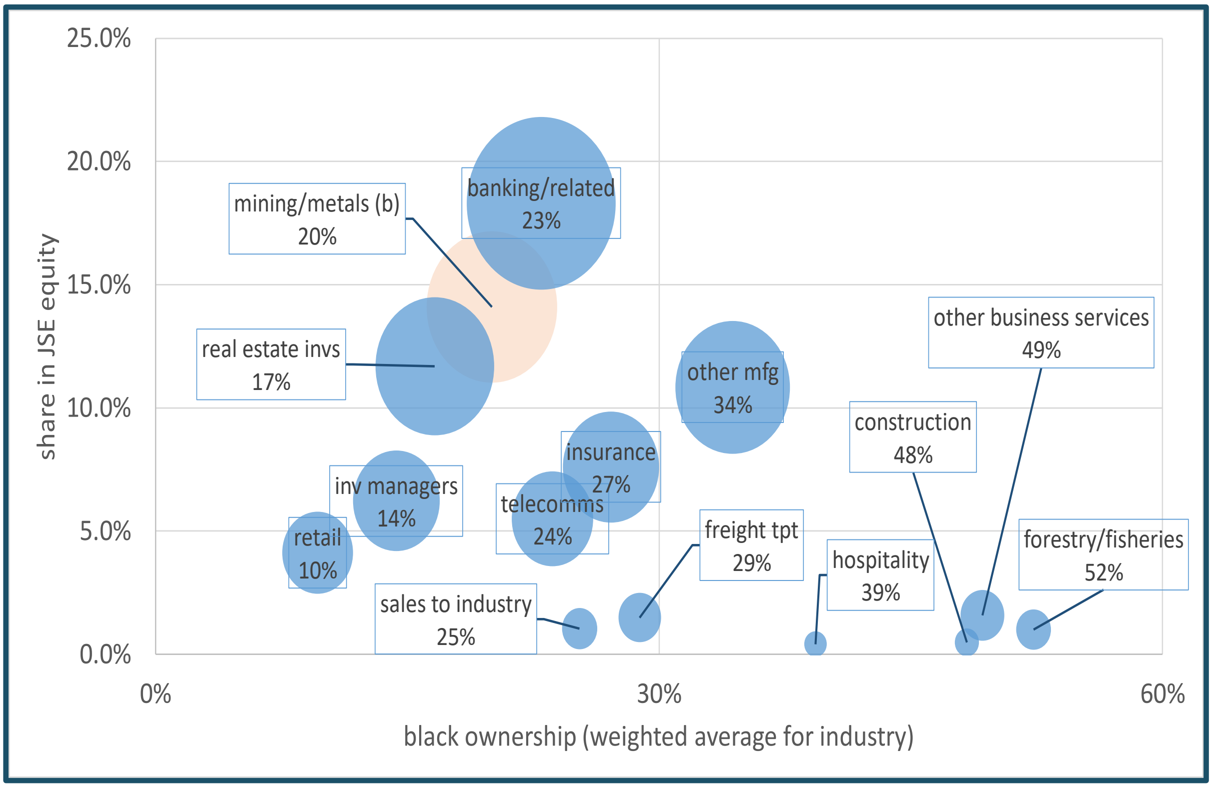
4.1 Listed companies

According to data from Who Owns Whom, in early 2020 the weighted average share of black ownership, as recorded for BBBEE purposes, in companies with a primary listing on the JSE was 24%. The value can be roughly estimated at R1 trillion in book value (calculated as 24% of the listed companies' reported equity). In market terms, the value would be around twice as high.

Companies with a primary listing overseas, which accounted for almost half of the value of the stock exchange, generally did not report on black ownership in South Africa. These companies include, among others, Anheuser Busch; British American Tobacco; BHP; Glencore; and Anglo American. Only two companies with their main listing outside South Africa – African Rainbow Minerals and Renergen – reported black ownership in early 2020.

Industries' black ownership level generally paralleled their dependence on government procurement or licences that favoured black ownership. It was highest in forestry and fisheries, which required at least some black ownership for water and fishing licences. Construction, hospitality services (including car rentals) and other business services – largely technology support and cleaners – had higher black ownership than most; many of these businesses rely on sales to government. In contrast, retail, investment managers, and real estate holding companies had relatively low levels of black ownership. In these industries, most sales are to households and BEE scores have not been critical to obtain licences. Listed mine holding companies did not have very high black ownership themselves. But their subsidiaries, which operate mines directly and obtain the mining licences, reported almost 40% black ownership. (See section 4.3).

Graph 1. Black ownership in listed companies by industry, 2019 (a) (bubble size reflects share in total reported equity)



Notes: (a) The figures should be treated as estimates since they change over time, and in some instances the Who Owns Whom data have been overtaken by new transactions. Other manufacturing excludes metals refineries, which are included under mining, and wood/paper and fish processing, which are included under forestry and fisheries. Hospitality includes car rentals. (b) Mining figures are estimated actuals, since the industry has once-empowered, always-empowered rules, which means the figures reported for the Mining Charter overstate current black ownership. In addition, some mine holding companies – notably South32 – have opted to do empowerment deals for individuals mines but not for the holding company itself. *Source:* Calculated from dataset downloaded from Who Owns Whom. Report Generator. Accessed in July 2020.

When the economy has slowed or metal prices have declined, the value of black-owned shares has also tended to shrink. Black investors often plan to finance share purchases from the anticipated returns on the investment. If the value of their holdings fall sharply or companies suspend dividends, then they may find it difficult to maintain their payments and may even end up with net debts. The current sharp economic downturn will therefore likely lead to a decline in black ownership, in a pattern already experienced during the 2008/9 global financial crisis and at the end of the international metals price boom from 2011.

In terms of the business questionnaire, listed respondents reported an average of 32% black ownership, which is higher than the average for all companies on the JSE. Only 14 of the listed respondents gave a value for defined empowerment deals, where they purposefully brought in black investors. For the companies reporting on these deals, the value totalled almost R50 billion over the past 15 years in nominal rand, or around R100 billion in 2020 terms.

According to the listed respondents, the number of empowerment deals has declined in recent years, in part because the companies had reached their targets for black ownership and in part because they increasingly relied instead on estimates of black ownership through institutional investors (that is, "mandated investments" in the Codes' jargon). Of the 17 companies that reported on the extent of unencumbered black ownership, 10 said all of their black ownership was entirely unencumbered. For the other seven, the unencumbered value ranged from none (for an ESOP) to 97%.

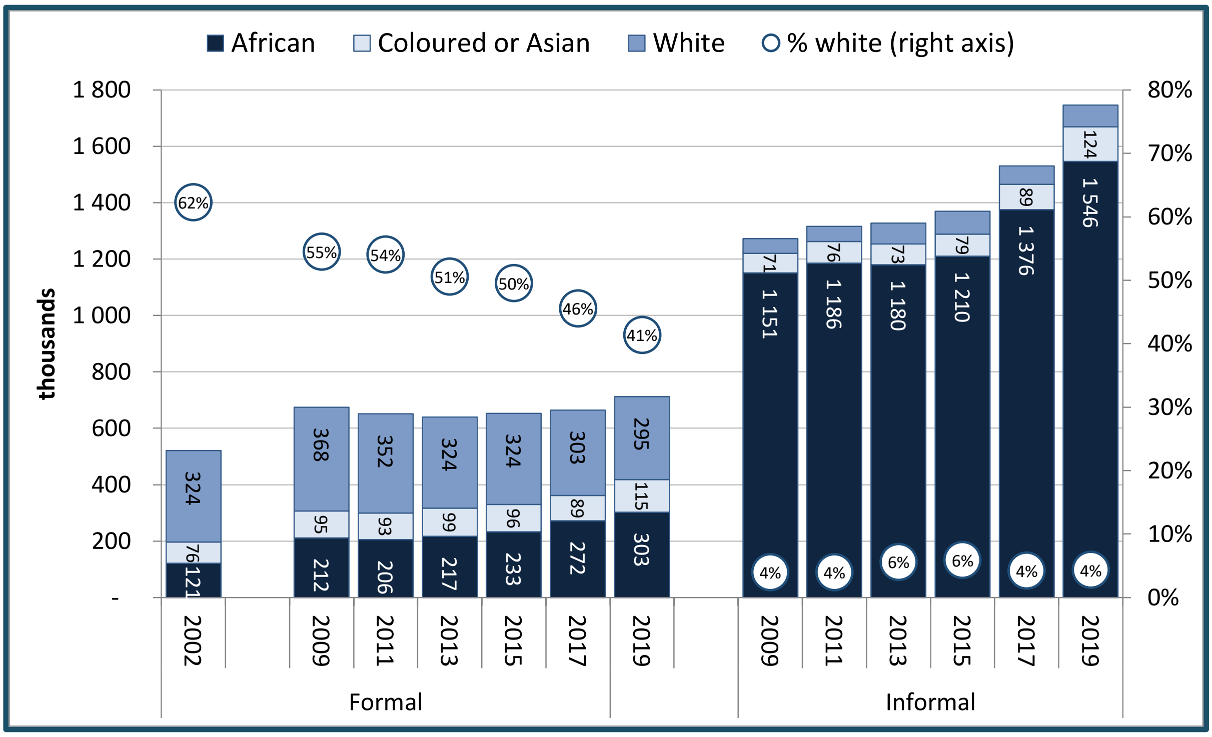
Instead of structured empowerment deals, the listed respondents often meet ownership targets through a combination of expert estimates of the share of black holdings in mandated investments (that is, institutional investors); employee and community schemes; investment by black-owned companies; and recognition of "continuing ownership", where a degree of black ownership is recognised although an empowerment partner has sold their holding. Of the 21 listed respondents, 17 had some form of ESOP or community trust. The average share of these trusts in ownership came to 6% (weighted by employment), although in three companies (one listed) it was between 49% and 100%.

In answering the questionnaire, several listed companies argued that the assessment of mandated investments was difficult because fund managers are not required to record the race and gender of members or investors. Instead, the Codes leave it to businesses to obtain expert opinion on the share of black ownership in institutional investors. Some respondents noted that the result was hard both to get and to assess for reliability.

4.2 Other business ownership

Based on labour force surveys, the number of black-owned formal employers and self-employed people, and by extension the number of (mostly small) black-owned businesses, doubled from around 200 000 in 2002 to over 400 000 in 2019. African-owned formal business increased even faster, from 120 000 to 300 000. As a result, the share of black-owned enterprises in all formal businesses rose from around 40% to 60%. In addition, there were almost 1.8 million informal businesses, which were almost exclusively black-owned. The COVID-19 pandemic will likely force many formal and informal enterprises to close down, however.

Graph 2. Employers and self-employed by race, 2002 to 2019, in the formal and informal sectors (thousands)

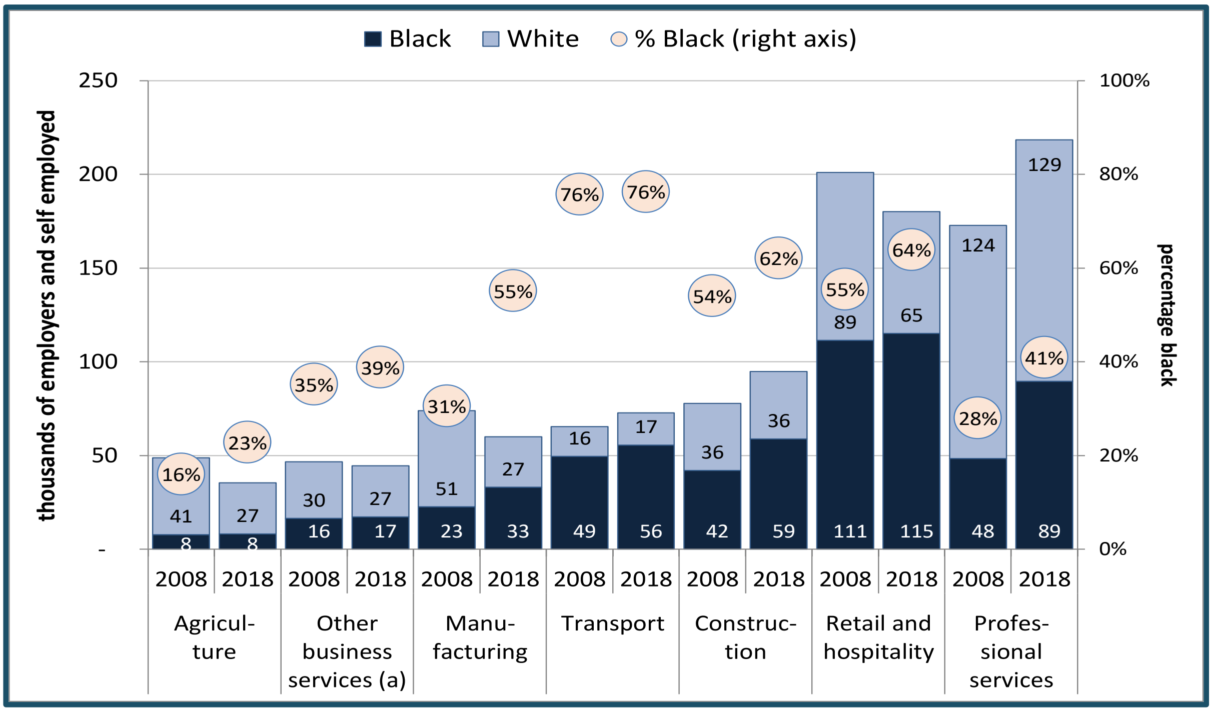


Source: Calculated from Statistics South Africa. Labour Force and Labour Market Dynamics Surveys for relevant years. Downloaded from Nesstar facility at www.statssa.gov.za.

Despite the growth in formal black business ownership, it remained much less important for incomes in the black community than for the white population. In 2008 and 2019, formal employers and self-employed people constituted a stable 3% of total formal black employment. In contrast, the figure for whites was much higher, at 20% in 2008 and 18% in 2019. Ownership of informal enterprise generated a much larger (but declining) share of employment for black people, but provided both lower and less reliable incomes than formal jobs. Informal employers and self-employed people comprised 13% of black employed people in 2008, falling to 11% a decade later. For whites, the figure was under 5% in both years.

The largest increase in black-owned formal businesses from 2008 to 2018 was in professional services, which include legal, education, social, health and computer services. In 2018, half of black-owned formal businesses were in retail and professional services. Still, black formal business comprised over half of the total only in retail, construction and transport.

Graph 3. Employers and self-employed by race and industry, 2008 and 2018



Note: (a) Mostly cleaning and security. *Source:* Calculated from Statistics South Africa. Labour Market Dynamics for relevant years. Downloaded from Nesstar facility at www.statssa.gov.za.

Unlisted respondents to the questionnaire included two very different groups – independent small and medium businesses, on the one hand, and multinational subsidiaries on the other. The subsidiaries, which constituted a third of the unlisted respondents, are not required to report on black ownership. Of the non-listed respondents, only nine reported the value of empowerment deals, for a total of R240 million. Of these, just three said the holdings were encumbered. Eight, or under a third, had employee or community investors.

The sample included only one enterprise that had been founded by black people. Comments from the other unlisted respondents suggested that most benefited from their relationships with black investors. Business owners with negative experiences were, however, less likely to complete the questionnaire at all.

Despite their generally positive outlook, ownership requirements clearly presented greater obstacles for small business respondents than for the listed companies. In particular, they noted the following.

- Smaller enterprises often find it difficult to identify or attract investors, since many have limited profits. This is obviously particularly true during economic downturns. The pandemic seems likely to reduce profitability drastically for most businesses, particularly in tourism, recreational and personal services, over the next two to three years.
- Small businesses said they could not easily find investors who were interested in participating in the company's operations rather than treating it as a purely financial investment.
- Many businesses could not easily keep track of the extent of black ownership in their investors as it evolved over time.
- Smaller businesses found it more difficult to finance ESOPs and other investment deals.

In addition, a large professional partnership noted that the Codes are designed for privately owned businesses, whether listed or unlisted, which made it difficult for them to fill out the scorecard. In this case, ownership was vested in partners rather than outside investors or collective ownership schemes.

4.3 Mines

As noted, the mine holding companies on the stock exchange had, on average, a fairly low share of black ownership, although the percentage varied from over 50% to under 5%. In contrast, according to a Minerals Council study that covered 93 mining rights holders, black shareholders held almost 40% of mine operating companies. Of this shareholding, 22% belonged to black individuals; 9% to communities; and 8% to employee schemes. (Minerals Council 2019:11) Still, 13 of the operating companies did not meet the Mining Charter target of 26% black ownership. Moreover, two thirds of the remaining companies did not meet the requirement of "meaningful economic participation," defined as having clearly identifiable black investors that fully owned their shares, received dividends, and had voting rights.

The value of BEE deals in mining declined from 2010, largely reflecting the end of the global commodity boom in 2011 as well as the success of many companies in achieving their targets. The Mineral Council estimates the value of deals only in current rand. It finds that they dropped from R113 billion across 168 transactions between 2002 and 2010 to R30 billion for 67 transactions from 2010 to 2019. (Minerals Council 2019:12)

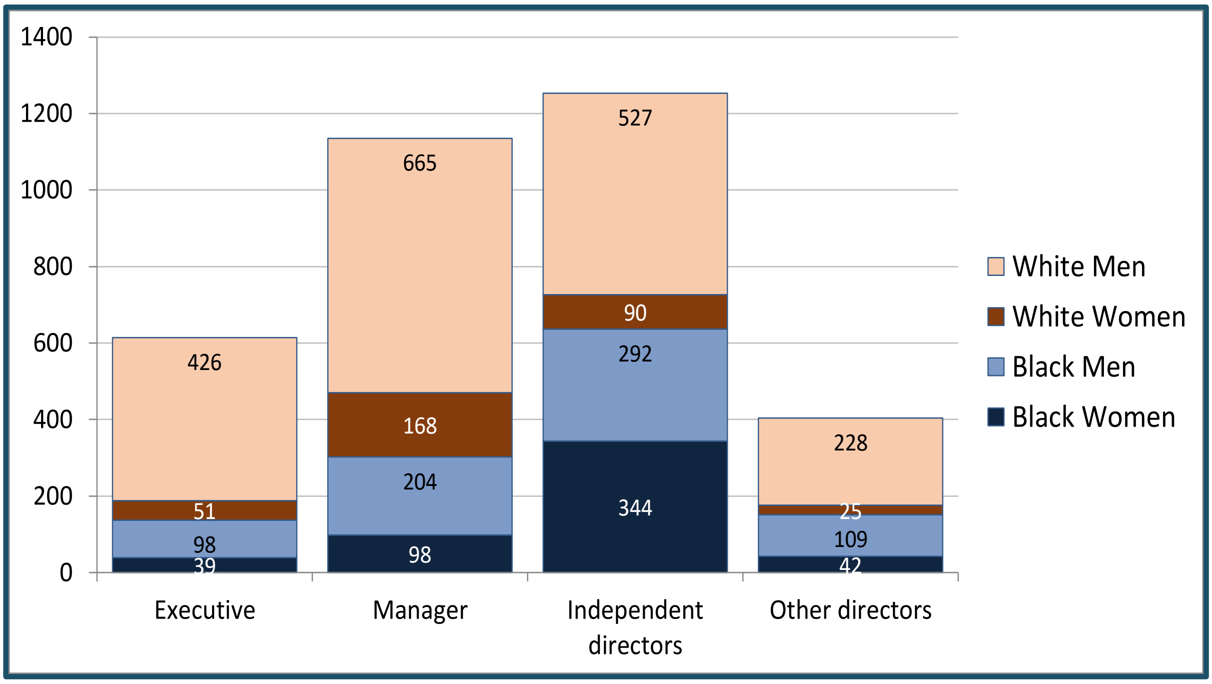
4.4 Multinational corporations

The Codes enable multinational investors to set up equity equivalent investment programmes, since it is not realistic for them to bring in black South African investors on a large scale. The programmes provide enterprise support and skills development for black South Africans. In the decade to March 2020, these programmes generated funding at close to R10 billion.

5 MANAGEMENT CONTROL

In theory, shareholders exercise control over companies through the boards of directors. Still, as of early 2020 the boards of listed companies were far from representative of the population, as the following graph shows.

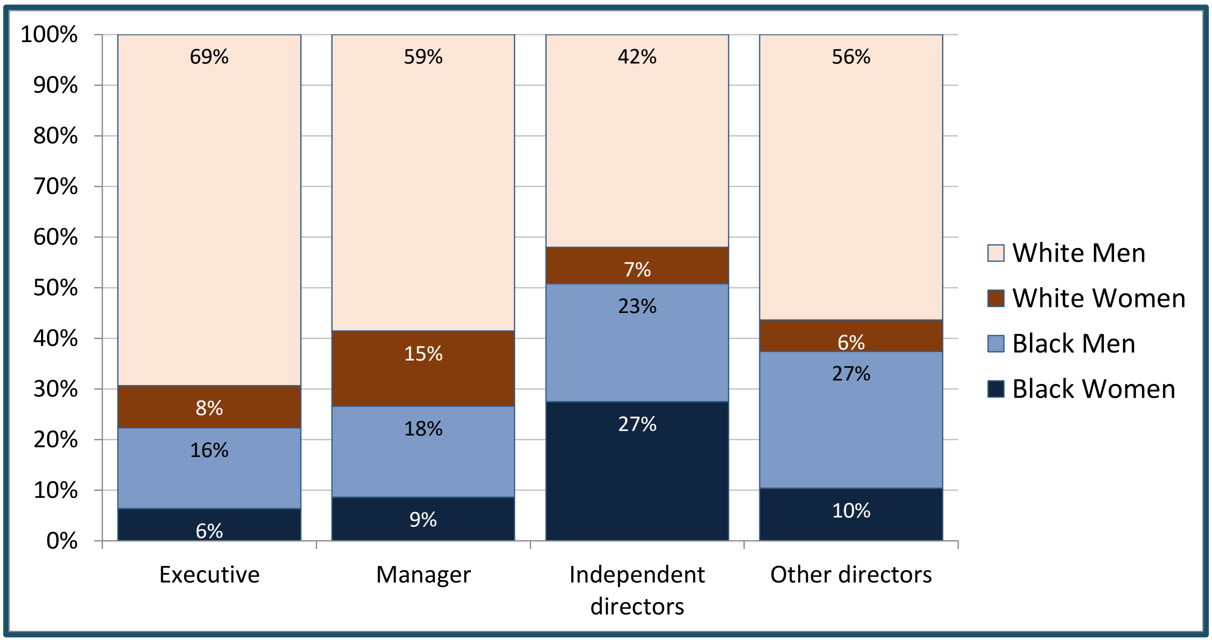
Graph 4. Directors of listed companies by position, by race and gender, 2020



Source: Calculated from dataset downloaded from Who Owns Whom. Report Generator. Accessed in July 2020.

In early 2020, of 233 companies with their primary listing on the JSE, according to Who Owns Whom data, half of independent directors were black. But over two thirds of executive directors were white men, compared to just 6% black women. Only one listed company did not have any white men as a director; in the rest, the share ranged from 13% to 100%.

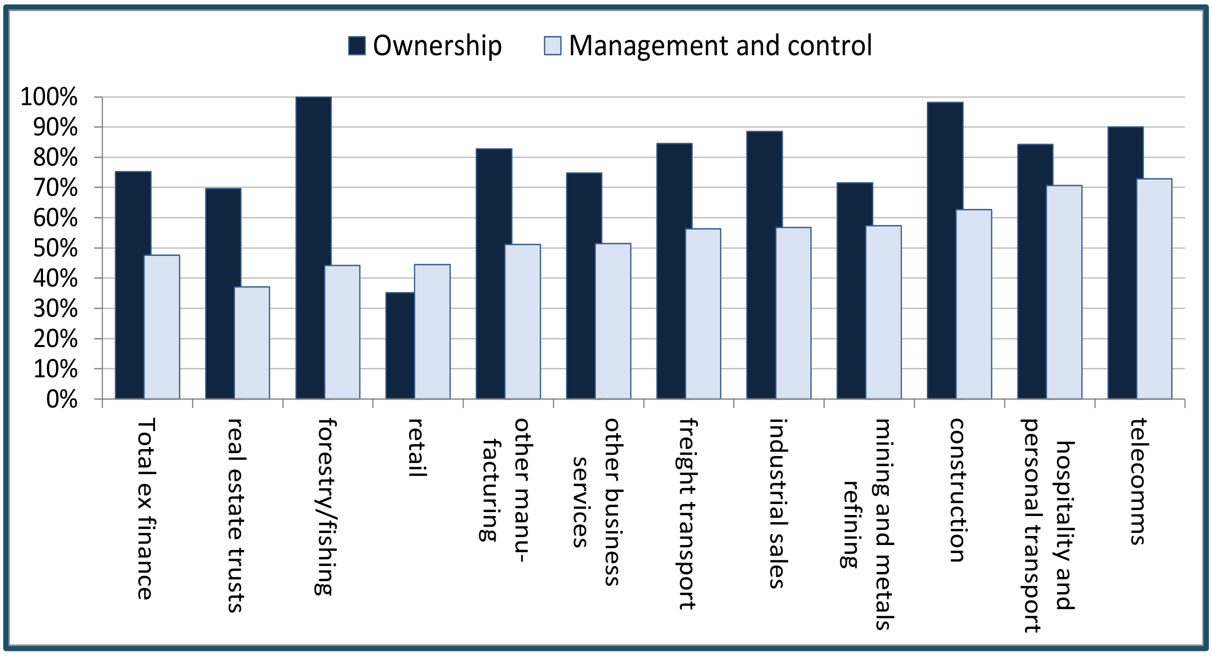
Graph 5. Share of directors by position, by race and gender, 2020



Source: Calculated from dataset downloaded from Who Owns Whom. Report Generator. Accessed in July 2020.

For listed companies, the lowest score on the BBBEE scorecard in virtually every industry related to management control, which reflected the share of black people across management and on the board. Excluding financial companies, which use a different scorecard, the average value of the indicator for management control, weighted by company capitalisation, was under 50%. In every industry except for retail, it was substantially lower than the indicator for ownership.

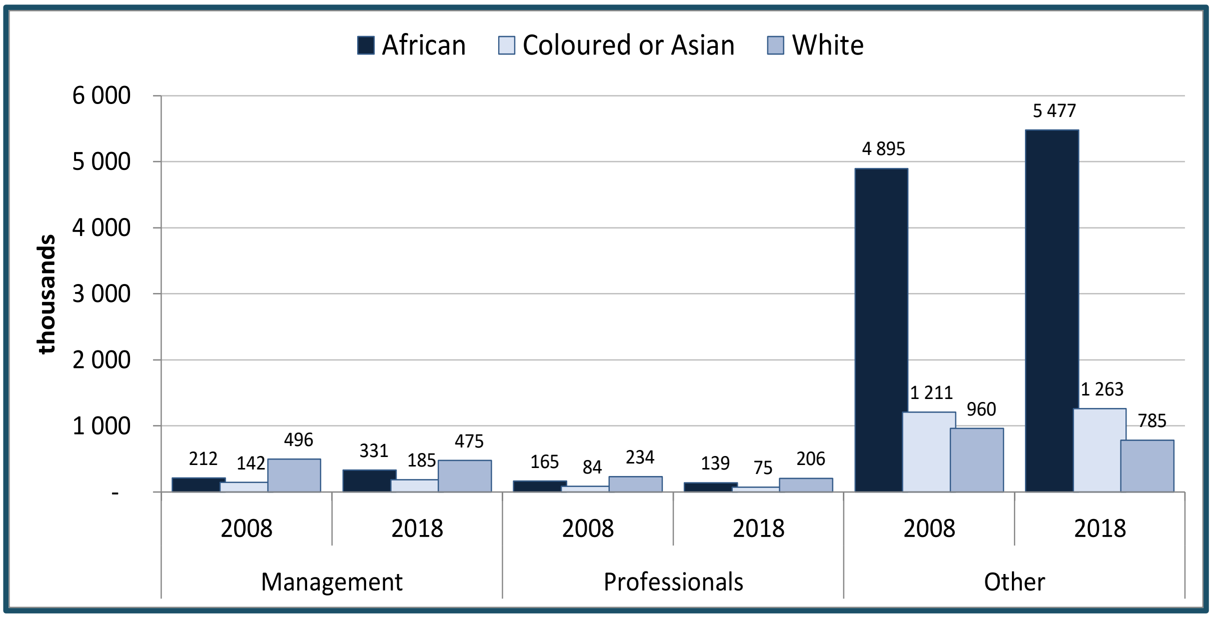
Graph 6. Average score for ownership and management control as percentage of maximum possible, by industry, weighted by company capitalisation



Source: Calculated from dataset downloaded from Who Owns Whom. Report Generator. Accessed in July 2020.

The low score for management reflected the under-representation of black people in senior and executive management. The annual reports of most listed companies indicated that only around a quarter of senior managers were black. Progress in promoting black people into more powerful positions across the economy can be measured using the labour force surveys, which provide information on employment of managers and professionals by race. As Graph 7 shows, although the position improved from 2008 to 2018, black people remained under-represented in these high-level occupations in the private formal sector. The figures here exclude self-employed people.

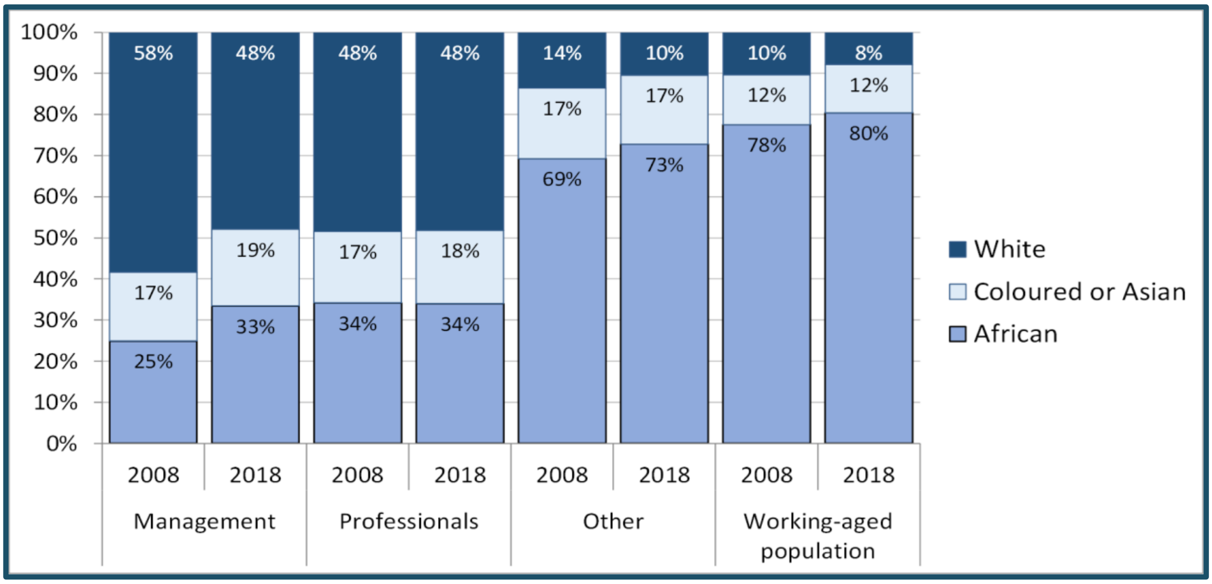
Graph 7. Employment in managerial, professional and other positions in the private formal sector (excluding own-account workers), by race, 2008 and 2018, in thousands



Source: Calculated from Statistics South Africa. Labour Market Dynamics for relevant years. Downloaded from Nesstar facility at www.statssa.gov.za.

The share of black managers in the private formal sector climbed from 42% in 2008 to 52% in 2018. For professionals and associate professionals, the share rose only from 41% to 42%.

Graph 8. Share of management, professional and other occupations, and working aged population, by race, 2008 and 2018



Source: Calculated from Statistics South Africa. Labour Market Dynamics for 2008 and 2018. Downloaded from Nesstar facility at www.statssa.gov.za.

In the questionnaire, smaller companies said that they could not compete for still limited black talent with larger enterprises, which could provide higher salaries and benefits. Generally, companies argued that it took time to develop a pipeline of talent for executive positions.

Some respondents noted that downsizing as a result of the pandemic will likely make it harder to achieve representivity in management and professional positions. Indeed, if companies use seniority as a criterion for retrenchments, diversity may actually decline.

6 SUPPLIER DEVELOPMENT AND GOVERNMENT FINANCE

The growth in black business obviously results from a range of government policies as well as initiatives by individual entrepreneurs and groups, in addition to BBBEE policies. The BBBEE Codes seek to support the process primarily by awarding points for supplier development and other forms of enterprise support. The Act requires government to take BBBEE standing into account in providing incentives and industrial finance.

6.1 Supplier development

Supplier development is likely more important for small black-owned business than incentives to increase black ownership in existing companies. Two challenges, however, emerge in this regard.

First, promoting black ownership in many cases effectively competes with the effort to encourage local procurement. In operational terms, it is easier to set up a small black-owned importing company than to establish new production. From 2016, the Codes introduced requirements for local value added as a prerequisite for counting black ownership, but then suspended the requirements indefinitely.

Furthermore, companies can exclude imports as well as purchases from monopolies (such as Eskom) from their qualifying procurement for the Codes. By reducing the universe of qualifying procurement, this measure effectively increases the percentage share of qualifying suppliers. It also reduces the incentive to procure from black-owned local suppliers rather than importing. In theory, the codes require that businesses only exclude imports that are not produced locally, and develop a plan to replace them with local products. In practice, experience shows that determining when a product must be imported is often difficult, because it depends on the detail of the specifications as well as the cost of production. For instance, when a retailer specifies a branded product, it may contend that a local generic good is not an adequate replacement irrespective of quality or prices.

In a few cases, companies publish figures on the value of qualifying procurement as well as total operating costs. In the case of manufacturing, procurement from black-owned companies ranges from half of total operating costs for Sasol (presumably largely coal) to around a tenth for AECI and under 20% for Aspen Pharmacare. (Calculated from company Annual Reports) All three of these companies scored over 75% for enterprise development, however, in part because a large proportion of their operating costs were not counted for the purpose of the BBBEE scorecard.

Second, the Codes' incentives for procurement effectively incorporate competing aims. Companies gain points for procurement from companies with any BBBEE rating, although the points increase by level. The highest scores are for suppliers in Levels 1 to 3 out of the total of eight levels. Businesses can also increase their procurement score, not by directing contracts to producers with higher BBBEE scores, but by encouraging existing suppliers to get a rating, however poor, or by replacing non-compliant with very low-rated suppliers.

The listed respondents to the questionnaire reported that they spent almost R150 billion in procurement from qualifying businesses in the past year. The unlisted respondents spent R21 billion.

For both groups, over half of their qualifying purchases were from companies on empowerment levels 1 to 3. In a few cases, the figure rose above 75%.

One large financial company provided information on its procurement from 2012, showing that its purchases from suppliers on BBBEE levels 1 to 3 rose from a third to over half. It increased its procurement from black-owned suppliers from R10 million in 2005 to R103 million in 2019. Still, even the 2019 figure represented just 1% of its total procurement for the year.

In part, the increase in qualifying procurement reflected a rising share in companies obtaining certificates, rather than an improvement in BBBEE scores. Companies reported putting considerable effort into convincing their suppliers to get certified.

The respondents to the questionnaire said that, on average, just over 40% of their procurement could not be produced locally or relied on a sole supplier, and was therefore excluded from their BBBEE calculations. The excluded share was particularly high for retailers, who use substantial imports, as well as for manufacturers engaged primarily in the assembly of imported components. It might be helpful to at least get listed companies to indicate which products they have to import in order to assist in identifying areas for stimulating local production.

Some 45 out of the 51 respondents said they actively supported qualifying suppliers, while the rest did not reply. Of those reporting, 42 gave a figure for the cost over the past five years. The total came to R3 billion, ranging from R500 million for a large listed financial company, followed by R300 million for a retail chain, to just R20 000 for a petrol station.

Support for suppliers mostly took the form of interest-free loans and grants, but also included mentoring, providing space to operate, and shorter payment terms. In a few cases, large companies established incubators. Several companies reported on how their efforts led to the establishment of sustainable black-owned businesses. One beneficiary was able to enter export markets.

In addition to assisting their suppliers, 37 respondents reported support for small enterprises other than suppliers (although some clearly did not understand the distinction). They valued this assistance at R850 million over the past five years. It took the same forms as support for suppliers, but with a larger share of interest-free loans and grants.

In a few cases, large companies have built small producers or marketers into their value chains. In forestry, sugar and fishing, among others, companies have longstanding schemes to support small producers, providing inputs and financial support in return for commodities. In the financial sector and clothing production, some companies rely on small companies to assist with marketing, and claimed these relations under enterprise development in the BBBEE scorecard. These stable relations differ significantly from the more common situation where suppliers are diverse and downstream relations are not considered part of enterprise development at all.

Respondents agreed that the main obstacle to procurement remains the difficulty of finding black-owned, and especially black women-owned, suppliers. In the financial sector, the Association for Savings and Investment South Africa (ASISA) assists by supporting suppliers for the industry as a whole, which enables them to achieve economies of scale. Businesses can count their donations to the ASISA programme as supplier support.

Several companies noted that the administrative burdens and cost of obtaining a BBBEE certificate was a problem for their suppliers. Some mentioned that many micro and small enterprises still do not understand that they can provide an affidavit rather than paying for certification.

6.2 DTIC financing

The Department of Trade, Industry and Competition (DTIC) kindly provided a summary of its financial support for black-empowered businesses, mostly in the form of DTIC loans and grants as well as credit and investment by the Industrial Development Corporation (IDC) and its subsidiary, the National Empowerment Fund (NEF). The total over the 10 years to March 2020 comes to R85 billion in nominal terms.

In addition, the competition authorities have reached settlements with firms that require increased investment in and procurement from black-empowered enterprises. The settlements followed investigations into media, construction, steel and bread. In the 10 years to March 2020, these settlements generated R5 billion.

The DTIC estimates that through all of these forms of support, combined with the commitments obtained through the equity equivalent investment programmes (see section 4.4), the department and its agencies have mobilised R100 billion for black-empowered enterprises over the last 10 years in nominal rand. The value in real terms is closer to R150 billion. Taken together, the commitments sustained or generated almost 300 000 jobs.

In the last five years, the DTIC and its agencies have aimed to focus their support on "black industrialists," meaning businesspeople, predominantly in manufacturing or support services (including energy and logistics), who are engaged directly in managing operations. In the five years to March 2020, funding by the DTIC, the IDC and the NEF for black industrialists totalled R30 billion for over 400 entrepreneurs.

7 SKILLS DEVELOPMENT

Of the 51 respondents, 39 reported on skills development. Of these, 37 funded bursaries for employees and others; 11 provided apprenticeships, which are only really available in manufacturing, construction and a few other industries; and 44 provided learnerships and other formal and informal training for their staff and unemployed people.

As a group, the respondents reporting spending over R250 million on bursaries in the past year. They paid R3,8 billion for other training, including wages for participants during training (as allowed by the scorecard). In several cases, salaries accounted for the bulk of the spend. For one large financial company, salaries made up 80% of the figure reported for expenditure on training.

Several respondents noted that the change to the Codes in December 2019 substantially increased the weight given to bursaries, including for students with little or no link to the enterprise. The amended scorecard for skills development added payment for bursaries as a separate measure equal to 40% of both the points and the expenditure target for skills development.

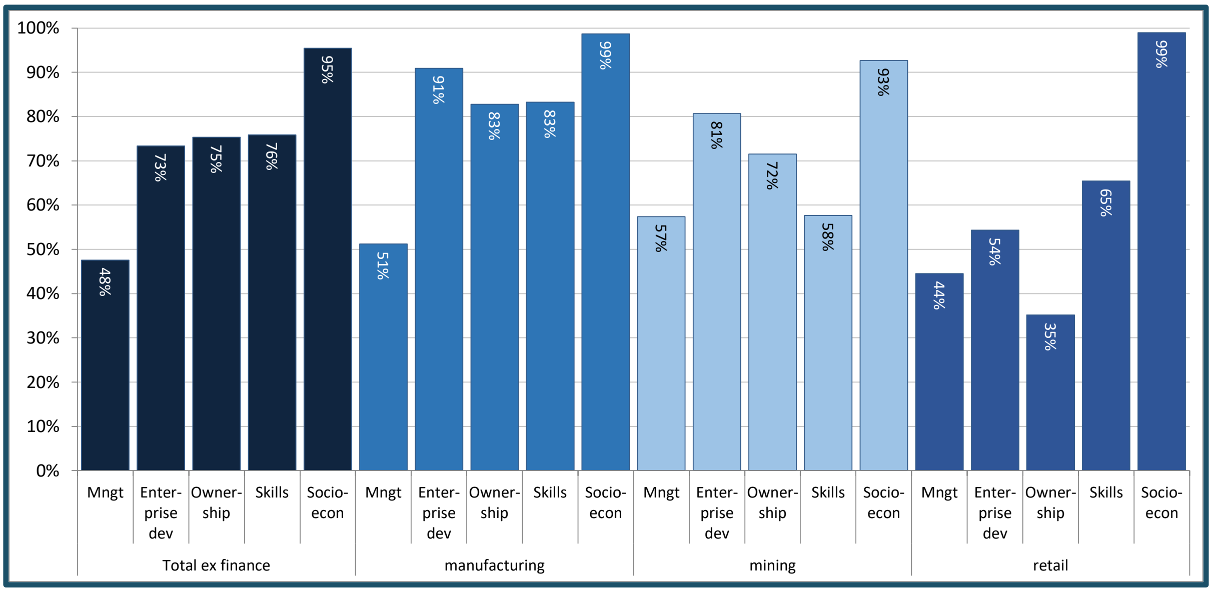
In effect, this new requirement reduced the incentive to train employees and unemployed people, particularly outside of professional and managerial positions. As a result, going forward the share of funding for bursaries will likely increase significantly, with a decline in the spend on internal and lower-level training. The measure represents a move away from the employment-equity ideal of skills development linked to flatter workplaces and greater career mobility for ordinary workers. In contrast, spending on bursaries represents a broader social investment rather than contributing directly to workplace transformation.

Respondents generally argued that employees often did not want to engage in training programmes. In part, this outcome reflected the failure to link promotion opportunities consistently to training. In addition, several respondents in the financial sector and professional services argued that their highly educated employees neither needed nor wanted further education.

8 THE OVERALL BBBEE SCORECARD FOR LISTED COMPANIES

As the following graph shows, listed companies scored more or less the same across ownership, skills development and support for small business. But they did far better on socio-economic development, which counted for only 5% of their total BEE score. As noted, except in retail, management control scored lower than the other elements of the score card.

Graph 9. Average score on BBBEE dimensions of listed companies, total and in manufacturing, mining and retail, weighted by asset value (a)



Source: Calculated from dataset downloaded from Who Owns Whom. Report Generator. Accessed in July 2020.

9 CONCLUSIONS

The analysis indicates that considerable progress has been made in achieving the desired impacts, and some of the outcomes, of broad-based BEE. In particular, black ownership of listed companies and the number of black-owned enterprises overall has climbed over the past decade. Findings from the business questionnaire reinforced the fact that there has been a significant transfer of wealth to black investors over the past 15 years. These gains represent huge progress over the negligible share of black ownership in productive assets before 1994.

That said, several shortcomings emerged around impacts. They include the following.

- The number of new black-owned businesses has climbed only slowly, presumably largely due to slow economic growth since the end of the commodity boom in 2011.
- It has proven far harder to improve representivity in senior and executive management than to increase the share of black ownership in listed companies.
- The benefits from the transfer of assets into black hands mostly go to financial investors, almost exclusively among the richest 5% of households, and retirement funds, with members primarily in the best-off 20%.
- The scorecard does not incentivise local procurement, and arguably deters it by effectively excluding imports from its calculations altogether.

In terms of the implementation process, like any transformatory regulation the implementation of BBBEE requires a balance between two imperatives: accurate and complete monitoring and evaluation, on the one hand, and support for a broad overview of progress against core objectives while minimising compliance burdens, on the other.

In this context, the reporting process for BBBEE provides a huge amount of information on the way business operations affect different groups, ranging from owners to managers to workers to communities and students. The detail and complexity of the scorecard effectively reflect the effort to balance divergent interests, instead of explicitly ranking priority aims. But it makes the reporting process opaque and specialised. That adds to compliance burdens. In addition, the lack of transparency in itself may lead to worse outcomes for the following reasons.

- It disempowers stakeholders. As a rule, suppliers and employees, and even managers who are not directly involved in BBBEE reporting, do not understand the BBBEE requirements, or use them to understand progress toward transformation. Listed companies typically publish only their scorecard, which makes it difficult to understand specific elements such as representivity by level or the nature of spending on education and training.
- The complexity of the scorecard means that changes may have unanticipated effects. For instance, the fast-tracked inclusion of new points for bursaries effectively modifies the aims of the skills development element from transforming power and mobility within enterprises to assisting in funding higher education for black people generally. More broadly, it has become evident that many businesses have avoided the hard task of building a more diverse executive team, focusing instead on improving their scores for easier elements.
- Respondents indicated that the ownership requirements in the Codes work well for listed companies, but are not designed for smaller businesses and collective ownership structures. They fit businesses that have a host of small anonymous investors who are continually in flux. In contrast, they present both substantive and reporting obstacles for small businesses and professional partnerships. Small businesses in particular often have inadequate profits to attract outside investors.
- Government agencies outside of the DTIC have tended to cherry pick, and in some cases modify, the ownership targets in setting criteria for licences or incentives. For instance, in mining and fishing, licences emphasise ownership more than other elements, and the targets are not always fully aligned with the Codes. Similar challenges emerge around procurement by municipalities and state-owned companies.
- Several respondents noted that reporting on BBBEE in itself imposed significant burdens. The required information was often not easily available, particularly for ownership of suppliers and institutional investors, which are not required to record the race and gender of their members or clients. A number of respondents also argued that regular modifications in the BBBEE Codes make it difficult for them to keep track, and increase the costs of compliance. In effect, many businesses would prefer stability to marginal improvements in the regulations.

In sum, the available evidence indicates that the BBBEE Codes have made a significant contribution to a more equitable and inclusive economy. As with any transformative process, there are also some unavoidable costs. A more detailed study would enable a deeper understanding of the contributions of BBBEE to inclusive industrialisation, and whether they could be achieved more efficiently.

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