

Revised Mining Charter fails as transformation tool

Although the Mining Charter, in its various incarnations, is designed to help achieve the transformation goals of the country, it's not an effective tool at all, largely due to a lack of clarity on implementation and the economic consequences of some of the requirements.

 By [Danette Breitenbach](#) 28 Jul 2016



Why another version?

This is the opinion of Deepa Vallabh, director at Cliffe Dekker Hofmeyr (CDH), who says that the industry's transformation objectives are set out in the Mineral and Petroleum Resources Development Act, which also provides the foundation for the original Mining Charter, and all subsequent revisions.

"We had the amended charter in 2009, so why another version now?" she asks.

The Department of Mineral Resources (DMR) Assessment Report showed that while there is a high level of compliance in the industry, transformation is still not taken place, with no resultant economic benefits for BEE partners. "

These findings led the DMR to remove ambiguities and create regulatory certainty. This includes aligning it with the Broad-Based Black Economic Empowerment (BBBEE) and the Department of Trade and Industry (DTI) Codes," Vallabh explains.

Ownership

The result is that ownership remains at 26%, but this percentage is now required per mining right. This one-size-fits-all prescriptive model has no regard for the existing partnerships and structures that mining companies already have in place.

Companies have three years to align to the new requirements. "However, in my mind, the only people that will benefit from this are lawyers, existing structures and partners will find themselves locked in even more than before, there will be no further dilution to unlock value, and thus no meaningful participation of BEE

partners.”

Procurement and supplier development

The proposed procurement and supplier development targets are unclear and there is no appreciation of the impact this will have on the mining industry and its stakeholders. Targets are not fully translated into a scorecard for measurement purposes. There are also no incentives to support black enterprises that have developed into sustainable high-revenue businesses. She believes this lack of clarity will translate into haphazard implementation.

Employment equity

The charter duplicates the Employment Equity Act, which means that companies now have to report to two entities on what is essentially the same thing.

Mine community development

In an already depressed economic environment, the draft Charter shows little appreciation for the difficulty the mining industry will have to provide 1% of their earnings to communities, over and above substantial financial benefits mining companies currently deliver – such as royalties, CSI, procurement and housing. Implementation remains a problem and basic financial targets do not necessarily incentivise sustainable investment.

Housing and living conditions

It is unclear whether the requirements regarding housing and living conditions replace the standards published in 2009, and if so which of the two take precedence? The obligation to facilitate home ownership also does not consider what economic impact it will have, nor the needs or wants of employees. One of the unintended consequences of this is trapping the very people this provision is trying to uplift in a debt cycle she adds.

In conclusion she says: “While no one is saying transformation is not necessary; the point is that a clear roadmap is needed that is the product of all stakeholders - government, industry and labour.”

ABOUT DANETTE BREITENBACH

Danette Breitenbach is a marketing & media editor at Bizcommunity.com. Previously she freelanced in the marketing and media sector, including for Bizcommunity. She was editor and publisher of AdVantage, the publication that served the marketing, media and advertising industry in southern Africa. She has worked extensively in print media, mainly B2B. She has a Masters in Financial Journalism from Wits.
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