

Black business credibility hit by fake BEE, says Gestalt

A wave of BEE fronting schemes is causing 'collateral damage' among genuinely empowered black businesses, says Gestalt, a leading BEE consultancy.

Two types of black business fall victim to fronting cynicism, according to Gestalt Group CEO Deon Oberholzer.

The first is the small scale start-up led by a black entrepreneur, using his/her skills and capital to build a business. The second is the mid-scale business with genuine 51% or more ownership by a black proprietor in partnership with white associates.

Oberholzer explains: "Government is to be saluted for simplifying BEE processes for micro-enterprises. A black sole proprietor with an annual turnover of less than R10 million simply has to swear an affidavit to this effect to obtain exempt status and a Level 1 ranking or Level 2, if black ownership is between 51% and 100%.

"It's quick and easy. Perhaps too quick and easy. The temptation for white business to put sham ownership structures together has resulted in a wave of businesses all claiming exemption with no structural oversight. This creates credibility issues for legitimate players in this space.

"Black partners in bigger enterprises face similar problems. They may run a genuine partnership and legitimately own a 51% stake. However, so many structures now create the appearance of black majority ownership that it is difficult to decide if you are dealing with true or sham empowerment."

Black owners are becoming increasingly frustrated by the situation.

"They are honest contributors to empowerment," notes Oberholzer, "but face growing scepticism; so much so, they believe the onus is on them to provide an extra layer of assurance around their status.

"We therefore see demand for an intermediate form of BEE recognition – more formal than an affidavit but less costly and time-consuming than full accreditation."

Supply chain distribution is one area where widespread fronting is suspected, says Oberholzer. This has become a concern for both business-to-business customers and policymakers. On the surface, new exempt black-owned companies appear to be emerging in all value chains, but the ability to separate real black-owned companies from the shams is challenging.

"Preferential procurement through a company with a black 'wrapper' has the potential to become a major problem," he says. "Government is impatient with the rate of real change and efforts to deflect transformation in this way will be severely dealt with."

The Broad-Based Black Economic Empowerment Act, as amended in 2013, says fronting can be prosecuted as fraud, with the BEE Commissioner empowered to fine or prosecute offenders. The maximum jail term is 10 years while a juristic person faces a maximum fine of 10% of annual turnover.

Oberholzer warns: "If fronting becomes so commonplace that BEE is discredited and undermined, offenders can expect the Commissioner to engage in salutary sentencing. Playing games with the letter and spirit of the law will not be tolerated.

"Some smart operators may get away with it for now, but for how long?"

Gestalt has been active in the BEE industry since 1998 and owns Veri-Com, a leading SANAS Accredited Verification Agency.