

## 1. Introduction

This document defines proposals for a draft Industry Empowerment Charter (“the Charter”) for the Management Consulting Industry.

The Charter has been facilitated by the Institute of Management Consultants as a service to economic and social development in South Africa. This draft incorporates the consensus proposals of our Council, which represents a major portion of management consulting activity in South Africa.

The objective of these proposals is to provide input to a comprehensive consensus process to achieve the objectives of Government policy for Broad-Based Black Economic Empowerment (“BEE”) in the industry.

## 2. Background

The Department of Trade and Industry (“DTI”) has issued a Strategy for Broad-Based Black Economic Empowerment (“the Strategy”) which discusses the objectives of BEE and the application of the Strategy in industry charters (refer to [www.thedti.gov.za](http://www.thedti.gov.za)). The Strategy does not specifically identify the Management Consulting Industry as requiring a charter, so this is a voluntary charter.

The Strategy states the following:

“Charters should incorporate the following:

1. The BEE challenges in that sector
2. The sector’s vision for achieving BEE targets and timetables
3. The specific mechanisms to be used to achieve BEE targets including financing instruments, skills development and employment equity, preferential procurement, and enterprise development, as well as any additional mechanisms appropriate to the specific sector
4. An assessment of the financing required to fund BEE transactions
5. The institutional and management mechanisms that will co-ordinate, facilitate, monitor and evaluate the implementation of the Charter.

Government will measure all charters against the balanced scorecard” (\*)

(\*The Balanced Scorecard is described in an appendix to the DTI Strategy document).

## 3. Management Consulting Charter Scope

The Charter applies to any consultancy whose main activity is management consulting, organised as a South African incorporated company and South African subsidiaries (treated as a single economic unit), or a division within a company whose main activity is not management consulting, or a partnership or sole proprietorship (with wholly-owned companies if applicable).

## 4. Definition of Black Economic Empowerment

We quote directly from the Strategy:

Our country requires an economy that can meet the needs of all our economic citizens - our people and their enterprises - in a sustainable manner. This will only be possible if our economy builds on the full potential of all persons and communities across the length and breadth of this country. Government's objective is to achieve this vision of an adaptive economy characterised by growth, employment and equity by 2014.

Apartheid systematically and purposefully restricted the majority of South Africans from meaningful participation in the economy. The assets of millions of people were directly and indirectly destroyed and access to skills and to self-employment was racially restricted. The accumulation process under Apartheid confined the creation of wealth to a racial minority and imposed underdevelopment on black communities. The result is an economic structure that today, in essence, still excludes the vast majority of South Africans. It is crucial to understand the magnitude of what took place in our past in order to understand why we need to act together as a nation to bring about an economic transformation in the interest of all.

...

The South African economy is performing well given its Apartheid and colonial legacy and the current global downturn. South Africa has enjoyed 10 years of consistent growth. Much has been achieved since 1994. Unfortunately, the extent to which this growth has been shared equitably amongst all South Africans is not yet adequate for the requirements of a stable, integrated and prosperous society. Accordingly, we need to take additional collective actions in order to achieve our objectives. Further growth can only be accelerated and sustained if all South Africans are meaningfully integrated into the economy.

The Strategy defines BEE in terms of the following measurable factors:

- **Direct empowerment** through ownership and control of enterprises and assets,
- **Human resource development** and employment equity,
- **Indirect empowerment** through preferential procurement and enterprise development.

This definition is enshrined within the Principles of the Charter and its alignment to the DTI balanced scorecard.

## 5. Principles

This Charter incorporates the following principles:

1. The Management Consulting Industry Charter is based on and closely aligned to the DTI Strategy for Broad Based BEE. By using the DTI scorecard approach, the Charter creates incentives for all Management Consultants to apply their particular strengths to advance BEE. The components are designed to promote the "broad based" nature of BEE. "Charter Compliance" will require commitment to the achievement of Broad-Based BEE. **(Section 6)**
2. *A major BEE Challenge* for the industry is the requirement for development of Management Consulting skills in South Africa. The enhancement of these skills is a priority objective of the Charter. **(Section 7)**

3. This Charter recognises that many participants in the industry are organised as partnerships and sole proprietorships, and many also qualify as “small business”. This will complicate issues on equity and management. **(Section 8)**
4. The Charter recognises the contribution of wholly foreign-owned Management Consulting companies to the South African economy, providing enhanced competition and additional choice, use of South Africa as the “Gateway to Africa”, skills transfer through employment and staff development, and performance guarantees to their South African subsidiaries. **(Section 9)**
5. The Charter recognises the imperative of Direct Empowerment through Black Equity and the simultaneous challenge in the sale of equity by some consultancies. The Charter uses the concept of “overscoring” to offset the objectives of Direct Empowerment where these cannot be achieved. The Charter recognises that imposing ownership requirements on local partnerships, local sole proprietorships and wholly foreign-owned subsidiaries will not be to the benefit of South African economy, South African society or BEE. Consultancies may achieve Charter Compliance through “overscoring” without a required sale of equity. **(Section 10)**
6. The Charter encourages but does not require investments in Enterprise Development, which the Strategy defines to include knowledge transfer and capacity building. As an alternative the Charter recognises the Enterprise Development benefit of performing consulting projects in alliances and consortia. Management Consultants making investments and achieving knowledge transfer in other consultancies are not expected to compromise competitive advantage or to relinquish control over intellectual capital. Consultancies may achieve Charter Compliance through “overscoring” without required investments in Enterprise Development. **(Section 11)**
7. This Charter encourages “pro-bono” work for registered public benefit organisations as the industry specific residual component in the scorecard. **(Section 12)**
8. The Management Consulting Vision for BEE includes all the major mechanisms identified in the DTI Strategy (including an industry specific residual component), defined in terms of a stable end-state scorecard with a phase-in period. **(Section 13)**
9. Charter compliance is auditable and administered by the Institute of Management Consultants of South Africa or other similar industry associations. **(Section 14)**
10. Charter compliance is recognised in legislation, regulations, public sector procurement and reciprocity with other industry charters. **(Section 15)**

## **6. Alignment to DTI Strategy**

The Charter aligns itself to the DTI Strategy for Broad Based Economic Empowerment including the Transformation Imperative, Overcoming the Economic Legacy of Apartheid, the Strategy, the Way Forward, and the Appendices (on the Balanced Scorecard and the Definitions).

The DTI Strategy takes precedence in all aspects of interpretation of this Charter, except where this Charter expressly uses the permitted flexibility of implementation by sector described in the Strategy.

The Strategy states the following:

3.5.3.3 The scorecard ... will allow for a measure of flexibility in order that it can be adapted to the particular circumstances of specific sectors or enterprises, while at the

same time bringing a measure of standardisation to the definition and measurement of BEE.

For reference purposes we show below the DTI scorecard extracted from the Appendices to the Strategy:

<b>Core component of BEE</b>	<b>Indicators</b>	<b>Total Score</b>
Direct empowerment score		
<b>Equity ownership</b>	<b>% share of economic benefits</b>	<b>20%</b>
<b>Management</b>	<b>% black persons in executive management and/or executive board and board committees</b>	<b>10%</b>
Human Resource development and employment equity score		
<b>Employment equity</b>	<b>Weighted employment equity analysis</b>	<b>10%</b>
<b>Skills development</b>	<b>Skills development expenditure as a proportion of the total payroll</b>	<b>20%</b>
Indirect empowerment score		
<b>Preferential procurement</b>	<b>Procurement from black owned and empowered enterprises as a proportion of total procurement</b>	<b>20%</b>
<b>Enterprise development</b>	<b>Investment in black owned and empowered enterprises as a proportion of total assets</b>	<b>10%</b>
Residual 10%		
<b>To be defined</b>	<b>To be determined by sector/enterprise</b>	<b>10%</b>
Total score out of 100%		

The Charter defines a similar scorecard for the Management Consulting Industry which is aligned to the DTI scorecard.

## **7. Management Consulting Skills Development BEE Challenge**

*The major BEE Challenge* for the industry is the requirement for development of Management Consulting skills in South Africa. The Charter recognises this challenge in the “Skills Development” component of the Scorecard.

## **8. Partnerships, Sole proprietorships & Small Businesses**

This Charter recognises *a major BEE challenge* in that many participants in the industry are organised as partnerships and sole proprietorships, and many also qualify as “small business”.

In cases where the organisation is not an incorporated company, it may not be possible to sell equity to investors, and the organisation can only operate on the “owner operator” model. The Charter allows that such organisations may “overscore” on other components of the scorecard as described in section 13.

In the case of small consultancies dependent on individual skills of the senior executive(s), the only appropriate ownership model is the “owner operator” model. The Charter allows that consultancies not subject to the Equity Employment Act are not required to achieve charter compliance, but may achieve charter compliance voluntarily.

## 9. **Benefits to South Africa from Global Company Operations**

This Charter recognises *a major BEE challenge* in the policies of many global Management Consulting companies to operate only through wholly-owned subsidiary companies. These policies are justifiable for reasons of governance, organisation structure, intellectual capital assets, market pressures from global shareholders, and existing employee share schemes in the global parent companies.

These advantages to South Africa are assessed below.

**Assets:** South Africa is a beneficiary of unrestricted access to global intellectual capital and knowledge assets by wholly-owned South African subsidiaries. Parent companies place the highest value on full ownership in activities that involve innovation, brand recognition and product differentiation.

**Best practice to Support International Competitiveness:** The Management Consulting sector is an “intermediary” industry providing the latest best practice and innovation inputs to other sectors that are essential for competitive positions in the global marketplace. These inputs are frequently effectively introduced to South Africa by foreign-owned companies who can accelerate the diffusion of best practice in South Africa using the established channels of global groups for their services.

The Charter seeks to avoid arrangements creating barriers to the smooth introduction of best practice that may put the international competitive position of national companies in other sectors at risk.

**Enhanced Competition & Additional Choice:** The presence of global competitors in South Africa results in enhanced competition, additional choice, lower costs, and access to intellectual capital for which there is often no local alternative.

The Charter seeks to enhance the attractiveness of South Africa as a destination for intellectual capital.

**Skills Transfer:** Foreign-owned consultancies are generally recognised for their staff development. Wholly-owned subsidiaries of global companies operate staff development practices that involve international work assignments and international training programmes for South African employees. In addition, the process of knowledge transfer by temporary assignment of international resources to South Africa is simplified by wholly-owned subsidiary status. Transfer of skills to the domestic economy take place as local employees move from foreign-owned consultancies to local consultancies.

The Charter recognises that these global policies for staff development are aligned to the objectives of BEE and are supported by wholly-owned subsidiary status of the South African operations.

**Employee share schemes:** The majority of foreign-owned local subsidiaries of global consultancies already provide parent company equity as a benefit to South African employees. It is unlikely that this employee benefit would be maintained for a partly owned subsidiary.

**Performance Guarantees:** Global consultancies may provide performance guarantees to South African customers in respect of the business operations of their wholly-owned subsidiaries.

The Charter recognises that providing performance guarantees to South African customers is of benefit in high risk project investments, and that these guarantees are facilitated by wholly-owned subsidiary status of the South African operations.

This Charter incorporates the principle that there are significant advantages to South Africa and South African clients in the local presence of foreign-owned Management Consulting companies in South Africa.

The Charter proposes that such organisations may choose to “overscore” on other components of the scorecard as described in section 13.

## 10. **Direct Empowerment**

### 1. **The Black Equity imperative**

This Charter recognises the imperative for Direct Empowerment through Black Equity providing ownership and control of enterprises and assets.

The Strategy states the following:

“The process of BEE must result in an increase in the ownership and control of the economy by black persons. This means that a significant proportion of black persons’ ownership of assets and enterprises must be a controlling interest, reflecting genuine participation in decision-making at board, executive management and operations levels, and the assumption of real risk.

In the scorecard, direct empowerment focuses on ownership of enterprises and assets through shares and other instruments that provide the holder thereof with voting rights and economic benefits, such as dividends or interest payments.

Control means:

- The right or the ability to direct or otherwise control the majority of the votes attaching to the (enterprise’s) issued shares
- The right or ability to appoint or remove directors holding a majority of voting rights at meetings of the board of directors of that (enterprise)
- The right to control the management of that (enterprise).”

### 2. **Challenges in the Sale of Equity**

The Charter recognises *a major BEE challenge* in the ability of partnerships, sole proprietorships, other small businesses and many global Management Consulting companies to sell equity. A critical issue is that most Management Consulting organisations use an owner-operator model in which equity capital is provided by management.

### 3. **Achieving Direct Empowerment Through Alliances & Consortia**

Most use of management consultants is project based. The Charter recognises the creation of temporary project-based alliances and consortia which are jointly Charter-compliant through a mix of direct empowerment amongst the members, and “overscoring”.

### 4. **Required Financing**

The Charter cannot define the required financing for achieving BEE in the Management Consulting industry without appropriate data. However, the industry has few assets beyond intellectual property and branding of its senior practitioners. Finance is required for unbilled services and debtors which are usually the responsibility of the senior practitioners acting as owner-operators. The required level of finance to achieve a 25% equity stake in a consultancy is likely to be approximately equivalent to its annual net profit (an “Earnings Yield” of 25%).

## 5. Direct Empowerment Conclusion

This Charter incorporates the principle that Management Consulting organisations (including subsidiaries of global Management Consulting companies) work effectively as owner-operator organisations. They should be encouraged but not required to sell equity or to offer partnership, as part qualification for full compliance with this Charter. While the Charter rewards those consultancies able to incorporate black owner-operators or other investors, it also allows other consultancies to “overscore” in other components to achieve the overall objectives of Broad Based BEE. In such instances, Direct Empowerment may be achieved project-by-project through use of alliances and consortia.

## 11. Challenges in Enterprise Development

This Charter recognises *a major BEE challenge* in required investments by consultancies in Enterprise Development to promote knowledge transfer and capacity building, where as a result of such Enterprise Development they may compromise competitive advantage or relinquish control over intellectual capital.

By contrast product companies are better able to achieve vertical (supplier & customer) enterprise development through channel investments.

The Charter recognises that it is not the intent of the Strategy to compromise competitive advantage. The Strategy states the following:

“...A second element of indirect empowerment is enterprise development. This can take two forms:

- Investment in black-owned and black-empowered enterprises,
- Joint ventures with black-owned and black-empowered enterprises that result in substantive skills transfer.

... there must be real economic benefit flowing to the recipient enterprise to enable it to be set up and run on a sustainable basis...

... The measure of the effectiveness of joint ventures is whether or not the black enterprise is able to perform the core elements of the joint projects on a stand-alone basis without compromising the competitive advantage contributed by either enterprise.”

While the Charter rewards those consultancies able to develop black business, it also allows other consultancies to “overscore” in other components to achieve the overall objectives of Broad Based BEE.

## 12. Industry specific residual component

This Charter encourages “pro-bono” (free) work for registered public benefit organisations (“PBOs”) as the industry specific residual component in the scorecard. The scorecard full score will be given when the consultancy can obtain certificates of hours contributed to registered PBOs amounting to an average of 40 hours per year for each qualified person according to the definitions in Employment Equity (roughly equivalent to 2% of normal time).

### **13. The Management Consulting Industry Vision for achieving BEE**

#### **1. Mechanisms**

This Charter uses the following mechanisms to achieve BEE:

1. Equity ownership
2. Black executive directors and managers with significant delivery, supervisory and budget responsibility
3. Black employees with Management Consulting skills and qualifications
4. Skills development
5. Procurement from Charter-Compliant enterprises
6. Cost of investment in black owned or empowered enterprises
7. Industry specific: “pro-bono” (free) support for public benefit organisations.

#### **2. BEE Targets**

This Charter sets the following BEE targets and target scores:

<b>Component of BEE</b>	<b>Target indicators</b>	<b>Target score</b>
Equity ownership	50% of black shareholders or partners share of firm (at year end)	<b>20</b>
Management	50% black Executive Directors or managers with significant delivery, supervisory & budget responsibility (at year end)	<b>10</b>
Employment equity skilled staff	50% black or skilled staff (at year end)	<b>10</b>
Skills development	Skills development (own staff) expenditure: annual 5% of consultancy income	<b>20</b>
Preferential procurement	Procurement from >50% black owned or charter-compliant enterprises in their own industries: annual 20% of total procurement (excluding state owned enterprises,	<b>20</b>

<b>Component of BEE</b>	<b>Target indicators</b>	<b>Target score</b>
	associate company purchases & overhead allocations from foreign parents)	
Enterprise development	10% of consultancy fee income paid to consultancies in subcontract, alliances & consortia that are either >50% black-owned or charter compliant	<b>10</b>
Other: specific to industry	Social responsibility – 2% of professional time (40 hours per consultant) directed to pro-bono work for public benefit organisations	<b>10</b>
<b>Total</b>		<b>100</b>

The DTI example scorecard indicates a maximum score of 100. The Charter expressly amends the DTI example to allow “overscoring” to cater for the major BEE challenges described in this Charter.

The DTI example indicates different classes of compliance: “good”, “satisfactory” and “limited”. The Charter expressly amends the DTI example to provide a status of either “compliant” or “non-compliant”. This amendment is to enable proposals on the impact of compliance listed below in section 15.

### 3. **Charter compliance**

A consultancy is Charter Compliant if it achieves the scoring stated in section 13.4. in the applicable year of assessment.

A project-based alliance, consortium or contractor/sub contractor grouping is Charter Compliant if the weighted average of scores, weighted by contracted share of project income, achieves the scoring stated in section 13.4 in the applicable year of assessment.

### 4. **BEE Timetables**

The Strategy states

“Government’s objective is to achieve its vision of an adaptive economy characterised by growth, employment and equity by 2014.”

This Charter defines the phasing-in timetable as follows:

:

<b>Year of financial year end</b>	<b>Compliance score</b>
2004 and prior	50 points

2005	50 points
2006	55 points
2007	55 points
2008	60 points
2009	60 points
2010	65 points
2011	65 points
2012	70 points
2013	70 points
2014 and subsequent	75 points

## 5. **Charter Lifecycle**

After a period of time, defined by DTI, the objectives of the Charter will be declared achieved and all requirements will fall away.

## 14. **Administration of Charter Compliance**

### 1. **Confirming the Charter**

The DTI is responsible to confirm (or amend) this Charter which includes scorecard, definitions, target achievement, target score, compliance hurdle end-state score and phasing.

### 2. **Administering the Charter**

The Institute of Management Consultants of South Africa will be nominated by member organisations and authorised by the DTI (subject to appropriate procedures) to administer amendments, clarifications, etc., for the Management Consulting industry. Other industry associations could also be nominated and approved for this purpose.

The Institute will create a representative mechanism for Charter governance in its constitution and will provide a public annual report on achievements of the Charter. The Institute will require membership by an applicant organisation, and an organisation losing its membership would have to seek certification of compliance from another authorised association.

### 3. **Certifying Compliance of a Consultancy**

Charter Compliance will be based on data as at the most recent audited financial year-end. To avoid missed compliance due to late audit adjustments or small variations below target scores, organisations will be entitled to achieve compliance through valid post year-end transactions if made prior to the date of finalisation of the audit.

Compliance will be valid to the end of the calendar year following the calendar year in which the audit is finalised, to allow for following-year audit delays, changes to financial year-end, etc. For example: for the financial year-end of December 2003 with audit finalisation in March 2004, compliance will be valid until December 2005.

The auditor of a consultancy will be responsible to certify that: “(Management Consulting organisation) is compliant until (date) with the Management Consulting Industry Empowerment Charter administered by (authorised industry association).”

The auditor may be a registered financial auditor or an “Empowerment Auditor” registered with the DTI (if available) or otherwise an empowerment auditor registered with the industry association administering the Charter.

### 4. **Certifying Compliance of a project-based alliance, consortium or contractor/sub contractor grouping**

A project-based alliance, consortium or contractor/sub contractor grouping can be certified compliant by an auditor who relies on the audited compliance scores of individual members and refers to a contract for the contracted share of project income to determine a weighted average score.

## 15. **Impact of Charter Compliance**

Transparency and consistency in the application of the scorecard will be essential to promote good faith BEE efforts, enhance the regulatory certainty required for economic growth and limit arbitrary award decisions.

Charter compliance will have the following impact on Government, the public sector, other sectors subject to charters and the compliant company:

1. All legislation and regulations will provide equal Charter status for all “Charter Compliant” organisations.
2. Government will ensure “Charter Compliance” is a sufficient mechanism for any BEE procurement entry qualification throughout the public sector (in terms of the BEE Act).
3. The Charter will recognise reciprocity in dealings between charter compliant organisations (including those in different industries, applying different charters) in scorecard components of procurement and Equity. The Charter has only one grade of compliance - if other charters define various grades of compliance, then the degree of reciprocity will be an issue for the administering organisations of this Charter.
4. An audit certificate is prima facie proof of compliance.

There will be no further BEE discrimination between organisations that are Charter Compliant, irrespective of achievements across the various BEE components.

In terms of the Charter, businesses not subject to the Equity Employment Act (mostly small businesses) are not required to achieve charter compliance in any public sector BEE procurement entry qualification, but may achieve charter compliance voluntarily.

### 16. **Further Information**

The Institute of Management Consultants of South Africa and our members, being Management Consulting Industry participants supporting this Charter, are committed to the achievement of Government policy for BEE. If you have any questions or comments on this Charter, please contact the Institute of Management Consultants of South Africa at [www.imcsa.org.za](http://www.imcsa.org.za) .

Draft Management Consulting Industry Empowerment Charter	
Facilitated by the Institute of Management Consultants of South Africa	