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06 October 2020

**Mr Duma Moses Nkosi**

Chairperson of the Portfolio Committee on Trade and Industry

Per email: [dnkosi@parliament.gov.za](mailto:dnkosi@parliament.gov.za)

**And to Members of the Portfolio Committee on Trade and Industry**

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**Appointment of the Chairperson and Non-Executive Member to the National Lotteries Commission**

1. Corruption Watch is a civil society organisation that was launched in January 2012<sup>1</sup>. We encourage the public to report incidents of corruption to us, and we use these reports as an important source of information in our fight against corruption in South Africa. We achieve this through research, policy advocacy, public mobilisation campaigns, strategic litigation, mass communications, and select investigations.
2. Since 2016, Corruption Watch has actively focused on campaigning around the appointment processes of leaders to institutions that comprise our criminal justice system, the board of directors for State-Owned Enterprises, as well as institutions established under Chapter 9 of the Constitution of the Republic of South Africa. The objectives of our work are largely to advocate for candidates to be appointed in a transparent manner, and to ensure that they are assessed against clear, merit-based, and objective criteria.
3. Corruption Watch also calls for avenues to be established that allow for public participation in appointment proceedings. Independent and robust institutions that act in the public interest, and

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<sup>1</sup> Corruption Watch is registered as a non-profit company in terms of the Companies Act 71 of 2008.

who operate without fear, favour or prejudice, are imperative to safeguarding South Africa's constitutional democracy. The collapse of these institutions gives rise to a state where there are no adequate checks and balances, where impunity prevails, and where the public is made vulnerable to abuse of our constitutional rights.

4. We note with concern that allegations of fraud, corruption and nepotism have been made in relation to the National Lotteries Commission (NLC), and welcome investigations into these matters instituted by the Department of Trade and Industry.<sup>2</sup> The NLC, like other public institutions, is vulnerable to corruption. We believe that part of combatting corruption, as well as its prevention, is ensuring ethical, qualified leadership and oversight. It is therefore essential that the new Chairperson and Board members of the NLC are individuals of high calibre, in their skills, knowledge and integrity.

#### **Proposal to ensure ethical oversight at the National Lotteries Commission**

5. Corruption Watch's recent interventions in the appointment of the Auditor-General resulted in a legal opinion confirming that Corruption Watch's proposals are in line with Parliament's obligation to conduct fair and transparent appointment processes. See Annexure A.
6. With this in mind, and in the interests of ensuring that experienced and skilled candidates, whose integrity is beyond reproach, are appointed to the NLC, Corruption Watch advises that the Portfolio Committee on Trade and Industry (Committee) undertake the following:
  - i) Ensure that the Minister of Trade and Industry submit a detailed report on the shortlisted candidates who will be referred to the Committee for interviewing. The report should include the following information:
    - A summary detailing the selection process undertaken by the Minister;
    - The total number and names of all individuals who applied for the position;
    - The criteria used for shortlisting;
    - The methodology used to assess the skills and competencies of candidates; and
    - The results of the financial and security vetting conducted on shortlisted candidates, as well as character references and qualification checks.
  - ii) Once the Committee has received the required information, the names and CVs of shortlisted candidates should be published on Parliament's website.

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<sup>2</sup> <https://www.corruptionwatch.org.za/lottery-fraud-corruption-allegations-to-be-probed/>

- iii) Section 59(1) of the Constitution of the Republic of South Africa requires the National Assembly to facilitate public involvement in the legislative processes of the Assembly and its committees. In this regard, and following the precedent set by similar parliamentary appointments, Corruption Watch recommends that the Committee allocate a sufficient period, of no less than 7 days, for the public to comment and provide objections to candidates who have been shortlisted.
- iv) Finally, the interviewing and deliberation proceedings should be open and accessible to the public. Furthermore, we urge the Committee to evaluate candidates based on their technical skills, leadership abilities, knowledge and understanding of the NLC, conflict management and resolution skills, as well as values and ethics.
7. We hope that the proposals submitted by Corruption Watch will be considered by the Committee when conducting the interviews for the position of Chairperson and Non-Executive Members to be appointed to the NLC. We firmly believe that in order to safeguard our state institutions and prevent corruption, those in positions of political power need to prioritise and improve appointment processes across all state bodies. It is in the interest of the public, and our constitutional democracy, that there is demonstrated political will to ensure that sufficient checks and balances are in place to end impunity and reinforce principles of accountability in South Africa.
8. The Corruption Watch team is available to respond to any questions and concerns arising from this submission. We look forward to collaborating in the interests of improving the functioning of state institutions.

Yours Sincerely,



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