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06 October 2020

Mr Ebrahim Patel

Minister of Trade and Industry

Per email: ineethling@thedti.gov.za / minister@economic.gov.za

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 2012¹. 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 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

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

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.² 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. It is worthwhile noting that in three³ of the judicial commissions of inquiry established by President Cyril Ramaphosa in the last 24 months, the public has heard evidence of how leadership positions across various criminal justice agencies and state institutions were manipulated and influenced in order to safeguard networks of political patronage. With this in mind, in his final [report](#) of the Commission of Inquiry into Tax Administration and Governance by the South African Revenue Service (SARS), Judge Robert Nugent provides a proposal for a possible recruitment process for the SARS commissioner that would ensure that the best possible candidate is selected for the position. Judge Nugent outlines a process that should be “open and transparent”, “apolitical” and proposes that an independent panel of experts be appointed to conduct the recruitment proceedings. He further advises that the proposed panel consist of members that are “not answerable to any constituency”. Additionally, applicants should be assessed against suitable criteria, and the panel should “make motivated and non-prescriptive recommendations on the suitability” of the candidates to the President or Minister for appointment.
6. In this regard, Corruption Watch was pleased with the steps taken by President Ramaphosa to ensure that stringent two-stream recruitment processes were put in place to appoint the National Director of Public Prosecutions in 2018, and the Commissioner of the SARS in 2019. These interventions are consistent with values of fairness and accountability, and sets a positive

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

³ Judicial Commission of Inquiry into allegations of State Capture, chaired by Deputy Chief Justice Raymond Zondo, Commission of Inquiry into Tax Administration and Governance by the SARS, chaired by Judge Robert Nugent, and the Enquiry in terms of Section 12(6) of the National Prosecuting Authority Act, chaired by Judge Yvonne Mokgoro

precedent for future appointments to positions not only within the criminal justice system, but can also be extended to senior appointments across state institutions.

7. 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 Minister of Trade and Industry undertake the following:

- i) An independent selection panel be established by the Minister, whose objective is to undertake a transparent and merit-based shortlisting process that results in recommendations to the Portfolio Committee on Trade and Industry of the most qualified candidates to serve on the Board of the NLC. The selection panel should consist of individuals who are able to impartially assess candidates on agreed-upon criteria.
- ii) Section 3 of the Lotteries Act highlights that the Board should include one Chartered Accountant, one legal practitioner permitted to practice in South Africa, and five other members, all with applicable knowledge, skills and experience in business, and other matters relevant to the functioning of the Board. Whilst Section 3 must be used as base criteria for the shortlisting of candidates, the selection panel should develop additional criteria and guidelines that will ensure that only the strongest candidates are identified for the interview process. To be shortlisted, not only do candidates need to possess the necessary experience, expertise and qualifications, but they must also be vetted for financial and security risks.
- iii) The selection panel should provide scores for each shortlisted candidate against key criteria, weighted by the most important functions of the post – as well as assessments of integrity.
- iv) In a submission to Parliament, the Minister should provide a detailed report that includes the following information:
 - A summary detailing the appointment process
 - The 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.

8. We hope that the proposals submitted by Corruption Watch will be considered by the Minister when conducting the recruitment of the 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 the 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.

9. The Corruption Watch team is available to respond to any questions and concerns. We look forward to collaborating in the interests of improving the functioning of state institutions.

Yours Sincerely,



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