

IN THE LABOUR COURT OF SOUTH AFRICA
(HELD AT JOHANNESBURG)

COPY
Case No: J532/19

In the matter between:

SOUTH AFRICAN COMMUNICATIONS UNION Applicant

and

BUSINESS CONNEXION (PTY) LTD First Respondent
MDUDUZI KHUMALO N.O. Second Respondent



**COMMISSION FOR CONCILIATION,
MEDIATION AND ARBITRATION** Third Respondent

COMMUNICATIONS WORKERS UNION Fourth Respondent

SOLIDARITY Fifth Respondent

**INFORMATION COMMUNICATION
TECHNOLOGY UNION** Sixth Respondent

**NATIONAL UNION OF METALWORKERS OF
SOUTH AFRICA** Seventh Respondent

**MEDIA WORKERS UNION OF
SOUTH AFRICA** Eighth Respondent

**GENERAL INDUSTRIES WORKERS UNION OF
SOUTH AFRICA** Ninth Respondent

UNITED ASSOCIATION OF SOUTH AFRICA Tenth Respondent

NOTICE OF MOTION

BE PLEASED TO TAKE NOTICE THAT the Applicant, intends to make an application on **Wednesday, 20 March 2019** at 10h00, or as soon thereafter as counsel may be heard, for an order in the following terms:

1. Condoning the Applicant’s non-compliance with Rule 8 of the Rules of this Honourable Court relating to the form and services of this application on the Respondents and allowing the matter to be heard as one of urgency in terms of Section 158 (1)(a)(i);

2. Directing the First Respondent to provide the following information to the Applicants, namely
 - 2.1. 790 affected positions and / or employees and the division and region each resided in;
 - 2.2. exit date of each position;
 - 2.3. selection criteria utilised to determine the affected positions;
 - 2.4. parties consulted to determine the 790 positions;
 - 2.5. detail of who approved the proposed structure; and
 - 2.6. the amount of employees or positions “in scope”.

3. Directing the Applicant and the Respondents to reconvene a further facilitation meeting within a week of the First Respondent complying with the order in paragraph (2) herein in order to consult on the presentation(s) given by the First Respondent in the light of the information provided;

4. Directing the parties to identify, with the assistance of the Second Respondent, to identify issues that need to be consulted on;
5. Ordering the First Respondent not to proceed with any restructuring as contemplated until facilitation process has been completed;
6. Directing the Second Respondent to ensure that at the start of the third facilitation meeting that he complies with regulation 3(1) of the Regulations for the Conduct of Facilitations in terms of Section 189A;
7. Ordering costs only as against those respondents who oppose the application;
8. Further and / or alternative relief.

KINDLY TAKE NOTICE FURTHER that the Applicant appoints BOTOULAS KRAUSE DA SILVA INC ATTORNEYS, with address set out below, as its attorney of record where all process and pleadings shall be accepted in this matter.

KINDLY TAKE NOTICE FURTHER that the affidavit of HERMANUS BOTHA with the annexures thereto is attached hereto in support of this application.

KINDLY TAKE NOTICE FURTHER that in the event that any of the Respondents wish to oppose this application, notice of opposition must be made to the Applicant's attorney of record whose particulars are set out hereunder by 10h00 on Tuesday, 12 March 2019 and by delivery of an answering affidavit to this application setting out the basis of the opposition by 12h00 on Friday, 15 March 2019 to the address of the Applicant's attorney of record set out hereunder. Failure to do so will result in the application being heard in the absence of the Respondent.

Kindly enroll the matter accordingly.

DATED at JOHANNESBURG on this the 7TH day of March 2019.



BOTOULAS KRAUSE & DA SILVA INC

Applicant's Attorneys

First Floor, Block B

EOH Business Park

1 Osborne Lane

Bedfordview

PO Box 264, Modderfontein 1645

Tel: 011 616 6306

Fax: 011 616 8051

Ref: Mrs Botoulas

**TO: THE REGISTRAR OF THE
ABOVE HONOURABLE COURT
6TH Floor, Arbour Square
Cnr Juta & Muller Streets
BRAAMFONTEIN**

BY HAND

**AND TO: BUSINESS CONNEXION (PTY) LTD
BCX Centurion Offices,
1021 Lenchen Avenue North
Centurion
City of Tshwane
Telefax: (086) 571 8939
Email: hennelie.dutoit@bcx.co.za**

BY TELEFAX & EMAIL

AND TO: **MDUDUZI** ⁵ **KHUMALO N.O.**
care of:
CCMA House
127 Fox Street
Johannesburg, 2001
Telefax: (011) 220-5101/02/03/04/05 or 0861392-262
E-mail: johannesburg@ccma.org.za
BY TELEFAX & EMAIL

AND TO: **COMMISSION FOR CONCILIATION, MEDIATION AND
ARBITRATION**
CCMA House
127 Fox Street
Johannesburg, 2001
Telefax: (011) 220-5101/02/03/04/05 or 0861392-262
E-mail: johannesburg@ccma.org.za
BY TELEFAX & EMAIL

AND TO: **COMMUNICATIONS WORKERS UNION**
222 Smit Street
20th Floor, Transnet Building
Braamfontein
Telefax: (086) 547 0498
E-mail: nomim@cwu.org.za.
BY TELEFAX & EMAIL

AND TO: **SOLIDARITY**
Corner DF Malan and Eendrach Street

Centurion

Telefax: (012) 664 6493

E-mail: service@solidarity.co.za

BY TELEFAX & EMAIL

AND TO:

**INFORMATION COMMUNICATION
TECHNOLOGY UNION**

296 Francis Baard & Van der Walt Street
office 401

Pretoria

Telefax number (012) 320 8526 or (086) 617 5001

E-mail: ictu@telkomsa.net

BY TELEFAX & EMAIL

AND TO:

**NATIONAL UNION OF METALWORKERS OF
SOUTH AFRICA**

153 Lilian Ngoyi Street

Newtown, Johannesburg

Telefax: (011) 838 4092

BY TELEFAX

AND TO:

**MEDIA WORKERS UNION OF
SOUTH AFRICA**

PO Box 11136

Johannesburg, 2000

Telefax number: (086) 596 6828

E-mail : tuwgum@yahoo.com

BY TELEFAX & EMAIL

AND TO: **GENERAL INDUSTRIES WORKERS UNION OF
SOUTH AFRICA**
5th Floor Melody Centre
159 Meyer Street
Germiston
Telefax: (011)873 0921 and (086) 535 5185
E-mail: peter@giwusa.co.za

BY TELEFAX & EMAIL

AND TO: **UNITED ASSOCIATION OF SOUTH AFRICA**
42 Goldman Street
Florida, 1709
Telefax: (011) 674 4057 and (086) 504 0968
E-mail address admin@uasa.co.za

BY TELEFAX & EMAIL

IN THE LABOUR COURT OF SOUTH AFRICA
(HELD AT JOHANNESBURG)

Case No: J532/19

In the matter between:

SOUTH AFRICAN COMMUNICATIONS UNION

Applicant

and

BUSINESS CONNEXION (PTY) LTD

First Respondent

MDUDUZI KHUMALO N.O.

Second Respondent

COMMISSION FOR CONCILIATION,

MEDIATION AND ARBITRATION

Third Respondent

COMMUNICATIONS WORKERS UNION

Fourth Respondent

SOLIDARITY

Fifth Respondent

INFORMATION COMMUNICATION

TECHNOLOGY UNION

Sixth Respondent

NATIONAL UNION OF METALWORKERS OF

SOUTH AFRICA

Seventh Respondent

MEDIA WORKERS UNION OF

SOUTH AFRICA

Eighth Respondent

GENERAL INDUSTRIES WORKERS UNION OF

SOUTH AFRICA

Ninth Respondent

UNITED ASSOCIATION OF SOUTH AFRICA

Tenth Respondent

FOUNDING AFFIDAVIT



I, the undersigned,

HERMANUS BOTHA

Do hereby make oath and state as follows:

- 1 I am an adult male and a full time shop steward and I sit on the national management committee of the Applicant and I am duly authorised to bring this application on behalf of the Applicant.
- 2 The facts contained herein are, unless the contrary appears from the context or specifically stated, within my own personal knowledge and are, to the best of my belief, both true and correct.
- 3 To the extent that I make legal submissions herein I do so on the advice of the legal advisors to the Applicant, which advise I accept. I was present at the first, second and fourth facilitation meetings referred to herein representing the interest of the Applicant.
- 4 This honourable Court has the necessary jurisdiction to entertain this application which is brought in terms of section 189A(13) of the Labour Relations Act No 66 of 1995 (as amended) ("the LRA").

THE PARTIES

- 5 The Applicant is the South African Communications Union, a trade union registered in terms of the provisions of the LRA and having its principal place of business at Units 12 and 13, Watcor Park, Parow, Western Cape and having its address for service herein care of its attorneys of record.
- 6 The First Respondent is Business Connexion (Pty) Limited ("BCX"), a company duly incorporated in terms of the company laws of the Republic of South Africa and having its principal place of business



situated at BCX Centurion Offices, 1021 Lenchen Avenue North, Centurion, City of Tshwane with telefax number is (086) 571 8939 and whose Employee Relations Manager, Hannelie du Toit, who has been dealing with this matter on behalf of BCX, has the e-mail address hannelie.dutoit@bcx.co.za.

- 7 I might add at this juncture that BCX is a wholly owned subsidiary of Telkom SOC Limited.
- 8 The Second Respondent is Mduzuzi Khumalo, an adult male commissioner appointed by the Third Respondent as a facilitator in terms of section 189A of the LRA and who is cited in his official capacity and whose address is care of the Third Respondent ("the Facilitator").
- 9 The Third Respondent is the Commission for Conciliation, Mediation and Arbitration ("the CCMA") whose Johannesburg address is CCMA House, 127 Fox Street, Johannesburg, 2001 with telefax number (011) 220-5101/02/03/04/05 or 0861392-262.
- 10 The Fourth Respondent is the Communications Workers Union, a trade union registered in terms of the provisions of the LRA and having its principal place of business at 222 Smit Street, 20th Floor, Transnet Building, Braamfontein with telefax number (086) 547 0498 and e-mail addressnomim@cwu.org.za.
- 11 The Fifth Respondent is Solidarity, a trade union registered in terms of the provisions of the LRA and having its principal place of business at the corner DF Malan and Eendrach Street, Centurion, with telefax number (012) 664 6493 and e-mail address service@solidarity.co.za.
- 12 The Sixth Respondent is the Information Communication Technology Union, a trade union registered in terms of the provisions of the LRA and having its principal place of business at 296 Francis Baard & Van der Walt

Handwritten signature and initials, possibly 'P 10' and 'AB', in the bottom right corner of the page.

Street, office 401, Pretoria with telefax number (012) 320 8526 or (086) 617 5001 and e-mail address ictu@telkomsa.net.

- 13 The Seventh Respondent is the National Union of Metaworkers of South Africa, a trade union registered in terms of the provisions of the LRA and having its principal place of business at 153 Lillian Ngoyi Street, Newtown, Johannesburg with telefax number (011) 838 4092.
- 14 The Eighth Respondent is the Media Workers Association of South Africa, a trade union registered in terms of the provisions of the LRA and having with its postal address being PO Box 11136 Johannesburg 2000 and with telefax number (086) 596 6828 and e-mail address tuwgum@yahoo.com.
- 15 The Ninth Respondent is the General Industries Workers Union of South Africa, a trade union registered in terms of the provisions of the LRA and having its principal place of business at 5th Floor Melody Centre, 159 Meyer Street, Germiston and with telefax number (011)873 0921 and (086) 535 5185 and e-mail address peter@giwusa.co.za.
- 16 The Tenth Respondent is the United Association of South Africa, a trade union registered in terms of the provisions of the LRA and having its principal place of business at 42 Goldman Street, Florida, 1709 with telefax number (011) 674 4057 and (086) 504 0968 with e-mail address admin@uasa.co.za.

BACKGROUND TO THE APPLICATION

- 17 The Applicant represents approximately 6% of the staff employed by BCX. A number of other trade unions operate within BCX, being the Fourth to Tenth Respondents (collectively referred to as the Additional Unions”).
- 18 At or during November 2018 a decision was taken by BCX to commence a restructuring process and as a result thereof a notice in terms of sections



189(3) and 189A of the LRA was issued by BCX ("the Notice"). A sample copy is attached hereto marked "FA 1". In it BCX recorded *inter alia* that:

- 18.1 it operates in an economic environment that has gone through a technical recession with reduced customer demand and a poor economic outlook;
- 18.2 it is contemplating dismissing some of its employees for reasons relating to its operational requirements;
- 18.3 it needed to reduce its operating costs, including employment costs;
- 18.4 a new organisational structure had been prepared which, if implemented, would result in the reduction of the number of positions required to operate the business;
- 18.5 alternatives had been considered including:
 - 18.5.1 curtailing external recruitment;
 - 18.5.2 not replacing retirees and those who had resigned;
 - 18.5.3 restricting and reducing overtime;
 - 18.5.4 offering voluntary severance packages and early retirement packages;
 - 18.5.5 placing employees within the Telkom group of companies;
 - 18.5.6 creating a business and operating model focused on a 'digital transformation capability';

A handwritten signature in black ink, consisting of a large, stylized initial 'P' followed by a smaller, more complex signature.

- 18.5.7 acquiring, disposing of and merging subsidiaries and companies which could enhance the revenue generating base and capabilities of the company;
- 18.6 approximately 790 employees would be affected;
- 18.7 a placement process would be used the details of which would be provided during the consultation process; and
- 18.8 the first group of employees would be retrenched on or about 28 February 2019.
- 19 BCX in terms of the Notice advised that it would be invoking facilitation. It has at all times been accepted that the Applicants and the Additional Unions would consult on behalf of their members. A copy of the request to the CCMA for facilitation is attached hereto marked "FA 2" and it attaches as an annexure a list of unions involved.
- 20 The CCMA accordingly appointed the Facilitator to perform the functions as set out in section 189A and the relevant regulation published in terms thereof.
- 21 BCX, the Applicant and the Additional Unions thereafter commenced the facilitation process before the Facilitator on 22 November 2018.
- 22 I might add at this juncture that not all employees of BCX are unionised. I cannot comment on whether BCX has consulted directly with the individual employees, I can only comment that they were not present (please check – should it not read 'represented?' at the facilitation meetings at which I was present at.



- 23 At the first meeting the duties of the Facilitator are set out in the Regulation as follows:

"3. Conduct of first facilitation meeting

(1) The facilitator must at the first facilitation meeting assist the parties to reach an agreement on —

(a) the procedure to be followed during the facilitation;

(b) the date and time of additional facilitation meetings; and

(c) the information the employer is required to disclose in terms of section 189(3)(a) and when that information must be disclosed.

(2) A matter dealt with in sub regulation (1) may be dealt with in any additional facilitation meetings that are held."

- 24 The first facilitation meeting was convened on 22 November 2018. During that meeting no agreement was reached on the date and time of future meetings save that the second facilitation meeting would take place on 14 December 2018. The Facilitator in fact failed to comply with the provisions of Regulation 3(1) in its totality. Additionally:

24.1 no agreement was reached on how a minute would be recorded setting out what was agreed and what remained in dispute. It was simply said that the proceedings would be recorded. I have yet to receive the transcript of the second facilitation meeting;

24.2 no decision was reached on what information the First Respondent was to disclose, instead choosing to postpone the determination of the issue continually and to the prejudice of the Applicant and the Additional Unions.

Handwritten signature and initials in the bottom right corner of the page.

- 25 On 27 November 2018 the Applicant addressed correspondence to BCX setting out what information it required. A copy thereof is attached hereto marked "FA 3". The documents requested are as follows:
- 25.1 Financial statements for 2014/2015;
 - 25.2 Financial statements for 2015/2016;
 - 25.3 A list of permanent employees as per race, gender and subsidiary;
 - 25.4 A list of contracting employees as per race, gender and subsidiary;
 - 25.5 Restructuring which took place in BCX since it acquired the Cybernest, Telkom Enterprise and TGIT divisions of Telkom; and
 - 25.6 A breakdown of the 790 positions affected based on the subsidiary they reside in and the proposed exit date.
- 26 No such information was provided to the Applicant save for the financial statements as requested.
- 27 A second facilitation meeting was then held on 14 December 2018.
- 28 I might add at this point that no minutes of the facilitation meetings were prepared by either the Facilitator or BCX. There are some transcripts of the discussions but not for the second facilitation meeting. No explanation for the lack of a transcript has been provided. Neither the Facilitator nor BCX have attempted to prepare a minute in its absence.
- 29 I attach hereto a copy of the presentation made by BCX during the second facilitation meeting as annexure "FA 4". No union had sight thereof prior to the commencement of the second facilitation meeting.

A handwritten signature in black ink, appearing to be 'GIL' with a flourish below it.

The presentation does not qualify as an answer to the request for information made by the Applicant.

- 30 At the end of the second facilitation meeting no date was provided as to when the next meeting would be. The parties were unable to agree to a date although I note that in later correspondence that the Facilitator suggests that there was an agreement. This I dispute.
- 31 It transpires that a third facilitation meeting was held on 14 January 2019. The Applicant did not receive notification thereof. It appears as if the CCMA did not send the notice of set-down to the Applicant. I attach hereto the notice of set-down from the CCMA which does not include the details of the Applicant as "FA 5". I might add that BCX did not advise the Applicant directly of the meeting. Simply put, the Applicant was not aware of the meeting until shortly before it started when my colleague Koos Fourie, who is also a full time shop steward, I was asked why he was not present by Mr Ngubo who is the ER Group Executive for Telkom. Mr Fourie was in Welkom and I was on holiday in New Zealand at the time. I pause to note that I left for New Zealand on 25 December 2018. When I left I was unaware that there would be a meeting on 14 January 2019. If I had known I would have arranged for someone to attend in my place or made plans to return earlier. The simple truth is that there was no agreement reached on a date for the third facilitation meeting on 14 December 2018.
- 32 At the third facilitation meeting a presentation was made by BCX which is attached hereto marked "FA 6". As can be seen from the presentation it deals with the proposed new structure. It was not provided to the Applicant or the Additional Unions prior thereto. It differs from the earlier presentation.
- 33 The third facilitation meeting was thus a crucial meeting. I have read the transcript of the third facilitation meeting and can find no reference to the Facilitator establishing why the Applicant was not present. At the end



of the third facilitation meeting all that the Facilitator says, as recorded in "FA 7", is as follows:

"COMMISSIONER: ... I must note that SACU did not attend nor did it tender any apology. I'm not sure what happened. The Employer, have you received anything from SACU?"

MANAGEMENT: As far as we are concerned they were served with the notice.

COMMISSIONER: Yes, the notice comes from the CCMA.

MANAGEMENT: Exactly, so there can be no excuse.

COMMISSIONER: So, you have not received any communication?"

MANAGEMENT: No."

- 34 What appears clear from the above extract is that when the third facilitation meeting convened that there was no attempt to establish why the Applicant was not present and that at the end, when it did finally dawn on the Facilitator to enquire as to why the Applicant was not present he did not look at the notice of set down and simply took the word of the BCX representative that the Applicant had been notified. This is a shocking oversight on his part.
- 35 The Applicant did not just accept that it has been excluded from the third consultation meeting and followed the matter up with BCX. This is how it came to be provided with the notice of set-down.
- 36 The Applicant also directed correspondence to the Facilitator through its General Secretary ("the General Secretary") dated 16 January 2019, attached hereto marked "FA 8", in which it recorded:



- 36.1 in the first facilitation meeting held on 22 November 2018 BCX undertook to provide audited financial information by close of business on 23 November 2018;
- 36.2 questions from labour relating to the presentation of BCX on 22 November 2018 would be provided by 27 November 2018 and BCX would respond by 30 November 2018;
- 36.3 that the Applicant had accordingly directed questions to BCX and had not received responses relating to the details of the:
- 36.3.1 790 affected positions and / or employees and the division and region each resided in;
 - 36.3.2 exit date of each position;
 - 36.3.3 selection criteria utilised to determine the affected positions;
 - 36.3.4 parties consulted to determine the 790 positions;
 - 36.3.5 detail of who approved the proposed structure; and
 - 36.3.6 the amount of employees or positions "in scope".
- 36.4 that the transcripts were not being made available as agreed;
- 36.5 the meeting of 14 December 2018 did not address the specific information requested by the Applicant;
- 36.6 the Applicant's ability to meaningfully engage in the process was adversely affected;

Handwritten signature and initials in the bottom right corner of the page.

- 36.7 voluntary severance packages were extended to employees without the above information being made available; and
- 36.8 no invitation to the meeting of 14 January 2019 had been extended to the Applicant.
- 37 A letter was addressed to BCX dated 21 January 2019, which I attach hereto marked "FA 9" in which it is recorded *inter alia* that:
- 37.1 the Applicant was not invited to the third facilitation meeting;
- 37.2 an explanation was demanded for why it was excluded;
- 37.3 the information shared in the third facilitation meeting prejudiced its members;
- 37.4 severance packages were made available based on the structure as advised in the second facilitation meeting;
- 37.5 the proposed structure revealed in the third facilitation meeting was different;
- 37.6 anomalies exist between the two presentations;
- 37.7 a request for the minutes of the second facilitation meeting had not been complied with; and
- 37.8 the process should be placed on hold until the issue of disclosure of information is dealt with.
- 38 A further e-mail was sent by the General Secretary on 22 January 2019, which is attached hereto marked "FA 10". The issue of the Applicant not



being invited was again raised as well as the differences between the presentations of 14 December 2018 and 14 January 2019 and issues relating to staffing numbers.

- 39 The Facilitator responded by e-mail on 24 January 2019, attached hereto as annexure "FA 11" as follows:

"Greetings all

This serves to confirm receipt of your e-mail dated 22 January 2019.

I hereby direct the employer to respond to areas that requires its urgent attention. I will not immediately intervene unless the dispute persists subsequent the employer's response.

With regards the notice for the previous meeting, I note the concerns raised by the Trade Union. I, however, wish to remind parties that the date of 14 January 2019 was agreed to in the meeting of the 14 December 2018. This notwithstanding, the omission of SACU from the CCMA communication and will address same on 29 January 2019, during the facilitation."

- 40 BCX did not comply with the directive from the Facilitator.
- 41 A fourth facilitation meeting was held on 29 January 2019. The Applicant raised its objections to having been effectively excluded from the third consultation meeting. I attach a copy of the relevant portion of the transcript of the meeting as annexure "FA 12" hereto. The Facilitator effectively directed that an affidavit be provided detailing the issues which the Applicant wished to raise and allowing BCX to respond thereto where-after a ruling would be made.



- 42 The fourth facilitation meeting was not the final meeting contemplated by the parties either. This is clear from the closing remarks of the Facilitator who stated that there would be a wrap up meeting. A copy of the final page of the transcript is attached hereto marked "**FA 13**".
- 43 The Applicant duly prepared the affidavit as requested. A copy thereof is attached hereto marked "**FA 14**". I beg leave that the content thereof be deemed to be specifically incorporated herein. Crisply put the Applicant:
- 43.1 recorded that the Applicant was not invited to the meeting on 14 January 2019;
- 43.2 a letter of dispute dated 16 January 2019 was provided to the Facilitator;
- 43.3 attached annexure "**FA 3**" thereto in which the information which had not been provided was highlighted;
- 43.4 attached annexure "**FA 10**" thereto.
- 44 BCX thereafter filed an answering affidavit which I attach hereto marked "**FA 15**". The gist thereof is that:
- 44.1 the Applicant is complaining of an unfair consultation process which needs to be dealt with in terms of an application such as this one; and
- 44.2 the Applicant needs to detail the information which it seeks.

A handwritten signature in black ink, appearing to be 'G. B.', located in the bottom right corner of the page.

- 45 The information requested was clear from the content of annexure “**FA 3**”.
- 46 The Applicant replied thereto, which is attached hereto marked “**FA 16**”, and which I request be deemed to be specifically incorporated herein. Crisply put the Applicant:
- 46.1 stated that it had not received responses to it questions posed on 27 November 2018; and
- 46.2 complained that transcripts of the facilitation meetings are still unavailable.
- 47 On 15 February 2019 the Facilitator issued the Directive attached hereto marked “**FA 17**”. In it he:
- 47.1 recorded that BCX had provided information to the Applicant and the Additional Unions on 28 January 2019;
- 47.2 as a result of complaints about timing, any union with a disclosure claim should submit a written application together with a founding affidavit by 3 February 2019 and an answering affidavit should be delivered by 6 February 2019 and a replying affidavit be delivered by 8 February 2019;
- 47.3 the directive was not complied with and the Applicant was ordered to comply within 7 days.
- 48 The General Secretary of the Applicant responded immediately on 18 February 2019, the date that the Directive was received, a copy of which is attached hereto marked “**FA 18**”, in which he recorded that an affidavit



was indeed sent and an answering affidavit received and a reply delivered thereafter.

- 49 On 22 February 2019 a further e-mail was sent to the Facilitator and the CCMA by the General Secretary of the Applicant, which is attached hereto marked "FA 19". In it he records that no information was forthcoming and again recorded that a founding and replying affidavit had been submitted. He also recorded that the CCMA was failing the Applicant and its members. No response was received.
- 50 In fact, the Facilitator has not made a ruling on the request for information and the prejudice occasioned by the failure to invite the Applicant to the third facilitation meeting. However it does seem as if BCX is proceeding with the implementation of the new structure even though the facilitation process is not at an end.

THE DUTY TO CONSULT AND TO FACILITATE THE CONSULTATION PROCESS

- 51 The consultation process, as facilitated, has been a farce. The manner in which BCX has approached the process has been to present the unions with a *fait accompli* in respect of the restructuring. In addition to this it has failed to provide the Applicant with the information required to debate the proposed structure and simply presented a structure on 14 December 2018 with no possibility that the Applicant and the Additional Unions could meaningfully add input thereto. The proposed structure as presented on 14 December 2018 was changed on 14 January 2019 and again on 29 January 2019.
- 52 BCX is failing at this juncture to meaningfully consult, and the Facilitator is not compelling them to do so. One example is the issue of voluntary severance packages which were offered without consulting over the terms thereof. They were simply presented to staff outside the consultation process and after the section 189A notice was issued.



- 53 No agreement has been sought on the proposed structure. It is simply presented in the facilitation meetings by BCX and that is the end of the debate. From the point of view of BCX the structure is cast in stone. Nothing is up for debate. There is no attempt to seek consensus on the structure.
- 54 I refer again to annexure "FA 4". It is a large and complicated document. It highlights positions without referring to names and changes without reasons for same. It was presented during the second facilitation meeting. Nothing could be made of the content at the time. It was simply presented and no meaningful engagement could take place.
- 55 Documents of equal size containing changes were likewise presented to the third and fourth facilitation meetings, either during the meeting or shortly before. It is impossible for any party to compare changes and meaningfully engage. The nub is that BCX has manufactured a consultation process wherein the unions are unable to meaningfully engage. That is not the intention of section 189A or section 189(3) of the LRA and the Facilitator has not acted in a way which has promoted the process either.
- 56 It is equally unclear how and when retrenchments might be affected. The date of 28 February 2019 was mooted by BCX but the facilitation process is not yet complete. Yet whilst the process is not finalised BCX is implementing the new structure and inviting employees to interview for positions. This is entirely premature.
- 57 Not only has the Facilitator failed to make a ruling on the request of information but there has been no 'wrap up' meeting as he described it. The process is clearly far from complete, hence this application.
- 58 I respectfully submit that this is a process which calls for the intervention of this honourable Court. The process is meant to achieve consensus on



ways to avoid retrenchments. Even if a few jobs are saved by this application then the principles of the LRA would have been given effect to.

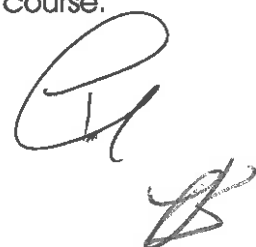
59 Quite clearly BCX has given considerable thought to the new structure over an extended period of time. It impacts nearly 800 jobs on its own version and yet the unions are expected to make sense of such lengthy documents in a single facilitation meeting. This is simply not the way a consultation process should be conducted. The Applicant and some of the Additional Unions complained of the prejudice in the second consultation meeting and yet the Facilitator, instead of allowing the unions time to consider the documents before the presentation, insisted that the presentation and consultation continue. That cannot be a fair procedure.

60 I attach hereto marked "FA 6" the presentation made during the third facilitation meeting by BCX. As can be seen from the content, a lot was discussed in the absence of the Applicant. This fed into what transpired afterwards and the fourth facilitation meeting. By not permitting or allowing the Applicant to engage with BCX on its responses it can never be said that there was joint consensus seeking process. BCX and the Facilitator should have been very concerned about the absence of the Applicant or at least afterwards have allowed a meeting with the Applicant to take place to cure the defect. This was never done.

61 Lastly, I accept that a business can be re-organised but submit with respect that this must be in consultation with the employees and their representatives in order to avoid job losses wherever possible.

URGENCY

62 The matter is inherently urgent and cannot be heard in the normal course.

A handwritten signature in black ink, appearing to be 'G. H.' followed by a stylized flourish.

63 The Applicant has not delayed in bringing this application and has sought, prior to approaching this honourable Court, to allow the process of facilitation to proceed. Given the present apparent refusal of the Facilitator to discharge his duties and the refusal of BCX to provide the information requested, this is the appropriated time to approach this honourable Court.

COSTS

64 Costs are only sought in the event of opposition. That being said I recognise that there is an ongoing relationship and that costs would only be awarded if the opposition is frivolous or vexatious.

Wherefore I pray for an order in the following terms:

1. Directing the First Respondent to provide the following information to the Applicants, namely the:
 - 1.1 790 affected positions and / or employees and the division and region each resided in;
 - 1.2 exit date of each position;
 - 1.3 selection criteria utilised to determine the affected positions;
 - 1.4 parties consulted to determine the 790 positions;
 - 1.5 detail of who approved the proposed structure; and
 - 1.6 the amount of employees or positions "in scope".

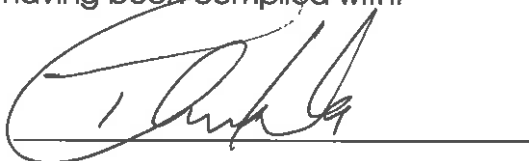


2. Directing the Applicant and the Respondents to reconvene a further facilitation meeting within a week of the First Respondent complying with the order in paragraph (2) herein in order to consult on the presentation(s) given by the First Respondent in the light of the information provided;
3. Directing the parties to identify, with the assistance of the Second Respondent, to identify issues that need to be consulted on;
4. Ordering the First Respondent not to proceed with any restructuring as contemplated until facilitation process has been completed;
5. Directing the Second Respondent to ensure that at the start of the third facilitation meeting that he complies with regulation 3(1) of the Regulations for the Conduct of Facilitations in terms of Section 189A;
6. Ordering costs only as against those respondents who oppose the application;
7. Further and / or alternative relief.

A handwritten signature in black ink, appearing to be a stylized 'R' or 'B' with a large loop at the top and a flourish at the bottom.

**DEPONENT**

I **HEREBY CERTIFY** that the deponent has acknowledged that he knows and understands the contents of this affidavit, which was signed and sworn before me at **BEDFORD VIEW** on the **7th** day of MARCH 2019, the regulations contained in Government Notice No R1258 of 21 July 1972, as amended, and Government Notice No R1648 of 19 August 1977, as amended, having been complied with.

**COMMISSIONER OF OATHS**

Full Names:

Office:

Business Address:

Takudzwa Chikumba
Commissioner of Oaths (RSA)
Non-Practicing Attorney
1 Osborne Lane
EOH Business Park, Bedfordview

CWU
ICTU
GMWUSA
MWASA
NUMSA
SACU
SOLIDARITY
UASA

BCX Centurion Office Park
1021 Lenchen Avenue North
Centurion, 0157
Private Bag X48, Halfway House, 1685
South Africa
T +27 11 286 5000
Email@bcx.co.za
| www.bcx.co.za

7 November 2018

Dear Sirs,

**NOTICE IN TERMS OF SECTION 189 AND 189A OF THE LABOUR RELATIONS
ACT OF 1995, AS AMENDED ("the Act").**

1. The company operates in an economic environment that has gone through a technical recession, reduced consumer demand and a poor economic outlook. Our customers are not immune to these challenges, which in turn, impacts on our business.
2. As a result, and for reasons that are set out more fully below, and which will be elaborated upon during the consultation meetings, the company is contemplating dismissing some of its employees for reasons related to its operational requirements. This letter accordingly serves as a formal notice as required by s189, read with s189A of the Act.

RATIONALE

3. The company has historically provided IT and telecommunication services to its customers, made up primarily of large business enterprises and the public sector.
4. In the telecommunication space, the voice business constitutes at least 50% thereof. The decline in voice revenues thus negatively impacts the overall financial position of the company.
5. The weak economy has led, amongst others, to a decline in the demand for the services offered by the company. The decline for services includes voice and related services, which have negatively impacted revenues, resulting in declining profitability.
6. Added to the above is the fact that the company also has a high cost to income ratio of 82%, representing R17b of its revenue, and in the absence of any interventions as proposed herein, it is expected to increase to R18.2b, in the next financial year, representing 87% of its revenue. This is not sustainable.

Business Connexion (Pty) Ltd. Reg N° 1993/003683/07 | Directors: SN Maseko (Chairman) PJ Bogoahl (CEO)† Dloti ME Etling[^] DJ Fredericks PSC Luthuli FN Khanyile SP Sibisi ZS Vilekazi (CFO)

[^] British

Company Secretary: J de Koker



7. The company also has competitors in all areas of its business, who generally offer their comparative services at more competitive rates and prices because of their lower cost structures, including employment costs. This has also negatively affected the company's business, revenues and profitability.
8. The changes in the regulatory environment are also likely to add more pressure on revenues. The recent announcement by ICASA in respect of termination rates is a case in point.
9. In order to arrest the decline in the company's deteriorating operational and financial performance, it has become necessary to reduce the operating costs, including employment costs, the latter which makes up the bulk of its cost base and structure.
10. As you are aware, the company recently restructured its Executive Committee ("EXCO"), as part of the process of reducing costs and seeking new ways and ideas to improve operational and financial performance.
11. The company has also split the business into two operating entities, with each entity as a separate Profit and Loss Center:
 - 11.1 Information Technology, comprising of Digital Customer Experience, Digital Applications and Cloud Infrastructure (CITS); and
 - 11.2 Telecommunications, comprising of Voice, Data, Wireless and LAN Operations (CTS).
12. The newly appointed EXCO members have now prepared new organizational structures for the business areas within these two new entities for which they responsible. The purpose of this restructuring is to transform the organisation to a project driven organisation resulting in enhanced focus and coordination across the organisation, improved ability to access resources, speed of execution and faster decentralised decisions. These changes should have a positive impact on the operational and financial performance of the company.
13. The newly designed organizational structures will, if implemented, result in the reduction in the number of positions required to operate the business, with a view to reducing employment costs and associated costs in general.
14. It is for the above reasons that the company is contemplating the dismissal of some of the employees.



ALTERNATIVES CONSIDERED

15. The company has over the past few years sought and implemented different ways to avoid the dismissals or reduce the number of employees likely to be dismissed. These include the following:
- 15.1 The creation of a business and operating model focused on propelling a digital transformation capability;
 - 15.2 The acquisition, disposal and merging of subsidiaries and companies which could enhance the revenue generating base and capabilities for the company;
 - 15.3 Curtailing external recruitment where practically possible;
 - 15.4 Not replacing retirees and those who have resigned where this is possible;
 - 15.5 Restriction and reduction of overtime;
 - 15.6 Voluntary Severance Packages and Voluntary Early Retirement Packages, (still to be discussed during the consultation meetings);
 - 15.7 Placing employees within the Telkom Group of companies should any reasonable vacancy be available(still to be discussed during the consultation process); and
16. Regrettably, these combined efforts have not resulted in a marked improvement in the company's performance and outlook to a point where the contemplated dismissals are avoidable.

THE NUMBER OF EMPLOYEES LIKELY TO BE AFFECTED AND THE JOB CATEGORIES IN WHICH THEY ARE EMPLOYED

17. Subject to the outcome of the consultation process, it is anticipated that approximately 790 employees across the company in various divisions and all existing job categories will be affected and or impacted. More detail will be provided at the consultation meetings.



THE PROPOSED METHOD FOR SELECTING WHICH EMPLOYEES TO RETRENCH

18. It is proposed that the following selection criteria be implemented:

The company will make use of a placement process, the full details of which will be shared with you during the consultation meetings, which will be objective and fair, and will be based on the following principles:

- Qualifications, certification and professional registration (as required in the Job Description)
- Experience (as per job requirement/job description)
- Skills determined in structured competency-based interviews and psychometric assessments
- Employment Equity as a tie breaker where appropriate, taking into account the divisional and company's employment equity plan
- Last In First Out – LIFO, also to be used as a tie-breaker where appropriate, where it does not result in the unacceptable reversal of transformation initiatives and employment equity plans.

Employment Equity and LIFO may also be used in conjunction with each other where this is appropriate.

THE TIME WHEN, OR THE PERIOD DURING WHICH, THE RETRENCHMENTS ARE LIKELY TO TAKE EFFECT

19. The restructuring process and contemplated dismissals will take place over a phased period.

20. It is anticipated that the first group of employees whose dismissal cannot be avoided will be retrenched / leave the employment of the company on or about 28 February 2019.

21. The second group of employees whose dismissal cannot be avoided are likely to leave the employ within a period of approximately six months after the conclusion of the first phase. The second phase will affect employees in the following areas of the business:

- Human Resources Division
- Finance Division:
 - Accounts Payable
 - Accounts Receivable
 - Billing
- Supply Chain Division:
 - Category Management
 - Procurement
 - Warehousing & Logistics
 - Facilities Management

Business Connexion (Pty) Ltd. Reg N° 1993/003683/07 | Directors: SN Maseko (Chairman) PJ Bogoshi (CEO) T Dloti ME Eitling[^] DJ Fredericks PSC Luthuli FN Khanyile SP Sibisi ZS Vilekazi (CFO)

[^] British

Company Secretary: J de Koker

- **IT Solutions Division:**
 - Enterprise Infrastructure Solutions:
 - CFC
 - SIM
 - Tech Connect
 - Field Services
 - Specialised Solutions
 - Retail Solutions
 - Enterprise Application Solutions
 - SAP CoE

22. The company may require some employees not to serve their notice period in which event the employees will be paid his/her salary in lieu of notice.

THE SEVERANCE PAY PROPOSED

23. It is proposed that employees will receive the following payments:

- Contractual notice pay unless an employee is required to serve the notice period;
- One and a half week's remuneration for each completed year of continuous service or part thereof (which is higher than the statutory one week's remuneration for each completed year of continuous service);
- Leave entitlements in terms of existing company policies;
- Employees will receive their retirement benefits in accordance with the rules of the retirement fund to which they belong.

THE COMPANY PROPOSES TO ASSIST EMPLOYEES, SHOULD THEY BE RETRENCHED

24. The company proposes to assist affected employee as follows:

- Allowing employees reasonable time off to attend interviews;
- Assisting employees with the compilation of CVs;
- Not requiring employees to serve all or part of their notice period in order for employees to be able to look for other employment;
- Waiving of any maternity and/or training debt;
- Waiving of any restraint of trade restrictions in as far as it relates to working for suppliers, clients and/or competitors. Any confidentiality and non-solicitation restrictions will however remain intact.
- Providing emotional support and assistance to employees through ICAS.

- Providing reasonable assistance to facilitate claiming any UIF benefits and/or benefits that may be owing to an employee from any Company retirement fund in which the employee participated.
- Providing an employee with a certificate of service.

THE POSSIBILITY OF THE FUTURE RE-EMPLOYMENT OF THE EMPLOYEES WHO ARE DISMISSED

25. The possibility of future re-employment with the company appears to be remote at this stage.

THE NUMBER OF EMPLOYEES EMPLOYED BY THE EMPLOYER

26. The company currently employs approximately 8047.

THE NUMBER OF EMPLOYEES THAT THE EMPLOYER HAS DISMISSED FOR REASONS BASED ON ITS OPERATIONAL REQUIREMENTS IN THE PRECEDING 12 MONTHS

27. The company has retrenched 5 (five) employees in the last 12 months.

CONSULTATIONS

28. It is proposed that the first consultation meeting should take place on 21st November 2018, subject to confirmation with the facilitator to be appointed by the CCMA. Additional dates for consultations will be arraigned at the first meeting.
29. In view of the number of trade unions which will be involved in the consultation meetings, each trade union will be limited to three representatives at each consultation meeting.
30. In order to make the consultation process more effective, the company will disclose the following information to the consulting parties:
- Financial performance for the first two quarters of the current financial year, and the financial performance since 2016;
 - Proposed new organisational structures, including the number of available positions;
 - A draft placement procedure manual; and
 - Such additional information as may be necessary to enable meaningful consultations to take place.

31. The Company wishes to emphasise that the decision to initiate this consultation process, given its potential outcome and effect on jobs, was not taken lightly. The painful truth is that if the current situation continues, even more damage may be caused to the Company's commercial viability which may be impossible to address.

FACILITATION

32. In order to promote fair and effective consultations, the company has requested the CCMA to appoint a facilitator in terms of s189A(3)(a) of the LRA. A copy of the request is attached.

Yours faithfully



HOPE LUKOTO

CHIEF OF HUMAN RESOURCES



CCRA Form 70
Section 189A
Labour Relations Act, 1995

READY TO GO FIRST

WHAT IS THE PURPOSE OF THIS FORM?

This form enables a party to request a Section 189A facilitation process.

WHO FILLS IN THIS FORM?

An employer who employs more than 50 employees and is contemplating dismissals of more employees for reasons based on the operational requirements of the business, or a consulting firm representing the employer, or a union representing the employees.

WHERE DOES THIS FORM GO?

The Registrar, Regional Office for the CCMA in the region where the dismissals or contemplated operational requirements are contemplated, or the contemplated dismissals, or in the case of a union, the regional office should be sent to the Head Office.

WHAT WILL HAPPEN WHEN THIS FORM IS SUBMITTED?

When you request facilitation the CCMA will appoint a facilitator to assist the parties engaged in the consultation process.

**REQUEST FOR SECTION 189A
OPERATIONAL REQUIREMENTS
FACILITATION**



1. DETAILS OF PARTY REQUESTING FACILITATION

Employer Party representing majority of employees

Name: BUSINESS CONNEXION GROUP

Postal Address: 1071 Lenchen Avenue North
Centurion Postal Code:

Tel: (011) 766-5762 Cell: 065-999-1763

Fax: 066-571-8131 Email: hannelie.duToit@bax.co.za

Contact Person: Hannelie du Toit

2. DETAILS OF THE OTHER PARTY

Name: Please see attached list "Annexure A"

Postal Address:

Postal Code:

Tel: Cell:

Fax: Email:

Contact Person:

3. DETAILS OF FURTHER PARTIES (Please provide the names of any further parties, e.g where more than one union is involved, and attach details.)

See attached list "Annexure A"

4. HOW MANY EMPLOYEES DOES THE EMPLOYER EMPLOY?.....

5. HOW MANY EMPLOYEES ARE LIKELY TO BE RETRENCHED?

790 Employees.....

6. HOW MANY EMPLOYEES ARE AFFECTED? (Total employees who need to be consulted?).....

UNIONS

CCMA Case Number.....

Please turn over →

OTHER PARTIES

Number of employees retained in the district or districts referred to in this form, more than one name, write down the additional names and particulars on a separate piece of paper and attach details to this form.

OTHER INSTRUCTIONS

Copy of this form must be served on the other party.

Proof of service by one of the methods set out on the other party must be supplied by attaching one of the following:

- A copy of a registered letter from the Post Office, or
- A copy of a signed receipt and altered or
- A signed statement confirming service of the notice delivered to the employee.

Also attach a copy of the original slip or

- A copy of an email or communication slip, not a text message.

Any other satisfactory proof of service.

The ODMA may be requested to assist with service.

CHECK!

Have you attached proof that this form has been served on the other party?

7. RETRENCHMENTS ARE CONTEMPLATED IN THE FOLLOWING REGIONS OR WORK-PLACE LOCATIONS: (Please indicate expected numbers.)

Across the Company - Countrywide

8. HOW MANY EMPLOYEES HAS THE EMPLOYER DISMISSED FOR OPERATIONAL REQUIREMENTS IN THE PAST 12 MONTHS AND IN WHICH REGIONS OR WORK-PLACE LOCATIONS? (Please indicate numbers.)

Five (5)

9. ATTACH THE SECTION 189(3) NOTICE ISSUED BY THE EMPLOYER TO THIS FORM. (The matter cannot be processed without a complete s189(3) notice.)

10. WHAT ARE THE REASONS FOR THE CONTEMPLATED DISMISSALS FOR OPERATIONAL REQUIREMENTS?

See attached notice

11. WHAT ALTERNATIVES TO RETRENCHMENT HAVE BEEN CONSIDERED?

See attached notice

Please turn over →

Parties may also wish to provide interpreters for languages other than the official South African languages. Please indicate which languages the parties wish to use under the heading:

Special features and/or the urgency of the matter, the nature of the dispute, the parties involved, important legal or labour issues, etc. Reason why you advise arbitration/mediation/conciliation also be included.

12. SECTOR

Indicate the sector or service in which the dispute arose.

- Retail
- Mining
- Building & Construction
- Business/Professional Services (X)
- Agriculture/Farming
- Other.....
- Safety/Security (Private)
- Domestic
- Food & Beverage
- Transport (Private)

13. INTERPRETER SERVICES

Is an interpreter required? Yes (No)

- Afrikaans
- IsiXosa
- Setswana
- Sign Language
- IsiNdebele
- Sepedi
- IsiSiswati
- Tshivenda
- IsiZulu
- SeSotho
- Xitsonga
- Other

14. SPECIAL FEATURES / ADDITIONAL INFORMATION

Briefly outline any special features / additional information the CCMA needs to note:

.....
.....

15. PLACE OF FACILITATION

Please select where you would prefer the facilitation to take place:

- a. CCMA Office
- b. Employer's Premises

If you select the employer's premises, please provide physical address of employer's premises. Centre for Learning (CFL)
1095 Old Kempton Park / Besteria Road (M57)
Cleyville East
Durbanville, 1645

16. CONFIRMATION OF ABOVE DETAILS

Form submitted by: Hannelie du Toit
(please print name)

Signature: [Signature]

Position: Sector Manager - ER

Date: 06 November 2018

Place: Johannesburg

[Handwritten initials]

DETAILS OF UNIONS INVOLVED

1. COMMUNICATIONS WORKERS UNION (CWU)

222 SMIT STREET,
TRANSNET BUILDING
20TH FLOOR
BRAAMFONTEIN

Tel: (011) 720 0360 /1 or 082 710 5666 & 083 317 3584

Fax: (086) 547 0498 / 086 607 5040

EMAIL: TEBO23KORU@GMAIL.COM; OR MOGALANET@GMAIL.COM OR
NOMIM@CWU.ORG.ZA

2. SOUTH AFRICAN COMMUNICATIONS UNION (SACU)

3B CANAL EDGE,
FOUNTAIN ROAD,
BELLVILLE,
7530

TEL: (012) 216 6616

FAX: 086 478 4478

EMAIL: HAREM@TELKOMSA.CO.ZA OR SACUBO@TELKOMSA.CO.ZA

3. SOLIDARITY

CORNER DF MALAN & EENDRACH STREET
CENTURION

TEL: (012) 644 4300

FAX: (012) 664 6493

E-MAIL: SERVICE@SOLIDARITY.CO.ZA OR LINDAS@SOLIDARITY.CO.ZA

4. INFORMATION COMMUNICATION TECHNOLOGY UNION (ICTU)

PRIME TOWERS,
296 FRANCIS BAARD & VAN DER WALT STREET,
OFFICE 401, 4TH FLOOR,
PRETORIA, 0002

TEL: (012) 320 8526 / 8509 / 082 505 8858

FAX: (012) 320 8526 / 086 617 5001

E-MAIL: ICTU@TELKOMSA.CO.ZA

5. NATIONAL UNION OF METALWORKERS OF SOUTH AFRICA (NUMSA)
NUMSA HEAD OFFICE,
153 LILIAN NGOYI STREET,
NEWTOWN,
JOHANNESBURG, 2001
TEL: (011) 689 1700 / 1 / 2 / 3 / 4
LEGAL DEPARTMENT DIRECT: (011) 689 1745
FAX: (011) 838 4092
6. MEDIA WORKERS' ASSOCIATION OF SOUTH AFRICA (MWASA)
P O BOX 11136
JOHANNESBURG
2000
TEL: (011) 337 1019
FAX: 086 596 6828
EMAIL: TUWGUM@YAHOO.COM
7. GENERAL INDUSTRIES WORKERS' UNION OF SOUTH AFRICA (GIWUSA)
MELODY CENTRE, 5TH FLOOR, OFFICE 508, 159 MEYER STREET, GERMISTON, 1401
TEL: (011) 873 4804 / 072 513 9851
FAX: (011) 873 0921 / 086 535 5181
E-MAIL: PETER@GIWUSA.CO.ZA
8. UNITED ASSOCIATION OF SOUTH AFRICA (UASA)
42 Goldman Street, Florida, 1709
Tel: (011) 472 3600 Ext. 106
Fax: (011) 674 4057 / (086) 504 0968
Email: jplbez@uasa.org.za / admin@uasa.co.za and pa.ceo@uasa.org.za

Handwritten signature and initials in the bottom right corner of the page.

"FA3"

41

South African Communications Union (SACU)

Unit 12 & 13 Watcor Park,
Parow, 7501
Tel: 086 100 7228
Fax: 086 600 3342



27 November 2018

BCX/Telkom SA LTD

Group Executive: Employee Relations

Attn: Hannelie Du Toit/Alfie Ngubo

Good Day Sir/Madam,

RE: INFORMATION REQUIRED:

This letter serves as a formal request for the following information in terms of the current section 189 process.

- Financial statements for 2014/15
- Financial statements for 2015/16
- List of permanent employees,
 - a. As per race,
 - b. Gender,
 - c. subsidiary
- List of temporary employees,
 - a. As per race,
 - b. Gender,
 - c. subsidiary
- List of contracting employees,



- a. As per race,
- b. Gender,
- c. subsidiary

Restructuring that took place in BCX since the acquiring of the three Telkom divisions (Cybernest, Telkom Enterprise and TGIT).

Please further provide a breakdown of the 790 positions affected based on the Subsidiary they reside in, as well as propose exit date.

Kindly take note that the above is not an exhaustive list and we might require more information as the process unfolds.



K Abrahams

Office of the General Secretary

082 456 6874



BCX

BCX: Current and Proposed Structures

14 December 2018

Structures

- Chief of Telecommunication Solutions
- Chief of IT Solutions
- Chief Revenue Officer
- Chief Risk & Compliance Officer
- Chief Financial Officer
 - CFO
 - Supply Chain
- Chief Marketing Officer

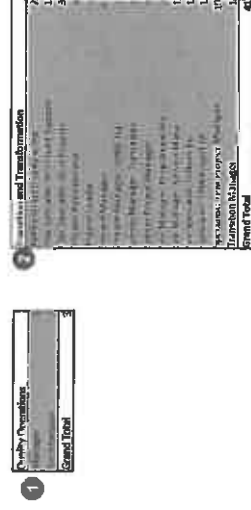
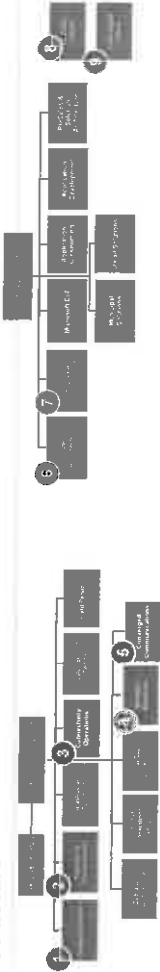


BCX

Chief of Telecommunication Solutions

- Existing vs Proposed Structures

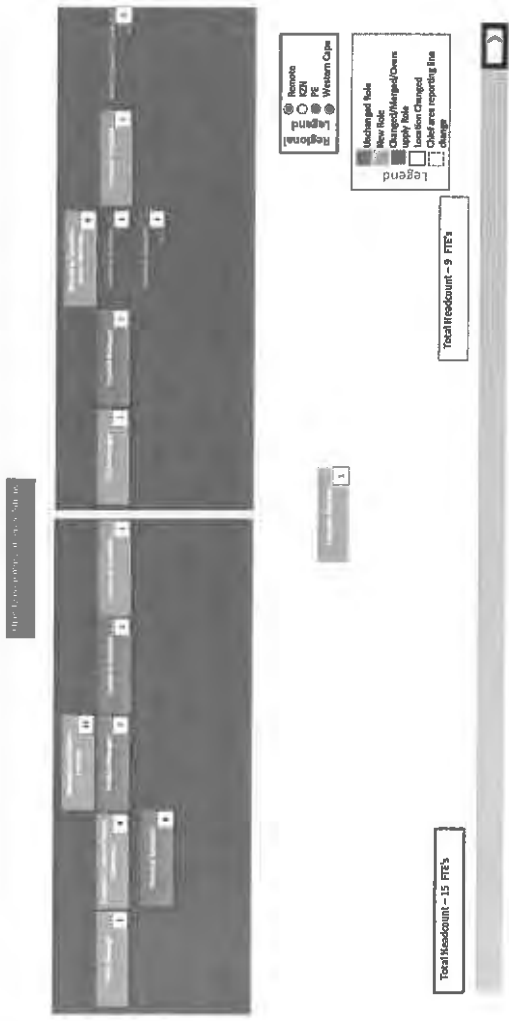
Chief of Telecommunications Solutions functions within Existing Organisational Structure



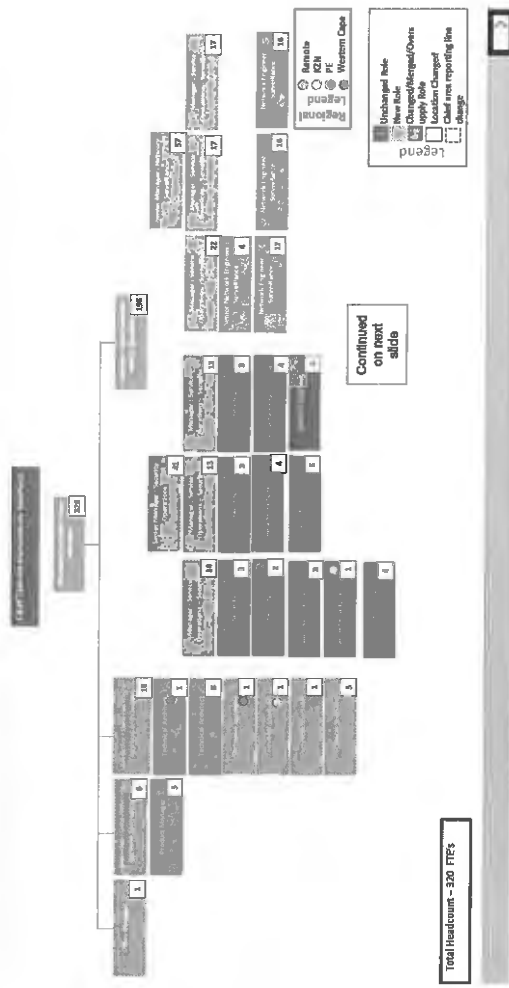
"FAL" 43



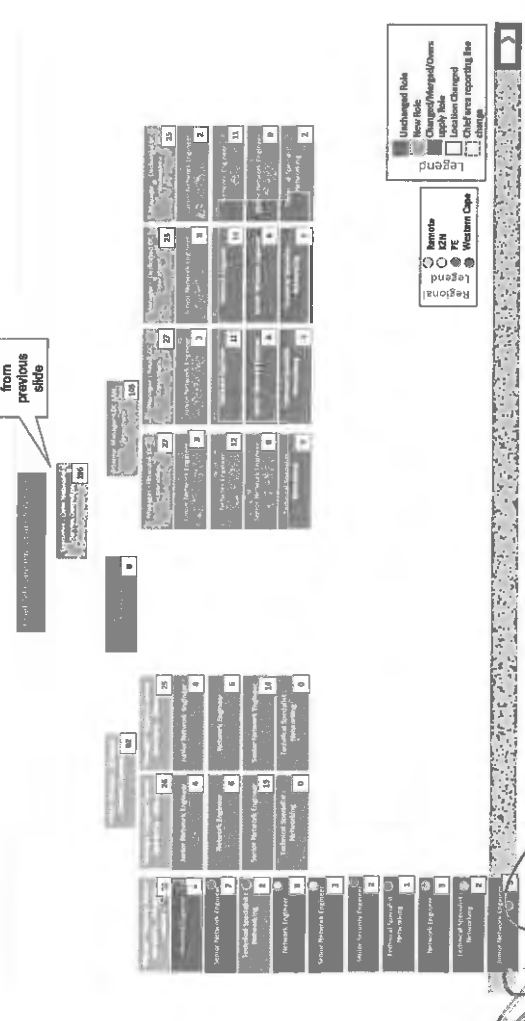
Proposed Structure : Telecommunications Solutions Internet & Access Networks



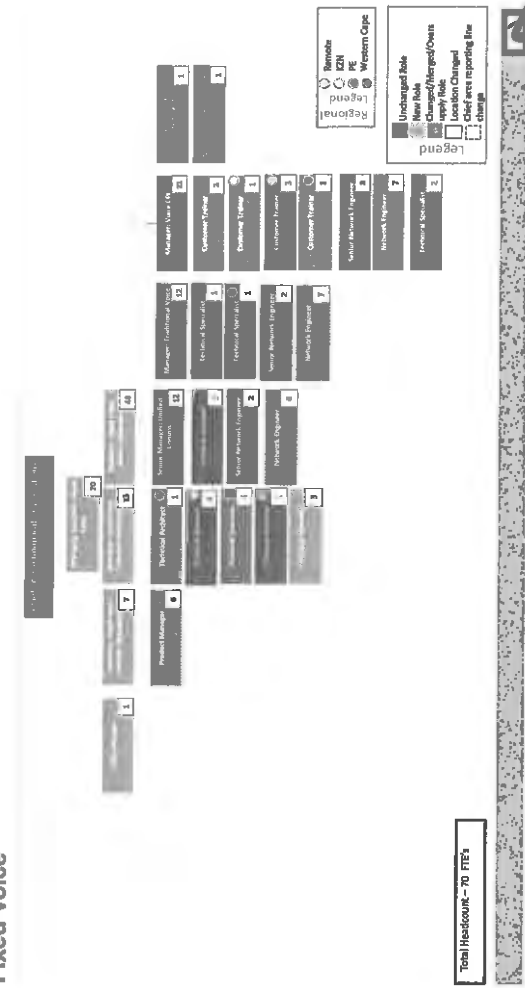
Proposed Structure : Telecommunications Solutions Data Networks 1



Proposed Structure : Telecommunications Solutions Data Networks 2



Proposed Structure : Telecommunications Solutions Fixed Voice



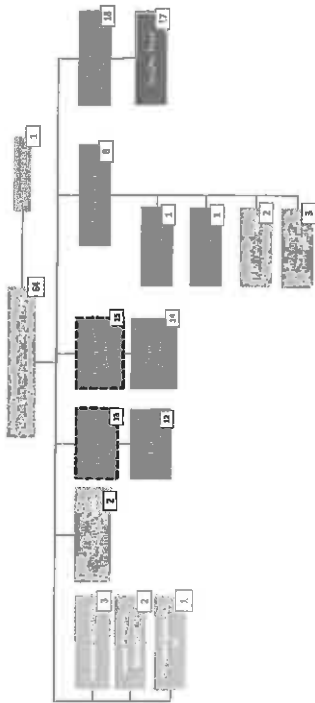
[Handwritten signature]

AS

Digital Edge

Table of Contents

- Organisational Structures -- current & proposed
- Digital Edge
- Enterprise Application Solutions
- Specialised Solutions
- Enterprise Cloud & Infrastructure Solutions
- Field Service Enablement



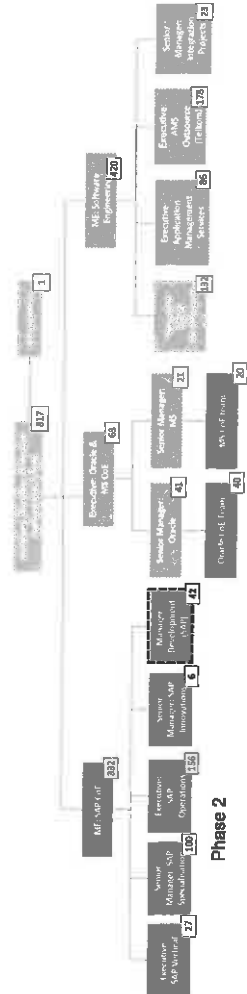
Legend

- Unchanged Role
- New Role
- Changed/Revised/Overs
- Copy Role
- Location Changed
- Chief area reporting line change

Total Headcount: 64 FTEs
 Current Headcount: 68 FTEs
 * FTEs in brackets are from other areas which have been reallocated

Enterprise Application Solutions

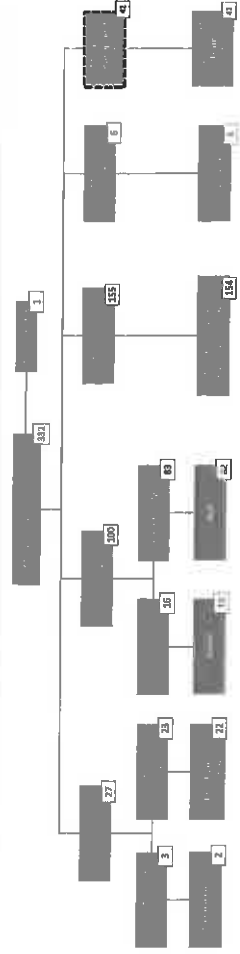
Enterprise Application Solutions: SAP CoE



Legend

- Unchanged Role
- New Role
- Changed/Revised/Overs
- Copy Role
- Location Changed
- Chief area reporting line change

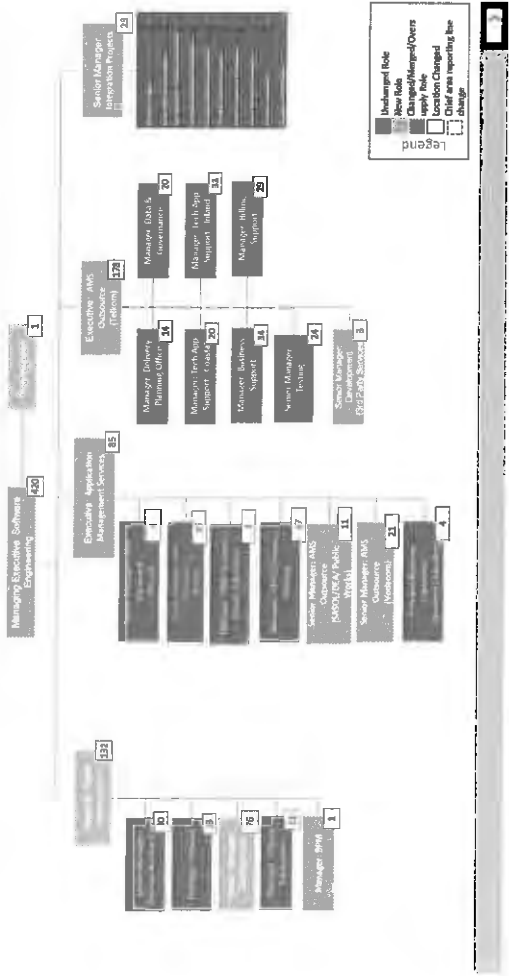
Total Headcount: 817 FTEs
 Current Headcount: 833 FTEs
 * FTEs in brackets are from other areas which have been reallocated



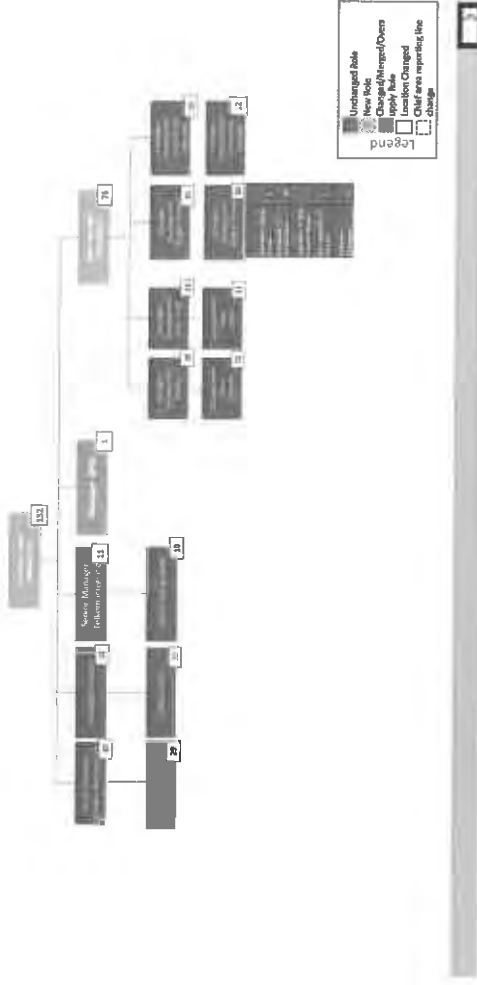
Phase 2

51

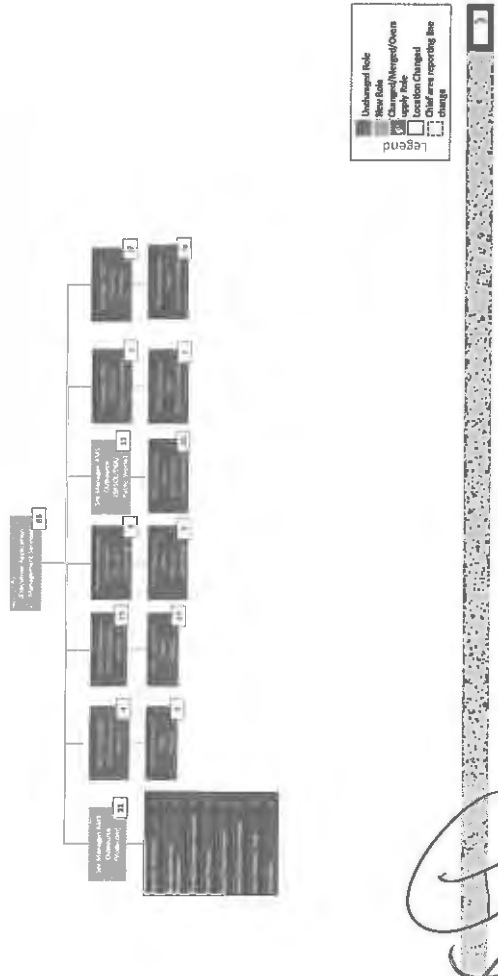
Enterprise Application Solutions: Software Engineering CoE



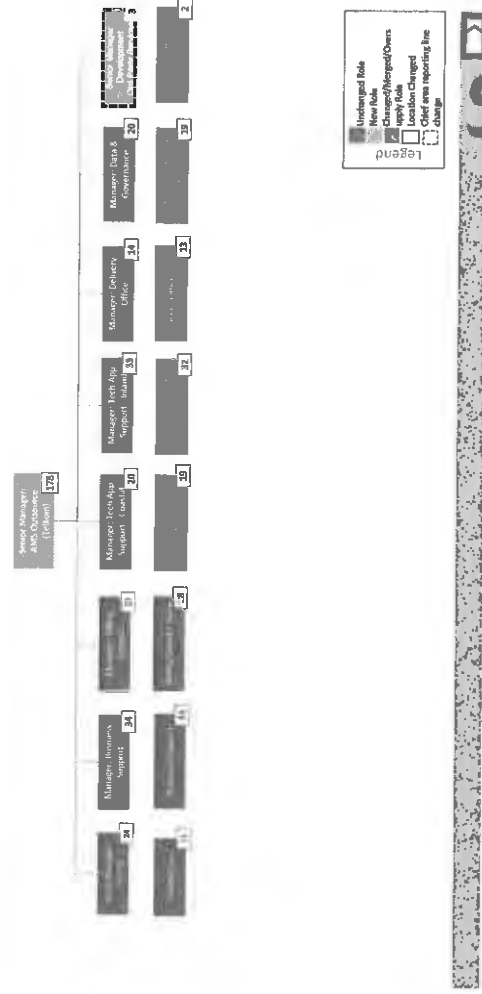
Enterprise Application Solutions: Software Engineering CoE – Digital Development



Enterprise Application Solutions: Software Engineering CoE – Application Management Services



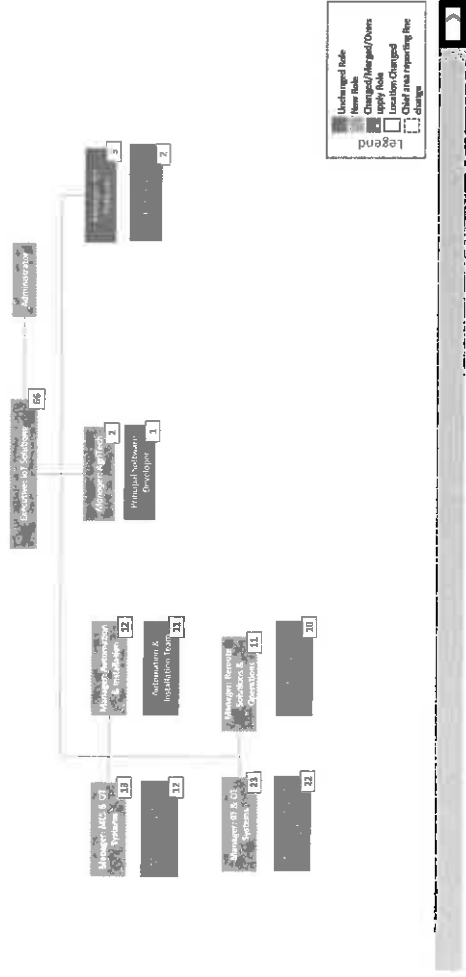
Enterprise Application Solutions: Software Engineering CoE - AMS Outsource (Telikom)



[Handwritten signature]

25

Specialised Solutions: IoT Solutions



Specialised Solutions: Retail Solutions

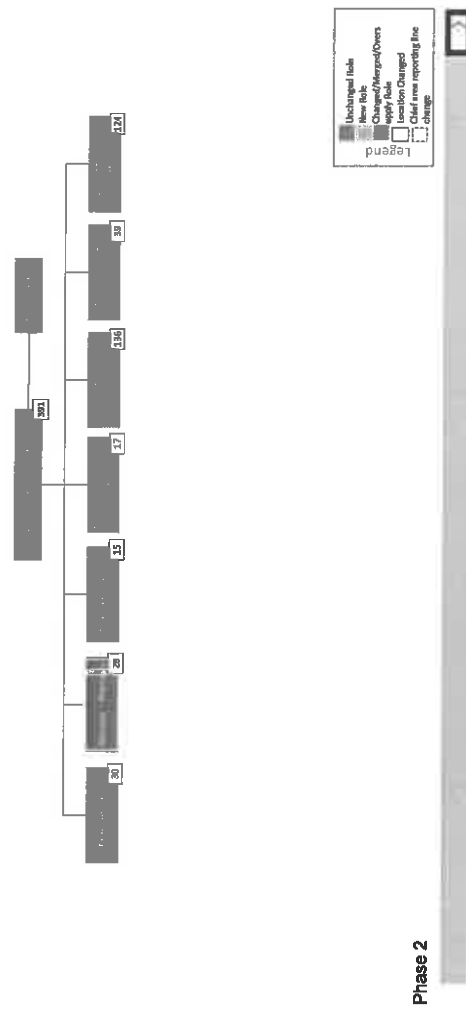
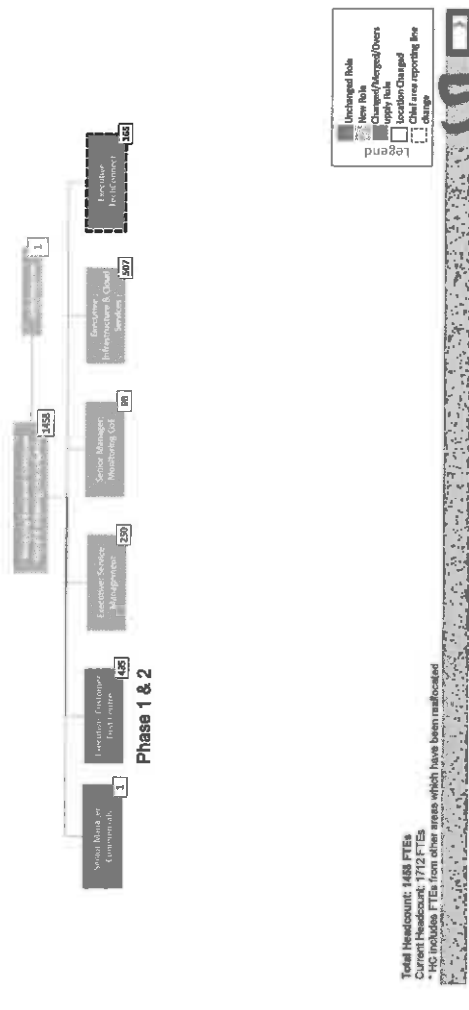


Table of Contents

- Organisational Structures – current & proposed
- Digital Edge
- Enterprise Application Solutions
- Specialised Solutions
- Enterprise Cloud & Infrastructure Solutions
- Field Service Enablement

Enterprise Cloud & Infrastructure Solutions

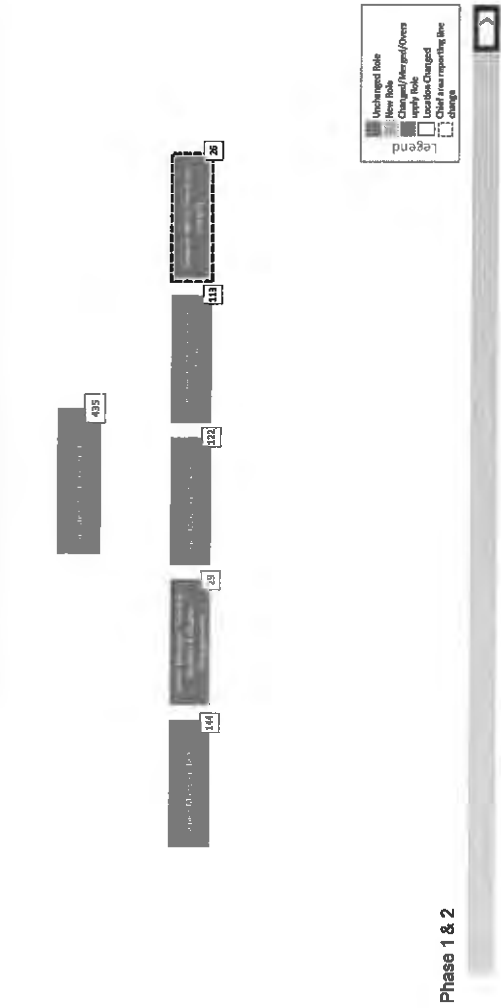


[Handwritten signature]

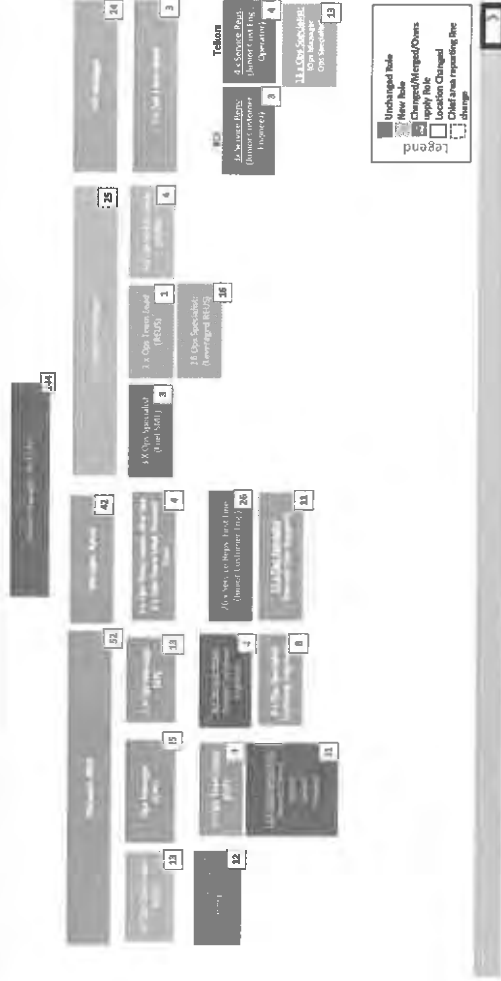
Total Headcount: 1488 FTEs
 Current Headcount: 1712 FTEs
 HC includes FTEs from other areas which have been reallocated

5A

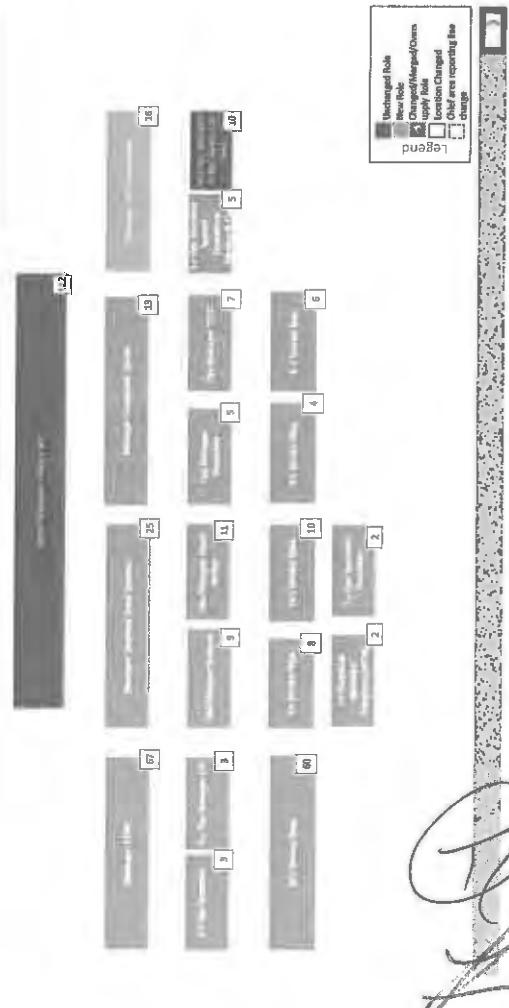
Enterprise Cloud & Infrastructure Solutions: Customer First Centre (CFC)



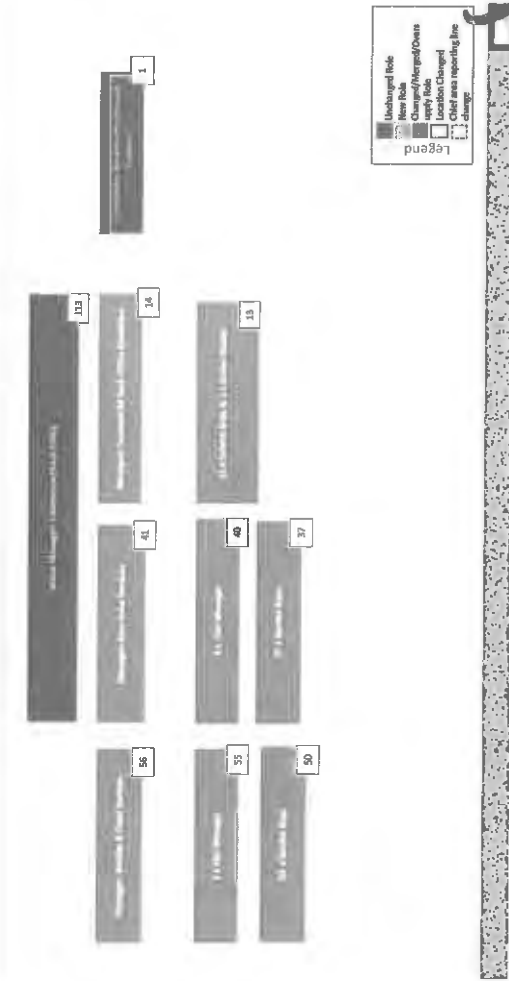
Enterprise Cloud & Infrastructure Solutions: Customer First Centre (CFC) – BCX CFC



Enterprise Cloud & Infrastructure Solutions: Customer First Centre (CFC) – Telkom BCC



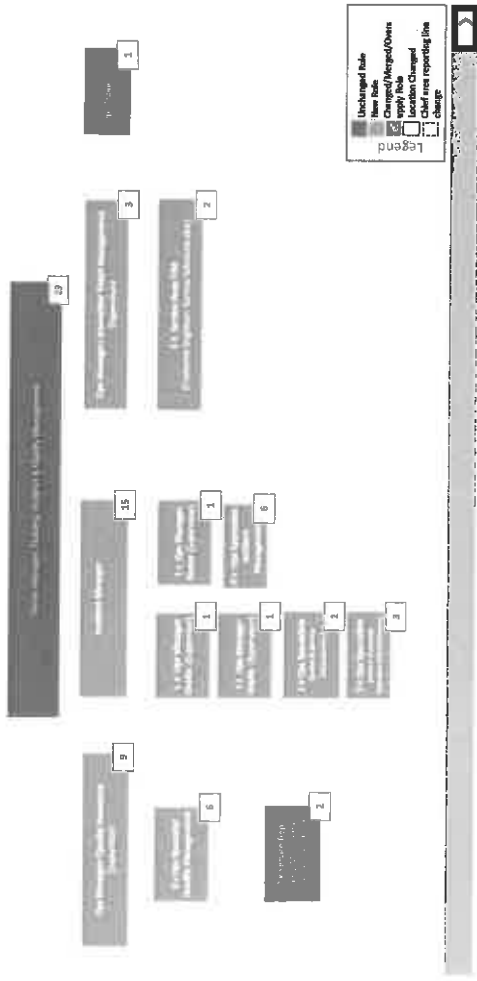
Enterprise Cloud & Infrastructure Solutions: Customer First Centre (CFC) – Commercial Back Office



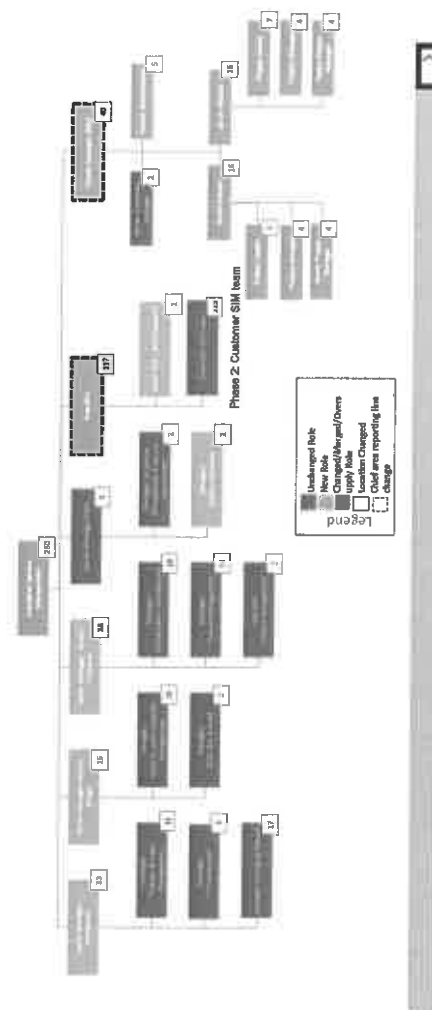
[Handwritten signature]

[Handwritten signature]

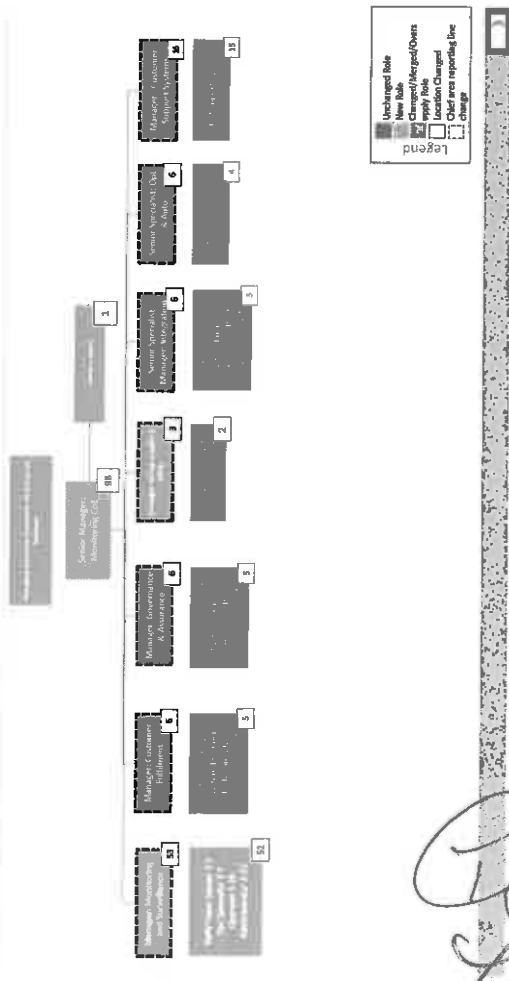
Enterprise Cloud & Infrastructure Solutions: Customer First Centre (CFC) – Incident and Quality



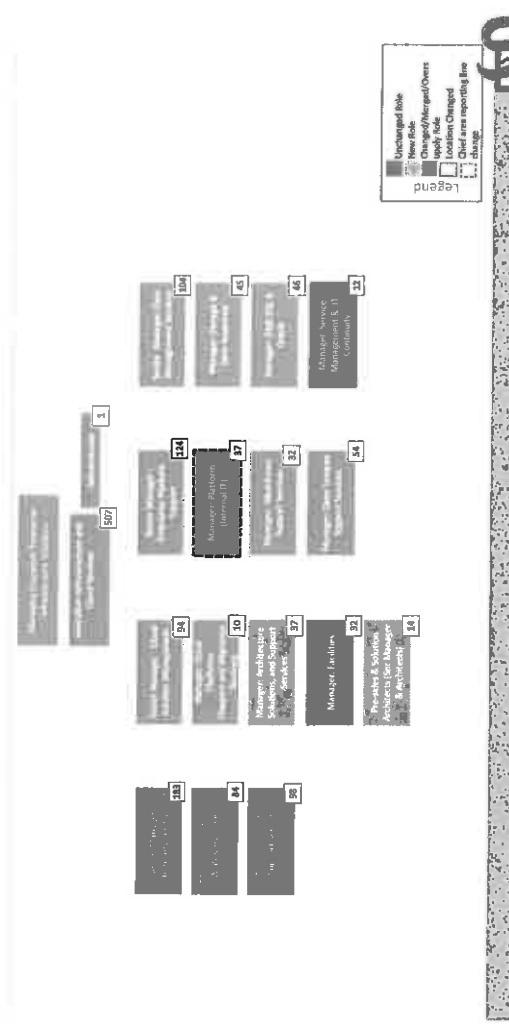
Enterprise Cloud & Infrastructure Solutions: Service Management



Enterprise Cloud & Infrastructure Solutions: Monitoring CoE



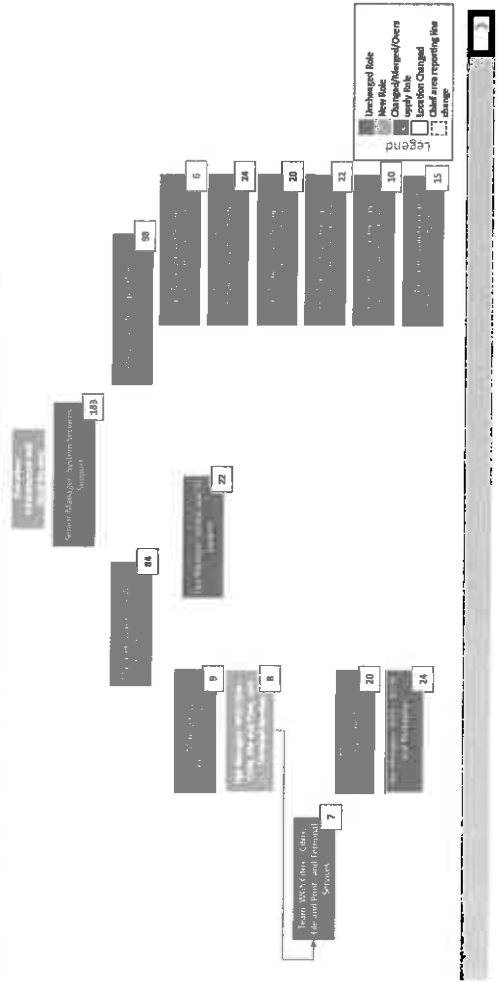
Enterprise Cloud & Infrastructure Solutions: Infrastructure and Cloud Services



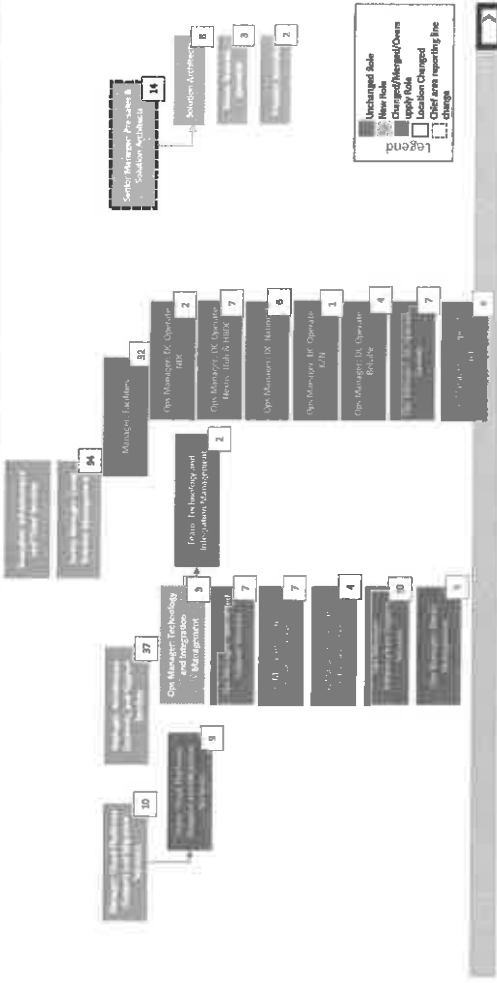
[Handwritten signature]

[Handwritten signature]

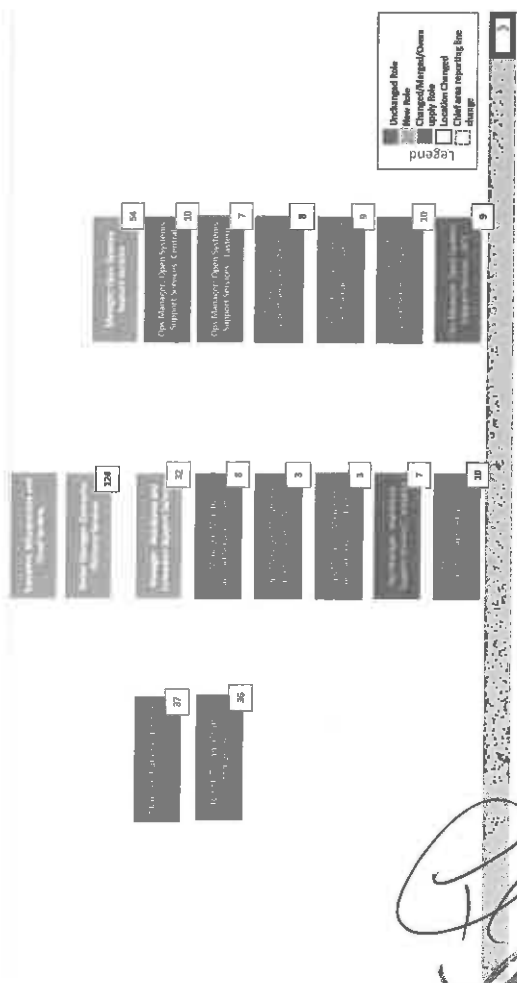
Enterprise Cloud & Infrastructure Solutions: Infrastructure and Cloud Services



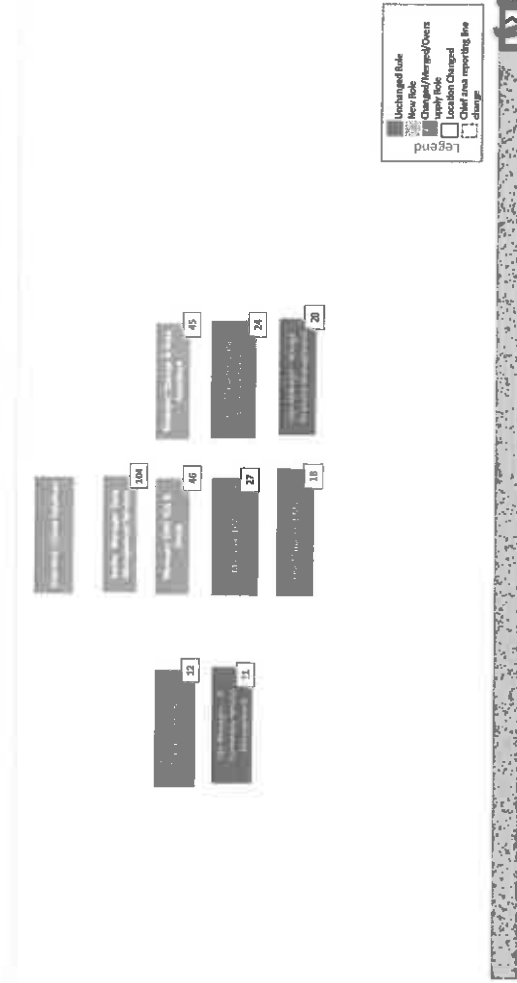
Enterprise Cloud & Infrastructure Solutions: Infrastructure and Cloud Services



Enterprise Cloud & Infrastructure Solutions: Infrastructure and Cloud Services



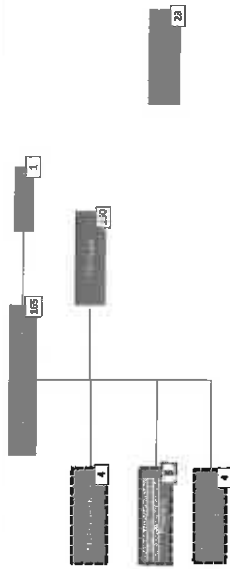
Enterprise Cloud & Infrastructure Solutions: Infrastructure and Cloud Services



[Handwritten signature]

57

Enterprise Cloud & Infrastructure Solutions: Tech Connect

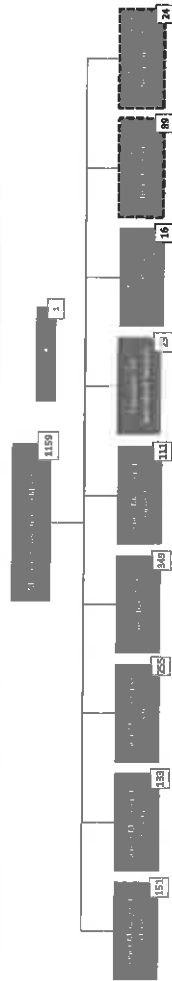


Phase 2

Table of Contents

- Organisational Structures – current & proposed
- Digital Edge
- Enterprise Application Solutions
- Specialised Solutions
- Enterprise Cloud & Infrastructure Solutions
- Field Service Enablement

Field Service Enablement



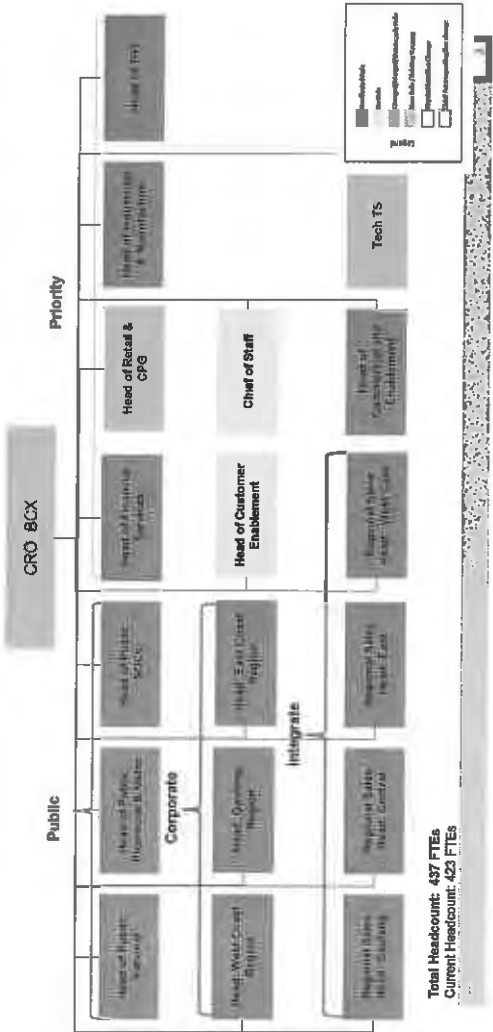
Total Headcount: 1168 FTEs
 Current Headcount: 1194 FTEs
 * PIC includes FTEs from other areas which have been reallocated

Phase 2

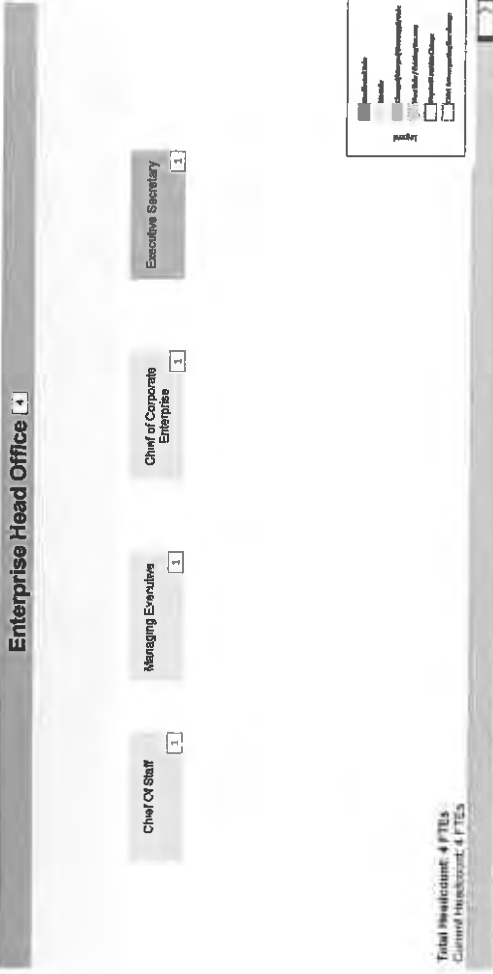
BCX

Chief Revenue Officer Current Structure

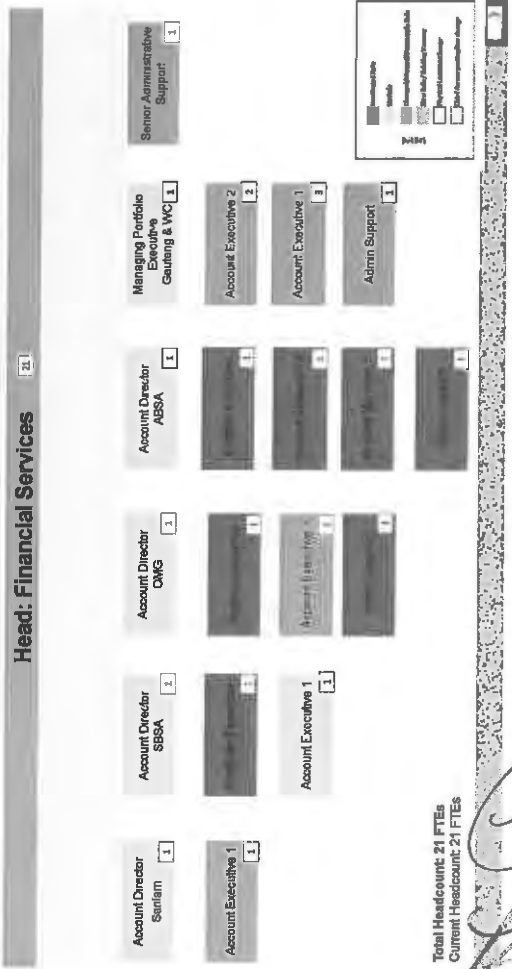
Chief Revenue Officer - Existing Structure



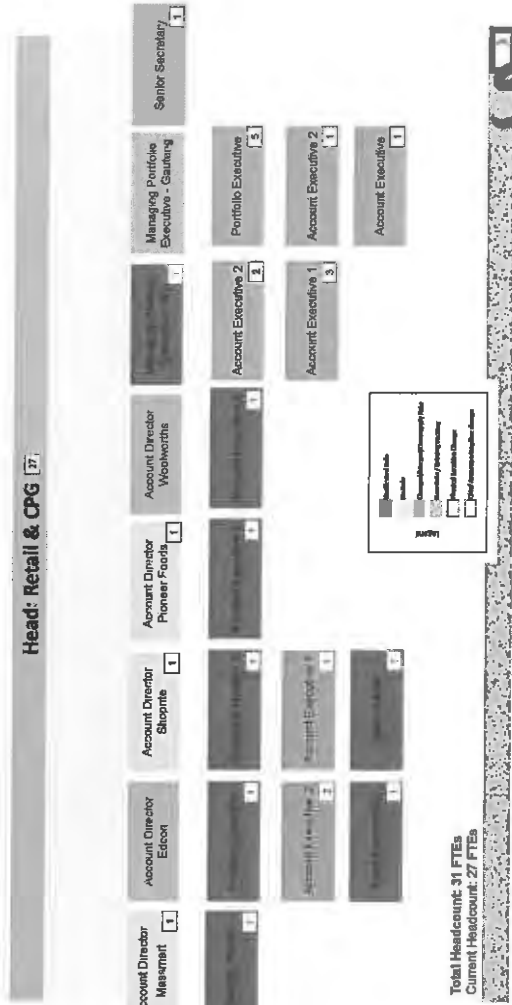
CRO BCX: Enterprise Head Office



CRO BCX: Financial Services



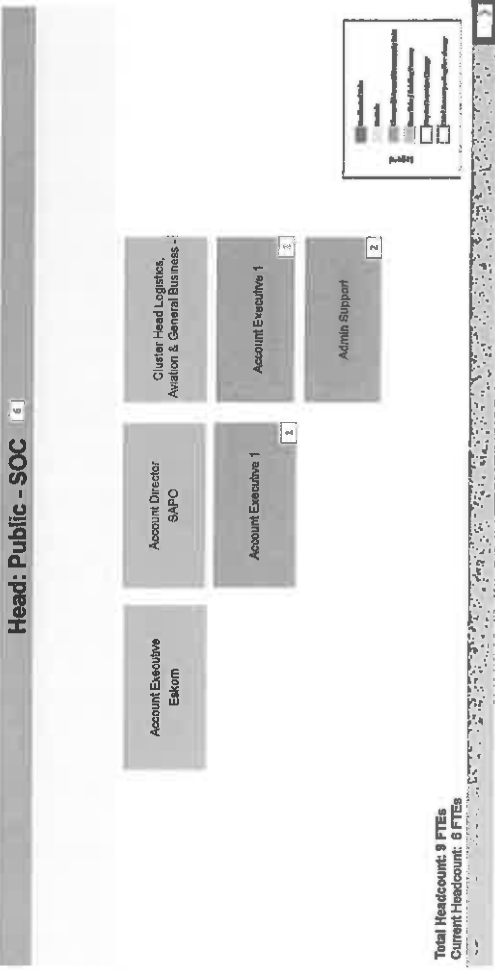
CRO BCX: Retail & CPG



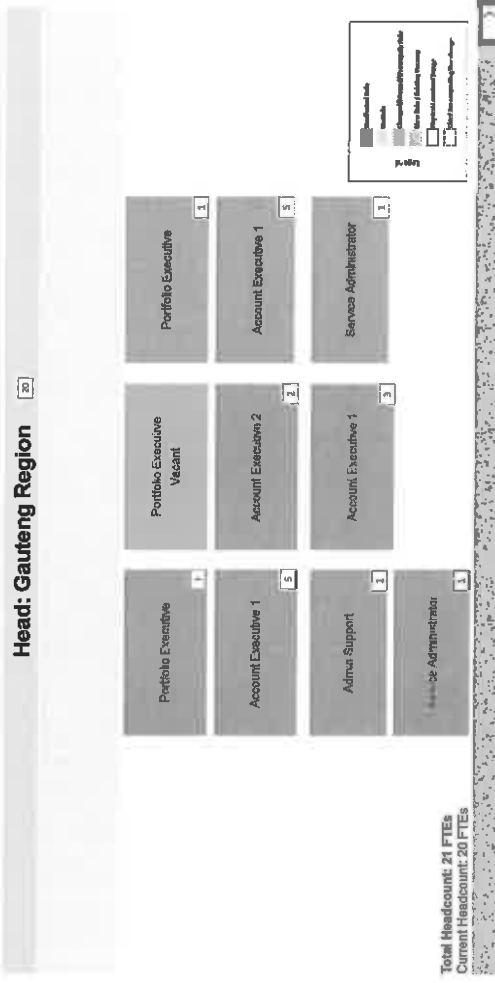
65

Handwritten signature

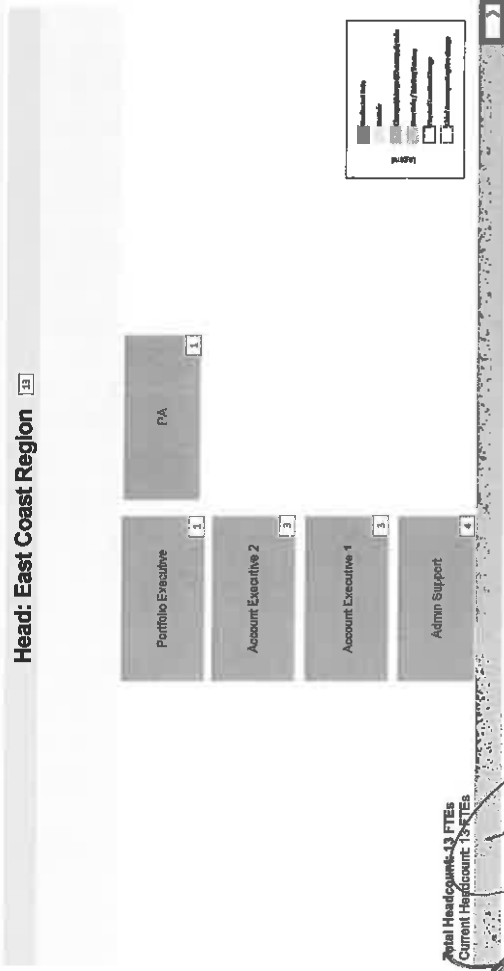
CRO BCX: Public - Soc



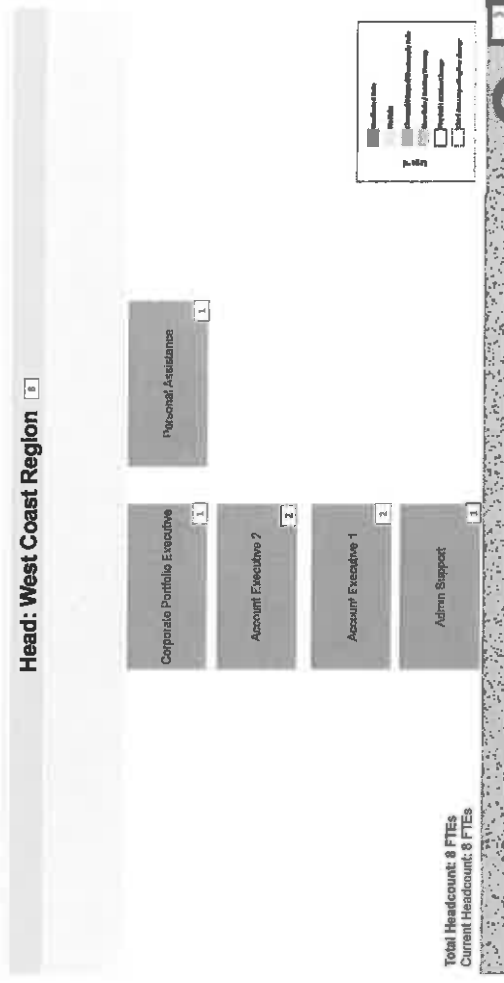
CRO BCX: Gauteng Region



CRO BCX: East Coast Region



CRO BCX: West Coast Region



[Handwritten signature]

CRO BCX: Customer Enablement

Head: Customer Enablement (7)

Head Bid Management (32)

Head Contract Management (12)

Head Customer Development (5)

Head CRM, Reporting and Analytics (23)

Legend

- Contracted FTEs
- Headcount
- Contracted Headcount
- Current Headcount
- Headcount Change
- Headcount Change Range

Total Headcount: 74 FTEs
Current Headcount: 74 FTEs

CRO BCX: Contract Management

Head: Contract Management (12)

Contract Specialist (5)

Contract Specialist (3)

Contract Specialist (4)

Contract Specialist (4)

Legend

- Contracted FTEs
- Headcount
- Contracted Headcount
- Current Headcount
- Headcount Change
- Headcount Change Range

Total Headcount: 12 FTEs
Current Headcount: 12 FTEs

CRO BCX: Bid Management

Head: Bid Management (13)

Senior Manager Bid Office (1)

Senior Specialist Deal Architects (1)

Manage Proposal Centre (1)

Senior Specialist Bid Architects (1)

Senior Bid Manager (2)

Specialist Bid Management (1)

Ops Specialist Bid Management (10)

Editor Proposal Centre (1)

Specialist Bid Management (3)

Specialist Bid Management (3)

Specialist Bid Management (6)

Administrator (2)

Legend

- Contracted FTEs
- Headcount
- Contracted Headcount
- Current Headcount
- Headcount Change
- Headcount Change Range

Total Headcount: 33 FTEs
Current Headcount: 33 FTEs

CRO BCX: Customer Development

Head Customer Development (5)

Senior Solutions Strategist (2)

Solutions Architect (1)

Executive Customer Development (1)

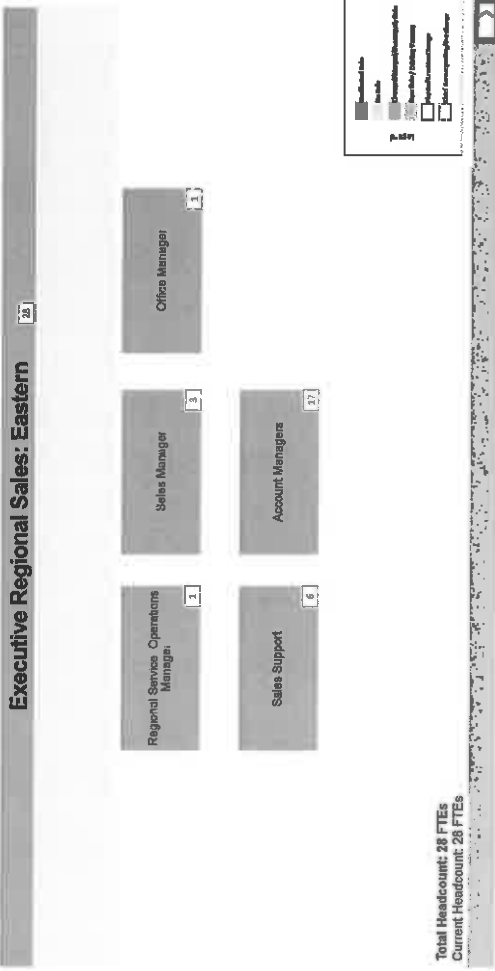
Legend

- Contracted FTEs
- Headcount
- Contracted Headcount
- Current Headcount
- Headcount Change
- Headcount Change Range

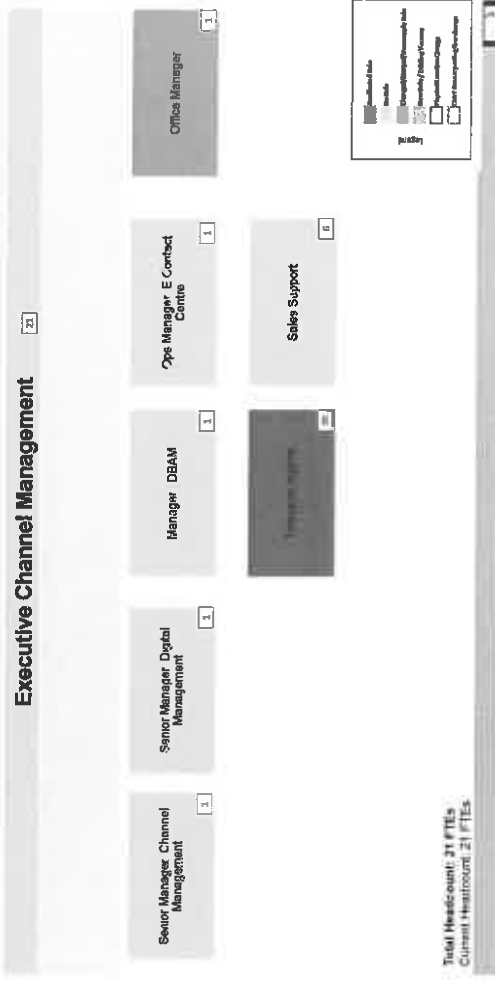
Total Headcount: 5 FTEs
Current Headcount: 5 FTEs

29

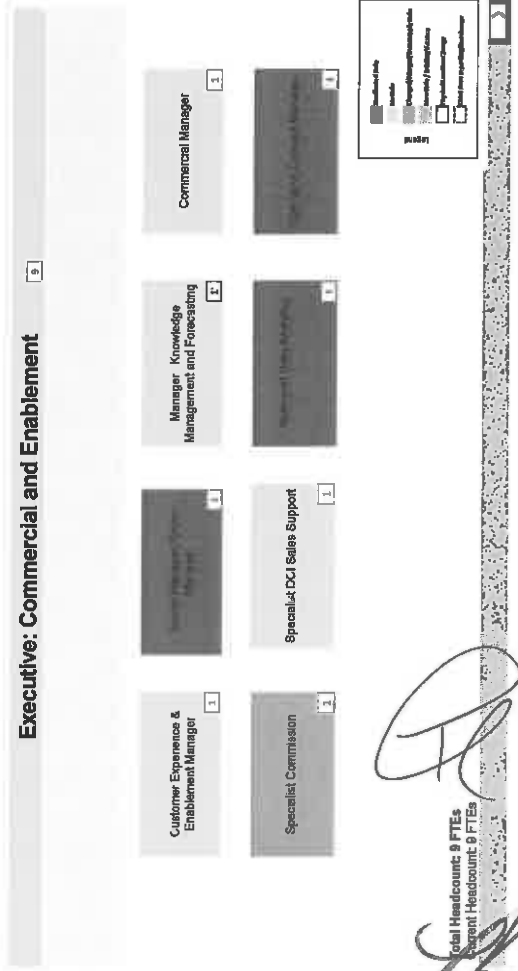
CRO 18 - Regional Sales: East



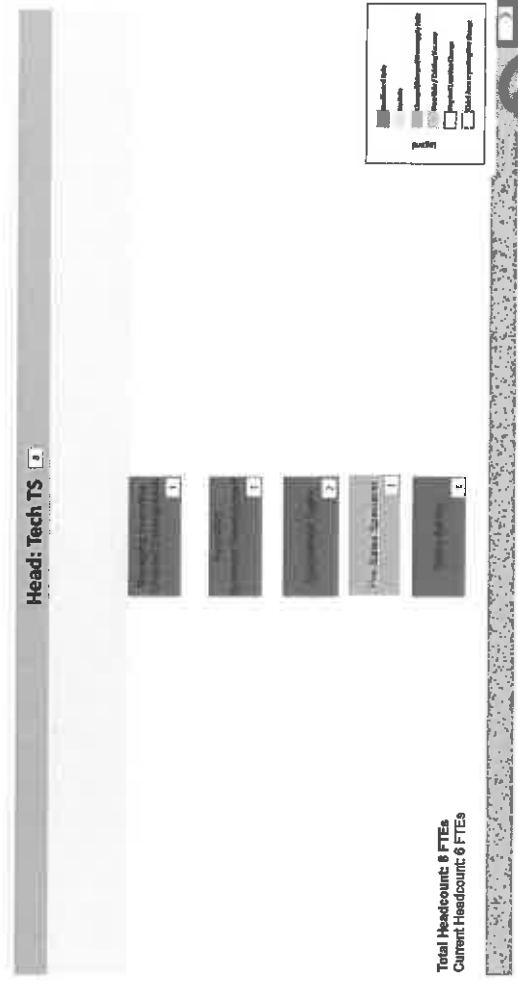
CRO 18 - Channel Management



CRO 18 - Commercial and Enablement



Tech TS

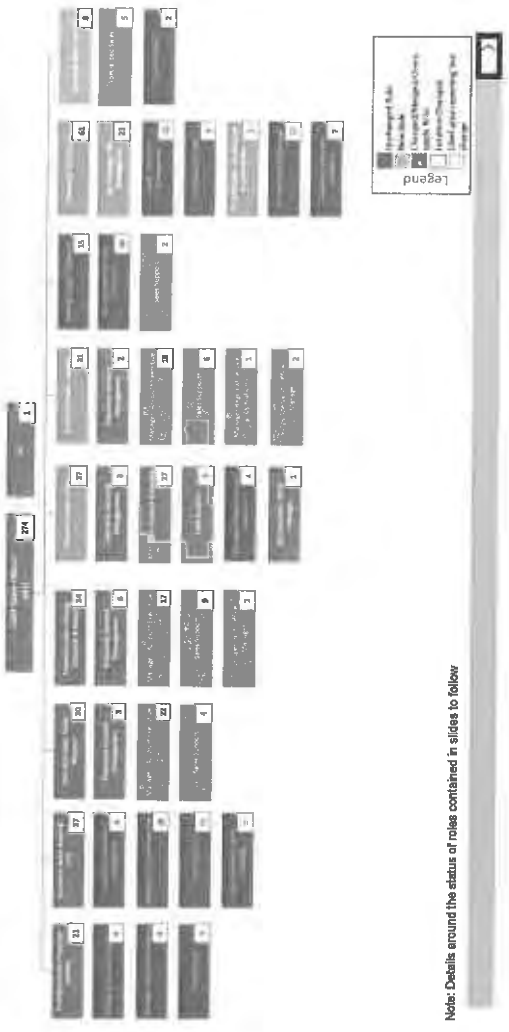


6A

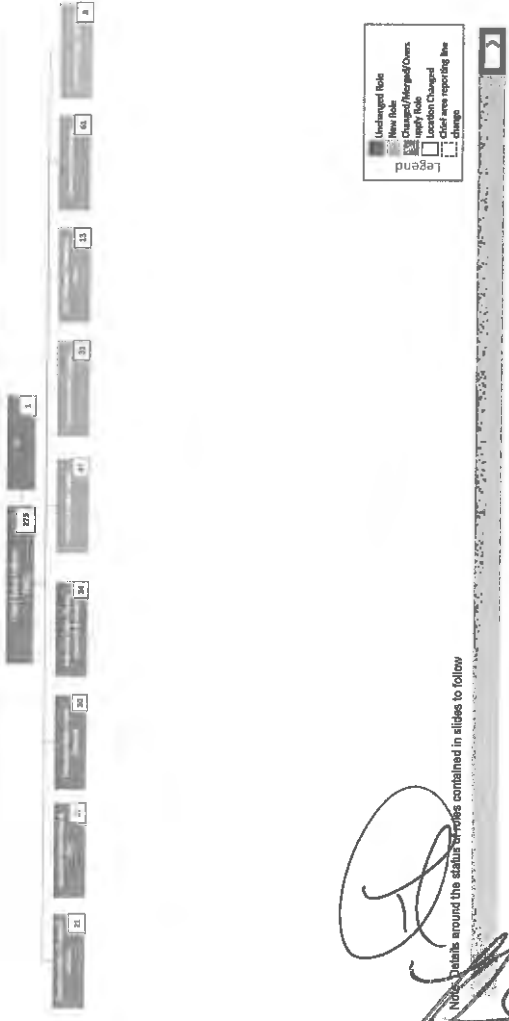


Chief Revenue Officer Proposed Structure

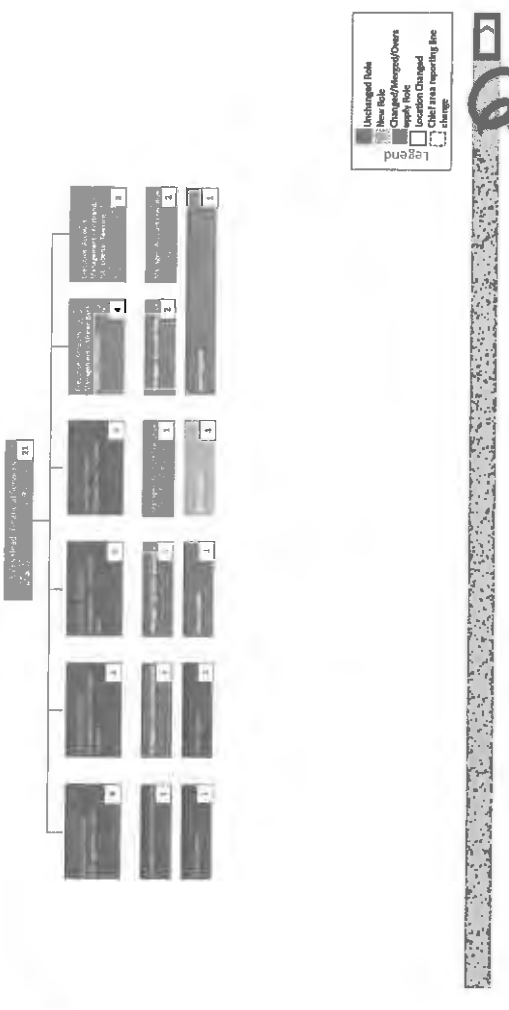
Proposed Structure Chief Revenue Officer



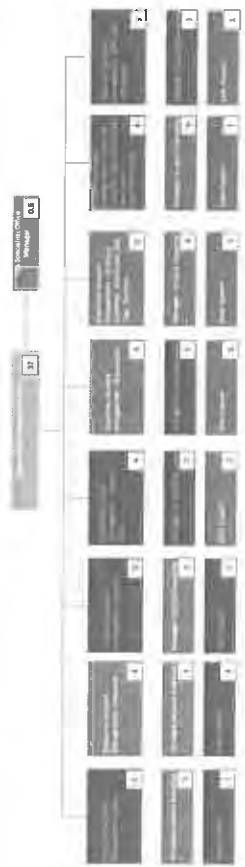
Proposed Structure Chief Sales Officer



Proposed Structure Sales Head: Financial services



Proposed Structure Sales Head: Retail & CPG

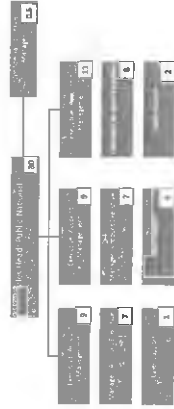


Legend

- Unchanged Role
- New Role
- Changed/Merged/Overs
- Apply Role
- Location Changed
- Chief area reporting line change

1 Fixed term contractor not included

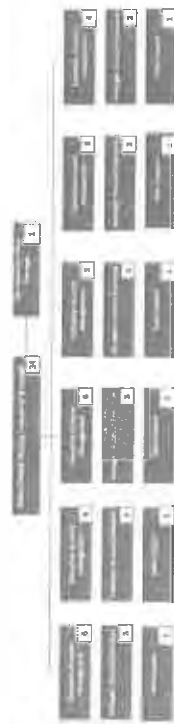
Proposed Structure Sales Head: Public National



Legend

- Unchanged Role
- New Role
- Changed/Merged/Overs
- Apply Role
- Location Changed
- Chief area reporting line change

Proposed Structure Sales Head: Mining, Industrial & Health

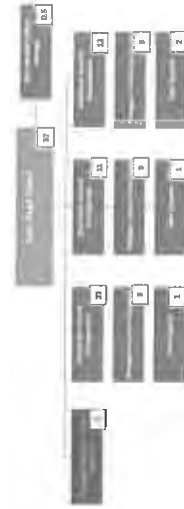


Legend

- Unchanged Role
- New Role
- Changed/Merged/Overs
- Apply Role
- Location Changed
- Chief area reporting line change

(Handwritten signature and initials)

Proposed Structure Sales Head: Inland

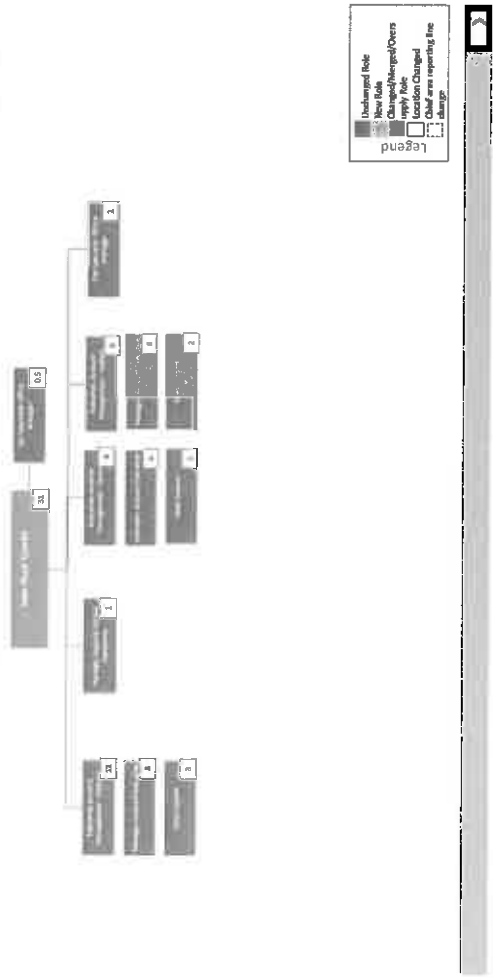


Legend

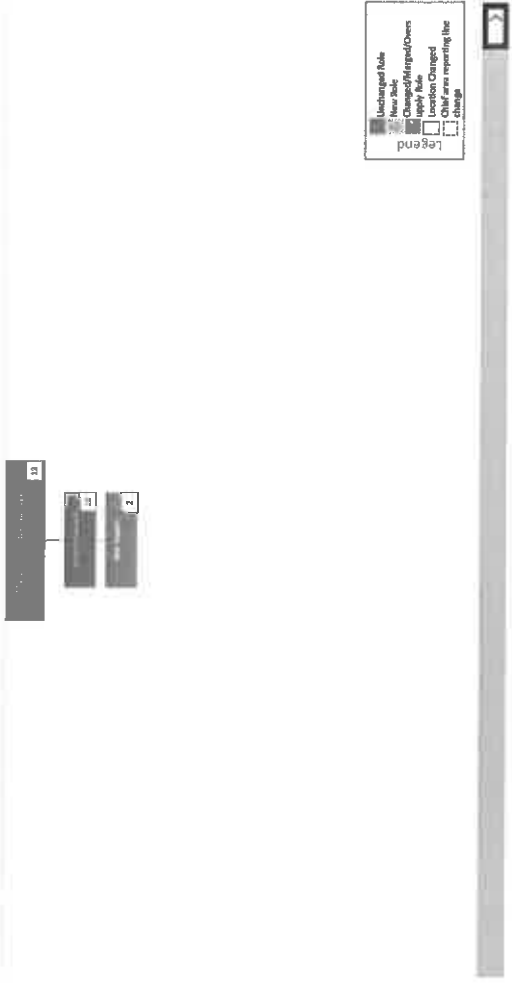
- Unchanged Role
- New Role
- Changed/Merged/Overs
- Apply Role
- Location Changed
- Chief area reporting line change

66

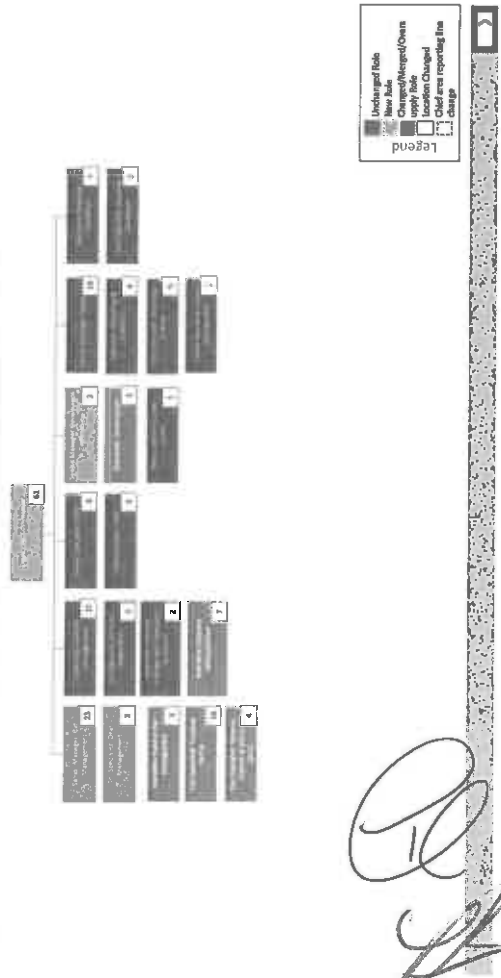
Proposed Structure Sales Head: Coastal



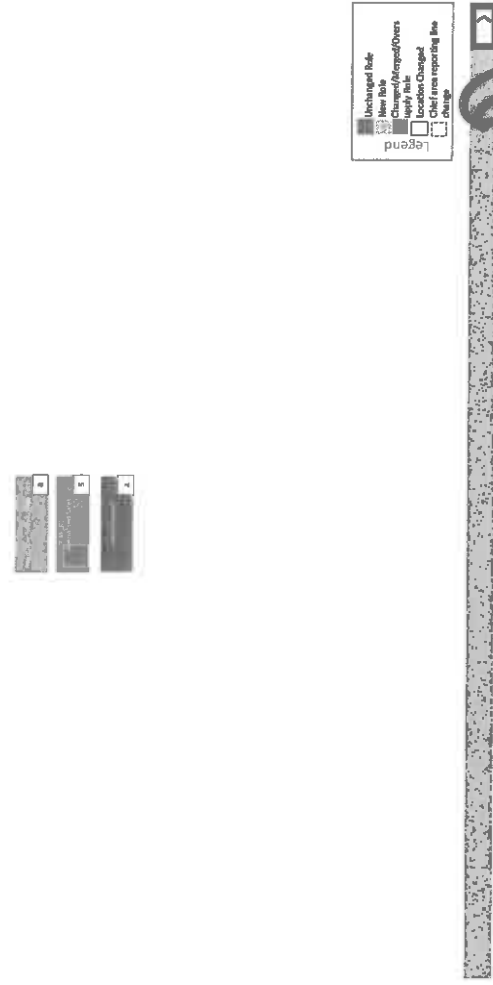
Proposed Structure Sales Head: Outbound Sales



Proposed Structure Head: Commercial



Proposed Structure Specialised Sales Head: Tech TS

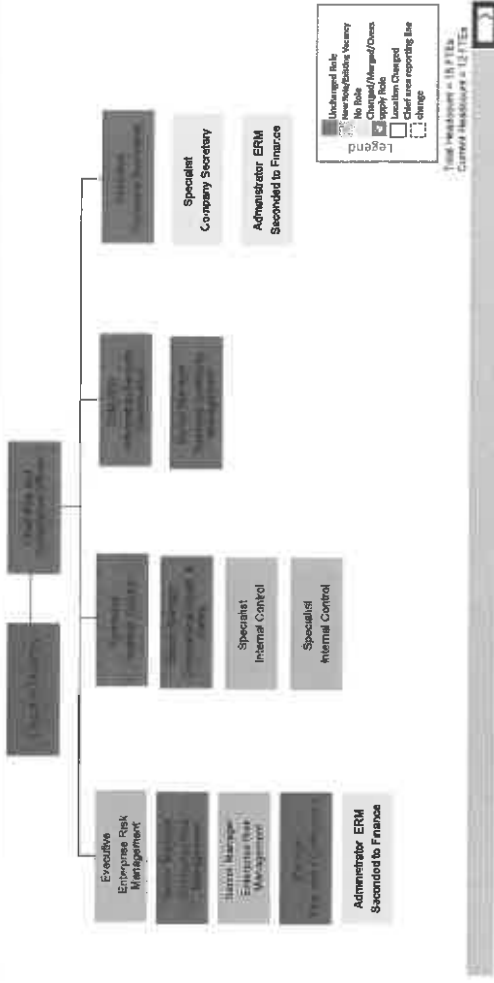


[Handwritten signature]

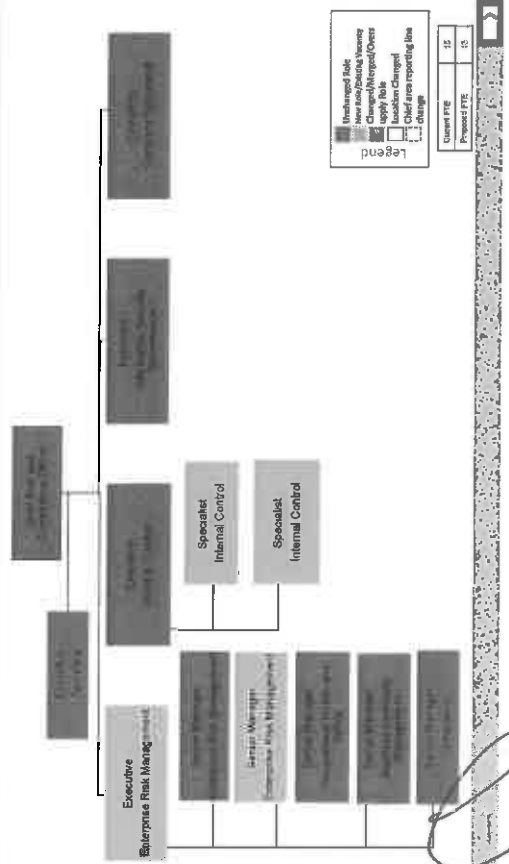
Chief Risk & Compliance Officer

- Existing vs Proposed Structure

Existing Structure



Proposed BCX CRCO Structure

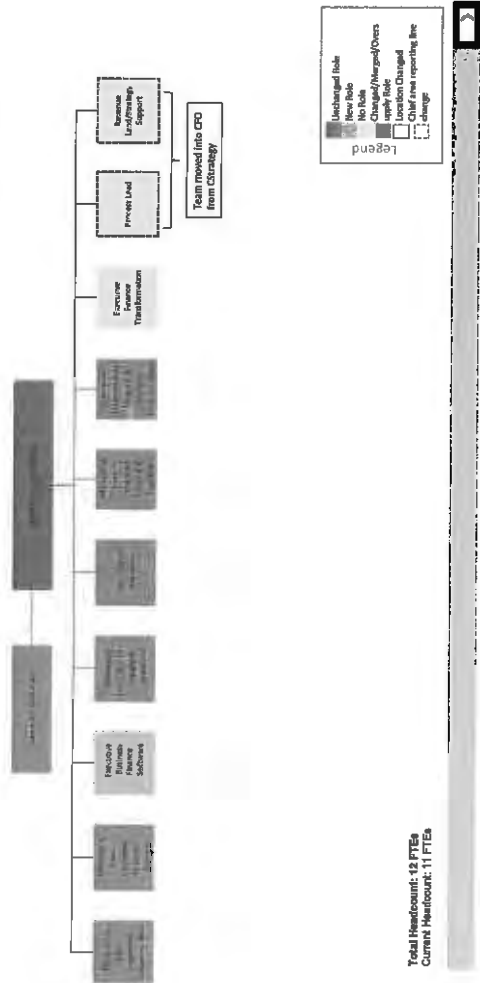


[Handwritten signature]

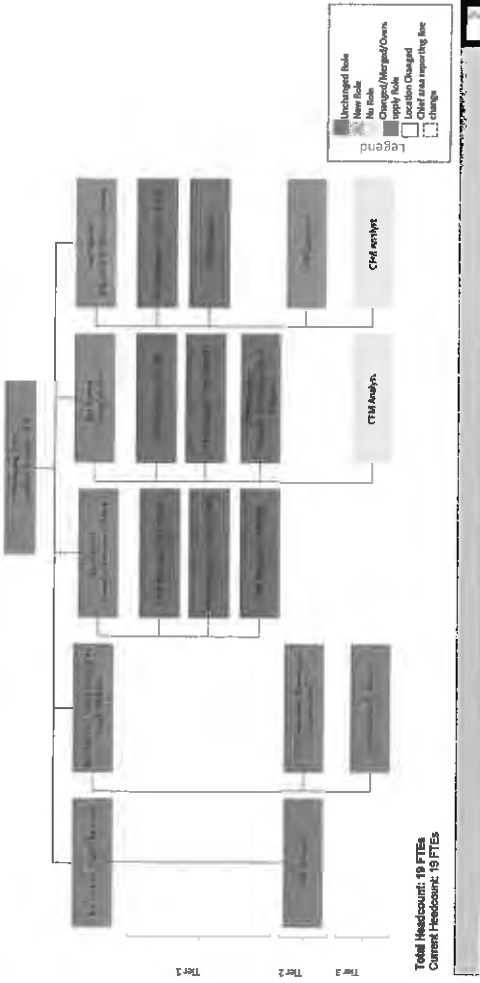
Chief Financial Officer

- Existing vs Proposed Structures

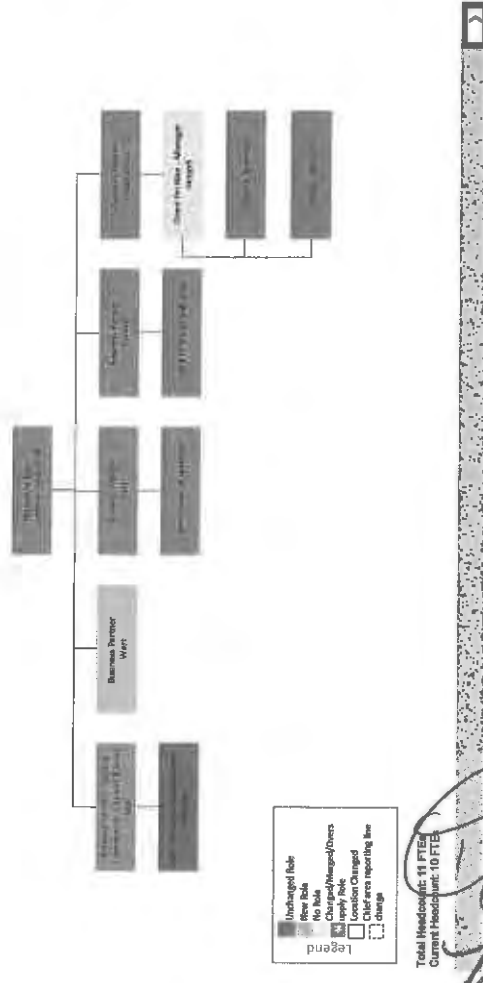
Finance Leadership Team (FLT) - Existing as of 31 August 2018 (Perm only)



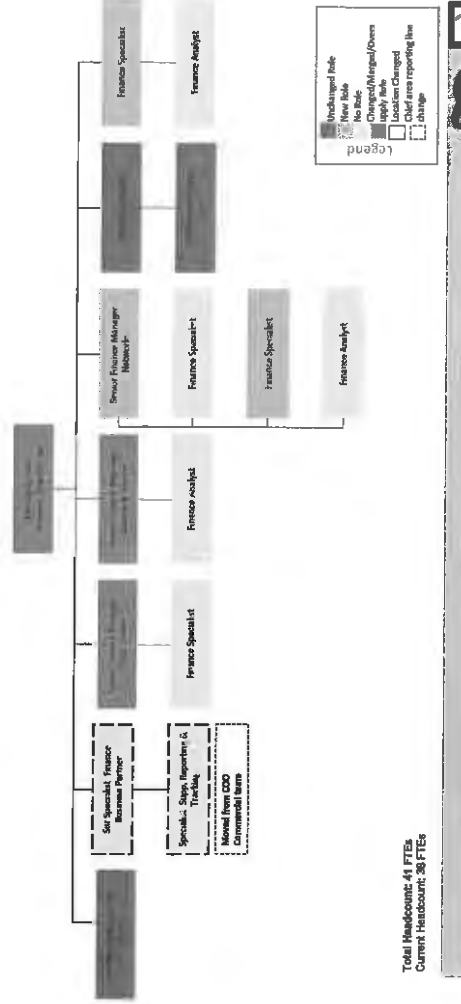
Customer Finance BCX - Existing as of 31 August 2018 (Perm only)



Customer Finance Integr8 - Existing as of 31 August 2018 (Perm only)



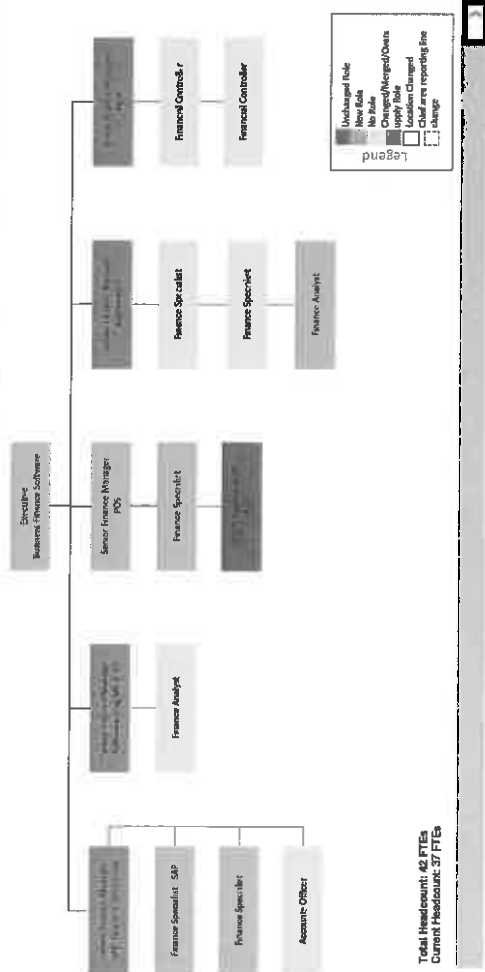
Business Finance OPS - Existing as of 31 August 2018 (Perm only)



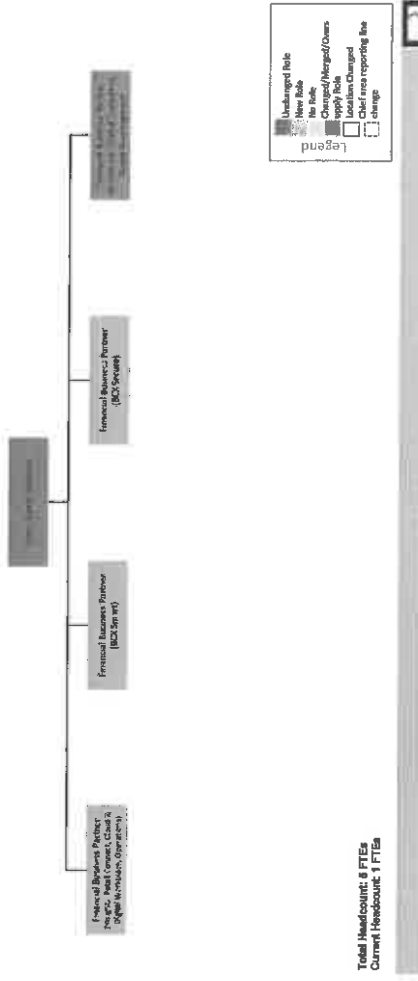
69

[Handwritten signature]

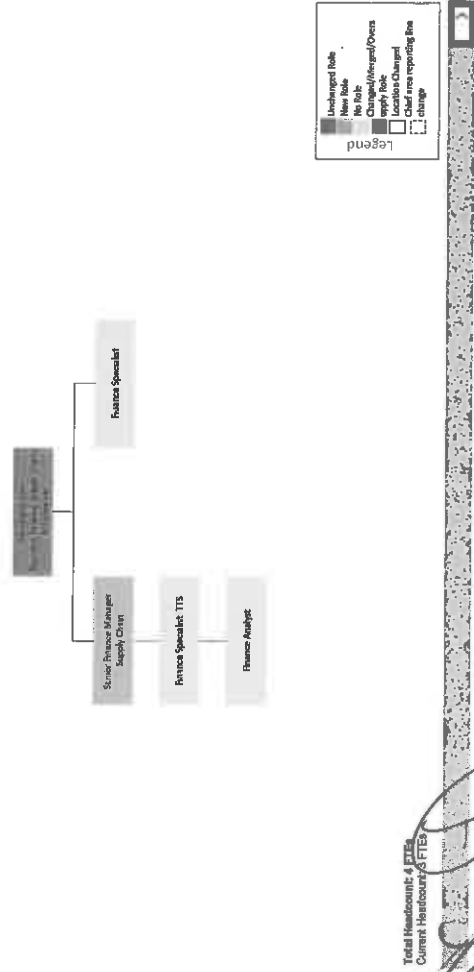
Business Finance Software - Existing as of 31 August 2018 (Perm only)



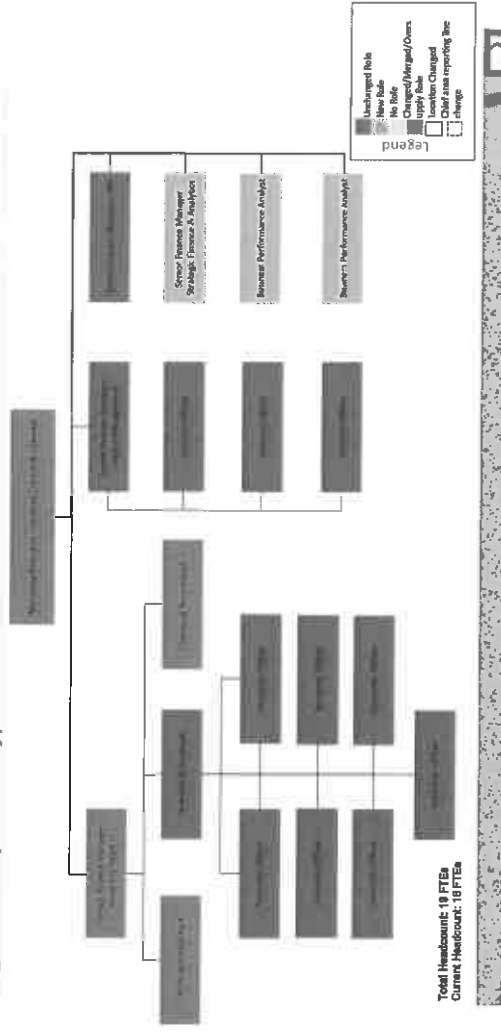
Business Finance: Digital Solutions - Existing as of 31 August 2018 (Perm only)



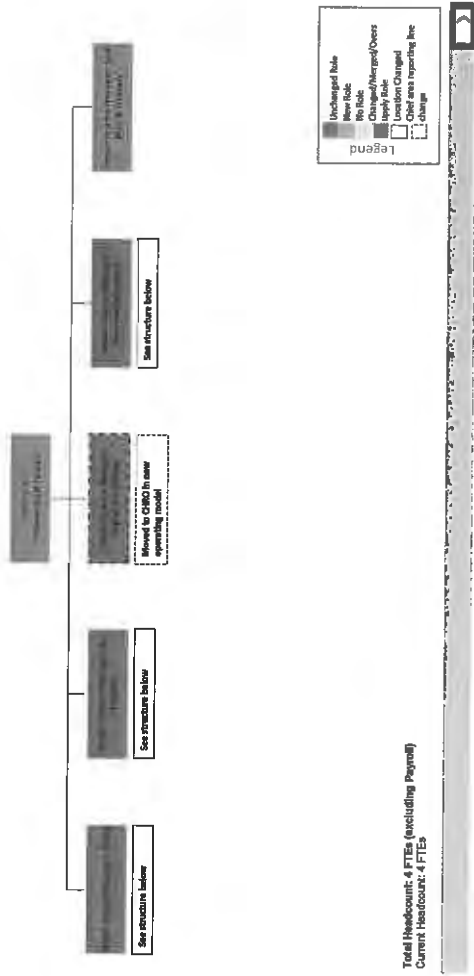
Business Finance Supply Chain & Corporate - Existing as of 31 August 2018 (Perm only)



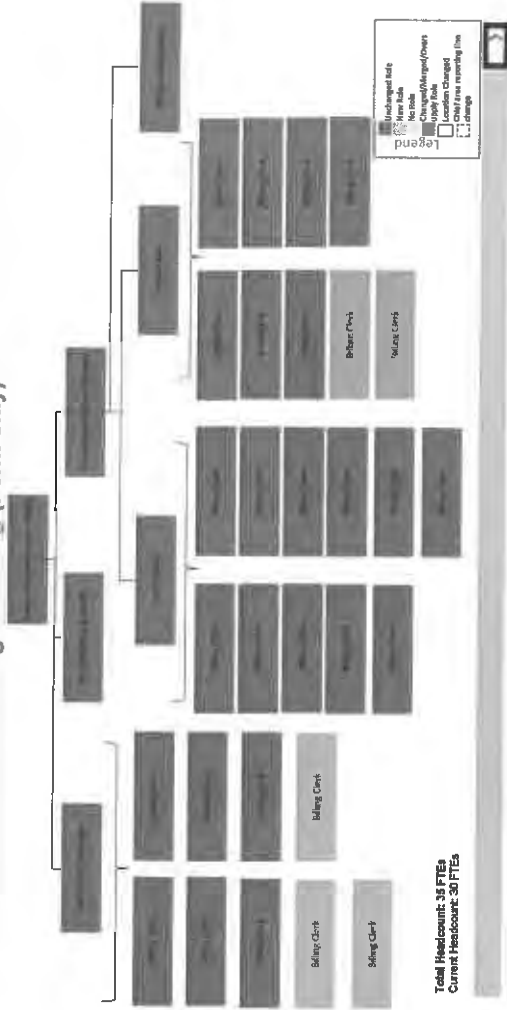
Financial Control & Taxation (Strategic Finance incorporated) - Existing as of 31 August 2018 (Perm only)



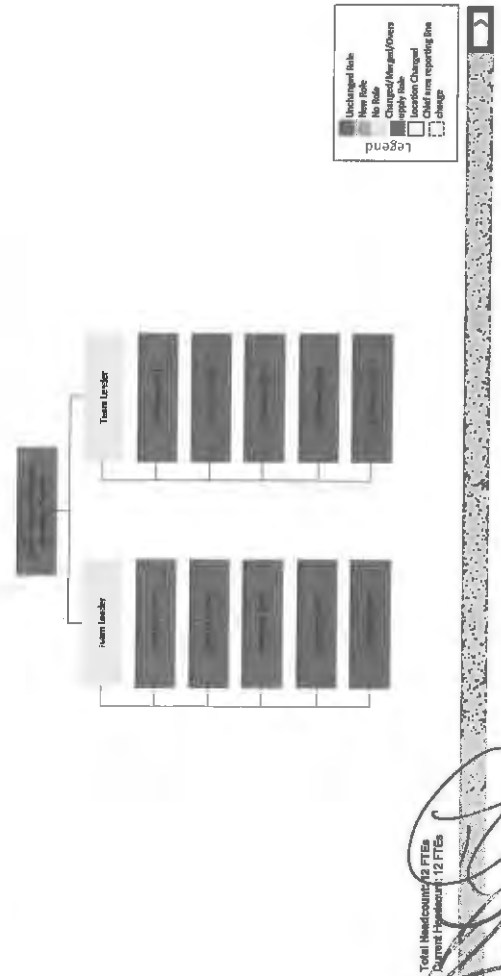
Transactional Finance – Existing (Perm only)



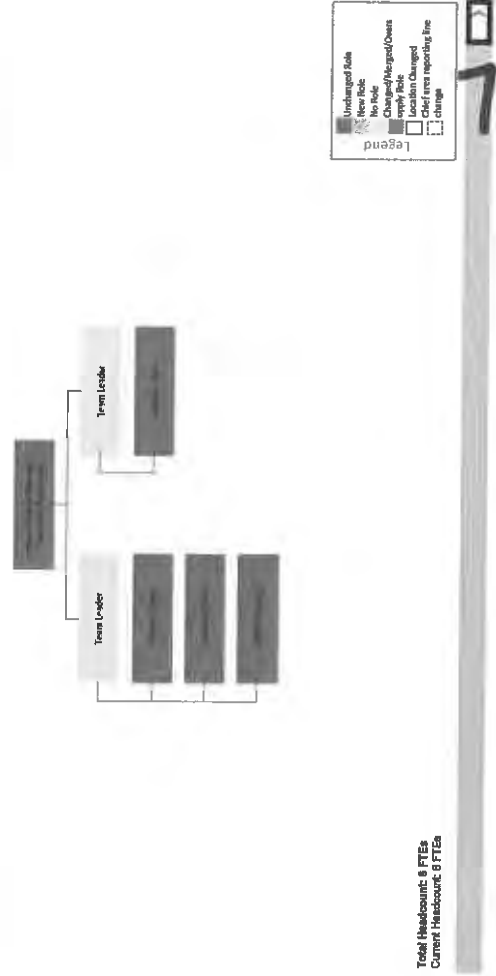
Transactional Finance – Billing – Existing (Perm only)



Transactional Finance – Accounts Payable – Existing (Perm only)

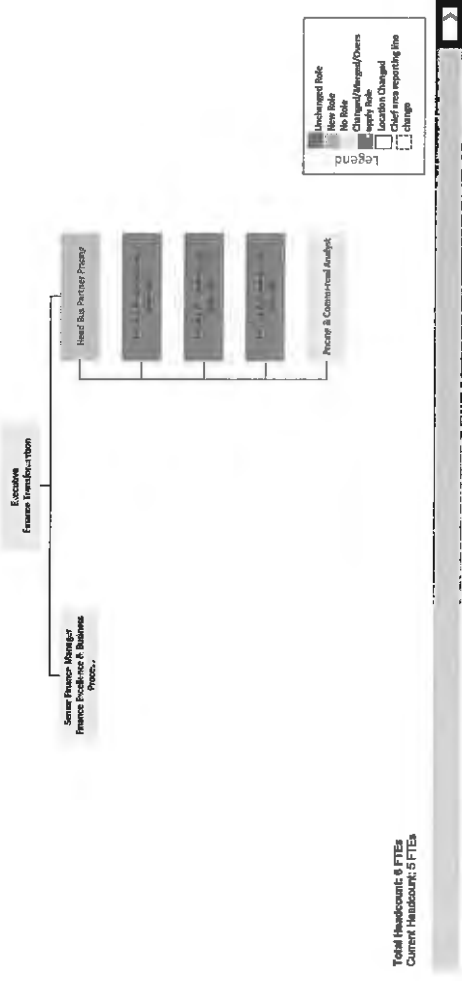


Transactional Finance – Accounts Receivable - Existing

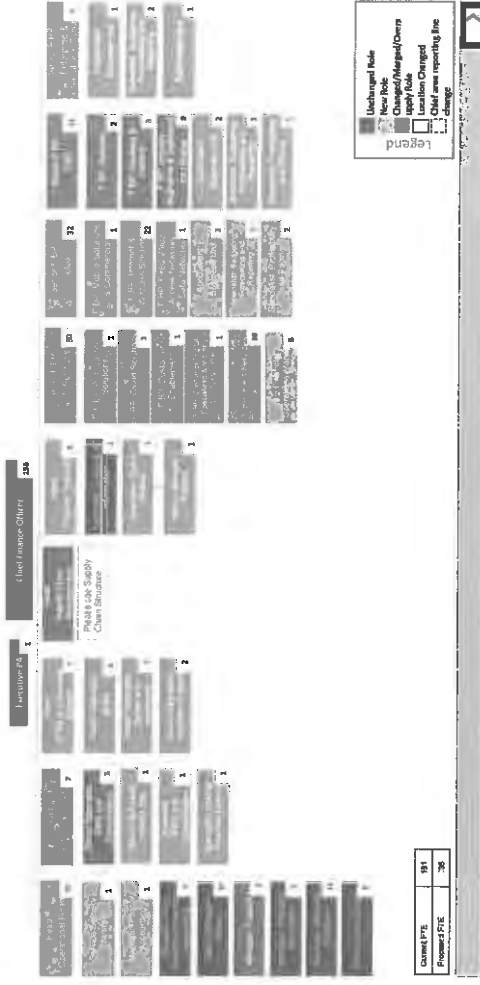


[Handwritten signature]

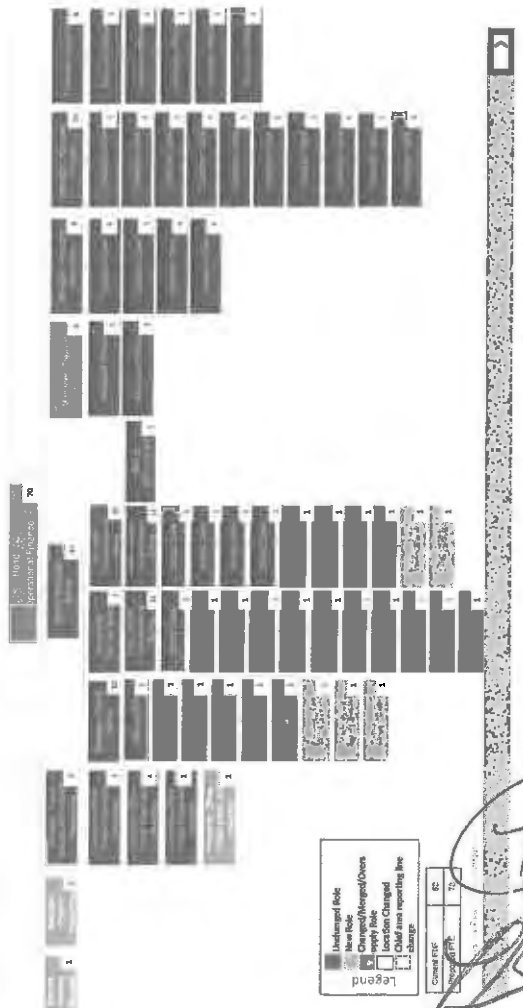
Finance Transformation - Existing



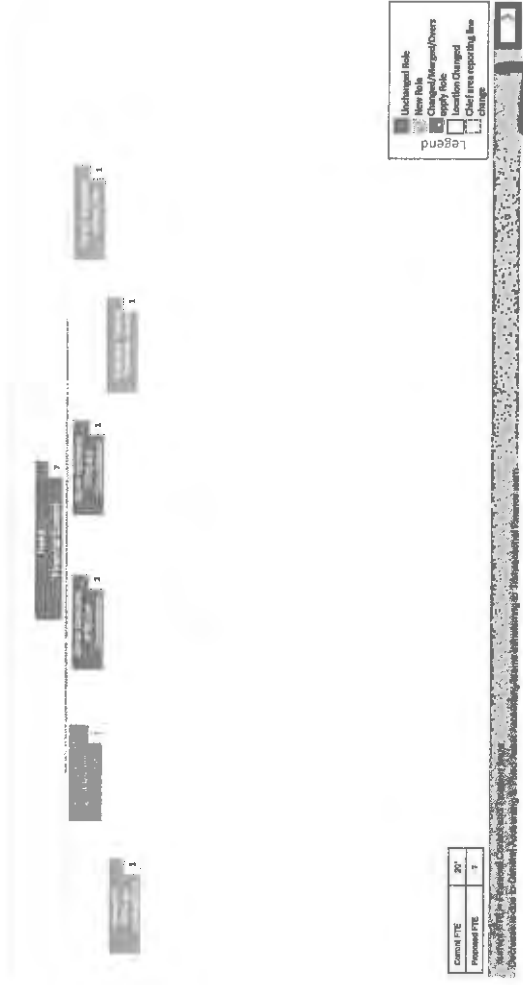
To-be structure: Finance Leadership Team



Central Finance to-be structure: Operational Finance

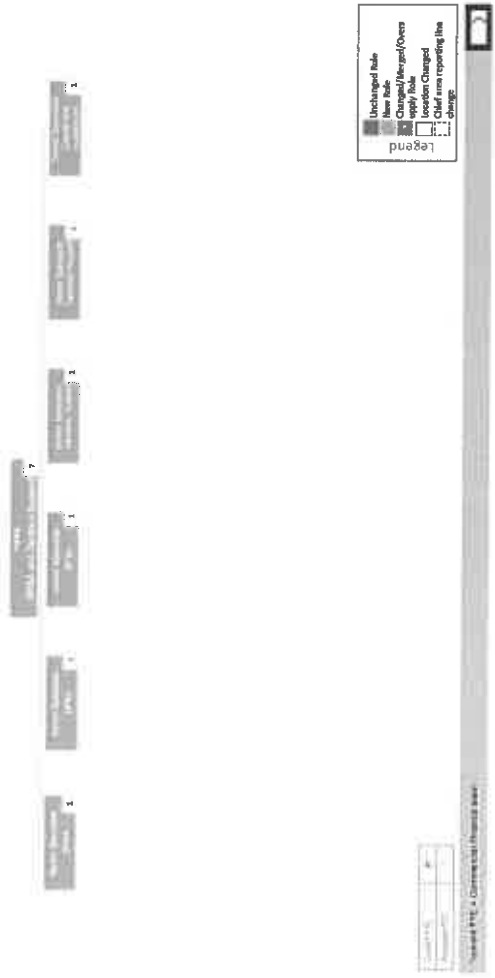


Central Finance to-be structure: Financial Control



[Handwritten signature]

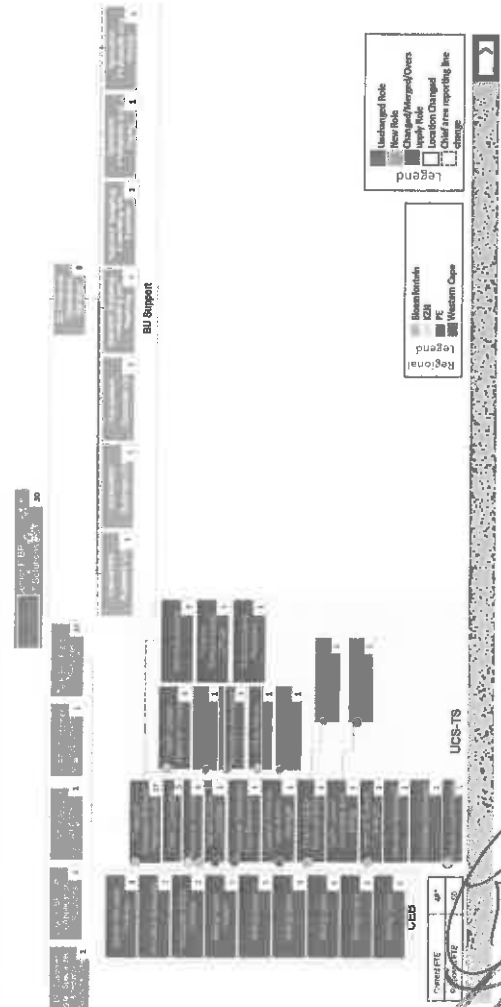
Central Finance to-be structure: BP&A and Decision Support



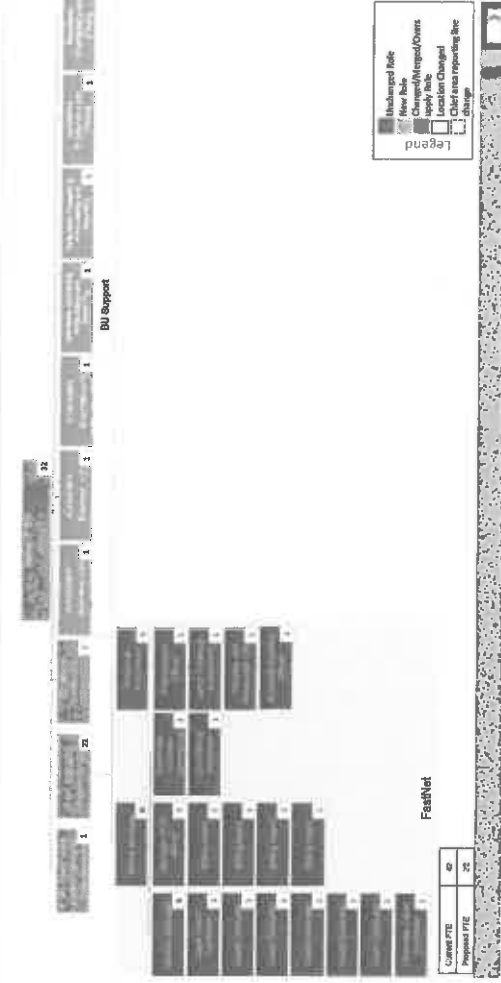
Central Finance to-be structure: Finance Technology



I. T. Solutions to-be structure

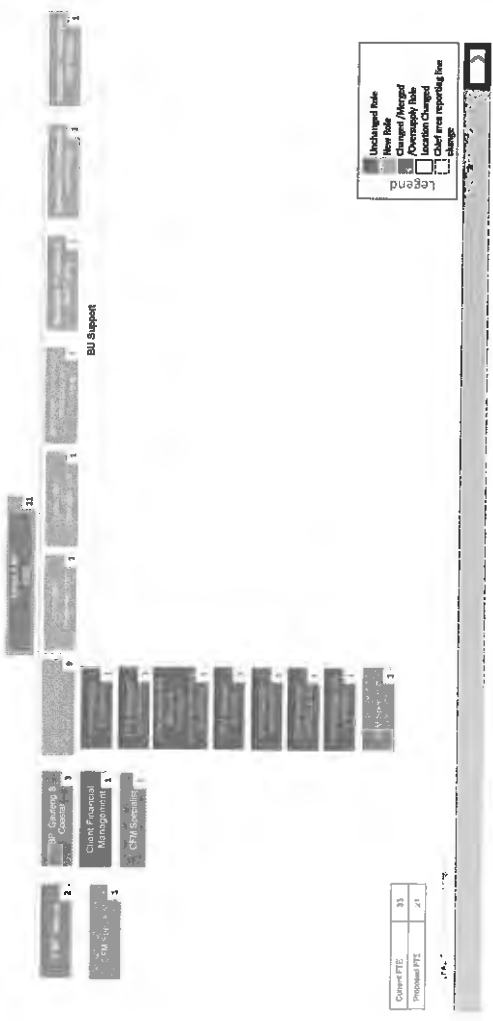


Telco to-be structure



[Handwritten signature]

CSO to-be structure



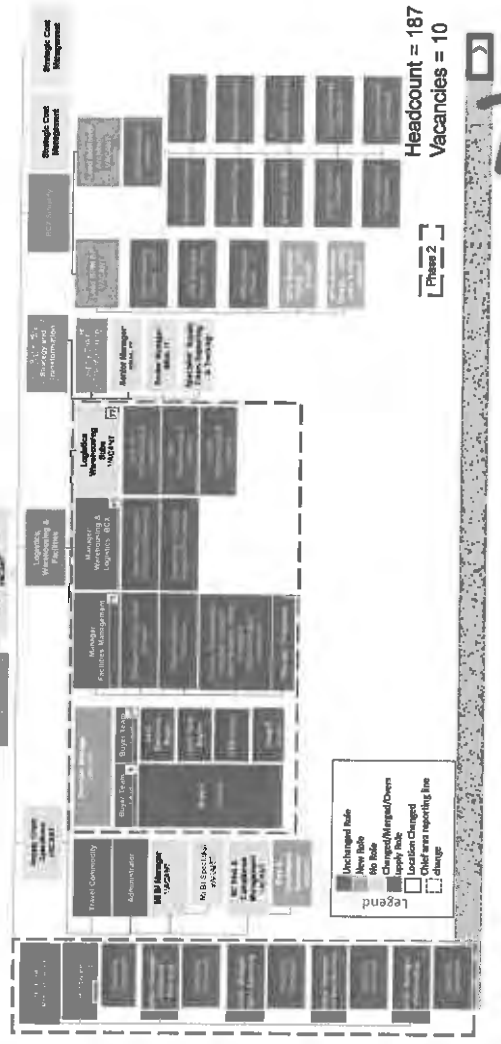
Enterprise Functions to-be structure



Supply Chain

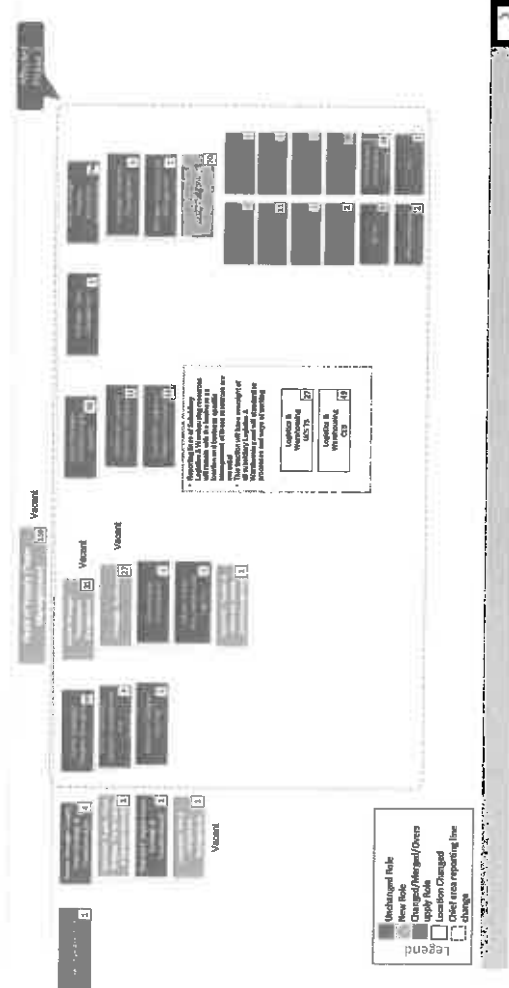
- Existing vs Proposed Structures

Current SCM Team



7A

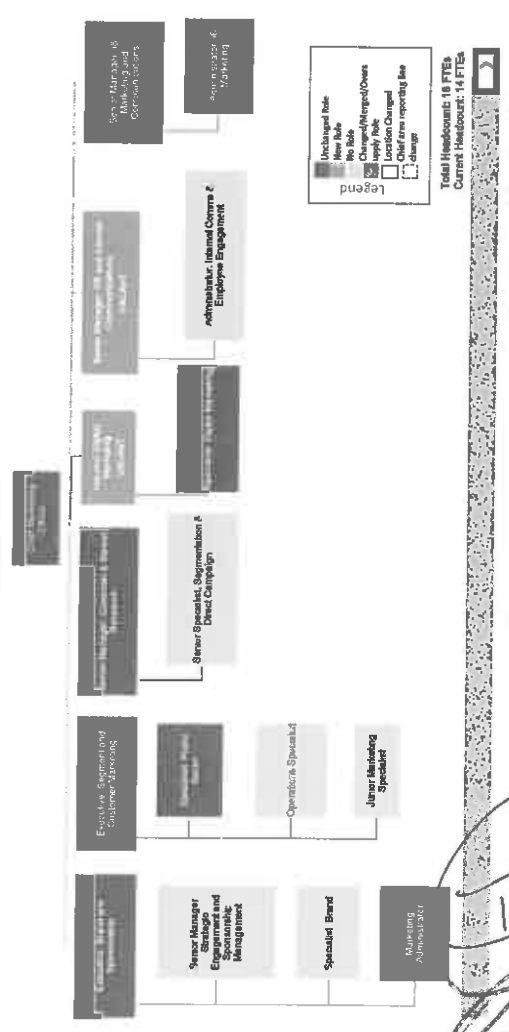
Supply Chain To-Be Structure



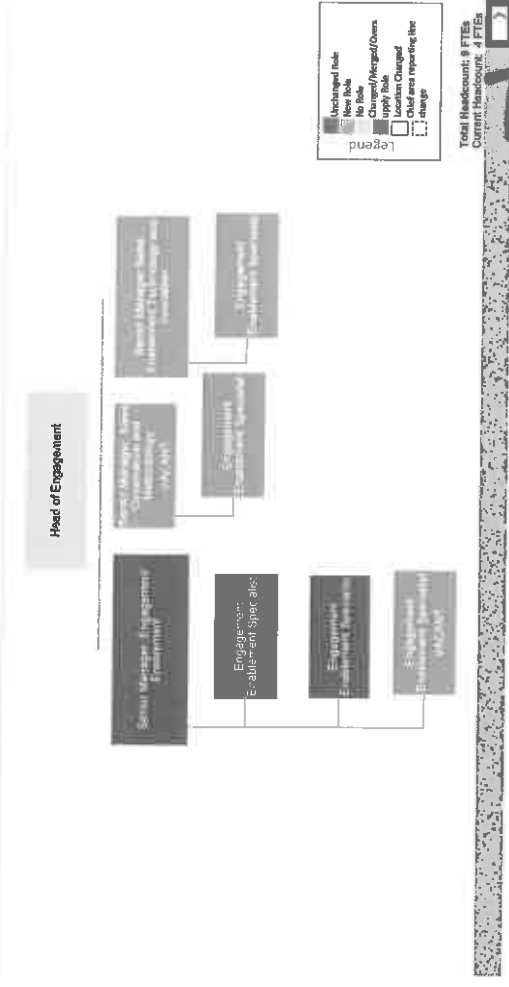
Chief Marketing Officer

- Existing vs Proposed Structures

Existing Marketing Team Structure



Existing Sales Enablement and Strategic Client Engagement Team Structure



Handwritten signature and initials

75

"FAS"

77

Verushca Daley (Botoulas Krause & Da Silva Inc)

From: Andile Mdadane <AndileM@CCMA.org.za>
Sent: 18 December, 2018 11:18 AM
To: Hannelie du Toit (HR) - BCX; jplbez@uasa.org.za; admin@uasa.co.za; pa.ceo@uasa.org.za; j.goussard@uasa.org.za; PETER@GIWUSA.CO.ZA; sa.mofyoa@gmail.com; giwusapta@gmail.com; TUWGUM@YAHOO.COM; edwardr@numsa.org.za; jhbcentral@numsalocal.org.za; ICTU@TELKOMSA.CO.ZA
Subject: GAJB25729-18 Third Meeting
Attachments: GAJB25729-18_1_SetDownPar189AFa.pdf

Dear Parties

Please find the attached notice of set down.

Kind Regards

Andile



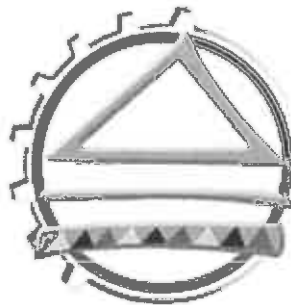
Andile Mdadane

HO-Case Management Officer: Employment Security
Telephone: +27113776997
Call Centre: 0861 16 16 16 | Website: <https://www.ccma.org.za>
Gauteng

SENZ'UMEHLUKO - MAKING A DIFFERENCE



A handwritten signature in black ink, appearing to be 'D. B.' or similar, located in the bottom right corner of the page.



CCMA

COMMISSION FOR CONCILIATION, MEDIATION & ARBITRATION
 28 Harrison Street, Johannesburg, 2001,
 Private Bag X94, Marshalltown, 2107, Tel: 0113776650, Fax: 0118347351

To: **MWASA**
 P.O. Box 11136
 Johannesburg
 2000

Tel: 0113371019
 Fax:
 Email: tuwgum@yahoo.com

Contact:

To: **Communications Workers Union**
 222 Smit Street
 Transnet Building
 20th Floor
 Braamfontein
 1685

Tel: 0117200360
 Fax: 0865470498
 Email: tebo23roku@gmail.com,
mogalanet@gmail.com, nomim@cwu.org.za

Contact:

To: **South African Communications Union**
 3B Canal Edge
 Fountain Road
 7350

Tel: 0122166616
 Fax: 0864784478
 Email: harem@telkomsa.co.za,
sacubo@telkomsa.co.za

Contact:

To: **Solidarity**
 Corner DF Malan & Eendrach Street
 Centurion

Tel: 0126444300
 Fax: 0126646493
 Email: service@solidarity.co.za,
lindas@solidarity.co.za

Contact:

To: **Information Communication Technology Union**
 Prime Towers
 29 Francis Baard & Van Der Walt Street
 Office 401, 4th Floor
 Pretoria
 0002

Tel: 0123208526
 Fax: 0866178856
 Email: ictu@telkomsa.co.za

Contact:

To: **UASA**
 P. O. Box 565
 Florida
 1710

Tel: 011 472-3600
 Fax: 086 504-0969
 Email: mathilda@uasa.org.za,
admin@uasa.co.za

Contact:

For any queries, complaints or compliments, contact
 Call Centre on 0861 16 16 16 or e-mail HO@CCMA.org.za
 Facebook – <http://www.facebook.com/groups/ccma1/>

79

To: **GIWUSA**
P. O. Box 1713
Germiston
1400

Tel: 011 873-4804
Fax: 011 873-0921
Email: peter@giwusa.co.za

Contact:

To: **NUMSA**
P.O. Box 260483
Excom
2023

Tel: 011 689-1700
Fax: 011 838-4092
Email: edwardr@numsa.org.za,
jhbcentral@numsalocal.org.za

Contact:

To: **Business Connexion (Pty) Ltd**
Private Bag X48
Halfway House
1685

Tel: 0112665262
Fax: 0112665767,0865718939
Email: Hannelie.duToit@bcx.co.za

Contact:

18-Dec-2018

Case Reference **GAJB25729-18**
Matter between **MWASA/CWU/Solidarity/ ICTU/ SACU/ UASA/GIWUSA/NUMSA obo , Members**
and **Business Connexion (Pty) Ltd**
Primary Issue **189A - Operational requirements facilitation (more than 50 employees)**

You are required to attend –

Date **Monday 14-January-2019**
Time **10:00AM**
Venue **Employer's Premises**
Centre for Learning
1098 Old Kempton Park/Pretoria Road (M57)
Clayville East
Olifantsfontein
Process **189A Facilitation**
Commissioner/s **Mduduzi Khumalo**
Interpreter/s
Language/s

If you have any queries, please contact the undersigned. Please quote your case reference number in all correspondence / communication – this will assist us in providing information more quickly and efficiently.

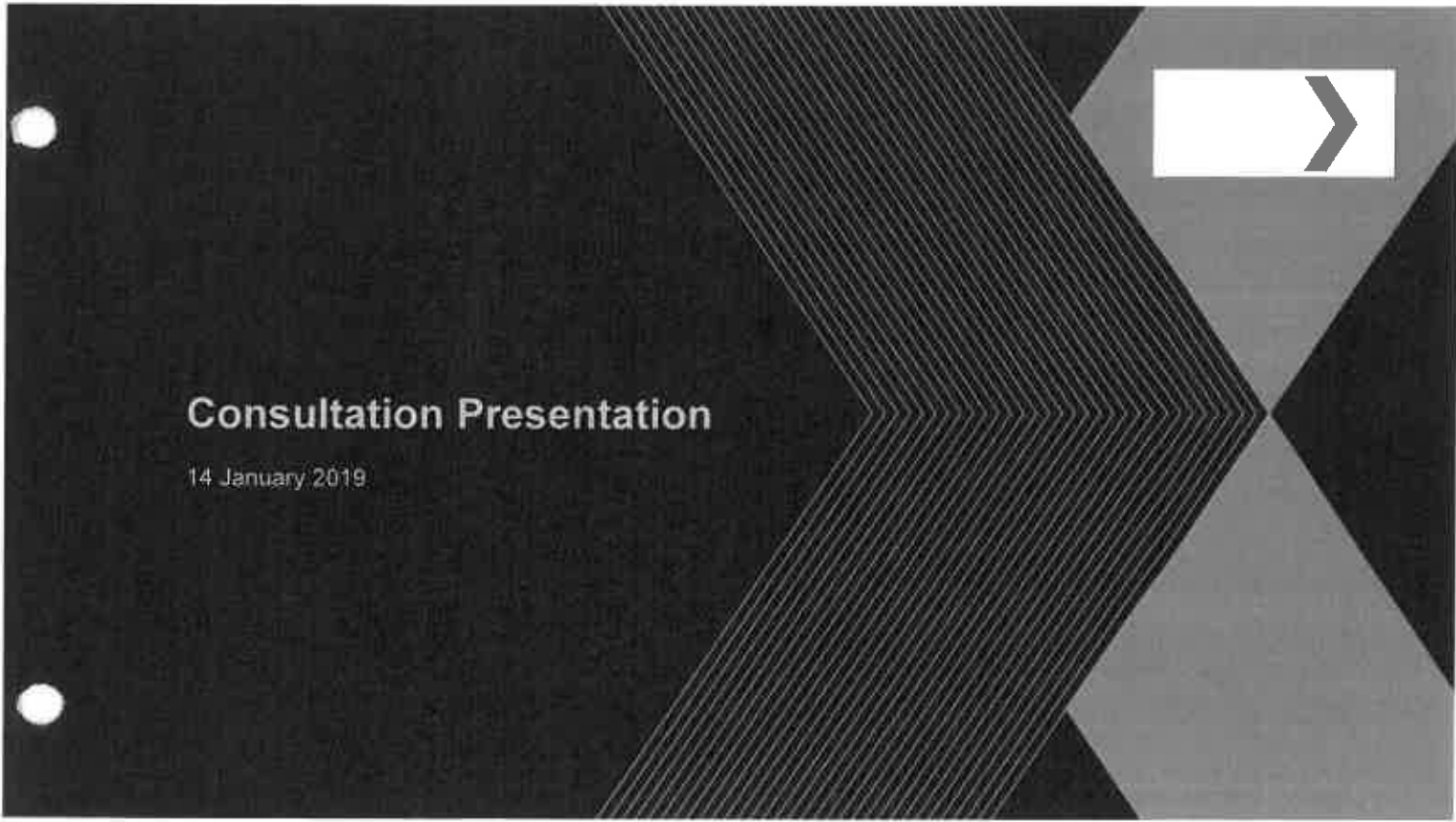
IMPORTANT: Please note that no firearms are allowed on CCMA premises. Any person found in possession of a firearm will be required to leave the premises immediately. Contravention of the Firearms Control Act may lead to prosecution.



Andile Brenda Mdadane
CCMA Case Management
Telephone: (011) 377 6997
Email: AndileM@CCMA.org.za
Fax:



"FA6"
80



A handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the bottom.



BCX

Selection Criteria



P. L.
[Signature]

Proposal on Selection Criteria

Organised Labour - Solidarity Sponsored Proposal	BCX's View
<p>Parties need more detailed information on the Proposed selection criteria and the weighting given to each item.</p> <p># Qualification, certification and professional registration (as required in the Job Description) BCX must consider years of experience, with specific reference to employees functioning in the same or similar position for a couple of years. Qualification with relevant years of experience in the position must be taken into consideration.</p> <p>Solidarity proposal: All three criteria to be used in conjunction with each other as a selection criterion.</p> <p>If criteria to be used in isolation, a weighting must be given to each criterion, example:</p> <ul style="list-style-type: none"> • Qualification 40% • Experience 30% • Skills (relevant to job) 20% • LIFO 10% <p># Employment Equity not to be used as a Selection Criteria within the Section 189A process.</p> <p># LIFO – as tiebreaker should two employees scores are exact the same.</p>	<p>Having considered Organised Labour's counter proposals, with specific reference to Solidarity's proposal it is BCX's view that the selection criteria proposed is objective.</p> <p>All the selection criteria will be used in conjunction with each other.</p>

BCX

Severance Gratuity

A handwritten signature in black ink, consisting of a large, stylized 'G' followed by a 'B'.

Proposal on Severance Gratuity

Items	BCX	Organised Labour – Solidarity Sponsored Proposal	BCX View
Notice Period	1 month	3 Months	1 month irrespective of length of service, as stipulated in the Consultation presentation on 22 November 2018.
Proposed Severance Package	1 ½ weeks for every completed year of service or part thereof	2 weeks for first 10 years of completed years of service. 1 ½ week for every year of service after 10 years of	1 ½ weeks for every completed year of service or part thereof
Leave days	All accrued	Agree	Agreed
Medical Aid cover	Terminate at end of service	Will discuss	Terminate at end of service
Retirement fund Contr.	Rules apply	Agree	Agreed
Tax directive	Assist.	Agree	Agreed
UIF	Assist in UIF docs	Agree and VSP/VERP claim UIF	Agreed
Certificate of Service	Provide a Certificate of Serv	Agree	Agreed
Outstanding Debt	- Employees liable for all outstanding claims that BCX may have against them in terms of signed acknowledgement of debt. - Waive training, maternity or relocation debt	BCX and employee to re-negotiate discounted debt. - Agree	Employees liable for all outstanding claims that BCX may have against them in terms of signed acknowledgement of debt. Agreed

Handwritten signature and initials, possibly 'Cu' and 'ZB'.

Proposal on Severance Gratuity

Items	BCX	Organised Labour – Solidarity Sponsored Proposal	BCX Response
Social Plan	None	A Social Plan benefit of R50 000 for training purposes of which up to R10 000 can be used to acquire Tools.	As stated during the consultation session 14 December 2018, BCX proposed a R40 000 Social plan payment to the employee, which will be fully taxable.
Cell phones/Laptops etc		<p>Employees to be able to keep Cell Phones, with option to convert contract to Pay as you go.</p> <p>Laptops – if possible, to be bought by employees at a minimal fee of R500</p>	<p>In line with the BCX policy, an employee have the option to give the device back to BCX or to continue with the contract on a personal account and to purchase the device.</p> <p>No Company equipment will be made available for purchasing.</p>

GH
 LB



Employee Counter Proposals

Handwritten initials/signature

Feedback in relation to Employee Counter Proposals received

Summary:

- 20 Counter proposals (4 were duplications)
- 7 were accepted.

Teleco:

- Proposal Accepted. The role of "IMACD Support Coordinator" will be moved from its proposed position under the various Service Operations structures to the same reporting lines as the various Technical Architecture teams.
- Proposal accepted. The SIM reporting function will be accommodated in CTS Commercial Management structure.
- Proposal Accepted: In the Telkom Enterprise environment the regional Senior Manager - Service Delivery used to manage both the service management and project management environments. This could again be an option to consider to achieve efficiencies. The Senior manager based in Durban managed both the Eastern and Southern region whilst Western Cape was managed by the Cape Town Senior Manager.
- Proposal accepted. The Partner Operations Management function is included under the Executive: Commercial and will support across Product Management, Service Delivery Management and Project Management.

CRO:

- The proposal to decrease the Bid Admin to 2 and increase Bid Managers by 2 is accepted.
- The revised proposal is accepted. An additional AE will be added to OMG account.

IT Solutions:

- Regional presence for presales Solution Architect and Service management and all will not be centralised.

The logo for BCX, consisting of the letters 'BCX' in a bold, black, sans-serif font. The logo is positioned on a light gray background that features a large, faint, stylized 'X' shape.

Job Title and Grading Alignment

A handwritten signature in black ink, located in the bottom right corner of the page. The signature is stylized and appears to be the initials 'C.B.' followed by a flourish.

Case for Change / Rationale

Whilst a fully owned subsidiary of the Telkom Group, BCX has been using a different grading system and job title matrix to Telkom.

This practice has made assessing positions in comparative structures for talent, reward, mobility / transfers and career progression purposes a difficult and complex process. It has become imperative that BCX align job grades and titles to those of Telkom in order to:

- Facilitate talent mobility across the Group
- Standardise the grading and other related processes in view of the move to a single SAP Success Factors (SF) system across the Group
- Facilitate future alignment to Telkom Group



A handwritten signature in black ink, consisting of stylized initials 'R' and 'B'.

JD Alignment Mandate

- **Functional and Grade Alignment:** ensure alignment across the group - all new / changed roles to be reviewed to ensure overall alignment in terms of both functional accountability and grade level across the Group.
- **Functional ownership:** ensure that CC Chiefs have sight of and are in support of functional structures across the Group.
- **Naming Convention alignment:** eradicate duplication and confusion, particularly with reference to external stakeholders.
- **Delegation Of Authority:** Update Telkom SOC DOA and ensure DOA alignment across the group
- Development of a common **Competency Language / Taxonomy** for the group.

CU
H

High Level Messaging

High Level alignment of BCX grading system to New Organisation grading system

BCX Grading System	New Organisation Grading System
EU	M2
EL	M3
DU	M4 / S4
DL	M5 / S5
CU	M6 / S6
CL	OP1
BU & BL	OP2
A	A

AL
EB

BCX

VSP / VERP

*Cl
Z*

VSP / VERP

- Employee application received:
 - 1070
- Management are still in the process of considering application.

Re
B



End - Thank you

GR
LB

"FA7"

95

TRANSCRIPTION CERTIFICATE

We, the understated, hereby certify that as far as it is audible, the foregoing is a true and correct transcription of the proceedings recorded by means of mechanical or digital recording, in the

TELKOM SA SOC LTD

SECTION 189 CCMA FACILITATED MEETING

**HELD AT: TELKOM, CENTRE FOR LEARNING, BOARDROOM J22,
KUDU ROAD, OLIFANTSFONTEIN**

HELD ON: 14 JANUARY 2019

TRANSCRIPTIONIST: MS H SCHÄFER

PROOFREADER: MS L TUCK

**TRADE GLO INTERNATIONAL (TGI)
P.O. BOX 15391
PANORAMA
7506**

**TEL: +27 (0) 21 930 1034 (CPT) / + 27 (0) 12 377 0140 (PRETORIA)
FAX TO EMAIL: +27 (0) 86 685 7710
E-MAIL: medcom@iafrica.com**





TELKOM SA SOC LTD

SECTION 189 CCMA FACILITATED MEETING

**HELD AT: TELKOM, CENTRE FOR LEARNING, BOARDROOM J22,
KUDU ROAD, OLIFANTSFONTEIN**

HELD ON: 14 JANUARY 2019

COMMISSIONER:

MR M KHUMALO

MANAGEMENT:

**MR A NGUBO
MR V RAJPAL
MR M SCHAFER
MR L GERBER
MR J STEENBERG (sic)
MS H LUKOTO
MS M NTLOKO
MR Z VYAKAZI
MS H DU TOIT**

CWU

**MR T LEKOTA
MR T MOROBE
MR B MASHEGO**

SOLIDARITY:

**MR J STEYN
MS L SENEKAL**

MWASA:

**MR O NKOSI
MR P MBIZA
MR T GUMANI
MR S SIGABI**

ICTU:

**MR P MASHININI
MR M LOUW
MR N ZONDO**

UNIDENTIFIED MALE SPEAKER: Oh, okay, no, that's fine.

COMMISSIONER: Is there any other issue, Labour? Labour, is there any other issue? Solidarity? Solidarity they are shaking their heads. Noted, Solidarity.

ICTU?

5 **ICTU:** No further issue.

COMMISSIONER: Thank you, Sir. MWASA?

MWASA: There are no further issue, Commissioner.

COMMISSIONER: Thank you, Sir. CWU?

CWU: The only issue is to go home.

10 **COMMISSIONER:** To go home, noted, Sir. MWASA is also shaking its head. I must note that SACU did not attend nor did it tender any apology. I'm not sure what happened. The Employer, have you received anything from SACU?

MANAGEMENT: As far as we're concerned they were served with the notice.

COMMISSIONER: Yes, the notice comes from CCMA.

15 **MANAGEMENT:** Exactly. So, there can be no excuse.

COMMISSIONER: So, you have not received any communication?

MANAGEMENT: No.

COMMISSIONER: Okay. Employer, is there any other issue, any omission?

MANAGEMENT: No, if organised labour can excuse us – recuse themselves so
20 that we can continue with the discussion.

COMMISSIONER: Thank you to all the parties for your attendance and your participation and your patience with the process. Hope to see you on the 23rd, alternatively on the 29th.

25

MEETING ADJOURNED

"FAS"

Benie Kabemba (Botoulas Krause & Da Silva Inc)

98

From: karriem abrahams <karr1em@me.com>
Sent: Wednesday, 16 January 2019 16:46
To: 'Andile Mdadane'; 'Hannelie du Toit - BCX'; Alfie Ngubo (AM)
Cc: SERVICE@SOLIDARITY.CO.ZA; SACUBO@TELKOMSA.CO.ZA; Michael Hare (M); NOMIM@CWU.ORG.ZA; TEBO23KORU@GMAIL.COM; MOGALANET@GMAIL.COM; 'Lionel Samuels'; Sontaga Mantlhakga (SR); 'Jannie Kruger'; Harry Botha (H); Koos Fourie (JJ); Martin Louw (M); Ntobeko Zondo (N); Phellimon Mashinini (MP); booyesen.mashego@yahoo.com; Thabo Lekota (JT); Teboho Morobe (TD); Jaco Steyn - BCX - BCX; s.siggbi@uasa.org.za; Hannelie du Toit (HR) - BCX - BCX; jplbez@uasa.org.za; admin@uasa.co.za; pa.ceo@uasa.org.za; j.goussard@uasa.org.za; PETER@GIWUSA.CO.ZA; sa.mofyoa@gmail.com; giwusapta@gmail.com; TUWGUM@YAHOO.COM; edwardr@numsa.org.za; jhbcentral@numsalocal.org.za; ICTU@TELKOMSA.CO.ZA; Origenous Mogoatlhe (OM); Moeketsi Lepheane (MP); LINDAS@SOLIDARITY.CO.ZA
Subject: RE: CASE NO: GAJB25729-18
Attachments: BCX DISPUTE.pdf

Good Day Andile,

Please make the following correspondence available to Commissioner M Khumalo for his urgent attention.. Please further acknowledge receipt of correspondence...

Thanking You,

Karriem Abrahams

SACU General Secretary
0824566874

From: Hannelie du Toit (HR) - BCX [<mailto:Hannelie.duToit@bcx.co.za>]
Sent: 16 January 2019 04:04 PM
To: jplbez@uasa.org.za; admin@uasa.co.za; pa.ceo@uasa.org.za; j.goussard@uasa.org.za; PETER@GIWUSA.CO.ZA; sa.mofyoa@gmail.com; giwusapta@gmail.com; TUWGUM@YAHOO.COM; edwardr@numsa.org.za; jhbcentral@numsalocal.org.za; ICTU@TELKOMSA.CO.ZA; Origenous Mogoatlhe (OM) <origenousm@openseve.co.za>; Moeketsi Lepheane (MP) <MoeketsiL@openseve.co.za>; LINDAS@SOLIDARITY.CO.ZA; SERVICE@SOLIDARITY.CO.ZA; SACUBO@TELKOMSA.CO.ZA; HAREM@TELKOMSA.CO.ZA; 'Karriem Abrahams' <karr1em@me.com>; NOMIM@CWU.ORG.ZA; TEBO23KORU@GMAIL.COM; MOGALANET@GMAIL.COM; Lionel Samuels <lsamuels2108@gmail.com>; Sontaga Mantlhakga (SR) <MantlhSR@telkom.co.za>; Jannie Kruger <j.kruger@uasa.org.za>; Harry Botha (H) <bothah5@telkom.co.za>; Koos Fourie (JJ) <FOURIEJJ@telkom.co.za>; Martin Louw (M) <martinf@openseve.co.za>; Ntobeko Zondo (N) <NtobekoZ@openseve.co.za>; Phellimon Mashinini (MP) <PhellimonM@openseve.co.za>; booyesen.mashego@yahoo.com; Thabo Lekota (JT) <LekotaJT@telkom.co.za>; Teboho Morobe (TD) <MorobeTD@telkom.co.za>; Jaco Steyn - BCX <Jaco.Steyn@bcx.co.za>; s.siggbi@uasa.org.za
Cc: Andile Mdadane <AndileM@CCMA.org.za>
Subject: Revision of VSP/VERP extension period

Dear All,



Following Organised Labour's request to revise the current VSP/VERP extended application process period, this communication serves to advise that the Company has acceded to revise the current extension period to close on 18 January at 14:00.

Please note that the revised extension does not change the agreed key dates in this process, namely:

99

- 17 January 2019 – submission of structures,
- 23 January 2019 – workshop in relation to structures
- 24th of January 2019 - opening for application process
- 28 January 2019 – the commencement of the selection process.

Kind regards

Hannelie du Toit

Employee Relations

BCX Centurion Offices
1021 Lenchen Avenue North
Centurion

T: +27 (0) 11 266 5262

F: +27 (0) 86 571 8939

C: +27 (0) 65 999 1763

Meet your future today.

BCX



A handwritten signature in black ink, appearing to be 'H. du Toit'.

South African Communications Union (SACU)

Unit 12 & 13 Watcor Park,
Parow, 7501
Tel: 086 100 7228
Fax: 086 600 3342



16 January 2019

CASE NO: GAJB25729-18

Attn: Commissioner Mduduzi Khumalo

Good Day Sir,

RE: DISPUTE ON DISCLOSURE OF INFORMATION

During the first meeting on the 22 November 2018, chaired by the CCMA commissioner M Khumalo, the following was confirmed regarding the recording of the meeting;

- The CCMA recording remains the official transcript;
- The employer's transcript will also be utilized;
- The employer committed itself to making the transcript available to all parties no later than five (5) days subsequent to the meeting.

Further to this, after the company's presentation the parties agreed as follows:

- The employer will provide Audited Financial information by close of business 23 November 2018;
- Labour will furnish the employer further questions pertaining the presentation made on the 22 November 2018, by the 27 November 2018;

- The employer **WILL** respond to **ALL** information requested by organised labour by 30 November 2018 in writing.

As the South African Communication Union (SACU), we submitted a request for information on the 27 November 2018. The employer only responded on the 3 December 2018 not addressing the information requested from SACU. The employer failed to disclose the following crucial information: -

- The 790 affected position/employees,
 - Division it reside in,
 - The region it reside in,
- The exit date of each position,
 - taking into account the presentation stipulated certain division will be impacted phase one as well as phase two,
 - the presentation further stipulated the divisions that will be impacted during the phase two
- The selection criteria utilised to determine the 790 affected position,
- The parties that was consulted on this selection process to determine the 790 in line with the spirit of process,
- The proposed restructuring process,
 - Who must approve this proposed structure?
- The amount of employees/position in scope,

Further to this, the meeting of the 14 December 2018, still does not address the specific information by SACU regarding the 790 Positions/Employees. In addition to that information the employer is not complying regarding the agreed process of making available the transcript. The failure of the employer to comply on this has adversely affected SACU ability to meaningfully engage on this process and its members.

The company went ahead offering voluntary separation packages to employees, again without the abovementioned information available to the bargaining agents or the employees. BCX management is purposely created and environment of chaos

Handwritten signature and initials, possibly 'P. H.' and 'B.'.

and seemingly refuse to disclose this information.

To date we made two separate requests for the transcript of the 14 December 2018 without success.

A meeting was held on 14 January 2019, without any invitation to SACU. We therefore not privy to the discussions taking place or the rationale of what was presented. The CCMA omitted to invite SACU or any of its representatives, as a CCMA facilitated process

All the information requested, in the format requested, should be disclosed by close of business Monday 21 January 2019, failing which, organised labour will be left with no alternative but to consider its options *ex lege* e.g. Labour Court.

SACU reserves its rights *in toto*



K Abrahams
Office of the General Secretary
082 456 6874



List of Annexures

Annexure 1. Dispute on Disclosure of Information dated 22 January 2019

Annexure 2. Section 16 LRA dispute (Disclosure of Information)

Annexure 3. Mail from SACU General Secretary dated 14th January 2019 requesting consultation meeting to be rescheduled

Annexure 4A. Mail from CMO Andile Mdadane where SACU is not included in sending the Set-Down Notice for 14th January 2019

Annexure 4B. Official CCMA Notice of Set down for 14th January 2019 with incorrect E-Mail addresses for SACU

Annexure 5. Written request of concerns and information requests that was read verbatim into the minutes of the meeting held on 14th December 2018



"FA9"

ashley@saku.co.za

From: karriem abrahams <karr1em@me.com>
Sent: Tuesday, March 5, 2019 10:17 PM
To: ashley@saku.co.za; navel@yebo.co.za
Subject: FW: SACU response to BCX replying affidavit to CCMA.pdf
Attachments: SACU response to BCX replying affidavit to CCMA.pdf; Untitled attachment 00167.htm

104

From: Karriem Abrahams [mailto:karr1em@me.com]
Sent: 18 February 2019 11:34 AM
To: boitumelom1@openserve.co.za; andilem@ccma.org.za; mdumalo560@gmail.com
Cc: Koos Fourie <FOURIEJJ@telkom.co.za>; Harry Botha <bothah5@telkom.co.za>; MichaelH3@openserve.co.za; Hennie Van Der Westhuizen (HJ) <VDWestH@telkom.co.za>
Subject: Fwd: SACU response to BCX replying affidavit to CCMA.pdf

FYI.....please acknowledge receipt.....

Karriem Abrahams

Begin forwarded message:

From: Karriem Abrahams <karr1em@me.com>
Date: 08 February 2019 at 14:21:37 SAST
To: andilem@ccma.org.za, Mduduzi Khumalo <mdumalo560@gmail.com>
Cc: Hannelie.duToit@bcx.co.za, NguboAM@telkom.co.za, MichaelH3@openserve.co.za, Harry Botha <bothah5@telkom.co.za>, Koos Fourie <FOURIEJJ@telkom.co.za>, "Hennie Van Der Westhuizen (HJ)" <VDWestH@telkom.co.za>
Subject: SACU response to BCX replying affidavit to CCMA.pdf

Good Day,

The attached for the attention of Commissioner M Khumalo.



South African Communications Union (SACU)

Unit 12 & 13 Watcor Park,
Parow, 7501
Tel: 086 100 7228
Fax: 086 600 3342



21 January 2019

BCX/Telkom SA LTD

Group Executive: Employee Relations

Attn: Commissioner Mduduzi Khumalo

RE: Dispute Disclosure of information:

The minutes of a meeting dated 14 January 2019 reference....

We note at the end of the meeting in the minutes reference is made that SACU was served notice notice from the CCMA for the meeting that was scheduled 14 January 2019.

- From the information at our disposal it is glaringly obvious that SACU was never invited to this session.
- SACU therefore demand the reason for our exclusion and the CCMA continuing with this meeting in our absence, after we informed Alfie Ngubo on the morning of the 14 January 2019 that we were not invited.
- SACU further note that the information shared during this session is further prejudices SACU in representing the best interest of their members.
- The minutes is further questionable as it looks, as if it starts after the session was in session already.

Referencing the new proposed structure which was issued after the staff was offered Voluntary separation packages...

- The structure presented on the 14 December 2018, was used as the basis for the

NMC – SACU President-Michael Hare, General Secretary-Karriem Abrahams, National Treasurer-Hennie Van Der Westhuizen, Harry Botha-NMC, Koos Fourie

- section 189A process as the oversupply 790 affected position/employees.
- The packages was offered as a consequence of this structure presented on 14 December 2018.
 - The proposed new structure shared on the 17 January 2019 is materially different to the one presented as the basis for the 189A process as well as the offering of the voluntary separation packages.
 - By means of and example...on the 14 December 2018, in the proposed structure of Telecommunication solution, the company in their presentation indicated the section have 146 staff, they went further showing on their slide presentation.
 - On 17 January 2019, a role change was affected as well as 4 new positions added, all of which is unaffected.
 - Many anomalies exist between the two presentation.

Referencing the written response from BCX, 21 January 2019 to organise labour.....

The response from BCX Management is not in reply to SACU for the said information, instead it reference a presentation send out on the 17 January 2019 as a response to the information seeked. As articulated above the presentation presented on the 14 December 2018 vs the presentation circulated on the 17 January 2019 many anomalies was picked up as example above.

The company insist the in scope employees is 8074, they do not have 8074 employees as presented on the 14 December 2018 in our representation on the meeting of the 22 November 2018.

- *BCX – 6189 permanent employees, 1549 fixed term employees,*
- *African Arete – 25 permanent employees, 207 fixed term employees*
- *NGA – 87 permanent employees, 17 fixed term employees*

The fixed term employees, which make up for 25% of their employees is in scope according BCX yet they are not reflecting them on their structure.

BCX is continually misrepresenting the facts. Further to this the section 189A process is limited to BCX yet they indicated affected staff in their presentation that is reporting to the group. They further indicate staff that is affected in phase 2 in the presentation.



The requests for the minutes of 14 December 2018 is not responded to, this after the company BCX in the form of 'Hannelie Du Toit gave the undertaking the transcript will be made available 5 days after the meeting and no objection was raised with this.

SACU therefore raised the following:

- o SACU declared a dispute on the disclosure of information and the commissioner need to rule as the information in the spreadsheet is not addressing SACU dispute.
- o The information share is contradicting the information shared during the first two consultation sessions shared during the facilitated section 189A process.
- o SACU will not be attending the workshop schedule in our absence for the 23 January 2019 and are also not in agreement with the subsequent date for opening application as the structure need to be familiarize with SACU representatives.

The continuation of the process should be put on hold until the above as well our dispute on disclosure of information is addressed amicably.

K Abrahams

Office of the General Secretary

082 456 6874



"FAIO"

Benie Kabemba (Botoulas Krause & Da Silva Inc)

108

From: karr1em@me.com
Sent: Tuesday, 22 January 2019 14:08
To: 'Andile Mdadane'
Cc: Michael Hare (M); Koos Fourie (JJ); Harry Botha (H); Hennie Van Der Westhuizen (HJ); Hannelie du Toit (HR) - BCX - BCX; Alfie Ngubo (AM)
Subject: RE: SACU Dispute on Disclosure of information
Attachments: BCX section 189 dispute.pdf

Good Day Andile,

The attached reference..... Please forward to the Commisioner Mduduzi Khumalo for his attention. The employer is included in this email correspondence.

Please acknowledge receipt.

Thanking You

Karriem Abrahams
SACU
0824566874

From: Hannelie du Toit (HR) - BCX <Hannelie.duToit@bcx.co.za>

Sent: Monday, 21 January 2019 14:27

To: jplbez@uasa.org.za; admin@uasa.co.za; pa.ceo@uasa.org.za; j.goussard@uasa.org.za; PETER@GIWUSA.CO.ZA; sa.mofyvoa@gmail.com; giwusapta@gmail.com; TUWGUM@YAHOO.COM; edwardr@numsa.org.za; jhbcentral@numsalocal.org.za; ICTU@TELKOMSA.CO.ZA; Origenous Mogoatlhe (OM) <origenousm@openseve.co.za>; Moeketsi Lepheane (MP) <MoeketsiL@openseve.co.za>; Linda Senekal <lindas@solidariteit.co.za>; Diens <diens@solidariteit.co.za>; SACUBO@TELKOMSA.CO.ZA; HAREM@TELKOMSA.CO.ZA; 'Karriem Abrahams' <karr1em@me.com>; NOMIM@CWU.ORG.ZA; TEBO23KORU@GMAIL.COM; MOGALANET@GMAIL.COM; Lionel Samuels <lsamuels2108@gmail.com>; Sontaga Mantlhakga (SR) <MantlhSR@telkom.co.za>; Jannie Kruger <j.kruger@uasa.org.za>; Harry Botha (H) <bothah5@telkom.co.za>; Koos Fourie (JJ) <FOURIEJJ@telkom.co.za>; Martin Louw (M) <martinl@openseve.co.za>; Ntobeko Zondo (N) <NtobekoZ@openseve.co.za>; Phellimon Mashinini (MP) <PhellimonM@openseve.co.za>; booysen.mashego@yahoo.com; Thabo Lekota (JT) <LekotaJT@telkom.co.za>; Teboho Morobe (TD) <MorobeTD@telkom.co.za>; Jaco Steyn - BCX <Jaco.Steyn@bcx.co.za>; s.siggbi@uasa.org.za
Cc: Andile Mdadane <AndileM@CCMA.org.za>
Subject: RE: Written Response

Dear All,

Please find the formal BCX responses to the questions posed by Organised Labour during the period 16 – 18 January 2019.

Kind regards



Hannelie du Toit

Employee Relations

109

BCX Centurion Offices
1021 Lenchen Avenue North
Centurion

T: +27 (0) 11 266 5262

F: +27 (0) 86 571 8939

C: +27 (0) 65 999 1763

Meet your future today.

BCX



Handwritten signature

A large, stylized handwritten signature in the bottom right corner of the page.

South African Communications Union (SACU)

Unit 12 & 13 Watcor Park,
Parow, 7501
Tel: 086 100 7228
Fax: 086 600 3342



22 January 2019**BCX/Telkom SA LTD****Group Executive: Employee Relations****Attn: Commissioner Mduduzi Khumalo****RE: Dispute on Disclosure of information:**

The minutes of a meeting dated 14 January 2019 have reference....

When scrutinising the minutes of the meeting we note with alarm that at the end of the meeting it was stated that SACU was notified by the CCMA that the meeting was scheduled for 14 January 2019. Our dispute is laid out below:

- From the information at our disposal it is obvious that SACU was never invited to this meeting.
- The minutes on, page 94 point 10, refers to the fact that Management and the commissioner both assume SACU was served with the setdown notice without verifying the correctness of their statement, thus putting a big question mark over the procedural fairness.
- SACU therefore demand to know why we were excluded and why the CCMA continued with this meeting in our absence after we informed Alfie Ngubo that we were not invited when he called us on the morning of 14 January 2019 to enquire as to why we were not present.
- SACU also note that the information shared during this session further prejudices us in representing the best interest of our members.

- It also appears as if the minutes only started being recorded after the session was already in progress, which is also questionable.

With reference to the new proposed structure, which was issued after the staff were offered Voluntary separation packages:

- The structure presented on 14 December 2018 was used as the basis for the section 189A process as there was an oversupply of 790 affected positions/employees.
- The packages were offered as a consequence of this structure presented on 14 December 2018.
- The proposed new structure shared on 17 January 2019 is materially different to the one presented on 14 December 2018 as the basis for the 189A process as well as the offering of the voluntary separation packages.
 - For example...on 14 December 2018, in the proposed structure of Telecommunication solution, the company indicated that the section has 146 staff, which they ratified in their slide presentation.
 - On 17 January 2019, a role change was affected as well as 4 new positions added, all of which are unaffected.
- Many anomalies exist between the two presentations.

The written response from BCX to organised labour on 21 January 2019 refers:

The response from BCX Management is not in reply, and does not respond to SACU's request for said information. Instead it references a presentation sent out on 17 January 2019 as a response to the information that we asked for. As articulated above the presentation provided on 14 December 2018 has many anomalies when compared to the presentation circulated on 17 January 2019.

The company insists that the amount of employees in scope numbers 8074, yet the 14 December 2018 presentation indicates that they do not have 8074 employees. See our representation below on the meeting of 22 November 2018.

- *BCX – 6189 permanent employees, 1549 fixed term employees,*
- *African Arete – 25 permanent employees, 207 fixed term employees*
- *NGA – 87 permanent employees, 17 fixed term employees*

The fixed term employees, which make up for 25% of their employees is in scope according to BCX yet they are not reflecting them on their structure.



BCX continually misrepresents the facts. Allied to this the section 189A process is limited to BCX yet they indicated in their presentation that there are affected staff who report to the group. They also indicate staff that is affected in phase 2 in the presentation.

The requests for the minutes of 14 December 2018 was not responded to, even after BCX, in the form of 'Hannelie Du Toit, gave the undertaking that the transcript would be made available 5 days after the meeting and no objection was raised with this.

SACU therefore raises the following:

- o We are in dispute on the disclosure of information and the commissioner needs to rule as the information in the spreadsheet does not address our dispute.
- o The latest information shared contradicts the information shared during the first two consultation sessions during the facilitated section 189A process.
- o SACU will not be attending the workshop, scheduled in our absence for 23 January 2019 and are also not in agreement with the subsequent date for opening application as the SACU representatives need to familiarise themselves with the structure.

The continuation of the process should be put on hold until our concerns listed above as well our dispute on the disclosure of information is addressed amicably.



K Abrahams

Office of the General Secretary

082 456 6874



"FAIL"

113

From: Karriem Abrahams [mailto:karr1em@me.com]
Sent: 24 January 2019 12:31 PM
To: Hennie Van Der Westhuizen (HJ) <VDWestH@telkom.co.za>; Koos Fourie (JJ) <FOURIEJJ@telkom.co.za>; Harry Botha (H) <bothah5@telkom.co.za>; ashley@saku.co.za; Ashley Englund <navel@yebo.co.za>; lsamuels2108@gmail.com
Subject: Fwd: SACU Dispute on Disclosure of information

FYI

Karriem Abrahams

Begin forwarded message:

From: Mduduzi Khumalo <mdumalo560@gmail.com>
Date: 24 January 2019 at 11:36:59 SAST
To: "karr1em@me.com" <karr1em@me.com>, "MichaelH3@openseve.co.za" <MichaelH3@openseve.co.za>, "Hannelie.duToit@bcx.co.za" <Hannelie.duToit@bcx.co.za>, "Alfie Ngubo (AM)" <NguboAM@telkom.co.za>
Cc: Andile Mdadane <AndileM@CCMA.org.za>
Subject: RE: SACU Dispute on Disclosure of Information

Greetings All,

This serves to confirm receipt of your email dated 22 January 2019.

I hereby direct the employer to respond to areas that requires its urgent attention. I will not immediately intervene unless the dispute persist subsequent the employers' response.

With regards to the notice for the previous meeting, I note the concerns raised by the Trade Union. I, however, wish to remind the parties that the date of 14 January 2019, was agreed in the meeting of the 14 December 2018. This notwithstanding, I am investigating the omission of SACU from the CCMA communication and will address same on 29 January 2019, during the facilitation.

Best Regards,

Mduduzi Khumalo,
CCMA PART-TIME SENIOR COMMISSIONER.

Sent from Mail for Windows 10

From: Boitumelo Fatane
Sent: Tuesday, 22 January 2019 19:34
To: Mduduzi Khumalo
Cc: Andile Mdadane
Subject: Fw:SACU Dispute on Disclosure of information

Dear Mdu

Please find attached for your attention.



"FAD"
11A

TRANSCRIPTION CERTIFICATE

We, the understated, hereby certify that as far as it is audible, the foregoing is a true and correct transcription of the proceedings recorded by means of mechanical or digital recording, in the

TELKOM SA SOC LTD

BCX SECTION 189(A) CCMA FACILITATED MEETING

HELD AT: ROOM J22, CFL, KUDU ROAD, OLIFANTSFONTEIN

HELD ON: 29 JANUARY 2019

TRANSCRIPTIONIST: MS M WATERMEYER

PROOFREADER: MS H SCHÄFER

**TRADE GLO INTERNATIONAL (TGI)
P.O. BOX 15391
PANORAMA
7506**

**TEL: +27 (0) 21 930 1034 (CPT) / + 27 (0) 12 377 0140 (PRETORIA)
FAX TO EMAIL: +27 (0) 86 685 7710
E-MAIL: medcom@iafrica.com**



SACU: This is in the documents that we sent to the CCMA. So, we want a response on that.

COMMISSIONER: Okay.

SACU: This is still our position. And then also, as I wrote down here, indicate
5 that we must remind them that being in position of it is not going to assist anyone
here. In the tone of voice that the Company have come after the caucus, we
don't like their tone of voice. Even though we're in a consultation, we all must
treat each other with respect. Organised labour here is not representing the
majority of the employees here. Organised labour is representing here as per
10 their full right, as per the elements of the Section 189, to the benefit of all affected
parties. And our main aim here is to stop any retrenchments, if possible. We're
also in dispute mode in relation to this.

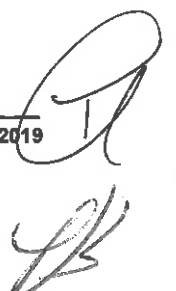
COMMISSIONER: In relation to?

SACU: This, what I'm just saying, this, I'm reiterating what I said here. I just
15 wrote it down. And then we must remind you, as the Commissioner, that you
need to rule on the elements of the procedural unfairness that we brought
towards this Forum now.

COMMISSIONER: On your exclusion on the Notice of the 14th of January, is that
the issue that you want me to rule on?

20 **SACU:** Yes, there was another one. I think the General Secretary of SACU
brought that to your attention. So, it's all in writing.

COMMISSIONER: I'm concerned. I can't make rulings in piecemeal, can I ask
SACU to then forward an affidavit to the CCMA with all those points and CCMA
will actually, after receiving the employer's response, issue a ruling on those
25 issues.



MANAGEMENT: Mr Chair?

COMMISSIONER: Yes?

MANAGEMENT: I just need to also state that on the 21st of January a response from the Company was forwarded in relation to any questions and/or

5 correspondence that the Company received between the period

16 to 18 January. So, the letter received from SACU was also addressed in that written response that went back to organised labour as a whole.

COMMISSIONER: SACU is going to forward an affidavit to CCMA, after obviously serving it on the employer, and CCMA will make a ruling on those

10 issues.

MANAGEMENT: Commissioner?

COMMISSIONER: Yes, Sir?

UASA: Just a question of clarity, are we not supposed to be cited when maybe one of the labour organisations submit an affidavit, or a dispute. I'm just – I just

15 need clarity on that. I just need clarity on that.

COMMISSIONER: Okay, thank you, Sir. Are you clarifying him, Sir?

ICTU: No. Commissioner, I just want to submit my apology, I need to leave because I've got an engagement, or a commitment, at 7 o'clock and I still need to

go and prepare. But before I'm leaving, when we started this meeting in the morning we started it with the view to say that we're going to deal with the

20 presentation that deals with VSP.

COMMISSIONER: Yes.

ICTU: And shortly after that we will deal with the... [intervention]

COMMISSIONER: With the preliminary points.

25 **ICTU:** That's correct.

COMMISSIONER: Yes, Sir.

ICTU: Now, looking at the time now, it's already nearly half past 5, or close to 6 o'clock and I was of the view that the issue of the preliminary issues remains still part and parcel of the Section 189 consultation.

5 **COMMISSIONER:** Yes, and hence... [intervention]

ICTU: And... [intervention]

COMMISSIONER: Hence, earlier this morning labour was afforded an opportunity to caucus and maybe direct the process as to whether they want to do this collectively or individually. After the caucus it was stated that labour
10 would like to do this individually, but will be supported by other labour formations.

ICTU: Yes, that's what we said. But we said it on condition that we first get the information from the VSP and thereafter we will deal with that.

COMMISSIONER: Of course.

ICTU: Now, we have submitted the disputes, but now we said we're going to deal
15 with it in a way, individually and we would submit it individually but we also want to – because it's affecting all of us. So, now my plea to you is, Commissioner, now that we're sitting with this problem that, considering the time, considering the fact that there are still outstanding issues that we haven't dealt with at this time and now, I think it's proper, or it's sufficient persuasion... [intervention]

20 **COMMISSIONER:** When you say outstanding issues, Sir, you're referring to which issue?

ICTU: I'm referring to... [intervention]

COMMISSIONER: You mean the preliminary issues?

ICTU: Yes.

25 **COMMISSIONER:** Okay, Sir.



CWU: But, you said the commission gets paid once the what?

COMMISSIONER: The invoice.

CWU: The invoice?

COMMISSIONER: Yes. So, he's saying if there are any people that have not
5 been paid, submit the names and the employer will investigate. Is that fine with
you? Anything else? MWASA?

UNIDENTIFIED MALE SPEAKER: [Inaudible – not speaking in the microphone]

COMMISSIONER: MWASA?

MANAGEMENT: Ja, let's go for it, guys.

10 **CWU:** Oh, you wait for us to get tired, then you (indistinct).

MANAGEMENT: No, I'm saying they'll get energy.



CWU: I thought you were – I wonder from where?

MWASA: In conclusion, I have said my say. So, I have no longer any say.

COMMISSIONER: Thank you, Sir. Thank you everyone for your attendance and
15 your participation. And since this is our fourth meeting, the next meeting which
will be a wrap-up meeting, which we have agreed to, will be organised once the
process of recruitment has been concluded. With regard to the preliminary
issues, CCMA will address those issues once the affidavits have been received.
Thank you.

20

MEETING ADJOURNED

"FAIL"

119

THE COMMISSION FOR CONCILIATION MEDIATION AND
ARBITRATION

This affidavit requested by Commissioner Mduduzi Khumalo after the
consultation meeting held at Olifantsfontein on the 29th January 2019

AFFIDAVIT

I, the undersigned,

HERMANUS BOTHA

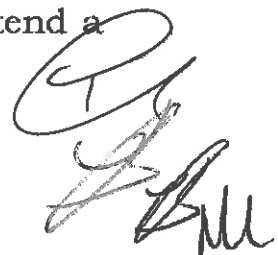
Do hereby make oath and state:

- 1 I am an adult male of full legal capacity, a Full Time Shop Steward, employed by Telkom.SA, Representing the South African Communications Union, herein further referred to as SACU
- 2 By virtue of my involvement in this matter, and the office I hold I am duly authorised to depose of this affidavit on behalf of the Applicant, SACU, in this matter.
- 3 Unless otherwise stated or the converse appears from the context, the facts contained in this affidavit are within my personal knowledge and belief, and are both true and correct.

MERITS OF THE APPLICATION



- 4 SACU hereby wish to inform the Commission that a material and error on the part of Business Connexion (Pty) Ltd, Telkom.SA and the CCMA has caused a **fatal defect** in the Section 189 Consultation process, causing serious detriment on the part of SACU in its mandate to represent its affected members in this process
- 5 The cause of the procedural unfair Conduct against SACU was created where we were never notified of a consultation meeting by the CCMA, or invited to the consultation meeting that was convened on the 14th January 2019 (*refer to Annexure 1*) to the extent that the Commission for Conciliation Mediation and Arbitration, and the Honourable Commissioner Khumalo dispute any allegation in this regard, these parties are put to the proof of adequate and compliant service of set down.
- 6 We have served Commissioner Mduduzi Khumalo with a letter of dispute on 16 January 2019 as well as further communication in respect of the dispute on the 22nd January 2019. (Refer to Annexures 1 and 2)
- 7 In the dispute letters we clearly highlighted our concern in simple terms, indicating the prejudice our members would suffer. And have to date suffered, as a direct consequence of both. The CCMA's fatal error associated with the service of the set down date relating to the CCMA appearance on 14th January 2019, as well as the companies way of treating this consultation process as a whole.
- 8 On the meeting of the 14th December 2018, I was present as SACU representative in end of the meeting and we were having serious difficulty in agreeing to the next date of consultation, where the Honourable Commissioner Khumalo and some members of other unions were arguing about which date would be acceptable to all the parties.
- 9 On this meeting of 14th December 2018 some representatives from ICTU were arguing on the agreement of a next date, and proposed later dates, as they could not personally attend a

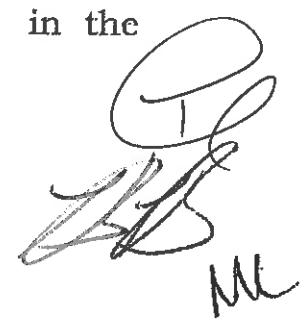


meeting for dates proposed in January 2019, as tentatively indicated by Commissioner Khumalo.

- 10 The meeting was running very late and I then requested to be excused from the meeting as I had another pressing matter to attend at 19H00. My request was accepted by the Commissioner, as can be proven by the transcripts of the meeting, if we can have access to those existing transcripts from the employer.
- 11 My specific statement on that date of the 14th December 2018 was that I am personally not available on the January 2019 dates due to me being on leave and out of the country, but that SACU would be available on any date in January 2019, should the CCMA confirm and invite the parties. Self-evidently then, at the time of my departure, and at any material time prior thereto, no return date had been agreed upon and/or ascertained
- 12 On the 14th January 2019 SACU realised that a meeting convened where we were not in attendance when we received a telephone call from Mr. Alfie Ngubo, enquiring on why we were not at the meeting
- 13 We immediately informed the CCMA of our concern, and requested the meeting stop with immediate effect. (Refer to Annexure 3). Despite SACU's request for this immediate cessation, the session was permitted to continue in SACU's absence.
- 14 Upon receipt of the transcript of the meeting of 14th January 2019, we found that commissioner Mduduzi Khumalo, in agreement of the employers, chose to continue the session without SACU being present, due to the apparent agreement in that meeting that SACU was duly notified of the meeting and was deliberately not in attendance. How a determination can be arrived that SACU was guilty of deliberate non-attendance is incomprehensible and is not supported by the true nature of events. In addition, SACU was certainly not party to any agreement concluded in respect hereof.



- 15 Upon our investigation into the matter we found that SACU E-Mail Addresses on the CCMA notice to attend a consultation meeting were incorrect.
- 16 The E-Mail addresses cited on the CCMA notice were: SACUBO@TELKOMSA.CO.ZA, and HAREM@TELKOMSA.NET (refer to Annexure 4B)
- 17 These E-Mail Addresses have never existed and are unknown to SACU, and it would be impossible for the CCMA notification to have reached SACU, using those E-Mail Addresses
- 18 The Correct E-Mail addresses for SACU head office and SACU president is sacuh@cybersmart.co.za, and harem@telkom.co.za
- 19 The CCMA Case management officer, Andile Mdadane, further did not even include the incorrect SACU E-Mail Addresses in the mail with the official notice attached. (Refer to Annexure 4A) Consequently then, the belief that SACU was deliberately excluded from meeting on 14 January 2019, is as well-founded as it is appetizing.
- 20 We have been dealing with matters at the CCMA for many years, and expect the CCMA to at least have used the correct mail addresses that are on the CCMA system.
- 21 This oversight has caused SACU great prejudice in its mandate to represent its affected members to the letter of the LRA, therein rendering our effective participation useless in this process. It is clear when one reads the dispute letters as per Annexure 1 and 2 that the company is deliberately being mischievous in their responses to the requests for information.
- 22 It must be noted further that the employer clearly indicated in the meeting of the 29th January 2019 that we the parties representing Organised Labour are not a majority union singular or together, and that we cannot engage in the interest of the majority employees in the company.



Handwritten signature and initials, possibly 'ML' or 'ME', located at the bottom right of the page.

- 23 Section 189(1) of the LRA provides for a hierarchy in relation to consultation for purposes of Retrenchment exercises, known as the cascade principle.
- 24 As a point of departure, the LRA requires that employers **must** consult with any person with whom it is required to consult in terms of a collective agreement (section 189(1)(a)).
- 25 The employer is **required** to consult with any registered trade union whose members are likely to be affected by the proposed dismissals (section 189(1)(c)).

- 26 The company went further as to indicate that SACU is not allowed to take part in the application process their own members would be forced to undergo, neither active or in observer status.

- 27 Take further note that the Document SACU has read onto the minutes in the session of the 14th December 2018 has also not been responded to in relation to the concerns and detail we have required at the time

- 28 In considering the elements as indicated above, the employer has no respect for the LRA and the rights of the affected employees, as well as great prejudice in respect of the procedural and substantive unfairness of this whole process up to this point in time

DEPONENT

.....


THUS, SIGNED AND SWORN to before me at ... Dorvalburg ... on this
01 day of FEBRUARY 2019, the Deponent having acknowledged that he
 knows and understands the contents of the affidavit, has no objection to
 taking the prescribed oath, and considers the oath binding on his conscience.

 NR

124

SOUTH AFRICAN POLICE SERVICE
MIC
2019 -02- 01
Private Bag X30, Boksburg 1459
SUID-AFRIKAANSE POLISIEDIENS

~~71884169 Col~~
~~Hobes W~~
COMMISSIONER OF OATHS

[Handwritten initials]

129
A1

South African Communications Union (SACU)

Unit 12 & 13 Watcor Park,
Parow, 7501
Tel: 086 100 7228
Fax: 086 600 3342



22 January 2019

BCX/Telkom SA LTD

Group Executive: Employee Relations

Attn: Commissioner Mduduzi Khumalo

RE: Dispute on Disclosure of Information:

The minutes of a meeting dated 14 January 2019 have reference....

When scrutinising the minutes of the meeting we note with alarm that at the end of the meeting it was stated that SACU was notified by the CCMA that the meeting was scheduled for 14 January 2019. Our dispute is laid out below:

- From the Information at our disposal it is obvious that SACU was never invited to this meeting.
- The minutes on, page 94 point 10, refers to the fact that Management and the commissioner both assume SACU was served with the setdown notice without verifying the correctness of their statement, thus putting a big question mark over the procedural fairness.
- SACU therefore demand to know why we were excluded and why the CCMA continued with this meeting in our absence after we informed Alfie Ngubo that we were not invited when he called us on the morning of 14 January 2019 to enquire as to why we were not present.
- SACU also note that the Information shared during this session further prejudices us in representing the best interest of our members.

NMC –SACU: President-Michael Hare; General Secretary-Karriem Abrahams; National Treasurer-Hennie Van Dor Westhuizen; Harry Botha-NMC; Koois Fourie

- It also appears as if the minutes only started being recorded after the session was already in progress, which is also questionable.

With reference to the new proposed structure, which was issued after the staff were offered Voluntary separation packages:

- The structure presented on 14 December 2018 was used as the basis for the section 189A process as there was an oversupply of 790 affected position/employees.
- The packages were offered as a consequence of this structure presented on 14 December 2018.
- The proposed new structure shared on 17 January 2019 is materially different to the one presented on 14 December 2018 as the basis for the 189A process as well as the offering of the voluntary separation packages.
 - For example...on 14 December 2018, in the proposed structure of Telecommunication solution, the company indicated that the section has 146 staff, which they ratified in their slide presentation.
 - On 17 January 2019, a role change was affected as well as 4 new positions added, all of which are unaffected.
- Many anomalies exist between the two presentations.

The written response from BCX to organised labour on 21 January 2019 refers:

The response from BCX Management is not in reply, and does not respond to SACU's request for said information. Instead it references a presentation sent out on 17 January 2019 as a response to the information that we asked for. As articulated above the presentation provided on 14 December 2018 has many anomalies when compared to the presentation circulated on 17 January 2019.

The company insists that the amount of employees in scope numbers 8074, yet the 14 December 2018 presentation indicates that they do not have 8074 employees. See our representation below on the meeting of 22 November 2018.

- *BCX – 6189 permanent employees, 1549 fixed term employees,*
- *African Arete – 25 permanent employees, 207 fixed term employees*
- *NGA – 87 permanent employees, 17 fixed term employees*

The fixed term employees, which make up for 25% of their employees is in scope according BCX yet they are not reflecting them on their structure.

BCX continually misrepresents the facts. Allied to this the section 189A process is limited to BCX yet they indicated in their presentation that there are affected staff who report to the group. They also indicate staff that is affected in phase 2 in the presentation.

The requests for the minutes of 14 December 2018 was not responded to, even after BCX, in the form of 'Hannelie Du Toit, gave the undertaking that the transcript would be made available 5 days after the meeting and no objection was raised with this.

SACU therefore raises the following:

- We are in dispute on the disclosure of information and the commissioner needs to rule as the information in the spreadsheet does not address our dispute.
- The latest information shared contradicts the information shared during the first two consultation sessions during the facilitated section 189A process.
- SACU will not be attending the workshop, scheduled in our absence for 23 January 2019 and are also not in agreement with the subsequent date for opening application as the SACU representatives need to familiarise themselves with the structure.

The continuation of the process should be put on hold until our concerns listed above as well our dispute on the disclosure of information is addressed amicably.



K Abrahams

Office of the General Secretary

082 456 6874



128

A2

South African Communications Union (SACU)

Unit 12 & 13 Watcor Park,
Parow, 7501
Tel: 086 100 7228
Fax: 086 600 3342



16 January 2019

BCX/Telkom SA LTD

Group Executive: Employee Relations

Attn: Commissioner Mduduzi Khumalo

Good Day Sir,

RE: SECTION 16 LRA DISPUTE (DISCLOSURE OF INFORMATION)

During the first meeting on the 22 November 2018, chaired by the CCMA commissioner M Khumalo the following was confirmed regarding the recording of the meeting;

- The CCMA recording remains the official transcript;
- Will also use employer's transcript;
- The employer committed itself that the transcript will be made available five (5) after meeting.

Further to this, after the company's presentation the parties agreed as follows:

- The employer will provide Audited Financial information by close of business 23 November 2018;
- Labour will furnish the employer further questions pertaining the presentation made on the 22 November 2018, by the 27 November 2018;

- The employer **WILL** respond on **ALL** information requested by 30 November 2018.

As the South African Communication Union (SACU), we submitted a request for information on the 27 November 2018. The employer only responded on the 3 December 2018 not addressing the information requested from SACU.

Further to this, the meeting of the 14 December 2018, still does not address the specific information by SACU regarding the 790 Positions/Employees. In addition to that information the employer is not complying regarding the agreed process of making available the transcript. The failure of the employer to comply on this has adversely affected SACU ability to meaningfully engage on this process and its members.

The company went ahead offering voluntary separation packages to employees, again without the abovementioned information available to the bargaining agents or the employees. BCX management is purposely created an environment of chaos and refuse to disclose this information.

To date we made two separate requests for the transcript of the 14 December 2018 without success.

A meeting was held on 14 January 2019, without any invitation to SACU. We therefore not privy to the discussions taking place or the rationale of what was presented. The CCMA omitted to invite SACU or any of its representatives, as a CCMA facilitated process

All the information requested, in the format requested should be disclosed by close of business Monday 21 January 2019 as requested, if not it will leave us with no other alternative but to consider our options in law e.g. Labour Court.



130

K Abrahams
Office of the General Secretary
082 456 6874

NMC-SACU: President-Michael Haro; General Secretary-Karriem Abrahams; National Treasurer-Hennie Van Der Westhuizen; Harry Botha-NMC; Knos Fourie

A handwritten signature in black ink, consisting of a large, stylized initial 'K' followed by a surname that appears to be 'Abrahams'.

131
A3

From: karr1em@me.com [mailto:karr1em@me.com]
Sent: 14 January 2019 09:59 AM
To: Linda Senekal - Solidariteit <LIndas@solidariteit.co.za>; Hannelie du Toit (HR) - BCX - BCX <Hannelie.duToit@bcx.co.za>; jplbez@uasa.org.za; admin@uasa.co.za; pa.ceo@uasa.org.za; j.goussard@uasa.org.za; PETER@GIWUSA.CO.ZA; sa.mofyoa@gmail.com; giwusapta@gmail.com; TUWGUM@YAHOO.COM; edwardr@numsa.org.za; jhbcentral@numsalocal.org.za; ICTU@TELKOMSA.CO.ZA; Origenous Mogoatlhe (OM) <origenousm@openseve.co.za>; Moeketsi Lepheane (MP) <MoeketsiL@openseve.co.za>; SACUBO@TELKOMSA.CO.ZA; HAREM@TELKOMSA.CO.ZA; NOMIM@CWU.ORG.ZA; TEBO23KORU@GMAIL.COM; MOGALANET@GMAIL.COM; 'Lionel Samuels' <lsamuels2108@gmail.com>; Sontaga Mantlhakga (SR) <MantlhSR@telkom.co.za>; 'Jannie Kruger' <j.kruger@uasa.org.za>; Harry Botha (H) <bothah5@telkom.co.za>; Koos Fourie (JJ) <FOURIEJJ@telkom.co.za>; Martin Louw (M) <martinl@openseve.co.za>; Ntobeko Zondo (N) <NtobekoZ@openseve.co.za>; Phellimon Mashinini (MP) <PhellimonM@openseve.co.za>; booyesen.mashego@yahoo.com; Thabo Lekota (JT) <LekotaJT@telkom.co.za>; Teboho Morobe (TD) <MorobeTD@telkom.co.za>; Jaco Steyn - BCX - BCX <Jaco.Steyn@bcx.co.za>; 'Johan Botha' <jbotha@solidariteit.co.za>
Cc: 'Andile Mdadane' <AndileM@CCMA.org.za>; Alfie Ngubo (AM) <NguboAM@telkom.co.za>; Michael Hare (M) <MichaelH3@openseve.co.za>
Subject: RE: Solidarity Written Response on BCX Written Response to Union Submissions

Good Day All,

Our representative Koos Fourie was just informed by Telkom Employee relations Executive of a meeting that is schedule for toady 14 January 2019. As SACU we never received notification of this session at our office or any of our representatives.

Please reschedule this session and provide proper notification to the Union.

Please also note the transcript of the meeting of the 14 December 2018 was also not made available yet, can this also be made available prior to the next session.

Kindest Regards

Karriem Abrahams
SACU General Secretary
0824566874



132
A 4 A

AM | Mobile Vodafone | andie@v... | GAUB25729-18 Third Meeting

Click here to download pictures. To help protect your privacy, Outlook prevented automatic download of some pictures in this message.

GAUB25729-18_1_SatDownParisoAfa.pdf

Dear Parties

Please find the attached notice of set down.

Kind Regards

Andie

Andie Midadane

HO-Case Management Officer: Employment Security

Telephone: +27113776997

Call Centre: 0861 15 16 16 | Website: <https://www.scmhla.org.za>

SENZIMBELE UKO - MAKING A DIFFERENCE

Hannele du TOIT - ECX
Senior Manager: Employer Relations

job@usasa.org.za

adm@usasa.co.za

pa@usasa.org.za

job@usasa.org.za

pet@usasa.co.za

sa@usasa.org.za

g@usasa.org.za

nv@usasa.org.za

ed@usasa.org.za

job@usasa.org.za

ict@usasa.co.za



133
A 4 B

COMMISSION FOR CONCILIATION, MEDIATION & ARBITRATION
28 Harrison Street, Johannesburg, 2001,
Private Bag X94, Marshalltown, 2107, Tel: 0113776650, Fax: 0118347351

To: **MWASA**
P.O. Box 11136
Johannesburg
2000

Tel: 0113371019
Fax:
Email: tuwqum@yahoo.com

Contact:

To: **Communications Workers Union**
222 Smit Street
Transnet Building
20th Floor
Braamfontein
1685

Tel: 0117200360
Fax: 0865470498
Email: tebo23roku@gmail.com,
mogalanet@gmail.com, nomim@cwu.org.za

Contact:

To: **South African Communications Union**
3B Canal Edge
Fountain Road
7350

Tel: 0122166616
Fax: 0864784478
Email: harem@telkomsa.co.za,
sacubo@telkomsa.co.za

Contact:

To: **Solidarity**
Corner DF Malan & Eendrach Street
Centurion

Tel: 0126444300
Fax: 0126646493
Email: service@solidarity.co.za,
lindas@solidarity.co.za

Contact:

To: **Information Communication Technology Union**
Prime Towers
29 Francis Baard & Van Der Walt Street
Office 401, 4th Floor
Pretoria
0002

Tel: 0123208526
Fax: 0866178856
Email: ictu@telkomsa.co.za

Contact:

To: **UASA**
P. O. Box 565
Florida
1710

Tel: 011 472-3600
Fax: 086 504-0969
Email: mathilda@uasa.org.za,
admin@uasa.co.za

Contact:

For any queries, complaints or compliments, contact
Call Centre on 0861 16 16 16 or e-mail HQ@CCMA.org.za
Facebook – <http://www.facebook.com/groups/ccma1/>

Page 1

13A

To: GIWUSA
P. O. Box 1713
Germiston
1400

Tel: 011 873-4804
Fax: 011 873-0921
Email: peter@giwusa.co.za

Contact:

To: NUMSA
P.O. Box 260483
Excom
2023

Tel: 011 689-1700
Fax: 011 838-4092
Email: edwardr@numsa.org.za,
jhbcentral@numsalocal.org.za

Contact:

To: Business Connexion (Pty) Ltd
Private Bag X48
Halfway House
1685

Tel: 0112665262
Fax: 0112665767,0865718939
Email: Hannelle.duToit@bcx.co.za

Contact:

Case Reference **GAJB25729-18**
Matter between **MWASA/CWU/Solidarity/ ICTU/ SACU/ UASA/GIWUSA/NUMSA obo , Members**
and **Business Connexion (Pty) Ltd**
Primary Issue **189A - Operational requirements facilitation (more than 50 employees)**

18-Dec-2018

You are required to attend –

Date **Monday 14-January-2019**
Time **10:00AM**
Venue **Employer's Premises**
Centre for Learning
1098 Old Kempton Park/Pretoria Road (M57)
Clayville East
Ollifantsfontein
Process **189A Facilitation**
Commissioner/s **Mduduzi Khumalo**
Interpreter/s
Language/s

If you have any queries, please contact the undersigned. Please quote your case reference number in all correspondence / communication – this will assist us in providing information more quickly and efficiently.

IMPORTANT: Please note that no firearms are allowed on CCMA premises. Any person found in possession of a firearm will be required to leave the premises immediately. Contravention of the Firearms Control Act may lead to prosecution.

Andile Brenda Mdedane
CCMA Case Management
Telephone: (011) 377 6997
Email: AndileM@CCMA.org.za
Fax:

Mr Commissioner as SACU we would first like to address the presentation presented by the BCX on 22 November 2018. We had some time to familiarise ourselves with the information and need to raise some material concerns that necessitate Address.

AS

Prior to the onset of the address of said presentation Mr Commissioner, it is prudent to recall that during the meeting of the 22 November 2018, agreement was reached that Organised labour would make a formal request for disclosure of additional information from the company. The company agreed and undertook to provide this information.

SACU made a formal request for the information, and then entrenched this request by following up with correspondence to the company, in which, it was made clear in concise and unambiguous terms, that the requisite information, having been clearly outlined and identified, was an essential prerequisite for the enablement of organised labour to meaningfully consult and engage with the company. Indeed, Mr. Commissioner, we will do well to remember that you were specifically included in the address list.

Regrettably Mr. Commissioner, despite our bona fide and concreted efforts in this regard, SACU sits here today, significantly barren and informatively malnourished – functioning solely on the company's diet of frugality! This is as a consequence of what appears to be the company's historical practice of ignoring our formal request.

Alas, as a direct result of failing to honour the agreement concluded, and providing the disclosure of the required information, SACU sits here today prejudiced, on the back foot, and unable to participate meaningfully in this joint consensus-seeking exercise. Such conscious failure or refusal on the company's part can but lead to one inference, and one inference only – an abuse of process – the company's sole intention is to run the clock down and hold out for the 60-day final whistle, where after, it will unilaterally affect the dismissals. Such an approach undeniably acts as a bulwark that denies SACU entrance into the joint consensus-seeking arena mandated by the Act.

Section 189 of the Labour Relations Act is applicable and prescribes a joint consensus seeking process in an attempt to reach consensus on appropriate measures (section 189(2)) -

- to avoid the dismissals;
- to minimise the number of dismissals;
- to change the timing of the dismissals; and
- to mitigate the adverse effects of the dismissals;
- the method for selecting the employees to be dismissed; and



- the severance pay for dismissed employees.

During the company's presentation on page 27 par 10 the company presented as follows:
"As for the number... Here is a summary of the changes to the total number of Employees impacted. We have a total number of 8 047 Employees in scope. We have 139 new roles for people to consider and we have 790 Employees that are likely to be affected. "

Safe to say therefore that the scope, or put simply the impacted group of employees is 8047 for this section 189 process...having said this BCX is misrepresenting the facts and their notice served on the unions is flawed in that the affected number as define in their presentation is as follows:

- BCX – 6189 permanent employees, 1549 fixed term employees,
- African Arete – 25 permanent employees, 207 fixed term employees
- NGA – 87 permanent employees, 17 fixed term employees

When requesting this information the company decided to inform the parties that African Arete and NGA is out of scope.

It is safe to say that a fixed term contract will have an end date that was agreed to, if the intention is to terminate this before the time a different process will have to be embarked on.

The above makes the notice given to the unions flawed, as the number in scope is misrepresented by the employer.

The method for selecting the employees to be dismissed:

The employer further indicated in the same paragraph that 790 employees like to be affected, and over subscription.

Again section 189 (2) states "the method for selecting the employees to be dismissed",

The employer selection process, page 28, par 10 states as follows *"The following is the proposed method of selection when we now order? The new organisation: We will look at qualifications, certification and professional registration, as required in the job description. We will look at experience as per the job requirement and as stipulated in the job description. We will determine skills in a structured competency based interview process, including psychometric assessments. "*

The employer then continues suggesting the principle of appointment, as page 28 par 20 reads as follows: *"We propose the following principles with regards to appointment: Following the consultation sessions the proposed structures and job profiles will be made available on the intranet so that Employees can easily view all the available opportunities. On the structures the jobs are kind? Of programmed as follows: Blue indicates changed role content or number of positions downsized?? Green indicates a new position. Red in unaffected role. Black border is location change."*

The employer then continues stating, *"Unaffected employees, those that are occupying the red colour coded blocks with unchanged jobs will receive letters confirming them in their jobs. The employer then continues indicating all the affected employees can apply for the blue, green and black border jobs will then be made available to the affected employees."*

As per page 27, par 10 *"790 Employees that are likely to be affected. This is therefore the affected number of employees or put differently the employees to be dismissed. If the consulting parties should engage on the method for selecting the affected employees, who identified the 790 employees as it is should have been 790 positions."*

The employer goes further indicating the **"RED"** positions is unaffected, again who decided this as all their staff (8047) is within scope according to their notice to labour as well as their presentation made to labour during the first consultation session on 22 November 2018.

It is important to pause here and note, the agreed upon fair selection procedure is to identified the employees to be dismissed, and not to place the already identified 790 employees in the 139 green vacant position as the employer want to do.

The information on the 790 affected employees was requested formally, this information is pertinent as we need to understand how the employer identified the 790 employees in the absence of an agreed upon selection process.

Page 29, par 05, which is stating the following; *"As a note, unaffected Employees, the ones that are occupying red colour coded jobs and appointed employees may not participate in any stage of this appointment process."*

Again the process is flawed in we are expected to rubber stamp this exercise. It is glaringly obvious that the employer using the section 189 process to rid themselves of certain employees in the run up to their restructuring process.

As SACU we implore the company to withdraw this section.189 notice and finish their restructuring as it is obvious they not even sure if the new structure will be implemented yet they discussing dismissing the surplus staff not in the structure.

Page 25, par 20 *"The newly designed organisational structures will, if implemented result in the reduction of the number of positions required to operate the business with a view to reducing employment costs and associated costs in general. It is for the above reasons that the company is contemplating the dismissal of some of the Employees."*

Handwritten signature or initials in black ink, appearing to be 'Cil' with a flourish below it.

"FAIS"

139

**IN THE COMMISSION FOR CONCILIATION, MEDIATION
AND ARBITRATION**

CASE NO: GAJB25729-18

In the matter between:

BUSINESS CONNEXION (PTY) LTD

Employer

and

SACU

The Union

ANSWERING AFFIDAVIT

I, the undersigned,

JOHANNA DUPREEZ DU TOIT

do hereby make oath and say that:

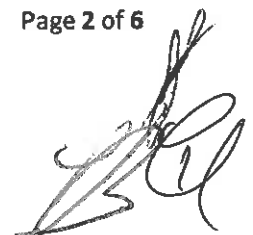

Page 1 of 6

J.M.



1. I am an adult female of full legal capacity. The facts contained herein are, unless the context indicates otherwise, within my personal knowledge and belief, and are both true and correct.
2. I am employed by the BCX as Senior Manager: Employee Relations. I am duly authorized to depose to this affidavit.
3. Before I respond to the issues raised in the union's affidavit, I wish to make the following important points of principle.
4. Firstly, a facilitator is given the power in terms of Regulation 5 of the facilitation Regulations ("the Regulations"), to order the disclosure of information where a genuine dispute has arisen in relation thereto. This requires of the union to detail the information that it seeks to be disclosed, state why the information is relevant to the consultation process, and abide by the terms that the facilitator may impose in relation to such disclosure. The facilitator's decision is final and binding in this regard.
5. Secondly, where a consulting party is of the opinion that the employer is not engaged in good faith consultations, it has the right in terms of s189A (13) of the Labour Relations Act of 1995("the Act"), to approach the Labour Court for an appropriate order. The facilitator does not have the power conferred on the Labour Court in terms of s189A (13) of the Act.
6. Thirdly, it is clear from reading of the union's affidavit as a whole that the complaint that they are raising is in relation to an alleged unfair consultation process, which can only be addressed by way of s189A (13) of the Act. In particular, the union's complaint centres around the meeting of 14 January 2019, which proceeded in its absence. This, however, was not a decision by BCX but one made by the facilitator. Regulation 4(2) provides that the facilitator's decision with regards to the conduct

J.M.



of the consultation meetings is final. It is illogical to now ground a complaint against BCX based on a decision that it did not take.

7. Fourth, BCX has, throughout the consultation process, also provided such information as was relevant to the process and engaged with its consulting parties in good faith. There is no reason why BCX would single out SACU as the union which must be disadvantaged during the consultation process and none has been suggested.
8. Having said the above, I will now address, in so far as it necessary, the contents of the founding affidavit which are relevant to the issue of disclosure of information, as the facilitator is empowered to deal with and make a determination in relation thereto.

AD PARAGRAPHS 1-3

9. Save to dispute that all the contents of the affidavit are true and correct, the allegations herein are noted.

AD PARAGRAPHS 4-28

10. The allegations herein relate to an alleged procedural defect in the consultation process.
11. The decision of the facilitator to continue with a meeting, which is part of the procedure for the consultation process, is binding on all parties as provided for in regulation 4(2).

J.M



12. As already stated above, the appropriate remedy available to the union is an application in terms of s189A (13) of the Act.
13. The fact that for whatever reason, and it is submitted that such reason was neither *mala fide* nor intended to prejudice the union, the union did not attend the meeting on 14 January 2019 cannot be reversed.
14. Given the information available at the time, the facilitator decided to proceed with the meeting. The union was given access to the recording/transcript of the proceedings on that date. The union was thus able, if it so wished, to raise any specific issue that it was not satisfied with at the next scheduled consultation meeting, or to request the facilitator to schedule a separate session at which the issues dealt with at that meeting would be addressed with the union.
15. The union provides no factual basis for its assertion that an incorrect email address was deliberately used by the CCMA in order to exclude it from the consultation process. There is simply no factual or logical basis for this.
16. There was clearly an honest mistake which was made in relation to the notification about the meeting. Once again, I reiterate that the union could have suggested a more constructive way to address the fact that it did not attend the meeting, instead of seeking to nullify the entire consultation process.

DISCLOSURE OF INFORMATION

17. As indicated above, the facilitator has the power to order a disclosure of information in terms of Regulation 5, read with s16 of the Act.

18. The problem here is that the union's affidavit does not at all address the specific information that it requires to be disclosed and the reason why such information is relevant to the proceedings.
19. In **Annexure "A"**, which is attached to the affidavit, the issue raised by the union is an alleged contradiction in the information provided by BCX. BCX has not been placed in a position to respond to a specific request about specific information that the union seeks.
20. Likewise, the letter dated 16 January 2019 does not contain a specific list of detailed information that must be disclosed. A lot of information has been provided and a complaint in general terms about disclosure of information is not sufficient to enable the facilitator to exercise his powers in terms of s16 of the Act.
21. BCX has, in good faith, responded to the complaints raised by the union in its two letters referred to above. The response is set out in detail in **Annexure "HDT1"** hereto. Accordingly, the general claim that BCX has failed to disclose relevant information is simply not true.
22. BCX has not refused to disclose information. The union needs to be more specific about each information required, what it relates to and its relevance. BCX will then respond by either providing the requested information, if not already disclosed, or if it is unable or unwilling to do so, provide reasons for its decision. Only then can a proper dispute about the disclosure of information exist.

CONCLUSION

J.M




23. In the premises, BCX submits that the affidavit submitted by the union does not make out a case for the disclosure of information as contemplated by Regulation 5, read with s16 of the Act. It is a complaint about the fairness of the consultation process which can only be properly dealt with by the Labour Court in terms of s189A (13) of the Act.

24. BCX accordingly submits that the application, for whatever it is, be dismissed.



DEPONENT

I CERTIFY THAT ON THIS 06 DAY OF FEBRUARY 2019 AND AT Cullinan, THE DEPONENT HAVING ACKNOWLEDGED TO ME THAT THE DEPONENT KNOWS AND UNDERSTANDS THE CONTENTS OF THE AFFIDAVIT, THAT THE DEPONENT THEREUPON SIGNED AND SWORE TO THE TRUTH THEREOF BEFORE ME AND THAT THE PROVISIONS OF REGULATIONS CONTAINED IN GOVERNMENT NOTICES R1258 DATED 21 JULY, 1972 AND R1648 DATED 19 AUGUST 1997 HAVE BEEN FULLY COMPLIED WITH.


.....CONS
7152080-5
J.M SHOKOANE

COMMISSIONER OF OATHS



BCX Written Responses

Below please find the formal BCX responses to the questions posed by Organised Labour during the period 16 – 18 January 2019.

No.	Union	Submission	Response
1.	SACU 16/01/2019	<p>During the first meeting on the 22 November 2018, chaired by the CCMA commissioner M Khumalo, the following was confirmed regarding the recording of the meeting:</p> <ul style="list-style-type: none"> • The CCMA recording remains the official transcript; • The employer's transcript will also be utilized; • The employer committed itself to making the transcript available to all parties no later than five (5) days subsequent to the meeting. <p>Further to this, after the company's presentation the parties agreed as follows:</p> <ul style="list-style-type: none"> • The employer will provide Audited Financial information by close of business 23 November 2018; • Labour will furnish the employer further questions pertaining the representation made on the 22 November 2018, by the 27 November 2018; • The employer WILL respond to ALL information requested by organised labour by 30 November 2018 in writing. <p>As the South African Communication Union (SACU), we submitted a request for information on the 27 November 2018. The employer only responded on the 3 December 2018 not addressing the information requested from SACU.</p>	<p>Correct, due to the volume of questions received, the Company contacted the unions in order to request an extension to 3 December 2018. All unions with the exception of ICTU agreed to the extension.</p> <p>With reference to SACU specifically, Hannelie du Toit contacted Koos Fourie, who has been the consistent SACU representative attending the s189A Consultation sessions.</p>
2.	SACU 16/01/2019	<p>The employer failed to disclose the following crucial information:</p> <ul style="list-style-type: none"> • The 790 affected position/employees, <ul style="list-style-type: none"> ◦ Division it reside in, ◦ The region it reside in. 	<p>Please refer to the Updated Proposed BCX Structure that was submitted to Organised Labour on 17 January 2019.</p>

	<ul style="list-style-type: none"> • The exit date of each position, <ul style="list-style-type: none"> ◦ taking into account the presentation stipulated certain division will be impacted phase one as well as phase two, ◦ the presentation further stipulated the divisions that will be impacted during the phase two • The selection criteria utilised to determine the 790 affected position, • The parties that was consulted on this selection process to determine the 790 in line with the spirit of process, • The proposed restructuring process; <ul style="list-style-type: none"> ◦ Who must approve this proposed structure? • The amount of employees/position in scope. 	<p>With reference to the s189A Notice issued on 7 November 2018, the exit date for the employees who would are likely to be retrenched during phase 1, is proposed to be 28 February 2019.</p> <p>The second group of employees whose dismissal cannot be avoided are likely to leave the employ within a period of approximately six months after the conclusion of the first phase.</p> <p>The positions were identified based on the new operating model of the Company presented as part of the Case for Change during the 1st Consultation session held on 22 November 2018.</p> <p>With reference to the s189A Notice issued on 7 November 2018 contained the proposed selection criteria. In addition SACU was present at the 1st Consultation session held on 22 November 2018 where the basis of the proposal was further explained.</p> <p>As agreed on 14 January 2019, the application process will commence, whereby the affected employees will be able to apply for available positions. Please note that the proposed selection criteria will only be applied from 28 January 2019 when the selection process commences.</p> <p>BCX Exco will approve the final structure subsequent to considering any input from Organised Labour as well as BCX employees.</p> <p>8074 positions are in scope of which approximately 790 positions will be affected.</p>
<p>3.</p> <p>SACU 16/01/2019</p>	<p>Further to this, the meeting of the 14 December 2018, still does not address the specific information by SACU regarding the 790 Positions/Employees.</p>	<p>Please refer to point 2 above.</p>

<p>4.</p> <p>SACU 16/01/2019</p>	<p>In addition to that information the employer is not complying regarding the agreed process of making available the transcript. The failure of the employer to comply on this has adversely affected SACU ability to meaningfully engage on this process and its members.</p>	<p>Whilst BCX acknowledges the following:</p> <ul style="list-style-type: none"> • "The CCMA recording remains the official transcript; • The employer's transcript will also be utilized; • The employer committed itself to making the transcript available to all parties no later than five (5) days subsequent to the meeting" <p>It remains the responsibility of each consulting party to take its own notes in order to enable it to consult effectively.</p>
<p>5.</p> <p>SACU 16/01/2019</p>	<p>The company went ahead offering voluntary separation packages to employees, again without the abovementioned information available to the bargaining agents or the employees. BCX management is purposely created and environment of chaos and seemingly refuse to disclose this information.</p>	<p>The opening of the VSP/VERP application process was agreed with the consulting parties on 14 December 2018.</p>
<p>6.</p> <p>SACU 16/01/2019</p>	<p>To date we made two separate requests for the transcript of the 14 December 2018 without success.</p>	<p>Please refer to point 4 above.</p>
<p>7.</p> <p>SACU 16/01/2019</p>	<p>A meeting was held on 14 January 2019, without any invitation to SACU. We therefore not privy to the discussions taking place or the rationale of what was presented. The CCMA omitted to invite SACU or any of its representatives, as a CCMA facilitated process</p>	<p>SACU was represented during the consultation session held on 14 December 2018, however both representatives left the consultation prior to its conclusion.</p> <p>It is important to note that the dates of the next consultations sessions are always agreed to amongst the consulting parties during the meeting.</p> <p>Please note that the next consultation session will be held on 23 January 2019, specifically dealing with the proposed structures.</p> <p>It was further agreed that another consultation session will be held on 29 January 2019. Further that the parties would confirm whether or not this session will be the final consultation session.</p>

8.	SACU 16/01/2019	All the information requested, in the format requested, should be disclosed by close of business Monday 21 January 2019, failing which, organised labour will be left with no alternative but to consider its options <i>ex lege</i> e.g. Labour Court.	Noted
9.	SACU 17/01/2019	I see on one of the responses that personal debt will not be waived does that include study loans that section 197 employees have?	Correct Study Loans forms part of personal debt that will not be waived.
10.	CWU 17/01/2019	<p><u>Ad answer 1</u></p> <p>1.1. What is meant by "competency-based Interviews";</p> <p>1.2. Please advise what selection criteria will be applied to all those employees who do not apply;</p> <p>1.3. Will all employees who are unsuccessful in their applications be retrenched;</p>	<p>Competencies are a combination of 'behaviours, skills and knowledge that lead to being able to perform successfully in the role. The interviews will be measuring the identified competencies related to that role, to evaluate whether candidates will be successful in the role.</p> <p>For example: A sales representative would be required to: build rapport, persuade others, sell, negotiate and be outspoken. This would differ to an accounting officer who would be required to: analyse data, write reports, make decisions and ensure data integrity.</p> <p>Where an employee who is affected does not apply, the Company will use all the factual information it has i.e. qualification, experience, skills, etc. excluding past performance, to consider the employee for available positions. The employee will be invited to an interview and only when he or she refuse to attend the interview, will the factual information aforementioned be utilised.</p> <p>Should there not be any suitable alternative for the unplaced employees they will be retrenched.</p>

<p>11.</p> <p>CWU 17/01/2019</p>	<p><u>Ad answer 2</u></p> <p>1.4. Please advise whether the severance payment of 1.5 weeks is negotiable. We propose that any severance payments be 2 weeks;</p>	<p>The Company has considered CWU's severance pay proposal of 2 weeks.</p> <p>The BCX's proposed severance pay is much better than what the Basic Conditions of Employment Act (BCEA) provides and we believe that that it is a fair and reasonable severance proposal at this point in time.</p>
<p>12.</p> <p>CWU 17/01/2019</p>	<p><u>Ad answer 3</u></p> <p>1.5. Please confirm that any and all severance payments shall be in accordance with the schedule published in Government Gazette 691 of 2003, a copy of which is attached hereto;</p> <p>1.6. Please confirm that all of the employees' years of service, including the employees' years of service whilst they were employed at Talkom, will be included in the severance pay calculations;</p>	<p>Please note that our proposed severance pay is above the statutory requirements and the principles attached thereto will apply.</p> <p>Correct; all the employees' years of service, including that which was accumulated prior to any s197 transfer to BCX, will be recognised.</p>
<p>13.</p> <p>CWU 17/01/2019</p>	<p><u>Ad answer 5</u></p> <p>1.7. This is incorrect. The employer is obliged to pay over to SARS any income taxes deducted from the employees' salaries;</p> <p>1.8. If SARS delays or does not issue tax directives, is the company willing to pay to the employees their total severance packages, without deducting any taxes, on the basis that the employees will, themselves, pay the tax over to SARS;</p>	<p>Correct; the Employer is obligated to pay any income taxes deducted from the employees' salaries to SARS, which the Company has been doing in compliance with the SARS legislation</p> <p>BCX will comply with the tax laws of the country.</p>

<p>14.</p> <p>CWU 17/01/2019</p>	<p><u>Ad answer 8</u></p> <p>1.9. If the employee's hearing is still pending and has not been concluded, will such employees be eligible to be successful in their VSP/VERP applications;</p> <p><u>Ad answer 9</u></p> <p>1.10. If the company has a claim with its insurers and/or is reimbursed by its insurers for such debts, will it still claim such costs from the employees;</p>	<p>The Company will consider any VSP/VERP application based on Company operational requirements.</p> <p>The Company does not have insurance in relations to financial assistance incurred by an Employee. The Employee will therefore remain liable for any money borrowed from the Company.</p>
<p>15.</p> <p>CWU 17/01/2019</p>	<p><u>Ad answer 11</u></p> <p>1.11. When and how was Telkom's laptop policy revoked. We require proof of this;</p>	<p>Telkom policy was that an employee can purchase a legacy laptop with a barcode of "N", however this particular policy does not exist in BCX.</p> <p>BCX does not have legacy equipment to the extent that Telkom has.</p>
<p>16.</p> <p>CWU 17/01/2019</p>	<p><u>Ad answer 12</u></p> <p>1.12. The provision of a certificate of service is mandatory in terms of section 42 of the BCEA. Therefore, this would not greatly assist with procuring the income protector insurance;</p> <p>1.13. Could the company please also provide a written motivation supporting the invocation of the income protector insurance, in addition to a certificate of service.</p>	<p>Based on the fact that the Certificate of Service is an official letter from the Company stating that the employee has been retrenched, same can, and has successfully been used during past retrenchment process.</p>

<p>17. CWU 17/01/2019</p>	<p><u>Ad answer 14</u> 1.14. What are the requirements/criteria in this regard:</p>	<p>The requirements for the position will be applicable. "S" is regarded as a specialist with no subordinates whereas a "M" is a manager and has people reporting to him/her.</p>
<p>18. CWU 17/01/2019</p>	<p><u>Ad answer 18</u> 1.15. Our client disagrees with this answer. The new grading system has, alternatively, will impact on the employees remuneration and there, therefore, should have been, at the very least, consultation on this issue. Our client's members' rights are reserved in this regard;</p>	<p>Telkom made use of a grading system utilised by Kornferry, previously called HayGroup Consulting. This is a recognised international system called Decision Tree previously called JE Manager. This system allows Kornferry to provide grading results in any known grading system e.g. Patterson, Task, etc. Telkom pays a licence fee to Kornferry, where after an internal licenced practitioner does the grading. The grading results are in Patterson where after Telkom then converted the Patterson naming convention of i.e. DL of DU to the current Telkom naming convention of i.e. M4 and M5. Based on the above facts, there is no need for consultation as there is no change in the grading system, we are merely aligning to Telkom's naming convention.</p>
<p>19. CWU 17/01/2019</p>	<p><u>Ad paragraph 20</u> 1.16. The answer does not answer or address the question. Please provide the details of the external company who did the grading and also a copy of the report if one was drafted:</p>	<p>Kornferry, previously called HayGroup Consulting is the external company used. The company will not provide a report on this issue.</p>

<p>20.</p> <p>CWU 17/01/2019</p>	<p><u>Ad answer 21</u></p> <p>1.17. What factors influenced the timing of the implementation:</p>	<p>Whilst a fully owned subsidiary of the Telkom Group BCX has been using a different grading system and job title matrix to Telkom.</p> <p>This practice has made assessing positions in comparative structures for talent, reward, mobility / transfers and career progression purposes a difficult and complex process. It has become imperative that BCX align job grades and titles to those of Telkom in order to:</p> <ul style="list-style-type: none"> • Facilitate talent mobility across the Group • Standardise the grading and other related processes in view of the move to a single SAP Success Factors (SF) system across the Group • Facilitate future alignment to Telkom Group <p>JD Alignment Mandate</p> <ul style="list-style-type: none"> • Functional and Grade Alignment: ensure alignment across the group - all new / changed roles to be reviewed to ensure overall alignment in terms of both functional accountability and grade level across the Group. • Functional ownership: ensure that CC Chiefs have sight of and are in support of functional structures across the Group. • Naming Convention alignment: eradicate duplication and confusion, particularly with reference to external stakeholders. • Delegation Of Authority: Update Telkom SOC DOA and ensure DOA alignment across the group • Development of a common Competency Language / Taxonomy for the group.
<p>21.</p> <p>CWU 17/01/2019</p>	<p><u>Ad answer 22</u></p> <p>1.18. In that case, should the alignment of the hierarchical job family naming convention not have occurred prior to the section 189A process.</p>	<p>It is the Company decision to implement the alignment now.</p>

<p>22. Solidarity 17/01/2019</p>	<p>Thank you for the information, however, Solidarity did not agree to the Application date of the 24th of January, as this item were never open for consultation or discussed in any of the consultation pack. We disputed the date in the meeting, as we believe the timing for the Application process is not fair, and will respond formally to BCX in writing.</p>	<p>As agreed on 14 January 2019, the application process will commence on 24 January 2019, whereby the affected employees will be applying for available positions.</p>
<p>23. Solidarity 17/01/2019</p>	<p>Please inform us by when the outstanding minutes will be available.</p>	<p>Please refer to point 4 above. There will be no minutes to any consultation session as there was never an undertaking to do so. In addition the transcript of the consultation session held on 14 January 2019 was submitted to Organised Labour on 18 January 2019.</p>
<p>24. Solidarity 18/01/2019</p>	<p>Please find attached and e mail information on the new gradings of some of the Service Managers positions. The application process indicates that one can only apply for a position on the same level. What will happen if your position is now listed in the new structure on a higher grade? And if so, how will we know the JD of the new Structure in fact warrants a higher grading and or minimum requirements?</p>	<p>The application process will be in 2 stages: Stage 1: Employees will only be able to apply for positions on the same level or lower that the employee currently holds. Stage 2: Employees will have the opportunity to apply for a higher level position. The JD that will be advertised on the system will contain the job grade as well as the minimum requirements of the job.</p>

<p>25.</p> <p>Solidarity 17/01/2019</p>	<p>Solidarity take note of BCX response, but would like to engage BCX further on the following items:</p> <p>1. Selection Criteria Solidarity in principal agree with the Criteria of Qualification, Experience, and Skills, to be used in conjunction with each other. As indicated in the consultation, Solidarity is still not sure how the Selection Criteria will be applied in such a way that it is objective and consistent throughout the process. Solidarity need more clarity and information as to how the criteria will be applied objectively.</p>	<p>Following the interviews and psychometric assessment (for M/SS and higher) an appointment decision will be made based on the highest scoring candidate.</p> <p>Should two candidates have the same score, the first tie breaker will be applied namely EE.</p> <p>Should the 2 candidates have the same EE level (e.g. both are African female and disabled) then LIFO will be the next tiebreaker</p>
<p>26.</p> <p>Solidarity 17/01/2019</p>	<p>2. <u>Application Process:</u> Solidarity formed part of the discussions with regards to the dates for the remainder of the Consultation process, however Solidarity indicated its concern during the consultation that the time given for the Application Process is not reasonable and fair.</p> <p>It is our view that as a result of the updated structures only to be received today, 17 January 2019, and the workshop on the structures only been scheduled for Wednesday 23 January 2019, it will not be fair and or reasonable to commence with the Application process on 24 January 2019.</p> <p>The date of the 24th will not provide parties with enough time to consider any inputs/proposals and or suggestions made during the Structure workshop of 23 January 2019.</p> <p>The time period given for the Application process by BCX from 24 January 2019 up to 27 January 2019, is further a point of concern, as most of these days falls</p>	<p>Your concerns are noted, however as explained during the consultation session on 14 January 2019, a further delay in the commencement of the application process will impact on the timeline available for the selection process, and therefore not viable.</p>

	<p>over a weekend. Most employees do not have access to their work e-mail and system, further to this most employees are not on site everyday as a result of their operational requirements.</p> <p>Solidarity proposes that the consulting parties revisit the dates, with specific reference to the commencement of the application process and the duration of the application process.</p> <p>We do not want to delay the process unnecessarily, but due to the huge amount of employees affected, the incomplete structure information up to date, and the lack of proper engagement on the both the Selection and Placement Criteria, we urge BCX and the consulting parties to consider the extension of the dates to ensure employees will have sufficient information, and sufficient time and proper access to apply for available positions within BCX.</p> <p>Solidarity proposal: Application process to commence in the week of the 28 January 2019 – 31 January 2019, and the implementation of the new structure, 1 March 2019.</p>	
<p>27.</p> <p>Solidarity 17/01/2019</p>	<p>Section 189A: BCX Benefits vs Telkom Ring-fenced benefits (Appointed positions)</p> <p>With reference to your e mail dated 17 January 2019, Solidarity hereby request more detailed information with regards to the BCX Benefits you are referring to.</p> <p>It is our submission that the Change of Benefits were not consulted on during the Section 189A process, and therefore Solidarity requires more detailed information on the BCX benefits as well as the reason for the change in Benefits.</p>	<p>It is incorrect that s189A will unilaterally change the Terms & Conditions of employment, however the Terms & Conditions of the position that the employee will apply for and be appointed into will hold.</p>

	<p>It is our view that the Telkom BCX Section 189 Ring-Fenced benefits will be unilaterally changed during the Section 189A process.</p> <p>Solidarity can however not engage BCX on this matter, as the information were not shared with the unions in the Section 189A process.</p> <p>Solidarity therefore request BCX to share the BCX Benefits to Solidarity as part of the Section 189A engagement process.</p> <p>For convenience, Solidarity have attached the Section 197 Telkom BCX benefits, for ease of reference. Please share with us the BCX benefits which will be applicable to the new positions.</p>	
Vacation leave		
Accrual		
Sick leave		
Family responsibility leave		
Study leave		
Examination leave		
Maternity and/or Adoption leave		
Leave on official transfer		
Sport leave		
Leave Encashment		
Religious Holidays		
Medical Aid Schemes		
Post Retirement Medical aid		
Subsidy		
Retirement Fund And Retirement		
Age		
Pension Fund		
Death Benefit		
Official Mobile services		
Vehicle Insurance		
Post Retirement Telephone		
Rebate		

	<p>1. JD's of the new / changed positions within the new Structure</p> <p>2. The JD's to include the minimum requirements of the positions,</p> <p>3. List of positions, for Example Service Managers, which grading level were changed in the new structure, and reasons for the change in Grading.</p> <p>Please confirm, if the employees will be able to apply for positions if the current position is upgraded in the new structure?</p> <p>Solidarity request BCX to disclose in writing the above details before close of business on 21 January 2019, and if not received, Solidarity will request the CCMA Commissioner to rule on the disclosure of information.</p>	
<p>29. ICTU 18/01/2019</p>	<p>Please take note that ICTU will not be able to submit the clarification questions by 12h00 and rather commit that ours will be submitted by 15h00 since we will still have consultation meeting on Monday and then we need to consolidate our submission.</p>	<p>Extension is granted until 15:00.</p>
<p>30. ICTU 18/01/2019</p>	<p>We further want to bring to your attention that some "affected employees" will be prejudiced since they will not have the opportunity to be consulted on the additional information due to your closure of applications on Friday.</p>	<p>The VSP/VERP application revised extension was granted till Friday, 18 January 2019, based on the request from Solidarity and ICTU.</p>
<p>31. ICTU 18/01/2019</p>	<p>ICTU hereby remind you that we would like to receive the minutes and transcripts of the 14th December 2018 and 14th January 2019 by the latest Monday 21 January 2019 @15h00</p>	<p>Please refer to point 4 above.</p> <p>There will be no minutes to any consultation session as there was never an undertaking to do so.</p>

			In addition the transcript of the consultation session held on 14 January 2019 was submitted to Organised Labour on 18 January 2019.
--	--	--	--

In addition to the aforementioned, please find attached Annexure A with an updated Grade correlation table.





Job Title and Grading Alignment

14 January 2019

Case for Change / Rationale



Whilst a fully owned subsidiary of the Telkom Group BCX has been using a different grading system and job title matrix to Telkom.

This practice has made assessing positions in comparative structures for talent, reward, mobility / transfers and career progression purposes a difficult and complex process. It has become imperative that BCX align job grades and titles to those of Telkom in order to:

- Facilitate talent mobility across the Group
- Standardise the grading and other related processes in view of the move to a single SAP Success Factors (SF) system across the Group
- Facilitate future alignment to the Telkom



JD Alignment Mandate

- **Functional and Grade Alignment:** ensure alignment across the group - all new / changed roles to be reviewed to ensure overall alignment ito both functional accountability and grade level across the Group.
- **Functional ownership:** ensure that CC Chiefs have sight of and are in support of functional structures across the Group
- **Naming Convention alignment:** eradicate duplication and confusion, particularly wrt external stakeholders
- **Delegation Of Authority:** Update Telkom SOC DOA and ensure DOA alignment across the group
- Development of a common **Competency Language / Taxonomy** for the group



High level messaging

High Level alignment of BCX grading system to New Organisation grading system

BCX Grading System	New Organisation Grading System
EU/EL	M3
DU	M4 / S4
DL	M5 / S5
CU	M6 / S6
CL	OP1
BU & BL	OP2
A	A



"FA16"

164

**THE COMMISSION FOR CONCILIATION MEDIATION AND
ARBITRATION**

CASE NUMBER: GAJB 25729-18

In the matter between

BUSINESS CONNEXION (PTY) LTD

Employer

And

SACU

The Union

**SACU RESPONSE TO THE REPLYING AFFIDAVIT OF JOHANNA DUPREEZ DU TOIT
FROM BUSINESS CONNEXION (PTY) LTD**

I, the undersigned,

HERMANUS BOTHA

Do hereby make oath and state:

- 1 I am an adult male of full legal capacity, a Full Time Shop Steward, employed by Telkom.SA, Representing the South African Communications Union, herein further referred to as SACU

- 2 I am authorised to depose of this affidavit on behalf of the Applicant, SACU, in this matter.

- 3 Unless otherwise stated or the converse appears from the context, the facts contained in this affidavit are within my personal knowledge and belief, and are both true and correct.

MERITS OF THE RESPONSE

1. On the 27th November 2018, as well as in our submission read verbatim into the minutes of the meeting on 14th December 2018, and again regarding our



dispute referred to the commissioner on the 16th January 2019 and 22nd January 2019 SACU was not provided with the pertinent and relevant information requested that would have empowered us to assist and represent the best interest of our members in this LRA Section 189 consultation process, as well as understand how to assist in avoiding or minimizing some of the dismissals.

2. The employer continually responded as follows, "*the information will be made available on the 14 December 2018*". This information never received as requested. Further response from the employer is that "*the information in in the presentation of the structure*" We cannot find the detailed information we requested from the company in the presentation they refer to.
3. Our simple and reasonable request is what they mean with oversupply, or merged or changed roles. How can we determine which is which when the affected people are forced to make decisions that would affect their continued employment or unemployment, for that matter?
4. To date this requested information was still not shared, neither to SACU, nor to the affected employees in the company. Employees are expected to apply for vacancies in the company with no clear guidance or assistance. Refer e-mail correspondence dated the 6th February 2019 from an affected employee, Hannelie Huisamen (Annexure A).
5. Further E-Mail correspondence dated the 6th February 2019 from affected employee Johan Bower refers to Company mischievous conduct. (Annexure E)
6. The 790 affected positions became even more critical when voluntary packages were offered, and the company, for unknown reasons decided to decline 91 VSP/VERP applications of affected employees with no real reason. As SACU, we are still not the wiser as to where these positions reside and the employer's rationale for declining them.
7. The apparent "operational requirements" justification is totally disingenuous to the extent where it becomes male fide especially when the company has indicated that they are contemplating forced retrenchments of some 790 employees.
8. On the selection criteria used to the determine the affected 790 positions or employees, the company indicated it was determined by their "new operating model" presented on the 22nd November 2018, as well as on the 14th December 2018. At the same time the employer indicated that the BCX board must still approve this structure "after input" from Labour and employees.
9. The structures proposed was then subsequently amended. The question therefore remains on what selection criteria was utilised to identify these

Handwritten signature and initials, possibly 'hup' and 'BQ'.

affected employees, as this is clearly part of the procedural aspect the employer needs to comply with as per the Act, which they deliberately failed to do.

10. The meeting of the 14 January 2018 was never agreed to in session on the 14th December 2018.
11. The employer has agreed that they would make a transcript available 5 days after the meeting. Thus far no transcript was received after various requests. When one is to peruse this transcript, we would surely then be clarified on the allegation.
12. It is apposite to appreciate that the responsibility still lies with the CCMA to officially issue a set-down notice for the session, as the Commission is the official appointed facilitator in this matter. All other parties were correctly notified except for SACU, therein creating the fatal flaw in the proceedings. This material defect, together with others identified herein, render this process materially and fundamentally flawed the consequences of which are inevitably, a debilitating degree of prejudice.
13. SACU did not receive and notice for the set down of the 14th January 2019, as proven in our original submission, with evidence. Mysteriously, for the set down notice of 14th January 2019, our email addressed are all misspelled.
14. The moment we have become aware of this anomaly, we immediately corresponded with all parties in the meeting, including the CCMA administration office.
15. Management opted to be frugal with the truth by informing the Commissioner at the end of the meeting that they were not aware of any apology or correspondence, yet the company representative, CCMA Case management officer, as well as other representative read our correspondence within the hour of it being dispatched. (Find attached read reports Annexures B 1-4)
16. We directed a dispute to the commissioner on these disclosure of information as well as the other matters address above on the 16th January 2019 The honourable commissioners response was on the 24 January 2019 as follows,
 - ***I hereby direct the employer to respond to areas that requires its urgent attention. I will not immediately intervene unless the dispute persists subsequent the employers' response" (Annexure C)***
17. On 28 January 2019, SACU corresponded with the CCMA as no set down notice was received. In this correspondence we again reminded the CCMA that we did not received the requested information as per our dispute. (Annexure D)
18. The dispute is not addressed and it is being aggravated by the fact that employees are to reapply for their existing positions with no relevant

Handwritten signature and initials, possibly "Lump" and "B G".

information at their disposal as to why they had to do such. Furthermore, these employees are blaming the union for apparently not representing their interest in the matter at hand.


19. In conclusion we respectfully pray that the Honourable Commissioner Mduduzi Khumalo to declare this present consultation process fatally flawed and rule that the employer comply to the minimum requirements of Section 189 of the Labour Relations Act, as Amended, and further extend the Consultation sessions for the parties to meaningfully engage and reach consensus. We require the CCMA and the Employer effectively respond to our dispute in respect of request for information for SACU to be able to protect the basic rights of its members.

DEPONENT



THUS, SIGNED AND SWORN to before me at Boksburg on this 08 day of FEBRUARY 2019, the Deponent having acknowledged that he knows and understands the contents of the affidavit, has no objection to taking the prescribed oath, and considers the oath binding on his conscience.




20037539
Commissioner of Oaths
Pugwana



ANNEXURE A

From: Karriem Abrahams [mailto:karr1em@me.com]
Sent: 06 February 2019 11:29 AM
To: Koos Fourie (JJ) <FOURIEJJ@telkom.co.za>; Michael Hare (M) <MichaelH3@openseve.co.za>; Hennie Van Der Westhuizen (HJ) <VDWestH@telkom.co.za>; Harry Botha (H) <bothah5@telkom.co.za>; Isamuels2108@gmail.com; Ashley Englund <navel@yebo.co.za>
Subject: Fwd: BCX SALARY REF 142555

Karriem Abrahams

Begin forwarded message:

From: Hannelie Huisamen - BCX <Hannelie.Huisamen@bcx.co.za>
Date: 06 February 2019 at 11:26:36 SAST
To: "karr1em@me.com" <karr1em@me.com>
Subject: BCX SALARY REF 142555

Morning
See below

From: Hannelie Huisamen - BCX
Sent: 06 February 2019 11:10 AM
To: Unathi Mbadamana (UL) <MbadamU@telkom.co.za>
Cc: 'karr1em@me.com' <karr1em@me.com>
Subject: FW:

Morning Unathi

I through to bring this to your attention

Besides all the errors that i received we feel **unsure** and **unhappy** to continue with these job applications because of the following **reasons**;

- 1.) No debriefing session on how and/or why our current jobs were effected has taken place with any employee at the Bellville Data Center.
- 2.) Relevant information pertaining to what these new jobs "the once i needed to apply for" are going to entail has **NOT** been disclosed by our company.
- 3.) Also feel pressurised by the short time frame given to me to find the right position, compile CV's and to make the closing date for these applications.

Will appreciate if feedback can be provided to points 1,2 and 3

From: Hannelie Huisamen - BCX
Sent: 04 February 2019 12:48 PM
To: HR Call Desk <HRcalldesk@bcx.co.za>



Cc: Bekker Van Niekerk - BCX <VanNiekerk@bcx.co.za>; Finn Buiten - BCX <Finn.Buiten@bcx.co.za>; Winnifred Geldenhuys - BCX <Winnifred.Geldenhuys@bcx.co.za>; Manette Anderson - BCX <Manette.Anderson@bcx.co.za>

Subject:

Good afternoon,

I have been informed that my current position has been affected by the restructuring and have to the opportunity to apply available positions. On searching for S6 / OP positions in Service desk environment I can't find any openings in the Western Cape.

Having spoken to Winnifred Geldenhuys has informed me that I should contact HR Call Desk for further assistance and guidance. Is BCX Careers website the correct site to search for vacancies. See screen shots below from BCX Careers intranet site.



ANNEXURE B 1 TO B4

-----Original Message-----

From: Andile Mdadane [mailto:AndileM@CCMA.org.za]

Sent: 14 January 2019 11:08 AM

To: karr1em@me.com

Subject: Read: Solidarity Written Response on BCX Written Response to Union Submissions

[<https://ccmaftp.ccma.org.za/20yrCCMALogo.jpg>]

Andile Mdadane

HO-Case Management Officer: Employment Security

Telephone: +27113776997

Call Centre: 0861 16 16 16 | Website: <https://www.ccma.org.za> <<https://www.ccma.org.za/>>

Gauteng

SENZ'UMEHLUKO - MAKING A DIFFERENCE

ANNEXURE B 2

From: Hannelie du Toit (HR) - BCX - BCX

Sent: 14 January 2019 10:16 AM

To: karr1em@me.com

Subject: Read: RE: Solidarity Written Response on BCX Written Response to Union Submissions

Your message

To: Hannelie du Toit (HR) - BCX

Subject: RE: Solidarity Written Response on BCX Written Response to Union Submissions

Sent: Monday, January 14, 2019 9:58:44 AM (UTC+02:00) Harare, Pretoria

was read on Monday, January 14, 2019 10:15:46 AM (UTC+02:00) Harare, Pretoria.

ANNEXURE B 3

From: Alfie Ngubo (AM)

Sent: 14 January 2019 10:08 AM

To: karr1em@me.com

Subject: Read: Solidarity Written Response on BCX Written Response to Union Submissions

Your message

To: Alfie Ngubo (AM)

Subject: RE: Solidarity Written Response on BCX Written Response to Union Submissions

Sent: Monday, January 14, 2019 9:58:44 AM (UTC+02:00) Harare, Pretoria

was read on Monday, January 14, 2019 10:06:37 AM (UTC+02:00) Harare, Pretoria



ANNEXURE B 4

From: Linda Senekal - Solidariteit
Sent: 14 January 2019 10:01 AM
To: karr1em@me.com
Subject: Read: Solidarity Written Response on BCX Written Response to Union Submissions

Your message

To: Linda Senekal
Subject: RE: Solidarity Written Response on BCX Written Response to Union Submissions
Sent: Monday, January 14, 2019 9:58:44 AM (UTC+02:00) Harare, Pretoria

was read on Monday, January 14, 2019 9:59:33 AM (UTC+02:00) Harare, Pretoria

A handwritten signature in black ink, appearing to be the initials 'L.S.' or similar, located in the bottom right corner of the page.

ANNEXURE C

From: Karriem Abrahams [mailto:karr1em@me.com]
Sent: 24 January 2019 12:31 PM
To: Hennie Van Der Westhuizen (HJ) <VDWestH@telkom.co.za>; Koos Fourie (JJ) <FOURIEJJ@telkom.co.za>; Harry Botha (H) <bothah5@telkom.co.za>; ashley@saku.co.za; Ashley Englund <navel@yebo.co.za>; Isamuels2108@gmail.com
Subject: Fwd: SACU Dispute on Disclosure of information

FYI

Karriem Abrahams

Begin forwarded message:

From: Mduduzi Khumalo <mdumalo560@gmail.com>
Date: 24 January 2019 at 11:36:59 SAST
To: "karr1em@me.com" <karr1em@me.com>, "MichaelH3@openseve.co.za" <MichaelH3@openseve.co.za>, "Hannelie.duToit@bcx.co.za" <Hannelie.duToit@bcx.co.za>, "Alfie Ngubo (AM)" <NguboAM@telkom.co.za>
Cc: Andile Mdadane <AndileM@CCMA.org.za>
Subject: RE: SACU Dispute on Disclosure of information

Greetings All,

This serves to confirm receipt of your email dated 22 January 2019.

I hereby direct the employer to respond to areas that requires its urgent attention. I will not immediately intervene unless the dispute persist subsequent the employers' response.

With regards to the notice for the previous meeting, I note the concerns raised by the Trade Union. I, however, wish to remind the parties that the date of 14 January 2019, was agreed in the meeting of the 14 December 2018. This notwithstanding, I am investigating the omission of SACU from the CCMA communication and will address same on 29 January 2019, during the facilitation.

Best Regards,

Mduduzi Khumalo,
CCMA PART-TIME SENIOR COMMISSIONER.

Sent from Mail for Windows 10

From: Boitumelo Fatane
Sent: Tuesday, 22 January 2019 19:34
To: Mduduzi Khumalo
Cc: Andile Mdadane
Subject: Fw:SACU Dispute on Disclosure of information

Dear Mdu

Please find attached for your attention.



Kind Regards

Sent from my Huawei phone

----- Original Message -----

Subject: Re: SACU Dispute on Disclosure of information

From: Karriem Abrahams

To: Boitumelo Fatane

CC: Andile Mdadane

Good Day Boitumelo,

Please accept my apology for the oversight.

Attached is the file...

Karriem Abrahams

SACU

0824566874

On 22 Jan 2019, at 18:23, Boitumelo Fatane <BoitumeloF@ccma.org.za> wrote:

Dear Karriem

Please note that there is no attachment.

Kind Regards,

Boitumelo

From: karr1em@me.com [mailto:karr1em@me.com]

Sent: Tuesday, 22 January 2019 14:19

To: Andile Mdadane <AndileM@CCMA.org.za>; Boitumelo Fatane <BoitumeloF@CCMA.org.za>

Cc: Michael Hare (M) <MichaelH3@openseve.co.za>; 'Koos Fourie' <FOURIEJJ@telkom.co.za>;

'Harry Botha' <bothah5@telkom.co.za>; 'Hennie Van Der Westhuizen (HJ)'

<VDWestH@telkom.co.za>; 'Hannelie du Toit (HR) - BCX' <Hannelie.duToit@bcx.co.za>; Alfie Ngubo

(AM) <NguboAM@telkom.co.za>

Subject: RE: SACU Dispute on Disclosure of information

Good Day Boitumelo,

CASE Reference: GAJB25729-18

The attached reference..... Please forward to the Commissioner Mduduzi Khumalo for his attention. The employer is included in this email correspondence.

Please acknowledge receipt.

Karriem Abrahams
SACU
0824566874

From: karr1em@me.com <karr1em@me.com>
Sent: Tuesday, January 22, 2019 2:08 PM
To: 'Andile Mdadane' <AndileM@CCMA.org.za>
Cc: 'Michael Hare (M)' <MichaelH3@openseve.co.za>; 'Koos Fourie (FOURIEJJ@telkom.co.za)' <FOURIEJJ@telkom.co.za>; 'Harry Botha (bothah5@telkom.co.za)' <bothah5@telkom.co.za>; 'Hennie Van Der Westhuizen (HJ)' <VDWestH@telkom.co.za>; 'Hannelie du Toit (HR) - BCX' <Hannelie.duToit@bcx.co.za>; Alfie Ngubo (AM) <NguboAM@telkom.co.za>
Subject: RE: SACU Dispute on Disclosure of information

Good Day Andile,

The attached reference..... Please forward to the Commisioner Mduzuzi Khumalo for his attention. The employer is included in this email correspondence.

Please acknowledge receipt.

Thanking You

Karriem Abrahams
SACU
0824566874

From: Hannelie du Toit (HR) - BCX <Hannelie.duToit@bcx.co.za>
Sent: Monday, 21 January 2019 14:27
To: jplbez@uasa.org.za; admin@uasa.co.za; pa.ceo@uasa.org.za; j.goussard@uasa.org.za; PETER@GIWUSA.CO.ZA; sa.mofyoa@gmail.com; giwusapta@gmail.com; TUWGUM@YAHOO.COM; edwardr@numsa.org.za; ihbcentral@numsalocal.org.za; ICTU@TELKOMSA.CO.ZA; Origenous Mogoatlhe (OM) <origenousm@openseve.co.za>; Moeketsi Lepheane (MP) <MoeketsiL@openseve.co.za>; Linda Senekal <lindas@solidariteit.co.za>; Diens <diens@solidariteit.co.za>; SACUBO@TELKOMSA.CO.ZA; HAREM@TELKOMSA.CO.ZA; 'Karriem Abrahams' <karr1em@me.com>; NOMIM@CWU.ORG.ZA; TEBO23KORU@GMAIL.COM; MOGALANET@GMAIL.COM; Lionel Samuels <lsamuels2108@gmail.com>; Sontaga Mantlhakga (SR) <MantlhSR@telkom.co.za>; Jannie Kruger <j.kruger@uasa.org.za>; Harry Botha (H) <bothah5@telkom.co.za>; Koos Fourie (JJ) <FOURIEJJ@telkom.co.za>; Martin Louw (M) <martinl@openseve.co.za>; Ntobeko Zondo (N) <NtobekoZ@openseve.co.za>; Phellimon Mashinini (MP) <PhellimonM@openseve.co.za>; booyesen.mashego@yahoo.com; Thabo Lekota (JT) <LekotaJT@telkom.co.za>; Teboho Morobe (TD) <MorobeTD@telkom.co.za>; Jaco Steyn - BCX <Jaco.Steyn@bcx.co.za>; s.siggbi@uasa.org.za
Cc: Andile Mdadane <AndileM@CCMA.org.za>
Subject: RE: Written Response



MS

Dear All,

Please find the formal BCX responses to the questions posed by Organised Labour during the period 16 – 18 January 2019.

Kind regards

Hannelie du Toit



ANNEXURE D

From: karr1em@me.com [mailto:karr1em@me.com]
Sent: 28 January 2019 09:21 AM
To: 'Andile Mdadane' <AndileM@CCMA.org.za>; boitumelof@ccma.org.za
Cc: Koos Fourie (JJ) <FOURIEJJ@telkom.co.za>; Michael Hare (M) <MichaelH3@openseve.co.za>;
Hennie Van Der Westhuizen (HJ) <VDWestH@telkom.co.za>; Harry Botha (H)
<bothah5@telkom.co.za>
Subject: RE: GAJB25729-18

Good Day Andile/Boitumelo,

To date we did not receive a set-down notice for case GAJB25729-18. The correspondence doing the rounds is the meeting is set for 29 January 2019...We still awaiting the information requested in terms of our dispute..

Thanking You,

Karriem Abrahams
SACU
0824566874



ANNEXURE E

From: Johan Bower - BCX - BCX
Sent: 06 February 2019 09:25 AM
To: Koos Fourie (JJ) <FOURIEJJ@telkom.co.za>; 'Karriem Abrahams' <karr1em@me.com>
Subject: RE: Retirement Workshop - You're invited

Hi Koos,

No. I spoke to Kesaven Chetty (ME) yesterday morning. He was going to get HR to contact me which has not happened yet.

I am not the only one on the floor with this problem. I actually do not know of any affected person on the floor that has got proper information or can obtain any information on what to do and where to get information.

Please see attached on what I got when I tried to get information.

My question is, is my understanding correct that my position, Specialist Networks: DCO Security and Networks redundant? If yes, how will network design/build/support be done in the Data Center? Does customers like Mediclinic/KaapAgri/Crossroads/Telkom etc. know that their business are put in jeopardy by the actions taken by BCX currently?

Regards

From: Koos Fourie (JJ) [mailto:FOURIEJJ@telkom.co.za]
Sent: 06 February 2019 08:46 AM
To: Johan Bower - BCX <Johan.Bower@bcx.co.za>; 'Karriem Abrahams' <karr1em@me.com>
Subject: RE: Retirement Workshop - You're invited

Hi Johan

Was your concerns address by HR?

Regards,

Koos.

JJC Fourie (Koos)
Specialist: Full Time Shop Steward (SACU)
Division: HR

Tel: +27 (0) 56 216 6616
Fax: +27 (0) 864784478
Mobile: +27 (0) 81 424 4619

ANNEXURE F

From: karriem abrahams [mailto:karr1em@me.com]
Sent: 16 January 2019 04:46 PM
To: 'Andile Mdadane' <AndileM@CCMA.org.za>; 'Hannelie du Toit - BCX' <Hannelie.duToit@bcx.co.za>; Alfie Ngubo (AM) <NguboAM@telkom.co.za>
Cc: 'SERVICE@SOLIDARITY.CO.ZA' <SERVICE@SOLIDARITY.CO.ZA>; 'SACUBO@TELKOMSA.CO.ZA' <SACUBO@TELKOMSA.CO.ZA>; Michael Hare (M) <MichaelH3@openseve.co.za>; 'NOMIM@CWU.ORG.ZA' <NOMIM@CWU.ORG.ZA>; 'TEBO23KORU@GMAIL.COM' <TEBO23KORU@GMAIL.COM>; 'MOGALANET@GMAIL.COM' <MOGALANET@GMAIL.COM>; 'Lionel Samuels' <lsamuels2108@gmail.com>; Sontaga Mantlhakga (SR) <MantlhSR@telkom.co.za>; 'Jannie Kruger' <j.kruger@uasa.org.za>; Harry Botha (H) <bothah5@telkom.co.za>; Koos Fourie (JJ) <FOURIEJJ@telkom.co.za>; Martin Louw (M) <martinl@openseve.co.za>; Ntobeko Zondo (N) <NtobekoZ@openseve.co.za>; Phellimon Mashinini (MP) <PhellimonM@openseve.co.za>; 'booyesen.mashego@yahoo.com' <booyesen.mashego@yahoo.com>; Thabo Lekota (JT) <LekotaJT@telkom.co.za>; Teboho Morobe (TD) <MorobeTD@telkom.co.za>; Jaco Steyn - BCX - BCX <Jaco.Steyn@bcx.co.za>; 's.siggbi@uasa.org.za' <s.siggbi@uasa.org.za>; Hannelie du Toit (HR) - BCX - BCX <Hannelie.duToit@bcx.co.za>; 'jplbez@uasa.org.za' <jplbez@uasa.org.za>; 'admin@uasa.co.za' <admin@uasa.co.za>; 'pa.ceo@uasa.org.za' <pa.ceo@uasa.org.za>; 'j.goussard@uasa.org.za' <j.goussard@uasa.org.za>; 'PETER@GIWUSA.CO.ZA' <PETER@GIWUSA.CO.ZA>; 'sa.mofyoo@gmail.com' <sa.mofyoo@gmail.com>; 'giwusapta@gmail.com' <giwusapta@gmail.com>; 'TUWGUM@YAHOO.COM' <TUWGUM@YAHOO.COM>; 'edwardr@numsa.org.za' <edwardr@numsa.org.za>; 'jhbcentral@numsalocal.org.za' <jhbcentral@numsalocal.org.za>; 'ICTU@TELKOMSA.CO.ZA' <ICTU@TELKOMSA.CO.ZA>; Origenous Mogoatlhe (OM) <origenousm@openseve.co.za>; Moeketsi Lepheane (MP) <MoeketsiL@openseve.co.za>; 'LINDAS@SOLIDARITY.CO.ZA' <LINDAS@SOLIDARITY.CO.ZA>
Subject: RE: CASE NO: GAJB25729-18

Good Day Andile,

Please make the following correspondence available to Commissioner M Khumalo for his urgent attention.. Please further acknowledge receipt of correspondence...

Thanking You,

Karriem Abrahams

SACU General Secretary
0824566874

From: Hannelie du Toit (HR) - BCX [mailto:Hannelie.duToit@bcx.co.za]
Sent: 16 January 2019 04:04 PM
To: jplbez@uasa.org.za; admin@uasa.co.za; pa.ceo@uasa.org.za; j.goussard@uasa.org.za; PETER@GIWUSA.CO.ZA; sa.mofyoo@gmail.com; giwusapta@gmail.com; TUWGUM@YAHOO.COM; edwardr@numsa.org.za; jhbcentral@numsalocal.org.za; ICTU@TELKOMSA.CO.ZA; Origenous



Mogoatlhe (OM) <origenousm@openseve.co.za>; Moeketsi Lepheane (MP) <MoeketsiL@openseve.co.za>; LINDAS@SOLIDARITY.CO.ZA; SERVICE@SOLIDARITY.CO.ZA; SACUBO@TELKOMSA.CO.ZA; HAREM@TELKOMSA.CO.ZA; 'Karriem Abrahams' <karr1em@me.com>; NOMIM@CWU.ORG.ZA; TEBO23KORU@GMAIL.COM; MOGALANET@GMAIL.COM; Lionel Samuels <lsamuels2108@gmail.com>; Sontaga Mantlhakga (SR) <MantlhSR@telkom.co.za>; Jannie Kruger <j.kruger@uasa.org.za>; Harry Botha (H) <bothah5@telkom.co.za>; Koos Fourie (JJ) <FOURIEJJ@telkom.co.za>; Martin Louw (M) <martinl@openseve.co.za>; Ntobeko Zondo (N) <NtobekoZ@openseve.co.za>; Phellimon Mashinini (MP) <PhellimonM@openseve.co.za>; booyesen.mashego@yahoo.com; Thabo Lekota (JT) <LekotaJT@telkom.co.za>; Teboho Morobe (TD) <MorobeTD@telkom.co.za>; Jaco Steyn - BCX <Jaco.Steyn@bcx.co.za>; s.siggbi@uasa.org.za
Cc: Andile Mdadane <AndileM@CCMA.org.za>
Subject: Revision of VSP/VERP extension period

Dear All,

Following Organised Labour's request to revise the current VSP/VERP extended application process period, this communication serves to advise that the Company has acceded to revise the current extension period to close on 18 January at 14:00.

Please note that the revised extension does not change the agreed key dates in this process, namely:

- 17 January 2019 – submission of structures,
- 23 January 2019 – workshop in relation to structures
- 24th of January 2019 - opening for application process
- 28 January 2019 – the commencement of the selection process.

Kind regards

Hannelie du Toit



ANNEXURE G

From: karr1em@me.com [mailto:karr1em@me.com]
Sent: 22 January 2019 02:19 PM
To: 'Andile Mdadane' <AndileM@CCMA.org.za>; boitumelof@ccma.org.za
Cc: Michael Hare (M) <MichaelH3@openseve.co.za>; Koos Fourie (JJ) <FOURIEJJ@telkom.co.za>; Harry Botha (H) <bothah5@telkom.co.za>; Hennie Van Der Westhuizen (HJ) <VDWestH@telkom.co.za>; Hannelie du Toit (HR) - BCX - BCX <Hannelie.duToit@bcx.co.za>; Alfie Ngubo (AM) <NguboAM@telkom.co.za>
Subject: RE: SACU Dispute on Disclosure of information

Good Day Boitumelo,

CASE Reference: GAJB25729-18

The attached reference..... Please forward to the Commisioner Mduduzi Khumalo for his attention. The employer is included in this email correspondence.

Please acknowledge receipt.

Karriem Abrahams
SACU
0824566874

From: karr1em@me.com <karr1em@me.com>
Sent: Tuesday, January 22, 2019 2:08 PM
To: 'Andile Mdadane' <AndileM@CCMA.org.za>
Cc: 'Michael Hare (M)' <MichaelH3@openseve.co.za>; 'Koos Fourie (FOURIEJJ@telkom.co.za)' <FOURIEJJ@telkom.co.za>; 'Harry Botha (bothah5@telkom.co.za)' <bothah5@telkom.co.za>; 'Hennie Van Der Westhuizen (HJ)' <VDWestH@telkom.co.za>; 'Hannelie du Toit (HR) - BCX' <Hannelie.duToit@bcx.co.za>; Alfie Ngubo (AM) <NguboAM@telkom.co.za>
Subject: RE: SACU Dispute on Disclosure of information

Good Day Andile,

The attached reference..... Please forward to the Commisioner Mduduzi Khumalo for his attention. The employer is included in this email correspondence.

Please acknowledge receipt.

Thanking You

Karriem Abrahams





DIRECTIVE

"FA17"
181

IN THE COMMISSION FOR CONCILIATION, MEDIATION AND ARBITRATION

Case Number: GAJB 25729-18

In the matter between:

South African Communication Union (SACU) obo members

(Union)

And

BUSINESS CONEXION (BCX)

(Employer)

1. Introduction

- 1.1 This was a s189A facilitation in terms of the Labour Relations Act 66 of 1995, as amended.
- 1.2 The Trade Union referred here supra raised allegations on email of failure to disclose information, on 22 January 2019. I directed the employer BCX to address the issues raised by the union urgently.
- 1.3 On 28 January 2019, the employer sent information to all the labour formations namely; SACU, SOLIDARITY, UASA, CWU, & ICTU. While the other labour formations are mentioned here, however, do not form part of the dispute.
- 1.4 The aforementioned labour formations confirmed receipt of same and raised issues of timing. SACU persisted with the claim of non-disclosure and I directed the parties as follows: any party with a disclosure claim;
- 1.5 The applicant to submit a written application accompanied by a founding affidavit detailing the required information by 03 February 2019.

1.6 The Respondent to file an answering affidavit by 06 February 2019.

182

1.7 The replying affidavit to be filed by 08 February 2019.

2. DIRECTIVE:

2.1 The directive issued on record on 29 January 2019 was not complied with and I hereby direct the applicant party to comply within 7 days from the date of the ruling.

2.2 The Respondent to file a supplementary affidavit if necessary within 3 days, and if not received the commission will accept that there was no desire to do so.

DONE AND SIGNED AT JOHANNESBURG ON THE 15th February 2019.



COMMISSIONER: MDUDUZI KHUMALO



ashley@saku.co.za

From: karriem abrahams <karr1em@me.com>
Sent: Tuesday, March 5, 2019 9:59 PM
To: ashley@saku.co.za; navel@yebo.co.za
Subject: FW: DIRECTIVE GAJB 25729-18- SACU OBO MEMBERS VS BUSINESS CONEXION (BCX)
Attachments: DIRECTIVE GAJB 25729-18- SACU OBO MEMBERS VS BUSINESS CONEXION (BCX).pdf; ATT00001.htm

From: Karriem Abrahams [mailto:karr1em@me.com]
Sent: 18 February 2019 11:28 AM
To: BoitumeloF@ccma.org.za; andilem@ccma.org.za; mdumalo560@gmail.com
Cc: Koos Fourie (JJ) <FOURIEJJ@telkom.co.za>; Hennie Van Der Westhuizen (HJ) <VDWestH@telkom.co.za>; Michael Hare (M) <MichaelH3@openseve.co.za>; Harry Botha (H) <bothah5@telkom.co.za>
Subject: Fwd: DIRECTIVE GAJB 25729-18- SACU OBO MEMBERS VS BUSINESS CONEXION (BCX)

Good Day All,

Please explain the meaning of the email thread below as we complied and submitted the affidavit on the agreed timeframes. The affidavits was dispatched to Andile as well as the commissioners Gmail account. The company submitted a replying affidavit and we subsequently replied to that.

Thanking you

Karriem Abrahams
SACU
0824566874

From: Boitumelo Fatane <BoitumeloF@CCMA.org.za>
Date: 18 February 2019 at 11:07:27 SAST
To: "Hannelie.duToit@bcx.co.za" <Hannelie.duToit@bcx.co.za>, "sacuho@cybersmart.co.za" <sacuho@cybersmart.co.za>, "harem@telkom.co.za" <harem@telkom.co.za>, "sacubo@telkom.co.za" <sacubo@telkom.co.za>
Subject: DIRECTIVE GAJB 25729-18- SACU OBO MEMBERS VS BUSINESS CONEXION (BCX)

Dear Parties

Attached please find directive for your attention.

Kind Regards,



From: Karriem Abrahams <karr1em@me.com>
Sent: Wednesday, 06 March 2019 7:09 PM
To: ashley@saku.co.za; Ashley Englund
Subject: Fwd: DIRECTIVE GAJB 25729-18- SACU OBO MEMBERS VS BUSINESS CONEXION (BCX)
Attachments: Untitled attachment 00070.pdf; Untitled attachment 00073.htm

Karriem Abrahams

Begin forwarded message:

From: Karriem Abrahams <karr1em@me.com>
Date: 18 February 2019 at 11:28:27 SAST
To: BoitumeloF@ccma.org.za, andilem@ccma.org.za, mdumalo560@gmail.com
Cc: Koos Fourie <FOURIEJJ@telkom.co.za>, "Hennie Van Der Westhuizen (HJ)" <VDWestH@telkom.co.za>, MichaelH3@openseve.co.za, Harry Botha <bothah5@telkom.co.za>
Subject: Fwd: DIRECTIVE GAJB 25729-18- SACU OBO MEMBERS VS BUSINESS CONEXION (BCX)

Good Day All,

Please explain the meaning of the email thread below as we complied and submitted the affidavit on the agreed timeframes. The affidavits was dispatched to Andile as well as the commissioners Gmail account. The company submitted a replying affidavit and we subsequently replied to that.

Thanking you

Karriem Abrahams
 SACU
 0824566874

From: Boitumelo Fatane <BoitumeloF@CCMA.org.za>
Date: 18 February 2019 at 11:07:27 SAST
To: "Hannelie.duToit@bcx.co.za" <Hannelie.duToit@bcx.co.za>, "sacuho@cybersmart.co.za" <sacuho@cybersmart.co.za>, "harem@telkom.co.za" <harem@telkom.co.za>, "sacubo@telkom.co.za" <sacubo@telkom.co.za>
Subject: DIRECTIVE GAJB 25729-18- SACU OBO MEMBERS VS BUSINESS CONEXION (BCX)

Dear Parties

Attached please find directive for your attention.

Kind Regards,



Boitumelo Fatane

HO-Case Management Officer: Mediation

Telephone: +27113776937 | Mobile:

Call Centre: 0861 16 16 16 | Website:

<https://www.ccma.org.za>

Gauteng

SENZ'UMEHLUKO - MAKING A DIFFERENCE



A handwritten signature in black ink, consisting of a large, stylized 'P' followed by a series of loops and a final flourish.

"FA19"

Benie Kabemba (Botoulas Krause & Da Silva Inc)

From: Karriem Abrahams <karr1em@me.com>
Sent: Friday, 22 February 2019 12:00
To: andilem@ccma.org.za; mdumalo560@gmail.com; BoitumeloF@ccma.org.za
Cc: Hennie Van Der Westhuizen (HJ); Michael Hare (M); Harry Botha (H); Koos Fourie (JJ); Isamuels2108@gmail.com; Ashley Englund; ashley@saku.co.za
Subject: CASE No GAJB25729-18

186

Good Day all,

The below email thread reference as well as the CCMA correspondence on Monday 18 February 2019, and our subsequent response on this matter.

As a union we are handicapped in no information to properly advise members on this process is forthcoming. The clock is running out and from all avenues the process is being unduly delayed. As SACU, we complied with the request of 29 January 2019 and submitted the affidavit as well as replying affidavit.

The CCMA is failing us as well as our members in they the course of the current delay. We therefore demand a ruling as was promised to us, to take this matter to its logical conclusion. A failure to respond by close of business today, we will take you in agreement with SACU, that we can follow due process.

Thanking You

Karriem Abrahams
SACU
0824566874

From: Demetrius Carollisson - BCX
<Demetrius.Carollisson@bcx.co.za>
Date: 22 February 2019 at 09:56:19 SAST
To: Karriem Abrahams <karr1em@me.com>
Cc: Johan Bower - BCX <Johan.Bower@bcx.co.za>, Vernon Benting - BCX <Vernon.Benting@bcx.co.za>
Subject: FYI

Karriem,

AFYI -

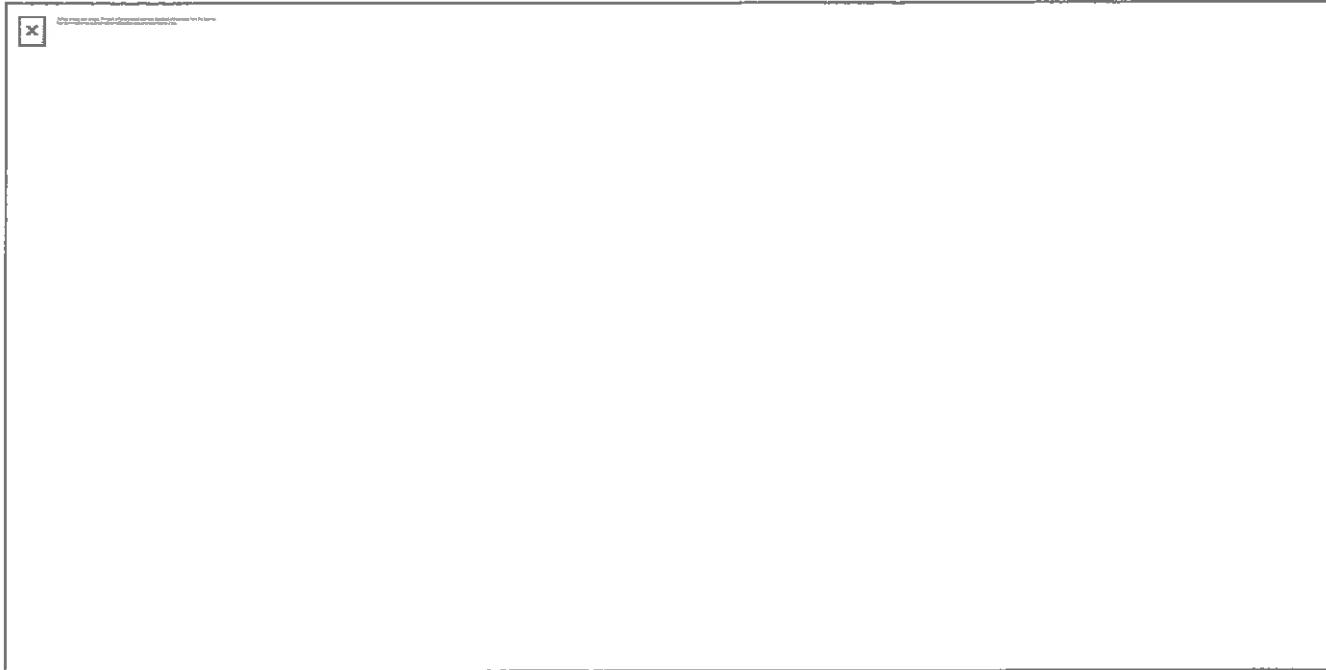
this was raised yesterday by members –
2days including a Saturday to apply?
the assessments also over the weekend?
Now it states you can apply higher, equal or lower level?
No relaxation of entry requirements as per job profile(JP) – but the
JP's are not available?
Neither is the location – and it was indicated in a meeting to Vernon
that they made a mistake to indicate all jobs in "Centurion" but will
not fix it?
And of course neither is the remuneration?

Please advise



187

From: BCX [mailto:TkmBCXBC@telkom.co.za]
Sent: 22 February 2019 08:54
To: BCX-QBR <BCX-QBR@telkom.co.za>
Subject: Stage 2 Application process now open
Importance: High



Dear Colleagues,

Stage 2 Application process now open

We have concluded Stage 1 of the S189A application process. Stage 2 are now open and all affected employees **who have not been placed during Stage 1**, can now apply for the remaining vacancies.

Applications must be submitted via the Online Application process on the Workforce Transition Portal. The following principles will apply:

- You can apply for a maximum of any **two jobs**, listing the jobs in order of preference. This can be **one level higher, same level or lower level jobs**.
 - **Note:** Even though you might have applied for roles during Stage 1, and did not qualify for those roles, you will also not qualify for those roles in Stage 2. You are therefore required to apply for two new roles.
- No relaxation of entry requirements (qualifications, experience, certifications, professional registration etc.) as per the job profile will be permitted during this process.
- Assessments are compulsory for the application of M/S3, M/S4 and M/S5 roles. (See below details on the booking process).
- It is important to note that you must complete the online application process comprehensively and honestly as not to be unduly disqualified from the shortlisting process.

- Please note Stage 2 is open for unplaced affected employees only. The following employees are not eligible for Stage 2 of the current S189 process:
 - Successful applicants during Stage 1 who have now been placed
 - Employees unaffected during Phase 1 of the S189
 - Employees whose VSP/VERP applications have been approved

The following time lines will apply:

- Application will be open from Friday, 22 February 2019 at 08h00;
- Application will close on Saturday, 23 February 2019 at 24h00 (midnight);
- Interviews will be scheduled for Monday, 25 February 2019, therefore please keep your diaries open;
- Invitations will be sent to shortlisted application on Sunday, 24 February 2019, via SMS/calendar invite/phone call.

Herewith more details on the assessment for the M/S3, M/S4 and M/S5 roles.

Who needs to do assessments?

- Assessments are required for all application for levels M/S3, M/S4 and M/S5 roles.
- If you completed assessments during stage 1 you do not need to re-complete the assessments.
- If you have not yet completed assessments, you will need to complete assessments as part of the process.
- If you are applying for an executive level role, there may be an additional assessment which you need to complete.

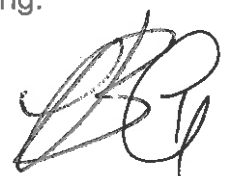
When will assessments be administered?

- Assessments will be conducted as per the below:

Saturday, 23 February	Port Elizabeth, BCX	PE New VC Room	08:00-11:00
	Cape Town, Century City	Executive Boardroom	08:00-11:00
	Centurion, BCX	Multifunction Room 1-4	08:00-11:00
			12:00-15:00
Durban BCX	Dolphin Boardroom	11:00-14:00	
Sunday, 24 February	Centurion, BCX	Multifunction Room 1-4	8:00-11:00
			12:00-15:00

How do I book for assessments?

- Please send an email to Assessments4@telkom.co.za with your preferred date and time, and the title of the job for which you applied to book the assessment session.
- A confirmation email will be sent to you to confirm your booking.



189

What must I bring to assessments?

- Laptop (with Google Chrome loaded) and mouse
- Calculator
- Pen and scrap sheet of paper
- Refreshments

For more information click [here](#) to access the Assessment FAQs.

If you have any further queries on the structures, please contact your respective HRBP.

I would like to remind you that our employee wellness partner, ICAS is available for any support required during this stressful time. ICAS can be contacted on 0800 867 474 or send a please call me to 071 119 2463.

Regards,

