



public enterprises

Department:
Public Enterprises
REPUBLIC OF SOUTH AFRICA

MEDIA STATEMENT

DPE REFUTES CLAIMS REGARDING PORTFOLIO COMMITTEE'S REQUESTS FOR SAA DEAL DOCUMENTS

PRETORIA, 14 December 2023 – The Department of Public Enterprises (DPE) has reiterated the important role of Parliament to conduct oversight and demand accountability, but it refutes claims of non-cooperation with the Portfolio Committee on Public Enterprises in its examination of the Strategic Equity Partnership (SEP) transaction for South African Airways (SAA).

The DPE said any assertions that the proposed purchase of the 51 percent shareholding in SAA by the Takatso Consortium was not conducted in a transparent and fair process were malicious and patently false. The DPE said they were intended to detract from the work of stabilizing SAA.

“The Department of Public Enterprises has done everything according to the prescripts of the law,” the DPE said.

“Any attempts to continue casting aspersions about the integrity of the transaction are meant to sidetrack the public from the hard work that has gone into saving SAA and reviving it into a financially sound and viable national carrier that we can all be proud of,” the DPE said.

“There is no information that is within our legal remit to provide on the SAA transaction that the DPE has withheld from Parliament. All our engagements with the Portfolio Committee attest to our commitment to cooperate fully on every aspect of our work,” the DPE added.

Some of the information being requested is commercially sensitive and confidential.

The following are key facts to note regarding the DPE's engagement with the Portfolio Committee on the submission of documents:

1. **12 September 2023** – The Minister of Public Enterprises, Mr Pravin Gordhan, duly appeared before the Portfolio Committee and presented responses to 16 allegations levelled against him and the DPE by its former director-general Mr Kgathatso Thlakudi. In that presentation the Minister reiterated that the former DG never raised fundamental concerns on the transaction with the Minister.

2. **17 October 2023** – The Minister wrote to the Chairperson of the Portfolio Committee, Mr Khaya Magaxa, informing him that the DPE was willing to share the following documents:
- Valuation.
 - Due Diligence Report.
 - Takatso's B-BBEE documents.
3. **15 November 2023** – The Minister wrote to the Chairperson of the Portfolio Committee, Mr Magaxa, on the submission of supporting documents relating to the SAA transaction, and informed him of the following:
- I note the Portfolio Committee's request for specific documents pertaining to the SEP transaction of SAA.
 - The Department will share the Service Level Agreement (Mandate Letter) between the Department and Rand Merchant Bank (RMB).
 - However, the shortlist of selected entities and the Evaluation Report conducted by RMB cannot be shared because of confidentiality undertakings made to third parties, which cannot be waived. Furthermore, the Share Sale and Purchase Agreement cannot be shared, as it contains a confidentiality clause that prohibits parties from making it public.
 - However, we will endeavour to transparently disclose all documents and information related to this transaction once the transaction has been concluded.
 - You will appreciate that SAA is operating within a highly competitive, yet concentrated, aviation market and must not be commercially disadvantaged in this context.

In all its engagements with the Portfolio Committee and the Standing Committee on Public Accounts (Scopa), the DPE has always maintained that due to confidentiality undertakings pertaining to the aspects of the transaction providing some of the information would not be possible.

At no point has the DPE been offered the option of presenting any of the requested information in camera.

The DPE, as the government shareholder representative, is legally bound to respect any confidentiality agreement it enters into so as to enable seamless engagement with entities that invoke confidentiality clauses to conduct their business affairs, especially those of a material nature.

It is also important to note that the structure of the transaction is being reassessed in light of the current market conditions.

Furthermore, the following points are also worth noting:

- The DPE is constantly advised by lawyers on what the DPE can and cannot do or disclose.
- The DPE expects that as a law-making body abiding by the Constitution, the Portfolio Committee would appreciate the legal advice the DPE is guided by.
- The task of the executive is clear in the Constitution – to implement legally sound policies and decisions of Cabinet.
- All information will be available once a strictly commercial transaction is concluded. The DPE will account fully to Parliament.
- However, the DPE will not strengthen the hand of those who do not want to see any positive outcomes from this Administration – and it is aware that electioneering has started.

ENDS/

For Media Enquiries contact Ellis Mnyandu, DPE Spokesperson:

ellis.mnyandu@dpe.gov.za or 012 431 1228 / 079 828 7779

Issued by the Department of Public Enterprises

14 December 2023