Ministry Justice and Correctional Services

Republic of South Africa

Media Statement
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Minister Lamola commends the Competition Commission and the banking industry for steps towards transformation of the legal profession

True transformation of the legal profession is not just about demographics – it is also about the types of work given to lawyers. Commercial law and conveyancing have historically both been areas of legal practice that have been inaccessible to Black and previously disadvantaged legal practitioners.

One of the main characteristics of the South African economy is its concentration in most of the strategic sectors of our economy. Although one finds many law firms owned by previously disadvantaged individuals, certain lucrative fields of legal practice are dominated by white legal practitioners and firms.

Conveyancing is certainly one of those areas, historically having been an exclusive preserve of white legal practitioners. Many practitioners from historically disadvantaged backgrounds have worked hard and have had to overcome many barriers in order to qualify as conveyancers. Yet, after qualifying to practice in this area of the law they continue to face further barriers and are not given fair and equal opportunities to ply their trade successfully in this area.

The Ministry has thus noted the recent commitments made by various banks, including Standard Bank, Investec, FNB and Nedbank, to reform their conveyancing practices, following advocacy engagements over the past two years.

The banks' renewed commitment is in response to concerns raised by the Competition Commission on the relationship between banks and conveyancers, which the Commission found to be governed through Service Level Agreements (SLAs) and structured in an "exclusionary and anti-competitive manner."

With regards to having more PDI law firms on their conveyancing panels, banks like FNB and Investec have committed to monitoring their SLAs on an annual basis. In particular, they have committed to review their existing SLAs and possibly appoint new conveyancers unto their panel on an annual basis. Standard Bank has committed to limiting the duration of these SLAs to five years.

This means, in effect, that more historically disadvantaged law firms will now have the opportunity to serve on these panels and have access to conveyancing work.

As the Ministry of Justice and Correctional Services we are of the firm view that healthy competition between legal practitioners and law firms will translate into a better and more cost-effective service to the public, and as result expand access to justice.

The banks have committed themselves to:

1) Review agreements indefinite agreements and possibly appoint new conveyancers annually;
2) Remove the minimum investment criteria on attorney performance scorecards; and
3) Remove restrictions on law firms to litigate against banks for matters not related to conveyancing.

Is not only laudable, but is the type of transformative social compacts government envisions with the private sector. It will open up more lucrative areas of legal practice for all legal practitioners.

"It is my sincere hope that this first of many social compacts we will see with strategic sectors in our economy. What we are seeing here is the first step towards a legal charter that assists us to ensure that legal practitioners have equal opportunities in our economy," said Minister Ronald Lamola.

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