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# BULLETIN.

# B U S A

**BUSINESS UNITY SOUTH AFRICA**



BUSA ANTI-CORRUPTION WORKING GROUP (BUSA)

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**PROUDLY SOUTH AFRICAN**



## 1. Introduction

BUSA is the umbrella body representing all levels of business in South Africa. The Anti-Corruption Working Group (“the working group”) has been tasked by BUSA to examine all issues relating to corruption and how it affects our society, as well as measures to combat corruption from a business perspective.

As the representative of the business sector and one of the key-stakeholders in the National Anti-Corruption Forum (NACF), BUSA is committed to combating corruption by educating the business community about the ill-effects and reasons for corruption, the legal environment pertaining to the fight against corruption, the rights and duties of business and individuals, and about measures business can take to minimize, mitigate and combat the scourge of crime.

At the same time the NACF and BUSA recognize that corruption is a global phenomena and that the free flow of capital requires foreign individuals and businesses to readily understand the legal and business environment when investing in South Africa if we are to remain competitive and a participant of the global community.

Potential foreigner investors and –business partners therefore, require a quick reference guide on anti-corruption measures in South Africa including a high-level understanding of their rights, duties, the risks and efforts by government and business to address the risks. Similarly small and medium business enterprises form an integral part of the fight against corruption and their knowledge of the anti-corruption measures and their rights and duties needs to be a part of their business culture.



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## 2. BUSA ANTI-CORRUPTION WORKING GROUP (BACWG)

NAME	COMPANY/ORGANISATION
Ms. Futhi Mtoba	ABASA
Mr. Jerry Vilakazi	Business Unity South Africa
Mr. Vic van Vuuren	Business Unity South Africa
Mr. Glenn Fisher	National Business Initiative
Adv.Simi Pillay -van Graan	Business Against Crime
Mr. Bobby Barua	COM
Mr. Jaques Marnewickie	AHI
Ms. Janette Minnaar	AHI
Mr. Peter Goss	Price Waterhouse Coopers
Mr. Jeff Osborne	RMI
Mr. Anton van Achterburg	Chamber Of Mines
Mr. Graeme Dott	Business Against Crime BAC
Ms. Nele Meyer	GTZ
Mr. Peggy Drodskie	Business Coalition of S.A
Ms. Vikashnee Harbhajan	Business Unity South Africa
Mr. Bruno Kaush	Bathabile



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## 3. NATIONAL ANTI -CORRUPTION FORUM REPRESENTATIVES (NACF)

Name	Company/org
Ms. Futhi Mtoba	ABASA
Mr. Jerry Vilakazi	Business Unity South Africa
Mr. Vic Van Vuuren	Business Unity South Africa
Ms. Hermien Botes	National Business Initiative
Adv. Simi Pillay -van Graan	Business Against Crime
Mr. Bobby Barua	Chamber of Mines
Mr. Jaques Marnewickie	AHI
Ms. Jeanette Minnaar	AHI
Mr. Peter Goss	Price Waterhouse Coopers
Mr. Jeff Osborne	RMI

## 4. What is Corruption?

This is a question that most people overlook but is an important contributor in knowing how to solve corruption. One needs to have a background of what corruption is as well as the implications and consequences there of in order to fight it.

Below is a definition of corruption taken from " *corruption memo, February 2008*"

***Corruption is the act of unfairly or illegally influencing a decision-making process through the giving or receiving of a benefit for the person making the decision or a third party connected to the decision maker. The act of influencing the decision maker may require the decision maker to perform an act or an omission that results in a benefit accruing to the person providing the benefit or to a third party connected to such person. Corruption occurs at all levels of society, both in the private and public sector. Both the person giving the benefit and the person receiving it will be guilty of entering into a corrupt relationship, as will any third parties who knowingly were part of such a relationship.***

## 5. PROJECTS



### 5.1 Development of a code of integrity

The objective of this project is that business drafts a code of integrity which describes business practices, standards and steps to be taken in order to commit to and join in the fight against corruption.

The code should be the participatory process and reflect lessons learnt in the international endeavor in eradicating corruption.

In close cooperation with the BUSA Anti-Corruption Working Group, the service provider will formulate a draft of the Code of Integrity and support the BACWG in organizing a process in which the draft will be presented to and mandated by business. Business will commit to the code at a public launch.

### 5.2 Development of a Guide on Anti-Corruption Measures (for SME?)

The object of this project is to design a booklet for small and medium enterprises on anti-corruption legislation and anti-corruption measures. It aims to show how SME's can protect themselves against corruption from within their own structures and what to do if confronted with corruption from external players.

The booklet should, inter alia, cover the following:

- Why corruption is harmful to business and development
- Overview over content of anti-corruption legislation
- Helpful measures and instruments to fight corruption
- Examples and best practices from business

The booklet should be written in easy language and contain practical examples and descriptions of instruments.

The Service Provider is expected to work closely with business in order to compile instruments and examples.

The booklet will be produced in printed form as well as posted on the website of BUSA.

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### 5.3 Development of a Anti-corruption Brochure for Foreign Investors

The objective of this project is to develop a brochure/leaflet on corruption for foreign investors which shows the commitment of South African business and government to the fight against corruption. The leaflet will give an overview over AC legislation, measures to be taken if confronted with corruption etc.

The service provider will work closely with BACWG and Foreign Chambers of Commerce.

### 6. PRICE FIXING AND ITS IMPACT ON COMMUNITIES BUSINESS PRESENTATION BY JANETTE MINNAAR AT THE THIRD NATIONAL ANTI-CORRUPTION SUMMIT

4 – 5 AUGUST 2008

The Batho Pele principle represents: "A better life for all South Africans by putting people first". The act of corruption, or price-fixing, as we are discussing in this session, serves self interest above the interests of others.

Not only is price fixing and cartel-forming criminalized by the Competition Act, but the damage done and the detrimental impact on communities are significant. Price-fixing and corruption slows much needed economic development by stifling free and fair competition. When companies form cartels, market dominance is achieved and often maintained for lengthy periods - the smaller businessman is effectively eliminated. Entrance into the market by new role players is more difficult because of the monopoly held by the cartel. Consumers do not have access to and cannot freely select the quality and variety of goods and services they desire. Local communities have to pay more for products and services because the price is artificially manipulated. The fixing of a price of a product causes prejudice or harm to broader society and sadly, it is most often the poorest of the poor who suffer most.

These practices are immoral and unethical. It is not good, right or responsible behavior and compromises the universal values of integrity, honesty, transparency and fairness. Price-fixing is in direct opposition to the principles of corporate social responsibility and good corporate citizenship as promoted in the well-known King 2 report on corporate governance.

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Doing business in an ethical way pays in the long run. Ethical companies attract and retain better talent, protect their reputation more easily, build trust in the community and are more profitable and sustainable.

Our hands are not tied and there are many existing structures and initiatives in the market which we can utilize to curb corruption. Examples are:

1. The United Nations Global Compact which is a framework for businesses that are committed to aligning their operations and strategies with ten universally accepted principles in the areas of human rights, labor, the environment and anti-corruption. The initiative was started because it was felt that business should play a greater role in making corruption unacceptable.

Principle 10 of the Global Compact states: "Businesses should work against corruption in all its forms, including extortion and bribery". Companies are challenged to join governments, UN agencies and civil society to realise a more transparent global economy.

2. The Integrity Pact (IP) developed by Transparency International. The IP is a tool aimed at preventing corruption in public procurement. It contains rights and obligations to the effect that neither side will pay, offer, demand or accept bribes, or collude with competitors to obtain a contract or engage in such abuses while carrying it out.

The IP (Integrity Pact) provides companies with a level playing field where all competitors are bound by the same rules, thereby discouraging bribes.

3. The World Economic Forum initiated the Partnership Against Corruption Initiative (PACI) which began as a sector specific project for the engineering and construction industry, as a practical step towards implementation of anti-corruption measures. Many companies in South Africa have signed PACI.
4. The International Business Leaders Forum and the China Business Leaders Forum are two forums where companies partner to promote transparency.

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5. The US Federal Sentencing Guidelines, first published in 1991 and updated in 2004, encourage ethical conduct in US corporations. Businesses have to:
  - 1 "Ensure that they have an effective compliance and ethics programme;
  - 2 evaluate periodically the effectiveness of the organization's compliance and ethics programme; and
  - 3 Periodically assess the risk of criminal conduct and ... take appropriate steps to design, implement, or modify each requirement ... to reduce the risk of criminal conduct identified through this process."

The Federal Sentencing Guidelines have been incorporated into the South African King 2 report on corporate governance as part of corporate-ethics management recommendations and they will be strengthened in the King 3 report (to be published early 2009).

Organizations can take internal steps to combat corrupt practices. For example:

1. Adopt a code of ethics with a set of chosen values and incorporate it into the strategy and daily operations of the organization.
2. Follow the code up by training and ongoing awareness. Continuous efforts need to be made to ensure that principles and codes are integrated into other management systems.
3. Implement a reporting facility or a "hotline" where employees and stakeholders can safely report crime and irregularities.

In conclusion, Business Unity South Africa and its members support free and fair competition and we will continue to endorse the efforts of the Competition Commission and take part in collaborative anti-corruption initiatives such as this Summit and the National Anti-corruption Forum. We applaud the valuable work done by the Competition Commission and we trust that the recent successes of this watchdog body will serve as a stern warning to potential transgressors.

July 2008

*Dr Minnaar is an Associate of the Ethics Institute of South Africa and represents business under the auspices of the AHI*

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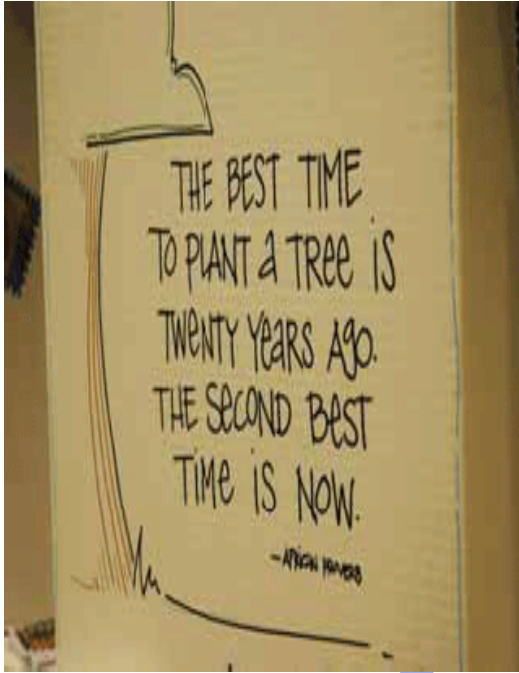
7. BACWG Meetings 2009

DATE	TIME	VENUE
21-Jan-2009	10:00am – 3:00pm	Busa Offices
04-March-2009	10:00am-1:00pm	Busa Offices
15-April-2009	10:00am-1:00pm	Busa Offices
27-May-2009	10:00am-1:00pm	Busa Offices
01-July-2009	10:00am-1:00pm	Busa Offices
12-Aug-2009	10:00am-1:00pm	Busa Offices
30-Sept-2009	10:00am-1:00pm	Busa Offices
11-Nov-2009	10:00am-1:00pm	Busa Offices

Busa members are welcome to participate in the BACWG, in this regard please contact (Terrence. M) Use the contact details below.

## 8. BUSA CONTACT DETAILS

For any comments or suggestions please see the contact details below.



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