

Adam Ismail  
Partner



#### Area of speciality

M&A and BEE. I focus on the consumer sector, financial services and real estate.

#### Experience in ESG (focus being within SA and especially in the deal making / financial market space)

I led the Webber Wentzel team that advised PepsiCo Inc and its South African subsidiaries, Simba and

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Pioneer Foods, on the implementation of two conditions imposed on them by the Competition Tribunal. These were to establish a trust for the benefit of their 12 000+ South African employees, holding ZAR1.655 billion worth of shares in PepsiCo Inc (listed on Nasdaq); and to create a fund to which PepsiCo/Simba and Pioneer Foods would contribute ZAR600 million for the development of emerging farmers and black SMMEs and to advance education and skills development in the sector. This was a unique and first of its kind B-BBEE transaction, where the South African employees received shares in a foreign listed holding company on such a scale. In addition, the shares were gifted to the employees, there were no funding arrangements.

I also advise listed and unlisted companies on matters of governance, particularly the roles, duties and responsibilities of social and ethics committees. I have also served on one of those committees.

#### Thoughts on ESG as a whole in the context of SA

In a couple of areas SA is ahead of the game, especially in relation to the rights and protection of employees. The recent amendment to the Competition Act gives the Minister of Trade, Industry and Competition certain legal rights to protect the public interest when approving mergers. The Minister uses that authority to approach a merger approval in a constructive way: firstly to minimise harm and secondly in seeking proactive steps by the merger parties to contributing to SA Inc. The PepsiCo deal was a stand-out example of this approach.

Where I am seeing ESG the most is in a consciousness by boards of directors, probably in keeping with King IV, that their companies' stakeholder base is wider than initially thought. It extends beyond shareholders and customers to other interest groups, both specific and non-specific. A lot of multinationals already have this level of sophistication and are bringing it to SA.

#### Hurdles | challenges within this sector

There is always the risk of over-regulating a sector and compliance becoming prohibitive from a cost perspective. It is best to target the big players, because even though small South African businesses also have a significant impact on ESG on an aggregated basis, it is unwise to squeeze small business too hard. SA is a unique economy, given its high unemployment rate - people can only earn a living through entrepreneurship and those small businesses help to keep the economy growing.

#### Some personal information, eg how did you get into this speciality

I trained as an M&A lawyer and entered the market when there was an M&A boom, in the early 2000s. Through that experience, I got access to boards of many significant companies. With the advent of the King Codes on Corporate Governance, I evolved as a practitioner with ESG experience garnered in the trenches. This sector has over the last couple of year become a lot more sophisticated, including new disciplines like environmental compliance.

I feel strongly about inequality in SA, and decided to use my M&A skillset to assist with BEE structuring, to ensure that deals are structured on a responsible and sustainable basis and to advise clients how to structure these types of transactions properly. It is not only about getting maximum points for as little effort as possible, no matter the consequences. It should be tackled rather as creating a structure that is sustainable.

A related passion and skillset for me was being a client representative in discussions with labour unions. I have had a number of really good experiences over the years.

#### Interesting fact(s) about yourself / your achievements

I love hiking in the mountains around Cape Town as often as I can and serving community-based organisations based on the Cape Flats. ●

