



**competition**commission  
south africa

# **REVISED ANNUAL PERFORMANCE PLAN 2024/25**

**BASED ON STRATEGIC PLAN 2020 – 2025**

Resubmitted to the Department of Trade, Industry and Competition on 13 October 2024

# MINISTER'S FOREWORD

The Annual Performance Plan (APP) identifies the outputs, output indicators and targets that an entity aims to achieve in the new financial year. The Executive Authority is responsible for providing direction on the development and implementation of policies and strategic priorities of entities in line with their respective mandates, and to ensure the APP is aligned to government's priorities.

The Competition Commission (Commission) continues to demonstrate a steadfast commitment to its mandate, playing a crucial role in promoting a competitive economy that benefits all South Africans. The revised 2024/25 APP of the Commission is part of the collective efforts of **the dtic** group's drive toward the attainment of the priorities of the 7<sup>th</sup> Administration including increased industrialisation, strengthened economic transformation and building a capable state within its defined mandate.

The revised APP 2024/25 is hereby submitted in accordance with the Revised Framework on Strategic and Annual Performance Plans.



Mr Parks Tau, MP

Minister of Trade, Industry and Competition

Date: 30 October 2024

# ACCOUNTING AUTHORITY'S FOREWORD

The revised Annual Performance Plan (APP) for the financial year 2024/25 marks the fifth and final year of the Competition Commission's (the Commission) 2020-2025 Strategic Plan. This presents a unique opportunity for the Commission to accelerate on the realisation of stated goals and strategic outcomes of the current strategy. It is also an opportunity to reflect on the outcomes of the implementation of the current strategy with a view of formulating a new Strategic Plan which will define the Commission's strategic goals in its next strategy cycle commencing on 1 April 2025 ending 31 March 2030. The 2019 amendments to the Competition Act, which have expanded the mandate of the Commission, and the 7th administration priorities will be a principal focus for the new 2025-2030 strategy. The 7th administration has identified key priorities to drive socio-economic change in South Africa: inclusive growth and job creation, reduction of poverty and tackling high cost of living and building a capable, ethical and developmental state.

The 2024/2025 financial year also marks the 25th anniversary of the competition authorities. In September 2024 the competition authorities celebrated 25 years of competition regulation in South Africa. The Commission is using this momentous milestone to retrace the steps competition authorities have taken in shaping the country's economic landscape, safeguarding consumer interests, and fostering a culture of competition.

This revised APP represents the last mile in the execution of the 2020-2025 strategy. It demonstrates the Commission's continued commitment to implementing the 2019 amendments and a renewed focus on outcomes and impact of the Commission's work in contributing towards the achievement of inclusive economic growth, the reimaged industrial strategy and a deconcentrated economy. The revised APP also aims to align the Commission's work with the priorities of the 7th administration and the Department of Trade, Industry and Competition's (**the dtic**) 10 core outputs, reflecting our commitment to fostering a competitive and inclusive economy that benefits all South Africans. This involves introducing new targets, reframing some of the old targets and changing programs to ensure alignment with government priorities while maintaining an outcomes-based focus.

The Commission's prioritisation framework:

- aligns with the government priorities of the 7<sup>th</sup> administration;
- seeks to prioritise competition issues on markets that have a material impact on low income consumers; and

- contribute to the creation of opportunities aimed at addressing the entry, participation and expansion of firms owned by historically disadvantaged persons (HDPs) and small and medium enterprises (SMEs) in the economy.

A more competitive economy is critical in the promotion of growth, job creation and an expanded export base. Some of the key tools that will be deployed in driving these initiatives will be market inquiries and exemptions.

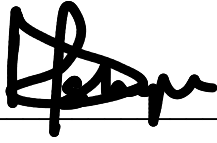
During this financial year, the Commission will continue to deepen its focus on food and agricultural market, including its price monitoring work. The Commission plans to shift its focus towards investigations and litigation that achieve greater outcomes in the South African economy including systemic enforcement work to remove competition issues and barriers to market access and firm expansion in priority sectors. The Commission will also identify sectors where cooperation arrangements amongst firms may overcome scale or common goods problems that are hindering growth in the dtic targeted industrial sectors. Market inquiries will also continue to be an effective tool that the Commission will deploy in this financial year in a manner that is efficient whilst achieving significant outcomes. The Commission will deepen the use of its advocacy function for resolution of cases, promotion of awareness and deepening compliance with the Competition Act. The Commission will also adopt and deploy advanced technologies for the detection, investigation and other operations as part of its response to a more digitised operating environment and more effective enforcement in the digital markets.

On the international front, the Commission will have the privilege of hosting the BRICS International Competition Conference in 2025. This will be the first International Competition Conference after the expansion of BRICS, in 2023. Given the magnitude of the work, preparations for the conference will start in 2024. The Commission will also continue to leverage on its participation in various multilateral bodies to prioritise work on digital markets, food, cross border cartels and other key priorities. Furthermore, the Commission will continue to learn from other competition authorities in the world and contribute to the learnings of these authorities as we share our experiences in various areas of our work.

It must be pointed out that the revised 2024/2025 APP will be executed in a constrained fiscal environment which unavoidably requires a careful balancing of priorities.

I am grateful to the staff and the management team of the Commission who have tirelessly focused on the realisation of the mandate of the Commission. I would like to also express my appreciation to the Honourable Minister Parks Tau, for his guidance. Together with the

Commission's management team and employees, I look forward to the challenges and opportunities that lie ahead as we pledge to protect and promote competition for the benefit of consumers and for a transformed and inclusive economy. All of these efforts are essential for achieving inclusive economic growth.

A handwritten signature in black ink, appearing to read 'Doris Tshepe', positioned above a horizontal line.


Doris Tshepe  
Commissioner

## Official Sign-Off

It is hereby certified that this revised Annual Performance Plan:

- Was developed by the management of the Competition Commission under the guidance of Minister of the Department of Trade, Industry and Competition.
- Considers all the relevant policies, legislation, and other mandates for which the Competition Commission is responsible.
- Accurately reflects the Programs, Key Performance Indicators and Targets which the Competition Commission will endeavour to achieve over the period 2024/25 financial year.

**Mr Amos Moledi, Chief Financial Officer**

Signature:  \_\_\_\_\_

Date: 14 October 2024

**Ms Doris Tshepe, Commissioner**

Signature:  \_\_\_\_\_

Date: 14 October 2024

**Mr Parks Tau, MP**

**Minister of Trade, Industry and Competition**

Signature:  \_\_\_\_\_

Date: 30 October 2024

## Abbreviations

<b>Abbreviation</b>	<b>Full title</b>
<b>ACF</b>	<b>African Competition Forum</b>
<b>ACFTA</b>	<b>African Continental Free Trade Area</b>
<b>BRICS</b>	<b>Brazil, Russia, India, China and South Africa</b>
<b>CAC</b>	<b>Competition Appeal Court</b>
<b>Commission</b>	<b>Competition Commission South Africa</b>
<b>CMS</b>	<b>Council for Medical Schemes</b>
<b>CSD</b>	<b>Corporate Services Division</b>
<b>dtic</b>	<b>Department of Trade, Industry and Competition</b>
<b>EXCO</b>	<b>Executive Committee</b>
<b>FDI</b>	<b>Foreign Direct Investment</b>
<b>GDP</b>	<b>Gross Domestic Product</b>
<b>HMI</b>	<b>Health Market Inquiry</b>
<b>ICASA</b>	<b>Independent Communications Authority of South Africa</b>
<b>ICN</b>	<b>International Competition Network</b>
<b>IPAP</b>	<b>Industrial Policy Action Plan</b>
<b>ICT</b>	<b>Information and Communication Technology</b>
<b>KMS</b>	<b>Knowledge Management System</b>
<b>MANCOM</b>	<b>Management Committee (Divisional Managers, Principals, Heads of Department)</b>
<b>MCD</b>	<b>Market Conduct Division</b>
<b>MOU</b>	<b>Memorandum of Understanding</b>
<b>MTBPS</b>	<b>Medium Term Budget Policy Statement</b>
<b>MTEF</b>	<b>Medium Term Expenditure Framework</b>
<b>M&amp;A</b>	<b>Mergers and Acquisitions</b>
<b>NDP</b>	<b>National Development Plan</b>
<b>NEDLAC</b>	<b>National Economic Development and Labour Council</b>
<b>NGP</b>	<b>New Growth Path</b>
<b>NHI</b>	<b>National Health Insurance</b>
<b>OECD</b>	<b>Organisation for Economic Cooperation and Development</b>
<b>OIPMI</b>	<b>Online Intermediate Platforms Services Market Inquiry</b>
<b>OTC</b>	<b>Office of the Commissioner</b>
<b>SADC</b>	<b>Southern African Development Community</b>
<b>SMMEs</b>	<b>Small, Medium and Micro Enterprises</b>

<b>SOCs</b>	<b>State Owned Companies</b>
<b>Tribunal</b>	<b>Competition Tribunal South Africa</b>
<b>TFTA</b>	<b>Tripartite Free Trade Area</b>
<b>WTO</b>	<b>World Trade Organisation</b>



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# INTRODUCTION

The Competition Commission (the Commission) has revised its Annual Performance Plan (APP) for the financial year 2024/25 to align with the priorities of the 7<sup>th</sup> Administration in general and those of the Department of Trade Industry and Competition (dtic). The Commission is one of the three competition authorities in South Africa established in terms of the Competition Act, with the Commission being an investigative body. The Annual Performance Plan of the Commission signals the priorities of the Commission for the rest of the financial year. As the Commission celebrates twenty five (25) years of competition regulation, the Commission is also busy crafting a new Strategic Plan for the period 2025 to 2029 and a APP for the 2025/26 financial year.

The South African economy is recovering from the effects of a series of crises (including the devastating effects of the Covid-19 pandemic, energy crisis, global and local logistics challenges, geopolitical tensions and major policy shifts in the global environment), which have resulted in slow growth over an extended period of time, high food prices, high unemployment rate, high cost of living and slow pace of transformation. The 7<sup>th</sup> Administration has identified the following priorities to respond to these challenges and set South Africa on a trajectory of socio-economic change for the better: inclusive growth and job creation, reduction of poverty and tackling high cost of living and building a capable, ethical and developmental state. In response to these priorities, **the dtic** has adopted the following priorities: review and accelerate implementation of industrialisation policy and strategy that promotes jobs and rising incomes; transformation that builds an inclusive economy; building a capable state – build greater capacity to ensure that national objectives are achieved through our ability to plan and develop strategies; and creating stability across **the dtic** family, ensure systemic alignment across the state, and filling strategic vacancies.

The Commission has looked at its revised APP and programs to align with the identified priorities of **the dtic** either through reframing some of its targets, introducing of new targets and changing the programmes that underpin some of our targets to ensure alignment with government priorities whilst continuing with the outcomes-based focus. Specifically, to align with the priorities of the 7<sup>th</sup> administration, the Commission will prioritise interventions that will yield the following outcomes:

- (a) **Improve participation of Small and Medium Enterprises and firms owned by Historically Disadvantaged Persons in the Economy:** The Commission's

Concentration Tracker identified low participation of small and medium businesses as one of the key anomalies in the South African economy with SMMEs participation. This is coupled with an economy that continues to reflect the legacy of the past with low participation of black people and women. The participation of youth in the economy is also an area of concern for the Commission. Economic activity in South Africa continues to be focused on urban areas within metropolitan areas with unique challenges being experienced in the township and rural economies. The Commission will prioritise interventions to deal with barriers to entry and participation in general, including regulatory barriers within the economic cluster of government.

The Commission will prioritise instruments like the buyer power provisions of the Act, excessive pricing and exemptions to support this outcome. In our reactive work, that is complaints and notifications dealing with this outcome, the Commission will look at more agile processes to resolve these issues. The Commission will also increase its proactive work to respond to the challenges in this area. Over the 2024/2025 financial year, the Commission has prioritised completion of certain investigations, fast tracking the resolutions of key cases in litigation, improved agility of the merger regulation function and intensive advocacy on various areas including improving uptake on buyer power provisions, excessive pricing and use of exemptions to improve access and participation in key markets.

**(b) Intensify enforcement against conduct that reduces contestability of markets and competition within markets:** Enforcement against prohibited conduct in catalytic sectors of the government to support industrialisation will be prioritised by the Commission leveraging on lessons learnt during the Covid-19 pandemic including the use of truncated investigations, greater collaboration of relevant programs within the Commission and with other agencies and other innovations the Commission is looking at. These interventions will also be applied in areas that can contribute to reduction of the high cost of living in South Africa and sectors that the Commission has prioritised.

The Commission will fast track enforcement in the following areas to support reduction of high cost of living in South Africa:

**(c) Competition regulation for improved access to key inputs and cost of inputs for production of goods and services:** The reduction of the cost of living in South Africa or general and improved competitiveness of exports in high value manufactured goods and high value services may benefit from improved access to inputs and reduction of cost of those inputs. In this regard, the Commission will look at instruments that look at the

structure of the market (through market inquiries and advocacy programs, etc.), improved collaboration by players (through exemptions and mergers) and fast tracking enforcement in key areas.

The Commission has published terms of reference on two relevant market inquiries (one focusing on polymers and the other focusing on steel). The Commission is reviewing responses from stakeholders and will soon make a decision on how it proceeds in these areas. The Commission expects to register significant progress on various enforcement cases before the end of the financial year on cases related to critical inputs like gas. The Commission is also expecting higher uptake on various block exemptions that are in place at the moment.

**(d) Competition regulation for improved market structure in prioritised markets in the**

**Economy:** The Commission's Concentration Tracker concluded that 40.3% of markets were highly concentrated with a presumptively dominant firm (these markets include: Farming inputs (various seeds and seed treatment, fertiliser), Agro-processing (grain processing for human consumption, fisheries), "Sin" industries (alcohol, gambling and cigarettes), Healthcare (medical schemes and administration, pathology), Communications (mobile, FTTH, publishing and broadcasting) and Upstream steel value chain (iron and ferrochrome mining, crude steel production) and chemicals (plastics, ethanol). The study also identified the markets that were highly concentrated with no presumptively dominant firm in about 29.2% of markets (Farming inputs (grain storage, fungicides and insecticides, animal feed), Agro-processing (grains processing for animal consumption, bread, poultry, sugar processing), Healthcare (hospitals and pharmacy), Transport (airlines and commercial vehicles), Financial services (all areas of insurance, banks).

The study also identified low levels of participation in the economy more generally but especially in concentrated sectors. Numerous concentrated sectors with broader participation of smaller fringe firms unable to scale. SME's represent 95% of firms, 38% of employment but only 24% of value by tax-paying firms, compared to OECD average of 50-60% of value. The Commission's work in general will look at dealing with structures of key markets and effects of those structures on the economy, consumers and other industries. The Commission will develop a plan for prioritised interventions to prioritise areas of intervention on market structure, with time horizon for this likely to be 10 to 15 years for execution. Such a plan will require a whole of government approach for it to succeed as Competition Regulation has limits that other instruments can deal with.

(e) **Improved responsiveness, capability, efficiency and sustainability of the**

**Commission:** The effectiveness and responsiveness of the Commission is key in supporting economic growth through industrialisation, employment creation, reduction of cost of living, transformation and developing a capable state. The Commission will in this financial year focus on improving turnaround times in relation to large cases in merger control, prioritise investigations and completion of exemption. The Commission will also look at innovation to improve the agility and quality of its work through digitalisation focusing on such areas as merger analysis, investigations and cartel detection. Support for public procurement has also been identified as a key area of supporting the state to deliver services to the people. The Commission will look at improving its capabilities in the areas of human capital, productivity and technology to achieve high productivity and greater impact. Building on the successes achieved on good governance, we will focus improving and digitalisation of key processes to achieve more transparency and accountability in the management of public resources. The Commission will continue to focus on its priority sectors.

The Commission will continue with its focus on the implementation of the amendments to the Competition Act through enforcement, market inquiries, merger control and advocacy tools. The Commission will prioritise the implementation of provisions related to buyer power (balancing of bargaining dynamics between firms, setting of rules for fair and equitable access and improved competition outcomes in markets), price discrimination (“likely effect of impeding the ability” of SMEs/HPI’s to “participate effectively”) and continue to prioritise provisions with respect to effective participation or expansion by SMEs/HPI’s in section 12A(3)(c); and greater spread of ownership in section 12A(3)(e). In addition to this, the Commission will also continue with work on priority sectors and prioritisation of various themes in its work.

In recognition of the potential synergies that can be achieved through a whole-of-government approach, the Commission has identified collaboration with other entities within **the dtic**, Development Finance Institutions and other regulators as key to the realisation of the objectives of the Competition Act. The Commission has recently renewed its Memorandum of Understanding with the National Empowerment Fund (NEF) and will seek greater collaboration with the Industrial Development Corporation (IDC), Small Enterprise Finance Agency (SEFA), Development Finance Institutions in other departments and provinces. The Commission will explore ways of improving collaborative work with sector regulators, building on the current work being done, and other regulators in general.

The Commission's research work includes collaborative research under the auspices of the International Competition Network (ICN) (including research on Food Markets and Agriculture), research work with other authorities in the continent under the auspices of the African Competition Forum (ACF) (with some of this work expected to contribute to regulations of the African Continental Free Trade Area (AfCFTA)). The Commission will conduct research to better understand the issues and sharpen its focus and required interventions. Additionally, case related research work will be prioritised to ensure effectiveness of our enforcement activities.

The Commission, is currently developing a new Strategic Plan in a process that will be encourage participation and contribution of key stakeholders. The new strategy will seek to build on the successes of the current and previous strategies and projecting a new strategic direction in an environment that is defined by high pace of change, increasingly unpredictable and is characterised by more frequent external shocks. The fiscal environment demands more innovation for the ability to do more with less resources. The Commission will integrate its reflections over the last 25 years and celebrations in its normal work in a resource efficient manner.

Below is an overview of the strategy of the Commission:

Our Vision, Mission and Strategic Goals are illustrated below:

	<h2 style="text-align: center;">VISION</h2>		<h2 style="text-align: center;">MISSION</h2>
<p style="text-align: center;"><b>A growing, deconcentrated, and inclusive economy</b></p>		<p style="text-align: center;"><b><i>To promote a regeneration of the economy and maintain competition whilst advancing public interest objectives to enhance economic participation for all South Africans.</i></b></p>	
<p>Our vision is for the realisation of a growing and inclusive economy. Economic growth remains a particularly compelling vision to aspire towards in the context of the Covid-19 pandemic, where there are prospects of an economic downturn. The Commission will play its role to ensure that there is healthy competition between firms, new businesses can emerge, existing businesses can expand, concentration levels in markets are lowered and wherein all citizens are able to participate in the economy.</p>		<p>In a depressed economic environment, the Commission will support efforts by Government aimed at economic regeneration. The Commission will use its tools to ensure that viable, competitive businesses can remain in the market. The Commission will advance public interest objectives through its work, with a particular consideration for small and black-owned businesses. Our efforts will be aimed at fostering job-creation, industrialisation and export promotion whilst expanding the opportunities for SMMES and the participation of blacks, youth, and women in the economy.</p>	
<div style="display: flex; align-items: center;">  <h2 style="margin: 0;">OUTCOMES BASED STRATEGIC GOALS</h2> </div>			
<ol style="list-style-type: none"> <li>1. Enforcing and regulating towards economic growth and enhanced economic participation.</li> <li>2. Advocating for improved compliance and pro-competitive public policy outcomes.</li> <li>3. A people-centric high-performance organisation.</li> </ol>			

**Figure 1: COMMISSION'S VISION & MISSION & GOALS**

Our Strategic Outcomes are illustrated below:





# STRATEGIC OUTCOMES

To achieve the above goals, the Commission will pursue the following outcomes:

- 1) Efficient and effective merger regulation & enforcement
- 2) Competitive, Contestable and Deconcentrated Markets
- 3) Improved public interest outcomes
- 4) Improved compliance & awareness
- 5) Existing competitive small and large businesses remain in the market
- 6) Improved understanding of market dynamics in priority sectors
- 7) Improved co-ordination on the application of economic policy and competition policy
- 8) Increased importance of developmental perspectives in domestic and international competition law discourse
- 9) Sound Corporate Governance
- 10) Secure, harmonious, and conducive working environment
- 11) Highly motivated, engaged, and productive workforce
- 12) Responsive corporate services systems to support employees.

In fulfilling its mandate and vision, the Commission has identified 46 performance indicators which it seeks to achieve in the MTEF. This revised Annual Performance Plan for 2024/5 comprises three sections: Part A: Our mandate, which deals with the mandate of the Commission as per terms of the Competition Act and all other applicable legislation and policies, Part B: Our strategic focus- this section provides an analysis of developments in the external and internal operating environment, providing context to the conditions in which the strategy has been developed; Part C: Measuring our performance - this section deals with the work program which the Commission has set for the next three years, along with the budget.

# Part A: OUR MANDATE

## 1. Updates to the Relevant Legislative and Policy Mandates

### 1.1 The Competition Act

The Commission is one of three institutions established in the Competition Act ( 89 of 1998 as amended (“Competition Act”) alongside the Competition Tribunal (“Tribunal”) and the Competition Appeal Court (“CAC”). The Commission is an investigative and prosecutorial authority, the Tribunal is an adjudicative authority, and the CAC is an appeal body over competition matters.

The Commission is empowered to investigate, control, and evaluate restrictive business practices, abuse of dominant positions, conduct market inquiries, conduct impact studies, and review mergers in order to achieve an efficient and competitive economic environment, balancing the interest of workers, owners, and consumers, and focused development for all South Africans. The stated purpose of the Competition Act is to:

- Provide all South Africans equal opportunity to participate fairly in the national economy;
- Achieve a more effective & efficient economy in South Africa;
- Provide for markets in which consumers have access to and can freely select quality & variety of goods & services;
- Create greater capacity & environment for South Africans to compete effectively in international markets;
- Restrain trade practices which undermine a competitive economy;
- Regulate the transfer of economic ownership in keeping with the public interest; and
- Establish independent institution to monitor economic competition.

Section 21(1) of the Competition Act provides more detail on the responsibilities and mandate of the Commission. The Commission’s responsibility is to amongst others:

- Implement measures to increase market transparency.
- Implement measures to develop public awareness of the provisions of the Competition Act.
- Investigate and evaluate alleged contraventions of Chapter 2.
- Grant or refuse applications for exemptions in terms of Chapter 2.
- Authorise, with or without conditions, prohibit or refer mergers of which it receives notice in terms of Chapter 3.

- Conduct impact studies in terms of section 21A.
- Negotiate and conclude consent orders in terms of section 63.
- Refer matters to the Competition Tribunal, and appear before the Tribunal, as required by the Competition Act.
- Negotiate agreements with any regulatory authority to co-ordinate and harmonise the exercise of jurisdiction over competition matters within the relevant industry or sector, and to ensure the consistent application of the principles of the Competition Act.
- Participate in the proceedings of any regulatory authority.
- Advise, and receive advice from, any regulatory authority.
- Over time, review legislation and public regulations, and report to the minister concerning any provision that permits uncompetitive behaviour. and
- Deal with any other matter referred to it by the Tribunal.

## **1.2 Updates to institutional policies and strategies**

### ***1.2.1 Implementing the amendments to the Competition Act***

The Competition Act was amended to, amongst other things, introduce provisions that clarify and improve the determination of prohibited practices relating to (1) restrictive horizontal and vertical practices, (2) abuse of dominance and price discrimination, (3) strengthening the penalty regime, (4) introducing greater flexibility in the granting of exemptions that promote transformation and growth, strengthening the role of market inquiries and merger processes in the promotion of competition and economic transformation – through addressing the structure of markets, (5) protecting and stimulating the growth of small and medium-sized businesses and firms owned and controlled by historically disadvantaged persons, persons, (6) and promoting a greater spread of ownership, in particular by historically disadvantaged persons and workers. The recent amendments to the Competition Act came into operation on 12 July 2019.

Following the amendments, the Commission has published and will continue to publish guidelines in respect of key amendments such as the Revised Public Interest Guidelines for merger control. The Guidelines will provide greater business certainty and aid compliance with the Competition Act along with its amendments. The Jurisprudence is being developed in various areas of the amendments, such as excessive pricing and merger control. The Commission continues to prioritise case referrals in areas of the amendments where no or limited jurisprudence exists to enable the development of that jurisprudence and greater legal certainty.

The Commission has begun the task of implementing the amendments to the Competition Act which has resulted in more complex assessment of merger transactions and an increased number of transactions approved with conditions as a result of section 12A (3)(e) of the amendments, including an increasing number of conditional approvals related to Employee Share Ownership Plan (ESOP) and HDP transactions. The Commission has made significant headway with the ongoing market inquiries. In the 2024/25 financial year, the Commission will be conducting four market inquiries with one due for completion in the 2024/25 financial year and the three in the subsequent financial years. The completion of these inquiries is anticipated to bring about significant changes in the applicable markets since the Commission can take remedial action where there are findings of adverse effects. Furthermore, the Commission will initiate two additional market inquiry in the 2024/25 financial year. The Commission is investing a substantial number of resources in market inquiries to ensure that they are conducted efficiently and completed timely.

In this regard, the Commission is establishing a Market Inquiry division tasked with giving effect to the market inquiry provisions in the Competition Act. This new division will also manage the implementation of recommendations from completed market inquiries. The establishment of the new division will deal with the current overreliance on secondments from other divisions to resource market inquiries and enable efficiencies in the management of inquiries. The Commission will also be undertaking more work in abuse of dominance cases. The Commission will initiate new complaints with a public interest focus in priority sectors in line with the new amendments. These will be first of many cases dealing with the new provisions for both investigation and litigation precedent. The Commission will build on the momentum that has become more apparent during the 2023/24 financial year as evidenced by initiations and referrals in critical areas of the amendment to the Competition Act.

The Commission will also conduct an impact study in the 2024/25 financial year under the new provisions of the Competition Act.

### ***1.2.2 Economic Reconstruction and Recovery Plan 2020***

The Commission will support the Economic Reconstruction and Recovery Plan, 2020, and **the dtic's** outputs that are relevant to the work of the Commission. The Commission's objectives are set out in the Competition Act. As an investigative body, the Commission can determine the outcomes of these objectives by aligning its work to meet the objectives of the National Development Plan (NDP) and **the dtic**.

### 1.2.3 Priority Sectors

The Commission's priority sectors for the 2020 – 2025 Strategic Planning period are summarised in the table below. The priority sectors are identified for enforcement action advocacy, market inquires or for other tools such as impact assessments. The Commission's prioritisation framework emphasises the importance of resource allocation and timely responses to reactive tasks such as merger filings, complaints, and leniency applications. Proactive efforts should focus on self-initiated actions, market inquiries, advocacy, and cartel detection. The extent of impact must be considered, balancing high impact in non-priority areas against low impact in priority areas. The 7<sup>th</sup> Administration's priorities align closely with the framework, emphasising inclusive growth and job creation (participation of SMMEs and HDPs), poverty reduction, and addressing the high cost of living (low-income consumer). The Commission prioritises these sectors agriculture, healthcare, digital markets, and retail due to their significant impact on inclusive growth and the cost of living. Agriculture is crucial due to high food prices competition issues in the sector and its impact on the economy more especially the rural economy. Healthcare is vital for social welfare and the success of the National Health Insurance project. Digital markets and AI are key growth areas with potential for job creation and innovation. Retail is a major employer with strong potential for SMME and HDPs participation. The industrial sector is essential for growth and job creation, with a focus on addressing competition bottlenecks. Other sectors like infrastructure, financial services, mining, and construction also play important roles but may not be central to competition issues. The Commission's approach ensures that any work with a significant impact on inclusive growth or the high cost of living is prioritised, regardless of the sector.

A brief rationale on the identified sector is provided, with an indication of the potential sub-sectors which the Commission may focus on.

**TABLE 1: PRIORITY SECTORS**

Sector	Rationale	Sub-sectors
<b>1. Agriculture, Food &amp; Agro-processing</b>	The sector continues to be a priority due to its significance on the lives of South Africans, particularly the impact of high prices on the poor. The sector has huge potential for job creation and SME participation but is characterised by developing and legacy competition concerns. The Commission intends to address issues of access (entry) and participation in the value chain, with a focus on fresh produce markets, retail, and processing levels. The issue	<ul style="list-style-type: none"> <li>• Meat (red meat, poultry, fish)</li> <li>• Fresh Produce (Fruits &amp; vegetables)</li> <li>• Dairy value chain</li> </ul>

Sector	Rationale	Sub-sectors
	<p>of land (agriculture) and economic participation will also be a focus area, especially the role of financing as a constraint in facilitating increased participation. The Commission will also focus on merger public interest considerations as a tool through which it can contribute to new entry and inclusive participation. The Commission will continue to focus on food inflation (particularly in the grains, feed, proteins subsectors). The Commission’s work in this sector will be through enforcement and advocacy tools (including research and impact assessments) but considers the sector as suitable for market inquiries as well.</p>	<ul style="list-style-type: none"> <li>• Breads and cereals</li> <li>• Basic food products and/or other “essential” foods</li> </ul>
<p><b>2. ICT &amp; Digital Markets</b></p>	<p>Digital markets entail technology-driven businesses, including platform-based business models. These are typically multi-sided markets with high network effects and economies of scale of such size that it renders competition issues more complex. Digital markets are characterised by high rates of investment and innovation, which lead to rapid technological progress in the sector, and to increased disruptive innovation, in many other markets that adopt to technological changes. The increasing prominence of the digital economy requires competition authorities to devote more time in understanding the dynamics emerging, and to regulate in a manner that strikes a balance between supporting the efficiencies and consumer benefits often arising whilst addressing anti-competitive outcomes such as concentration and abuse of dominance. The competition issues arising in digital markets intersect with other regulations (e.g., privacy laws, intellectual property, financial regulation, tax, labour etc.) and thus require a coordinated approach among regulators. The Commission will be contributing to the policy discourse in regulating these markets whilst also monitoring for anti-competitive conduct. Further, global developments in respect of the role of online search and social media platforms on competition in related markets such as news publishers, AdTech, among others require closer scrutiny as they raise not only potential competition concerns in these markets but constitutional issues as well. Other areas of focus include data and fintech as well as collusive algorithms. A market inquiry may be an ideal tool to use to probe this sub-sector.</p>	<ul style="list-style-type: none"> <li>• ICT infrastructure</li> <li>• Data</li> <li>• Broadcasting</li> <li>• Platforms, Big Tech, FinTech &amp; E-commerce</li> <li>• Infant industries</li> </ul>

Sector	Rationale	Sub-sectors
	<p>South Africa's ICT market is highly concentrated, both at the wholesale and retail levels. The Commission has established that data (connectivity) prices are very high, particularly for mobile prepaid data. There is also lack of competition in subscription television broadcasting services, with one dominant player in the market. The market remains concentrated, even after issuing of various licenses by the sector regulator. As such, the Commission will continue its focus on the ICT sector.</p>	
<p><b>3. Energy</b></p>	<p>The South African energy sector is highly regulated and is currently the subject of policy reforms in most of its sub-sectors. The Commission will be monitoring the unbundling of Eskom and the effect of the restructuring on the market. Competition issues of focus will also include the ability of IPPs to access the grid and distribution channels, the relationships between Eskom, Independent Power Producers and municipalities. Further, pricing dynamics in the electricity market/value chain will be monitored.</p> <p>Given the energy crisis in the country and globally, the Commission will advocate for the development of a supportive and pro-competitive regulatory framework and competitive pricing of alternatives and upstream inputs; accelerate the investigation and/or prosecution of pricing or bottleneck cases; and engage in proactive research and intelligence gathering from cases to understand dynamics in the energy sector.</p> <p>Other areas within the energy sector the Commission is prioritising is Gas, including ensuring implementation of LPG market inquiry recommendations.</p>	<ul style="list-style-type: none"> <li>• Renewables/ IPPs</li> <li>• Electricity IPPs</li> <li>• Gas (LPG, Natural Gas)</li> </ul>
<p><b>4. Transport &amp; Automotive</b></p>	<p>A well-integrated and efficiently functioning transport system is key to enabling and unlocking economic growth, and an important mechanism in fighting poverty, given its financial significance on poor households. The South African transport system (roads, railway and ports) is diverse and largely regulated by SOCs, national, provincial and local governments. The sector is characterised by inefficiencies due to apparent lack of coordination between different spheres of government. The recommendations arising from the market inquiry into Public Passenger Transport will be important in addressing some of the challenges in the transport</p>	<ul style="list-style-type: none"> <li>• Automotive Aftermarkets: services &amp; repairs, short-term insurance</li> <li>• Automotive Components</li> <li>• Ports &amp; Rail</li> <li>• Public Passenger</li> </ul>

Sector	Rationale	Sub-sectors
	<p>network.</p> <p>Ongoing investigations into Ports and Rail will also continue, with the aim of addressing behavioural and legacy issues arising in these sub-sectors.</p> <p>The Commission will also continue its enforcement work in the automotive sector during the strategy period, with an emphasis on enforcement action in automotive aftermarkets. The work in automotive aftermarkets work is a result of more than a decade of complaints from the public regarding parts distribution, retail, and service/repairs of vehicles. Component manufacturing will also remain a focus area.</p>	<p>Transport</p>
<p><b>5. Construction services, Property &amp; Infrastructure</b></p>	<p>In the recent past, the Commission undertook extensive work in the construction sector in relation to anti-competitive conduct that manifested prior to 2010 FIFA world cup construction projects. The Commission has succeeded in prosecuting firms for their anti-competitive conduct in this sector. The government also prioritised this sector and has successfully reached pro-transformation settlement agreements with various market participants. However, competition problems persist, with the Commission still receiving complaints relating to conduct in the various sub-sectors of construction services. The Commission also continues to investigate several bid-rigging complaints, and this continues to be a focus for advocacy and enforcement action.</p> <p>During this period, the Commission will also pay attention to Built Environment professionals: their role in construction projects and the role of the Councils with regards to promoting entry and participation.</p> <p>Another area of focus will be residential estates with regards to the rules and practices of role-players, which may have competition implications.</p>	<ul style="list-style-type: none"> <li>• Construction services</li> <li>• Residential estates</li> <li>• Property finance</li> <li>• Built Environment Professionals</li> <li>• Bid-rigging</li> </ul>
<p><b>6. Banking &amp; Financial Services</b></p>	<p>The banking and finance sector have the potential to contribute towards greater inclusion of historically marginalised groups – by extending access to banking and insurance services, by helping to promote and mobilize household savings, and by easing broader</p>	<ul style="list-style-type: none"> <li>• Banking</li> <li>• Property finance</li> <li>• Insurance</li> </ul>



Sector	Rationale	Sub-sectors
	<p>access to credit. The sector also has a crucial role as a provider of potentially dynamic intermediate services. The Commission will continue its enforcement focus in addressing contraventions of the Competition Act which arise, including the banking cartel relating to foreign exchange market.</p> <p>The Commission will also follow policy reforms in the national payments system to identify competition issues which can be advocated for. Equally, reforms that are underway in the Audit Profession which have a competition element will be monitored.</p>	<ul style="list-style-type: none"> <li>• Audit Profession</li> </ul>
<b>7. Manufacturing</b>	<p>The manufacturing sector is important for the South African economy given its contribution towards the GDP and the number of employees that the sector absorbs. Manufacturing includes Intermediate Industrial Inputs (IIP) used to manufacture different outputs in various sectors. The Commission's study into concentrated markets revealed that the sector is highly concentrated. During this strategy period, greater focus would be in the value chains of various industries in the broader manufacturing sector, particularly where there is high concentration. A market inquiry may be an ideal tool to use to probe into these value chains.</p>	<ul style="list-style-type: none"> <li>• Chemicals, pesticides and agrochemicals</li> <li>• Forestry/paper/pulp/corrugated packaging</li> <li>• Steel/fabricated metals</li> <li>• Plastic</li> </ul>
<b>8. Healthcare</b>	<p>The healthcare sector is undergoing major policy reforms with the proposal of a National Health Insurance. Commission will be advocating for the recommendations arising in the Market Inquiry on Private Healthcare, which are crucial to the achievement of an efficient universal healthcare system as proposed in the NHI. Equally, mergers in this sector, will be monitored to prevent further concentration, particularly in relation to facilities.</p> <p>The investigation into various pharmaceutical drugs will continue in this period.</p> <p>Given the developments in respect of the NHI, the Commission will focus on developments in the primary healthcare sub-sector, which is likely to form a critical component of the NHI. This will be done through research to better understand the evolving structure and products/service offering and strategies within the retail pharmaceutical space, increased use of merger control to monitor</p>	<ul style="list-style-type: none"> <li>• Facilities</li> <li>• Pharmaceuticals</li> <li>• Medical Equipment</li> <li>• Medical and hygiene supplies at retail level</li> </ul>

Sector	Rationale	Sub-sectors
	developments in this market, particularly in respect of contractual arrangements (DSPs, exclusivity), and focus on conduct that leads to retail exclusion of independents. Further, the Commission will focus on the diagnostics level of the sector, with a particular focus on the cost drivers of pathology/radiology services pricing and market structure dynamics.	

### 1.3 Updates to relevant court rulings

The following court rulings are worth highlighting:

**TABLE 2: KEY COURT RULINGS 2019/20 - 2023/24**

Item	Case	Contribution to Jurisprudence
Abuse of dominance		
1.	Competition Commission v Media 24	Average total cost (ATC) plus intention has no place in the scheme of section 8(c) of the Competition Act. Average Avoidable Cost (AAC) may be regarded as an appropriate cost benchmark for a predation case based on section 8(c) of the Competition Act.
2.	Competition Commission v Computicket	Likely foreclosure test, i.e. foreclosure may be actual or potential.
3.	Sasol v Competition Commission	The test for excessive pricing involves, firstly, establishing the actual price, secondly, determining the economic value of the product (made up of capital and operational costs), evaluating whether the relationship between the actual price and economic value is reasonable, and assessing consumer detriment.
4.	Uniplate v Competition Commission	The test of likely foreclosure also requires factual evidence of that likely foreclosure.
5.	Competition Commission v Dis-Chelm	A pandemic may confer market power where there is no dominance in ordinary circumstances.
6.	Babelegi v Competition Commission	A pandemic may confer market power - "lucky monopolist theory". CAC set aside Tribunal's penalty by regarding Babelegi's size, the very few masks sold at an excessive price, and the harm Babelegi had suffered because of its own excessive pricing conduct

7.	Competition Commission v Tsutsumani Business Enterprises	Tribunal confirmed the principle of inferential market power in Babelegi, and held that context always matters, and in the context the pricing conduct can be used to infer such dominance. Owing to the pandemic, and the resultant supply shortage an SMME had the power to act independently of its competitors on the supply side and independently of the customer and therefore was dominant. It established that excessive pricing is possible within the context of a public procurement process.
8.	Competition Commission v Ampath, Lancet and Pathcare	Consent agreements in terms of which the 3 major pathology labs agreed to significantly reduce their prices for PCR and rapid antigen Covid-19 tests.
9.	Competition Commission v Coca-Beverages Africa	The CAC clarified the test for breach of merger conditions under section 39(2)(b) and endorsed the BB Investments test, that tests for the merger specificity of retrenchments.
10.	Emedia Investments (Pty) Ltd South Africa v Multichoice (Pty) Ltd and Another	The CAC, within the context of interim relief proceedings and within the broader context of the Act, endorsed a context based and transformative constitutional approach.
<b>Cartel</b>		
11.	Bank of America Merrill Lynch & Others v Competition Commission	South African competition authorities have jurisdiction to prosecute international cartels which have an effect within South Africa – qualified effects test (foreseeable, direct or immediate, and substantial effect in the Republic) and sufficient connecting factors to establish subject-matter jurisdiction and personal jurisdiction.
12.	Competition Commission v Omnico (Pty) Ltd & Coolheat Cycles Agencies	Passive participation in cartel conduct / publicly distancing oneself from conduct.
13.	Competition Commission v Standard Bank;  Competition Commission v Waco Africa Pty Ltd & others	A ruling on jurisdiction must precede other orders, including an order to disclose a record of investigation in a review.
14.	Competition Commission v Pickfords	Section 67(1) is a procedural time bar, capable of condonation. Section 85(1)(c)(ii) includes the power of the Tribunal to

	Removals SA (Pty) Ltd	condone non-compliance with section 67(1) on good cause shown.
15.	Competition Commission v Stuttafords Van Lines Gauteng Hub (Pty) Ltd and others	A “uniform approach” or uniform pricing among cartel members is required to establish consensus. The evidence must match the pleaded case in the referral and the Competition Tribunal cannot have regard to evidence outside of this.
16.	Competition Commission v Irwin & Johnson and Another	The CAC reiterated that characterisation is an inherent part of the interpretation of section 4(1)(b) of the Act, and that agreements sought to be impugned need to be interpreted in a business-like manner.
17.	Tourvest Holdings (Pty) Ltd v Competition Commission and Another (195/CAC/Oct21) [2022]	The CAC reiterated that Section 4(1)(b) properly construed, requires the parties to be in an actual or potential horizontal relationship at the time that they commit the offence in issue/ Misdirection to conduct inquiry on the basis that the horizontal relationship can be located in the impugned conduct itself. The concept of characterisation was reaffirmed
<b>Cartel – Initiation</b>		
18.	Omnia Fertiliser Ltd v Competition Commission	Restatement of Yara principles - valid referral of complaint on the basis of a tacit initiation.
19.	Power Construction	Validity of industry wide initiation. Re-affirm the principles in Woodlands that it is permissible to add a firm to an existing complaint, and Yara/Omnia principles that an initiation does not require any formality.
20.	Mondi Ltd & Another v Competition Commission	Access to the record of the decision to initiate pending review.
21.	Competition Commission v Beefcor (Pty) Ltd and another	CT8 withdrawal of a complaint initiated in terms of s49B (1) brings proceedings to an end and that complaint referral cannot be reinstated.
<b>Leniency</b>		
22.	Blinkwater Mill (Pty) Ltd v Competition Commission	Confirmation of Commission’s discretion in applying its Corporate Leniency Policy.
23.	Competition Commission v Allens Meshco	A marker and leniency applications are separate and distinct from one another.
<b>Single Economic Entity</b>		
24.	Delatoy Investment v	A “group of firms” may constitute a “firm”.

	Competition Commission	
25.	Shoprite Checkers and Computicket v Competition Commission	The question whether the doctrine of a “single economic entity” applies to section 8 of the Act must be determined at trial stage not at exception stage.  CAC set aside findings made by the Tribunal that the Commission could not prosecute both the parent company and its wholly owned subsidiary (i.e., a single economic entity) for abuse of dominance under section 8 of the Competition Act. Section 8 prohibits a dominant firm in the market from abusing its dominance by, among other things, engaging in conduct which has the effect of excluding its competitors from the market.
26.	Competition Commission v Blue Collar Occupational Health	Two firms prosecuted on unilateral conduct on the basis that they were in a partnership for the purposes of Competition Law. The partnership need not be in existence at the beginning of the conduct as one needs to consider conduct as a whole.
<b>Characterisation</b>		
27.	Dawn Consolidated Holdings (Pty) Ltd and Others v Competition Commission	Development of the principle of characterisation.
28.	Africa Pest Prevention CC v the Competition Commission	Characterisation on the basis that an individual representing two different firms cannot collude with herself.
29.	Competition Commission v I & J	Characterisation of restraints in a manufacturing agreement as vertical and not horizontal.
30.	Aranda Textile Mills v Competition Commission	Constitutional compliance requires a characterisation enquiry. The absence of a characterisation enquiry could produce a false positive. The conduct must be found to fall within the object of section 4(1)(a) or (b) of the Competition Act.
<b>Administrative Penalty/Settlement</b>		
31.	Competition Commission and ArcelorMittal South Africa Ltd	Highest penalty imposed on a single firm in a settlement agreement.
32.	Competition Commission v Life Healthcare Group & Joint Medical Holdings	Highest penalty imposed for failure to notify and prior implementation of a merger.

	Ltd	
33.	School Uniforms	The Commission entered into settlement agreements with major school groups which undertook to conduct their school uniform procurement processes in a fair and competitive manner.
34.	Competition Commission v Law Society of the Northern Provinces	Consent Agreement in terms of which the law society agreed to repeal its anti-competitive rules and guidelines.
35.	Data Market Inquiry Consent Agreements	Consent Agreements in terms of which Vodacom and MTN agreed to reduce its retail data prices, zero-rating public sites, provide access to free basic data and enhance data pricing transparency to its customers.
36.	Competition Commission v Wesgrow Potatoes (Pty) Ltd and HZPC Holland B. V	Settlement Agreement provided a remedy in terms of which seed growers will be able to access the Mondial seed potato variety.
37.	Competition Commission v Foskor (Pty) Ltd	Tribunal confirmed that a consent agreement may be amended by the Commission and a respondent due to changed market circumstances. However, such an amendment requires confirmation by the Tribunal.
38.	Life Wise (Pty) Ltd t/a Eldan Auto Body v Competition Commission of South Africa	The CAC and the Tribunal asserted the principle of finality of court orders, including consent agreements, within the context of a variation application.
Merger Notification		
39.	Competition Commission v Hosken Consolidated Ltd and Tsogo Sun Holdings Ltd	Once a firm has acquired control over another firm in any of the instances contemplated by section 12(2)(a) – (g), the crossing of a further “bright line” does not result in the acquisition of control it did not have before.
40.	SOS SABC & Multichoice v Competition Commission	Confirmation of Commission’s powers to investigate the notifiability of mergers.
41.	MIH eCommerce Holdings (Pty) Ltd & We Buy Cars (Pty) Ltd v Competition Commission	The theory of harm related to potential entry is an historic exercise, not a counterfactual of likely entry if the merger is prohibited.

42.	Shoprite Checkers	Tribunal confirmed that we can conclude different consent agreements with competitors following a market inquiry.
43.	Akzo Nobel N.V. acquisition of Kansai Plascon Africa Ltd and Kansai Plascon East Africa (Pty) Ltd	The Tribunal confirmed the Commission's decision to prohibit this transaction. The Commission found that the merger combines two major brands in decorative , namely Dulux and Plascon which are the closest and effective competitors of each other. Full reasons of Tribunal are pending.
44.	Corruseal	Confirmed that behavioural conditions are insufficient to address permanent structural change in a market which poses an anti-competitive threat of indefinite duration
Merger control – conditions		
45.	Joyson/Takata merger	Merger control cannot be used to preserve the Commission's ability to enforce its cartel prosecutorial functions, in unique circumstances such as when the target firm is likely to exit the market absent the merger.
46.	Distell v Ab InBev	Approach to the interpretation of merger conditions – merger conditions must be interpreted consistently with the Tribunal's reasons for its decision.
Mergers – Public interest		
47.	Sibanye / Lonmin merger	Assessment of merger specific retrenchments – confirmation of Momentum principles, in that a rational process has to be followed in order to determine the number of potential job losses.
48.	Burger King	The merger would have resulted in a dilution of BEE shareholding from ca.68% to 0% in Burger King SA. Merger conditions agreed after the Commission prohibited merger, signalling the importance of employment, investment and the greater spread of ownership when assessing public interest.
Mergers – Analysis		
49.	Imerys SA (Pty) Ltd and Andalusite Resources (Pty) Ltd v Competition Commission	If a merger raises a substantial prevention or lessening of competition, the choice whether to prohibit or approve the merger with conditions is an exercise of true discretion by the tribunal.
50.	MIH eCommerce Holdings (Pty) Ltd & We Buy Cars (Pty) Ltd v Competition Commission	The theory of harm related to potential entry is an historic exercise, not a counterfactual of likely entry if the merger is prohibited.

51.	Mediclinic v Competition Commission	The Constitutional Court in its judgment reasserted the centrality of the Constitutional, in particular section 27 of the Bill of Rights in interpreting the Competition Act.
Access to information		
52.	Group 5 v the Competition Commission	The term “any person” in Commission’s Rule 15 includes a litigant, and a litigant is entitled to access the Commission’s record, save for any documents that are restricted <sup>1</sup> .
53.	Competition Commission of South Africa v Group Five Construction Ltd	The Constitutional Court found that the High Court and the CAC does have jurisdiction to hear the review, however, went further and ultimately held that the Tribunal did not have jurisdiction to adjudicate a Promotion of Administration of Justice Act (PAJA) or legality review even in the event that it relates to the interpretation and application of the Tribunal's exclusive jurisdiction pertaining to chapters 2, 3 and 5
54.	Competition Commission v Standard Bank (ZACC)	Commission Rule 15 which is a public access right does not apply to requests for documents in Tribunal proceedings, as such requests must be dealt with using Tribunal rules.
Tribunal Rules		
55.	Goodyear v the Competition Commission	The Tribunal’s rules do not alter substantive law. They remain subordinate to the Competition Act. Tribunal’s rules do not have the legislative standing to negate an agreement reached between the Commission and the complainant to extend the period of investigation in terms of the Competition Act.

## PART B: OUR STRATEGIC FOCUS

### 2. Updated situational analysis

#### 2.1 External environment analysis

##### 2.1.1 Economic outlook

The South African economy is beginning to show off-shoots of growth, with the gross domestic product expected to rise to 1.3 percent in 2024 from 0,6 percent in 2023. Unemployment remains extremely high, currently estimated at 32.9 percent in the first quarter of 2024. While headline inflation appears to be decelerating towards the mid-point of the target inflation range, at an estimated 4.9 percent, this is off the back of significantly high prices that typically

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<sup>1</sup> This has now changed, as Commission’s Rule 15 was amended on 25 January 2019.



characterise the South African economy. Household consumption expenditure continues to be under pressure, projected to be around 1.3 percent in 2024, and likely to remain challenging over the short to medium-term. Given these conditions, consumer markets remain an important area of focus as cost-of-living challenges remain top of mind and consumer spending is likely to be focused on essentials.

Although structural constraints, particularly in network industries such as logistics and energy, have, over the past, created significant economic uncertainty with the concomitant negative impact on investments, efforts to resolve these challenges are showing initial stages of turnaround and creating positive business confidence. This notwithstanding, the lackluster growth in the number of small businesses is not sufficient to address the deficit in economic growth and participation in the economy. While small businesses are a key feature of high-performing economies given their relative contribution to employment and value added, this is not the case in South Africa.

The energy transition will drive the demand for 'metals of the future', likely leading to renewed deal-making appetite in the mining, energy and resources sectors. Similarly, growth in the online economy and the increasing impact of artificial intelligence on business is likely to see the facilitation of entry by firms in various markets, followed by a drive towards consolidation afterwards.

Some sectors are showing signs of growth, particularly industries such as fintech and insurtech, logistics and delivery, agriculture, telecommunications, retail and the restaurant and hospitality sectors. However, key sectors such as construction, mining, and manufacturing are expected to remain subdued in the short-term.

The current conditions point to a likely renewed appetite for mergers and acquisitions as investors show cautious optimism about the future of the South African economy. This consolidation, largely likely to be driven by market leaders, may lead to increased market concentration and its associated concerns regarding the prospects of economic transformation. Moreover, this consolidation is likely to be driven by the need for incumbents and dominant players to bolster their growth and diversification strategies, leading to potential concerns about the leveraging of market power from core markets into related or adjacent markets. The limited growth in the number and relative contribution (value added and profitability) of small businesses in the South African economy points to the need for a concerted policy and regulatory effort to improve the ease of doing business and the development of strategies for scaling up support and strengthening small business development as part of an inclusive industrialisation programme.

Globally, although showing some level of disinflation, inflation remains relatively high and public debt levels are at record levels. These risks, along with sustained geopolitical tensions, and the unprecedented number of national elections around the world, point to continued uncertainty and likely market volatility going forward. There is also a major shift from globalisation to localisation for country specific reasons and customisation. Climate change remains a global risk, necessitating a shift in attitudes to emphasising sustainability alongside consumer welfare. Continentally, the African Continental Free Trade Area (AfCFTA) is set to accelerate, with first steps in commitments to reduce tariffs and establishing implementing institutions.

The economic cluster of the 7<sup>th</sup> administration is targeting a 5.4% annual growth driven by the six catalytic sectors (agriculture, mining, manufacturing, tourism, digital services and new industries).

### ***2.1.3 Localisation***

As part of the Commission's commitment to supporting the recovery plan and fostering economic growth, the Commission issued final guidelines on collaboration between competitors on localisation initiatives on 18 March 2022. These guidelines, as outlined in section 79(1) of the Competition Act, were developed to articulate the Commission's policy approach on matters within its jurisdiction.

A "Localisation Initiative" is defined as any project or effort aimed at achieving greater levels of localisation by increasing the share of total procurement of an identified input from local manufacturers. The guidelines apply to firms, trade unions, or NGOs that voluntarily choose to participate in a localisation initiative. Localisation initiatives can be initiated by any government department, industry, trade union, or Non-Governmental Organisation (NGO).

Collaboration between government-initiated localisation initiatives (e.g., dtic Localisation initiative) and those arising from industry processes is acknowledged. Given the potential for collaboration between competitors to amount to prohibited conduct, the guidelines aim to provide clear guidance on how localisation initiatives can be appropriately identified and implemented without raising competition concerns.

Since the issuance of the guidelines, the Commission has noticed changes towards awareness and engagement from various stakeholders, including government entities, industries, trade unions, and NGOs. The guidelines have provided a framework for

collaboration that ensures adherence to competition principles while advancing the goals of the recovery plan.

#### ***2.1.4 Global and regional competition policy developments***

##### **BRICS**

At both a global and regional level, there is an impetus towards harmonisation of competition policy and greater cooperation between competition authorities with regards to cross-border mergers and cartel investigations. A memorandum of understanding (MOU) signed in May 2016, between the competition authorities of all BRICS member states, has paved the way for deepened cooperation and coordination and has contributed to a diversification of perspectives and voices on competition policy, given the increasing importance of these emerging economies to the global economy.

The Commission is a member of BRICS Competition Law and Policy Center, and actively participates in the BRICS Working Groups on pharmaceuticals, food value chains, automotive and digital markets, where research is undertaken collaboratively from a developing economy perspective. The digital markets working group, provides an opportunity for authorities to strengthen their understanding of these new markets, which are poised as the markets of the future. It is evident that regulators need to adapt their capacity and tools in order to better respond to merger and enforcement cases which arise in these markets.

The BRICS Competition Law and Policy Centre (BRICS Competition Centre) project was initiated and is coordinated by the Skolkovo – Higher School of Economics Institute for Law and Development, a Moscow-based international think tank. The aim of the BRICS Competition Centre is to provide the meeting point for BRICS competition law research, ensure the scientific support for the work of BRICS competition authorities and to promote a distinct BRICS competition law agenda for the global economy. The BRICS Competition Centre collaborates with a number of partner institutions worldwide and relies on a group of internationally known competition law and policy experts, public intellectuals, industry and technology leaders.

The work of the BRICS Competition Centre will allow to increase the interaction in the work of the competition authorities of the BRICS countries, thus enhancing their cooperation, and to bring together policy makers from all BRICS countries when deciding the agenda for future enforcement action. It will also aim to improve the qualified expertise in BRICS competition

law systems on key issues of global economy, especially in the face of growing technological and information inequality.

### **The Tripartite Free Trade Area (TFTA)**

Three African regional economic communities (RECs) have taken a bold step towards advancing intra-Africa trade, consistent with the African Union's action plan for boosting such trade. The TFTA comprises of three regional economic blocks, Common Market for Eastern and Southern Africa (COMESA), the East African Community (EAC) and the Southern African Development Community (SADC). South Africa signed the agreement in July 2017 after conclusion of the negotiations for the legal text in May 2017; ratification took place in October of the same year. The TFTA agreement, bringing together twenty-six member and partner states of COMESA, EAC and SADC was signed by the third tripartite summit in the resort town of Sharm El Sheikh, Egypt. Five days after the TFTA signing, the African Union (AU) summit of heads of state and government launched negotiations for the Continental Free Trade Area (CFTA), subsequently renamed African Continental Free Trade Area, (AfCFTA).

Based on the frameworks and experience of the respective RECs as well as Member/Partner States interests, the parties agreed that the TFTA Protocol should be established as a nonbinding cooperation framework with no supranational authority to replace or intrude on the work of national competition authorities.

The objectives of the Protocol are to:

- enhance the welfare of the people in the TFTA by: (i) protecting all market participants' freedom to compete fairly by prohibiting anti-competitive practices; (ii) protecting the opening of Member/Partner States' markets against the creation of barriers to interstate trade and economic transactions by market participants; Confidential (iii) protecting consumers in the TFTA against unfair trade practices; (iv) promoting economic integration and sustainable development in the TFTA;
- enhance the competitiveness of TFTA undertakings in global markets by exposing them to competition within the TFTA; and
- bring the TFTA's competition and consumer protection policy and practice in line with international best practices. The Protocol provides for the ongoing development of procedures and criteria that could enhance cooperation amongst established competition authorities to address anti-competitive business practices in the TFTA region.

### **The African Continental Free Trade Area (AfCFTA)- Committee on Competition Policy**

The AfCFTA Protocol on Competition Policy is an agreement by State Parties to ensure that competition contributes to trade, inclusive growth, industrialisation, innovation and sustainable economic development in Africa. The Protocol will help to create a fair and competitive business environment in Africa by promoting competition and addressing restrictive business practices. MSMEs, in particular, will benefit from a fair and competitive business environment. Consumers will benefit lower prices and more choices.

The Commission has played an important role in the development of the Protocol and continues to contribute to the development of regulations in the following areas:

- Merger threshold;
- Market dominance threshold;
- Procedures of the AfCFTA Competition Authority ;
- Cooperation mechanism (AfCFTA competition authority and national competition authorities); and
- AfCFTA Competition Tribunal/Appellant Body.

Under the auspices of the ACF, the Commission continues to provide support to the process, including through various research projects aimed at supporting the regulations.

#### ***2.1.5 Digitisation and implementation of the Competition Act***

The Commission has been grappling with regulation of competition in an increasingly digitised world, a challenge that is confronting authorities and governments across the world. The dynamics of digital markets bring a threat of more complex potential anticompetitive conduct and outcomes, including:

- a) Merger control – challenges include possible under-enforcement, jurisdiction over international platforms, notification of mergers involving international platforms, mandatory notification of mergers of certain high impact digital firms irrespective of traditional assets-turnover thresholds, notification of mergers involving international platforms without assets and turnover in South Africa and establishing appropriate theories of harm.
- b) Cartel Conduct - digital markets present new forms of collusion and new challenges for the Commission to detect and investigate co-ordinated conduct.
- c) Abuse of dominance and vertical restraints – increased dominance and unilateral conduct; the global reach of digital markets means that conduct found to be

anticompetitive in one jurisdiction could be considered anticompetitive in other jurisdictions.

The Commission has published a strategy paper titled Competition in Digital Economy which outlines how it intends to apply competition law to achieve equitable outcomes in the digital economy in South Africa. It explains the ways in which South Africa's competition laws can be implemented to achieve equitable outcomes in the digital economy and the Commission's intentions in regard to enforcement actions. It also covers the features of the regulatory environment required to extract the maximum benefit for consumers in the digital economy.

The paper also aims to inform government and corporate stakeholders of its approach to regulating competition in the digital economy and to facilitate coordinated regulatory and advocacy efforts in this area. Specifically, the Commission will focus its programs and resources to strengthen its regulation within this rapidly evolving landscape. Some of these interventions, including undertaking a market inquiry and strengthening cartel enforcement and merger investigations, are noted in the sections below pertaining to the internal environment.

The Commission has also issued Revised Small Merger Guidelines to address potentially anti-competitive acquisitions in digital or technology markets which are escaping regulatory scrutiny due to the acquisitions taking place at an early stage in the life of the target. The guidelines will assist both the Commission and the stakeholders when dealing with mergers in technology markets.

Given the interface between competition and privacy laws, the Commission has explored working arrangements with the Information Regulator of South Africa. The Commission is seeking to engage with the Information Regulator around specific enforcement in the digital market space, determining where each regulator can best be effective.

In addition, the Commission forms part of the Open Finance Inter-governmental Fintech Working Group (IFWG) comprising of other regulators such as South African Reserve Bank, Financial Sector Conduct Authority, National Credit Regulator, National Treasury, South African Revenue Services and Prudential Authority. IFWG was established in 2016 to understand the growing role of fintechs and innovation in the South African financial sector and explore how regulators can more proactively assess emerging risks and opportunities in the market.

The Commission is also active in intra-governmental initiatives on digital markets such as the Presidential 4IR Initiative and the providing input into legislative initiatives such as the Department of Communications and Digital Technologies (DCDT) Big Data policy.

The Commission has continued its engagement with the European Union (EU) to provide an opportunity for mutual learning using the SA/EU Dialogue Facility to host a series of workshops in partnership with the Directorate-General of Competition in the European Commission (DG Comp). The Commission and Competition Commission of Singapore (CCS) have signed an MOU to work closely on detecting cartels in public tenders.

The Commission is also considering making use of the memorandum of Understanding (MOU) between competition agencies on the continent. The region also has a number of co-operation blocs, such as, SADC, COMESA and ECOWAS. These regional bodies and their associated competition enforcement committees can be leveraged as a platform to collaborate in the digital platform space.

The Commission continues to play its role on the work that was started by heads of the competition authorities of Egypt, Kenya, Mauritius, Nigeria and South Africa (the “Authorities”) on digital markets workshop, that has since been expanded to include other authorities. A research project is currently being undertaken in this area to strengthen interventions by authorities in digital markets. In addition to this, the implementation of the Online Intermediation Platforms Market Inquiry recommendations and completion of the Media and Digital Platforms Market Inquiry.

**2.1.6 Alignment with the dtic’s ten core outputs for 5,4% Growth Plan**

The revised 2024/25 APP of **the dtic** has identified the following core outputs targets that are relevant to the work of the Commission, outlined in the table below.

**Table 3: Commission's contribution to the dtic's ten core outputs targets**

Outputs	Contribution of the Commission
4 Million job created	The Commission’s enforcement efforts, which remove barriers to entry, can facilitate job creation. Additionally, merger conditions, settlement agreements, and remedial actions from market inquiries may help protect existing

	jobs and create new ones, further contributing to job creation.
3 Trillion investment	The Commission's enforcement efforts, which remove barriers to entry, can facilitate new investment. Additionally, merger conditions, settlement agreements, and remedial actions from market inquiries may also encourage new investment.
255 000 SMME supported	The Commission's enforcement and advocacy efforts, which remove barriers to entry, can facilitate the entry and expansion of SMMEs. Additionally, merger conditions, settlement agreements, and remedial actions from market inquiries may support the entry and participation of SMMEs.
2.1 million work experience	Limited contribution through the Commission's Cadet Program. Additionally, merger conditions may support work experience through skill development programs.
441 000 subsistence farmers	The Fresh Produce Market Inquiry final report is likely to contribute to this area. Additionally, advocacy work and merger conditions can help support market access for subsistence farmers.
200 Industrial parks & District Development Model transformation	The Commission contributes based on the specifics of each case, through HDP participation, SME participation, and ESOPs. Moving forward, the focus will be on the participation of women and the township economy. Remedial actions from market inquiries, such as the Online Intermediation



	Platforms Market Inquiry, may support the development and transformation of the township and rural economy.
1 trillion exports	Support exemptions to facilitate collaboration and boost export.
Red tape reduction processes	Enhanced turnaround times for large mergers and cases aligned with the priorities of the 7 <sup>th</sup> administration. The publication of various guidelines will increase business certainty and help reduce red tape.
15 Million International tourist arrival	<p>The Commission will monitor how its remedial actions on Booking.com will make it cheaper to book on online platforms due to increased price competition following the removal of price parity clauses. This will make South African travel more affordable and attractive to international travelers.</p> <p>International travelers will have more booking options thanks to ad credits from Google, which will enhance the visibility and reach of local platforms.</p> <p>International travelers will also have access to a broader range of travel offerings as Booking.com implements a program to identify, promote, and grow HDP-owned accommodations, activities, experiences, and communities.</p>

## 2.2 Internal Environmental Analysis

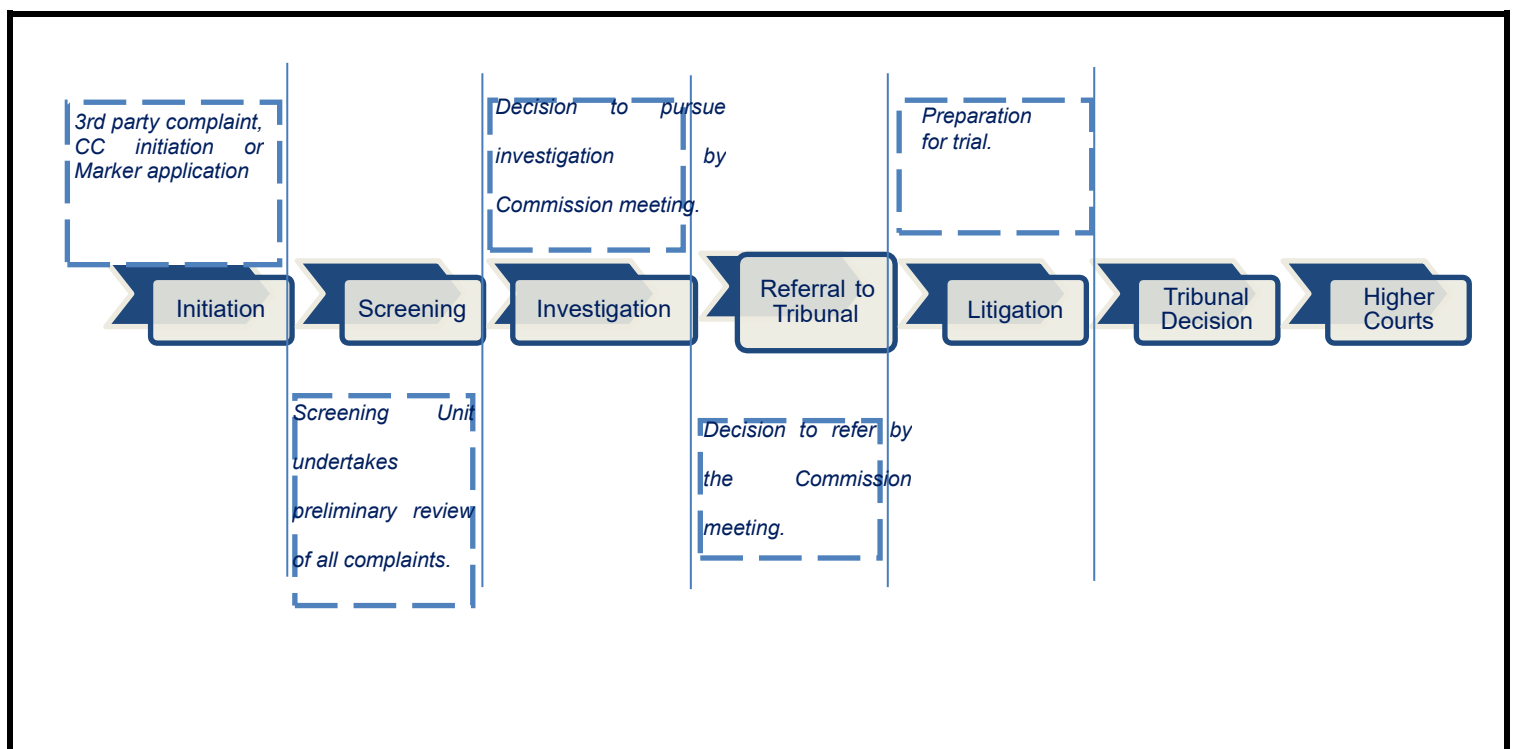
The Commission has identified improved effectiveness and efficiency as a key focus area given the expectations defined by the Competition Act and the limited resource base at its

disposal (given the constrained fiscal environment in South Africa). The Commission is required to increasingly achieve enhanced outcomes and impact (effectiveness) with a resource base that is either constant or shrinking. To achieve this, the Commission will improve its execution on its core business and enhance support services for more impactful outcomes as discussed below.

### 2.2.1 Improved implementation of core business of the Commission

The case pipeline of the Commission can be illustrated as follows:

**Figure 2: CASE PIPELINE PROCESS- ENFORCEMENT**



Taking the above process into account, the Commission will be improving its work focusing on the following:

#### **Initiation:**

The Commission will continue to strengthen its research capacity to identify areas and sharpen the focus of interventions of the Commission to achieve better outcomes and higher impact. The proactive work of the Commission will get greater impetus as the Commission aligns with the priorities of the 7<sup>th</sup> Administration in the pursuit of its mandate.

### **Screening of Complaints**

The Commission will be looking at a number of interventions to improve the agility of the screening of complaints. These interventions will cover improved management of cases, development of tools that enhance efficiency, benefit of this process from digitalisation program of the Commission and improved investment in the human capacity of the Commission.

### **Investigation and referral of complaints to the Tribunal**

The Commission will be looking at institutionalising the lessons learnt from the approaches adopted by the Commission during the Covid-19 pandemic for improved effectiveness and efficiencies. The Commission will improve its management of complaints and initiate multiple investigations in key areas, empowered by the recent amendments to the Competition Act and aligning with the priorities of the 7<sup>th</sup> Administration and its own Strategic Plan. More focus will be placed on abuse of dominance investigations, enforcement of cartels in digitised environment (including greater use of technologies like Artificial Intelligence (AI), Machine Learning, etc.) in investigations and enforcement in public procurement. The area of Merger Regulation will also be prioritised for interventions that improve the agility of investigations and look at greater benefits from technologies like machine learning and other tools.

The Commission initiates market inquiries under powers granted to it in the Competition Act 2009, which provides for the Commission to undertake a “formal Inquiry in respect of the general state of competition in a market for particular goods or services, without necessarily referring to the conduct or activities of any particular named firm”. The Commission is currently working on two (2) market inquiries: The Fresh Produce Market Inquiry and the Digital Media Market Inquiry. The Commission is also undertaking the implementation of recommendations for four (4) completed market inquiries.

The Commission launched a market inquiry into the South African Fresh Produce Market Inquiry (the FPMI) in terms of section 43B(1)(a) of the Competition Act, on 31 March 2023. The Commission had reasons to believe that there may exist market features which impede, distort, or restrict competition in the South African fresh produce markets. The FPMI is focussing on particular issues at each layer of the value chain. Specifically, the scope of the FPMI covers aspects from the sale of fresh produce by the farmer to the customer. In line with this, the FPMI's scope is divided into three themes, namely:

- i. Efficiency of the value chain, with an emphasis on the dynamics around fresh produce market facilities;
- ii. Market dynamics of key inputs and its impact on producers; and

iii. Barriers to entry, expansion and participation.

The FPMI commenced in the 3<sup>rd</sup> quarter of the previous financial year with its first round of public hearings in October 2023. From the public hearing, stakeholders provided informative and valuable information for consideration by the FPMI. For the remainder of quarter 3 the technical team continued its engagement with stakeholders to refine its understanding of the issues under consideration. The provisional report on the FPMI was released on 18 June 2024, outlining findings and recommendation of the inquiry.

**Litigation management:**

The Commission's litigation is undertaken by the Legal Services as well as the Cartels Divisions. The Commission has observed that the cases are becoming more complex with respondents contesting the Tribunal judgments and the application of the Competition Act in various proceedings. The Commission also remains with high volume of litigation matters going into the 2024/25 financial year.

Various hearings were held at the Tribunal in 2023/24, the Commission will continue to refer matters to the Tribunal expeditiously in the 2024/25 financial year. However, one of the major challenges and risk arising is the postponement of trials by the Tribunal as a Tribunal's referral of which affect the Commission's litigation list. It is unclear what the implications of the growing backlog will be on the resources of the Commission, the Tribunal, and the CAC in the latter years of the MTEF.

**Advocacy:**

The Commission has also adopted the extensive use of the advocacy tool in the implementation of its programmes to improve compliance with the Competition Act and achieve defined outcomes in markets and in specific cases. The Commission carries this work through education and awareness, case advocacy, stakeholder relations and advocating for pro-competition regulation in South Africa. This function will of now include proactive policy review to improve competition outcomes in key markets and encourage use of regulatory sandboxes to ensure compliance with the Competition Act whilst achieving innovation and other critical outcomes. Greater focus will also be placed on resolving some of the cases through advocacy, more especially where turnaround times are critical.

### **2.2.2 Support Services**

The performance of key functions at the Commission relies heavily on the effectiveness and efficiency of support services more especially the following key services:

#### **Human Capital**

The Commission is a high performance organisation that delivers its work through a relatively young team of passionate people committed to make a difference through the implementation of the Competition Act. The Human Capital Strategy of the Commission focuses on Organisational Design for effective support of the delivery of the Commission, Effective Career Management, Performance Management, Rewards Management and Digitalisation of key process for improved engagement levels in the organisation. The realisation of these overarching interventions is supported by a comprehensive Talent Management Framework, Human Capital Management policies that are benchmarked with our peers.

The Commission revised its Organisational Design and the Organisational Structure to respond to increased volume and complexity of cases before the Commission as a result of the amendments to the Competition Act that expanded the scope and reach of the competition authorities by introducing new provisions and granting powers which the Commission did not previously have. The expanded mandate of the Commission has had more significant implications for divisions like Market Conduct and Mergers and Acquisitions as they are expected to carry the bigger burden of work because of the amendments to the legislation. The revised organisational design suggested improved capabilities to support Market Inquiries, Merger Control in the wake of provisions that have introduced a new public interest assessment. The divisions of Legal Services and the Economic Research Bureau will also be receive additional resources to ensure they have the right capacity to support the additional investigation and litigation work.

During this financial year, we plan to implement the revised policies, procedures and systems to improve the quality of services provided by the Commission to its employees. The Commission will also be focusing on the implementation of a new organisational structure, paying particular attention to ensuring lower vacancy rate (building on our achievements in improving our talent acquisition and onboarding processes which have resulted in a more efficient and effective hiring processes), achieving our employment equity targets at all levels and developing innovative tools to enhance our Employee Value Proposition (including more efficient employee development by facilitating training and development programmes to enhance skills, improve motivation and boost productivity as can be seen in our organisational

performance results). The Commission will continue to improve its diversity and inclusion initiatives including initiatives around the LGBTQI+ community in the workplace.

### **Information Communication Technology (ICT) Environment**

In a digital world, the Information & Communication Technology (ICT) function and capabilities are a key determinant of the capacity, effectiveness and efficiency of the Commission. Following a recent comprehensive review of the ICT function and ICT capabilities, the Commission is in the final stages of developing a new Five-Year ICT Strategy. The new strategy will build on the current successes related to the finalisation of a new Enterprise Resource Planning (ERP) System that will be completed by the end of 2023/24 financial year, modernising and integrating Human Capital Management, Financial Management and Supply Chain Management at the Commission. In addition to this, the Commission has also developed more agile processes for the acquisition of ICT tools to support the operations of the Commission.

The focus of the Commission in the 2024/25 financial year will be on the implementation of the ICT Strategy focusing on the following:

- (a) Improved efficiency of ICT Operations at the Commission: The Commission will be tweaking its operating model in ICT to be more responsive, efficient and embedded in the operations of the Commission.
- (b) Digitisation of the key operations of the Commission: The Commission will continue with the digitisation process currently underway and implement a new Management Information System that will modernise the management of key operations of the Commission whilst interfacing with the ERP System. In addition to this, the Commission will invest in tools for effective detection of conduct prohibited in the Competition Act (including on Cartels). The Commission also plans to introduce more efficient tools for filing complaints and will also begin processes towards e-filing of mergers and acquisitions in South Africa.
- (c) Strengthening of Cyber Security: The Commission is adopting a more robust risk management approach in ICT security and will be investing in improved preventative measures, improved measures to detect security breaches and more effective disaster recovery capabilities.

Ongoing investment on tools for effective and efficient operations of the Commission: The Commission is also refining its standards for tools of trade and other tools to ensure efficient operations of the Commission.

## PART C: MEASURING OUR PERFORMANCE

### 3. Institutional programme performance information

The Commission undertakes its work through the following programs or divisions:

#### 3.1 Mergers & Acquisitions Division

The M&A division is tasked with ensuring that mergers and acquisitions do not lead to a substantial prevention or lessening of competition or to significant public interest concerns. The Commission has the authority to decide whether to approve, conditionally approve, or prohibit small and intermediate mergers and makes a recommendation to the Tribunal in respect of large mergers. Small mergers may be notified to the Commission on a voluntary basis although the Commission requires notification in certain circumstances.<sup>2</sup>

In setting the performance indicators for merger control, the Commission considered two important factors. Firstly, merger control is a reactive function, and it is not possible to predict merger activity (or associated outcomes) with certainty. For this reason, it is not possible to set targets that pre-empt particular outcomes; each case must be assessed on its merits.

Secondly, South Africa has a compulsory merger notification regime, which means that merger clearance must be obtained prior to transactions being implemented. For this reason, it is imperative that the Commission commits to assessing transactions expeditiously and creates certainty about the timeframes for merger assessment.

In recognition of these factors, the Commission thus sets performance targets in relation to the turnaround time for the completion of mergers based on their level of complexity. This improved transparency and provides certainty to firms, is supportive of greater investment in the economy. In previous years, the Commission committed to finalising 90% of the highly complex (“Phase 3”) large mergers within 120 business days. In its revised APP for the remainder of 2024/25, the Commission has committed to an average turnaround time of 120 days for *all* highly complex large mergers, effectively putting in place a more stringent target for merger assessment.

The Commission also continuously monitors the compliance of firms against merger remedies

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<sup>2</sup> For further details, see the [Commission’s Guideline on Small Merger Notification](#).

and conditions imposed in transactions. Compliance monitoring is an important step in ensuring that public interest and competition outcomes that contribute to lowering barriers to entry, transformation and international competitiveness, amongst others, are realised.

### **3.2 Cartels Division**

The Cartels Division focuses on investigating and prosecuting cartel activities in terms of section 4 (1)(a) and 4(1)(b) of the Competition Act. Cartel conduct includes price fixing, market allocation and collusive tendering or bid rigging.

There is currently over sixty cartel cases under investigation some of which will contribute to the departmental priorities of industrialisation, transformation and building of a capable state upon their finalisation and referral.

In anticipation of higher prevalence of anti-competitive conduct due to the constrained economic environment, the Commission will continue its efforts on cartel detection. The Commission will complete twenty-two cartel investigations in the 2024/25 financial year, including high impact cartel investigations.

The Cartels division is also responsible for prosecution of cartel cases in the Tribunal and in courts. It has fifty four (54) cartel prosecution pending before the Tribunal and six (6) pending before the higher courts.

The Commission adopted a strategy to resolve the cases through settlement to reduce Tribunal backlog on cartel prosecutions. Settlements also present the Commission with opportunity to negotiate and secure public interest remedies which contribute to the departmental priorities of industrialisation, transformation and building of a capable state. The Commission has targeted a performance target of achieving a minimum 85% success rate on prosecutions before the Tribunal against an actual of 91.8%.

Some of the major settlement concluded by the Commission in the last few years include Citibank and Standard Chartered admitted to have participating in the cartel that fixed prices of bids, offers and bid-offer spreads in relation to spot trades of USD/ZAR currency pairs and paid administrative penalty of R69.5 million and R42.7 million respectively. Unilever has also settled with the Commission and agreed to pay an amount of R16 million as administrative penalty, to establish an Enterprise Development Fund to the value of R40 million aimed at providing interest-free business loans to qualifying black-owned entities in the manufacturing,



logistics, and wholesale industries in South Africa. It also agreed to increase the aggregate annual value of its procurement of products and services from local entities by a minimum of R340 million for a period of four years and to donate hygiene, disinfectant, and oral care products to the value of R3 million to no fewer than 18 780 public schools over five years.

The other area of cartel prosecutions which has consumed both the Commission and the Tribunal is interlocutories, which are procedural challenges that are raised by the respondents firms. Some of these challenges are taken to the higher courts. Instead of answering the allegations against them, firms would raise procedural challenges which will delay the prosecution of these cases. The Commission has set a target of achieving a minimum of 70% success rate with respect to interlocutories both at the Tribunal and at higher courts.

Characterisation of certain cartel conduct by the Tribunal and Competition Appeal Court has negatively affected the Commission's success rate in cartel prosecution. This is the concept that has been introduced in the South African competition law by courts in terms of which courts characterise the alleged cartel to determine if it falls within the scope of what is prohibited by the law. It has been successfully relied upon by the respondent firms to avoid liability for their cartel behaviour. This has been topical in the recent years in various competition platforms. The Commission is looking at best practices to address this, while continuing to investigate and prosecute cartel cases.

### **3.3 Market Inquiry Division**

In line with the strategic priorities identified in the APP, the Commission started the process of establishing a new division – the Market Inquiry (MI) division . The MI division will be tasked with giving effect to the market inquiry provisions in the Competition Act. This new division will also manage the implementation of recommendations from completed market inquiries.

Prior to 2013, the Competition Act did not encompass specific market inquiry provisions. However, Section 21 of the Competition Act, included a provision which includes the responsibility to “implement measures to increase market transparency.” This provision enabled the Commission to undertake its first market inquiry in 2006 into the banking sector. It is the amendments to the Competition Act in 2013 that first introduced specific provisions for market inquiries. Further amendments to the Competition Act in 2019 further included amendments to the market inquiry provisions.

Thus, since 2013 the Competition Act has empowered the Commission to conduct market

inquiries into the general state of competition in any industry or market. Market inquiries are different from investigations in that, while investigations target specified firms engaged in defined anti-competitive conduct, market inquiries investigate any feature or combination of features in a market which may have the effect of impeding, distorting or restricting competition – without targeting any single firm. Market inquiries are initiated with the aim of uncovering competition concerns in those markets and developing appropriate remedies and recommendations for policy reforms to achieve the objectives of the inquiry. Market inquiries therefore form part of the enforcement tools available to the Commission in carrying out its mandate.

The determination of which enforcement tool is appropriate for the Commission to use in intervening in markets depends upon multiple factors. In terms of the Competition Act, the Concerns of anticompetitive conduct in specific sectors may be indicative of broader issues within the sector that may warrant wider inquisitorial processes under the market inquiry provisions, contrasted with looking at firm-specific conduct. All these factors therefore determine which tools become appropriate for intervention. Further, where a market inquiry is informed by multiple complaints within a specific sector, this process can run in conjunction with other enforcement actions against named firms.

To date, the Commission has run several market inquiries utilising different models of implementation. The Commission's first inquiry in 2006 for instance, the Banking Inquiry, was staffed mainly by external consultants supported by a few staff within the Commission. Different models have been applied over time with varying degrees of success. Given the strategic objectives the Commission aims to achieve in the next planning cycle, it now intends to establish a formal division – the MI division – which will in the MTEF be appropriately resourced and capacitated to conduct market inquiries exclusively.

The establishment of a MI division takes account of the following considerations:

- I. The need to develop a Commission which is fit-for-purpose. Our organisational structure thus needs to take into account the volume and complexity of work and insights into levels of utilisation of existing resources;
- II. The need to maintain adequate resources in the core divisions in order for these divisions to focus on institutional priorities;
- III. Both the 2013 and 2019 amendments which provide the additional tool of market inquiries as a means to achieve the objectives in the Competition Act; and
- IV. The need to be responsive to the current economic realities facing the country.

The MI division will complete one market inquiry in the financial year. The conducting of market inquiries will be a strategic tool to enable the division to probe and gain insights into complex markets which have a high impact on the economy and consumers at large. To contribute to the priorities of **the dtic**, the MI division aims to complete the Fresh Produce Market Inquiry (FPMI) this financial year. A draft report with preliminary findings and proposed remedies has already been issued for public comments. Because of these comments, the FPMI is engaging certain affected stakeholders, including Government, directly. The FPMI has, amongst other findings, provisionally established that there are competition concerns and regulatory barriers that have a negative impact on the entry and expansion of HPD and SME firms at different levels of the fresh produce value chain, including small-scale farmers and HDP-owned farmers. In this regard, it has been provisionally found that there are high levels of concentration with respect to the market for market agencies operating at the National Fresh Produce Markets (NFPMs).

NFPMs play an important role in linking farmers to a variety of buyers present at the markets. The NFPM system is not only central to market access for farmers, but its importance extends to food safety and food security in South Africa. The FPMI has found inconsistencies in the NFPM bylaws, with farmers and buyers being required to comply with different sets of rules across various NFPMs. As a result of these challenges, HDP/SME farmers may find it more difficult to sell their produce in the NFPMs, despite the NFPM system being the least expensive route to market. This is evidenced by the fact that less than 1% of gross value of sales in the NFPMs come from smallholder or HDP/SME farmers. Further, the FPMI has established that small market agents also find it difficult to enter and grow in the NFPMs and that this group of agents do not have access to highly traded produce at the NFPMs (i.e. potatoes, onions, tomatoes and bananas). In the seed industry, the FPMI found *prima facie* instances of excessive pricing to farmers for certain seeds. The Inquiry found instances of high-mark ups in the sale of seeds required in the farming of basic produce such as cabbage, spinach and tomato. Analysis on the exact costs involved, particularly costs related to the research and development of intellectual property, are ongoing. Depending on the outcome of this analysis, the FPMI is yet to make a final finding in this regard.

To address the concerns identified, a set of comprehensive provisional remedies have been proposed by the FPMI. These provisional remedies include a reduction in mark-ups earned by the major supplier of seeds in South Africa; the divestiture of cross shareholding by one of the largest market agents with a condition that the buyer of the divested shares is a business wholly owned or controlled by HDP; NFPMs (market authorities) must set

targets aimed at increasing the annual sales of small-scale and HDP farmers through NFPMs; NFPMs and the large established farmers must put in place programmes that facilitate the entry of new HDP market agents and that ensure that HDP market agents that are already in the market have access to highly traded produce; municipalities, in collaboration with SALGA, should change the operating and governance models for NFPMs; and the Department of Agriculture, Land Reform and Rural Development should introduce (and continue with existing) legislative reforms that allow for the regulation of the maximum commission fee and transformation of the markets for market agent in line with the Agri-BEE Sector Code.

Overall, these remedies are expected to contribute to the entry of new players and the creation of expansion of opportunities at different levels of the value chain. The remedies may contribute to better market access and meaningful participation and ownership by SME and HDP market agents and farmers in this critical sector. The entry of new players and the expansion of those already in the market should contribute to the creation of employment opportunities. The implementation of these measures, by enhancing competition, should contribute to food safety and food security in South Africa.

### **3.4 Market Conduct Division**

The Market Conduct Division (MCD) focuses on the investigation and prosecution of restrictive vertical practices and abuse of dominance cases, as well as the evaluation of exemption applications. Restrictive vertical practices are agreements involving firms at different levels of the value chain (for example, a supplier and its customers). A category of these agreements (i.e. minimum resale price maintenance) are prohibited outright while other vertical agreements require the Commission to assess if the agreements lead to a substantial lessening of competition, taking into account possible justifications for such agreements.

Abuse of dominance cases require a rule of reason analysis, which means the conduct in question is not treated as a per contravention of the Competition Act. In most instances, abuse of dominance occurs in markets that are less contestable with high barriers to entry. Cases that fall in this category include price discrimination, excessive pricing of products, refusal to deal with competitors and predatory pricing.

Exemption applications are considered under section 10 of the Competition Act and are granted to firms that wish to engage in anti-competitive conduct, if the conduct and the firms' motivation meet the requirements set out in the Competition Act (for example, the maintenance

and promotion of exports, and the promotion of effective entry and participation by HDP and SME firms in markets). Recently, **the dtic** introduced various regulations on block exemptions which focus on specific key sectors, including energy and healthcare. While the section 10 exemptions are evaluated within 12 months, block exemptions can be by the Commission within 30 days and this makes it possible for firms to implement collaborative arrangements that achieve public interest outcomes and the broader objectives of the Competition Act expeditiously.

During 2024/25, MCD will continue its focus on establishing a more proactive approach to investigating abuse of dominance cases in terms of section 8 and 9 of the Competition Act. This includes initiating several complaints in priority sectors guided by the amendments of the Competition Act. Efficiency targets pertaining to the completion of cases have also been set, with the intention to complete a minimum of 70% of investigations within 18 months. The division also intends to complete all exemption applications within 12 months and block exemptions within 30 days. MCD is also exploring the possibility of resolving its priority cases (discussed below) through alternative dispute resolution mechanisms (such as the conclusion of settlement agreements with commitments that advance public interest outcomes and the broader objectives of the Competition Act).

MCD will prioritise the finalisation of block exemptions as well as the section 10 exemptions received in the energy and health sectors (and any new applications received in key sectors). It should be noted that this financial year, the Commission has already granted an exemption to a group of small and independent hospitals that are members of the National Hospital Network (NHN) in response to competition imbalances between these hospitals and the three big hospital groups, namely Mediclinic Southern Africa, Netcare Hospital Group and Life Healthcare. This exemption enables NHN members to collectively engage in tariff and global fees negotiations with medical schemes, administrators and healthcare providers and to undertake collective procurement. The majority of NHN members are SME firms that are owned by historically disadvantaged individuals, thus this exemption will contribute to the promotion, expansion and effective participation of SMEs and HDIs within the health sector. In turn, the expansion of NHN members (for example by increasing bed capacity in their hospitals) is likely to contribute to the creation of employment. Lower tariffs achieved through joint negotiations may also benefit patients as end-consumers of healthcare services and will contribute to reducing their living costs.

In the energy sector, the Commission recently confirmed that the practices and agreements contemplated by the energy suppliers and energy users fall within the scope of the relevant

block exemption regulations. The practices and agreements sought to be implemented by the energy suppliers and energy users provide a critical response to the electricity supply constraints and the challenges in the energy sector. With the forecasted depletion of liquefied natural gas imported from Mozambique, the exemptions enable South African firms to collaborate to import liquefied natural gas in a timely and cost-effective manner. For example, the energy users block exemption will enable firms in this sector, including HDP and SME firms, combine demand to obtain better prices and to jointly purchase larger volumes of liquefied natural gas on more favourable terms and conditions. In turn, these collaborative efforts will ensure that there is constant and sustainable supply of a relatively cheaper alternative source of energy in South Africa; this is critical as gas users that are part of these collaborative arrangements operate in key industries such as steel manufacturing, bricks, packaging, glass, food and beverage.

MCD will also prioritise the finalisation of abuse of dominance investigations in energy, steel/manufacturing and digital sectors. In the energy sector, MCD is evaluating complaints relating to the supply of piped gas and inverters used in the installation of solar systems. Part of the piped gas case against Sasol Gas has already been referred to the Competition Tribunal for prosecution (excessive pricing). Simultaneous to the prosecution of this case, MCD has had extensive engagements with the National Energy Regulator of South Africa (NERSA). There has been a change in the pricing methodology used in the determination of piped gas prices from international benchmarking (which resulted in higher prices unrelated to costs) to cost-plus, and from uniform pricing to traders and end-users to 5% minimum discounts to traders.

NERSA may make further changes to the pricing methodology. All these changes are likely to bring down the prices paid by the many traders and these pricing benefits should be passed on along different value chains. It should be noted that the Commission's investigation in this matter has already averted a significant price increase that Sasol had already communicated to gas traders and sought to implement. As a means to build a capable state, the collaborative work between the Commission and NERSA will continue. In this regard, the two institutions recently established a Joint Working Group whose primary purpose is to improve coordination and the effective implementation of the MOU between the institutions.

The complaint in the supply of solar inverters relates to the vertical restrictive practice of setting minimum resale prices by an importer and supplier of solar inverters in South Africa. The resolution of this complaint will result in many South African distributors, resellers and installers of inverters being able to price independently and without being constrained by pricing restrictions imposed by their supplier. An outcome of this nature should facilitate the further uptake of solar energy as an alternative source of energy.

In steel, MCD is evaluating an excessive pricing complaint in relation to the supply of iron ore which is a key input in the production of steel. Achieving an outcome that leads to lower prices of iron ore will have a significant impact in the steel industry. This includes the possibility of increased production of steel in South Africa and the potential for the exportation of steel. Lower pricing may also assist to avert the closure of more steel mills and save employment.

In the digital sector, MCD is conducting an investigation in the provision of cloud storage and computing services. The allegations in this matter are that Microsoft has implemented several measures which restrict its legacy IT software customers (e.g. customers for Windows Server and SQL Server and Windows Desktop) to only choose Microsoft for cloud storage and computing services. Measures taken by Microsoft allegedly discourage customers from migrating to competing computing services offered by Microsoft's competitors, such as, Google, Amazon and Alibaba. One of the main advantages of using cloud storage and computing services is that it is cheaper and more flexible than the traditional onsite IT storage services. Since most of the businesses (i.e. 60% to 90% of enterprises in South Africa) use Microsoft's products, addressing Microsoft's conduct (to the extent that the conduct is found to be anti-competitive) will promote competition, and this may reduce data storage and computing costs for businesses (including HDPs and SMMEs) across almost every industry in South Africa. The benefit to businesses is likely to be through a reduction in cloud computing costs, the promotion of innovation and product choices. Some of these benefits may also be passed through to end customers in the form of low prices for various produce across the economy. MCD also is investigating an abuse of dominance complaint against the Johannesburg Stock Exchange (JSE) for its alleged involvement in conduct that makes it difficult for a newer and smaller entrant in the exchange market, A2X, to expand and compete effectively. The JSE is alleged to achieve this through the deployment of various strategies, including using the existing regulatory gaps. The case also raises concerns about the high fees that the JSE charges brokers that rely on its platform to trade. As a result of these high fees, a number of brokers, especially small and black owned brokers, cannot afford to use both the JSE and A2X to buy and sell securities. Instead, they opt to only use the JSE to save costs. Over the years, the number of active brokers has reduced substantially, an indication that there are firms that may have exited the market. Since the commencement of this investigation, a number of regulatory barriers have been unblocked. However, more still needs to be done. A complete elimination of regulatory barriers, coupled with other changes that promote competition, will enable A2X to compete effectively and to possibly experience growth. Competitive pricing and innovation in this sector may benefit many customers that rely on the trading shares to grow their assets and investments, including pension funds. Furthermore, a reduction in fees

associated with trading may promote the entry of more brokers into the trading market and may also encourage brokers to trade on both the JSE and A2X. The Commission will be working closely with the Financial Sector Conduct Authority to address the regulatory concerns identified in these markets.

The above mentioned cases are tracked through MDC's operational business plan.

### **3.5 Legal Services Division**

The Legal Services Division (LSD) is responsible for managing all the Commission's litigation before the Tribunal, CAC, High Court, Supreme Court of Appeal (SCA) and the Constitutional Court. The division represents the Commission in the Tribunal and in complex cases, briefs attorneys and counsel. LSD also directs and manages the Commission's strategy in respect of litigation. Legal support is also provided to analysing merger applications and abuse of dominance investigations. The division defends the Commission's recommendation of large mergers to the Tribunal and merger decisions which are appealed. The division is also responsible for negotiating and concluding settlement agreements, with the input of other divisions. The settlement process enables the Commission to conclude cases speedily and in the least costly manner.

In the second half of 2024/25, LSD will, in support of **the dtic** priorities, focus on remedies in abuse of dominance cases aimed at phasing out exclusivity on a critical input, market access for SMME's, and lowering the cost of critical inputs. LSD will contribute to lowering costs of business and business certainty through the publication of guidelines on the Act and issue of advisory opinions once Regulations on Advisory Opinions have been gazetted. LSD will also focus on improvement of the Commission's business processes in order to reduce red tape and lower the cost of business.

The performance target of achieving a minimum of 80% with respect to mergers and 75% with respect of abuse cases is aimed at ensuring that the Commission achieves a high success rate.

### **3.6 Economic Research Bureau Division**

The ERB division provides economics support for complex cases and policy issues. The division helps the Commission evaluate the economic impact of the Commission's actions by undertaking impact assessment studies. The key operational responsibilities of the division are to ensure economic research on sectors and policy issues identified by the Commission



as priority areas; perform sound economic analysis for enforcement cases, merger cases and market inquiries.

The Commission will undertake one impact assessment study and two market studies conducted in prioritised sectors in the 2024/25 financial year, led by ERB. The Commission also wants to be a thought leader in competition matters hence the target to provide research and thought leadership insights. ERB will continue to monitor prices of essential food. Together with Legal Service division will issue two guidelines on the application of the Competition Act. ERB will continue to support investigations with expert economic advice and testimonies as well as research focused in line with the amendments of the Competition Act.

### **3.7 Advocacy Division**

The Advocacy division is responsible for conducting initial investigations into complaints received from the public. Additionally, the division pursues strategic cases that cannot be resolved through enforcement alone, relying on advocacy initiatives for resolution. Another significant role of the Advocacy division involves policy analysis, contributing insights to government policies and regulations that aim to foster competitive outcomes. Furthermore, the division engages in sector-based research on competition issues to analyse trends, providing valuable information to shape the Commission's approach. Stakeholder relations form a crucial aspect of the division's functions in supporting the Office of the Commissioner that is the primary custodian of this function. The Commission is committed to maintaining and strengthening these relationships in the 2024/25 financial year, with special attention directed towards key constituencies such as Youth, Women, Black Business associations and Small and Medium business.

In the 2024/25 financial year, the Commission plans to deepen its Advocacy work, particularly in prioritised sectors, focusing on education and outreach initiatives with consumers, as well as both large and small businesses to improve compliance with the Competition Act. , will continue to be central to the Commission's activities. The Advocacy division has outlined several planned activities for the upcoming financial year to support these efforts. In addition to priority sectors, the Commission will also focus on the themes of implementation of buyer power provision of the Act, participation of HDPs in the economy (more especially women and youth) and participation of SMEs in the economy. The division has identified a number of KPIs to advance this work during the 2024/25 financial year.

### **3.8 Corporate Services Division**

The Corporate Services Division is responsible for a number of support services at the Commission including Human Capital Management, Information and Communications

Technology (ICT), Information and Knowledge Management and Security and Facilities Management. Registry, the Information Resource Centre, and Security and Facilities. The division provides the key capabilities required to execute the work of the Commission and enables the operations of the Commission.

The Division will prioritise interventions in the following areas during the 2024/25 financial year: Ensuring that the Commission has fit-for-purpose space to conduct its work; Implementation of the new ICT Strategy including the proposed projects to improve the ICT capabilities of the Commission; The Division will also continue to comply with the Occupational Health and Safety requirements; Improve the Commission's Employee Value Proposition through the implementation of the Talent Management Framework of the Commission, investing in the human capital requirements of the Commission and Improve management of information and knowledge at the Commission complying with all the relevant pieces of legislation.

### **3.9 Finance**

The Finance division provides financial management, supply chain management and asset management support services. The key financial management services include budget development, implementation and monitoring, effective financial management, procurement, management of resources, financial reporting, and performance management.

Emphasis is placed on continuously improving the budgeting process in a manner that reflects to the strategic priorities of the Commission, cash flow management, timeous financial reporting and ensuring that policies and activities comply with regulatory frameworks and guidelines. Compliance with statutory and regulatory frameworks remains an important focus as well as improving the data analysis and reporting functions. In its continuous pursuit to maintain a clean audit, the Finance division has set a target for a clean audit for the entire strategic period. Also, the division has set a target to pay supplier invoices within 30 days as per Treasury Regulation 8.2.3.

### **3.10 Office of the Commissioner**

The Office of the Commissioner (OTC) is responsible for the strategic direction of the Commission (through the facilitation of the strategy development process, monitoring of the execution of the strategy and evaluation of the impact the Commission is making) oversight on the implementation of the Commission's strategic goals and objectives so as to achieve improved effectiveness, efficiency and engagement.

The OTC is also responsible for the positioning of the Commission as an effective and impactful Regulator of competition in South Africa (through effective management of stakeholder relations, effective communications and the management of the image of the Commission). In supporting the realisation of the strategy, the OTC oversees Corporate Governance, the promotion of the culture of the organisation and the development of the critical skills for operations of the Commission.

The OTC is currently focusing on the implementation of the Competition Act and ensuring efficient decision-making within the organisation to realise the mandate of the Commission. In addition to crafting and setting the strategic direction of the Commission and providing necessary insight and guidance, the OTC will ensure that appropriate processes, procedures, and structures are in place to enable all programs to achieve against its stated objectives. The primary mechanism to achieve this is the continued operation of the corporate governance program, which enables and supports sound corporate governance within the institution.

The OTC oversees the planning, monitoring, and reporting of programme performance information, aiming to establish a robust performance management and monitoring framework. The primary goal is to enable the Commission to furnish accurate, reliable, and comprehensive progress reports on program performance against predetermined objectives outlined in its strategic and annual performance plans. Additionally, this initiative seeks to minimise unfavorable external audit findings related to non-financial performance information. The Commission has introduced tools for performance planning, monitoring, and reporting to enhance the efficiency of its programme performance information process.

#### 4. Outcomes, outputs, performance indicators and targets

Outcome	Outputs	Accountable Program	No.	KEY PERFORMANCE INDICATORS	Annual Targets						
					Audited/ Actual performance			Estimated performance	MTEF Period		
					2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27
<b>STRATEGIC GOAL 1: ENFORCING AND REGULATING TOWARDS ECONOMIC GROWTH AND ENHANCED ECONOMIC PARTICIPATION</b>											
1. Efficient and effective merger regulation & enforcement	a) Mergers and Acquisitions decisions.	M&A	1.	Average turnaround time for Phase 1 merger investigations.	18 days	17 days	16 days	≤ 20 days	≤ 20 days	≤ 20 days	≤ 20 days
		M&A	2.	Average turnaround time for	37 days	40 days	41 days	≤ 45 days	≤ 45 days	≤ 45 days	≤ 45 days

Outcome	Outputs	Accountable Program	No.	Annual Targets								
				KEY PERFORMANCE INDICATORS	Audited/ Actual performance			Estimated performance	MTEF Period			
					2020/21	2021/22	2022/23		2023/24	2024/25	2025/26	2026/27
				Phase 2 merger investigations.								
		M&A	3.	Average turnaround time for Phase 3 intermediate and small merger	55 days	57 days	58 days	≤ 60 days	≤ 60 days	≤ 60 days	≤ 60 days	

Outcome	Outputs	Accountable Program	No.	Annual Targets							
				KEY PERFORMANCE INDICATORS	Audited/ Actual performance			Estimated performance	MTEF Period		
					2020/21	2021/22	2022/23		2023/24	2024/25	2025/26
				investigations.							
		M&A	4.	Average turnaround time for 90% of Phase 3 large merger	93 days	137 days	90 days	≤ 120 days	≤ 120 days	N/A	N/A <sup>3</sup>

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<sup>3</sup> The Commission will change the % on the TAT of Phase 3 large merger investigations from 90% to 100% from the 2025/26 F/Y

Outcome	Outputs	Accountable Program	No.	Annual Targets							
				KEY PERFORMANCE INDICATORS	Audited/ Actual performance			Estimated performance	MTEF Period		
					2020/21	2021/22	2022/23		2023/24	2024/25	2025/26
				investigations.							
			5.	Average turnaround time for Phase 3 large merger investigations.	New Indicator	New Indicator	New Indicator	New Indicator	New Indicator	≤ 120 days	≤ 120 days
	b) Compliance	M&A	6.	No. of quarterly	100%	100%	100%	4	4	4	4





Outcome	Outputs	Accountable Program	No.	Annual Targets							
				KEY PERFORMANCE INDICATORS	Audited/ Actual performance			Estimated performance	MTEF Period		
					2020/21	2021/22	2022/23		2023/24	2024/25	2025/26
				Commission <sup>4</sup>							
<b>2. Competitive, Contestable and Deconcent</b>	a) Investigation of abuse of dominance and restrictive vertical	MCD	7.	No. of abuse of dominance and restrictive vertical practices	36	3	17	5	3	5	6

<sup>4</sup> In the 2025/26 financial year this target will also cover all the other work of the Commission not just mergers.

Outcome	Outputs	Accountable Program	No.	Annual Targets							
				KEY PERFORMANCE INDICATORS	Audited/ Actual performance			Estimated performance	MTEF Period		
					2020/21	2021/22	2022/23		2023/24	2024/25	2025/26
<b>rated Markets</b> + <b>3. Improved public interest outcomes</b>	practice s.			cases initiated in prioritised sectors in line with amendments of the Competition Act.							
		MCD & Advocacy	8.	% of market conduct investigations	94%	98%	97.4%	≥75%	≥70%	≥75%	≥80%

Outcome	Outputs	Accountable Program	No.	Annual Targets							
				KEY PERFORMANCE INDICATORS	Audited/ Actual performance			Estimated performance	MTEF Period		
					2020/21	2021/22	2022/23		2023/24	2024/25	2025/26
				completed within 18 months.							
	b) Exemption applications	MCD	9.	% of exemption applications completed within 12 months.	100%	75%	N/A	100%	100%	100%	100%
	c)	MCD	10.	% of block exemption applications	New Indicator	New Indicator	New Indicator	New Indicator	100%	100%	100%

Outcome	Outputs	Accountable Program	No.	KEY PERFORMANCE INDICATORS	Annual Targets							
					Audited/ Actual performance			Estimated performance	MTEF Period			
					2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	
				completed within 30 days.								
		MID	11.	No. of market	1	1	2	2	12 <sup>5</sup>	2	3	

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<sup>5</sup> KPI is reduced from 2 to 1 as the Commission currently has two market inquiry underway (i.e. the fresh produce and media and digital platforms market inquiries) and has also initiated three new market inquiries (i.e. poultry, steel and polymers market inquiries). Thus, in total there are five market inquiries in the Commission's books. Due to capacity constraints, the Commission has had to rely on limited resources to progress these market inquiries. Given these challenges, it may not be feasible for the Commission to initiate or commit to initiate two more market inquiries.

Outcome	Outputs	Accountable Program	No.	KEY PERFORMANCE INDICATORS	Annual Targets						
					Audited/ Actual performance			Estimated performance	MTEF Period		
					2020/21	2021/22	2022/23		2023/24	2024/25	2025/26
	d) Market Inquiries			inquiries initiated.							
			12.	No. of market inquiries completed.	1	N/A	0	1	1	2	3
	e) Advocacy work of the implementation	MID	13.	No. of monitoring reports on the outcomes of the	N/A	N/A	N/A	2	2	2	2

Outcome	Outputs	Accountable Program	No.	Annual Targets								
				KEY PERFORMANCE INDICATORS	Audited/ Actual performance			Estimated performance	MTEF Period			
					2020/21	2021/22	2022/23		2023/24	2024/25	2025/26	2026/27
	on market inquiries recommendations			implementation of Market Inquiry Recommendations.								
	f) Cartel Investigations	Cartels	14.	No. of cartel investigations completed including high impact	28	35	28	16	22	22	24	

Outcome	Outputs	Accountable Program	No.	Annual Targets							
				KEY PERFORMANCE INDICATORS	Audited/ Actual performance			Estimated performance	MTEF Period		
					2020/21	2021/22	2022/23		2023/24	2024/25	2025/26
				cartel investigations.							
	g) Cartel prosecutions	Cartels & Legal Services	15.	% of cartel cases won at the Tribunal.	86%	100%	100%	≥80%	≥80%	≥85%	≥85%
		Cartels & Legal Services	16.	% of cartel cases won at the courts.	N/A	40%	0%	≥80%	≥80%	≥85%	≥85%

Outcome	Outputs	Accountable Program	No.	Annual Targets							
				KEY PERFORMANCE INDICATORS	Audited/ Actual performance			Estimated performance	MTEF Period		
					2020/21	2021/22	2022/23		2023/24	2024/25	2025/26
	n) Prosecution of Abuse of dominance and restrictive practices	Legal Services	17.	% of market conduct cases won at the Tribunal in relation to abuse of dominance, restrictive vertical	100%	100%	100%	≥75%	≥75% <sup>6</sup>	≥75%	≥75%

<sup>6</sup> KPI 17 is reinstated for the 2024/25 financial year



Outcome	Outputs	Accountable Program	No.	KEY PERFORMANCE INDICATORS	Annual Targets						
					Audited/ Actual performance			Estimated performance	MTEF Period		
					2020/21	2021/22	2022/23		2023/24	2024/25	2025/26
				practices and exemption litigation.							
		Legal Services	18.	% of market conduct cases won at the courts in relation to	N/A	N/A	70%	≥75%	≥75% <sup>7</sup>	≥75%	≥75%

<sup>7</sup> KPI 18 is reinstated for the 2024/25 financial year

Outcome	Outputs	Accountable Program	No.	Annual Targets								
				KEY PERFORMANCE INDICATORS	Audited/ Actual performance			Estimated performance	MTEF Period			
					2020/21	2021/22	2022/23		2023/24	2024/25	2025/26	2026/27
				abuse of dominance, restrictive vertical practices and exemption litigation.								
	i) Merger litigation	Legal Services	19.	% of merger decisions upheld by the Tribunal.	100%	100%	100%	≥80%	≥80%	≥80%	≥80%	

Outcome	Outputs	Accountable Program	No.	KEY PERFORMANCE INDICATORS	Annual Targets						
					Audited/ Actual performance			Estimated performance	MTEF Period		
					2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27
			20.	% of merger decisions upheld by the courts.	N/A	100%	100%	≥80%	≥80%	≥80%	≥80%
	j) Interlocutory litigation	Legal Services & Cartels	21.	% of interlocutory decisions upheld by the Tribunal.	N/A	N/A	100%	≥65%	≥70%	≥70%	≥70%
			22.	% of interlocutory decisions	N/A	N/A	50%	≥65%	≥70%	≥70%	≥70%

Outcome	Outputs	Accountable Program	No.	KEY PERFORMANCE INDICATORS	Annual Targets						
					Audited/ Actual performance			Estimated performance	MTEF Period		
					2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27
				upheld by the courts.							
<b>STRATEGIC GOAL 2: ADVOCATING FOR IMPROVED COMPLIANCE AND PRO-COMPETITIVE PUBLIC POLICY OUTCOMES</b>											
<b>4. Improved compliance &amp; awareness</b>	a) Domestic outreach initiatives	Advocacy & OTC	23.	No. of outreach, awareness, public education and training initiatives conducted to improve	3	8	13	14	16	18	20

Outcome	Outputs	Accountable Program	No.	Annual Targets							
				KEY PERFORMANCE INDICATORS	Audited/ Actual performance			Estimated performance	MTEF Period		
					2020/21	2021/22	2022/23		2023/24	2024/25	2025/26
				compliance with the Competition Act, the quality and quantity of complains of the Commission .							

Outcome	Outputs	Accountable Program	No.	Annual Targets							
				KEY PERFORMANCE INDICATORS	Audited/ Actual performance			Estimated performance	MTEF Period		
					2020/21	2021/22	2022/23		2023/24	2024/25	2025/26
	b) External Guidelines on the application of the Act	Legal Services and ERB	24.	No. of Guidelines on the application of the Competition Act to create greater certainty on the enforcement of the	2	2	2	3	2	2	2

Outcome	Outputs	Accountable Program	No.	KEY PERFORMANCE INDICATORS	Annual Targets						
					Audited/ Actual performance			Estimated performance	MTEF Period		
					2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27
				Competition Act.							
	c) Advisory Opinions	Legal Services	25.	% of advisory opinions issued within 60 days.	N/A	N/A	N/A	≥90%	≥90%	≥90%	≥90%
<b>25. Improved understanding of market dynamics in</b>	a) Industry Scoping Studies	ERB	26.	No. of market studies conducted	N/A	1	1	2	2	2	2

Outcome	Outputs	Accountable Program	No.	Annual Targets							
				KEY PERFORMANCE INDICATORS	Audited/ Actual performance			Estimated performance	MTEF Period		
					2020/21	2021/22	2022/23		2023/24	2024/25	2025/26
priority sectors				in prioritised sectors to identify competition issues.							
	b) Impact assessments on Commission decisions or competit	ERB	27.	No. of Impact assessment studies to improve decision making.	1	1	1	1	1	2	2



Outcome	Outputs	Accountable Program	No.	KEY PERFORMANCE INDICATORS	Annual Targets						
					Audited/ Actual performance			Estimated performance	MTEF Period		
					2020/21	2021/22	2022/23		2023/24	2024/25	2025/26
	ion policy										
	c) Enforcement research on priority industrial sectors and support	ERB	28.	No. of research reports on enforcement in priority areas for initiation of complaints.	N/A	N/A	N/A	2	2	2	2

Outcome	Outputs	Accountable Program	No.	Annual Targets								
				KEY PERFORMANCE INDICATORS	Audited/ Actual performance			Estimated performance	MTEF Period			
					2020/21	2021/22	2022/23		2023/24	2024/25	2025/26	2026/27
	infrastructure											
	(d) Advocacy in priority sectors	Advocacy	29.	No. of advocacy cases completed in priority sectors and prioritising reduced cost of living and promotion of	4	3	4	4	4	4	4	4

Outcome	Outputs	Accountable Program	No.	Annual Targets								
				KEY PERFORMANCE INDICATORS	Audited/ Actual performance			Estimated performance	MTEF Period			
					2020/21	2021/22	2022/23		2023/24	2024/25	2025/26	2026/27
				participation of SMEs and firms owned by HDPs.								
		Advocacy	30.	No. of advocacy studies evaluating the Commission's intervention	N/A	N/A	N/A	2	2	2	2	

Outcome	Outputs	Accountable Program	No.	Annual Targets							
				KEY PERFORMANCE INDICATORS	Audited/ Actual performance			Estimated performance	MTEF Period		
					2020/21	2021/22	2022/23		2023/24	2024/25	2025/26
				s in priority sectors.							
<b>6. Improved co-ordination on the application of economic and competition policy</b>	a) Strategic Partnerships with relevant stakeholders	Advocacy	31.	No. of initiatives to promote entry & participation of HDPs.	N/A	1	2	3	4	4	5
		OTC & ERB	32.	No. of international conferences and forums hosted.	1	1	1	N/A	1	2	1

Outcome	Outputs	Accountable Program	No.	KEY PERFORMANCE INDICATORS	Annual Targets						
					Audited/ Actual performance			Estimated performance	MTEF Period		
					2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27
	Policy Responses	Advocacy	33.	No of submissions or responses to policy or regulation.	11	4	5	4	4	4	4
	a) Partnerships with government, labour, business and	Advocacy	34.	No of reports on collaboration projects with stakeholders including	N/A	N/A	N/A	2	2	2	3

Outcome	Outputs	Accountable Program	No.	Annual Targets								
				KEY PERFORMANCE INDICATORS	Audited/ Actual performance			Estimated performance	MTEF Period			
					2020/21	2021/22	2022/23		2023/24	2024/25	2025/26	2026/27
	sector regulators regarding the objectives of the Competition Act.			regulators on objectives of the Competition Act.								
	Research & Thought	ERB	35.	Research and thought leadership	3	7	5	4	4	4	4	

Outcome	Outputs	Accountable Program	No.	KEY PERFORMANCE INDICATORS	Annual Targets						
					Audited/ Actual performance			Estimated performance	MTEF Period		
					2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27
	Leadership			insights published.							
		ERB	36.	Essential food price monitoring report.	4	2	2	2	2	2	2
<b>7. Increased importance of developmental perspective</b>	a) Collaboration with regional and international	ERB	37.	No of collaborative research on cross-country	N/A	13	8	4	1	2	2

Outcome	Outputs	Accountable Program	No.	KEY PERFORMANCE INDICATORS	Annual Targets						
					Audited/ Actual performance			Estimated performance	MTEF Period		
					2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27
es in domestic and international competition law discourse	onal partners			competition issues.							
	b) Strengthened strategic bilateral and multilateral relations focused on influenci	OTC	38.	No. of projects/contributions focused on influencing international competition regulation.	N/A	13	21	4	6	6	6





Outcome	Outputs	Accountable Program	No.	Annual Targets							
				KEY PERFORMANCE INDICATORS	Audited/ Actual performance			Estimated performance	MTEF Period		
					2020/21	2021/22	2022/23		2023/24	2024/25	2025/26
	governance and accountable management of resource										
<b>9. Secure, harmonious, and conducive working</b>	a) Conducive Facilities &	CSD	40.	No of quarterly reports on implementation of the	100%	4	4	4	4	4	4

Outcome	Outputs	Accountable Program	No.	Annual Targets							
				KEY PERFORMANCE INDICATORS	Audited/ Actual performance			Estimated performance	MTEF Period		
					2020/21	2021/22	2022/23		2023/24	2024/25	2025/26
environment	Efficient Security			OHS compliance plan.							
10.Highly engaged, motivated and productive workforce	a) Talent Management	CSD	41.	% of HR spend in learning and development.	1%	1%	2.16%	1%	1%	1%	1%
		CSD	42.	% retention rate of staff complement	≥98.5%	99%	98.46%	≥90%	≥90%	≥90%	≥90%

Outcome	Outputs	Accountable Program	No.	KEY PERFORMANCE INDICATORS	Annual Targets						
					Audited/ Actual performance			Estimated performance	MTEF Period		
					2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27
		CSD	43.	% of staff reached through training initiatives.	61%	60%	68.6%	≥65%	≥65%	≥70%	≥70%
<b>11. Business Process Improvement</b>	a) Review and redesign of business	Legal Services	44.	No. of reviews of complaints, exemptions, market inquiries, merger process and	N/A	N/A	2	2	2	2	2



Outcome	Outputs	Accountable Program	No.	Annual Targets							
				KEY PERFORMANCE INDICATORS	Audited/ Actual performance			Estimated performance	MTEF Period		
					2020/21	2021/22	2022/23		2023/24	2024/25	2025/26
	b) Development of an integrated Management Information System	CSD	45.	Progress report on the development of the Management Information System (MIS) integrated to Enterprise Resource Planning	N/A	N/A	N/A	N/A	Progress Report on the development of the MIS integrated to Enterprise Resource Planning (ERP) and an	Approved Digitalisation Strategy of key processes at the Commission and Completion of the MIS	Close up report of the Digitalisation Project with at least 90% of approved projects completed.

Outcome	Outputs	Accountable Program	No.	KEY PERFORMANCE INDICATORS	Annual Targets						
					Audited/ Actual performance			Estimated performance	MTEF Period		
					2020/21	2021/22	2022/23		2023/24	2024/25	2025/26
	em (MIS) to ERP			(ERP) System.					Approved Concept Note on Digitalisation at the Commission		
<b>12. Sound financial controls and managem</b>	c)Payment of supplier invoices report	Finance	46.	% of supplier invoices paid within 20 days.	N/A	N/A	82.19%	100%	100%	100%	100%





## 5. Output indicators: annual and quarterly targets

Outcome	Outputs	Accountable Program	No.	Performance Indicator	Annual Target	Q1	Q2	Q3	Q4	Impact
<b>STRATEGIC GOAL 1: ENFORCING AND REGULATING TOWARDS ECONOMIC GROWTH AND ENHANCED ECONOMIC PARTICIPATION</b>										
<b>1.Efficient and effective merger regulation &amp; enforcement</b>	a) Mergers and Acquisitions decisions.	M&A	1.	Average turnaround time for Phase 1 merger investigations.	≤ 20 days	≤ 20 days	≤ 20 days	≤ 20 days	≤ 20 days	Capable State and Investment Promotion
		M&A	2.	Average turnaround time for Phase 2 merger investigations.	≤ 45 days	≤ 45 days	≤ 45 days	≤ 45 days	≤ 45 days	Capable State and Investment Promotion
		M&A	3.	Average turnaround time for Phase 3 intermediate and small merger investigations.	≤ 60 days	≤ 60 days	≤ 60 days	≤ 60 days	≤ 60 days	Capable State and Investment Promotion

Outcome	Outputs	Accountable Program	No.	Performance Indicator	Annual Target	Q1	Q2	Q3	Q4	Impact
		M&A	4.	Average turnaround time for 90% of Phase 3 large merger investigations.	≤ 120 days	≤ 120 days	≤ 120 days	≤ 120 days	≤ 120 days	Capable State and Investment Promotion
	a) Compliance monitoring for merger conditions.	M&A	5.	No. of quarterly compliance monitoring reports on competition and public interest conditions imposed by the Commission.	4	1	1	1	1	Capable State and Investment Promotion

Outcome	Outputs	Accountable Program	No.	Performance Indicator	Annual Target	Q1	Q2	Q3	Q4	Impact
<b>2. Competitive, Contestable and Deconcentrated Markets + 3. Improved public interest outcomes</b>	b) Investigation of abuse of dominance and restrictive vertical practices	MCD	6.	No. of abuse of dominance and restrictive vertical practices cases initiated in prioritised sectors in line with amendments of the Competition Act.	3	N/A	1	1	1	Price reductions, unblocking barriers to entry, lowering concentration levels
		MCD & Advocacy	7.	% of market conduct investigations completed within 18 months.	≥70%	≥70%	≥70%	≥70%	≥70%	Price reductions, unblocking barriers to entry

Outcome	Outputs	Accountable Program	No.	Performance Indicator	Annual Target	Q1	Q2	Q3	Q4	Impact
	c) Exemption on application decisions	MCD	8.	% of exemption applications completed within 12 months.	100%	100%	100%	100%	100%	
	d)	MCD	9.	% of block exemption applications completed within 30 days.	100%	New Indicator	New Indicator	100%	100%	Tackling the cost of living
	e) Market Inquiries	MID	10	No. of market inquiries initiated.	2-1 <sup>8</sup>	N/A	N/A	N/A	2-1	Increased access of HDP/SME, lowering concentration levels

<sup>8</sup> KPI is reduced from 2 to 1 as the Commission has reinstated KPIs on % of market conduct cases won at the Tribunal and courts in relation to abuse of dominance, restrictive vertical practices and exemption litigation (KPI 17& 18).

Outcome	Outputs	Accountable Program	No.	Performance Indicator	Annual Target	Q1	Q2	Q3	Q4	Impact
			11	No. of market inquiries completed.	1	N/A	N/A	N/A	1	Increased access of HDP/SME, lowering concentration levels
	f) Advocacy work of the implementation on market inquiries recommendations.	MID	12	No. of monitoring reports on the outcomes of the implementation of Market Inquiry Recommendations.	2	N/A	1	N/A	1	Increased access of HDP/SME, lowering concentration levels, unblocking barriers to entry (increase market access)
	g) Cartel investigations.	Cartels	13	No. of cartel investigations completed including high impact cartel investigations.	22	5	6	5	6	Decartelisation of markets

Outcome	Outputs	Accountable Program	No.	Performance Indicator	Annual Target	Q1	Q2	Q3	Q4	Impact
	h) Cartel prosecutions.	Cartels & Legal Services	14	% of cartel cases won at the Tribunal.	≥80%	≥80%	≥80%	≥80%	≥80%	Decartelisation of markets
		Cartels & Legal Services	15	% of cartel cases won at the courts.	≥80%	≥80%	≥80%	≥80%	≥80%	Decartelisation of markets
	i) Prosecution of Abuse of dominance and restrictive practices	Legal Services	16	% of market conduct cases won at the Tribunal in relation to abuse of dominance, restrictive vertical practices and exemption litigation.	≥75%	N/A	N/A	≥75%	≥75%	Remedies: phasing out exclusivity on a critical input, market access for SMMEs, lower cost of critical inputs (pricing remedies)

Outcome	Outputs	Accountable Program	No.	Performance Indicator	Annual Target	Q1	Q2	Q3	Q4	Impact
			17	% of market conduct cases won at the courts in relation to abuse of dominance, restrictive vertical practices and exemption litigation.	≥75%	N/A	N/A	≥75%	≥75%	
	j) Merger litigation	Legal Services	18	% of merger decisions upheld by the Tribunal.	≥80%	≥80%	≥80%	≥80%	≥80%	Merger remedies
		Legal Services	19	% of merger decisions upheld by the courts.	≥80%	≥80%	≥80%	≥80%	≥80%	Merger remedies

Outcome	Outputs	Accountable Program	No.	Performance Indicator	Annual Target	Q1	Q2	Q3	Q4	Impact
	k) Interlocutory litigation.	Legal Services & Cartels	20	% of interlocutory decisions upheld by the Tribunal.	≥70%	≥70%	≥70%	≥70%	≥70%	Resolution of interlocutory disputes
			21	% of interlocutory decisions upheld by the courts.	≥70%	≥70%	≥70%	≥70%	≥70%	Resolution of interlocutory disputes
<b>STRATEGIC GOAL 2: ADVOCATING FOR IMPROVED COMPLIANCE AND PRO-COMPETITIVE PUBLIC POLICY OUTCOMES</b>										
<b>4. Improved compliance &amp; awareness</b>	a) Domestic outreach initiatives.	OTC & Advocacy	22	No. of outreach, awareness, public education and training initiatives conducted to improve	16	4	4	4	4	



Outcome	Outputs	Accountable Program	No.	Performance Indicator	Annual Target	Q1	Q2	Q3	Q4	Impact
				compliance with the Competition Act, the quality and quantity of complains and initiations of the Commission.						
	b) External Guidelines on the application of the Competition Act.	LSD & ERB	23	No. of Guidelines on the application of the Competition Act to create greater certainty on the enforcement of the Act.	2	N/A	1	N/A	1	Lower cost of business and business certainty

Outcome	Outputs	Accountable Program	No.	Performance Indicator	Annual Target	Q1	Q2	Q3	Q4	Impact
	c) Advisory Opinions.	Legal Services	24	% of advisory opinions issued within 60 days.	≥90%	≥90%	≥90%	≥90%	≥90%	Lower cost of business and business certainty
<b>5. Improve understanding of market dynamics in priority sectors</b>	a) Industry Scoping Studies	ERB	25	No. of market studies conducted in prioritised sectors to identify competition issues.	2	N/A	N/A	2	N/A	
	b) Impact assessments on Commission decisions or competit	ERB	26	No. of impact assessment studies to improve decision making.	1	N/A	N/A	N/A	1	

Outcome	Outputs	Accountable Program	No.	Performance Indicator	Annual Target	Q1	Q2	Q3	Q4	Impact
	ion policy.									
	c) Enforcement research on priority industrial sectors and support infrastructure.		27	No. of research reports on enforcement in priority areas for initiation of complaints.	2	N/A	1	N/A	1	
	d) Advocacy in priority sectors.	Advocacy	28	No. of advocacy cases completed in priority sectors and prioritising reduced cost of living and	4	1	1	N/A	2 Advocacy focusing on Gas and Food	

Outcome	Outputs	Accountable Program	No.	Performance Indicator	Annual Target	Q1	Q2	Q3	Q4	Impact
				promotion of participation of SMEs and firms owned by HDPs.						
		Advocacy	29	No. of advocacy studies evaluating the Commission's interventions in priority sectors.	2	N/A	1	N/A	1	
<b>6. Improved co-ordination on the application of economic policy and</b>	a) Strategic Partnerships with relevant stakeholders	Advocacy	30	No. of initiatives to promote entry & participation of HDPs.	4	1	1	1	1	
		OTC & ERB	31	No. of international conferences	1	N/A	1	N/A	N/A	

Outcome	Outputs	Accountable Program	No.	Performance Indicator	Annual Target	Q1	Q2	Q3	Q4	Impact
competiti on policy				and forums hosted						
	b) Policy Responses.	Advocacy	32	No. of submissions or responses to policy or regulation.	4	1	1	1	1	
	c) Partnerships with government, labour, businesses and sector regulators regarding the	Advocacy	33	No. of reports on collaboration projects with stakeholders including regulators on objectives of the Competition Act.	2	N/A	1	N/A	1	

Outcome	Outputs	Accountable Program	No.	Performance Indicator	Annual Target	Q1	Q2	Q3	Q4	Impact
	objectives of the Competition Act.									
	a) Research & Thought Leadership	ERB	34	No. of research and thought leadership insights published.	4	1	1	1	1	Research on new industries or industrialisation, identify areas of future enforcement
			35	Essential Food Price Monitoring Report.	2	N/A	1	N/A	1	Refocus on high cost of living and tracking/analysing target elements to the high cost of living
<b>7. Increased importance of developmental</b>	b) Collaboration with Regional &	ERB	36	No. of collaborative research on cross-country	1	N/A	N/A	N/A	1	collaboration with other competition agencies

Outcome	Outputs	Accountable Program	No.	Performance Indicator	Annual Target	Q1	Q2	Q3	Q4	Impact
perspectives in domestic and international competition on law discourse	international partners			competition issues.						
	c) Strengthened strategic bilateral and multilateral relations focused on influencing with a	OTC	37	No. of projects/contributions focused on influencing international competition regulation.	6	1	1	2	2	

Outcome	Outputs	Accountable Program	No.	Performance Indicator	Annual Target	Q1	Q2	Q3	Q4	Impact
	developmental perspective.									
<b>STRATEGIC GOAL 3: A PEOPLE-CENTRIC AND HIGH-PERFORMANCE ORGANIZATION</b>										
<b>8. Sound Corporate Governance</b>	a) level of adherence to sound corporate governance and accountable management or resources.	Finance & OTC	38	Audit Outcome.	Clean Audit	N/A	Clean Audit	N/A	N/A	Building a capable, ethical and developmental state



Outcome	Outputs	Accountable Program	No.	Performance Indicator	Annual Target	Q1	Q2	Q3	Q4	Impact
<b>9. Secure, harmonious, and conducive working environment</b>	a) Conducive Facilities & Efficient Security	CSD	39	No of quarterly reports on implementation of the OHS compliance plan.	4	1	1	1	1	Building a capable, ethical and developmental state
<b>10.Highly engaged, motivated and productive workforce</b>	a) Talent Management.	CSD	40	% of HR spend in learning and development.	1%	N/A	N/A	N/A	1%	Building a capable, ethical and developmental state
		CSD	41	% retention rate of staff complement.	≥90%	≥90%	≥90%	≥90%	≥90%	Building a capable, ethical and developmental state
		OTC	42	% of staff reached through training initiatives.	≥65%	N/A	N/A	N/A	≥65%	Building a capable, ethical and developmental state

Outcome	Outputs	Accountable Program	No.	Performance Indicator	Annual Target	Q1	Q2	Q3	Q4	Impact
<b>11. Business Process Improvement</b>	a) Review and redesign of business processes to improve efficiency and organizational agility.	Legal Services	43	No. of reviews of complaints, exemptions, market inquiries, merger process and rules made under the Competition Act.	2	N/A	1	N/A	1	Lower cost of business (reduce red tape); Building a capable, ethical and developmental state
	b) Development of	CSD	44	Progress report on the development of	Progress Report on the	Appointment of the service	Progress Report on initiation	Progress Report on the	Progress Report on the development	Building a capable, ethical and developmental state

Outcome	Outputs	Accountable Program	No.	Performance Indicator	Annual Target	Q1	Q2	Q3	Q4	Impact
	an integrated Management Information System (MIS) to ERP			the Management Information System (MIS) integrated to Enterprise Resource Planning (ERP)	development of the MIS integrated to Enterprise Resource Planning (ERP) and an Approved Concept Note on Digitalisation at the Commission.	provider for the development of the MIS	and planning	development of the MIS	of the MIS and Approved Concept Note on the Digitalisation Project	
<b>12. Sound financial</b>	c) Payment of supplier	Finance	45	% of suppliers paid within 20 days.	100%	100%	100%	100%	100%	Building a capable, ethical and developmental state



## 6. MTEF Performance plan: Finance

Below are the Commission’s budgetary estimates (MTEF) for the next three-year period of its Strategic Plan. These estimates are drawn from the intended work programs of the Commission for the period, as per the 2020-2025 Strategic Plan and revised 2024/25 Annual Performance Plan.

### 6.1 Revenue Analysis

The projected revenue of the Commission in the MTEF is illustrated in the table below:

**Table 4: REVENUE**

REVENUE	2024/25 ANNUAL BUDGET	2025/26 ANNUAL BUDGET	2026/27 ANNUAL BUDGET
Mergers and Acquisitions	68,317,000	71,830,000	75,500,000
Government Grant	426,193,000	440,339,000	455,338,000
Interest Received	18,281,000	18,653,000	19,239,000
<b>TOTAL</b>	<b>512,791,000</b>	<b>530,822,000</b>	<b>550,077,000</b>

The main contributor to the revenue of the Commission is government grants, followed by fees for Mergers and Acquisitions and Interest Received. The sustainability of the Commission is intertwined with increased predictability of its revenue. This is likely to remain a challenge in the current fiscal environment and the low levels of predictability we are seeing on the other revenue lines.

### 6.2 Expenditure Analysis

The operations of the Commission, akin to a professional services organisation, are human capital intensive as evident from the high financial requirements for human resources. The next driver of expenditure is case related costs mainly for outsourcing of services that support investigation and litigation of cases of the Commission. The implementation of the amendments to the Act through the Strategic Plan of the Commission continues to be the main focus of investments at the Commission. The following table summarises the projected estimates by strategic objectives:

**Table 5: EXPENDITURE PER STRATEGIC OBJECTIVE**

<b>EXPENDITURE PER STRATEGIC OBJECTIVE</b>	<b>2024/25 ANNUAL BUDGET</b>	<b>2025/26 ANNUAL BUDGET</b>	<b>2026/27 ANNUAL BUDGET</b>
Goal 1: Enforcing and Regulating towards economic growth and enhanced economic participation	402,625,389	417,229,914	432,377,720
Goal 2: Advocating for improved compliance and pro-competitive public policy outcomes	20,349,296	20,982,218	21,740,881
Goal 3: A people-centric and high-performance organisation	89,816,315	92,609,868	95,958,399
<b>TOTAL</b>	<b>512,791,000</b>	<b>530,822,000</b>	<b>550,077,000</b>

Most of our expenditure aligns with the first goal of our strategic objectives. The core program of the Commission is delivered through Mergers & Acquisitions Division (M&A), Market Conduct Division (MCD), Cartels Division, Legal Services Division, Economic Research Bureau (ERB) and the Advocacy Division. Support Services spend on activities such as Administration, with 80% of the resources spent in the support services directed at supporting core activities.

The financial resources have been allocated to ensure that the Commission focuses on the identified strategic areas. As customary, financial revisions are done during the financial year, and any adjustments are effected accordingly.

**Table 6: TOTAL EXPENDITURE PER MAIN ITEM**

<b>TOTAL EXPENDITURE PER MAIN ITEM</b>	<b>2024/25 ANNUAL BUDGET</b>	<b>2025/26 ANNUAL BUDGET</b>	<b>2026/27 ANNUAL BUDGET</b>
Human Resources	326,468,768	352,470,354	368,683,990
Premises & Equipment	30,514,395	32,323,408	33,492,138
Other Operational	10,472,623	11,093,482	11,494,593
Research & Information	2,370,282	2,510,802	2,601,586
IT and system Development	5,317,704	5,632,959	5,836,632
Educational Awareness	4,239,506	4,490,840	4,653,217
Case Related Costs	101,618,767	88,626,627	88,423,769
Capital Expenditure	18,039,870	19,109,344	19,800,288

Depreciation	4,336,687	4,593,783	4,759,882
Other Programme Costs	9,412,398	9,970,401	10,330,905
<b>TOTAL</b>	<b>512,791,000</b>	<b>530,822,000</b>	<b>550,077,000</b>

### 6.3 Materiality Framework

Due to the nature of the business of the Commission (it is not a capital-intensive business) the best indicator regarding business activity is expenditure. There is lower risk on revenue as 80% of the revenue is made up of voted funds. For this reason, we have selected 0.50% of expenditure regarding this framework. The implications, based on the estimated expenditure, are summarised as follows:

**Table 7: MATERIALITY**

MATERIALITY	%	2024/25	2025/26	2026/27
Expenditure		512,791,401	530,822,000	550,077,000
Materiality	0.5 0%	2,563,955	2,654,110	2,750,385

## 7. Updated key risks and mitigations from the Strategic Plan

Below is the updated Strategic Risks of the Commission with identified interventions for risk mitigation:

**Table 8: STRATEGIC RISKS**

Risk	Risk Mitigation
1. High rate of Losses or Collapse cases in litigation	<ul style="list-style-type: none"> <li>Vetting of cases by the Commission meeting</li> <li>Usage of KMS</li> </ul>
2. Protracted Litigation	<ul style="list-style-type: none"> <li>Management of Case Pipeline</li> </ul>
3. Inability to finalise cases within the planned turnaround times	<ul style="list-style-type: none"> <li>Management of Case Pipeline</li> <li>Revised Small Merger Guidelines</li> </ul>
4. Insufficient Evidence in Investigation Reports	<ul style="list-style-type: none"> <li>Vetting of cases by the Commission meeting</li> </ul>
5. Over/underspending of allocated resources to the Commission	<ul style="list-style-type: none"> <li>Alignment of budgets with business plans and project plans</li> <li>Finance Committee (used as a line of defence)</li> </ul>

Risk	Risk Mitigation
	for oversight)
6. Poor Supply Chain Management	<ul style="list-style-type: none"> <li>• Finance Policies</li> <li>• Procurement Planning</li> </ul>
7. Low reliability of ICT Systems of the Commission	<ul style="list-style-type: none"> <li>• Investments in various systems, tools and expertise</li> </ul>
8. Inadequate cybersecurity	<ul style="list-style-type: none"> <li>• Mirroring of all documents/files in the document management system</li> <li>• Encryption of data on laptops</li> <li>• Intrusion, detection and prevention systems (Firewalls)</li> <li>• Regular backups including off-site back- ups and information storage</li> <li>• Penetration tests and cybersecurity reviews through Internal Audit and executing action plan from recommendations of audits conducted</li> <li>• IT Committee, Risk and Governance and EXCO receive regular updates on cybersecurity matters</li> <li>• IT monitors staff behaviour that makes systems vulnerable and actions are taken to address issues and to communicate a need for appropriate behaviours to strengthen security.</li> </ul>
9. Negative Occupational Health and Safety Incidents	<ul style="list-style-type: none"> <li>• C Block and Hybrid Working Model</li> </ul>
10. High Staff Turnover	<ul style="list-style-type: none"> <li>• Human Capital Policies</li> <li>• Employee Value Proposition</li> </ul>
11. Fraud and Corruption	<ul style="list-style-type: none"> <li>• Financial Controls and Combined Assurance</li> <li>• Fraud Prevention Policy</li> <li>• Conflict of Interest Policy</li> <li>• Compliance Management Framework</li> <li>• Awareness Campaigns</li> </ul>
12. Lack of impartiality and independence	<ul style="list-style-type: none"> <li>• Declaration of Interests</li> </ul>



## PART D: TECHNICAL INDICATOR DESCRIPTIONS (TIDS)

STRATEGIC OUTCOMES	OUTPUTS	No	KEY PERFORMANCE INDICATORS	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
<b>STRATEGIC GOAL 1: ENFORCING AND REGULATING TOWARDS ECONOMIC GROWTH AND GREATER ECONOMIC PARTICIPATION</b>					
<b>1. Efficient and effective merger regulation &amp; enforcement</b>	a) Merger & acquisition decisions	1.	Average turnaround time for Phase 1 merger investigations.	<b>Definition:</b> <ul style="list-style-type: none"> <li>The Commission classifies merger notifications into phases, according to the complexity of the cases. Phase 1 investigations are non-complex, Phase 2 investigations are complex, while Phase 3 investigations are highly complex.</li> <li>Indicators 1-3 refer to the amount of time the Commission takes to make a decision in Phase 1, Phase 2 and Phase 3 small and intermediate merger cases.</li> <li>Indicator 4 refers to the amount of time the Commission takes to make a decision in 90% of Phase 3 large merger cases.</li> <li>The Average Turnaround time for indicators 1- 3 is calculated by adding the time taken for decisions on all cases and dividing the total by the total number of cases decided.</li> <li>The time taken for decision is calculated as follows:                             <ul style="list-style-type: none"> <li>The 'start date' for the calculation is the commencement of the Initial Period, as defined in the Rules for Proceedings in the CCSA. The time period for assessment thus starts on the first business day</li> </ul> </li> </ul>	M&A
		2.	Average turnaround time for Phase 2 merger investigations.		M&A
		3.	Average turnaround time for Phase 3 intermediate merger investigations.		M&A
		4.	Average turnaround time for 90% of Phase 3 large merger investigations.		M&A

STRATEGIC OUTCOMES	OUTPUTS	No	KEY PERFORMANCE INDICATORS	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
				<p>after receipt of the merger filing.</p> <ul style="list-style-type: none"> <li>• The date on which the filing is received is the date of receipt recorded by Registry on the Merger Notice, Form CC4(1).</li> <li>• The 'end date' for the calculation is the date on which (1) the Commission's decision is issued to the merger parties for small and intermediate mergers, and (2) the date on which the Commission's recommendation is filed with the Competition Tribunal for large mergers.</li> <li>• The date on which the Commission's decision is issued is recorded on Form CC15 or CC16 in small and intermediate mergers.</li> <li>• The date on which the Commission's recommendation is filed with the Tribunal is recorded on Form CC17 in large mergers.</li> <li>• The turnaround time for a case is the total number of business days from the start date until the end date, and excludes the day on which the merger was filed.</li> <li>• However, if a Notice of Incomplete merger filing (Form CC13(2)) or a Notice of false or misleading Information (Form CC13(4)) is issued, the turnaround times are calculated from the business day following</li> </ul>	

STRATEGIC OUTCOMES	OUTPUTS	No	KEY PERFORMANCE INDICATORS	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
				<p>the receipt of a Complete Filing or Corrected Information.</p> <ul style="list-style-type: none"> <li>To calculate the Average Turnaround time for indicator 4, Phase 3 (L) merger cases must be sorted by turnaround time (as calculated above) from longest to shortest and the top 10% of cases must be excluded. The average is then calculated for the remaining 90% of cases.</li> <li>The annual target should not be calculated as an average of all the quarterly average turnaround times as using an average of an average will give an incorrect result. The annual target should be calculated as explained above but using a database of all the cases decided in that financial year. The target is met if the outcome is less than or equal to the service standard.</li> </ul> <p><b>Purpose/Importance:</b></p> <ul style="list-style-type: none"> <li>The indicator is a measure of process efficiency. Efficient merger review is important for investment and service-delivery, particularly given the financial and economic implications of mergers.</li> </ul>	

STRATEGIC OUTCOMES	OUTPUTS	No	KEY PERFORMANCE INDICATORS	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
				<p><b>Collection of Data/Method of Calculation:</b></p> <ul style="list-style-type: none"> <li>• Turnaround times are determined by calculating the number of business days following the day of notification until the decision date. The average is calculated by the total number of days divided by the number of transactions.</li> <li>• The Mergers Division has a database of cases generated as and when filed with the Commission.</li> </ul>	
	b. Compliance monitoring for merger conditions	5.	No. of quarterly compliance monitoring reports on competition and public interest conditions imposed by the Commission.	<p><b>Definition:</b></p> <ul style="list-style-type: none"> <li>• The Commission can approve mergers subject to certain conditions being met by the merging parties; or can impose remedies which the merging parties must fulfil. The indicator refers to the monitoring of the implementation of such conditions or remedies.</li> </ul> <p><b>Purpose/ Importance:</b></p> <ul style="list-style-type: none"> <li>• The effectiveness of merger remedies imposed is only evident in their application. Remedies are also legally binding to the parties. It is thus important that the Commission monitors the compliance of the parties thereto.</li> </ul> <p><b>Collection of Data/Method of Calculation:</b></p>	M&A

STRATEGIC OUTCOMES	OUTPUTS	No	KEY PERFORMANCE INDICATORS	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
				<ul style="list-style-type: none"> <li>All cases approved with conditions or remedies are collected on a divisional database.</li> <li>Achievement of this target is denoted by a report to the Commission Meeting/EXCO reporting on conditions compliance monitoring as regards the immediately preceding quarter.</li> <li>The report must be submitted to Commission Meeting/EXCO within the month following the end of the immediately preceding quarter. For example, the Quarterly Report for Conditions imposed in Q1 (April – June in FYx), must be submitted before the end of July in FYx.</li> </ul>	
<p><b>2. Competitive, Contestable and Deconcentrated Markets +</b></p> <p><b>3. Improved public interest</b></p>	<p>a) Investigation of Abuse of dominance and restrictive practices</p>	<p>6.</p>	<p>No. of abuse of dominance and restrictive vertical practices cases initiated in prioritised sectors in line with amendments of the Competition Act.</p>	<p><b>Definition:</b></p> <ul style="list-style-type: none"> <li>The KPI refers to the number of Market Conduct investigations initiated, which fall within the Commission’s pre-determined priority sectors (see section on Prioritisation within the APP).</li> </ul> <p><b>Purpose/Importance:</b></p> <ul style="list-style-type: none"> <li>Abuse of dominance and restrictive vertical practices have a stifling effect on the economy, particularly in critical sectors. The initiation of a case is the first step towards the prosecution of the conduct.</li> </ul>	<p>MCD</p>

STRATEGIC OUTCOMES	OUTPUTS	No.	KEY PERFORMANCE INDICATORS	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
outcomes.	es			<p><b>Collection of Data/ Method of Calculation:</b></p> <ul style="list-style-type: none"> <li>• The Commission initiates investigation based on its own research and intelligence or based on complaints received from members of the public.</li> <li>• The initiation of a case is evidenced minutes of the Commission meeting's decision to initiate.</li> <li>• A list of initiated cases is kept in the Data Compilation Template (DCT) of the division.</li> </ul>	
		7.	% of market conduct investigations completed within 18 months.	<p><b>Definition:</b></p> <ul style="list-style-type: none"> <li>• The 'completion' of a case refers to Commission's decision to refer the case to the Tribunal for prosecution or the decision to non-refer the case (i.e., not to pursue the case further).</li> <li>• 'Completed' cases include cases concluded at the 'screening' stage.</li> <li>• Market conduct investigations include section 5, 8 and 9 cases, and exclude cartel cases.</li> <li>• The indicator excludes cases that are placed on hold.</li> <li>• The indicator denotes percentage of achievement greater than, or equal to the target.</li> </ul> <p><b>Purpose/ Importance:</b></p>	MCD & Advocacy

STRATEGIC OUTCOMES	OUTPUTS	No	KEY PERFORMANCE INDICATORS	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
				<ul style="list-style-type: none"> <li>• The Competition Act stipulates a time frame of 12 months within which the investigation of a complaint from members of the public must be finalised. However, it does not stipulate time limits within which to complete investigations initiated by the Commission. Due to the complex nature of investigations, certain matters may take longer than 12 months to finalise.</li> </ul> <p><b>Collection of Data/ Method of Calculation:</b></p> <ul style="list-style-type: none"> <li>• The target is calculated as follows: “Of the cases completed in the quarter/year, what percentage was completed within 18 months?”</li> <li>• The 18 months include the time taken by the screening unit to screen the case.</li> <li>• Minutes of the Commission meeting will denote the decision for referral or non-referral of the investigations.</li> <li>• The baseline for the calculation of third-party complaints is the date following the actual date of receipt of the complaint by the Commission’s Registry.</li> </ul>	

STRATEGIC OUTCOMES	OUTPUTS	No	KEY PERFORMANCE INDICATORS	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
				<ul style="list-style-type: none"> <li>For Commission's own initiation, the baseline for calculation is the completed and signed CC1 form.</li> </ul>	
	b) Exemption application decisions	8.	% of exemption applications completed within 12 months.	<p><b>Definition</b></p> <ul style="list-style-type: none"> <li>An exemption application is 'completed' once the Commission Meeting has taken a decision to grant or not to grant an exemption to the applicant/s. The Commission Meeting's decision is then published in the Government Gazette.</li> <li>The indicator denotes percentage of achievement greater than, or equal to the target.</li> </ul> <p><b>Purpose/ Importance</b></p> <ul style="list-style-type: none"> <li>The Competition Act provides for firms to apply to the Commission for exemption of compliance to the Competition Act, under specific circumstances.</li> <li>The granting of exemptions can facilitate promotion of small businesses, economic stability of designated industries, maintenance, or promotion of exports).</li> <li>It is important that decisions on applications are taken judiciously.</li> </ul> <p><b>Collection of Data/ Method of Calculation:</b></p>	MCD



STRATEGIC OUTCOMES	OUTPUTS	No	KEY PERFORMANCE INDICATORS	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
				<ul style="list-style-type: none"> <li>The 12 months is calculated from day following the date in which the application is received by the Commission's Registry department, to the date of the Commission meeting decision.</li> <li>The achievement of the target is evidenced by minutes of the Commission meeting, which indicate the Commission's decision to either grant or refuse to grant an exemption.</li> <li>The Commission reports on the time it has taken to process exemption applications which it has taken a decision on.</li> <li>This number may differ from the pool of applications received in the quarter, some of which may not be decided upon at quarter-end.</li> </ul>	
	c)	9.	% of block exemption applications completed within 30 days.	<p><b>Definition</b> A block exemption application is 'completed' once the Commission Meeting has taken a decision to confirm or not confirm that the agreement/s or practices in question fall within the scope of the regulations under which the exemption is sought.</p> <p>The indicator denotes the percentage of achievement equal to the target (i.e. 100%) and only applies to block exemption applications</p>	MCD

STRATEGIC OUTCOMES	OUTPUTS	No	KEY PERFORMANCE INDICATORS	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
				<p>where mandatory notification to the Commission is prescribed by the relevant regulations.</p> <p>The target only applies to block exemption applications filed based on the existing block exemption regulations (i.e. regulations already promulgated at the time of the approval of this APP Plan) and does not apply to block exemption applications filed based on any new block exemption regulations promulgated after the approval of this APP Plan, unless such new regulations prescribe 30 days as the completion period (without the option to extend such a period).</p> <p>Any block exemption applications filed based on the block exemption regulations promulgated after the approval of this APP Plan will be subjected to and evaluated in accordance with the timeframes prescribed in such regulations, if the regulations in question prescribe a period longer than 30 days or make provision for extensions. The 30-day period contemplated in this target means 30 business days and excludes weekends and statutory public holidays.</p> <p><b>Purpose/ Importance</b></p> <p>The Competition Act (through various regulations) provides for firms to apply for and/ or seek in-scope confirmation from the</p>	

STRATEGIC OUTCOMES	OUTPUTS	No	KEY PERFORMANCE INDICATORS	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
				<p>Commission for exemption of compliance to the Competition Act. The granting of block exemptions promotes the effective participation of HDP and SME firms in various markets, stability and sustainable supply of products in critical sectors, and access to basic services at lower prices. It is important that decisions on block exemptions are taken judiciously.</p> <p><b>Collection of Data/ Method of Calculation:</b>  The 30 day-period is calculated from the day following the date in which the application is received by the Commission's Registry department, to the date of the Commission meeting decision. The achievement of the target is evidenced by minutes of the Commission meeting, which indicate the Commission's decision to either confirm or not confirm the scope.</p>	
	d) Market Inquiries	10.	No. of market inquiries initiated.	<p><b>Definition:</b></p> <ul style="list-style-type: none"> <li>Market Inquiries are a general inquiry into the state of competition in a market, the levels of concentration in and structure of a market for particular goods or services, without necessarily referring to the conduct or activities of any particular named firm which the Commission undertakes under provisions in the Competition Act.</li> </ul>	MID

STRATEGIC OUTCOMES	OUTPUTS	No	KEY PERFORMANCE INDICATORS	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
				<p><b>Purpose/ Importance:</b></p> <ul style="list-style-type: none"> <li>A Market Inquiry allows the Commission to undertake an in- depth probe of a market to understand competition dynamics, without initiating an investigation into particular conduct.</li> </ul> <p><b>Collection of Data/ Method of Calculation:</b></p> <ul style="list-style-type: none"> <li>The achievement of the indicator is determined by the decision of the Commission Meeting to initiate a Market Inquiry.</li> </ul>	
		11.	No. of market inquiries completed.	<p><b>Definition:</b></p> <ul style="list-style-type: none"> <li>The ‘completion’ of a Market Inquiry refers to the submission of a Final Report on the inquiry to the Commission Meeting.</li> </ul> <p><b>Purpose/ Importance:</b></p> <ul style="list-style-type: none"> <li>The Final Report of a Market Inquiry can have actionable recommendations, which have an impact on the public, on Government or on the market.</li> </ul> <p><b>Collection of Data/ Method of Calculation:</b></p> <ul style="list-style-type: none"> <li>The achievement of the indicator is denoted by the approval of the final market inquiry report approved by</li> </ul>	

STRATEGIC OUTCOMES	OUTPUTS	No	KEY PERFORMANCE INDICATORS	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
				the Commission or EXCO meeting.	
		12.	No. of monitoring reports on the outcomes of the implementation of Market Inquiry Recommendations.	<p><b>Definition:</b></p> <ul style="list-style-type: none"> <li>This refers to a report on progress in implementing market inquiry recommendations arising from the completed inquiries. This is a single report covering all relevant completed market inquiries and/or a more in-depth look at one inquiry.</li> </ul> <p><b>Purpose/ Importance:</b></p> <ul style="list-style-type: none"> <li>The Commission monitors implementation of recommendations from completed market inquiries. The indicator will enable the Commission to track progress in implementation.</li> </ul> <p><b>Collection of Data/ Method of Calculation:</b></p> <ul style="list-style-type: none"> <li>The achievement of this indicator is evidenced by a report noted/approved at the Commission or EXCO Meeting.</li> </ul>	MID
	e) Cartel Investigations	13.	No. of cartel investigations completed including high impact cartel investigations.	<p><b>Definition:</b></p> <ul style="list-style-type: none"> <li>The target refers to cartel cases which the Commission has decided to refer to the Tribunal for prosecution, and cases which the Commission has decided to non-refer.</li> </ul>	Cartels

STRATEGIC OUTCOMES	OUTPUTS	No	KEY PERFORMANCE INDICATORS	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
				<ul style="list-style-type: none"> <li>For high impact investigation it refers to cartel cases that have significant outcomes on markets, other firms and consumers.</li> </ul> <p><b>Purpose/Importance:</b></p> <ul style="list-style-type: none"> <li>Completing the investigation of cases ensures that those parties whom the Commissions alleges to be engaged in cartel activities can respond to the charges before the Tribunal, in fulfilment of the mandate of the Competition Act.</li> </ul> <p><b>Collection of Data/Method of Calculation:</b></p> <ul style="list-style-type: none"> <li>The achievement of the target is evidenced by minutes of the Commission meeting to refer or non-refer cartel cases to the Tribunal.</li> </ul>	
	f) Cartel Prosecutions	14.	% of cartel cases won at the Tribunal.	<p><b>Definition:</b></p> <ul style="list-style-type: none"> <li>Winning means, the relief sought by the Commission is upheld partially or in full or variation thereof by the Tribunal or the courts.</li> <li>The percentage of cartel cases, where a final decision of the Tribunal and or the courts has been attained, which the Commission wins within the reporting period.</li> </ul>	Legal Services & Cartels
		15.	% of cartel cases won at the courts.		

STRATEGIC OUTCOMES	OUTPUTS	No	KEY PERFORMANCE INDICATORS	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
				<ul style="list-style-type: none"> <li>• The target is not met if the Commission’s case is dismissed by the Tribunal or the courts in its entirety.</li> <li>• Where the Commission case is partially upheld by the Tribunal or other courts this target is met.</li> <li>• This definition excludes cases which are under appeal or review at the courts at the time of reporting, or within a reasonable time after issuing of the judgment.</li> <li>• The indicator includes cartel cases completed through settlement agreements, pre and post referral.</li> <li>• The indicator denotes percentage of achievement greater than, or equal to the target.</li> </ul> <p><b>Purpose/ Importance:</b></p> <ul style="list-style-type: none"> <li>• It is the Commission’s goal to successfully prosecute cartelists. Success at the Tribunal and courts confirms the rigor applied by the Commission and the correctness of its decisions.</li> </ul> <p><b>Collection of Data/ Method of Calculation:</b></p> <ul style="list-style-type: none"> <li>• The indicator is determined from orders of the Tribunal and/or the Courts where cartel cases are under litigation.</li> <li>• Orders of the Tribunal/courts are accessible to the general</li> </ul>	

STRATEGIC OUTCOMES	OUTPUTS	No	KEY PERFORMANCE INDICATORS	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
				<p>public and the Commission keeps records thereof.</p> <ul style="list-style-type: none"> <li>Quarterly results must denote actual wins/losses as at the end of the quarter calculated as a percentage.</li> <li>The annual result must denote actual wins/losses as at year- end for the FY, and not as a cumulative result of the quarterly performance.</li> <li>The data is captured on the divisional DCT, which indicates the date of the judgment and whether the judgment is in favour of not in favour of the Commission.</li> <li>Orders/ decisions of the Tribunal and/or the courts are accessible to the general public and the Commission keeps records thereof.</li> </ul>	
	Prosecution of Abuse of dominance, restrictive practices and exemption applications	16.	% of market conduct cases won at the Tribunal in relation to abuse of dominance, restrictive vertical practices and exemption litigation.	<p><b>Definition:</b></p> <ul style="list-style-type: none"> <li>Winning means, the relief sought by the Commission is upheld partially or in full or variation thereof by the Tribunal or the courts.</li> <li>The percentage of cases, where a final decision of the Tribunal and or the courts has been attained, which the Commission wins within the financial year.</li> <li>This definition excludes cases which are under appeal or review at the time of reporting, i.e. a Tribunal or other court decisions in favour or against the Commission cannot be</li> </ul>	Legal Services
		17.	% of market conduct cases won at the courts in relation to abuse of dominance, restrictive vertical practices		



STRATEGIC OUTCOMES	OUTPUTS	No	KEY PERFORMANCE INDICATORS	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
			and exemption litigation.	<p>counted if it is under appeal or review at the time of reporting) or within a reasonable time after issuing of the judgment.</p> <ul style="list-style-type: none"> <li>• Where the Commission case is partially upheld by the Tribunal or other courts this target is met.</li> <li>• The indicator includes enforcement cases (excluding cartels and market inquiries) completed through settlement agreements, both pre- and post- referral.</li> <li>• The indicator denotes percentage of achievement greater than, or equal to the target.</li> </ul> <p><b>Purpose/Importance:</b></p> <ul style="list-style-type: none"> <li>• It is the Commission's goal to successfully prosecute contraveners and to ensure that market conduct remedies and exemption decisions are upheld by the Tribunal and the courts. Success at the courts confirms the rigour applied by the Commission and the correctness of its decisions.</li> </ul> <p><b>Collection of Data: Method of Calculation</b></p> <ul style="list-style-type: none"> <li>• The indicator is determined from the number of final Tribunal or court orders issued (excluding cases under appeal or review at the time of reporting) where enforcement cases were under litigation.</li> </ul>	

STRATEGIC OUTCOMES	OUTPUTS	No	KEY PERFORMANCE INDICATORS	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
				<ul style="list-style-type: none"> <li>Orders of the Tribunal/courts are accessible to the general public and the Commission keeps records thereof.</li> <li>Quarterly results must denote actual wins/losses as at the end of the quarter calculated as a percentage.</li> <li>The annual result must denote actual wins/losses as at year-end for the FY, and not as a cumulative result of the quarterly performance.</li> <li>The data is captured on the divisional DCT, which indicates the date of the judgement and whether the judgement is in favour of not in favour of the Commission.</li> </ul> <p>Orders/ decisions of the Tribunal and/or the Courts are accessible to the public and the Commission keeps records thereof.</p>	
	g) Merger Litigation	18.	% of merger decisions upheld by Tribunal.	<p><b>Definition:</b></p> <ul style="list-style-type: none"> <li>The percentage of the Commission's decisions on contested Large Mergers, reconsideration applications, prior implementation cases and merger reviews which are upheld at the Tribunal and at the courts.</li> <li>This definition excludes cases which are under appeal or review in the courts at the end of the reporting period. i.e., a Tribunal or CAC decision in favour or against the Commission cannot be counted if it is under appeal or review</li> </ul>	Legal Services
		19.	% of merger decisions upheld by the courts.		

STRATEGIC OUTCOMES	OUTPUTS	No	KEY PERFORMANCE INDICATORS	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
				<p>at the time of reporting or within a reasonable time after issuing of the judgment.</p> <ul style="list-style-type: none"> <li>This definition includes cases where the Commission recommendation/decision is subsequently amended through (a) negotiations between the Commission and parties and ultimately approved by the Tribunal, and (b) amended through a decision by the Tribunal or the courts.</li> <li>The indicator includes cases completed through settlement agreements, pre and post referral.</li> <li>Where the Commission case is partially upheld by the Tribunal or other courts this target is met.</li> <li>The indicator denotes percentage of achievement greater than, or equal to the target.</li> </ul> <p><b>Purpose/Importance:</b></p> <ul style="list-style-type: none"> <li>The rationality of Commission's decisions is best tested by the Tribunal and the Courts. Decisions upheld by the Tribunal and the Courts confirm the rigour applied by the Commission and the correctness of its decisions.</li> </ul> <p><b>Collection of Data/Method of Calculation:</b></p> <ul style="list-style-type: none"> <li>The achievement of the indicator is evidenced by the</li> </ul>	

STRATEGIC OUTCOMES	OUTPUTS	No.	KEY PERFORMANCE INDICATORS	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
				<p>decision of the Tribunal and/or the courts which pertain to mergers taken within the reporting period.</p> <ul style="list-style-type: none"> <li>• Quarterly results must denote actual wins/losses as at the end of the quarter calculated as a percentage.</li> <li>• The annual result must denote actual wins/losses as at year-end for the FY, and not as a cumulative result of the quarterly performance.</li> <li>• Orders/ decisions of the Tribunal and/or the Courts are accessible to the public and the Commission keeps records thereof.</li> </ul>	
	h) Interlocutory litigation	20.	% of interlocutory decisions upheld by the Tribunal.	<p><b>Definition:</b></p> <ul style="list-style-type: none"> <li>• The percentage of the Commission's decisions on interlocutory applications upheld at the Tribunal and at the courts.</li> <li>• This definition is limited to interlocutory applications that may have a strategic impact on a case such as exception applications, jurisdictional challenges, dismissal applications, and reviews excludes process applications/considerations such as discovery, extensions,</li> <li>• Excludes cases which are under appeal or review in the courts at the end of the reporting period. i.e., a Tribunal or CAC decision in favour or against the Commission cannot</li> </ul>	Legal Services
		21.	% of interlocutory decisions upheld by the courts.		

STRATEGIC OUTCOMES	OUTPUTS	No	KEY PERFORMANCE INDICATORS	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
				<p>be counted if it is under appeal or review at the time of reporting or within a reasonable time after issuing of the judgment.</p> <ul style="list-style-type: none"> <li>• This definition includes cases where the Commission recommendation/decision is subsequently amended through (a) negotiations between the Commission and parties and ultimately approved by the Tribunal, and (b) amended through a decision by the Tribunal or the courts.</li> <li>• Matters completed through settlement agreements are also included.</li> <li>• Where the Commission case is partially upheld by the Tribunal or other courts this target is met.</li> <li>• The indicator denotes percentage of achievement greater than, or equal to the target.</li> </ul> <p><b>Purpose/Importance:</b></p> <ul style="list-style-type: none"> <li>• The rationality of Commission's decisions is best tested by the Tribunal and the courts. Decisions upheld by the Tribunal and the courts confirm the rigor applied by the Commission and the correctness of its decisions.</li> </ul> <p><b>Collection of Data/Method of Calculation:</b></p>	

STRATEGIC OUTCOMES	OUTPUTS	No	KEY PERFORMANCE INDICATORS	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
				<ul style="list-style-type: none"> <li>The achievement of the indicator is evidenced by the decision of the Tribunal and/or the courts which pertain to interlocutory applications taken within the reporting period.</li> <li>Quarterly results must denote actual wins/losses as at the end of the quarter calculated as a percentage.</li> <li>The annual result must denote actual wins/losses as at year-end for the FY, and not as a cumulative result of the quarterly performance.</li> <li>Orders/ decisions of the Tribunal and/or the courts are accessible to the public and the Commission keeps records thereof.</li> </ul>	
<b>STRATEGIC GOAL 2: ADVOCATING FOR IMPROVED COMPLIANCE AND PRO-COMPETITIVE PUBLIC POLICY OUTCOMES</b>					
<b>4. Improved compliance &amp; awareness</b>	a) Domestic outreach initiatives	22	No. of outreach, awareness, public education and training initiatives conducted to improve compliance with the Competition Act, the quality and quantity of complains and initiations of the Commission.	<b>Definition:</b> <ul style="list-style-type: none"> <li>Education, training, and outreach programs refers to activities which aim to improve stakeholder understanding of the Competition Act, and therefore promoting compliance.</li> <li>Workshops or outreach programs conducted refer to those initiated by the Commission and responses by the Commission to stakeholder requests for training.</li> <li>Stakeholders refers to government officials, regulators, trade unions/ federations, organisations representing business and consumers and the general public.</li> </ul>	OTC & Advocacy

STRATEGIC OUTCOMES	OUTPUTS	No	KEY PERFORMANCE INDICATORS	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
				<p><b>Purpose/ Importance:</b></p> <ul style="list-style-type: none"> <li>Stakeholder education and awareness on competition law and policy is an advocacy mandate of the Commission. Stakeholders are taught about how to effectively participate in the Commission's processes.</li> <li>The Commission engages in outreach programmes as part of reaching members of the public and publicising its work and to promote compliance.</li> </ul> <p><b>Collection of Data/ Method of Calculation:</b></p> <ul style="list-style-type: none"> <li>The achievement of this indicator is evidenced by a post-event report noted at the Commission or EXCO Meeting.</li> </ul>	
	b) External Guidelines on the application of the Act	23.	No. of Guidelines on the application of the Competition Act to create greater certainty on the enforcement of the Act.	<p><b>Definition:</b></p> <ul style="list-style-type: none"> <li>Guidelines are detailed explanatory directives on the Commission's enforcement approach to any aspect of the Competition Act. This includes revisions to existing Guidelines along with new Guidelines.</li> </ul> <p><b>Purpose/ Importance:</b></p> <ul style="list-style-type: none"> <li>As the custodian of the Competition Act, the Commission issues Guidelines to stakeholders to guide them on the</li> </ul>	Legal Services & ERB

STRATEGIC OUTCOMES	OUTPUTS	No	KEY PERFORMANCE INDICATORS	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
				<p>application of the Competition Act in particular circumstances.</p> <p><b>Collection of Data/ Method of Calculation:</b></p> <ul style="list-style-type: none"> <li>The attainment of the target is denoted by approval of the Guidelines at the Commission Meeting or EXCO.</li> </ul>	
	c) Training	24.	% of advisory opinions issued within 60 days.	<p><b>Definition:</b></p> <ul style="list-style-type: none"> <li>Non-binding advisory opinion is a written guidance issued by the Commission.</li> </ul> <p><b>Purpose/ Importance:</b></p> <ul style="list-style-type: none"> <li>The purpose of the advisory opinion is to assist the requestor to comply with the provisions of the Competition Act.</li> </ul> <p><b>Collection of Data/ Method of Calculation:</b></p> <ul style="list-style-type: none"> <li>The number of advisory opinions issued by the Commission in the relevant reporting period within the service standard.</li> <li>The turnaround time for issuing the advisory opinion will only begin to run from the date that all the relevant information required by the Commission has been submitted.</li> <li>If all the relevant information required by the Commission has not been submitted, the turnaround time will not</li> </ul>	Legal Services



STRATEGIC OUTCOMES	OUTPUTS	No	KEY PERFORMANCE INDICATORS	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
				<p>commence.</p> <ul style="list-style-type: none"> <li>The achievement of this indicator is evidenced by an advisory opinion noted at the Commission or EXCO Meeting.</li> </ul>	
<p><b>5. Improved understanding of market dynamics in priority sectors.</b></p>	<p>a) Industry scoping studies</p>	<p>25.</p>	<p>No. of market studies conducted in prioritised sectors to identify competition issues.</p>	<p><b>Definition:</b></p> <ul style="list-style-type: none"> <li>A market study is a report which comprises an economic study of a market or industry, largely to identify potential competition issues which the Commission can further probe through a market inquiry.</li> </ul> <p><b>Purpose/ Importance:</b></p> <ul style="list-style-type: none"> <li>The Commission undertakes market studies to assess markets for potential anti-competitive conduct but also features which likely have an adverse effect on competition. This work assists the Commission in informing potential market inquiries to be initiated along with their terms of reference, or alternatively cases to be initiated.</li> </ul> <p><b>Collection of Data/ Method of Calculation:</b></p> <ul style="list-style-type: none"> <li>The achievement of this indicator is evidenced by a market study report noted at the Commission or EXCO Meeting.</li> </ul>	<p>ERB</p>
	<p>b) Impact</p>	<p>26.</p>	<p>No. of impact assessment</p>	<p><b>Definition:</b></p>	<p>ERB</p>

STRATEGIC OUTCOMES	OUTPUTS	No	KEY PERFORMANCE INDICATORS	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
	assessments on Commission decisions or competition policy.		studies to improve decision making.	<ul style="list-style-type: none"> <li>• ‘Impact Assessment Studies are economic studies which have been undertaken by the Commission to measure the impact of its work on markets or regulation in terms of section 21A of the Competition Act.</li> </ul> <p><b>Purpose/ Importance:</b></p> <ul style="list-style-type: none"> <li>• The Commission seeks to measure the impact of its decisions in particular sectors qualitatively and quantitatively on consumers and the economy, to ensure its effectiveness, and to assess the quality of its decision-making.</li> </ul> <p><b>Collection of Data/ Method of Calculation:</b></p> <ul style="list-style-type: none"> <li>• The achievement of the indicator is denoted by an impact assessment report which has been noted at the Commission Meeting or EXCO meeting.</li> </ul>	
	c)	27.	No. of research reports on enforcement in priority areas for initiation of complaints.	<p><b>Definition:</b></p> <ul style="list-style-type: none"> <li>• A report on research conducted on priority areas with the aim of identifying potential conduct initiations.</li> </ul> <p><b>Purpose/ Importance:</b></p> <ul style="list-style-type: none"> <li>• The Commission undertakes enforcement research to assess markets for potential anti-competitive conduct. This work assists the Commission in identifying cases to be initiated.</li> </ul>	ERB

STRATEGIC OUTCOMES	OUTPUTS	No	KEY PERFORMANCE INDICATORS	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
				<p><b>Collection of Data/ Method of Calculation:</b></p> <ul style="list-style-type: none"> <li>The achievement of this indicator is evidenced by a report noted/approved at the Commission or EXCO Meeting.</li> </ul>	
	d) Advocacy in priority sectors	28.	No. of advocacy cases completed in priority sectors.	<p><b>Definition:</b></p> <ul style="list-style-type: none"> <li>The KPI refers to the number of advocacy case undertaken which fall within the Commission's pre-determined priority sectors.</li> <li>Advocacy cases refers to those cases or projects which the Commission seeks to address competition issues through non-enforcement means. The advocacy cases are developed by the Advocacy division through the business plan informed largely by matters arising from complaints, regulatory issues, or stakeholder relation.</li> </ul> <p><b>Purpose/Importance:</b></p> <ul style="list-style-type: none"> <li>Anti-competitive conduct has a stifling effect on the economy, particularly in critical sectors. The completion of an advocacy case seeks to address competition concerns even where the Commission does not seek the prosecution of the conduct.</li> </ul> <p><b>Collection of Data/ Method of Calculation:</b></p>	Advocacy

STRATEGIC OUTCOMES	OUTPUTS	No	KEY PERFORMANCE INDICATORS	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
				<ul style="list-style-type: none"> <li>The completion of an advocacy case is evidenced by minutes of a Commission Meeting noting the concluded advocacy case.</li> <li>The case is regarded as completed if a phase/part of it if concluded, even if new work is still to be done on the same broader case in future financial years.</li> <li>Records relating to completed advocacy cases are kept in the Data Compilation Template (DCT) of the division.</li> </ul>	
		29.	No. of advocacy studies evaluating the Commission's interventions in priority sectors.	<p><b>Definition:</b></p> <ul style="list-style-type: none"> <li>The KPI refers to studies which measure the effectiveness of the Commission's case and advocacy interventions in priority sectors. These can include the impact of merger conditions or remedies imposed by the Tribunal, policy responses made, or advocacy projects previously completed, among others. The completion of a study is evidenced by minutes of a Commission Meeting noting the study.</li> </ul> <p><b>Purpose/ Importance:</b></p> <ul style="list-style-type: none"> <li>The Commission seeks to measure the outcome of its merger and advocacy work in particular sectors qualitatively and quantitatively, to ensure its effectiveness.</li> </ul>	Advocacy

STRATEGIC OUTCOMES	OUTPUTS	No	KEY PERFORMANCE INDICATORS	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
				<p><b>Collection of Data/ Method of Calculation:</b></p> <ul style="list-style-type: none"> <li>The achievement of the indicator is denoted by a study/ report which has been approved/ noted at the Commission meeting</li> </ul>	
		30.	No. of initiatives to promote entry & participation of HDPs.	<p><b>Definition:</b></p> <ul style="list-style-type: none"> <li>The KPI relates to the Commission's initiated outreach activities/projects focused on Historically Disadvantaged Individuals (HDPs). HDPs, include business owned by women, youth, and people with living disabilities, among others. These can include undertaking research projects, workshops, seminars or awareness material on the Competition Act with and/or for HDPs associations/groups or regulatory/government bodies.</li> </ul> <p><b>Collection of Data/ Method of Calculation:</b></p> <ul style="list-style-type: none"> <li>The projects to be undertaken relating to the KPI are in the business plan of the Advocacy division; notwithstanding, projects undertaken by other divisions pertaining to the definition of the KPI shall be included in the collection of data/ calculation.</li> <li>The achievement of the target is evidenced by minutes of the Commission meeting, noting a report which reflects joint activities undertaken pertaining to HDPs.</li> </ul>	Advocacy

STRATEGIC OUTCOMES	OUTPUTS	No	KEY PERFORMANCE INDICATORS	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
				<ul style="list-style-type: none"> <li>The initiative with HDPs must have transpired within the reporting period, even if it is noted by the Commission meeting in a subsequent reporting period.</li> </ul>	
	a)	31.	No. of international conferences and international forums hosted.	<p><b>Definition</b></p> <ul style="list-style-type: none"> <li>Conference is an event/ meeting of international stakeholders, where stakeholders share their research and experiences on common subjects.</li> </ul> <p><b>Collection of Data/Method of Calculation</b></p> <ul style="list-style-type: none"> <li>The achievement of this indicator is evidenced by a post-Conference memorandum noted at the Commission meeting.</li> <li>The workshop/ seminar must have transpired within the reporting period, even if it is noted by the Commission meeting in a subsequent reporting period.</li> </ul>	OTC & ERB
	b) Policy Responses	32.	No. of submissions or responses to policy or regulation.	<p><b>Definition:</b></p> <ul style="list-style-type: none"> <li>The KPI relates to written input which reflects the views of the Commission on a particular policy or regulatory matter.</li> </ul> <p><b>Purpose/ Importance:</b></p> <ul style="list-style-type: none"> <li>The Commission undertakes competition assessment of policy and regulation, according to s.21 of the Competition Act. In addition to informing the Minister of anti-competitive</li> </ul>	Advocacy

STRATEGIC OUTCOMES	OUTPUTS	No	KEY PERFORMANCE INDICATORS	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
				<p>legislation, the Commission submits written responses to the relevant policymakers Government bodies and regulators.</p> <ul style="list-style-type: none"> <li>• Responding to policy or regulatory matters can lead to the promotion of competition which is a core mandate of the Commission.</li> </ul> <p><b>Collection of Data/ Method of Calculation:</b></p> <ul style="list-style-type: none"> <li>• The achievement of this indicator is evidenced by an approval of a written submissions or policy responses by the Commission meeting, within the reporting period.</li> </ul>	
	a) Partnerships with government, labour, business and sector regulators regarding	33.	No of reports on collaboration projects with stakeholders on objectives of the Competition Act.	<p><b>Definition:</b></p> <ul style="list-style-type: none"> <li>• The indicator refers to the Commission undertaking collaborative work with stakeholders on the objectives of the Competition Act.</li> </ul> <p><b>Purpose:</b></p> <ul style="list-style-type: none"> <li>• The Commission has built relations with several stakeholders including government, business, and labour. The purpose of this indicator is to report on initiatives with stakeholders to achieve the objectives of the Competition Act.</li> </ul> <p><b>Method of Calculation &amp; Collection of Data/Evidence</b></p>	Advocacy

STRATEGIC OUTCOMES	OUTPUTS	No	KEY PERFORMANCE INDICATORS	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
	ng the objectives of the Competition Act.			<ul style="list-style-type: none"> <li>The indicator will be reported to EXCO on a quarterly basis.</li> <li>Achievement of this target is denoted by the report submitted to the Commission/EXCO meeting.</li> </ul>	
	a) Research & Thought Leadership	34.	No. of research and thought leadership insights published.	<p><b>Definition:</b></p> <ul style="list-style-type: none"> <li>Research and thought leadership insights are economic studies undertaken by the Commission on current and emerging issues related to competition policy (incl. the state and role of competition) and competition law enforcement (incl. toolkits and techniques).</li> <li>'Published' refers to research and thought leadership studies which have been published by the Commission (including platforms such as Commission books and working papers published on the Commission's website), published by an international organisation or university, published by leading industry online publications (CLI, GCR, CPI), conference papers, book chapters and academic journal articles.</li> </ul> <p><b>Purpose/ Importance:</b></p>	ERB



STRATEGIC OUTCOMES	OUTPUTS	No	KEY PERFORMANCE INDICATORS	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
				<ul style="list-style-type: none"> <li>The Commission undertakes research into competition policy and law enforcement issues in order to develop a deeper, evidence-based understanding of current / emerging debates in these fields in order to develop informed positions on these issues.</li> <li>The Commission also aspires to take a thought leadership role in shaping some of the debates in these fields, both locally and internationally. This includes bringing a development perspective to the competition policy field.</li> </ul> <p><b>Collection of Data/ Method of Calculation:</b></p> <ul style="list-style-type: none"> <li>The achievement of the indicator is evidenced by the publishing of the research or thought leadership insight as defined within the reporting period, or by a research report noted/approved at the Commission or EXCO meeting.</li> </ul>	
		35.	Essential Food Price Monitoring Report.	<p><b>Definition:</b></p> <ul style="list-style-type: none"> <li>A report on essential food price monitoring is a report which comprises economic study/research on various food products.</li> </ul> <p><b>Purpose/ Importance:</b></p> <ul style="list-style-type: none"> <li>The Commission undertakes food price studies to assess</li> </ul>	ERB

STRATEGIC OUTCOMES	OUTPUTS	No	KEY PERFORMANCE INDICATORS	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
				<p>markets for potential anti-competitive conduct including price gauging. This work assists the Commission in identifying cases to be initiated.</p> <p><b>Collection of Data/ Method of Calculation:</b></p> <ul style="list-style-type: none"> <li>The achievement of this indicator is evidenced by a report on essential food products noted at the Commission or EXCO Meeting.</li> </ul>	
<p><b>6. Increased importance of developmental perspectives in domestic and international competition law discourse.</b></p>	<p>a) Collaborations with regional and international partners.</p>	<p>36.</p>	<p>No. of research on collaborative research on cross-country competition issues.</p>	<p><b>Definition:</b></p> <ul style="list-style-type: none"> <li>The indicator refers to the Commission undertaking collaborative work with stakeholders regionally and continentally regarding cross country competition issues.</li> </ul> <p><b>Purpose:</b></p> <ul style="list-style-type: none"> <li>The Commission has built relations with stakeholders within the continent and globe. The purpose of this indicator is to report on collaborative work done on cross-country matters.</li> </ul> <p><b>Method of Calculation &amp; Collection of Data/Evidence</b></p> <ul style="list-style-type: none"> <li>Achievement of this target is denoted by the report submitted to the Commission Meeting or EXCO meeting for noting.</li> </ul>	<p>ERB</p>
	<p>c)</p>	<p>37.</p>	<p>No. of projects/contributions</p>	<p><b>Definition:</b></p>	<p>OTC</p>

STRATEGIC OUTCOMES	OUTPUTS	No	KEY PERFORMANCE INDICATORS	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
	Strengthened strategic bilateral and multilateral relations focused on influencing with a developmental perspective		focused on influencing international competition regulation with a developmental perspective	<ul style="list-style-type: none"> <li>• The indicator refers to the Commission undertaking collaborative research projects or other forms of collaboration with African, BRICS and international partners.</li> <li>• Research and Projects refers to joint research on competition issues; capacity building workshops; joint publication of papers and newsletters.</li> <li>• African partners pertain to bilateral partnerships and multilateral/regional bodies such as the African Competition Forum, COMESA and AfCFTA.</li> <li>• BRICS partners pertain to the BRICS member states.</li> <li>• International partners pertain organisations such as OECD, UNCTAD, ICN.</li> </ul> <p><b>Purpose/ Importance:</b></p> <ul style="list-style-type: none"> <li>• Through practical collaboration with its African, BRICS and international counterparts, cooperation is deepened, and advances made in increasing developmental perspectives in domestic and international competition law discourse.</li> </ul> <p><b>Collection of Data/ Method of Calculation:</b></p> <ul style="list-style-type: none"> <li>• The achievement of this indicator is evidenced by quarterly reports detailing the Commission's collaborative work,</li> </ul>	

STRATEGIC OUTCOMES	OUTPUTS	No.	KEY PERFORMANCE INDICATORS	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
				research papers, joint publications noted at EXCO/Commission meeting.	
<b>STRATEGIC GOAL 3: A PEOPLE-CENTRIC HIGH-PERFORMANCE ORGANIZATION</b>					
7. Sound Corporate Governance	a) Audit Outcome	38.	Audit opinion.	<p><b>Definition:</b> The target refers to audit outcomes where all areas are unqualified, with no material reportable matters.</p> <p><b>Purpose/ Importance:</b></p> <ul style="list-style-type: none"> <li>The Commission seeks to achieve a clean audit in the financial year, as a demonstration of effective resource management.</li> </ul> <p><b>Collection of Data/ Method of Calculation:</b></p> <ul style="list-style-type: none"> <li>The achievement of this indicator is denoted by a clean audit opinion from the Auditor General Report regarding the financial period under review.</li> <li>The target is measured annually.</li> </ul>	Finance & OTC
		39.	No. of reports on implementation of the OHS compliance plan.	<p><b>Definition:</b></p> <ul style="list-style-type: none"> <li>Anticipation, recognition, evaluation, and control of hazard's arising in the Commission offices that could impair the health and wellbeing of our employees and visitors. The Commission has an annual OHS compliance plan which denotes quarterly</li> </ul>	CSD

STRATEGIC OUTCOMES	OUTPUTS	No	KEY PERFORMANCE INDICATORS	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
				<p>compliance plan (internal &amp; legislated).</p> <p><b>Purpose/ Importance:</b></p> <ul style="list-style-type: none"> <li>The purpose of the indicator is to ensure that the Commission offices comply with the occupational health and safety laws.</li> </ul> <p><b>Collection of Data/ Method of Calculation</b></p> <ul style="list-style-type: none"> <li>The indicator will be reported to EXCO on a quarterly basis and the cumulative total will be reported at the end of the financial year.</li> <li>A quarterly report is issued to report on progress against legislation and/or the OHS Compliance Plan.</li> <li>Achievement of this target is denoted by the report on instances of compliance with the OHS Act and the internal OHS compliance plan for the Commission/EXCO.</li> </ul>	
<p><b>8. Highly engaged, motivated and productive workforce</b></p>	<p>a) Talent management</p>	<p>40.</p>	<p>% of HR spend on Learning and Development.</p>	<p><b>Definition:</b></p> <ul style="list-style-type: none"> <li>The Commission aims to spend overall 1% of its salary's costs on learning and development initiatives per annum.</li> </ul> <p><b>Purpose:</b></p> <ul style="list-style-type: none"> <li>The purpose of the indicator is to ensure that the Commission supports the development of its employees and can build an internal talent pipeline.</li> </ul>	<p>CSD</p>

STRATEGIC OUTCOMES	OUTPUTS	No	KEY PERFORMANCE INDICATORS	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
				<p><b>Collection of Data/ Method of Calculation:</b></p> <ul style="list-style-type: none"> <li>The indicator will be reported to EXCO on a quarterly basis and the cumulative total will be reported at the end of the financial year. The reason for not setting a quarterly target is because learning and development is cyclical.</li> </ul>	
		41.	% retention rate of staff complement.	<p><b>Definition:</b></p> <ul style="list-style-type: none"> <li>The Commission is instituting programs to maintain high staff-retention levels.</li> <li>The indicator denotes percentage of achievement greater than, or equal to the target.</li> </ul> <p><b>Purpose/Importance:</b></p> <ul style="list-style-type: none"> <li>The Commission seeks to ensure sustainable delivery and impact by retaining its employees.</li> </ul> <p><b>Collection of Data/ Method of Calculation:</b></p> <ul style="list-style-type: none"> <li>The baseline from which this indicator is measured is the Total Staff Complement at the beginning of the Quarter. The indicator excludes graduate trainees.</li> <li>The indicator will be reported to EXCO on a quarterly basis and the cumulative total will be reported at the end of the</li> </ul>	CSD

STRATEGIC OUTCOMES	OUTPUTS	No	KEY PERFORMANCE INDICATORS	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
				<p>financial year.</p> <p><b>Quarterly performance</b></p> <ul style="list-style-type: none"> <li>Is measured as follows: Baseline (i.e., staff complement as beginning of Quarter) minus number of staff who have left in the Quarter divided by Baseline multiply by 100.</li> </ul> <p><b>Annual performance</b></p> <ul style="list-style-type: none"> <li>Is measured as the average of the four quarters (i.e. (Q1+Q2+Q3+Q4) / 400 x 100.</li> </ul>	
		42.	% of staff reached through training initiatives.	<p><b>Definition:</b></p> <ul style="list-style-type: none"> <li>The KPI measures the percentage of staff, out of the total staff complement, that trained through the over the year.</li> </ul> <p><b>Purpose:</b></p> <ul style="list-style-type: none"> <li>The purpose of the indicator is to ensure that the Commission supports the development of its employees and can build internal talent.</li> </ul> <p><b>Method of Calculation</b></p> <ul style="list-style-type: none"> <li>The indicator is calculated as a total number of employees who have attended training offered through or in collaboration</li> </ul>	OTC

STRATEGIC OUTCOMES	OUTPUTS	No	KEY PERFORMANCE INDICATORS	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
				<p>with the OTC. The achievement of the target is measured as follows: total staff trained / total staff complement as at end of Q4 x 100.</p> <p><b>Collection of Data/Evidence</b></p> <ul style="list-style-type: none"> <li>• The achievement of the target is denoted by a final report at EXCO in Q4 reporting on training attendance over the year, in relation to the target set.</li> <li>• Evidence includes attendance registers signed by each employee who attended the training or electronic evidence of attendance in case of virtual training.</li> </ul>	
<p><b>Business Process Improvement</b></p>	<p>Review and redesign of business processes to improve turnaround times and organisational agility</p>	<p>43.</p>	<p>No. of reviews of complaints, exemptions, market inquiries, merger process and rules made under the Competition Act.</p>	<p><b>Definition:</b></p> <ul style="list-style-type: none"> <li>• The Commission receives complains and mergers through CC Forms which require the parties to follow a specified process and submit specific information.</li> <li>• Reviewing the complaint and merger processes entail a detailed review of each requirement merger and complaint processes and where applicable recommend the changes.</li> </ul> <p><b>Purpose:</b></p> <ul style="list-style-type: none"> <li>• A review of the Commission processes is required to ensure a more efficient and practical process for both the</li> </ul>	<p>Legal Services</p>



STRATEGIC OUTCOMES	OUTPUTS	No	KEY PERFORMANCE INDICATORS	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
				<p>Commission and the stakeholders.</p> <p><b>Method of Calculation &amp; Collection of Data/Evidence:</b></p> <ul style="list-style-type: none"> <li>• A report on review of the processes, areas reviewed, and recommendations.</li> <li>• Report submitted and approved/noted by EXCO at the Commission meeting.</li> </ul>	
	Development of an integrated Management Information System (MIS) to ERP	44.	Progress report on the development of the Management Information System (MIS) integrated to Enterprise Resource Planning (ERP)	<p><b>Definition</b></p> <ul style="list-style-type: none"> <li>• The KPI entails the development of the MIS with progress reports presented quarterly and formulation of a Concept Note of a broader Digitalisation Program.</li> </ul> <p><b>Purpose</b></p> <ul style="list-style-type: none"> <li>• The purpose of the indicator is to ensure that there is a development of a management information system that will ensure effective case management, planning and reporting system that is integrated to the ERP.</li> </ul> <p><b>Method of Calculation &amp; Collection of Data/Evidence</b></p> <ul style="list-style-type: none"> <li>• The achievement of the indicator will be measured through the submission of quarterly progress reports to EXCO.</li> </ul>	CSD
Sound	Payment of	45.	% of suppliers' invoices paid	<b>Definition</b>	Finance

STRATEGIC OUTCOMES	OUTPUTS	No	KEY PERFORMANCE INDICATORS	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
<b>financial controls and management of public finances.</b>	supplier invoices report		within 20 days.	<ul style="list-style-type: none"> <li>• The KPI includes payment of suppliers of the Competition Commission, as guided by National Treasury.</li> </ul> <p><b>Purpose</b></p> <ul style="list-style-type: none"> <li>• The purpose of the indicator is to ensure an efficient supply chain services which does not disadvantage the service providers, most importantly the SMEs and HDPs.</li> </ul> <p><b>Method of Calculation &amp; Collection of Data/Evidence</b></p> <ul style="list-style-type: none"> <li>• The indicator will be calculated as a percentage of payments paid to service providers.</li> <li>• Of the payments made in the quarter/year, what percentage was paid within 20 days?"</li> <li>• The turnaround time only start when all the relevant and valid information required by the Commission has been submitted to the central email address.</li> <li>• The measure will be valid invoices sent to the central email address.</li> <li>• Achievement of this target is denoted by the report (Finance Report) submitted to the Commission/EXCO meeting.</li> </ul>	

