

# **ANNUAL PERFORMANCE PLAN 2023/24**

**BASED ON STRATEGIC PLAN 2020 – 2025**

## MINISTER'S FOREWORD

The 2023/24 Annual Performance Plan of the Competition Commission reflects the continued efforts of the dtic Group to align our activities around a common purpose; grounded in efforts to support Industrialisation to promote jobs and rising incomes, drive Transformation to build an inclusive economy, and build a Capable State to ensure improved impact of public policies.

The APP contains an ambitious set of targets aimed at realising the vision of the Competition Act, and utilising these regulations to meet their purpose of empowering a larger number of South Africans to contribute towards our shared prosperity. In the year ahead, the Competition Commission will play a critical role in driving growth and job creation, advancing our strategic objectives of ensuring fair competition for all South African companies, and realising our ambition of Competition Policy for Jobs and Industrial Development. While companies face a challenging global economic environment, the work of the Competition Commission will help create the conditions for sustained growth that are most needed when times are hardest.

Since the start of the Sixth Administration, the Department of Trade, Industry and Competition and all entities in the dtic Group have begun a process of adopting a revised output-driven planning system – grounded in the objective of combining all our efforts towards creating real impact for South Africans.

In 2023/24, the dtic concluded this process by introducing 45 output targets, to which the Competition Commission makes a critical contribution. These include supporting 1 million jobs, mobilising R200 billion in investment, supporting R700 billion in manufacturing exports, and helping Black Industrialists to create 20,000 jobs and R36,8 billion in output. The attached table sets out the 45 outcomes. While the Competition Commission has incorporated many of these objectives into the APP, our next steps will be to further align the work of Competition Commission to meet these common objectives through the implementation of its governing legislation.

Within one month of tabling this version of the plan, Competition Commission and the dtic will provide me with a revised APP to further align with these joint outcomes. This will require revisions to the APP, which will be submitted to the Executive Authority for review. These efforts form part of a process of continuous evolution of the dtic Group's work, which combined make for a step-change in connecting our work to real impact that matters to South Africans.

Implementation of this plan must take account of the challenging fiscal environment in which government is operating, and as such as I have instructed all entities to undertake a further review

of their spending plans for the period of the plan, and to submit a final, revised financial plan within one month of tabling this version of the plan. This plan should aim to reduce unnecessary spending, and redirect these resources to better serve our core objectives.

The APP 2022/23, is hereby submitted in accordance with the Revised Framework on Strategic and Annual Performance Plans.

A handwritten signature in black ink, appearing to read 'Ebrahim Patel', with a long horizontal stroke extending to the right.

Ebrahim Patel

Minister of Trade, Industry and Competition

Date: 31 March 2023

## ACCOUNTING OFFICER'S STATEMENT

The 2023/24 financial year marks the fourth year of the Commission's five-year strategy. The 2023/24 Annual Performance Plan (APP) identifies the outputs, output indicators and targets that the Commission aims to achieve in the new financial year. Our APP is guided by the Commission's mandate in terms of the Competition Act and the dtic's three Joint Key Performance Indicators (J-KPI) namely Industrialization; Transformation; and a Capable State.

The Commission is gearing itself for greater emphasis on outcomes and impact as it contributes to the rebuilding of the economy to achieve better growth levels, higher levels of industrialization, higher levels of transformation of the economy and dealing with high levels of concentration in the economy. A more competitive economy promotes growth and job creation by enhancing domestic businesses' ability to substitute imports and expand exports. It also offers consumers lower pricing and a wider range of products.

The Competition Act seeks to ensure that such growth is more inclusive, addressing past exclusion through actively promoting transformation by addressing participation of Small, Medium, and Micro Enterprises (SMMEs) and Historical Disadvantaged Persons (HDPs) in the economy. The recent amendments to the Competition Act strengthen the Commission's ability to address concentration and foster greater participation in the economy. The Commission will utilise additional budget allocation to effectively implement the amendments to the Act.

In implementing the Competition Act, the Commission will contribute to the achievement of the dtic priorities on: Increasing Investment commitment in the economy, Localisation through increased industrial output in the economy, Increasing Exports to the rest of the world and exports to the rest of the continent, Increasing Employment through new jobs created and jobs saved, Supporting the Black Industrialists, Supporting SMEs, Increasing Worker Ownership, Responding to the Energy crisis and Investment in Green Economy.

I am grateful to the honourable Minister Patel for your confidence in me and affording me an opportunity to lead such an exceptional organisation. I am looking forward to the new challenge, and with the support of the Commission's management team and employees we will continue to protect and promote competition for the benefit of consumers whilst transforming the economy to ensure broader participation. This is essential for deconcentration and inclusive economic growth.

**Doris Tshepe**  
**Commissioner**



## Official Sign-Off

It is hereby certified that this 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 2023/24 financial year.

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

**Mr Amos Moledi, Chief Financial Officer**

Date: 31/03/2023

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

**Ms Doris Tshepe, Commissioner**

Date: 31/03/2023

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

**Mr Ebrahim Patel, Minister of Trade, Industry and Competition**

Date: 31 March 2023

## Abbreviations

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

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## INTRODUCTION

This document comprises the Competition Commission's (the Commission) 2023/24 Annual Performance Plan (APP), based on its five-year Strategic Plan (2020/21 – 2024/25). The initial two years of the current strategy focused on responding to Covid-19 pandemic, which required the Commission to review its focus areas and assist the country by combatting anticompetitive practices that came up during the period including general price gouging, excessive pricing in essential food, price gouging on public procurement.

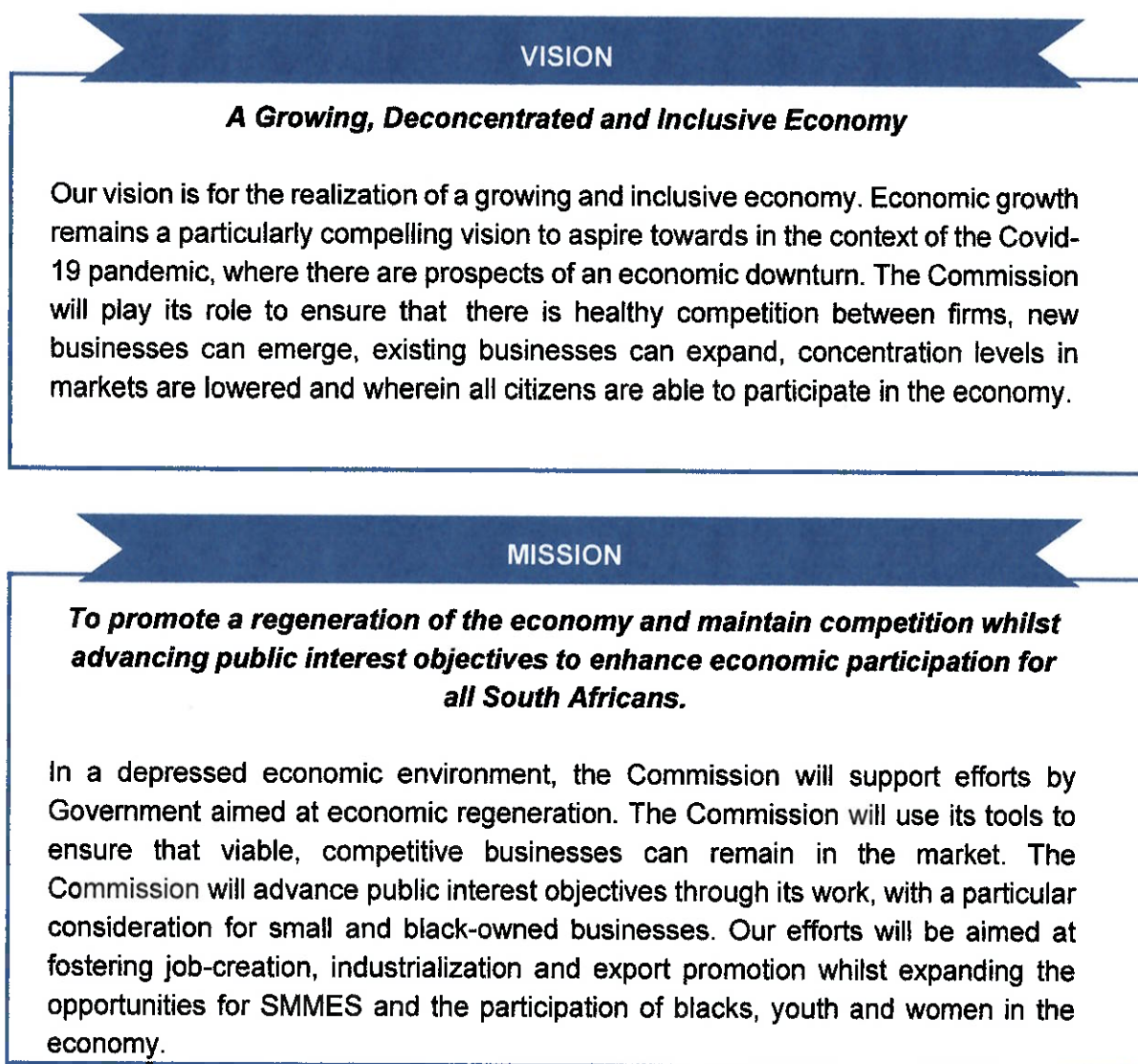
In the 2023/24 financial year, the Commission will carry out its outcome-based APP taking into account the economic status of the country including the ongoing economic recovery and the recent energy crisis the country is facing. The Commission's three Strategic Outcome-Oriented goals together with 12 Outcomes in its 2020-2025 Strategic Plan remain a relevant planning framework upon which annual Key Performance Indicators and Targets have been developed.

The Commission has set 46 targets, focusing on implementation of the amendments of the Competition Act through our enforcement, market inquiries, merger activity and advocacy tools. The Commission will prioritize implementation of the amendments to the Competition Act with respect to buyer power (balancing of bargaining dynamics between firms, setting of rules for fair and equitable access and improved competition outcomes in markets) and price discrimination - "likely effect of impeding the ability" of SMEs/HDI's to "participate effectively". The Commission will also prioritize implementation of the amendments of the Competition Act with respect to effective participation or expansion by SMEs/HDPs in section 12A(3)(c); and greater spread of ownership in section 12A(3)(e).

The Commission has also set new targets in response to energy crisis, where the Commission will prioritise the investigation of complaints and the review of exemption applications in the energy sector. Greater focus will also be given to public interest issues, where the Commission will keep investigating and enforcing remedies to address market concentration, inclusive participation of SMEs and HDIs, policy and regulatory failures and transformation, through its merger review, cartel investigations, market inquiries and settlement agreements. The Commission will in the 2023/24

financial year conduct collaborative research on cross-country competition issues in regional and continental industrial value chains, and on priority industrial sectors and support infrastructure.

FIGURE 1: COMMISSION'S VISION, MISSION & GOALS



## OUTCOME-ORIENTED GOALS

- Enforcing and regulating towards economic growth and enhanced economic participation.
- Advocating for improved compliance and pro-competitive public policy outcomes.
- A people-centric, high- performance organization.

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 defined forty-six (46) Performance Indicators which it seeks to achieve in the MTEF. This Annual Performance Plan for 2023/24 comprises three sections:

- a) **Part A:** Our Mandate – which deals with the mandate of the Commission as per the Competition Act and all other applicable legislation and policies.
- b) **Part B:** Situational Analysis- 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.

- c) **Part C: MTEF Performance Plan** - this section deals with the work program which the Commission has set for the next three years, along with the Budget and identified Risks.



## PART A: OUR MANDATE

### 1. Relevant Legislative and Policy Mandates

#### 1.1. The Competition Act

The Commission is one of three institutions established in the Competition Act (Act No. 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;
- Free consumer access to quality & variety of goods & services;
- Create greater capacity & environment for South Africans to effectively compete in international markets;
- Restrain anticompetitive trade practices;
- 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.
- Authorize, 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 harmonize 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. 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 and de-concentration of markets, (5) protecting and stimulating the growth of small and medium-sized businesses and firms owned and controlled by historically disadvantaged persons, while at the same time protecting and promoting employment and employment security. Recent amendments to the Competition Act came into operation on 12 July 2019.

Following the amendments, the Commission published the Guidelines for Buyer Power and draft guidelines for Price Discrimination as a step in implementing the amendments. The Commission will prioritize the finalization of the Price Discrimination guidelines and further guidelines in respect of key amendments such as the promotion of a greater spread of ownership as a public interest factor in merger control. The Guidelines will provide greater business certainty and aid compliance with the Competition Act along with its amendments. The Jurisprudence has been developed in various of the amendments, such as excessive pricing, merger control and market inquiries. The Commission will prioritize 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 and has made significant headway in with the ongoing market inquiries. In 2023/24 financial year, the

Commission will be undertaking three market inquiries due for completion in 2024/25 financial year. 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 anticompetitive conduct. Substantial number of resources will be invested in market inquiries to ensure that they are conducted efficiently and completed timely.

The Commission will also be undertaking more work in abuse of dominance, the Commission will initiate new complaints in line with the new amendments. These will be first of many cases to come around the new provisions for both investigation and litigation precedent.

The Commission will also conduct an impact study in the 2023/24 financial year under the new provisions of the Competition Act.

### 1.3. Economic Reconstruction and Recovery Plan 2020

The Commission will support the Economic Reconstruction and Recovery Plan, 2020, and the tic's s three joint indicators (Industrialization, Transformation & Capable State). 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 investigations to meet the objectives of the National Development Plan (NDP) and the dtic. Table, below sets out the dtic three joint indicators and how the Commission's general work aligns with each of the indicators:

**TABLE 1: DTIC JOINT INDICATORS & THE COMMISSION COTRIBUTING AREAS**

DTIC JOINT KPI	COMPETITION COMMISSION KPI
Joint Indicator 1: Industrialization	<p>The Commission's prioritization of sectors includes sectors as per master plans, such as Agro-processing, digital economy, intermediate manufacturing goods, infrastructure, and energy, and Transport &amp; Automotive.</p> <p>Addressed by KPI 8 (energy sector related exemption applications) &amp; 10 (Exemption Applications, guided by objectives) – the Commission is committed to review exemptions for various objectives, including promotion of small businesses, economic stability of designated industries, maintenance, or promotion of exports. With KPI 28 the Commission will conduct research on priority industrial sectors and support infrastructure.</p> <p>Addressed by KPI 34, 36 and 37 (No. of projects/contributions on regional cooperation, bilateral and multilateral relations management focused on influencing with a developmental perspective).</p>

	<p>KPI 11, 26 and 27 – the Commission will conduct market inquiries, market studies and impact assessment studies in sectors that promote industrialization. The Commission will continue its work in the Automotive Aftermarket value chain. Following the Guideline that it published in July 2021, the Commission will embark on an outcome assessment in the 2023/24 financial year. The purpose of the assessment will be to assess levels of compliance to the Guideline, whether any benefits are evident in the market and to understand the challenges that automotive stakeholders may have faced in its implementation.</p>
Joint Indicator 2: Transformation	<p>With respect to KPI 5 number of compliance monitoring reports on competition and public interest conditions imposed by the Commission. The Commission monitors implementation of merger conditions to ensure compliance and achievement of the desired public interest outcomes.</p> <p>The issue of guidelines under KPI 24 on provisions which aim to remove conduct that hinders participation and transformation, and those promote the greater spread of ownership. Guidelines provide legal certainty and compliance by business.</p> <p>The Commission's KPI 23 speaks to education, training and outreach initiatives conducted on the Competition Act. These initiatives will be targeted at promoting entry and participation of HDIs, including women, youth, and regulators.</p> <p>KPI 11 &amp; 12 relate to initiation and completion of Market Inquiries, also KPI 26 is about market studies which the Commission intend to conduct in the year. Market Inquiries would identify structure of economy/market that is not desirable including identifying and addressing economic concentration and/or SME/HDI promotion/participation.</p> <p>With KPI 29 and 31, the Commission will complete advocacy cases in priority sectors and initiatives to promote entry &amp; participation of HDIs. In 2020, the Commission began a focused program to explore the barriers to entry and participation that business women face. A series of initiatives, including workshops and an on-line survey, were conducted. The Commission will continue targeted outreach initiatives during the 2023/24 financial year, with the aim of educating Youth, Rural &amp; Peri-urban Consumers on their rights and responsibilities on competition matters. It is critical that the Commission understands the perspectives of these stakeholders to determine its role in unlocking barriers to economic growth.</p> <p>The Commission also has a target (KPI 32) which speaks to commitment to input on policies and regulations to ensure alignment with the Competition Act, including public interest provisions.</p>

	<p>The Commission will initiate cases in priority sectors to ensure competitive and deconcentrated markets under KPI 6 (No. of abuse of dominance and restrictive vertical practices cases initiated in prioritized sectors and/or in line with amendments of the Competition Act).</p>
<p>Joint Indicator 3: Delivery/Capable State</p>	<p><b>Goal 3 (A PEOPLE-CENTRIC AND HIGH-PERFORMANCE ORGANIZATION)</b></p> <p>The Commission continuously reviews its internal processes to ensure ongoing business process.</p> <p>The Commission is reviewing its organizational structure to ensure alignment of the strategy and resources in order to deliver on the set targets.</p> <p>The Commission also set a target to retain a certain percentage of staff complement (KPI 41) to retain knowledge and expertise within the institution to ensure efficient and effective delivery of the Commission's goals.</p> <p>The Commission is also committed to building staff capacity by committing to spend 1% of its HR spend on learning and development (KPI 40) and ensuring that staff members are reached through the internal training efforts offered (KPI 42).</p> <p>Employee wellness and safety and compliance with occupational safety laws are key to the Commission hence a target on compliance (KPI 39).</p> <p>The Commission is also committed to continue compliance with governance laws, including obtaining a clean audit as per KPI 39.</p> <p>The Commission also set a target to reviewing its merger and complaint processes (KPI 43) to ensure that its processes are efficient and effective, and not unreasonably burdensome to stakeholders.</p> <p>The Commission's commitment to win cases at litigation link KPI 15 – 22 (Cartel prosecutions, prosecution of abuse of dominance and restrictive practices, and merger litigation) demonstrate a capable state.</p> <p>The Commission set efficiency targets for completion of abuse of dominance, restrictive vertical practices, and cartel investigations. Link KPI 6, 9, 10 and 14.</p> <p>The Commission set efficiency targets for completion of merger cases under KPI 1 – KPI 4.</p>

	<p>To ensure that the Commission has enabling tools of trade, a target to implement the HR and Finance systems (KPI 45) has been set.</p> <p>The Commission will issue awareness publications including guidelines on the Competition Act, the Commission is also committed to issue advisory opinions within a specified period (KPI 24 and 25). The Commission will publish pamphlets on Buyer Power and Price Discrimination during the 2023/24 financial year. The aim is to present the new amendments to the public and small business stakeholders in a simplified manner. The Commission will continue targeted outreach initiatives during the 2023/24 financial year, with the aim of educating Youth, Rural &amp; Peri-urban Consumers on their rights and responsibilities on competition matters. It is critical that the Commission understands the perspectives of these stakeholders to determine its role in unlocking barriers to economic growth.</p> <p>KPI 46 (Report on collaboration with MOU partners, Government and Sector Regulators). Section 21 (h) of the Competition Act provides that one of the functions of the Commission is to "negotiate agreement 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 this Act". The Commission has several Memorandum of Understanding (MoU) which it has entered with other regulators. Under these MoU, the areas of collaboration are operationalized through the formation of joint working groups, comprising relevant team members of both authorities which meet at agreed upon periods throughout the year. In the 2023/24 financial year, the Commission will focus on collaborative work with the following regulators, among others National Energy Regulator of South Africa (NERSA), Health Professional Council of South Africa (HPCSA), Council for Medical Schemes (CMS), South African Bureau of Standards (SABS), National Empowerment Fund (NEF), Department of Women, Youth and Persons with Disabilities (DWYPD), Independent Communications Authority of South Africa (ICASA) and the dtic.</p> <p>KPI 44 (% of suppliers paid within 30 days) to ensure compliance with National Treasury regulations and maintain efficient supply chain.</p>
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## 2. UPDATE TO RELEVANT COURT RULINGS

The table below summarizes significant cases that have contributed to jurisprudence in the last five financial years.

**TABLE 2: KEY COURT RULINGS – 2018/19 -2022/23**

Item	Case	Contribution to Jurisprudence
<b>Abuse of dominance</b>		
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.	Uniplat 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 as a result 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.
8.	Competition Commission v Ampath,	Consent agreements in terms of which the 3 major pathology labs agreed to significantly reduce their prices for PCR and rapid

	Lancet and Pathcare	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.	CC v Pickfords Removals SA (Pty) Ltd	Section 67(1) is a procedural time bar, capable of condonation. Section 85(1)(c)(ii) includes the power of the Tribunal to 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 of South Africa v Irwin & Johnson and Another	The CAC reiterated that characterization 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)	The CAC reiterated that Section 4(1)(b) properly construed,



	Ltd v Competition Commission and Another (195/CAC/Oct21) [2022]	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 characterization 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 Competition Commission	A "group of firms" may constitute a "firm".
25.	Shoprite Checkers and Computicket v Competition Commission	<p>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.</p> <p>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</p>

		which has the effect of excluding its competitors from the market
<b>Characterization</b>		
26.	Dawn Consolidated Holdings (Pty) Ltd and Others v Competition Commission	Development of the principle of characterization.
	Africa Pest Prevention CC v the Competition Commission	Characterization on the basis that an individual representing two different firms cannot collude with herself.
	Competition Commission v I & J	Characterization of restraints in a manufacturing agreement as vertical and not horizontal.
	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>		
27.	Competition Commission and ArcelorMittal South Africa Ltd	Highest penalty imposed on a single firm in a settlement agreement.
28.	Competition Commission v Life Healthcare Group & Joint Medical Holdings Ltd	Highest penalty imposed for failure to notify and prior implementation of a merger.
29.	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.
30.	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.
31.	Data Markey 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.
32.	Competition Commission v Wesgrow Potatoes (Pty) Ltd and HZPC	Settlement Agreement provided a remedy in terms of which seed growers will be able to access the Mondial seed potato variety.

	Holland B.V	
33.	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.
34.	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.
<b>Merger Notification</b>		
35.	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.
36.	SOS SABC & Multichoice v Competition Commission	Confirmation of Commission's powers to investigate the notifiability of mergers.
37.	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.
<b>Merger control – conditions</b>		
38.	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.
39.	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.
<b>Mergers – Public interest</b>		
40.	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.
41.	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.
<b>Mergers – Analysis</b>		
42.	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.
43.	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.
44.	Mediclinic v Competition Commission	The Constitutional Court in its judgement reasserted the centrality of the Constitutional, in particular section 27 of the Bill of Rights in interpreting the Competition Act.
<b>Access to information</b>		
45.	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> .
46.	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 and Access to Justice Act (PAJA) or legality review even in the event that it relates to the interpretation and interpretation of the Tribunal’s exclusive jurisdiction pertaining to chapters 2, 3 and 5
47.	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.
<b>Tribunal Rules</b>		
48.	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.

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

## PART B: SITUATIONAL ANALYSIS

### 3. EXTERNAL ENVIRONMENTAL ANALYSIS

#### 3.1. Economic outlook

Emerging from the considerable economic shock of the pandemic, the global economy has continued to experience a range of shocks that have dampened economic growth and driven inflation. This has had a material effect on the domestic economy given the open nature and transmission of shocks through the pricing of imports and demand for exports.

Recently, the concerns regarding the persistently high inflation and weaker economic growth environment bring to the fore questions about the cost of living, particularly the core consumption bundle, for low-income households and consumers. This requires a greater focus on interventions that are aimed at ensuring affordable and competitive outcomes for lower-income households and consumers. Food inflation has persisted, driven by cost inflation for upstream inputs and supply shocks, but inflation exposes consumers to exploitative conduct through the so-called 'rocket and feather' effect where prices rise quicker and higher than justified by costs, and are slower to come down once cost pressures abate. Food inflation and global supply shocks have driven the growth of the agricultural sector which creates opportunities for growth and inclusion.

South Africa is suffering an economic shock from the lack of a consistent supply of energy. This has led to a slowdown in economic growth and a reduction in growth projections. This reality requires a comprehensive response from a competition perspective which must be informed by a thorough scoping of the energy environment including alternative energy sources such as solar power, biofuels, and wind power, in order to determine the concerns, the gaps and possible interventions which the Commission can contribute. This has potential implications for the Commission's enforcement activities but also advocacy initiatives, where the Commission may advocate for reforms. In the interim there may be exploitation of the energy crisis by alternative energy providers, especially where concentration exists, but also price-gouging as businesses and consumers scramble to find alternatives. The Commission has prioritised excessive pricing enforcement and will act swiftly against any exploitation. There are known bottlenecks in the storage and distribution of energy alternatives such as LPG which the Commission will seek to unblock to promote a stronger supply response at more competitive prices.

The pandemic resulted in the closure of many small businesses and the continued weak economy recovery has placed many businesses under financial pressure, with the Commission see many more business rescue transactions. No doubt this has harmed transformation and the greater spread of

ownership in the economy, making even more urgent the removal of barriers to entry, participation and expansion of SMEs and HDPs to ensure the promotion of inclusion and development of long-term competitive structures in markets.

### **3.2. Prioritizing economic recovery**

The role of competition and the reduction in barriers to entry in promoting more inclusive growth is expressly recognized in the Economic Recovery and Reconstruction Plan ("recovery plan") pronounced by the President in late 2020. Specifically, the recovery plan cites the importance of lowering entry barriers to make it easier for businesses to start, grow and compete as well as creating greater levels of economic inclusion through addressing high economic concentration. In addition, the recovery plan identifies support for SMMEs, cooperatives and start-ups as a key enabler of the reform programme, with the objective of providing a supportive ecosystem to such firms. Moreover, the Commission has identified the need to respond decisively to the economic shock caused by energy challenges. The lack of consistent energy supply impacts SMME's, stifling their growth thus reversing the gains made through other recovery efforts.

Whilst the general work of the Commission directly delivers against the key structural reforms identified by the recovery plan, the Commission also engages in a process of prioritization for the five-year period as well as each year. This prioritization seeks to identify key themes for our enforcement activity over the medium term and the issues across specific sectors which are likely to have a high impact on low-income consumers, greater inclusion in the economy and broader government programmes. Following the amendments to the Competition Act, the general themes receiving priority are the reduction in concentration and the increase in participation by SMMEs and firms owned by historically disadvantaged persons (HDPs), consistent with the Recovery plan's objective of structural reform and inclusive growth.

For the upcoming financial year, the Commission will prioritize actions that will support the next phase of economic recovery. Such priorities are reflected in the budget allocation and APP targets set for the year. These include:

- I. fast track exemption processes where cooperation amongst firms is required to support localisation and export promotion, small businesses, or firms controlled or owned by historically disadvantaged persons whilst providing sufficient safeguards against harmful collusive conduct;
- II. a strong emphasis on implementing key amendments to the Competition Act which promote inclusion and the reduction in concentration levels. This includes the issuing of Guidelines setting out what conduct is seen to contravene the amended Competition Act to and ensuring compliance across the business community. It also includes prioritizing market

conduct enforcement generally, and more specifically of the new provisions in the Competition Act;

- III. greater use of market inquiries to promote more competitive and inclusive markets in key sectors that may support economic recovery. Inquiries will seek to unlock barriers to greater participation and the competitive expansion of these markets;
- IV. general prioritization of digital markets and communications infrastructure as the pandemic accelerated the shift to online markets where lower data costs and fair access to online trading platforms is essential for South African businesses generally, and SMMEs and historically disadvantaged person-owned firms more specifically, to benefit from the fourth industrial revolution; Some of the sub-sectors with competition concerns in focus include data and fintech, collusive algorithms, and Adtech; and
- V. focus on priority sectors, aligned with Re-imagined Industrial Policy and the recovery plan. The Commission will focus on sub-sectors that are important for the economic recovery process and this will include research initiatives that will contribute to a better understanding of the competition dynamic in the energy sector (particularly, alternative energy, electricity reform, energy inputs), combating food inflation (grains, feed, proteins), unlocking infrastructure bottlenecks (rail and port), and realizing industrialization and growth (agro-processing, steel, petrochemicals - dtic).

### **3.3. Localisation**

One of the key objectives of the recovery plan is localisation – increasing the level of local production or services.

On 18 March 2022, the Commission, in terms of section 79(1) of the Competition Act, issued final guidelines on collaboration between competitors on localisation initiatives. The guidelines were issued to indicate policy approach on any matter falling within the Commission's jurisdiction in terms of the Competition Act.

Localisation will stimulate economic growth and lead to greater economies of scale for local producers, greater investment locally and, ultimately, improved competitiveness in export markets in the longer term. For the purposes of the guideline, a "Localisation Initiative" is any project or effort to achieve greater levels of localisation through increasing the share of total procurement of an identified input from local manufacturers. Localisation initiatives may be initiated by any government department, industry, trade union or Non-Governmental Organization (NGO). The guidelines are applicable to firms, trade unions or NGOs that have voluntarily chosen to participate in a localisation

initiative.

Government-initiated localisation initiatives may include initiatives that arise master plans. Outside of government, the Commission recognizes that industry participants, market players and other entities may also wish to engage in initiatives to increase localisation in terms of the recovery plan and in line with government policy.

Given the potential for collaboration between competitors amount to prohibited conduct in terms of section 4(1) of the Competition Act. The guidelines are aimed at providing guidance to industry, government, trade unions, NGOs, and other interested entities as to how localisation initiatives may be appropriately identified and implemented, in a manner that does not raise competition concerns. The guidelines cover any form of localisation initiative, including but not limited to government's localisation initiatives.

### **3.4. Global and regional competition policy developments**

At both a global and regional level, there is an impetus towards harmonization 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 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).

TFTA, four technical meetings were held between July 2019 and April 2021 to develop the draft Protocol on Competition policy. 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:

- (a) 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;
- (b) enhance the competitiveness of TFTA undertakings in global markets by exposing them to competition within the TFTA; and

(c) 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 tenth (10<sup>th</sup>), eleventh (11<sup>th</sup>) and twelfth (12<sup>th</sup>) meeting of the AfCFTA Committee of Senior Trade officials (STO) were convened since January 2022 to October 2022 to consider the status of negotiations on outstanding issues and to make recommendations for consideration by AfCFTA Council of Ministers responsible for Trade, and to finalize the Competition Policy protocol to the Heads of States. The Commission proposed the formation of the African Competition Network, that would operate alongside whichever competition modality adopted by the AfCFTA.

These activities provide an opportunity towards the development of an AfCFTA Competition Policy protocol that is practical in nature, and which fosters cooperation and the strengthening of competition regulation among member states in ensuring that anti-competitive practices which prohibits fair trade are combated.

Subsequent to the finalization of negotiations on the Competition Protocol by the Committee on Competition Policy and its adoption by the STOs, an Extra-Ordinary Session of the Specialized Technical Committee on Justice and Legal Affairs ( the 7<sup>th</sup> Extra-Ordinary Session of the STC-JLA) was convened from 16 - 19 January 2023 for purposes of legal scrubbing of the draft Protocol. Officials from the dtic, DIRCO and the Commission attended this session. The Office of the Legal Council of the AfCFTA incorporated inputs from the meeting and the draft Protocol was then adopted by the STC-JLA on 21 January 2023. The Protocol was then considered by the Ministerial Session of the STC on 22 January 2023. The Protocol was approved by the Ministers in this Session.

In February 2023 the draft Competition Protocol, as approved by the Ministerial Session, was submitted to the AU Summit for adoption.

In the SADC region, there are now 11 functioning competition authorities out of 15 member states. The SADC Competition and Consumer Law and Policy Committee held its 11th meeting on 8-9 June 2022, to engage the draft SADC Competition and Consumer Policy Framework (CPPF). The Committee noted that in order to ensure that the SADC consumer policy was given equal consideration, there is a need to develop a separate Regional Consumer Policy Framework and Model Law. It was observed that consumer policy was being overshadowed by competition policy

matters. The adhesive issues remain the scope of application, institutional arrangements, and dispute settlement.

The SADC Secretariat further convened a Regional Sensitisation Workshop on Implications of the Continental Competition Structure for SADC Member States on 5-6 December 2022 to look into:

- I. Status of the AfCFTA negotiations
- II. Implications of a continental competition structure for SADC member states - options and roadmap
- III. Impact of the Proposed AfCFTA Competition Policy Protocol on National Competition Authorities
- IV. Benefits and Consequences of the AFCTA Competition Policy Protocol

The Commission continues to engage with domestic and international stakeholders, including hosting conference, seminars, and educational workshops to promote competition compliance.

### **3.5. Digitization and implementation of the Competition Act**

Like all governments and authorities across the world, the Commission has been grappling with how to regulate competition in an increasingly digitized 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, 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. 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 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.

## **4. INTERNAL ENVIRONMENTAL ANALYSIS**

An assessment of the key internal factors in the organizational environment which contribute to the Commission's performance is articulated below. The section outlines interventions aimed at developing an enabling environment that effectively supports the performance of the Commission.

### **4.1. Case pipeline management**

#### ***Complaints-Handling: Enforcement***

During 2022/23 financial year, the Commission transitioned into its traditional mandate, with very minimal Covid-19 cases. The Commission will continue to screen all the new complaints and investigate these matters expeditiously, as per its case pipeline process.

Further to managing case load arising from complaints, the Commission intends to initiate multiple abuse of dominance investigations in the upcoming year, enabled by the recent amended provisions related to Buyer Power and Price Discrimination in the Competition Act.

There is currently one (1) market inquiries underway at the Commission. The Commission initiates market inquiries under powers granted to it in the Act 2009 (1 of 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 also undertaking the implementation of the four (4) completed market inquiries.

The Commission initiated a market inquiry into the South African Fresh Produce Market (the FPMI) in terms of section 43B(1)(a) of the Competition Act, in Q4 of the previous financial year. The Commission has reason to believe that there may exist market features which impede, distort, or restrict competitiveness of the South African fresh produce markets. The inquiry is essential to understand the state of competition within the industry, the market features affecting price outcomes, and the challenges currently faced by farmers (especially small-scale and emerging farmers). More broadly the importance

of the sector to both the economy and employment, and the nutrition and welfare of its citizens gives further weight to the need for such an inquiry.

The Commission is also finalizing the Online Intermediation Platforms Market Inquiry, its findings and recommendations provisional report was published for public comments on 13 July 2022 and due for completion in the first quarter of 2023/24 financial year.

### ***Cartel Enforcement***

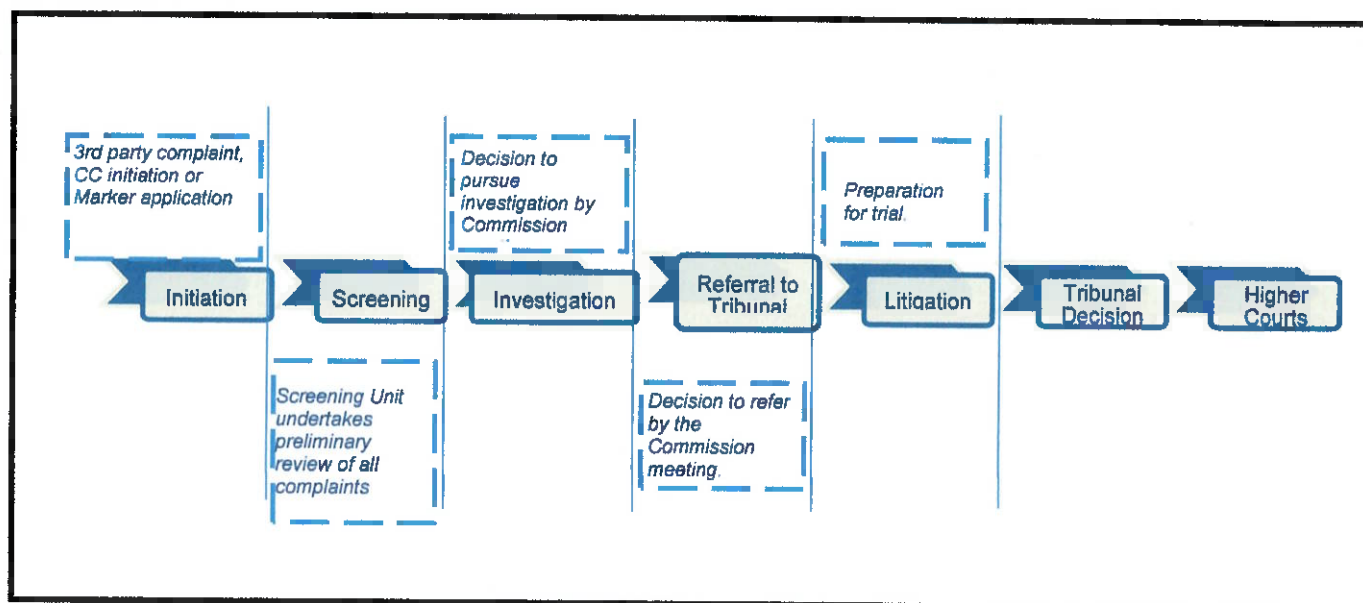
The Commission has been monitoring anti-competitive conduct in government procurement, particularly tracking any potential cartel activity. Most companies are now operating on a hybrid working model, the importance of updating cartel enforcement tools, from physical to virtual/ digital, remains important and urgent. Cartel detection in a digitized world requires an investment in appropriate and relevant detection tools and mechanisms. These include preparing appropriate spaces for conducting interrogations (interviews), establishing efficient systems for whistleblowing, building relevant ICT tools, and developing internal capabilities for digital and forensic analysis. The Commission is investing in a forensic lab as part of upgrading its capacity to detect cartel conduct efficiently and effectively.

### ***Litigation***

The Commission's litigation is undertaken by the Legal Services as well as the Cartels Division. The Commission has observed that the cases are becoming more complex with respondents contesting the Tribunal judgements and the application of the Competition Act in various proceedings. The Commission also remains with high volume of litigation matters going into 2023/24 financial year.

Various hearings were held at the Tribunal in 2022/23, the Commission will continue to refer matters to the Tribunal expeditiously in the 2023/24 financial year. However, one of the major challenges and risk arising is the postponement of trials by the Tribunal which affect the Commission's litigation list. The inability for courts to convene trials, where witnesses and counsel must appear in person, has resulted in a major backlog. 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.

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



## 4.2. Corporate Services

The Commission's staff have largely been operating remotely since March 2020; however, the staff is moving more to operating on a hybrid working model. There has been in this regard, a serious impact on increased IT bandwidth requirements for remote connectivity to the network, communications systems, and human resource management to adjust to this reality. There are inherent risks in managing investigations remotely, with the use of cellphones, laptops, and documents in the personal spaces of employees. As such the Commission continuously adjust the operations of the Corporate Services Division (CSD) to ensure swift responses to strengthen internal organizational policies, IT and Communication systems, to ensure that business continues remotely and in a hybrid model.

The Commission is working on implementing a hybrid working model, which includes the development of a Hybrid Working Policy to enable and manage business productivity. The policy is to be supported with new case investigation protocols, investments in electronic case filing and document management systems, an overall upgrade in the IT and communication system and intensified digitalization of the organization's processes. In the meantime, provision has been made to enable access to the offices on rotational basis.

The Commission also developed an enhanced Mental Health and Employee Welfare policy, to mitigate and manage the risks and psycho-social challenges. In this regard, the mental well-being of staff will continue to be supported through relevant programs and activities which the Commission will undertake in 2023/24 financial year. The necessary employee training and reskilling in relation to the above will continue in an effort to balance the productivity needs of the organization, and the overall welfare and

safety of the employees.

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

A comprehensive review of the Commission's ICT environment was completed in the 2016/17 financial year. The aim of the review was to make proposals for the modernization of the Commission's ICT infrastructure and services to effectively enable the work of the organization. The review focused on assessing the adequacy and effectiveness of the current ICT, specifically the Infrastructure Architecture, the Platforms/Software Infrastructure, and Internal Security. The review found that the Commission's ICT environment consists of disparate systems that are not integrated; the core business system does not support the business vision and strategic objectives; does not support the people nor the process; the CSD is inadequately capacitated; and IT Governance needs to be improved. The implementation of a fully integrated, efficient, and adequate ICT environment was recommended that:

- I. embodies standardization, ensuring work can be conducted uniformly, but efficiently;
- II. ensures business processes are integrated, ensuring that duplication is removed;
- III. supports continuous improvement as part of the transformation journey;
- IV. embeds workflow to ensure that documents flow through the authorizations hierarchy as defined by the user ensures audit and facilitates electronic processing thereof to ensure efficiency; and
- V. provides robust, up-to-date security and audit trail capabilities.

The additional budget allocation of the MTEF will enable the Commission to implement the systems upgrade intended. Given the virtual operations of the organization, the implementation of an efficient ICT system is particularly urgent, to mitigate risks related to case and document management.

#### **4.4. Organizational Structure**

The Commission has developed a five-year Strategic Plan, effective 2020-21 to 2024-25. The Commission is increasing its overall staff complement by creating a new division which will focus on market inquiries, and additional staff for both investigations and support. The Commission continues to review its organizational design to ensure alignment with the goals and objectives set out in the strategy.

The following considerations are key when reviewing the structure:

- I. Capacitating the organization to effectively perform market enquiries under the expanded mandate.
- II. Increasing capacity for the litigation of cases internally, to reduce the outsourcing of core functions.
- III. Increasing the capacity for provision of economic expertise.

- IV. Increasing capacity investigation of abuse of dominance and restrictive practices under the expanded mandate.
- V. Increasing capacity investigation of cartel conduct. This is to ensure the efficient and timely resolution of cases.
- VI. Capacitating end-support functions in relation to Advocacy (education, awareness) and corporate services (Registry, IT, Finance and HR).

## PART C: MTEF PERFORMANCE PLAN

### 5. 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 Annual Performance Plan.

#### 5.1. Expenditure Analysis

The maintenance of the administrative activities of the Commission is human resource based. This is evident from the high financial requirements for human resources and administrative activities. The implementation of the Commission's policy on strategic priority sectors and prioritization will further require substantial input during this period. The following table summarizes the projected estimates by strategic objectives:

**TABLE 3: EXPENDITURE PER STRATEGIC OBJECTIVE**

EXPENDITURE PER STRATEGIC OBJECTIVE	2023/24	2024/25	2025/26
Goal 1: Enforcing and Regulating towards economic growth and enhanced economic participation	394,597,785	415,354,822	433,966,275
Goal 2: Advocating for improved compliance and pro-competitive public policy outcomes	25,408,500	26,745,064	27,943,471
Goal 3: A people-centric and high-performance organization	112,146,282	118,045,515	123,334,965
<b>TOTAL</b>	<b>532,152,567</b>	<b>560,145,401</b>	<b>585,244,712</b>

Mergers & Acquisitions (M&A), Market Conduct Division (MCD), Cartels, Legal Services, Economic Research Bureau (ERB) and Advocacy are the core programs directly involved with the implementation of the Competition Act. Nonetheless, support activities such as Administration spend more than 80% of their resources offering support to the core activities. The following table summarizes the projected expenditure per division. 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 4: TOTAL EXPENDITURE PER MAIN ITEM**

TOTAL PER MAIN ITEM	2023/24	2024/25	2025/26
Human Resources	331,982,516	349,445,800	359,087,317
Premises & Equipment	38,100,827	40,105,046	43,047,318
Other Operational	13,076,308	13,764,161	14,773,957
Research & Information	2,959,577	3,115,260	3,343,808
IT and system Development	6,639,782	6,989,055	7,501,801
Educational Awareness	5,293,524	5,571,979	5,980,762
Case Related Costs	94,407,768	99,373,902	106,664,383
Capital Expenditure	22,524,909	23,709,787	25,449,235
Depreciation	5,414,866	5,699,704	6,117,858
Other Programme Costs	11,752,490	12,370,707	13,278,273
<b>TOTAL</b>	<b>532,152,567</b>	<b>560,145,401</b>	<b>585,244,712</b>

**TABLE 5: REVENUE**

REVENUE	2023/24	2024/25	2025/26
Mergers & Acquisitions	71,027,456	78,316,401	81,829,887
Government Grant	453,195,000	473,548,000	494,763,000
Interest Received	7,930,111	8,281,000	8,651,825
<b>TOTAL</b>	<b>532,152,567</b>	<b>560,145,401</b>	<b>585,244,712</b>

### 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 with regard to this framework. The implications, based on the estimated expenditure, are summarized as follows:

**TABLE 6: MATERIALITY**

MATERIALITY	%	2023/24	2024/25	2025/26
Expenditure		532,152,567	560,145,401	585,244,712
Materiality	0.5%	2,660,763	2,800,727	2,926,224

## 6. PRIORITY SECTORS

The Commission's priority sectors for the 2020 – 2025 Strategic Planning period are summarized in the table below. The priority sectors are identified for enforcement action or advocacy, or market inquiries or for other tools such as impact assessments. A brief rationale on the identified sector is provided, with an indication of the potential sub-sectors which the Commission may focus on.

TABLE 7: 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 characterized 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 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. Given the persistently high inflationary environment in the economy, 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.	<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> <li>• Breads and cereals</li> <li>• Basic food products and/or other "essential" foods</li> </ul>
<b>2. ICT &amp; Digital Markets</b>	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 characterized 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	<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> </ul>

Sector	Rationale	Sub-sectors
	<p>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> <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>	<ul style="list-style-type: none"> <li>• Infant industries</li> </ul>
3. Energy	<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>	<ul style="list-style-type: none"> <li>• Renewables/ IPPs</li> <li>• Electricity IPPs</li> <li>• Gas (LPG, Natural Gas)</li> </ul>



Sector	Rationale	Sub-sectors
	<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 prioritizing is Gas, including ensuring implementation of LPG market inquiry recommendations.</p>	
<b>4. Transport &amp; Automotive</b>	<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 characterized 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 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>	<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 Transport</li> </ul>
<b>5. Construction services,</b>	<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</p>	<ul style="list-style-type: none"> <li>• Construction services</li> <li>• Residential estates</li> </ul>

Sector	Rationale	Sub-sectors
<b>Property &amp; Infrastructure</b>	<p>projects. The Commission has succeeded in prosecuting firms for their anti-competitive conduct in this sector. The government also prioritized 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>• Property finance</li> <li>• Built Environment Professionals</li> <li>• Bid-rigging</li> </ul>
<b>6. Banking &amp; Financial Services</b>	<p>The banking and finance sector have the potential to contribute towards greater inclusion of historically marginalized groups – by extending access to banking and insurance services, by helping to promote and mobilize household savings, and by easing broader 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 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>• Banking</li> <li>• Property finance</li> <li>• Insurance</li> <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</p>	<ul style="list-style-type: none"> <li>• Chemicals, pesticides and agrochemicals</li> <li>• Forestry/paper/pulp/corrugated</li> </ul>

Sector	Rationale	Sub-sectors
	<p>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>	<p>packaging</p> <ul style="list-style-type: none"> <li>• Steel/ fabricated metals</li> <li>• Plastic</li> </ul>
8. Healthcare	<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 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.</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>

## **7. PERFORMANCE PROGRAMS**

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

### **7.1. Mergers & Acquisitions Division**

The M&A division is tasked with ensuring that merger transactions do not lead to a substantial prevention or lessening of competition or to significant public interest concerns in terms of Chapter 3 of the Competition Act. The Commission has the authority to approve, conditionally approve, or prohibit intermediate mergers, while recommendations are made to the Tribunal in respect of large mergers. Small mergers may be notified to the Commission on a voluntary basis although the Commission may in certain circumstances require that the small merger be notified.

It is difficult to predict merger activity with certainty since merger activity is an outcome of market conditions and firm activity. The Commission has over the years set targets with regards to the key outputs of mergers approved, mergers approved with conditions and mergers prohibited against the total number of mergers notified based on observed trends. These assumptions have sometimes been incorrect, as they are largely outside of the control of the Commission. The Commission has thus developed performance indicators that are within its control, and thus has set merger targets in relation to turnaround times.

Merger regulation plays an important role in preventing anti-competitive structures in the economy. The Commission will continue to monitor the compliance of firms against merger remedies and conditions imposed, during this period. Compliance monitoring is an important step in ensuring that public interest and competition outcomes are realized in the economy. The M&A program also analyses mergers in priority sectors as an input into the enforcement work of the Commission. Further, with the support of Legal Services, the program also supports the Commission's litigation on mergers that are challenged at the Tribunal and the courts. The Commission will continue to meet service standards in assessing merger applications, with due considerations in assessing mergers involving distressed firms. The monitoring of conditions that have been previously imposed will also continue in the strategy cycle.

The M&A division will has already started implementing the amendments of 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).

## **7.2. 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.

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 15 cartel investigations in the 2023/24 financial year.

The Cartels and Legal Services programs are responsible for prosecution activities in the Tribunal and the courts; a performance target of achieving a minimum 80% success rate has been set in this regard. The Commission also set a new target of achieving a minimum of 65% success rate with respect to interlocutories both at the Tribunal and higher courts.

Characterization of certain Cartel conduct has been topical in various competition platforms. The Commission is looking at best practices, while continuing to investigate and prosecute cartel cases.

## **7.3. Market Inquiry Division**

In line with the strategic priorities identified in the APP, the Commission decided to establish a new division – the Market Inquiry Division – which will be tasked with giving effect to the market inquiry provisions in the Competition Act. This new division will also manage 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 2018 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 look into any feature or combination of features in a market which may have the effect of 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 recommendations for remedies and 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 Commission may receive complaints alleging cartel conduct, abuse of dominance and/or restrictive vertical practices which it must investigate. It may receive a merger transaction which it must investigate. 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 Market Inquiry Division – which will be appropriately resourced and capacitated to conduct market inquiries exclusively.

The establishment of a Market Inquiry Division takes account of the following considerations:

- I. The need to develop a Commission which is fit-for-purpose. Our organizational structure thus needs to take into account the volume and complexity of work and insights into levels of utilization 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.

#### **7.4. Market Conduct Division**

The MCD focuses on restrictive vertical practices and the abuse of dominant cases. Abuse of dominance includes excessive pricing, price discrimination, refusal to deal with competitors and predatory pricing. The MCD will prioritize implementation of the amendments to the Competition Act with respect to buyer power (balancing of bargaining dynamics between firms, setting of rules for fair and equitable access and improved competition outcomes in markets) and price discrimination - "likely effect of impeding the ability" of SMEs/HDI's to "participate effectively".

During 2023/24, the Market Conduct program 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 include initiating several complaints guided by the amendments of the Competition Act. The division will initiate 5 cases in the priority sectors. Furthermore, the division will also initiate 3 market inquiries 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.

Efficiency targets pertaining to the completion of cases have also been set, with the intention to complete 75% of investigations within 18 months. The division will also complete all exemption applications within 12 months.

### **7.5. Legal Services Division**

The Legal Services Division (Legal Services) 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 courts, in briefing attorneys and counsel, and directing and managing the Commission's strategy in respect of litigation. Legal support is also provided to analysing merger applications. 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 2023/24, the Legal Services division will continue its focus on improving its level of success in the courts. Successful prosecution or settlement of cases is an important indicator of success for the Commission, and minimum targets have been set in this regard.

Performance target of achieving a minimum 80% success rate cartel cases is the Tribunal and other courts has been set, a minimum of 70% in market conduct cases and 75% with respect to mergers. The Commission also set a new target of achieving a minimum of 65% success rate with respect to interlocutories both at the Tribunal and higher courts.

### **7.6. Economic Research 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 1 impact assessment study and 2 market studies conducted in

prioritized sectors in the 2023/24 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 Services, ERB will issue 2 guidelines on the application of the Competition Act. ERB will continue to support investigations with expert economic advice and testimonies.

### **7.7. Advocacy Division**

The Advocacy division is responsible for undertaking preliminary investigations of complaints received from the public. The division also advances strategic cases, which could not be resolved through enforcement, but through advocacy initiatives. Another function of the Advocacy division is policy analysis; that is to contribute to government policy and regulations to promote competitive outcome. The division also generates sector-based research on competition issues in order to analyse trends which will inform the Commission's approach.

One of the functions of the division is Stakeholder Relations, aimed at fostering collaborative relationships with the Commission's stakeholders. The Commission will continue to maintain relations with stakeholders during 2023/24 while focusing on key constituencies including Youth, Women and Black Business associations.

The Commission will continue its Advocacy work in prioritized sectors, education and outreach initiatives with consumers, big and small businesses will remain critical in the year, thus several activities are planned for the 2023/24 financial year.

Providing input into key legislation, regulations and policies will remain an important part of the Commission's work in the strategy period and targets have been set in this regard.

### **7.8. Corporate Services Division**

The CSD comprises Human Capital, IT, Registry, the Resource Centre, and Security and Facilities. The Human Capital department plays a critical role in ensuring that staff are motivated and committed to the Commission through its recruitment and selection processes, employee wellbeing, remuneration, learning and development, labour relations and strategic interventions. Performance targets have been set in relation to employee retention.

The IT department will continue to be central in ensuring the efficient operation of the Commission during 2023/24, and supporting staff with appropriate tools of trade, as many continue to work remotely. The department will lead the implementation of an integrated business system, phased over 3 years- focused on knowledge management, case management and finance applications.

The Security and Facilities unit is responsible for ensuring a safe and secure environment for all the Commission staff and visitors. The unit oversees security enabling and guarding services, including access control, within the proper guidelines and procedural responsibilities that will ensure a secure physical environment. The department will continue to source appropriate office space that complies with occupational health and safety and to relocate staff during this period. The Information Resource Centre forms part of the Commission's knowledge management strategy, while Registry is responsible for knowledge and document management.

#### **7.9. 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 department has set a target for a clean audit for the entire strategic period.

#### **7.10. Office of the Commissioner**

The primary role of the Office of the Commissioner (OTC) is oversight on the implementation of the Commission's strategic goals and objectives. 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.

In addition to the above, the International Relations department is also located within the OTC. The Commission will continue with its participation in regional and international forums during 2023/24. The OTC also houses the Communications function, which has the aim of creating public awareness about the Commission's work and advocating and advancing competition.

**8. TABLE 8: MTEF OUTCOMES, OUTPUTS, PERFORMANCE INDICATORS & TARGETS**

Outcome	Outputs	Accountable Program	No.	KEY PERFORMANCE INDICATORS	Annual Targets						
					Audited/ Actual performance			Estimated performance	MTEF Period		
					2019/20	2020/21	2021/22		2022/23	2023/24	2024/25
STRATEGIC GOAL 1: ENFORCING AND REGULATING TOWARDS ECONOMIC GROWTH AND ENHANCED ECONOMIC PARTICIPATION											
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	18 days	17 days	≤ 20 days	≤ 20 days	≤ 20 days	≤ 20 days
		M&A	2.	Average turnaround time for Phase 2 merger investigations.	40 days	37 days	40 days	≤ 45 days	≤ 45 days	≤ 45 days	≤ 45 days
		M&A	3.	Average turnaround time for Phase 3 intermediate and small merger investigations.	57 days	55 days	57 days	≤ 60 days	≤ 60 days	≤ 60 days	≤ 60 days
		M&A	4.	Average turnaround time for 90% of Phase 3 large merger investigations.	111 days	93 days	137 days	≤ 120 days	≤ 120 days	≤ 120 days	≤ 120 days

Outcome	Outputs	Accountable Program	No.	KEY PERFORMANCE INDICATORS	Annual Targets							
					Audited/ Actual performance				Estimated performance 2022/23	MTEF Period		
					2019/20	2020/21	2021/22	2023/24		2024/25	2025/26	
2. Competitive, Contestable and Deconcentrated Markets  + 3. Improved public interest outcomes	b) Compliance monitoring for merger conditions.	M&A	5.	No. of compliance monitoring reports on competition and public interest conditions imposed by the Commission.	100%	100%	100%	100%	4	4	4	
	a) Investigation of abuse of dominance and restrictive vertical practices.	MCD	6.	No. of abuse of dominance and restrictive vertical practices cases initiated in prioritized sectors and/or in line with amendments of the Competition Act.	2	36	3	5	5	5	5	
		MCD	7.	% of Energy Sector related investigations completed within 6 months.	N/A	N/A	N/A	100%	100%	N/A	N/A	
		MCD	8.	% of Energy Sector related exemption applications completed within 6 months.	N/A	N/A	N/A	100%	100%	N/A	N/A	



Outcome	Outputs	Accountable Program	No.	Annual Targets								
				KEY PERFORMANCE INDICATORS	Audited/ Actual performance				Estimated performance 2022/23	MTEF Period		
					2019/20	2020/21	2021/22	2023/24		2024/25	2025/26	
		MCD & Advocacy	9.	% of market conduct investigations completed within 18 months.	98%	94%	98%	≥75%	≥85%	≥85%	≥85%	
	b) Exemption application decisions	MCD	10.	% of exemption applications completed within 12 months.	98%	100%	75%	100%	100%	100%	100%	
	c) Market Inquiries	MCD	11.	No. of market inquiries initiated.	0	1	1	2	2	2	2	
			12.	No. of market inquiries completed.	4	1	N/A	1	1	3	2	
	d) Advocacy work of the implementation on market inquiries recommendations	Advocacy, OTC, ERB and MCD	13.	No. of monitoring reports on implementation of Market Inquiry Recommendations.	N/A	N/A	N/A	N/A	2	4	5	
	e) Cartel Investigations	Cartels	14.	No. of cartel investigations completed.	15	28	35	10	16	20	20	

Outcome	Outputs	Accountable Program	No.	KEY PERFORMANCE INDICATORS	Annual Targets							
					Audited/ Actual performance				Estimated performance 2022/23	MTEF Period		
					2019/20	2020/21	2021/22	2023/24		2024/25	2025/26	
	f) Cartel prosecutions	Cartels & Legal Services	15.	% of cartel cases won at the Tribunal.	62%	86%	100%	≥75%	≥80%	≥85%	≥85%	
		Cartels & Legal Services	16.	% of cartel cases won at the courts.	N/A	N/A	40%	≥75%	≥80%	≥85%	≥85%	
	g) 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 practices and exemption litigation.	N/A	100%	100%	≥70%	≥75%	≥75%	≥75%	
		Legal Services	18.	% of market conduct cases won at the courts in relation to abuse of dominance, restrictive vertical practices and exemption litigation.	N/A	N/A	N/A	≥70%	≥75%	≥75%	≥75%	
			19.	% of merger decisions upheld by the Tribunal.	≥75%	100%	100%	≥75%	≥80%	≥80%	≥80%	
	h) Merger litigation	Legal Services	20.	% of merger decisions upheld by the courts.	N/A	N/A	100%	≥75%	≥80%	≥80%	≥80%	



Outcome	Outputs	Accountable Program	No.	KEY PERFORMANCE INDICATORS	Annual Targets							
					Audited/ Actual performance				Estimated performance 2022/23	MTEF Period		
					2019/20	2020/21	2021/22	2023/24		2024/25	2025/26	
4. Improved compliance & awareness	i) Interlocutory litigation	Legal Services & Cartels	21.	% of interlocutory decisions upheld by the Tribunal.	N/A	N/A	N/A	≥60%	≥65%	≥70%	≥70%	
	22.		% of interlocutory decisions upheld by the courts.	N/A	N/A	N/A	≥60%	≥65%	≥70%			
	STRATEGIC GOAL 2: ADVOCATING FOR IMPROVED COMPLIANCE AND PRO-COMPETITIVE PUBLIC POLICY OUTCOMES											
4. Improved compliance & awareness	a) Domestic outreach initiatives	Advocacy & OTC	23.	No. of Education, training, outreach and awareness activities conducted on the Competition Act.	2	3	8	4	14	16	18	
	b) External Guidelines on the application of the Competition Act	Legal Services, ERB and M&A	24.	No. of Guidelines on the application of the Competition Act issued to stakeholders.	1	2	2	2	3	3	3	
	c) Advisory Opinions	Legal Services	25.	% of advisory opinions issued within 60 days.	N/A	N/A	N/A	≥90%	≥90%	≥90%	≥90%	

Outcome	Outputs	Accountable Program	No.	KEY PERFORMANCE INDICATORS	Annual Targets							
					Audited/ Actual performance				Estimated performance 2022/23	MTEF Period		
					2019/20	2020/21	2021/22	2023/24		2024/25	2025/26	
5. Improved understanding of market dynamics in priority sectors	a) Industry Scoping Studies	ERB	26.	No. of Market studies conducted in prioritized sectors.	1	N/A	1	1	2	2	2	
	b) Impact assessments on Commission decisions or competition policy	ERB	27.	No. of Impact assessment studies completed.	1	1	1	1	1	2	3	
	c) Enforcement research on priority industrial sectors and support infrastructure	ERB	28.	No. of Research reports on enforcement research on priority industrial sectors and support infrastructure.	N/A	N/A	N/A	2	2	2	2	
	(d) Advocacy in priority sectors	Advocacy	29.	No. of advocacy cases completed in priority sectors.	N/A	4	3	4	4	4	4	
		Advocacy	30.	No. of advocacy studies evaluating the Commission's interventions in priority sectors.	N/A	N/A	N/A	N/A	2	2	2	

Outcome	Outputs	Accountable Program	No.	Annual Targets								
				KEY PERFORMANCE INDICATORS	Audited/ Actual performance				Estimated performance 2022/23	MTEF Period		
					2019/20	2020/21	2021/22	2022/23		2023/24	2024/25	2025/26
6. Improved coordination on the application of economic and competition policy	a) Strategic Partnerships with relevant stakeholders	Advocacy	31.	No. of initiatives to promote entry & participation of HDIs.	N/A	N/A	1	2	3	4	4	
	Policy Responses	Advocacy	32.	No of submissions or responses to policy or regulation.	4	11	4	4	4	4	4	
	a) Partnerships with government, labour, business and sector regulators regarding the objectives of the Competition Act.	Advocacy	33.	No of reports on collaboration projects with stakeholders on objectives of the Competition Act.	N/A	N/A	N/A	N/A	2	2	2	
	Research & Thought Leadership	ERB	34.	Research and thought leadership insights published.	N/A	3	7	4	4	4	4	



Outcome	Outputs	Accountable Program	No.	KEY PERFORMANCE INDICATORS	Annual Targets					MTEF Period		
					Audited/ Actual performance				Estimated performance 2022/23	2023/24	2024/25	2025/26
					2019/20	2020/21	2021/22	2022/23				
		ERB	35.	Report on essential food products.	N/A	4	2	2	2	2	2	
7. Increased importance of developmental perspectives in domestic and international competition law discourse	a) Collaboration with regional and international partners	OTC & ERB	36.	No of reports on collaborative research on cross-country competition issues in regional and continental industrial value chains.	4	N/A	13	8	4	4	4	4
	b) Strengthened strategic bilateral and multilateral relations focused on influencing with a developmental perspective	OTC	37.	No. of projects/contributions on regional cooperation, bilateral and multilateral relations management focused on influencing with a developmental perspective.					4	4		4
STRATEGIC GOAL 3: A PEOPLE-CENTRIC AND HIGH-PERFORMANCE ORGANIZATION												
8. Sound Corporate Governance	a) Level of adherence to sound corporate governance and	Finance	38.	Audit Outcome	Clean Audit	Clean Audit	Clean Audit	Clean Audit	Clean Audit	Clean Audit	Clean Audit	Clean Audit

Outcome	Outputs	Accountable Program	No.	KEY PERFORMANCE INDICATORS	Annual Targets								
					Audited/ Actual performance				Estimated performance 2022/23	MTEF Period			
					2019/20	2020/21	2021/22	2023/24		2024/25	2025/26		
	accountable management of resources.												
9. Secure, harmonious, and conducive working environment	a) Conducive Facilities & Efficient Security.	CSD	39.	No of Reports on implementation of the OHS compliance plan.	N/A	100%	4	4	4	4	4	4	4
10.Highly engaged, motivated and productive workforce	a) Talent Management.	CSD & OTC	40.	% of HR spend in learning and development.	1%	1%	1%	1%	1%	1%	1%	1%	1%
		CSD	41.	% retention rate of staff complement.	≥90%	≥98.5%	99%	≥90%	≥90%	≥90%	≥90%	≥90%	≥90%
		OTC	42.	% of staff reached through training academy initiatives.	N/A	61%	≥60%	≥65%	≥65%	≥65%	≥65%	≥70%	≥70%
11. Business Process Improvement	a) Review and redesign of business processes to improve	Legal Services	43.	No. of reviews of the Commission's complaints and merger processes.	N/A	N/A	N/A	2	2	N/A	N/A	N/A	N/A

Outcome	Outputs	Accountable Program	No.	Annual Targets								
				KEY PERFORMANCE INDICATORS	Audited/ Actual performance			Estimated performance 2022/23	MTEF Period			
					2019/20	2020/21	2021/22		2023/24	2024/25	2025/26	
	efficiency and organizational agility											
	b)Efficient supply chain process.	Finance	44.	% of suppliers paid within 30 days.	N/A	N/A	N/A	80%		100%	100%	100%
	c) Efficient Human Resources and Finance Systems	CSD & Finance	45.	% Progress on the implementation of the HR and Finance systems.	N/A	N/A	0	Report on completed implementation.		Progress on the implementation of the HR and Finance systems.	N/A	N/A
12. Effective collaboration with other state entities	b) Partnerships with other Regulators and state entities.	Advocacy	46.	Report on collaboration with MOU partners, Government and Sector Regulators.	N/A	N/A	N/A	N/A		2	2	2



**9. TABLE 9: ANNUAL PERFORMANCE INDICATORS AND QUARTERLY TARGETS - 2023/24**

Outcome	Outputs	Accountable Program	No.	Performance Indicator	Annual Target	Q1	Q2	Q3	Q4
<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
		M&A	2.	Average turnaround time for Phase 2 merger investigations.	≤ 45 days	≤ 45 days	≤ 45 days	≤ 45 days	≤ 45 days
		M&A	3.	Average turnaround time for Phase 3 intermediate and small merger investigations.	≤ 60 days	≤ 60 days	≤ 60 days	≤ 60 days	≤ 60 days
		M&A	4.	Average turnaround time for 90% of Phase 3 large merger investigations.	≤ 120 days	≤ 120 days	≤ 120 days	≤ 120 days	≤ 120 days
	a) Compliance monitoring for merger conditions.	M&A	5.	No. of compliance monitoring reports on competition and public interest conditions imposed by the Commission.	4	1	1	1	1
<b>2. Competitive, Contestable and Deconcentrated Markets</b>	b) Investigation of abuse of dominance and restrictive	Market Conduct	6.	No. of abuse of dominance and restrictive vertical practices cases initiated in prioritized sectors and/or in line with amendments of the Competition Act.	5	1	2	2	N/A

Outcome	Outputs	Accountable Program	No.	Performance Indicator	Annual Target	Q1	Q2	Q3	Q4
+ 3. Improved public interest outcomes	vertical practices		7.	% of Energy Sector related investigations completed within 6 months.	100%	100%	100%	100%	100%
			8.	% of Energy Sector related exemption applications completed within 6 months.	100%	100%	100%	100%	100%
	c) Exemption application decisions	MCD & Advocacy	9.	% of market conduct investigations completed within 18 months.	≥85%	≥85%	≥85%	≥85%	≥85%
		MCD	10.	% of exemption applications completed within 12 months.	100%	100%	100%	100%	100%
	d) Market Inquiries	MCD	11.	No. of market inquiries initiated.	2	N/A	N/A	1	1
			12.	No. of market inquiries completed.	1	1	N/A	N/A	N/A



Outcome	Outputs	Accountable Program	No.	Performance Indicator	Annual Target	Q1	Q2	Q3	Q4
	e) Advocacy work of the implementation on market inquiries recommendations.	OTC, ERB, Advocacy & MCD	13.	No. of monitoring reports on implementation of Market Inquiry Recommendations.	2	N/A	1	N/A	1
	f) Cartel investigations.	Cartels	14.	No. of cartel investigations completed.	16	4	4	4	4
	g) Cartel prosecutions.	Cartels & Legal Services	15.	% of cartel cases won at the Tribunal.	≥80%	≥80%	≥80%	≥80%	≥80%
		Cartels & Legal Services	16.	% of cartel cases won at the courts.	≥80%	≥80%	≥80%	≥80%	≥80%
	h) 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 practices and exemption litigation.	≥70%	≥75%	≥75%	≥75%	≥75%
		Legal Services	18.	% of market conduct cases won at the courts in relation to abuse of dominance, restrictive vertical practices and exemption litigation.	≥75%	≥75%	≥75%	≥75%	≥75%
	i) Merger litigation.	Legal Services	19.	% of merger decisions upheld by the Tribunal.	≥80%	≥80%	≥80%	≥80%	≥80%

Outcome	Outputs	Accountable Program	No.	Performance Indicator	Annual Target	Q1	Q2	Q3	Q4
4. Improved compliance & awareness		Legal Services	20.	% of merger decisions upheld by the courts.	≥75%	≥80%	≥80%	≥80%	≥80%
	i) Interlocutory litigation.	Legal Services & Cartels	21.	% of interlocutory decisions upheld by the Tribunal.	≥65%	≥65%	≥65%	≥65%	≥65%
			22.	% of interlocutory decisions upheld by the courts.	≥65%	≥65%	≥65%	≥65%	≥65%
	STRATEGIC GOAL 2: ADVOCATING FOR IMPROVED COMPLIANCE AND PRO-COMPETITIVE PUBLIC POLICY OUTCOMES								
5. Improved understanding of market dynamics	a) Domestic outreach initiatives.	Advocacy & OTC	23.	No. of Education, training, outreach and awareness activities conducted on the Act.	14	4	4	4	2
	b) External Guidelines on the application of the Competition Act.	LSD, M&A & ERB	24.	No. of Guidelines on the application of the Competition Act issued to stakeholders.	3	N/A	1	1	1
	c) Advisory Opinions.	Legal Services	25.	% of advisory opinions issued within 60 days.	≥90%	≥90%	≥90%	≥90%	≥90%
	a) Industry Scoping Studies	ERB	26.	No. of market studies conducted in prioritized sectors.	2	N/A	1	1	N/A

Outcome	Outputs	Accountable Program	No.	Performance Indicator	Annual Target	Q1	Q2	Q3	Q4
in priority sectors	b) Impact assessments on Commission decisions or competition policy.	ERB	27.	No. of impact assessment studies completed.	1	N/A	N/A	N/A	1
	c) Enforcement research on priority industrial sectors and support infrastructure.		28.	No. of research reports on enforcement research on priority industrial sectors and support infrastructure.	2	N/A	1	N/A	1
	d) Advocacy in priority sectors.	Advocacy	29.	No. of advocacy cases completed in priority sectors.	4	N/A	1	2	1
		Advocacy	30.	No. of advocacy studies evaluating the Commission's interventions in priority sectors.	2	1	N/A	N/A	1
6. Improved co-ordination on the application of economic policy and competition policy	a) Strategic Partnerships with relevant stakeholders	Advocacy	31.	No. of initiatives to promote entry & participation of HDIs.	3	1	1	0	1
	b) Policy Responses.	Advocacy	32.	No. of submissions or responses to policy or regulation.	4	1	1	1	1

Outcome	Outputs	Accountable Program	No.	Performance Indicator	Annual Target	Q1	Q2	Q3	Q4
	c) Partnerships with government, labour, business and sector regulators regarding the objectives of the Competition Act.	Advocacy	33.	No of reports on collaboration projects with stakeholders on objectives of the Competition Act.	2	N/A	1	N/A	1
	a) Research & Thought Leadership	ERB	34.	No. of research and thought leadership insights published.	4	1	1	1	1
		ERB	35.	Reports on essential food products.	2	N/A	1	N/A	1
	b) Collaboration with Regional & international partners.	OTC	36.	No. of research on collaborative research on cross-country competition issues in regional and continental industrial value chains.	4	1	1	1	1
7. Increased importance of developmental perspectives in domestic and international competition law discourse	c) Strengthened strategic bilateral and multilateral relations focused on influencing with	OTC	37.	No. of projects/contributions on regional cooperation, bilateral and multilateral relations management focused on influencing with a developmental perspective.					



Outcome	Outputs	Accountable Program	No.	Performance Indicator	Annual Target	Q1	Q2	Q3	Q4
	a 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
<b>9. Secure, harmonious, and conducive working environment</b>	a) Conducive Facilities & Efficient Security.	CSD	39.	No of Reports on implementation of the OHS compliance plan.	4	Reports on OHS compliance	Reports on OHS compliance	Reports on OHS compliance	Reports on OHS compliance
<b>10. Highly engaged, motivated and productive workforce</b>	a) Talent Management.	CSD & OTC	40.	% of HR spend in learning and development.	1%	N/A	N/A	N/A	1%
		CSD	41.	% retention rate of staff complement.	≥90%	≥90%	≥90%	≥90%	≥90%
		OTC	42.	% of staff reached through training academy initiatives.	≥65%	N/A	N/A	N/A	≥65%
<b>11. Business Process</b>	a) Review and redesign of business	Legal Services	43.	No. of reviews of the Commission's complaints and	2	N/A	1	N/A	1

Outcome	Outputs	Accountable Program	No.	Performance Indicator	Annual Target	Q1	Q2	Q3	Q4
Improvement	processes to improve efficiency and organizational agility.			merger processes.					
	b) Efficient supply chain process.	Finance	44.	% of suppliers paid within 30 days.	100%	100%	100%	100%	100%
	a) Efficient Human Resources and Finance Systems.	CSD & Finance	45.	% Progress on the implementation of the HR and Finance systems.	Completed HR and Finance Systems.	Report on the development of the modules for HR and Finance systems	Report on the outcomes from testing the modules for HR and Finance systems	Implementation and going live with the HR and Finance systems	Close out report on HR and Finance Systems
12. Effective collaboration with other state entities	b) Partnerships with other Regulators and state entities.	Advocacy	46.	Report on collaboration with MOU partners, Government, and Sector Regulators.	2	N/A	1	N/A	1

**10. TABLE 10: STRATEGIC RISKS**

Risk	Risk Mitigation
1. Budget Risk	<ul style="list-style-type: none"> <li>• Regular (timely) budget reviews, re-allocation and optimising at Finance Committee and EXCO.</li> <li>• Developing a funding level strategy</li> <li>• Engaging dftc regarding under expenditure and roll over.</li> <li>• Improve organizational SCM capacity to assist in processes</li> </ul>
2. Case Management Risk - High loss and collapse of cases	<ul style="list-style-type: none"> <li>• Continuous assessment of legal strategy to strengthen case management.</li> <li>• Outsourcing of skills when required</li> <li>• Analysis/evaluation of lost/collapsed (and won cases) cases -Review of works flow portals for investigations.</li> </ul>
3. Inadequate capacity to perform Commission's functions	<ul style="list-style-type: none"> <li>• Refining competency framework</li> <li>• Align recruitment and training and development to competency framework.</li> <li>• Remuneration dispensation to attract competence in the market (broad banding)</li> <li>• Refining procurement planning</li> <li>• Approval of organizational structure</li> <li>• Review of HR policies and procedures</li> <li>• Review, finalization and implementation of learning and development strategy</li> <li>• Procurement of appropriate IT tools and software.</li> </ul>
4. Inadequate Risk Management processes	<ul style="list-style-type: none"> <li>• Develop compliance and risk management strategy.</li> <li>• Implementation and monitoring and reporting on compliance and risks to the Risk and Governance Committee (quarterly), EXCO (monthly) and Audit and Risk Committee (quarterly).</li> </ul>
5. Fraud and corruption	<ul style="list-style-type: none"> <li>• Develop Fraud Risk management Policy and Strategy.</li> </ul>

Risk	Risk Mitigation
	<ul style="list-style-type: none"> <li>• Conduct Fraud Awareness Campaigns and training to all staff</li> <li>• Provide reports and feedback to EXCO(monthly) Risk and Governance Committee (quarterly), and Audit and Risk Committee (quarterly) on the status and management of Fraud and Corruption Risk within the Commission</li> </ul>
6. Inadequate cybersecurity	<ul style="list-style-type: none"> <li>• Conduct a cybersecurity risk assessment,</li> <li>• Establish network access controls,</li> <li>• Implement firewalls and antivirus software,</li> <li>• Create a patch management schedule,</li> <li>• Continuously monitor network traffic,</li> <li>• Build an incident response plan,</li> <li>• Examine the physical security,</li> <li>• Minimize your attack surface:               <ul style="list-style-type: none"> <li>✓ Physical attack</li> <li>✓ Digital attack</li> <li>✓ Social engineering attack</li> </ul> </li> </ul>
7. Inadequate access control to organization's IT, physical records, and information	<ul style="list-style-type: none"> <li>• Enhancing document audit trail for both physical and electronic documents/information.</li> <li>• Implementation/ enforcement of the version control policy.</li> <li>• Developing protocols for destruction of records.</li> <li>• Introducing an updated ERP. "</li> </ul>
8. Inadequate business continuity management	<ul style="list-style-type: none"> <li>• Development of Business Continuity Strategy and Policy.</li> <li>• Regular updates from IT on the reliability of the ICT systems to support operations, including back-up systems and external information storage.</li> <li>• Appointment of a risk and compliance specialist.</li> </ul>



Risk	Risk Mitigation
9. Loss of Assets	<ul style="list-style-type: none"> <li>Development of Asset Management Policy</li> </ul>
10. Investment Risk	<ul style="list-style-type: none"> <li>Development of Investment Policy</li> </ul>
11. Failure to prosecute due to delays of Tribunal to conduct trials	<ul style="list-style-type: none"> <li>Proposal to improve efficiencies in the systems</li> </ul>

**11. TABLE 11: TECHNICAL INDICATORS DESCRIPTIONS 2023/24**

STRATEGIC OUTCOMES	OUTPUTS	No.	KEY INDICATORS	PERFORMANCE	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
<b>STRATEGIC GOAL 1: ENFORCING AND REGULATING TOWARDS ECONOMIC GROWTH AND GREATER ECONOMIC PARTICIPATION</b>						
1. Efficient and effective merger regulation & enforcement	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 moderately complicated, require slightly more complex analysis and are unlikely to raise significant competition concerns while Phase 3 investigations are highly complex, require complex analysis, either because of the complex nature of the products and markets, the structure of the relevant markets or the public interest issues the transaction gives rise to.</li> <li>Indicators 1-3 refer to the amount of time the Commission takes to make a decision in a merger review process.</li> <li>Indicator 4 refers to the amount of time the Commission takes to make a decision in 90% of Phase 3 (L.) merger cases.</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 INDICATORS	PERFORMANCE	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
					<ul style="list-style-type: none"> <li>Indicator 3 includes both small and intermediate mergers.</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>To calculate the Average Turnaround time for indicator 4, Phase 3 (L) merger cases must be sorted by turnaround time, the top 10% of cases must be excluded and the Average calculated for the remaining 90% of cases.</li> <li>The annual target is calculated as the average of all quarters.</li> <li>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 service-delivery, particularly given the financial and economic implications of mergers.</li> </ul> <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> <li>If a Notice of Incomplete merger filing (Form CC13(2)) is issued the</li> </ul>	

STRATEGIC OUTCOMES	OUTPUTS	No.	KEY INDICATORS	PERFORMANCE	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
					turnaround times are calculated from the business day following the receipt of a Complete Filing.	
	b. Compliance monitoring for merger conditions	5.	Compliance monitoring and reporting on conditions on competition policy and public interest.		<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> <ul style="list-style-type: none"> <li>All cases approved with conditions or remedies are collected on a divisional database.</li> <li>Reports are received when due from the merging parties.</li> <li>Achievement of this target is denoted by a report to the Commission Meeting/EXCO.</li> </ul>	M&A
2. Competitive, Contestable and Deconcentrated Markets	a) Investigation of Abuse of dominance and	6.	No. of abuse of dominance and restrictive vertical practices cases initiated in prioritized sectors, and/or in line with amendments of the Competition Act.		<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 Prioritization within the APP).</li> </ul>	MCD

STRATEGIC OUTCOMES	OUTPUTS	No.	KEY INDICATORS	PERFORMANCE	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
+ 3. Improved public interest outcomes.	restrictive practices.				<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><b>Collection of Data/ Method of Calculation:</b></p> <ul style="list-style-type: none"> <li>The Commission initiates investigation on the basis of its own research and intelligence or on the basis of complaints received from members of the public.</li> <li>The initiation of a case is evidenced minutes of the CC 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 Energy Sector related investigations completed within 6 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> </ul> <p><b>Purpose/ Importance:</b></p> <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 finalized.</li> <li>The Commission intends to fast track investigations in the energy sector in response to South Africa's energy challenges.</li> </ul>	MCD



STRATEGIC OUTCOMES	OUTPUTS	No.	KEY INDICATORS	PERFORMANCE	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
					<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 6 month?"</li> <li>• The 6 months include the time taken by the screening unit to screen the case.</li> <li>• Minutes of the CC 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> <li>• For Commission's own initiation, the baseline for calculation is the completed and signed CC1 form.</li> </ul>	
		8.	% of Energy Sector related exemption applications completed within 6 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> </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</li> </ul>	MCD

STRATEGIC OUTCOMES	OUTPUTS	No.	KEY INDICATORS	PERFORMANCE	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
					<p>businesses, economic stability of designated industries, maintenance, or promotion of exports).</p> <ul style="list-style-type: none"> <li>The Commission intends to fast-track exemption applications in the energy sector in response to South Africa's energy challenges.</li> </ul> <p><b>Collection of Data/ Method of Calculation:</b></p> <ul style="list-style-type: none"> <li>The 6 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 CC meeting decision.</li> <li>The achievement of the target is evidenced by minutes of the CC meeting, which indicate the CC's decision to either grant or refuse to grant an exemption.</li> </ul>	
		9.	% of market investigations completed within 18 months.	conduct	<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> <ul style="list-style-type: none"> <li>The Competition Act stipulates a time frame of 12 months within</li> </ul>	MCD & Advocacy

STRATEGIC OUTCOMES	OUTPUTS	No.	KEY INDICATORS	PERFORMANCE	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
					<p>which the investigation of a complaint from members of the public must be finalized. 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 finalize.</p> <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 CC 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> <li>For Commission's own initiation, the baseline for calculation is the completed and signed CC1 form.</li> </ul>	
	b) Exemption applications on decisions	10.	% 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>	MCD



STRATEGIC OUTCOMES	OUTPUTS	No.	KEY INDICATORS	PERFORMANCE	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
					<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> <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 CC meeting decision.</li> <li>The achievement of the target is evidenced by minutes of the CC meeting, which indicate the CC'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) Market Inquiries	11.	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, which the Commission undertakes under provisions in the Act. The initiation of a Market Inquiry refers to the publication of final</li> </ul>	MCD

STRATEGIC OUTCOMES	OUTPUTS	No.	KEY INDICATORS	PERFORMANCE	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
					<p>Terms of Reference in the Government Gazette.</p> <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 the Market Inquiry.</li> </ul>	
		12.	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 the CC or EXCO meeting.</li> </ul>	MCD
		13.	No. of monitoring reports on 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.</li> </ul>	OTC, ERB and Advocacy

STRATEGIC OUTCOMES	OUTPUTS	No.	KEY INDICATORS	PERFORMANCE	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
					<b>Purpose/Importance:</b> <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> <b>Collection of Data/ Method of Calculation:</b> <ul style="list-style-type: none"> <li>The achievement of this indicator is evidenced by a report on e noted/approved at the CC or Exco Meeting.</li> </ul>	
	d) Cartel Investigations	14.	No. of cartel investigations completed.		<b>Definition:</b> <ul style="list-style-type: none"> <li>The target refers to cartel 1) cases which the Commission has decided to refer to the Tribunal for prosecution, 2) cases which the Commission has decided to non-refer.</li> </ul>	Cartels
					<b>Purpose/Importance:</b> <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> <b>Collection of Data/Method of Calculation:</b> <ul style="list-style-type: none"> <li>The achievement of the target is evidenced by minutes of the CC meeting to refer or non-refer cartel cases to the Tribunal.</li> </ul>	
	e) Cartel Prosecutions	15.	% of cartel cases won at the Tribunal.		<b>Definition:</b> <ul style="list-style-type: none"> <li>Winning means, the relief sought by the Commission is upheld</li> </ul>	Legal Services & Cartels

STRATEGIC OUTCOMES	OUTPUTS	No.	KEY INDICATORS	PERFORMANCE	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
		16.	% of cartel cases won at the courts.		<p>partially or in full or variation thereof by the Tribunal or the courts.</p> <ul style="list-style-type: none"> <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> <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 public</li> </ul>	

STRATEGIC OUTCOMES	OUTPUTS	No.	KEY INDICATORS	PERFORMANCE	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
					<p>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 judgement and whether the judgement 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>	
	f) Prosecution of Abuse of dominance, restrictive practices, exemption applications	17.	% of market conduct cases won at the Tribunal in relation to abuse of dominance, restrictive vertical practices and exemption litigation.		<p>Definition:</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 counted if it is under appeal or review at the time of reporting) or within a reasonable time after issuing of the judgment.</li> <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</li> </ul>	Legal Services
		18.	% of market conduct cases won at the courts in relation to abuse of dominance, restrictive practices and exemption litigation.			



STRATEGIC OUTCOMES	OUTPUTS	No.	KEY INDICATORS	PERFORMANCE	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
					<p>pre- and post- referral.</p> <ul style="list-style-type: none"> <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> <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> <li>Orders/ decisions of the Tribunal and/or the Courts are accessible to</li> </ul>	

STRATEGIC OUTCOMES	OUTPUTS	No.	KEY INDICATORS	PERFORMANCE	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
	g) Merger Litigation	19.	% of merger decisions upheld by Tribunal.		the public and the Commission keeps records thereof.	
		20.	% of merger decisions upheld by the courts.		<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 at the time of reporting or within a reasonable time after issuing of the judgment.</li> <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</li> </ul>	Legal Services



STRATEGIC OUTCOMES	OUTPUTS	No.	KEY INDICATORS	PERFORMANCE	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
					<p>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.</p> <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 decision of the Tribunal and/or the courts which pertain to mergers 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>	
	h) Interlocutory litigation	21.	% 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 be counted if it is under appeal or</li> </ul>	Legal Services
		22.	% of interlocutory decisions upheld by the courts.			

STRATEGIC OUTCOMES	OUTPUTS	No.	KEY INDICATORS	PERFORMANCE	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
					<p>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> <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> </ul>	

STRATEGIC OUTCOMES	OUTPUTS	No.	KEY INDICATORS	PERFORMANCE	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
					<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>	
<b>STRATEGIC GOAL 2: ADVOCATING FOR IMPROVED COMPLIANCE AND PRO-COMPETITIVE PUBLIC POLICY OUTCOMES</b>						
4. Improved compliance & awareness	a) Domestic outreach initiatives	23.	No. of education, training and outreach activities conducted on Competition Act.		<p><b>Definition:</b></p> <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, organizations representing business and consumers and the general public.</li> </ul> <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 publicizing its work and to promote compliance.</li> </ul>	Advocacy

STRATEGIC OUTCOMES	OUTPUTS	No.	KEY INDICATORS	PERFORMANCE	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
					<b>Collection of Data/ Method of Calculation:</b> <ul style="list-style-type: none"> <li>The achievement of this indicator is evidenced by a post-event report noted at the CC or EXCO Meeting.</li> </ul>	
	b) External Guidelines on the application of the Competition Act	24.	No. of Guidelines on the application of the Act issued to stakeholders.		<b>Definition:</b> <ul style="list-style-type: none"> <li>Guidelines are detailed explanatory directives on the Commission's policy approach to any aspect of the Competition Act.</li> </ul> <b>Purpose/ Importance:</b> <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 application of the Act in particular circumstances.</li> </ul>	Legal Services & ERB
					<b>Collection of Data/ Method of Calculation:</b> <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> <li>Details of timelines will be on divisional DCT.</li> </ul>	
	c) Training	25.	% of advisory opinions issued within 60 days.		<b>Definition:</b> <ul style="list-style-type: none"> <li>Non-binding advisory opinion is a written guidance issued by the Commission.</li> </ul> <b>Purpose/ Importance:</b> <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>	Legal Services

STRATEGIC OUTCOMES	OUTPUTS	No.	KEY INDICATORS	PERFORMANCE	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
					<b>Collection of Data/ Method of Calculation:</b> <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 commence.</li> <li>The achievement of this indicator is evidenced by an advisory opinion noted at the CC or EXCO Meeting.</li> </ul>	
5. Improved understanding of market dynamics in priority sectors.	a) Industry scoping studies	26.	No. of market studies conducted in prioritized sectors.		<b>Definition:</b> <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> <b>Purpose/ Importance:</b> <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> <b>Collection of Data/ Method of Calculation:</b> <ul style="list-style-type: none"> <li>The achievement of this indicator is evidenced by a market study report noted at the CC or EXCO Meeting.</li> </ul>	ERB



STRATEGIC OUTCOMES	OUTPUTS	No.	KEY INDICATORS	PERFORMANCE	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
	b) Impact assessments on Commission decisions or competition policy.	27.	No. of impact assessment studies completed.		<p><b>Definition:</b></p> <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. 'Completed' refers to impact assessment studies which have served at the CC meeting.</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.</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 approved/ noted at the CC or EXCO meeting.</li> </ul>	ERB
	c)	28.	No. of research reports on enforcement research on priority industrial sectors and support infrastructure.		<p><b>Definition:</b></p> <ul style="list-style-type: none"> <li>• A report on research conducted industrial sectors and support infrastructure.</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>	ERB



STRATEGIC OUTCOMES	OUTPUTS	No.	KEY INDICATORS	PERFORMANCE	TECHNICAL INDICATOR DEFINITION		ACCOUNTABLE PROGRAM
					<b>Collection of Data/ Method of Calculation:</b> <ul style="list-style-type: none"> <li>The achievement of this indicator is evidenced by a report on essential food products noted/approved at the CC or Exco Meeting.</li> </ul>		
	d) Advocacy in priority sectors	29.	No. of advocacy cases completed in priority sectors.		<b>Definition:</b> <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> <b>Purpose/Importance:</b> <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> <b>Collection of Data/ Method of Calculation:</b> <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</li> </ul>		Advocacy

STRATEGIC OUTCOMES	OUTPUTS	No.	KEY INDICATORS	PERFORMANCE	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
					<p>financial years.</p> <ul style="list-style-type: none"> <li>Records relating to completed advocacy cases are kept in the Data Compilation Template (DCT) of the division.</li> </ul>	
		30.	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> <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 CC meeting</li> </ul>	Advocacy
		31.	No. of initiatives to promote entry & participation of HDIs.		<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 (HDIs). HDIs, include business owned by women, youth, and people with living disabilities, among others. These can include undertaking</li> </ul>	Advocacy

STRATEGIC OUTCOMES	OUTPUTS	No.	KEY INDICATORS	PERFORMANCE	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
					<p>research projects, workshops, seminars or awareness material on the Competition Act with and/or for HDIs associations/groups or regulatory/government bodies.</p> <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 CC meeting, noting a report which reflects joint activities undertaken pertaining to HDIs.</li> <li>The initiative with HDIs must have transpired within the reporting period, even if it is noted by the CC meeting in a subsequent reporting period.</li> </ul>	
	a) 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 legislation, the Commission submits written responses to the relevant policymakers Government bodies and regulators.</li> </ul>	Advocacy

STRATEGIC OUTCOMES	OUTPUTS	No.	KEY INDICATORS	PERFORMANCE	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
					<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 CC meeting, within the reporting period.</li> </ul>	
	a) Partnerships with government, labour, business and sector regulators regarding the objective of the Competition Act.	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> <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>	Advocacy
	a) Research & Thought	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</li> </ul>	ERB

STRATEGIC OUTCOMES	OUTPUTS	No.	KEY INDICATORS	PERFORMANCE	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
	Leadership				<p>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).</p> <ul style="list-style-type: none"> <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 organization 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> <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 the publishing of the research or thought leadership insight as defined within the reporting period.</li> </ul>	
		35.	Report on essential food products.	food	<p><b>Definition:</b></p> <ul style="list-style-type: none"> <li>A report on essential food products is a report which comprises</li> </ul>	ERB



STRATEGIC OUTCOMES	OUTPUTS	No.	KEY INDICATORS	PERFORMANCE	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
					<p>economic study/research on various food products during the pandemic.</p> <p><b>Purpose/ Importance:</b></p> <ul style="list-style-type: none"> <li>The Commission undertakes food price studies to assess markets for potential anti-competitive conduct including price gauging. This work assists the Commission in identifying 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 report on essential food products noted/approved at the CC or Exco Meeting.</li> </ul>	
6.Increased importance of developmental perspectives in domestic and international competition law discourse.	a) Collaboration with regional and international partners.	36.	No. of research on collaborative research on cross-country competition issues in regional and continental industrial value chains.		<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. 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>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>	OTC & ERB



STRATEGIC OUTCOMES	OUTPUTS	No.	KEY INDICATORS	PERFORMANCE	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
	c) Strengthened strategic bilateral and multilateral relations focused on influencing with a development al perspective	37.	No. of projects/contributions on regional cooperation, bilateral and multilateral relations management focused on influencing with a developmental perspective		<p><b>Definition:</b></p> <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 organizations 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, research papers, joint publications noted at EXCO/ CC meeting.</li> </ul>	OTC
STRATEGIC GOAL 3: A PEOPLE-CENTRIC HIGH-PERFORMANCE ORGANIZATION						

STRATEGIC OUTCOMES	OUTPUTS	No.	KEY INDICATORS	PERFORMANCE	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
7.Sound Corporate Governance	a) Audit Outcome	38.	Audit opinion.		<p><b>Definition:</b></p> <ul style="list-style-type: none"> <li>The target refers to audit outcomes where all areas are unqualified, with no material reportable matters.</li> </ul> <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
		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 hazards 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 compliance plan (internal &amp; legislated).</li> </ul> <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>	CSD

STRATEGIC OUTCOMES	OUTPUTS	No.	KEY INDICATORS	PERFORMANCE	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
					<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 issues 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>	
8. Highly engaged, motivated and productive workforce	a) Talent management	40.	% of HR spend on Learning and Development.		<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 is able to build an internal talent pipeline.</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. The reason for not setting a quarterly target is because learning and development is cyclical.</li> </ul>	CSD & OTC
		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>	CSD

STRATEGIC OUTCOMES	OUTPUTS	No.	KEY INDICATORS	PERFORMANCE	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
					<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 financial year.</li> </ul> <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 academy 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 academy over the year.</li> </ul> <p><b>Purpose:</b></p>	OTC

STRATEGIC OUTCOMES	OUTPUTS	No.	KEY INDICATORS	PERFORMANCE	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
					<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 is able to 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 the Commission's Academy. No double counting of repeat attendees.</li> <li>The achievement of the target is measured as follows: total staff trained / total staff complement as at end of Q4 x 100.</li> </ul> <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>	
<b>Business Process Improvement</b>	Review and redesign of business processes to improve turnaround times and organizational	43.	No. of reviews of the Commission's complaints and merger processes.		<p><b>Definition:</b></p> <ul style="list-style-type: none"> <li>The Commission receives complaints 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>	Legal Services



STRATEGIC OUTCOMES	OUTPUTS	No.	KEY INDICATORS	PERFORMANCE	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
	Agility				<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 Commission and the stakeholders.</li> </ul> <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 of the CC meeting.</li> </ul>	
	Efficient supply chain process.	44.	% of suppliers paid within 30 days.		<p><b>Definition</b></p> <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 HDIs.</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 30 days?"</li> <li>The turnaround time only start when all the relevant information required by the Commission has been submitted.</li> </ul>	Finance

STRATEGIC OUTCOMES	OUTPUTS	No.	KEY INDICATORS	PERFORMANCE	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
					<ul style="list-style-type: none"> <li>Achievement of this target is denoted by the report (Finance Report) submitted to the Commission/EXCO.</li> </ul>	
	Efficient Human Resources and Finance Systems	45.	% Progress on the implementation of the HR and Finance systems		<p><b>Definition:</b></p> <ul style="list-style-type: none"> <li>The KPI entails the procurements of the integrated business system, to provide solution for the Commission's IT, Finance and HR. The initiation of phase 2 will focus on case management and information and knowledge management resources and tools.</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 Go-live Report confirming migration to live phase 1 system noted at EXCO. Signed off report on the initiation of phase 2 by EXCO.</li> </ul>	CSD & Finance
Effective collaboration with other state entities	Partnerships with other Regulators and state entities	46.	Report on collaboration with MOU partners, Government, and Sector Regulators.		<p><b>Definition:</b></p> <ul style="list-style-type: none"> <li>The indicator refers to the Commission reporting on various work done in collaboration with several MOU partners, government, and sector regulators. This includes new collaborative work and developments/progress on work historically done.</li> </ul> <p><b>Purpose:</b></p> <ul style="list-style-type: none"> <li>The Commission has concluded several MOUs with sector regulators and government departments/entities. The Commission also contribute greatly to policy developments through advocacy initiatives. The purpose of this indicator is to report on progress and benefits/challenges on collaborative work.</li> </ul>	Advocacy

STRATEGIC OUTCOMES	OUTPUTS	No.	KEY INDICATORS	PERFORMANCE	TECHNICAL INDICATOR DEFINITION	ACCOUNTABLE PROGRAM
					<b>Method of Calculation &amp; Collection of Data/Evidence</b> <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.</li> </ul>	

**12. TABLE 12: Output targets within the dtic-group of entities**

**Investment**

<b>Output</b>
R200 billion in investment pledges secured across the state
100 Investor facilitation and unblocking interventions provided
2 new SEZs designated and support work with provinces related to industrial parks

**Industrial production**

<b>Output</b>
R40 billion in additional local output committed or achieved
R40 billion in Black Industrialist output achieved

**Exports and trade**

<b>Output</b>
R700 billion in manufacturing exports
R300 billion in manufacturing exports to other African countries
R2.5 billion in exports of Global Business Services (GBS)
1 Implementation of the AfCFTA
10 High impact trade interventions completed
4 Protocols finalised under the AfCFTA

**Industrial support**

<b>Output</b>
R30 billion in support programmes administered by or in partnership with the dtic group
R15 billion support programmes to enterprises in areas outside the 5 main metros
R8 billion in financial support programmes to SMMEs, and women and youth-empowered businesses
R7.5 billion in financial support programmes to enterprises in labour absorbing sectors
Promotion of a transparent and just adjudication process for incentive applications

**Transformation**

<b>Output</b>
R800 Million in Equity Equivalent Investment Programme agreements agreed or administered
20 000 additional workers with shares in their companies
10 high-impact outcomes on addressing market concentration, at sector or firm level.

**Jobs**

<b>Output</b>
1 million jobs supported or covered by Master Plans
100 000 jobs to be created (50 000 social economy fund part-time or temporary job opportunities and 50 000 full-time jobs)
23 000 jobs in Black Industrialists firms

**Energy**

<b>Output</b>
R1.3 billion in financial support to enterprises including SMMEs to mitigate impact of load shedding through energy resilience fund
1400 Megawatts of energy from projects facilitated

<b>Output</b>
550 Megawatts of energy available for the grid
1 Energy One-stop Shop operational
Expedited regulatory amendments and flexibility, to promote energy efficiency

#### **Green economy targets**

<b>Output</b>
1 Strategy and advocacy finalised responding to green non-tariff barriers (Carbon Border Adjustment Mechanism (CBAM))
1 EV Strategy finalised
1 Finalisation of green hydrogen commercialisation framework

#### **Stakeholder engagement and impacts**

<b>Output</b>
10 Business Forums hosted aimed at supporting increased FDI, exports and outward investment.
1000 Case studies of firms, workers, entrepreneurs, professionals or communities impacted by the dtic measures: including 12 local films/documentaries telling the SA story
52 Community outreach programmes by the dtic group
5 Conferences, summits, and international forums hosted
10 Successful actions completed on price monitoring and excessive pricing or price gouging

#### **Addressing crime**

<b>Output</b>
Grey-listing: Publication of 'Know Your Shareholder' Regulations and Follow Ups
1 Metal trading system developed to identify stolen public infrastructure entering the scrap metal value-chain, export market or legitimate metal production industry

#### **Red tape and state capability targets**

<b>Output</b>
4 High-impact measures to improve the efficiency and/or effectiveness, of the dtic's policy or programme interventions.



<b>Output</b>	
10	High-impact measures to reduce red tape or improve turnaround times in administration of incentives and work of agencies
6	Impact assessments or enhancements of trade instruments or measures
<b>Improving the capacity and responsiveness of the state and social partnership</b>	
<b>Output</b>	
4	Pieces of priority legislation amended, tabled or submitted to Executive Authority, Cabinet or Parliament.
7	Master Plans managed and 1 new masterplan to be finalised.
	Oversight of IDC, NEF and ECIC to ensure that at least 95% of planned KPIs are achieved
	Oversight of other entities to ensure that at least 95% of planned KPIs are achieved
50	Mergers and acquisitions where public interest conditions have been incorporated