

2020-2025 STRATEGIC PLAN AND 2021/22 ANNUAL PERFORMANCE PLAN

**Portfolio Committee on Trade, Industry &
Competition**

**Presented by Tembinkosi Bonakele,
Commissioner**

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a growing, deconcentrated and inclusive economy



competition commission
south africa

DELEGATION

1. **TEMBINKOSI BONAKELE – COMMISSIONER**
2. **KHANYISA QOBO – DIVISIONAL MANAGER: ADVOCACY**
3. **AMOS MOLEDI – CHIEF FINANCIAL OFFICER**
4. **MAPATO RAMOKGOPA – DIVISIONAL MANAGER: OFFICE OF THE COMMISSIONER**

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1. LEGISLATIVE MANDATE

The Commission is of three bodies established to regulate competition in the market.

The Commission investigates complaints, assesses mergers, evaluates exemption applications, undertakes market inquiries and advocacy, in order to achieve equity and efficiency in the South African economy.

Purpose of the Competition Act is to promote and maintain competition in order to:

- Promote efficiency and development of the economy;
- Provide consumers with competitive prices and product choices;
- Ensure SMME's an equitable opportunity in the economy;
- Advance economic welfare of South Africans;
- Expand opportunities for South African participation in world markets;
- Promote greater spread of ownership, in particular HDI's.

2. INTRODUCTION: EXTERNAL ENVIRONMENT (1)

The Commission has developed this five-year strategy amid a global Covid-19 pandemic, denoted by a downturn in economic growth; price hikes on essential goods and a healthcare crisis.

The current strategy cycle also comes with an enlarged mandate, with the amendment of the Competition Act.

The Economic Reconstruction and Recovery Plan emphasizes amongst others:

- Promoting employment
- Promoting industrial development through import substitution and export promotion
- Promoting infrastructure investment
- Focus on development of SMEs, as well as rural and township economies
- Reduced data costs and expanded access to digital infrastructure

In fulfilment of its mandate, the Commission has made huge contributions to economic growth, participation and transformation in recent years and will continue to do so as it prioritises its work to support the economic reconstruction and recovery programme

3. INTRODUCTION: EXTERNAL ENVIRONMENT (2)

The Commission medium term strategic plan is therefore aligned to support the economic recovery programme through the prioritization of:

- Alignment of priority sectors for enforcement to the current Industrial Strategy
- Prioritisation of enforcement efforts that reduce concentration and enhance participation by SMEs and historically disadvantaged persons
- Prioritisation of enforcement that promotes cheaper and universal access to essential goods & services by citizens

Aside from delivering on its enforcement mandate, the Commission also plays an important advocacy role in ensuring that policy development and implementation supports competitive market outcomes. It will be strongly focused on the important areas of market reform during the reconstruction period.

4. INTERNAL ENVIROMENT (1)

Case management

- During the previous financial year, the Commission received very high volumes (1500+) of Covid-19 price-gouging complaints, case management system was adapted to respond to these complaints.
- These fast-track mechanism will remain in place in 2021/22 financial year, particularly if further waves of infection arise and/or the conduct of retailers contravenes the current regulations.
- Various hearings were held at the Tribunal in 2020/21- all held online The Commission will continue to refer matters to the Tribunal expeditiously in the 2021/22 financial year.

Merger Activity

- The Covid-19 pandemic is expected to have a significant impact on both the pace of merger activity as well as the types of transactions that will be prevalent in the 2021/22 financial year.
- The Commission also expects an increase in conditions-related investigations, particularly on potential breaches of employment and supply commitments made conditional to the approval of mergers.
- The Commission, like may competition authorities, will have to adapt its merger review approach, considering possible failing firms, rapid change in market conditions and balancing competition implications with public interest considerations.

5. INTERNAL ENVIROMENT (2)

Operations

- The Commission's staff have been largely operating remotely since the declaration of the National Disaster and lockdown, which has serious impact on increased IT and human resource management to adjust to the new reality.
- A significant portion of the corporate services (HR and IT) budget will thus be directed at ensuring the continued (largely virtual) operations of the organization in 2021/22 financial year.

VISION, MISSION, STRATEGIC GOALS & PRIORITIES

6. VISION & MISSION

OUR VISION: A Growing, Deconcentrated and Inclusive Economy

Our vision is for the realization of a growing, deconcentrated and inclusive economy. Economic growth remains a particularly compelling vision to aspire towards in the context of the Covid-19 pandemic, where there is an economic downturn. The Commission will play its role to ensure that there is healthy competition between firms, new businesses can emerge, existing businesses can expand, concentration levels in markets are lowered and wherein all citizens are able to participate in the economy .

OUR MISSION: To promote a regeneration of the economy and maintain competition whilst advancing public interest objectives to enhance economic participation for all South Africans.

In a depressed economic environment, the Commission will support efforts by Government aimed at economic regeneration. The Commission will use its tools to ensure that viable, competitive businesses can remain in the market. The Commission will advance public interest objectives through its work, with a particular consideration for small and Black-owned businesses. Our efforts will be aimed at fostering job-creation, industrialization and export promotion whilst expanding the opportunities for SMMES and the participation of blacks, youth and women in the economy.

7. OUTCOME ORIENTED STRATEGIC GOALS

Strategic Goal 1

**“ENFORCING AND
REGULATING
TOWARDS ECONOMIC
GROWTH AND
ENHANCED
ECONOMIC
PARTICIPATION”**

Strategic Goal 2

**“ADVOCATING FOR
IMPROVED
COMPLIANCE AND
PRO-COMPETITIVE
PUBLIC POLICY
OUTCOMES”**

Strategic Goal 3

**“A PEOPLE CENTRIC,
HIGH-PERFORMING
AGENCY”**

8. STRATEGIC OUTCOMES PER GOAL

GOAL 1:

- 1) Efficient and effective merger regulation & enforcement
- 2) Competitive, Contestable and Deconcentrated Markets
- 3) Improved public interest outcomes

GOAL 2:

- 1) Improved compliance & awareness
- 2) Existing competitive small and large businesses remain in the market
- 3) Improved understanding of market dynamics in priority sectors
- 4) Improved co-ordination on the application of economic policy and competition policy
- 5) Increased importance of developmental perspectives in domestic and international competition law discourse

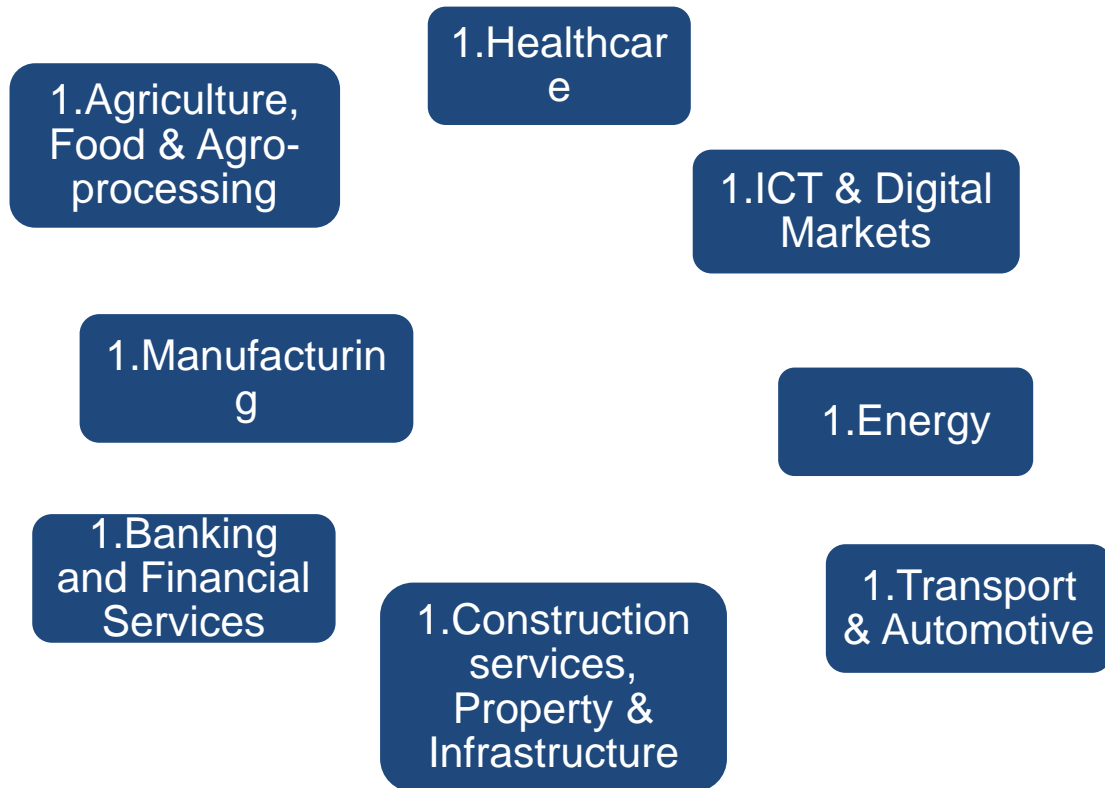
GOAL 3:

- 1) Sound Corporate Governance
- 2) Secure, harmonious and conducive working environment
- 3) Highly motivated, engaged and productive workforce
- 4) Responsive corporate services systems to support workforce during COVID-19 pandemic.

9. PRIORITY SECTORS

The Commission identified 8 priority sectors for strategic period 2020-2025, which sought to align our priority sectors to the Re-imagined Industrial Policy.

Sector prioritization was also informed by Covid-19 pandemic, impact on consumers and level of competition in particular sectors.



2021/22 PERFORMANCE TARGETS

10. 2021/22 ANNUAL PERFORMANCE PLAN

The Commission has set a total of 44 performance targets in the 2021/22 Annual Performance Plan.

Many of the targets set for the MTEF are in response to the state of national disaster regulations and to the economic environment brought about by the Covid-19 pandemic.

The Commission's performance targets are guided by and aligned with the outcomes-based strategic goals and outcomes.

- **Goal 1** indicators relate to the core enforcement and merger regulation work of the Commission.
- **Goal 2** indicators include non-enforcement activities of the Commission, mainly related to advocacy, research, education & awareness and stakeholder relations.
- **Goal 3** indicators relate to employee wellness and the high performance of the organization.

11. PERFORMANCE INDICATORS : *MERGERS & ACQUISITIONS*

Efficiency targets on completion of merger investigations

- Phasing of applications based on complexity
- Turnaround times consistent with the timeframes set in the Act

Continued monitoring of **merger remedies** and conditions that are imposed

- Employment
- Structural
- Behavioural

Issuing Guidelines on small merger thresholds

12. PERFORMANCE INDICATORS : *MARKET CONDUCT (1)*

Covid-19 Cases

- Ongoing enforcement of high pricing and price gouging on items in high demand including ginger and garlic. This includes engagements with retailers to institute price discipline.
- Completion of 100% of Covid-19 investigations within 12 months (target shared with Advocacy, Cartels).
- Initiate 10 new Covid-19 investigations
 - This includes investigations on matters referred by SIU on PPE.
- Complete 100% of Covid-19 exemption applications within 3months (target shared with Cartels).
- We will also follow the developments around the vaccine programme to ensure that procurement processes and the supply of the vaccines are compliant with Competition laws.

13. PERFORMANCE INDICATORS : *MARKET CONDUCT (2)*

Priority Cases for investigation

- Focus on enforcing amendments that reduce barriers to entry and participation by SMEs and HDI firms (focus on price discrimination and buyer power). Several key Cases initiated in E-Commerce / Digital Platforms
 - i. Commission vs Sasol
 - ii. Commission vs Roche
 - iii. Adcock Ingram & Baxter International
 - iv. Commission vs Kumba, AMSA & SIO
 - v. Commission vs Uber Inc & Uber SA
 - vi. Commission vs Mr Delivery
 - vii. Debonnairs vs DSTV Media & Mr Delivery
 - viii. GovChat (Pty) Ltd and Hashtag Letstalk (Pty) Ltd v Facebook Inc, WhatsApp Facebook South Africa (Pty) Ltd
 - ix. Fibre complaints
 - x. Exemption Applications - SAPIA, CHROME ORE, Marang/Mediclinic, Abalone, DHASA

14. PERFORMANCE INDICATORS : *MARKET CONDUCT (3)*

Exemptions

- The Economic Recovery Plan places considerable emphasis on re-industrialisation and export promotion in key local sectors.
- The primary means through which this will occur are social compacts with business and labour around sectoral Masterplans.
- The Commission will be supporting the industrial policy masterplan processes through appropriate Section 10 provisions – Exemptions around the plan design.
- The Commission will complement this by prioritising enforcement on conduct of intermediate input producers, as the pricing of inputs remains important to unlock the potential of downstream industries.
- These include the following sectors: Steel, Agriculture and Manufacturing

15. PERFORMANCE INDICATORS: CARTELS (1)

Covid-19 Cases

- As part of the Fusion centre, priority has been placed on finalising cases in public procurement of PPE – several cases have been referred to the Competition Tribunal.
- Complete 100% of investigations within 12 months (shared with MCD and Advocacy)
- Win +90% of Covid-19 cases at the Tribunal and the Courts
- Complete 100% of Covid-19 exemption applications completed within 3months (shared with MCD)

Investigations

- Complete 10 investigations

Litigation

- Win +75% of cases at the Tribunal and the Courts

16. PERFORMANCE INDICATORS: CARTELS (2)

Priority Litigation

- i. Commission vs Afrox, Kayagas & Others (planned for in litigation BP)
- ii. Commission vs SGB Cape (Pty) Ltd & Others (Waco)
- iii. Commission vs National Fresh Produce Market Agents
- iv. Commission vs Hoegh, Suzuki & Others
- v. Commission vs Mpact Ltd & New Era (Pty) Ltd, Sunnypack, Corruseal & Nampak
- vi. WBHO (World Cup Stadia)
- vii. Commission Corrobrik & Eston Brick & Tile (Pty) Ltd & Others
- viii. Commission vs Takata Corporation & Others
- ix. Commission vs PG Bison
- x. Commission vs Steinhoff
- xi. Cross Fire & Others
- xii. Commission vs Karan Beef Balfour (Pty) Ltd and Irvin & Johnson Ltd
- xiii. Commission Aranda Textile Mills (Pty) Ltd//CCSA & Mzansi Blanket Supplies (Pty) Ltd

17. PERFORMANCE INDICATORS: *LEGAL SERVICES*

Litigation

- Win 75% of Cartel cases at the Tribunal and the Courts
- Win 70% of market conduct cases at the Tribunal and the courts in relation to abuse of dominance, restrictive practices and exemption litigation.
- Ensure 75% of merger decisions are upheld by the Tribunal

Covid-19 Cases

- Win 90% of Covid-19 cases at the Tribunal and the Courts
- Complete 100% of Covid-19 exemption applications within 3months (shared with Cartels)

Advisory Opinions

- Issue 90% of advisory opinions issued within 60 days.

18. PERFORMANCE INDICATORS: *ECONOMIC RESEARCH BUREAU (1)*

Undertake the market inquiry into Online Intermediation Platforms that was launched in March 2021.

Undertake a scoping study to inform future market inquiries and enforcement areas.

- Commenced a Scoping study to assess competition issues in Fresh Produce Markets – this is particularly important to stimulate participation by SMEs and HDIs in the agricultural value chain.

Launch a new market inquiry.

Implementation of previous Market Inquiries Recommendations (shared with Advocacy):

- Data market inquiry
- Grocery Retail market inquiry
- Private Healthcare market inquiry

19. PERFORMANCE INDICATORS: *ECONOMIC RESEARCH BUREAU (2)*

Lead research projects, including

- Driving content (academic papers, panelists) of the Annual Conference agenda.
- Publish 4 research and thought leadership insights.

Continue monitoring of food prices

- Produce the Essential Food Price Monitoring report on a bi-annual basis

Issue a Guideline on recent amendments related to Buyer Power.

20. PERFORMANCE INDICATORS: *ADVOCACY (1)*

School Uniform

- Continue promoting compliance with SGB associations with whom we have entered into MoUs.
- Continue co-operation with the Department of Basic Education.

Automotive

- Continued educational campaign on the recently published Guidelines for Competition in the South African Automotive Aftermarket.
- Monitor implementation of the Guideline, after effective date of 01 July 2021.
- Continue engagements with NT and DoT on G-fleet procurement to promote greater participation of Black and women-owned automotive repairers.

Banking & Insurance Panels

- Continue advocacy to promote transformation on appointment processes and in the allocation of work of Panels, following conveyancing advocacy project.

Gender & Competition

- Undertake awareness initiatives (a study and a workshop) on the competition dynamics of gender, specifically women and economic participation.

21. PERFORMANCE INDICATORS: *ADVOCACY* (2)

Built Environment Professionals

- On-going advocacy with the 5 councils of CBE for transformation and pro-competitive reforms on guideline fees and identification of work.

Policy Responses

- Continued participation on the Intergovernmental Fintech Working Group
- Continued participation on the Payments Council of Regulators (SARB) and recently established Financial Inclusion Policy Co-ordination Forum (NT)
- Continued engagements with DCDT on data, cloud and spectrum policies
- Continued engagement with the CIDB on grading policy review to promote participation of small construction firms.

Stakeholder Relations

- Provide legal guidance to other regulators on competition matters
- Finalise MoUs that are underway: National Agricultural Marketing Council, National Empowerment Fund, SA Council of Architectural Profession, National Energy Regulator of SA).
- Outreach to targeted stakeholder groups, including rural consumers and labour.

Screening

- Undertake screening of Covid-19 investigations and general complaints from the public.

22. PERFORMANCE INDICATORS: *OFFICE OF THE COMMISSIONER*

Communications

- Work with Advocacy division to issue publications, including Quarterly Newsletters, a publication on Public Procurement and others.
- Support divisions in awareness campaigns via media (radio, TV) and social media

International Relations

- Resume international relations agenda, with a continued focus on on-going work with BRICS and African counterparts
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- ICN Deputy Chairperson, Co-Chairs of BRICS Automotive Working Group (with India)

Governance

- Aim for clean audit opinion, as achieved in the past three years

23. PERFORMANCE INDICATORS: CORPORATE SERVICES

Organizational Structure Review

- Review the adequacy (capacity, seniority, costs) of organizational structure to align with the new strategy, particularly in light of recent amendments. Project to be concluded in Q2.

Human Resources

- Continue with wellness and organizational resilience interventions, to support staff during pandemic and maintaining high retention rates (+90%)
- Training & development activities to reach +60% of staff
- Spend 1% of HR budget on training and development
- Continue with Cadet training program

Facilities

- Ensure compliance with OHS, particularly in pandemic conditions (quarterly compliance plan reports)

ICT

- Implement Phase 1 of integrated business system, as per previous recommendations on ICT reforms, including:
 - Finance
 - Tools for remote working (e.g. Voice Call System)
 - Case management system, partially

FINANCIALS

23. MTEF BUDGET: TOTAL EXPENDITURE PER MAIN ITEM

TOTAL EXPENDITURE PER MAIN ITEM	2021/22 ANNUAL BUDGET	2022/23 ANNUAL BUDGET	2023/24 ANNUAL BUDGET
Human Resources	251,821,516	255,723,539	258,025,557
Premises & Equipment	20,635,493	22,699,042	24,968,946
Other Operational	6,455,476	7,795,024	6,000,000
Research & Information	2,953,283	3,014,055	3,037,373
IT and system Development	10,975,542	11,201,394	11,288,052
Educational Awareness	4,383,982	4,474,193	4,508,807
Case Related Costs	53,042,096	54,133,580	54,552,377
Capital Expenditure	7,576,196	7,732,097	7,791,915
Depreciation	7,498,636	7,652,941	7,712,147
Other Programme Costs	114,495,780	115,380,136	115,687,826
TOTAL	479,838,000	489,806,000	493,573,000

24. MTEF BUDGET: REVENUE

REVENUE	2021/22 ANNUAL BUDGET	2022/23 ANNUAL BUDGET	2023/24 ANNUAL BUDGET
Mergers and Acquisitions	38,288,000	38,288,000	38,288,000
Government Grant	2,000,000	2,000,000	2,090,000
Interest Received	439,550,000	449,518,000	453,195,000
TOTAL	479,838,000	489,806,000	493,573,000

25. MTEF BUDGET: MATERIALITY

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

MATERIALITY	%	2021/22	2022/23	2023/24
Expenditure		479,838,000	489,806,000	493,573,000
Materiality	0.50 %	2,399,190	2,449,030	2,467,865

26. CONCLUSION

The Commission will continue to build on the responsive work it undertook in 2020/21 financial year. The Commission will similarly prioritise actions that will support the next phase of economic recovery, including:

Fast track exemption processes where cooperation amongst firms is required to support localization and export promotion, small businesses, or firms controlled or owned by historically disadvantaged persons whilst providing sufficient safeguards against harmful collusive conduct;

Continued resource allocation to investigating price gouging and monitoring essential food prices as the country experiences subsequent waves of infections;

A strong emphasis on implementing key amendments to the 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 Act to and ensuring compliance across the business community. It also includes prioritising market conduct enforcement generally, and more specifically of the new provisions in the Act;

Greater use of market inquiries to promote more competitive and inclusive markets in key sectors that may support economic recovery.

THANK YOU

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