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5 years of Sector Prioritization at the CCSA: A review

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1. Presentation Outline

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1. IMPORTANCE OF SECTOR PRIORITIZATION

2. A REVIEW OF PRIORITISED SECTORS

3. LESSONS LEARNT FROM UNDERTAKING PRIORITIZATION

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I. IMPORTANCE OF SECTOR PRIORITISATION

2. The CC views Prioritization as a strategic tool

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WHAT IS ‘PRIORITISATION’?

- Deciding on focus areas in which the institution will proactively conduct enforcement and advocacy activities
- Prioritisation does not preclude investigating complaints that emerge in non-prioritised sectors

WHY PRIORITISE?

- Good practice for resource planning
- Can achieve demonstrable outcomes
- Allows for focused impact assessments
- Enables key stakeholders to understand institutional priorities
- Allows institution to align its work with market and policy trends

3. *Prioritization entailed setting a criteria and identifying strategic sectors*

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- Decision for Prioritisation taken in 2006; Framework adopted in 2008

PRIORITISATION CRITERIA

- Impact on consumers, especially the poor;
- Alignment with government's economic growth and development objectives;
- Prevalence of anti-competitive conduct , especially cartels.

2008-2013 PRIORITY SECTORS:

- Food, Agro-processing And Forestry;
- Infrastructure And Construction;
- Intermediate Industrial Products;
- Financial Services (Banking)

II. REVIEW OF PRIORITISED SECTORS

4. Financial Services: key highlights

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- Banking Inquiry (August 2006- December 2008) led to 28 recommendations

- Related to penalty fees, ATM pricing, payment and non-payment card interchange, access to the national payments system, and consumer protection issues (e.g. ease of switching)

- **CC currently finalising a Review study of the implementation of the Banking Inquiry recommendations**

- Key achievements emanating from the Inquiry:
  - Greater public awareness of competition issues
  - Competition on Cost and product offering among the key players
  - Transparency on charges
  - Rethink of competition issues by National Treasury and Reserve Bank

5. *Intermediate industrial inputs: key highlights (1of 2)*

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Intermediate Industrial Products	No of cases investigated 20009/10	No of cases investigated 2010/11	No of cases investigated 2011/12	TOTAL INVESTIGATIONS OVER 3 YEARS
Fuel and Gas	8	10	3	21
Pipes/tubes	1		1	2
Compressors	-	-	3	3
Steel/Scrap metal	6	4	10	20
Wire /Cables	1	1	1	3
Plastic	1	2		3
Glass	1	1	-	2
Chemical/Paint	3	1	1	5
TOTAL SECTOR INVESTIGATIONS				59

6. Intermediate Industrial Inputs: key highlights (2 of 2)

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- Investigations initiated into steel and polymers after concerns raised from the DTI.

- Also conducted investigations into pulp, paper, gas and commercial diesel

- **Fertilizer 2010 settlement with Sasol:**
    - **agreed to divest some of its granular and fertilizer blending facilities, and to cease unfair price discrimination**
    - **led to a restructuring of the fertilizer market**

- No evidence of impact in flat steel and polymers, where both are associated with abuse of dominance (excessive pricing)

- Another steel case referred to Tribunal; interlocutory challenges

7. Infrastructure key highlights

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- Investigations completed in the concrete pipes, reinforcing steel, mesh, wire, plastic pipes, pilings and bitumen products

- **Construction Services Cartel ("Construction Fast-Track"):**
  - +300 projects rigged: 143 projects to the value of circa R50billion (160 prescribed)
  - 60% of the rigged project values is from public sector monies
  - Overcharge examples: 17.5% mark-up on 2010 world cup stadia; 12% on a railway line
  - 15 firms fined a total of R1.46 billion
  - Firms who did not accept settlement offer (3 firms) and/or fully disclose collusion will be investigated and prosecuted

8. Food & Agro Processing: key highlights

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- The Commission has conducted investigations in the major food markets and sub-sectors that have an impact on the poor:
  - *Red meat, Poultry, Fish, Animal Feed, Fertilizer, Eggs, Oils & Fats, Wheat, Maize Bread, Milk, Supermarkets*

- **Landmark bread cartel case- CLPs received and/or successful prosecution in bread, wheat, maize and animal feed**

- Supermarkets investigation (exclusive leases) non-referred. However, anecdotal evidence points to change in business practices among landlords since the investigation started.

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III. LESSONS LEARNT

9. There have been institutional gains from undertaking Prioritization

1. Increase in the number of investigations undertaken year-on-year
2. Enhanced capabilities of the institution, which has since routinely conducted and developed practice in:
    - Scoping studies
    - Impact assessment studies

2. Enabled the CC to conduct its first Market Inquiry- *banking*

3. Developed the Corporate Leniency Policy

4. Developed a Practice Note - for small mergers in priority sectors to be notified

6. Establishment of a Cartels unit in 2010

10. The CC has also experienced some challenges in undertaking Prioritization

1. **Planning** (2006-2009)

   - Institution could not cope with workload due to increase in the number of investigations
   - As a result, certain investigations were deferred to the future as a way to manage the workload.
   - This may suggest that the Commission's prioritisation framework was too broad *or* that the South African markets are rife with anti-competitive practices in the sectors identified.

2. **Resources**
   - Increased investigations and new institutional functions required more resources

3. **Measuring Impact**
   - Methodology
   - Buy-in from stakeholders
   - Capacity (taking away resources from cases)

11. The Future of Prioritization

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IMPORTANT TO CONTINUALLY REEVALUATE THE PRIORITIZATION TOOL:

- its VALUE for the institution
- the CRITERIA matrix used to select sectors
- the ALIGNMENT of the prioritisation process with institutional Strategy

OTHER CONSIDERATION IN FUTURE PRIORITIZATION

- Consider global economic trends: e.g. *Green Energy? Transport Networks? ICT*
- Consider regional competition trends*: Regional Merger patterns, regional Cartels*
- Consider Government planned expenditure*: Industrial Policy? Infrastructure?*
- Consider income and consumption patterns*: Income & Expenditure Survey (IES)?*
- Consider sector and industry contribution to GDP
- Solicit and consider stakeholder views
- Consider current enforcement & merger work: *healthcare systems*?

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THANK YOU