



competition commission
south africa

Presentation to Parliament's Select Committee on Economic Development

**Annual Performance Plan
01 April 2011 – 31 March 2012**

**Deputy Commissioner
Tembinkosi Bonakele**

30 June 2011



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TOWARDS A FAIR AND EFFICIENT ECONOMY FOR ALL

Work Process and Strategy.



STRATEGY

Work Process

Structure

**Are your Work Processes
and Structure aligned to
your Strategy?**

Mandate of the Commission



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TOWARDS A FAIR AND EFFICIENT ECONOMY FOR ALL



Prevent concentration through merger control

- Recommending large merger decisions to the Tribunal
- Approving intermediate mergers
- Can require notification of small mergers



Prosecution of anti-competitive behaviour

- Horizontal restrictive practices: cartels, bid-rigging
- Vertical restrictive practices: exclusive agreements, resale price maintenance
- Abuse of dominance: excessive pricing, exclusionary conduct, price discrimination



Advocacy for pro-competitive conduct

- Regulation vs competition
- Legislation, policy
- Practice, governance

Strategic goals and Commission's programmes



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Strategic goals	Commission's programmes
1. Demonstrable competitive outcomes in the economy through prioritisation of sectors and cases	Enforcement and exemptions Mergers and acquisitions Legal services Policy and research
2. Increase competitive environment for economic activity through strategic partnership, engagement, dialogue and advocacy	Advocacy and stakeholder relations (including international relations)
3. High performance competition regulatory authority	Corporate governance Support services (Human resources, information technology and knowledge management)

Mergers and acquisitions



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Outputs	Key performance indicators	Annual targets (2010/11)	Performance Results (2010 / 11)	Annual targets (2011/12)
Mergers approved	Total number of mergers approved	194	200	216
Mergers prohibited	Total number of mergers prohibited	2	2	3
Mergers approved with conditions	Total number of conditional mergers approved	9	13	9
Merger fee income earned	Amount of merger fee income earned	R 35,1m	R 35, 750m	R38m

Enforcement and exemptions (1)



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Outputs	Key performance indicators	Annual targets (2010/11)	Performance Results (2010 / 11)	Annual targets (2011/12)
Cartel investigations completed	Number of cases referred for adjudication	20	19	24
Abuse of dominance and restrictive practices	Number of cases referred for adjudication	10	2	12
Exemption applications evaluated	Number of exemptions granted unconditionally	2	1	3
	Number of exemptions granted conditionally	1	0	1
	Number of exemptions granted rejected	2	2	1

Enforcement and exemptions (2)



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Outputs	Key performance indicators	Annual targets (2010/11)	Performance Result2 (2010 / 11)	Annual targets (2011/12)
Corporate leniency applications	Number of applications that received total immunity	-	0	16
	Number of applications that received condition immunity	40	20	48
	Number of Applications rejected	2	1	2

Legal Services (1)



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TOWARDS A FAIR AND EFFICIENT ECONOMY FOR ALL

Outputs	Key performance indicators	Annual targets (2010/11)	Performance Results (2010 / 11)	Annual targets (2011/12)
Prosecutions finalised	Number of prosecutions finalised	4	5	8
	Percentage of prosecutions in favour of the Commission	95%	2 (the ruling by the Tribunal, in favour of the Commission re Netstar was subsequently overturned by the Competition Appeals Court)	95%
	Percentage of prosecutions found against the Commission	5%	4 Adverse Court Rulings were issued: Competition Tribunal: - Gralio Precast. Competition Appeals Court; - Netstar, Matrix Vehicle Tracking and Tracker Network; and - Yara and Omnia Fertilizer Supreme Court of Appeals - Woodlands and Wilkwood	5%

Legal Services (2)



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Outputs	Key performance indicators	Annual targets (2010/11)	Performance Results (2010 / 11)	Annual targets (2011/12)
Settlement agreements concluded	Number of complaints settled	16	22	Depends on willingness of parties to settle
Advisory opinions issued	Number of advisory opinions issued, as a percentage of total received	40	55	50

Administrative penalties levied in the 2010-2011 Financial Year

Name of Company	Fine
Masana Petroleum Solutions (Pty) Ltd	13,000,000.00
Keystone Milling Co. (Pty)Ltd	6,730,349.00
Zedex Trading 799 CC	40,000.00
Anix Trading 739 CC	20,000.00
Power Metal Recyclers (Pty) Ltd	12,773,587.55
Cape Concrete Works (Pty) Ltd	4,371,386.00
Aveng (Africa) Ltd T/A Duraset	21,900,000.00
Rainbow Farms (Pty)Ltd	1,000,000.00
SAfripol (Pty) Ltd	16,474,573.11
National Scrap Metals (Pty) Ltd	17,730,973.60
Swan Plastics	7,649,414.40
WBHO Construction (Pty) Ltd & Edwin Construction (Pty) Ltd	1,100,000.00
Amalgamated Scrap Metals Recycling cc	3,264,944.60
Abbedac Trading (Pty) Ltd	4,965,793.70
Universal Recycling Company (Pty) Ltd	18,061,596.75
Flo-tek Pipes and Irrigation (Pty) Ltd	5,049,433.26
Pioneer Foods (Pty) Ltd	500,000,000.00
Rocla (Pty) Ltd (Southern Pipelines Contractors Pty Ltd)	16,882,597.00
Roclas (Pty) Ltd (Concrite Walls (Pty) Ltd)	6,192,457.00
Liberty Group Limited	18,811,708.55
Foskor (Pty) Ltd	6,481,889.65
Sasol Industries Limited	111,690,000.00
TOTAL:	794,190,704.17

Cases in food and agro-processing



INPUTS	<ul style="list-style-type: none"> • Raw fish • Animal feed • Poultry feed • Poultry breeding • Yeast • Tin plate • Diesel 	<ul style="list-style-type: none"> • Fertilizer • Wire fencing • Plastic irrigation piping • Poultry 	<ul style="list-style-type: none"> • Fertilizer • Animal feed 		
PRODUCTION	<ul style="list-style-type: none"> • Poultry • Poultry broilers • Fruit 		<ul style="list-style-type: none"> • Poultry 	<ul style="list-style-type: none"> • Eggs 	
STORAGE/ TRADING	<ul style="list-style-type: none"> • Grain 	<ul style="list-style-type: none"> • Grain 		<ul style="list-style-type: none"> • Grain 	<ul style="list-style-type: none"> • Grain
PROCESSING/ MANUFACTURING	<ul style="list-style-type: none"> • Bread • Fish • Fruit • Milling (maize, wheat) • Fats and oils • Poultry 		<ul style="list-style-type: none"> • Milling (maize and wheat) • Bread • Dairy 	<ul style="list-style-type: none"> • Bread 	<ul style="list-style-type: none"> • Dairy • Bread
RETAILING	<ul style="list-style-type: none"> • Supermarkets 				
	INVESTIGATION	HEARING	SETTLEMENT	DECISION	APPEAL/REVIEW

Cases in construction and infrastructure



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INPUTS	<ul style="list-style-type: none"> • Cement • Pilings • Grouting • Building foundations 	<ul style="list-style-type: none"> • Cement • Pilings • Grouting • Building foundations 	<ul style="list-style-type: none"> • Pre-cast concrete • Plastic pipes 	<ul style="list-style-type: none"> • Pre-cast concrete 	<ul style="list-style-type: none"> • Pre-cast concrete 	
MANUFACTURING	<ul style="list-style-type: none"> • Paving • Glass • Cables 	<ul style="list-style-type: none"> • Glass • Bricks 				
DISTRIBUTION	<ul style="list-style-type: none"> • Glass 	<ul style="list-style-type: none"> • Glass 				
RETAILING		<ul style="list-style-type: none"> • Glass 				
CONSTRUCTION	<ul style="list-style-type: none"> • Schools • Commercial buildings • Housing • Stadiums • Road infrastructure • Mine contracts 					
	CLP*/MARKER	INVESTIGATION	HEARING	SETTLEMENT	DECISION	APPEAL/REVIEW

Cases in intermediate industrial products




INPUTS	<ul style="list-style-type: none"> • Chemicals • Fertilizer • Scrap metal • Wire • Rebar • Tinplate • Liquid fuels eg. commercial diesel 	<ul style="list-style-type: none"> • Wire • Mesh • Long steel • Fertilizer • Carbon black rubber • Bitumen • Polymers 	<ul style="list-style-type: none"> • Scrap metal • Fertilizer • Polymers • Plastic pipes 		
MANUFACTURING	<ul style="list-style-type: none"> • Flammable gases 	<ul style="list-style-type: none"> • Steel • Mining roof bolts • Tyres • Rubber compound • Synthetic rubber 	<ul style="list-style-type: none"> • Mining roof bolts 		
DISTRIBUTION	<ul style="list-style-type: none"> • Piped gas 				
RETAILING	<ul style="list-style-type: none"> • LPG gas 				
	INVESTIGATION	HEARING	SETTLEMENT	DECISION	APPEAL/REVIEW


- **Building the capacity to initiate and implement at least one market enquiry**
 - Subject to promulgation of Competition Amendment Act, 2009
- **Piloting Impact Assessment Framework**
- **Publishing economic briefs and research papers**
- **Producing case expert reports**



Advocacy and Communication



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**Sound
Corporate
Principals**

**Change behavior
through effective
advocacy and
communication.**

Advocacy and stakeholder relations



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TOWARDS A FAIR AND EFFICIENT ECONOMY FOR ALL

- **Engage with government and business stakeholders to influence competition policy**
- **Systematically comment on policy and legislation to ensure consistency with the Act**
- **Participation in important international networks and fora:**
 - OECD's Competition Committee
 - UNCTAD's IGE on Competition Law and Policy
 - International Competition Network (ICN)
 - African Competition Forum (ACF)
 - Participation in important international networks and fora:
- **Collaboration with African agencies**

- **Meetings**
 - Commission
 - Executive Committee
 - Management Committee
 - Case management
 - Audit Committee
 - Risk Management
- **EDD dashboard indicators and quarterly reports**

Implementation challenges



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- **Capacity and resources are strained**
- **Uncertainty on budget**
- **Space constraints**
- **Planning challenges**
- **Difficulty in predicting litigation costs**
- **Uncertainty of legal challenges**
- **Measuring impact**

Top Risks



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TOWARDS A FAIR AND EFFICIENT ECONOMY FOR ALL

- **Unmanageable Case Load Structure;**
- **Reputational Harm;**
- **Independence undermined;**
- **Under / Over spending and mismanagement of funds; and**
- **Adverse decisions from Courts on powers and procedures.**



Thank you!

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