

The 2016/17 Annual Performance Plan

Presentation to Portfolio Committee
on Economic Development

06 April 2016



competition commission
south africa

Presentation Outline

- Strategic Context
- Key Enforcement and Advocacy Cases 2016/17
- Organisational Effectiveness



Strategic Context



1. Vision 2030

- The Commission has a 15-year Vision which takes into account SA's socio-economic context.
- **Vision 2030 is to regulate for a growing and inclusive economy**, in line with the aims of the National Development Plan.
- Defines the Commission's role in the transformation of the South African economy and is a response to its socio-economic challenges of unemployment, poverty and inequality.
- The 2015-2020 Strategic Plan serves as a 5 year milestone towards the vision.

2. The 5-year Strategic Goals

Strategic Goal 1: Effective Competition Enforcement and Merger Regulation

- The Commission effectively uses tools such as merger control and enforcement, to achieve efficiency gains as well as the developmental objectives set out in the Competition Act.

Strategic Goal 2: Strategic Collaboration and Advocacy

- The Commission recognises that the solution to most economic problems often requires more than one form of intervention to resolve.
- Emphasis is on the building of **partnerships and collaboration** with other economic role-players and actors to attain inclusive growth.

Strategic Goal 3: A High- Performance Agency

- The Commission successfully delivers on its objectives through a cohesive, well-structured organisation in which people, processes and systems perform optimally.

3. Policy Alignment

- The Commission's vision and the outcomes of its strategic goals are in alignment with, inter alia:
 - **The National Development Plan**
 - Inclusive economic growth and the eradication of poverty and reducing inequality by 2030.
 - **The New Growth Path**
 - Job creation through job drivers, underpinned by macro and micro-economic policy drivers such as competition policy.
 - **The IPAP**
 - Manufacturing growth and beneficiation through sector designation and promotion.
 - **The MTSF Outcomes**
 - *“Decent employment through inclusive growth” and “An efficient, competitive and responsive economic infrastructure network”.*

4. The 2016/17 APP

- 34 targets have been set, supported by 8 Programmes
 - i) Mergers & Acquisitions ii) Cartels iii) Enforcement & Exemptions iv) Legal Services v) Policy & Research vi) Corporate Services vii) Finance and viii) Office of the Commissioner.
- Implementation Pillars
 - Sector Prioritisation
 - Market Inquiries
 - Scoping Studies
 - Impact Assessments
- Operational Pillars
 - Defining and embedding Culture & Values
 - An efficient Information Management System
 - Effective Performance Management
 - Appropriate Organisational Structure

5. 2016/17 Priority Sectors

- Sectors which have been prioritised for enforcement and advocacy initiatives for 2016/17 are:
 - **Food & Agro Processing**- *entire value chain (production, processing, distribution and retail).*
 - **Intermediate Industrial Input Products**- *inputs into strategic manufacturing products such as steel, chemicals, fertilizers and automotive.*
 - **Construction & Infrastructure**- *construction products & services and transport & logistics (movement of goods & products).*
 - **Healthcare**- *entire value chain, including services and pharmaceutical market.*
 - **Energy**- *includes markets related to Electricity, Renewables, LPG, Nuclear and Fuel.*
 - **Banking & Financial Services**- *entire sector, including industries such as Insurance and Retail & Corporate banking.*
 - **Information & Communication Technology**- *telecoms services and products, including markets related to inter-connection.*

Key Enforcement and Advocacy Cases 2016/17



6. Cartel Investigations 2016/17

- The Commission is intensifying its cartel enforcement; over 40 investigations currently planned for 2016/17.
- Focus on cartel enforcement has led to increased number of investigations.
- These include important cases in sectors such as:
 - Automotive (components and windscreen glass)
 - LPG
 - Banking (Forex trading)
 - Logistics (furniture removal)
 - Chemicals (surfactants)
 - Wood-based products (particle and medium density fibre boards)
- Cases also received from government departments and municipalities on bid-rigging of state contracts.

7. Abuse of Dominance Investigations 2016/17

- Key abuse of dominance investigations in priority sectors include:
 - **Telecoms:** Cell C vs Vodacom and MTN (*allegations include engaging in pricing strategies which have the effect of making it cheaper for subscribers to make on-net calls as compared to off-net calls*).
 - **Pay TV Broadcasting:** various cases against Multichoice (*allegations include acquisition of premium sports content rights, primarily soccer from content rights holders and refusal to supply*).
 - **Construction Inputs:** CC vs Afrimat Limited; SA Block and Concrete Pty Ltd; Clinker Supplies Pty Ltd and CC vs Blurock Quarries (*allegations of abuse of dominance in the supply of inputs used in the manufacture of bricks and blocks e.g. crusher dust*).

8. Abuse of Dominance Investigations 2016/17 (cont.)

- **Food & Agro:** Holland HZPC and Western Free State Potato Growers Pty Ltd (*allegations include vertical restrictive practices and abuse of dominance in the breeding, marketing and distribution of the Mondial variety seed for potatoes*).
- **Food & Agro:** Khoisan Tea Import and Export Pty Ltd vs Rooibos (*allegation that Rooibos has entered into exclusive agreements with suppliers which induces them not to deal with other processors who compete with Rooibos*).
- The Commission is also investigating abuse of dominance allegations against Unilever and Procter & Gamble as well as Africa Cash & Carry involving various products such as washing powder and polish and other FMCG items.



9. Mergers Investigations 2016/17

- The volume of mergers notified has been on the increase in the past 4 years.
- Large volumes are anticipated again in 2016/17.
- Important mergers currently on the roll include:
 - AB Inbev/SAB Miller:
 - *An international merger between two of the world's largest beer producers.*
 - Allergan/Pfizer:
 - *An international transaction involving the acquisition of Pfizer; overlaps arise in anti-glaucoma pharmaceutical products which are used for eye care.*
- Guidelines on “Public Interest Assessments in Mergers” will be published during the financial year.

10. Market Inquiries 2016/17

- Private Healthcare
 - Public hearings are underway with the Inquiry due for completion in December 2016.
- Liquid Petroleum Gas
 - The Inquiry is underway and due for completion in September 2016.
- Retail Sector
 - The inquiry was launched in October 2015 and is currently underway.
- Other
 - In line with the APP target, a Market Inquiry will be initiated during the financial year.

11.Litigation 2016/17

- In the Constitutional Court:
 - Premier Foods: *“Bread Cartel” case regarding issuance of s.65 certificates for the claiming of civil damages.*
- In the High Court:
 - CC vs Mondi: *precedent setting case on reviewability of Commission decision to initiate & investigate a complaint; application for leave to appeal.*
 - Omnia vs Foskor: *regarding Foskor’s compliance with the consent order on its pricing policy in respect of phosphoric acid; Foskor has filed an appeal against a high court judgement which favoured of Omnia.*

12.Litigation 2016/17(cont.)

In the Competition Tribunal:

- 60 cartel cases on the current Tribunal litigation roll, in various stages; Anticipate a further ± 30 referrals in the course of the year.
- 3 abuse of dominance (Media 24, Barnes/ AMSA & Uniplate) and 2 resale price maintenance cases (Foto Distributors, Envirolime).
- This is in addition to intermediate & large merger referrals + prior implementation referrals + merger litigation.
- Bottlenecks: there are systemic constraints in the litigation pipeline at the Tribunal, which may delay the timely conclusion of the Commission's cases.

13. Advocacy Initiatives 2016/17

- Intensified public engagements e.g. increased social media usage, SME outreach initiatives.
- Over 5 impact assessment studies to be undertaken; outcomes shared in various fora.
- Awareness-raising projects e.g. school uniform advocacy, university procurement, construction industry advocacy.
- Continued engagements with Government, business and labour.



14. International Relations 2016/17

- Continued support of young African agencies through participation in the African Competition Forum (ACF).
- Promoting developmental perspectives in the International Competition Network (ICN).
- Strengthening BRICS partnerships.
- Contribution to OECD, SADC and UNCTAD

Organisational Effectiveness 2016/17



15. Human Resources

- The Commission needs to increase its staff complement over the MTEF period, if it is to achieve its goals and fulfil its mandate.
- The increase is occasioned by:
 - **An increased mandate:** new provisions from amendments require increased standard budget and additional staff (e.g. Market Inquiries, anticipated Criminalisation promulgation).
 - **Increased work load:** increased case load from intensified enforcement and merger volumes require additional personnel capacity.
 - **Enforcement capability/ expertise:** need for internal litigation staff and economic expertise at a senior level to lead prosecution in the courts.

16. Human Resources (cont.)

- A new proposed organisational structure has been submitted to the Minister of Economic Development.
- The staff complement is expected to increase from the current 212 to 312 staff members (excluding graduate trainees) at the end of March 2018.
- The proposed structure addresses:
 - Additional personnel required;
 - Seniority;
 - Focus (new division with a focus on market conduct);
 - Case pipeline efficiencies; and
 - Reduces outsourcing.

17. Finance

Revenue	2015/16	2016/17	2017/18
R' 000	Budget	Budget	Forecast
Merger fees	56,228	58,228	62,726
Interest	3,128	1,128	1,378
Other income	738	778	840
Grant	233,129	208,541	218,968
Total Revenue	293,223	268,675	283,912

- Mergers filed are expected to increase as a result of the expected increase in economic activity.

18. Finance (cont.)

Expenditure per division	2015/16	2016/17	2017/18
R'000	Budget	Budget t	Forecast
Administration	132,837	105,362	109,741
Mergers and acquisitions	24,548	21,289	24,303
Enforcements and exemptions	29,323	28,722	30,902
Cartel	26,601	25,682	26,965
Policy and research	48,944	37,554	39,431
Legal services	58,611	50,067	52,570
Private healthcare market Inquiry	46,580	-	-
Total Expenses	367,444	268,675	283,912

- The financial resources have been allocated to ensure that the Commission can focus on the identified strategic areas. Revisions will be done during the financial year, and any adjustments effected accordingly.

THANK YOU

Email Address:

ccsa@compcom.co.za

Telephone Number:

+27 (012) 394-3200 / 3320

Fax Number :

+27 (012) 394 0166

