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## Global Forum on Competition

# Assessing the impact of competition authorities' activities – Contribution from South Africa

**- Session IV -**

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This contribution is submitted by South Africa under Session IV of the Global Forum on Competition to be held to be held on 10-11 December 2026.

More documentation related to this discussion can be found at: oe.cd/gfc26.

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# *South Africa*

## 1. Introduction

1. This document is a contribution by the Competition Commission of South Africa ("Commission") to the OECD's Global Forum on Competition in respect of the Roundtable on "Assessing the Impact of Competition Authorities' Activities", scheduled for 10-11 December 2026.

2. The Commission understands that the discussion in this roundtable will focus on how authorities assess the impact of their activities in practice, what methodologies they use, what challenges they encounter and how the results are employed to support accountability, strategic planning, institutional learning, and development of policy, as well as examine the strengths and limitations of both ex-ante and ex-post assessment approaches and to discuss emerging practices aimed at measuring the wider economic and societal benefits of competition policy.

3. This submission deals with the Commission's practical experience in conducting two broad types of impact assessments, namely (i) ex-post impact studies – these are aimed at assessing the quality of the Commission's decisions and to learn from them, and (ii) institution impact studies – these are ex-ante impact studies that quantify the impact of the Commission's work in the economy. The submission focusses on the Commission's practical experience in this regard, including the scope, methodology, institutional arrangements, use and limitations of these impact assessment studies, covering merger review, enforcement activities, advocacy, deterrence effects and broader economic effects.

4. It is worth noting from the onset that South Africa includes developmental and transformative objectives in its competition policy, predominantly but not exclusively in merger control, with public interest provisions in respect of employment and workers, promotion of participation by SME and HDPs, industrialisation and international competitiveness, and the promotion of a greater spread of ownership by HDPs. Therefore, this submission will also include the Commission's experience in assessing the impact of public interest interventions, with the two categories of impact studies.

5. We first deal with ex-post impact studies, an area where the Commission has vast experience, then proceed to institution-wide impact studies – work which the Commission recently started and continues to experiment with and improve on.

## 2. Ex-Post Impact Assessments

6. The Commission has powers to conduct an impact study of any decision, ruling or judgement of the Commission, the Competition Tribunal (Tribunal) or the Competition Appeal Court (CAC) in terms of section 21A of the South African Competition Act, 89 of 1998, as amended (the Act). This involves ex-post evaluations of the Competition Authorities' decisions in relation to the impact of the decision on competition or public interest outcomes.

7. The purpose of such impact assessments encompasses one or both of the following objectives:

- To comprehend the market impact of the decision in question, including its effects on competition, consumer welfare and broader market dynamics. This assessment

may specifically address any aspect of the decision, such as conditions imposed on a merger.

- To evaluate the nature and accuracy of the decision made by the relevant authority or the investigation conducted by the Commission. The impact assessment serves a reflective purpose, aimed at better understanding the performance of the Commission and related competition bodies in the decision-making process. This reflective exercise seeks to identify insights and enhance the Commission's future decision-making in similar cases.

8. There are two broad categories of impact assessments conducted under the ex-post type of impact studies. The first assesses the impact of specific public interest provisions across a group of merger cases (tool-focussed), while the second comprises case-or-intervention-specific retrospective studies that assess the outcome of a particular decision or intervention. We deal with each of these in turn.

## 2.1. Public Interest impact studies

9. In South Africa, all mergers must be determined on both competition and public interest grounds separately. In the developing country context, public interest elements are usually introduced by countries to enable them to align their competition policy with broader government policies aimed at addressing their socio-economic or socio-political challenges.[1] Similarly, in South Africa, public interest considerations were introduced to address the injustices of the South African political history and feature prominently in merger control. The preamble of the Act specifically states that the objectives of the Act include, *inter alia*, providing all South Africans with equal opportunity to participate in the economy and regulating the transfer of economic ownership in keeping with the public interest.[2]

10. Given the importance of public interest considerations, mergers in South Africa are often approved with public interest conditions. Section 12(1A) of the Act states that:

*Despite its determination in subsection (1), the Competition Commission or Competition Tribunal must also determine whether the merger can or cannot be justified on substantial public interest grounds as set out in subsection (3)".*

11. In this regard, there are five specific public interest factors that the effect of each merger must be considered on. These factors as listed in Section 12(A)(3) of the Act are:

a) A particular industrial sector or region;

b) Employment;

c) The ability of small and medium businesses, or firms controlled or owned by historically disadvantaged persons, to effectively enter into, participate in or expand within the market;

d) The ability of national industries to compete in international markets; and

[1] OECD (2016), Public interest considerations in merger control, OECD Competition Policy Roundtable Background Note. Available online: https://www.oecd.org/en/publications/public-interest-considerations-in-merger-control_21950340-en.html.

[2] South African Competition Act, 89 of 1998, as amended.

e) The promotion of a greater spread of ownership, in particular to increase the levels of ownership by historically disadvantaged persons and workers in firms in the market.

12. If the Commission finds that a merger is not justifiable on substantial public interest grounds, the merging parties are required to offer remedies in the form of conditions to address the specific public interest harm identified. For example, if a merger has a negative impact on employment, the Commission may accept remedies that place a moratorium on merger-specific retrenchments for a specified period. The Commission may also accept other employment related remedies such as commitments for a minimum headcount number or a cap on job losses amongst others.[3]

13. Another example is the promotion of a greater spread of ownership, where the Commission's position is that all mergers must promote a greater spread of ownership. If the Commission finds that a merger has a negative or neutral impact with respect to this public interest element, remedies are required to address this harm. The types of remedies that are generally accepted by the Commission include amongst others, (i) employee share ownership programmes (ESOPs); (ii) equity sales to historically disadvantaged persons; or (iii) divestiture of a business or assets to historically disadvantaged persons.[4] Similarly, if a merger is likely to hinder participation by SMMEs or historically disadvantaged persons, the Commission may accept remedies relating to supplier development funds or procurement commitments that will assist SMMEs and HDPs. Other public interest conditions may include investment or capital expenditure commitments.

14. Competition Authorities in South Africa have approved numerous mergers with public interest remedies over the years.5 For example, in the merger between Walmart Stores Inc. and Massmart Holdings Ltd6 (Wal-Mart/Massmart) merger, the CAC approved the merger subject to several conditions including the establishment of a supplier development fund of R200 million (to be dispersed over a 5-year period) to assist local suppliers develop their businesses to a level where they can be competitive with foreign suppliers. In another merger between Coca-Cola Beverages Africa Ltd and Various Coca-Cola and Related Bottling Operations[7] (*the Coca-Cola merger*), the Tribunal approved the merger subject to several public interest conditions including an enterprise development commitment of R800 million to assist SMMEs and HDPs; an HDP transaction to increase ownership by HDPs in the firm; local procurement commitments; and employment commitments.

[3] Competition Commission's Revised Public Interest Guidelines Relating to Merger Control, available online: https://www.compcom.co.za/guidelines/.

[4] Competition Commission's Revised Public Interest Guidelines Relating to Merger Control, available online: https://www.compcom.co.za/guidelines/.

[5] See for example, Metropolitan Holdings Limited / Momentum Group (Competition Tribunal case number: 41/LM/Jul10); Walmart Stores Inc. / Massmart Holdings Ltd (Competition Tribunal case number: 73/LM/Dec10); Sibanye Gold Ltd (T/A Sibanye-Stillwater) / Lonmin PLC (Competition Tribunal case number: LM315Mar18); Heineken / Distell (Competition Tribunal case number: LM215Feb17); Anheuser-Busch InBev SA/NV / SABMiller Plc (Competition Tribunal case number: LM211Jan16); and Simba (Pty) Ltd (PepsiCo) / Pioneer Food Group Ltd (Competition Tribunal case number: LM108Sep19).

[6] Wal-Mart Stores Inc. and Massmart Holdings Limited, Tribunal case number: 73/LM/Nov10.

[7] Coca-Cola Beverages Africa Ltd and Various Coca-Cola and Related Bottling Operations, Tribunal case number: LM243Mar15.

15. Competition authorities in South Africa may also prohibit mergers on public interest grounds. One merger that was prohibited by the Commission on public interest grounds alone was the merger between ECP Africa Fund IV LLC & ECP Africa Fund IV A LLC / Burger King (South Africa) RF (Pty) Ltd and Grand Foods Meat Plant (Pty) Ltd[8] (*Burger King merger*). The Commission prohibited the merger as the merger resulted in a decrease in the shareholding of HDPs in Burger King SA from 68% to 0%. Following prohibition, the merging parties engaged the Commission on possible remedies to address the concerns. The merger was subsequently approved by the Tribunal with significant public interest conditions.[9]

16. As shown above, the commitments made by merging parties to remedy public interest concerns can be quantified as they largely require an input from the merging parties. For example, the value of the funding provided for supplier development funds or the value of the ownership stake in an ESOP can be easily determined. Similarly, the number of jobs saved due to an employment condition is also quantifiable. However, while it is positive that significant commitments are made to address specific public interest concerns, it is also important to consider the impact of these commitments against their stated objectives. In other words, it is important to understand whether the commitments have resulted in meaningful and sustainable outcomes.

17. As an example, the establishment of an ESOP creates an ownership stake in the firm (usually 5%) for workers. However, it is important to assess whether workers have derived material benefits from this ownership stake. Similarly, the objective of supplier development funds and procurement commitments is to build sustainable SMME or HDP businesses that can meaningfully participate in the economy. By conducting impact assessments of these conditions, the Commission is able to determine whether the conditions are achieving the stated objectives. If the Commission finds that the conditions are not fully achieving their intended outcomes, the Commission may strengthen the design of the conditions for future mergers to ensure that the gaps in the design are addressed.

18. The Commission has conducted impact assessments to determine whether public interest conditions in mergers have yielded the intended objectives. This type of an impact assessment may be conducted on a specific merger to determine whether the conditions imposed in that case were successful. However, given that public interest conditions may take different forms in terms of the design of the condition (e.g. grant vs loan for the funding of employee share ownership programmes), it is also important to assess the impact of these conditions based on design to understand which designs yield better outcomes. This involves an assessment of a number of mergers across various sectors that were approved with conditions relating to a specific public interest factor such as employment or participation by SMEs or HDPs.

19. For example, the Commission may conduct an impact assessment on several mergers that were approved with supplier development fund or procurement commitments to prevent threats to SME or HDP participation. By assessing conditions imposed across various mergers, the Commission is able to compare different design choices and the associated benefits arising from those conditions. Impact assessments of this nature evaluate which design features have been more effective in achieving the intended

[8] Competition Tribunal case number: LM053Aug21.

[9] The conditions include expansion commitments that involve an investment of no less than R500 million in capital expenditure; increasing Burger King outlets in South Africa; increasing the number of employees and employee benefits; local procurement commitments; an employee share ownership programme; and divestiture of its meat plant.

outcomes and which may require improvement.. The learnings from these impact assessments enable the Commission to develop better remedies in future mergers.

20. The Commission's recent impact assessment work on public interest conditions is discussed below, including the completed ESOP impact study and the ongoing assessment of supplier development fund and procurement conditions.

### *2.1.1. ESOPs: An analysis of key design principles to create value for beneficiaries and firms*

21. In 2025, the Commission conducted an impact assessment of the ESOPs that were created through the Commission's merger decisions over the period 2019 to 2022.[10] The ESOPs selected for the study were those that had been in existence for a few years to allow for a more in-depth understanding of the implications of the design principles on beneficiaries. The study reviewed 15 ESOPs across various sectors such as agriculture, mining, retail and fintech. The relevant information was gathered from meetings and requests for information from firms, trustees, trade unions, relevant government departments and industry experts.

*Key findings*

Design principles

22. The study found that ESOPs are generally beneficial to employees, however, there are some design principles that could be strengthened to improve the benefits derived by workers. The Commission typically provides an ESOP design template to merging parties when there is a negative public interest finding that can be remedied through the creation of an ESOP. These include, for example, the funding structure, governance arrangements, duration of the scheme, eligibility of workers and the benefits available to participants. However, although the template covers some key design principles, the impact assessment found that there is still considerable design scope for the firm implementing the ESOP. For example, the study found that beneficiaries generally do not understand how ESOPs work and lack the necessary training in this regard. The ESOP design template did not include mandatory training for beneficiaries and, as such, merging parties did not always provide this training to employees. Design principles are important as they can have a material impact on the extent to which workers benefit from the ESOP. The study therefore found that it was imperative that additional design principles are included in the ESOP remedy template. The study further found that it is essential that beneficiaries are included in the decision-making process for the ESOP design principles to allow for an ESOP that caters to both the needs of workers and the firm.

Financing of the ESOP

23. The impact assessment found a significant concern with the funding model used for ESOPs. Most of the ESOPs in the study were funded with debt, mostly in the form of Notional Vendor Finance (NVF) with interest charged on the debt. To repay the debt, ESOPs are generally reliant on the dividends received from the firm which are declared at the discretion of the firm. Further, the dividends are then split between distribution to beneficiaries and repaying the debt and/or interest resulting in no-to-little dividend payouts

[10] The full study can be found at https://www.compcom.co.za/wp-content/uploads/2026/04/ESOP-Impact-Study_NonConfidential.pdf

to beneficiaries. It was found that most ESOPs are accumulating significant debt over time and face a risk of the ESOP structure becoming unsustainable. The study further found that ESOPs do not receive discounts on the share price similar to what investors in the open market or executives in the firm would be offered. Some discounts that could be considered when valuing the ESOP's shareholding include (i) minority discount, (ii) marketability discount, (iii) lock-in period discount, and (iv) discounts given due to the broad-based empowerment points gained by having an ESOP as a shareholder.

*Recommendations of the impact study*

24. The impact assessment made three main sets of recommendations that have been factored into the design of ESOPs in the Commission's merger conditions going forward. The first set of recommendations focuses on the funding of the ESOP, specifically the study recommended that interest should not be charged on the NVF debt and discounts on the share price must be offered.

25. The second set of recommendations outlines the design principles that should be mandatory for ESOP remedies and include amongst others the implementation date for the ESOP, the funding model to be used, the qualifying criteria for workers, ESOP board representation, the benefits that will be received by beneficiaries as well as training.

26. The third set of recommendations specifies the design principles that should be determined in consultation with workers or worker unions. These include amongst others, the duration of the ESOP, the distribution of the trickle dividend (ratio of payout to beneficiaries vs debt repayment), class of shares, placement of ESOP in the firm (holding company level vs subsidiary level) and alternative mechanisms to reduce debt.

### *2.1.2. Supplier development fund and procurement conditions*

27. The Commission is currently conducting an impact assessment of the supplier development fund and procurement conditions implemented through the Commission's merger decisions over the period 2016 to 2022. The supplier development fund and procurement commitments seek to provide support to SMME and HDP suppliers to assist them to effectively participate in the economy. The study is assessing 10 mergers that were approved subject to these conditions across various industries including the retail of fresh produce, mining, insurance and healthcare. The relevant information has been gathered from meetings and requests for information from merging parties, beneficiaries, trustees and government departments. With regards to obtaining information from beneficiaries, the study also conducted a survey to reach a wider base of beneficiaries. The purpose of the impact study is to determine whether the supplier development fund and procurement conditions are achieving benefits for the beneficiaries. The study is also looking at the design principles used in developing these conditions to understand whether there are gaps in the conditions that may need to be strengthened in future merger decisions.

28. The preliminary findings of the study in relation to supplier development funds are that the funds have yielded positive outcomes for beneficiaries. Specifically, most beneficiaries indicated that the fund helped them grow their business and reduce business costs. In addition, the fund also helped them secure new contracts and it is expected that their businesses will grow in the coming years. The preliminary findings also indicated that employment opportunities are being created through supplier development funds. In this regard, from the beneficiaries contacted, there have been over 250 permanent jobs created.

29. Generally, the study has found that beneficiaries are satisfied with the benefits they derive from supplier development funds. However, there are some challenges that have also been identified. The main challenge identified is that most of the funding (over 70%)

is in the form of loans with interest which the beneficiaries are required to pay back. The current supplier development fund conditions do not stipulate the form of funding and as such, merging parties are simply providing loans with interest which they recover from the beneficiaries. This appears to be contradictory to the intended purpose of supplier development funds which have been understood by the Commission to be funding in the form of grants or interest-free loans to assist SMME and HDP suppliers. The preliminary findings of the study suggest that the Commission may need to stipulate the financing of the fund in future merger conditions. Another challenge identified is that beneficiaries struggle to gain access to market for their products. In many instances, beneficiaries receive the funding, but they are not able to sell their products. The study has found that beneficiaries who are integrated in the supply chain of the merging parties tend to perform better. One way in which this could be addressed in future mergers is to link supplier development fund conditions with procurement commitments such that merging parties procure products from the beneficiaries.

30. The preliminary findings of the study in relation to procurement commitments are that suppliers have benefitted from increased revenues through orders received from the merging parties. Further, the conditions have assisted suppliers with access to market through the merging parties' business. However, most suppliers have indicated that the commitments have not assisted them in securing new customer contracts. A concern that arises from procurement commitments is that the majority of the suppliers who have benefitted from procurement commitments are significantly reliant on the merging parties as customers. Most suppliers do not have significant alternative customers. It is therefore not clear how sustainable these businesses would be once the merger condition expires. If the merging parties stop procuring from these suppliers at the end of the merger condition, and in the absence of other significant customers, it is unlikely that these businesses would be able to remain in operation. It is important that merging parties build long lasting partnerships with such SMME and HDP suppliers rather than merely fulfilling merger conditions. The Commission is likely to consider ways to ensure SMME and HDP suppliers become sustainable businesses in future merger conditions.

## 2.2. Case-Specific Impact studies (Retrospectives)

31. Below are examples of some of the notable case-specific impact studies conducted by the Commission over the years.

### *2.2.1. The Walmart and Massmart merger*

32. In 2010, the merger between Walmart and Massmart was notified to the Commission in which Walmart intended to acquire control over Massmart. Walmart is a large, global retailer and Massmart is a wholesaler and retailer of general merchandise, liquor, home improvement equipment and basic food in South Africa.

33. Following protracted hearings before the Tribunal and the CAC, in 2012, the merger was approved subject to several conditions including the requirement to establish a supplier development fund for R200 million to be dispersed over a 5-year period. The purpose of this fund was to prevent the threat to employment and sales by local suppliers due to potential displacement by way of imports. This was the first time a supplier development fund condition was imposed in a merger in South Africa.

34. In 2016, 3 years after the implementation of the fund, the Commission conducted an impact study to assess the impact of the Walmart / Massmart supplier development fund. Although the fund had not yet been fully dispersed at the time, the Commission assessed the overall performance of the fund and found that the fund had derived material benefits

to SMMEs and HDPs. The study found that the fund was successfully achieving the intended public interest objectives. The specific findings of the impact assessment are discussed below.

*Manufacturing SMMEs*

35. The study found that the fund had assisted 34 small and medium enterprises (of which 12 are black-owned and 17 are female-owned) in the agriculture (fresh produce and livestock) and manufacturing sectors. Massmart further assisted the beneficiaries by providing them with retail access. In this regard, the study found that in the 3-year period, sales to the value of over R162 million had been made to Massmart and 1 421 jobs were created.

36. The fund also resulted in the establishment of a Developing Wine Brand Programme which assisted emerging HDP owned wine businesses to gain retail access. This programme resulted in 14 wine brands being integrated into the Massmart supply chain of which two brands (Seven Sisters and Bayede) were introduced into Walmart stores in the United States, China and Brazil.

*Ezemvelo Direct Farm Programme*

37. This programme was targeted at HDP farmers who would become new suppliers to Massmart, and who typically would not be able to gain access to the fresh produce supply chain due to their size, location and trading history. Support through the programme included input loans, technical support, basic financial management skills, logistics, and food safety training. The impact study found that by 2015, financial support to the value of over R14.6 million had been provided to farming projects and more than 700 smallholder farmers had received training.

*Other services provided by the Fund*

38. In addition, the fund also provided services to beneficiaries such as food safety compliance, facility and product technical assistance, merchandising and accounting services, as well as business management training. In this regard, by 2015, R15 million had been dispersed to service providers and over 50 beneficiaries benefitted from this programme.

### *2.2.2. The Covid-19 Block Exemptions, Advocacy initiatives and Price Gouging investigations*

39. The Commission's 2021 assessment of its COVID-19 response provides a useful illustration of ex-post evaluation. The study assessed two distinct elements of the Commission's intervention during the national disaster. First, it examined the operation and effects of the COVID-19 block exemptions in the healthcare, retail property and banking sectors, including how firms used the exemptions, the benefits achieved, any unintended consequences and whether the exemptions were adequately designed. Secondly, it assessed whether the Commission's advocacy, investigations and prosecutions relating to price gouging had a wider deterrent effect on firms beyond the matters that were formally investigated or prosecuted.[11]

40. The study found that the block exemptions facilitated forms of coordination that were considered necessary to respond to the crisis. In healthcare, for example, the

[11] CCSA, Impact Assessment Report on the Impact of the COVID-19 Block Exemptions and Commission's Enforcement during the Pandemic, March 2021, paras 1–3 and sections 2–3

exemptions supported coordination around capacity, procurement and testing and contributed to a reduction in the price of COVID-19 PCR tests from around R1 000 and R1 500 to R850 per test. The study also found that the retail-property and banking exemptions created forums through which landlords, tenants, lenders and borrowers could negotiate financial relief during the pandemic. The use of these exemptions thus saved consumers money and saved thousands of jobs as tenants did not close shop amid lack of revenue due to lockdown temporary closures.[12]

41. The price-gouging component is particularly relevant to the present OECD discussion because the Commission sought to measure deterrence directly. A survey of wholesalers and retailers found that 96 per cent of respondents were aware of the consumer-protection regulations and 94 per cent were aware of the Commission's advocacy and investigations. Among respondents aware of the intervention, 54% reported trying to avoid price increases, 41% increased prices only where supplier costs rose and 35% sought to keep gross margins at pre-crisis levels. The study therefore illustrates how ex-post assessment can be used not only to measure the direct outputs of enforcement, such as investigations and settlements, but also to test whether regulatory and enforcement activity influenced behaviour more broadly across the market.[13] Earlier and later Commission work has applied similar retrospective logic to mergers, structural remedies, market studies and public-interest interventions.

### *2.2.3. Bayer-Monsanto merger*

42. The Bayer Monsanto merger study is a useful illustration of an ex-post impact assessment. It examined the effectiveness and competitive impact of the divestiture of Bayer's GM cotton seed business, including sales and volumes, market shares and concentration and the prospects of the divested business; it assessed whether the relevant seed-trait and herbicide assets were commercialised; and it examined the effectiveness of a 25% discount remedy for small emerging farmers. The study drew on the merger record, formal information requests and stakeholder engagements with firms, industry bodies, government and the Commission's original merger team.[14]

43. The Bayer Monsanto study concluded that the divestiture contributed to the establishment of a new South African majority black-owned seed company and preserved a local competitive presence in the cotton-seed market, while the public-interest discount formed part of the assessment of whether small emerging farmers received the intended benefit. The significance of the study for present purposes is methodological: the Commission did not simply count the condition at the time it was imposed; it returned to the market after implementation to ask whether the remedy was effective.[15]

44. The examples above illustrate the Commission's use of ex-post studies to assess whether particular interventions and remedies achieved their intended outcomes. More recently, the Commission has complemented this case-and-intervention-specific work with

[12] CCSA, Impact Assessment Report on the Impact of the COVID-19 Block Exemptions and Commission's Enforcement during the Pandemic, March 2021, healthcare, retail-property and banking sections; paras 236–242

[13] CCSA, Impact Assessment Report on the Impact of the COVID-19 Block Exemptions and Commission's Enforcement during the Pandemic, March 2021, paras 213–218 and 231–245.

[14] CCSA, Bayer Monsanto Merger Impact Assessment, March 2023, paras 55–61.

[15] CCSA, Bayer Monsanto Merger Impact Assessment, March 2023, Executive Summary and Findings and Conclusions; Siyo, Bleazard & Mahlalela, ERB Brief 2025/02, September 2025, pp. 1–2

an institution-wide approach aimed at providing a broader and more regular measure of benefits generated by its work across the institution, as discussed below.

## 3. Institution-Wide Impact Studies

45. In 2025 the Commission added an institution-wide dimension to its impact assessments toolkit. A March 2025 Working Paper reviewed the methodologies used by the CMA, FTC, European Commission and other authorities, alongside OECD guidance, with the objective of developing a methodology that could be applied annually in South Africa.[16] The resulting pilot assessment was undertaken in two parts: Part 1 measured direct impacts over FY2022/23-FY2024/25, while Part 2 developed guidance on indirect benefits, including deterrence and dynamic or non-price outcomes.[17]

46. The institutional motivation for this work is both domestic and international. Recent internal Commission research notes that South African public institutions are expected to demonstrate tangible outcomes and value for money, while internationally competition authorities increasingly use impact assessment to communicate the benefits of their interventions, maintain stakeholder accountability and inform institutional strategy.[18] This research identifies four objectives that have informed the Commission's approach to impact reporting: demonstrating value for money, enhancing transparency, informing strategy and case prioritisation, and communicating the scope and limits of the Commission's mandate.

47. The research also emphasises an important caution in the use and communication of impact assessments. Impact reporting can assist government and the public to understand both what a competition authority can reasonably achieve given the institutional, legal and market constraints within which it operates. In merger control, market-conduct enforcement and cartel matters, for example, the timing and ultimate outcome of interventions may depend on transaction complexity, the availability and quality of evidence, litigation processes and adjudicative timetables.[19] Impact reporting should therefore sensitise stakeholders to the constraints that may affect certain market outcomes.

### 3.1. Institution-wide assessment of expected direct benefits

#### *3.1.1. The methodological framework*

48. The Commission measures the institution consumer savings figure across all core tools, including merger control, anti-cartel enforcement, market conduct, and market

[16] CCSA. 2025. Working Paper by Mahlalela, Q, Bleazard T & Maseng, O. *Institution-wide Impact Assessment Methods: An overview of Methodologies adopted by major jurisdictions, CC2025/01*. Available at: https://www.compcom.co.za/wp-content/uploads/2025/03/Working-Paper-on-Institution-wide-IA-Methodology_13-March-2025_publish.pdf;

[17] CCSA. 2025. Impact Assessment FY2025/2026 (Part 1), (30 June 2025) ; Competition Commission South Africa. 2025. Practice Note on Measuring the Indirect Impact of Competition Law Enforcement, (5 December 2025) (this research reflects internal research work by the Commission, published internally).

[18] CCSA. 2025. Economic Research Bureau (ERB) Brief: Siyo, Z., Bleazard, T. & Mahlalela, Q., "*The value in impact reporting in competition enforcement*", September 2025, pp. 3-7 (this research reflects internal research work by the Commission, published internally).

[19] CCSA. 2025. Economic Research Bureau (ERB) Brief: Siyo, Z., Bleazard, T. & Mahlalela, Q., "*The value in impact reporting in competition enforcement*", September 2025, pp. 6-7 (this research reflects internal research work by the Commission, published internally).

inquiries. Consumer savings are calculated as a function of affected turnover, avoided price increase and estimated duration of impact as per the formula below.

*Consumer Savings = Affected Turnover × Avoided Price Increase × Duration of Impact*

49. This follows the logic of the OECD framework and the approaches used by major jurisdictions: the measure asks what harmful price effect the intervention is expected to have prevented, over what base of commerce and for how long.[20] Affected turnover refers to the extent of affected commerce, measured as the size of the defined market in mergers, the market share of respondent in abuse cases, the combined share of respondents in cartel cases, the bid value in collusive tendering cases, and the market reach of remedies in market inquiries. Case-specific information is preferred for the price and duration effect (e.g., where unilateral price increase is simulated or known or overcharge can be estimated with reasonable accuracy and the duration of impact can be measured). Where case-specific data are not available, the Commission uses rules of thumb adopted in reference to the OECD's guidance as well as those applied by the FTC and the CMA.

50. The Commission adopts, as rules of thumb, 5% for the price effects in mergers and market conduct cases, and 10% in cartels. Duration for impact is assumed at 3 years for mergers and 5 years for cartels and market conduct cases. Consumer savings are calculated for each case, by the case-team involved, and the values are aggregated centrally by a team within the Office of the Commissioner (OTC), with assistance from the economist that developed the methodology within the Economic Research Bureau (ERB) division.

51. At the aggregation stage, future direct benefits are discounted to present value using an annual discount rate of 3 per cent, [21] are aggregated by instrument and by financial year and are also presented on a three-year rolling-average basis.[22] The rolling average is intended to smooth the substantial variation created by the timing of a small number of large merger cases, market-inquiry remedies, settlements or other high-value interventions.

52. In addition to consumer savings, the Commission also records the value pf financial public-interest commitments, particularly from merger control; and settlement-related financial commitments, including administrative penalties, investment commitments, supplier development funds, SME procurement conditions, and other measurable undertakings. The aggregate of consumer savings and the other financial benefits is then

[20] CCSA. 2025. Impact Assessment FY2025/2026 (Part 1), (30 June 2025) (this research reflects internal research work by the Commission, published internally) ; CCSA. 2025. *Practice Note on Measuring the Indirect Impact of Competition Law Enforcement*, (5 December 2025) (this research reflects internal research work by the Commission, published internally).

[21] DPME. 2014. DPME Evaluation Guideline No.2.2.15: Guideline on Economic Evaluation, (Section 6.3 Discount rates). Available at: h https://www.dpme.gov.za/keyfocusareas/evaluationsSite/Guidelines/Guideline%202.2.15%20Economic%20Guideline%20%2014%2003%2020%20docx%20%20-%20Copy.pdf ; HM Treasury. The Green Book: Central Government Guidance on Appraisal and Evaluation. Available at: https://www.gov.uk/government/publications/the-green-book--2

[22] CMA. 2024. *Impact Assessment 2023 to 2024*. Available at: https://www.gov.uk/government/publications/cma-impact-assessment-2023-to-2024/impact-assessment-2023-to-2024 ; FTC. 2024. *Annual Performance Report for Fiscal Year 2023 Annual Performance Plan for Fiscal Years 2024 and 2025*, p. 33. Available at: https://www.ftc.gov/system/files/ftc_gov/pdf/FY-2023-Annual-Performance-Report-and-FY-2024-25-Plan.pdf

compared with the Commission's government grant to produce a benefit-to-cost or return on investment ("ROI") measure.[23]

### *3.1.2. Pilot results and interpretation*

53. Using the methodology above, the Commission conducted its first ever institution-wide impact study in 2025, covering three financial years, from FY2022/23 to FY2024/25, and found that the Commission was able to deliver an average of R87 in financial benefits for every R1 of government grant received by the institution, i.e., a return-on-investment ratio of 87:1. A lion's share of these benefits was derived from public interest benefits, particularly from major control, emphasising the benefits of the expanded mandate of competition law in South Africa. When the public interest benefits are removed, the ratio reduces to approximately 10:1, which reflects the consumer savings alone. This compares closely with the targets of some of the leading jurisdictions.

### *3.1.3. Moving beyond direct price effects: deterrence, dynamic outcomes, macro effects and advocacy*

54. The Commission recognises that direct consumer savings capture only part of the value of competition enforcement. A credible enforcement regime may deter conduct; intervention may affect entry, innovation, quality, service and productivity; and market-opening reforms may generate benefits over a longer period than a direct price remedy. OECD work likewise cautions that a price-only framework can understate agency value and may inadvertently bias attention away from matters whose principal benefit lies in deterrence or non-price effects.[24]

55. The Commission has supplemented its practice note on measuring the institution's impact by developing a practice note for capturing these indirect effects. The Commission did not yet have the necessary historical data to undertake a robust assessment of indirect outcomes. The note therefore has a forward-looking institutional purpose: it defines categories of indirect impact, proposes practical methods and indicators, and guides divisions on what should be recorded during and after interventions so that future measurement can improve.[25]

56. Based on deterrence research in academic literature and studies conducted by various authorities, the practice notes proposed deterrence multipliers of five (5) for prohibited mergers and identified cartels. This is to say, for every single merger prohibited or cartel detected, five such anti-compete conduct is deterred. The multiplier is seven (7) for abuse of dominance cases. These multipliers are applied on the consumer savings

[23] CCSA Impact Assessment FY2025/2026 (Part 1), Tables 14–16. Government-grant amounts are drawn from the Commission's Annual Reports for the relevant financial years.

[24] OECD (2025), Assessing the Impact of Competition Authorities' Activities, OECD Roundtables on Competition Policy Papers, No. 320, p.32.

[25] 2025), Practice Note on Measuring the Indirect Impact of Competition Law Enforcement, paras 4-5 and 87–88; OECD (2025), Assessing the Impact of Competition Authorities' Activities, OECD Roundtables on Competition Policy Papers, No. 320, particularly section 4.3; CMA (2025), Wider Benefits of Competition Policy and Enforcement. Available at: https://www.gov.uk/government/publications/wider-benefits-of-competition-policy-and-enforcement/wider-benefits-of-competition-policy-and-enforcement-cma-microeconomics-unit-literature-review?utm

figures as described above. Deterrence effects on advocacy[26] work is based on a price effect of 0.5%[27] price increase avoided as a result of advocacy interventions, applied to a duration impact of 10 years (this can be intervention-specific) and case-specific information on affected turnover (based on the market reach of the advocacy intervention).

## 4. Communication and the use of Impact Assessment Results

57. Impact assessment can inform case prioritisation and strategic planning, but the Commission does not regard expected monetary impact as a substitute for legal and strategic judgment. Ex-ante impact assessment can be used to quantify the impact of cases and intervention upfront and help identify interventions likely to generate meaningful benefits, while legal merit, deterrence, public interest, precedent, market structure and the feasibility of effective remedies remain independently relevant. Impact measurement is therefore one input into prioritisation,[28] not simply a mechanical ranking rule.[29]

58. Externally, institution-wide impact reporting can help explain the value of the Commission's work in a clear and accessible way. It can show government and other stakeholders the benefits generated by competition enforcement and how public resources are being used. However, these results need to be explained carefully. In particular, the Commission should make clear what is included in the calculation, what assumptions were used, and the difference between financial commitments, estimated consumer savings and outcomes that have been observed.

59. Ex-post studies have a different use. They can alter how future cases are analyzed or how remedies are designed. The strongest measure of impact is therefore not merely a published number but a feedback loop from past decisions to improve future enforcement. The recommendations are then incorporated in merger investigations, public interest design, and enforcement work, where the lessons can be applied. The findings and recommendations of impact assessments may also be incorporated in government policy decisions. For example, the government in South Africa is currently reviewing the existing ESOP models and assessing ways to improve these models to derive better outcomes. The Commission's findings and recommendations from its ESOP impact assessment are currently being considered in government's policy deliberations.

60. While the Commission is yet to publicise its ex-ante institution wide studies, ex-post reviews are commutated in public forums and to government. Once the Commission has finalised the impact assessment, section 21A(4) of the Act mandates the Commission to submit its report to the Minister of Trade, Industry and Competition and publish it in the

[26] Advocacy presents a related attribution problem because the Commission may contribute to a regulatory or policy change without being its sole cause.

[27] Not a lot of authorities measure this, but the 0.5% is aligned with the approach from the Latvian Competition Counsil.

[28] The Commission's research identifies a specific risk if impact figures are overused for priority setting: an authority may favour cases whose direct financial benefits are easiest to measure while underweighting smaller or more difficult matters that create substantial deterrence, precedent or dynamic benefits.

[29] CCSA, OECD Submission on Case Prioritization and Prosecutorial Discretion, 19 May 2026, sections D–F; Siyo, Bleazard & Mahlalela, ERB Brief 2025/02, September 2025, pp. 5–6 and 9.

Gazette within 15 business days following its submission to the Minister.[30] Additionally, the Act requires the Minister to table all impact study reports before the National Assembly within 10 business days of receiving the report from the Commission, or, if Parliament is not in session, within 10 business days of the commencement of the next session. The Commission also publishes the report on its website and issues a media statement to inform the public of the findings and recommendations arising from the impact assessment study.[31]

## 5. Challenges and Lessons from Conducting Impact Studies

61. Several challenges have been faced by the Commission in conducting impact studies, from which the Commission has drawn lessons for future studies.

62. One of the main challenges is determining how much of an observed market outcome can fairly be attributed to the Commission's intervention. Prices, entry, investment and other market outcomes may also be affected by changes in demand, input costs, regulation, economic conditions and firms' own commercial decisions. This is particularly difficult for ex-post studies, advocacy and market inquiries, where several factors or public bodies may contribute to the same outcome.[32] Impact assessment therefore requires care in distinguishing the effect of the Commission's intervention from other changes taking place in the market.

63. A second challenge is the availability and timing of data. Some benefits can be measured relatively soon after an intervention, particularly where a condition or financial commitment has a clear monetary value. Other outcomes may take several years to become visible. For example, where implementation of a market-inquiry remedy is still underway, there may not yet be enough information to measure the number of beneficiaries or the value of the outcome. Ex-post studies may also be more difficult where the necessary information was not collected when the original case or intervention was undertaken.[33]

64. A third challenge is avoiding double counting. The same intervention may generate several types of benefit, but these should not be counted more than once simply because they can be described in different ways. For example, the value of a supplier-development fund should be recorded as a commitment, while any later business growth or employment created by beneficiaries should be reported separately as an outcome. Similarly, estimated deterrence effects should be kept separate from the direct-benefit figure. Keeping the

[30] Additionally, the Act requires the Minister to table all impact study reports before the National Assembly within 10 business days of receiving the report from the Commission, or, if Parliament is not in session, within 10 business days of the commencement of the next session.

[31] The Commission may also participate in media interviews to raise awareness of the study and its recommendations.

[32] OECD, Assessing the Impact of Competition Authorities' Activities, 2025; OECD, Reference Guide on Ex-post Evaluation of Competition Agencies' Enforcement Decisions, 2016; CCSA, Practice Note on Measuring the Indirect Impact of Competition Law Enforcement.

[33] CCSA, CCSA Impact Assessment FY2025/2026 (Part 1), paras 119–124; CCSA, Practice Note for Measuring the Direct Impact of Competition Law Enforcement, divisional data-recording guidance.

different categories, visible helps ensure that the overall impact estimate remains clear and credible.[34]

65. A fourth challenge is that impact can vary substantially from one year to another. A single large merger intervention, market inquiry or public-interest commitment may have a significant effect on the result for a particular year. The Commission therefore uses a three-year rolling average to provide a more stable picture of impact over time. As the Commission builds a longer series of annual results, it can review whether this averaging period remains appropriate.[35]

66. One major lesson for the Commission, therefore, is that for impact estimates to be reliable, case-specific information must be used and this should be collected during the investigation or intervention rather than reconstructed later, to avoid overreliance on assumptions and/or rule of thumb estimates. Secondly, since data for impact assessment comes from individual case teams, data collection has to be subject to central review to ensure consistent application of the methodology and data accuracy. Finally, impact estimates should support strategic planning and case prioritisation, but should remain one consideration alongside legal merit, deterrence, public interest and other relevant factors.[36]

67. The statutory information-gathering power in section 21A is also relevant. A firm may be required to supply information necessary for an impact study, subject to the safeguards and objection procedure in the Act. This is valuable where data needed for an ex-post study are not publicly available. At the same time, formal information powers do not solve all practical constraints: data may not have been retained in a usable form, causal identification may remain difficult and intensive studies still require scarce economic and analytical capacity.[37]

68. This therefore creates a practical trade-off between simplicity and detail. The institution-wide framework was designed to use relatively simple and transparent methods that can be applied consistently every year across the Commission's work. More detailed ex-post studies require more time, data and analytical resources, and are therefore undertaken selectively for cases or interventions where the potential learning value justifies the additional effort.[38] This allows the Commission to maintain regular institution-wide impact reporting while still conducting deeper assessments where these are most useful.

[34] CCSA, Practice Note for Measuring the Direct Impact of Competition Law Enforcement, methodology and aggregation sections; CCSA, Practice Note on Measuring the Indirect Impact of Competition Law Enforcement, deterrence and dynamic-effects sections.

[35] CCSA, CCSA Impact Assessment FY2025/2026 (Part 1), Tables 14–16; OECD, Assessing the Impact of Competition Authorities' Activities, 2025, conclusions.

[36] CCSA, Working Paper CC2025/01, March 2025; CCSA, Direct and Indirect Impact Measurement Practice Notes, 2025; Siyo, Bleazard & Mahlalela, "The value in impact reporting in competition enforcement", September 2025; OECD, Assessing the Impact of Competition Authorities' Activities, 2025.

[37] Competition Act 89 of 1998, as amended, section 21A(2) and (5)–(7); CCSA, Bayer Monsanto Merger Impact Assessment, March 2023, para 61.

[38] CCSA, Working Paper CC2025/01, March 2025; OECD, DAF/COMP/GF(2026)3, Annex A, question 7.