

# **Corporate** Profile

The Competition Authority is constituted in terms of the Competition Act (Cap 46:09) and is domiciled in the Republic of Botswana. The Authority is responsible for the prevention of, and redress for, anti-competitive practices in the economy, and the removal of constraints on the free play of competition in the market. The governing body of the Competition Authority is the Competition Commission, which is responsible for the direction of the affairs of the Authority.

#### **Chairperson of the Competition Commission**

Dr. Zein Kebonang

#### Secretary to the Competition Commission

Thula Kaira Chief Executive Officer of the Competition Authority

#### **Registered Office**

Plot 28, Matsitama Road Main Mall Gaborone, Botswana

#### **Contact Details**

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#### Bankers

Barclays Bank of Botswana Barclays House P.O. Box 478 Gaborone, Botswana

Standard Chartered Bank Botswana Limited Mall Branch P.O. Box 469 Gaborone, Botswana

#### **External Auditors**

Ernst & Young Chartered Accountants 2nd Floor, Plot 22, Khama Crescent P.O. Box 41015 Gaborone, Botswana

#### **Internal Auditors**

KPMG Chartered Accountants Plot 67977, Off Tlokweng Road Fairgrounds P.O. Box 1519 Gaborone, Botswana

#### **Reporting Date**

31st March 2014

# To: Honourable Minister of Trade and Industry

Pursuant to section 24 of the Competition Act (Cap 46:09), please, find attached a comprehensive report on the operations of the Competition Authority, together with the Auditor's Report and the Audited Accounts for the financial year 2013/14, for you to lay before the National Assembly.

Yours Faithfully

**Dr. Zein Kebonang** Chairperson of The Competition Commission

# Acronyms

ACF	African Competition Forum
AIDC	Associated Investment Development Corporation
BoB	Bank of Botswana
BIDPA	Botswana Institute for Development Policy Analysis
BOCRA	Botswana Communications Regulatory Authority
BOCCIM	Botswana Confederation of Commerce, Industry and Manpower
BOCCARO	Botswana Consumer Centre for Advocacy and Research Orientation
СТО	Central Transport Organisation
CEO	Chief Executive Officer
CA	Competition Authority
CSR	Corporate Social Responsibility
DCDE	Department of Curriculum Development and Evaluation
DCEC	Directorate on Corruption and Economic Crime
DATCs	District Administration Tender Committees
EDD	Economic Diversification Drive
п	Information Technology
ICN	International Competition Network
MoU	Memorandum of Understanding
MTCs	Ministerial Tender Committees
NCP	National Competition Policy
NBFIRA	Non-Bank Financial Institutions Regulatory Authority
PPADB	Public Procurement and Asset Disposal Board
SDDS	Signet Direct Diamond Sourcing Botswana
SMMEs	Small, Medium and Micro Enterprises
SADC	Southern African Development Community
TRPPs	Tender Rules and Procurement Procedures

# Table of Contents

Corporate Profile	2
To Honourable Minister	3
Acronyms	4
Table of Contents	5
Corporate Governance	6
Competition Commission	7
Chairperson's Statement	9
Chief Executive Officer's Statement	11
Executive Management	14
Managers	15
Office of the CEO	13
Overview	16
Investigations of Anti-Competitive Conduct	17
Legal and Enforcement	26
Mergers and Monopolies	30
Competition and Research Analysis	38
Communications and Advocacy	42
Corporate Services	46
Challenges, Opportunities and Lessons Learnt	51
Annual Financial Statements	55

# Corporate Governance

#### **Competition Commission**

The Competition Commission is the governing body of the Competition Authority and is responsible for the direction of the affairs of the Authority. The Commission has both corporate governance and adjudicative functions under the Competition Act, (Cap 46:09).

### **Board Charter**

The Board Charter states the obligations of the Commission to ensure that there are appropriate accountability and control systems in place, as well as adherence to proper reporting mechanisms and the applicable laws.

### Members of the Competition Commission as at 31st March 2014

Member	Date of Appointment	Term	Expiry Date
Dr. Zein Kebonang: Chairperson	1st June 2010	5 years	31st May 2015
Mr. Gaylard Kombani: Vice-Chairperson	1st June 2013	3 years	31st May 2016
Ms. Tiny M. Kgatlwane	1st June 2010	4 years	31st May 2014
Mr. Tendekani E. Malebeswa	1st June 2010	5 years	31st May 2015
Mr. Boniface G. Mphetlhe	1st November 2011	4 years	31st October 2015
Dr. Selinah Peters	1st December 2013	3 years	30th November 2016
Dr. Jay S. Salkin	1st June 2010	4 years	31st May 2014

### **Competition Commission Committees as at 31st March 2014**

Committees	Members	Responsibility
Finance and Audit Committee	Dr. Jay S. Salkin: Acting Chairperson Mr. Gaylard Kombani	The Committee assists the Commission in discharging its oversight responsibilities of monitoring and reviewing: financial activities of the Authority and the financial reporting process to ensure balance, transparency and integrity; the Authority's compliance with the legal and regulatory requirements; the effectiveness of the Authority's internal controls; and the effectiveness of the Authority's risk management strategies.
Human Resources Committee	Ms. Tiny M. Kgatlwane: Chairperson Dr. Jay S. Salkin Mr. Boniface G. Mphetlhe	The Committee assists the Commission in discharging its oversight responsibilities of establishment, monitoring and reviewing of appropriate human resource and compensation policies and strategies that provide the Authority with the capability to achieve its short and long term business objectives.
Technical Committee	Mr. Tendekani E. Malebeswa: Chairperson Mr. Gaylard Kombani	The Committee is tasked with assisting the Commission in discharging its oversight responsibilities of formulation, monitoring and review of appropriate legal and technical policies, rules, guidelines and procedures that enable the Authority to undertake its enforcement and advocacy functions.
Commission Tender Committee	Dr. Jay S. Salkin: Acting Chairperson Mr. Gaylard Kombani	The Committee reviews and monitors policy and thresholds for tendering, and reports to the Commission accordingly.



COMPETITION AUTHORITY ANNUAL REPORT 2013 /14 =



# Chairperson's Statement

I am pleased to acknowledge the efforts that the Competition Commission (the Commission) and the Competition Authority (the Authority) have made from April 2013 to March 2014. While the first two years of establishment of the Authority focused more on the setting up of processes, corporate governance systems, staff recruitment and development, the third year of operations saw the active enforcement of the Competition Act, (the Act). Reported cartel cases were investigated by the Authority, and a number of them were referred to the Commission for adjudication.

Market studies have also been undertaken in various sectors of the economy to fully understand the markets, and to identify any anticompetitive practices. Research studies were undertaken in the retail, wholesale, poultry and cement sectors, and the hope is that the interventions arising from these studies will lead to more tangible competition outcomes.

It is the Commission's intention to ensure that the Authority remains vigilant to detect, investigate, prevent and redress anticompetitive practices. The Authority will continue with its intensified awareness campaigns on the benefits of competition law for business, government, consumers, the legal profession and all other relevant stakeholders. Given the relatively low levels of public awareness about competition issues, advocacy will remain a significant task.

One can change laws by edicts, but changing mind-sets is a difficult task. It is important for Government (central and local) and the business community to adapt their activities to new market requirements. We will, therefore, continue to educate and inform all stakeholders on competition issues in order to bring about voluntary compliance, and a new culture of doing business in Botswana. We will also intensify enforcement mechanisms and ensure compliance with Competition Law.

I wish to conclude by thanking fellow Commission Members for the good work they have done in the year under review. I would also like to thank the management and staff of the Authority for the achievements they made in 2013/14.

**Dr. Zein Kebonang** Chairperson of The Competition Commission



# Chief Executive Officer's Statement

I am obliged to report on the performance of the Competition Authority for the 2013/14 financial year. As an Authority, we have not lost sight of the reason why we were established, i.e., for the prevention of, and redress for, anti-competitive practices in the economy and the removal of constraints on the free play of competition in the market (section 5 of the Competition Act). The Authority derives its efficacy from the Act, as well as the National Competition Policy (NCP) of 2005. In this regard, I also wish to acknowledge the Commission Chairman's assurance to ensure that the Authority remains vigilant to detect, investigate, prevent and redress anti-competitive practices.

## Chief Executive Officer's Statement

The driving national ideal for competition enforcement is well captured in the NCP. Paragraph 2.6 of the NCP acknowledges that the policy has been formulated as a strategy for enhancing Botswana's ability to promote free entry in the market place by investors and all firms...fair business practice; efficiency; competitiveness; and consumer welfare.

The Authority's efforts were focused on dealing with cartels such as price-fixing and bid-rigging. Several raids were carried out resulting in outcries from the affected businesses, who claimed that the Authority was excessive in the exercise of its powers by resorting to raiding premises. Some questioned whether such searches were covered in the Act. The complaints led to several meetings being held to sensitise the business community and policy makers on the powers of the Authority under the Act.

It is clear under section 36 of the Act that where the Authority has reasonable grounds for suspecting that an enterprise has engaged in, is engaging in, or is about to engage in, a horizontal...agreement prohibited in terms of section 25 (1)...the Authority may authorise the entry and search of that enterprise's premises, by an inspector appointed in writing by the Authority. The whole process of how the search is conducted is covered under section 36 of the Act. As we learn under this section, the search itself can be carried out with or without a warrant and can also be carried out in unoccupied premises, including any computer or vessel on the premises. The fact that the manager or owner of the premises has deserted or locked the premises does not prevent a search from proceeding. It is important to state that searches in themselves are not done to victimise or frustrate a business. Searches do not require the prior knowledge or authority of the targeted enterprises, trade association, the Competition Commission members or any other authority except a Magistrate who authorises a search warrant. However, in the event where the search is done without a warrant, then the consent of the owners of the premises would have to be obtained.

A key challenge for the young institution was largely the capacity and readiness to prosecute cases that were investigated. The first cartel cases relating to bid-rigging in a Government tender for supply of food rations, and several price-fixing cases in the car panel beating sector were referred to the Commission.

The referral of cases to the Commission is the best way of ensuring that the objectives of the NCP and the Act are realised in the market place. We entered a notice of opposition to defend the appeal relating to the challenge of institutional arrangement between the Authority and the Commission.

The appeal proceedings are on-going at the High Court. There is no doubt that during the period under review we have learnt a lot from our interactions with various stakeholders. Out of these interactions it is only fair that our processes and methods should be improved to serve business and all our stakeholders better. Gaps in our turn-around time, stakeholder engagement, research needs, training needs, legal and advocacy shortfall should all be priority areas.

# Chief Executive Officer's Statement continued >>>

The Authority has been concerned about the global statistics in relation to the state of competition in Botswana. This also speaks to the Commission Chairman's admonition to intensify enforcement and advocacy. Analysis of the statistics from the Global Competitiveness Reports of 2012/13 and 2013/14 under the 6th Pillar of Goods Market Efficiency shows that Botswana's rankings on competition have been declining drastically, as shown in Table 1:

Table 1: Botswana's Rankings on Goods Market Efficiency from 2012 to 2014

Factor	2012/13 (Out of 144)	2013/14 (Out of 148)	Ranking (Lost)
Intensity of Local Competition	74	93	-19 places
Extent of Market Dominance	70	97	-17 places
Effectiveness of Anti-monopoly Policy	72	79	-7 places

Source: Global Competitiveness Report 2012/13 page 115; 2013/14 page 133

In order to address issues raised in the Global Competitiveness Report, the Authority addressed all the Heads of Government Ministries, Independent Departments and Agencies on the role of Competition Law and Policy in economic development. We are optimistic of the positive impact of such interactions on future global statistics on competition. In the coming year, our focus would be more on strengthening our enforcement initiatives, without necessarily lowering our guard on advocacy initiatives.

I would like to end by thanking the precious resource that the Authority has, its staff, for the unprecedented efforts they made during the year to assist in achieving the results we have outlined in this report. I conclude by thanking the Commission for its corporate governance oversight and the Ministry of Trade and Industry for its support.

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Thula Kaira CEO and Secretary to the Commission

# Office of the CEO



L to R: Mr. Keolopile Lekgoanyana, Ms. Bonyana Ndubiwa, Mr. Thula Kaira, Ms Tebogo Tyolo, Mr. Otlaathusa Seforo



Mr. Thula Kaira Chief Executive Officer

# Executive Management



Dr. Mokubung Mokubung Director - Competition and Research Analysis



Ms. Magdeline Gabaraane Director - Mergers and Monopolies



Mr. Gideon Nkala Director - Communications and Advocacy





Ms. Tebelelo Pule Director - Corporate Services

# Managers



Mr. Ernest Bagopi Manager - Competition and Research Analysis



Ms. Gladys Ramadi Manager - Communications and Advocacy



Mr. Innocent Molalapata Manager - Mergers and Monopolies



Ms. Tshepo Wadipeba Manager - Human Resources



Ms. Tapiwa Masie Manager - Legal and Enforcement

Mr. Kitso Mocuminyane Manager - Finance

Ms. Bonyana Ndubiwa Manager - Policy Coordination and International Liaison

# Overview

The Authority's operations are underpinned by its Mission, Vision and Values. All activities undertaken including investigation of cases, merger reviews, market studies and advocacy initiatives are all meant to promote fair competition in the economy of Botswana. The long term vision is that enforcement of the Act should lead to economic prosperity for Batswana. In all its operations, the Authority is guided by its Values of *Transparency, Professionalism, Integrity and Teamwork.* 

Delivery of the mandate of the Competition Authority is achieved through a two-pronged strategy of advocacy for fair competition in the economy and enforcement of the Competition Act. During the period under review, the Authority set itself a number of performance targets as it focused on cartels such as price-fixing and bid-rigging.

The following were some of the priority areas in the year under review:

- (i) Broadening awareness platforms to reach more stakeholders;
- (ii) Putting more emphasis on enforcement of the Act targeting, in particular, cartels and bid-rigging given the significant annual public procurement amounting to at least 1.3 billion Pula;
- (iii) Undertaking market studies, particularly in the retail sector, in an attempt to advance decision making on competition issues;
- (iv) Searching the market for merger transactions that could have been concluded without being notified to the Authority; and
- (v) Implementing initiatives that would motivate staff and enhance its morale while at the same time rewarding outstanding performance;

This Annual Report, therefore, covers achievements, challenges, opportunities, initiatives and lessons learnt in the context of the Authority's annual performance during the period under review.

# Investigations of Anti-Competitive Conduct

Investigation of anti-competitive conduct is one of the central elements of the mandate of the Authority, therefore during the period under review, the Authority continued to conduct preliminary inquiries and investigations into various types of anti-competitive conduct in order to prevent, redress or remove restrictive business practices in the country's economy. During the 2013/14 reporting period, the Authority, through its investigation and resolution of some cases of anti-competitive conduct, produced some meaningful socio-economic impact. Three cases were resolved in the review period entailing abuse of dominance, restrictive practices and refusal to deal.

The cases are highlighted below:

## Abuse of Dominant Position in the Market

# Authority's Intervention Allows Entry of a Small Grocer in a Shopping Mall

The Authority received a complaint from the landlord of Molapo Crossing Shopping Mall in Gaborone against the anchor tenant, Pick 'n Pay Supermarket. The complaint was with respect to an exclusive lease agreement containing clauses which constituted anti-competitive business conduct.

The Authority was equally concerned about long term exclusive leases which have restrictive clauses, as they may amount to contravention of the Competition Act, particularly where supermarkets have market power within the relevant local market.

The Authority, in its inquiry, noted that supermarket chains and property developers enter into, and enforce long-term exclusive lease agreements through anchor tenancy, to the exclusion of potential competitors at particular shopping malls. This conduct evidently raises barriers to entry at shopping malls, as competitors are excluded from entering the mall where a particular anchor tenant is present. Specialist stores, such as liquor stores, fruit and vegetable stores, as well as fullline grocery stores, are excluded in shopping malls where the main supermarket chains are the anchor tenant. These exclusive agreements may also have the effect of denying consumers an opportunity to choose between different retailers within the shopping mall.

Exclusive contracts are not, *per se*, illegal under the Competition Act, but may be authorised on a case-by-case basis. While the Authority recognises the property developmental objectives and the economic worth of an anchor tenant in a shopping mall, the Authority will be reluctant to allow such agreements to stand in relation to entry of small niche or specialist grocers who may find room for business within the shopping malls.

The Authority would deem it unreasonable on the part of both the landlord and the anchor tenant to unduly frustrate the entry of a small grocer whose business is unlikely to have adverse effects on the anchor tenancy. In the complaint of the Landlord of Molapo Crossing against its tenant, Pick 'n Pay, the Authority intervened to remove restrictive clauses that prevented the entry of one small grocer in the shopping mall. The removal of the barrier to entry has since resulted in the entry of a specialist grocer at Molapo Crossing Shopping Mall.

## **Refusal to Deal**

#### Authority's Intervention Leads to Healthy Competition in the Ice Cream Market

An anonymous complaint was registered with the Authority on 11th December 2012, to the effect that one of the dominant retail supermarkets abused its dominance by refusing to deal, and, stocking only one brand of dairy ice cream. The case had two limbs in that:

- (i) There was a vertical agreement which limited market access and thus a breach of section 27(2)(a), which states that "Without prejudice to the generality of subsection (1), the Authority may prohibit any horizontal agreement or vertical agreement which - limits or controls production, market outlets or access, technical development or investment"; and
- (ii) The Act prohibits the 'abuse of dominant position' as provided for under section 30(1), which states thus: "Any conduct on the part of one or more enterprises is subject to prohibition by the Authority if, following an investigation by the Authority; such conduct is determined to amount to an abuse of a dominant position in any market".

While the inquiry was on-going to ascertain the facts of the case vis-à-vis the Act, the dominant retailer reported that it had started selling competing brands of dairy ice cream that it had previously refused to stock.

This new business dimension meant that there was a new competitor in the dairy ice cream market within this retail giant's footprint, hence competing products, which are substitutable. Customers in this market will have access to and a choice of competitively priced ice cream products and improved service and quality.

## **Restrictive Practices**

# Authority's Intervention Leads to Improvement in Book Tender Procedures

On 4th June 2012, the Authority received a complaint from Vision Publishers (Pty) Ltd (Vision Publishers) concerning the criteria that is used in the selection of reading materials for Government Schools. Vision Publishers complained that the tendering process and evaluation criteria used by DCDE for the books read and used at Government Primary and Secondary schools was restrictive, unfair and created a barrier to entry.

The particulars of the complaint were that:

- (i) After the tendering process by the DCDE, only a few books were selected to form part of what is known as the "Prescription List" from which schools were obliged to purchase;
- (ii) These books in the Prescription List were not reviewable and would be used in the schools as core and supplementary reading material until the syllabus was changed, which could be as long as 20-30 years later;
- (iii) For a book to be selected in the core category it must score at least 90% in that category, while for the supplementary category it should score at least 80%. Notwithstanding that these percentages are set so high, DCDE, only selects three core books and four supplementary books out of those meeting the pass mark for the core and supplementary categories. This meant that other books that may have also scored the required marks could not be listed as core or supplementary reading because of the limitation on numbers that could be included in the Prescription List; and

(iv) It was expensive for bidders to respond to tenders by the DCDE because there was a condition that required them to pay P500 for every title or book that was submitted for their bids, in addition to having purchased a tender document for P250.

The Authority decided to conduct an inquiry into the alleged practices having considered their potential anti-competitive effect of excluding technically competent bidders from supplying books to schools, and also in excluding others from accessing the market by having a 20-30 year period for review of the Prescription List.

The inquiries by the Authority involved meetings and discussions with DCDE and the Publishers Association of Botswana, and the findings revealed that the process for selecting reading material was hampered by the requirement to use the standardised conditions of PPADB, which were not suitable for the procurement of books. The Authority also found that the Prescription List was reviewed every five years and not the alleged 20-30 years.

The DCDE also acknowledged that the criterion used to select the reading material had the potential to exclude suitably qualified and competent publishers and writers from having their work included in the Prescription List, and undertook to review this criterion with the assistance and input of the Authority.

Considering that it was the evaluation process that affected competition and participation in the publishing market, the Authority resorted to influencing a change of this process in a manner that would promote, rather than prevent, competition. No investigation was therefore undertaken.

Through its contribution to the "Report on the Evaluation of the Textbook Review Process" compiled by the DCDE and in presenting on competition issues to the DCDE, publishers and other Government officials on the 23rd and 24th of May 2013 in Gaborone, the Authority made an impact on the criteria to ensure compliance with the Competition Act.

In particular, the Authority made the following specific contributions, that:

- (i) The DCDE should be wary of its relationship with publishers as they may end up influencing and propagating changes to the tendering requirements to suit their respective enterprises, and put them in a far much better position to win the tenders to the exclusion of other players in the market;
- (ii) The composition of committee members who undertake the textbook evaluation should be clearly defined. Teachers with the requisite number of teaching experience years should be included. More importantly, those teachers should not be authors, or publishers, or associated with any publishing company. This would ensure a very transparent and honest evaluation exercise as issues of conflict of interest and bias would not arise;
- (iii) After the Invitation to Tender is floated, all the potential bidders/players in the market should be invited for a clarification meeting. The Authority noted that DCDE had previously invited some players and excluded others from the clarification meeting, and therefore advocated for all enterprises to be invited to level the playing field; and
- (iv) The selection process of textbooks should be an inclusive exercise and should not be aimed at excluding any enterprise in the market. The most important function of DCDE is to procure the best, quality books at the best price.

## Cartels

The Authority also dealt with cartel cases in the review period. Some of the cases highlighted below made a positive impact on the country's economy, but are still ongoing and have not been concluded.

# Authority Intercepts Bid-rigging in a Central Transport Organisation Tender

In accordance with the MoU that was signed with PPADB and DCEC in 2011, the Authority received a referral of a case from DCEC that resulted in an investigations being conducted immediately. The investigations sought to determine whether two companies having common ownership namely; Landmark Projects (Pty) Ltd and Twinco Enterprises (Pty) Ltd trading as Master Joinery & Aluminium, had bid for the same products in one tender floated by the CTO.

Having considered the nature of the alleged conduct, a search warrant was obtained and the premises of the two companies were searched to obtain documents and information that were relevant to the investigation. During the investigation, the allegation of bid-rigging was confirmed, and the jointly owned enterprises admitted to having tendered for the supply of the same goods under the CTO Tender.

Immediately after the raid on the enterprises, the controlling shareholder entered into negotiations with the Authority, and an undertaking was concluded. Signing on behalf of the two companies, Mr Liu Bing, the owner and Director of both enterprises, confirmed that indeed the two companies were used to bid for the same CTO Tender worth about P1.3 million, and made a commitment on behalf of his companies to desist from bid-rigging in the future.

### Authority's Intervention in a Bid-rigging Case Saves the Government P3.6 Million Pula

A bid-rigging and market sharing agreement involving an international cartel was dismantled in a Botswana Police Service tender. The agreement, which sought to prevent the successful bidder from performing its obligations in terms of the contract signed with the Botswana Police Service, involved local company Kudu Communications (Pty) Ltd and Motorola Israel. Having conducted a raid on Kudu Communications, the Authority's officers recovered a considerable amount of information that confirmed the agreement to exclude competitors from the tender.

The intervention by the Authority culminated in the successful bidder, Nextlan (Pty) Ltd, being able to supply the Botswana Police Service and complete the required work. Having intervened in this way, the Authority saved the Government an amount of P3.6 million, which could otherwise have been lost by awarding the said tender to a cartel member.

# Authority's Intervention Leads to Competitive Pricing in the Panel Beating Industry

Pursuant to the conditions in section 35(1) (a) of the Competition Act, the Authority instituted an investigation against car panel beaters Carfil Services (Pty) Ltd, Specialised Panel Beaters (Pty) Ltd, Top Care (Pty) Ltd and Car World Auto Craft Shop (Pty) Ltd, after an observation that they had been taking advantage of the requirement for two or three quotations by insurance companies when submitting insurance claims on damaged vehicles.

Allegedly, the norm in the car panel beating industry was that the first panel beater to issue out a quotation was entitled to fix the vehicle, so a panel beater would normally source cover quotations from competitors and ensure that its quote is lower than those of the competitors (cover quotes). Eventually, the insurance company would settle for the panel beater with a lower quote, being the first enterprise to receive the request for quotations. The alleged conduct was so common that some panel beaters kept their competitors' quotation books within their premises for convenience. The applicable section 25(a) of the Act states that, "An enterprise shall not enter into a horizontal agreement with another enterprise to the extent that such agreement involves any of the following practices - (a) directly or indirectly fixing a purchase or selling price or any other trading conditions".

The Authority observed that the car panel beating enterprises were fixing prices by providing customers (owners of damaged vehicles) with cover quotations from competitors. Another applicable section is 25(e) as it states that "An enterprise shall not enter into a horizontal agreement with another enterprise to the extent that such agreement involves any of the following practices "a concerted practice.

The Authority considered that there was a concerted practice between the panel beaters as they had formally or informally reached an agreement which was intended to influence the conduct of the market. The matter was investigated and, upon completion, was referred to the Competition Commission.

Although the adjudication process has not been concluded, there are indications that the issuing of cover quotations in this sector has reduced as some, if not most of the vehicle panel beaters now only issue their quotations, and do not source cover quotations. In essence, this change of doing business by vehicle panel beaters will encourage competitive pricing, which will reduce inflated insurance claims costs and premiums.

### Cartel Cases Referred to the Competition Commission in 2013/14

During the period under review, six cases were referred to the Competition Commission for adjudication.

The first case before the Commission was an undertaking received from Ya Raheem Investments (Pty) Ltd, pursuant to section 47(1) of the Competition Act, in terms of which Ya Raheem admitted to engaging in bid-rigging in a Government Food Rations Tender No.8/3/4/2011-2013. The Undertaking that was given to the Authority by Ms. Nazneen Mhaisker, the

Director and owner of Ya Raheem Investments, confirmed that she had colluded with one of the Directors of Super Trading, Mr. Thirumal Rao Panja, to obtain confidential tender information which she used to bid for the Government of Botswana Food Rations Tender Number 8/3/4/2011-2013 for Gaborone, Kanye, Jwaneng, Letlhakeng, Mochudi, Hukuntsi and Tsabong. Mr. Panja had used Super Trading tender prices to prepare bids for Ya Raheem Investments for the same tender.

Having received the Undertaking, the Authority presented it to the Commission on 17th September 2013 to be endorsed as an order of the Commission. However, in its ruling, the Commission dismissed the application as it was of the view that there was no evidence to support the allegation of bid-rigging.

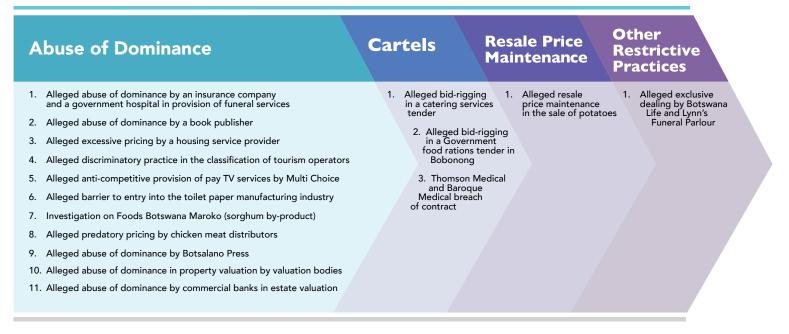
The second referral to the Commission involved five cases of alleged cartels in the panel beating industry. The conduct that was the subject of each of the five cases was that the panel beaters engaged in price-fixing and collusion which resulted in high costs for vehicle repairs. Once the cases were before the Commission, the panel beating companies raised various points in limine that had to be resolved before the case could to be heard on the merits.

In particular, the Respondents argued that the Commission could not afford them a fair hearing as it plays the role of investigator and adjudicator at the same time. They argued that the same people that govern the affairs of the Authority are the same people who sit to adjudicate cases investigated and prosecuted by the Authority.

On 13th November 2013, the Commission delivered a ruling on the point raised by the Respondents, dismissing their point, and holding that it was not conjoined to the Authority to the extent that it could be biased in adjudicating matters brought before it by the Authority. Since the ruling was delivered, Car World Auto Craft Shop (Pty) Ltd appealed the decision of the Commission to the High Court and the matter will hopefully be resolved during the 2014/15 financial year.

## **Cases Closed Due to the Absence of Competition Concerns**

A total of 16 cases were closed in the review period when no competition concerns were found after inquiry as indicated in Figure 1: Figure 1: Cases Closed Due to the Absence of Competition Concerns



### **Cases Closed Due to Insufficient Information**

Three cases were closed due to insufficient information as indicated below:

- (i) Allegation of refusal to supply mining equipment;
- (ii) Allegation of exclusive dealing in the supply of human resource consultancy; and
- (iii) Allegation of predation in pricing of tomatoes by a farmer.

### Cases Carried Forward to the 2014/15 Financial Year

A total of 34 cases will be carried forward to the 2014/15 financial year as investigations are still ongoing. Fourteen (14) involve cartels, two are for resale price maintenance, 15 for abuse of dominance, while three involve other restrictive practices.

The cases that will be carried forward to the 2014/15 financial year are illustrated in Figure 2:

Figure 2: Cases Carried Forward to the 2014/15 Financial Year

Abuse of Dominance	Cartels	Resale Price Maintenance
of hospital steam boilers 2. Investigation on abuse of dominance by First National Bank Botswana in the provision of conveyancing services 3. Investigation on abuse of dominance by medical aid schemes 4. Inquiry on exclusive dealing at UB Bookstore 5. Inquiry on excessive pricing by a gym services provider	<ol> <li>Investigation on bid-rigging in the Serowe/Palapye food rations tender</li> <li>Investigation on bid-rigging in the Ministry of Local Government tender for Tsabana and Malutu (fortified cereal supplements)</li> <li>Investigation on fixing of tariffs by health practitioners</li> </ol>	<ol> <li>Inquiry on resale price maintenance by an anchor supermarket in a shopping mall in Gaborone</li> <li>Investigation on resale price maintenance by medical aid providers</li> </ol>
<ol> <li>Inquiry on exclusive dealing for sale of water by bowsers</li> <li>Inquiry on the limiting of competition in the retailing and restaurant business by a landlord</li> <li>Inquiry on abuse of dominance by BTC in internet services</li> </ol>	<ol> <li>Investigation on bid-rigging in the Ministry of Local Government sugar beans tender</li> <li>Investigation on bid-rigging in the Ministry of Local Government infant formula tender</li> </ol>	Other Restrictive Practices
15. Inquiry on barrier to entry to property auctioneering by real estate bodies	<ol> <li>Investigation on market allocation by Thompson Medical and Baroque Medical on the supply of medical equipment to the Ministry of Health</li> <li>Investigation on bid-rigging in the Central Transport Organisation mobile offices tender</li> <li>Inquiry on market allocation in explosives for mining operations</li> <li>Inquiry on bid-rotation in a tender for the supply of a generator to the BDF</li> <li>Investigation on price-fixing by a petrol station</li> <li>Investigation on price-fixing by panel beaters</li> <li>Investigation on price-fixing and abuse of dominance by the Medical Practitioners Group</li> </ol>	<ol> <li>Investigation on a restrictive land covenant imposed by Engen Botswana</li> <li>Inquiry on discriminatory cement pricing by a cement supplier</li> <li>Inquiry on discriminatory conduct by retailers through the use of house brands</li> </ol>

### Summary of Anti-Competitive Cases Handled by the Authority in 2013/14

A total of 61 cases of anti-competitive conduct were handled by the Authority during the 2013/14 review period. Out of these cases, 28 were brought forward from 2012/13, while 33 were new cases received during 2013/14. During the period under review, 25 cases were closed without referral to the Competition Commission, while six were referred to the Commission. A total of 34 cases will be carried forward to the 2014/15 financial year as investigations are still ongoing.

The cases that were handled by the Authority during the period under review are summarised in Table 2:

Table 2: Summary of Anti-Competitive Cases Handled by the Authority from April 2013 to March 2014

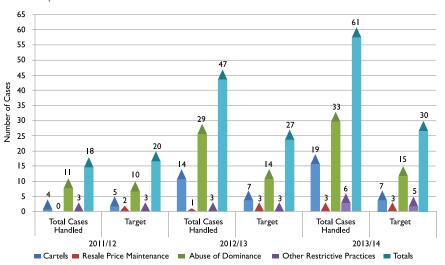
Type of Case	Cases Brought Forward in 2013/14	New Cases Received in 2013/14	Total Cases Handled in 2013/14	Cases Closed without Referral to the Commission in 2013/14	Cases Referred to the Commission	Cases Carried Forward to 2014/15
Cartels	11	8	19	5	6	8
Resale Price Maintenance	1	2	3	1	0	2
Abuse of Dominance	15	18	33	15	0	18
Other Restrictive Practices	1	5	6	4	0	2
Totals	28	33	61	25	6	30

## Targets and Trends of Anti-Competitive Cases Handled by the Authority from 2011 to 2014

The total number of cases handled by the Authority from April 2011 to March 2014 shows a steady increase in abuse of dominant position in the market followed by cartels. Cumulatively, from April 2011 to March 2014, the Authority's target was to handle 77 cases; but it actually handled 126 cases, which translated to 63.6% above its planned target.

Figure 3 depicts the targets and trends of the anti-competitive cases handled by the Authority from April 2011 to March 2014:

Figure 3: Targets and Trends of Anti-Competitive Cases Handled by the Authority from April 2011 to March 2014





# Legal and Enforcement

During the review period, the Authority, under Legal and Enforcement, dealt with cartel behaviour, with the objective of achieving an increase in the number of successful cartel prosecutions. The emphasis was on bid-rigging, given the substantial amount of money that the Government spends on procurement, and the adverse impact that bid-rigging has on the country's economy.

In terms of cooperation with sector regulators, the Authority concluded one MoU which was signed with NBFIRA. The Authority also made huge strides in cementing relations and cooperation with DCEC and PPADB under the MoU that was signed with them in 2011 through joint training sessions aimed at educating businesses and Government Tender Evaluation Committees on aspects of the Competition Act.

In addition, the Authority reached an important milestone by referring the first cases to the Commission for adjudication. The Authority continues to ensure that the investigation process is complied with and followed for cases to be referred to the Commission. Efforts to build and/or strengthen the ability to detect cartels were enhanced through workshops on the Leniency Policy.

During the year under review, a considerable number of achievements were reached that laid the foundation for future attainment of the goals of the Authority as indicated below:

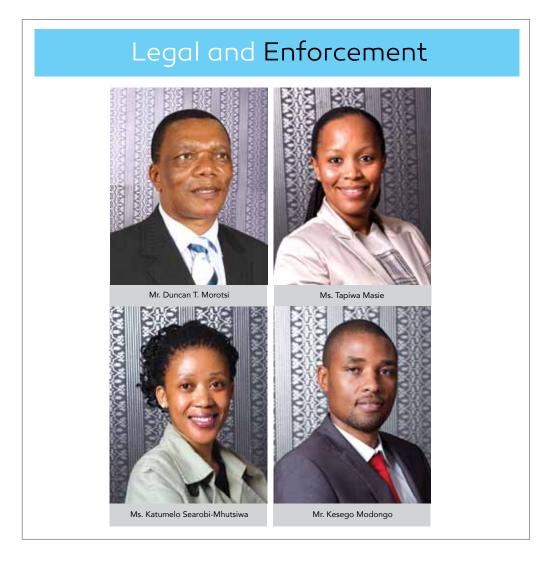
#### MoUs with Sector Regulators and Strategic Partners

One MoU was signed with NBFIRA on 11th September 2013. This brings the total number of MoUs that the Authority has concluded, to three. The aim of the MoUs is to ensure that there is a formal mechanism for cooperation with other sector regulators to avoid any conflict in the exercise of their respective responsibilities, particularly with regard to the enforcement of the Competition Act. Negotiations to conclude MoUs with BOCRA and BoB have started and will hopefully be completed in the 2014/15 financial year.

# Joint Training Workshops with DCEC and PPADB and Impact of the MoU

During the 2013/14 review period, the MoU with DCEC and PPADB bore fruit as the signatory parties shared a number of platforms to train MTCs, DATCs, private sector players and their employees on the mandates of the three institutions. The parties also jointly trained them on how to detect and prevent bid-rigging and corruption in public procurement.

Exceeding the set target of four training workshops for the current year, the Authority engaged with stakeholders in six sessions where they were trained on the principles of competition law and bid-rigging. These engagements resulted in not only referrals of cases from partners of the Authority, but also resulted in the Authority receiving complaints of anti-competitive practices from those that were trained.



During the review period, the Authority made the following joint presentations with its MoU partners:

- (i) Presentation on *Competition Law and the Publishing Industry* at a Botswana Publishers' Association Workshop which was held in Gaborone on 14th June 2013;
- (ii) Presentation at a PPADB Training Workshop on *How to Detect Bid-rigging in Government Tenders* which was organised for Landscaping and Gardening Service Providers in Gaborone on 20th September 2013;
- (iii) Presentation on *How to Detect Bid-rigging in Government Tenders* at a PPADB Workshop which was held on 25th September 2013 in Palapye for Northern Region District Administration Committees;
- (iv) Presentation on the Role and Mandate of the Competition Authority and the Competition Commission at a DCEC Induction Programme for New Employees which was held in Gaborone on 27th September 2013;
- (v) Presentation on *How to Detect Bid-rigging in Government Tenders* at a PPADB Workshop which was organised for District Administration Tender Committees from the Southern Districts in Gaborone on 13th November 2013; and
- (vi) Presentation on *Competition Issues in Public Procurement* at a PPADB Workshop which was organised for Ministerial Tender Committees in Gaborone on 3rd December 2013.

### **Applications for Exemption**

During the period under review, the Authority engaged businesses in Gaborone, Francistown and Ghanzi to help them understand the provisions on Exemptions under the Competition Act and how they can benefit particularly SMMEs. Section 5(2) (I) of the Act empowers the Authority to grant or refuse applications for exemption in terms of Part VI of the Act. Such exemption applications are made by enterprises that may be engaging in anti-competitive conduct, but wish to be permitted to do so considering the public benefit that could be derived from the prohibited conduct.

The assessment by the Authority of such applications considers whether an agreement that would ordinarily prevent or substantially lessen competition could be allowed to continue for a specified period of time on grounds that there will be offsetting benefits for the public directly attributable to the agreement. During the period under review, no applications for exemption were received by the Authority.

# Development and Implementation of the Leniency Policy

Following the development of the Leniency Policy in 2013, the Authority embarked on a strategy to take the policy to the people in an effort to encourage businesses to come forward and self-report their involvement in cartels. Awareness raising workshops on the Leniency Policy were organised for the business community in Gaborone, Ghanzi and Francistown. It is expected that the Leniency Policy will be gazetted in the next financial year to enable enterprises engaged in cartel behaviour to apply to the Authority for leniency.<sup>1</sup>

<sup>1</sup> The Leniency Policy was Gazetted on 21st June 2014.

# Training for Government Ministries on Detection and Prevention of Bid-Rigging

The Authority initiated a comprehensive and focused training programme for Tender Committees and Procuring Units in all Government Ministries, Independent Departments, Local Authorities and Parastatals in order to combat bid-rigging in public procurement. The PPADB was invited to impart knowledge to participants on preparation of tender documents to facilitate competition, while the DCEC shared their experiences on corruption in the tender process. Between October 2013 and November 2013, the Authority trained staff from ten Ministries on detection and prevention of bid-rigging.

The Ministries trained are: Defence, Justice and Security, Labour and Home Affairs, Transport and Communications, Infrastructure, Science and Technology, Energy and Water Resources, Finance and Development Planning, Foreign Affairs and International Cooperation, Environment, Wildlife and Tourism, Ministry of Health and State President.

### Investigation of Cases of Anti-competitive Conduct

During the period under review, 14 'Notices of Intention to Investigate' were issued by the Authority under section 35(2), giving enterprises suspected of engaging in prohibited practices notice that they will be investigated for breaching provisions of the Competition Act. The Notices called on enterprises to respond to the allegations against them, and provide the Authority with specific documentation required for the investigations. There were instances when the Authority entered and searched premises of some enterprises prior to giving the enterprises notice that they will be investigated. During the review period, six ex-post notices were issued by the Authority following raids. Prior to the conduct of a search and seizure operation, the Authority may obtain a search warrant from the Magistrates' Court authorising the entry and search of the premises mentioned in the warrant. It is, however, also permissible in terms of section 36(6) of the Competition Act for the Authority to enter and search the premises of an enterprise without a warrant, if the enterprise concerned consents to such entry. Four search warrants were obtained, while two searches were conducted without a warrant.

### **Referral of Cases to the Competition Commission**

Following investigations by the Authority, six cases of cartel conduct were referred to the Commission for prosecution. All these cases concerned the conduct of price-fixing and concerted practice undertaken by the twelve respondent companies who were brought before the commission.

The conduct involved the use of cover quotations in the auto body repairs market and thus fixing prices and dividing the customers between themselves with respect to the repairs of the auto mobiles in the Gaborone and the Greater Gaborone area. At the hearing, the respondents raised preliminary issues and challenged the impartiality of the Competition Commission and argued that, since the Commission was also the board of directors the Authority this relationship was too close and argued that they could not get a fair hearing.<sup>2</sup>

<sup>2</sup> On 13th November 2013 the Competition Commission delivered judgment on this issue and held, amongst other things, that the Commission was independent from the Authority.

## Mergers and Monopolies

The Mergers and Monopolies functions of the Authority are outlined under Part X of the Competition Act. To implement the Act, the Authority has developed guidelines on the assessment of mergers and the investigation on Abuse of Dominant Position cases. Under section 52 (1) of the Competition Act, a merger occurs when one or more enterprises directly or indirectly acquires or establishes direct or indirect control over the whole or part of the business of another enterprise.

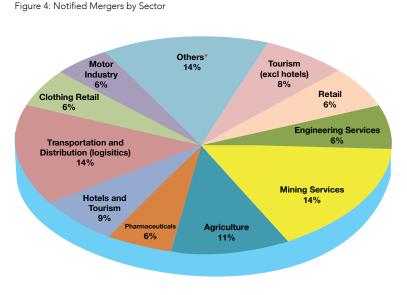
During the assessment of mergers in the year under review, the Authority achieved the following:

### **Merger Case Reviews**

The Authority considered 33 merger notifications in 2013/14. Out of these, four (4) cases, i.e, 12.1%, were notified following investigations by the Authority, which revealed that some mergers were implemented without notification. Despite the mergers having been implemented without notification, the Authority, as empowered by the Competition Act, retrospectively assessed and made a determination to the concerned parties regarding the transactions.

In 2013/14, most of the mergers notified to the Authority fell within the mining, transport and distribution industries, with each sector contributing 14% of the notified mergers. Notably, 60% of the notified mergers were from the mining and mining-related industry, involving transactions from diamond cutting and polishing enterprises. This could be attributed to the relocation of the Diamond Trading Company from London to Gaborone, Botswana.

Figure 4 shows the merger notifications by sector in the 2013/14 period:



\* Others includes manufacturing, financial, gym, shopping malls and IT service sectors



## **Trends in Merger Reviews**

The Authority made determinations on 33 proposed mergers against a target of 25; thus, 32% above target in 2013/14. Three mergers cases will be carried forward due to their date of determination falling within the 2014/15 financial year.

The merger trends from 2011 to 2014 are indicated in Table 3:

Table 3: Trends in Mergers Reviews from 2011 to 2014

MERGER CASES	2011/12	2012/13	2013/14
Notified	19	28	33
Brought Forward	-	8	3
Finalised/Determinations	11	33	33
Approved without Conditions	7	17	18
Approved with Conditions	3	15	15
Prohibited	1	1	0

Note: The target for 2011/12 was five, while 20 were targeted for 2012/13, and 25 targeted for 2013/14.

Out of the 33 merger cases that were determined in 2013/14, the Authority approved 18 without conditions and 15 with conditions. No merger case was prohibited, as substantial lessening of competition, dominance and public interest concerns were addressed with appropriate remedies and conditions. The mergers and acquisitions approved with conditions in 2013/14 are summarised in Table 4:

Table 4: Mergers and Acqusitions Approved with Conditions from April 2013 to March 2014

NO.	CASE NUMBER	SECTOR	ACQUIRING FIRM	TARGET FIRM	CONDITIONS
1.	MER/008/2013	Retail	Choppies Enterprises (Pty) Ltd	Supasave (Pty) Ltd and Megasave Pty) Ltd	Choppies should take over the two entities as going concerns, but should within a period of 5 years (from 2013), provide the Authority with a reasonable exit plan to divest from the target Supasave outlets which are within the vicinity of existing Choppies outlets in Mogoditshane, Broadhurst Extension 16, Gaborone Bus Rank, Gaborone West and Palapye.
2.	MER/034/2013	Retail	Mr. Mohamed Saleem Abdul Malique	Pay-Less Supermarket (Pty)The merged entity should cease its participation in the Choppie Group within six months from the date of the decision (21st Man and report to the Authority on how it has weaned itself from the group; Payless should, with immediate effect, desist from obtain loan facility or enter into cooperative or coordinated arrangeme a commercial nature with any of its competitors in the relevant r the merged entity should absorb the retrenched employees dure expansion process.	
3.	MER/019/2013	Retail	The Far Property Company	Stone House Investments	The businesses in which the shareholders of The Far Property Company have a direct or indirect interest, e.g., Choppies and Liquorama, shall not operate at the Mowana Shopping Centre in Phakalane, as long as such businesses are also present at this shopping centre. In the event that the businesses at the Mowana Shopping Centre that are in direct competition with Choppies and Liquorama vacate the Mowana Shopping Centre in Phakalane, The Far Property Company shall offer tenancy to other businesses in the same line of trade as those vacating.
4.	MER/025/2013	Retail	Leaping Eagles Investments (Woolworths Botswana)	Pinks Family Outfitters (Pty) Ltd	The merging parties should inform the Authority within one year how they intend to roll out the Good Business Journey Strategy in Botswana.
5.	MER/012/2013	Agriculture	Ross Africa Limited and AIDC	Master Farmer Feeds (Pty) Ltd	The merging parties should look for citizen partner(s) to purchase some or all the shares previously held by AIDC in Ross Africa and Master Farmer Feeds, and revert to the Authority within a period of 12 months.
6.	MER/015/2013	Agriculture	Mr. D. Gilbert	TS Chickens (Pty) Ltd trading as Moleps Poultry	TS Chickens should not enter into any collusive agreements with Goodwill Chickens/Bobbsies Chickens given the pre-merger relationship existing between them through some cross-shareholding.
7.	MER/0181/2013	Mining	SDDS	H&A Cutting Works Botswana	SDDS Botswana should take over all the Botswana citizen employees that are employed by H&A Cutting Works and also take over all the statutory and contractual liabilities of each transferring employee, including any outstanding leave, gratuities and pension.

NO.	CASE NUMBER	SECTOR	ACQUIRING FIRM	TARGET FIRM	CONDITIONS
8.	MER/031/2013	Mining	Kimberly Diamonds Limited	Lerala Diamond Mines Limited	Kimberly Diamonds Limited should initiate and enter into negotiations with the Government of Botswana to address the sale of diamonds in Botswana and make an effort to supply the local market.
9.	MER/001/2014	Mining	BCL Limited	Pula Steel and Casting Manufacturers (Pty) Ltd	Pula Steel and BCL Limited should not conclude exclusive supply agreements with any of the scrap metal suppliers in Botswana.
10.	MER/002/2014	Mining	Arjav Diamonds NV	Suashish Diamonds Botswana (Pty) Ltd	The merged entity should look for a suitable citizen to become a business partner in the future and revert to the Authority within 12 months with a status report.
11.	MER/027/2013	Mining	Trau Bros NV (Pty) Ltd	Lazare Kaplan Botswana (Pty) Ltd	The merged entity should look for citizen partner(s) to purchase some shares (minority or majority) in the merged entity and revert to the Authority within 12 months with a status report.
12.	MER/030/2013	Health and Fitness	Humaree Investments (Pty) Ltd trading as Jack's Gym	Steinart Investments (Pty) Ltd trading as Gym Active, Ntsatsi Holdings (Pty) Ltd trading as CNS Gym and Evolution (Pty) Ltd offering traditional gym activities	Jack's Gym should divest within 24 months the gym previously operating as Gym Active at Village, Gaborone, in order to reduce its concentration in Gaborone.
13.	MER/032/2013	Motor Industry	NTT Motors Heidelberg (Pty) Ltd	Broadhurst Motors (Pty) Ltd, Northern Truck Services (Pty) Ltd and R&R Motors (Pty) Ltd	The merged entity should look for citizen partner(s) to purchase some shares (minority or majority) in the merged entity and report to the Authority within 12 months.
14.	MER/014/2013	Motor Industry	Halfway Service Station (Pty) Ltd	Ngami Motors trading as Ngami Toyota	The merged entity should look for citizen partner(s) to purchase some shares in the merged entity; and report to the Authority within 12 months.
15.	MER/029/2013	Manufac turing	Mpact Ltd	Pyramid Holdings (Pty) Ltd	There should be no retrenchments on the Botswana side unless this is beyond the control of the organisation and efforts have been made to avoid the retrenchments; and the business belonging to Pyramid Holdings (Pty) Ltd should permanently remain a manufacturing business and not change into a sole distribution business.

## Mergers Approved Without Conditions in 2013/14

The 18 mergers in various sectors that were approved without conditions in the 2013/14 reporting period are as indicated in Table 5: Table 5: Mergers Approved Without Conditions in 2013/14

NO.	CASE NUMBER	SECTOR	MERGING PARTIES	
1.	MER/004/2013	IT Services	Comztek Holdings (Pty) Ltd and Datatec Ltd	
2.	MER/005/2013	Engineering Services	Professional Water Management Anticor (Pty) Ltd and Rolfes Holding Ltd	
3.	MER/006/2013	IT Services	RPC Data Ltd and Senior Management	
4.	MER/007/2013	Hotel and Tourism	Moremi Safaris (Pty) Ltd and Chobe Holdings Limited (Desert and Delta Safaris (Pty) Ltd)	
5.	MER/010/2013	Engineering Services	Aurecon Australia Group Limited and Aurecon Africa Ownership Trust	
6.	MER/011/2013	Mining	SMEI Projects Holdco (Investec Bank Limited), KDI Mining Solutions (Pty) Ltd and SMEI Projects Botswana (Pty) Ltd	
7.	MER/013/2013	Hotel and Tourism	FS Africa and Lonrho (Lansmore Hotel Masa Square)	
8.	MER/016/2013	Financial	Stockbrokers Botswana Ltd and Tsodilo Financial Services (Pty) Ltd	
9.	MER/017/2013	Transportation and Distribution (Logistics)	Barloworld Transport Solutions (Pty) Ltd and Barloworld Logistics Botswana Ltd	
10.	MER/018-2/2013	Construction	Newshelf 1261 (Pty) Ltd and Kwena Rocla (Pty) Ltd	
11.	MER/020/2013	Agriculture	Bobbsies Chickens (Pty) Ltd and one of its existing shareholders	
12.	MER/021/2013	Hotel and Tourism	Cresta Marakanelo (Pty) Ltd and United Promotional Enterprises	
13.	MER/023/2013	IT Services	BCD International and Ultimate Software	
14.	MER/024/2013	Transportation and Distribution (Logistics)	Fedex Corporation and Supaswift Botswana (Pty) Ltd	
15.	MER/026/2013	Transportation and Distribution (Logistics) Manufacturing	BOE Private Equity Investments (Pty) Ltd and Little Green Beverages (Pty) Ltd	
16.	MER/028/2013	Pharmaceuticals	Adcock Ingram Holdings Ltd and CFR Inversiones Spa	
17.	MER/033/2013	Agriculture	Suidwes Holdings and Agrinet Ltd	
18.	MER/022/2013	Transportation and Distribution (Logistics)	CA Sales Holdings (Pty) Ltd and SMC Brands SA (Pty) Ltd	

## Mergers Carried Forward to the 2014/15 Financial Year

The following merger cases will be carried forward to the 2014/15 financial year due to their date of determination falling within the 2014/15 financial year:

Table 6: Merger Cases Carried Forward to 2014/15

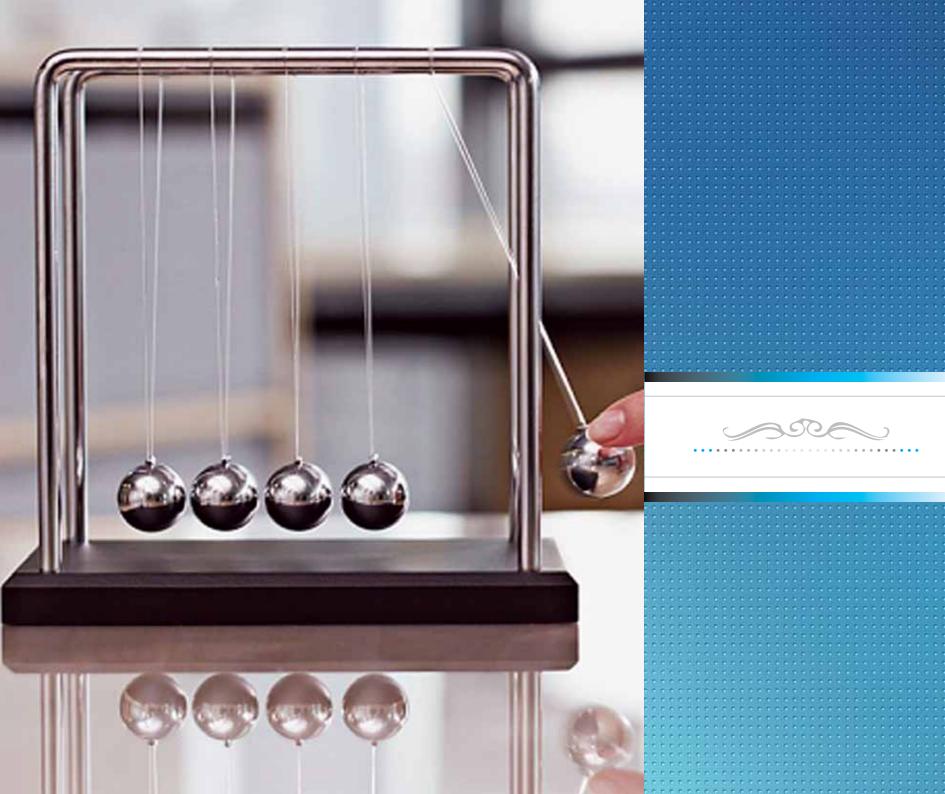
NO.	CASE NUMBER	SECTOR	ACQUIRING FIRM	TARGET FIRM
1.	MER/003/2014	Transportation and Distribution	Vector Logistics (Pty) Ltd	Senn Foods Logistics (Pty) Ltd
2.	MER/004/2014	Retail	Precious Possessions	JB Sports Group
3.	MER/005/2014	Pharmaceuticals	Global Holdings	Fine Pharmaceuticals

### Impact of the Assessed Mergers and Acquisitions

Through the assessment and review of some mergers and acquisitions in 2013/14, it is estimated that the Authority facilitated the injection of over P700 million into existing businesses in Botswana. It further facilitated technological and skills transfer, creation and retention of jobs, as well as citizen economic empowerment, by making approvals conditional on foreign acquirers of local firms partnering with Batswana.

About 2,000 new jobs are expected to be created from the implementation of the BCL Limited and Pula Steel merger, and 150 new jobs from the implementation of the Lerala Mine and Kimberly Diamond merger.

The approved mergers and acquisitions are further expected to create citizen employment opportunities and benefit customers through availability of wider product ranges, access to global support services and new market opportunities, as the merged entities expand further into Africa.



# **Competition and Research Analysis**

The Competition and Research Analysis functions of the Authority are primarily focused on investigation of restrictive business practices and conducting market inquiries and research. During the period under review, the Authority conducted market inquiries and research aimed at levelling the playing ground in the markets. The Authority was able to conduct two market inquiries and one nation-wide research study, and collected relevant data for decision making on competition issues.

During the period under review, the initiatives and achievements under Competition and Research Analysis were as follows:

## Local Research Retail Sector Study

The Retail Sector Study sought to evaluate or review some public concerns linked to dominant chain stores for out-competing general dealers through anti-competitive business practices. The study has been finalised and the preliminary report shows that independent traditional general dealer stores are closing down because they cannot withstand competition with large retail chain stores. The factors leading to the inability to withstand competition include lack of innovation, deficient management to adapt to the dynamic changing customer needs, lack of bargaining power and inability to access credit facilities.

Another factor highlighted in the preliminary report is that wholesalers trade as retailers and sell in single units instead of selling products in bulk in accordance with the licensing requirements. This has led to retailers complaining of encroachment by wholesalers on their market. Wholesalers, on the other hand, complained that retailers, especially chain supermarkets, by-pass them and buy directly from manufacturers and this leaves them with a very small market made up of very small scale retailers. Another common complaint coming from the business community during the study was that franchise owners, especially in the fast food industry, are unfair in granting franchises because master franchisors come up with conditions that block potential entrants.

# **Regional Research**

The Competition Authority, through the ACF, jointly compiled research findings on the Poultry and Cement sectors within SADC.

The Poultry Study Report was jointly compiled by Botswana, South Africa, Namibia and Zambia, while the Cement Study Report was jointly done by Botswana, South Africa, Zambia, Tanzania, Namibia and Kenya. The studies were conducted in response to cross-border market concentration and the frequency of complaints in these sectors.

The studies were carried out under the theme of Competition Dynamics and Regional Trade Flows, with the objective being to establish the links between competition and development across the six participating countries.

Botswana hosted a regional workshop for the ACF on the 23rd and 24th October 2013 in Gaborone to discuss preliminary results of the regional research projects. The final research findings will be officially presented in the next financial year.

# Competition and Research Analysis



# **Poultry Study**

The Poultry Study was also conducted under the auspices of the ACF. Preliminary results showed that Botswana imports almost all the ingredients of poultry feed involving maize and soya beans. Comparatively, the price of chicken in Botswana is higher than other countries which participated in the research.

Amongst the SADC countries that were involved in the study, Botswana is the only country that sells a kilogram of frozen chicken at a price above P26.00 (US\$3.00). Furthermore, the poultry industry in Botswana is protected with trade barriers at the border gates; and most respondents are of the view that the barriers should be dismantled to allow free and enhanced competition in the sector.

Researchers also looked at how SMMEs in the poultry sector in Botswana could be integrated with the few big players in the sector to reduce the wide margin between the two. The poultry sector is known to comprise, among others, a lot of SMMEs and can be a vehicle for poverty reduction if they are assisted to produce and sell their output.

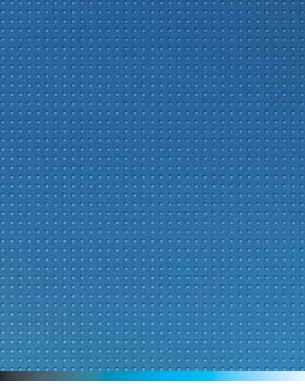
# **Cement Study**

The Cement study was also carried out under the auspices of the ACF. Research findings show that the cement market is highly concentrated with few companies dominating the sector, in all the six countries that participated in the study, including Botswana. The common barriers to entry to the cement sector identified were the high set-up costs and inaccessibility to main raw materials such as limestone and fly ash.

# Way Forward

In terms of section 5(2) (e) of the Competition Act, the Authority shall – "advise Government on the Actual or likely anticompetitive effects of current or proposed policies or legislation and where appropriate, how to avoid those effects" therefore, the findings and recommendations from the studies undertaken by the Authority in the year under review, will be discussed with the relevant stakeholders for action.





SCO



# Communications and Advocacy

The Authority continued with public education and stakeholder engagements in the period under review using various platforms and channels. In order to raise business and public awareness about the mandate of the Competition Authority and the Commission, the Authority engaged its stakeholders through various activities, which included publication of the Botswana Competition Bulletin. During this period, the distribution network of the e-newsletter reached over one-thousand targeted customers.

During the period under review, the initiatives and achievements under Communications and Advocacy were as follows:

# **Fairs and Exhibitions**

The Authority engaged in face-to-face public interactions through fairs and exhibitions, which included the BOCCIM Northern Trade Fair, the Global Expo and the Consumer Fair where the Authority was able to interact with the business community and the public.

# **Social Media**

The Authority extensively utilised social media platforms such as Facebook and Twitter. By 31st March 2014, the Authority's Facebook Page had 980 Likes, while there were 315 Twitter Followers. Out of these social media initiatives, various stakeholders consistently channelled their inquiries and complaints through the Authority's Facebook page.

# **National Competition Conference**

The Third Annual National Competition Conference was held in Maun on 13th March 2014 under the theme, *Competition and My* 

*Business.* The conference was officially opened by the Minister of Trade and Industry, Honourable Dorcas Makgato-Malesu, who explained the reasons why Government came up with a National Competition Policy.

The keynote address was delivered by the Executive Director of the Competition Commission of Mauritius, Ms. Nandine Meetarbhan, who gave an overview of how a competitive business environment benefits consumers. The Authority's CEO, Mr. Thula Kaira, updated the conference on the impact that the Authority had made in Botswana's economy since it started operating in April 2011.

# Media Workshop

For the first time, the Authority hosted a workshop for the media on 31st July 2013. The objective of the workshop was to enhance the media's understanding of Competition Policy and Law so as to enable them to report accurately, and to undertake critical analysis of competition law. The objective of the workshop was met, as 70% of the participants indicated during the evaluation that their understanding of competition law was enhanced.



### **Commemoration of World Competition Day**

The Authority commemorated World Competition Day on 5th December 2013 through a panel discussion titled, *The Impact of Cartels on the Poor.* Panellists were drawn from the CA, BIDPA and BOCCARO, a consumer advocacy organisation. The commemoration and panel discussion were widely reported in the media, thereby raising stakeholder awareness on the negative effects of cartels.

### **Engagement with Local Authorities**

The Authority continued to interact with local authorities and raise their awareness of the Competition Act. In the review period, the Authority briefed Tonota Sub-District Councillors on its role and mandate and that of the Commission on 6th March 2014.

The Kweneng District Council was briefed on 23rd May 2013 in Molepolole, while Ntlo ya Dikgosi (House of Chiefs) was

addressed on 20th June 2013 in Gaborone. The local authorities provided feedback on the key competition related issues in their communities, which enabled the Authority to tailor its advocacy activities accordingly.

# **Community Social Responsibility**

The Authority developed CSR Guidelines in the 2013/14 review period to effectively and fairly deal with the numerous requests for sponsorship and participation in community activities.

The guidelines are expected to provide a more effective and coordinated approach in dealing with such requests, and they are in line with the National Vision 2016 Pillar of a *Compassionate*, *Just and Caring Nation*.

# **Corporate Services**

The Corporate Services Department continued to provide effective support services under Financial Management, Human Resource, Procurement, IT and Documentation Administration aimed at ensuring that the Authority delivers its mandate in a cost-effective manner.

During the period under review, the initiatives and achievements under Corporate Services were as follows:

## **Human Resource**

The Authority understands that satisfied, highly-motivated and loyal employees represent the basis of a highly productive and effective organisation. In support of its strategic objectives and targets, the Authority undertook initiatives aimed at increasing staff morale and motivation, such as the development of the Retention Policy, Remuneration Policy and the Performance Based Reward Policy.

# Staff Complement

The Authority's organisational structure remained the same as in the previous financial year, with an establishment of 33, excluding the staff establishment for the yet to be established Francistown regional office. At the end of March 2014, the organisational head count stood at 32 with 17 (54.8%) males and 14 (45.2%) females. Out of this, 13 were support staff and 18 were technical staff directly involved in competition law enforcement.

The Authority also supported the Government's initiative of National Internship Programme by engaging nine Interns during the period under review. The Interns' academic qualifications included Law, Economics, IT, Finance, Procurement and Communications. In an attempt to help them gain industry relevant skills, the Authority deployed them in the Departments of Legal and Enforcement, Mergers and Monopolies, Competition and Research Analysis, Communications and Advocacy and Corporate Services.

# Staff Turnover

During the period under review, the Authority experienced a staff turnover rate of 6.6%, which was considered high compared to the previous financial year which had a 0% turnover rate.

Table 7: Staff Turnover Rate from 2011 to 2014	Table 7: St	aff Turnover	Rate from	2011 to	2014
--	-------------	--------------	-----------	---------	------

Year	Percentage Staff Turnover	Number of Terminations
2011/12	3.1%	1
2012/13	0%	0
2013/14	6.6%	2

# Staff Welfare

The Authority is fully committed to upholding its strategic values of Teamwork, Transparency, Integrity and Professionalism. The Authority continuously made an effort to inculcate these values through a number of initiatives, including team building, staff development and performance management.

The Authority held a number of team building activities, such as the staff retreat and staff awards with the aim of building strong relationships amongst team members and increasing staff morale. The second annual Competition Authority Wellness Day was held on 2nd August 2013 in Gaborone with the theme, "A Well and Sound Mind at Work". The annual event is aimed at promoting a healthy and stress free lifestyle amongst employees.

### **Job Satisfaction**

In order to monitor employee satisfaction levels and ensure that employees are engaged and committed to their work, the Authority undertook a Job Satisfaction Survey during the review period, which indicated a sound level of job satisfaction and engagement amongst staff members. The Authority will continuously monitor employee engagement and put in place human resource interventions that aim at increasing employee job satisfaction. The level of employee satisfaction and engagement has an impact on productivity and delivery of services to the stakeholders and the public.

### **Performance Management**

The Authority places emphasis on excellence and rewarding outstanding performance. To that end, the Competition Commission approved the Authority's Performance Management System which aims at increasing employee accountability, engagement and productivity through proper supervision and performance monitoring.

# **Training and Development**

In the quest to establish itself as a high performing organisation, the Authority identified 20 key skills required for higher performance. The skills acquired equipped the Authority employees with the necessary skills to effectively enforce the Competition Act.

The skills acquisition target is indicated in the table below:

Table 8: Skills Acquisition Target in 2013/14

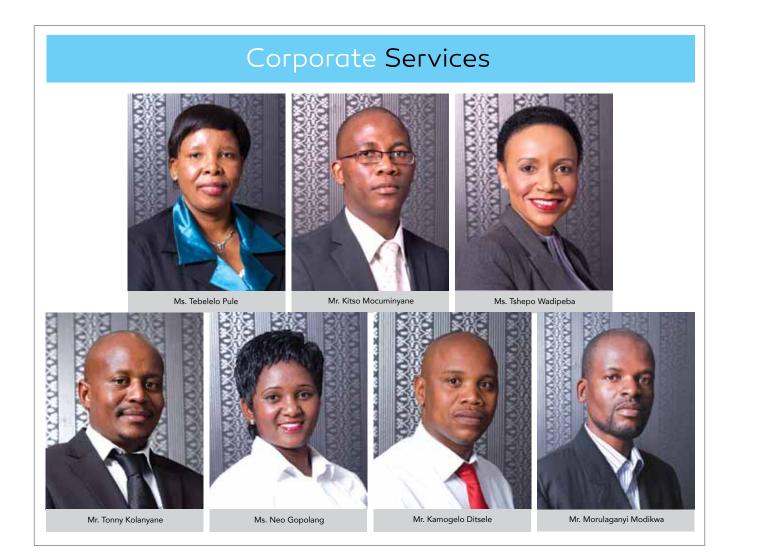
Skills Acquisition	Number
Targeted skills acquisition for 2013/14	20
Skills acquired in 2013/14	18
Skills not acquired in 2013/14	2

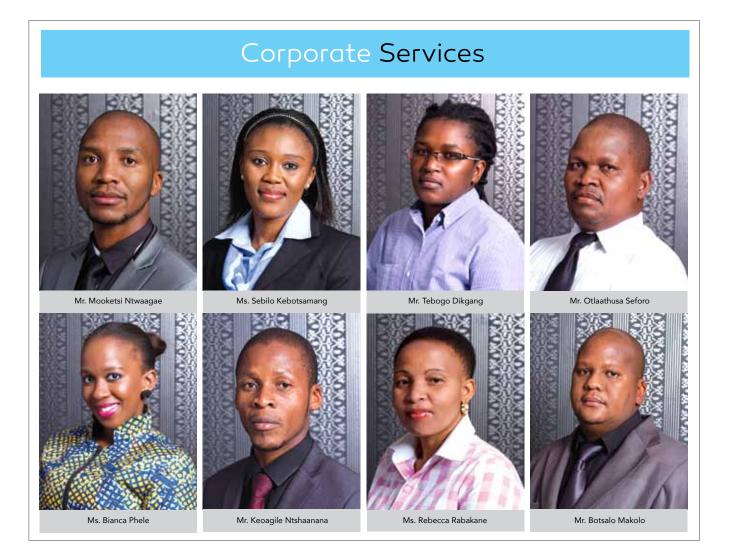
# Information Technology

In order to ensure speedy and reliable services to the business community and the public at large, the Authority has put in place an effective IT Infrastructure and also plans to streamline the Case Management System to improve consistency, security and confidentiality in investigation of cases.

# **Risk Management**

During the year under review, the outsourced Internal Auditors, KPMG, conducted a Strategic Analysis, Risk Assessment and Internal Audit Plan in conjunction with the Competition Authority.





The internal audit also focused on the following areas:

- (i) Government Framework Review;
- (ii) Internal controls review of the finance function;
- (iii) Computer audits, including IT security assessments; and
- (iv) Review and update the Fraud Prevention Plan.

Table 9: Identified Key Possible Risk Areas for the Competition Authority

NUMBER	IDENTIFIED POSSIBLE RISK AREAS
1.	Breach of Confidentiality
2.	Conflict of Interest
3.	Competition Authority not Aware of Infringements of the Competition Act by the Business Community
4.	Failure to Act on Reported Infringements
5.	Inappropriate Rejection or Approval of Merger Applications
6.	Inappropriate Conclusions of Investigations
7.	Due Process Not Followed Prior to Dawn Raids
8.	Unavailability of Credible Market/Industry Data
9.	Delays in Receiving Information from External Alliances
10.	Failure to Attract and Retain Best Talent
11.	Inadequate Staff Complement
12.	Failure to Meet Internal and Statutory Turnaround Times
13.	Internal Control Failure of Finance Function
14.	Information Systems Not Meeting Business User Requirements
15.	Loss of Data
16.	Inadequate Funding

Based on the results of the strategic analysis and the risk assessment, a three-year Internal Audit Risk Plan was approved by the Competition Commission to guide the Authority in its risk mitigation processes.

### **Procurement and Asset Maintenance**

The Corporate Services Department is also tasked with procuring goods and services for the Authority in accordance with the laid down TRPPs. The Authority's TRPPs are aligned to the PPADB Guidelines.

During the period under review, the Authority continued to implement the Government's EDD initiative through local procurement of goods and services. In order to be exemplary in complying with the provisions of the Competition Act, the Authority introduced the Anti-Collusion Certificate in under its tendering process as a measure to curb bid-rigging and collusive tendering.

### **Financial Management**

The financial provisions for the Competition Authority are stipulated under sections 21-24 of the Act. They include funding, preparation of accounts, the annual financial statements and the annual audit.

### **Financial Highlights**

The total operating expenditure for the year was P28 million. The budget was financed by Government subvention at P25 million, other income at P2 million; and Reserves at P1 million.

Figure 5 below shows the breakdown of the expenditure items (in Millions of Pula):

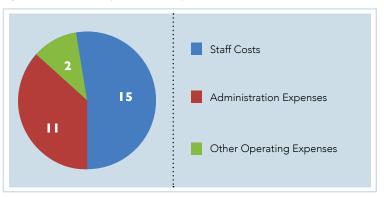


Figure 5: Breakdown of Expenditure from April 2013 to March 2014

# Challenges, Opportunities and Lessons Learnt

# Challenges

Investigation of cases of anti-competitive conduct by the Authority poses a number of challenges. The following are some of the operational challenges that are encountered by the Authority during the conduct of investigations:

Table 10: Challenges Encountered by the Authority in the Year under Review

Challenges	Initiatives to Address Challenge
Complainants lodging complaints and then refusing to support their complaints with information that would enable the Authority to conduct investigations. This, at times led to the closure of cases which on their face appeared to be breaches of the Act	The Authority will pursue matters that appear to be breaches of the Act without the complainant and take them on as Authority-initiated investigations
Delays or reluctance on the part of some Government Ministries and Independent Departments in providing information required for investigations	Follow up the concerned Ministries and Independent Departments with written requests for information and hold meetings with them wherein their views can be obtained and escalate the matter to the Permanent Secretary to the President (PSP) if information is still not availed
Lack of understanding or appreciation of the role and mandate of the Authority and the powers bestowed on it by the Competition Act by companies under investigation, which at times prevented the Authority from undertaking its statutory mandate	To educate businesses and Government officials on the investigative powers of the Authority to avoid obstructions to Authority work
Lack of readily available data in industries where there are no sector regulators	To engage sector regulators and stakeholders
Inadequate financial resources	To source funding for special projects from external partners
Inadequate staffing levels	To engage Inspectors as contained in the Act and where possible temporary employees to alleviate staff shortage

# **Opportunities**

During the period under review, the Authority interacted with a number of stakeholders including the public, the business community, Government Ministries, Independent Departments, other Parastatals and international bodies such as ACF, ICN and other competition bodies. Out of these interactions, the Authority identified some opportunities for improving the quality and relevance of impact on the economy. Some of the opportunities are identified below:

- (i) Cooperation and collaboration on issues such as research and investigations with other competition authorities and international bodies;
- (ii) Sharing of information on competition and other issues of mutual interest;
- (iii) Learning and growth, particularly on issues such as training or bench-marking;
- (iv) Learning from the public and the business community what their concerns and needs are and identifying the best ways to working in partnership with them to create relevant solutions;
- (v) Access to credible data and information through the signing of MoUs with sector regulators and other Government agencies;
- (vi) Access to information on transactions (e.g., mergers) that take place in contravention of the Act through collaborations with key players, such as the Registrar of Companies and Intellectual Property;
- (vii) Achieving wider public awareness of the mandates of the Authority and the Commission through participating in the planned events of other organisations;
- (viii) Effective implementation of the Leniency Policy to enable the Authority to successfully detect and redress cartel conduct;
- (ix) Access to funding and technical assistance from international bodies; and
- (x) Review of current fees and other avenues of income generation.

### **Lessons Learnt**

Having had the opportunity to engage the public, the business community, Government Ministries and Independent Departments in the year under review, the Authority received suggestions on areas of operational improvement. Additionally, having referred cases to the Commission, lessons were learnt that would help the Authority to improve investigations as well as due process.

Some lessons learnt include the following:

- (i) There is need to make more concerted efforts to educate the public on the powers bestowed on both the Authority and the Commission by the Act with a view to minimising negative public perceptions and creating greater public appreciation of the important role these two entities play in safeguarding competitive business practices in Botswana's economy, and promoting consumers' access to a wide choice of competitive goods and services;
- (ii) Considering the number of complaints and enquiries on Government food rations tenders, there is need to target all Councils to raise awareness on how they can detect and prevent bid-rigging during the procurement process;
- (iii) There is need to continue to raise awareness of the Leniency Policy to enhance the ability to detect cartels and successfully prosecute them;
- (iv) There is need to negotiate and conclude cooperation frameworks with relevant strategic partners to ensure accessibility of information the Authority may require when carrying out its investigations; and
- (v) There is need to carry out a nationwide survey on long-term exclusive agreements at shopping malls and their effect.

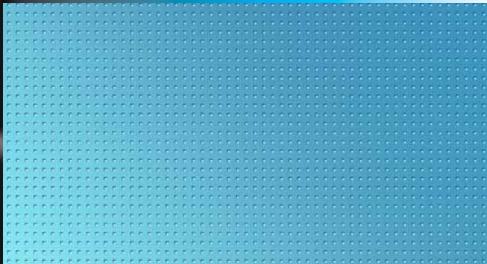
The Authority will, therefore, make every effort to adopt a continuous learning attitude so that it can competitively adapt to the constantly evolving business and economic environment in which it operates, and more cost-effectively make the desired impact in the economy.







Competition Authority Annual Financial Statements 31 March 2014



# Contents

# Page

Commissioners' Responsibility and Approval of Annual Financial Statements	56
Report of the Independent Auditors	57
Statement of Comprehensive Income	58
Statement of Financial Position	59
Statement of Changes in Funds	60
Statement of Cash Flows	61
Notes to the Annual Financial Statements 6	2-77

# Commissioners' Responsibility and Approval of Annual Financial Statements

The Competition Commission is responsible for the preparation of the Annual Financial Statements of the Competition Authority and all other information presented therewith. Their responsibility includes maintenance of financial records and the preparation of annual financial statements in accordance with the International Financial Reporting Standards and in the manner required by the Competition Act (Cap. 46:09).

The Competition Authority maintains systems of internal control, which are designed to provide reasonable assurance that the records accurately reflect its transactions and to provide protection against serious misuse of the Competition Authority's assets. According to Section 23 of the Competition Act (Cap. 46:09), the Competition Authority appoints the External Auditor, but the Competition Commission is also responsible for providing policy and reviewing the design, implementation, maintenance and monitoring of the systems of internal control.

The Independent Auditors are responsible for giving an independent opinion on the annual financial statements based on their audit of the affairs of the Competition Authority.

After making enquiries, the Competition Commission has no reason to believe that the Competition Authority will not be a going concern in the foreseeable future. For this reason, they continue to adopt the going concern basis in preparing these Annual Financial Statements based on forecasts, available cash resources and continued support of the Government of the Republic of Botswana.

The Competition Commission is satisfied that Management introduced and maintained adequate internal controls to ensure that dependable records exist for the preparation of the Annual Financial Statements, to safeguard the assets of the Competition Authority and to ensure that all transactions are duly authorised.

Against this background, the Competition Commission accepts responsibility for the Annual Financial Statements on pages 58 to 77, which were signed on its behalf by:

**Dr. Zein Kebonang** Chairperson of the Competition Commission



Markain

**Thulasoni G. Kaira** Chief Executive Officer of the Competition Authority and Secretary to the Competition Commission

# INDEPENDENT AUDITORS' REPORT TO THE MEMBERS OF THE COMPETITION COMMISSION

### Report on the financial statements

We have audited the accompanying financial statements of Competition Authority, which comprise the statement of financial position as at 31 March, 2014, and the statement of comprehensive income, statement of changes in funds and the statement of cashflows for the year then ended, and a summary of significant accounting policies and other explanatory information, as set out on pages 58 to 77.

### Competition Commissioners' responsibility for the financial statements

The Competition Commissioners are responsible for the preparation and fair presentation of these financial statements in accordance with International Financial Reporting Standards and in the manner required by the Competition Act, 2009 and for such internal control as the Competition Commissioners determine is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error. Auditors' responsibility

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with International Standards on Auditing. Those standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

### Opinion

Botswana

In our opinion, the financial statements give a true and fair view of, the financial position of the Competition Authority as at 31 March, 2014, and its financial performance and its cash flows for the year then ended in accordance with International Financial Reporting Standards, and in the manner required by the Competition Act, 2009.

Ernet + Young

Practicing Member: Thomas Chitambo (20030022) Certified Auditor 2nd Floor, Plot 22 Khama Crescent P O Box 41015 Gaborone

Gaborone 11 September 2014

STATEMENT OF COMPREHENSIVE INCOME

	<u>Notes</u>	March 2014 BWP	March 2013 BWP
REVENUE			
Government subvention	1	23,886,946	21,993,617
Amortisation of subvention relating to capital assets	16	1,458,074	1,210,162
Total grants revenue		25,345,020	23,203,779
Other Income			
Income from international partners		-	340,006
Merger fees	17	1,491,696	1,035,018
Sale of tender documents	17	10,500	1,250
Interest revenue	6	314,312	85,949
		1,816,508	1,462,223
Total Income		27,161,528	24,666,002
EXPENDITURE			
Staff costs	2	14,584,659	12,644,479
Consultancy costs	3	217,260	425,834
Administration expenses	4	11,552,088	6,733,553
Operating lease expenses	5	_2,121,751	1,502,364
		28,475,758	21,306,230
(Deficit) / Surplus for the year		(1,314,230)	3,359,772
Total Comprehensive (Loss) / Income		(1,314,230)	3,359,772
Other Comprehensive Income			

STATEMENT OF FINANCIAL POSITION

	Notes	March 2014 BWP	March 2013 BWP
ASSETS			
Non-Current Assets			
Plant and equipment	7	4,285,489	3,821,377
Current Assets			
Trade, other receivables and prepayments	8	3,061,926	1,105,504
Cash and cash equivalents	9	4,633,823	6,994,445
		7,695,749	8,099,949
Total Assets		11,981,238	11,921,326
FUNDS, RESERVES AND LIABILITIES			
Funds and Reserves			
Accumulated funds		5,177,629	6,491,858
Non - Current Liabilities			
Government subvention	16.1	2,407,573	2,611,215
		2,407,573	2,611,215
Current Liabilities			
Trade and other payables	10	1,141,681	195,717
Provisions	11	1,796,281	1,412,374
Government subvention	16.1	1,458,074	1,210,162
		4,396,036	2,818,253
Total Funds, Reserves and Liabilities		11,981,238	11,921,326

STATEMENT OF CHANGES IN FUNDS

	Accumulated Funds BWP	Total BWP
Balance at 01 April 2012	3,132,085	3,132,085
Total comprehensive income	3,359,773	3,359,773
Balance at 31 March 2013	6,491,858	6,491,858
Balance at 01 April 2013	6,491,858	6,491,858
Total Comprehensive loss for the year	(1,314,230)	-
Balance at 31 March 2014	5,177,628	6,491,858

STATEMENT OF CASH FLOWS

	<u>Notes</u>	March 2014 BWP	March 2013 BWP
CASH FLOWS FROM OPERATING ACTIVITIES:			
(Deficit) / Surplus for the year		(1,314,230)	3,359,772
Adjustments for:-			
Amortisation of Government subvention	16	(1,458,074)	(1,210,162)
Depreciation	4	1,563,034	1,210,162
Movement in provision for gratuity pay for the year	11.1	69,709	26,388
Movement in provision for leave pay for the year	11.2	363,302	533,930
Movement in provision for leave travel for the year	11.3	(49,103)	69,917
Cash (utilised) / generated by operations before working capital change	ges	(825,362)	3,990,007
Increase in trade and other receivables	8	(1,956,422)	(238,595)
Increase in trade and other payables	10	945,963	23,325
Net cash flows from operating activities		(1,835,821)	3,774,737
CASH FLOWS USED IN INVESTING ACTIVITIES:			
Purchase of plant and equipment for expansion	7	(2,027,145)	(797,303)
Net cash flows used in investment activities		(2,027,145)	(797,303)
CASH FLOWS FROM FINANCING ACTIVITIES:			
Government subvention	16	1,502,344	797,303
Net cash flows from financing activities		1,502,344	797,303
NET (DECREASE) / INCREASE IN CASH AND CASH EQUIVALEN	rs	(2,360,622)	3,774,737
CASH AND CASH EQUIVALENTS AT THE BEGINNING OF THE Y	EAR	6,994,445	3,219,708
CASH AND CASH EQUIVALENTS AT THE END OF THE YEAR	9	4,633,822	6,994,445

NOTES TO THE ANNUAL FINANCIAL STATEMENTS For the year ended 31 March 2014

# **Accounting Policies**

#### PRESENTATION OF FINANCIAL STATEMENTS

The financial statements have been prepared on a historical cost basis. All values are rounded to the nearest Pula (BWP 1) except when otherwise indicated.

#### STATEMENT OF COMPLIANCE

The financial statements have been prepared in accordance with the International Financial Reporting Standards (IFRS) and the Competition Act (Cap 46:09). Section 23(3)(d) of the Competition Act (Cap 46:09), requires that reference be made to the fact that the financial statements have been prepared in a manner consistent with prior periods, except, for the adoption of the new or revised standards.

#### SIGNIFICANT ACCOUNTING JUDGEMENTS AND ESTIMATES

The preparation of the financial statements is in conformity with the IFRS, which requires the use of certain critical accounting estimates and judgements concerning the future. Estimates and judgements are continually evaluated and are based on historical factors coupled with expectations about future events that are considered reasonable. The estimation is based on management's best judgement. There are no areas of estimation or judgement that have a significant risk of causing material adjustments to the carrying amounts of assets and liabilities in the current year.

#### PLANT AND EQUIPMENT

All plant and equipment are measured at historical cost less depreciation and impairment losses. Historical cost includes expenditure that is directly attributable to the acquisition of the items.

Depreciation is charged so as to write off the cost of the assets over their estimated useful lives, to estimated residual values. Where significant parts of an item have different useful lives to the item itself, these parts are depreciated separately over their estimated useful lives. The methods of depreciation, useful lives and residual values are reviewed annually, with the effect of any change in estimates accounted for prospectively.

The following rates were used during the period to depreciate plant and equipment on a straight line basis to estimated residual values:

Furniture and Fittings	10 - 20%
Motor Vehicles	20%
Computer Equipment	20 - 25%

An item of plant and equipment is derecognised upon disposal or when no future economic benefits are expected from its use or disposal. Any gain or loss arising on derecognition of the asset (calculated as the difference between the net disposal proceeds and the carrying amount of the asset) is included in surplus or deficit in the period the asset is derecognised.

NOTES TO THE ANNUAL FINANCIAL STATEMENTS For the year ended 31 March 2014

# **Accounting Policies**

#### **IMPAIRMENT OF NON-FINANCIAL ASSETS**

At each reporting date, the Authority assesses whether there is any indication that assets are impaired. If any such indication exists for any asset, the recoverable amount of the asset is estimated in order to determine the extent of the impairment loss. Where an asset does not generate cash flows that are largely independent of those of other assets or group of assets, the recoverable amount is determined for the cash generating unit to which the asset belongs.

Recoverable amount is the higher of fair value less costs to sell and value in use. Fair value is determined by the market values relating to the asset and the related costs to sell. In assessing value in use, the estimated future cash flows are discounted to their present value using a discount rate that reflects current market assessments of the time value of money and the risks specific to the asset.

If the recoverable amount of an asset (or cash-generating unit) is estimated to be less than its carrying amount, its carrying amount is reduced to its recoverable amount. Impairment losses are recognised in the surplus or deficit in those expense categories consistent with the function of the impaired asset.

Where an impairment loss subsequently reverses, the carrying amount of the asset (or cash-generating-unit) is increased to the revised estimate of its recoverable amount. This increased carrying amount does not exceed the carrying amount that would have been determined had no impairment loss been recognised in prior years. A reversal of an impairment loss is recognised in surplus or deficit.

#### **REVENUE RECOGNITION**

Revenue is recognised to the extent that it is probable that economic benefits will flow to the Competition Authority while government grants are recognised where there is reasonable assurance that the grant will be received and all attached conditions will be complied with. When the grant relates to an expense item, it is recognised as income over the period necessary to match the grant on a systematic basis to the costs that it is intended to compensate. Where the grant relates to the purchase of an asset, it is recognised as capital grant in the statement of financial position and released to the surplus or deficit as income in equal amounts over the expected useful life of the related asset.

#### **OTHER INCOME**

#### **Merger Fees**

Merger fees are recognised when it is probable that the merger notified for the approval of the Authority as stipulated in section 56(1) of the Competition Act meets the threshold in Regulation 20 of the Competition Regulations as read with section 54 of the Competition Act. The threshold for merger notification is satisfied when either the turnover or asset value of the target enterprise is more than BWP10 million or the combined market share of the merging enterprises is 20% or more. It is also required under Regulation 16(2) that a merger shall be accompanied by a merger fee of 0.01 percent of the merging enterprises' combined turnover or assets in Botswana, whichever is higher.

NOTES TO THE ANNUAL FINANCIAL STATEMENTS For the year ended 31 March 2014

# **Accounting Policies**

#### **Interest Income**

Interest income is recognised as it accrues (using the effective interest rate). Interest is recognised under other revenues in the statement of comprehensive income.

#### Sale of Tender Documents

Tender fees are recognised when payment is received from the bidders.

#### **Income from International Partners**

Income is recognised when there has been an approval of funding and upon receipt of the funds by the Competition Authority.

#### **EMPLOYMENT BENEFITS**

#### Pension

For eligible permanent and pensionable employees, the Competition Authority operates a defined contribution scheme for the employees. Payments to the scheme are charged as an expense to the statement of comprehensive income as they fall due.

#### Gratuity

For contract employees, the Competition Authority pays gratuity in accordance with the respective contracts of employment. The Commission passed a resolution that gratuity earned can be paid annually, or the contractual employee may opt that gratuity be deferred and settled at the end of the contract.

#### Leave Pay Provision

The Competition Authority recognises, in full, employees' rights to annual leave entitlement in respect of past service. The recognition is made each year and is calculated based on accrued leave days not taken during the year. The charge is made to expenses in the surplus or deficit and a separate provision is made in the Statement of Financial Position.

#### **FINANCIAL INSTRUMENTS**

## Financial Assets

#### **Initial Recognition**

Financial assets within the scope of IAS 39 are classified as loans and receivables. When financial assets are recognised initially, they are measured at fair value, including transaction costs.

All regular way purchases and sales of financial assets are recognised on the trade date, which is the date that the Competition Authority commits to purchase the asset. The Competition Authority's financial assets include cash and cash equivalents as well as trade and other receivables. Gains and losses on disposal of financial assets are recognised in the Statement of Comprehensive Income under Other Income.

NOTES TO THE ANNUAL FINANCIAL STATEMENTS For the year ended 31 March 2014

# **Accounting Policies**

#### **Subsequent Measurement**

The subsequent measurement of financial assets depends on their classification as follows:

#### Loans and receivables

Loans and receivables are non-derivative financial assets with fixed or determinable payments that are not quoted in an active market. After initial measurement, loans and receivables are carried at amortised cost using the effective interest rate method less any impairment. Gains and losses are recognised in surplus or deficit when the loans and receivables are derecognised or impaired, as well as through the amortisation process. Gains are shown in the statement of comprehensive income under other operating income, while losses are shown under other operating expenses.

Loans and receivables consist of trade and other receivables, and cash and cash equivalents.

#### Cash and cash equivalents

For the purpose of the statement of cash flows, cash and cash equivalents consist of cash and deposits on call in banks. Cash and cash equivalents are subsequently carried at amortised cost. Due to the short-term nature of these, the amortised cost approximates their fair value.

#### **Impairment of Financial Assets**

The Competition Authority assesses at each reporting date whether there are indicators that a financial asset or group of financial assets may be impaired such as default of payment by receivable and liquidation of receivable, etc.

If there is objective evidence that an impairment loss on assets carried at amortised cost has been incurred, the amount of the loss is measured as the difference between the asset's carrying amount and the present value of estimated future cash flows (excluding future expected credit losses that have not been incurred) discounted at the financial asset's original effective interest rate (i.e., the effective interest rate computed at initial recognition). The Competition Authority first assesses whether objective evidence of impairment exists individually for financial assets that are individually significant, and individually or collectively for financial assets that are not individually significant. If the Competition Authority determines that no objective evidence of impairment exists for an individually assessed financial asset, whether significant or not, it includes the asset in a group of financial assets with similar credit risk characteristics and collectively assesses them for impairment. Assets that are individually assessed for impairment and for which an impairment loss is or continues to be recognised are not included in a collective assessment of impairment.

If, in a subsequent period, the amount of the impairment loss decreases and the decrease can be related objectively to an event occurring after the impairment was recognised, the previously recognised impairment loss is reversed. The reversal should not result in a carrying amount that exceeds what the amortised cost would have been had no impairment loss been recognised at the date the impairment is reversed. Any subsequent reversal of an impairment loss is recognised in surplus or deficit. If there is evidence (such as the probability of insolvency or significant financial difficulties of the debtor) that the Authority will not be able to collect all of the amounts due under the original terms of the invoice, the carrying amount of the receivable is reduced through the use of an allowance account. Loans and receivables are written off, together with the related allowance, when they are assessed as uncollectable.

NOTES TO THE ANNUAL FINANCIAL STATEMENTS For the year ended 31 March 2014

# **Accounting Policies**

#### Financial Liabilities Initial Recognition

Financial liabilities within the scope of IAS 39 are classified as loans and borrowings. The Competition Authority determines the classification of its financial liabilities on initial recognition.

Loans and borrowings are initially measured at fair value, net of directly attributable transaction costs. Subsequent to initial recognition, they are measured at amortised cost using the effective interest method. Gains and losses are recognised in the statement of comprehensive income under other income and administration expenses, respectively.

The Competition Authority's financial liabilities include trade and other payables of short term nature.

### **Derecognition of Financial Instruments**

#### **Financial Assets**

A financial asset (or, where applicable, a part of a financial asset or part of a group of similar financial assets) is derecognised when:

- The rights to receive cash flows from the asset have expired; or
- The Competition Authority has transferred its rights to receive cash flows from the asset or has assumed an obligation to pay the received

cash flows in full without material delay to a third party under a 'pass-through' arrangement; and either (a) the Competition Authority has transferred substantially all the risks and rewards of the asset, or (b) the Competition Authority has neither transferred nor retained substantially all the risks and rewards of the asset, but has transferred control of the asset.

When the Competition Authority has transferred its rights to receive cash flows from an asset or has entered into a pass-through arrangement, and has neither transferred nor retained substantially all the risks and rewards of the asset nor transferred control of the asset, the asset is recognised to the extent of the Competition Authority's continuing involvement in the asset.

In that case, the Competition Authority also recognises an associated liability. The transferred asset and the associated liability are measured on a basis that reflects the rights and obligations that the Competition Authority has retained. Continuing involvement that takes the form of a guarantee over the transferred asset is measured at the lower of the original carrying amount of the asset and the maximum amount of consideration that the Competition Authority could be required to repay.

#### **Financial Liabilities**

A financial liability is derecognised when the obligation under the liability is discharged or cancelled or expires. When an existing financial liability is replaced by another from the same lender on substantially different terms, or the terms of an existing liability are substantially modified, such an exchange or modification is treated as a derecognition of the original liability and the recognition of a new liability, and the difference in the respective carrying amounts is recognised in the surplus or deficit.

NOTES TO THE ANNUAL FINANCIAL STATEMENTS For the year ended 31 March 2014

# **Accounting Policies**

#### PROVISIONS

Provisions are recognised when the Competition Authority has a present legal or constructive obligation as a result of past events, it is probable that an outflow of resources will be required to settle the obligation, and a reliable estimate of the amount can be made. Provisions are measured at management's best estimate of expenditure required to settle the obligation at the reporting date, and are discounted to present value where the effect of the time value of money is material. When discounting is used, the increase in the provision due to the passage of time is recognised as finance costs.

#### LEASES (Where the Competition Authority is a Lessee)

#### **Operating Leases**

An operating lease is the one in which all the risks and benefits of ownership are effectively retained by the lessor. Operating lease payments are recognised as an expense in the statement of comprehensive income on the straight line basis over the lease period.

### CHANGE IN ACCOUNTING POLICIES

The annual financial statements have been prepared in accordance with the International Financial Reporting Standards on a basis consistent with prior year, except for the adoption of the following new or revised standards.

The Competition Authority has adopted the following new and amended International Financial Reporting Standards (IFRS) and International Financial Reporting Interpretation Committee (IFRIC) interpretations during the period. Adoption of these revised standards and interpretations did not have any financial effect on the financial statements of the Competition Authority. They did, however, give rise to additional disclosures, including in some cases, revisions to accounting policies. Only those amendments that may have an impact on the Competition Authority have been disclosed.

#### New and Amended Standards and Interpretations

The accounting policies adopted are consistent with those of the previous financial year, except for the following amendments to IFRS effective as of 1 January 2013:

- IAS 1 Presentation of Items of Other comprehensive Income;
- IFRS 7 Disclosures offsetting financial assets and financial liabilities;
- IFRS 12 Disclosures of Interests in Other Entities;
- IFRS 13 Fair Value Measurement; and
- IAS 19 Employee Benefits.

NOTES TO THE ANNUAL FINANCIAL STATEMENTS For the year ended 31 March 2014

# **Accounting Policies**

The amendments to the standards are described below:

#### IAS 1 Presentation of Items of Other Comprehensive Income

The amendments to IAS 1 change the grouping of items presented in Other Comprehensive Income (OCI). Items that could be reclassified (or 'recycled') to profit and loss at a future time (for example, upon derecognition or settlement) would be presented separately from items that will never be reclassified. The amendment does not change the nature of items that are currently recognised in OCI, nor does it impact the determination of whether items of OCI are reclassified through profit or loss in future periods. The amendment is effective for annual periods beginning on or after 1 July 2012. The Authority did not have items of Other Comprehensive Income and is therefore not affected by the amendment.

#### IFRS 7 Disclosures – Offsetting Financial Assets and Financial Liabilities

The International Accounting Standards Board (IASB) issued an amendment to the disclosure requirements in IFRS 7 Financial Instruments: Disclosure. The amendment requires information about all recognised financial instruments that are set off in accordance with paragraph 42 of IAS 32. The amendment is effective for annual periods beginning on or after 1 January 2013. The amendment had no impact on the disclosure presented by the Authority.

#### **IFRS 12 Disclosures of Interests in Other Entities**

IFRS 12 includes all the disclosures that are required relating to an entity's interests in subsidiaries, joint arrangements, associates and structured entities. An entity is now required to disclose the judgments made to determine whether it controls another entity.

#### IFRS 13 Fair Value Measurement

IFRS 13 provides guidance on how to measure fair value of financial and non-financial assets and liabilities when fair value measurement is required or permitted by IFRS.

#### **IAS 19 Employee Benefits**

The distinction between short-term and other long-term employee benefits is now based on expected timing of settlement rather than employee entitlement. Changes in the carrying amount of liabilities for other long-term employment benefits will continue to be recognised in profit or loss.

#### Standards issued, but not yet effective

The standards and interpretations that are issued, but not yet effective, up to the date of issuance of the Authority's financial statements are disclosed below. The Authority intends to adopt these standards, if applicable, when they become effective.

#### **IFRS 9** Financial Instruments: Classification and Measurement

IFRS 9, as issued, reflects the first phase of the IASB's work on the replacement of IAS 39 and applies to classification and measurement of financial assets and financial liabilities, as well as hedge accounting. IFRS 9 does yet have a mandatory effective date, but early adoption is allowed. A mandatory effective date will be set when the IASB completes the impairment phase of the project. At its February 2014, meeting the IASB tentatively decided that the mandatory effective date of IFRS 9 will be for annual periods beginning on or after 1 January 2018. The adoption of the first phase of IFRS 9 will have an effect on the classification and measurement of the Authority's financial assets, but will not have an impact on classification and measurements of financial liabilities. The Authority will quantify the effect in conjunction with the other phases, when the final standard, including all phases, is issued.

NOTES TO THE ANNUAL FINANCIAL STATEMENTS For the year ended 31 March 2014

# **Accounting Policies**

#### **IFRIC 21 Levies**

The interpretation clarifies that an entity recognises a liability for a levy when the activity that triggers payment, as identified by the relevant legislation, occurs. It also clarifies that a levy liability is accrued progressively only if the activity that triggers payment occurs over a period of time, in accordance with the relevant legislation. For a levy that is triggered upon reaching a minimum threshold, the interpretation clarifies that no liability should be recognised before the specified minimum threshold is reached. The interpretation is effective for annual periods beginning on or after 1 January 2014, with early application permitted. Retrospective application of this interpretation is required. The new interpretation will not have an impact on the Authority.

#### IAS 36 Recoverable Amount Disclosures for Non-Financial Assets (Amendment)

The overall effect of the amendment is to reduce the circumstances in which the recoverable amount of assets or cash-generating units is required to be disclosed, clarify the disclosures required, and to introduce an explicit requirement to disclose the discount rate used in determining impairment (or reversals) where the recoverable amount (based on fair value less costs of disposal) is determined using a present value technique. The amendments apply on a retrospective basis for annual periods beginning on or after 1 January 2014. These amendments will not have an impact on the Authority's financial position or performance.

#### **IFRS 15 Revenue from Contracts with Customers**

IFRS 15 Revenue from Contracts with Customers replaces IAS 11 Construction Contracts and IAS 18 Revenue and related interpretations. IFRS 15 specifies the accounting treatment for all revenue arising from contracts with customers. It applies to all entities that enter into contracts to provide goods or services to their customers, unless the contracts are in the scope of other IFRSs, such as IAS 17 Leases. The standard also provides a model for the measurement and recognition of gains and losses on the sale of certain non-financial assets, such as property or equipment. Extensive disclosures will be required, including disaggregation of total revenue; information about performance obligations; changes in contract asset and liability account balances between periods and key judgements and estimates. The Authority has not yet determined the impact that the new standard will have. This standard is effective for periods commencing on or after 1 January 2017.

#### IAS 16 and IAS 38 Clarification of Acceptable Methods of Depreciation and Amortisation

The IASB issued amendments to IAS 16 Property, Plant and Equipment and IAS 38 Intangible Assets prohibiting the use of revenue-based depreciation methods for fixed assets and limiting the use of revenue-based amortisation methods for intangible assets. The amendments are effective prospectively and will not have an impact on the Authority. These amendments are applicable for periods commencing on or after 1 January 2016.

NOTES TO THE ANNUAL FINANCIAL STATEMENTS

For the year ended 31 March 2014

			Notes	2014 BWP	2013 BWP
1	<b>GOVERNMENT SUBVENTION</b> Revenue/subvention received from the Government of the Republic of Botswana Capital grants received from the Government of the Republic of Botswana Total Government Subvention Received		16	23,886,946 1,502,344 25,389,290	21,993,617 797,303 22,790,920
	There were no unfulfilled conditions or contingencies attached to these income and capi	ital grants.			
2	STAFF COSTS				
	Basic salaries Allowances Defined contribution plan expense Contract Gratuity			9,390,637 3,338,515 954,758 900,749 14,584,659	8,029,469 2,990,654 765,015 <u>859,341</u> 12,644,479
3	CONSULTANCY COSTS Human resources consultancies	A		75,350	247,921
	Development of rules & regulations of the Competition Commission & the Competition / Hardware support charges	Authority			177,913  425,834
4	ADMINISTRATION EXPENSES				<u>.</u>
	- Motor vehicle 394	<b>2014</b> 4,636	<b>2013</b> 319,544	1,251,041 101,334 188,048 59,209 80,430 641,695	785,986 77,386 25,621 103,150 -
		6,803 1,595	625,939 264,679	1,563,034 750,965 305,665 1,453,034 154,053 4,015,844 855,846 16,500 115,389	1,210,162 42,743 298,495 610,835 299,154 2,572,943 587,150 119,926
	Staff related costs include recruitments, training, travel, seminars, etc.			11,552,088	6,733,552
5	OPERATING LEASE EXPENSES				
	Office and household rental			2,121,751	1,502,364

8

NOTES TO THE ANNUAL FINANCIAL STATEMENTS

For the year ended 31 March 2014

6	INTEREST REVENUE Interest Revenue of Bank Deposits			2014 BWP 314,312	2013 BWP 85,949
7.	PLANT AND EQUIPMENT				
		Furniture	Motor	Computer	<b>T</b>

	& Fittings	Vehicles	Equipment	Total
2014 COST	BWP	BWP	BWP	BWP
At 31 March 2013	1,974,733	1,597,721	2,503,756	6,076,210
Additions for the period	_1,208,231	375,459	443,455	_2,027,145
At 31 March 2014	3,182,964	1,973,180	2,947,211	8,103,355
ACCUMULATED DEPRECIATION				
At 31 March 2013 Depreciation	483,317 431,595	598,973 94,636	1,172,542 736,803	2,254,832 1,563,034
At 31 March 2014	914,912	993,609	1,909,345	3,817,866
CARRYING AMOUNT				
At 31 March 2014	2,268,053	979,571	1,037,865	4,285,489
	Furniture	Motor	Computer	
2013	& Fittings BWP	Vehicles BWP	Equipment BWP	Total BWP
COST	BWYP	DVVP	DWP	DWP
At 31 March 2012	1,695,351	1,397,145	2,186,410	5,278,906
Additions for the period		200,577	317,345	797,303
At 31 March 2013	1,974,733	1,597,722	2,503,755	6,076,209
ACCUMULATED DEPRECIATION				
At 31 March 2012	218,639	279,429	546,602	1,044,670
Depreciation At 31 March 2013	<u>264,679</u> 483,318	<u>319,544</u> 598,973	<u>625,939</u> 1,172,541	<u>1,210,162</u> 2,254,832
	403,510		1,172,341	2,234,032
CARRYING AMOUNT				
At 31 March 2013		998,748	1,331,214	3,821,377
TRADE, OTHER RECEIVABLES AND PREPAYMENTS			2014	2013
Staff advances			BWP	BWP
Allowance for impairment			167,756	400,171
Allowance for impairment			167,756	400,171
Trade receivables and prepayments			2,213,862	228,100
Operating lease asset			-	21,740
Other receivables (VAT recoverable)			<u>680,308</u> <u>3,061,926</u>	<u>455,493</u> 1,105,504
			3,001,920	1,103,304

Prepayments mainly consist of rental, utilities and insurance paid for in advance

Other receivables are VAT recoverable amounts. Staff advances are receivable over six months for advances and twenty four months for training advance and do not attract any interest.

NOTES TO THE ANNUAL FINANCIAL STATEMENTS

For the year ended 31 March 2014

		March 2014	March 2013
9	CASH AND CASH EQUIVALENTS	BWP	BWP
	Fixed deposit Call Current Cash on hand	3,529,782 1,103,465 576 4,633,823	3,533,729 2,977,931 477,785 5,000 <u>6,994,445</u>
	A sweeping arrangement is in place for the call account with Standard Chartered Bank. Fixed deposit is a 91 day short-term investment.		
10	TRADE AND OTHER PAYABLES Accruals Audit Fees Subvention recovery Operating lease liability	492,176 109,760 14,372 525,373 1,141,681	104,513 76,832 14,372 - 195,717
	Other payables are non-interest bearing and have an average term of three months. Subvention recovery is the cost paid by the Government on behalf of the Authority and is recoverable from the subvention.		
	Audit fee provision is based on the terms of the engagement letter. It is payable in stages with the last payment due on delivery of the signed financial statements.		
11	PROVISIONS		
11.1	Gratuity		
	Opening balance Provision raised during the period Provision used during the period Closing balance	545,575 900,749 <u>(831,040)</u> <u>615,284</u>	519,187 870,217 (843,829) 545,575
11.2	Leave - Annual Opening balance Provision raised during the period Provision used during the period Closing balance	796,883 1,003,123 (639,822) 1,160,183	262,953 812,220 (278,291) 796,883
11.3	<b>Leave - Travel</b> Opening balance Provision raised during the period Provision used during the period Closing balance	69,917 59,439 (108,542) 20,814	69,917 - - -

Total provisions relate to gratuity, leave and leave travel as at the reporting date. The gratuity provision is calculated in accordance with the respective contracts of employment. Leave provision is calculated based on accrued leave days not taken during the year while leave travel is a contractual benefit payable after every two years of service. Gratuity contract has an option to pay on annual basis.

NOTES TO THE ANNUAL FINANCIAL STATEMENTS

For the year ended 31 March 2014

#### **12 FINANCIAL INSTRUMENTS**

The accounting classification of each category of financial instruments and their carrying amounts are as follows:

	Note	Loans and receivables	Financial liabilities at amortised cost	"Total carrying amount
2014		BWP	BWP	BWP
Trade and other receivables	8	167,756	-	167,756
Cash and cash equivalents	9	4,633,823	-	4,633,823
Trade and other payables	10	-	109,760	109,760
		4,801,579	109,760	4,911,339
2013				
Trade and other receivables	8	400,171	-	400,171
Cash and cash equivalents	9	6,994,445	-	6,994,445
Trade and other payables	10	-	76,832	76,832
		7,394,616	76,832	7,471,448

#### Financial risk management objectives and policies

The main risks arising from the Competition Authority's financial instruments are interest rate risk, credit risk and liquidity risk. The Competition Authority does not hold any derivative financial instruments.

#### **Credit Risk**

The Competition Authority has exposure to credit risk, which is the risk that a counterparty will be unable to pay amounts in full when due. Credit risk is the risk that the regulated and supervised institutions and other counterparties will not be able or willing to pay or fulfil their obligations in accordance with the Competition Act. The Authority is exposed to credit risk through its cash balances that are placed with local banks. Reputable financial institutions are used for investing purposes. All cash and cash equivalents are placed with financial institutions registered in Botswana.

The maximum exposure to credit risk is represented by the carrying amount of accounts receivable and cash and cash equivalents, as shown in the Statement of Financial Position. Credit risk on receivables is managed on the basis that a significant amount of income, mainly merger fees, is paid in advance as per the Competition Act. Any outstanding amounts on staff debtors are recovered from terminal benefits in accordance with the contractual terms and conditions of employment.

#### Significant Concentration of Credit Risk

Financial assets that potentially subject the Competition Authority to concentrations of credit risk consist primarily of cash and cash equivalents as well as accounts receivable. Cash and cash equivalents are placed with reputable financial institutions in the normal trading course. The Competition Authority does not engage in any other investment portfolios. Expertise and controls have been put in place to manage credit risk.

The Competition Authority does not have any significant credit risk exposure to any single counterparty.

#### **Interest Rate Risk**

Interest rate risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market interest rates.

#### NOTES TO THE ANNUAL FINANCIAL STATEMENTS

For the year ended 31 March 2014

#### 12 FINANCIAL INSTRUMENTS (continued)

#### Interest Rate Risk (continued)

Financial instruments that are sensitive to interest rate risk are bank balances and cash (refer note 9). The Competition Authority has no long-term significant interest bearing assets. Since the Competition Authority receives funds from Government on a quarterly basis which are linked to expenditure, it does not engage in long-term investments which attract significant interest rates. The Competition Authority had a 91 days fixed deposit and a current account linked to a sweep call account with reputable financial institutions. For this reporting period, interest on fixed deposit and call accounts had been fluctuating around 4% and 2% respectively.

The Competition Authority is also monitoring instructions from the Central Bank on issues relating to interest rates trends.

The following table demonstrates the sensitivity to reasonably possible changes in interest rates with all other variables held constant

2014	Increase / decrease in basis points	Effect on Surplus or deficit and equity
Pula	+100	35,298
Pula	-100	(35,298)
2013		
	+100	

#### Liquidity Risk

The Competition Authority's approach to managing liquidity is to ensure, as far as possible, that it always has sufficient liquidity to meet its liabilities when due, without incurring losses or risking damage to the Competition Authority's reputation.

The ultimate responsibility for liquidity risk management rests with the Competition Commission, which has established appropriate liquidity risk management procedures for the management of the Competition Authority's funding and liquidity management requirements. The Competition Authority manages liquidity risk by maintaining adequate cash and cash equivalents to settle liabilities when they become due, by continuously monitoring forecast and actual cash flows, and by matching the Government Subvention to the maturity profile of the financial liabilities.

The following table summarises the maturity profile of the Competition Authority's financial liabilities as at 31 March 2014 based on contractual undiscounted payments:

<b>2014</b> Trade and other payables	Less than 1 month -	1 to 3 months 1,141,681	3 to 12 months -	1 to 5 years -	> 5 years -	Total 1,141,681
		1,141,681	-	-	-	- 1,141,681
2013						
Trade and other payables	Less than 1 month - - -	1 to 3 months 76,832 - 76,832	3 to 12 months - - -	1 to 5 years - - -	> 5 years - -	Total 76,832  76,832

NOTES TO THE ANNUAL FINANCIAL STATEMENTS

For the year ended 31 March 2014

#### Fair Values

The carrying amounts of all financial assets and financial liabilities approximate to their fair value

#### **Capital Management**

Capital consists of the line item Accumulated funds in the Statement of Financial Position. The Competition Authority's objectives when managing capital are to safeguard its ability to continue as a going concern in order to perform the mandate for which it was created. Management is of the view that these objectives are being met. During the period under review, the Competition Authority did not have borrowings. As a new government owned institution, the Competition Authority is supported by the Government of the Republic of Botswana, which currently provides the necessary support to sustain the operations of the Competition Authority.

		March <u>2014</u>	March <u>2013</u>
13 RELATED PARTY TRANSACTIONS	Note	Р	Р
Relationships Owner with control of entity Members of Board of Commissioners	Government of Botswana Refer to General Information Page		
Subvention Received			
Government of the Republic of Botswana	1	25,389,290	22,790,920
Compensation Paid to Key Management Personnel of the Short-term employee benefits	ne Authority	4,952,313	4,495,802
Competition Commissioners' fees are not included in the co	ompensation paid to management above.		
Trading Transactions			
The following transactions were on an arms length basis:			
Purchases from related parties BURS (VAT refunds)		1,001,578 (353,846) 647,731	344,543 (432,457) (87,914)

The purchases from related parties are made at normal market prices. There have been no guarantees provided or received for any related party receivables or payables. For the period ended 31 March 2014, the Competition Authority has not recorded any impairment of receivables relating to amounts owed by related parties (2013: Nil). This assessment is undertaken each financial year through examining the financial position of the related party and the market in which the related party operates.

#### **Competition Commissioners' Fees**

Competition Commissioners' fees for the year amounted to BWP80 430 (2013: BWP 103,150)

#### **14 TAXATION**

No provision for taxation is required as the Competition Authority is exempt from taxation in terms of the Second Schedule of the Income Tax Act (CAP 52:01).

NOTES TO THE ANNUAL FINANCIAL STATEMENTS

For the year ended 31 March 2014

March	March
2014	2013
P	Р

#### 15 COMMITMENTS AND CONTINGENCIES

#### 15.1 Operating Lease Commitments

The Competition Authority has entered into a Rental lease agreement as follows:

#### Operating lease commitments where the Authority is the lessee

The Competition Authority rented office premises and a residential plot under operating leases.

For office rental the lease commenced on 1st October 2013 and shall continue for a period of 5 years. Termination will require three months notice. The residential lease is for a period of 2 years which commenced on 1st May 2013. Termination will require two months notice.

The future minimum rent payments under cancellable lease are as follows:

Within one year	2,164,110	1,752,007
After one year, but not more than five years	8,468,772	880,411
More than five years	-	-
·	10,632,882	2,632,418

#### 15.2 Capital Commitments

As at 31 March 2014, the Competition Authority had no capital commitments.

There were no other commitments already made at the end of the reporting period.

#### 15.3 Guarantees

16.1

The Competition Authority does not have guarantees on employees loans.

#### 16 GOVERNMENT GRANTS/SUBVENTION

Opening balance	3,821,377	4,234,236.00
Received during the year	1,502,344	797,303
Amortisation of government grants	(1,458,074)	(1,210,162)
Closing balance	<u>3,865,647</u>	3,821,377
GOVERNMENT GRANTS/SUBVENTION	1,458,074	1,210,162
Current	2,407,573	2,611,215
Non Current	3,865,647	3,821,377

The Competition Authority is funded through Government Subvention or Grant. As at the statement of financial position date there were no unfulfilled conditions or contingencies relating to the grant that had not been fulfilled. The abovementioned grant is a grant related to assets.

NOTES TO THE ANNUAL FINANCIAL STATEMENTS

For the year ended 31 March 2014

		March <u>2014</u> P	March 2013 P	
17 O <sup>.</sup>	THER INCOME			
17.1	<b>Merger Fees</b> Regulation 16(2) stipulates that a merger shall be accompanied by a merger fee of 0.01 percent of the merging enterprises' combined turnover or assets in Botswana, whichever is higher.	1,491,696	1,035,018	
17.2	<b>Sale of Tender Documents</b> Bidders are required to pay for the tender documents upon collection.	10,500	1,250	

### 18 EVENTS AFTER THE REPORTING DATE

There were no events after the Statement of Financial Position date which would require adjustment to or disclosure in the financial statements.

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