

MERGER CONTROL – CHALLENGES	MERGER CONTROL – SUGGESTED STRATEGIC ACTIONS
<ul style="list-style-type: none"> • Digital platforms may acquire start-ups or emerging competitors for the express purpose of closing them down (i.e. so called 'killer acquisitions'). This theory of harm plays a role in entrenching dominance. They can also process data and leverage their power in their existing markets in order to enter and transform related markets with relative ease, removing a potential competitor. • Conglomerate synergies arising from the ability to process data and move into adjacent markets with ease. • Input foreclosure arising from upstream or adjacent firms engaging in self-preferencing or restricting access to data in a downstream market. • Merger transactions may involve acquisitions and combinations of datasets even if in separate markets, which then lead to access of multiple data sources improving overall quality of the database and contributing to economies of scope. 	<ul style="list-style-type: none"> • Issuing a guidance note clarifying the valuation of assets for digital companies for calculating merger thresholds. • Requiring that dominant tech companies in South Africa inform the Commission of all domestic acquisitions, including investments in start-ups and global acquisitions of targets with some presence locally. • Prioritisation of digital markets within merger control for the 2020 - 2025 period. • Developing a practice note on the assessment of digital mergers, specifically in relation to merger creep. • Ensuring that domestically notifiable global tech mergers are concurrently filed in SA and other major jurisdictions such that the Commission may benefit from collaboration in the assessment of the merger.
CARTEL CONDUCT – CHALLENGES	CARTEL CONDUCT – SUGGESTED STRATEGIC ACTIONS
<ul style="list-style-type: none"> • New forms of collusion can arise from the use of advanced algorithms and big data (which uses real-time data analysis to monitor compliance and the facilitation of tacit collusion). • Difficulties for the South African Commission to establish jurisdiction over foreign-based firms. • Traditional tools such as corporate leniency programmes and dawn raids are not as effective. • Large volumes of data and specific expertise needed to analyse data. 	<ul style="list-style-type: none"> • Develop appropriate tools for detecting digital cartels and assessing the effects of agreements amongst competitors. • Pilot a tender bid-rigging programme. • Build and staff a cartels forensic lab. • Develop guidelines for establishing the Commission's jurisdiction in cases of digital collusion that have an effect in SA.

MARKET CONDUCT – CHALLENGES	MARKET CONDUCT – SUGGESTED STRATEGIC ACTIONS
<ul style="list-style-type: none"> • Tendency toward 'tipping markets' (high likelihood for the rapid expansion of one large dominant firm). • The broader regulatory framework in many cases does not apply to new, disruptive technology. • Authorities bear the onus of demonstrating harm from potentially exclusionary practices. 	<ul style="list-style-type: none"> • Map the digital landscape in South Africa to inform proactive initiations on market conduct and to focus a future market inquiry. • Take proactive steps to investigate dominant online firms. • Issue appropriate guidelines for conduct which the Commission deems likely to contravene the Act. • Institute a scoping study, impact study or market inquiry into digital markets. • Have global coordination and cooperation with other authorities to address the market conduct of global firms.