



competitiontribunal
south africa

ANNUAL REPORT 2006/2007



HIGHLIGHTS

- Annual average of merger decisions issued now 57.5 (since the Tribunal's inception in September 1999)
- 124 cases heard, 93 decisions issued
- 89 large mergers heard, 85 of these were decided on
- 65.17% of hearings of large mergers took place within 10 days of receipt of case
- 90.59% of large merger decisions released on the day of the hearing while 9.41% released within 10 days of the hearing
- 107 days spent in hearings
- 460 media reports in sources monitored by the Tribunal
- Tribunal together with the Competition Commission hosted the annual conference of the International Competition Network in Cape Town in May 2006
- Chairperson David Lewis continues to serve as vice-chairperson of the International Competition Network
- Tribunal continues to participate in the Competition Committee of the Organisation for Economic Co-operation and Development (OECD)

WHAT WE DO

- We are an independent, impartial institution established by statute
- The Tribunal regulates mergers and adjudicates on allegations of anti-competitive business practices
- In respect of mergers, the Tribunal
 - authorises or prohibits large mergers
 - adjudicates appeals from the Competition Commission's decisions regarding intermediate mergers
- In respect of anti-competitive behaviour, the Tribunal
 - *adjudicates complaint referrals*
 - *adjudicates interim relief applications*
 - *hears appeals on exemptions*



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REPORT OF THE AUDITOR-GENERAL TO PARLIAMENT ON THE FINANCIAL STATEMENTS AND PERFORMANCE INFORMATION OF THE COMPETITION TRIBUNAL

for the year ended 31 March 2007

Report on the Financial Statements

Introduction

1. I have audited the accompanying financial statements of the Competition Tribunal which comprise the statement of financial position as at 31 March 2007, statement of financial performance, statement of changes in net assets and cash flow statement for the year then ended, and a summary of significant accounting policies and other explanatory notes, as set out on pages 37 to 51.

Responsibility of the accounting authority for the financial statements

2. The accounting authority is responsible for the preparation and fair presentation of these financial statements in accordance with the South African Statements of Generally Accepted Accounting Practice (GAAP) including any interpretations of such Statements issued by the Accounting Practices Board, with the effective Standards of Generally Recognised Accounting Practice (GRAP) issued by the Accounting Standards Board and in the manner required by the Public Finance Management Act, 1999 (Act No. 1 of 1999) (PFMA). This responsibility includes:

- designing, implementing and maintaining internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error
- selecting and applying appropriate accounting policies
- making accounting estimates that are reasonable in the circumstances.

Responsibility of the Auditor-General

3. As required by section 188 of the Constitution of the Republic of South Africa, 1996 read with section 4 of the Public Audit Act, 2004 (Act No. 25 of 2004) and section 40(10) of the Competition Act, 1998 (Act No. 89 of 1998), my responsibility is to express an opinion on these financial statements based on my audit.

4. I conducted my audit in accordance with the

International Standards on Auditing and General Notice 647 of 2007, issued in Government Gazette No.29919 of 25 May 2007. Those standards require that I comply with ethical requirements and plan and perform the audit to obtain reasonable assurance whether the financial statements are free from material misstatement.

5. 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 judgement, 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.

6. An audit also includes evaluating the:
- appropriateness of accounting policies used
 - reasonableness of accounting estimates made by management
 - overall presentation of the financial statements.
7. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

Basis of accounting

8. The public entity's policy is to prepare financial statements on the basis of accounting determined by the National Treasury, as set out in accounting policy note 1.1.

Opinion

9. In my opinion the financial statements present fairly, in all material respects, the financial position of the Competition Tribunal as at 31 March 2007 and its financial performance and cash flows for the year then ended, in accordance with the basis of accounting determined by National Treasury of South

Africa, as described in note 1.1 of the accounting policies to the financial statements and in the manner required by the PFMA.

Other Matters

10. I draw attention to the following matters that are ancillary to my responsibilities in the audit of the financial statements:

Material misstatements in the financial statements submitted for audit on 31 May 2007

11. The financial statements, approved by the accounting authority as submitted for audit on 31 May 2007 have been revised in respect of the following material misstatements identified during the audit:

- The disclosure of related parties transactions and balances was corrected. The disclosure of related party transactions changed from a total of R17 992 000 to a total of R20 134 000. The disclosure of related party balances changed from a total of R441 000 to a total of R446 000.
- The cash and cash equivalents balance was adjusted. The adjustment was as a result of a credit balance of R137 644 being incorrectly netted-off. The balance related to a bank overdraft balance of R3 394 and outstanding cheques of R134 250, which were subsequently allocated to short term borrowings and trade and other payables respectively.

Other Reporting Responsibilities

Reporting on performance information

12. I have reviewed the performance information as set out on pages 20 to 25.

Responsibilities of the accounting authority

13. The accounting authority has additional responsibilities as required by section 55(2)(a) of the PFMA to ensure that the annual report and audited financial statements fairly present the performance against predetermined objectives of the public entity.

Responsibility of the Auditor-General

14. I conducted my engagement in accordance with section 13 of the Public Audit Act, 2004 (Act No. 25

of 2004) read with General Notice 646 of 2007, issued in Government Gazette No. 29919 of 25 May 2007.

15. In terms of the foregoing my engagement included performing procedures of an audit nature to obtain sufficient appropriate evidence about the performance information and related systems, processes and procedures. The procedures selected depend on the auditor's judgement.

16. I believe that the evidence I have obtained is sufficient and appropriate to provide a basis for the audit findings reported below.

Audit findings

Lack of documented system generating performance information

17. Although a process is followed by the Competition Tribunal for the collection, recording, review and reporting of performance information, the processes and procedures implemented have not been formalised into a policy and procedures document.

Appreciation

18. The assistance rendered by the staff of the Competition Tribunal during the audit is sincerely appreciated.



R Govender for Auditor-General

Pretoria

30 July 2007



AUDITOR-GENERAL

CHAIRPERSON'S REPORT

for the year ended 31 March 2007

It is my pleasure to present, as part of the audited financial statements, the eighth annual report of the Competition Tribunal for the period ended 31 March 2007.

The Tribunal commenced operations in September 1999 and has thus been in existence for seven and a half years. The Tribunal has played a key role in the creation of a world-class set of competition institutions that enjoys the credibility and confidence of its stakeholders. Our principal role is to contribute to the development of a credible body of jurisprudence that addresses the country's specific needs and legislation, but which is solidly grounded in rich international learning and experience.

I noted in last year's report that while during the first term of the Tribunal much of its activity was focused on the adjudication of merger referrals, there was a marked increase in the number of restrictive practices complaints referred to the Tribunal.

These have come both by way of referrals from the Commission, as well as referrals from private parties, both in instances where the Commission has elected not to refer a complaint, and as applications for interim relief.

The increase in complaint referrals is an indication of the maturing of competition law and growing public confidence in the Competition Commission as an enforcer of competition law. We have recently handed down an important decision in the complex and controversial area of excessive pricing.

This increase in restrictive practice matters will undoubtedly characterise the next phase of the Tribunal's existence. Indeed the Commission has recently referred for adjudication a number of complaints alleging the existence of cartels in important areas of the economy.

By their very nature, restrictive practice cases are lengthy and consume considerable time and other resources. We are fortunate to be able to draw on the services of three full-time members as well as a committed group of part-time members.

The table below indicates, by category, the number of matters heard during the year under review both in absolute numbers and as a percentage of total matters heard:

Type of case	2006/2007	%
Large merger	89	71.77
Procedural	24	19.35
Intermediate merger	1	0.81
Restrictive practice	10	8.07
Total	124	100



David Lewis, Chairperson

One measure of our impact has been the extensive media coverage of Tribunal hearings and the high level of public debate surrounding competition that has developed in consequence. This is making a significant contribution towards the building of a 'competition culture' and is a vindication of the transparent and inclusive approach adopted by the Tribunal.

To this end, the Tribunal has continued to play a leading role in relevant international bodies such as the International Competition Network (ICN), of which I continue to serve as vice-chairperson.

In May 2006, the Tribunal and the Commission successfully hosted the annual conference of the ICN in Cape Town. Members of the Competition Tribunal will play an active role in the 2007/2008 annual conference of the ICN which will be held in Moscow.

Furthermore, the Tribunal together with the Commission has participated actively in the Competition Committee of the Organisation for Economic Co-operation and Development (OECD), a body at the international cutting edge of new developments in competition law and policy.

Tribunal members have continued to serve with dedication and commitment despite the increased demands made on the time of our part-time members. The Tribunal's support staff continues to deliver a public service of considerable quality, and I would like to record my gratitude to both the Tribunal members and the support staff for their contribution to the work of the Tribunal.

Statement of Responsibility

The accounting authority is responsible for the preparation, integrity and fair presentation of the financial statements of The Competition Tribunal of South Africa for the year ended 31 March 2007.

The financial statements presented on pages 37 to 51 have been prepared in accordance with the South African Statements of Generally Accepted Accounting Practice, including any interpretations of such Statements issued by the Accounting Practices Board, with the effective Standards of Generally Recognised Accounting Practice to the extent as indicated in the accounting policies, and include amounts based on judgments and estimates made by management.

The accounting authority, in consultation with the executive committee, prepared the other information included in the annual report and is responsible for both its accuracy and its consistency with the financial statements.

The going concern basis has been adopted in preparing the financial statements. The accounting authority has no reason to believe that the Tribunal will not be a going concern in the foreseeable future based on forecasts and available cash resources. These financial statements support the viability of the Tribunal.

The financial statements have been audited by an independent auditor, the Auditor General. The auditor was given unrestricted access to all financial records and related data, including minutes of all meetings of the executive committee, staff and the case management committee. The accounting authority believes that all representations made to the auditor during the audit are valid and appropriate.

The audit report of the Auditor General is presented on pages 3 to 4.

The accounting authority initially approved and submitted the financial statements to the Auditor General on 31 May 2007. The statements were subsequently revised and approved on 29 June 2007.

Nature of Business

The Competition Tribunal adjudicates competition matters in accordance with the Competition Act, no. 89 of 1998 (referred to below as "the Act") and has jurisdiction throughout South Africa. The Tribunal functions independently of both government and the Competition Commission, the investigative and prosecutorial arm of the competition authorities. Its decisions are enforceable, but are subject to appeal or review by the Competition Appeal Court.

The Tribunal's main functions are to regulate mergers and to adjudicate restrictive practice cases. Its ten members are appointed by President on a full- and part-time basis depending on the demands made on the Tribunal. Decisions of the Tribunal are made by panels comprising three of its members.

When a matter is referred to it in terms of the Act, the Tribunal must impose a remedy. In a merger case its

remedies are to approve the merger with or without conditions or to prohibit the merger. In a restrictive practice case the Tribunal may, if it finds the Act has been contravened, impose a wide range of remedies, including the imposition of an administrative penalty and an order of divestiture.

Cases are typically brought before the Tribunal by the Competition Commission, but in certain circumstances private parties may engage the Tribunal directly.

Details of the Act, the Tribunal's rules of procedure and the reasons for its past decisions, can all be found on its website.

The Tribunal has, since 1 April 1999, been listed as a national public entity in terms of the Public Finance Management Act.

Objectives and Targets

As the Tribunal is a creature of its statute it cannot set itself any objectives that are not directly provided for in the statute.

Being moreover quasi-judicial by nature, the Tribunal cannot set itself pro-active objectives or embark on focused interventions, which target any particular sector or emphasise any specific criterion in its decision-making. The Tribunal's caseload is determined entirely by complaint referrals and notified mergers, and each case is adjudicated on its own merits. The Tribunal has no control over the number and types of cases brought before it.

The Tribunal has however set itself seven strategic objectives that contribute to the purposes of the Act.

These objectives are divided into three major categories in the Tribunal's strategic plan:

- i) Policy and legislation;
- ii) Enforcement and compliance; and
- iii) Education and awareness.

Specific activities and outputs are identified in each category and performance indicators and targets have been assigned to each output. Performance against these objectives is reported on pages 20 to 25.

Financial Highlights

	2007 R'000	2006 R'000
Total revenue (Inclusive of Interest received)	16 761	13 852
Total expenditure	(13 119)	(10 600)
Surplus/(deficit) for the year	3 642	3 252
Total assets	14 240	10 395
Total liabilities	1 285	1 082

Financial Performance

Revenue for the year ended 31 March 2007 increased by 21%. This increase is accounted for by a 60% increase in the grant received from the Department of Trade and Industry. The grant represented 47.73% of the Tribunal's revenue.

In terms of a memorandum of agreement signed between the Tribunal and the Commission, the Tribunal receives 30% of the filing fees paid into the Commission for large mergers and 5% of the filing fees for intermediate mergers. These filing fees continue to constitute a major portion of the Tribunal's revenue (49%), although this declined by 3.60% in the period under review.

Total expenditure (net of capital expenditure) for the period under review increased by 23.89%. The changes in expenditure are discussed more fully later in the report.

Events Subsequent to Statement of Financial Position Date

No events took place between the year-end date (31 March 2007) and the date on which the financial statements were signed that were sufficiently material to warrant disclosure to interested parties.

Remuneration

The table below shows total annual remuneration (cost to company) received by the full-time members and the managers. The Chairperson, a full-time member and the managers have all served on the executive committee at some point during the period under review.

	2007	2006
Chairperson – D Lewis	785 496	758 709
Package	767 189	738 470
Group life insurance/pension administration fees	18 307	20 239

Full-time member – N Manolm	662 769	640 250
Package	647 026	622 804
Group life insurance/pension administration fees	15 743	17 446
Full-time member – Y Carrim	662 453	641 825
Package	647 026	624 466
Group life insurance/pension administration fees	15 427	17 359

CEO – S Ramburuth (resigned in May 2005)		
Total remuneration		149 424
Package	0	63 805
Performance bonus	0	84 116
Group life insurance/pension administration fees		1 503

Head of Corporate Services – J de Klerk		
Total remuneration	589 426	490 558
Package	503 394	427 710
Performance bonus	73 438	50 403
Group life insurance/pension administration fees	12 594	12 445

Head of Research – R Badenhorst		
Total remuneration	409 986	350 149
Package	350 913	301 424
Performance bonus	50 323	40 092
Group life insurance/pension administration fees	8 750	8 633

Registrar – L Motaung		
Total remuneration	348 495	283 271
Package	299 151	251 105
Performance bonus	42 576	25 639
Group life insurance/pension administration fees	6 768	6 527

The Tribunal is responsible for its employees' contributions to group life insurance as well as the administration costs associated with the pension fund. These figures have been included in the total remuneration, as has any back-pay received. Full-time Tribunal members do not receive performance bonuses. Performance bonuses for other staff members are reflected separately in the table above.

Infrastructure, Plant and Equipment

During the year, the Tribunal adopted the policy prescribed by IAS 16 relating to the assessment of useful life and residual value of infrastructure, plant and

equipment. Residual values and useful life are now assessed at the end of each financial year and the result of the change in policy is reflected in Note 18 of the financial statements. There has been no change in the policy relating to the use of infrastructure, plant and equipment.

Executive Committee

During the period under review the executive committee was composed as follows:

Members

- David Lewis, chairperson
- Yasmin Carrim, full-time Tribunal member
- Janeen de Klerk, head of corporate services
- Lerato Motaung, registrar
- Rietsie Badenhorst, head of research

The executive committee met four times during the period under review. The committee's role includes the development and formulation of the Tribunal's strategic policy framework, performance strategies and goals for its operational management and administration.

The executive committee's main finance-related responsibility is to ensure that, in terms of three-year rolling strategic plans, services are efficiently and cost-effectively rendered within the framework of existing operational policies and the Tribunal's budget.

Number of Employees

At year-end the Tribunal consisted of three full-time Tribunal members and 14 staff members.

Fruitless and Wasteful Expenditure

An amount of R 107 was paid in respect of interest on a bank overdraft due to a late drawn down on surplus cash facilities. Measures were subsequently put in place to prevent a reoccurrence. The Tribunal had, at all times, surplus cash reserves available at its disposal.

In 2005/2006 I reported a disputed PAYE liability with SARS. I am pleased to report that this dispute was settled and SARS refunded the Tribunal an amount of R 25 143.

Irregular Expenditure

As reported in my previous year's report, irregular

expenditure arose as a result of leases being entered into where substantially all the risks and rewards incidental to ownership were transferred. This is synonymous with the definition of a finance lease as defined in South African Statements of Generally Accepted Accounting Practice IAS17 – Leases and Treasury Regulation 32.2.2.

In accordance with Treasury Regulation 32.2.5(b) finance leases need to be entered into with the prior approval of the Minister of Finance. The intention of management was to acquire the use of an asset for an agreed period of time through the payment of a series of rentals, and not to contravene Treasury Regulations or the Public Finance Management Act. As a result no individual can be held liable for the incurrence of the irregular expenditure.

The effect of the irregular expenditure is reflected in the notes to the financial statements in respect of infrastructure, plant and equipment, finance lease, depreciation, finance charges, prior year error and as per statement of changes in net assets.

In July 2006, in accordance with Treasury Regulation 32.2.5(b), the Tribunal wrote to the Minister of Finance and National Treasury requesting retrospective approval of these leases. To date no formal response has been received from the Minister or Treasury. The Tribunal is continuing to follow up on this matter with Treasury.

Management Fee Paid to the Competition Commission

The Competition Commission and the Tribunal share premises and certain services. In terms of a memorandum of agreement (MOA) signed between the two institutions the Tribunal pays the Commission a monthly management fee for services related to the use of these premises.

The management fee for the period under review was R36 301 per month. The MOA and the management fee are reviewed annually.

No change has occurred in the nature of the billing from the Commission for the year under review.

Materiality Framework

The Tribunal, in terms of a materiality framework, determined a planning materiality figure of R70 000 for the current period. This figure was determined by calculating an average of 1% of actual revenue (exclusive of

government grants) and expenditure in the previous financial year.

Material facts of a quantitative nature that need to be disclosed would refer to any fact discovered that exceeds the materiality figure of R70 000. Facts of a qualitative nature would need to be disclosed if:

- the disclosure is required by law
- the fact could influence the decisions of the executive authority or legislature

Material losses of a quantitative nature are to be referred to in the annual report and financial statements if:

- they arose through criminal conduct
 - they arose through irregular/fruitless/wasteful expenditure
- Any material loss of a qualitative nature arising through criminal conduct will be disclosed.

A disposal of a significant asset will be disclosed if it increases or decreases the operational functions of the Tribunal outside of the approved strategic plan.

Office Address

The Tribunal's registered offices are situated at:

Third Floor
Mulayo Building
the dti Campus
77 Meintjies Str.
Sunnyside
Pretoria
0001

The Tribunal's postal address is:

Private Bag X24
Sunnyside
0132
Pretoria

Website address: www.comptrib.co.za

E-mail: ctsa@comptrib.co.za

Telephone: 012 394 3300

Fax: 012 394 0169



David Lewis
Chairperson
29 June 2007

MEMBERS AND SECRETARIAT



David Lewis



Marumo Moerane



Lawrence Reyburn



Norman Manoim



Medi Mokuena



Mbuyiseli Madlanga



Thandi Orleyn



Merle Holden



Urmila Bhoola



Yasmin Carrim

The Competition Tribunal's Members

As at the end of the current financial year, the Tribunal consisted of three full-time members (including the chairperson) and seven part-time non-executive members. These ten members are in terms of the Competition Act, appointed by the President (on the recommendation of the Minister of Trade and Industry) to serve a five-year term.

Two of the full-time members serve as executive members of the Tribunal.

The chairperson appoints three Tribunal members to an adjudicative panel for each hearing.

The Act stipulates that the membership of the Tribunal must consist of South African citizens representing a broad cross-section of the country's population. In addition, the Act requires that each member have suitable qualifications and experience in economics, law, commerce, industry or public affairs.

The current Tribunal comprises eight members with a legal background and two economists.

Members of the Competition Tribunal

Chairperson

David Lewis (BCom, MA)

Full-time member

Yasmin Carrim (BSc, LLB)

Norman Manoim (BA, LLB)

Part-time members

Urmila Bhoola (BA Hons, LLB, LLM)

Merle Holden (BCom Hons, MA, PhD)

Mbuyiseli Madlanga (BJuris, LLB, LLM)

Marumo Moerane (BSc, BCom, LLB)

Medi Mokuena (Dip Juris, LLB, LLM)

Thandi Orleyn (BJuris, BProc, LLB, honorary PhD)

Lawrence Reyburn (BSc, LLB)

Training of Tribunal Members

The Tribunal has continued to provide Tribunal members with opportunities to interact and share experiences with their international counterparts through attendance at international conferences and their participation in international competition bodies.

Tribunal members have attended the following international conferences or seminars:

- Fifth annual ICN conference held in Cape Town, South Africa in May 2006 (four members attended)
- International Conference on Competition Law and Policy held in Taiwan in June 2006 (one member attended)
- 33rd Fordham antitrust conference held in New York in September 2006 (four members attended)
- Symposium on political economy restraints in regulatory regimes in developing countries hosted by Consumer Unity and Trust Society (CUTS) in India in March 2007 (one member attended)
- OECD global forum on competition in Paris in June 2006, October 2006 and February 2007 (the Tribunal was represented by one member at each forum)

Tribunal members are able to review the work of the Tribunal and keep abreast with aspects of competition economics and competition law through internal meetings.

One internal meeting was held during the period under review:

- In February 2007 Prof. Richard Whish and Prof. William Kovacic presented a workshop titled "Mergers and Acquisitions". (10 members attended)

Nine papers were presented by Tribunal members at various conferences, seminars and workshops. Tribunal members also participated in various panel discussions at the ICN conference hosted by the South African competition authorities in Cape Town in May 2006.

Full-time members have continued to deliver lectures on a regular basis to the University of the Witwatersrand, including:

- Masters students in competition law, broadcasting and telecommunications
- LLB students
- Students participating in the certificate courses offered by the Link Centre at Wits Business School.

The Tribunal has continued to participate actively in the work of the OECD's global forum on competition law and policy and remains active in the working groups of the ICN, which provides developed and developing countries with a platform to address practical competition enforcement and policy issues. The Tribunal's chairperson, David Lewis, is vice-chairperson of the ICN.

In addition the Tribunal continues to serve on the OECD's Competition Committee and participates in the tri-annual meetings of the Committee dealing with cutting-edge issues in Competition Law.

The Tribunal Secretariat

The Tribunal chairperson continues to fulfil the role of chief executive officer in the Tribunal structure, while the three department heads fulfil certain other managerial and administrative responsibilities. They - the heads of research, registry (registrar) and corporate services - report directly to the chairperson. Certain executive functions have been delegated to the other two full-time members.

This hands-on involvement by the chairperson in day-to-day management is consistent with his responsibility as



Back from Left: Tebogo Mputle, Herminah Rasetlola, Lufuno Ramaru, Romeo Kariga, Jabulani Ngobeni, Janeen de Klerk, Jerry Ramatlo, Xoliswa Mhlongo, Donald Phiri and David Tefu.
Front from Left: Rietsie Badenhorst, Lerato Motaung, David Lewis, Yasmin Carrim and Norman Manoim.

the accounting authority and with his powers in terms of the Competition Act.

A staff complement of 14 in three departments provides secretariat support (administration, registry, logistics, research and financial management) to the Tribunal. The rules of the Tribunal prescribe registry and administrative functions.

It is not anticipated that new posts will be created in the coming financial year, as the secretariat is large enough at present to deal with the Tribunal's administrative load and case load.

The executive assistant to the chairperson, Ms Thandeka Yeni resigned in April 2006 and this vacancy was filled by Ms Herminah Rasetlola in August 2006.

A new post of executive assistant to the managers was created and filled by Ms Lufuno Ramaru in August 2006. A three-year contract position in the research division was filled in July 2006 by the appointment of Mr Jabulani Ngobeni.

Departmental heads

Rietsie Badenhorst (research)
Janeen de Klerk (corporate services)
Lerato Motaung (registry)

Case managers

Thabelo Masithulela
Malanee Murugan-Modise
Romeo Kariga
Jabulani Ngobeni (appointed in July 2006)

Registry

Tebogo Mputle, registry administrator
David Tefu, registry clerk
Jerry Ramatlo, court orderly/driver

Finance

Xoliswa Mhlongo, financial administrator
Donald Phiri, accounts assistant

Executive assistant

Herminah Rasetlola, executive assistant to the chairperson (appointed in August 2006)
Lufuno Ramaru, executive assistant to the managers (appointed in August 2006)

CORPORATE GOVERNANCE

Corporate governance and adherence to legislation are monitored by the Tribunal's executive committee and the audit committee. The Tribunal uses its corporate governance framework to promote transparency, accountability and the efficient management and use of the Tribunal's resources and applies best practice principles in managing its work. Reports on governance issues are given to the Department of Trade and Industry (referred to below as the dti) on a quarterly basis.

Audit Committee

An audit committee, established in March 2000, met four times in the period under review.

The audit committee consists of two executive members and four non-executive members.

The composition of the audit committee is detailed in the Report of the audit committee on page 52.

Attendance by and fees paid to audit committee members during the period under review are reflected in the table below:

Member	Meetings attended	Fees received
H Buthelezi - chairperson	4	11 839
S Masuku	4	11 058
T Verwey	4	9 065
N Tshombe	3	3 957
D Lewis	2	0
J de Klerk	4	0
R Badenhorst (for D Lewis)	1	0
Y Carrim (for D Lewis)	1	0

An audit committee charter, revised and adopted in February 2006, outlines the committee's functions and a compliance checklist provides guidance for the agendas of meetings.

The committee has supervisory responsibilities with regard to internal controls, risk management, compliance with laws, regulations, ethical norms and financial management.

In its meetings the audit committee also reviewed quarterly internal audit reports, internal and external audit

plans and the annual report and financial statements for the period ending 31 March 2007.

Executive Committee

The executive committee convened four formal meetings in the period under review. Various informal meetings were held during the year and any decisions made in these meetings are recorded in the minutes of the formal meetings.

The executive committee makes expenditure decisions and is responsible for developing, formulating and implementing the Tribunal's operational and administrative policy.

The composition of the executive committee during the current financial year is detailed on page 8 of this report.

The schedule below indicates the members' attendance at meetings in the period under review:

Member	March '07	Dec '06	Aug '06	June '06
D Lewis	√	√	√	√
Y Carrim	√	√	√	√
J de Klerk	√	√	√	√
R Badenhorst	√	√	√	√
L Motaung	√	√	√	√

COMPLIANCE WITH LEGISLATION

The Competition Act

The functions, activities and procedures of the Tribunal are prescribed by the Competition Act and the rules of the Competition Tribunal. Procedures are reviewed periodically to ensure that the Tribunal's work proceeds effectively and efficiently and to ensure compliance with the requirements of this legislation.

Quarterly reports are provided by the registry to the dti on turnaround times and targets in terms of set-down and the publication of decisions and orders.

The Public Finance Management Act

The Tribunal has been listed as a national public entity in Schedule 3A of the Public Finance Management Act (PFMA) since 1 April 2001. The PFMA prescribes requirements for accountable and transparent financial management in the institution.

In accordance with the PFMA and Treasury regulations, the Tribunal has submitted the following documents to the dti for approval in the period under review:

- Memorandum of agreement with the dti (submitted in September 2006 and approved in December 2006).
- Strategic Plan for the period 1 April 2006 – 31 March 2009 (submitted on 4 October 2005 and approved in August 2006)
- Budget for the period 1 April 2006 – 31 March 2007 (submitted on 4 October 2005 and still awaiting approval).
- Business plan for the period 1 April 2006 – 31 March 2007 (submitted on 4 October 2005 and approved in August 2006).
- Request for approval to retain surpluses generated as at 31 March 2006 (submitted on 17 May 2006 and approval received on 27 June 2006).
- Quarterly reports on the Tribunal's expenditure, budget variance, activities and performance against set targets.
- Strategic plan for the three-year period 2007 – 2010 (submitted on 7 November 2006 and still awaiting approval).
- Budget for the 2007/2008 financial year and a five-year budget to 31 March 2012 (submitted on 7 November 2006 and still awaiting approval).

- Business plan for the period 1 April 2007 – 31 March 2008 (submitted on 7 November 2006 and still awaiting approval).
- Request for approval to retain surpluses generated as at 31 March 2007 (submitted on 18 March 2007 and still awaiting approval).

Internal Audits

The internal auditing function for the Tribunal has been performed by Osman Moosa and Associates (OMA) who were awarded a three-year contract in May 2006 by way of a tender process. The contract was awarded subject to the signing of a service level agreement and an annual review of the service provider's performance.

The mission statement of OMA with regard to the internal audit function states that "the audit process will provide oversight to obtain reasonable assurance that management's assertions that objectives are achieved for effectiveness and efficiency of operations, reliability of financial information, and compliance with laws and regulations"

In July 2006 OMA finalised a three-year rolling strategic internal audit plan, an internal audit charter and a service level agreement with the Tribunal. The internal plan was prepared following a risk identification process conducted during May 2006. The plan was based on the top 20 risks identified in this process and on reviews conducted on the Tribunal's three-year strategic plan.

In August 2006 OMA performed a review of three components of the Tribunal, namely corporate governance, registry management and case management. In November 2006 the human resource component was reviewed and in January 2007 revenue management was reviewed.

In each of these audits the risks identified in the risk assessment were addressed. Weaknesses prevalent in the management control environment were summarised and assigned a subjective rating (low, medium or high). Where applicable, recommendations were made regarding improvements in the control environment. Matters raised in each audit are followed up and reported on in subsequent audits.

HUMAN RESOURCE DEVELOPMENT

External Audit

The Auditor General has completed the external audit for the period ending 31 March 2007.

Statutory Requirements

The Tribunal has registered for and met its obligations in respect of the following levies and taxes:

- Skills development levy
- Workmen's compensation
- Regional services council levy (RSC)
- Establishment levy
- Unemployment insurance fund (UIF)
- Pay-as-you-earn (PAYE)

In terms of Section 24(1) of the Value Added Tax Act 1991 ("the VAT Act") the Tribunal was deregistered as a VAT vendor with effect from 1 April 2005.

The South African Revenue Service exempted the Tribunal from Section 10(1) (cA) (i) of the Income Tax Act, 1962 in October 2005.

Employees Forum

The Tribunal Employees Forum's (TEF) membership comprises non-executive staff members and aims to provide an open, democratic channel through which staff members can raise legitimate concerns and issues affecting them.

The formation of the TEF has meant that staff meetings have been replaced by officially recognised TEF meetings. Seven such meetings were held in the period under review.

Issues raised and discussed at these meetings have included performance reviews, annual salary increases, internal policy amendments, the Tribunal's social responsibility programme and employee assistance programmes.

It was agreed that TEF and management representatives would meet when necessary to address any issues. The TEF was represented by Ms M. Modise and Mr D. Phiri, while management was represented by Mr D Lewis and Ms J de Klerk.

Staff Composition

The Tribunal secretariat consisted of 12 full-time staff members at the beginning of the period under review. One resignation and three new appointments took place in this period, bringing the year-end staff complement to 14.

Eight of the staff members are female, eleven are black, one is Asian and two are white. Six have a bachelor's degree or higher qualification.

Training and Development

Recognising that employees are the most important resource that will enable it to achieve its goals, the Tribunal has placed emphasis on cultivating and nurturing a stable environment that is conducive to attracting and retaining high-quality employees. Tribunal employees have been provided with development opportunities and further education during the period under review.

A total of 139 person-days were devoted to training of members of the secretariat in this period (excluding Tribunal members and Appeal Court judges). This represents an average of 9.93 training days per person. Training and development comprised both in-house training and external courses, workshops and conferences, locally and internationally.

Case managers attended the following workshops/conferences/seminars during the period under review:

- ICN International Conference held in Cape Town in May 2006 (three case managers attended)
- Market definition seminar hosted by University of the Witwatersrand in July 2006 (two case managers attended)
- European Community Summer School competition law course in London in July 2006 (head of research attended)
- Point of convergence workshop held by the University of the Witwatersrand in October 2006 (one case manager attended)
- ICN cartels workshop held in the Netherlands in November 2006 (one case manager and the registrar attended)

- Workshop on the Electronics Communication Act hosted by Kerron Edmundson (one case manager attended)
- Symposium on political economy restraints in regulatory regimes in developing countries hosted by the Consumer Unity and Trust Society (CUTS) in India in March 2007 (one case manager attended).

Various in-house training courses on supply chain management were attended by members of the executive and staff members.

Staff members have also attended the following workshops/conferences/ seminars:

- ICN International Conference held in Cape town in May 2006 (4 staff members attended)
- Training related to the use of Pastel accounting software (one member attended two courses)
- Management Leadership training (attended by three managers)
- Guide to meetings and minute taking (one staff member attended)
- Records management course hosted by the National Archives (two staff members attended)
- Public Finance Management Act (one staff member attended).

In addition, a three-day team-building session was held in August 2006. This session was attended by the three full time members and 13 staff members. The outcome was the identification of the Tribunal's strengths and weaknesses, and projects or areas of focus that could be included in the Tribunal's operational plan.

A case manager participated in an ICN working group on unilateral conduct during the period under review.

The Tribunal has continued to encourage its staff to undertake further education and training through its bursary and study loan scheme, affording them the opportunity to register for educational and training courses for career advancement.

The Tribunal grants each employee a maximum of R8 000 per annum in the form of a study loan for any module and course registered. When a course is passed these loans are converted into bursaries. Loans in excess of R8 000 can be granted by a special decision of the executive committee.

During the financial year, study loans totalling R50 899 were awarded to ten staff members. Study loans totalling R3 902 were converted to bursaries during the current period.

Performance Management System

The Tribunal's performance management policy was revised during the period under review. The new policy provides for biannual assessments that include the participation of the divisional manager and the Tribunal chairperson.

Through this system the Tribunal's strategic objectives are aligned with the performance of individuals and performance is managed so as to facilitate the achieving of these objectives by the institution.

The system also ensures that employees are given an opportunity for self-development.

The aim of the policy is to evaluate, manage, develop and reward individual performance in order to contribute to the achievement of the Tribunal's overall goals and objectives.

Furthermore, the system assists the Tribunal to meet its statutory commitments, and simultaneously promotes a climate in which staff are motivated and committed to service excellence. The development needs of staff are identified and addressed during this process. In addition, any performance bonuses and salary adjustments are linked to the outcome of the appraisals.

In the financial year under review, the Tribunal conducted two performance appraisals, one in April 2006 and another in January 2007.

The Tribunal's Social Responsibility Role

The Tribunal's social responsibility programme supports non-profit organisations without regard to race, gender, disability, religion, ethnicity, age or sexual orientation.

In the period under review the social responsibility committee was involved in several events in and around the Tshwane Municipality area:

- In June 2006, the Tribunal joined the Competition Commission in buying coupon booklets from Itumeleng Shelter for boys. These booklets were then

sold to staff members who were encouraged to distribute the coupons to street children around Tshwane. The coupons entitled the holder to food and shelter at the Itumeleng Shelter.

- In July 2006, the Tribunal's staff participated in a soccer World Cup draw. The winnings from the draw, as well as further contributions from staff members, were used to purchase groceries for Tshwane Home of Hope – a girls' shelter in Sunnyside, Pretoria.
- In August 2006, the Tribunal donated redundant computer equipment to Lesedi High School, situated outside Pretoria.

- In October 2006, the Committee collected staff donations and distributed groceries to Tshwane Home of Hope. In the same month, the Tribunal's staff donated old clothes to Dolphin House.
- In March 2007, the Tribunal donated two printers to Tshwane Home of Hope.

The Tribunal's social responsibility programme for 2006/2007 culminated in a Christmas lunch held at Tshwane Home of Hope. The lunch was hosted by the Tribunal's staff and was well attended by the girls living at the home.



Computer equipment donation to Lesedi High School.



Printer donation to Tshwane Home of Hope

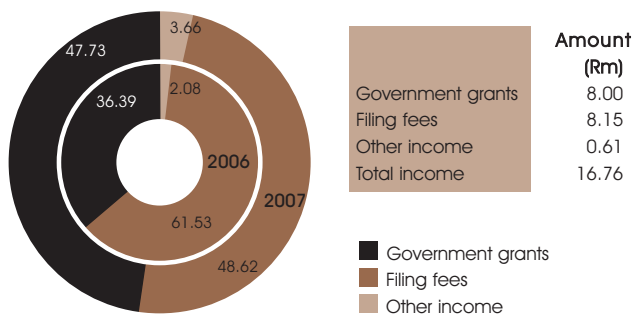


Christmas lunch held at Tshwane Home of Hope

FINANCIAL MANAGEMENT

The budget for the 12-month period ending 31 March 2007 reflected expenditure (inclusive of capital expenditure) of R15.81m and estimated income (generated from fees, interest and a dti grant) of R15.81m.

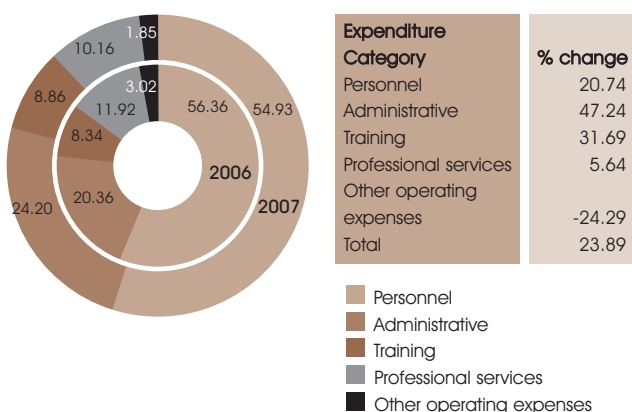
Income for the year amounted to R16.76m and was made up as follows:



Filing fees remain the main income generator. In the financial year under review, filing fees received from the Competition Commission decreased by 3.60%. The Tribunal received a grant of R8m from the dti, and has continued to receive Treasury approval to accumulate surpluses generated. This approval is granted on condition that these surpluses are used to cover expenditure for the next financial year.

Total expenditure (net of capital expenditure) for the period was R 13.12 million. This represents an increase in expenditure of 23.89%.

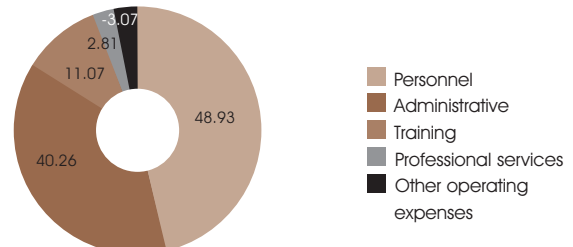
The nature of expenditure incurred by the Tribunal and the percentage change in each category in the year under review is illustrated below:



Professional services expenditure includes payments to the Competition Commission in terms of the Tribunal's memorandum of understanding with it, transcription

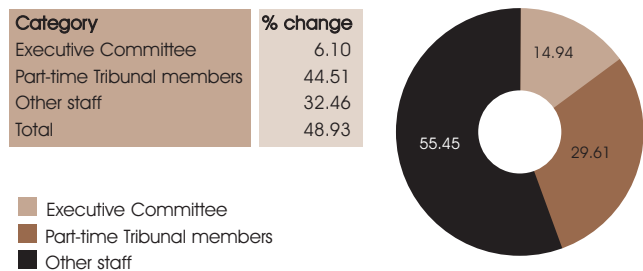
services, legal fees, public relations and finance-related consulting services.

The contribution by each category to the 23.89% increase in expenditure is illustrated below:



Much of the 47.24 % increase in administrative expenditure can be attributed to the increase in the annual unitary payment paid to the dti for occupation on the Sunnyside campus. This line item accounts for 60.99% of administrative expenditure and increased by 89.26% in the period under review.

Personnel expenses increased by 20.74%. The percentage change in each category of personnel expenses and the category's contribution to the total increase is illustrated below:



The increase in "other staff" remuneration arose primarily because in 2005/2006 eight staff members were employed for the full year and three staff members for part of the year, whereas in 2006/2007 nine staff members were employed for the full year and three for part of the year. In addition salaries were adjusted following a benchmarking exercise conducted in the Tribunal.

Part-time members sitting on a panel are paid a daily fee for the number of days of the hearing and for preparation. In 2005/2006 the number of days for which part time members were paid was 205.88 days whereas in 2006/2007 it was 170 days. There are seven part-time

COMMUNICATING THE WORK OF THE TRIBUNAL

members and the average annual number of days that part-time members were paid for was 24.29 days.

In 2005/2006 the Tribunal heard 136 cases over 195 days, whereas in 2006/2007 the Tribunal heard 124 cases over 107 days. This represents a decrease of 8.82% in the volume of cases and 45.12 % in the number of hearing days. The average number of days per hearing in 2005/2006 was 1.43 days whereas in 2006/2007 it was 0.86.days.

It is therefore clear that the increase in fees (44.51%) reflected in the table above is attributable not to an increase in hearing days, but to the fact that the Tribunal was given permission by the dti to increase the daily fee paid to part-time members from R4 000 per day to R7 000 per day.

The Tribunal experiences difficulty in preparing accurate budgets primarily because it is unable to predict the number of cases that will be heard during a particular year. Initially the Tribunal found itself with large budget variances but over the last few years actual expenditure has been more closely equated to the budget, and variances are tending to diminish.

It will, however, be necessary to retain a contingency budget for professional services as there will always be uncertainty about the need for the Tribunal to employ counsel to defend its decisions should they be taken on review or appeal.

Year	Actual Expenditure (in Rm) (Inclusive of capital expenditure)	Budget (in Rm)	% Budget spent
2000	4.29	9.12	47.03
2001	6.35	9.08	69.93
2002	6.37	9.13	69.76
2003	7.36	9.33	78.88
2004	9.08	10.44	86.97
2005	9.25	11.54	80.15
2006	10.64	12.41	85.23
2007	13.22	15.81	83.62

The public remains informed about the Competition Act and the Tribunal's functions and activities through the extensive media coverage the Tribunal receives.

This is borne out by the 460 reports about the Tribunal, its work, cases it heard and decisions it rendered that appeared in the media monitored by the Tribunal. The media coverage received by the Tribunal includes critical appraisals of competition policy and the competition system generally.

The public can access information on the Tribunal's activities and outputs on the Tribunal's website where all decisions released by the Tribunal are published.

In the period under review 93 decisions were posted on the website. The website has links through which interested parties can access other competition-related sites, the Act, the rules and official forms.

As highlighted earlier, full-time members continue to present university courses and thus further communicate the work of the Tribunal and educate interested parties on competition law and policy. In addition, case managers and Tribunal members have presented papers or participated in working groups at local and international conferences, meetings and seminars.

The Tribunal Tribune, an internal newsletter, has been produced three times in the past year. This newsletter includes brief articles on topical issues in competition regulation and its distribution ensures that Tribunal members and other stakeholders remain informed about competition matters and, in particular, cases, heard by the Tribunal.

PERFORMANCE INDICATORS

for the year ended 31 March 2007

Mandate: To promote and maintain competition in the economy and to ensure compliance with the provision of the Competition Act (No. 89 of 1998).

Sub Prog.	Output	Measure	Target	Status for the year (April 06 – March 07)	Reasons for deviation and Corrective Action Plan
Policy and Legislative Development	Propose new regulations or amendments to regulations/ legislations	Amended or new regulations/ legislation	Participate in process when requested to by the dti (not a target set by the Tribunal)	The Tribunal, has at the dti's request participated in an ongoing process around regulatory reform	
	Input/ conduct research and contribute to various policy making processes	Position papers Policy recommendations to be presented on request by other agencies/ stakeholders	3 papers per annum	<ul style="list-style-type: none"> The chairperson delivered 5 papers at conferences/workshops Full-time members delivered 4 papers Full-time member chaired a panel discussion at the ICN conference Full-time members continue on a regular basis to deliver lectures to: Wits Masters students in competition law, broadcasting and telecommunications; LLB students at Wits and to students participating in the certificate courses offered by the Link Centre at Wits Business School. The chairperson and a full time member have represented the Competition Tribunal at 4 meetings of the Competition Committee of the OECD 	
	2006 ICN Conference (hosted jointly with the Competition Commission)	Conference successfully hosted	Conference held in May 2006	<ul style="list-style-type: none"> The conference was held from 3 May 2006 – 5 May 2006 in Cape Town 279 delegates from 64 countries were represented at the conference 	
	Participate In ICN conference/working group/research	Participation in working groups/ conferences and position papers presented	Participate in at least 2 working groups/ conferences per annum	<ul style="list-style-type: none"> The chairperson and the head of research continued to participate in the ICN working group on "Unilateral Conducts" The chairperson continues to serve as vice chairperson of the ICN steering Group 	
Enforcement and Compliance	Large Merger Referrals	Uncontested mergers <ul style="list-style-type: none"> Matters on the roll from a previous period New matters referred Matters heard No. approved No. prohibited No. withdrawn No. pending No. of orders issued No. of reasons for order issued 		<ul style="list-style-type: none"> 12 (9 had been heard in the previous period) 75 77 (3 from a previous period) 77 0 0 1 still to be heard 77 76 (9 from a previous period) 	
		Turnaround times - Uncontested Mergers	Hearing set down within 10 days of referral Order issued within 10 days of hearing Written reasons for decision provided within 20 days of order being issued	<ul style="list-style-type: none"> 53 of the 77 matters heard were set down within 10 days of being referred 77 of the 77 matters that were resolved. 75 of these orders were issued on the same day as the hearing 49 of 76 matters in which reasons were issued 	<ul style="list-style-type: none"> Hearings are set down in agreement with the merging parties and all other parties concerned. Delays occur when parties, who are not ready for a hearing request a later date Delays may also occur as the information provided is not sufficient and requests are made by the panel/parties for further information Many of the mergers received are complicated matters and the writing of a decision is delayed by the nature of the transaction

Sub Prog.	Output	Measure	Target	Status for the year (April 06 – March 07)	Reasons for deviation and Corrective Action Plan
Enforcement and Compliance					<ul style="list-style-type: none"> A number of matters have been heard by a panel of 3 part-time members and this has led to delays as the finalization of reasons has been dependant on the availability of the members Delays also occur because the writing of reasons for contested mergers and uncontested mergers approved conditionally or prohibited are given priority When uncontested mergers are approved with no conditions the need for written reasons within a stipulated timeframe is not urgent
		Contested mergers <ul style="list-style-type: none"> Matters on the roll from a previous period New matters referred Matters heard No. approved No. prohibited No. withdrawn No. pending No. of orders issued No. of reasons for order issued 		<ul style="list-style-type: none"> 4 (2 had been heard - an order was still required in 1 of these matters and in the other reasons were still due) 12 12 (1 from a previous period) 7 of the 12 heard were approved 1 matter heard in a previous period 3 (1 from a previous period) 4 8 (2 from a previous period) 7 (1 from a previous period) 	
		Turnaround times - Contested mergers	Pre-hearing set down within 10 days of notification Order issued within 10 days of hearing Written reasons for decision provided within 20 days of an order being issued	<ul style="list-style-type: none"> 5 of the 12 heard were set down within 10 days of notification 8 of the 8 matters in which orders were issued (2 orders were issued on the same day as the hearing) 3 of 7 matters in which reasons were issued 	<ul style="list-style-type: none"> The most significant factor that contributes to delays is the availability of parties for hearings Discovery and intervention applications as well as applications for access to confidential information may cause a delay in the setting down of the main matters Complex matters take time and involve much consideration and the reasons need to capture the nuances of the matters In addition the differing opinions of the panel need to be reflected in the reasons Contested mergers are lengthy matters and one sometimes finds that writing takes place over an annual holiday which delays the process of finalisation
		Intermedlate merger <ul style="list-style-type: none"> Matters on the roll from a previous period New matters received No heard No. approved No. prohibited No. withdrawn No. pending No. of reasons for order issued 		<ul style="list-style-type: none"> 0 1 1 1 0 0 0 1 	
		Turnaround times - Intermedlate mergers	Pre-hearing set down within 10 days of notification Order issued within 10 days of hearing	<ul style="list-style-type: none"> No matters were set down within 10 days of notification No orders were issued within 10 days of the hearing 	<ul style="list-style-type: none"> This particular merger was a large complicated matter and the setting down of the hearing was delayed by the request for additional documentation Only 1 matter was heard and in this instance the parties requested that the order and reasons be issued simultaneously The issuing of the order was therefore delayed but reasons were issued within the stipulated timeframe

Sub Prog.	Output	Measure	Target	Status for the year (April 06 – March 07)	Reasons for deviation and Corrective Action Plan
Enforcement and Compliance			Written reasons for decision provided within 20 days of an order being issued	<ul style="list-style-type: none"> • 1 of 1 matter in which reasons were issued 	<ul style="list-style-type: none"> • (See explanation given above)
	Restrictive Practices – Complaint referral	Referred by the Commission <ul style="list-style-type: none"> • Matters on the roll from a previous period • No. referred • No. heard • No. of consent orders granted • No. of cases where consent order not granted • No. of decisions where relief was granted • No. of cases dismissed (no relief granted) • No. of cases pending • No. of matters in which reasons were issued 		<ul style="list-style-type: none"> • 0 • 13 • 6 • 6 • 0 • 0 • 0 • 7 • 1 	
		Turnaround times – complaint referral from Competition Commission	Pre-hearing conference set down within 20 days of close of pleadings	<ul style="list-style-type: none"> • 3 of the 6 matters heard were set down within 20 days of close of pleadings 	<ul style="list-style-type: none"> • These targets are set by the Tribunal internally and are not a target set by the rules • Delays occur as restrictive practices cases are of a complex nature and therefore the parties concerned require more time to prepare for hearings • The limited availability of parties also causes delays in setting down a matter • Delays occur when there is opposition to a matter • A lot more evidence is usually filed in restrictive practice matters which results in lengthy deliberations for the panel • Matters are often heard over a number of days with intervals in between. Writing reasons are complicated by the fact that panel members need to refer back to a number of previous hearings transcripts
		Turnaround times – complaint referral from the complainant	Order and reasons for decision issued within 40 days of hearing	<ul style="list-style-type: none"> • 5 of 6 matters in which consent orders were granted 	
	Restrictive Practices – Complaint referral	Referred by the complainant <ul style="list-style-type: none"> • Matters from a previous period • New matters referred • No. heard • No. of decisions where relief was granted • No. of matters withdrawn • No. of matters pending • No. of matters in which reasons were issued 		<ul style="list-style-type: none"> • 2 • 5 • 2 • 1 • 2 • 3 • 2 	
	Turnaround times – complaint referral from the complainant	Pre-hearing conference set down within 20 days of close of pleadings	<ul style="list-style-type: none"> • None of matters set down were set down within 20 days of close of pleadings 	<ul style="list-style-type: none"> • These targets are set by the Tribunal internally and are not a target set by the rules • Delays occur as restrictive practices cases are of a complex nature and therefore the parties concerned require more time to prepare for hearings 	

Sub Prog.	Output	Measure	Target	Status for the year (April 06 – March 07)	Reasons for deviation and Corrective Action Plan	
Enforcement and Compliance			Order and reasons for decision issued within 40 days of hearing	<ul style="list-style-type: none"> • None of the matters decided had the orders/reasons issued within 40 days of the hearing 	<ul style="list-style-type: none"> • The limited availability of parties also causes delays in setting down a matter • Delays occur when there is opposition to a matter • A lot more evidence is usually filed in restrictive practice matters which results in lengthy deliberations for the panel • Matters are often heard over a number of days with intervals in between. Writing reasons are complicated by the fact that panel members need to refer back to a number of previous hearings transcripts 	
	Restrictive Practices – Interim relief cases	<ul style="list-style-type: none"> • Matters on the roll from a previous period • No. of new matters received • No. of matters heard • No. of decisions where relief was granted • No. of cases dismissed (no relief granted) • No. of cases pending • No. of cases in which reasons were issued • No. of matters settled 		<ul style="list-style-type: none"> • 1 • 1 • 2 (1 from a previous period) • 0 • 1 • 0 • 1 • 1 (this matter was settled by the parties subsequent to the hearing) 		
		Turnaround times – Interim relief	Pre-hearing conference set down within 20 days of close of pleadings	Order and reasons for decision issued within 40 days of hearing	<ul style="list-style-type: none"> • 2 matters were heard and in both cases the set-down did not occur within 20 days of close of pleadings. • 1 of 1 matter which was dismissed 	<ul style="list-style-type: none"> • These targets are set by the Tribunal internally and are not a target set by the rules • Delays occur as restrictive practices cases are of a complex nature and therefore the parties concerned require more time to prepare for hearings • The limited availability of parties also causes delays in setting down a matter • Delays occur when there is opposition to a matter • Restrictive practice matters are complex and a lot of evidence is filed. Matters are often heard over a number of days with intervals in between. Writing reasons are complicated by the fact that panel members need to refer back to a number of previous hearings transcripts
	Procedural matters	<ul style="list-style-type: none"> • Matters on the roll from a previous period • New matters received • Type of case • No. heard • No. pending • No. of orders issued • No. of reasons for orders issued • No. withdrawn 			<ul style="list-style-type: none"> • 4 • 25 • 15 different types of procedural matters were received • 24 (4 from a previous period) • 3 • 23 (4 from a previous period) • 5 • 2 	

Sub Prog.	Output	Measure	Target	Status for the year (April 06 – March 07)	Reasons for deviation and Corrective Action Plan
Enforcement and Compliance		Turnaround times – procedural matters	Hearings set down within 20 days of close of pleadings Order/decision issued within 20 days of hearing Written reasons for order/decision given within 10 days of order/decision being issued	<ul style="list-style-type: none"> • 16 of 24 matters heard • 23 of 23 matters in which orders were issued • 2 of 5 matters in which reasons were given 	<ul style="list-style-type: none"> • These targets are set by the Tribunal internally and are not targets set by the rules • Delays are caused by parties not being ready to argue the application • Procedural matters are often part of a larger complicated matter and this may have an impact on the setting down of the procedural matter and the merger hearing • Written reasons for orders/decisions in procedural matters are generally only given at the request of the parties or if the order is appealable • Requests were made for written reasons in 3 matters. 2 matters were appealable and therefore reasons were issued
	Taxation	Taxation of bills No. of bills taxed	Target cannot be set - we merely report on bills taxed	<ul style="list-style-type: none"> • 2 bills were taxed this year 	
	Fines/Penalties Imposed	No. and type of fine/penalty imposed Value of fine imposed	Target cannot be set – we merely report on fines/penalties levied	<ul style="list-style-type: none"> • 6 fines were imposed as an administrative penalty for contraventions of the Act • The total value of the fines imposed was R 63 790 600.00 	
Education and Awareness	Information dissemination	No. of Tribunes produced per annum No. of Tribunes distributed per issue		3 per annum 75 copies circulated	<ul style="list-style-type: none"> • 3 Tribunes were produced during the period under review. • Approximately 56 copies are distributed per volume
	Media reports	No. of stories per quarter and monthly average	Targets cannot be set	<ul style="list-style-type: none"> • 460 stories appeared in the media monitored by the Tribunal this quarter (monthly average of 38) 	
	Reasons for decisions posted on website	No. of reasons posted on website No. of reasons posted within 24 hours No. of reasons not posted within 24 hours	Targets cannot be set	<ul style="list-style-type: none"> • 93 reasons were posted on the website during this period 	<ul style="list-style-type: none"> • The Tribunal undertook a major revamp of its website during the period under review and it was therefore difficult to record how many of these reasons were posted within 24 hours
	Training completed	Training needs and service providers identified Number of seminars attended	Within 4 weeks of performance appraisal process 1 training course per annum for each staff member Full-time member's/ Chairperson/ Registrar/Head of Research/Case Managers together attend at least 5 overseas conferences per annum	<ul style="list-style-type: none"> • Training is identified on an ad hoc basis and not only directly after performance appraisal • Each staff member attended at least 1 course during the year (Average of 9.93 training days per person per year) • Secretariat staff spent 139 person days in training • Full-time Tribunal members spent 46 person days in training • Chairperson attended 1 overseas conference • 1 Full-time member attended 1 overseas conference • Registrar attended 1 overseas conference • Head of Research attended 1 overseas conference • 2 case managers each attended 1 overseas conference each 	

Sub Prog.	Output	Measure	Target	Status for the year (April 06 – March 07)	Reasons for deviation and Corrective Action Plan
Education and Awareness			2 part-time members to each attend at least 1 overseas conferences 3 Appeal Court Judges to each attend 1 overseas conference	<ul style="list-style-type: none"> 4 part-time members each attended 1 overseas conference 3 Appeal Court Judges each attended 1 overseas conference 	
	Conferences and workshops conducted	No. of successful workshops and conferences	1 conference / workshop per year for Tribunal members/Appeal Court Judges/Registrar/Head of Research and Case managers	<ul style="list-style-type: none"> All Tribunal members, Research Staff, 2 Registry staff and 1 Corporate Services staff attended an internal Tribunal workshop held in February 2007 	
	Advice and referrals	No. of advice and referrals made	Queries dealt with on demand	<ul style="list-style-type: none"> 67 queries dealt with in the period under review 	
	Public able to access files and information	No. of files accessed	No target set - respond when required to	<ul style="list-style-type: none"> 45 files were accessed in the period under review 	
Competition Appeal Court	Appeal hearings by the Competition Appeal Court	<ul style="list-style-type: none"> No. of cases pending from the previous period No. of cases brought before CAC No. withdrawn prior to hearing No. suspended prior to hearing No. heard No. pending at year end No. of judgments issued No. of tribunal decisions set aside No. of tribunal decisions upheld No. of appeals dismissed No. settled after hearing 		<ul style="list-style-type: none"> 5 pending (4 had been heard and were awaiting judgment, 1 still to be heard) 11 new applications 2 1 4 (1 from a previous period) 5 7 (4 from a previous period) 1 0 1 	
		Turnaround times – CAC hearings	No control over timeframes		

CASES BEFORE THE COMPETITION TRIBUNAL

In the year under review the Tribunal heard 124 cases, with written reasons being issued in 93 cases.

Type of case	Number heard	Reasons issued
Large Merger	89	83
Procedural	24	5
Intermediate Merger	1	1
Complaint Referral from the Commission	6	1
Complaint Referral from a complainant	2	2
Interim Relief	2	1
Total heard	124	93

Large Mergers

The annual turnover and net asset value of the merging parties determine whether a merger is classified as "large", "intermediate" or "small". The thresholds for these classifications are set by the Minister of Trade and Industry and have statutory force under the Competition Act.

The Act requires that the Tribunal consider all large mergers having an economic effect within the Republic of South Africa.

After considering the merger, the Tribunal can:

- approve the transaction unconditionally, or
- approve the transaction with conditions, or
- prohibit the transaction.

A historic analysis of merger transactions heard and ruled on by the Tribunal is reflected in the table below:

Year	Total decisions	Approved without conditions	Approved with conditions	Prohibited
1999/2000	14	14	0	0
2000/2001	35	29	4	2
2001/2002	42	38	3	1
2002/2003	62	57	4	1
2003/2004	60	51	9	0
2004/2005	62	55	7	0
2005/2006	100	86	12	2
2006/2007	85	79	5	1
Total	460	409	44	7

By year-end the Tribunal had, since its inception, ruled on 460 mergers and 88.70% of these had been approved without conditions. This represents an average of 57.5 merger decisions annually.

Uncontested Mergers

The Tribunal had 87 uncontested mergers on its roll in the year under review. Of these 75 were received in the current period and the other 12 were received in a previous period.

Nine mergers had been received and heard in a previous period. Orders had been issued for these nine and only reasons for decisions were pending. Three matters from a previous period still had to be heard.

77 mergers were heard (three from a previous period) and decided. 75 of these were unconditionally approved and two were approved subject to conditions. Reasons were issued in 76 of the 77 matters heard.

At year end one uncontested merger still had to be heard.

Details of these proceedings are set out in Appendix A.

Contested Mergers

In the year under review the Tribunal had 16 contested mergers on its roll. 12 were received in the current period and four had been received in the previous period.

Two of the four matters from a previous period had been heard. One matter was awaiting reasons and another an order. The latter was prohibited. Three matters were withdrawn (one from a previous period) and hearings were held on 12 mergers (one from a previous period). Seven of these 12 were decided. Of the seven decided, four were unconditionally approved and three were approved subject to conditions.

Four matters were pending at the year-end.

Details of these proceedings are set out in Appendix B

Turnaround Times in Large Merger Proceedings

In terms of Tribunal Rule 35 (1) the registrar is required to set down a matter within ten business days of the filing of the merger referral; alternatively, a pre-hearing conference must be held within that period.

There are, however, instances where set-down occurs after the ten-day period. Delays in set-down occur if parties are not ready and request a postponement or if insufficient information is provided and requests are made for additional information by the panel or parties.

In the year under review 65.17% (58) of 89 cases heard were given hearings within the ten-day period.

Orders were released in 85 cases with 90.59% of the orders (77 cases) being released on the same day as the hearing, and 9.41% of the orders (six cases) were

released within ten days of the hearing.

Written reasons were issued in 83 cases. Tribunal Rule 35 specifies that written reasons must be provided within 20 days of issuing an order. In 62.65 % (52 cases) reasons were issued within this 20-day period. In the remaining 37.35% (31 cases) written reasons were issued after the 20-day period.

There are many factors that can lead to the delay in the issuing of reasons. These include the following:

- mergers are complicated and decision writing is delayed by the nature of the transaction
- finalisation of reasons is dependent on the availability of panel members
- priority is given to issuing reasons for mergers conditionally approved or prohibited
- writing reasons for complex matters take time as the nuances of the matter and varying opinions of panel members need to be reflected in the reasons.

MERGER OF RIVAL SPORTS EQUIPMENT RETAILERS PROHIBITED

On 10 April 2006 the Tribunal prohibited the merger between Massmart Holdings and Moresport on the grounds that *inter alia*, "the merger would lead to the elimination of rivalry between the two largest, strongest, most committed and experienced players" in the sports and outdoor equipment market; and that "in the event of a price increase by the merged entity, consumers will have very few credible national general retailers to whom they could practically turn".

In terms of the sale of shares agreement Massmart would acquire sole control of Moresport. Both parties were involved in the retailing of sports and recreational goods. Evidence before the Tribunal revealed that over the last decade the Massmart Group had become a significant national chain of sports and recreational goods with a credible and material offering in sports and outdoor merchandise through its Masstores, namely Makro, Game and Dion. Moresport sold sports and recreational goods through three branded chain stores, namely Sportsmans Warehouse, Outdoor Warehouse and Sports Shoe World.



The Tribunal found that the rivalry between Massmart and Moresport had benefited consumers and that post merger the elimination of this rivalry would lead to a substantial prevention and lessening of competition. Furthermore, the Tribunal held that the merger's anti-competitive effects were not countervailed by efficiencies or any substantial public interest consideration.

While barriers to entry by small firms may not be high, this type of entry was not likely to constrain the merged firm's market power. Entry by a firm with a footprint and a range of products equivalent to those of the merged firm, while not wholly inconceivable, was not likely in the short term. Those likely to enter timeously would not be sufficient and those who might enter sufficiently would not enter timeously.



INTERLOCKING DIRECTORSHIPS

On 15 August 2006, the Competition Tribunal approved, without conditions, the merger between Mainstreet 333 (Pty) Ltd and Kumba Resources Limited.

The Commission had recommended that the transaction be approved with conditions because it was of the view that the implementation of the merger would, as a result of co-ordination made possible by interlocking directorships, have the effect of substantially lessening or preventing competition in the affected markets. In an effort to address these concerns it proposed conditions, which essentially sought to prohibit Anglo American Corporation from having representatives on the boards of either Exxaro or Eyesizwe SPV. The merging parties were unwilling to accept these conditions.

The Tribunal placed much emphasis on the structural differences pre- and post-merger. It found that the transaction did not strengthen an existing co-ordination, but appeared to be weakening any such existing co-ordination, assuming it existed. The Tribunal based its conclusion on the fact that AAC had a smaller holding in its erstwhile Kumba coal assets post the merger. It was reduced to having only one director at Exxaro level and another at the SPV level. Ingwe, once represented at operational company level, was now relegated to shareholder status at Eyesizwe SPV level. While the AAC and Ingwe appointees still participate in the same board this is in an investment company two steps removed from the operational companies.

The Tribunal thus found that the merger was unlikely to substantially prevent or lessen competition because the post-merger structure complicated possibilities for the exchange of information and monitoring and also changed the incentives of all the firms which might have been party to any pre-existing co-ordination. The Tribunal noted that the Commission was correct to be concerned about competition problems posed by interlocking directorships between rival firms.

A FAILING FIRM

On 31 October 2006 the Tribunal unconditionally approved the large merger involving the acquisition by Phodclinics (Pty) Ltd and DJF Defty (Pty) Ltd of the assets of New Protector Group Holdings (Pty) Ltd. The transaction concerned four hospitals: the Medivaal Hospital in Vanderbijlpark, Kathu Hospital in Kathu, Marapong Hospital in Marapong and Kingsley Hospital in Pretoria, and the respective pharmacies that operate within these hospitals.

The Council for Medical Schemes ('CMS') as well as Netcare and Supreme Health (who are collectively referred to as Netcare) opposed the Commission's recommendation that the transaction be approved unconditionally.

Netcare contended that the transaction ought to be prohibited because it enabled Medi-Clinic to become dominant in the Vaal Triangle post the transaction. It further argued that Protector was not a failing company and that in any event there were less anti-competitive options available for the disposal of the hospital assets. The CMS asserted that the acquisition of the Protector assets by Medi-Clinic ought to be prohibited because the extent of concentration in the hospital industry, brought about by progressive "creeping" acquisitions of independent hospitals by the three large groups, Netcare, Medi-Clinic and Life (previously Afrox), had resulted in an unacceptably high increases in hospital costs over time.

Moreover, it argued, even if Protector was a failing firm, which it disputed, the Protector hospitals ought to have been sold by the liquidator and the IDC to another independent hospital group.

The Tribunal applied the US test to ascertain whether Protector was a failing firm. It found this to be the case and that there were no less anti-competitive offers capable of being accepted by the liquidator. The failing firm factor outweighed the competition loss occasioned by the transaction. Although it agreed with the CMS that the private hospital market was highly concentrated and that hospital costs in South Africa were escalating it was unable to conclude, in the absence of further evidence that this merger would contribute to these factors. It therefore approved the merger.

However the Tribunal did suggest that an industry-wide enquiry be held to investigate the increasing costs of healthcare in general and hospitals specifically.

Small Mergers

In the period under review no small merger cases were received for consideration by the Tribunal.

Intermediate Mergers

One intermediate merger application was received and considered and the merger was approved.

CONTROL OF KAYA NOT ESTABLISHED

On 12 February 2007, the Tribunal upheld an appeal by the merging parties in the intermediate merger between Primedia, Capricorn Capital Partners and New Africa Investments Ltd against a decision of the Competition Commission to attach conditions intended to prevent information sharing between competitors.

This merger involved the direct acquisition by Capricorn Capital Partners (Pty) Limited ('Capricorn') and Primedia Limited ('Primedia') of New Africa Investments Limited ('Nail'). Primedia and Capricorn will hold joint voting rights in Nail. The direct consequences of the merger were uncontroversial and raised no competition or public interest concerns. Nail was a holding company that has historically held many investments in diverse areas, primarily media and financial services. It was a cash shell and only had a 24.9% stake in the Kaya FM (Pty) (Ltd) ('Kaya'), held via its wholly-owned subsidiary New Africa Media Holdings (Pty) (Ltd). Kaya owned a radio station, Kaya FM.

The indirect acquisition by Primedia of an interest in Kaya raises potential competition concerns because Primedia owns other substantial radio assets, notably, for present purposes, the Highveld radio station.



The opponents of the merger argued that the acquisition would enable Primedia to exercise unilateral market power in the Gauteng market. The identity of Kaya's other major shareholders, Kagiso Media Ltd and Caxton Ltd, was also of concern. They also own radio assets, thus portending the possibility of co-ordination with Primedia.

The Tribunal, however, found that "since Primedia has only 18.1% stake in Kaya FM it does not enjoy control over Kaya, there is no justification for imposing conditions on the acquisition. Had Primedia been able to exercise control over Kaya, it may well be that prohibition or the imposition of conditions may have been justified. Absent proof of an ability of control we cannot justify coming to such a conclusion".

Restrictive Practices

Complaint Referrals from the Commission.

In the year under review the Tribunal received 13 new complaint referrals from the Commission. Six of these were heard. All were confirmed as consent orders with reasons being issued in one matter. Seven complaint referrals were pending at the year-end.

Competition Commission and South African Airways (Pty) Ltd, South African Express Airways (Pty) Ltd

The Commission found that these two airlines contravened section 4(1) (b) by simultaneously introducing an agreed identical fuel surcharge on tickets for domestic and international flights. The Commission concluded a consent order with the respondents, which was confirmed by the Tribunal. In terms of the consent order the airlines agreed that they would:

- not agree with any of their competitors on the

introduction or increase of any levy or charge in the future

- implement a compliance programme designed to ensure that their employees and directors are informed of and comply with their obligations under competition law and the provisions of the Act jointly pay an administrative penalty of R20 million.

Competition Commission vs. South African Airways (Pty) Ltd

The Competition Commission found that South African Airways (Pty) Ltd and Lufthansa were engaged in prohibited practices in contravention of section 4(1) (b) (i) of the Competition Act 89 of 1998.

The Commission initiated an investigation into various bilateral agreements between the airlines that dealt with their relationship in respect of code share flights operating between Cape Town/ Johannesburg and Frankfurt.

The different agreements provide for *inter alia* the co-ordination of flights, revenue sharing and sales incentives. The Commission found that the bilateral agreements created a platform for SAA and Lufthansa to collude and that the airlines had used the opportunity to fix the selling price of air tickets on their flights between Cape Town/Johannesburg and Frankfurt. This happened through meetings and communications where price changes and the harmonisation of fares were discussed.

In terms of the consent order SAA has agreed to:

- not fix the selling price of air tickets or any other products or services with Lufthansa or any other competitor;
- implement a compliance programme designed to ensure that its employees and directors were informed of, and complied with their obligations under competition law and the provisions of the Act;
- pay an administrative penalty of R20 million.

Competition Commission and Deutsche Lufthansa AG

The Competition Commission found that South African Airways (Pty) Ltd and Deutsche Lufthansa AG were engaged in prohibited practices in contravention of section 4(1) (b) (i) of the Competition Act 89 of 1998.

The Commission's investigation found that from 1999 until

the Commission commenced its investigation in 2002, SAA and Deutsche Lufthansa had fixed the selling price of air tickets on their flights between Cape Town/Johannesburg and Frankfurt through meetings and communications where price changes and the harmonisation of fares were discussed.

In terms of the consent order the Commission and Lufthansa have agreed that:

- Lufthansa will not engage in the fixing of any selling price or trading condition either through direct or indirect agreement or arrangement
- Lufthansa will pay an administrative penalty of R8.5 million for the contraventions.

Competition Commission and Zip Heaters (Australia) (Pty) Ltd

This was an application to the Tribunal for confirmation of an agreement entered into between the Competition Commission and Zip Heaters. The Commission found that Zip Heaters was engaged in the fixing of trading conditions and divisions of markets in contravention of sections 4(1) b (ii) and 4(1)(b)(i) of the Act.

Zip Heaters and Kwikot entered into an exclusive manufacturing and distribution agreement in terms of which Kwikot sold Zip Heaters' products, including automatic continuous electric boiling water heaters in the South African market. The agreement included a non-compete provision operational for a period of two years after the termination of the agreement. After termination of the agreement Zip Heaters enforced the non-compete obligation and prevented Kwikot from independently entering the South African market in competition with its products.

Zip Heaters agreed to pay an administrative penalty of R78 500.

The Competition Commission and Oakley Athletic (Pty) Ltd

The Commission found that Oakley Athletic was involved in the practice of minimum resale price maintenance in as far as the sale of Oakley Athletic sunglasses was concerned. This occurred through the prescribing of minimum prices to its retail outlets, which is in contravention of section 5(2) of the Act.

Oakley and the Commission concluded an agreement concerning the practice of minimum resale price maintenance by Oakley.

In terms of the agreement Oakley will pay an administrative penalty of R212 100.

CONSENT ORDERS CONSIDERED

On 4 December 2006, the Tribunal confirmed a settlement agreement between the Commission and SAA and issued a consent order. The case related to incentive schemes in respect of travel agents' remuneration.

The agreement contained undertakings from SAA relating to the content of future agreements with travel agents. SAA also undertook to implement a compliance program. SAA agreed to pay an administrative penalty of R15 million. Nationwide and Comair had challenged the validity of the order arguing that, *inter alia*, it did not contain an admission of liability.

The Tribunal found that there was no judicial prerequisite that a consent order must contain an admission of liability by the respondent and that in its absence the respondent, in this case SAA, would not be immunised from parties bringing action against it if they were dissatisfied with the consent order.

Because this consent order did not contain an admission of liability, the Tribunal suggested that the two airlines would have the following options available to them:

- Comair, as the complainant, could either use the procedures in the Act to have the Tribunal declare that SAA's conduct amounted to a contravention of the Act for purposes of founding a civil claim; alternatively, Comair, if it was of the view that the undertakings in the consent order were insufficient, could re-lodge its



complaint with the Commission and get a non-referral. It could then approach the Tribunal to get an interdict against SAA on its own terms.

- Nationwide, which is not a complainant, would have to lodge its complaint with the Commission and obtain a notice of non-referral before it could seek from the Tribunal a declaration that SAA had contravened the Act, for purposes of founding a civil claim.

Nationwide and Comair also challenged the adequacy of the amount of the penalty.

The Tribunal accepted the Commission's reasons for considering both the Tribunal's previous case (in which it fined SAA R45 million) and this complaint referral as one for the purpose of arriving at an overall fine. SAA's total liability amounts to R100 million, including the R45 million in respect of the Nationwide case, the R15 million in respect of this consent order, and an additional R40 million in respect of two other consent orders confirmed previously by the Tribunal.

The following matters were received in the period under review but hearing dates have not been allocated:

- The Competition Commission v. Sasol Chemical Industries (Pty) Ltd, Yara South Africa (Pty) Ltd and African Explosives and Chemical Industries Ltd
- The Competition Commission v. Clover Industries Ltd and seven others
- The Competition Commission v. Senwes Limited
- The Competition Commission v. Iscor Ltd and six others
- The Competition Commission v. Allen Meshco (Pty) Ltd and four others
- The Competition Commission v. Tiger Food Brands (Pty) Ltd t/a Albany Bakeries and Pioneer Foods (Pty) Ltd t/a Sasko and Duens Bakeries
- The Competition Commission v. Community Hospital Group (Pty) Ltd and Network Healthcare Holdings Limited.

Complaint Referrals from a complainant

The Tribunal received five new referrals from complainants in the year under review and had two on its roll from a previous period.

Two referrals, namely, The Bulb Man SA (Pty) Ltd and Hadeco (Pty) Ltd, Soyo Chemicals (Pty) Ltd and Chemiphos SA (Pty) Ltd were withdrawn and two referrals were heard and decided on.

Three referrals were pending at year-end.

The following matters were received in the period under review but hearing dates have not been allocated:

- Ebrahim Moosa and Villani Shoes.
- Nationwide Airlines (Pty) Ltd and South African Airways (Pty) Ltd
- Charter Property Sales and East Cape Property Guide.



STEEL PRICES HELD TO BE EXCESSIVE

Harmony Gold and Durban Roodepoort Deep filed a complaint against Mittal Steel, an iron and steel manufacturing company, and Macsteel International, a steel trader exclusively responsible for Mittal SA's export sales. They alleged that Mittal SA had abused a dominant position by charging, in contravention of Section 8(a) of the Act, excessive prices for its flat steel products. Secondly, it was alleged that Mittal SA required or induced customers to not deal with a competitor, thereby contravening section 8(d) (i).

The Tribunal examined the cumulative impact of the market structure and Mittal SA's pricing practice. It asked whether the structure of the market in question enabled those who participate in it to charge excessive prices. This, it indicated, required "super-dominance", a structural condition the characteristics of which are a market share of approximately 100% with no realistic prospect of entry by a rival.

Secondly, it asked "whether Mittal SA engaged in conduct designed to take advantage of – 'to abuse' – those structural opportunities by imposing excessive prices on its customers." If this was answered in the affirmative the excessive pricing must be proscribed and a remedy must be imposed.

In following this approach the Tribunal ensured that it did not adopt the role of a price regulator but that it "used principles and methodologies firmly rooted in the practice of competition law and economics".

The Tribunal found that Mittal SA had contravened Section 8(a).

It held that: "[Mittal SA] has, by virtue of its super dominance, the structural market power to pre-select a target price in its domestic market; it has imposed this pre-determined target price, in this instance the import parity price, on most of its domestic market; and to support this pre-selected target it has withheld supply from the domestic market, the most elementary and offensive of monopolistic conduct. This does not mean that Mittal SA's offence is its super-dominance; nor does it mean that a firm that is not super-dominant is not entitled to manipulate its supply – if such a firm reduced output its competitors would quickly move to replace the lost output. However, it is the cumulative impact of its structural advantage (its super-dominance) and the conduct thereby enabled (its purposeful, unilateral withholding of supply from the domestic market) that results in a price that is unconstrained by any competitive considerations whatsoever. By withholding output, an option only available to a super-dominant firm, it has assured its ability to charge its pre-selected target price, a price unconstrained by any competitive considerations in its relevant market, and thus has contravened the Act's proscription of excessive pricing."

The Tribunal dismissed the section 8(d) (i) complaint.

The Tribunal is yet to decide on the appropriate remedies.

MANDLA MATLA

On 6 November 2006, the Tribunal dismissed an application brought by Mandla Matla Publishing (Pty) Ltd against Independent Newspapers (Pty) Ltd.

This case concerns a complaint brought by Mandla Matla, the publisher of a single newspaper title, namely *Ilanga*, an isiZulu language newspaper that is sold primarily in Kwazulu-Natal, against the conduct of Independent Newspapers, a major national newspaper group that owns a number of prominent newspaper titles in the province of KZN and in the rest of the country.

Independent Newspapers was obliged, in terms of an agreement with Mandla Matla, to print and distribute *Ilanga* and was prohibited by this agreement from publishing another isiZulu language newspaper. However, Mandla Matla decided to move the agreement from Independent Newspapers to the Natal Witness Group, thereby releasing Independent Newspapers from the contractual restraint that prevented it from publishing a newspaper in the same market as *Ilanga*. Immediately upon termination of the agreement Independent Newspaper began publishing its isiZulu language title, *Isolezwe*.

Once the agreement had been terminated Mandla Matla requested certain information from Independent Newspapers in order to ensure the continued effective distribution of *Ilanga*. It was alleged that Independent Newspapers refused to provide all the information requested. Independent Newspapers also informed its distributors, who were independent contractors that they were not permitted in terms of exclusivity agreements they had concluded with Independent Newspapers to provide distribution services to *Ilanga*.

Mandla Matla alleged that Independent Newspapers'



refusal to furnish it with the requested information amounted to an abuse of dominance in contravention of section 8(c) of the Competition Act ('the Act') and that the exclusive dealing agreements amounted to a prohibited restrictive vertical practice as envisaged by section 5(1) of the Act and a prohibited practice set out in section 8 (d) (i).

The Tribunal was of the view that Independent Newspapers' withholding of relevant information from Mandla Matla did not have anti-competitive effects because Mandla Matla was able to establish its own distribution network and sales were back to normal, and even increased, within a few months of terminating the agreement.

The Tribunal further found that the exclusive distribution agreements were not unlawful because they did not have anti-competitive effects. In fact, they had pro-competitive effects in that the market grew by a large margin because of the entrance of *Isolezwe* on the market, Natal Witness grew its printing business, and a separate distribution network was established.

The Tribunal also found that the extent of foreclosure caused by the exclusive dealing agreements and the withholding of the information was minimal, the duration of the foreclosure was short and that the barriers to entry in the distribution market were low. Since Mandla Matla failed to show any anti-competitive effect, the application was dismissed.

Interim Relief

The Tribunal had the following two interim relief cases on the roll during the period under review. Both cases were heard. One was decided by the Tribunal and the other was settled subsequent to the hearing.

- The Bulb Man SA (Pty) Ltd and Hadecco (Pty) Ltd
- Soyo Chemicals (Pty) Ltd and Chemiphos SA (Pty) Ltd

Decisions on Procedure or Points of Law

In the period under review, the Tribunal had 29 matters of this nature on the roll. Of these, 25 were new applications and four were pending from the previous year.

Two matters were withdrawn and 24 matters were heard (four from a previous period). All except one of the 24 were decided and one was settled by the parties. Three matters are still to be heard.

The nature of these applications is illustrated in the following table:

Nature of procedural matter	Number of applications
Section 44 (1)	1
Intervention application	4
Section 45 (access to confidential information)	1
Refund of filing fee	2
Default judgement application	2
Amendment application	4
Jurisdiction appeal	1
Discovery application	3
Extension application	5
Variation order	1
Declaratory order	1
Stay application	1
Application of costs order	1
Ethical application	1
Suspension application	1
Total	29

Details of these proceedings are given in Appendix D.



ANSAC v BOTASH

This dispute flows from a complex and lengthy bout of litigation arising from an allegation that Ansac was a cartel in contravention of Section 4(1) (b) of the Act.

Ansac brought an application to disqualify Botash, an intervening party, and its legal representatives, Webber Wenzel Bowens, from future proceedings in this matter. Ansac alleged that Botash's legal team included a former employee of the Competition Commission who had participated in negotiations between Ansac and the Commission concerning a possible settlement of the complaint, and who had subsequently been employed by Webber Wenzel Bowens.

Ansac argued there were two reasons why dis-

qualification was an appropriate remedy. Ansac argued firstly that the legal representative concerned was a potential witness in the consent order negotiations and, secondly, that in the course of his employment with the Commission he had become privy to confidential information.

In assigning the attorney in question to the case, Webber Wenzel Bowens had placed themselves in a position in which advantage gained through his work with the Commission might be derived from his contribution.

The Tribunal found that, although the legal representative had indeed participated briefly in the Botash legal team and may have been exposed to 'without prejudice information' in relation to the case as a result of his employment with the Commission, Ansac had failed to provide evidence of more than a possibility of harm.

In the Tribunal's view the possibility of harm was insufficient to found a case for unfairness in our law since it requires proof of substantial unfairness. The application was dismissed.

Ansac appealed against the Tribunal's decision but the Competition Appeal Court dismissed the appeal.

THE COMPETITION APPEAL COURT

The Competition Appeal Court, one of three institutions established in terms of the Competition Act, is a specialised body that hears appeals from and reviews of the decisions of the Tribunal. The President, acting on the advice of the Judicial Services Commission appoints the judges of the Competition Appeal Court.

The table below identifies the judges constituting the court during the period under review:

Name	Court
Judge D Davis	Cape of Good Hope Provincial Division of the High Court
Judge S Selikowitz	Cape of Good Hope Provincial Division of the High Court
Judge L M Mailula	Witwatersrand Local Division of the High Court
Judge F R Malan	Witwatersrand Local Division of the High Court
Judge C N Patel	Natal Provincial Division of the High Court
Judge N Mhlantla	Eastern Cape Division of the High Court
Judge P Levinsohn	Natal Provincial Division of the High Court
Judge Z Tshiqi	Witwatersrand Local Division of the High Court

The registrar of the Tribunal acts as the registrar of the Competition Appeal Court and the secretariat of the Tribunal provides the registry function.

One judge attended a training session in June 2006 for judges hosted by the Fordham University School of Law and three judges attended the Fordham Annual Conference on International Antitrust and Law Policy in New York in September 2006.

The budget of the Competition Appeal Court appears as a line item on the Tribunal's budget, and funding for it is received from the dti. The budget is managed and administered by the Tribunal's secretariat on behalf of the Competition Appeal Court. The table below sets out the expenditure of the Competition Appeal Court over the past five years.

Year	Total Expenditure (R'000's)
2003	175
2004	284
2005	341
2006	363
2007	337

Cases before the Competition Appeal Court

In the period under review, the Competition Appeal Court received 12 cases and six cases were pending from the previous period. The court heard five cases and released eight judgements. Two cases were withdrawn, one was settled and one was suspended.

Appellant/Applicant	Respondent	Date of application	Date of hearing	Date of decision	Bench	Decision
Community Healthcare Holdings (Pty) Ltd and Cornucopia (Pty) Ltd	Competition Tribunal, Competition Commission, Business Venture and Others	3 Mar 05	14 Jun 05	18 Aug 06	Hussain JA	Application dismissed. Applicants ordered to pay costs of two counsel on a scale as between attorney and own client.
Omnia Fertilizer Limited	Competition Commission and Others	17 Jun 05	20 Sep 05	28 Apr 06	Jali JA Malan AJA Patel AJA	Both applications were dismissed with costs including the costs of two counsel.
Sasol Chemical Industries	Competition Commission and Others	21 Jun 05				
Medicross Healthcare Group (Pty) Ltd, Prime Cure Holdings (Pty) Ltd	Competition Commission	23 Sep 05	7 Dec 05	6 Apr 06	Davis JP Selikowitz JA Mhlantla AJA	Appeal upheld and merger approved
Johnnic Holdings Ltd	Mercanto (Pty) Ltd and Competition Commission	8 Dec 05	9 Dec 05	18 Aug 06	Hussain JA	Application dismissed with costs
Mybico	David Lewis, Competition Tribunal, Vodafone, Venfin	24 Feb 06	20 Jun 06	10 Nov 06	Davis JP Mailula AJA Patel AJA	Application dismissed with costs.
Cape Empowerment Trust Limited	Sanlam Life Insurance Limited and Sancino Projects	5 Apr 06	19 Sep 06	Matter settled on 7 Nov 06		Matter settled
GlaxoSmithKline SA	David Lewis and 10 others	11 Apr 06	12 Sep 06	6 Dec 06	Selikowitz JA Davis JP Mhlantla AJA	Appeal and review dismissed
Massmart Holdings Ltd and Moresport (Pty) Ltd	Competition Commission and Competition Tribunal	29 May 06				Appeal withdrawn on 2 Jun 06

Appellant/Applicant	Respondent	Date of application	Date of hearing	Date of decision	Bench	Decision
American Natural Soda Ash Corporation and CHC Global (Pty) Ltd	BOTASH, Chemserve Technical Products (Pty) Ltd, Webber Wentzel Bovens, Competition Commission	8 Aug 06	22 Sep 06	5 Jan 07	Davis JP Mailula AJA Patel AJA	Appeal dismissed with costs, including the cost of two counsel.
American Natural Soda Ash Corporation and CHC Global (Pty) Ltd	David Lewis, Norman Manoim, Yasmin Carrim, Competition Tribunal, Botswana Ash (Pty) Ltd, Chemserve Technical Products (Pty) Ltd, Webber Wentzel Bovens, Competition Commission	11 Aug 06	14 Aug 06 postponed to 16 Aug 06			Interdict withdrawn on 16 Aug 06
American Natural Soda Ash Corporation and CHC Global (Pty) Ltd	David Lewis, Norman Manoim, Yasmin Carrim, Competition Tribunal, Botswana Ash (Pty) Ltd, Chemserve Technical Products (Pty) Ltd, Webber Wentzel Bovens, Competition Commission	11 Aug 06	22 Sep 06	DD, LM, CP postponed to 08 Nov 06		Review suspended
American Natural Soda Ash Corporation and CHC Global (Pty) Ltd	David Lewis, Norman Manoim, Yasmin Carrim, Competition Tribunal, Botswana Ash (Pty) Ltd, Chemserve Technical Products (Pty) Ltd, Webber Wentzel Bovens, Competition Commission	19 Jan 07				Pending
TWK Agriculture Limited	Competition Commission, NCT Forestry Co-Operative Limited, Shincel (Pty) Ltd and Shield Overall Manufacturers (Pty) Ltd	22 Jan 07				Pending
African Media Entertainment Limited	David Lewis, Norman Manoim, Yasmin Carrim, Primedia Ltd, Capricorn Capital Partners (Pty) Ltd, New Africa Investments Ltd and the Competition Commission	5 Mar 07				Pending
Johnnic Holdings Limited and Mercanto Investments (Pty) Ltd	Competition Tribunal, Competition Commission and Rupert Smith	30 Mar 07				Pending
Johnnic Holdings Limited and Mercanto Investments (Pty) Ltd	Competition Tribunal, Competition Commission and Rupert Smith	30 Mar 07	12 Apr 07	12 Apr 07	Mailula AJA	Time periods in Tribunal's order for the operation of trustee divestiture period are suspended



Mr Justice D Davis



Mr Justice P Levinsohn



Ms Justice L Mailula



Mr Justice F Malan



Ms Justice N Mhlantla



Mr Justice S Selikowitz



Mr Justice C Patel



Ms Justice Z Tshiqi

ANNUAL FINANCIAL STATEMENTS

for the year ended 31 March 2007

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STATEMENT OF FINANCIAL PERFORMANCE

for the year ended 31 March 2007

Revenue	Notes	2007 R'000	2006 R'000
Fee Income	2	8 149	8 454
Grants and transfers	3	8 000	5 000
Other revenue	4	35	172
Total Revenue		16 184	13 626
Expenses		13 119	10 600
Administrative expenses	5	3 174	2 156
Personnel	6	7 205	5 969
Other operating expenses	7	2 500	2 233
Finance charges	8	43	45
Depreciation	9	197	197
Surplus from operations		3 065	3 026
Interest received	10	577	226
Net surplus for the year		3 642	3 252

STATEMENT OF FINANCIAL POSITION

as at 31 March 2007

ASSETS	Notes	2007 R'000	2006 R'000
Current assets		13 443	9 519
Inventory	11	16	38
Receivables	12	686	1 836
Cash and cash equivalents	13	12 741	7 645
Non-current assets		797	876
Infrastructure, plant and equipment	14	797	876
Total assets		14 240	10 395
LIABILITIES			
Current liabilities		1 018	730
Payables	15	913	640
Short term portion of finance lease	16	99	86
Short term borrowing	17	3	0
Accrued interest		3	4
Non Current liabilities		267	352
Finance Lease	16	267	352
Total liabilities		1 285	1 082
Net Assets		12 955	9 313
NET ASSETS		12 955	9 313
Accumulated surplus		12 955	9 313
Total net assets		12 955	9 313

STATEMENT OF CHANGES IN NET ASSETS

for the year ended 31 March 2007

	Notes	Accumulated funds 2007 R'000
Balance at 1 April 2005 as previously reported		5 865
Prior year error adjustment	18	196
Restated balance as at 1st April 2006		6 061
Surplus for the year ended 31st March 2006		3 252
As previously reported		3 230
Surplus year error		22
Balance at 31 March 2006		9 313
Surplus for the year ended 31 March 2007		3 642
Balance at 31 March 2007		12 955

CASH FLOW STATEMENT

for the year ended 31 March 2007

Revenue	Notes	2007 R'000	2006 R'000
Operating activities			
Cash received from customers		17 334	12 558
Cash paid to suppliers and employees		12 584	10 338
Cash generated from operating activities	19	4 750	2 220
Interest received	10	577	226
Finance charges	8	(43)	(45)
Net cash from operating activities		5 284	2 401
Net cash used in investing activities	20	(118)	(242)
Net cash flow from financing activities	21	(70)	145
Net increase in cash and cash equivalents		5 096	2 304
Cash and cash equivalents at the beginning of the year		7 645	5 341
Cash and cash equivalents at end of the year	13	12 741	7 645

NOTES TO THE ANNUAL FINANCIAL STATEMENTS

for the year ended 31 March 2007

1. Accounting Policies

The annual financial statements have been prepared on the historical cost basis and include the following principal accounting policies, which in all material aspects, are consistent with those applied in the previous year, except as otherwise indicated:

1.1 Basis of preparation

The financial statements have been prepared in accordance with the South African Statements of Generally Accepted Accounting Practice (GAAP) including any interpretations of such Statements issued by the Accounting Practices Board, with the effective Standards of Generally Recognised Accounting Practice (GRAP) issued by the Accounting Standards Board replacing the equivalent GAAP Statement as follows:

Standard of GRAP	Replaced Statement of GAAP
GRAP 1: Presentation of financial statements	AC101: Presentation of financial statements
GRAP 2: Cash flow statements	AC118: Cash flow statements
GRAP 3: Accounting policies, changes in in accounting estimates and errors	AC103: Accounting policies, changes in accounting estimates and errors

Currently the recognition and measurement principles in the above GRAP and GAAP Statements do not differ or result in material differences in items presented and disclosed in the financial statements.

The implementation of GRAP 1, 2 & 3 has resulted in the following significant changes in the presentation of the financial statements:

a) Terminology differences:

Standard of GRAP	Replaced Statement of GAAP
Statement of financial performance	Income statement
Statement of financial position	Balance sheet
Statement of changes in net assets	Statement of changes in equity
Net assets	Equity
Surplus/deficit	Profit/loss
Accumulated surplus/deficit	Retained earnings
Contributions from owners	Share capital
Distributions to owners	Dividends

b) The cash flow statement can only be prepared in accordance with the direct method.

c) Specific information has been presented separately on the statement of financial position such as:

- i) Receivables from non-exchange transactions, including taxes and transfers;
- ii) Taxes and transfers payable;
- iii) Trade and other payables from non-exchange transactions;

d) Amount and nature of any restrictions on cash balances is required

Paragraph 11 – 15 of GRAP 1 has not been implemented due to the fact that the budget reporting standard has not been developed by local standard setters and the international standard is not effective for this financial year. Although the inclusion of budget information would enhance the usefulness of the financial statements, non-disclosure will not affect the objective of the financial statements.

1.2 Presentation currency

These financial statements are presented in South African Rands.

NOTES TO THE ANNUAL FINANCIAL STATEMENTS

for the year ended 31 March 2007

1.3 Revenue

Revenue comprises of filing fees receivable for the year and is recognised on an accrual basis. Interest income is accrued on a time preparation basis taking into account the principle invested and the effective interest rate applicable to the relevant investments.

1.4 Irregular and fruitless and wasteful expenditure

Irregular expenditure means expenditure incurred in contravention of, or not in accordance with a requirement of any applicable legislation including the PFMA.

Fruitless and wasteful expenditure means expenditure that was made in vain and would have been avoided had reasonable care been exercised.

The expenditure portion of irregular and fruitless and wasteful expenditure is charged against income and the capital portion of irregular expenditure is charged against the related liability in the period in which they are determined.

All fruitless and wasteful expenditure is charged against income in the period in which they are determined.

1.5 Pension and post retirement benefits

The entity operates a defined contribution plan for all its employees.

Contributions to the defined contribution plan are charged to the statement of financial performance in the year to which they relate.

1.6 Infrastructure, plant and equipment

Assets costing less than R 2 000 are written off in the year of acquisition.

Infrastructure, plant and equipment are stated at historical cost less depreciation. Depreciation is calculated on a straight-line basis at rates considered appropriate to reduce the cost of the assets less their residual value over the estimated useful life. Useful life and residual value are reviewed annually.

The period over which various categories of assets are depreciated is detailed below:

Office equipment	- 15 years
Motor vehicles	- 5 years
Computer equipment	- 3 years
Furniture and fittings	- 15 years
Leased Assets	- period of the lease

1.7 Leased assets

Leases of assets are classified as finance leases whenever the terms of the lease transfer substantially all the risks and rewards of ownership to the lessee.

Assets held under finance leases are recognised as assets at their fair value at the inception of the lease or, if lower at the present value of the minimum lease payments. The corresponding liability to the lessor is included in the statement of financial position as a finance lease obligation. Lease payments are apportioned between finance charges and reduction of the lease obligation so as to achieve a constant rate of interest on the remaining balance of the liability. Finance charges are charged to surplus or deficit.

Leases under which the lessor effectively retains the risks and benefits of ownership are classified as operating leases. Obligations incurred under operating leases are charged to the statement of financial performance in equal instalments over the period of the lease.

NOTES TO THE ANNUAL FINANCIAL STATEMENTS

for the year ended 31 March 2007

1.8 Inventory

Inventory is stated at the lower of cost and net realisable value and cost is determined on a first-in-first-out basis. Net realisable value represents the estimated selling price in the ordinary course of the business less any costs incurred in selling and distribution.

1.9 Provisions

Provisions are recognised when the institution has a present legal or constructive obligation as a result of past events, for which it is probable that an outflow of economic benefits will occur, and where a reliable estimate can be made of the amount of the obligation.

1.10 Financial Instruments

Financial instruments carried on the statement of financial position include cash and bank balances, receivables and payables. These financial instruments are generally carried at their estimated fair value, which is the amount for which an asset could be exchanged, or a liability settled, between knowledgeable and willing parties in an arm's length transaction.

Recognition

Financial instruments are initially recognised using the trade date accounting method.

Measurement

Financial instruments are initially measured at cost, which includes transaction cost. Subsequently to initial recognition these instruments are measured at fair value.

Receivables

Receivables are stated at the nominal value as reduced by appropriate allowances for estimated irrevocable amounts.

Cash and bank balances

Cash and cash equivalents are measured at fair value.

Payables

Trade and other payables are stated at their nominal value.

Short term borrowings

Short term borrowings as measured at fair value.

Gains and losses arising from changes in the fair value of financial instruments are recognised in net surplus or deficit in the year in which they arise.

1.11 Government grants

Government grants are recognised in the year to which they relate, once reasonable assurance has been obtained that all conditions of the grants have been complied with and the grant has been received.

1.12 Comparative figures

Where necessary, comparative figures have been adjusted to conform to changes in presentation in the current year.

1.13 Impairment of assets

The Tribunal assesses at each statement of financial position date whether there is any indication that an asset may be impaired. If any such indication exists, the entity estimates the recoverable amount of the asset. If there is any indication that an asset may be impaired, recoverable amount is estimated for the individual asset. If it is not possible to estimate the recoverable amount of the individual asset, the recoverable amount of the cash-generating unit to which the asset belongs is determined.

NOTES TO THE ANNUAL FINANCIAL STATEMENTS

for the year ended 31 March 2007

The recoverable amount of an asset or a cash-generating unit is the higher of its fair value less costs to sell and its value in use. If the recoverable amount of an asset is less than its carrying amount, the carrying amount of the asset is reduced to its recoverable amount. That reduction is an impairment loss.

An impairment loss of assets carried at cost less any accumulated depreciation or amortisation is recognised immediately in the surplus or deficit. Any impairment deficit of a revalued asset is treated as a revaluation decrease.

An impairment deficit is recognised for cash-generating units if the recoverable amount of the unit is less than the carrying amount of the units. The impairment deficit is allocated to reduce the carrying amount of the assets of the unit in the following order:

- first, to reduce the carrying amount of any goodwill allocated to the cash-generating unit and
- then, to the other assets of the unit, pro rata on the basis of the carrying amount of each asset in the unit.

The Tribunal assesses at each reporting date whether there is any indication that an impairment loss recognised in prior periods for assets may no longer exist or may have decreased. If any such indication exists, the recoverable amounts of those assets are estimated.

	2007	2006
	R'000	R'000
2. Fee Income		
An analysis of the Tribunal's fee income is as follows:		
Rendering of services:		
Fee Income received from the Commission	8 149	8 454
Total	8 149	8 454
3. Grants and Transfers		
Government grant	8 000	5 000
Total	8 000	5 000
4. Other Revenue		
Profit on disposal of assets	0	112
Sundry	1	60
Refund from SARS	25	0
Printing cost recoupment	9	0
Total	35	172
5. Administrative expenses		
General and administrative expenses	868	698
External audit fees	206	184
Internal audit fees	164	170
Fees paid to AC members (inclusive of travel)	37	22
Travel and subsistence	225	317
Unitary payments for building occupation	1 674	765
Total	3 174	2 156

NOTES TO THE ANNUAL FINANCIAL STATEMENTS

for the year ended 31 March 2007

	2007	2006
	R'000	R'000
6. Personnel		
Salaries	3 358	2 346
Basic salaries	2 626	1 735
Performance awards	218	159
Other non-pensionable allowance	514	452
Defined Pension contribution plan expense	176	128
Social contributions (Employer's contributions)	212	181
Medical	69	59
UIF	20	16
Insurance	36	26
Other salary related costs	87	80
Director's emoluments	3 459	3 314
Total	7 205	5 969
7. Other operating expenses		
Staff training and development	1 163	883
Consultants, contractors and special services	1 335	1 262
Legal fees	2	88
Total	2 500	2 233
8. Finance charges		
Capitalised finance leases	43	45
Total	43	45
9. Depreciation		
- Office equipment	1	1
- Motor vehicles	21	21
- Computer equipment	57	70
- Leased Assets – office equipment	103	92
- Furniture and fittings	15	13
Total	197	197
10. Interest received		
Interest received		
- Bank deposits	577	226
Total	577	226

NOTES TO THE ANNUAL FINANCIAL STATEMENTS

for the year ended 31 March 2007

	2007	2006
	R'000	R'000
11. Inventory		
Consumable stores	16	38
Total	16	38
12. Receivables		
Receivables	598	1836
Prepayments	88	0
Total	686	1836

13. Cash and cash equivalents

Cash and cash equivalents comprise cash that is held with registered banking institutions and are subject to insignificant interest rate risk. The carrying amount of these assets approximates to their fair value.

Cash at bank	12 740	7 644
Cash on hand	1	1
Total	12 741	7 645

As required in section 7(2) and 7(3) of the Public Finance Management Act, the National Treasury has approved the local banks where the bank accounts are held.

14. Infrastructure, plant and equipment

	Office equipment	Motor vehicles	Computer equipment	Furniture and Fittings	Leased Assets- Office Equipment	Total
	R'000	R'000	R'000	R'000	R'000	R'000
Year ended 31/3/2006						
Opening net carrying amount	9	209	163	158	180	719
Cost	14	209	370	347	349	1289
Accumulated depreciation	(5)	0	(207)	(189)	(169)	(570)
Additions	0	0	16	0	501	517
Disposals	0	0	0	0	(163)	(163)
Cost	0	0	0	3	349	352
Accumulated depreciation	0	0	0	(3)	(186)	(189)
Depreciation charge	(1)	(21)	(70)	(13)	(92)	(197)
Net carrying amount 31 March 2006	8	188	109	145	426	876
Cost	14	209	386	344	501	1454
Accumulated depreciation	(6)	(21)	(277)	(199)	(75)	(578)

NOTES TO THE ANNUAL FINANCIAL STATEMENTS

for the year ended 31 March 2007

	Office equipment	Motor vehicles	Computer equipment	Furniture and Fittings	Leased Assets- Office Equipment	Total
	R'000	R'000	R'000	R'000	R'000	R'000
Year ended 31/3/2007						
Opening net carrying amount	8	188	109	145	426	876
Cost	14	209	386	344	501	1454
Accumulated depreciation	(6)	(21)	(277)	(199)	(75)	(578)
Additions	0	0	101	0	17	118
Disposals	0	0	0	0	0	0
Cost	1	0	132	0	0	133
Accumulated depreciation	(1)	0	(132)	0	0	(133)
Depreciation charge	(1)	(21)	(57)	(15)	(103)	(197)
Net carrying amount 31 March 2007	7	167	153	130	340	797
Cost	13	209	355	344	518	1439
Accumulated depreciation	(6)	(42)	(202)	(214)	(178)	(642)

15. Payables

	2007 R'000	2006 R'000
Trade creditors	413	208
Salary accruals	445	313
Other accruals	55	119
Total	913	640

16. Finance lease

Amounts payable under finance lease:

- Within one year	133	128
- In the second to fifth year inclusive	302	417
	435	545

Less future finance charges

- Within one year	34	42
- In the second to fifth year inclusive	35	65

Present value of minimum lease payments

- Within one year	99	86
- In the second to fifth year inclusive	267	352

Less amounts due for settlement within 12 months

	(99)	(86)
	267	352

NOTES TO THE ANNUAL FINANCIAL STATEMENTS

for the year ended 31 March 2007

The Tribunal is leasing a photocopier on a finance lease and there are no restrictions imposed on the Tribunal in terms of this lease. The obligation under the finance lease is secured by the lessor's title to the leased asset. The lease can be extended for a further period after the initial period has expired (5 years).

	2007	2006
	R'000	R'000
17. Short term borrowings		
Bank overdraft	3	0

The bank overdraft arose due to a late draw down of surplus cash reserves and was cleared within 2 days.

18. Prior year error

The prior year figures have been adjusted with the correction of an error. The Competition Tribunal has not complied in previous years with the requirement of IAS 16 relating to the assessing of useful life and residual values of infrastructure, plant and equipment at the end of each financial year. The Tribunal has now adopted this policy and the comparative figures of 2006 have been restated to correct this error.

The effect of this error was as follows:

Adjustment against opening retained earnings 1 April 2005	196
(Decrease) in accumulated depreciation on 1 April 2005	(196)
Office equipment	(6)
Computer equipment	(62)
Furniture and fittings	(128)
(Decrease)/increase in depreciation charge on infrastructure, plant and equipment for the year ended 31 March 2006	(22)
Motor vehicles	(21)
Computer equipment	(3)
Furniture and fittings	2
Increase in surplus 31 March 2006	(22)
(Decrease) in accumulated depreciation on 31 March 2006	(218)
Office equipment	(6)
Motor vehicles	(21)
Computer equipment	(65)
Furniture and fittings	(126)
Increase in closing retained earnings 31 March 2006	218

NOTES TO THE ANNUAL FINANCIAL STATEMENTS

for the year ended 31 March 2007

	2007	2006
	R'000	R'000
19. Reconciliation of net surplus for the year to cash generated from operations		
Net surplus for the year	3 642	3 252
Adjusted for:		
- Depreciation on infrastructure, plant and equipment	197	197
- Profit on disposal of infrastructure, plant and equipment	0	(112)
- Finance costs	43	45
- Investment income	(577)	(226)
Operating cash flows before working capital changes	3 305	3 156
Working capital changes	1 445	(936)
- Decrease/(increase) in inventories	22	(22)
- Decrease/(increase) in receivables	1 150	(956)
- Increase in payables	273	42
Cash generated from operating activities	4 750	2 220
20. Net cash flows from investing activities		
Proceeds on disposal of assets	0	275
Acquisition of infrastructure, plant and equipment	(118)	(517)
Cash used in investing activities	(118)	(242)
21. Net cash flow from financing activities		
Net proceeds from/(payments) of lease liabilities	(73)	145
Net proceeds from short term borrowings	3	0
	(70)	145

22. Future minimum lease payments

Office rental

The Tribunal currently occupies space on the dti campus in Sunnyside. There is currently no lease agreement in place which specifies the annual rental charge or lease period. The landlord (the dti) has indicated that the annual unitary payment will increase at a rate equal to the rate of inflation. It is therefore accepted that the real value of this payment will remain constant in future years. This amount is paid to the dti through the Competition Commission in terms of an MOA between the Competition Commission and the Tribunal.

23. Employee benefits

The Competition Commission Pension Fund, which is governed by the Pensions Fund Act of 1956, is a defined contribution plan for all employees in the Tribunal. The fund is administered by Sanlam Ltd. The scheme is currently invested in investment policies with Metropolitan Life and Sanlam Multi Managers. As an insured fund, the Competition Commission Pension Fund complies with regulation 28 of the Pension Fund Act of 1956.

NOTES TO THE ANNUAL FINANCIAL STATEMENTS

for the year ended 31 March 2007

24. Income tax exemption

The Tribunal is currently exempt from Income Tax in terms of section 10 (1) (a) of the Income Tax Act, 1962.

25. Financial Instruments

Credit risk

Financial assets, which potentially subject the Tribunal to concentrations of credit risk, consist principally of cash and trade receivables. The Tribunal's cash and short term deposits are placed with high credit quality financial institutions. Credit risk with respect to trade receivables is limited due to the nature of the Tribunal's revenue transactions. Accordingly the Tribunal has no significant concentration of credit risk.

Interest Rate risk

The Tribunal's exposure to interest risk is managed by investing in current accounts, the Corporation for Public Deposits and short term deposits of between 32 days and 90 days.

Liquidity risk

The Tribunal's risk to liquidity is as a result of the funds available to cover future commitments. The Tribunal regards this risk to be low; taking into consideration the Tribunal's current funding structures and availability of cash resources.

Fair value

At 31 March 2006 and 31 March 2007 the carrying amounts of cash and bank balances, accounts receivable and trade creditors approximate their fair values.

26. Contingent liability

In the past the dti indicated that the remuneration of the Tribunal's full time members would be linked to the remuneration of High Court Judges. The Tribunal has requested approval from the dti to adjust the salaries of the full time members retrospectively from 1 April 2006 to bring it in line with remuneration received by the High Court Judges. If approval is granted, a total amount of R 968 015 would be due to full time members in lieu of remuneration.

27. Related parties

During the current period the Tribunal entered into the following transactions:

	2007	2006
	R'000	R'000
Department of Trade and Industry (dti)		
Grant received from the dti at year end	8 000	5 000
Administrative expenses paid to the dti at year end	239	188
Amounts due to the dti at year end	9	75
Competition Commission		
Filing fees received as per MOA at year end	8 149	8 453
Filing fees due to the Tribunal as per MOA at year end	538	1 169
Facility fees paid to the Competition Commission at year end	2 109	1 132
Facility fees due to the Competition Commission at year end	(177)	(287)

NOTES TO THE ANNUAL FINANCIAL STATEMENTS

for the year ended 31 March 2007

	2007	2006
	R'000	R'000
Competition Commission (continue)		
Facility fees due from the Competition Commission at year end	0	789
Net employee costs paid to the Competition Commission at year end	98	114
Employee costs due from the Competition Commission at year end	137	94
Net administrative costs paid to the Competition Commission at year end	45	1
Administrative costs due to the Competition Commission at year end	(16)	(10)
Administrative costs due from the Competition Commission at year end	7	10
Tshwane Metropolitan		
Payments made to Tshwane Metropolitan at year end	9	30
Payments due to Tshwane Metropolitan at year end	0	1
South African Revenue Services (SARS)		
Payments made to SARS at year end	1 483	1 327
Payments due to SARS at year end	37	24
Payments due from SARS at year end	3	3
Compensation Commissioner		
Payments made to the Compensation Commissioner at year end	2	3
28. Irregular expenditure		
Payments made in terms of photocopier leases	128	126

Irregular expenditure arose as a result of leases being entered into where substantially all the risks and rewards incidental to ownership were transferred. This is synonymous with the definition of a finance lease as defined in South African Statements of Generally Accepted Accounting Practice IAS17 – Leases and Treasury Regulation 32.2.2.

The effect of the irregular expenditure is reflected in the notes to the financial statements in respect of infrastructure, plant and equipment, finance lease, depreciation, finance charges, prior year error and as per statement of changes in net assets.

29. Fruitless and wasteful expenditure

An amount of R 107 interest was paid to the bank during the year in respect of monies due.

REPORT OF THE AUDIT COMMITTEE TO THE COMPETITION TRIBUNAL

This report was prepared as per the Treasury Regulations 27.1.7 and 27.1.10(b) and (c) for public entities issued in terms of the Public Finance Management Act, 1999 (Act No. 1 of 1999), as amended by Act 29 of 1999.

The Competition Tribunal is listed as a national public entity in Schedule 3A of the Public Finance Management Act (PFMA).

The audit committee met four times during the year under review.

The composition of the audit committee for the period under review is detailed in the table below:

Name of member	Number of meetings attended
H Buthelezi (chairperson) (resigned 8th June 2007)	4
N Tshombe (chairperson) (from 27th June 2007)	3
S Masuku (term ended 31st March 2007)	4
T Verwey (term ended 31st March 2007)	4
J Armstrong (appointed 1st May 2007)	membership effective 2007/2008
J Rapoo (appointed 1st May 2007)	membership effective 2007/2008
D Lewis (executive member)	2
J de Klerk (executive member)	4

The audit committee meetings have regularly included the internal auditors and representatives from the Auditor General Office.

The committee operates in accordance with its term of charter and is satisfied that it has discharged its responsibilities in compliance with its charter.

The system of controls is designed to provide cost effective assurance that assets are safeguarded and that liabilities and working capital are efficiently managed. In line with the requirements of the PFMA and the King II Report on Corporate Governance, Internal Audit provides the audit committee and management with assurance that the internal controls are appropriate and effective. This is achieved by means of the risk management process, as well as the identification of corrective actions and suggested enhancements to the controls and processes. From the various reports of the Internal Auditors and External Auditors, no significant or material non-compliance with prescribed policies and procedures have been reported. The audit committee believes that the systems of internal control for the period under review were effective and efficient.

The audit committee has:-

- Reviewed and discussed the audited Competition Tribunal annual financial statements to be included in the annual report with the Auditor General and management;
- Reviewed the Auditor General management letter and management's response thereto;
- Reviewed changes in accounting policies and practices;
- Reviewed significant adjustments resulting from the audit; and

The audit committee concurs and accepts the Auditor General's conclusions on the annual financial statements.



Nonku Tshombe
Audit Committee Chairperson

APPENDIX A UNCONTESTED MERGERS

Case Number	Parties	Decision	Sector
06/LM/Jan06	Pepkor Limited and Manrotrade Four (Pty) Ltd	Approved	Retail clothing
16/LM/Feb06	The Prepaid Company (Pty) Ltd and Matragon (Pty) Ltd	Approved	Telecommunication
121/LM/Dec05	Old Mutual Healthcare (Pty) Ltd and Kwacha (Pty) Ltd	Approved	Healthcare
89/LM/Oct06	Siemens Aktiengesellschaft and Bayer Diagnostics	Approved	In-vitro diagnosis
99/LM/Nov06	Sygnia Investments Holdings (Pty) Ltd and Investments (Pty) Ltd, African Harvest Life Assurance Company Ltd, and African Harvest Alternative	Approved	Information technology
106/LM/Dec06	Tsebo Outsourcing Group (Pty) Ltd and Equality Foods Services (Pty) Ltd	Approved	Food services
30/LMApr06	Lexshell 676 Investments (Pty) Ltd, NEWCO and Xstrata South Africa (Pty) Ltd	Approved	Mining
61/LM/Jul06	SAAB AB and Aerostructures Business of Denel (Pty) Ltd	Approved	Aerostructures
74/LM/Sep06	KWV Limited and NMK Schulz Fine Wine and Spirits (Pty) Ltd	Approved	Alcoholic beverages
90/LM/Oct06	Cherry Moss Trade and Invest 19 (Pty) Ltd and Main Street 415 (Pty) Ltd	Approved	Investments
01/LM/Jan07	Newco 1 and Peermont Global Ltd and Marang East Rand Gambling	Approved	Gaming
02/LM/Jan07	Emira Property Fund and Freestone Property Holdings Ltd	Approved	Property
20/LM/Mar06	Swiss Reinsurance Company and GE Insurance Solutions Corporation and its Subsidiaries	Approved	Insurance
25/LM/Mar06	ApexHi Properties Ltd and MICC Properties (Pty) Ltd	Approved	Property
26/LM/Mar06	Fujitsu Siemens Computers Holding B.V. and Siemens IT Services Newco (Pty) Ltd	Approved	ICT
33/LM/Apr06	Tiger Food Brands Ltd and Bromor Foods (Pty) Ltd	Approved	Food industry
36/LM/May06	Tiger Food Brands Limited and The Sugar Confectionery Plant, Equipment and Working Capital of Nestle and Others	Approved	Food industry
48/LM/Jun06	Vodacom Service Provider Company (Pty) Ltd / Vodacom Properties No.2 (Pty) Ltd and Africell Cellular Services (Pty) Ltd	Approved	Cellular
57/LM/Jul06	Liberty Star Consumer Holdings (Pty) Ltd and Retailer Brands (Pty) Ltd	Approved	Food industry
59/LM/Jul06	Imperial Holdings Limited and Alert Engine Parts (Pty) Ltd	Approved	Car and engine parts
66/LM/Aug06	Pamodzi Gold (Pty) Ltd and Bema Gold South Africa (Pty) Ltd	Approved	Mining
65/LM/Aug06	Sandown Motor Holdings (Pty) Ltd and Paarl Motors (Pty) Ltd	Approved	Vehicle dealership
95/LM/Nov06	Super Group Dealerships (a division of Super Group Trading (Pty) Ltd) and Van Wyk and Wolpe (Pty) Ltd	Approved	Vehicle dealership
24/LM/Mar06	Growthpoint Properties Limited and Metboard Properties Limited	Approved	Property
27/LM/Apr06	Prestasi Brokers (Pty) Ltd and Thebe Risk Services (Pty) Ltd	Approved	Insurance
50/LM/Jun06	Afffund Ltd and Joint Venture Consisting of CapeGate Regional (Pty) Ltd Boness Development Phase 3 (Pty) Ltd; CapeGate Wholesale and Cape Gate Lifestyle (Pty) Ltd	Approved	Property
52/LM/Jun06	PSG Group Ltd and Arch Equity Ltd & Jasmyn Corporate Holdings (Pty) Ltd	Approved	Private Equity Investment
67/LM/Aug06	Pangbourne Properties Limited and Calulo Property Fund Limited, Calulo Asset Management (Pty) Ltd and Calulo Property management (Pty) Ltd	Approved	Property
107/LM/Dec06	Group Five Construction (Pty) Ltd and Quarry Cats (Pty) Ltd	Approved	Construction
28/LM/Apr06	Flamingo Oak Trading 8 (Pty) Ltd and Impala Refining Services Ltd	Approved	Platinum Group Metals
83/LM/Oct06	Gold Fields Limited and Barrick Gold South Africa (Pty) Ltd	Approved	Mining
84/LM/Oct06	Gold Fields Limited and Western Areas Limited	Approved	Mining
41/LM/May06	Sun International (South Africa) Ltd and Real Africa Holdings Ltd	Approved	Gaming
07/LM/Jan07	Consol Limited and Newshelf 809 (Pty) Ltd	Approved	Glass
32/LM/Apr06	Samancor Ltd and Advalloy (Pty) Ltd	Approved	Mining
77/LM/Sep06	Tiger Food Brands (Pty) Ltd and Designer Group Holdings Limited	Approved	Personal care products

Case Number	Parties	Decision	Sector
03/LM/Jan06	International Mineral Resources AG and Kemas South Africa (Pty) Ltd	Approved	Mining
88/LM/Oct06	Imperial Holdings Limited and Terex Africa (Pty) Ltd	Approved	Earthmoving equipment
96/LM/Nov06	Murray and Roberts Limited and Wade Walker (Pty) Ltd	Approved	Building construction engineering
97/LM/Nov06	Royal Bafokeng MB Technologies (Pty) Ltd and MB Technologies (Pty) Ltd	Approved	Information technology
98/LM/Nov06	Titan Premier Investments (Pty) Ltd and Jeke Trading (Pty) Ltd	Approved	Financial services
06/LM/Jan07	Parmtro Investments No 89 (Pty) Ltd and Shoprite Holdings Limited	Approved	Retail
42/LM/May06	Denel (Pty) Ltd and the Government Employees Pension Fund represented by Public Investment Corporation	Approved	Asset and Property Management
44/LM/May06	The Bidvest Group Limited and Versalec Cables (Pty) Ltd	Approved	Electrical cables
100/LM/Dec06	ABSA Capital and Thebe Investment Corporation (Pty) Ltd	Approved	Financial services
104/LM/Dec06	TFMC Holdings (Pty) Ltd/LGM South Africa Facilities managers and Engineers (Pty) Ltd	Approved	Facilities management
109/LM/Dec06	Cleansheet Investments (Pty) Ltd and Alexander Forbes Limited	Approved	Financial services
18/LM/Feb07	KAP International Holdings Limited and Brenner Mills (Pty) Ltd	Approved	Food
26/LM/Mar07	Impala Platinum Holdings Limited and African Platinum plc	Approved	Mining
72/LM/Aug06	Apexhi Properties Limited and Old Mutual Life Assurance Company (South Africa) Limited	Approved	Property
22/LM/Mar06	Pamodzi Investment Holdings (Pty) Ltd and Allied Production Industries Holdings (Pty) Ltd and Others	Approved	Manufacturing
34/LM/Apr06	Pedal Trading 130 (Pty) Ltd and MB Technologies (Pty) Ltd	Approved	Information Technology
62/LM/Jul06	Sasol Chemical Industries Ltd and Sasol Dyno Nobel (Pty) Ltd	Approved	Chemical products
37/LM/May06	Afrox Oxygen Limited and Refrigeration Investment Company (Pty) Ltd	Conditional approval	Industrial gas
35/LM/Apr06	Oosthuizen Transport SA (Pty) Ltd and Oosthuizen's businesses conducted under eight different companies	Approved	Transport
54/LM/Jun06	Medi – Liberty Star Consumer Holdings (Pty) Ltd and Chef Industries Ltd	Approved	Food industry
55/LM/Jun06	Umhlanga Medical Center (Pty) Ltd and Tresso Trading 119 (Pty) Ltd	Approved	Property
56/LM/Jun06	Kunene Finance Company (Pty) Ltd and Scarlet Ibis Investments 3 (Pty) Ltd	Approved	Financial services
40/LM/May06	Linde AG and the BOC Group PLC	Approved	Industrial gases
70/LM/Aug06	Barmac Properties (Pty) Ltd and the Telecommunication Business and Assets of ATC (Pty) Ltd and the Telecommunication Business and Assets associated with Aberdare Cables (Pty) Ltd	Conditional approval	Telecommunications cables
10/LM/Jan07	Afrisam (Pty) Ltd and Afrisam Consortium (Pty) Ltd	Pending	Construction
73/LM/Aug06	Main Street 432 (Pty) Ltd and Koorfontein Mine	Approved	Mining
85/LM/Oct06	Siemens Aktiengesellschaft and Nokia Corporation	Approved	Mobile network equipment
86/LM/Oct06	Lexshell 44 General Trading (Pty) and V&A Waterfront Holdings (Pty) Ltd	Approved	Property
78/LM/Sep06	Dipula Property Investment Trust and Outward Investments (Pty) Ltd	Approved	Property
94/LM/Nov06	Growthpoint Properties Limited and Paramount Fund Limited	Approved	Property
93/LM/Nov06	Autumn Storm Investments 362 (Pty) Ltd and Outdoor Network	Approved	Media, advertising
53/LM/Jun06	Mittal Steel Company N.V. and Arcelor SA	Approved	Carbon steel
18/LM/Feb06	Growthpoint Properties Limited and Tresso Trading 119 (Pty) Ltd	Approved	Property
21/LM/Mar06	Siemens Limited and Marqott Holdings (Pty) Ltd	Approved	Electricity transmission and distribution
49/LM/Jun06	Growthpoint Securitisation Warehouse Trust and Business Connection Holdings	Approved	Property
76/LM/Sep06	Redefine Income Fund Limited and Spearhead Property Holding Limited	Approved	Property

Case Number	Parties	Decision	Sector
87/LM/Oct06	Robor Proprietary Limited and the Steel Tube and Pipe Business of Barloworld Robor (Pty) Ltd	Approved	Steel
105/LM/Dec06	Imperial Holdings Limited and Jurgens (Pty) Ltd	Approved	Automotive
11/LM/Jan07	Corvest Holdings (Pty) Ltd and Fidelity Services Group Ltd	Approved	Services
13/LM/Jan07	Investec Bank Ltd and DCD Dorbyl (Pty) Ltd	Approved	Engineering
03/LM/Jan07	Impala Platinum Holdings Ltd Islandsite Investments 225 (Pty) Ltd	Approved	Mining
108/LM/Dec06	Kwambonambi Cash and Carry (Pty) Ltd and the Business Conducted by Thaba Trust, PH Besigheidstrust, Praxos 199 CC and Kwambonambi Cash and Carry (Pty) Ltd	Approved	Grocery products retail

APPENDIX B CONTESTED MERGERS

Case Number	Parties	Decision	Sector
48/LM/Jun05	AP Moller – Maersk and Royal P and O Nedlloyd N.V.	Conditional approval	Shipping
62/LM/Jul05	Massmart Holdings Limited and Moresport (Pty) Limited	Prohibited	Retailing of sporting and outdoor goods
101/LM/Oct05	Murray & Roberts Limited and Concor Limited	Approved	Construction
13/LM/Feb06	Newco and Namakwa Sands (a division of Anglo Operations Limited)	Approved	Mining
14/LM/Feb06	Main Street 333 (Pty) Ltd and Kumba Resources Limited	Approved	Mining
122/LM/Dec05	Phodiclinics (Pty) Ltd and DJF Defty (Pty) Ltd and Protector Group Medical Services (Pty) Ltd and 5 Others	Approved	Healthcare
46/LM/May06	Network Healthcare Holdings Limited and Netpartner Investments Limited	Conditional approval	Healthcare
63/LM/Jul06	Lafarge Roofing (Pty) Ltd and Kulu Concrete Products (Pty) Ltd, Kulu Roof Tiles Cape (Pty) Ltd and Kulu Roof Tiles (Pty) Ltd ("Kulu Group of Companies")	Conditional approval	Concrete roof tiles
71/LM/Aug06	Nampak Products Limited and Burcap Plastics (Pty) Ltd	Conditional approval	Plastic industrial containers
51/LM/Jun06	Telkom SA Ltd and Business Connexion Group Ltd	Pending	Electronic communication services
68/LM/Aug06	Netcare Hospital Group (Pty) Ltd and Community Hospital Group (Pty) Ltd	Pending	Healthcare
105/LM/Oct05	The Reclamation Group (Pty) Ltd and SA Metal and Machinery Company (Pty) Ltd	Withdrawn 14 Aug 06	Scrap metal
36/LM/May05	Foskor Limited and the Phosphoric Acid Business conducted by Sasol Chemical Industries Ltd	Withdrawn 30 Jun 06	Phosphoric acid
69/LM/Aug06	Pick 'n Pay Retailers (Pty) Ltd and Fruit and Veg City Holdings (Pty) Ltd	Withdrawn 23 Mar 07	Fresh produce
82/LM/Oct06	Lexshell 668 Investments (Pty) Ltd and Wakefield Investments (Pty) Ltd	Pending	Coal mining
60/LM/Jul06	Mila Nutri (Pty) Ltd and Yara (SA) (Pty) Ltd	Pending	Chemicals, fertilizers

APPENDIX C INTERMEDIATE MERGERS

Case Number	Parties	Decision	Sector
39/AM/May06	Primedia Limited and Capricorn Capital Partners (Pty) Ltd and New Africa Investments Limited	Approved	Radio, advertising

APPENDIX D PROCEDURAL MATTERS

Case Number	Parties	Type	Sector
122/LM/Dec05	Supreme Healthcare Administrators and Competition Commission, Phodclinics (Pty) Ltd and DJF Defty (Pty) Ltd and Protector Group Medical Services (Pty) Ltd and Others	Intervention application	Granted
122/LM/Dec05	Network Healthcare Holdings Ltd and Competition Commission, Phodclinics (Pty) Ltd and DJF Defty (Pty) Ltd and Protector Group Medical Services (Pty) Ltd and Others	Intervention application	Granted
83/CR/Oct04	Nationwide (Pty) Ltd and Competition Commission, Comair (Pty) Ltd, SAA (Pty) Ltd	Intervention application	Granted
38/X/May06	First Rand Bank Limited and the Competition Commission	Refund of filing fee	Granted
83/CR/Oct04	Competition Commission and South African Airways (Pty) Ltd	Amendment to consent order	Granted
39/AM/May06	Primedia Limited and Capricorn Capital Partners (Pty) Ltd and New Africa Investments Limited	Intervention application	Granted
13/CR/Feb04	Harmony Gold Mining Company Ltd, Durban Roodepoort Deep Ltd and Iscor Ltd, Macsteel International BV	Amendment application	Granted
49/CR/Apr00	The Competition Commission in re Botswana Ash (Pty) Ltd and Chemserve and American Natural Soda Ash and CHG Global (Pty) Ltd	Discovery application	Granted
117/IR/Dec05	Zoutnet CC Caxton and CTP Publishers and Printers Ltd, CPT Limited t/a Northern Media Group	Costs order	Granted
23/IR/Mar06	Charter Property Sales and East Cape Property Guide and Others	Amendment	Granted
23/IR/Mar06	Charter Property Sales and Saturday Star Property Guide	Default judgement	Withdrawn
49/CR/Apr00	American Natural Soda Ash, Corporation CHC Global (Pty) Ltd and Botswana Ash (Pty) Ltd, Chemserve Technical Products (Pty) Ltd, Webber Wentzel Bowers, Competition Commission	Suspension application	Dismissed
49/CR/Apr00	American Natural Soda Ash, Corporation CHC Global (Pty) Ltd and Botswana Ash (Pty) Ltd, Chemserve Technical Products (Pty) Ltd, Webber Wentzel Bowers, Competition Commission	Ethical application	Dismissed
49/CR/Apr00	American Natural Soda Ash, Corporation CHC Global (Pty) Ltd and Botswana Ash (Pty) Ltd, Chemserve Technical Products (Pty) Ltd, Webber Wentzel Bowers, Competition Commission	Stay application	Dismissed
39/AM/May06	Primedia Limited and Capricorn Capital Partners (Pty) Ltd and New Africa Investments Limited	Section 45 application	Granted
122/LM/Dec05	Network Healthcare Holdings Ltd Supreme Health Administrators (Pty) Ltd and Phodclinics (Pty) Ltd and DJF Defty (Pty) Ltd and Protector Group Medical Services (Pty) Ltd and 5 Others	Discovery application	Granted
75/X/Sep06	Arcelor SA and Competition Commission	Filing fee refund	Granted
39/AM/May06	Primedia Limited and Capricorn Capital Partners (Pty) Ltd and New Africa Investments Limited	Discovery application	Settled
51/LM/Jun06	Competition Commission and Telkom SA Ltd, Business Connexion Group Ltd	Extension application	Granted
58/CR/Aug02	Competition Commission and UDIPA	Amendment application	Granted
78/LM/Oct05	Mercanto Investments (Pty) Ltd and Johnnic Holdings Ltd AND Competition Commission	Variation order	Granted
102/X/Dec06	Trate Investments (Pty) Ltd and Others and Competition Commission	Jurisdiction Appeal	Withdrawn 13 Dec 06
60/LM/Jul06	Competition Commission and Mila Nutri (Pty) Ltd Yara (SA) (Pty) Ltd	Section 44(2) application	Pending
83/CR/Oct04	Comair and SAA	Declaratory Order	Pending
103/CR/Dec06	Competition Commission and Clover Industries Ltd	Default judgement	Pending
83/CR/Oct04	Comair and SAA	Extension application	Pending
68/LM/Aug06	Competition Commission and Netcare Hospital Group (Pty) Ltd and Community Hospital Group (Pty) Ltd	Extension application	Pending



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