



*tribunal*



*tribunal*

COMPETITION  
TRIBUNAL

ANNUAL REPORT 2007/08

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competitiontribunal  
south africa

*tribunal*



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## THE YEAR'S ACHIEVEMENTS

- 147 cases heard and 109 reasons for decisions issued
- 100 large merger cases heard and 98 of these decided
- 88% of hearings of large merger cases took place within 10 days of receipt of case
- 98% of decisions in large merger cases released within 10 days of hearing
- 118 days spent in hearings
- 482 media reports in sources monitored by the Tribunal
- Chairperson David Lewis continued to serve as vice-chairperson of the International Competition Network
- Tribunal continued to participate in the Competition Committee of the Organisation for Economic Co-operation and Development (OECD)
- Total value of administrative penalties imposed exceeded R 781 million

## WHAT WE DO

- The Tribunal is an independent impartial institution established by statute
- The Tribunal regulates corporate mergers and adjudicates allegations of anti-competitive 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*
  - *adjudicates appeals from the Competition Commission's decisions regarding applications for exemption*

Annual Report 2007/2008



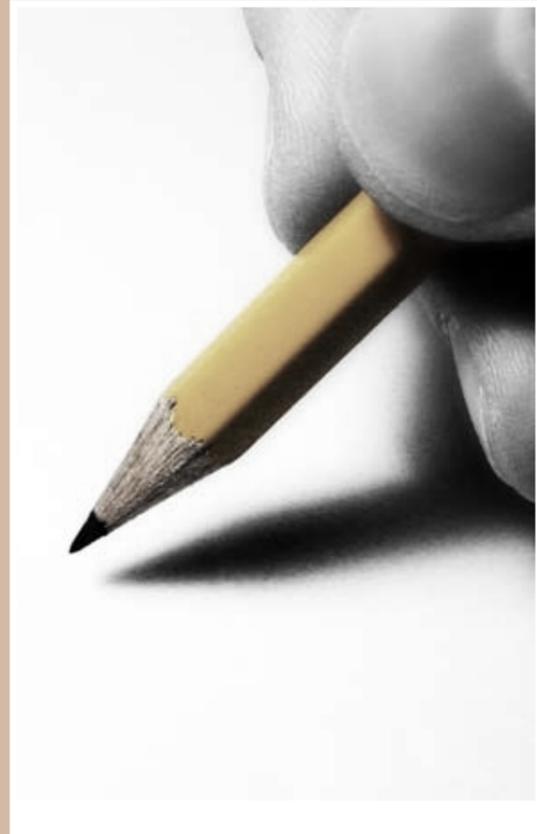


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# Report of the Auditor-General

to Parliament on the financial statements and performance information of the Competition Tribunal for the year ended 31 March 2008



## 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 basis of accounting determined by the National Treasury, as set out in accounting policy note 1.1 and in the manner required by the Public Finance Management Act, 1999 (Act No. 1 of 1999) (PFMA) and the Competition Act, 1998 (Act No. 89 of 1998). 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 616 of 2008*, issued in *Government Gazette No. 31057 of 15 May*

2008. 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 2008 and its financial performance and cash flows for the year then ended, in accordance with the identified basis of accounting determined by the National Treasury, as set out in accounting policy note 1.1 and in the manner required by the PFMA.

## OTHER MATTERS

Without qualifying my opinion, I draw attention to the following matters that relate to my responsibilities in the audit of the financial statements:

## Matters of governance

10. The PFMA tasks the accounting authority with a number of responsibilities concerning financial and risk management and internal control. Fundamental to achieving this is the implementation of certain key governance responsibilities, which I have assessed as follows:

## 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 2008, 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 46 to 70.

# Report of the Auditor-General

to Parliament on the financial statements and performance information of the Competition Tribunal for the year ended 31 March 2008

Matter of governance	Yes	No
<b>Audit committee</b>		
• The public entity had an audit committee in operation throughout the financial year.	X	
• The audit committee operates in accordance with approved, written terms of reference.	X	
• The audit committee substantially fulfilled its responsibilities for the year, as set out in section 77 of the PFMA and Treasury Regulation 27.1.8.	X	
<b>Internal audit</b>		
• The public entity had an internal audit function in operation throughout the financial year.	X	
• The internal audit function operates in terms of an approved internal audit plan.	X	
• The internal audit function substantially fulfilled its responsibilities for the year, as set out in Treasury Regulation 27.2.	X	
<b>Other matters of governance</b>		
The annual financial statements were submitted for audit as per the legislated deadlines (section 55 of the PFMA for public entities).		
The financial statements submitted for audit were not subject to any material amendments resulting from the audit.	X	
No significant difficulties were experienced during the audit concerning delays or the unavailability of expected information and/or the unavailability of senior management.	X	
The prior year's external audit recommendations have been substantially implemented.	X	

## OTHER REPORTING RESPONSIBILITIES

### Report on performance information

11. I have reviewed the performance information as set out on pages 28 to 33.

### Responsibilities of the accounting authority for the performance information

12. 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

13. I conducted my engagement in accordance with section 13 of the Public Audit Act, 2004 (Act No. 25 of 2004) read with *General Notice 616 of 2008*, issued in *Government Gazette No. 31057 of 15 May 2008*.

14. 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 judgment.

15. I believe that the evidence I have obtained is sufficient and appropriate to report that no significant findings have been identified as a result of my review.

## APPRECIATION

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

*Auditor-General*

Pretoria

25 July 2008





# Chairperson's Report for the year ended 31 March 2008

and vigour of the Tribunal's proceedings contribute significantly to the increasingly vibrant competition culture which has taken root in South Africa.

In last year's report I commented on a discernible move in the Tribunal's focus of activity away from mergers and towards complaints of restrictive practices brought about by a marked increase in the number of these complaints referred to the Tribunal. This trend has been reinforced in the past year. In part it arises from the fact that the Commission has concluded a number of cartel investigations. Several of these have come before the Tribunal in the form of consent orders. It appears that the Commission's corporate leniency programme has played a highly significant role in the success of these investigations, and this is further testimony to the growing respect enjoyed by the competition system and the authorities which enforce it.

This increase in the number and the complexity of restrictive practice cases will undoubtedly continue to characterize the next phase of the Tribunal's life. As I noted previously, by their very nature restrictive practice cases are lengthy and consume considerable time and other resources. With the increasing demands on it, the Tribunal is fortunate in being able to draw on the services of three full-time members as well as a committed group of part-time members.

This does not, of course, mean that the Tribunal's role in merger regulation has been neglected. Merger regulation continues to constitute the 'bread and butter' work of the Tribunal and, in the year under review, a substantial number of important merger cases were considered and decided. Particularly noteworthy were the proposed mergers of Telkom and Business Connexion,

Naspers and Supersport International, Larfarge Roofing and Kula Group of companies, Bain Capital and Edcon, and Rio Tinto and Alcan.

The table below sets out the number of cases in various categories heard by the Tribunal in the year under review and their percentage contribution to the total number of cases heard. It illustrates the increasing volume of disputed matters.

Type of case	2007/2008	%	2006/2007	%
Large merger	100	68.03	89	71.77
Procedural	33	22.45	24	19.35
Intermediate merger	2	1.36	1	0.81
Restrictive practice	12	8.16	10	8.07
Total	147	100	124	100

One measure of the Tribunal's impact has been the extensive media coverage of its 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.

The Tribunal has again played a leading role in relevant international bodies such as the International Competition Network (ICN), of which I continue to serve as vice-chairperson. Members of the Tribunal are preparing for a particularly active role in the 2008 annual conference of the ICN which will be held in Kyoto, Japan. The Tribunal and the Competition Commission (Commission) have 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. Our membership of this Competition Committee has recently been renewed for a further three-year period.

Tribunal members have continued to serve with dedication and commitment, with increased inputs from the part-time members. The Tribunal's support staff continues to deliver a public service of high quality. I would like to record my gratitude to both the Tribunal's members and its 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 2008. The financial statements presented on pages 46 to 70 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 Practices 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 sufficient funding will not be obtained to continue with

## INTRODUCTION

It is my pleasure to present, as part of the audited financial statements, the ninth annual report of the Competition Tribunal (Tribunal) for the year ended 31 March 2008.

The Tribunal commenced operations in September 1999 and has been in existence for eight and a half years. As one of the national antitrust authorities it is playing an essential role in the creation of a national culture of respect for the principles of competitive conduct which now apply almost worldwide. In doing so it has set out to earn the credibility and confidence of diverse stakeholders. Its role as the principal adjudicative entity in the national antitrust system is manifest in the development of a credible body of jurisprudence that responds to the country's specific needs and legislation but which is solidly grounded in rich international learning and experience. The transparency

# Chairperson's Report for the year ended 31 March 2008

the official functions of the Tribunal. 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 2 to 5.

The accounting authority initially approved and submitted the financial statements to the Auditor General on 30 May 2008.

## NATURE OF BUSINESS

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

The Tribunal is one of three institutions constituted in 1999 in terms of the Competition Act (Act 89 of 1998) to promote and maintain competition in the economy and to ensure compliance with the Act's provisions.

The Tribunal derives its mandate from the Act and has jurisdiction throughout South Africa. The Tribunal functions independently both of government and of the Commission, which is the investigative and prosecutorial arm of the competition authorities. The Tribunal's decisions are enforceable on a similar basis to

those of the High Court, and are subject to appeal or review by the Competition Appeal Court.

Details of the Act and of the Tribunal's rules of procedure can be found on the Tribunal website, on which the decisions in its cases are also posted.

The Tribunal's main functions are to regulate mergers and to adjudicate cases concerning restrictive practices. There are ten members of the Tribunal, appointed by the President. Members are appointed on a full-time or part-time basis depending on the needs of the Tribunal. Cases are heard by panels comprising three of its members.

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

When a matter within its jurisdiction is referred to the Tribunal in terms of the Act, the Tribunal will initiate proceedings to consider the matter in terms of the Act and, after holding a hearing, will impose a remedy it finds to be appropriate. In a merger case its decision will be 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 any of a wide range of remedies, including the imposition of an administrative penalty and an order of divestiture.

## OBJECTIVES AND TARGETS

Because of its quasi-judicial nature the Tribunal is precluded from setting pro-active objectives or embarking on focused

interventions which target any particular sector or emphasise any specific criterion. Complaint referrals and notified mergers are the only determinants of the Tribunal's caseload. Each case is adjudicated on its merits and the Tribunal has no control over the number and types of cases brought before it.

The Tribunal has set itself seven strategic objectives that enable it to operate within the context of the Act and to pursue its commitment to contributing 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
- (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 28 to 33.

## FINANCIAL HIGHLIGHTS

	2008 R'000	2007 R'000
Total revenue (inclusive of interest received)	19 467	16 761
Total expenditure	(15 388)	(13 119)
Surplus for the year	4 079	3 642
Total assets	18 331	14 240
Total liabilities	1 297	1 285

## FINANCIAL PERFORMANCE

Revenue for the year ended 31 March 2008 increased by 16%. The increase is accounted for by a 14% increase in the Tribunal's share of filing fees and an 8% increase in the grant received from the Department of Trade and Industry.

In terms of a memorandum of agreement existing between the two institutions, the Commission pays the Tribunal 30% of the filing fees received by the Commission for large mergers and 5% of the filing fees received for intermediate mergers. These fees continue to make up a major portion of the Tribunal's revenue, constituting 47.71% of revenue in the year under review. A grant received from the Department of Trade and Industry constituted 44.53% of the revenue.

Total expenditure (net of capital expenditure), in the year under review increased by 17%. The changes in expenditure are discussed more fully later in the report.

The accumulated surplus of the Tribunal amounted to R17.03m at the year-end. The year's surplus arose as a result of the following:

- i) Under-expenditure of R0.91m
- ii) An increase in filing fee income received of R0.3m over an estimated income of R8.99m
- iii) Accumulated surpluses brought forward from the 2006/2007 financial year of R12.95m
- iv) Payment of the full MTEF-allocated grant of R8.67m by the Department of Trade and Industry to the Tribunal.

# Chairperson's Report

for the year ended 31 March 2008

In terms of Section 53 (3) of the Public Finance Management Act entities are not allowed to accumulate surpluses unless approved by the National Treasury. The Tribunal has received approval from Treasury to retain these accumulated surpluses to cover expenditure during 2008/2009.

While the Tribunal can and does receive income based on filing fees received by the Commission, it cannot rely on this as its sole income source and the Tribunal will therefore continue to seek approval from National Treasury to retain its surplus as well as seeking grant funding from the government to ensure sustainability of the institution for the foreseeable.

## EVENTS SUBSEQUENT TO STATEMENT OF FINANCIAL POSITION DATE

No events took place between the year-end date, 31 March 2008, and the date on which the financial statements were signed that were sufficiently material to warrant disclosure to interested parties.

## REMUNERATION

The table alongside shows the total annual remuneration on a 'cost to company' basis received by the full-time members and managers of the Tribunal. The Chairperson, one full-time member and all the managers served on the Tribunal's executive committee at some stage during the year under review.

When the Tribunal was established in 1999 the remuneration of the Chairperson and full-time Tribunal members was settled by

the Minister of Finance and the Minister of Trade and Industry on the basis of being equal to those of a judge-president and a judge of the High Court respectively.

The relationship between the salary and the benefits paid to judges made comparison difficult and led to the incorrect calculation of the total remuneration of the Chairperson and of Tribunal members. Over time this error resulted in a significant gap between the remuneration of judges and that of Tribunal members, which could have had negative implications for the future recruitment of full-time members of the Tribunal.

Accordingly the Department of Trade and Industry adjusted the basis of calculation and the manner of application of gazetted increases to judges' salaries. The adjustment was applied from 1 April 2007 in accordance with the Department of Trade and Industry's determination.

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

	2008	2007
<b>Chairperson – D Lewis</b>	<b>1 287 204</b>	<b>785 496</b>
Package	1 262 185	767 189
Group life insurance/pension admin fees	25 019	18 307
<b>Fulltime member – N Manoim</b>	<b>1 256 172</b>	<b>662 769</b>
Package	1 232 495	647 026
Group life insurance/pension admin fees	23 677	15 743
<b>Fulltime member – Y Carrim</b>	<b>1 255 845</b>	<b>662 453</b>
Package	1 232 495	647 026
Group life insurance/pension admin fees	23 350	15 427
<b>Head of Corporate Services – J de Klerk</b>		
<b>Total remuneration</b>	<b>595 862</b>	<b>589 426</b>
Package	535 964	503 394
Performance bonus	46 878	73 438
Group life insurance/pension admin fees	13 020	12 594
<b>Head of Research – R Badenhorst</b>		
<b>Total remuneration</b>	<b>425 284</b>	<b>409 986</b>
Package	382 417	350 913
Performance bonus	33 816	50 323
Group life insurance/pension admin fees	9 051	8 750
<b>Registrar – L Motaung</b>		
<b>Total remuneration</b>	<b>357 564</b>	<b>348 495</b>
Package	325 913	299 151
Performance bonus	24 606	42 576
Group life insurance/pension admin fees	7 045	6 768

## INFRASTRUCTURE, PLANT AND EQUIPMENT

The Tribunal has adopted the policy prescribed by IAS 16 relating to the assessing of the useful life and residual value of infrastructure, plant and equipment. Residual values and useful

life are assessed at the end of each financial year. There has been no change in the policy relating to the use of infrastructure, plant and equipment.

## EXECUTIVE COMMITTEE

The composition of the executive committee was as follows during the period under review.

## 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 responsibilities of the executive committee include the development and formulation of a strategic policy framework, performance strategies, and goals for the operational management and administration of the Tribunal.

The committee's main finance-related responsibility is to ensure that services are rendered efficiently and economically within the framework of existing operational policies and within the Tribunal's budget and in accordance with a three-year rolling strategic plan.

The committee met 11 times during the year under review.

# Chairperson's Report

for the year ended 31 March 2008

## NUMBER OF EMPLOYEES

At the year-end the Tribunal's personnel complement consisted of three full-time members and 11 staff members.

## FRUITLESS AND WASTEFUL EXPENDITURE

An amount of R4,668.86 is reflected as fruitless and wasteful expenditure in the current financial year. Of this, R1,463.22 was an expense incurred for accommodation not used by an employee travelling overseas. A further R2,497.60 represented accommodation not used when a researcher was unable to obtain a travel visa and an advance payment was forfeited. The remaining amount of R708.04 comprises interest paid to SARS for a late payment of PAYE, UIF and skills levies. This amount was paid timeously but was rejected by the bank as SARS had closed the bank account previously used by the Tribunal. SARS waived penalties associated with this late payment but did charge interest for the late payment.

## MANAGEMENT FEE PAID TO THE COMPETITION COMMISSION

The 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 a monthly management fee to the Commission for services related to the use of these premises.

The management fee for the period under review was R39,191 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 determined a materiality figure of R98,000 for the current period in terms of a materiality framework. A figure of 1% of revenue (exclusive of government grants) and expenditure in the previous financial year was taken to represent the materiality figure.

Any loss or comparable quantifiable fact that exceeds the figure of R98,000 must be disclosed in the annual report and financial statements 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 must be disclosed if:

- they arose through criminal conduct
- they arose through irregular/fruitless/wasteful expenditure.

Material losses of a qualitative nature arising through criminal conduct must also be disclosed.

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

## OFFICE ADDRESS

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Building C (Mulayo Building)  
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Fax: 012 394 0169



David Lewis (Chairperson)  
30 June 2008

# Members and Secretariat



David Lewis



Marumo Moerane



Urmila Bhoola



Medi Mokuena



Yasmin Carrim



Lawrence Reyburn



Mbuyiseli Madlanga



Merle Holden



Thandi Orleyn



Norman Manoim

## THE COMPETITION TRIBUNAL'S MEMBERS

Tribunal members are appointed in terms of the Competition Act by the President (on the recommendation of the Minister of Trade and Industry) for a five-year term. At the end of the past year the Tribunal consisted of three full-time members (including the Chairperson) and seven part-time members.

Adjudicative panels consisting of three Tribunal members are appointed by the Chairperson for each hearing.

As stipulated by the Act, the members of the Tribunal are South African citizens representing a broad cross-section of the country's population. All have qualifications and experience in economics, law, commerce, industry or public affairs.

Currently eight members have a legal background and two are economists.

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

### Members of the Competition Tribunal

#### Chairperson

David Lewis (BCom, MA)

#### Deputy Chairperson (Part-time)

Marumo Moerane (BSc, BCom, LLB)

#### 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)

Medi Mokuena (Dip Juris, LLB, LLM)

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

Lawrence Reyburn (BSc, LLB)

### Training of Tribunal Members

Tribunal members were once again provided with opportunities to inter-act with their international counterparts and share experiences through attendance at international conferences and participation in international competition bodies.

A workshop for Tribunal members was held in February 2008 with the participation of William Kovacic of the Federal Trade Commission of the USA and Frederic Jenny, a Judge of the French Supreme Court and Chairperson of the OECD Competition Committee. This event provided Tribunal members with an opportunity to review some recent South African decisions in the light of comparable international jurisprudence, and to discuss developments in competition law in the United States of America and the European Union.

Tribunal members presented five papers at various conferences, seminars and workshops.

Full-time members again delivered lectures on a regular basis to the University of the Witwatersrand, including lectures to:

# Members and Secretariat

- LLB students
- Post-graduate students in competition law, broadcasting and telecommunications
- Students participating in selected certificate courses offered by the business school of the University of the Witwatersrand.

The Tribunal has maintained its active participation in the international competition network through membership of the OECD's Competition Committee, involvement in the OECD's global forum on competition law and policy, and contributions to the working groups of the International Competition Network (ICN). The Chairperson is the vice-chairperson of the ICN.

The ICN provides developed and developing countries with a platform to address practical competition policy and enforcement issues.

The OECD Committee deals with contemporary issues in competition law, and full-time members have represented the Tribunal at this committee's tri-annual meetings.

## THE TRIBUNAL SECRETARIAT

The role of chief executive officer in the Tribunal is fulfilled by the Chairperson, assisted by three departmental heads, namely the head of research, the head of registry (the registrar) and the head of corporate services. The same group of officials are also responsible for certain other managerial and administrative responsibilities. The departmental heads report directly to the Chairperson. Certain executive functions have been delegated to the other two full-time members.

The Chairperson's active involvement in the day-to-day management of the Tribunal is consistent with his responsibility as the Tribunal's accounting authority and with his powers in terms of the Competition Act.

Support services in the form of administration, registry, logistics, research and financial management are provided to the Tribunal by a secretariat complement of 14. The registry and administrative functions of the Tribunal are set out in the Tribunal's rules.

At present the secretariat is large enough to deal with the Tribunal's administrative functions and case-load, and the creation of new posts is not envisaged.

The following personnel changes took place during the year:

- Two case managers resigned with effect from 30 April 2007.
- The executive assistant to the Chairperson resigned with effect from 1 August 2007.
- A case manager was appointed with effect from 1 August 2007 but resigned with effect from 31 January 2008.
- The financial administrator resigned with effect from 29 February 2008.
- The appointment of an executive assistant who started work in October 2007 was terminated in February 2008 as a consequence of unsatisfactory performance.

At 31 March 2008 the position of executive assistant to the Chairperson was filled by a temporary employee and two positions (case manager and financial administrator) had not yet been filled.

## Departmental heads

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

## Case managers

Romeo Kariga  
Jabulani Ngobeni  
Londiwe Xaba (appointed 1 July 2007)  
One vacant position

## Registry

Tebogo Mputle, registry administrator

David Tefu, registry clerk  
Jerry Ramatlo, court orderly/driver

## Finance

Donald Phiri, finance and human resources assistant  
Vacancy – financial administrator

## Executive assistant

Lufuno Ramaru, executive assistant to the managers  
Lethabo Monyeki, executive assistant to the Chairperson (temporary appointee)



Back row from the left: G. Moorosi, L. Xaba, J. Ramatlo, D. Phiri, R. Kariga, J. Ngobeni, D. Tefu, L. Monyeki, T. Mputle  
Front row from the left: R. Badenhorst, L. Motaung, Y. Carrim, D. Lewis, N. Manoim, J. De Klerk, I. Selaledi, L. Ramaru

# Corporate Governance



The Tribunal applies best practice principles in managing its activities and through its corporate governance policies strives to achieve transparency, accountability and the efficient management and use of its resources. The Tribunal's executive committee and audit committee monitor compliance with legislation and with good corporate governance principles. The Tribunal submits quarterly reports on governance issues to the Department of Trade and Industry ('the dti').

## AUDIT COMMITTEE

The audit committee, established in March 2000, currently consists of two executive members and four non-executive members. At the year-end it was constituted as follows:

### Executive members:

- David Lewis
- Janeen de Klerk

### Non-executive members:

- Humphrey Buthelezi – resigned in May 2007
- Nonku Tshombe – chairperson from June 2007
- Jocelyn Armstrong – appointed from May 2007
- Jeff Rapoo – appointed from May 2007
- Maleshini Naidoo – appointed September 2007

The committee met five times in the year under review.

Attendance by and fees paid to audit committee members during the year were as set out on page 19:

Member	Meetings attended	Fees received
H. Buthelezi – chairperson till May 2007	1	4 622
N Tshombe – chairperson from June 2007	5	21 294
J Armstrong	5	14 030
J Rapoo	4	11 224
M Naidoo	3	8 418
D. Lewis	3	0
J. de Klerk	5	0

The committee's functions are specified in an audit committee charter which was revised and adopted in November 2007. Guidance for the agendas of meetings is provided by a compliance checklist.

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

The audit committee has reviewed the Tribunal's quarterly internal audit reports, internal and external audit plans, and the annual report and financial statements for the year ending 31 March 2008.

## EXECUTIVE COMMITTEE

The composition of and objectives of the executive committee and a review of its activities during the year under review are set out on page 11 of this report.

The schedule below indicates the attendance by members at meetings in the year under review:

Member	March 2008	December 2007	August 2007	June 2007
D Lewis	√	√	√	√
Y Carrim	√	√	√	√
J de Klerk	√	√	√	√
R Badenhorst	√	√	√	√
L Motaung	√	√	√	√



# Compliance with Legislation

## THE COMPETITION ACT

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

The Registry provides the dti with quarterly reports which detail 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 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 October 2007 and approved in December 2007).
- Strategic plan for the period 1 April 2007 – 31 March 2010 (submitted on 7 November 2006 and approved on 13 June 2007)
- Budget for the period 1 April 2007 – 31 March 2008 (submitted on 7 November 2006 and approved on 13 June 2007).
- Business plan for the period 1 April 2007 – 31 March 2008 (submitted on 7 November 2006 and approved on

13 June 2007).

- Request for approval to retain surpluses generated as at 31 March 2007 (submitted on 18 March 2007 and approval received on 28 May 2007).
- Quarterly reports on the Tribunal's expenditure, budget variance, activities and performance against set targets.
- Strategic plan for the 3-year period 2008 – 2011 (submitted on 31 October 2007 and still awaiting approval).
- Budget for the 2008/2009 financial year and five-year budget to 31 March 2013 (submitted on 31 October 2007 and still awaiting approval).
- Business plan for the period 1 April 2008 – 31 March 2009 (submitted on 31 October 2007 and still awaiting approval).

## INTERNAL AUDITS

Osman Moosa and Associates (OMA) were in May 2006 awarded a three-year contract to perform the internal auditing function.

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 the year under review OMA undertook internal audits of the following processes:

- Registry – July 2007
- Information General Controls Review – July 2007

- Supply Chain Management – September 2007
- Case Management – September 2007
- Expenditure Management – January 2008
- Cash Management – February 2008
- Liability Management – February 2008

Audit reviews and testing was undertaken in order to assess the adequacy and effectiveness of controls relating to the specific audit activity. The audit procedures are designed so as to determine whether the controls are adequate and effective in mitigating risks. Overall compliance with policies and procedures for the processes being covered were also assessed.

Where reported deficiencies occur appropriate line management responsibility and ownership is assigned so as to ensure the implementation of corrective action in a timely and effective manner. In each subsequent audit the corrective action taken by management pertaining to internal audit findings is evaluated in terms of adequacy and effectiveness.

An internal audit charter is in place and was revised in September 2007.

## EXTERNAL AUDIT

The office of the Auditor-General has completed the external audit for the period ending 31 March 2008.

## 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
- 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.

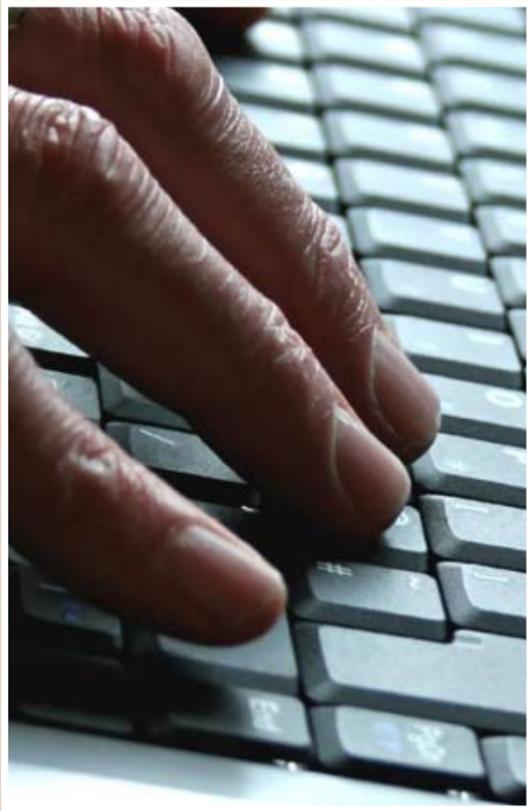
The South African Revenue Service exempted the Tribunal from Section 10(1) (cA) (i) of the Income Tax Act, 1962 in October 2005.

## STAFF MEETINGS

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

Seven TEF meetings were held in the year under review. Issues raised and discussed included performance reviews, annual salary increases, internal policy amendments, the Tribunal's social responsibility programme, and employee assistance programmes.

The TEF and representatives of management meet when it is necessary to address particular issues. Two joint meetings of this kind were held in the year under review. The TEF was represented by Mr R Kariga and Mr D. Phiri, while management was represented by Mr D Lewis and Ms J de Klerk.



# Human Resource Development

and nurturing a stable environment that is conducive to attracting, retaining and developing competent professional employees. Tribunal employees have thus during the year under review been provided with opportunities for personal development and further education.

Training and development programmes provided took the form of in-house training, external courses, workshops and conferences (national and international). A total of 121.50 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 8.68 training days per person.

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

- *ICN merger workshop held in Ireland in April 2007 (one case manager attended)*
- *Conference on competition law, economics and policy in South Africa hosted by the Commission, the Tribunal and the Mandela Institute at the University of the Witwatersrand in May 2007 (one case manager attended)*
- *European Community summer school competition law course in London in August 2007 (one case manager attended)*
- *ICN cartels workshop held in El Salvador in November 2007 (two case managers attended)*
- *Telecommunications workshop hosted by the Commission and the Tribunal in November 2007 (attended by four case managers)*
- *The Tribunal's internal workshop held in Pretoria in February 2008 (four case managers and the registrar attended)*
- *Writing workshop hosted by the University of Witwatersrand*

*Writing Centre in February 2008 (six case managers, registrar and registry administrator attended).*

Staff members also attended the following:

- *Front office training workshop held in May 2007 (4 staff members attended)*
- *Records management workshop held in May 2007 (1 staff member attended)*
- *Financial planning workshop held in June 2007 (2 staff members attended)*

In addition, team-building sessions were held in April 2007 (two full-time members and 12 staff members attended) and in October 2007 (three full-time members and 12 staff members attended).

A total of 11 staff members attended various computer training courses.

A case manager participated in an ICN working group on unilateral conduct.

Staff members are encouraged to undertake further education and training through the Tribunal's bursary and study loan scheme, which affords opportunities for staff members to take general educational and vocational training courses aimed at career advancement.

Staff members of the Tribunal may apply for a grant to a maximum of R8 000 per year in the form of a study loan for any module or course. When a course is passed the loan is converted into a

bursary. Loans in excess of R8 000 can be granted by a special decision of the executive committee.

During the year under review study loans totalling R39, 298 were awarded to seven staff members and study loans totalling R26, 078 were converted into bursaries.

## PERFORMANCE MANAGEMENT SYSTEM

The Tribunal's performance management policy provides for biannual assessments that include the participation of the relevant divisional manager and the Tribunal chairperson.

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

The Tribunal's strategic objectives are aligned with the performance of individuals and performance is managed in a manner designed to facilitate the achievement of these objectives and in addition to ensure that employees have an opportunity for self-development.

The system assists the Tribunal to meet its statutory commitments and simultaneously promotes a climate in which staff members are motivated and their commitment to service excellence is enhanced. The development needs of staff are identified and addressed during this process. In addition, salary increases and any bonuses awarded are linked to the outcome of the appraisals.

## STAFF COMPOSITION

The Tribunal's staff complement consisted of 14 full-time staff members at the beginning of the year under review. There were three vacant positions (following resignations) at the end of the year, bringing the year-end staff complement to 11.

Six of the current staff members are female, nine are black and two are white. Five have a bachelor's degree or higher qualification.

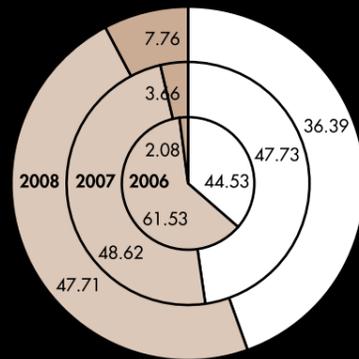
## TRAINING AND DEVELOPMENT

The Tribunal recognises that employees are the most important resource for ensuring the long-term sustainability of the organisation. The Tribunal is therefore committed to cultivating

# Financial Management

The budget for the 12-month period ending 31 March 2008 reflected expenditure (inclusive of capital expenditure) of R16.6m and estimated revenue (generated from aliquot fees, interest and a dti grant) of R16.6m.

Revenue for the year amounted to R19.47 m and was made up as follows:



Category	Amount (Rm)
Government grants	8.67
Filing fees	9.29
Other income	1.51
<b>Total income</b>	<b>19.47</b>

The Tribunal's share of filing fees received by the Commission remains the main source of the Tribunal's revenue. In the year under review, revenue under this heading increased by 13.99%. The Tribunal further received a grant of R8.67m from the dti, and has continued to receive Treasury approval to accumulate surpluses generated. This approval has been granted on condition that the surpluses are used to cover expenditure for the next financial year.

Total expenditure (net of capital expenditure) for the period increased by 17.30% from R13.12 million to R15.39 million.

The table below illustrates the nature of expenditure incurred by the Tribunal and the percentage change in each category in the year under review.

Expenditure Category	Percentage (2008)	Percentage (2007)	Percentage change
Personnel	59.96	54.93	28.04
Administration	17.11	24.20	-17.04
Training	9.32	8.86	23.32
Professional services	11.98	10.16	38.30
Other operating expenses	1.63	1.85	3.78
<b>Total expenditure</b>	<b>100</b>	<b>100</b>	<b>17.30</b>

Professional services expenditure includes payments to the Commission in terms of the Tribunal's memorandum of understanding with it, transcription services, legal fees, public relations and finance-related consulting services.

During the period under review the dti reduced the per square metre unitary payment payable by institutions occupying space on the Sunnyside campus. This reduction brought about a decrease of 32.37% in the total unitary payment, and this explains the 17.04% decrease in administrative expenditure reflected in the table above. The reduction accounts for 100.14% of the decrease in administrative expenditure.

The table below sets out the contribution of each category to the 17.30% increase in total expenditure:

Expenditure Category	Percentage
Personnel	88.99
Administrative	-23.83
Training	11.95
Professional services	22.49
Other operating expenses	0.40
<b>Total</b>	<b>100</b>

Much of the 28.04% increase in personnel expenditure can be attributed to the increase in the salaries paid to the full-time Tribunal members referred to in the Chairperson's report on pages 10 and 11.

Of the increase in personnel expenditure, 83.57% was caused by the increase in the salaries of the full-time members while 13.17% was caused by an increase in total fees paid to part-time Tribunal members.

The table below illustrates the percentage change in each category of personnel expenses and in addition reflects the category's contribution to the total increase.

Category	% change	Contribution to change
Full-time Tribunal members	80.00	83.57
Part-time Tribunal members	22.35	13.17
Other staff	1.89	3.26
<b>Total</b>	<b>28.04</b>	<b>100</b>

Part-time members sitting on a panel are paid a daily fee for the number of days of the hearing and for preparation. In 2006/2007 the number of days for which part-time members were paid was 170 days, whereas in 2007/2008 this figure was 208. There are seven part-time members and the average annual number of days that part-time members were paid for was 29.71 days. Part-time members are paid R7,000 per day

In 2006/2007 the Tribunal heard 124 cases over 107 days, whereas in 2007/2008 the Tribunal heard 146 cases over 118 days. This represents an increase of 17.74% in the volume of

cases and 10.28 % in the number of hearing days. The average number of days per hearing in 2006/2007 was 0.86 days whereas in 2007/2008 it was 0.81 days.

It is clear that the increase of 22.35% in fees paid, as reflected in the table above, is attributable to an increase in the number of hearing days.

Expenditure on professional services increased by 38.30% in the year under review. This increase was caused by significant increases in recruitment costs (344%) and professional consulting (215%). There were six resignations and the high recruitment costs relate to the filling of these vacant positions (advertising costs, recruitment fees, relocation costs, etc). Professional consulting fees were incurred with regard to revisions of existing policies, the drafting of new policies, and the development of software programmes for reporting purposes.

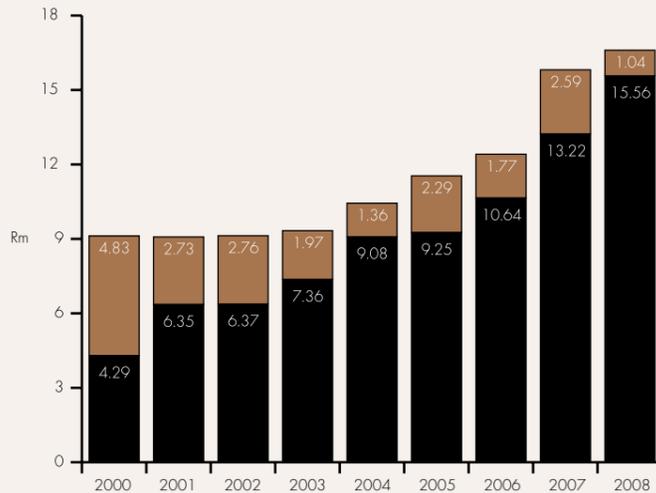
The Tribunal is unable to predict the number of cases that will be heard in a particular year and therefore experiences difficulty in preparing accurate budgets.

In its initial years of operation the Tribunal experienced 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.

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, and it is therefore necessary to retain a contingency budget for professional services.

# Communicating the Work of the Tribunal

Actual Expenditure compared to Budget:



The Tribunal has continued to receive extensive media coverage of its activities, thus ensuring that the public remains informed about the competition system and the Tribunal's functions.

This is borne out by the 482 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 includes some informed appraisals of competition policy and the competition system generally.

The public can obtain information on the Tribunal's activities and decisions from the Tribunal's website ([www.comtrib.co.za](http://www.comtrib.co.za)),

where all decisions and statements released by the Tribunal are published.

In the year under review 109 decisions were posted on the website.

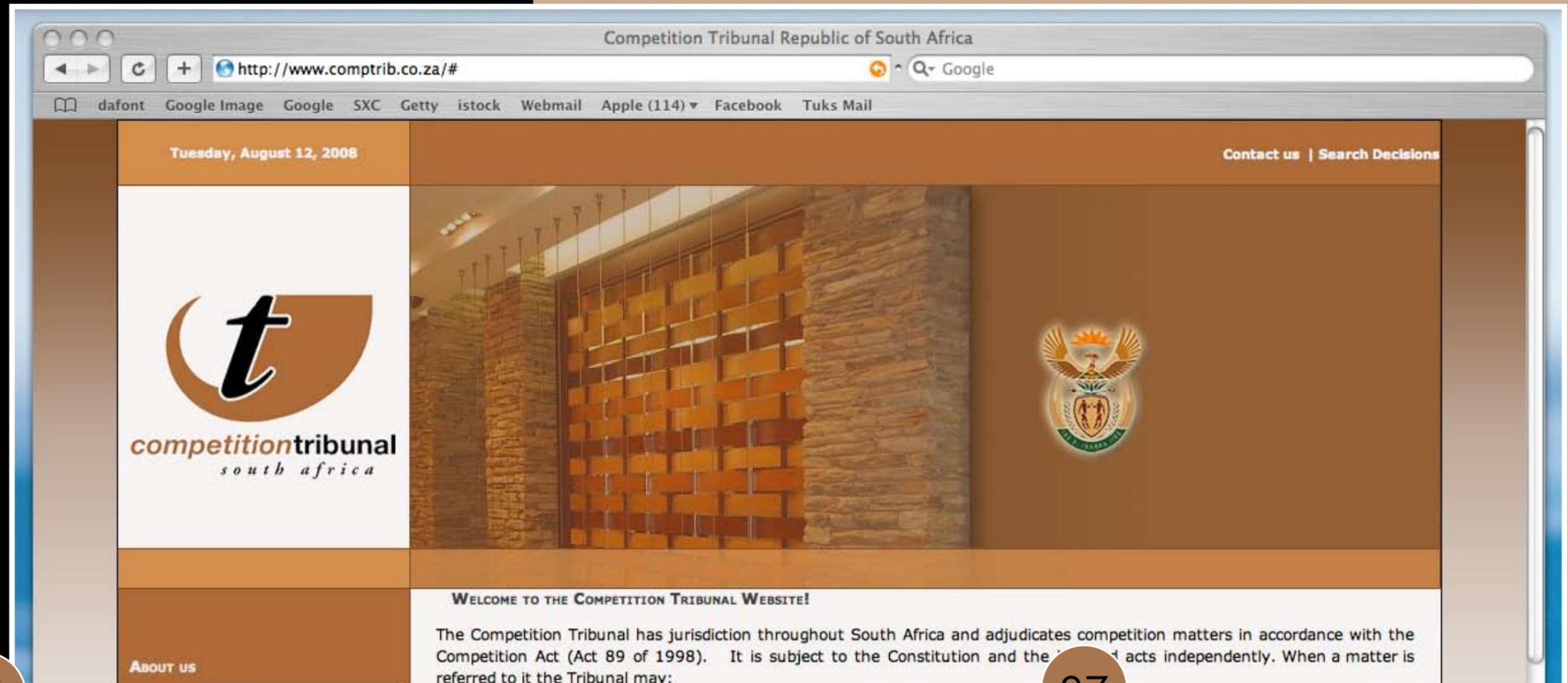
The website has links through which interested parties can access other competition-related sites, the Act, the rules and official forms.

The work of the Tribunal is further communicated through the full-time members' presentation of university courses 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.

Year	Actual Expenditure (in Rm)	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	85.73
2007	13.22	15.81	83.62
2008	15.56	16.60	93.73



PERFORMANCE INDICATORS FOR THE PERIOD ENDING 31 MARCH 2008

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 07 – March 08)	Reasons for deviation & Corrective Action Plan
	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	
Policy and Legislative Development	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"> <li>The chairperson presented 5 papers at conferences/workshops/panel discussions</li> <li>Fulltime 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 Wits Business School.</li> <li>The chairperson has represented the Competition Tribunal at 2 meetings of the Competition Committee of the OECD</li> </ul>	
	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"> <li>The chairperson and the head of research continued to participate in the ICN working group on "Unilateral Conducts"</li> <li>A full member participated in ICN working groups on mergers</li> <li>The chairperson continues to serve as vice chairperson of the ICN steering Group.</li> </ul>	
Enforcement and Compliance	Large Merger Referrals	<b>Large mergers</b> <ul style="list-style-type: none"> <li>Matters on the roll from a previous period</li> <li>New matters referred</li> <li>Matters heard</li> <li>No. approved</li> <li>No. prohibited</li> <li>No. withdrawn</li> <li>No. pending</li> <li>No. of orders issued</li> <li>No. of reasons for order issued</li> </ul>		<ul style="list-style-type: none"> <li>16 (12 awaiting a decision and 4 still to be heard)</li> <li>102</li> <li>100 (4 from a previous period)</li> <li>97 (8 with conditions)</li> <li>1 (after a hearing)</li> <li>2 (1 after a prehearing)</li> <li>6 (5 still to be heard)</li> <li>98</li> <li>103</li> </ul>	

Sub Prog.	Output	Measure	Target	Status for the year (April 07 – March 08)	Reasons for deviation & Corrective Action Plan
		Turnaround times -	Hearing set down within 10 days of referral	<ul style="list-style-type: none"> <li>88 of the 100 matters heard were set down within 10 days of being referred</li> </ul>	<ul style="list-style-type: none"> <li>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.</li> <li>Delays may also occur as the information provided is not sufficient and requests are made by the panel/parties for further information.</li> </ul>
			Order issued within 10 days of hearing	<ul style="list-style-type: none"> <li>98 of the 98 matters in which orders were issued</li> </ul>	
			Written reasons for decision provided within 20 days of order being issued	<ul style="list-style-type: none"> <li>60 of 103 matters in which reasons were issued</li> </ul>	<ul style="list-style-type: none"> <li>Many of the mergers received are complicated matters and the writing of a decision is delayed by the nature of the transaction.</li> <li>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</li> <li>Delays also occur because the writing of reasons for contested mergers and uncontested mergers approved conditionally or prohibited are given priority</li> <li>When uncontested mergers are approved with no conditions the need for written reasons within a stipulated timeframe is not urgent</li> </ul>
	Intermediate merger	<b>Intermediate Mergers</b> <ul style="list-style-type: none"> <li>Matters on the roll from a previous period</li> <li>New matters received</li> <li>No heard</li> <li>No. approved</li> <li>No. prohibited</li> <li>No. withdrawn</li> <li>No. pending</li> <li>No. of reasons for order issued</li> </ul>		<ul style="list-style-type: none"> <li>0</li> <li>3</li> <li>2</li> <li>1</li> <li>0</li> <li>0</li> <li>2 (1 pending following a hearing)</li> <li>0</li> </ul>	
		Turnaround times - <b>Intermediate mergers</b>	Pre-hearing set down within 10 days of notification	<ul style="list-style-type: none"> <li>No matters were set down within 10 days of notification</li> </ul>	<ul style="list-style-type: none"> <li>Hearings are set down in agreement with the merging parties and because this is a reconsideration (equivalent to an appeal) of the merger extensive evidence is usually led and these matters tend to be fairly complex mergers</li> </ul>
			Order issued within 10 days of hearing	<ul style="list-style-type: none"> <li>1 order was issued and this was within 10 days of the hearing</li> </ul>	
			Written reasons for decision provided within 20 days of an order being issued	<ul style="list-style-type: none"> <li>No reasons were issued</li> </ul>	<ul style="list-style-type: none"> <li>Reasons still being drafted and will only be issued in next financial period</li> </ul>



Sub Prog.	Output	Measure	Target	Status for the year (April 07 – March 08)	Reasons for deviation & Corrective Action Plan
		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"> <li>25 of 33 matters heard</li> <li>31 of the 31 orders issued were issued within the required 2 days</li> <li>Reasons were Issued in 2 matters and these were within the required 10 days</li> </ul>	<ul style="list-style-type: none"> <li>These targets are set by the Tribunal internally and are not targets set by the rules.</li> <li>Delays are caused by parties not being ready to argue the application</li> <li>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</li> </ul>
	Taxation	Taxation of bills No. of bills taxed	Target cannot be set-we merely report on bills taxed	<ul style="list-style-type: none"> <li>2 bills were taxed</li> </ul>	
	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"> <li>5 fines were imposed as an administrative penalty for contraventions of the Act</li> <li>The total value of the fines imposed was R 781 184 869.90</li> </ul>	
Education & 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"> <li>3 Tribunes were produced during the period under review.</li> <li>Approximately 64 copies are distributed per volume</li> </ul>	
	Media reports	No. of stories per quarter and monthly average	Targets cannot be set	<ul style="list-style-type: none"> <li>482 stories appeared in the media monitored by the Tribunal this quarter (monthly average of 40)</li> </ul>	
	Reasons for decisions posted on website	No. of reasons posted on website  No. of reasons posted within 72 hours  No. of reasons not posted within 72 hours	Targets cannot be set	<ul style="list-style-type: none"> <li>109 reasons were posted on the website during this period</li> <li>102 reasons were posted on the website within 72 hours</li> <li>7 reasons were not posted within the required 72 hours</li> </ul>	The delays arose because of administrative difficulties and responsible staff being on leave when posting was required

Sub Prog.	Output	Measure	Target	Status for the year (April 07 – March 08)	Reasons for deviation & Corrective Action Plan
	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.  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"> <li>Training is identified on an ad hoc basis and not only directly after performance appraisal</li> <li>Each staff member attended at least 1 course during the year (Average of 8.68 training days per person per year)</li> <li>Secretariat staff spent 121.50 person days in training</li> <li>Full time Tribunal members spent 37.50 person days in training</li> <li>Chairperson attended 1 overseas conference</li> <li>2 Full Time member attended 1 overseas conference each</li> <li>Head of Research attended 1 overseas conference</li> <li>1 case manager attended 1 overseas conference</li> <li>1 case manager attended the Summer School course in the United Kingdom</li> <li>3 Part Time members each attended 1 overseas conference</li> <li>4 Appeal Court Judges each attended 1 overseas conference</li> </ul>	
	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"> <li>8 Tribunal members, 4 case managers and 1 Registry staff attended an internal Tribunal workshop held in February 2008.</li> <li>4 CAC Judges attended a local workshop held in June 2007</li> </ul>	
	Advice and referrals	No of advice and referrals made	Queries dealt with on demand	<ul style="list-style-type: none"> <li>51 queries dealt with in the period under review</li> </ul>	
	Public able to access files and information	No of files accessed	No target set-respond when required to	<ul style="list-style-type: none"> <li>33 were accessed in the period under review</li> </ul>	
	Appeal hearings by the Competition Appeal Court	<ul style="list-style-type: none"> <li>No of cases pending from the previous period</li> <li>No of cases brought before CAC</li> <li>No. withdrawn prior to hearing</li> <li>No. suspended prior to hearing</li> <li>No heard</li> <li>No pending at year end</li> <li>No. of judgments issued</li> <li>No of tribunal decisions set aside</li> <li>No of tribunal decisions upheld</li> <li>No of appeals dismissed</li> <li>No settled after hearing</li> </ul>		<ul style="list-style-type: none"> <li>5 pending (4 had been heard and were awaiting judgment, 1 still to be heard)</li> <li>11 new applications</li> <li>2</li> <li>0</li> <li>5 (4 from a previous period)</li> <li>2</li> <li>5 (4 from a previous period)</li> <li>2</li> <li>0</li> <li>3</li> <li>0</li> </ul>	
		Turnaround times – CAC hearings	No control over timeframes		

# Cases Before the Competition Tribunal



In the year under review the Tribunal heard 146 cases, with written reasons being issued in 109 cases.

Type of case	Number heard	Reasons issued
Large merger	100	103
Procedural	33	2
Intermediate merger	2	0
Complaint referral from the Commission	8	1
Complaint referral from a complainant	3	2
Interim relief	1	1
<b>Total heard</b>	<b>147</b>	<b>109</b>

## LARGE MERGERS

Whether mergers are classified “large”, “intermediate” or “small” is determined by the annual turnover and net asset value of the merging parties. The thresholds for these classifications are set by the Minister of Trade and Industry and have statutory force under the Act.

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

After considering a merger, the Tribunal can:

- approve the merger 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 set out 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
2007/2008	98	89	8	1
<b>Total</b>	<b>558</b>	<b>498</b>	<b>52</b>	<b>8</b>

Since its inception the Tribunal has ruled on 558 mergers, of which 89.25% have been approved without conditions. This represents an average of 62 merger decisions per year.

## LARGE MERGERS

The Tribunal had 118 mergers on its roll in the year under review. Of these, 102 were received during the year and the other 16 were received in a previous period.

Of the 16 matters received in the previous period, 12 had been heard and had had orders issued but reasons for decisions were pending in these matters. Four matters from a previous period still had to be heard.

One matter was withdrawn before it was heard, and the Tribunal heard 100 matters, four from a previous period. At the year-end two matters remained to be heard.

A total of 89 of the mergers heard were unconditionally approved and eight were approved subject to conditions. One matter was withdrawn following a hearing, one merger was prohibited, and in one matter a decision was still due.

Reasons were issued in 91 of the 99 matters heard. Reasons were issued for 12 matters heard in a previous period.

Details of these cases are set out in Appendix A.

## TURNAROUND TIMES IN LARGE MERGER PROCEEDINGS

Tribunal Rule 35 (1) specifies that the registrar is required to set down a matter within ten business days of the filing of the merger referral, or 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 88 of the 100 cases heard were given hearings within the ten-day period.

Orders were released in 98 cases with all of these orders being released within ten days after the hearing.

Written reasons were issued in a total of 103 cases. Tribunal Rule 35 specifies that written reasons must be provided within 20 days of issuing an order. In 60 cases (58.25 % of the total) reasons were issued within this 20-day period. In the remaining 43 cases (42, 75% of the total) 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

# Cases Before the Competition Tribunal

- 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 in complex cases takes considerable time as the nuances of a matter and varying opinions of panel members need to be reflected in the reasons.



## ADMINISTRATIVE PENALTIES MUST DETER WRONGFUL CONDUCT

An application was made by the Competition Commission and Netcare in which the Tribunal was requested to confirm a settlement agreement with Netcare and Community Hospital Group by which these companies agreed to pay a penalty of R6 million to settle two allegations against them, namely failure to notify a merger and price collusion.

In this matter the Tribunal expressed the view that it cannot sanction agreements which fall short of the standard of an appropriate penalty even though it believes that parties must be encouraged to negotiate settlements with the Commission. It warned that firms may well construe low penalties as an acceptable cost of doing business if prior implementation impedes proper adjudication. It found the penalty agreed to by the Commission to be inappropriately low, and declined to make the order sought.

The Tribunal found that the Commission had not given sufficient weight to all the facts concerning the failure to notify, such as the degree of co-operation by the respondents, the behaviour of the respondents and the long duration of implementation. It also found that the Commission had followed the wrong approach in calculating the turnover affected in the collusion violation.

## NOT ALL RIVALS ARE EFFECTIVE COMPETITORS

On 18 June 2007 the Tribunal issued reasons for the conditional approval of a merger between Lafarge Roofing and the Kulu Group of companies, both manufacturers of concrete roof tiles. Two conditions were imposed to address anti-competitive effects of the transaction in two of the three geographic markets concerned.

The first was a structural remedy ordering the divestiture of a manufacturing plant in the Western Cape, and the second a behavioural remedy to lower barriers of entry and to allow for the expansion of existing and future competitors into the market for concrete roof tiles in the greater Durban area in the eventuality of cement supply constraints.

The Tribunal endorsed Lafarge's agreement to dispose of the Kulu Western Cape plant, considering Lafarge's high market share of 76% and high barriers of entry in this geographic market. It also found that the merger led to the removal of Lafarge's most effective competitor in the greater Durban region. The market was initially delineated as KwaZulu-Natal but upon further investigation this was found to be too broad because of the significant barrier to entry that transport costs posed. Three players were identified as competitors of the merging parties. However, the Tribunal said that "whilst firms may be regarded as competitors in a particular geographic market, it would be artificial, after having come to that conclusion, to have no regard to whether they are equally effective

competitors of the merged firm over the whole of the region. One of the requirements that we consider in merger analysis is whether the merger will lead to the removal of an effective competitor. Because in this market transport costs are fundamental in determining a firm's competitiveness in a particular area, the closer the proximity of firms the greater the rivalry." The Tribunal found that Kulu's Durban plant was closest to the Lafarge plant, and thus could be considered its most effective competitor.

Thus removal of an effective competitor, coupled with the fact that players in the region in the past were constrained by concrete supply quotas, compelled the Tribunal to impose the behavioural remedy.



# Cases Before the Competition Tribunal

## MERGER AFFECTS DYNAMIC CHARACTERISTICS OF THE MARKET

On 25 June 2007 the Tribunal issued reasons for its conditional approval of a merger from joint to sole control between Nampak Products and Burcap Plastics, both being competitors in the market for containers (metal and plastic) of solvent- or water-based liquids for industrial use. The transaction took place at a time when new product innovation was being introduced in this industry. Plastic containers will become complete substitutes for metal as new and cheaper plastic technologies have been developed which will allow plastic containers to store solvent-based paints without deterioration. Firms are thus moving away from metal paint containers, of which Nampak is the largest supplier, to plastic containers, in which Burcap is a competitor.

The Tribunal found that *“by eliminating Burcap as an independent entity able to make its own investment decisions, Nampak has reduced potential future competition from a firm well-placed to expand in the plastic segment of the container market....Since plastic seems to be where the industrial containers market is going in the future, the elimination of even potential competition in this segment has greater implications than might seem at present.”* In the light of the Tribunal’s concerns Nampak undertook not to acquire any further exclusive license agreements for PET paint containers within South Africa for three years. The aim of this condition is to lower the barriers to entry in respect of new technology in plastic containers.

## NO ORDINARY COMMERCIAL RESTRAINT

On 17 October 2007 the Tribunal conditionally approved the merger between Growthpoint Management Services and Fund Management Business, Property Administration Business and Buildmain Managers.

The Tribunal was concerned about certain clauses in the sale of business agreement and the co-operation agreement. One of the clauses in the sale of business agreement was found to amount to a restrictive horizontal practice. The Tribunal explained that *“The Tribunal was not concerned about the restraint on employees. However in the Tribunal’s view clause 12.1 was not an ordinary commercial restraint which sought to limit only the seller from entering the market from which it had exited through a sale transaction and for which it had been paid a premium. Clause 12.1 in fact restrained both Investec and Growthpoint from entering into each other’s markets and seemed to be more in the nature of a market division agreement.”*

The Tribunal also expressed concern about two clauses in the co-operation agreement, explaining that *“... while it may be common practice for firms in the property market to enjoy rights of first refusal, the co-operation agreement provided for a renewal of it by mutual agreement between parties. On this basis, clauses 4 and 5 could be renewed in perpetuity by agreement between the parties, a fact that the Commission had not previously considered. This meant that the rights of first refusal could continue beyond the initial four years contemplated in the agreement.”*

The merging parties, in light of these concerns, agreed to amend these agreements in order to address the Tribunal’s concerns.

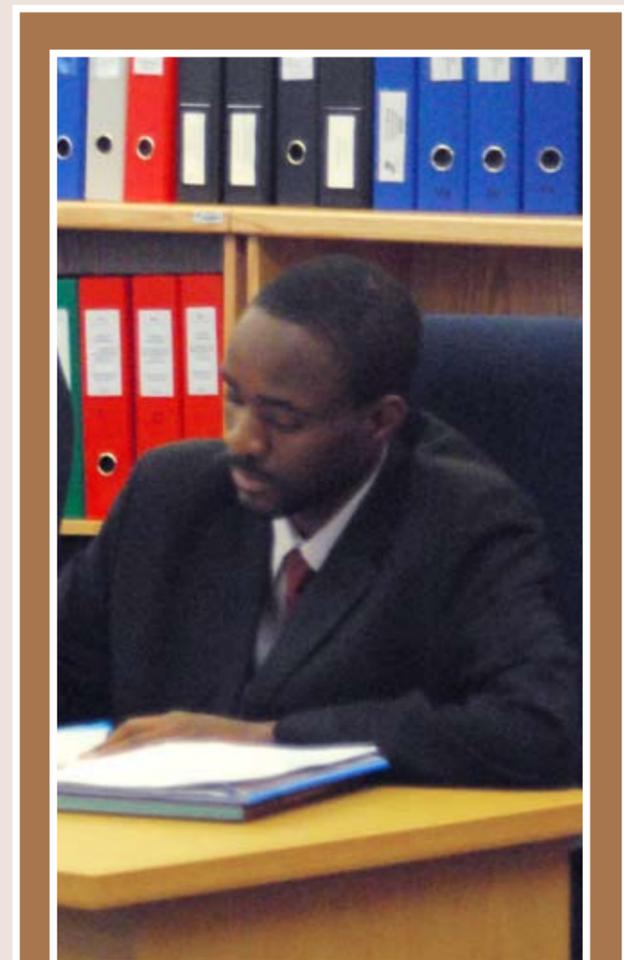
## MERGER IN THE TELECOMMUNICATIONS INDUSTRY PROHIBITED

On 28 June 2007 the Tribunal prohibited the transaction in the information and communication technology (ICT) sector between South Africa’s incumbent provider of fixed-line telecommunication services, Telkom SA, and BCX, a leading competitor active in the ICT sector. The ICT sector is currently undergoing rapid regulatory change. Although the transaction had vertical as well as horizontal dimensions it was prohibited on the basis of the horizontal evaluation of the Managed Network Service (MNS) market only.

The Tribunal concluded that the merger will result in a substantial lessening or prevention of competition in the MNS market, which has been described as *“the battleground for convergence.”* In the Tribunal’s view *“this transaction is an attempt by an erstwhile monopolist to thwart the beneficial impact of de-regulation in the form of greater economies of scale and scope for rival MNS providers and lower costs for customers. It is also an attempt by an erstwhile monopolist to stifle innovation in order to maintain its hitherto monopoly margins in infrastructure and voice services.”*

The Tribunal concluded, after hearing substantial evidence, that Telkom’s market share in the MNS market was between 38.5% - 50% and BCX’s market share was at least 8%. It found that the merger will eliminate a credible and effective competitor to Telkom in the dynamic MNS market and said that *“Despite the fact that BCX’s current market shares have been significantly understated, all indications are that it is uniquely poised to become a formidable competitor in the MNS market by a combination of*

*its range and depth of skills as well as its expansion into the Virtual Private Network (VPN) segment of the market. The acquisition of BCX will not only remove an effective competitor to Telkom but will enable Telkom to gain access to and target the large client base of BCX. ....The merger is likely to lead to network effects and a tipping of the MNS market towards Telkom. Barriers to entry and expansion will be increased and deter new entry or will lead to the exiting of smaller rivals. The merger will result in higher prices for customers and a stifling of innovation in the MNS market.”*



# Cases Before the Competition Tribunal

## SMALL MERGERS

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

## INTERMEDIATE MERGERS

Three intermediate merger applications were received and two of these three were heard in the year under review. One merger was approved and a decision in the other matter is still pending. One merger application is still to be heard.

Details of these cases are given in Appendix B.

## RESTRICTIVE PRACTICES

### Complaint Referrals from the Commission

In the year under review the Tribunal received nine new complaint referrals from the Commission. There were three on the roll from a previous period. Eight of these cases were heard. Five consent orders were granted, one consent order was not granted, and decisions were pending at the year-end in the two remaining matters. Four complaint referrals were pending at the year-end.

### Complaint Referrals from a complainant

The Tribunal received ten new referrals from complainants in the year under review, and had two on its roll from a previous period. Three referrals were heard. One was dismissed, relief was granted in the second matter, and the third matter was pending at the year-end. Nine referrals were still to be heard.

## TRIBUNAL HANDS DOWN LARGEST ADMINISTRATIVE PENALTY YET

On 27 March 2007 the Tribunal found that Mittal SA had contravened Section 8(a) of the Act by charging excessive prices, and on 27 September 2007, after hearing submissions by the parties on the size, if any, of the administrative penalty, it imposed a penalty of R691,800,000. The Tribunal found the nature of the contravention to be *“akin to price-fixing through the manipulation of supply, conduct which is, without doubt, the most egregious contravention of competition law and principles.”* The penalty of R691,800,000, which represents 5.5% of Mittal’s total turnover earned on flat steel in both the local and international market, is the largest yet imposed by the Tribunal. Certain behavioural remedies were also imposed, aimed at reducing the segmentation that Mittal SA’s pricing regime has created in the market for flat steel products. The Tribunal concluded that *“It is appropriate then that we should focus on remedies designed to address the underlying structure and/or curb the ancillary conduct that permits Mittal SA to charge excessive prices.”*

### Interim Relief

The Tribunal received six new interim relief cases during the period under review. One case was heard, two were withdrawn and three were still to be heard at the year-end.

Details of restrictive practice cases are given in Appendix C.

## DECISIONS ON PROCEDURE OR POINTS OF LAW

In the period under review, the Tribunal had 39 matters of this nature on the roll. Of these, 38 were new applications and one was pending from the previous year.

Six matters were withdrawn and 33 matters were heard. Orders were issued in 31 matters, one matter was withdrawn following a hearing, and a decision is pending in one matter.

The nature of these new applications is described in the table alongside:

Nature of procedural matter	Number of applications
Application to strike out	2
Application for procedural fairness	1
Appeal against demand for further information	1
Amendment applications	3
Application for costs order	2
Consolidation application	2
Confidentiality	1
Declaratory order	1
Default judgement application	2
Discovery application	2
Dismissal application	1
Divestiture	1
Exception notice	2
Extension applications	1
Failure to notify	1
Filing fee refund	1
Intervention application	5
Points in limine	1
Review of summons	2
Separation of issues	1
Stay application	2
Urgency	1
Variation Order	2
<b>TOTAL</b>	<b>38</b>

Details of these cases are given in Appendix D.



# The Competition Appeal Court



Mr Justice D Davis



Mr Justice P Levinsohn



Ms Justice L Mailula



Mr Justice F Malan



Ms Justice N Mhlantla



Mr Justice C Patel



Ms Justice Z Tshiqi

The Competition Appeal Court, a specialised body that hears appeals from and reviews of the decisions of the Tribunal, is one of three institutions established in terms of the Act. 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 (Judge President)	Cape of Good Hope Provincial Division of the High Court
Judge C N Patel	Natal Provincial Division of the High Court
Judge F R Malan	Witwatersrand Local Division of the High Court
Judge L M Mailula	Witwatersrand Local 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 for judges in July 2007 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 2007.

Funding for the Competition Appeal Court is received from the dti and its budget appears as a line item on the Tribunal's budget. The budget is managed by the Judge President 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)
2004	284
2005	341
2006	363
2007	337
2008	434

The increase in expenditure arose primarily from a workshop held in May 2007 at which a review of the Appeal Court's activities was undertaken.

## CASES BEFORE THE COMPETITION APPEAL COURT

In the year under review the Competition Appeal Court received five applications for appeals and reviews, heard five cases (four of which had been received in the previous year), released five decisions (four in cases heard in the previous year), and two cases received during the period were withdrawn. At the year-end there were two pending cases on the roll.

# The Competition Appeal Court

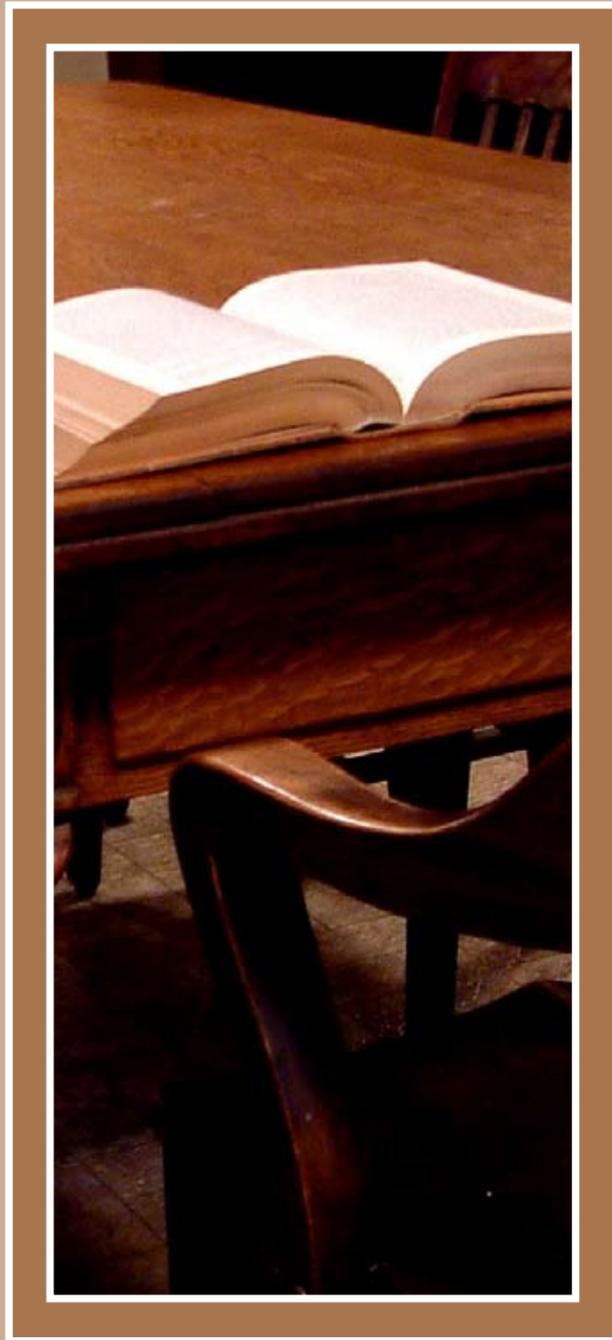
Appellant / Applicant	Respondent	Date of appeal	Date of hearing	Date of decision	Bench	Decision
ANSAC, CHC Global	BOTASH, Chemsolve Technical Products (Pty) Ltd, Weber Wentzel Bowens, Competition Commission	19 Jan 07	11 Jun 07	11 Jun 07	Davis JA Mailula AJA Patel AJA	Leave to appeal dismissed with costs, including costs of two counsel
TWK Agriculture Limited	Competition Commission, NCT Forestry Co-Operative Limited, Shincel (Pty) Ltd & Shield Overall Manufacturers (Pty) Ltd	22 Jan 07	12 Jun 07	07 Aug 07	Davis JA Patel AJA Mhlanlta AJA	Application dismissed with costs, including costs of two counsel
TWK Agriculture Limited	Competition Commission, NCT Forestry Co-Operative Limited, Shincel (Pty) Ltd & Shield Overall Manufacturers (Pty) Ltd	24 Aug 07				Pending
African Media Entertainment Limited	David Lewis, Norman Manoim, Yasmin Carrim, Primedia Ltd, Capricon Capital Partners (Pty) Ltd, New Africa Investments Ltd & the Competition Commission	05 Mar 07	11 Jun 07 Postponed 17 Sep 07	19 Nov 07	Davis JA Mailula AJA Tshiqi AJA	Decision unconditionally approving merger reviewed and set aside. Question whether proposed merger should be approved and, if so upon what basis, referred back to Tribunal for determination. Primedia and Capricon Capital Partners ordered jointly and severally to pay applicant's costs, including costs of two counsel
Johnnic Holdings Limited & Mercanto Investments (Pty) Ltd	The Competition Tribunal, The Competition Commission & Rupert Smith	30 Mar 07	30 Nov 07	Order - 30 Nov 07	Davis JA Mailula AJA Levinsohn AJA	Tribunal's order stayed and time periods in the order for the operation of the trustee divestiture period suspended. The Commission ordered to pay costs, including costs of two counsel
Mittal Steel South Africa Limited	Harmony Gold Mining Company Limited, Durban Roodepoort Deep Limited & Macsteel International BV	19 Apr 07	23 & 24 Oct 08		Davis JA Malan JA Tshiqi AJA	Pending

Appellant / Applicant	Respondent	Date of appeal	Date of hearing	Date of decision	Bench	Decision
Caxton & CTP Publishes and Printers Limited	Naspers Limited, Electronic Media Network Limited, Supersport International Holdings Limited, the Competition Commission and the Competition Tribunal	07 Aug 07	10 Sep 07	04 Oct 07	Davis JA Mailula AJA Levinsohn AJA	Review dismissed with costs including costs of two counsel
Abraham van der Walt & Profert (Pty) Ltd	Competition Tribunal & Sasol Chemical Industries (Pty) Ltd	26 Feb 08		Withdrawn on 28 Feb 08		Withdrawn 28 February 2008
Sasol Chemical Industries	Abraham van der Walt, Anton van Rooyen, Johan Coetsee, Pieter Kriel, Willem Hamilton, Profert (Pty) Ltd, Competition Tribunal, Competition Commission, Yara (South Africa) (Pty) Ltd & African Explosives and Chemical Industries Limited	26 Feb 08		Withdrawn on 28 Feb 08		Withdrawn 28 February 2008

# Annual Financial Statements for the year ended 31 March 2008

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## STATEMENT OF FINANCIAL PERFORMANCE FOR THE YEAR ENDED 31 MARCH 2008

REVENUE	NOTES	2008 R'000	2007 R'000
Fee Income	2	9 286	8 149
Grants and transfers	3	8 670	8 000
Other revenue	4	14	35
<b>Total Revenue</b>		<b>17 970</b>	<b>16 184</b>
<b>Expenses</b>		<b>15 388</b>	<b>13 119</b>
Administrative expenses	5	2 634	3 174
Personnel	6	9 226	7 205
Other operating expenses	7	3 284	2 500
Finance charges	8	43	43
Depreciation	9.1	200	197
Amortisation of intangible assets	9.2	1	0
<b>Surplus from operations</b>		<b>2 582</b>	<b>3 065</b>
Interest received	10	1 497	577
<b>Net surplus for the year</b>		<b>4 079</b>	<b>3 642</b>

# Annual Financial Statements for the year ended 31 March 2008

## STATEMENT OF FINANCIAL POSITION AS AT 31 MARCH 2008

ASSETS	NOTES	2008 R'000	2007 R'000
<b>Current assets</b>		17 569	13 443
Consumable stores	11	21	16
Receivables	12	1 098	686
Cash and cash equivalents	13	16 450	12 741
<b>Non-current assets</b>		<b>762</b>	<b>797</b>
Infrastructure, plant and equipment	14.1	721	797
Intangible Assets	14.2	41	0
<b>Total assets</b>		<b>18 331</b>	<b>14 240</b>
<b>LIABILITIES</b>			
<b>Current liabilities</b>		1 134	1 018
Payables	15	1 024	913
Short term portion of finance lease	16	107	99
Short term borrowing	17	0	3
Accrued interest		3	3
<b>Non Current liabilities</b>		<b>163</b>	<b>267</b>
Finance Lease	16	163	267
<b>Total liabilities</b>		<b>1 297</b>	<b>1 285</b>
<b>NET ASSETS</b>		<b>17 034</b>	<b>12 955</b>
Accumulated surplus	28	17 034	12 955
<b>Total liabilities and accumulated surpluses</b>		<b>18 331</b>	<b>14 240</b>

## STATEMENT OF CHANGES IN NET ASSETS FOR THE YEAR ENDED 31 MARCH 2008

Balance at 1 April 2006  
 Surplus for the year ended 31 March 2007  
 Balance at 31 March 2007  
 Surplus for the year ended 31 March 2008  
**Balance at 31 March 2008**

ACCUMULATED FUNDS 2008
9 313
3 642
12 955
4 079
<b>17 034</b>

# Annual Financial Statements for the year ended 31 March 2008

## CASH FLOW STATEMENT FOR THE YEAR ENDED 31 MARCH 2008

	NOTES	2008 R'000	2007 R'000
<b>Operating activities</b>			
Cash received from customers		17 558	17 334
Cash paid to suppliers and employees		(15 038)	(12 584)
<b>Cash generated from operating activities</b>	18	<b>2 520</b>	<b>4 750</b>
Interest received	10	1 497	577
Finance charges	8	(43)	(43)
<b>Net cash from operating activities</b>		<b>3 974</b>	<b>5 284</b>
Net cash used in investing activities	19	(166)	(118)
Net cash flow from financing activities	20	(99)	(70)
<b>Net increase in cash and cash equivalents</b>		<b>3 709</b>	<b>5 096</b>
Cash and cash equivalents at the beginning of the year		12 741	7 645
<b>Cash and cash equivalents at end of the year</b>	13	<b>16 450</b>	<b>12 741</b>

## ACCOUNTING POLICIES FOR THE YEAR ENDED 31 MARCH 2008

### 1. ACCOUNTING POLICIES

The annual financial statements have been prepared on the historical cost basis, except for the measurement of certain financial instruments at fair value, 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 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

# Annual Financial Statements for the year ended 31 March 2008

## ACCOUNTING POLICIES (CONTINUED) FOR THE YEAR ENDED 31 MARCH 2008

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 local and international budget reporting 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.

### 1.3 Revenue

Revenue is recognised to the extent that it is probable that the economic benefits will flow and can be reliably measured. Revenue is measured at fair value of the consideration receivable on an accrual basis. The following specific recognition criteria must also be met before revenue is recognised:

#### Filing fees

Filing fees in respect of mergers are recognised when the papers have been filed and the filing fees have been paid.

#### 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.

#### Interest income

Revenue is recognised as interest accrues using the effective interest rate.

#### Other income

Other income is recognised on an accrual basis.

## ACCOUNTING POLICIES (CONTINUED) FOR THE YEAR ENDED 31 MARCH 2008

### 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

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, depreciation policy and residual value are reviewed annually.

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

Office equipment	- 15 years	Server	- 10 years
Motor vehicles	- 5 years	Furniture and fittings	- 15 years
Computer equipment	- 3 years	Leased Assets	- period of the lease

### 1.7 Intangible Assets

Intangible assets are carried at cost less any accumulated amortisation and any impairment losses. Amortisation is provided to write down the intangible assets on a straight line to their residual values.

# Annual Financial Statements for the year ended 31 March 2008

## ACCOUNTING POLICIES (CONTINUED) FOR THE YEAR ENDED 31 MARCH 2008

Server software	– 10 years
Computer software – other	– 5 years

The residual value of computer software is regarded as zero due to the fact that computer software is not resaleable.

### 1.8 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.

### 1.9 Consumables

Consumable stores are 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.

### 1.10 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.

### 1.11 Financial Instruments

The Tribunal's principal financial instruments are receivables, cash and cash equivalents, payables and lease liabilities.

## ACCOUNTING POLICIES (CONTINUED) FOR THE YEAR ENDED 31 MARCH 2008

### Recognition

Financial assets are recognised in the Tribunal's statements of financial position when the Tribunal becomes a party to the contractual provisions of an instrument.

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

### Financial assets

Financial assets are classified as financial assets at fair value through surplus or deficit, loans and receivables or held to maturity investment as appropriate. When financial assets are initially recognised they are measured at fair value.

The Tribunal determines the classification of its financial assets on initial recognition and, where allowed and appropriate, re-evaluates this designation at each financial year end.

### Impairment of financial assets

The Tribunal assesses at each financial position date whether a financial asset or group of financial assets is impaired.

### Loans and receivables

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

### Assets carried at amortised cost

In relation to receivables a provision for impairment is made when there is objective evidence (such as the probability of insolvency or significant financial difficulties of the debtor) that the Tribunal will not be able to collect all the amounts due under the original terms of the invoice. The carrying amount of the receivable is reduced through use of an allowance account. Impaired debts are derecognised when they are assessed as uncollectible.

### Cash and cash equivalents

Cash and cash equivalents in the statement of financial position comprise cash at banks and on hand and cash equivalents with an original maturity of three months or less. For the purpose of the cash flow statement, cash and cash equivalents consist of cash and cash equivalents as defined above, net of outstanding bank overdrafts.

Cash and cash equivalents are recognised at cost.

# Annual Financial Statements for the year ended 31 March 2008

## ACCOUNTING POLICIES (CONTINUED) FOR THE YEAR ENDED 31 MARCH 2008

### Financial liabilities

#### Payables

Payables are initially recognised at fair value.

After initial recognition, payables are subsequently measured at amortised cost using the effective interest method. Gains and losses are recognised in surplus and deficit when the liabilities are derecognised as well as through the amortisation process.

### 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.

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.

## NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2008

### 2. FEE INCOME

An analysis of the Tribunal's fee income is as follows:

Rendering of services:

Fee Income received from the Commission

**Total**

2008 R'000	2007 R'000
9 286	8 149
<b>9 286</b>	<b>8 149</b>

### 3. GRANTS AND TRANSFERS

Government grant

**Total**

8 670	8 000
<b>8 670</b>	<b>8 000</b>

### 4. OTHER REVENUE

Sundry

Refund from SARS

Printing cost recoupment

**Total**

0	1
0	25
14	9
<b>14</b>	<b>35</b>

### 5. ADMINISTRATIVE EXPENSES

General and administrative expenses

External audit fees

Internal audit fees

Audit Committee members fees (inclusive of travel)

Travel and subsistence

Unitary payments for building occupation

**Total**

704	868
202	206
245	164
62	37
282	225
1 139	1 674
<b>2 634</b>	<b>3 174</b>

# Annual Financial Statements for the year ended 31 March 2008

## NOTES TO THE ANNUAL FINANCIAL STATEMENTS (CONTINUED) FOR THE YEAR ENDED 31 MARCH 2008

	2008 R'000	2007 R'000
<b>6. PERSONNEL</b>		
Salaries	3 613	3 358
Basic salaries	2 936	2 626
Performance awards	165	218
Other non-pensionable allowance	512	514
Defined Pension contribution plan expense	207	176
Social contributions (Employer's contributions)	228	212
Medical	77	69
UIF	20	20
Insurance	33	36
Other salary related costs	98	87
Director's emoluments	5 178	3 459
<b>Total</b>	<b>9 226</b>	<b>7 205</b>
<b>7. OTHER OPERATING EXPENSES</b>		
Staff training and development	1 433	1 163
Consultants, contractors and special services	1 843	1 335
Maintenance, repairs and running costs	2	0
Fruitless and wasteful expenditure	4	2
Legal fees	2	0
<b>Total</b>	<b>3 284</b>	<b>2 500</b>
<b>8. FINANCE CHARGES</b>		
Capitalised finance leases	43	43
<b>Total</b>	<b>43</b>	<b>43</b>

## NOTES TO THE ANNUAL FINANCIAL STATEMENTS (CONTINUED) FOR THE YEAR ENDED 31 MARCH 2008

	2008 R'000	2007 R'000
<b>9. DEPRECIATION AND AMORTISATION</b>		
<b>9.1 Depreciation</b>		
- Office equipment	1	1
- Motor vehicles	21	21
- Computer equipment	60	57
- Leased Assets – office equipment	104	103
- Furniture and fittings	14	15
<b>Total</b>	<b>200</b>	<b>197</b>
<b>9.2 Amortisation</b>		
- Intangible assets	1	0
<b>Total</b>	<b>1</b>	<b>0</b>
<b>10. INTEREST RECEIVED</b>		
Interest received		
- Bank deposits	1 497	577
<b>Total</b>	<b>1 497</b>	<b>577</b>
<b>11. CONSUMABLES</b>		
Consumable stores	21	16
<b>Total</b>	<b>21</b>	<b>16</b>
<b>12. RECEIVABLES</b>		
Receivables	992	598
Prepayments	106	88
<b>Total</b>	<b>1 098</b>	<b>686</b>

The fair value of receivables approximate their book values as shown above. Normal term of payments is 30 days.

# Annual Financial Statements for the year ended 31 March 2008

## NOTES TO THE ANNUAL FINANCIAL STATEMENTS (CONTINUED) FOR THE YEAR ENDED 31 MARCH 2008

### 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.

	2008 R'000	2007 R'000
Cash at bank	16 448	12 740
Cash on hand	2	1
<b>Total</b>	<b>16 450</b>	<b>12 741</b>

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.

### 14.1 Infrastructure, plant and equipment

	OFFICE EQUIPMENT R'000	MOTOR VEHICLES R'000	COMPUTER EQUIPMENT R'000	FURNITURE AND FITTINGS R'000	LEASED ASSETS - OFFICE EQUIPMENT R'000	TOTAL R'000
<b>Year ended 31/3/2007</b>						
Opening net carrying amount	8	188	109	145	426	876
Cost	14	209	386	344	501	1 454
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)
<b>Net carrying amount 31 March 2007</b>	<b>7</b>	<b>167</b>	<b>153</b>	<b>130</b>	<b>340</b>	<b>797</b>
Cost	13	209	355	344	518	1 439
Accumulated depreciation	(6)	(42)	(202)	(214)	(178)	(642)

## NOTES TO THE ANNUAL FINANCIAL STATEMENTS (CONTINUED) FOR THE YEAR ENDED 31 MARCH 2008

	OFFICE EQUIPMENT R'000	MOTOR VEHICLES R'000	COMPUTER EQUIPMENT R'000	FURNITURE AND FITTINGS R'000	LEASED ASSETS - OFFICE EQUIPMENT R'000	TOTAL R'000
<b>Year ended 31/3/2008</b>						
Opening net carrying amount	7	167	153	130	340	797
Cost	13	209	355	344	518	1 439
Accumulated depreciation	(6)	(42)	(202)	(214)	(178)	(642)
Additions	0	0	98	26	0	124
Disposals	0	0	0	0	0	0
Cost	0	0	0	0	0	0
Accumulated depreciation	0	0	0	0	0	0
Depreciation charge	(1)	(21)	(60)	(14)	(104)	(200)
<b>Net carrying amount 31 March 2008</b>	<b>6</b>	<b>146</b>	<b>191</b>	<b>142</b>	<b>236</b>	<b>721</b>
Cost	13	209	453	370	518	1 563
Accumulated depreciation	(7)	(63)	(262)	(228)	(282)	(842)

### 14.2 Intangible assets

Software – opening carrying amount	0	0
Cost	0	0
Accumulated amortisation	0	0
Additions	42	0
Amortisation	(1)	0
Closing net carrying amount	41	0
Cost	42	0
Accumulated amortisation	(1)	0

# Annual Financial Statements for the year ended 31 March 2008

## NOTES TO THE ANNUAL FINANCIAL STATEMENTS (CONTINUED) FOR THE YEAR ENDED 31 MARCH 2008

	2008 R'000	2007 R'000
<b>15. PAYABLES</b>		
Creditors	465	413
Salary accruals	555	445
Other accruals	4	55
<b>Total</b>	<b>1 024</b>	<b>913</b>
Normal terms and conditions for the payment of creditors are 30 days		
<b>16. FINANCE LEASE</b>		
Amounts payable under finance lease:		
- Within one year	141	133
- In the second to fifth year inclusive	180	302
	321	435
Less future finance charges	51	69
- Within one year	34	34
- In the second to fifth year inclusive	17	35
Present value of minimum lease payments	270	366
- Within one year	107	99
- In the second to fifth year inclusive	163	267
Less amounts due for settlement within 12 months	(107)	(99)
	<b>163</b>	<b>267</b>

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).

## NOTES TO THE ANNUAL FINANCIAL STATEMENTS (CONTINUED) FOR THE YEAR ENDED 31 MARCH 2008

	2008 R'000	2007 R'000
<b>17. SHORT TERM BORROWINGS</b>		
Bank overdraft	0	3
The bank overdraft arose due to a late draw down of surplus cash reserves and was cleared within 2 days		
<b>18. RECONCILIATION OF NET SURPLUS FOR THE YEAR TO CASH GENERATED FROM OPERATIONS</b>		
Net surplus for the year	4 079	3 642
Adjusted for:		
- Depreciation on infrastructure, plant and equipment	200	197
- Amortisation on intangible assets	1	0
- Profit on disposal of infrastructure, plant and equipment	0	0
- Finance costs	43	43
- Investment income	(1 497)	(577)
Operating cash flows before working capital changes	2 826	3 305
Working capital changes	(306)	1 445
- Decrease/(increase) in inventories	(5)	22
- Decrease/(increase) in receivables	(412)	1 150
- Increase/(decrease) in payables	111	273
Cash generated from operating activities	<b>2 520</b>	<b>4 750</b>
<b>19. NET CASH FLOWS FROM INVESTING ACTIVITIES TO MAINTAIN OPERATIONS</b>		
Acquisition of infrastructure, plant and equipment	(124)	(118)
Acquisition of intangible assets	(42)	0
<b>Cash used in investing activities</b>	<b>(166)</b>	<b>(118)</b>

# Annual Financial Statements for the year ended 31 March 2008

## NOTES TO THE ANNUAL FINANCIAL STATEMENTS (CONTINUED) FOR THE YEAR ENDED 31 MARCH 2008

### 20. NET CASH FLOW FROM FINANCING ACTIVITIES

Net proceeds from/(payments of) lease liabilities  
Net proceeds from short term borrowings

	2008 R'000	2007 R'000
Net proceeds from/(payments of) lease liabilities	(96)	(73)
Net proceeds from short term borrowings	(3)	3
	<b>(99)</b>	<b>(70)</b>

### 21. 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.

### 22. 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.

### 23. INCOME TAX EXEMPTION

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

### 24. FINANCIAL RISK MANAGEMENT

The main risks arising from the Tribunal's financial instruments are market risk, liquidity risk and credit risk.

#### Credit risk

The Tribunal trades only with recognised, creditworthy third parties. It is the Tribunal's policy that all customers who wish to trade on credit terms are subject to credit verification procedures. In addition, receivables balances are monitored on an ongoing basis with the result that the Tribunal's exposure to bad debts is not significant. The maximum exposure is the carrying amounts as disclosed in Note 12. There is no significant concentration of credit risk within the Tribunal.

## NOTES TO THE ANNUAL FINANCIAL STATEMENTS (CONTINUED) FOR THE YEAR ENDED 31 MARCH 2008

With respect to credit risk arising from the other financial assets of the Tribunal, which comprise cash and cash equivalents, the Tribunal's exposure to credit risk arises from default of the counterparty, with a maximum exposure equal to the carrying amount of these instruments. The Tribunal's cash and cash equivalents are placed with high credit quality financial institutions therefore the credit risk with respect to cash and cash equivalents is limited.

#### Exposure to credit risk

The maximum exposure to credit risk at the reporting date from financial assets was:

R'000	2008	2007
Cash and cash equivalents	16 450	12 741
Other receivables	992	598
Total	17 442	13 339

#### Concentration of credit risk

The maximum exposure to credit risk for financial assets at the reporting date by credit rating category was as follows:

2008 R'000	AAA and government	Unrated
Cash and cash equivalents	16 450	0
Other receivables	0	992

2007 R'000	AAA and government	Unrated
Cash and cash equivalents	12 741	0
Other receivables	0	598

The following table provides information regarding the credit quality of assets which may expose the Tribunal to credit risk

2008 R'000	Neither past due nor impaired	Past due but not impaired – less than 2 months	Past due but not impaired – more than 2 months	Carrying value
Cash and cash equivalents	16 450	0	0	16 450
Other receivables	962	0	30	992

# Annual Financial Statements for the year ended 31 March 2008

## NOTES TO THE ANNUAL FINANCIAL STATEMENTS (CONTINUED) FOR THE YEAR ENDED 31 MARCH 2008

2007	Neither past due nor impaired	Past due but not impaired – less than 2 months	Past due but not impaired – more than 2 months	Carrying value
R'000				
Cash and cash equivalents	12 741	0	0	12 741
Other receivables	594	3	1	598

### Market risk

Market risk is the risk that changes in market prices, such as the interest rate will affect the value of the financial assets of the Tribunal.

### Interest rate risk

The Tribunal is exposed to interest rate changes in respect of returns on its investments with financial institutions and interest payable on finance leases contracted with outside parties.

The Tribunal's exposure to interest risk is managed by investing, on a short term basis, in current accounts and the Corporation for Public Deposits.

### Sensitivity Analysis

A Change in the market interest rate at the reporting date would have increased/ (decreased) the surplus for the year by the amounts below.

31/3/2008	Change in Investments	Increase/(decrease) in net surplus for the year	
		Upward change	Downward change
Cash and cash equivalents	1%	164	(164)
Finance lease	1%	(3)	3
31/3/2007			
Cash and cash equivalents	1%	127	(127)
Finance lease	1%	(4)	4

### Liquidity risk

Liquidity risk is the risk that the Tribunal would not have sufficient 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.

The following table reflects the Tribunal's exposure to liquidity risk from financial liabilities:

2008	Carrying amount	Total cash flow	Contractual cash flow within 1 year	Contractual cash flow between 1 and 5 years
Other financial liabilities	1 294	1 294	1 131	163

## NOTES TO THE ANNUAL FINANCIAL STATEMENTS (CONTINUED) FOR THE YEAR ENDED 31 MARCH 2008

2007	Carrying amount	Total cash flow	Contractual cash flow within 1 year	Contractual cash flow between 1 and 5 years
Other financial liabilities	1 279	1 279	1 012	267

### Financial instruments

The following table shows the classification of the Tribunal's principal instruments together with their carrying value:

Financial instrument	Classification	Carrying amount - 2008 (R'000)	Carrying amount - 2007 (R'000)
Cash and cash equivalents	Loans and receivables	16 450	12 741
Receivables	Loans and receivables	992	598
Payables	Financial liabilities	1 024	913
Finance leases	Financial liabilities measured at amortised cost	270	366

### Net gains and losses on financial instruments

The following table presents the total net gains or losses for each category of financial assets and financial liabilities:

2008	Loans and receivables R'000	Financial liabilities at amortised cost R'000	Total R'000
Interest income	1 497	0	1 497
Finance charges	0	(43)	(43)
Total net gains recognised in the statement of financial performance	1 497	(43)	1 456

2007	Loans and receivables R'000	Financial liabilities at amortised cost R'000	Total R'000
Interest income	577	0	577
Finance charges	0	(43)	(43)
Total net gains recognised in the statement of financial performance	577	(43)	534

# Annual Financial Statements for the year ended 31 March 2008

## NOTES TO THE ANNUAL FINANCIAL STATEMENTS (CONTINUED) FOR THE YEAR ENDED 31 MARCH 2008

### 25. RELATED PARTIES

The Tribunal has been constituted by National Government. During the current period the Tribunal entered into the following transactions with other Government related departments.

	2008 R'000	2007 R'000
<b>Department of Trade and Industry (dti)</b>		
Grant received from the dti at year end	8 670	8 000
Administrative expenses paid to the dti at year end	51	239
Amounts due to the dti at year end	10	9
<b>Competition Commission</b>		
Filing fees received as per MOA at year end	9 285	8 149
Filing fees due to the Tribunal as per MOA at year end	953	538
Facility fees paid to the Competition Commission at year end	1 602	2 109
Facility fees due to the Competition Commission at year end	134	(177)
Net Employee costs paid to the Competition Commission at year end	318	98
Employee costs due from the Competition Commission at year end	61	137
Net administrative costs paid to the Competition Commission at year end	70	45
Administrative costs due to the Competition Commission at year end	0	(16)
Administrative costs due from the Competition Commission at year end	0	7
<b>South African Revenue Services</b>		
Payments made to SARS at year end	2 173	1 483
Payments due to SARS at year end	34	37
Payments due from SARS at year end	3	3
<b>Compensation Commissioner</b>		
Payments made to the Compensation Commissioner at year end	0	2

#### Key management personnel

The information as required is reflected on page 12 of the Accounting Authority's Report for the year.

## NOTES TO THE ANNUAL FINANCIAL STATEMENTS (CONTINUED) FOR THE YEAR ENDED 31 MARCH 2008

### 26. IRREGULAR EXPENDITURE

Payments made in terms of photocopier leases

0	128
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Irregular expenditure arose in 2006/2007 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.

Retrospective permission for finance leases exceeding three years was given by National Treasury in which meant that no irregular expenditure arose as a result of leases in the financial year under review.

### 27. FRUITLESS AND WASTEFUL EXPENDITURE

An amount of R 4 669 is reflected as fruitless and wasteful expenditure in the current financial year. R 1 463 was an expense incurred for accommodation not used by an employee travelling overseas. R 2 498 was an expense incurred for accommodation not used due to a researcher not getting the required visa for travel purposes. The visa rejection was such that the accommodation could not be cancelled timeously and the payment was forfeited. The remaining R 708 comprises interest paid to SARS for a late payment of PAYE, UIF and Skills levies. This amount was paid timeously but was rejected by the bank as SARS had closed the bank account previously used by the Tribunal. SARS waived penalties associated with this late payment but did charge interest for the late payment.

### 28. CRITICAL MANAGEMENT ASSUMPTIONS AND JUDGEMENTS

#### Residual value and useful life

Management reviewed the residual value and the useful life of all categories of assets held by the Tribunal and this resulted in no changes to depreciation. A category of intangible assets was included as this is the first year the Tribunal acquired software that needed to be disclosed as an intangible asset.

# Annual Financial Statements for the year ended 31 March 2008

## 29. STATEMENTS IN ISSUE BUT NOT YET EFFECTIVE

At the date of authorization of these financial statements, the following accounting standards of Generally Recognized Accounting Principles (GRAP) were in issue, but not yet effective;

GRAP 4 - The Effects of changes in Foreign Exchange Rates *(not applicable)*

GRAP 5 - Borrowing Costs *(not applicable)*

GRAP 6 - Consolidated and Separate Financial Statements *(not applicable)*

GRAP 7 - Investments in Associate *(not applicable)*

GRAP 8 - Interest in Joint Ventures *(not applicable)*

GRAP 9 - Revenue from Exchange Transactions *(not applicable)*

GRAP 10 - Financial Reporting in Hyperinflationary Economies *(not applicable)*

GRAP 11 - Construction Contracts *(not applicable)*

GRAP 12 - Inventories

GRAP 13 - Leases

GRAP 14 - Events after the reporting date

GRAP 16 - Investment Property *(not applicable)*

GRAP 17 - Property Plant and Equipment

GRAP 18 - Segment Reporting *(not applicable)*

GRAP 19 - Provisions, Contingent Liabilities and Contingent Assets

GRAP 23 - Revenue from Non-exchange Transactions (Taxes and Transfers) *(not applicable)*

GRAP 24 - Presentation of Budget Information in Financial Statements

GRAP 100 - Non-current Assets held for Sale and Discontinued Operations *(not applicable)*

GRAP 101 - Agriculture *(not applicable)*

GRAP 102 - Intangible Assets

Management believes that the adoption of these standards in future periods will have no material impact on the financial statements of the Tribunal as most of them are irrelevant and those that are relevant are to a greater extent similar in application and disclosure as the GAAP standards applied currently.

The date of application of the above as determined by the Minister of Finance is for annual periods beginning on or after 1 April 2009.

# Report of the Audit Committee to the Competition Tribunal



The Committee's meetings have regularly included the internal auditors and representatives from the Auditor-General's Office.

## Audit Committee Responsibility

The Committee reports that it has adopted appropriate formal terms of reference as its charter. The Committee also reports that it has regulated its affairs in compliance with this charter and has discharged all its responsibilities as contained therein.

Accordingly, the Committee operates in accordance with the terms of the said charter and is satisfied that it has discharged its responsibilities in compliance therewith.

The Committee further reports that it has complied with its responsibilities arising from Section 51(1) (a) of the Public Finance Management Act (the "PFMA") and Treasury Regulation 27.1.

## The effectiveness of internal control

The system of control is designed to provide cost-effective assurance that assets are safeguarded and that liabilities and working capital are efficiently managed. In line with the PFMA and the King II report on corporate governance requirements, Internal Audit provides the 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.

During the year under review there was no report of significant or material non-compliance with prescribed policies and procedures (either by qualification or emphasis of matter or both) from any of the various reports obtained from the internal auditors, the management letter of the Auditor-General, as well as the audit report on the annual financial statements. Accordingly, the Committee reports that the system of internal control for the year under review was efficient and effective.

## The quality of in-year management and monthly/quarterly reports submitted in terms of the PFMA and the Division of Revenue Act

The Audit Committee is satisfied with the content and quality of monthly and quarterly reports prepared and issued by the accounting officer of the Tribunal during the year under review.

## Evaluation of Financial Statements

The Audit Committee has:

- reviewed and discussed the audited annual financial statements to be included in the annual report, with the Auditor-General and the accounting officer;
- reviewed the Auditor-General's management letter and management's response thereto;
- reviewed changes in accounting policies and practices; and
- reviewed all adjustments resulting from the audit.

The Audit Committee would like to highlight that the Competition Tribunal is highly dependent on the approval of the retention of its accumulated surplus from National Treasury, as well as the approval of the annual grants from the Department of Trade and Industry in order to maintain its going concern status.

The Audit Committee concurs and accepts the Auditor-General's conclusions on the annual financial statements, and is of the opinion that the audited annual financial statements be accepted and read together with the report of the Auditor-General.

Nonku Tshombe  
Chairperson of the Audit Committee  
21 July 2008

## Audit Committee Members and Attendance:

The Audit Committee of the Competition Tribunal (the "Committee") consists of the members listed hereunder and is required to meet four times per annum as per its approved terms of reference. During the year under review five meetings were held.

Name of member	Number of meetings attended
H. Buthelezi (Chairperson) (resigned 8 <sup>th</sup> June 2007)	1
N. Tshombe (Chairperson) (from 27 <sup>th</sup> June 2007)	5
J. Armstrong (appointed 1 <sup>st</sup> May 2007)	5
J. Rapoo (appointed 1 <sup>st</sup> May 2007)	4
M. Naidoo (appointed 1 <sup>st</sup> September 2007)	3
D. Lewis (executive member)	2
J. de Klerk (executive member)	5

## APPENDIX A - LARGE MERGERS

Case Number	Parties	Decision
97/LM/Sep07	Cameotree Investments PTY Ltd and Premier Foods Ltd	Approved
106/LM/Dec06	Tsebo Outsourcing Group (Pty) Ltd and Equality Foods Services (Pty) Ltd	Approved
11/LM/Jan07	Corvest Holdings (Pty) Ltd and Fidelity Services (Pty) Ltd	Approved
13/LM/Jan07	Investec Bank Ltd and DCD Dorbyl (Pty) Ltd	Approved
105/LM/Dec06	Imperial Holdings Limited and Jurgens (Pty) Ltd	Approved
01/LM/Jan07	Newco 1 and Peermont Global Ltd & Marang East Rand Gambling	Approved
02/LM/Jan07	Emira Property Fund and Freestone Property Holdings Ltd	Approved
07/LM/Jan07	Consol Limited and Newshelf 809 (Pty) Ltd	Approved
06/LM/Jan07	Parmtro Investments No 89 (Pty) Ltd and Shoprite Holdings Limited	Approved
18/LM/Feb07	KAP International Holdings Limited and Brenner Mills (Pty) Ltd	Approved
26/LM/Mar07	Impala Platinum Holdings Limited and African Platinum plc	Approved
25/LM/Mar07	Dairybelle, a division of Tiger Food Brands Limited and Standard Bank Private Equity, a division of The Standard Bank of South Africa	Approved
21/LM/Feb07	Lereko Metier Capital Growth Fund and Liberty Star Consumer Holdings (Pty) Ltd	Approved
22/LM/Feb07	McCarthy Limited and Inyanga Motors (Pty) Ltd	Approved
24/LM/Mar07	Main Street 522 (Pty) Ltd and Edgars Consolidated Stores Limited	Approved
28/LM/Mar07	NA CO. Ltd And Nissan Diesel Motor Company Limited	Approved
29/LM/Mar07	Royal Bafokeng Capital (Pty) Ltd and Yomhlaba Resources Limited	Approved
40/LM/Apr07	Leisurecorp LLC And Novelway Mauritius Limited	Approved
10/LM/Jan07	Afrisam (Pty) Ltd and Afrisam Consortium (Pty) Ltd	Approved
32/LM/Mar07	Circle Edu Investments (Pty) Ltd and Edu-Loan (Pty) Ltd	Approved
30/LM/Mar07	ET Cayman Holdings Limited and The Emission Technology Business Of Arvin Meritor Inc	Approved
38/LM/Apr07	Xstrata Canada Acquisition Corp And Lionore Mining International limited	Approved
33/LM/Mar07	Gold Reef Resorts Limited and Akani Leisure Goldfields Investments (Pty) Ltd & 10 Others	Approved
42/LM/Apr07	Foodcorp (Pty)Ltd And First Lifestyle (Pty)Ltd	Approved
41/LM/Apr07	Mergence Africa Property Investments Trust And Capital Property Fund Limited	Approved
47/LM/May07	FBCF Nominees No. 1 (Pty) Ltd & Coronation Capital Ltd and SA Airlink (Pty) Ltd	Approved
48/LM/May07	Newshelf 871 (Pty) Ltd And Britehouse Holdings (Pty) Ltd	Approved
39/LM/Apr07	Clidet No694 (Pty)Ltd And CJ Petrow Chemicals (Pty)Ltd	Approved
37/LM/Apr07	Mondi Packaging South Africa (Pty) Ltd and Lenco Holdings (Pty)Ltd	Approved
58/LM/Jun07	Metropolitan Holdings Limited and HTG Life Limited	Approved
57/LM/Jun07	Apexhi Properties Limited and 16 Residential Properties	Approved
46/LM/May07	Public Investment Corporation Limited And CBS Property Portfolio Limited	Approved
54/LM/May07	Wilson Bayly Holmes-Ovcon Limited and Let Construction (Pty) Ltd	Approved
55/LM/May07	Airports Company South Africa and Denel (Pty) Ltd and Aero Eiendomme (Pty) Ltd	Approved
31/LM/Mar07	Firststrand Investment Holdings (Pty)Ltd And Rentworks Africa (Pty)Ltd	Approved
63/LM/Jun07	Acucap Properties Limited And Atlas Properties Limited	Approved

Case Number	Parties	Decision
62/LM/Jun07	Pamodzi Gold Limited And Orkney Business Owned By African Minerals Gold Ltd	Approved
76/LM/Jul07	Calshel Investment 160 (Pty) Ltd and Rib World Two (Pty) Ltd	Approved
60/LM/Jun07	Barclays PLC And ABN Amro Holdings N.V	Approved
59/LM/Jun07	Edgars Consolidated Stores And New Clicks SA (Pty)Ltd	Approved
65/LM/Jun07	The Bidvest Group Limited and Viamax (Pty) Ltd	Approved
74/LM/Jul07	Johannesburg Municipal Pension Fund and Erf 2860 Newton Park Township and Erf 2878 Mount Road Township	Approved
79/LM/Jul07	Old Mutual Life Assurance Company (South Africa) Limited and Sweet Roses Investments 506 (Pty) Ltd	Approved
78/LM/Jul07	SA Corporate Real Estate Fund and the Buffcol Portfolio	Approved
89/LM/Aug07	Barloworld (Pty) Ltd and Pretoria East Motors (Pty) Ltd	Approved
36/LM/Apr07	Premfood Joint Venture and Foodcorp (Pty) Ltd and Premier Fishing SA (Pty) Ltd	Approved
61/LM/Jun07	Platoon Trade And Invest 136 (Pty)Ltd And PG Bison Components (Pty)Ltd	Approved
43/LM/Apr07	Johnnic Book Retail Limited T/A Exclusive Books And Van Schaik Bookstore, Being A Division Of Via Africa Limited	Approved
67/LM/Jul07	Power Technologies (Pty) Ltd and 1 <sup>st</sup> Group (Pty) Ltd	Approved
82/LM/Aug07	Red Pen 2 General Trading (Pty) Ltd and Primedia Limited	Approved
73/LM/Jul07	Firststrand Bank Limited and Transnet Housing Business Unit	Approved
66/LM/Jun07	Element Six Abrasives SA and Barat Carbide Holding GMBH	Approved
72/LM/Jul07	The Prepaid Company (Pty) Ltd and Gold Label Investments and Others	Approved
77/LM/Jul07	Realty Dynamix 73 (Pty) Ltd and Pangbourne Properties Limited and Assetz Property Investment Fund	Approved
86/LM/Aug07	Rio Tinto Plc and Alcan Inc	Approved
87/LM/Aug07	Xstrata South Africa (Pty) Ltd and Eland Platinum Holdings Limited	Approved
88/LM/Aug07	Formex Industries (Pty) Ltd and Autotube Manufacturing (Pty) Ltd	Approved
95/LM/Sep07	Acucap Properties Limited and Intaprop Investments (Pty) Ltd	Approved
93/LM/Sep07	Capital Alliance Life Limited and Investec Employee Benefits Limited	Approved
96 /LM/Sep07	Investec Bank Limited and Calulo Petrochemicals (Pty) Ltd	Approved
94/LM/Sep07	RTZ Zelpy 5113 (Pty) Ltd and Diamonds Discount Liquor (Pty) Ltd	Approved
100/LM/Sep07	Business Venture Investments No. 1145 (Pty) Ltd and Nkomazi Wilderness	Approved
110/LM/Oct07	Pamodzi Gold Limited and President Steyn Gold Mines (Free State) (Pty) Ltd	Approved
99/LM/Sep07	Pangbourne Properties Limited and Portion 118 of the farm Vogelfontein No. 84	Approved
109/LM/Oct07	PSG Financial Services Limited and Alternative Channel Limited	Approved
108/LM/Oct07	Calshel Investments 152 (Pty) Ltd and Orley Foods (Pty) Ltd	Approved
118/LM/Nov07	WBHO Construction (Pty)Ltd and Simbithi Eco- Estate (Pty) Ltd	Approved
122/LM/Nov07	Metropolitan Holdings Limited and Directfin Solutions (Pty)Ltd	Approved
119/LM/Nov07	Fluxrab Investments No. 159 (Pty) Ltd and Gold Reef Resorts Limited	Approved
104/LM/Sep07	Clear Channel Communications Inc and BT Triple Crown Merger Co Inc	Approved
85/LM/Aug07	Protea Chemicals and Zetachem (Pty) Ltd	Approved

## APPENDIX A - LARGE MERGERS (CONTINUED)

Case Number	Parties	Decision
90/LM/Aug07	Bayne Investments (Pty) Ltd and Clidet 451 (Pty) Ltd	Approved
98/LM/Sep07	Mvelaphanda Resources Ltd and Northam Platinum Ltd	Approved
105/LM/Sep07	African Bank Investments Limited and Ellerine Holding Limited	Approved
116/LM/Nov07	Kagiso Strategic Investments 111 (Pty)Ltd and Bell Sales SA Limited	Approved
120/LM/Nov07	Diamond 11 Acquisition Corp and 3 Com Corporation	Approved
127/LM/Nov07	Blue Beacon Investments 190 (Pty) Ltd and Phamodzi Investment Holdings (Pty) Ltd	Approved
121/LM/Nov07	Titan Premier Investments (Pty)Ltd and Western Crown Properties 64 (Pty)Ltd	Approved
115/LM/Nov07	Micros South Africa ( Pty) Ltd and Micros- Fidelio South Africa (Pty) Ltd & 2 Others	Approved
23/LM/Feb07	Naspers Limited and Electronic Media Network Limited and Supersport International Holdings Limited	Approved
125/LM/Nov07	Sasol Chemical Industries Limited and Sasol Dia Acrylates (Pty) Ltd	Approved
126/LM/Nov07	Optimum Coal Investments (Pty) Ltd and Optimum Colliery, a business division of BHP Billiton Energy Coal South Africa Limited, Chaldean Trading 46 (Pty) Ltd and Lliha Resources (Pty) Ltd	Approved
15/LM/Feb08	Main Street 615 (Pty) Ltd and Tiger Automotive Limited	Approved
132/LM/Dec07	Lithotech Holdings Limited And Rotolabel (Transvaal) Pty	Approved
130/LM/Nov07	Mergence Africa Property Investment Trust and 38 Property Letting Enterprises held by Apexhi Properties Limited	Approved
131/LM/Nov07	Dipula Property Investment Trust and 66 Property Letting Enterprises held by Apexhi Properties Limited	Approved
21/LM/Feb08	The Prepaid Company Limited and Clostrade 393 CC trading as Crown Cellular	Approved
08/LM/Jan08	Umlingo Trade and Invest 71 (Pty) Ltd and Mining Capital Equipment Business, a division of Longyear SA (Pty) Ltd	Approved
04/LM/Jan08	Homeplan (Pty) Ltd and Alexander Forbes Homeplan Joint Venture between Alexander Forbes Financial Services(Pty) Ltd and ABSA Bank Limited	Approved
06/LM/Jan08	Imperial Group (Pty) Ltd and Roshcon (Pty) Ltd	Approved
07/LM/Jan08	Sherpa Trade and Invest 51 (Pty) Ltd and Tradebush Investments No 123 (Pty) Ltd	Approved
124/LM/Nov07	Sabido Investments (Pty) Ltd and Sasani Africa (Pty) Ltd	Approved
11/LM/Jan08	Liberty Star Consumer Holdings (Pty) Ltd and Finlar Foods (Pty) Ltd	Approved
02/LM/Jan08	Imperial Holdings Limited and Engineparts (Pty) Ltd	Approved
03/LM/Jan08	Business Venture Investments No 1251 (Pty) Ltd and Various businesses and shares in companies controlled by Mantis Group Holdings (Pty) Ltd	Approved
12/LM/Jan08	Vodacom Service Provider Company (Pty) Ltd and Global Telematics SA (Pty) Ltd and Glocell Service Provider Company (Pty) Ltd	Approved
14/LM/Jan08	Neotel (Pty) Ltd and Transtel Telecoms (a division of Transnet)	Approved
05/LM/Jan08	Powertech Properties and Investments (Pty) Ltd and ABB Powertech Transformers (Pty) Ltd	Approved
68/LM/Aug06	Netcare Hospital Group (Pty) Ltd and Community Hospital Group (Pty) Ltd	Approved
19/LM/Feb08	Stocks Building Africa (Pty) Ltd and Housing Africa Development (Pty)Ltd	Approved
16/LM/Feb08	Main Street 251 (Pty) Ltd and the House of Busby Limited	Approved
17/LM/Feb08	Brandco Currently Heineken (Pty) Ltd and the Diageo South Africa (Pty) Ltd and Brandhouse Beverages (Pty) Ltd and the Amstel Licence	Approved

Case Number	Parties	Decision
19/LM/Feb07	SA Corporate Real Estate Fund and SA Retail Properties Limited	Conditional Approval
20/LM/Feb07	Siyathenga Properties Two (Pty) Ltd and ERF 38722, Bellville, Jointly controlled by Siyathenga Properties Two (Pty) Ltd and Mini-Cape Developments (Pty) Ltd	Conditional Approval
04/LM/Jan07	Evraz Group, SA and Highveld Steel Vanadium Corporation Limited Corporation Limited	Conditional Approval
35/LM/Apr07	Steinhoff Africa Holdings (Pty) Ltd and BCM Holdings (Pty) Ltd, International Wire Convertors (Pty) Ltd, Restonic (Pty) Ltd and Buffalo Freight Systems (Pty) Ltd	Conditional Approval
70/LM/Jul07	Growthpoint Management Services (Pty) Ltd Fund Management Business, Property Administration Business and Buildman Managers (Pty) Ltd	Conditional approval
107/LM/Oct07	Rickshaw Trade & Invest 41 (Pty) Ltd and Tsebo Outsourcing Group (Pty) Ltd	Conditional approval
51/LM/May07	Ferro Industrial Products (Pty) Ltd and Spectrum Ceramics CC	Conditional approval
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
71/LM/Aug06	Nampak Products Limited and Burcap Plastics (Pty) Ltd	Conditional approval
82/LM/Oct06	Lexshell 668 Investments (Pty) Ltd and Wakefield Investments (Pty) Ltd	Conditional approval
09/LM/Jan08	RZT Zelpy 5260 (Pty) Ltd and Innovative Mining Products (Pty) Ltd	Pending
10/LM/Jan08	M Cubed Life Limited and Alternative Channel Limited	Pending
22/LM/Feb08	Newco and Squires Food (Pty) Ltd	Pending
51/LM/Jun06	Telkom SA Ltd and Business Connexion Group Ltd	Prohibited
53/LM/May07	Apexhi Properties Limited and 24 Properties from Mia Family Trust	Withdrawn
50/LM/May07	Mittal Steel Company N.V. and Dufferco Steel Processing (Pty) Ltd	Withdrawn

## APPENDIX B - INTERMEDIATE MERGERS

Case number	Parties	Decision
133/AM/Dec07	Yara International ASA and Kemira Growhow OYJ	Granted
69/AM/Jul07	AC Whitcher (Pty) Ltd and the Competition Commission, MTO Forestry (Pty) Ltd, Boskor Saagmeule (Pty) Ltd & Boskor Ripplant (Pty) Ltd	Pending
39/AM/May06	Primedia Limited and Capricorn Capital Partners (Pty) Ltd & New Africa Investments Limited	Pending

## APPENDIX C - RESTRICTIVE PRACTICES

Case Number	Parties	Decision
92/IR/Sep07	Replication Technology Group (Pty) Ltd and Gallo Africa Limited	Dismissed
27/CR/Mar07	Competition Commission and Community Hospital Group (Pty) Ltd & Network Healthcare Holdings Limited	Dismissed
91/CR/Aug07	Mapula Restaurant & Cafe and Coca Cola Fortune (Pty) Ltd	Dismissed
15/CR/Feb07	The Competition Commission and Tiger Consumer Brands Ltd	Fined R98,784,869.90
13/CR/Feb04	Harmony Gold Mining Company Ltd, Durban Roodepoort Deep Ltd and Iscor Ltd, Macsteel International BV	Fined R681,800,000
114/CR/Nov07	The Competition Commission and Nedschroef Johannesburg (Pty) Ltd	Fined R200,000
113/CR/Nov07	The Competition Commission and CBC Fasteners (Pty) Ltd	Fined R300,000
45/CR/May07	The Competition Commission and The South African Orthotic and Prosthetic Association (SAOPA)	Granted
58/CR/Aug02	Competition Commission, Dr Pillay and UDIPA	Granted
34/IR/Apr07	National Rental Association of South Africa and City Properties & Others	Pending
56/IR/Jun07	Multichoice Subscriber Management Services (Pty) Ltd and Telkom SA Ltd	Pending
112/IR/Nov07	Longain 1 Investments (Pty) Ltd t/a Flexicell and Vodacom Group (Pty) Ltd, Vodacom (Pty) Ltd, Smartcom (Pty) Ltd and Vodacom Service Provider (Pty) Ltd	Pending
80/CR/Jul07	Competition Commission and Mobile Telephone Networks (Pty) Ltd	Pending
05/CR/Feb05 55/CR/Jun05	Competition Commission JT International SA (Pty) Ltd and British American Tobacco SA (Pty) Ltd	Pending
110/CR/Dec06	Competition Commission and Senwes Limited	Pending
111/CR/Oct07	Competition Commission and Komatiland Forests (Pty) Ltd & 10 others	Pending
134/CR/Dec07	The Competition Commission and SA Breweries Ltd and 12 Others	Pending
20/CR/Feb08	Competition Commission and Adcock Ingram Critical Care (Pty) Ltd, Dismed Criticare (Pty) Ltd, Thusanong Healthcare (Pty) Ltd & Tiger Brands Limited	Pending
44/CR/May07	Charter Property Sales and The Saturday Star Property Guide	Pending
49/CR/May07	Frederick Johannes van Zyl and Porsche Centre (SA)	Pending
64/CR/Jun07	Accurate Trading 34 (Pty) Ltd, Parsonage: Graham Stephen, Edser: Christopher Anthony, Moffett: Patrick John, Hughes: James Martin, Leonard: Raymond, Prologic Investments (Pty) Ltd and Nedbank Limited	Pending
68/CR/Jul07	Chris Pearson Properties CC, Brad Pearson Properties CC, C&J Pearson Properties CC & Freefall Trading 211 (Pty) Ltd and Digital Service Centre Pentagraphix CC	Pending
84/CR/Aug07	Raymond Leonard, Global Technology Investments (Pty) Limited, Accurate Trading 34 (Pty) Ltd & Accurate Trading 44 (Pty) Ltd and Nedbank Limited, Standard Bank of South Africa Limited & Gensec NSA Equity Fund Trust	Pending
101/CR/Sep07	Egoli Tissue Ltd and Sappi Fine Papers (Pty) Ltd	Pending
106/CR/Oct07	South African Towing & Recovery Association & Others AND Ekurhuleni Metropolitan Municipality & 5 Others	Pending
01/CR/Jan08	Peter Scott, Mr Video (Pty) Ltd and Nu Metro Home Entertainment	Pending
23/CR/Feb08	Chemical Specialities Limited and Volkswagen SA, BMW SA & Daimler Chrysler SA	Pending
83/CR/Aug04 80/CR/Sep06	Comair Limited, Nationwide Airlines (Pty) Ltd and South African Airways (Pty) Ltd	Pending
52/IR/May07	Supreme Poultry (Pty)Ltd & Country Bird (Pty)Ltd and Astral Operations Ltd & Elite Breeding Farms	Withdrawn
103/IR/Dec06	Serious Foods (Pty) Ltd Woolworths (Pty) Ltd	Withdrawn

Case Number	Parties	Decision
05/CR/Feb05	BAT and JTI/Competition Commission	Dismissed
31/CR/May05 & 45/CR/May06	Competition Commission and Sasol Chemical Industries Ltd, Kynoch Fertilizer (Pty) Ltd, Omnia Fertilizer Ltd	Dismissed
31/CR/May05 & 45/CR/May06	Competition Commission and Sasol Chemical Industries Ltd, Kynoch Fertilizer (Pty) Ltd, Omnia Fertilizer Ltd	Dismissed
31/CR/May05 & 45/CR/May06	Competition Commission and Sasol Chemical Industries Ltd, Kynoch Fertilizer (Pty) Ltd, Omnia Fertilizer Ltd	Dismissed
103/CR/Dec06	Competition Commission and Clover Industries Ltd	Dismissed
31/CR/May05 & 45/CR/May06	Competition Commission and Sasol Chemical Industries Ltd, Kynoch Fertilizer (Pty) Ltd, Omnia Fertilizer Ltd	Dismissed
110/CR/Dec06	Senwes and Competition Commission	Dismissed
110/CR/Dec06	Unigrain (Pty) Ltd and Senwes Limited	Dismissed
16/CR/Feb07	Charter Property Sales AND East Cape Property Guide and The Saturday Star Property Guide	Dismissed
23/LM//Feb07	Caxton and Naspers & Others	Dismissed
84/CR/Aug07	Ray Leonard & Others and Nedbank Ltd & Others	Dismissed
31/CR/May05 & 45/CR/May06	Competition Commission and Sasol Chemical Industries Ltd, Kynoch Fertilizer (Pty) Ltd, Omnia Fertilizer Ltd	Dismissed
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") and Competition Commission	Dismissed
123/FN//Nov07	The Competition Commission and Media 24 Ltd, Lexshell 496 Investments Ltd, The Natal Witness Printing and Publishing Company	Fined R100 000.00
05/CR/Feb05	BAT and JTI/ Competition Commission	Granted
17/CR/Mar05	Tracetec (Pty) Ltd and Netstar, Matrix, Tracker, VESA, CC	Granted
08/CR/Jan07	The Competition Commission and Iscor Ltd & 6 Others	Granted
31/CR/Apr06	Hadeco (Pty) Ltd and The Bulb Man SA (Pty) Ltd	Granted
81/X/Jul07	The Reclamation Group (Pty) Ltd and Competition Commission	Granted
80/CR/Sep06	South African Airways (Pty) Ltd and Comair, Nationwide Airlines	Granted
58/CR/Aug02	The Competition Commission Independent Practitioners and Uitenhage & Dispatch Association and Members	Granted
23/LM//Feb07	Caxton and Naspers & Others	Granted
63/LM/Jul06	Lafarge Roofing (Pty) Ltd & 3 Others and Competition Commission and 1 Other	Granted
31/LM/Mar07	Firststrand Investment Holdings (Pty)Ltd And Rentworks Africa (Pty)Ltd	Granted
117/X/Nov07	Odyssey House (Pty) Ltd and Competition Commission	Granted
31/CR/May05	Nutri Flo CC, Nutri Fertilizer CC and CC, Sasol Chemical Industries Ltd, Kynoch Fertilizer (Pty) Ltd, Omnia Fertilizer Ltd	Granted
23/LM/Mar07	Caxton and CTP Publishers and Printers Ltd and Naspers Limited and Others	Granted
80/CR/Jul07	Cell C and Competition Commission, MTN	Granted
08/CR/Jan07	Barnes Fencing Industries (Pty) Ltd, Dunrose Trading 57 (Pty) Ltd and Iscor Ltd & 7 others	Granted
129/X/Nov07	Omnia Group (Pty) Ltd and The Competition Commissioner & the Competition Commission	Granted

## APPENDIX D - PROCEDURAL MATTERS

Case Number	Parties	Decision
09/CR/Jan07	The Competition Commission and Allen Meshco (Pty) Ltd & 4 Others	Pending
103/CR/Dec06	Clover and CC & Others	Pending
52/IR/May07	Supreme Poultry (Pty)Ltd & Country Bird (Pty)Ltd and Astral Operations Ltd & Elite Breeding Farms	Timetable set
84/CR/Aug07	Ray Leonard & Others and Nedbank Ltd & Others	Withdrawn
102/X/Sep07	Schering-Plough Corporation & Organon Bioscience and the Competition Commission	Withdrawn
31/CR/May05	Competition Commission and Sasol Chemical Industries Ltd, Kynoch Fertilizer (Pty) Ltd, Omnia Fertilizer Ltd	Withdrawn
75/X/Jul07	Foskor (Pty) Ltd & Sasol Chemical Industries Ltd and The Competition Commission	Withdrawn
58/CR/Aug02	Competition Commission and Dr Pillay And UDIPA	Withdrawn
08/CR/Jan07	Iscor and Competition Commission	Withdrawn
37/LM/May06	Afrox Oxygen Limited and Refrigeration Investment Company (Pty) Ltd and Competition Commission	Withdrawn