



# **Competition Tribunal Annual Performance Plan**

For the fiscal year

2012 . 2013

Date  
31 January 2012

## Foreword

We have inherited an economy with high levels of economic concentration in sectors of the economy, with evidence of pervasive abuse of market dominance and price fixing. The society pays a high price through stunted growth and inadequate employment performance.

At the same time, government has adopted a New Growth Path that places employment and decent work at the centre of economic policy.

Effective competition policy and implementation is therefore vital if we are to achieve the goal of 5 million new jobs by 2020.

Fortunately, SA has well-run competition authorities and the Competition Tribunal in particular has been a key institution in ensuring that the objectives of the Competition Act are realised.

The Competition Tribunal has tabled its Annual Performance Plan based on the Strategic Plan developed during 2011 and updated in 2012.

Ebrahim Patel  
Minister of Economic Development  
Executive Authority of the Competition Tribunal

## Official sign-off

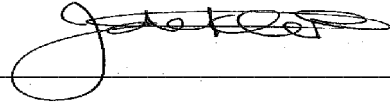
It is hereby certified that this Annual Performance Plan of the Competition Tribunal for the period 2012 . 2013 was:

- i) Developed by the management of the Competition Tribunal under the guidance of Mr. Norman Manoim (the accounting authority).
- ii) Prepared in line with the Competition Tribunal's Strategic Plan for the five year period 2012/2013 . 2016/2017 still awaiting approval.
- iii) Accurately reflects the performance targets the Competition Tribunal will endeavour to achieve over the period 2012 . 2013.

Janeen de Klerk

**Head of Corporate Services  
Competition Tribunal**

Signature: \_\_\_\_\_



Date: 8 March 2012

Norman Manoim

**Chairperson  
Competition Tribunal**

Signature: \_\_\_\_\_

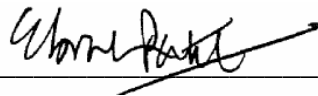


Date: 8 March 2012

Ebrahim Patel

**Executive Authority  
Economic Development Department**

Signature: \_\_\_\_\_



Date: 8 March 2012

**COMPETITION TRIBUNAL  
ANNUAL PERFORMANCE PLAN  
1 APRIL 2012 – 31 MARCH 2013**

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# COMPETITION TRIBUNAL ANNUAL PERFORMANCE PLAN 1 APRIL 2012 – 31 MARCH 2013

## Part A: Strategic Overview

### 1. Updated situational analysis

#### 1.1 What the Tribunal offers and for whom?

The core activity of the Competition Tribunal, as defined in the Competition Act, is the adjudication of mergers and prohibited practice cases. The Tribunal is expected to expeditiously decide cases and is committed to making high quality decisions based on criteria stipulated in the Act.

Tribunal hearings are public and written reasons provided for all decisions and orders of the Tribunal. The members are supported in their decision making by the Tribunal secretariat that provides efficient and effective administrative, research and organisational assistance.

Upon a matter being referred to it the Tribunal may:

- authorise a merger, with or without conditions, or prohibit a merger.
- adjudicate in relation to any conduct prohibited in terms of the Act by determining whether prohibited conduct has occurred, and if so, impose a remedy provided for in the Act.
- grant an exemption from a relevant provision of the Act.
- grant an order for costs.

External stakeholders of the Tribunal may be categorised as follows:

- those with whom the Tribunal has direct contact in the course of fulfilling its functions.
- those with whom the Tribunal may not have direct contact but may be affected by its decisions.
- sector specific regulators (e.g. ICASA, NERSA) who enjoy concurrent jurisdiction.
- those to whom the Tribunal is accountable.
- those who act as reputational agents in providing policy and peer feedback.

The Tribunal works through Tribunal processes, which facilitate the analysis of the impact of competition matters on the South African economy. Decisions are formulated within specified time frames and these decisions are equivalent to judgments in the High Court and may be taken on appeal to the Competition Appeal Court or its offices.

## **1.2 Performance delivery environment**

The Competition Tribunal in association with the Economic Development Department (EDD) has developed an operational performance dashboard to track the performance of the Tribunal. This operational performance dashboard is aligned to the Tribunal 2012-2017 Strategic Plan as well as the 2012/13 Annual Performance Plan.

The Operational Performance Dashboard is attached as **Appendix A**.

In addition, in order to further enhance the operational effectiveness of the Competition Tribunal, operational priorities were adopted for the 2012/13 financial year.

The section below details these priorities and the focus for the year

### **a. Practice Guidelines**

In 2010/2011 the Tribunal embarked on a project to publish procedural guidelines. The purpose of this project was three-fold: to make certain practices for which there are no clear rules; to expedite legal processes where possible without having to change present rules or the statute; and thirdly, to improve access to Tribunal proceedings to outside persons as part of the Tribunal's access to justice program as discussed below. Work will continue on these guidelines throughout this financial year and we hope to be in a position to post these guidelines on the Tribunal's website once they are finalised.

### **b. Development of case document management software**

BCX, the appointed contractor, continues to work with the Tribunal on the development and implementation of an electronic case management system. This development has a three-fold purpose: to manage all the processes related to the case function, to store the case documents in a manner that facilitates easy retrieval; and thirdly safe storage and in addition the system is capable of providing the required performance information for reporting purposes. Staff and management will be expected to engage extensively in this process so as to ensure best results.

While enabling us to manage files and data relating to cases more effectively we look forward to using the performance information generated to more accurately reflect statistics pertaining to the Tribunal's core function and simultaneously determine whether the system as a whole needs to be reformed and to identify changes that may need to be implemented to expedite the resolution of matters.

We anticipate that the system will be fully operational in 2012/2013

### **c. Upgrade and improve the Tribunal's website**

Bearing in mind that one of the strategic objectives identified by the Tribunal is ~~to~~ effective communication of our work within the public, we will continue to monitor the use of the website and see whether further improvements are required in order to enhance the effectiveness of the website as a communication tool

All decisions and reasons for decisions are posted on the Tribunal's website and it is therefore a very valuable tool for stakeholders to access information and review jurisprudence.

In the 2011/2012 financial year we began, starting with the Walmart matter, posting all relevant material on the website for the public to access and we will continue with this process throughout 2012/2013 with respect to large matters.

### **d. Internships**

The Tribunal will continue to look for opportunities to provide internships to students interested in competition work or students looking for exposure to work in the public sector. An initiative started in 2009 with the University of Pretoria's law department to offer 6 week internships to 2 students per annum will continue and we will endeavour to provide at least one but possibly two administrative internships in corporate services or the registry whereby the intern can gain experience in the functioning of these departments.

In addition, as indicated in the Strategic Plan, the Tribunal is consulting with DEAFSA with regard to the possibility of a part-time employment opportunity for a person and simultaneously assist with the administrative and financial functions in the Tribunal.

### **e. Access to Justice**

In October 2010 the Tribunal launched a program ~~to~~ Access to Justice, that was developed with an NGO, Pro Bono. Pro Bono's objective is to link people requiring legal services to law firms and advocates. Pro Bono has developed its policy in respect of competition cases, as has the committee of the Law Society of the Transvaal Province. We have been encouraging the relevant parties to make use of this facility and there is a link from our website to its website.

## **1.3 Organisational Environment**

There have been no changes to the organisational structure of the Tribunal since the submission of the 2010 -2015 Strategic Plan approved in July 2010.

Given the introduction of an electronic case and document management system in the Tribunal we will continue to monitor the impact of this change on the Tribunal in order to determine whether any organisational changes are required.

## **2. Revisions to legislative mandate**

The legislative mandate of the Tribunal was identified as a challenge in the Tribunal's Strategic Plan for 2012-2017. The Amendments to the Act were signed by the President into law in August 2009 but no effective commencement date has yet been promulgated.

The proposed amendments will have a major impact on the Competition Commission as it is anticipated that the increase in corporate leniency applications will continue and in addition the amendment authorises the introduction of market enquiries as a mechanism to explore competition issues. The criminalisation of cartels will provide a significant challenge as the Tribunal will retain civil jurisdiction but it will not possess criminal jurisdiction.

## **3. Overview of 2012-2013 budget and MTEF estimates**

### **3.1 MTEF estimates**

The MTEF estimates of the Tribunal are covered in detail in the Strategic Plan and a detailed explanation of the 2012/2013 follows in Section 3.2. In summary the Tribunal's budget (inclusive of capital expenditure and as submitted in the MTEF) over the next 4 year MTEF period (2011/2012 . 2014/2015) estimated to be R 123.08 m. EDD has committed funding for the first 3 years totalling R 64.69 m and we anticipate additional filing fee revenue of R 36.87 m (assuming continued merger activity).

Based on these figures we are currently looking at a minimum shortfall of R 18.73 m. The Tribunal reflects the drawing down of accumulated cash surpluses of approximately R 20.3 m to cover the shortfall and in addition this %drawing down+ of surpluses has been communicated to National Treasury and the EDD.

The table below reflects the requirements of the Tribunal over the next 6 years (inclusive of the current financial year). It is evident that if these surpluses are expended as predicted the Competition Tribunal will require larger grants from the EDD.



Year	Total budget requirement	Expected MTEF allocation	Expected filing fees from Commission	Expected interest	Use of accumulated surplus	Additional funding requirements
	(in R'm)	(in R'm)	(in R'm)	(in R'm)	(in R'm)	(in R'm)
2011/2012	26.40	15.18	7.84	0.7	2.68	0
2012/2013	31.11	15.60	9.08	0.6	5.83	0
2013/2014	32.08	16.46	9.91	0.6	5.11	0
2014/2015	33.69	17.45	10.63	0.5	5.11	0
2015/2016	35.40	No allocation as yet	11.17	0.4	0	23.83
2016/2017	36.75	No allocation as yet	11.73	0.3	0	24.72

### 3.2 Expenditure Estimates

A detailed one-year budget for the 2012/2013-year is included in Appendix B.

As stated in the Strategic Plan the Tribunal is an adjudicative body and hence reactive in terms of the cases brought before it. It is therefore difficult to accurately predict the number of cases to be heard annually. This means that budgeting accurately becomes difficult as many of the line items are based on an estimated number of cases to be heard in that year. In addition the Tribunal makes a large provision for legal fees, as it is possible that particular cases may require the Tribunal to seek legal opinion.

Both these factors mean that variances in actual expenditure as opposed to budgeted expenditure do arise.

The assumptions made in drafting the Tribunal's annual budget are contained in detail in **Appendix B** but the major assumptions include:

- i) The appointment of an additional full-time Tribunal member
- ii) 6 % cost of living increase for the Tribunal secretariat
- iii) 5 % cost of living increase for the full-time Tribunal members
- iv) 244 days spent in hearings and preparation for the year
- v) All other costs associated with the holding of hearings are based on the estimate in (iii) above

- vi) 12 international conferences/workshops to be attended by Tribunal members and research staff
- vii) Attendance by full-time Tribunal members at 3 OECD meetings
- viii) Attendance by 3 executive members at 3 portfolio committee meetings.

58.90% of the Tribunal's current budget will be spent on personnel expenses.

Professional service expenditure (18.56%) includes payments to the Commission for shared services (in terms of a MOU), hearing transcription services, legal fees, payments to the dti for costs associated with occupation on the campus, costs associated with audits (internal, external audit fees and audit committee expenses) and media and finance related consulting services. Payments to the Commission and the dti account for 6.62% and 30.75% of the professional services expenditure respectively, while audit expenses account for 30.88%. Administrative expenses account for 6.54% of the budgeted expenditure.

Expenditure on facilities and capital accounts for 8.07% of the budget. 10.80% of this expenditure is on new computer equipment while another 33.65% relates to depreciation expenses.

<b>Expenditure Category</b>	<b>2011-2012 (budget)</b>	<b>2012-2013 (budget)</b>
	%	%
Capital	7.96	8.07
Administration	7.43	6.54
Personnel	55.99	58.90
Recruitment	0.45	0.43
Training	5.95	5.39
Professional Services	19.53	18.56
Appeal court	2.69	2.11
<b>Total</b>	<b>100</b>	<b>100</b>

In the last financial year (2010/2011) the Tribunal entered into a contract with Business Connexion (following a tender process) to develop an electronically based case document management system that would include document management, record management and performance management.

The development of this system has been delayed slightly. In addition we have agreed to additional costs on this project and this has implied some budget changes. These changes apply mainly to the 2011/2012 financial year figures and required a transfer of funding from goods and services+ expenditure to capital expenditure.

We anticipate that the project should be completed by end March 2012 and the 2012/2013 makes provision for annual support for the development and minor hardware expenses

The Tribunal, in drawing the budget, has attempted to rationalise spending as far as possible, given the limited scope our activities provide for cost cutting exercises. We have kept the number of overseas trips undertaken by Tribunal members and staff to a maximum of 12 per annum and in addition have budgeted all local travel at economy class as opposed to business class tickets.

As indicated in the Strategic Plan, the Tribunal receives a portion of the filing fees paid to the Commission for the filing of merger applications. For the 2012/2013 financial year this is estimated at R 9.075 m. These fees, together with the MTEF allocation of R 15.60 for the 2012/2013 financial year, are not sufficient funding to cover the Tribunal's expected expenditure of R 31.11 m. For this reason, the Tribunal will continue to use accumulated surpluses (the drawing down of these surpluses is reflected in the MTEF submitted to Treasury) to cover the budgeted shortfall of R 5.83 m.

### **3.2 Relating expenditure trends to strategic outcome goals**

The Tribunal, being an adjudicative body that responds to matters brought before it, is not project or programme driven and for this reason our budget is primarily an operational/administrative budget.

It is therefore difficult to allocate the budget across the 3 following strategic outcomes identified in the Tribunal's strategic plan:

- Promote and maintain competition within South Africa through the implementation of the Act
- Educate and create awareness of competition matters to the Tribunal's stakeholders
- Strengthen the Tribunal's organisational capability and performance to deliver on its legislative mandate

We are however able to determine the direct costs associated with our core business . hearings and where possible have been allocated to the performance targets identified in **Appendix D**.

The Tribunal will on a quarterly basis report on these targets and associated costs to the EDD and to the EDD, National Treasury and other stakeholders annually.

In addition these costs will be reported on the dashboard developed in conjunction with the EDD and referred to in Section 1.2.

The entire budget can therefore be divided as follows:

- Direct hearing costs . R 16 777 144.48

- Tribunal members/research staff training (local/ international) . R1 570 216.19
- Support services costs . R 9 596 521.54
- Facilities and capital . R 2 511 019.00
- Administrating the Competition Appeal Court . R 657 144.00

At present direct hearing costs include the total salaries of the full-time Tribunal members and all case managers/researchers and registry staff despite the fact that they may perform functions that are not specifically case related. The CDM system currently being developed will enable us to some extent to determine the ratio between case and non case related work but will not be entirely accurate. Over time we hope to investigate this issue further thus arriving at a more accurate costing of the Tribunal's core business

We have managed to allocate 58.97% of the annual budget across the three strategic outcomes as follows:

- Promote and maintain competition within South Africa through the implementation of the Act . R 16 184 912.88
- Educate and create awareness of competition matters to the Tribunal's stakeholders . R 592 231.60
- Strengthen the Tribunal's organisational capability and performance to deliver on its legislative mandate . R 1 570 216.19

The remainder of the budget is distributed as follows:

- Support services costs . 30.85%
- Facility and capital costs . 8.07%
- Appeal Court costs . 2.11%

### **3.3 Competition Appeal Court**

The *Competition Act* (1998) set up a triad of institutions (the Commission, the Tribunal and the Competition Appeal Court) with exclusive jurisdiction over competition matters (that is, chapters 2 and 3 of the *Act*).

The Competition Appeal Court is a specialised division of the High Court comprising at least 3 judges, each of whom must be a judge of the High Court.

The Competition Appeal Court may review, or consider an appeal arising from, any Tribunal decision.

Judges of the Appeal Court are appointed by the President, on the advice of the Judicial Services Commission. The tenure of office, remuneration and terms and conditions of service of a judge of the High Court is not affected by his/her appointment to the Competition Appeal Court.

The Registrar of the Tribunal (and CAC) liaises with the Judicial Services Commission over the appointment of CAC judges and is responsible for the

training of the judges. The Tribunal secretariat provides the registry function for the CAC and the registrar of the Tribunal acts as the Registrar of the CAC.

At present the Tribunal includes the Appeal Court as a line item in its budget and is responsible for the financing of all aspects of the Appeal Court except for personnel expenses.

As is the case with the Tribunal it is difficult to predict the number of appeals that may be lodged against Tribunal decisions and as a result budgeting becomes difficult and variances do occur.

The budget for 1<sup>st</sup> April 2012 - 31<sup>st</sup> March 2013 is estimated at R 657 143.50.

The table below reflects the distribution of expenditure by category.

<b>Category</b>	<b>2012/2013 (budget)</b>
<b>Local Travel</b>	30.22%
<b>Administrative costs</b>	7.47%
<b>Overseas Travel</b>	51.01%
<b>Conferences and Seminars</b>	11.30%
<b>Total</b>	100%

It is possible that when the Superior Courts Bill gets passed, that the Tribunal will no longer be responsible for the Appeal Court, but until then the Tribunal continues to provide administrative and financial support to the Court.

### **3.4 Materiality Framework**

**Appendix C** identifies the Tribunal's materiality framework for the period 1<sup>st</sup> April 2011 . 31<sup>st</sup> March 2012. The Tribunal is not capital intensive and revenue generated from filing fees and total expenses (exclusive of capital expenditure) are identified as being the best reflection of the Tribunal's activities and are therefore used as the basis for the calculation of a materiality figure. The materiality figure for the current period is set at R 130 000.00.

## **Part B: Organisational plans**

### **4. Strategic Objectives for 2012/13**

#### **4.1 Strategic objective annual targets for 2012/13**

Given the quasi-judicial nature of the Tribunal it is difficult to separate the strategic objectives from strategic outcomes and there is some overlap. The Tribunal has accordingly categorised these strategic outcomes/objectives into the following three strategic focus areas:

<b>Strategic Focus Area 1:</b>	<b>Tribunal hearings and decisions</b>
<b>Strategic Objective 1.1</b>	To promote and maintain competition within South Africa by holding hearings and adjudicating matters brought before the Tribunal that pertain to large and intermediate mergers, interim relief cases, procedural matters, opposed as well as unopposed prohibited practices within the adopted delivery timeframes.
<b>Strategic Focus Area 2:</b>	<b>Stakeholder awareness</b>
<b>Strategic Objective 2.1</b>	To educate and to create awareness of competition matters to our stakeholders by communicating the activities and decisions of the Competition Tribunal by way of the internet, press releases, the Government Gazette as well as internal publications within the adopted delivery timeframes.
<b>Strategic Focus Area 3:</b>	<b>Operational effectiveness</b>
<b>Strategic Objective 3.1</b>	To enhance the expertise of Tribunal members and staff by sending them on planned International as well as local conferences and training courses.
<b>Strategic Objective 3.2</b>	To improve the Tribunal's service to customers through obtaining positive feedback on the performance of the Tribunal.

For each focus area and strategic objective specific outputs, performance indicators and targets have been assigned for 2012/13. These objectives, outputs, indicators and targets are tabulated in **Appendix D**.

# **APPENDIX A**

## **EDD PERFORMANCE DASHBOARD**



## Economic Development Department Performance Dashboard

### Operational Performance of the Competition Tribunal for the quarter ending -----

	Key performance Area	Quarter 1	Quarter 2	Quarter 3	Quarter 4	Year to date
<b>Total budget</b>	Total budgeted funds as per the Annual Performance Plan					
	Actual total expenditure					
<b>Hearing budget</b>	Budgeted total direct hearing costs					
	Actual total direct hearing costs					
<b>Adjudication budget</b>	Budgeted total adjudication costs as per the Annual Performance Plan					
	Actual adjudication costs					
<b>Number of staff employed</b>	Total number of staff employed as at the end of the quarter					
	Secretariat Support staff					
	Case Management staff					
<b>Matters on the roll</b>	Total number of active matters as at the end of the quarter					
<b>Number of matters attended to</b>	Number of orders (decisions) issued during the quarter					
	Number of reasons issued during the quarter					
<b>Hearing days</b>	Number of person days spent in hearings by all Tribunal members during the quarter					
	% of person days spent in hearings by PT members during the quarter					
	% of person days spent in hearings by FT members during the quarter					
	Number of days spent in hearings per quarter					
<b>Recordings</b>	Number of transcript pages (court record) produced during the quarter					
	Number of transcript pages (court record) produced per actual hearing day					
<b>Direct hearing cost per matter</b>	Direct hearing cost per order issued during the quarter					
	Direct hearing cost per reason issued during the quarter					
	Direct hearing cost per person day during the quarter					
	Direct hearing Cost per actual hearing day					
	Direct hearing cost per PT member person day					
	Direct hearing cost per transcript page produced during the quarter					
<b>Total adjudication costs per matter</b>	Total adjudication cost per order issued during the quarter					
	Total adjudication cost per reason issued during the quarter					
	Total adjudication cost per person day during the quarter					
	Total adjudication Cost per actual hearing day					
	Total adjudication cost per PT member person day					
	Total adjudication cost per transcript page produced during the quarter					
<b>Matters per Case management staff</b>	Average number of active matters per case management staff member as at the end of the quarter					



	<b>Key performance Area</b>	<b>Quarter 1</b>	<b>Quarter 2</b>	<b>Quarter 3</b>	<b>Quarter 4</b>	<b>Year to date</b>
	Average number of orders issued per case management staff member during the quarter					
	Average number of reasons issued per case management staff member during the quarter					
<b>Turnaround time – mergers</b>	Total number of new merger cases received during the quarter					
	Number of cases set down within 10 business days of the filed merger					
	Number of orders issued within 10 business days of the last hearing date					
	Number of reasons issued within 20 business days of the order being issued					
<b>Turnaround time – opposed prohibited practices</b>	Total number of new opposed prohibited practice cases received during the quarter					
	Number of prehearings held					
	Number of pre-hearing invitations sent out within 20 business days of close of pleading					
	Number of orders and reasons for decision issued					
	Number of orders and reasons for decisions issued within 60 business days of the hearing date					
<b>Turnaround time – consent orders</b>	Number of consent orders issued this quarter					
	Number of consent orders issued within 10 business days of the last hearing date					
	% of matters where consent order issued within 10 business days					
<b>Turnaround time – procedural matters</b>	Total number of new procedural matters heard during the quarter					
	Number of orders issued during the quarter					
	Number of orders issued within 20 business days of last hearing day					
	% of matters where orders issued within 20 business days of last hearing day					
<b>Turnaround time – interim relief matters</b>	Total number of new interim relief matters received during the quarter					
	Number of reasons issued during quarter					
	Number of reasons issued within 20 business days of the last hearing date					
	% of matters where reasons issued within 20 business days of the last hearing date					
<b>Fines generated</b>	Total rand value of administrative penalties imposed during the quarter					
<b>Operational priorities for 2013/14</b>	Development of a case management system					
	Provision of internships to students					

The information reflected above is a true reflection of the Competition Tribunal's operational performance for the ----- quarter of the 2012/13 financial year.

\_\_\_\_\_

Name

\_\_\_\_\_

Authorised signature

\_\_\_\_\_

Designation who warrants his / her authority to bind the entity

\_\_\_\_\_

Date

**APPENDIX B**  
**2012/2013 BUDGET**

# **BUDGET CONTENTS**

Summarised Budget

Budget Comparison 2011/2012 vs. 2012/2013

Detailed budget by sub account

Input sheet and notes to the budget

Assumptions for the budget drawn in August 2011

Allocation for performance plan and dashboard

Appeal Court Budget April 2012 . March 2013

Input sheet and notes to the Appeal Court budget

Goods and services allocation for the MTEF period

# **APPENDIX C**

## **2012/13 PERFORMANCE TARGETS**

<b>Strategic Focus Area 1:</b>	<b>TRIBUNAL HEARINGS AND DECISIONS</b>			<b>Budget: R 16 184 912.88</b>			
<b>Goal Statement:</b>	<b>Hold hearings and adjudicating matters brought before the Tribunal.</b>						
<b>Strategic Outcome:</b>	<b>Promote and maintain competition within South Africa through the implementation of the Competition Act.</b>						
STRATEGIC OBJECTIVE	OUTPUT	PERFORMANCE INDICATORS	ANNUAL TARGET	QUARTERLY TARGET			
				Q1	Q2	Q3	Q4
To promote and maintain competition within South Africa by holding hearings and adjudicating matters brought before the Tribunal that pertain to large and intermediate mergers, interim relief cases, procedural matters, opposed as well as unopposed prohibited practices within the adopted delivery timeframes.	<b>Large Mergers and reconsidered mergers:</b>						
	Merger notices	Merger set down in accordance with the delivery timeframes	75% of mergers set down within 10 business days of the filed merger	75%	75%	75%	75%
	Orders	Orders issued to parties in accordance with the delivery timeframes	98% of orders issued within 10 business days of the last hearing date	98%	98%	98%	98%
	Reasons for Decision documents	Reasons for Decisions issued to parties in accordance with the delivery timeframes	56% of "reason for decisions" issued within 20 business days of order being issued	56%	56%	56%	56%
	<b>Opposed Prohibited Practices:</b>						
	Pre-hearing invitations	Pre-hearing invitations sent to parties in accordance with the delivery timeframes	90% of pre-hearing invitations sent to parties within 20 business days of close of pleadings	90%	90%	90%	90%
	Orders and reasons for decision documents	Orders and reasons for decisions issued to parties in accordance with the delivery timeframes	80% of orders and reasons for decisions issued within 60 business days of the hearing date	80%	80%	80%	80%
	<b>Consent Orders:</b>						
	Orders	Orders issued to parties in accordance with the delivery timeframes	75% of consent orders issued within 10 business days of the last hearing date	75%	75%	75%	75%

<b>Strategic Focus Area 1:</b>	<b>TRIBUNAL HEARINGS AND DECISIONS</b>							<b>Budget: R 16 184 912.88</b>	
<b>Goal Statement:</b>	<b>Hold hearings and adjudicating matters brought before the Tribunal.</b>								
<b>Strategic Outcome:</b>	<b>Promote and maintain competition within South Africa through the implementation of the Competition Act.</b>								
STRATEGIC OBJECTIVE	OUTPUT	PERFORMANCE INDICATORS	ANNUAL TARGET	QUARTERLY TARGET					
				Q1	Q2	Q3	Q4		
To promote and maintain competition within South Africa by holding hearings and adjudicating matters brought before the Tribunal that pertain to large and intermediate mergers, interim relief cases, procedural matters, opposed as well as unopposed prohibited practices within the adopted delivery timeframes.	<b>Procedural Matters:</b>								
	Orders	Orders issued to parties in accordance with the delivery timeframes	85% of orders issued within 20 business days of the last hearing date	85%	85%	85%	85%		
	<b>Interim Relief cases:</b>								
	Reasons for Decision documents	Reasons for Decisions issued to parties in accordance with the delivery timeframes	85% of reasons for decisions issued within 20 business days of the last hearing date	85%	85%	85%	85%		

<b>Strategic Focus Area 2:</b>	<b>STAKEHOLDER AWARENESS</b>				<b>Budget: R 592 231.60</b>			
<b>Goal Statement:</b>	<b>Communicate the activities and decisions of the Competition Tribunal effectively.</b>							
<b>Strategic Outcome:</b>	<b>Educate and create awareness of Competition Matters to the Tribunal's stakeholders.</b>							
STRATEGIC OBJECTIVE	OUTPUT	PERFORMANCE INDICATORS	ANNUAL TARGET	QUARTERLY TARGET				
				Q1	Q2	Q3	Q4	
To educate and to create awareness of competition matters to our stakeholders by communicating the activities and decisions of the Competition Tribunal by way of the internet, press releases, the Government Gazette as well as internal publications within the adopted delivery timeframes.	"Reasons for Decision" documents	Turnaround time for all the "reasons for decisions" to be posted on the website after release	97% of reasons for decisions posted on the Tribunal website within 24 hours of release	97%	97%	97%	97%	
	Tribunal Tribunes produced	Tribunal Tribune's distributed to Stakeholders	Three Tribunal Tribunes distributed to 50 stakeholders by 31 March 2013		One Tribunal Tribune distributed to 50 stakeholders by 31 July 2012		Two Tribunal Tribune distributed to 50 stakeholders by 31 March 2013	
	Notice of final merger decisions	Merger decisions published in the Government Gazette	100% of the merger decisions issued sent to the Government Gazette for publishing within 20 days of the final decision	100%	100%	100%	100%	
	Press releases	Press releases of final decisions in merger cases issued to the media	Press releases issued for 75% of the final decisions issued in mergers by the Tribunal by 31 March 2013	75%	75%	75%	75%	
	Press releases	Press releases of final decisions in prohibited practice cases issued to the media	Press releases issued for 100% of the final decisions issued in prohibited practice cases by the Tribunal by 31 March 2013	100%	100%	100%	100%	

<b>Strategic Focus Area 3</b>	<b>OPERATIONAL EFFECTIVENESS</b>							<b>Budget: R 1 570 216.19</b>
<b>Goal Statement:</b>	<b>Enhance the expertise of Tribunal staff.</b>							
	<b>Improve the service of the Tribunal to our customers.</b>							
<b>Strategic Outcome:</b>	<b>Strengthen the Tribunal's organisational capability and performance to deliver on its legislative mandate</b>							
STRATEGIC OBJECTIVE	OUTPUT	PERFORMANCE INDICATORS	ANNUAL TARGET	QUARTERLY TARGET				
				Q1	Q2	Q3	Q4	
To enhance the expertise of Tribunal members and staff by sending them on planned International as well as local conferences and training courses.	Training feedback form	Conferences and training courses attended	Tribunal members and research staff attend 75% of the budgeted international and national conferences/workshops and training courses by 31 March 2013				Tribunal members and research staff attend 75% of the budgeted international and national conferences/works hops and training courses by 31 March 2013	



# **APPENDIX D**

## **MATERIALITY FRAMEWORK**

**Materiality Framework in terms of Treasury Regulation  
28.3.1**

**1 Definitions**

Accounting Authority : The Competition Tribunal Chairperson

Executive Authority : Minister of Economic Development

PFMA : The Public Finance Management Act (Act 1 of 1999 as amended by Act 29 of 1999)

Treasury Regulations as issued in terms of section 76 of the Public Finance Management Act, 1999.

**2 Introduction**

28.3.1 For purposes of material [section 55(2) the Act] and significant [section 54(2) of the Act], the accounting authority must develop and agree a framework of acceptable levels of materiality and significance with the relevant executive authority.

**3 Framework**

PFMA Section	Quantitative [Amount]	Qualitative [Nature]
	Materiality figure for the year ending March 2013 is R 130 000	
<p><b>S55</b>  <b>Annual report and financial statements (PFMA Section 55)</b>            (2) The annual report and financial statements referred to in subsection (1) (d) must-</p> <p>(a) fairly present the state of affairs of the public entity, its business, its financial results, its performance against predetermined objectives and its financial position as at the end of the financial year concerned;</p> <p>(b) include particulars of-</p>		
<p>(i) <b>any material losses</b> through criminal conduct and any irregular expenditure and fruitless and wasteful expenditure that occurred during the financial year:</p> <p>(ii) any criminal or disciplinary steps taken as a consequence of such losses or irregular expenditure or fruitless and wasteful expenditure;</p> <p>(iii) any losses recovered or written off;</p> <p>(iv) any financial assistance received from the state and commitments made by the state on its behalf; and</p> <p>(v) any other matters that may be prescribed; and</p>	<p><b>1. Losses through criminal conduct –any loss identified.</b></p> <p><b>2. Losses through irregular / fruitless / wasteful expenditure.</b></p>	<p>Any identified loss through criminal conduct.</p>

PFMA Section	Quantitative [Amount]	Qualitative [Nature]
<b>S54</b>  <b>Information to be submitted by accounting authorities (PFMA section 54)</b> (2) Before a public entity concludes any of the following transactions, the accounting authority for the public entity must promptly and in writing inform the relevant treasury of the transaction and submit relevant particulars of the transaction to its executive authority for approval of the transaction: (b) participation in a <b>significant</b> partnership, trust, unincorporated joint venture or similar arrangement; (c) acquisition or disposal of a <b>significant</b> shareholding in a company; (d) acquisition or disposal of a <b>significant</b> asset;  (e) commencement or cessation of a <b>significant</b> business activity	          Not applicable  Not applicable  Not applicable Not applicable	          Not applicable  Not applicable  Any asset that would increase or decrease the overall operational functions of the Tribunal, outside of the approved strategic plan and budget  Not applicable

#### 4 Authorisation

This framework was adopted by the Tribunal at an Executive meeting held in October 2011

##### Determination of Materiality

	% max	2010/2011 (audited)	1%
<b>Materiality bases</b>			
Gross Revenue (excl EDD grant)	1	6 980 745.30	69 807.45
Total expenses	1	19 959 427.79	199 594.28
<b>Materiality figure</b>			<b>129 786.83</b>

- Due to the nature of the business of the Competition Tribunal (it is not a capital intensive business) the best indicator with regard to business activity is revenue and expenditure. We have taken the average of 1% of actual revenue and actual expenditure in 2010/2011 to determine the materiality figure for 2012/2013
- Using the calculation described above the Tribunal's recommended materiality figure for 2012/2013 is R 130 000.00