



*competition***tribunal**
SOUTH AFRICA

PROMOTION OF ACCESS TO INFORMATION

MANUAL

Table of Contents

1	BACKGROUND AND PURPOSE	3
2	PAIA MANUAL	3
3	HUMAN RIGHTS COMMISSION GUIDE	3
4	FUNCTIONS OF THE COMPETITION TRIBUNAL	3
5	SERVICES PROVIDED BY THE TRIBUNAL	4
6	ORGANISATION	4
6.1	Tribunal members	4
6.2	Management Committee.....	4
6.3	Divisions	4
7	INFORMATION OFFICER/DEPUTY INFORMATION OFFICER	4
8	CONTACT DETAILS AND GENERAL INFORMATION	5
9	RECORDS HELD BY THE TRIBUNAL	5
9.1	Automatic disclosures	5
9.2	Mandatory protection of information in terms of section 37	6
10	REQUEST PROCEDURE	6
11	PUBLIC PARTICIPATION IN TERMS OF SECTION 14(G)	7
12	REMEDIES	7
13	AVAILABILITY OF THE MANUAL	7
	Annexure A: Nature of Access sought	8

Name	Version	Effective date
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1 BACKGROUND AND PURPOSE

Access to information is a human right protected by Section 32 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996). To give effect to this right, the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000) (Act) has been promulgated. This Act protects and upholds the rights of people to access information. The purpose of this Manual is to provide information on the records held by the Competition Tribunal (hereafter referred to as the Tribunal) and to set out the procedure for accessing information held by the Tribunal as required by the Act.

2 PAIA MANUAL

Section 14 of the Act requires of the Tribunal to compile in at least three official languages a manual containing the information prescribed by Section 14.

3 HUMAN RIGHTS COMMISSION GUIDE

The Human Rights Commission has developed a guide on how to exercise any right contemplated in the Act as required by Section 10 of the Act. This guide is available from the Human Rights Commission at www.sahrc.org.za/

4 FUNCTIONS OF THE COMPETITION TRIBUNAL

The Competition Tribunal is a Schedule 3A public entity in terms of the Public Finance Management Act, 1999 (Act No. 1 of 1999). The Tribunal is established in terms of Section 26 of the Competition Act, 1998 (Act No. 89 of 1998) and its functions are described in Section 27(1) as follows:

The Tribunal may-

- adjudicate on any conduct prohibited in terms of Chapter 2 of the Competition Act, 1998, to determine whether prohibited conduct has occurred, and if so, to impose any remedy provided for in the Competition Act.
- adjudicate on any other matter that may, in terms of the Competition Act, be considered by it, and make any order provided for in the Competition Act.
- hear appeals from, or review any decision of, the Competition Commission that may, in terms of the Competition Act, be referred to it.
- make any ruling or order necessary or incidental to the performance of its functions in terms of the Competition Act.

Name	Version	Effective date
PAIA Manual	2.0	November 2020

5 SERVICES PROVIDED BY THE TRIBUNAL

The Tribunal adjudicates competition matters, in accordance with the Competition Act, 1998. It has jurisdiction throughout South Africa. The Tribunal is independent and is subject to the constitution and the law. It must be impartial and perform its functions without fear, favour or prejudice.

When a matter is referred to it in terms of the Competition Act, 1998, the Tribunal must:

- approve or prohibit a large merger, with or without conditions.
- adjudicate appeals from the Competition Commission's decisions on intermediate mergers and exemptions.
- adjudicate complaints of prohibited conduct in terms of the Competition Act, 1998 by determining whether prohibited conduct has occurred and, if so, impose a remedy provided for in the said Act.
- grant or refuse an order for interim relief.
- grant or deny an order for costs.
- hear and adjudicate upon appeals or reviews arising from certain decisions of the Competition Commission.

6 ORGANISATION

6.1 Tribunal members

The Competition Tribunal may consist of a Chairperson and other full and part-time members appointed by the President on the recommendation of the Minister Trade, Industry and Competition (DTIC).

6.2 Management Committee

The Management Committee consists of the Chairperson, the full-time members of the Tribunal and the Chief Operating Officer.

6.3 Divisions

The operations of the Tribunal are divided into five distinctive divisions, namely the Office of the Chief Operating Officer, Corporate Services, Case Management, Finance and Registry (Registrar). The Chief Operating Officer has a general oversight role regarding the effective operations both in the adjudicative and non-adjudicative functions of the Tribunal.

7 INFORMATION OFFICER/DEPUTY INFORMATION OFFICER

In terms of Section 1 of the Act the **Chairperson** is the **Information Officer** of the Tribunal and the **Head of Case Management** has been appointed as the **Deputy Information Officer** in terms of Section 7 of the Act.

Name	Version	Effective date
PAIA Manual	2.0	November 2020

Contact details for the Information Officer and Deputy Information Officer are as follows:

	Name	E-mail address
Information Officer	Mondo Mazwai	mondom@comptrib.co.za
Deputy Information Officer	Junior Khumalo	junior@comptrib.co.za

8 CONTACT DETAILS AND GENERAL INFORMATION

The contact details for and general information on the Tribunal are as follows:

Physical address	Block C The dti Campus 77 Meintjies Street Sunnyside PRETORIA
Postal address	Private Bag X24 Sunnyside 0132
Telephone	+27 12 394 3300
Website	www.comptrib.co.za
Registry hours	08h00 to 15h30

9 RECORDS HELD BY THE TRIBUNAL

Section 14 of the Act requires that a description of the subjects on which the body holds records and the categories of records held on each subject be included in the Manual. The Tribunal holds the following records:

9.1 Automatic disclosures

The following information is available on the Tribunal website and is therefore classified as automatic disclosures:

Tribunal mandate and procedural rules	Legislation and Tribunal Rules
Tribunal decisions in competition cases	Orders, findings, decisions and reasons
Records of court that are <u>not</u> subject to claims of confidentiality ¹	Applications, notices, affidavits, correspondence, heads of argument

¹ Section 45 of the Competition Act, 1998 provides that a person who seeks access to information that is subject to a claim that it is confidential information, may apply to the Competition Tribunal in the manner and form prescribed by the Regulation in terms of the Competition Act, 1998. The Competition Tribunal may determine whether or not the information is confidential information, and if it finds that the information is confidential, make any appropriate order concerning access to that confidential information.

Name	Version	Effective date
PAIA Manual	2.0	November 2020

Other publications	E-newsletter (Trials & the Tribunal)
Competition Appeal Court	Judgments
Reports	Quarterly and Annual Reports

9.2 Mandatory protection of information in terms of section 37

The information officer:

- must refuse a request for access to a record if the disclosure of the record would constitute an action for breach of a duty of confidence owed to a third party in terms of an agreement.
- may refuse a request for access to a record if the record consists of information that was supplied in confidence by a third party –
 - the disclosure of which could reasonably be expected to prejudice the future supply of similar information, or information from the same source, and
 - if it is in the public interest that similar information, or information from the same source, should continue to be supplied.

A record may not be refused in terms of the above insofar as it consists of information:

- already publicly available.
- about the third party concerned that has consented in terms of section 48 or otherwise in writing to its disclosure to the requester concerned.

10 REQUEST PROCEDURE

The following request procedure which is prescribed by Section 18 of the Act shall be followed for all requests for information, irrespective of the nature of the access sought:

10.1 A written request must be addressed to the Information Officer using the contact details set out in section 7 of this Manual.

10.2 The request must:

- include the name and contact details of the requester,
- provide sufficient details to identify the records to be accessed. If case records are requested the case number must be provided. If information on a case file was declared confidential by the Tribunal, the confidential information will be removed before the file is made available,
- the nature of the access sought – see Annexure A,
- state whether the record concerned is preferred in a particular language,
- specify a postal address or fax number of the requester in the Republic,

Name	Version	Effective date
PAIA Manual	2.0	November 2020

- if, in addition to a written reply, the requester wishes to be informed of the decision on the request in any other manner, state that manner and the particulars to be so informed, and
- If a request is made on behalf of another person, the requester must submit proof of capacity in which the requester is making the request to the reasonable satisfaction of the Information Officer.

10.3 If a requester is illiterate or disabled and therefore unable to make a request as described in this section, the requester may make that request orally and the information officer must reduce that oral request to writing as described in this section, and provide a copy thereof to the requester.

11 PUBLIC PARTICIPATION IN TERMS OF SECTION 14(G)

Tribunal hearings are conducted in public in accordance with the principles of natural justice. Any member of the public may attend these hearings as an observer. Members of the public may however be asked to leave the hearing when confidential information is presented or discussed.

Any person with a material interest in a matter before the Tribunal may in terms of Section 53 of the Competition Act, 1998 be allowed to intervene in that matter if his or her interests are within the scope of the said Act and not represented by any other participant in the proceedings. On receiving an application to intervene, the Tribunal must conduct a hearing and either allow or deny the application. The Tribunal may limit the scope or form of the participation of an intervener.

Information on Tribunal hearings and decisions are available on its website www.comptrib.co.za

12 REMEDIES

The Tribunal does not have an internal appeal procedure. The ordinary courts must be approached to appeal an act or a failure to act by the Tribunal in terms of the Act.

13 AVAILABILITY OF THE MANUAL

This Manual is available for inspection free of charge at the registered address indicated in Section 8 above.

The Manual can also be accessed on the Tribunal website www.comptrib.co.za

Name	Version	Effective date
PAIA Manual	2.0	November 2020

ANNEXURE A NATURE OF ACCESS SOUGHT

Record	Nature of access
Written or printed form	A copy of the record/inspection of the record
Not in written or printed form	Where visual images or printed transcriptions of images can be reproduced-make arrangements for the viewing of those images or supply copies or transcriptions of them...
	Words or information capable of being reproduced in the form of sound by equipment- by making arrangements to hear those sounds or supply a written or printed transcription of those sounds
Held on a computer/electronic form/machine-readable form	A printed copy of the record or part of it or information derived from the record

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PAIA Manual	2.0	November 2020