

2021/2022



***competition*tribunal**
SOUTH AFRICA

ANNUAL PERFORMANCE PLAN 1 APRIL 2021 – 31 MARCH 2022

Abbreviations and Acronyms

the Act	Competition Act 89 of 1998
AfCFTA	African Continental Free trade Area
AG	Auditor-General
APP	Annual performance plan
BBBEE	Broad-based black economic empowerment
Commission	Competition Commission
CAC	Competition Appeal Court
COVID-19	Coronavirus Disease 2019
DTIC	Department of Trade, Industry and Competition
ENE	Estimates of National Expenditure
ESKOM	Electricity Supply Commission, SA's electricity public utility
HR Management	Human Resource Management
ICASA	Independent Communications Authority of South Africa
ICN	International Competition Network
ICT	Information and communications technology
IEAP	Integrated Economic Action Plan
IT	Information technology
MTEF	Medium Term Expenditure Framework
MTSF	Medium Term Strategic Framework
NDP	National Development Plan
NGO	Non-government agencies
OECD	Organisation for Economic Co-operation and Development
PFMA	Public Finance Management Act
PPEs	Personal Protective Equipment
RMC	Risk Management Committee
SADC	Southern African Development Community
SCM	Supply Chain Management
SMMEs	Small, medium, and micro-sized enterprises
TID	Technical indicator description
Tribunal	Competition Tribunal
WTO	World Trade Organisation

Foreword by Executive Authority

The Annual Performance Plans (APPs) of public entities identify the outputs, output indicators and targets that an entity aims to achieve in the new financial year. The Executive Authority is responsible to ensure the Annual Performance Plan is aligned with the Strategic Plan, the institution's mandate and government's priorities and to provide direction on the development and implementation of strategic priorities and policies.

The Covid-19 pandemic changed the landscape within which DTIC-entities operate and they are therefore expected to adjust their operations to address the new environment and new priorities. There is an urgent need to boost levels of economic growth and economic recovery, support transformation and build a capable state.

In particular, the APPs for the 2021/22 financial year will need to reflect the policy priorities set out in Budget Vote statements tabled in Parliament during this Administration and those that arise from:

- The Economic Recovery and Reconstruction Plan tabled in Parliament in October 2020 by President Ramaphosa;
- The priorities set out in the 2021 State of the Nation Address;
- The new performance compacts between members of the Executive and the Presidency signed in November 2020; and the
- New District Development Model as an integration of development efforts at local level.

This Annual Performance Plan of the Competition Tribunal has been prepared by the management for consideration by the Executive Authority and tabling in Parliament. In light of the earlier-than-anticipated date set by the Speaker of Parliament for submission of APPs, the necessary engagements between the department and the Competition Tribunal has not been completed within the available time. This APP is therefore tabled to comply with the timeframes set and an updated Plan will be tabled in Parliament in due course, taking account of the above.

As the practical means to ensure alignment between APPs and policy priorities, the Annual Performance Plan for the DTIC itself has set out the requirement to ensure integration between the work of the department and all public entities that report to it. Seven new Joint-Indicators (J-KPIs) have been developed for the DTIC that contain the major policy priorities and these are expected to be included in the work of the Competition Tribunal with progress against these to be reported to the Ministry on a quarterly basis.

The entity will be expected to show how, within its legal mandate, it has contributed to the achievement of the outcomes for the following seven Joint Indicators (details of which are contained in more detail in the APP of the department itself):

- Joint Indicator 1: Integrated Support to Drive Industrialisation
- Joint Indicator 2: Contribution to the development of an AfCFTA Export Plan
- Joint Indicator 3: Investment Facilitation and Growth
- Joint Indicator 4: Development Model and Spatial Equity
- Joint Indicator 5: Actions to Promote Transformation
- Joint Indicator 6: The Green Economy and Greening the Economy

- Joint Indicator 7: Strengthening and Building a Capable State


In this way, the combined efforts of all public entities will begin to be aligned to the national priorities in a more explicit manner. The Joint-Indicators cover, among others, the work of sector masterplans, initiatives to boost levels of investment and localisation in the economy, expanding trade within the continent, enabling better local economic development, supporting the growth of new industries (in the green economy and through beneficiation) and building a capable state. In respect of Joint-Indicator 7 for example, all public entities will be required to review their procedures, timeframes for delivery, forms to be filled in and public communication of services to simplify these, make processes expeditious where possible, remove unnecessary red-tape where these exist and make it easier for users to access services.

On conclusion of any revisions to take inter alia the above into account, a revised Annual Performance Plan will be tabled in Parliament. We recognise however that the precise manner in which the Competition Tribunal can contribute to the Joint-Indicators will be defined by its role as a regulator with adjudication functions.

I therefore endorse the work to align the Annual Performance Plan of the Competition Tribunal with the national priorities and accordingly table the APP for the Competition Tribunal in accordance with the request by the Speaker.

This Annual Performance Plan is therefore not about many new objectives but rather on a new way of implementation, with the focus on integration, to enhance the development impact of the work.

I wish to thank Chairperson Mondo Mazwai for her work and contribution to the evolution of South Africa's competition jurisprudence, together with the eminent Panel of Tribunal members (drawing on a wide talent pool of South Africans) and the staff of the institution.



Ebrahim Patel

Minister of Trade, Industry and Competition.

Foreword by Accounting Authority

This Annual Performance Plan (APP) is limited to the 2021/2022 financial year and the targets set consider the policy imperatives of government and the dtic within the available budget. The lessons learned from 2020 are that we must be resilient, responsive and adaptable. This APP embeds these principles.

The coronavirus pandemic precipitated a global recession. The South African economy was not spared, and it stressed both the revenue and expenditure sides of the national budget. On the one side revenue collection collapsed, while on the expenditure side, government introduced an unprecedented fiscal relief package to combat the pandemic and its effects. Government tabled two Adjustments Appropriation Bills to accommodate this, a special one in June 2020 and another with the October 2020 Mid-Term Budget Policy Statement. These form the backdrop to the revision of the Tribunal's APP.

In response to the appropriations imposed on the Tribunal; we have reprioritised our expenditure to present a zero-based balanced budget. We have lowered the ceiling on compensation of employees, forfeited bonuses and any salary increases as well as frozen headcount but for critical vacancies. Yet notwithstanding these austere measures, the Tribunal has not planned to retrench staff in the APP and MTEF.

We have had to realign our key performance indicators to adapt to this budget, but we remain grounded in our commitment to Governance and Responsive and Reliable Adjudication. In order to achieve these objectives, we continue to budget to fill the two vacancies for full-time Tribunal Members in the APP.

The APP and MTEF have regressive IT and administration expenditure and have left out key expenditure items including the filling of two senior posts, training and the use of consultants. Many of these measures were introduced in the current financial year in order to comply with the instruction to surrender the Tribunal's accumulated surplus to the National Revenue Fund. As a result of these aggressive cuts, we now forecast a budget surplus in the current year. It is the intention of the Tribunal to apply for the retention of a portion of this surplus to be applied to the APP to make it sustainable.

Notwithstanding these funding challenges we remain committed to giving effect to the goals of the National Development Plan, the objectives of the Economic Reconstruction and Recovery Plan and the seven new joint indicators. In this regard the Tribunal has contributed immensely towards transforming the South African economy, especially regarding equitable and inclusive growth.

In the nine months to December 2020, the Tribunal heard 91 matters, almost half of which were for the excessive pricing of personal protective equipment (PPEs) and essential foods. We levied fines of R21,727,249 for anti-competitive behaviour. In the consideration of public interest matters, the Tribunal imposed merger conditions that secured over R6.27 billion in investments, R770 million of which is specifically for SMMEs. Furthermore, the Tribunal placed moratoriums on retrenchment in merger applications that saved 10 798 jobs and conditions that created 1 050 jobs and 3 500 job opportunities.

We look forward to making a success of the challenges that lie ahead.

Official sign-off

It is hereby certified that this Annual Performance Plan of the Competition Tribunal for the period 1st April 2021 to 31st March 2022 was:

- i) Developed by the management of the Competition Tribunal under the guidance of the Accounting Authority – Ms. Mondo Mazwai.
- ii) Prepared in line with the Competition Tribunal's Strategic Plan for the five-year period 2020/2021 – 2024/2025.
- iii) Accurately reflects the performance targets the Competition Tribunal will endeavour to achieve over the 2021/2022 financial year. January

Oliver Josie

Chief Operating Officer – Competition Tribunal

Signature : *Oliver Josie*

Date : 24 March 2021

Mondo Mazwai

Chairperson – Competition Tribunal

Signature: *M. Mazwai*

Date: 24 March 2021

Ebrahim Patel

Minister of Trade, Industry and Competition

Signature: *Ebrahim Patel*

Date: 31 March 2021

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PART A: OUR MANDATE

1. Legislative Mandate

The Tribunal derives its legislative mandate from the Competition Act and its purpose is to promote and maintain competition in the Republic in order to:

- a) Promote efficiency, adaptability, and development of the economy.
- b) Provide consumers with competitive prices and product choices.
- c) Promote employment and advance the social and economic welfare of all South Africans.
- d) Expand opportunities for South African participation in world markets and recognise the role of foreign competition in the Republic.
- e) Ensure that small and medium-sized enterprises have an equitable opportunity to participate in the economy.
- f) Promote a greater spread of ownership, in particular to increase the ownership stakes of historically disadvantaged persons; and
- g) Detect and address conditions in the market for any particular goods or services, or any behaviour within such a market, that tends to impede, restrict or distort competition in connection with the supply or acquisition of those goods or services within the Republic.

2. Policy Mandate

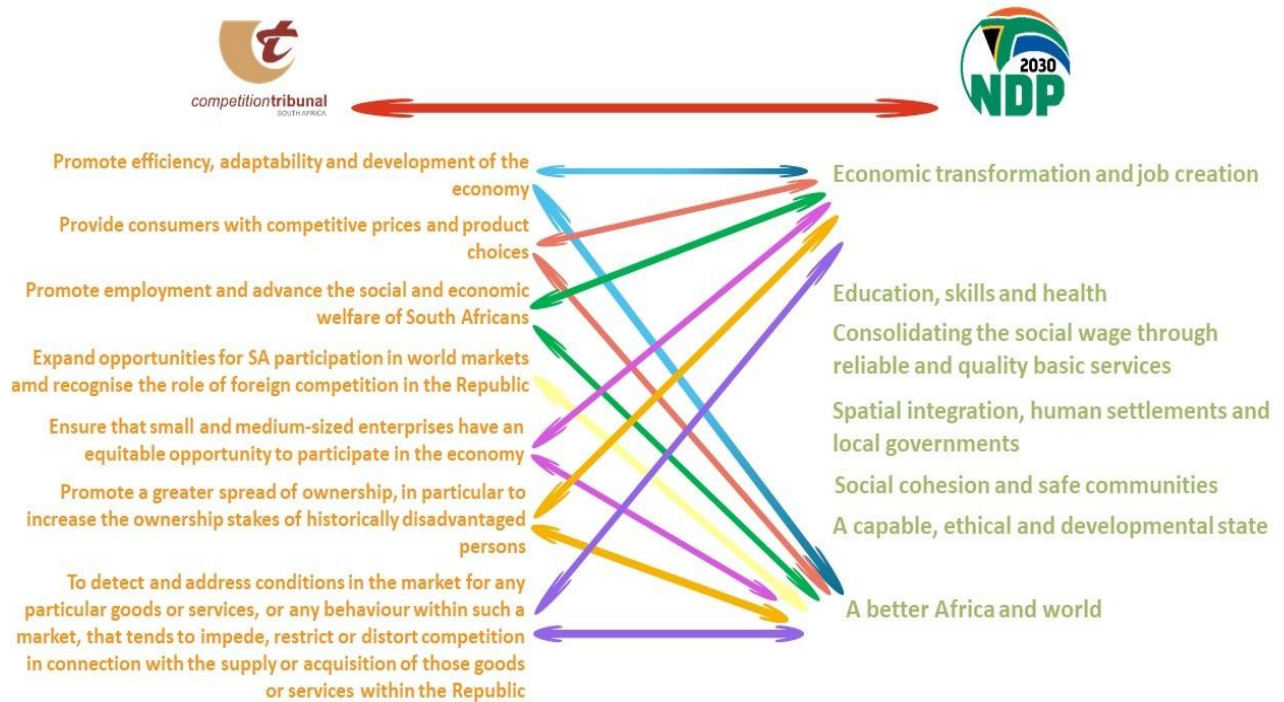
The National Development Plan (NDP) 2030 was adopted in South Africa in 2012. It sets out the long-term vision for the country and provides a broad strategic framework to guide government choices and actions required to transform the economy and society.

The NDP five-year implementation plan has been developed in order to advance and guide planning that is responsive to the attainment of NDP priorities. It allows for the co-ordination and alignment of priorities across spheres of government. The Tribunal will also support the Economic Reconstruction and Recovery Plan, 2020, and the seven new joint indicators which are the implementation plans aligned to the NDP.

The Tribunal's objectives are set out in the Competition Act. As an adjudicative body it can determine the outcomes of these objectives by aligning its adjudication to meet the objectives of the NDP and the dtic. The seven new joint indicators are:

- Joint Indicator 1: Integrated Support to Drive Industrialisation;
- Joint Indicator 2: Contribution to the development of an AfCFTA Export Plan;
- Joint Indicator 3: Investment Facilitation and Growth;
- Joint Indicator 4: Development Model and Spatial Equity;
- Joint Indicator 5: Actions to Promote Transformation;
- Joint Indicator 6: The Green Economy and Greening the Economy; and
- Joint Indicator 7: Strengthening and Building a Capable State.

The performance progress with regards to all seven new joint indicators will be reported quarterly to the Dtic. Joint indicators 1, 2, 3, 4 and 6 are already aligned to the Adjudication sub-programme when relevant, whilst joint indicator 5 is included under sub-programmes on Financial Management and other being Transformation, Human Capacity Development and Training and joint indicator 7 is included under the Business Process sub-programme. The Tribunal's mandate is also consistent with certain of the priority outcomes contained in the NDP. The connections between the Tribunal's legislated mandate and the NDP outcomes are illustrated in the diagram below.



All decisions taken by a Tribunal panel when adjudicating on matters brought before it must consider, in addition to competition issues, various public interest factors which include the effect of a merger on a particular industrial sector or region, employment, worker ownership and the promotion of HDIs, the ability of national industries to compete in international markets and the ability of a SMMEs and HDIs to effectively enter, participate in or expand in a market.

Improved competition by its very nature will maximise consumer surplus and will therefore have a positive impact on national development goals.

The two tables that follow provide an alignment matrix between the outcomes of the dtic, the Tribunal and the NDP respectively.

Table 1: Alignment of Tribunal outcomes with DTIC Outcomes

DTIC Programme/Outcomes ¹	Tribunal Outcome number	Tribunal Outcomes
<p>Programme 3: Spatial Industrial Development and Economic Transformation</p> <ul style="list-style-type: none"> • Increased number of Black People that participate in the mainstream economy • Grow the manufacturing sector to promote industrial development, job creation, investment, and exports <p>Program 4: Industrial Competitiveness and Growth</p> <ul style="list-style-type: none"> • Increase economic growth and job creation through a re-invigorated industrial strategy <p>Programme 5: Consumer and Corporate Regulation</p> <ul style="list-style-type: none"> • Improved regulatory environment conducive for consumers and companies as well as providing access to redress <p>Program 6: Industrial Financing</p> <ul style="list-style-type: none"> • Increased private sector investment • Employment Creation • Increased access for industrial finance support <p>Programme 7: Export Development, Promotion and Outward Investments</p> <ul style="list-style-type: none"> • Promote export growth. • Diversify the export bundle, by promoting export growth in priority sectors 	Outcome 1	Through responsive and reliable adjudication of matters across all sectors of the economy, the Tribunal contributes to the outcomes of economic transformation and employment creation by the NDP and the dtic

¹Linking of the DTIC's outcomes to the NDP.

DTIC Programme/Outcomes ¹	Tribunal Outcome number	Tribunal Outcomes
<p>Programme 9: Competition Policy and Economic Planning</p> <ul style="list-style-type: none"> • Competition policy statement • Public interest analysis and participation • Implementation of competition recommendations and commitments • Supported Ministerial technical and statutory responsibilities on competition matters <p>Programme 10: Economic Research and Coordination</p> <ul style="list-style-type: none"> • Economic research and reviews 		
<p>Programme 1: Administration</p> <ul style="list-style-type: none"> • Attract, Develop & Retain Skilled Staff & Professional Officials • Ensure accountability through effective performance management <p>Programme 9: Competition Policy and Economic Planning</p> <ul style="list-style-type: none"> • Competition policy statement 	Outcome 2	Transparent, accountable, and sustainable Tribunal
<p>Programme 2: Trade Policy, Negotiations and Cooperation</p> <ul style="list-style-type: none"> • Increased intra-Africa trade <p>Programme 7: Export Development, Promotion and Outward Investments</p> <ul style="list-style-type: none"> • Promote export growth. • Diversify the export bundle, by promoting export growth in priority sectors 	Outcome 1	Through responsive and reliable adjudication of matters in these sectors the Tribunal contributes to the NDP outcomes.

Table 2: Alignment of Tribunal outcomes with the NDP Outcomes

NDP Outcome Number	NDP Outcomes	Tribunal Outcome Number	Tribunal Outcomes
NDP Outcome 1	Economic transformation and job creations	Tribunal Outcome 1	Through responsive and reliable adjudication of matters across all sectors of the economy, the Tribunal contributes to the outcomes of economic transformation and employment creation by the NDP and the DTIC
NDP Outcome 2	Education, skills, and health		Through responsive and reliable adjudication of matters in these sectors the Tribunal contributes to the NDP outcomes.
NDP Outcome 6	A capable, ethical, and developmental state	Tribunal Outcome 2	Transparent, accountable, and sustainable Tribunal
NDP Outcome 7	A better Africa and World	Tribunal Outcome 1	Responsive and reliable adjudication (indirectly through cases)

3. Institutional policies and strategies

The largest contribution the Tribunal can make is the policy driver “competitiveness and competition policy” as its core function deals specifically with this area. Its public interest mandate makes contribution to the following drivers: employment, SMMEs and B-BBEE. To the extent that mergers and market structure in prohibited practice cases may have a negative effect on these factors, the Tribunal may in appropriate cases be able to impose conditions or issue orders to alleviate the adverse effects.

The Tribunal can provide access to case archives which provide rich resources for research. Part of our interaction with the department will be to encourage researchers linked to the department or its institutions to use these resources and to alert them to new and useful information.

4. Relevant Court Rulings

There are no specific court rulings that have a significant, ongoing impact on operations or service delivery obligations.

PART B: OUR STRATEGIC FOCUS

5. Situational Analysis

5.1. Strategic focus

The Tribunal is an independent and impartial institution with jurisdiction throughout South Africa. It is required to perform its functions without fear, favour or prejudice, subject only to the Constitution, the law, and its legislated mandate.

Its core business and therefore its strategic focus is the adjudication of mergers and prohibited practice cases brought before it either by the Commission or directly by aggrieved parties, or in some circumstances by higher courts.

Upon a matter being referred to it, the Tribunal will initiate proceedings to consider the matter in terms of the Competition Act and Rules and may:

- a) authorise a merger, with or without conditions, or prohibit a merger;
- b) 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;
- c) grant an exemption from a relevant provision of the Act;
- d) hear appeals against decisions of the Competition Commission in market inquiries, and in intermediate and small mergers; and
- e) grant an order for costs.

The Tribunal is required to expeditiously decide on the matters brought before it. All Tribunal hearings are public and written reasons are provided for all decisions and orders of the Tribunal. The Act and Rules prescribe time frames for the issuing of orders and decisions which must be adhered to by the Tribunal.

The Tribunal's decisions have the same legal weight as the judgements of the High Court and may be taken on appeal to the Competition Appeal Court and the Constitutional Court.

The Tribunal is enjoined to retain its independence and impartiality in the exercise of its powers and in carrying out its duties.

The Tribunal Members are committed to making high quality decisions, based on the criteria stipulated in the Act. The members are supported in their decision-making by the Tribunal secretariat that provides efficient and effective administrative, research and organisational assistance.

Whilst the adjudicative process remains the main strategic focus, we have also placed emphasis on other key areas of administration namely:

- Governance, risk and compliance,
- Capacity Building and
- Effective Financial management.

In addition, the Tribunal strives to be an accessible institution and to ensure that the public remains informed about the Act and the Tribunal's functions and activities.

All upcoming hearings and decisions given by the Tribunal are communicated to the media and all of the Tribunal's decisions can be accessed by the general public from the Tribunal's website or its offices. The Tribunal also publishes a newsletter, "Trials and the Tribunal" which is distributed to relevant stakeholders. In commemorating 20 years of adjudicating for inclusive markets, the Tribunal has published a handbook of jurisprudence as a guide to competition practitioners and the South African business.

5.2. Performance overview

Demands for the services of the Tribunal over the past 20 years have increased significantly. The table below provides details with regard to matters heard over the past five years. It is evident that there is considerable fluctuation from year to year however there has, in the past, been an average annual increase of 3.9% in matters heard over the period but due to the slowing economy, the Covid-19 pandemic and the national lockdown the hearing of cases decreased significantly in the last financial year.

Table 3: Matters heard 2015/2016 to 2019/2020

Type of case	2015/2016	2016/2017	2017/2018	2018/2019	2019/2020
Large merger	125	102	121	101	86

Type of case	2015/2016	2016/2017	2017/2018	2018/2019	2019/2020
Intermediate/small merger reconsideration	10	8	6	4	1
Complaints from the Commission	4	10	14	18	9
Consent order/settlement agreement	26	27	29	45	27
Complaints from third parties	0	0	1	0	0
Interim relief	0	1	0	1	3
Procedural matter	39	50	42	46	28
Total	204	197	213	215	154

The Tribunal has generally performed well in getting merger cases set down and decided within our targeted time periods. Our performance in completing reasons in opposed cases is less impressive and the Tribunal is taking steps to improve turn around periods for reasons including better tracking of cases, appointment of full-time members and increasing the pool of part-time members who hear cases. However, the complexity of cases before the Tribunal has also increased as the system matures and experience in the field evolves thereby increasing the turnaround time to conclude matters.

5.3. Policy environment

The policy parameters and objectives of the Act are consistent with the objectives of government's economic policy as enunciated in policy documents of the dtic, as well as the NDP and the Economic Reconstruction and Recovery Plan are given effect in the analysis and decision-making of the adjudicative panels, which assess merger transactions, allegations of restrictive practices and abuse of dominance and exemption applications.

Although the Tribunal's decisions are primarily taken on competition grounds, the Act also requires that it considers specified public interest factors which correlate with other objectives of the government's economic policy and in particular concerns about job impact, SMMEs, B-BBEE and a greater spread of ownership.

i. **Merger Regulation - Structural Remedies**

Through its merger regulation powers the Tribunal considers the impact of mergers and acquisitions on the structure of a particular market.

In its consideration of mergers or acquisitions, the Tribunal initially determines whether the transaction will substantially prevent or lessen competition in the market in which the transaction occurs. In the event that it does, the Tribunal is then required to evaluate whether any efficiency and technology gains arise from the merger. If it is decided that the merger has generated pro-competitive efficiency gains that outweigh the lessening of competition, then the merger may be approved. Despite its determination above, the Tribunal must always consider the impact of the transaction on specified public interest criteria. An anti-competitive merger may be approved if it is found that a positive impact on public interest outweighed the negative impact on competition. Similarly, it is possible to prohibit a merger that did not lessen competition if its impact on public interest, for example employment, was negative.

The following are the public interest criteria that must be considered:

1. impact on a particular industrial sector or region;
2. employment;
3. the ability of small and medium businesses, or firms owned by historically disadvantaged persons, to effectively enter into, participate in or expand within the market;
4. the ability of national industries to compete in international markets; and
5. the promotion of a greater spread of ownership, in particular to increase the levels of ownership by historically disadvantaged persons and workers in firms in the market.

The recent amendments to the Act have also improved merger provisions to include the assessment of creeping mergers, cross-shareholdings by merging firms and asset ownership by workers.

ii. **Prohibited practices - Behavioural Remedies**

The Tribunal regulates anti-competitive conduct or behaviour by firms in a particular market through its powers to regulate prohibited practices.

The Act prohibits certain practices between competitors and firms in a vertical relationship (that is between supplier and customer). Dominant firms (as defined by the Act) are also prohibited from engaging in certain practices. While the Act specifies certain per se prohibitions in each of these categories, other specified conduct, if found to be anti-competitive, must be weighed against countervailing “technological, efficiency, or other pro-competitive gains” that may arise from the conduct.

The Tribunal anticipates an increase in prohibited practice cases brought to it. Its decisions on prohibited practice cases potentially have sector-wide and economy-wide implications and are likely to impact significantly on business behaviour. It is in this area that objectives on competitiveness, black economic empowerment and SMME development is most directly advanced. Restrictive practices are prohibited by the Act precisely to improve the competitiveness of firms, to prevent abuse by dominant firms, to lower barriers to entry and to allow for markets to be contested.

iii. **Exemptions**

A firm may apply to the Competition Commission (Commission) for exemption from the provisions of Chapter 2 of the Act. However, persons affected by the Commission's decisions may appeal those decisions to the Tribunal.

Exemptions may be granted if they contribute to any of the following objectives:

1. Maintenance or promotion of exports;
2. Promotion of the effective entry into, participation in or expansion within the market by small and medium businesses, or firms controlled or owned by historically disadvantaged persons;
3. Change in productive capacity necessary to stop the decline of an industry; and
4. The economic development, growth, transformation, or stability of industry designated by the Minister, after consulting the Minister responsible for that industry.

Consideration of the above factors in its adjudication provides for government policy objectives to be considered by the Tribunal.

iv. **Interlocutory applications**

The Tribunal also hears interlocutory applications that are necessary or incidental to the performance of its functions in terms of this Act, such as:

- Exception applications: Respondents frequently bring objections to a complaint referral prior to pleading. The objections range from those that contend that the complaint referral makes out no cause of action, to complaints that are vague and embarrassing or requests for further particulars;
- Discovery applications: Both parties in a case have a duty to discover documents in a case and applications to compel may follow if there are disputes over relevance, whether the document exists or over claims of legal privilege;
- Confidentiality applications: Parties are entitled to claim documents containing sensitive information as confidential. Procedurally access to information claims are heard in the same way, and sometimes at the same time as discovery applications;
- Intervention applications: In terms of the Act the Tribunal can admit as a participant in merger proceedings any party who it recognises as a participant; and
- Points *in limine*: The Respondents can bring an objection based on a question of pure law prior to pleading for example where the Tribunal's jurisdiction is questioned.

5.4. Impact of recent amendments to the Competition Act

It is expected that the July 2019 Competition Law amendments will substantially increase the workload of the Tribunal.

First, decisions that the Commission makes after conducting a market enquiry will now be appealable to the Tribunal. Since market enquiries have to date taken a long time to conduct, it is likely that the record in such cases will be lengthy and intricate. This means that the panels will have to perform an appellate function, that is, hear cases without any oral evidence and the ability to test the evidence with witnesses. Two such market enquiries have already been before the Tribunal, namely the Data Services and Retail Sector market enquiries.

The Act also contains new prohibited practices (buyer power provisions) and reformulated provisions in relation to some of the existing abuse of dominance provisions (excessive pricing, margin squeeze and predatory pricing). The buyer power provisions are likely to lead to an increased case load particularly early on as the jurisprudence develops. The improved dominance provisions are also likely to lead to renewed enforcement activity by the Commission. For example, prior to these amendments only two cases excessive pricing complaints (Sasol and Mittal) had been successfully prosecuted by the Commission before the Tribunal, and these were both overturned by the Competition Appeal Court (CAC). However, in 2020 applying the new excessive pricing provisions, the CAC upheld a decision of the Tribunal in the Babelegi case for excessive pricing.

The expanded merger control considerations, both regarding the competition and public interest aspects of merger control, are likely to expand the ambit of issues for merger consideration and may also lead to prolonged hearings and an increase in appeals in respect of intermediate mergers.

Finally, other residual procedural cases will come before the Tribunal. For instance, the Commission may request information from parties for the purpose of its new power to conduct impact studies. Parties are entitled to object to these requests which must then be determined by the Tribunal. It is unknown how frequently these types of cases will occur. Determinations made by the Commission during the course of a market enquiry that information is confidential can also be brought to the Tribunal to determine.

5.5. Public policy and participation

The general approach of the Tribunal is to encourage participation of interested parties in its proceedings. This allows for less powerful groupings to articulate their interests and maximizes the information available to the Tribunal. In the cases to date the Tribunal has had representation from competitors, customers, franchisees, trade unions, industry associations, government department/entities and non-government organisations (NGO's).

The Act also allows for the Minister of the Trade, Industry and Competition to make representation on public interest grounds, in merger transactions of which the Minister must be notified so as to enable him to intervene if he so decides. The amendments grant the Minister the right to appeal Tribunal decisions where previously the Minister's right was limited to review.

The Commission may also exempt an agreement or practice from prohibitions contained in Chapter 2 of the Act if it contributes to the economic stability of an industry designated by the Minister of Trade, Industry and Competition. The Minister has the ability to make direct representation before the Tribunal on any aspect of government policy that is relevant to a case.

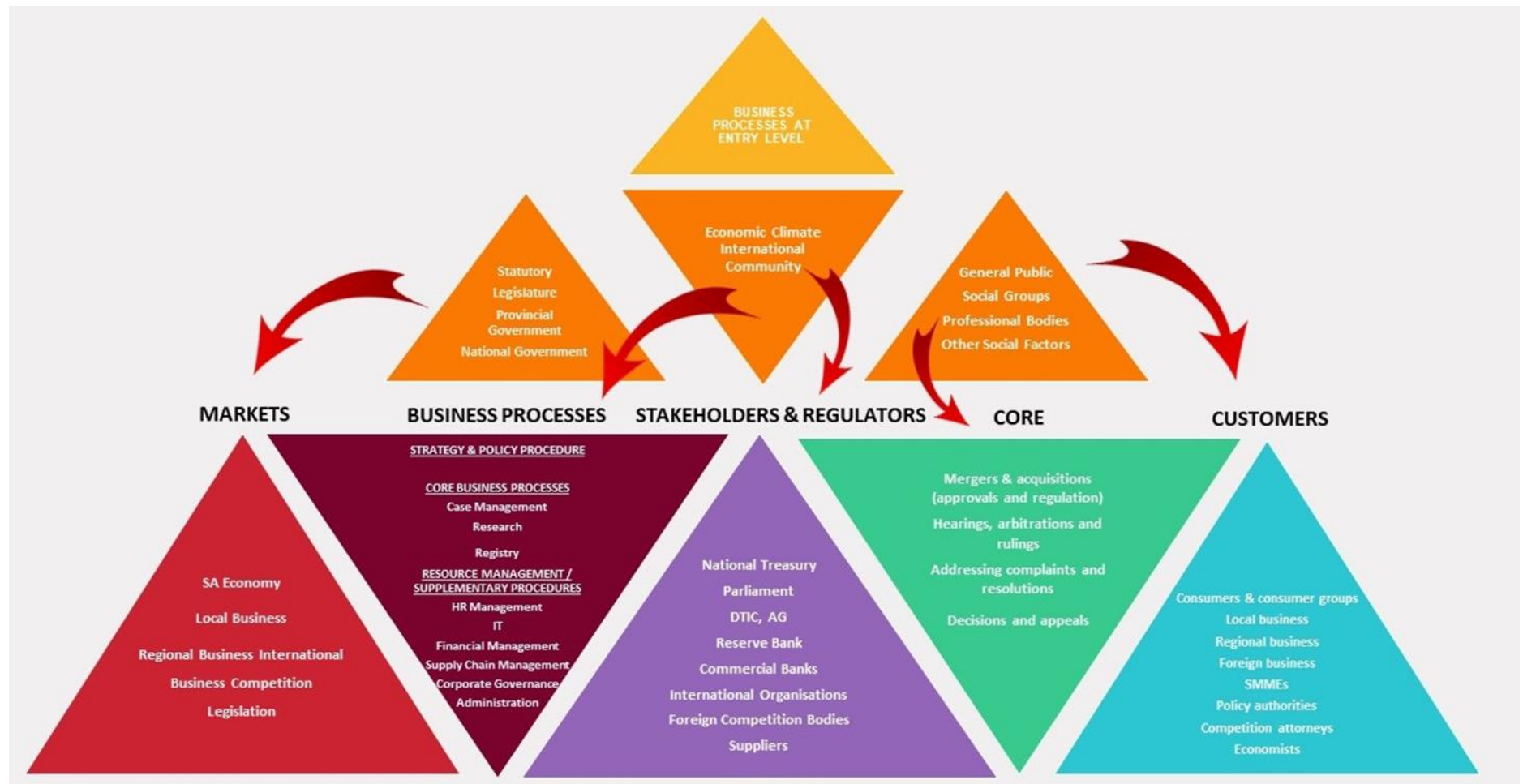
5.6. Stakeholder Profile

The Act impacts numerous stakeholders. The Tribunal has established and maintains professional and appropriate relationships with key stakeholders with the ultimate objective of contributing to the welfare of all South Africans.

The Tribunal's external stakeholders may be categorised as follows:

- a) Stakeholders with whom the Tribunal has direct contact in the course of fulfilling its functions. These include:
 - The Commission which refers and prosecutes cases before the Tribunal.
 - Complainants, respondents, interested parties, expert witnesses and their legal representatives who participate in or have a direct interest in a case before the Tribunal. These may be local or international businesses, trade unions, consumers, legal firms, or any other affected individual or organization.
- b) Stakeholders with whom the Tribunal may not be in direct contact but who are affected by Tribunal decisions. These include consumers, competitors, customers, and suppliers of firms directly affected by Tribunal decisions.
- c) Sector-specific regulators such as Independent Communications Authority of South Africa (ICASA) who enjoy concurrent jurisdiction with the Competition authorities.
- d) Stakeholders to whom the Tribunal is accountable with respect to its functions. These include the DTIC, Parliament, the Minister of Trade, Industry and Competition, National Treasury (National Treasury) and the Auditor-General (AG).
- e) Stakeholders who act as reputational agents in providing policy and peer feedback on the standard and quality of work in the Tribunal. These include the media/journalists/editors, the financial press, academics, the judiciary and other competition agencies, the Organisation for Economic Co-operation and Development (OECD), the World Trade Organisation (WTO), Southern African Development Community (SADC), and the International Competition Network (ICN) and others.
- f) Government stakeholders that Tribunal may interact with, for example the dtic.

The business model below illustrates the Tribunal's stakeholders and processes that characterize these relationships.



5.7. Strategic Planning Process

The meetings, workshops and consultations were held with regard to the development of a strategic plan and annual performance plan aligned to the recently approved framework and guidelines for strategic planning issued by the Department of Planning, Monitoring and Evaluation (DPME) is detailed in the table below:

Table 4: Strategic planning process calendar

Date	Meeting	Participants	Outcome of meeting
11 November 2020	Tribunal's Operation Committee Meeting	COO Head of Registry Head of Case Management Head of Finance IT Administrator HR Officer Communications Officer	Review of the APP for the 2021-2022 financial year.
30 November 2020	Submission of draft APP 2021-2022 to DTIC for comments		
December 2020	Responses received from DTIC on first draft		
19 January 2021	Workshop held with ManCom to discuss draft APP 2021-2022	Tribunal Chairperson ManCom COO	Required processes and methodology applied to develop PP that is compliant with National Treasury guidelines and DPME framework on planning. Ensure outputs are aligned to the NDP, Economic Reconstruction and Recovery Plan, policy objectives of the DTIC and Tribunal legislative mandate.
31 January 2021	Finalise APP 2021-2022 and submit to DTIC	Tribunal Chairperson COO	Submit to DTIC for Minister's consideration and approval

6. External environmental analysis

Table 5 provides a broad overview of all the external factors considered that may impact on the Tribunal's ability to deliver on its mandate and/or stated outcomes. Both national and international factors were considered and a PESTEL analysis was used to identify these.

Table 5: PESTEL analysis for the Tribunal

FACTOR	ITEM
Political Factors	<ul style="list-style-type: none"> • International <ul style="list-style-type: none"> ○ Biden administration to return US to conventional foreign policy ○ Trade agreements and the impact on exports and imports ○ Global leadership relations ○ Growth of the African Union ○ Role of international bodies, such as the UN, WHO, etc ○ 17 Sustainable Development Goals • National <ul style="list-style-type: none"> ○ Effects of state capture ○ Factional battles within the ruling party ○ Policy uncertainty ○ Rise in civil unrest ○ Growth of racialism ○ Lack of social accord e.g. unions vs business
Economic Factors	<ul style="list-style-type: none"> • National government at the precipice of a sovereign debt crisis • Merger activity affected by the economic slowdown • Impact of COVID-19 • Rising unemployment • Pressure to contain or reduce employment in public sector • Rising inequality • Poor economic growth • Low investor confidence • Failing State Owned Companies • Land expropriation
Social Factors	<ul style="list-style-type: none"> • Standard of education and also the impact of COVID-19– affects quality of interns and skill capacity of staff • Public perception - poor understanding of what we do • Digital divide – the Tribunal’s communication does not reach many parts of the population
Technological Factors	<ul style="list-style-type: none"> • Cyber security is a growing global risk • Fourth industrial revolution – impact on the way we work

FACTOR	ITEM
	<ul style="list-style-type: none"> • Need to consider making processes digital (eg. online filing, virtual hearings) • Demand for Technology and data costs
Environmental Factors	<ul style="list-style-type: none"> • Environmental degradation and climate change is a rising global concern • Diminished capacity of state to provide basic services (e.g. a stable electricity grid) • Rising public interest issues • Business disruption (eg. COVID-19)
Legal Factors	<ul style="list-style-type: none"> • Amendments to the Act • Increased regulation and compliance • International developments in Competition law

7. Internal environmental analysis

The narrative provided below provides a description of some of the more important issues that were identified as part of a detailed root cause analysis performed by the Tribunal during its strategic planning process.

The root-cause analysis was chosen as a methodology to drill down into potential threats that might have a negative impact on the Tribunal's ability to provide efficient and effective service delivery as required by its mandate.

The first potential area is timeous decisions and consistency in the decisions made by the Tribunal and is represented in the problem tree attached as Annexure A to the Strategic Plan.

The root cause analysis process also enabled the Tribunal to identify possible interventions and solutions for delays and inconsistent decision-making. This is included in Annexure B to the Strategic Plan.

The second potential threat identified related to the ineffective utilisation of resources of which the problem tree is shown in Annexure C to the Strategic Plan. The interventions and solutions to address and resolve these causes are reflected in the solution tree in Annexure D to the Strategic Plan.

The meetings and workshops held with regards to the strategic planning process are detailed in section 5.7 of this document.

i. COVID-19

Our internal environment changed significantly with the onset of Covid-19 and the national lockdown that took effect from 27 March 2020. This has altered the manner in which the Tribunal has operated

including that the Tribunal members and staff have worked remotely from home on hearings, panel deliberations and internal meetings were conducted via teleconference. This unfortunately, although not significantly affecting the Tribunal's ability to deliver on its mandate in the short-term, has caused certain inefficiencies and delays that affected the timeframes in which the Tribunal was able to make decisions and provide reasons for its decisions.

This situation is expected to continue in the 2021/2022 financial year for as long as the lockdown conditions remain. However, the above working conditions have also meant that we shall re-evaluate our internal environment based on lessons learned during lockdown. This will include an assessment if certain Tribunal activities may be (more efficiently) performed remotely after lockdown to save costs, for example hearings in so-called "phase 1", uncomplicated mergers. Lessons learned will be evaluated and taken on board. The physical space required by the Tribunal will also be re-evaluated.

ii. Tribunal members

The Act specifies that Tribunal members should collectively represent a broad section of the South African population. The duties and responsibilities of the Tribunal are of national significance and therefore its members must have a high level of technical skill and experience, specifically in competition law and economics. The Tribunal members are required to take decisions of major commercial, economic and public interest and it is therefore necessary (and stipulated in the Act) that they should have qualifications and experience in law, economics, commerce, industry and public affairs.

The Tribunal Chairperson is responsible for managing the caseload of the Tribunal and assigns each matter referred to the Tribunal to a panel. The adjudicative panels of the Tribunal that decide individual matters comprise three Tribunal members of which at least one member of the panel must be a person who has legal training and experience. The panel may consist of any combination of full-time and part-time members.

The Tribunal members are appointed by the President of South Africa, on recommendation of the Minister of Trade, Industry and Competition for a five-year term of office. The President may re-appoint a member of the Tribunal at the expiry of that member's term of office, but no person may be appointed to the office of the Chairperson of the Tribunal for more than two consecutive five-year terms.

The recently amended Act makes provision for an increased number of Tribunal members. It makes provision for the appointment of 15 members (including the Chairperson) as opposed to 11 members prior to the amendments, in anticipation of the increased workload. The amended Act also gives the Minister the power to appoint acting part-time members. None such acting part-time members have been appointed to date but may be appointed in the future.

As at 31 January 2020, the Tribunal's complement of members was ten out of fifteen under the amended Act. Six are lawyers and four are economists. Four are full-time members (including the Chairperson and the Deputy Chairperson) and six part-time. The last new appointment was that of Dr Thando Vilakazi in 2019, an economist and part-time member. No full-time member has been appointed since the resignation of the former Chairperson in 2019. The Tribunal has been operating with four full-time members, instead of five previously.

While these Tribunal member vacancies do not significantly affect the running of the organisation on a day-to-day basis, they impact on the efficiency of the adjudicative process and have caused delays in certain turnaround times – particularly with regard to the issuing of reasons for decisions. This will be further exacerbated by the predicted increased caseload as a result of the recent amendments to the Act. Tribunal member capacity and lack of sufficient funding are identified, amongst others, as the top strategic risks of the Tribunal.

Since the part-time Tribunal members have other work commitments, their availability to the Tribunal, especially for hearings of longer duration, remains a challenge. The part-time members have been more available to the Tribunal during the lockdown as the nature of the cases that were prioritised during the lockdown were of a shorter duration (mergers and excessive pricing complaints).

We anticipate that matters of a longer duration that were on hold during the lockdown will become active. The current ratio of full-time to part-time members is four to six. We believe in order to increase the efficiency of the Tribunal; the optimal ratio is six full-time members to four part-time members. In this APP we have budgeted for the filling of two full-time member vacancies.

Annexure B provides a detailed list of current serving Tribunal members and their respective qualifications.

iii. Tribunal Secretariat

The Tribunal's secretariat provides administrative and operational support within the Tribunal. It currently consists of 22 full-time staff members and three fixed term contract workers in the Case Management Division. The staff is allocated to the following five divisions.

- The Office of the Chief Operating Officer
- The Finance Division
- The Case Management Division
- Registry
- The Corporate Services Division

The Chairperson of the Tribunal is the Accounting Authority and therefore has operational involvement in the day-to-day management of the Tribunal which is consistent with her powers in terms of the Competition Act. Certain responsibilities have been devolved to Divisional heads who report either directly or indirectly to the Chairperson who retains ultimate accountability.

The organogram in **Annexure A** illustrates the current structure of the organisation. The Head of Corporate Services on the organisational structure is currently vacant. The position of COO was vacant for a short period of time and has been filled by Mr Oliver Josie.

Annexure C details the names and positions held by Tribunal employees and provide some statistics pertaining to the profile of the secretariat. 68% of the current employees are black and 73% of them are female. Currently the Tribunal does not employ any persons with disabilities.

iv. Personnel

The Tribunal is an equal opportunity employer and is committed to achieving employment equity in its workplace. The Tribunal respects diversity and subscribes to the constitutional ethos of equality and non-discrimination in all its policies, practices, and activities. These principles are adhered to with respect to the recruitment of staff and human resource policy development.

As can be seen in the organisational structure attached as Annexure A, the Tribunal does not have a hierarchy of positions to which professional staff can aspire. However, some mechanisms have been developed in order to ensure the retention of skilled staff and to provide some career progression albeit limited.

In Registry, for example, it is possible for someone to enter the Tribunal as a Registry Clerk and eventually progress to Registry Administrator or Registrar. In the Case Management division personnel can enter as “junior” case managers and progress to a senior level over a period of three to five years.

Of the five abovementioned Divisions, the Case Management Division, from an adjudicative perspective, is the most important. Case Management is a dynamic process where procedures and processes need to be continuously updated in line with new developments and best practice.

Case Managers must have either a legal or an economics background. It is important that adequate legal as well as economic expertise and experience exist in this division. To address the need for economic expertise specifically, a Senior Economist position exists to ensure a specialised economic resource within the division. The Senior Case manager position is currently filled by a person with a legal background.

The Head of Case Management is a crucial position within the Division which sets the tone and gives strategic direction to the activities of the Division. The current Head of Case Management resigned in December 2020. This position will be filled with a suitably qualified and highly skilled individual with the responsibility to oversee *inter alia* the training, mentoring and guidance of the case managers, as well as ensuring efficiency, consistency, and quality management in the Division.

The Head of Case Management allocates each matter to one or more case manager, depending on the nature and complexity of the case. Priority is given to cases where there are potential significant effects on the economy or the public interest. Case allocation methods and procedures will again receive attention in 2021/22.

Staff turnover in the Tribunal has been low. The highest turnover has occurred in the Case Management Division where case managers spend on average three to four years in the Tribunal and as their marketability increases, they are attracted by higher salaries and more growth opportunities to the legal profession, academia, and economic consultancies. The Tribunal is aware of this trend and that in many senses this is the intellectual capital of the organisation. For this reason a managerial position was created in this department to set the direction of case management activities in the organisation. In addition, a tiered development path (stratification according to the level of experience) has been established so that career and grade growth is feasible to retain experience within the Tribunal.

Finding experienced staff members in the highly specialised field of competition law and economics remains a challenge since the private sector tends to offer more attractive salaries than what the

Tribunal can afford. However, the opportunities presented by being able to work closely with Tribunal members and gain valuable knowledge and experience from a regulatory perspective, assist in attracting staff members of a high quality to the Tribunal.

v. Internship

The Tribunal is a small organisation and is therefore limited in its ability to offer a substantial number of internships. Despite this, the Tribunal has been able to provide an opportunity for students to serve vacation internships in the four divisions of the Tribunal as well as a graduate internship programme in the Case Management division. The interns in this programme will spend on average a year at the Tribunal. Given the Covid-19 working conditions during 2020/2021, the internships of two persons working in the Case Management Division have been extended by one year to address capacity issues as two case manager positions were not filled due to a moratorium on filling positions, resulting from Covid-19 budget cuts.

In other Divisions within the Tribunal, we use the internship programme to provide short-term employment opportunities to unemployed youth. While we are not able to offer long-term employment, we are able to expose them to some valuable work experience.

vi. Capacity Development

The Tribunal is committed to capacity building and recognises that proactive steps need to be taken to train and develop staff given the significant skills gap in South Africa. This is consistent with maximizing the human resource potential of all employees, which is necessary to ensure efficiency and performance excellence.

Training, especially under the Covid-19 conditions, focuses on, in-house training seminars and on-the-job training. This is undertaken to aid staff with the development of experience and skills in competition law and economics.

In the past external training service providers were utilised for specialised training courses. Recent budget cuts and Covid-19 protocols have meant that international conferences could not be attended, unless free of charge and available remotely via teleconference. We have also managed to get international experts to share their valuable knowledge with the Tribunal on a pro bono basis and via teleconference. We plan to continue with this in the 2021/22 financial year.

In 2021/22 the Tribunal will strive to give the staff and members exposure to international best practice in Competition law and policy through virtual attendance at international conferences.

Tribunal members need to keep abreast of the extensive international case law in the field, legal and economic analysis and international best practice to be able to perform their duties optimally.

The Tribunal facilitates this process by identifying the training needs of the Tribunal members and continues to facilitate the attendance of Tribunal members, currently virtually via video conferencing at international conferences where available. These would include the International Competition

Network (ICN) groups, the Annual Fordham Antitrust conference and the OECD Competition Committee meetings, as well as an annual seminar of the Association of Competition Economists.

Since 2006 the Tribunal and the Commission have been observer members of the Competition Committee of the OECD, a body at the international cutting edge of new developments in competition law and policy. Attendance of the OECD will depend on the availability of budget. Full-time Tribunal members will, as far as possible, virtually remain active via video conferencing in international bodies such as the ICN. These meetings provide the Tribunal members with a forum to review their work and to keep up to date with aspects of competition, economics and law. As indicated, due to budget cuts and Covid-19, many of these conferences and forums will be attended via virtual platforms.

When new Tribunal members are appointed, there is a need to engage them in more intensive training thus familiarising them with Competition law and economics. As a result, training expenses and efforts will vary year-on-year depending on the needs of Tribunal members.

vii. Financial requirements and resources

The Tribunal's expenditure requirements (inclusive of capital expenditure) over the Medium-Term Expenditure Framework (2021/2022 – 2023/2024) is estimated to be **R163.06m**. We have budgeted to fund this from the three revenue sources:

- Department of Trade, Industry and Competition (DTIC) approved grant funding of **R121.96m**;
- Expected filing fee revenue of **R40.50m**; and
- Interest on cash holdings of **R0.60m**.

During the initial 2021/2022 budget process, the Tribunal had budgeted for a deficit over the MTEF period totalling R22.53m to be fully funded from accumulated surpluses.

The Tribunal had judiciously accumulated surpluses over a number of years. While the PMFA does not encourage such accumulations of surpluses, National Treasury approved the practice as a necessary mitigant against the variability of filing fees.

South Africa has entered into an economic recession in the wake of the Covid-19 pandemic. This has constrained merger activity, requiring the Tribunal to budget for diminished filing fees over the MTEF.

Government's response to the pandemic has stressed both the expenditure and revenue sides of the national budget. This precipitated a directive by National Treasury for the Tribunal to surrender the balance of its accumulated surplus to the National Revenue Fund in December 2020, to which the Tribunal complied. This has necessitated two responses from the Tribunal; firstly to submit a revised APP and MTEF that do not rely on the accumulated surplus, and secondly to engage with the dtic and National Treasury on a sustainable funding model.

While we have submitted a balanced APP and MTEF, this was only achieved by leaving out key projects from the budget, including the filling of two posts, training, use of consultants and regressive IT and

administration expenditure. Furthermore, it leaves the Tribunal exposed to the variability of filing fees. It is therefore imperative to find a sustainable funding model.

viii. Filing fees

In terms of a memorandum of understanding between the Commission and the Tribunal, the Tribunal receives 30% of all fees filed with the Commission for large mergers and 5% of the fees filed for intermediate merger considerations.

Filing fees have enjoyed a 6.65% long-term compound annual growth rate (1999-2019). In the first half of the current year, filing fees fell by 40.82% from the prior year. While we have seen a recovery in Quarter 3, they remain significantly below pre-Covid-19 levels. Even though the APP and MTEF are premised on the sustainability of this recovery, filing fees are budgeted to be 23.21% below pre-pandemic levels.

Table 6: Summary of Budget estimates over the MTEF period

FINAL MTEF SUBMISSION

Section 53(3) of the PFMA, requires a public entity which must submit a budget in terms of section 53(1) of the PFMA, not to budget for a deficit and not to accumulate surpluses unless the prior written approval of the National Treasury has been obtained. Therefore, the Tribunal had to reduce expenditure to the revenue anticipated over the MTEF period which required significant cuts in many expenditure line items. The summary of the revised MTEF submission is reflected in the table below.

CATEGORY	2021-2022	2022-2023	2023-2024	TOTAL
REVENUE				
GRANT	36,970,000	42,286,000	42,703,000	121,959,000
FILING FEES	13,500,000	13,500,000	13,500,000	40,500,000
INTEREST	180,000	200,000	220,000	600,000
TOTAL REVENUE	50,650,000	55,986,000	56,423,000	163,059,000
TOTAL EXPENDITURE	50,411,853	55,462,637	55,878,140	161,752,630
APPEALS COURT BUDGET	100,000	379,000	394,000	873,000
TOTAL AS PER MTEF	50,511,853	55,841,637	56,272,140	162,625,630
CAPITAL EXPENDITURE	138,147	144,364	150,860	433,371
TOTAL EXPENDITURE	50,650,000	55,986,000	56,423,000	163,059,000
SURPLUS/DEFICIT	0	0	0	0

Annexure D provides a graphical representation of the historic funding and expenditure pertaining to the Tribunal's activities. **Annexure E** reflects the Statement of Financial Performance over the MTEF period included in the ENE submitted in January 2021. **Annexure F** contains a summarized version of the Tribunal's budgetary requirements over the three-year planning period (from 2021/2022 to

2023/2024 budget). **Annexure G** provides the detail of the 2021/2022 budget. **Annexure H** shows the initial MTEF submitted in January 2021.

ix. Budgeting

The Tribunal adopts a conservative budgeting approach for two reasons. Firstly approximately 25% of its revenue is variable whereas up to 95% of its costs are fixed, and secondly, although only 5% of its costs are variable, these costs are driven by caseload which is outside of the Tribunal's control.

This prudent approach accounts for much of the underspend in the three years 2015 to 2018. In the two years 2019 to 2020 the underspend was due to vacancies in Tribunal members. These vacancies were budgeted for and motivated. We continue budgeting for dtic to fill these vacancies.

Table 7: Spend against budget 2015/2016 to 2019/2020

Year	Actual expenditure incl. of capital expenditure	Budget expenditure incl. of capital	% Budget spent	% Budget not spent/overspent
2015/2016	R36.89m	R38.15m	96.70%	3.30% underspent
2016/2017	R38.70m	R42.77m	90.48%	9.52% underspent
2017/2018	R48.29m	R52.22m	92.47%	7.53% underspent
2018/2019	R49.72m	R56.27m	88.36%	11.64% underspent
2019/2020	R49.45m	R61.58m	80.30%	19.70% underspent

PART C: MEASURING OUR PERFORMANCE

8. Institutional Programme Performance Information

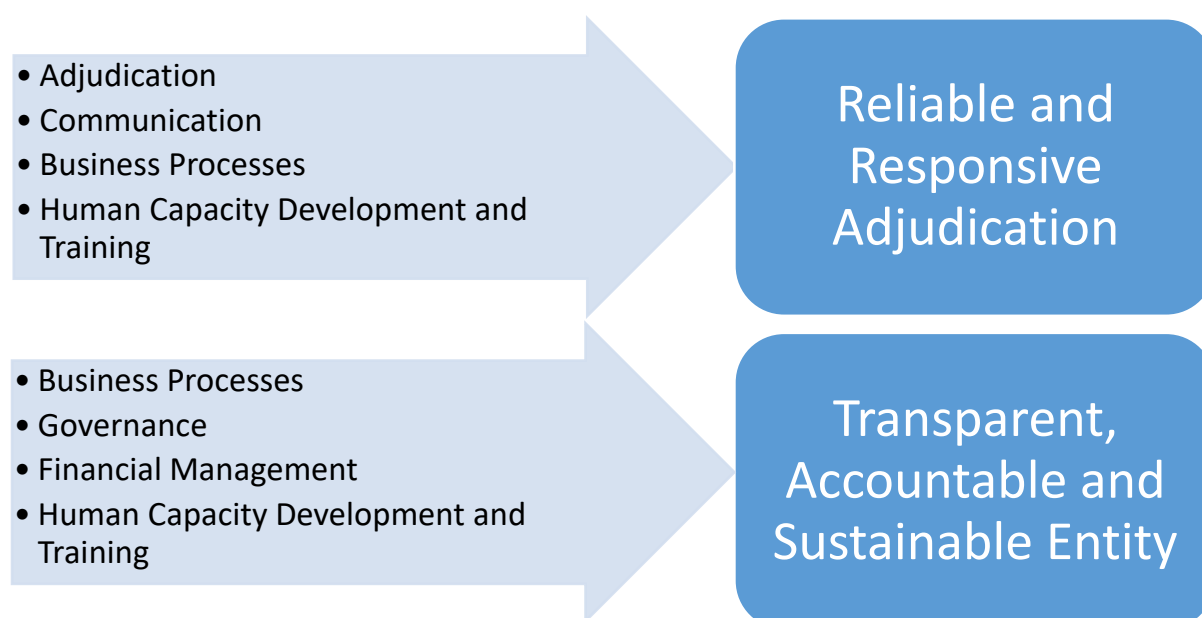
The Tribunal is the court of first instance for competition matters, being a quasi-judicial body, is a creature of statute and is empowered by the Competition Act.

The quasi-judicial nature of the Tribunal precludes the Tribunal from setting pro-active objectives or embarking on focused interventions which target any particular sector or emphasise any specific criterion in its decision-making. The Tribunal has jurisdiction over competition matters across all sectors of the economy and adjudicates each case on its merits. The Tribunal can align its outcomes with those of the NDP, Economic Reconstruction and Recovery Plan, the dtic policy imperatives and seven new joint indicators in the identified sectors, only within the confines of its mandate set out in the Act.

The two stated outcomes of the Tribunal reflect the strategic requirements of the core and secretariat functions of the Tribunal, rather than institution driven programmes (as contemplated in the Strategic Plan Framework).

The Tribunal has identified six focus areas that are linked to the two outcomes of the Tribunal.

A focus area may be linked to both of the outcomes. The linkages are illustrated in the diagram below.



In each of these focus areas we have identified outputs which the Tribunal is aiming to achieve over the Medium-Term Expenditure Framework (MTEF) and how these outputs are linked in support of the identified outcomes. As is illustrated in section 9.3 of this document the Tribunal allocates its budget across these six focus areas.

8.1. Outcomes, Outputs, Performance Indicators and Targets

In this section we explain the purpose of each of these focus areas. We identify the outputs in each of these focus areas that will assist the Tribunal to achieve its stated outcomes.

Indicators to measure the performance/achievement of the outputs against agreed targets are given. Where applicable annual targets are cascaded down to quarterly targets. If the target is applicable in 2020/2021 or was previously applicable in prior years, performance against these targets is reflected in the matrix. If the indicator is new but there is existing information regarding the prior performance against the indicator is also reflected in the matrix (even if it is not an audited outcome).

8.1.1. Adjudication

Adjudication represents the core business of the Tribunal. The Act provides for the Tribunal to regulate two broad areas of competition, mergers and acquisitions on the one hand and prohibited practices on the other.

Outcomes, outputs, indicators and targets for this focus area are indicated in matrix format in the tables that follow.

Table 8: Outcome/Output/Indicator/Targets related to adjudication

OUTCOME	OUTPUT	OUTPUT INDICATOR	AUDITED ACTUAL PERFORMANCE			ESTIMATED PERFORM- MANCE	MTEF PERIOD TARGETS		
			2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24
Responsive and Reliable Adjudication	Effective case management procedures to ensure hearings set down within legislated timeframes	Percentage of large mergers set down for the beginning of a hearing or a pre-hearing within 10 business days of filing of the merger referral.	72%	67%	88%	75%	80%	80%	80%
		Percentage of intermediate and small merger reconsiderations set down for the beginning of a hearing or a pre-hearing within 10 business days of receipt of the Commission's record.	70%	25%	0%	65%	65%	65%	65%
		Percentage of matters classified as complex or very complex where a pre-meeting is held by the panel members and case	New Indicator			70%	70%	70%	70%

OUTCOME	OUTPUT	OUTPUT INDICATOR	AUDITED ACTUAL PERFORMANCE			ESTIMATED PERFORMANCE	MTEF PERIOD TARGETS		
			2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24
		managers prior to the first scheduled hearing date.							
		Percentage of matters classified as complex or very complex where a post-meeting is held by the panel and case managers after the hearing is concluded.	New indicator			80%	80%	80%	80%
	Effective and timeous issuing of orders, and reasons	Percentage of large merger orders issued to parties within 10 business days of last hearing date ² .	100%	97%	100%	95%	95%	95%	95%
		Percentage of reasons for large mergers issued to parties within 20 business days of order being issued.	91%	75%	71%	65%	70%	70%	70%
		Percentage of orders for intermediate and small merger reconsideration issued to parties within 10 business days of last hearing date.	75%	100%	50%	80%	70%	70%	70%
		Percentage of reasons for intermediate and small merger	100%	0%	25%	65%	50%	50%	50%

² A business rule has been established where “hearing date” can refer to any one of the following: actual hearing, telephonic hearing, paper hearing (date on which required documents are submitted – currently referred to as “last submission date”).

OUTCOME	OUTPUT	OUTPUT INDICATOR	AUDITED ACTUAL PERFORMANCE			ESTIMATED PERFORMANCE	MTEF PERIOD TARGETS		
			2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24
		reconsiderations issued to parties within 20 business days of the order being issued.							
		Reasons ³ for prohibited practice cases classified as simple ⁴ are issued to parties within 100 business days of the last hearing date.	50%	0%	No reasons issued	80% ⁵	75%	75%	75%
		Reasons for prohibited practice cases classified as complex ⁶ are issued to parties within 125 business days of the last hearing date.	67%	100%	33%	100%	65% ⁷	65%	65%

³ In exceptional cases an order may be issued before reasons but in most instances orders and reasons are issued simultaneously and therefore reasons date is taken as the indicator.

⁴ Throughout the document we refer to matters as Simple matter, Complex matter, or Very Complex matter. Factors that determine the complexity of a matter include but are not limited to length of case, size of the record and complexity of legal argument. The complexity is determined by the Head of Case Management at the beginning of the hearing.

⁵ The target is binary in that it is either 0% or 100% for e.g. if one out of one set of reasons is not issued within the timeframe then the target is not achieved. The three-year target is set at 100% as stricter monitoring processes are followed.

⁶ See footnote 5 above

⁷ See footnote 6 above

OUTCOME	OUTPUT	OUTPUT INDICATOR	AUDITED ACTUAL PERFORMANCE			ESTIMATED PERFORMANCE	MTEF PERIOD TARGETS		
			2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24
		Reasons ⁸ for prohibited practice cases classified as very complex ⁹ are issued to parties within 150 business days of the last hearing date.	50%	No reasons issued	0%	100% ¹⁰	65%	65%	65%
Responsive and Reliable Adjudication	Effective and timeous issuing of orders, and reasons	Percentage of procedural matter ¹¹ orders issued to parties within 45 business days of the last hearing date.	26%	56%	55%	85%	65%	65%	65%
		Percentage orders for consent orders and settlement agreements issued to parties within 10 business days of the last hearing date.	100%	85%	96%	95%	75%	75%	75%
		Percentage of reasons in interim relief matters issued to parties within 20 business days of last hearing date.	0%	No reasons issued	No reasons issued	0%	65%	65%	65%

⁸ In exceptional cases an order may be issued before reasons but in most instances orders and reasons are issued simultaneously and therefore reasons date is taken as the indicator.

⁹ See footnote 5 above

¹⁰ See footnote 6 above

¹¹ While we refer to procedural matters they include interlocutory applications.

OUTPUT INDICATOR	Annual Targets	Q1	Q2	Q3	Q4
Percentage of large mergers set down for the beginning of a hearing or a pre-hearing within 10 business days of filing of the merger referral.	80%	80%	80%	80%	80%
Percentage of intermediate and small merger reconsiderations set down for the beginning of a hearing or a pre-hearing within 10 business days.	65%	65%	65%	65%	65%
Percentage of matters classified as complex or very complex where a pre-meeting is held by the panel members and case managers prior to the first scheduled hearing date.	70%	70%	70%	70%	70%
Percentage of matters classified as complex or very complex where a post-meeting is held by the panel and case managers after the hearing is concluded.	80%	80%	80%	80%	80%
Percentage of large merger orders issued to parties within 10 business days of last hearing date.	95%	95%	95%	95%	95%
Percentage of reasons for large mergers issued to parties within 20 business days of order being issued.	70%	70%	70%	70%	70%
Percentage of orders for intermediate and small merger reconsideration issued to parties within 10 business days of last hearing date.	70%	70%	70%	70%	70%
Percentage of reasons for intermediate and small merger reconsiderations issued to parties within 20 business days of the order being issued.	50%	50%	50%	50%	50%
Reasons for prohibited practice cases classified as simple are issued to parties within 100 business days of the last hearing date.	75%	75%	75%	75%	75%
Reasons for prohibited practice cases classified as complex are issued to parties within 125 business days of the last hearing date.	65%	65%	65%	65%	65%
Reasons for prohibited practice cases classified as very complex are issued to parties within 150 business days of the last hearing date.	65%	65%	65%	65%	65%
Percentage of procedural matter ¹² orders issued to parties within 45 business days of the last hearing date.	65%	65%	65%	65%	65%
Percentage orders for consent orders and settlement agreements issued to parties within 10 business days of last hearing date.	75%	75%	75%	75%	75%

¹² While we refer to procedural matters they include interlocutory applications.

OUTPUT INDICATOR	Annual Targets	Q1	Q2	Q3	Q4
Percentage of reasons in interim relief matters issued to parties within 20 business days of last hearing date.	65%	65%	65%	65%	65%

8.1.2. Communication

The purpose of this focus area within the Tribunal is to provide a focussed process to create and enhance awareness of the work of the Tribunal. The outcomes, outputs, indicators and targets are detailed in matrix format in Table 9 below.

Table 9: Outcome/Output/Indicator/Targets related to communication

OUTCOME	OUTPUT	OUTPUT INDICATOR	AUDITED ACTUAL PERFORMANCE			ESTIMATED PERFORMANCE	MTEF PERIOD TARGETS		
			2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23
Transparent, Accountable and Sustainable Tribunal	Effective communication and information sharing	Percentage press releases of final merger decisions communicated within 3 business days of order date.	99%	100%	97%	95%	90%	90%	90%
		Percentage press releases of prohibited practice decisions communicated within 3 business days of order date.	80%	60%	60%	90%	90%	90%	90%

OUTCOME	OUTPUT	OUTPUT INDICATOR	AUDITED ACTUAL PERFORMANCE			ESTIMATED PERFORMANCE	MTEF PERIOD TARGETS		
			2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23
		Annual publication (update) of Juris-prudence handbook.	New Indicator			New Indicator	Handbook updated and published	Handbook updated and published	Handbook updated and published

OUTPUT INDICATOR	Annual Targets	Q1	Q2	Q3	Q4
Percentage press releases of final merger decisions communicated within 3 business days of order date.	90%	90%	90%	90%	90%
Percentage press releases of prohibited practice decisions communicated within 3 business days of order date.	90%	90%	90%	90%	90%
Annual publication (update) of Juris-prudence handbook.	Updated handbook published	N/A	N/A	N/A	Updated handbook published

8.1.3. Business processes

The purpose of this function/focus area is to improve the ease of clients using our services, including the review of processes, enhancing management information and record keeping as well as performance management, case flow and document management particularly through innovative technology.

Table 10: Outcome/Output/Indicator/Targets related to business processes

OUTCOME	OUTPUT	OUTPUT INDICATOR	AUDITED ACTUAL PERFORMANCE			ESTIMATED PERFORMANCE	MTEF PERIOD TARGETS		
			2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23
Transparent, Accountable and Sustainable Tribunal	Effective records management	Approved electronic records management policy and filing system. Approved file plan and system implemented according to project plan milestones.	New Indicator			New Indicator	No target set due to lack of funding.	No target set due to lack of funding.	No target set due to lack of funding.
	Improvement in clients using the entities services	The outcomes of the review of processes, including forms and procedures for simplicity and necessity	New Indicator					Quarterly reports sent to dtic	Quarterly reports sent to dtic

OUTPUT INDICATOR	Annual Targets	Q1	Q2	Q3	Q4
Approved electronic records management policy and filing system. Approved file plan and system implemented according to project plan milestones.	Policy and file plan approved.	N/A	N/A	N/A	N/A
The outcomes of the review of processes, including forms and procedures for simplicity and necessity	4 quarterly reports sent to the dtic	1 report	1 report	1 report	1 report

8.1.4. Governance

The main purpose of governance as focus area/function within the Tribunal is to ensure that the entity is managed in a sound, accountable and transparent way. The focus area/function is also responsible for compliance with statutory requirements.

Table 11: Outcome/Output/Indicator/Targets related to governance

OUTCOME	OUTPUT	OUTPUT INDICATOR	AUDITED ACTUAL PERFORMANCE			ESTIMATED PERFORMANCE	MTEF PERIOD TARGETS		
			2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23
Transparent, Accountable and Sustainable Tribunal	Sound governance	Percentage of prior financial year audit (internal and external) findings resolved in terms of agreed timelines with auditors.	New Indicator				100%	100%	100%
		At least one meeting held annually to inform the Tribunal employees of stated APP performance targets and to assess performance against these targets and implement corrective action or revise targets as required.	New Indicator				One meeting	One meeting	One meeting
		No material finding by the Auditor-General at year end.	No findings	No findings	No findings	No findings	No material findings	No material findings	No material findings

OUTPUT INDICATOR	Annual Targets	Q1	Q2	Q3	Q4
Percentage of prior financial year audit (internal and external) findings resolved in terms of agreed timelines with the auditors.	100%	N/A	N/A	N/A	100%
At least one meeting held annually to inform the Tribunal employees of stated APP performance targets and to assess performance against these targets and implement corrective action or revise targets as required.	One meeting	N/A	N/A	N/A	One meeting
No material finding by the Auditor-General at year end.	No material findings	N/A	N/A	N/A	No material findings

8.1.5. Financial management

The purpose of the financial management function/focus area is to ensure the optimal management of financial resource allocation and utilisation. The function is also responsible for ensuring compliance to financial reporting requirements.

Table 12: Outcome/Output/Indicator/Targets related to financial management

OUTCOME	OUTPUT	OUTPUT INDICATOR	AUDITED ACTUAL PERFORMANCE			ESTIMATED PERFORMANCE	MTEF PERIOD TARGETS		
			2016/17	2017/18	2018/19		2020/21	2021/22	2022/23
	Effective financial management	Percentage variance on expenditure against budget.	-9.0% ¹³	-7.5%	-11.6%	New Indicator	-10%	-10%	-10%

¹³ While this is a new indicator we do have the information to reflect prior performance and therefore determine a target based on prior performance

OUTCOME	OUTPUT	OUTPUT INDICATOR	AUDITED ACTUAL PERFORMANCE			ESTIMATED PERFORMANCE	MTEF PERIOD TARGETS		
			2016/17	2017/18	2018/19		2019/20	2020/21	2021/22
Transparent, Accountable and Sustainable Tribunal		No material findings of fruitless & wasteful expenditure reported on in the final audited financial statements.	No findings	No findings	No findings	No findings	No findings	No material findings	No material findings
		No material findings of irregular expenditure reported on in the final audited financial statements.	No findings	1 finding	No findings	No findings	No findings	No material findings	No material findings
		No material misstatements in AFS submitted to National Treasury at 31 May.	No material misstatements				No material misstatements		
	Transformation in procurement practices	Monitor the levels of B-BBEE suppliers in order to promote transformation in procurement practices.	New indicator					Quarterly report sent to the dtic	Quarterly report sent to the dtic

OUTPUT INDICATOR	Annual Targets	Q1	Q2	Q3	Q4
Percentage variance on controllable elements of the expenditure budget.	-10%	-10%	-10%	-10%	-10%
No material findings of fruitless & wasteful expenditure reported on in the final audited financial statements.	No material findings	N/A	N/A	N/A	No material findings

OUTPUT INDICATOR	Annual Targets	Q1	Q2	Q3	Q4
No material findings of irregular expenditure reported on in the final audited financial statements.	No material findings	N/A	N/A	N/A	No material findings
No material misstatements in AFS submitted to National Treasury at 31 May.	None	N/A	N/A	N/A	None
Monitor the levels of B-BBEE suppliers in order to promote transformation in procurement practices.	4 quarterly reports sent to the dtic	1 report	1 report	1 report	1 report

8.1.6. Transformation, human capacity development and training

The Transformation, human capacity development and training function/focus area is to ensure that the Tribunal effectively leverages employee skills by recruiting, retaining and development of high quality performing people in terms of the Employment Equity plan.

The outcome/output/indicators/targets associated with this function/focus area are illustrated in matrix format in table 13 below.

Table 13: Outcome/Output/Indicator/Targets related to human capacity development and training

OUTCOME	OUTPUT	OUTPUT INDICATOR	AUDITED ACTUAL PERFORMANCE			ESTIMATED PERFOR- MANCE	MTEF PERIOD TARGETS		
			2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23
Transparent, Accountable	Transformation, Capacity development,	Average employee performance evaluation score.	3.8	3.4	3.6	3.5	3.5	3.5	3.5

OUTCOME	OUTPUT	OUTPUT INDICATOR	AUDITED ACTUAL PERFORMANCE			ESTIMATED PERFOR- MANCE	MTEF PERIOD TARGETS		
			2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23
and Sustainable Tribunal	retention and training	Percentage vacancy rate.	0% ¹⁴	3.83%	7.69%	3.83%	7% ¹⁵	7%	7%
		Percentage staff turnover.	16% ¹⁶	7.69%	19.23%	3.85%	20% ¹⁷	20%	20%
		At a minimum send at least one representative annually to an OECD competition forum and at least one representative the annual ICN conference.	Achieved	Achieved	Achieved	Achieved	One person per year	One person per conference/forum/per year	
		Facilitate an annual capacity building for case managers and Tribunal members .	New Indicator				Removed due to Covid-19	1	1
		Number of long-term case management interns appointed.	2	2	2	2	2	2	2
		4 quarterly reports sent to the dtic on the	New indicator					4 quarterly reports	4 quarterly reports

¹⁴ The vacancy figures reflected in the baseline and estimated performance reflect the actual vacancy (2016/2017 to 2019/2020) at year end and expected vacancies as at end 2020/2021.

¹⁵ The targets reflected are based on prior period figures as well as number of staff.

¹⁶ The turnover figures reflected in the baseline and estimated performance reflect the actual turnover (2016/2017 to 2019/2020) at year end and expected turnover as at end 2020/2021.

¹⁷ The targets reflected are based on prior period figures as well as an estimation of what level of turnover the Tribunal can accommodate for a short period of time.

OUTCOME	OUTPUT	OUTPUT INDICATOR	AUDITED ACTUAL PERFORMANCE			ESTIMATED PERFORMANCE	MTEF PERIOD TARGETS		
			2016/17	2017/18	2018/19		2019/20	2020/21	2021/22
		implementation of the Employment Equity plan						sent to the dtic	sent to the dtci

OUTPUT INDICATOR	Annual Targets	Q1	Q2	Q3	Q4
Average employee performance evaluation score ¹⁸ .	3.5	N/A	N/A	N/A	3.5
Percentage vacancy rate ¹⁹ .	7%	N/A	N/A	N/A	7%
Percentage staff turnover ²⁰ .	20%	N/A	N/A	N/A	20%
At a minimum at least one representative sent annually to the OECD competition forum and the ICN conference.	One per person per forum	N/A	N/A	N/A	One person per forum
Facilitate an annual capacity building for case manager and Tribunal members.	1	N/A	N/A	N/A	1
Number of long-term case management interns appointed.	2	2	0	0	0

¹⁸ These three targets are measured annually and there is therefore no target set for the first three quarters of the year.

¹⁹ See footnote 21

²⁰ See footnote 22

OUTPUT INDICATOR	Annual Targets	Q1	Q2	Q3	Q4
4 quarterly reports sent to the dtic on the implementation of the Employment Equity plan	4 quarterly reports sent to the dtic	1 report	1 report	1 report	1 report

8.2. Explanation of planned performance over the medium-term period

The two outcomes identified in the Strategic Plan enable the Tribunal to operate within its mandate as a credible institution within the public sector and pursue its commitment to keep the public informed.

Eight outputs have been identified that will enable the Tribunal to achieve these two outcomes. In turn we have identified 31 indicators linked to these outputs that are measured quarterly and annually.

The score card reflected in section 8.1 above reflects the specific outcome, the output aligned to each outcome, output indicators and target assigned for the three-year period. Where possible it also reflects prior period performance and estimates performance for 2020/2021 based on the first two quarters performance.

The targets set by the Tribunal against the outcomes and outputs related to the adjudicative process in particular are generally constant over the three-year period as the Tribunal is a service organisation providing a constant level of service to its clients.

Targets have been set at less than 100% as non-performance is not always attributable to the Tribunal but sometimes due to the request of the parties who may have valid reasons for the delays. In addition, the complexity of matters may result in delays in the issuing of reasons.

In attaining the outcomes and the output indicators the Tribunal identified, a number of strategic interventions will be implemented over the MTSF period.

To achieve “**Responsive and Reliable Adjudication**” the following interventions must be implemented:

- Development of pre-hearing internal guideline document;
- Compile regular case updates on significant developments within the Act;
- Conduct weekly case management meetings;
- Institute a process whereby case managers check files regularly;
- Develop a practice whereby case managers play a stronger oversight role in the whole case management process;
- Conduct monthly training sessions; and
- Improve the case management system for ease of search and reporting functionality.

The Tribunal aims to be a “**Transparent, Accountable and Sustainable**” and in order to achieve that the following interventions must be implemented:

- Review effectiveness of communication with various stakeholders;
- Establish mechanisms or processes for knowledge transfer;
- Review and enhance the employee performance management system;
- Conduct a skills and competency audit that informs the training and capacity development plan;

- Development, adherence and regular reporting against an annual institutional procurement plan;
- Periodic institutional benchmarking against similar institutions or professions;
- Conduct quarterly performance review workshops before finalising and submitting the quarterly reports;
- Review and update the employee and Tribunal member induction process;
- Investigate and conclude a financial model for the Tribunal with the dtic and National Treasury;
- Development and implement a competency evaluation framework;
- Implement skills development and HR retention strategy and plan; and
- Conduct an internal climate survey.

9. Financial considerations and the 2021/2022 budget

9.1. Expenditure Estimates

A final detailed one-year budget for the **2021/2022** year is included in **Annexure G**.

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 not possible 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. The net result is that variances in actual expenditure, as opposed to budgeted expenditure, do arise.

In drafting the 2021/2022 final budget, the Tribunal has considered the main assumptions listed below. The Tribunal's budget is an operational budget and is not programme or project driven. 66.42% of the budget is allocated to personnel expenses (excluding fees payable to part-time Tribunal members).

The main assumptions made in re-drafting the 2021/2022 budget are as follows:

- i) The budgets included in the ENE were drawn based on the average consumer price index (CPI) of 4.5% respectively for the years 2021/2022, 2022/2023 and 2023/2024.
- ii) The leasing fee payable to the DTIC is in line with the contract signed with the DTIC.
- iii) Capacity requirements are such that the Tribunal included the appointment of two additional full-time Tribunal members which were not filled on 2020/2021 due to budget constraints.
- iv) Cost of living increase for all Tribunal staff has been reduced to 0%.
- v) Provision for any promotional adjustments in the salaries of the secretariat staff has been reduced to 0%.
- vi) Provision for performance bonuses have been reduced to 0%.
- vii) All training and development costs have been removed.
- viii) All travel expenditure costs have been removed.
- ix) All consultant costs have been removed.

- x) The Head of Corporate Services will not be filled in 2021/2022.
- xi) The Corporate services internship programme shall not be filled in 2021/2022.
- xii) The Part-time members expenditure has been reduced although if the Full-time member vacancies are not filled; savings shall be allocated to Part-time member fees.
- xiii) 336.19 person days as opposed to 375.19 person days spent in hearings, preparations and decision writing by Part-time Tribunal members for the year (based on a three-year average baseline, an expected escalation in matters brought before the Tribunal based on current and proposed changes to the Act and current volumes during Covid-19).
- xiv) Actual hearing days have been adjusted from 202 to 163 days based on the last three months of hearing days during the current lockdown. The Tribunal has not taken a view on the relaxation of lockdown provisions and will remain responsive to directives as issued by the State President.

Table 14 below illustrates the Tribunal's budget allocation across the various expenditure categories for both the current and the next financial year.

Table 14 – Percentage budget allocation across category of expenditure for the two years (2020/2021 and 2021/2022)

CATEGORY	2020-2021	2021-2022
PERSONNEL	45.03%	38.60%
FT TRIBUNAL MEMBERS	21.21%	27.82%
PT TRIBUNAL MEMBERS	4.96%	5.12%
TRAINING	0.33%	0.07%
CONFERENCES AND SEMINARS	0.00%	0.00%
SHARED SERVICE	1.56%	1.48%
FACILITY FEE	7.60%	13.49%
CONSULTING	0.39%	0.25%
LEGAL FEES	0.15%	0.00%
TRANSCRIPTION FEES	2.45%	1.89%
AUDIT EXPENSES	3.52%	3.60%
RECRUIT COSTS	0.35%	0.05%
ADMIN EXPENSES	2.43%	1.04%
AMORTISATION	1.30%	0.72%
DEPRECIATION	0.80%	1.00%
OTHER IT EXPENDITURE	5.40%	5.19%
REPAIRS/MAINTENANCE	0.04%	0.06%
APPEALS COURT BUDGET	0.46%	0.20%
CAPITAL EXPENDITURE	2.01%	0.27%
TOTAL %	100.00%	100.00%
TOTAL EXPENDITURE	49,641,699	50,650,000

66.42% of the Tribunal's 2021/2022 budget will be spent on personnel expenses. If one includes fees paid to the Part-time Tribunal members in this category it increases to **71.544%**.

"Shared service fee" refers to the payments made to the Competition Commission for shared services (in terms of a Memorandum of Agreement), accounting for **1.48%** of the budget.

Costs associated with audits (internal, external audit fees and audit committee expenses) account for **3.60%** of the budget while administrative expenses account for **1.40%** of the budgeted expenditure.

9.2 Relating Expenditure Estimates to Outcomes and Outputs

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

The Tribunal's strategic outcomes and associated outputs relate primarily to its mandate and core business but also include strategic outcomes and outputs related to oversight and financial management.

Table 15 below indicates the allocation of the annual budget across the two outcomes. We have managed to allocate **77.35%** of the annual budget across the two outcomes.

Table 15 Budget allocation by outcome

Outcome	Budget	% of budget
Responsive and reliable adjudication	R26,627,526	52.57%
Accountable , transparent and sustainable entity	R12,551,209	24.78%
Total	R39,178,735	77.35%

The remaining 22.65% of the budget is distributed as follows:

- Administrative costs, 20.46%
- Depreciation/Amortisation, 1.72%
- Capital expenditure, 0.27%
- Appeal Court costs, 0.20%

9.3. Reconciling targets with the budget and MTEF

As indicated above the Tribunal has been able to allocate 77.35% of its budget against the stated strategic outcomes.

In addition, the budget is further divided by output with linkages to the six identified focus areas as illustrated in table 16 .

Table 16 – Budget allocation by focus area, output and outcome

FOCUS AREA	OUTPUTS	LINK TO OUTCOME	BUDGET
Adjudication	Effective and timeous issuing of orders, and reasons	Responsive and Reliable Adjudication	R17,133,121
	Effective case management procedures to ensure hearings set down within legislated timeframes		R9,494,405
Communication	Effective communication and information sharing	Transparent, Accountable and Sustainable Tribunal	R1,115,539
Business processes	Effective records management		R3,746,420
Governance	Sound governance		R3,914,726
Financial management	Effective financial management		R3,043,701
Human capacity development and training	Capacity development, retention and training		R730,823
	Administration (incl. depreciation)	N/A	R11,233,117
	Capital Expenditure	N/A	R138,147
	Competition Appeal Court	N/A	R100,000
	TOTAL BUDGET		R50,650,000

At present, the adjudication and case management 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 Tribunal's electronic case management system (CMS), currently in operation, enables us to extract data related to the cost of hearings and thereby determine to some extent the ratio between case and non-case related work. Over time we hope to investigate this issue further in order to arrive at a more accurate costing of the Tribunal's core business.

The Tribunal will, on a quarterly basis, report on progress with regards to the achievement of targets and costs associated with pursuing achievement of these targets to the DTIC, National Treasury and to other stakeholders.

9.4. The Competition Appeal Court

The Competition Act, 1998 (Act No. 89 of 1998) (the Act) set up a triad of institutions (the Commission, the Tribunal and the Competition Appeal Court (CAC)) with exclusive jurisdiction over competition matters (that is, chapters 2 and 3 of the Act).

The CAC 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 CAC may review, or consider an appeal arising from, any Tribunal decision.

CAC Judges 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 CAC.

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 function 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 CAC as a line item in its budget and is responsible for the financing of all aspects of the CAC, 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 2021/2022 has been revised to address the financial and operational impact of COVID-19. All expenditure associated with training or overseas travel has been removed and all physical CAC hearings will take place online. The revised budget is therefore R 100,000.

Table 17 - % CAC budget allocation across expenditure categories

CATEGORY	2021/2022 BUDGET
Local travel	63.05%
Administrative expenses	17.60%
Conferences attendance and overseas travel	0.00%
High Court meetings/training	19.35%
Total	100.00%

PART D: TECHNICAL INDICATOR DESCRIPTORS (TID)

10 Technical Indicator descriptors by focus area

10.1 Adjudication

Outcome		Responsive and Reliable Adjudication
1. Indicator Title		Percentage of large mergers set down for the beginning of a hearing or a pre-hearing within 10 business days of filing of the merger referral.
Definition		This performance indicator measures the efficiency of the Tribunal in setting down a pre-hearing date or hearing date for large mergers within the stipulated timeframe.
Source of data		<ul style="list-style-type: none"> ➤ Merger referral documents received by the Tribunal. ➤ Set down notice issued by the Tribunal. ➤ Any correspondence and notices received and issued between the Tribunal, the Commission and parties. ➤ CMS reports. ➤ Qlikview reports (reporting tool placed on top of CMS) that reflect turnaround times. ➤ Hearing calendar. ➤ Transcriptions.
Method of Calculation / Assessment		<p>The method of calculation is a percentage is calculated as follows:</p> <p>Percentage of large mergers set down for the beginning of a hearing or a pre-hearing within 10 business days of the filing of a merger referral = $(a/b) \times 100$.</p> <p>where</p> <p>a = total number of large mergers set down for the beginning of a hearing or pre-hearing within 10 business days.</p> <p>b = total number of large mergers set down²¹</p>
Means of Verification		<ul style="list-style-type: none"> ➤ Workflows built into CMS either prevents further updating or sends alerts if case data is missing.

²¹ The indicator uses the number set down as the denominator as opposed to the number received as receiving documentation does not mean that the merger is ready for a hearing and therefore cannot be a measure of our efficiency. Reasons for variances are given thus indicating if the Tribunal has been inefficient in any way with regard to set down

Outcome	Responsive and Reliable Adjudication
	<ul style="list-style-type: none"> ➤ The Registry Administrator extracts monthly reports from Qlikview and maintains a file that contains source documents. ➤ Data reflected on Qlikview (originally captured on CMS) and source document reviewed to verify data against source document and ensure accuracy. ➤ Registry Administrator will contact official required to input missing data or make corrections on CMS. ➤ Errors and corrections that affect prior period reporting are communicated to Registrar/COO via email. ➤ File reviewed by Registrar on monthly basis and signed off as proof of review. ➤ Registry Administrator completes the performance information report quarterly using Qlikview reports as the basis for data collection. Same process as above followed annually thus providing further opportunity to review monthly information and quarterly reports. ➤ Performance Information reports and file reviewed and verified by Registrar and COO and signed off as proof of review. ➤ One file maintained for an entire financial year and therefore no risk of duplication of source documents which can lead to inaccuracies in data capturing. In addition, same source documents are used for monthly/quarterly and annual review. ➤ Quarterly check of five completed case files to ensure electronic documents mirror hard copy documents and vice versa.
Assumptions	<ul style="list-style-type: none"> ➤ The Tribunal has the financial resources and the capacity to perform its adjudicative function. ➤ There will be no substantial changes to the Tribunal's mandate or the Competition Act that will impact on stipulated timeframes and targets. ➤ That the Tribunal maintains systems, processes and procedures that facilitate the target being achieved.
Disaggregation of Beneficiaries (where applicable)	<ul style="list-style-type: none"> • N/A
Spatial Transformation (where applicable)	<ul style="list-style-type: none"> • N/A
Calculation Type	<ul style="list-style-type: none"> • Percentage
Reporting Cycle	<ul style="list-style-type: none"> • Quarterly and Annually
Desired performance	The aim of the Tribunal is to meet or exceed the 80% target that has been set.
Indicator Responsibility	<ul style="list-style-type: none"> ➤ Data collection, filing/archiving collected data – Registry Administrator ➤ Data extraction – Registry Administrator

Outcome				
Responsive and Reliable Adjudication				
	➤ Verification of accuracy and completeness of extracted and captured information - First level – Registrar Administrator, Second level – Registrar (monthly/quarterly and annually), Third level - COO (only quarterly and annually).			
Baseline	2016/17	2017/18	2018/19	2019/20
*Estimated performance	87%	72%	67%	88%
Annual Targets	2020 / 21	2021 /22	2022 /23	
	75	80%	80%	

Outcome		Responsive and Reliable Adjudication
2. Indicator Title		Percentage of intermediate and small merger reconsiderations set down for the beginning of a hearing or a pre-hearing within 10 business days.
Definition		This performance indicator measures the efficiency of the Tribunal in setting down a pre-hearing or hearing date for Intermediate and small merger reconsiderations within stipulated timeframes.
Source of data		<ul style="list-style-type: none"> ➤ Commission’s record received by the Tribunal ➤ Set down notice issued by the Tribunal ➤ Any correspondence and notices received and issued between the Tribunal, the commission and parties ➤ Case Management System (electronic case management system run by the Tribunal hereinafter referred to as CMS) reports ➤ Qlikview reports (reporting tool placed on top of CMS) that reflect turnaround times ➤ Hearing calendar ➤ Transcriptions
Method of Calculation / Assessment		<p>Method of calculation is a percentage and is calculated as follows:</p> <p>Percentage of Intermediate and small merger reconsiderations set down within 10 business days of receipt of the Commission’s record = (a/b) x 100.</p> <p>Where;</p> <p>a = total number of Intermediate and small merger reconsiderations set down within 10 business days of receipt of the Commissions record.</p> <p>b = total number of Intermediate and small merger considerations set down.</p>
Means of Verification		<ul style="list-style-type: none"> ➤ Workflows built into CMS either prevents further updating or sends alerts if case data is missing. ➤ The Registry Administrator extracts monthly reports from Qlikview and maintains a file that contains source documents.

Outcome	Responsive and Reliable Adjudication
	<ul style="list-style-type: none"> ➤ Data reflected on Qlikview (originally captured on CMS) and source document reviewed to verify data against source document and ensure accuracy. ➤ Registry Administrator will contact official required to input missing data or make corrections on CMS. ➤ Errors and corrections that affect prior period reporting are communicated to Registrar/COO via email. ➤ File reviewed by Registrar on monthly basis and signed off as proof of review. ➤ Quarterly Registry Administrator completes the performance information report using Qlikview reports as the basis for data collection. ➤ The same processes explained above are followed annually thus providing further opportunity to review monthly information and quarterly reports. ➤ Performance Information reports and file reviewed and verified by Registrar and COO and signed off as proof of review. ➤ One file maintained for an entire financial year and therefore no risk of duplication of source documents which can lead to inaccuracies in data capturing. In addition, same source documents are used for monthly/quarterly and annual review. ➤ Quarterly check of five completed case files to ensure electronic documents mirror hard copy documents and vice versa.
Assumptions	<ul style="list-style-type: none"> ➤ The Tribunal has the financial resources and the capacity to perform its adjudicative function. ➤ There will be no substantial changes to the Tribunal's mandate or the Competition Act that will impact on stipulated timeframes and targets. ➤ That the Tribunal maintains systems, processes and procedures that facilitate the target being achieved.
Disaggregation of Beneficiaries (where applicable)	<ul style="list-style-type: none"> • N/A
Spatial Transformation (where applicable)	<ul style="list-style-type: none"> • N/A
Calculation Type	<ul style="list-style-type: none"> • Percentage
Reporting Cycle	<ul style="list-style-type: none"> • Quarterly and Annually
Desired performance	The aim of the Tribunal is to meet or exceed the target that has been set.

Outcome	Responsive and Reliable Adjudication			
Indicator Responsibility	<ul style="list-style-type: none"> ➤ Data collection, filing/archiving collected data – Registry Administrator ➤ Data extraction – Registry Administrator ➤ Verification of accuracy and completeness of extracted and captured information - First level – Registry Administrator, Second level – Registrar (monthly/quarterly and annually), Third level - COO (only quarterly and annually). 			
Baseline *Estimated performance	2016/17	2017/18	2018/19	2019/20
	80%	70%	25%	70%
Annual Targets	2020 / 21	2021 /22	2022 /23	
	65%	65%	65%	

Outcome	Responsive and Reliable Adjudication	
3. Indicator Title	Percentage of matters classified as complex or very complex where a pre-meeting is held by the panel members and case managers prior to the first scheduled hearing date.	
Definition	This indicator measures whether the required pre-hearing meeting is held for all matters classified as complex or very complex	
Source of data	➤ Excel spreadsheet maintained by lead case manager (or Qlikview report) reflecting complex and very complex matters and date of pre - meeting	
Method of Calculation / Assessment	<p>Method of calculation is a percentage and is calculated as follows:</p> <p>Percentage of complex or very complex matters where a pre-meeting is held by the panel and case managers prior to the first scheduled hearing date = $(a/b) \times 100$.</p> <p>where</p> <p>a = total number of complex or very complex matters where a pre-meeting was held.</p> <p>b = total number of complex or very complex matters required to have a pre-meeting</p>	
Means of Verification	<ul style="list-style-type: none"> ➤ Pre-meeting spreadsheet (or Qlikview report)maintained by lead case manager ➤ Pre-meeting notes 	
Assumptions	<ul style="list-style-type: none"> ➤ An assumption is made that the Tribunal will document guidelines indicating when a pre-meeting is required and a process for monitoring that these meetings take place. ➤ An assumption that the Tribunal will investigate the possibility of recording this data in the electronic CMS in order to generate reliable statistics in this regard. 	

Outcome	Responsive and Reliable Adjudication			
Disaggregation of Beneficiaries (where applicable)	N/A			
Spatial Transformation (where applicable)	N/A			
Calculation Type	Percentage			
Reporting Cycle	Quarterly and Annually			
Desired performance	Target is met or exceeded			
Indicator Responsibility	Lead case manager assigned to a case and the Head of Case Management			
Baseline *Estimated performance	2016/17	2017/18	2018/19	2019/20
	New indicator			
Annual Targets	2020 / 21	2021 / 22	2022 / 23	
	70%	70%	70%	

Outcome	Responsive and Reliable Adjudication
4. Indicator Title	Percentage of complex or very complex matters where a post-meeting is held by the panel and case managers after the hearing is concluded.
Definition	This indicator measures whether the required pre-hearing meeting is held for all matters classified as complex or very complex
Source of data	Excel spreadsheet (or Qlikview report) maintained by the lead case manager reflecting matters where post-meeting is required, and date of post-meeting held

Outcome		Responsive and Reliable Adjudication			
Method of Calculation / Assessment	of	Method of calculation is a percentage and is calculated as follows: Percentage of complex or very complex matters where a post-meeting is held by the panel and case managers after the hearing is concluded = (a/b) x 100. where a = total number of complex or very complex matters where a post-meeting was held. b = total number of complex or very complex matters required to have a post-meeting			
		➤ Post-meeting spreadsheet (or Qlikview report) maintained by lead case manager			
		➤ Post-meeting notes			
		➤ An assumption is made that the Tribunal will document guidelines indicating when a post-meeting is required and a process for monitoring that these meetings take place.			
		➤ An assumption that the Tribunal will investigate the possibility of recording this data in the electronic CMS in order to generate reliable statistics in this regard.			
Means of Verification	of				
Assumptions					
Disaggregation of Beneficiaries (where applicable)		N/A			
Spatial Transformation (where applicable)		N/A			
Calculation Type		Percentage			
Reporting Cycle		Quarterly and Annually			
Desired performance		Target is met or exceeded			
Indicator Responsibility		Lead case manager assigned to a case and the Head of Case Management			
Baseline		2016/17	2017/18	2018/19	2019/20
		New indicator			

Outcome	Responsive and Reliable Adjudication		
*Estimated performance			
Annual Targets	2020 / 21	2021 /22	2022 /23
	80%	80%	80%

Outcome	Responsive and Reliable Adjudication		
5. Indicator Title	Percentage of large merger orders issued to parties within 10 business days of last hearing date ²²		
Definition	This performance indicator measures the efficiency of the Tribunal in issuing of decisions for large mergers. Tribunal's decisions are contained in an "order"		
Source of data	<ul style="list-style-type: none"> ➤ Large merger order issued by the Tribunal to parties ➤ Any correspondence and notices received and issued between the Tribunal, the Commission and parties ➤ Case Management System (electronic case management system run by the Tribunal hereinafter referred to as CMS) reports ➤ Qlikview reports (reporting tool placed on top of CMS) that reflect turnaround times ➤ Hearing calendar ➤ Press releases referring to decisions made by the Tribunal ➤ Transcriptions 		
Method of Calculation / Assessment	<p>The method of calculation is a percentage and it is calculated as follows:</p> <p>Percentage of large merger orders issued within ten business days of the last hearing date = $(a/b) \times 100$</p> <p>Where;</p> <p>a = total number of orders for large mergers issued within ten business days of the last hearing date.</p> <p>b = total number of orders for large mergers issued.</p>		
Means of Verification	<ul style="list-style-type: none"> ➤ Workflows built into CMS either prevents further updating or sends alerts if case data is missing. ➤ The Registry Administrator extracts monthly reports from Qlikview and maintains a file that contains source documents. ➤ Data reflected on Qlikview (originally captured on CMS) and source document reviewed to verify data against source document and ensure accuracy. 		

²² A business rule has been established where "hearing date" can refer to any one of the following: actual hearing, telephonic hearing, paper hearing (date on which required documents are submitted – currently referred to as "last submission date").

Outcome	Responsive and Reliable Adjudication
	<ul style="list-style-type: none"> ➤ Registry Administrator will contact official required to input missing data or make corrections on CMS. ➤ Errors and corrections that affect prior period reporting are communicated to the Registrar/COO via email. ➤ File reviewed by Registrar on monthly basis and signed off as proof of review. ➤ Quarterly Registry Administrator completes the performance information report using Qlikview reports as the basis for data collection. ➤ The same processes explained above are followed annually thus providing further opportunity to review monthly information and reports. ➤ Performance Information reports and file reviewed and verified by Registrar and COO and signed off as proof of review. ➤ One file maintained for an entire financial year and therefore no risk of the duplication of source documents which can lead to inaccuracies in data capturing. In addition, same source documents are used for monthly/quarterly and annual review. ➤ Quarterly check of five completed case files to ensure electronic documents mirror hard copy documents and vice versa.
Assumptions	<ul style="list-style-type: none"> ➤ The Tribunal has the financial resources and the capacity to perform its adjudicative function. ➤ There will be no substantial changes to the Tribunal's mandate or the Competition Act that will impact on stipulated timeframes and targets. ➤ That the Tribunal maintains systems, processes and procedures that facilitate the target being achieved.
Disaggregation of Beneficiaries (where applicable)	N/A
Spatial Transformation (where applicable)	N/A
Calculation Type	Percentage
Reporting Cycle	Quarterly and Annually
Desired performance	The aim of the Tribunal is to meet the 95% target that has been set.
Indicator Responsibility	<ul style="list-style-type: none"> ➤ Data collection, filing/archiving collected data – Registry Administrator ➤ Data extraction – Registry Administrator

Outcome	Responsive and Reliable Adjudication			
	➤ Verification of accuracy and completeness of extracted and captured information - First level – Registry Administrator, Second level – Registrar (monthly/quarterly and annually), Third level - COO (only quarterly and annually)			
Baseline	2016/17	2017/18	2018/19	2019/20
*Estimated performance	99%	100%	97%	95%
Annual Targets	2020 / 21	2021 /22	2022 /23	
	95%	95%	95%	

Outcome	Responsive and Reliable Adjudication	
6. Indicator Title	Percentage of reasons for large mergers issued to parties within 20 business days of order being issued.	
Definition	This performance indicator measures the efficiency of the Tribunal in issuing reasons for the decisions (issued through an order) it makes within stipulated time frames	
Source of data	<ul style="list-style-type: none"> ➤ Reasons issued by the Tribunal. ➤ Order issued by the Tribunal. ➤ Official correspondence and notices received and issued by the Tribunal. ➤ CMS reports. ➤ Qlikview reports (reporting tool placed on top of CMS) that reflects turnaround times. ➤ Hearing calendar. ➤ Transcriptions. 	
Method of Calculation / Assessment	<p>The method of calculation used is a percentage and the percentage is calculated as follows:</p> <p>Percentage of reasons for large mergers issued to parties within 20 business days = $(a/b) \times 100$</p> <p>Where;</p> <p>a = total number of reasons for large mergers issued to parties within 20 business days of the date the order was issued.</p> <p>b = total number of reasons for large mergers issued.</p>	
Means of Verification	<ul style="list-style-type: none"> ➤ Workflows built into CMS either prevents further updating or sends alerts if case data is missing. ➤ The Registry Administrator extracts monthly reports from Qlikview and maintains a file that contains source documents. ➤ Data reflected on Qlikview (originally captured on CMS) and source document reviewed to verify data against source 	

Outcome	Responsive and Reliable Adjudication
	<p>document and ensure accuracy.</p> <ul style="list-style-type: none"> ➤ Registry Administrator will contact official required to input missing data or make corrections on CMS. ➤ Errors and corrections that affect prior period reporting are communicated to Registrar/COO via email. ➤ File reviewed by Registrar on monthly basis and signed off as proof of review ➤ Quarterly Registry Administrator completes the performance information. report using Qlikview reports as the basis for data collection. ➤ The same processes explained above are followed annually thus providing further opportunity to review monthly information and reports. ➤ Performance Information reports and file reviewed and verified by Registrar and COO and signed off as proof of review ➤ One file maintained for an entire financial year and therefore no risk of duplication of source documents which can lead to inaccuracies in data capturing. In addition, same source documents are used for monthly/quarterly and annual review ➤ Quarterly check of five completed case files to ensure electronic documents mirror hard copy documents and vice versa
Assumptions	<ul style="list-style-type: none"> ➤ The Tribunal has the financial resources and the capacity to perform its adjudicative function. ➤ There will be no substantial changes to the Tribunal's mandate or the Competition Act that will impact on stipulated timeframes and targets. ➤ That the Tribunal maintains systems, processes and procedures that facilitate the target being achieved.
Disaggregation of Beneficiaries (where applicable)	N/A
Spatial Transformation (where applicable)	N/A
Calculation Type	Percentage
Reporting Cycle	Quarterly and Annually
Desired performance	The aim of the Tribunal is to meet the target that has been set.

Outcome	Responsive and Reliable Adjudication			
Indicator Responsibility	<ul style="list-style-type: none"> ➤ Data collection, filing/archiving collected data – Registry Administrator ➤ Data extraction – Registry staff ➤ Verification of accuracy and completeness of extracted and captured information - First level – Registry Administrator, Second level – Registrar (monthly/quarterly and annually), Third level - COO (only quarterly and annually). 			
Baseline *Estimated performance	2016/17 79%	2017/18 91%	2018/19 75%	2019/20 80%
Annual Targets	2020 / 21 65%	2021 / 22 70%	2022 / 23 70%	

Outcome	Responsive and Reliable Adjudication	
7. Indicator Title	Percentage of orders for intermediate and small merger reconsideration issued to parties within 10 business days of last hearing date ²³ .	
Definition	This performance indicator measures the efficiency of the Tribunal in issuing of decisions in intermediate and small merger reconsiderations. Decisions are issued through an “order”.	
Source of data	<ul style="list-style-type: none"> ➤ Intermediate and small merger reconsideration orders issued by the Tribunal to the parties. ➤ Set down notice issued by the Tribunal. ➤ Official correspondence and notices received and issued by the Tribunal. ➤ CMS reports. ➤ Qlikview reports (reporting tool placed on top of CMS) that reflect turnaround times. ➤ Hearing calendar. ➤ Press releases issued by the Tribunal referring to intermediate and small merger reconsideration orders. ➤ Transcriptions. 	
Method of Calculation / Assessment	<p>The method of calculation is a percentage and is calculated as follows:</p> <p>Percentage of orders for intermediate and small merger reconsiderations issued = (a/b) x 100</p>	

²³ See footnote 1 for the definition of “hearing date”

Outcome	Responsive and Reliable Adjudication
	<p>where</p> <p>a = total number of orders for intermediate and small merger reconsideration issued within 10 business days of the last hearing date.</p> <p>b = total number of orders for intermediate and small merger reconsiderations issued. .</p>
Means of Verification	<ul style="list-style-type: none"> ➤ Workflows built into CMS either prevents further updating or sends alerts if case data is missing. ➤ The Registry Administrator extracts monthly reports from Qlikview and maintains a file that contains source documents. ➤ Data reflected on Qlikview (originally captured on CMS) and source document reviewed to verify data against source document and ensure accuracy. ➤ Registry Administrator will contact official required to input missing data or make corrections on CMS. ➤ Errors and corrections that affect prior period reporting are communicated to Registrar/COO via email. ➤ File reviewed by Registrar on monthly basis and signed off as proof of review. ➤ Quarterly Registry Administrator completes the performance information report using Qlikview reports as the basis for data collection. ➤ The same processes explained above are followed annually thus providing further opportunity to review monthly information and quarterly reports. ➤ Performance Information reports and file reviewed and verified by Registrar and COO and signed off as proof of review. ➤ One file maintained for an entire financial year and therefore no risk of duplication of source documents which can lead to inaccuracies in data capturing. In addition, same source documents are used for monthly/quarterly and annual review. ➤ Quarterly check of five completed case files to ensure electronic documents mirror hard copy documents and vice versa.
Assumptions	<ul style="list-style-type: none"> ➤ The Tribunal has the financial resources and the capacity to perform its adjudicative function. ➤ There will be no substantial changes to the Tribunal's mandate or the Competition Act that will impact on stipulated timeframes and targets. ➤ That the Tribunal maintains systems, processes and procedures that facilitate the target being achieved.
Disaggregation of Beneficiaries (where applicable)	N/A
Spatial Transformation (where applicable)	N/A

Outcome	Responsive and Reliable Adjudication			
Calculation Type	Percentage			
Reporting Cycle	Quarterly and Annually			
Desired performance	The aim of the Tribunal is to meet the 80% target that has been set.			
Indicator Responsibility	<ul style="list-style-type: none"> ➤ Data collection, filing/archiving collected data – Registry Administrator ➤ Data extraction – Registry Administrator ➤ Verification of accuracy and completeness of extracted and captured information - First level – Registry Administrator, Second level – Registrar (monthly/quarterly and annually), Third level - COO (only quarterly and annually). 			
Baseline *Estimated performance	2016/17	2017/18	2018/19	2019/20
	67%	75%	100%	80%
Annual Targets	2020 / 21	2021 /22	2022 /23	
	80%	70%	70%	

Outcome	Responsive and Reliable Adjudication	
8. Indicator Title	Percentage of reasons for intermediate and small merger reconsiderations issued to parties within 20 business days of the order being issued.	
Definition	This performance indicator measures the efficiency of the Tribunal in issuing reasons for intermediate and small merger reconsiderations within the stipulated timeframes.	
Source of data	<ul style="list-style-type: none"> ➤ Intermediate and small merger reconsideration reasons issued by the Tribunal to the parties. ➤ Official correspondence and notices received and issued by the Tribunal. ➤ CMS reports. ➤ Qlikview reports (reporting tool placed on top of CMS) that reflect turnaround times. ➤ Hearing calendar. ➤ Press releases issued by the Tribunal referring to intermediate and small merger reconsideration reasons. ➤ Transcriptions. 	

Outcome		Responsive and Reliable Adjudication
Method of Calculation / Assessment	of /	<p>Method of calculation is a percentage and is calculated as follows:</p> <p>Percentage of reasons for Intermediate and small merger reconsiderations issued within 20 business days of the order being issued = $(a/b) \times 100$</p> <p>Where</p> <p>a = total number of reasons for Intermediate and small merger reconsiderations issued within 20 business days of the order date.</p> <p>b = total number of reasons for Intermediate and small merger reconsiderations issued.</p>
Means Verification	of	<ul style="list-style-type: none"> ➤ Workflows built into CMS either prevents further updating or sends alerts if case data is missing. ➤ The Registry Administrator extracts monthly reports from Qlikview and maintains a file that contains source documents. ➤ Data reflected on Qlikview (originally captured on CMS) and source document reviewed to verify data against source document and ensure accuracy. ➤ Registry Administrator will contact official required to input missing data or make corrections on CMS. ➤ Errors and corrections that affect prior period reporting are communicated to Registrar/COO via email. ➤ File reviewed by Registrar on monthly basis and signed off as proof of review ➤ Quarterly Registry Administrator completes the performance information report using Qlikview reports as the basis for data collection. ➤ The same processes explained above are followed annually thus providing further opportunity to review monthly information and quarterly reports. ➤ Performance Information reports and file reviewed and verified by Registrar and COO and signed off as proof of review ➤ One file maintained for an entire financial year and therefore no risk of duplication of source documents which can lead to inaccuracies in data capturing. In addition, same source documents are used for monthly/quarterly and annual review ➤ Quarterly check of five completed case files to ensure electronic documents mirror hard copy documents and vice versa
Assumptions		<ul style="list-style-type: none"> ➤ The Tribunal has the financial resources and the capacity to perform its adjudicative function. ➤ There will be no substantial changes to the Tribunal's mandate or the Competition Act that will impact on stipulated timeframes and targets. ➤ That the Tribunal maintains systems, processes and procedures that facilitate the target being achieved.
Disaggregation of Beneficiaries (where applicable)		N/A

Outcome	Responsive and Reliable Adjudication			
Spatial Transformation (where applicable)	N/A			
Calculation Type	Percentage			
Reporting Cycle	Quarterly and Annually			
Desired performance	The aim of the Tribunal is to meet the target that has been set.			
Indicator Responsibility	<ul style="list-style-type: none"> ➤ Data collection, filing/archiving collected data – Registry Administrator ➤ Data extraction – Registry Administrator ➤ Verification of accuracy and completeness of extracted and captured information - First level – Registry Administrator, Second level – Registrar (monthly/quarterly and annually), Third level - COO (only quarterly and annually). 			
Baseline *Estimated performance	2016/17	2017/18	2018/19	2019/20
	0%	100%	0%	80%
Annual Targets	2020 / 21	2021 /22	2022 /23	
	65%	50%	50%	

Outcome	Responsive and Reliable Adjudication
9. Indicator Title	Reasons ²⁴ for prohibited practice cases classified as simple ²⁵ issued to parties within 100 business days of the last hearing date
Definition	This performance indicator measures the efficiency of the Tribunal in issuing reasons for prohibited practice cases categorised as simple in the stipulated timeframes.

²⁴ In exceptional cases an order may be issued before reasons but in most instances orders and reasons are issued simultaneously and therefore reasons date is taken as the indicator.

²⁵ Throughout the document we refer to simple matter, complex matter or very complex. Factors that determine the complexity of a matter include but are not limited to length of case, size of the record and complexity of legal argument. The complexity is determined by the panel Chair at the end of the hearing.

Outcome	Responsive and Reliable Adjudication
Source of data	<ul style="list-style-type: none"> ➤ Reasons in prohibited practice cases issued to parties. ➤ CMS reports. ➤ Qlikview reports (reporting tool placed on top of CMS that reflects turnaround times. ➤ Press releases. ➤ Hearing calendar. ➤ Transcriptions.
Method of Calculation / Assessment	<p>The method of calculation is a percentage and is calculated as follows:</p> <p>Percentage of reasons for prohibited practices classified as “ simple” issued within 100 business days of last hearing date= (a/b) x 100</p> <p>Where;</p> <p>a = total number of reasons for prohibited practices classified as “simple” issued within 100 business days of the last hearing date.</p> <p>b = total number of reasons for prohibited practices classified as “simple” issued.</p>
Means of Verification	<ul style="list-style-type: none"> ➤ Workflows built into CMS either prevents further updating or sends alerts if case data is missing. ➤ The Registry Administrator extracts monthly reports from Qlikview and maintains a file that contains source documents. ➤ Data reflected on Qlikview (originally captured on CMS) and source document reviewed to verify data against source document and ensure accuracy. ➤ Registry Administrator will contact official required to input missing data or make corrections on CMS. ➤ Errors and corrections that affect prior period reporting are communicated to Registrar/COO via email. ➤ File reviewed by Registrar on monthly basis and signed off as proof of review. ➤ Quarterly Registry Administrator completes the performance information report using Qlikview reports as the basis for data collection. ➤ The processes explained above are followed annually thus providing further opportunity to review monthly information and quarterly reports. ➤ Performance Information reports and file reviewed and verified by Registrar and COO and signed off as proof of review ➤ One file maintained for an entire financial year and therefore no risk of duplication of source documents which can lead to inaccuracies in data capturing. In addition, same source documents are used for monthly/quarterly and annual review ➤ Quarterly check of five completed case files to ensure electronic documents mirror hard copy documents and vice versa
Assumptions	<ul style="list-style-type: none"> ➤ The Tribunal has the financial resources and the capacity to perform its adjudicative function. ➤ There will be no substantial changes to the Tribunal’s mandate or the Competition Act that will impact on stipulated timeframes and targets. ➤ That the Tribunal maintains systems, processes and procedures that facilitate the target being achieved.

Outcome	Responsive and Reliable Adjudication			
Disaggregation of Beneficiaries (where applicable)	N/A			
Spatial Transformation (where applicable)	N/A			
Calculation Type	Percentage			
Reporting Cycle	Quarterly and Annually			
Desired performance	The aim of the Tribunal is to meet the target that has been set.			
Indicator Responsibility	<ul style="list-style-type: none"> ➤ Data collection, filing/archiving collected data – Registry Administrator ➤ Data extraction – Registry Administrator ➤ Verification of accuracy and completeness of extracted and captured information - First level – Registry Administrator, Second level – Registrar (monthly/quarterly and annually), Third level - COO (only quarterly and annually) 			
Baseline *Estimated performance	2016/17	2017/18	2018/19	2019/20
	None issued	50%	0%	100%
Annual Targets	2020 / 21	2021 /22	2022 /23	
	80% ²⁶	75% ²⁷	75%	

²⁶The target is binary in that it is either 0% or 100% for e.g. if one out of one set of reasons is not issued within the timeframe then the target is not achieved. The three-year target is set at 80% and 100% as stricter monitoring processes are followed.

Outcome		Responsive and Reliable Adjudication
10. Indicator Title		Reasons ²⁷ for prohibited practice cases classified as complex ²⁸ issued to parties within 125 business days of the last hearing date
Definition		This performance indicator measures the efficiency of the Tribunal in issuing reasons for prohibited practice cases categorised as complex in the stipulated timeframes.
Source of data		<ul style="list-style-type: none"> ➤ Reasons in prohibited practice cases issued to parties ➤ CMS reports ➤ Qlikview reports (reporting tool placed on top of CMS that reflects turnaround times) ➤ Press releases ➤ Hearing calendar ➤ Transcriptions
Method of Calculation / Assessment		<p>The method of calculation is a percentage and is calculated as follows:</p> <p>Percentage of reasons for prohibited practices classified as “complex” issued to parties within 125 days of the last hearing date = $(a/b) \times 100$</p> <p>Where;</p> <p>a = total number of reasons for prohibited practices classified as “complex” issued within 125 business days of the last hearing date.</p> <p>b = total number of reasons for prohibited practices classified as “complex” issued.</p>
Means of Verification		<ul style="list-style-type: none"> ➤ Workflows built into CMS either prevents further updating or sends alerts if case data is missing ➤ The Registry Administrator extracts monthly reports from Qlikview and maintains a file that contains source documents. ➤ Data reflected on Qlikview (originally captured on CMS) and source document reviewed to verify data against source document and ensure accuracy. ➤ Registry Administrator will contact official required to input missing data or make corrections on CMS ➤ Errors and corrections that affect prior period reporting are communicated to Registrar/COO via email ➤ File reviewed by Registrar on monthly basis and signed off as proof of review ➤ Quarterly Registry Administrator completes the performance information report using Qlikview reports as the basis for data collection. ➤ The processes explained above are followed annually thus providing further opportunity to review monthly information and quarterly reports. ➤ Performance Information reports and file reviewed and verified by Registrar and COO and signed off as proof of review

²⁷ See footnote 28 above

²⁸ See footnote 29 above

Outcome	Responsive and Reliable Adjudication			
	<ul style="list-style-type: none"> ➤ One file maintained for an entire financial year and therefore no risk of duplication of source documents which can lead to inaccuracies in data capturing. In addition, same source documents are used for monthly/quarterly and annual review ➤ Quarterly check of five completed case files to ensure electronic documents mirror hard copy documents and vice versa 			
Assumptions	<ul style="list-style-type: none"> ➤ The Tribunal has the financial resources and the capacity to perform its adjudicative function. ➤ There will be no substantial changes to the Tribunal's mandate or the Competition Act that will impact on stipulated timeframes and targets. ➤ That the Tribunal maintains systems, processes and procedures that facilitate the target being achieved. 			
Disaggregation of Beneficiaries (where applicable)	N/A			
Spatial Transformation (where applicable)	N/A			
Calculation Type	Percentage			
Reporting Cycle	Quarterly and Annually			
Desired performance	The aim of the Tribunal is to meet the target that has been set.			
Indicator Responsibility	<ul style="list-style-type: none"> ➤ Data collection, filing/archiving collected data – Registry Administrator ➤ Data extraction – Registry Administrator ➤ Verification of accuracy and completeness of extracted and captured information - First level – Registry Administrator, Second level – Registrar (monthly/quarterly and annually), Third level - COO (only quarterly and annually). 			
Baseline *Estimated performance	2016/17	2017/18	2018/19	2019/20
	67%	100%	50%	100%
	2020 / 21	2021 /22		2022 /23

Outcome	Responsive and Reliable Adjudication		
Annual Targets	80% ²⁹	65% ³⁰	65%

Outcome	Responsive and Reliable Adjudication		
11. Indicator Title	Reasons ³⁰ for prohibited practice cases classified as very complex matter ³¹ issued to parties within 150 business days of the last hearing date		
Definition	This performance indicator measures the efficiency of the Tribunal in issuing reasons for prohibited practice cases categorised as very complex in the stipulated timeframes.		
Source of data	<ul style="list-style-type: none"> ➤ Reasons in prohibited practice cases issued to parties. ➤ CMS reports. ➤ Qlikview reports (reporting tool placed on top of CMS that reflects turnaround times. ➤ Press releases. ➤ Hearing calendar. ➤ Transcriptions. 		
Method of Calculation / Assessment	<p>The method of calculation is a percentage and is calculated as follows:</p> <p>Percentage of reasons for prohibited practices classified as “very complex” = $(a/b) \times 100$</p> <p>Where;</p> <p>a = total number of reasons for prohibited practices classified as “very complex” issued within 150 business days of the last hearing date.</p> <p>b = total number of reasons for prohibited practices classified as “very complex” issued.</p>		
Means of Verification	<ul style="list-style-type: none"> ➤ Workflows built into CMS either prevents further updating or sends alerts if case data is missing. ➤ The Registry Administrator extracts monthly reports from Qlikview and maintains a file that contains source documents. ➤ Data reflected on Qlikview (originally captured on CMS) and source document reviewed to verify data against source document and ensure accuracy. ➤ Registry Administrator will contact official required to input missing data or make corrections on CMS. ➤ Errors and corrections that affect prior period reporting are communicated to Registrar/COO via email. ➤ File reviewed by Registrar on monthly basis and signed off as proof of review. 		

²⁹ See footnote 24

³⁰ See footnote 22

³¹ See footnote 23

Outcome	Responsive and Reliable Adjudication
	<ul style="list-style-type: none"> ➤ Quarterly Registry Administrator completes the performance information report using Qlikview reports as the basis for data collection. ➤ The processes explained above are followed annually thus providing further opportunity to review monthly information and quarterly reports. ➤ Performance Information reports and file reviewed and verified by Registrar and COO and signed off as proof of review. ➤ One file maintained for an entire financial year and therefore no risk of duplication of source documents which can lead to inaccuracies in data capturing. In addition, same source documents are used for monthly/quarterly and annual review. ➤ Quarterly check of five completed case files to ensure electronic documents mirror hard copy documents and vice versa.
Assumptions	<ul style="list-style-type: none"> ➤ The Tribunal has the financial resources and the capacity to perform its adjudicative function. ➤ There will be no substantial changes to the Tribunal's mandate or the Competition Act that will impact on stipulated timeframes and targets. ➤ That the Tribunal maintains systems, processes and procedures that facilitate the target being achieved.
Disaggregation of Beneficiaries (where applicable)	N/A
Spatial Transformation (where applicable)	N/A
Calculation Type	Percentage
Reporting Cycle	Quarterly and Annually
Desired performance	The aim of the Tribunal is to meet the target that has been set.
Indicator Responsibility	<ul style="list-style-type: none"> ➤ Data collection, filing/archiving collected data – Registry Administrator ➤ Data extraction – Registry Administrator ➤ Verification of accuracy and completeness of extracted and captured information - First level – Registry Administrator, Second level – Registrar (monthly/quarterly and annually), Third level - COO (only quarterly and annually).

Outcome	Responsive and Reliable Adjudication			
Baseline	2016/17	2017/18	2018/19	2019/20
*Estimated performance	50%	None issued	50%	100%
Annual Targets	2020 / 21	2021 /22	2022 /23	
	80%	65%	65%	

Outcome	Responsive and Reliable Adjudication	
12. Indicator Title	Percentage of procedural matter ³² orders issued to parties within 45 business days of the last hearing date.	
Definition	This performance indicator measures the efficiency of the Tribunal in issuing of orders for procedural matters within the stipulated timeframes.	
Source of data	<ul style="list-style-type: none"> ➤ Orders in procedural matters issued to parties. ➤ CMS reports. ➤ Qlikview reports (reporting tool placed on top of CMS) that reflects turnaround times. ➤ Hearing calendar. ➤ Transcriptions. 	
Method of Calculation / Assessment	<p>The method of calculation used is a percentage and it is calculated as follows:</p> <p>Percentage of procedural matters orders issued to parties within 45 days of the last hearing date = $(a/b) \times 100$</p> <p>Where;</p> <p>a = total number of orders for procedural matters issued within 45 business days of the last hearing date.</p> <p>b = total number of orders for procedural matters issued. .</p>	
Means of Verification	<ul style="list-style-type: none"> ➤ Workflows built into CMS either prevents further updating or sends alerts if case data is missing. ➤ The Registry Administrator extracts monthly reports from Qlikview and maintains a file that contains source documents. ➤ Data reflected on Qlikview (originally captured on CMS) and source document reviewed to verify data against source document and ensure accuracy. ➤ Registry Administrator will contact official required to input missing data or make corrections on CMS. ➤ Errors and corrections that affect prior period reporting are communicated to Registrar/COO via email. 	

³² While we refer to procedural matters they include interlocutory applications.

Outcome	Responsive and Reliable Adjudication
	<ul style="list-style-type: none"> ➤ File reviewed by Registrar on monthly basis and signed off as proof of review. ➤ Quarterly Registry Administrator completes the performance information report using Qlikview reports as the basis for data collection. Same process as above followed annually thus providing further opportunity to review monthly information and quarterly reports. ➤ Performance Information reports and file reviewed and verified by Registrar and COO and signed off as proof of review. ➤ One file maintained for an entire financial year and therefore no risk of duplication of source documents which can lead to inaccuracies in data capturing. In addition, same source documents are used for monthly/quarterly and annual review. ➤ Quarterly check of five completed case files to ensure electronic documents mirror hard copy documents and vice versa.
Assumptions	<ul style="list-style-type: none"> ➤ The Tribunal has the financial resources and the capacity to perform its adjudicative function. ➤ There will be no substantial changes to the Tribunal's mandate or the Competition Act that will impact on stipulated timeframes and targets. ➤ That the Tribunal maintains systems, processes and procedures that facilitate the target being achieved.
Disaggregation of Beneficiaries (where applicable)	N/A
Spatial Transformation (where applicable)	N/A
Calculation Type	Percentage
Reporting Cycle	Quarterly and Annually
Desired performance	The aim of the Tribunal is to meet the target that has been set.
Indicator Responsibility	<ul style="list-style-type: none"> ➤ Data collection, filing/archiving collected data – Registry Administrator ➤ Data extraction – Registry Administrator ➤ Verification of accuracy and completeness of extracted and captured information - First level – Registry Administrator, Second level – Registrar (monthly/quarterly and annually), Third level - COO (only quarterly and annually)

Outcome	Responsive and Reliable Adjudication			
Baseline	2016/17	2017/18	2018/19	2019/20
*Estimated performance	26%	56%	91%	85%
Annual Targets	2020 / 21	2021 / 22	2022 / 23	
	65%	65%	65%	

Outcome	Responsive and Reliable Adjudication	
13. Indicator Title	Percentage orders for consent orders and settlement agreements issued to parties within 10 business days of the last hearing date.	
Definition	This performance indicator measures the efficiency of the Tribunal in issuing of orders for consent orders and settlement agreements in the stipulated timeframes.	
Source of data	<ul style="list-style-type: none"> ➤ Consent order or settlement agreement issued by the Tribunal. ➤ Any correspondence and notices received and issued between the Tribunal, the commission and parties. ➤ CMS reports. ➤ Qlikview reports (reporting tool placed on top of CMS) that reflect turnaround times. ➤ Hearing calendar. ➤ Press releases. ➤ Transcriptions. 	
Method of Calculation / Assessment	<p>The method of calculation is a percentage and is calculated as follows:</p> <p>Percentage of orders for consent orders and settlement agreements issued to parties within 10 business days of the last hearing date = $(a/b) \times 100$</p> <p>where</p> <p>a = total number of orders for consent orders and settlement agreements issued within 10 business days of the last hearing date.</p> <p>b = total number of orders for consent orders and settlement agreements issued.</p>	
Means of Verification	<ul style="list-style-type: none"> ➤ Workflows built into CMS either prevents further updating or sends alerts if case data is missing. ➤ The Registry Administrator extracts monthly reports from Qlikview and maintains a file that contains source documents. ➤ Data reflected on Qlikview (originally captured on CMS) and source document reviewed to verify data against source document and ensure accuracy. ➤ Registry Administrator will contact official required to input missing data or make corrections on CMS. 	

Outcome	Responsive and Reliable Adjudication
	<ul style="list-style-type: none"> ➤ Errors and corrections that affect prior period reporting are communicated to Registrar/COO via email. ➤ File reviewed by Registrar on monthly basis and signed off as proof of review. ➤ Quarterly Registry Administrator completes the performance information report using Qlikview reports as the basis for data collection. Same process as above followed annually thus providing further opportunity to review monthly information and quarterly reports. ➤ Performance Information reports and file reviewed and verified by Registrar and COO and signed off as proof of review. ➤ One file maintained for an entire financial year and therefore no risk of duplication of source documents which can lead to inaccuracies in data capturing. In addition, same source documents are used for monthly/quarterly and annual review. ➤ Quarterly check of five completed case files to ensure electronic documents mirror hard copy documents and vice versa.
Assumptions	<ul style="list-style-type: none"> ➤ The Tribunal has the financial resources and the capacity to perform its adjudicative function. ➤ There will be no substantial changes to the Tribunal's mandate or the Competition Act that will impact on stipulated timeframes and targets. ➤ That the Tribunal maintains systems, processes and procedures that facilitate the target being achieved.
Disaggregation of Beneficiaries (where applicable)	N/A
Spatial Transformation (where applicable)	N/A
Calculation Type	Percentage
Reporting Cycle	Quarterly and Annually
Desired performance	The aim of the Tribunal is to meet or exceed the target that has been set.
Indicator Responsibility	<ul style="list-style-type: none"> ➤ Data collection, filing/archiving collected data – Registry Administrator ➤ Data extraction – Registry Administrator ➤ Verification of accuracy and completeness of extracted and captured information - First level – Registry Administrator, ➤ Second level – Registrar (monthly/quarterly and annually), Third level - COO (only quarterly and annually)

Outcome	Responsive and Reliable Adjudication			
Baseline	2016/17	2017/18	2018/19	2019/20
*Estimated performance	100%	85%	98%	95%
Annual Targets	2020 / 21	2021 / 22	2022 / 23	
	80%	75%	75%	

Outcome	Responsive and Reliable Adjudication	
14. Indicator Title	Percentage of reasons in interim relief matters issued to parties within 20 business days of last hearing date.	
Definition	This performance indicator measures the efficiency of the Tribunal in issuing reasons in interim relief matters to parties within stipulated timeframes.	
Source of data	<ul style="list-style-type: none"> ➤ Reasons issued for interim relief cases. ➤ Any correspondence and notices received and issued between the Tribunal, the Commission and parties. ➤ CMS reports. ➤ Qlikview reports (reporting tool placed on top of CMS) that reflect turnaround times. ➤ Hearing calendar. ➤ Press releases. ➤ Transcriptions. 	
Method of Calculation / Assessment	<p>The method of calculation is a percentage and is calculated as follows:</p> <p>Percentage of reasons for interim relief issued to parties within 20 business days of the last hearing date = $(a/b) \times 100$</p> <p>Where;</p> <p>a = total number of reasons in interim relief issued to parties within 20 business days of the last date/last submission.</p> <p>b = total number of reasons for interim relief issued to parties.</p>	
Means of Verification	<ul style="list-style-type: none"> ➤ Workflows built into CMS either prevents further updating or sends alerts if case data is missing. ➤ The Registry Administrator extracts monthly reports from Qlikview and maintains a file that contains source documents. ➤ Data reflected on Qlikview (originally captured on CMS) and source document reviewed to verify data against source document and ensure accuracy. ➤ Registry Administrator will contact official required to input missing data or make corrections on CMS. ➤ Errors and corrections that affect prior period reporting are communicated to Registrar/COO via email. 	

Outcome	Responsive and Reliable Adjudication
	<ul style="list-style-type: none"> ➤ File reviewed by Registrar on monthly basis and signed off as proof of review. ➤ Quarterly Registry Administrator completes the performance information report using Qlikview reports as the basis for data collection. Same process as above followed annually thus providing further opportunity to review monthly information and quarterly reports. ➤ Performance Information reports and file reviewed and verified by Registrar and COO and signed off as proof of review. ➤ One file maintained for an entire financial year and therefore no risk of duplication of source documents which can lead to inaccuracies in data capturing. In addition, same source documents are used for monthly/quarterly and annual review. ➤ Quarterly check of five completed case files to ensure electronic documents mirror hard copy documents and vice versa.
Assumptions	<ul style="list-style-type: none"> ➤ The Tribunal has the financial resources and the capacity to perform its adjudicative function. ➤ There will be no substantial changes to the Tribunal's mandate or the Competition Act that will impact on stipulated timeframes and targets. ➤ That the Tribunal maintains systems, processes and procedures that facilitate the target being achieved.
Disaggregation of Beneficiaries (where applicable)	N/A
Spatial Transformation (where applicable)	N/A
Calculation Type	Percentage
Reporting Cycle	Quarterly and Annually
Desired performance	The aim of the Tribunal is to meet the target that has been set.
Indicator Responsibility	<ul style="list-style-type: none"> ➤ Data collection, filing/archiving collected data – Registry Administrator ➤ Data extraction – Registry Administrator ➤ Verification of accuracy and completeness of extracted and captured information - First level – Registry Administrator, Second level – Registrar (monthly/quarterly and annually), Third level - COO (only quarterly and annually).

Outcome	Responsive and Reliable Adjudication			
Baseline	2016/17	2017/18	2018/19	2019/20
*Estimated performance	0%	No reasons issued	No reasons issued	90%
Annual Targets	2020 / 21	2021 /22	2022 /23	
	65%	65%	65%	

10.2 Communication

Outcome	Transparent, Accountable and Sustainable Entity	
15. Indicator Title	Percentage press releases of final merger decisions communicated within 3 business days of order date	
Definition	This indicator measures the percentage of final merger decisions for which a press release was issued during the financial year per quarter and cumulatively for the year to date	
Source of data	<ul style="list-style-type: none"> ➤ Press releases issued by the Communications Officer ➤ Large merger orders issued by the Tribunal ➤ Any correspondence between the Communications Officer and stakeholders ➤ Case Management System (electronic case management system run by the Tribunal hereinafter referred to as CMS) reports ➤ Qlikview reports (reporting tool placed on top of CMS) that reflect turnaround times ➤ Hearing calendar 	
Method of Calculation / Assessment	<p>Percentage final merger decisions in which a press release is issued by the Tribunal = $(a/b) \times 100$</p> <p>Where</p> <p>a = total number of final merger decision press releases issued during the delivery period</p> <p>b = total number of final merger decisions issued during the delivery period.</p>	
Means of Verification	<ul style="list-style-type: none"> ➤ The Communications Officer extracts quarterly reports from Qlikview and maintains a file that contains source documents. ➤ Data reflected on Qlikview (originally captured on CMS) and source document reviewed to verify data against source document and ensure accuracy. ➤ Registry Administrator will contact official required to input missing data or make corrections on CMS ➤ Errors and corrections that affect prior period reporting are communicated to Registrar/COO via email ➤ File reviewed by COO on quarterly basis and signed off as proof of review 	

Outcome				
Transparent, Accountable and Sustainable Entity				
	<ul style="list-style-type: none"> ➤ Quarterly Communications Officer and Registry Administrator complete the performance information report using Qlikview reports as the basis for data collection. Same process as above followed annually thus providing further opportunity to review quarterly information. ➤ Performance Information reports and file reviewed and verified by COO and signed off as proof of review ➤ One file maintained for an entire financial year and therefore no risk of duplication of source documents which can lead to inaccuracies in data capturing. In addition, same source documents are used for quarterly and annual review. 			
Assumptions	The Tribunal has been issuing press releases for final merger decisions for many years within stipulated timeframes and therefore if all systems, processes and procedures are maintained the outcome will be achieved			
Disaggregation of Beneficiaries (where applicable)	N/A			
Spatial Transformation (where applicable)	N/A			
Calculation Type	Percentage			
Reporting Cycle	Quarterly and annually			
Desired performance	The target is met or exceeded			
Indicator Responsibility	Communications Officer			
Baseline *Estimated performance	2016/17	2017/18	2018/19	2019/20
	99%	100%	97%	95%
Annual Targets	2020 / 21	2021 /22	2022 /23	
	95%	90%	90%	

Outcome		Transparent, Accountable and Sustainable Entity
16. Indicator Title		Percentage press releases of prohibited practice decisions communicated within 3 business days of order date
Definition		This indicator measures the percentage of final prohibited practice decisions for which a press release was issued during the financial year.
Source of data		<ul style="list-style-type: none"> ➤ Press releases for prohibited practice decisions issued by the Communications Officer ➤ Prohibited practice decisions issued by the Tribunal ➤ Any correspondence between the Communications Officer and stakeholders ➤ Case Management System (electronic case management system run by the Tribunal hereinafter referred to as CMS) reports ➤ Qlikview reports (reporting tool placed on top of CMS) that reflect turnaround times ➤ Hearing calendar
Method of Calculation / Assessment		<p>Percentage of press releases issued for final prohibited practice decisions issued by the Tribunal = $(a/b) \times 100$</p> <p>Where</p> <p>a = total number of final prohibited practice decision press releases issued during the delivery period</p> <p>b = total number of final prohibited practice decisions issued during the delivery period.</p>
Means of Verification		<ul style="list-style-type: none"> ➤ The Communications Officer extracts quarterly reports from Qlikview and maintains a file that contains source documents. ➤ Data reflected on Qlikview (originally captured on CMS) and source document reviewed to verify data against source document and ensure accuracy. ➤ Registry Administrator will contact official required to input missing data or make corrections on CMS ➤ Errors and corrections that affect prior period reporting are communicated to Registrar/COO via email ➤ File reviewed by COO on quarterly basis and signed off as proof of review ➤ Quarterly Communications Officer and Registry Administrator complete the performance information report using Qlikview reports as the basis for data collection. Same process as above followed annually thus providing further opportunity to review quarterly information. ➤ Performance Information reports and file reviewed and verified by COO and signed off as proof of review ➤ One file maintained for an entire financial year and therefore no risk of duplication of source documents which can lead to inaccuracies in data capturing. In addition, same source documents are used for quarterly and annual review.
Assumptions		The Tribunal has been issuing press releases for final merger decisions for many years within stipulated timeframes and therefore if all systems, processes and procedures are maintained the outcome will be achieved
Disaggregation of Beneficiaries		N/A

Outcome	Transparent, Accountable and Sustainable Entity			
(where applicable)				
Spatial Transformation (where applicable)	N/A			
Calculation Type	Percentage			
Reporting Cycle	Quarterly and annually			
Desired performance	The target is met or exceeded			
Indicator Responsibility	Communications Officer			
Baseline	2016/17	2017/18	2018/19	2019/20
*Estimated performance	80%	60%	60%	90%
Annual Targets	2020 / 21	2021 /22	2022 /23	
	90%	90%	90%	

Outcome	Transparent, Accountable and Sustainable Entity			
17. Indicator Title	Annual publication (update) of Juris-prudence handbook			
Definition	A handbook documenting juris-prudence (case law) set by Tribunal decisions will be published and then updated annually. It is intended that the handbook will be distributed to interested parties and placed on the Tribunal's website.			
Source of data	Printed version of handbook or e-book on website contain version and publication date			
Method of Calculation / Assessment	Not calculation			

Outcome	Transparent, Accountable and Sustainable Entity			
Means of Verification	Date of publication of updated handbook			
Assumptions	It is assumed that annually there would be new information pertaining to case law that would require the handbook to be updated			
Disaggregation of Beneficiaries (where applicable)	N/A			
Spatial Transformation (where applicable)	N/A			
Calculation Type	Not calculated			
Reporting Cycle	Annually			
Desired performance	Handbook is updated annually			
Indicator Responsibility	Head of Case Management			
Baseline *Estimated performance	2016/17	2017/18	2018/19	2019/20
	New indicator			
Annual Targets	2020 / 21	2021 /22	2022 /23	
	Handbook updated and published	Handbook updated and published	Handbook updated and published	

10.3 Business processes

Transparent, Accountable and Sustainable Entity	
Outcome	
18. Indicator Title	Policy for electronic records management and filing system approved.
Definition	An electronic records management and filing system compliant with the National Archives Act will be developed and implemented.
Source of data	Policy document on records management that includes an approved file plan.
Method of Calculation / Assessment	Not calculated
Means of Verification	Approved policy and file plan
Assumptions	<ul style="list-style-type: none"> ➤ An assumption is made that a service provider will be appointed through a procurement process to assist the Tribunal with this project. ➤ A further assumption is made that there will be financial and other resources available to implement an electronic records management and filing system.
Disaggregation of Beneficiaries (where applicable)	N/A
Spatial Transformation (where applicable)	N/A
Calculation Type	Not calculated
Reporting Cycle	Annual
Desired performance	Policy and file plan developed and approved.

Outcome	Transparent, Accountable and Sustainable Entity			
Indicator Responsibility	Divisional Heads, IT Administrator, EA:COO and COO			
Baseline *Estimated performance	2016/17	2017/18	2018/19	2019/20
	New indicator			
Annual Targets	2020 / 21	2021 / 22	2022 / 23	
	New indicator.	No target set.	No target set.	

Outcome	Transparent, Accountable and Sustainable Entity	
19. Indicator Title	Improvement in clients using the entities services.	
Definition	To conduct a review(s) of processes, including forms and procedures for simplicity and necessity.	
Source of data	Progress reports compiled by the Divisions.	
Method of Calculation / Assessment	Numerical	
Means of Verification	4 finalised quarterly reports	
Assumptions	<ul style="list-style-type: none"> ➤ An assumption is made that relevant data is collected and analysed from the review process and a progress report is completed on time. ➤ The review exercise(s) may take place in different divisions simultaneously. 	
Disaggregation of Beneficiaries (where applicable)	N/A	
Spatial Transformation	N/A	

Outcome	Transparent, Accountable and Sustainable Entity			
(where applicable)				
Calculation Type	Numerical			
Reporting Cycle	Quarterly			
Desired performance	4 quarterly reports sent to the dtic.			
Indicator Responsibility	Divisional Heads, IT Administrator, HR, EA:COO and COO			
Baseline *Estimated performance	2016/17	2017/18	2018/19	2019/20
	New indicator			
Annual Targets	2020 / 21	2021 /22	2022 /23	
	New indicator.	4 quarterly reports sent to the dtic.	4 quarterly reports sent to the dtic.	

10.4 Governance

Outcome	Transparent, Accountable and Sustainable Entity
20. Indicator Title	Percentage of prior financial year audit (internal and external) findings resolved in terms of agreed timelines with auditors.
Definition	The Tribunal will report on the number of audit findings made in the prior year and then report on the number resolved in terms of the agreed timelines with auditors..
Source of data	<ul style="list-style-type: none"> ➤ Internal and External audit reports ➤ Follow up audits ➤ Internal and external audit findings tracker.

Outcome		Transparent, Accountable and Sustainable Entity			
Method of Calculation / Assessment		Percentage of prior financial year audit findings resolved = $(a/b) \times 100$ Where a = total number of prior year internal and external audit findings in the current financial year b = total number of internal and external audit findings made in the prior financial year.			
Means of Verification		<ul style="list-style-type: none"> ➤ Audit trackers maintained by the Tribunal verify progress made against audit findings. ➤ Follow up audit conducted annually by internal audit tests the documented action and indicates the number of prior period internal audit findings resolved. ➤ External audit in management report documents resolution of prior year audit findings 			
Assumptions		The Tribunal has required processes in place to evaluate resolution of audit findings and progress is addressed in external/internal audits			
Disaggregation of Beneficiaries (where applicable).		N/A.			
Spatial Transformation (where applicable)		N/A.			
Calculation Type		Percentage.			
Reporting Cycle		Annually			
Desired performance		To have 100% resolution of internal and external audit findings.			
Indicator Responsibility		Head of Finance and COO.			
Baseline *Estimated performance		2016/17	2017/18	2018/19	2019/20
		New Indicator			
Annual Targets		2020 / 21	2021 / 22	2022 / 23	
		100%	100%	100%	

Outcome		Transparent, Accountable and Sustainable Entity
21. Indicator Title		At least one meeting held annually to inform Tribunal employees of stated APP performance targets and to assess the Tribunal's performance against these targets and implement corrective action or revise targets as required.
Definition		At least one meeting held per year for the Tribunal to understand stated targets and to assess performance against targets and to address corrective action required for targets to be met.
Source of data		<ul style="list-style-type: none"> ➤ Quarterly and annual PI reports ➤ Targets set in APP
Method of Calculation / Assessment		Not calculated
Means of Verification		<ul style="list-style-type: none"> ➤ Meeting agenda ➤ Meeting minutes ➤ Attendance register ➤ Changes to the APP if applicable
Assumptions		The meeting is diarised and proper preparation to achieve the required result
Disaggregation of Beneficiaries (where applicable)		N/A
Spatial Transformation (where applicable)		N/A
Calculation Type		Not calculated
Reporting Cycle		Annual
Desired performance		Meeting held

Outcome	Transparent, Accountable and Sustainable Entity			
Indicator Responsibility	COO			
Baseline *Estimated performance	2016/17	2017/18	2018/19	2019/20
	New indicator			
Annual Targets	2020 / 21	2021 /22	2022 /23	
	One meeting	One meeting	One meeting	

Outcome	Transparent, Accountable and Sustainable Entity			
22. Indicator Title	At year end, no material finding by the Auditor- General.			
Definition	Any material findings that indicate no-compliance with prescripts of the law or regulations.			
Source of data	➤ Proof of submission of required documents ➤ External findings raised in the management report			
Method of Calculation / Assessment	Not calculated			
Means of Verification	➤ External audit report ➤ External audit tracking register			
Assumptions	Given the changing compliance environment adherence/full implementation is often difficult to achieve.			
Disaggregation of Beneficiaries (where applicable)	N/A			
Spatial Transformation (where applicable)	N/A			
Calculation Type	Not calculated			
Reporting Cycle	Annually but on prior year findings as the audit is concluded			
Desired performance	Target met or exceeded			
Indicator Responsibility	COO			
Baseline *Estimated performance	2016/17	2017/18	2018/19	2019/20
	None	None	None	None

Outcome	Transparent, Accountable and Sustainable Entity		
Annual Targets	2020 / 21	2021 /22	2022 /23
	One finding	No material finding	No material finding

10.5 Financial management

Outcome	Transparent, Accountable and Sustainable Entity		
23. Indicator Title	Percentage variance on expenditure against budget (annual).		
Definition	Actual expenditure against budget is measured. It may not be possible to spend 100% of our budget (given the fact that our budget is based on an estimate of case load). This however provides guidance for future budget preparation and focus areas.		
Source of data	<ul style="list-style-type: none"> ➤ Approved budget ➤ Expenditure against budget ➤ Pastel accounting system 		
Method of Calculation / Assessment	<p>Actual expenditure for the financial year expressed as a percentage of approved annual budget = $(a/b) \times 100$</p> <p>Where</p> <p>a = actual expenditure incurred for the financial year under review</p> <p>b = approved budget for the financial year under review</p> <p>Can be expressed inclusive of capital expenditure and exclusive of capital expenditure.</p>		
Means of Verification	<ul style="list-style-type: none"> ➤ Monthly, quarterly and annual financial statements that reflect both expenditure and approved budget ➤ Pastel accounting system contains all figures that are captured into the financial system. 		
Assumptions	<ul style="list-style-type: none"> ➤ The Tribunal has, in the past, not spent its entire budget and we therefore do not anticipate 100% spend ➤ Accurate calculation is dependent on a system and processes that are accurate and updated regularly 		
Disaggregation of Beneficiaries (where applicable)	N/A.		
Spatial Transformation (where applicable)	N/A.		

Outcome	Transparent, Accountable and Sustainable Entity			
Calculation Type	Percentage.			
Reporting Cycle	Quarterly and annually			
Desired performance	To meet or exceed the target but not to be more than 100% of budget			
Indicator Responsibility	Head of Finance and COO			
Baseline ³³	2016/17	2017/18	2018/19	2019/20*
*Estimated performance	-9.0%	7.5%	11.6%	15%
Annual Targets	2020 / 21	2021 /22	2022 /23	
	-10%	-10%	-10%	

Outcome	Transparent, Accountable and Sustainable Entity			
24. Indicator Title	No material findings of fruitless & wasteful expenditure reported on in the final audited financial statements.			
Definition	This performance indicator measures the extent to which the Tribunal has adequate and effective controls in place to avoid fruitless and wasteful expenditure.			
Source of data	<ul style="list-style-type: none"> ➤ Findings reflected in internal and external audit reports ➤ Procurement documentation (RFQ's/RFP's) 			
Method of Calculation / Assessment	Target not calculated. Qualitative statement but value of fruitless/wasteful will be reflected			
Means of Verification	<ul style="list-style-type: none"> ➤ Value can be verified in GL in Pastel accounting system ➤ Final audit report by Auditor-General. 			
Assumptions	All applicable policies and procedures will be followed in order to prevent findings of this nature.			

³³ While this is a new indicator we have baseline figures from prior years that enable us to set targets

Outcome	Transparent, Accountable and Sustainable Entity			
Disaggregation of Beneficiaries (where applicable)	N/A			
Spatial Transformation (where applicable)	N/A			
Calculation Type	Target not calculated but value of fruitless and wasteful expenditure can be determined.			
Reporting Cycle	Annual			
Desired performance	To meet the target			
Indicator Responsibility	Procurement Officer, Head of Finance and COO			
Baseline *Estimated performance	2016/17	2017/18	2018/19	2019/20
	No findings	No findings	No findings	No findings
Annual Targets	2020 / 21	2021 /22	2022 /23	
	No findings	No material findings	No material findings	

Outcome	Transparent, Accountable and Sustainable Entity			
25. Indicator Title	No material findings of irregular expenditure reported on in the final audited financial statements.			
Definition	This performance indicator measures the extent to which the Tribunal has adequate and effective controls in place to avoid irregular expenditure.			
Source of data	<ul style="list-style-type: none"> ➤ Findings reflected in internal and external audit reports ➤ Procurement documentation (RFQ's/RFP's) ➤ Quarterly reports to NT on irregular expenditure or potential irregular expenditure 			

Outcome		Transparent, Accountable and Sustainable Entity			
Method of Calculation / Assessment		<ul style="list-style-type: none"> Target not calculated. Qualitative statement but value of fruitless/wasteful will be reflected 			
Means of Verification		<ul style="list-style-type: none"> Value can be verified in the general ledger in the Pastel accounting system Value can be verified in Caseware financial package Final audit report by Auditor-General. 			
Assumptions		All applicable policies and procedures will be followed in order to prevent a finding of this nature.			
Disaggregation of Beneficiaries (where applicable)		N/A			
Spatial Transformation (where applicable)		N/A			
Calculation Type		Target not calculated but value of irregular expenditure can be determined			
Reporting Cycle		Annual			
Desired performance		To meet the target			
Indicator Responsibility		Procurement Officer, Head of Finance and COO			
Baseline *Estimated performance		2016/17	2017/18	2018/19	2019/20
		No findings	No findings	No findings	No findings
Annual Targets		2020 / 21	2021 / 22	2022 / 23	
		No findings	No material findings	No material findings	

Outcome	Transparent, Accountable and Sustainable Entity			
26. Indicator Title	No material misstatements in AFS submitted to National Treasury at 31 May			
Definition	This performance indicator measures the extent to which the Tribunal has adequate and effective controls in place to maintain compliance and ensure that financial statements are prepared accurately at initial submission.			
Source of data	➤ Finding reflected in external audit report			
Method of Calculation / Assessment	Target not calculated. Qualitative statement but value of misstatement will be reflected.			
Means of Verification	➤ Value can be verified in the general ledger in Pastel accounting system ➤ Value can be verified in Caseware financial package ➤ Final audit report by Auditor-General.			
Assumptions	➤ All applicable policies and procedures will be followed in order to prevent a finding of this nature. ➤ Data and calculations are such that errors in submission do not occur			
Disaggregation of Beneficiaries (where applicable)	N/A			
Spatial Transformation (where applicable)	N/A			
Calculation Type	Target not calculated but value of irregular expenditure can be determined			
Reporting Cycle	Annual			
Desired performance	To meet the target			
Indicator Responsibility	Head of Finance, COO			
Baseline	2016/17	2017/18	2018/19	2019/20
	No findings	No findings	No findings	No findings

Outcome	Transparent, Accountable and Sustainable Entity			
*Estimated performance				
Annual Targets	2020 / 21	2021 / 22	2022 / 23	
	No findings	No material findings	No material findings	

Outcome	Transparent, Accountable and Sustainable Entity			
27. Indicator Title	Transformation in procurement practices.			
Definition	Monitor the level of B-BBEE suppliers in order to promote transformation in procurement practices.			
Source of data	Quarterly reports compiled by the Finance Division			
Method of Calculation / Assessment	Numerical			
Means of Verification	Quarterly report			
Assumptions	➤ The Finance Division to collect and analyse the relevant data and complete the quarterly report.			
Disaggregation of Beneficiaries (where applicable)	N/A			
Spatial Transformation (where applicable)	N/A			
Calculation Type	Numerical			
Reporting Cycle	Quarterly			
Desired performance	To meet the target			
Indicator Responsibility	Head of Finance, COO			
Baseline	2016/17	2017/18	2018/19	2019/20
*Estimated performance	New indicator			
Annual Targets	2020 / 21	2021 / 22	2022 / 23	
	New indicator	4 quarterly reports sent to the dtic	4 quarterly reports sent to the dtic	

10.6 Transformation, Human capital development and training

Outcome	Transparent, Accountable and Sustainable Entity
28. Indicator Title	Average employee performance evaluation score
Definition	The indicator measures the average of all the scores received by the Tribunal employees (excluding tribunal members) following the annual performance assessment process.
Source of data	<ul style="list-style-type: none"> ➤ Consolidated spreadsheets reflecting individual scores of each employee evaluated. ➤ Completed and signed performance assessment reports completed by line manager and employee
Method of Calculation / Assessment	<p>The rating scale uses a score of zero (0) to five (5).</p> <p>A score of 3 - 3.4 indicates that an employee is performing as per position requirements.</p> <p>The final score of each employee is added and divided by the number of employees assessed in order to arrive at the average performance rating.</p>
Means of Verification	<p>The individual score can be verified on each individual's completed performance assessment report.</p> <p>The average score for the Tribunal can be verified on the excel spreadsheet maintained by the HR Officer.</p>
Assumptions	<ul style="list-style-type: none"> ➤ Performance assessment processes are embedded in the Tribunal and that all assessments are performed objectively. ➤ An average performance score for the Tribunal over the past three years was 3.56 (2018/19 – 3.6; 2017/18 – 3.4; 2016/17 – 3.8)
Disaggregation of Beneficiaries (where applicable)	Not Applicable
Spatial Transformation (where applicable)	Not Applicable
Calculation Type	Average calculation (total performance score / number of employees assessed and expressed as a score out of 5)
Reporting Cycle	Annual
Desired performance	3.5 or above

Outcome	Transparent, Accountable and Sustainable Entity			
Indicator Responsibility	Line Managers, HR Officers and COO			
Baseline	2016/17	2017/18	2018/19	2019/20
*Estimated performance	3.8	3.4	3.6	3.5
Annual Targets	2020 / 21	2021 / 22	2022 / 23	
	3.5	3.5	3.5	

Outcome	Transparent, Accountable and Sustainable Entity	
29. Indicator Title	Percentage of funded full-time ³⁴ secretariat posts vacant in the Tribunal per year.	
Definition	➤ Monitoring the vacancy rate against an acceptable level (the target) thus ensuring that the Tribunal is adequately capacitated to provide technical and administrative support to the adjudication process.	
Source of data	➤ Tribunal's payroll system ➤ Summary reports compiled by the HR Officer	
Method of Calculation / Assessment	Percentage of vacant funded full-time secretariat posts = $(a/b) \times 100$ Where a = total number of funded full-time secretariat posts vacant in the current financial year b = total number of funded full-time secretariat posts in the Tribunal's approved structure.	
Means of Verification	➤ Head count of full-time secretariat staff vs funded full-time secretariat posts ➤ Compensation of employee's budget ➤ Approved structure ➤ Summary reports by the HR officer	
Assumptions	➤ The Tribunal has sufficient budget allocated for the funded full-time secretariat positions ➤ That optimal capacity exists through a low vacancy rate.	
Disaggregation of Beneficiaries	N/A	

³⁴ Funded full-time secretariat posts refer to posts that are on the approved structure of the Tribunal and which are funded in accordance with the compensation of employee's budget. Excludes Tribunal members who are appointed by the President of South Africa on a five-year term

Outcome	Transparent, Accountable and Sustainable Entity			
(where applicable).				
Spatial Transformation (where applicable)	N/A			
Calculation Type	Non-cumulative			
Reporting Cycle	Measured quarterly but report annually against target.			
Desired performance	To meet and not exceed the vacancy rate.			
Indicator Responsibility	HR Officer			
Baseline	2016/17	2017/18	2018/19	2019/20
*Estimated performance	0% ³⁵	3.83%	7.69%	3.83%
Annual Targets	2020 / 21	2021 /22	2022 /23	
	7% ³⁶	7% ³⁷	7%	

Outcome	Transparent, Accountable and Sustainable Entity	
30. Indicator Title	Percentage annualised turnover for the full-time Tribunal secretariat	
Definition	Monitoring that the turnover rate remains at an acceptable level (the target) and therefore ensures that the Tribunal is adequately capacitated to provide technical and administrative support to the adjudication process.	
Source of data	<ul style="list-style-type: none"> ➤ Tribunal's payroll system ➤ Summary reports compiled by the HR Officer 	

³⁵ The vacancy figures reflected in the baseline and estimated performance reflect the actual vacancy (2016/2017 to 2018/2019) at year end and expected vacancies as at end 2019/2020.

³⁶ The targets reflected are based on prior period figures as well as an estimation of how many vacancies the Tribunal can accommodate for a short period of time.

Outcome		Transparent, Accountable and Sustainable Entity			
Method of Calculation / Assessment		<p>Percentage of staff = $(a/b) \times 100$</p> <p>Where</p> <p>a = total number of funded secretariat posts vacant in the current financial year</p> <p>b = total number of funded secretariat posts in the Tribunal's approved structure.</p> <ul style="list-style-type: none"> Measured at end of quarter and year to date 			
Means of Verification		<ul style="list-style-type: none"> ➤ Head count of full-time staff vs funded posts ➤ Compensation of employee's budget ➤ Approved structure ➤ Summary reports by the HR officer 			
Assumptions		<ul style="list-style-type: none"> ➤ The Tribunal has sufficient budget allocated for the funded secretariat positions ➤ That optimal capacity exists through a low vacancy rate ➤ Currently 26 funded secretariat positions 			
Disaggregation of Beneficiaries (where applicable)		N/A			
Spatial Transformation (where applicable)		N/A			
Calculation Type		Non-Cumulative (simple count)			
Reporting Cycle		Measured quarterly but report annually against target.			
Desired performance		To meet and not exceed the vacancy rate			
Indicator Responsibility		HR Officer			
		2016/17	2017/18	2018/19	2019/20

Outcome	Transparent, Accountable and Sustainable Entity			
Baseline *Estimated performance	16% ³⁷	7.69%	19.23%	3.85%
Annual Targets	2020 / 21	2021 /22	2022 /23	
	20% ³⁸	20% ³⁹	20%	

Outcome	Transparent, Accountable and Sustainable Entity			
31. Indicator Title	Send at least one representative annually to an OECD competition forum and at least one representative the annual ICN conference (2 in total).			
Definition	<ul style="list-style-type: none"> ➤ Measures the attendance of Tribunal representatives at two specifically identified conferences/forums. ➤ Tribunal members and staff remain up to date in the knowledge of international best practice in competition law and policy 			
Source of data	<ul style="list-style-type: none"> ➤ Training reports completed by delegates ➤ Summary reports compiled by the HR Officer ➤ Employee self-service system 			
Method of Calculation / Assessment	Simple count			
Means of Verification	<ul style="list-style-type: none"> ➤ Training reports completed by delegates ➤ Tribunal accounting system reflects transactions pertaining to conference attendance ➤ Documentary proof (where applicable) of attendance 			
Assumptions	<ul style="list-style-type: none"> ➤ The Tribunal assumes that these two identified forums/conferences still remain the most relevant ➤ Assumption that there is sufficient budget for staff to attend these forums/conferences 			
Disaggregation of Beneficiaries (where applicable)	N/A			

³⁷ The turnover figures reflected in the baseline and estimated performance reflect the actual turnover (2016/2017 to 2018/2019) at year end and expected turnover as at end 2019/2020.

³⁸ The targets reflected are based on prior period figures as well as an estimation of what level of turnover the Tribunal can accommodate for a short period of time.

Outcome	Transparent, Accountable and Sustainable Entity			
Spatial Transformation (where applicable)	N/A			
Calculation Type	Non-Cumulative (simple count)			
Reporting Cycle	Measured quarterly but report annually against target			
Desired performance	To meet or exceed the target			
Indicator Responsibility	Head of Case Management			
Baseline *Estimated performance	2016/17	2017/18	2018/19	2019/20
	Achieved	Achieved	Achieved	Achieved
Annual Targets	2020 / 21	2021 /22	2022 /23	
	1 delegate to one OECD forum	1 delegate per conference/forum	1 delegate per conference/forum	

Outcome	Transparent, Accountable and Sustainable Entity			
32. Indicator Title	Facilitate an annual capacity building workshop for case managers and Tribunal members			
Definition	This performance indicates whether a capacity building workshop is held whereby case managers and Tribunal members receive the requisite training to expand their skills and increase their level of competency in their specific field.			
Source of data	<ul style="list-style-type: none"> ➤ HR summary report compiled by HR Officer ➤ Training report completed by staff attending the workshop 			
Method of Calculation / Assessment	Simple count			
Means of Verification	<ul style="list-style-type: none"> ➤ Training reports completed by delegates ➤ Tribunal accounting system reflects transactions pertaining to conference attendance 			

Outcome	Transparent, Accountable and Sustainable Entity			
	➤ Attendance register			
Assumptions	➤ Assumption that there are skilled and competent facilitators with knowledge of case law ➤ Assumption that there are sufficient financial resources for the Tribunal to host such a workshop and cover all expected costs			
Disaggregation of Beneficiaries (where applicable)	N/A			
Spatial Transformation (where applicable)	N/A			
Calculation Type	Non-cumulative (simple count)			
Reporting Cycle	Measured quarterly but report annually against target			
Desired performance	To meet the required target			
Indicator Responsibility	Head of Case Management			
Baseline	2016/17	2017/18	2018/19	2019/20
*Estimated performance	New indicator			
Annual Targets	2020 / 21	2021 /22	2022 /23	
	Not applicable	1	1	

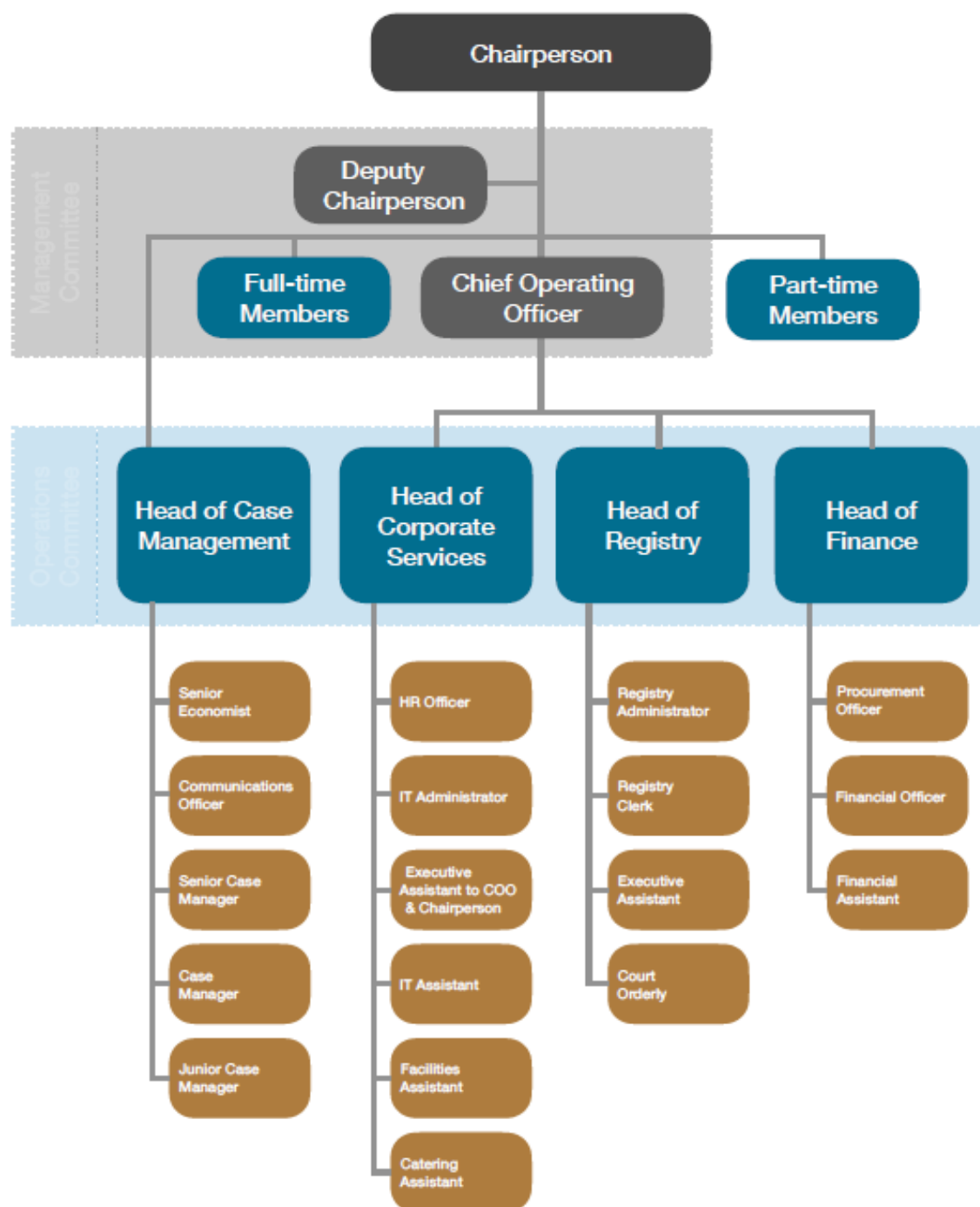
Outcome	Transparent, Accountable and Sustainable Entity
33. Indicator Title	Number of long terms case management interns appointed in the Tribunal in a calendar year
Definition	This performance indicator measures the extent to which the Tribunal has appointed case management interns against a predetermined number.

Outcome	Transparent, Accountable and Sustainable Entity			
Source of data	<ul style="list-style-type: none"> ➤ Payroll system ➤ HR summary reports compiled by the HR Officer 			
Method of Calculation / Assessment	Simple count			
Means of Verification	<ul style="list-style-type: none"> ➤ Actual head count ➤ Signed offer and appointment letters ➤ Signed contracts ➤ Personnel expenditure against budget 			
Assumptions	<ul style="list-style-type: none"> ➤ Assumption that the candidates applying for the positions met the internship requirements ➤ Assumption that the Tribunal has financial resources to employ these interns ➤ Assumption that there is the required space and technological resources required to employ these interns 			
Disaggregation of Beneficiaries (where applicable)	N/A			
Spatial Transformation (where applicable)	N/A			
Calculation Type	Non-cumulative (simple count)			
Reporting Cycle	Measured quarterly but report annually against target			
Desired performance	To meet the required target			
Indicator Responsibility	Head of Case Management			
Baseline	2016/17	2017/18	2018/19	2019/20
	3	2	2	2

Outcome	Transparent, Accountable and Sustainable Entity			
*Estimated performance				
Annual Targets	2020 / 21	2021 /22	2022 /23	
	2	2	2	

Outcome	Transparent, Accountable and Sustainable Entity			
34. Indicator Title	Transformation in terms of Employment Equity.			
Definition	4 quarterly reports sent to the dtic on the implementation of the Employment Equity plan.			
Source of data	➤ Quarterly HR reports compiled by the HR Officer			
Method of Calculation / Assessment	Numerical			
Means of Verification	➤ Quarterly reports completed and submitted to the dtic.			
Assumptions	➤ HR officer to collect and analyse the data and compile a quarterly report.			
Disaggregation of Beneficiaries (where applicable)	N/A			
Spatial Transformation (where applicable)	N/A			
Calculation Type	Numerical			
Reporting Cycle	Quarterly			
Desired performance	To meet the required target			
Indicator Responsibility	HR Officer, COO			
Baseline	2016/17	2017/18	2018/19	2019/20
*Estimated performance	New indicator			
Annual Targets	2020 / 21	2021 /22	2022 /23	
	New indicator	4 quarterly reports sent to the dtic	4 quarterly reports sent to the dtic	

Annexure A: Structural Organogram ³⁹



- ³⁹ The Executive Assistant reports to the Chairperson and COO.

Annexure B: Members of the Competition Tribunal

Chairperson

- Mondo Mazwai (BJuris, LLB), from 01 August 2019 (first term as Chairperson)

Deputy Chairperson

- Enver Daniels (BA(Law), BProc, LLM), from 01 January 2017 (first term)

Full-time members

- Yasmin Carrim (BSc, LLB, HDE(PG) Sec), from 01 August 2004 (fourth term as full-time member)
- Andreas Wessels (BCom, BCom Hons, MCom(Economics)), from 01 August 2009 (third term as full-time member)
- Vacant
- Vacant

Part-time members

- Andiswa Ndoni (BProc, LLB, Post Graduate Diploma Business Management, Cert- Corporate Governance) from 01 August 2009 (third term)
- Anton Roskam (BA, LLB, HDip-Labour Law, MBA) from 01 January 2013 (second term)
- Imraan Valodia (BCom Hons, MSc (Lancaster), DEcon) from 01 January 2013 (second term)
- Fiona Tregenna (BA Hons, MA(Economics) and PhD- Economics,) from 01 September 2013 (second term)
- Halton Cheadle (BA (Hons), B Proc, LLB) from 01 January 2017 (first term)
- Thando Vilakazi (BSc, MCom, PhD(UJ)) from 01 August 2019 (first term)

Annexure C: Competition Tribunal Secretariat

Office of the COO

Oliver Josie – Chief Operating Officer
Lufuno Ramaru, Executive Administrator – Chair, COO

Divisional heads

Vacant (Corporate Services)
Tebogo Mputle (Registry)
Rietsie Badenhorst (Case Management) resigned effective 31 January 2020
Devrani Moonsamy (Finance)

Case managers

Veronica Cadman
Mpumelelo Tshabalala
Karissa Moothoo-Padayachie
Lumkisa Jordaan
Duduetsang Mogapi- commenced 1 February 2021
Busisiwe Masina (contract)
Kgothatso Kgobe (contract)
Gillian de Gouveia – Communications Officer
Peter Kumbirai – intern
Camilla Mathonsi - intern

Registry

Sibongile Moshoeshe - Registry Administrator
Themba Chauke – Registry Clerk
David Tefu - Court Orderly
Nkuli Mpepuka – Executive Assistant – Core
Cyriel Mpaketsane – Registry Assistant

Corporate Services

Bellah Kekana – HR Generalist
Sabinah Monareng – Facilities and Support Services Assistant
Maggie Mkhonto – Catering and Hospitality

Information Technology

Colin Venter - IT support and network administrator

Rendani Neswiswi – IT Assistant

Finance

Fikile Sibanyoni- Financial officer

Ongezwa Dlulane – Financial assistant

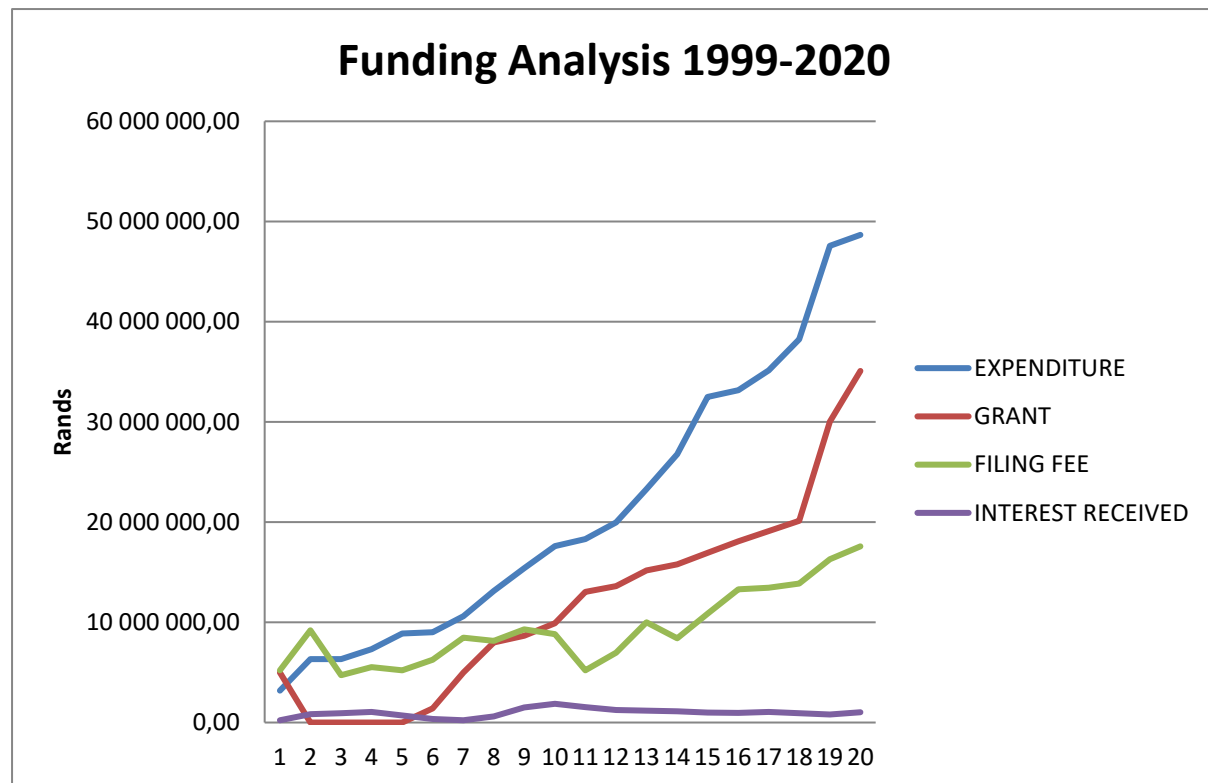
Patricia Froude - Procurement officer

Gender and Race Composition – full-time staff

Gender	Black	White	Asian	Total	Percentage
Male	5	1		6	27%
Female	10	4	2	16	73%
Total	15	5	2	22	100%
Percentage	68%	22.22%	7.41%	100%	

Annexure D: Historical Representation of Expenditure and Funding

Historical representation of Tribunal expenditure and funding 1999-2020)



Annexure E: Statement of Financial Performance – MTEF January 2021

Statement of financial performance									Outcome/ Budget Average %	Average growth rate (%)	Expen- diture/ total: Average (%)				Average growth rate (%)	Expen- diture/ total: Average (%)
	Budget	Audited outcome	Budget	Audited outcome	Budget	Audited outcome	Budget estimate	Approved budget				Medium-term estimate				
R thousand	2017/18		2018/19		2019/20		2020/21		2017/18-2020/21			2021/22	2022/23	2023/24	2020/21 - 2023/24	
Revenue																
Tax revenue	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Non-tax revenue	15,319	17,104	21,183	18,623	25,484	16,663	26,837	10,694	71.0%	-14.5%	31.8%	13,680	13,700	13,720	8.7%	25.2%
Sale of goods and services other than capital assets	14,441	16,295	18,570	17,579	19,499	15,279	20,045	9,735	81.2%	-15.8%	29.7%	13,500	13,500	13,500	11.5%	24.3%
of which:																
Administrative fees	14,441	16,295	18,570	17,579	19,499	15,279	20,045	9,735	81.2%	-15.8%	29.7%	13,500	13,500	13,500	11.5%	24.3%
Sales by market establishment	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Other sales	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Other non-tax revenue	878	809	2,613	1,044	5,985	1,384	6,792	959	25.8%	5.8%	2.1%	180	200	220	-38.8%	0.8%
Interest, dividends and rent on land	878	787	879	1,023	679	1,369	830	959	126.7%	6.8%	2.1%	180	200	220	-38.8%	0.8%
Transfers received	30,041	30,041	35,086	35,086	36,172	36,172	37,403	32,342	96.4%	2.5%	68.2%	36,970	42,286	42,703	9.7%	74.8%
Tax benefit	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Outside shareholders Interest	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total revenue	45,360	47,145	56,269	53,709	61,656	52,835	64,240	43,036	86.5%	-3.0%	100.0%	50,650	55,986	56,423	9.4%	100.0%
Expenses																
Current expenses	50,117	47,466	55,071	48,667	59,750	48,687	62,180	51,243	86.3%	2.6%	100.0%	50,650	55,986	56,423	3.3%	100.0%
Compensation of employees	30,255	27,573	32,185	29,507	35,844	30,514	38,122	34,613	89.6%	7.9%	62.2%	33,615	35,295	35,295	0.7%	64.9%
Goods and services	19,018	18,864	21,820	18,211	22,628	17,241	22,828	15,238	80.6%	-6.9%	35.6%	16,117	19,731	20,126	9.7%	33.1%
Depreciation	844	1,029	1,066	949	1,278	932	1,230	1,392	97.4%	10.6%	2.2%	872	911	952	-11.9%	1.9%
Interest, dividends and rent on land	-	-	-	-	-	-	-	-	-	-	-	46	48	50	-	0.1%
Transfers and subsidies	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Tax payment	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Outside shareholders Interest	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total expenses	50,117	47,466	55,071	48,667	59,750	48,687	62,180	51,243	86.3%	2.6%	100.0%	50,650	55,986	56,423	3.3%	100.0%
Surplus/(Deficit)	(4,757)	(321)	1,198	5,042	1,906	4,148	2,060	(8,207)		194.6%		-	-	-	-100.0%	

Annexure F: Summarised Three-Year Budget 2021/2022 – 2023/2024

CATEGORY	2021-2022	2022-2023	2023-2024	TOTAL
REVENUE				
GRANT	36,970,000	42,286,000	42,703,000	121,959,000
FILING FEES	13,500,000	13,500,000	13,500,000	40,500,000
INTEREST	180,000	200,000	220,000	600,000
TOTAL REVENUE	50,650,000	55,986,000	56,423,000	163,059,000
EXPENDITURE				
PERSONNEL	19,497,911	21,136,170	21,136,170	61,770,251
FT TRIBUNAL MEMBERS	14,091,121	14,091,121	14,091,121	42,273,362
PT TRIBUNAL MEMBERS	2,592,000	2,708,640	2,830,529	8,131,169
TRAINING	0	1,329,713	1,100,806	2,430,519
CONFERENCES AND SEMINARS	0	1,000,000	500,000	1,500,000
SHARED SERVICE	750,000	783,750	819,019	2,352,769
FACILITY FEE	6,830,486	7,137,858	7,459,061	21,427,405
CONSULTING	30,000	31,350	32,761	94,111
LEGAL FEES	0	0	0	0
TRANSCRIPTION FEES	450,000	495,000	544,500	1,489,500
AUDIT EXPENSES	1,908,075	1,993,938	2,083,665	5,985,678
RECRUIT COSTS	25,677	26,832	28,040	80,549
ADMIN EXPENSES	707,354	1,006,185	1,051,464	2,765,004
AMORTISATION	362,606	378,923	395,975	1,137,503
DEPRECIATION	509,006	531,912	555,848	1,596,765
OTHER IT EXPENDITURE	2,628,791	2,781,121	3,217,703	8,627,616
REPAIRS/MAINTENANCE	28,826	30,124	31,479	90,429
TOTAL EXPENDITURE	50,411,853	55,462,637	55,878,140	161,752,630
APPEALS COURT BUDGET	100,000	379,000	394,000	873,000
TOTAL AS PER MTEF	50,511,853	55,841,637	56,272,140	162,625,630
CAPITAL EXPENDITURE	138,147	144,364	150,860	433,371
TOTAL EXPENDITURE	50,650,000	55,986,000	56,423,000	163,059,000
SURPLUS/DEFICIT	0	0	0	0

Annexure G: Detailed One Year Budget - 2021/2022

CATEGORY	ACTIVITY	2021/2022	PERCENTAGE
INCOME			
	FEES RECEIVED	13,500,000	26.65%
	GRANT	36,970,000	72.99%
	INTEREST RECEIVED	180,000	0.36%
TOTAL INCOME		50,650,000	100.00%
EXPENDITURE			
PERSONNEL	SALARIES & ALLOWANCES	13,806,764	27.26%
	FT MEMBERS	13,572,229	26.80%
	FT MEMBERS COMPANY CONTRIBUTIONS	518,892	1.02%
	CFO SALARY	1,836,278	3.63%
	CFO COMPANY CONTRIBUTIONS	81,603	0.16%
	CFO PENSION	148,924	0.29%
	CASUAL LABOUR	24,549	0.05%
	PENSIONABLE BONUS	428,077	0.85%
	PENSION CONTRIBUTION	987,780	1.95%
	MEDICAL CONTRIBUTION	811,980	1.60%
	COMPANY CONTRIBUTIONS	701,286	1.38%
	INTERNS	680,238	1.34%
	COMPANY CONTRIBUTIONS	16,432	0.03%
PART TIME MEMBERS	PT MEMBERS FEES	2,592,000	5.12%
TRAINING	TRAINING	0	0.00%
CONFERENCE/SEMINARS	WORKSHOPS	0	0.00%
SHARED SERVICES	CCSA SHARED SERVICES	750,000	1.48%
FACILITY FEE	OFFICE RENTAL	6,830,486	13.49%
LEGAL FEES	LEGAL FEES	0	0.00%
CONSULTING	PROFESSIONAL	30,000	0.06%
TRANSCRIPTION FEES	RECORDING SERVICES	450,000	0.89%
AUDIT EXPENSES	EXTERNAL AUDIT	948,877	1.87%
	EXTERNAL AUDIT COMMITTEE	493,910	0.98%
	INTERNAL AUDIT	403,320	0.80%
	FRAUD PREVENTION COMMITTEE	35,968	0.07%
RECRUITMENT COSTS	RECRUITMENT COSTS	25,677	0.05%
ADMIN EXPENSES	WORKMENS COMPENSATION	82,991	0.16%
	TRAVEL	0	0.00%
	PARKING	24,000	0.05%
	BANK CHARGES	25,579	0.05%
	FINANCE CHARGES	45,598	0.09%
	DELIVERY CHARGES	843	0.00%
	REFRESHMENTS	0	0.00%
	OFFICE CONSUMABLES	12,000	0.02%
	PRINTING	35,000	0.07%
	STATIONERY	40,000	0.08%
	PAPER PURCHASES	44,460	0.09%
	TECHINICAL CONSULTING	40,000	0.08%
	ANNUAL REPORT	120,000	0.24%
	GOVERNMENT GAZETTE	13,562	0.03%
	COURIER SERVICES	9,575	0.02%
	POSTAGE AND STAMPS	2,633	0.01%
	TELEPHONES/TELEFAXES	12,000	0.02%
	CLEANING MATERIALS	10,459	0.02%
	OFFSITE STORAGE	72,537	0.14%
	MISCELLANEOUS EQUIPMENT	15,750	0.03%
	INSURANCE	100,368	0.20%
OTHER IT EXPENSES	LEASE- PHOTOCOPIER	187,034	0.37%
	LICENSE RENEWALS	881,983	1.74%
	REPAIRS AND MAINTENANCE	933,228	1.84%
	CMS SUPPORT	150,696	0.30%
	INTERNET SERVICES	202,419	0.40%
	EMAIL ARCHIVING	98,431	0.19%
	WEBSITE SERVICES	175,000	0.35%
REPAIRS/MAINTENANCE	MOTOR VEHICLES	25,226	0.05%
	OTHER MAINTENANCE	3,600	0.01%
DEPRECIATION	DEPRECIATION	509,006	1.00%
AMORTISATION	AMORTISATION	362,606	0.72%
CAPITAL EXPENDITURE	COMPUTER EQUIPMENT	88,147	0.17%
	INTANGIBLE ASSETS	50,000	0.10%
TOTAL EXPENDITURE		50,550,000	99.80%
APPEAL COURT		100,000	0.20%
TOTAL EXPENDITURE		50,650,000	100.00%
SURPLUS/ (DEFICIT)		0	

Annexure H: Initial MTEF submitted in January 2021

CATEGORY	2021-2022	2022-2023	2023-2024	TOTAL
REVENUE				
GRANT	36,970,000	42,286,000	42,703,000	121,959,000
FILING FEES	11,459,250	12,146,805	12,875,613	36,481,668
INTEREST	1,431,675	1,073,756	805,317	3,310,748
TOTAL REVENUE	49,860,925	55,506,561	56,383,930	161,751,416
TOTAL EXPENDITURE	57,428,764	59,894,704	62,717,374	180,040,842
APPEALS COURT BUDGET	363,471	378,010	393,131	1,134,612
TOTAL AS PER MTEF	57,792,235	60,272,714	63,110,505	181,175,454
CAPITAL EXPENDITURE	964,787	1,066,906	1,077,457	3,109,150
TOTAL EXPENDITURE	58,757,022	61,339,621	64,187,962	184,284,605
DEFICIT	(8,896,098)	(5,833,060)	(7,804,032)	(22,533,189)
Deficits as a % of total expenditure	-15.14%	-9.51%	-12.16%	-12.23%

The initial submission of the Tribunal's MTEF budget projected a deficit of R22.53m which would have been funded by accumulated surplus.