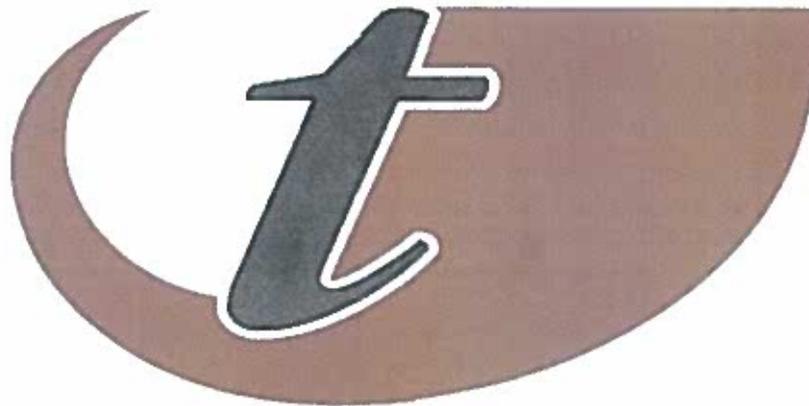


2015



***competition*tribunal**
south africa

**STRATEGIC PLAN FOR THE
YEARS 2015 – 2020**

FOREWORD BY MINISTER

The Competition Tribunal is an important institution that is responsible for adjudicating and ruling on competition matters. It ensures that the objectives of the Competition Act, 1989 are realised through the analysis and decision making of the adjudicative panels, which assess merger transactions, allegations of restrictive practices and abuse of dominance by companies and exemption applications.

The Economic Development Department's strategic objectives are, *inter alia*, to promote competition and smart economic regulation, to coordinate jobs drivers and implementation of the New Growth Path. These strategic objectives are reflected in the Competition Tribunal's legislative mandated outcomes and revised strategic goals. The Competition Act also requires the Competition Tribunal to take specific public interest factors into account, which correlate with the Department's concerns about employment.

The Competition Tribunal's policy priorities, as set out in its strategic plan, have been aligned with the national priorities and specifically the National Development Plan and its operational plan, the New Growth Path. Effective competition policy and implementation is vital if we are to achieve the goal of five million new jobs by 2020.

Although it is recognized that the Competition Tribunal's agenda is largely driven by the cases brought to it by the Competition Commission, it can make a contribution through its core function that deals with competitiveness and competition policy.

The number of matters heard by the Competition Tribunal has increased noticeably during the previous financial year. However, I am satisfied that the Competition Tribunal is taking adequate steps to increase its institutional capacity to meet these challenges, both in terms of staffing and the administrative systems it is adopting to improve efficiencies. The Tribunal has also been strengthened with the recent appointment of Tribunal members.

I endorse the Competition Tribunal's strategic plan and will provide the Tribunal with my support to ensure the implementation thereof.



Ebrahim Patel

Minister of Economic Development

Executive Authority of the Competition Tribunal

OFFICIAL SIGN OFF

It is hereby certified that this Strategic Plan of the Competition Tribunal for the period 2015/2016 – 2019/2020:

- Was developed by the management of the Competition Tribunal under the guidance of the Economic Development Department (EDD).
- Takes into account all the relevant policies, legislation and other mandates for which the Competition Tribunal is responsible.
- Accurately reflects the strategic outcome oriented goals and objectives which the Competition Tribunal will endeavour to achieve over the period 2015/2016-2019/2020.

The Strategic Plan is subject to review on an annual basis, but, as indicated in the Framework for Strategic Plans and Annual Performance Plans, "changes should be limited to revisions related to significant policy shifts or changes in the service delivery environment".

Progress against the Strategic Plan and the stated objectives will be reported on by the Tribunal in quarterly reports submitted to the EDD and the annual report submitted annually to EDD and National Treasury.

Janeen de Klerk

Signature: 
Chief Operating Officer - Competition Tribunal
Date 9/3/2015

Norman Manoim

Signature: 
Chairperson - Competition Tribunal
Date 9/3/2015

Approved by:

Ebrahim Patel

Signature: 
Minister of Economic Development

Executive Authority of the Competition Tribunal

Date 9/3/2015

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PART A: STRATEGIC OVERVIEW

1. Vision

To be seen as an exemplary administrative tribunal by being independent, impartial, ethical and professional.

2. Mission

To develop credible competition law and an effective structure for administering the law.

3. Values

In pursuing its legislated mandate the Tribunal strives to:

- Fairness, objectivity and independence.
- Timeous decisions of high calibre.
- Effective communication of our work with the public.
- Courteous, efficient, informed interaction with our customers.

4. Legislative and other Mandates

4.1 Constitutional mandate

The Competition Tribunal's constitutional mandate is contained in Section 34 of The Constitution of the Republic of South Africa, 1996 which states that "Everyone has the right to have any dispute that can be resolved by the application of law decided in a fair public hearing before a court or, where appropriate, another independent and impartial tribunal and forum."

4.2 Legislative mandate

In 1999 the Competition Act (Act 89 of 1998) was promulgated, thereby establishing a Competition Commission (referred to hereinafter as the Commission), a Competition Appeal Court (referred to hereinafter as the CAC) and the Competition Tribunal (referred to hereinafter as the Tribunal) - The latter being responsible to adjudicate matters pertaining to restrictive practices, abuse of dominant position and mergers.

The Tribunal derives its legislative mandate from this 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;
- (e) Recognise the role of foreign competition;

- (f) Ensure that small and medium-sized enterprises have an equitable opportunity to participate in the economy; and
- (g) Promote a greater spread of ownership, in particular to increase the ownership stakes of historically disadvantaged people.

4.3 Policy Mandate

In October 2010, Cabinet approved the New Growth Path (NGP) that places employment at the centre of economic policy and management. The NGP identified a strong role for competition policy and for the competition authorities. The new focus on employment is consistent with the objectives of the Competition Act and the public interest considerations set out in the Act, that the Tribunal is obliged to consider.

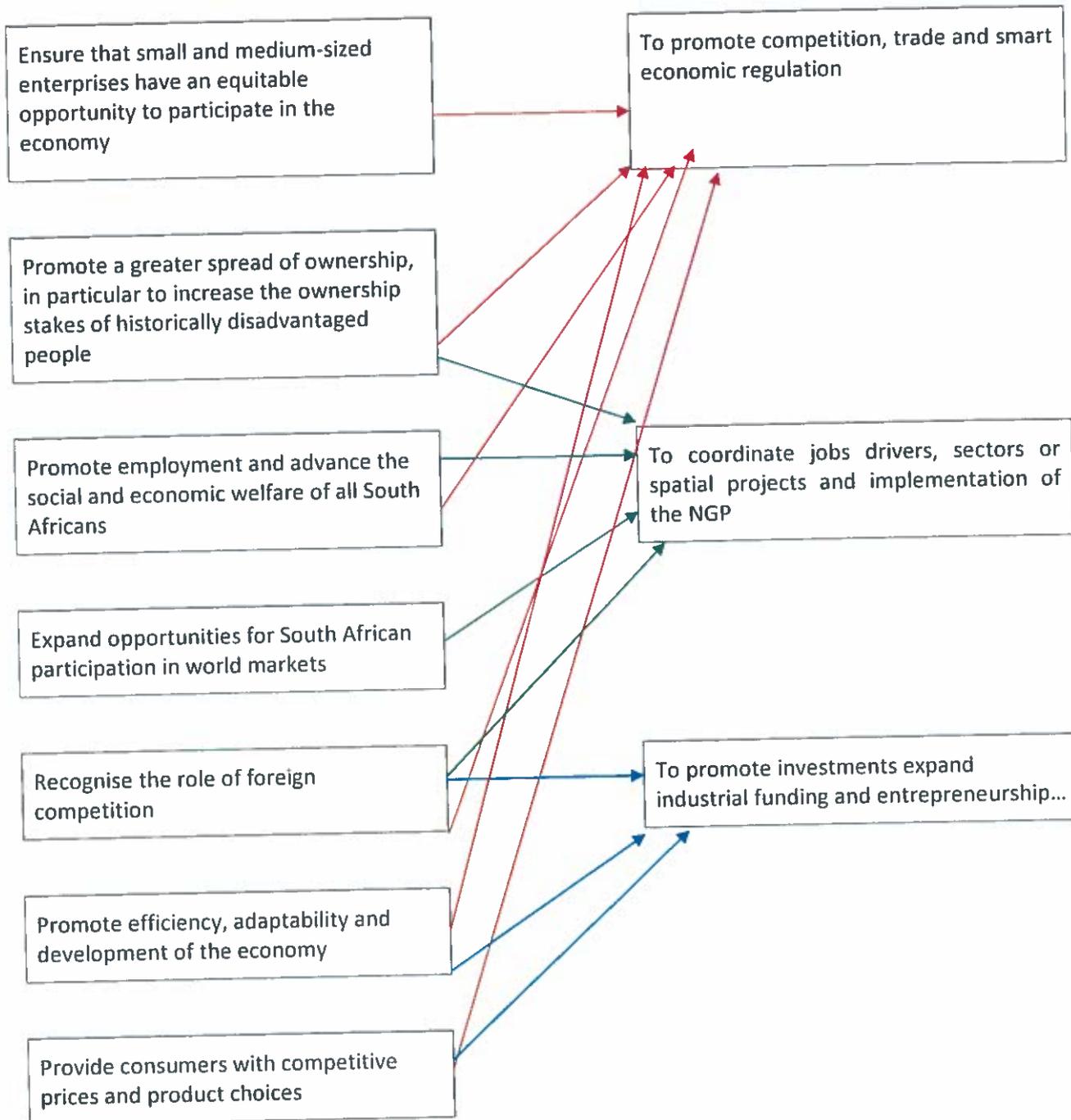
In addition, at the Cabinet Lekgotla in July 2014, 14 outcomes (see [Annexure A](#)) were adopted that reflect the Government's mandate and are derived from the Medium Strategic Framework. The Economic Development Department (EDD) has accordingly determined performance outcomes and policy drivers that would assist the Government in achieving these outcomes.

Being an adjudicative body means the Tribunal is limited in its ability to set objectives and therefore has very little influence/effect in terms of its contribution to the outcomes and policy drivers identified by the EDD. However, in drafting the strategic plan, the Tribunal has identified how its legislative mandate (see Section 4.2) is consistent with the EDD's drivers, outcomes and/or outputs. This alignment is illustrated in the diagram on page 7.

The Tribunal's mandate is also consistent with the objectives of the National Development Plan (NDP). All decisions taken by a Tribunal panel when adjudicating on matters brought before them must give consideration to various factors which include the effect on employment, asset ownership and broad based black employment equity (BBBEE). In addition competition by its very nature will lower prices and can therefore have a positive impact on national development goals and competitiveness.

Tribunal's Legislative Mandate Outcomes

The EDD's Strategic Objectives



As an adjudicative body the Tribunal cannot be the 'driver' as such but only be 'driven'. The Commission is the largest driver of the Tribunal's agenda, and to the extent that it aligns its priorities with those of the department, in terms of the cases it brings, so it will align the Tribunal's activities as well with those of the department.

The largest contribution the Tribunal can make is with regard to the policy driver "competitiveness and competition policy" as our core function deals specifically with this area. Any other effects/contributions are likely to be "by products" of the promotion of competition and very difficult to measure.

Another of the drivers that the Tribunal has an impact upon, albeit modest, is employment. To the extent that mergers and structural remedies in prohibited practice cases may have a negative effect on employment, the Tribunal may in appropriate cases be able to impose conditions to alleviate the adverse effects.

Later in the plan we draw attention to a strategic focus area "Access to justice". This focus area is specifically relevant to broader government policies in the justice system and has an indirect effect on the EDD's policies - the greater the access to justice the more people use the regulatory system designed to improve competitiveness which in itself is a key driver of the department.

While the Tribunal, due to its adjudicative nature, does not participate in research or policy it 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.

5. Situational Analysis

5.1 Core Business

The core business of the Tribunal is the adjudication of mergers and prohibited practice cases. The Tribunal is expected to expeditiously decide cases brought to it in terms of the Act.

In line with the Constitution, Tribunal hearings are public and written reasons are provided for all decisions and orders of the Tribunal.

The Act and Rules prescribe time frames, which must be followed. The decisions of the Tribunal have the same legal weight as the judgements of the High Court and may be taken on appeal only to the Competition Appeal Court.

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.

5.2 Products and Services

The Tribunal has jurisdiction throughout South Africa and its role is to adjudicate cases brought to it either by the Commission or directly by aggrieved parties.

Upon a matter being referred to it in terms of the Competition Act, 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) grant an order for costs.

The Tribunal is an independent and impartial institution and is required to perform its functions without fear, favour or prejudice; subject only to the Constitution and the law. It is expected that each organ of state will assist the Tribunal, to retain its independence and impartiality, to exercise its powers and to carry out its duties.

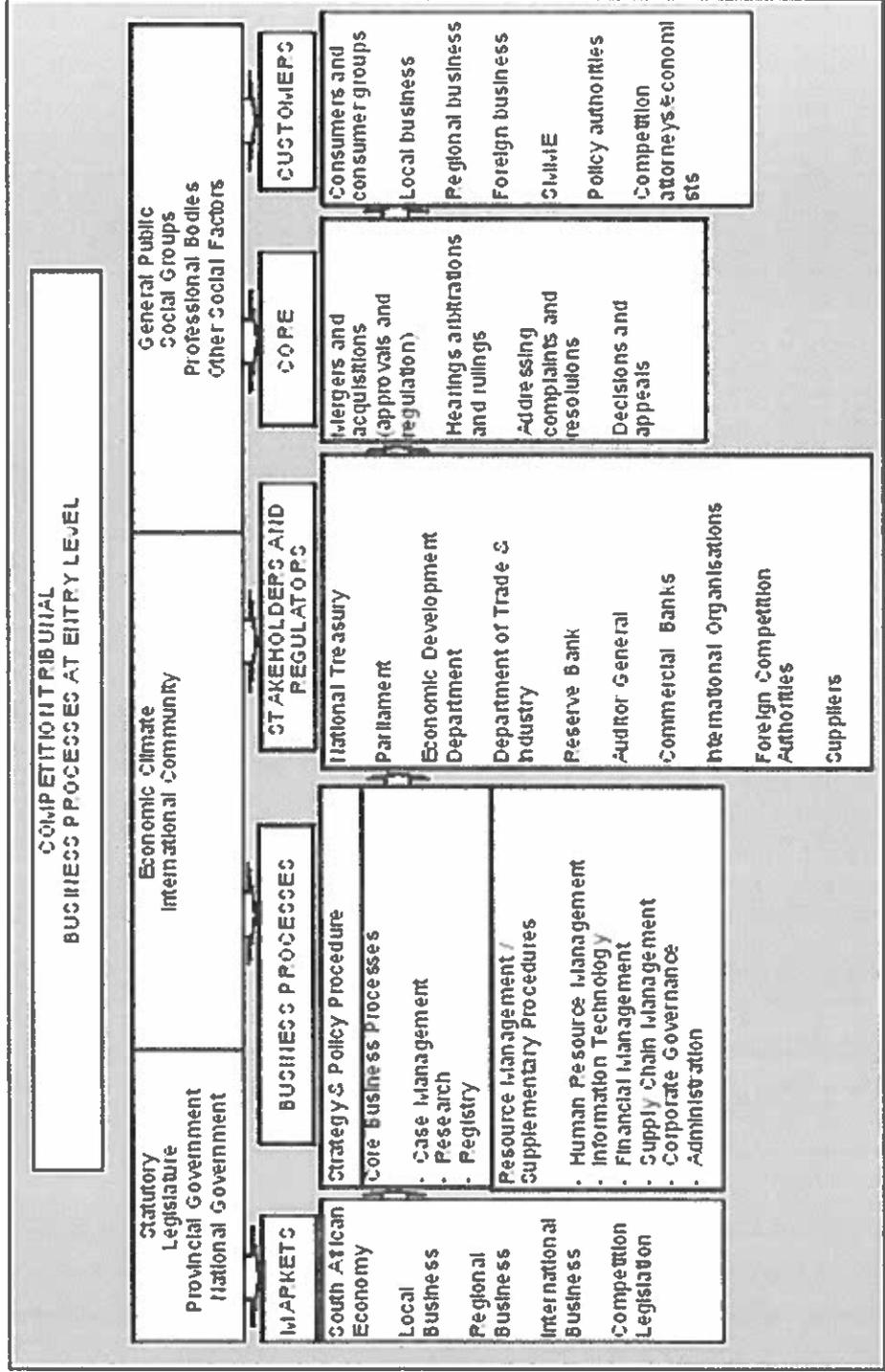
5.3 Stakeholder Profile

The Competition Act impacts numerous stakeholders and the Tribunal will establish and maintain 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 categorized 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 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 Economic Development Department, Parliament, the Minister of Economic Development and National Treasury.
- 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 financial press, academics, the judiciary and other competition agencies, the OECD, the WTO, SADC, and the International Competition Network (ICN) etc.
- f) Government stakeholders that Tribunal may interact with e.g. the dti.

The business model on page 10 illustrates the Tribunal's stakeholders and processes that characterize these relationships.



5.4 Implementing economic policy

The policy parameters and objectives of the Competition Act are consistent with the objectives of government's economic policy as enunciated in policy documents of the EDD and the dti as well as the New Growth Path and 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 takes into account specified public interest factors some of which correlate with other objectives of the government's economic policy in particular concerns about employment.

a) Merger Regulation - Structural Remedies

The Tribunal through its merger regulation powers 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 the competition then the merger may be approved. In addition, the Tribunal must always (that is, regardless of whether or not the merger is found to lessen competition) 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. By the same token, 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 businesses, or firms owned by historically disadvantaged persons, to become competitive; and
4. the ability of national industries to compete in international markets.

b) 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 practices between firms in vertical (that is between suppliers and customers) and horizontal (that is between competitors) relationships. 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 IEAP objectives on competitiveness, black economic empowerment and SMME development are 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.

c) Exemptions

A firm may apply to the 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 ability of small businesses, or firms controlled or owned by historically disadvantaged persons, to become competitive;
3. Change in productive capacity necessary to stop the decline of an industry; or
4. The economic stability of any industry designated by the Minister of Economic Development, after consulting with the Minister responsible for that industry.

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

d) 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 and non-government agencies (NGO's).

The Act also allows for the Minister of Economic Development 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 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 Economic Development. The Minister of Economic Development may make direct representation before the Tribunal on any aspect of government policy that is relevant to a case.

5.5 Performance delivery environment

The election of a new Administration in May 2014 has resulted in the need for the Tribunal to draft a Strategy for the 5 years beginning 2015/2016 and ending 2019/2020.

a) Performance overview

Demands for the services of the Tribunal over the 15 years have increased significantly. The table on page 13 sets out the increased workload of the Tribunal measured over the past six

years. Whilst there is considerable fluctuation from year to year there is still a trend of increasing activity. The past year saw the largest number of matters measured in the period. It is a 25% increase over the next highest year of activity and more than a 125% increase over the lowest.

Type of case	2009	2010	2011	2012	2013	2014
Large merger	102	52	54	80	69	97
Intermediate merger	2	-	1	5	7	-
Complaints from the Commission	2	2	3	2	4	1
Consent order	8	5	21	27	14	42
Complaints from a complainant	-	2	1	-	2	1
Interim Relief	-	-	2	-	-	3
Procedural matter	22	21	29	35	27	42
Exemption appeal	-	-	-	-	1	-
Totals	136	82	111	149	124	186

The increase has largely been driven by growth in three areas: mergers, consent agreements and procedural matters. The increase in merger activity seems to portend an end to the decline witnessed in the post 2009 period and hopefully is a sign of greater optimism in the economy. The increase in consent orders, most of which result from settlements of cartel cases, is an indication of the success of the Commission's cartel unit and the leniency policy that underpins it. Since procedural issues piggy back on the number of substantive cases heard it is not surprising that when our case load increases so does the number of procedural matters.

Despite the significant increase in caseload the Tribunal has 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 getting more members to write reasons and increasing the active pool of members who hear cases. Nevertheless given their complexity and the duration of the record certain matters unavoidably require some time in order to conclude reasons.

b) Changes in our structure

The considerable growth in our activities – as outlined above – and the increasing reporting and corporate governance demands on institutions led the Tribunal to embark on an organisational restructuring process in 2013/2014 which will be fully embedded in 2014/2015 and which resulted in an expansion in our staff to support these demands.

In addition this process resulted in the divisional heads having more responsibility and led to a slightly different approach in relation to strategic planning.

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

- Governance and compliance
- Capacity Building
- Effective Financial management

In addition the Tribunal has an obligation to keep various stakeholders informed of the outcomes of its core mandate - adjudication.

5.6 Communicating the work of the Tribunal

The Tribunal strives to be an accessible institution and to ensure that the public remains informed about the Competition Act and the Tribunal's functions and activities. All hearings and decisions of 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 – the Tribunal Tribune- which is distributed to certain identified stakeholders.

5.7 Organisational Environment

a) 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 members are onerous and require a high level of technical skill and experience. Tribunal members are required to take decisions of major commercial and economic significance 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. Adjudicative panels of the Tribunal comprise three Tribunal members.

The Act provides for 11 Tribunal Members to be appointed by the President of South Africa, on recommendation of the Minister of Economic Development, for a five-year term of office.

At present only nine of the possible 11 positions have been filled and in addition no deputy chairperson has been appointed.

The EDD is aware of these vacancies and is considering further appointments. The vacancies do not affect the running of the organisation on a day to day basis nor its legal standing, but having the full complement of members improves the efficiency of the organisation.

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

b) Tribunal Secretariat

The Tribunal's secretariat (currently 22 staff) consists of four divisions;

- The office of the Chief Operating Officer
- Case Management /Research
- Registry
- Corporate Services

The secretariat provides administrative assistance to the panel members.

The Chairperson of the Tribunal fulfils the role of Chief Executive Officer while other responsibilities have been devolved to divisional heads who report directly to the Chairperson.

The Chairperson therefore has a “hands on” involvement in the day-to-day management of the Tribunal which is consistent with the Chairperson’s responsibility as accounting officer of the institution and is consistent with his powers in terms of the Competition Act.

The organogram in Annexure C illustrates the current structure of the organization. There are currently four positions on the structure that are not yet filled. All these positions are not yet funded and may be filled over the period of the strategic plan.

A functional organogram is contained in Annexure D.

Annexure E details the names and positions held by Tribunal staff and provides some statistics pertaining to the profile of the secretariat.

5.8 Strategic Planning Process

The process adopted by the Tribunal this year was a bottom up process which required the Chief Operating Officer (COO) and the respective divisional managers to take a five year review, in consultation with their teams, of what they wanted to achieve with and for their divisions over this period.

This was then further populated by the COO and the divisional managers into a planning template which was then discussed in a consultative manner with the OPCOM and a draft strategic document and budget was formulated.

This draft document was then presented to the Executive Committee by the COO and underwent further refinement and changes until consensus was reached on a final document. The process occurred in 5 meetings over the 4 months from May to August and it has been inclusive and consultative

The COO, Head of Registry and Head of Case Management divisions are long standing employees of the Tribunal and have a sound institutional memory and understanding of the mandate and purpose of the organisation.

6. Strategic Outcome Oriented (SOO) Goals

The Tribunal is the court of first instance for competition matters and being a quasi – judicial body and creature of statute can only do what the statute allows it to do.

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. Setting targets would pre-empt the Tribunal’s decisions in a manner, which would compromise the natural justice principles underpinning the Tribunal’s adjudicative role.

In summary the Tribunal cannot set any objectives that are not directly expressed by or provided for in the law and in addition has no control over the number and types of cases brought before it. The Tribunal caseload is determined entirely by complaint referrals and notified mergers and each case is adjudicated on its own merits.

The Tribunal is not a programme driven institution and its objectives therefore reflect the strategic requirements of the core and secretariat functions of the Tribunal. The Tribunal has

however, through the process outlined above determined three strategic goals that cover the scope of the adjudicative arena and the supporting business environment:

SOO Goal 1	Adjudicative Excellence
Goal Statement	To ensure effective and efficient adjudication on matters brought before the Tribunal.
SOO Goal 2	Stakeholder Relationships
Goal Statement	To build and develop effective stakeholder relationships.
SOO Goal 3	Accountable, Transparent and Sustainable Entity
Goal Statement	To ensure effective leadership, transparency and accountability in the Tribunal through capacity building, effective reporting, policy management and financial compliance.

PART B: STRATEGIC OBJECTIVES

7. Strategic Framework

The 3 Strategic Orientated Outcome Goals identified in Section 6 above 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.

7.1 Strategic Objectives of the Tribunal

Strategic objectives have been determined for each of the three goals. A baseline (unless it is a new target) has been determined for each objective. In addition justification has been provided for each stated objective and linked each objective to one or a combination of a number of the 14 national strategic outcomes, EDD strategic outcomes and the Tribunal's strategic objectives.

The score card attached as Annexure F reflects the specific outcome, performance indicators and target assigned per objective for the period 2015/2016.

The targets set by the Tribunal against the objectives related to the adjudicative process in particular are generally constant over the five 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.

Goal Statement 1: To ensure effective and efficient adjudication on matters brought before the Tribunal.

Strategic objective 1.1	Case Management Efficiency
Objective Statement	Matters brought before the Tribunal are heard within the adopted delivery time frames
Baseline	Average turnaround time over past 3 years for different categories of matters brought before the Tribunal is used as a baseline
Justification	Ensures competition matters affecting the economy are attended to expeditiously
Links	National Strategic Outcome 6 EDD Strategic Outcome 6 (APP 2015/16)

Strategic objective 1.2	Timeous Issuing of judgments
Objective Statement	Improvement in the issuing of judgements/ decisions in line with adopted timeframes
Baseline	Average turnaround time over past 3 years for matters in which judgements are issued is used as a baseline
Justification	Ensures competition matters affecting economy are attended to expeditiously
Links	National Strategic Outcome 6 EDD Strategic Outcome 6 (APP 2015/16)

Strategic objective 1.3	Effective Business Applications
Objective Statement	Enhancing record keeping, performance information and case flow management by harnessing facility and functionality of business applications
Baseline	New Target
Justification	To enable efficient and effective filing, handling, accessing and managing of cases and to contribute to enhanced reporting capacity
Links	Competition Tribunal Strategic objective 1.1; 1.2; 2.1 and 2.2

Goal Statement 2: To build and develop effective stakeholder relationships.

Strategic objective 2.1	Ensure Relevant Communication to Stakeholders
Objective Statement	Ensure that an integrated Communication plan is developed and implemented
Baseline	New Target
Justification	To maintain and enhance the profile and relevance of the Tribunal
Links	National Strategic Outcome 12 Competition Tribunal Strategic objectives 1.1 and 1.2

Strategic objective 2.2	Maintain and enhance the presence and profile of the Tribunal
Objective Statement	Ensure communication pertaining to final decisions in merger and prohibited cases are issued within adopted delivery timeframes
Baseline	Press releases for mergers 75%
	Press releases for prohibited practices 100%
	Publication on website: 67% within 24 hours .Due to confidentiality processes the publication on website target has changed.
	3 Tribunal Tribunes published and distributed annually
Justification	To be an accessible institution and to ensure that the public remains informed about the Competition Act and the Tribunal's functions and activities
Links	National Strategic Outcome 12 Competition Tribunal Strategic objectives 2.1

Strategic objective 2.3	Improve Stakeholder service Delivery
Objective Statement	Identify and address stakeholder needs and expectations in order to meet or exceed requirements
Baseline	Stakeholder score for adjudicative process 75% overall performance -
Justification	To increase responsiveness to stakeholder needs across a range of stakeholder categories
Links	National Strategic Outcome 12 Competition Tribunal Strategic objectives 1.1 and 1.2

Goal Statement 3: To ensure effective leadership, transparency and accountability in the Tribunal through capacity building, effective reporting, policy management and financial compliance.

Strategic objective 3.1	Good Governance
Objective Statement	Increase the level of compliance with the prescripts of good governance
Baseline	New Target
Justification	To ensure effective, efficient and economic utilisation of state resources as well as a transparent and accountable public entity
Links	National Strategic Outcome 12

Strategic objective 3.2	Effective Oversight Structures
Objective Statement	Maintain effective oversight structures that promote solid business practice
Baseline	New Target
Justification	To ensure effective, efficient and economic utilisation of state resources as well as a transparent and accountable public entity
Links	National Strategic Outcome 12

Strategic objective 3.3	Effective management of the budget
Objective Statement	Ensure financial management that promotes effective and efficient use of resources
Baseline	New Target
Justification	To ensure effective, efficient and economic utilisation of state resources as well as a transparent and accountable public entity
Links	National Strategic Outcome 12

Strategic objective 3.4	Financial Governance and Reporting
Objective Statement	Ensure a sound control environment and monitor and maintain compliance and ensure all reporting requirements are met
Baseline	New Target
Justification	To ensure effective, efficient and economic utilisation of state resources as well as a transparent and accountable public entity
Links	National Strategic Outcome 12

Strategic objective 3.5	Sustainable Capacity
Objective Statement	Ensure that the Tribunal effectively leverages employee skills by recruiting, retaining and developing high quality people
Baseline	New Target
Justification	To ensure sustainability by developing skilled capacity
Links	National Strategic Outcome 4 Competition Tribunal Strategic objectives 1.1 and 1.2

7.2 Resource and Financial Management Considerations

7.2.1 Key Challenges

In giving consideration to current resources and the Tribunal's ability to meet its strategic objective the two key challenges detailed below will need to be addressed.

a) Legislative framework

At present the legislative framework in terms of which the Tribunal operates remains unchanged. A recent proclamation which brought into operation certain provision of the Competition Amendment Act, Act 1 of 2009, which provides for market enquiries, affects the Commission, which is responsible for running these enquiries, but not the Tribunal, whose only function in relation to these enquiries is to adjudicate on claims for confidential information.

b) Office space

Office space continues to be a challenge for the Tribunal particularly given the growth of the organisation.

While the Tribunal has reconfigured the allocation of offices and currently have 11 people sharing four offices, as well as desks located in open spaces, the current office space is insufficient to meet the Tribunal's needs.

An additional challenge related to office space pertains to the leasing fee payable to the dti. The Tribunal utilizes office space on the campus through the dti which has a lease with the landlord.

While the Tribunal does not have a lease with the dti a practice has been established where the annual facility fee, as it is referred to, is increased by the cost of living. This has been the case for the past ten years since the Tribunal moved to the dti campus. On the basis of this history the Tribunal budgeted for future facility fees assuming this practice in respect of the fee would continue. However in the course of this year the Tribunal has been advised by the dti that the facility fee would have to escalate massively.

Before the Tribunal was advised of the increase for the 2015/2016 year it estimated that this fee would be R 2.23m, however based on the escalated per square metre fee the revised estimate is R 6.85m - which represents an increase of 207% on the original budgeted figure.

The Tribunal has advised the Department of both these challenges and understands that the Department will be in discussions on the issue with the dti. However, the Tribunal believes that space constraints on the campus preclude relocation or partial relocation on the campus. This is further compounded by an implied obligation with effect from 2015/2016 to pay a leasing fee way in excess of a market related fee.

Whilst the Tribunal has not had an opportunity to discuss the leasing fee further with its department, it has budgeted for this increase on the assumption that it may have to pay it.

Irrespective of the solution proposed by the Department any move/relocation will have cost implications. As no solution has been finalised yet, the Tribunal has NOT included an estimate in the Medium Term Expenditure Framework (MTEF) budget submitted. It is likely that the costs associated with relocation or a move off the campus will be such that the Tribunal will need to revise its budget accordingly and to request additional funding from the Department and/or National Treasury.

c) Financial constraints

The Tribunal's budgetary requirements (inclusive of capital expenditure) over the MTEF period (2015/2016 – 2017/2018) are estimated to be R 139.67m. It is anticipated that we will receive income from the three sources below:

- Economic Development Department (EDD) grant funding of R 60.43m for three years.
- Expected filing fee revenue of R 37.09m (assuming continued merger activity).
- Expected accumulated surpluses as at March 2015 of R9.89m.

This income from the three sources is not sufficient to cover the budgeted expenditure. The Tribunal therefore in July 2014 made a separate submission to EDD and National Treasury for additional funding of R32.34m for this period.

In November 2014 we were advised by National Treasury of the grants we would receive over the MTEF period. This amount had been escalated on a straight line basis from the prior MTEF period and fell short of the increased grants we had requested in prior business plans.

The budget for the MTEF period was therefore prepared reflecting a deficit. This was done on the understanding that we would make submissions for an increase in our budget for the two final years of the present MTEF period. It is permissible, in terms of Section 53 (3) of the Public Finance Management Act (Act No.1 of 1999 amended by Act No 29 of 1999) to budget for such a deficit with the consent of Treasury.

However in December 2014 we were informed by the EDD and National Treasury that our request to budget for a deficit had been refused. In compliance with this the Tribunal undertook a review of the budget to eliminate the deficit. The budget was decreased as follows:

- 2015 – by R 9.87m
- 2016 – by 10.92m
- 2016 – by R 11.58m

The APP provides details of the circumstances that led to the Tribunal having to revise the budget for the three year MTEF period 2015/2016 to 2017/2018 to eliminate the deficit and how it is proposed to eliminate the deficit by various reductions in expenditure. It must be emphasised that while the budget has been revised downwards to comply with the request, the likelihood of achieving these reductions in reality is very small due to the fact that they involve reductions in staff capacity, salaries and/or bonuses. The only way in which they can be achieved, without funding from Treasury or EDD, is to slash personnel costs which will have serious implications for the mandate of not only the Tribunal but also the Competition Agencies collectively.

The table on the next page reflects the original budget and the shortfall/deficit that required additional funding, the revised budget and the budget reductions applied. The Tribunal still

intends to engage with Treasury and EDD in respect of funding this deficit, without this funding the Tribunal will not be fully operational and will find it extremely difficult to deliver effectively on its mandate and to meet the increasing demand on our core function.

SUMMARY OF ENE SUBMISSION	2015/2016	2016/2017	2017/2018	TOTAL
ORIGINAL DEFICIT	3 809 743	13 728 956	14 798 442	32 337 141
ORIGINAL ENE SUBMISSION	44 645 706	46 347 708	48 665 094	
REVISED ENE SUBMISSION	34 775 118	35 423 003	37 090 813	
REDUCTION IN BUDGET	9 870 588	10 924 705	11 574 281	32 369 575

PRIOR ENE SUBMISSION	2015/2016	2016/2017	2017/2018	TOTAL
SALARIES	25 416 298	26 814 194	28 154 904	80 385 397
TRAINING	2 026 140	2 137 578	2 244 457	6 408 174
PROFESSIONAL SERVICES	3 558 733	3 754 463	3 942 186	11 255 383
dti FACILITY FEE	6 864 862	7 242 429	7 604 551	21 711 842
ADMINISTRATIVE EXPENSES	1 762 291	1 859 217	1 952 178	5 573 686
CAPITAL AND IT EXPENSES	4 518 091	4 013 075	4 213 728	12 744 893
APPEAL COURT	499 291	526 752	553 090	1 579 132
TOTAL	44 645 706	46 347 708	48 665 094	139 658 508

REVISED ENE SUBMISSION	2015/2016	2016/2017	2017/2018	TOTAL
SALARIES	21 957 229	23 015 829	24 063 281	69 036 339
TRAINING	1 240 641	1 033 092	1 084 747	3 358 480
PROFESSIONAL SERVICES	3 267 734	3 447 459	3 619 832	10 335 026
dti FACILITY FEE	1 873 249	1 976 278	2 075 092	5 924 618
ADMINISTRATIVE EXPENSES	1 705 882	1 799 706	1 889 691	5 395 279
CAPITAL AND IT EXPENSES	4 231 092	3 623 887	3 805 081	11 660 060
APPEAL COURT	499 291	526 752	553 090	1 579 132
TOTAL	34 775 118	35 423 003	37 090 813	107 288 934

SUMMARY OF REDUCTIONS	2015/2016	2016/2017	2017/2018	TOTAL	CONTRIBUTION TO REDUCTION	% REDUCTION
SALARIES	3 459 069	3 798 365	4 091 624	11 349 058	35.06%	14.12%
TRAINING	785 499	1 104 486	1 159 710	3 049 695	9.42%	47.59%
PROFESSIONAL SERVICES	290 999	307 004	322 354	920 357	2.84%	8.18%
dti FACILITY FEE	4 991 613	5 266 152	5 529 459	15 787 224	48.77%	72.71%
ADMINISTRATIVE EXPENSES	56 409	59 511	62 487	178 407	0.55%	3.20%
CAPITAL AND IT EXPENSES	286 999	389 188	408 647	1 084 833	3.35%	8.51%
APPEAL COURT	0	0	0	0	0.00%	0.00%
TOTAL	9 870 588	10 924 705	11 574 281	32 369 574	100%	23%

The table reflects the use of accumulated surpluses to cover the expected shortfall of income over expenditure and also reflects estimation for the receipt of annual filing fees from the Commission.

In addition we, have in the table below , provided estimations for 2018/2019 and 2019/2020.

Given these estimates, the shortfall and unsustainable reductions referred to earlier in this section and the APP it is evident that there is an urgent need to address the Tribunal's funding requirements for both the current MTEF period and the next MTEF period where substantially larger grants will have to be allocated to the Tribunal.

Year	Total budget requirement	Expected MTEF allocation	Expected filing fees from Commission	Expected interest	Use of accumulated surplus	Additional funding required
	(in R'm)	(in R'm)	(in R'm)	(in R'm)	(in R'm)	(in R'm)
2018/2019	52.80	0	13.07	0	0	39.73
2019/2020	55.07	0	13.72	0	0	41.34

As indicated earlier the Tribunal, being an adjudicative body, is reactive as opposed to proactive in terms of the cases brought before it. This in turn means that management experiences difficulty with regard to arriving at an accurate prediction of the number of cases to be heard on an annual basis.

Budgeting accurately therefore poses some difficulties as many of the line items are based on an estimated number of cases for the financial year. In addition the Tribunal makes a large provision for legal fees, as it is possible that particular cases may require the Tribunal to seek legal opinion.

Both these factors mean that, inevitably, variances in actual expenditure as opposed to budgeted expenditure arise. The trend over the last five years has been towards actual expenditure being more closely equated to the budget and resulting in smaller variances (as illustrated in the table below) and the Tribunal hopes that this trend will continue.

Year	Actual expenditure incl. of capital expenditure (in R'm)	Budget (in R'm)	% Budget spent
2009/2010	18.48	26.40	70.00
2010/2011	20.42	27.41	74.50
2011/2012	24.54	26.42	92.90
2012/2013	27.41	31.11	88.10
2013/2014	33.54	33.08	101.39

The Tribunal Executive reviews the monthly financial statements and discusses variances prior to submission of these statements to the EDD. In addition, quarterly reports that highlight financial activity, include a detailed report on the Tribunal's other activities as well as report on performance with regard to objectives set, are produced and submitted to the EDD.

At present the Tribunal includes the Competition Appeal Court (CAC), the third member of the triad of institutions set up by the Competition Act (1998), as a line item in its budget. As in the case of the Commission and the Tribunal the CAC has exclusive jurisdiction over competition matters (that is, chapters 2 and 3 of the Act).

The Tribunal secretariat provides the registry function for the Competition Appeal Court (CAC) and the registrar of the Tribunal acts as the Registrar of the CAC. The Tribunal is responsible for the financing of all aspects of the Appeal Court except for personnel expenses.

It is difficult to predict the direct impact of the dedicated cartel unit within the Commission on the Tribunal's activities. Investigations conducted by the unit may not necessary lead to additional hearing demands as parties may choose to settle directly with Commission requiring the Tribunal to only have to confirm the consent agreement which would not involve a protracted hearing. The impact, if any, will be on expenses and not revenue as any fines/penalties imposed are paid to the National Revenue Fund and not to the Tribunal or Commission. No filing fee is payable by the Commission for bringing this type of case to the Tribunal.

A three year budget is attached as Annexure G while the table below illustrates the percentage distribution of budgeted expenditure (inclusive of the CAC) for the next three years.

CATEGORY	2015-2016	2016-2017	2017-2018
PERSONNEL	54.44%	56.09%	56.05%
PT TRIBUNAL MEMBERS	8.70%	8.88%	8.82%
TRAINING	2.33%	2.41%	2.41%
CONFERENCES AND SEMINARS	1.24%	0.51%	0.51%
SHARED SERVICE FEE	1.68%	1.74%	1.74%
FACILITY FEE	5.39%	5.58%	5.59%
CONSULTING	0.75%	0.78%	0.78%
LEGAL FEES	0.00%	0.00%	0.00%
TRANSCRIPTION COSTS	2.07%	2.15%	2.15%
AUDIT EXPENSES	4.89%	5.07%	5.08%
RECRUITMENT COSTS	0.00%	0.00%	0.00%
ADMIN EXPENSES	4.91%	5.08%	5.09%
DEPRECIATION	3.28%	3.11%	3.12%
OTHER IT EXPENDITURE	4.85%	5.02%	5.04%
REPAIRS/MAINTENANCE	0.13%	0.13%	0.14%
CAPITAL EXPENDITURE	3.91%	1.96%	1.97%
APPEALS COURT BUDGET	1.44%	1.49%	1.49%
TOTAL %	100.00%	100.00%	100.00%
TOTAL EXPENDITURE	34 775 118	35 423 003	37 090 813

The long term budgets reflected above have taken into account the on-going costs associated with the development and maintenance of the electronic case management system referred to later in this document. Budget has also been provided for hardware requirements though these are difficult to predict accurately.

Annexure H reflects a summary of revenue and expenses as submitted in the MTEF in January 2015. It must be noted that this summary pertains to the revised budget (budget that eliminates a deficit) therefore the total yearly expenses reflected here differ from the Tribunal's actual budget requirements as detailed in Section 7.2 c. In addition it must be noted that Annexure G includes capital expenditure while Annexure H excludes capital expenditure.

7.2.3 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 C, 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 organizational memory and to provide some career progression albeit limited.

In Registry, 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 senior level over a period of three to five years.

In general staff turnover in the Tribunal is not high with perhaps the highest turnover occurring in the case management division where researchers spend 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 or the Commission. The Tribunal is aware of this trend and is aware that in many senses this is the intellectual capital of the organisation, for this reason a managerial position was created in this department and a leader appointed to set the direction and pace of case management activities in the organisation. In addition a tiered development path (stratification of junior to senior case manager) has been established so that career and grade growth is now feasible and can be experienced within the Tribunal rather than through departure.

In section 5.5 b above reference is made to the organisational restructuring that occurred in the Tribunal in 2013/2014 and the resultant expansion in staff. Over the next two years the Tribunal will be monitoring these changes to determine whether they created the efficiencies expected and whether they allowed for a more focussed approach by administrative staff.

7.2.4 Internship

The Tribunal is a small organisation and is therefore limited in its ability to generate significant employment or offer a substantial number of internships. Despite this the Tribunal will continue to focus on providing an opportunity for students to serve vacation internships in the

four divisions of the Tribunal as well as embark on the implementation of a graduate internship programme in the case management division. The intern/interns in this programme will spend up to a year at the Tribunal

7.2.5 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 extreme shortage of skills 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 includes in-house and on the job training with respect to the case management system and is undertaken so as to provide assistance to staff with the development of experience and skills in the area of competition law and economics.

External training service providers are utilized for specialized training courses. Furthermore, exposure to international best practice in competition law and policy is facilitated through attendance at international conferences/workshops, staff exchange programmes and visits by international experts.

Tribunal members in particular need to keep abreast of the extensive international case law in the field as well as legal and economic analysis in academic and practitioner journals in order to be able to perform their duties adequately.

The Tribunal facilitates this process by identifying the training needs of the Tribunal members and continues to facilitate the attendance of Tribunal members at international meetings/conferences (like International Competition Network (ICN) conference/working groups, the Annual Fordham Antitrust conference and the Organisation for Economic Co-operation and Development (OECD) Competition Committee meetings).

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. The budget provides for representation at these conferences and forums.

Tribunal members are appointed for a five year period and when new members are appointed there is a need to engage them in more intensive training thus familiarising them with competition law. As a result training expenses will vary year on year depending on the needs of Tribunal members.

Full time Tribunal members will continue to lecture university students and will remain active in international bodies such as the ICN.

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. The budget provides for attendance on an annual basis at two of these meetings.

7.3 Risk Management

The Tribunal is committed to the optimal management of risk in order to achieve its vision, its principal tasks and key objectives.

An enterprise wide approach to risk management is adopted in the Tribunal. All identified key risks in the entity are included in a structured and systematic process of risk management and within a unitary framework that is aligned to the Tribunal's corporate governance responsibilities.

A risk management framework that describes the Tribunal's risk management policies, structures, processes and standards is documented and operative within the Tribunal. Through this framework the Tribunal is able to prioritize and identify major risks.

In terms of this framework, the Risk Management Committee meets quarterly and reports quarterly to the Tribunal's Risk Committee.

A Risk Coordination Committee assists the Risk Management Committee with the process of risk management and ensures that risk management is integrated into the day to day activities of the Tribunal. This committee reviews the risk register, obtains assurance on controls in place to mitigate these risks and monitors action plans identified.

An annual risk assessment is generally facilitated by the audit firm contracted to perform the Tribunal's internal audit while risk monitoring and management is the responsibility of the accounting authority and senior management.

During this process risks are identified and then ranked in terms of probability of occurrence (likelihood) and potential impact. Controls, mitigations or interventions that are designed to contain the potential impact or likelihood of the risk are identified and evaluated. These controls form the basis of an assurance plan and may be tested by the internal audit process or other independent means of evaluation.

For the purpose of the risk assessment a risk/threat is defined as "Any possible situation and/or problem that may hinder/influence the achievement of the strategic objective/focus area".

The risk assessment is designed to minimize the audit risk and is used to allocate resources efficiently and effectively when developing the internal audit plan (annual and 3 year strategic).

The current risk register is attached as [Annexure I](#)

Annexure A: National Strategic Outcomes

The twelve key outcomes that have been identified and agreed to by Cabinet are:

1. Improved quality of basic education
2. A long and healthy life for all South Africans
3. All people in South Africa are and feel safe
4. Decent employment through inclusive economic growth
5. A skilled and capable workforce to support an inclusive growth path
6. An efficient, competitive and responsive economic infrastructure network
7. Vibrant, equitable and sustainable rural communities with food security for all
8. Sustainable human settlement and improved quality of household life
9. A responsive, accountable, effective and efficient local government system
10. Environmental assets and natural resources that are well protected and continually enhanced
11. Create a better South Africa and contribute to a better and safer Africa and World
12. An efficient, effective and development oriented public service and an empowered, fair and inclusive citizenship
13. Social protection
14. National building and social cohesion

Annexure B: Members of the Competition Tribunal

Chairperson

- Norman Manoim (BA, LLB), from 01 August 2014 (fourth term)

Deputy Chairperson

- Position vacant

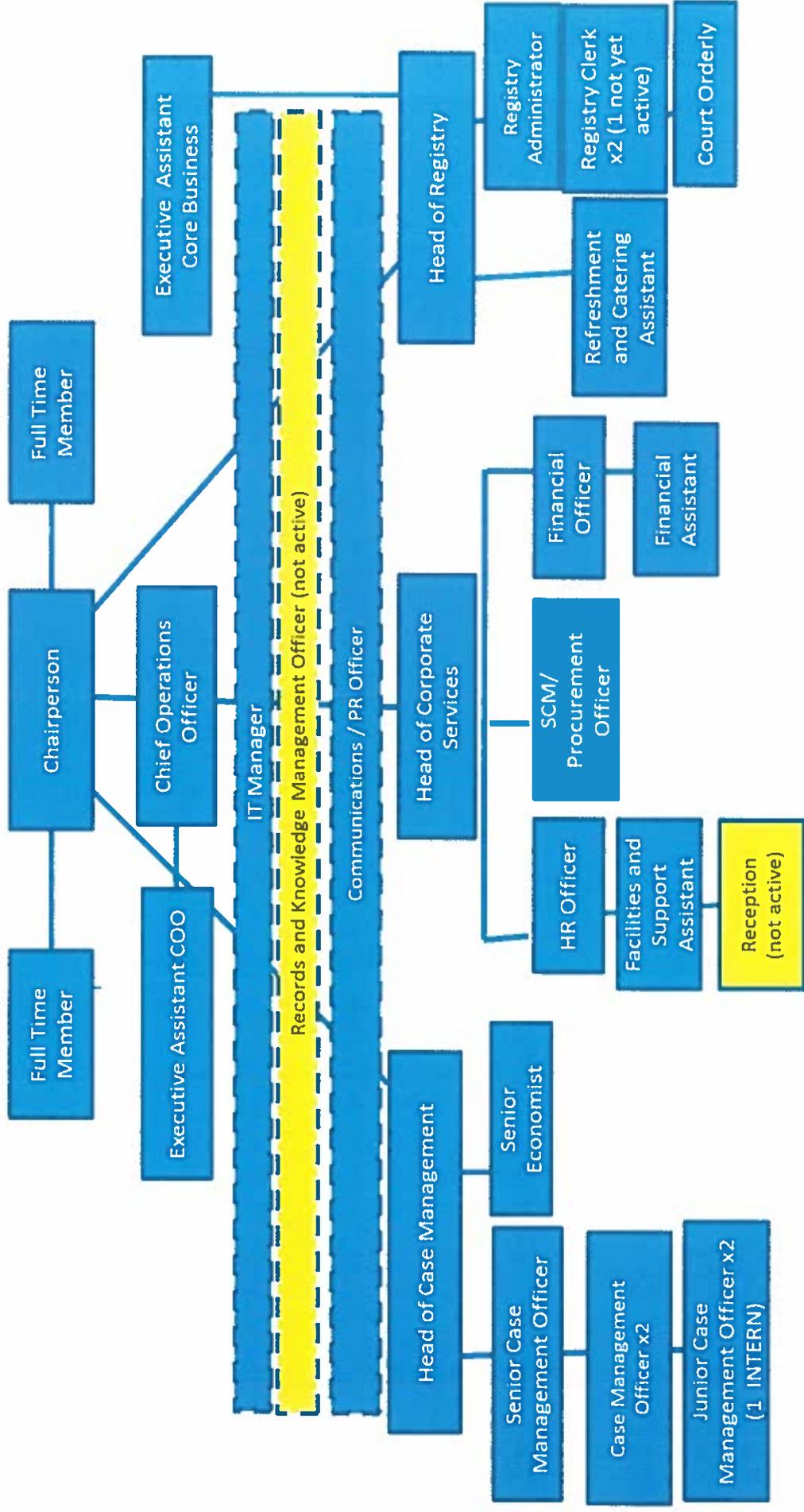
Full-time members

- Yasmin Carrim (BSc, LLB), from 01 August 2014 (third term)
- Andreas Wessels (B.Com Hons, MCom.), from 01 August 2014 (second term)
- Mondo Mazwai (BA LLB) from 01 August 2014 (first term)

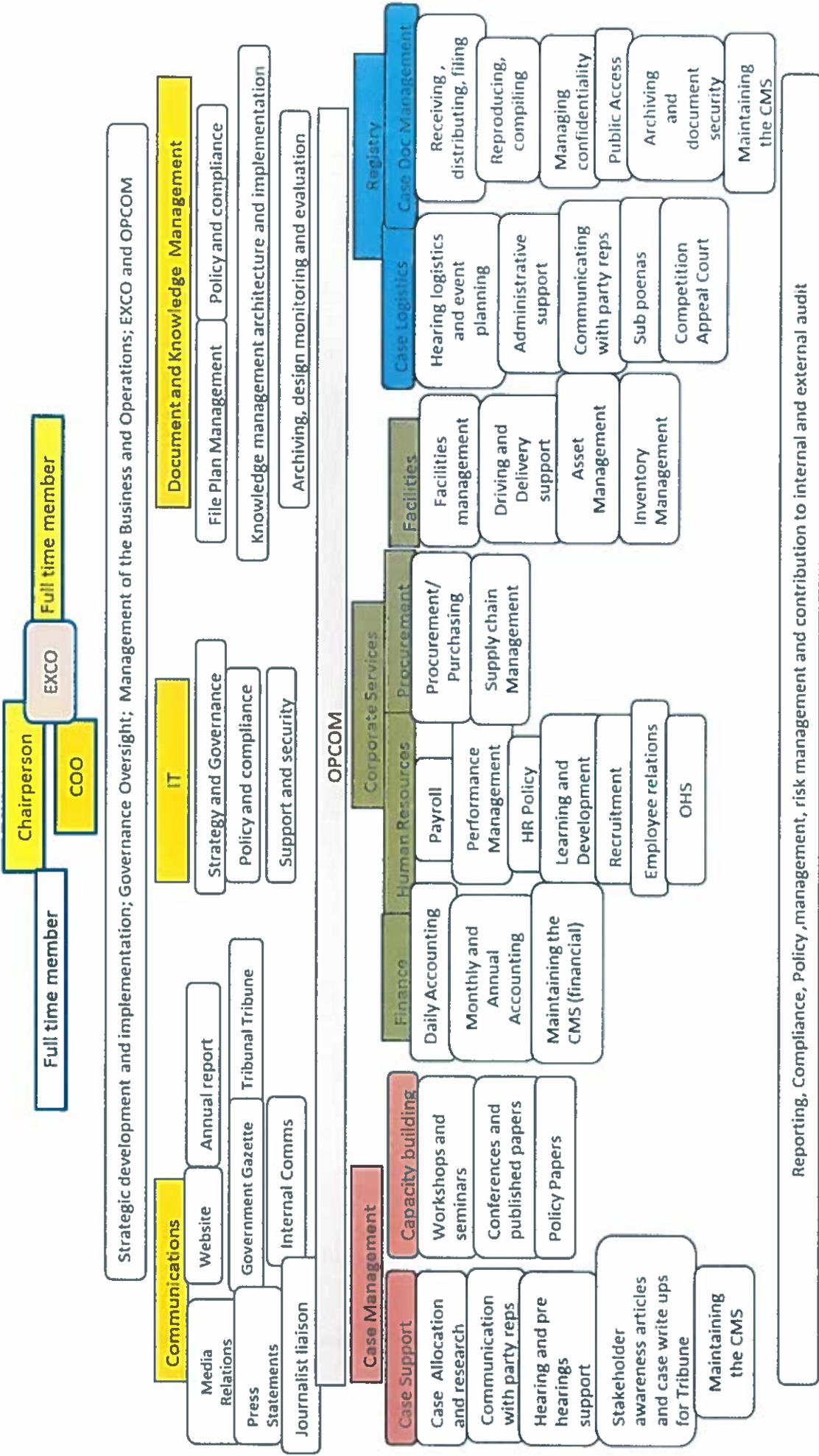
Part-time members

- Medi Mokuena (Dip. Juris, LLB, LLM), from 01 August 2014 (third term)
- Andiswa Ndoni (BProc, LLB, Dip Business Management, Cert- Corporate Governance) from 01 August 2014 (second term)
- Anton Roskam (BA, LLB, HDip-Labour Law, MBA) from 01 January 2013 (first term)
- Imraan Valodia (D Economics) from 01 January 2013 (first term)
- Fiona Tregenna (PhD- Economics, MA - Economics) from 01 September 2013 (first term)
- Two vacant positions

Annexure C: Structural Organogram



Annexure D: Functional Organogram



Annexure E: Competition Tribunal Secretariat

Office of the COO

Janeen de Klerk – chief operating officer
 Colin Venter - IT support and network administrator
 Lufuno Ramaru, executive administrator – COO
 Nandi Moekoena – communications officer

Divisional heads

Ann Slavin (corporate services)
 Lerato Motaung (registry)
 Rietsie Badenhorst (case management)

Case managers

Derrick Bowles
 Ipeleng Selaledi
 Caroline Sserufusa
 Moleboheng Moleko
 Shannon Quinn - intern

Registry

Sibongile Moshoeshoe - registry administrator
 Themba Chauke – registry clerk
 David Tefu - court orderly
 Nkuli Mpepuka – executive assistant – Core
 Maggie Mkhonto – catering and hospitality

Corporate Services

Tumi Mabilo - financial officer
 Dazziryl Chabalala – financial assistant
 Bellah Kekana – HR generalist
 Matome Modiba – facilities assistant
 Patricia Froude - - procurement officer

Gender and Race Composition – full-time staff

Gender	Black	White	Asian	Total	Percentage
Male	3	2	0	5	25
Female	12	3	0	15	75
Total	15	5	0	20	100
Percentage	75	25	0	100	

Annexure F Strategic Scorecard 2015-2020

Goal Statement 1: To ensure effective and efficient adjudication on matters brought before the Tribunal.

Strategic objective statements	Outcome	KPI	Base Line (3yr Ave)	Target				
				2015-2016	2016-2017	2017-2018	2018-2019	2019-2020
1.1 Matters brought before the Tribunal are heard within the adopted delivery time frames	Hearings are set down within required timeframes	% of large mergers to be set down for the beginning of a hearing or a pre-hearing, within 10 days of filing of the Merger Referral	75%	75%	75%	75%	75%	75%
		% of intermediate mergers to be set down for the beginning of a hearing or a pre-hearing, within 10 days of filing of the Request for consideration	76%	75%	75%	75%	75%	
1.2 Improvement in the Issuing of judgements/decisions in line with adopted timeframes	Expeditious Conclusion of matters	% Large mergers orders issued to parties within 10 business days of last hearing date	100%	95%	95%	95%	95%	95%
		% Large merger reasons issued within 20 business days of order being issued	68%	70%	70%	70%	70%	

Strategic objective statements	Outcome	KPI	Base Line (3yr Ave)	Target				
				2015-2016	2016-2017	2017-2018	2018-2019	2019-2020
		% Intermediate merger orders issued to parties within 10 business days of last hearing date	100%	95%	95%	95%	95%	95%
		% Intermediate mergers reasons issued within 20 business days of order being issued	41%	60%	60%	60%	60%	60%
		Reasons for Prohibitive Practices Cases issued to parties in accordance with the delivery timeframes per category: A, B or C	New target	A - 100 business days B - 125 business days C - 150 business days	A - 100 business days B - 125 business days C - 150 business days	A - 100 business days B - 125 business days C - 150 business days	A - 100 business days B - 125 business days C - 150 business days	A - 100 business days B - 125 business days C - 150 business days
		% Procedural matters orders issued to parties within 20 business days of last hearing date	82%	85%	85%	85%	85%	85%
		% Consent orders issued to parties within 10 business days of last hearing date	96%	90%	90%	90%	90%	90%
		% Interim relief reasons issued within 20 business days of last hearing date	0%	100%	100%	100%	100%	100%

Strategic objective statements	Outcome	KPI	Base Line (3yr Ave)	Target				
				2015-2016	2016-2017	2017-2018	2018-2019	2019-2020
1.3 Enhancing record keeping, performance information and case flow management by harnessing facility and functionality of business applications	Improved management to inform strategic decision making and access to historical data	Enhancement of case management system facility in line with project plan	New annual target	User Acceptance Testing of Case 360 Phase II development completed by December	Feasibility study of automation opportunities completed by December	Dependent on outcome of feasibility study and associated plans	Dependent on outcome of feasibility study and associated plans	Dependent on outcome of feasibility study and associated plans
		Reduced reliance on manual performance reporting by 2020 according to agreed plan	New annual target	Plan and process for reporting enhancement established and signed off by December	25% of plan implemented	50% of plan implemented	75% of plan implemented	All agreed manual reports to be migrated to e-reporting

Goal Statement 2: To build and develop effective stakeholder relationships.

Strategic Objective Statement	Outcome	KPI	Base Line	Target				
				2015-2016	2016-2017	2017-2018	2018-2019	2019-2020
2.1 Ensure that an integrated Communication plan is developed and implemented	A structured and focussed process to create and enhance awareness of the work of the Tribunal	Communication Plan developed and implemented in line with EXCO requirement and agreed timeframes	New annual target (previously communication activities were attended to but no integrated strategy)	Communication plan approved by EXCO by September 2015		Review plan based on performance and achievement and obtain approval by June 2017		Review plan based on performance and achievement and obtain approval June 2020
		Monitored performance and implementation against approved plan			Implement plan against agreed timeframes	Implement plan against agreed timeframes	Implement plan against agreed timeframes	Report on implementation against plan by March 2017

Strategic Objective Statement	Outcome	KPI	Base Line	Target				
				2015-2016	2016-2017	2017-2018	2018-2019	2019-2020
2.2 Ensure communication pertaining to Tribunal's adjudicative process is issued to the stakeholders within adopted delivery timeframes	Timely and compliant communication of Adjudication outcomes	% of press releases of final merger decisions communicated within 2 business days of order date	75%	75%	75%	75%	75%	
		% of press releases of final decisions in prohibited practices communicated within 2 business days of order date	100%	100%	100%	100%	100%	
		% of non-confidential version (ncv) of reasons posted on website within 2 business days of issue date of ncv	67% within 24 hours	100%	100%	100%	100%	
2.3 Identify and address stakeholder needs and expectations in order to meet or exceed requirements	Level of stakeholder satisfaction	Number of Tribunal Tribunes published annually and distributed according to agreed distribution list	3 annually	3 annually	3 annually	3 annually	3 annually	
		Stakeholder satisfaction survey results	75%		Satisfaction survey is conducted by March 2018 and Satisfaction levels are 75%			

Goal Statement 3: To ensure effective leadership, transparency and accountability in the Tribunal through capacity building, effective reporting, policy management and financial compliance.

Strategic Objective Statement	Outcome	KPI	Base Line	Target				
				2015-2016	2016-2017	2017-2018	2018-2019	2019-2020
3.1 Increase the level of compliance with the prescripts of good governance	Accountable and transparent Public Entity	Achieve an unqualified Audit Outcome year on year	New annual target	Unqualified audit – no issues of governance raised	Unqualified audit – no issues of governance raised	Unqualified audit – no issues of governance raised	Unqualified audit – no issues of governance raised	Unqualified audit – no issues of governance raised
	Sound Business Practice	Achieve an unqualified Audit Outcome year on year	New annual target	Unqualified audit – no issues of governance raised	Unqualified audit – no issues of governance raised	Unqualified audit – no issues of governance raised	Unqualified audit – no issues of governance raised	Unqualified audit – no issues of governance raised
3.2 Maintain effective oversight structures that promote solid business practice	Optimal financial resource allocation and utilisation	Achieve an unqualified Audit Outcome year on year	New annual target	Unqualified audit - no findings of fruitless / wasteful expenditure	Unqualified audit - no findings of fruitless / wasteful expenditure	Unqualified audit - findings of fruitless / wasteful expenditure	Unqualified audit - findings of fruitless / wasteful expenditure	Unqualified audit - findings of fruitless / wasteful expenditure
	Compliance to requirements as an accountable, transparent Institution	Submission against annual deadline and no material misstatements for May Submission	New annual target	No material misstatements on May submission	No material misstatements on May submission	No material misstatements on May submission	No material misstatements on May submission	No material misstatements on May submission
3.3 Ensure a sound control environment and monitor and maintain compliance and ensure that all reporting requirements are met	Integrated risk management processes and combined assurance	Achieve an unqualified Audit Outcome year on year	New annual target	Unqualified audit – no issues of risk management raised	Unqualified audit – no issues of risk management raised	Unqualified audit – no issues of risk management raised	Unqualified audit – no issues of risk management raised	Unqualified audit – no issues of risk management raised
	Annual reporting submission dates met May and July	Annual reporting submission dates met May and July	Annual reporting submission dates met May and July	Annual reporting submission dates met May and July	Annual reporting submission dates met May and July	Annual reporting submission dates met May and July	Annual reporting submission dates met May and July	Annual reporting submission dates met May and July

Strategic Objective Statement	Outcome	KPI	Base Line	Target				
				2015-2016	2016-2017	2017-2018	2018-2019	2019-2020
3.5 Ensure that the Tribunal effectively leverages employee skills by recruiting, retaining and developing high quality people	Strengthen the Tribunal's organisational capacity and performance to deliver on its legislative Mandate	Implementation of Case Management Graduate internships against plan	New annual target	Graduate internship policy and plan implemented by April	Graduate internship targets meet plan requirements			

Annexure G: Three Year Budget

	ACTIVITY	2014-2015	2015-2016	2016-2017	2017-2018
INCOME					
	ADDITIONAL EDD GRANT REQUIRED	0	0		
	COMMITTED GRANT EX THE EDD	18 100 000	19 102 000	20 115 000	21 121 000
	FEES RECEIVED	9 879 760	10 670 141	11 523 752	12 445 652
	BAL BFWD	7 477 110	3 832 977	2 804 251	3 224 161
	INTEREST RECEIVED	1 170 000	1 170 000	980 000	300 000
TOTAL INCOME		36 626 870	34 775 118	35 423 003	37 090 813
EXPENDITURE					
	SALARIES & ALLOWANCES	11 963 807	10 047 265	10 599 865	11 129 858
	FULL-TIME TRIBUNAL MEMBER	5 982 789	5 501 869	5 721 944	5 950 821
	CFO SALARY		1 409 417	1 465 794	1 524 425
	COMPANY CONTRIBUTIONS	549 569	755 574	797 130	836 987
	CASUAL LABOUR	3 600	3 600	3 798	3 988
	INTERNS	92 900	347 733	366 859	385 201
	PART-TIME TRIBUNAL MEMBER	3 097 125	3 025 250	3 146 260	3 272 110
	PERFORMANCE BONUS	1 176 491	866 521	914 180	959 889
TRAINING	TRAINING LOCAL	176 474	118 044	124 537	130 763
	TRAINING OVERSEAS	729 216	113 432	119 671	125 654
	OVERSEAS TRAVEL		226 657	239 123	251 079
	HOTEL ACCOMODATION OVERSEAS		100 238	105 751	111 038
	SUBSIDENCE OVERSEAS		82 887	87 445	91 818
	OECD COMMITTEE MEETINGS	176 363	97 274	102 624	107 755
	BURSARIES AND SCHOLARSHIPS	54 255	70 000	73 850	77 543
	CONFERENCES/SEMINARS/STUDY VISITS	497 689	392 110	137 892	144 787
	INTERNAL WORKSHOPS		40 000	42 200	44 310
PROF SERVICES					
	PROF FEES - CC	559 063	583 297	615 378	646 147
	PROF FEES - dti	2 114 881	1 873 249	1 976 278	2 075 092
	LEGAL FEES	150 000	0	0	0
	OTHER	859 540	261 432	275 810	289 601
	RECORDING SERVICES	663 076	721 266	760 936	798 983
	EXTERNAL FEE	577 796	577 796	609 575	640 054
	EXTERNAL AUDIT COMMITTEE	423 927	445 460	469 960	493 458
	INTERNAL FEE	592 503	678 483	715 800	751 590
RECRUIT COSTS					
	RECRUITMENT FEES	108 510	0	0	0
	STAFF ADVERTISING	0	0	0	0

	ACTIVITY	2014-2015	2015-2016	2016-2017	2017-2018
ADMIN EXP	LOCAL TRAVEL	158 524	81 500	85 983	90 2
	MILEAGE		70 560	74 441	78 1
	HOTEL ACCOMODATION - LOCAL	71 200	42 600	44 943	47 1
	CAR RENTAL	36 000	8 400	8 862	9 3
	PER DIEM ALLOWANCE	3 840	6 720	7 090	7 4
	PARKING	0	72 770	76 772	80 6
	BANK CHARGES	21 920	28 958	30 551	32 0
	REFRESHMENTS	117 396	127 503	134 515	141 2
	ENTERTAINMENT	17 200	4 200	4 431	4 6
	PRINTING AND STATIONERY	167 983	220 308	232 425	244 0
	WEBSITE CONSULTING	108 000	0	0	
	TECHINICAL	334 791	346 429	365 483	383 7
	ADVERTISING BROCHURES & PAMPHLETS	162 540	262 566	277 008	290 8
	PUBLIC RELATIONS	0	0	0	
	NEWSPAPER AND MAGAZINE SUBSCRIPT	38 434	46 769	49 341	51 8
	COURIER SERVICES	13 890	34 195	36 076	37 8
	POSTAGE AND STAMPS	1 500	1 200	1 266	1 3
	TELEPHONES/TELEFAXES	40 104	47 503	50 116	52 6
	CELL PHONES	132 000	6 900	7 280	7 6
	INTERNET SERVICE	87 165	80 007	84 407	88 6
	EMAIL ARCHIVING	38 177	46 993	49 578	52 0
	FIRST AID	360	360	380	3
	GIFTS AND FLOWERS	6 913	10 316	10 883	11 4
	GENERAL HOUSEKEEPING	600	600	633	6
	OFFSITE STORAGE	31 967	58 091	61 286	64 3
	INSURANCE	85 650	100 434	105 958	111 2
FACIL AND	LEASE- PHOTOCOPIER	143 994	144 246	152 180	159 7
	COMPUTER EQUIPMENT - COST	206 100	759 800	268 300	281 7
	COMPUTER SOFTWARE	370 000	546 750	576 821	605 6
	CDM DEVELOPMENT	850 000	400 000	300 000	315 0
	INTANGIBLE ASSETS		175 000	100 000	105 0
	ONGOING SUPPORT FOR CDM	360 000	228 096	240 641	252 6
	ADDITIONAL HARDWARE FOR CDM	0	0	0	
	R&M COMPUTERS	478 200	767 200	809 396	849 8
	LOOSE TOOLS (ASSETS UNDER R2000)	20 000	20 000	21 100	22 1
	OFFICE EQUIPMENT	25 000	25 000	26 375	27 6
	MOTOR VECHILE - COST	0	0	0	
	MOTOR VECHILES- FUEL R&M	11 159	22 302	23 529	24 7
	FURNITURE & FITTINGS - COST	220 000	0	0	
	R and M	3 000	3 000	3 165	3 3
	DEPRECIATION	1 170 416	1 139 697	1 102 380	1 157 4
TOTAL		36 083 599	34 275 827	34 896 251	36 537 72
APPEALS COURT		543 271	499 291	526 752	553 09
GRAND TOTAL		36 626 870	34 775 118	35 423 003	37 090 81
SURPLUS/ (DEFICIT)		0	0	0	

Annexure H: ENE Summary – December 2014

Statement of financial performance	2011/12		2012/13		2013/14		2014/15		2011/12 - 2014/15		2015/16
	Approved budget	Audited Outcome	Approved budget	Audited Outcome	Approved budget	Audited Outcome	Budget estimate	Revised estimate	Outcome/Budget Average %	Average growth rate (%)	
Revenue											
Tax revenue	-	-	-	-	-	-	-	-	-	-	-
Non-tax revenue	10 362	11 218	14 688	9 540	15 638	11 861	18 527	17 225	46.9%	15.4%	42.5%
Sale of goods and services other than capital assets of which:	7 250	10 015	9 075	8 417	9 775	10 856	9 880	9 880	28.8%	-0.5%	34.2%
Administrative fees	7 250	10 015	9 075	8 417	9 775	10 856	9 880	9 880	28.8%	-0.5%	34.2%
Sales by market establishment	-	-	-	-	-	-	-	-	-	-	-
Other sales	-	-	-	-	-	-	-	-	-	-	-
Other non-tax revenue	3 112	1 203	5 613	1 123	5 863	1 005	8 647	7 345	18.1%	82.8%	8.3%
Transfers received	15 175	15 175	15 600	15 798	16 945	16 945	18 100	18 100	53.1%	6.1%	57.5%
Total revenue	25 537	26 393	30 288	25 338	32 583	28 806	36 627	35 325	100.0%	10.2%	100.0%
Expenses											
Current expenses	25 537	23 287	30 288	26 789	32 583	32 485	35 325	34 029	100.0%	13.5%	100.0%
Compensation of employees	14 781	12 646	18 323	13 710	20 412	16 170	19 768	18 656	59.2%	13.8%	52.5%
Goods and services	10 267	10 197	11 123	12 524	11 163	15 238	14 386	14 397	38.0%	12.2%	44.9%
Depreciation	489	444	842	555	1 009	1 077	1 170	975	2.8%	30.0%	2.5%
Interest, dividends and rent on land	-	-	-	-	-	-	-	-	-	-	-
Transfers and subsidies	-	-	-	-	-	-	-	-	-	-	-
Total expenses	25 537	23 287	30 288	26 789	32 583	32 485	35 325	34 029	100.0%	13.5%	100.0%
Surplus/(Deficit)	-	3 106	-	(1 452)	-	(3 679)	1 302	1 296		-25.3%	

Note: The surplus reflected in the ENE summary is not a surplus but this reflects the capital expenditure budget which appears elsewhere in the ENE.

Annexure I: The Tribunal's Risk Register (in rank order)

Rank	Risk name	Category	Origin	Residual risk exposure
1	Limited office space	Safety	Strategic	Priority 1
2	Dependence on Dti IT infrastructure and service delivery	Information technology	IT	Priority 1
3	Insufficient funding from EDD	Financial stability	Strategic	Priority 1
4	Lack of and untimely approval of strategic submission to EDD	Regulatory / Statutory / Legal	Strategic	Priority 1
5	Business interruption	Business continuity planning	Strategic	Priority 2
6	Late / non-appointment of Tribunal members by EDD	Human resources	Strategic	Priority 2
7	Procurement fraud	Fraud and theft	Fraud	Priority 3
8	Loss of physical assets	Fraud and theft	Strategic	Priority 3
9	Inadequate Information Security	Information integrity and reliability	IT	Priority 3
10	Poor case management	Reputation	Strategic	Priority 3
11	Decision-making compromised	Reputation	Strategic	Priority 3
12	Inadequate financial management	Financial stability	Strategic	Priority 3
13	Poor corporate governance / business ethics and regulatory compliance	Regulatory / Statutory / Legal	Fraud	Priority 3
14	Financial non-disclosure and inadequate financial reporting	Information integrity and reliability	Fraud	Priority 3
15	Duplicate or fraudulent payments (Finance)	Fraud and theft	Fraud	Priority 3
16	Inadequate performance management	Regulatory / Statutory / Legal	Strategic	Priority 5
17	Ineffective and untimely reporting to EDD	Regulatory / Statutory / Legal	Strategic	Priority 5
18	Misappropriation of CT resources	Fraud and theft	Fraud	Priority 5
19	Inability to attract and retain key critical positions within the organisation	Human resources	Strategic	Priority 5