

2023/2024



competitiontribunal
SOUTH AFRICA

ANNUAL PERFORMANCE PLAN 1 APRIL 2023 – 31 MARCH 2024

Foreword by Executive Authority

The 2023/24 Annual Performance Plan of the Competition Tribunal reflects the continued efforts of the dtic Group to align our activities around a common purpose; grounded in efforts to support **Industrialisation** to promote jobs and rising incomes, drive **Transformation** to build an inclusive economy, and build a **Capable State** to ensure improved impact of public policies.

The APP contains an ambitious set of targets aimed at realising the vision of the Competition Tribunal's governing legislation and utilising these regulations to meet their purpose of empowering a larger number of South Africans to contribute towards our shared prosperity. In the year ahead, the Competition Tribunal will play a critical role in creating a fair and prosperous South African economy. While companies face a challenging global economic environment, the work of the Competition Tribunal will help create the conditions for sustained growth that are most needed when times are hardest.

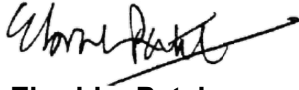
Since the start of the Sixth Administration, the Department of Trade, Industry and Competition and all entities in the dtic Group have begun a process of adopting a revised output-driven planning system – grounded in the objective of combining all our efforts towards creating real impact for South Africans.

In 2023/24, the dtic concluded this process by introducing 45 output targets, to which the Competition Tribunal makes a critical contribution. These include supporting 1 million jobs, mobilising R200 billion in investment, supporting R700 billion in manufacturing exports, and helping Black Industrialists to create 20,000 jobs and R36,8 billion in output. The attached table (Table 1) sets out the 45 outcomes.

While the Competition Tribunal has incorporated many of these objectives into the APP, our next steps will be to further align the work of Competition Tribunal to meet these common objectives through the implementation of its governing legislation. Within one month of tabling this version of the plan, proposed revisions must be submitted to the Executive Authority to better align with the vision of these targets.

Implementation of this plan must take account of the challenging fiscal environment in which government is operating, and as such as I have instructed all entities to undertake a further review of their spending plans for the period of the plan, and to submit a final, revised financial plan within one month of tabling this version of the plan. This plan should aim to reduce unnecessary spending and redirect these resources to better serve our core objectives.

The APP 2022/23 is hereby submitted in accordance with the Revised Framework on Strategic and Annual Performance Plans.

A handwritten signature in black ink, appearing to read 'Ebrahim Patel', with a long horizontal stroke extending to the right.

Ebrahim Patel

Minister of Trade, Industry and Competition

Date: 31 March 2023

Foreword by Accounting Authority

This Annual Performance Plan (APP) is limited to the 2023/2024 financial year.

In setting the targets in the APP, the Tribunal considered the policy imperatives of government, the National Development Plan (NDP) which aims to reduce poverty and inequality by 2030, and the Economic Reconstruction and Recovery Plan (ERRP) aimed not only at recovering the economy but forging a new economy to address long-term structural deficiencies, and to transform the economy to what is next.

The dtic has cascaded the objectives of the NDP and ERRP into three joint indicators: Industrialisation; Transformation and a Capable State and this APP is also aligned to these joint indicators.

The Tribunal is an independent and impartial adjudicative body whose function is to hear and decide mergers and complaints of anticompetitive conduct under the Competition Act. While it reacts to cases that are brought to it, the Tribunal through its inquisitorial powers can proactively advance the objectives set in the NDP, ERRP and dtic joint indicators within the parameters of its legislative mandate. In 2019, amendments were effected to the Competition Act with the aim of transforming markets to become competitive and inclusive. The amendments strengthen the merger, abuse of dominance and market inquiry provisions in the Competition Act, in order to reduce barriers to entry in markets, address concentration in the economy, and to increase ownership and participation, particularly by SMMEs, and HDIs in the economy. These amendments have led to a re-invigorated interest in public interest issues as jurisprudence around the scope and interpretation of public interest develops with the lens of increasing participation and economic transformation.

The decisions of the Tribunal on competition and public interest issues, seek to provide consumers with lower prices and high-quality products, promote the participation of small businesses and black owned firms in markets, and foster competition to promote innovation, productivity and long-term inclusive growth.

The bedrock of the APP is the five-year (2020-2025) Strategic Plan, the two outcomes of which are: Reliable and Responsive Adjudication (of competition law cases); and Accountable, Sustainable and Transparent Entity.

The APP sets 24 targets, of which 11 targets are on the first strategic outcome, Reliable and Responsive Adjudication, and 13 targets are on the second outcome, Accountable, Transparent and Sustainable Entity. Performance against these targets is monitored and reported quarterly to **the dtic** and National Treasury, and in the Annual Report.

In the next financial year, 2023/2024, we expect that there will be an increase in the demand for the Tribunal's services because of the amendments to the Competition Act. This requires a growth in the Tribunal's resources including capacity in order to strengthen the organisation. In gearing the Tribunal up for this anticipated growth we have embarked on stakeholder engagements and are grateful for their inputs. Our focus in 2023/2024 is to increase capacity in line with the demand for services and increased complexity of cases. To this end, the organisational structure review proposes an increase in capacity of 30 positions (currently there are 27 positions that are filled excluding members). This will be phased in over a three-year period. We anticipate filling in 10 positions in the current financial year (2023/24).

In January 2023, the Tribunal received approval from the National Treasury to retain the accumulated cash surplus of R17.555 million to be used for priorities as identified in the 2022/2023 financial year. The priorities related mainly to increasing staff capacity. The National Treasury requested the Tribunal to ensure that the positions are funded from its baseline budget and that the positions are aligned to the new organisational structure.

To this end, the current Medium Term Expenditure Framework (MTEF) reflects a R200.51 million expenditure budget (including capital) over the three-year-period 2023/2024 to 2025/2026, of which the largest spend (72.71%) is on staff. The Tribunal's R200.51 million revenue budget is comprised of 66.80% of grant funding from **the dtic** and 31.70% from the filling fees administered by the Commission.

Following the organisational structure review, the Tribunal is in the process of being strengthened with a new structure. The estimated additional funding that would be required to fund the new structure is R34.15 million in year one, R37.79 million in year two and R65.69 million in year three, which translates to R137.64 million over the MTEF period (168.64% of the current revenue budget). The estimated costs incorporate both the human capital positions and the additional operational requirements (including office space and equipment) that will arise from the new structure.

With a strengthened Tribunal, we are confident that we will achieve our vision of a vibrant, competitive and inclusive economy.

A handwritten signature in black ink, appearing to read 'Mondo Mazwai', written over a horizontal line.

Mondo Mazwai

Chairperson – Competition Tribunal

Official sign-off

It is hereby certified that this Annual Performance Plan of the Competition Tribunal for the period 1st April 2023 to 31st March 2024 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 2023/2024 financial year.

Gcinumzi Qotywa

Chief Operating Officer – Competition Tribunal

Signature: _____

Date: 10 March 2023

Mondo Mazwai

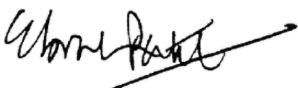
Chairperson – Competition Tribunal

Signature: _____

Date: 10 March 2023

Ebrahim Patel

Minister of Trade, Industry and Competition

Signature: _____

Date: 31 March 2023

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Abbreviations and Acronyms

AfCFTA	African Continental Free Trade Area
AG	Auditor-General
APP	Annual performance plan
BBBEE	Broad-based black economic empowerment
Commission	Competition Commission
Competition Act	Competition Act 89 of 1998
CAC	Competition Appeal Court
COVID-19	Coronavirus Disease 2019
the dtic	Department of Trade, Industry and Competition
ERRP	Economic Reconstruction and Recovery Plan
EME	Exempted Micro Enterprise
ENE	Estimates of National Expenditure
ESKOM	Electricity Supply Commission, SA's electricity public utility
HDIs	Historically Disadvantage Individuals
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
Minister	Minister of Trade, Industry and Competition
MTEF	Medium Term Expenditure Framework
NDP	National Development Plan
NGO	Non-government organisation
OECD	Organisation for Economic Co-operation and Development
PFMA	Public Finance Management Act
PPEs	Personal Protective Equipment
PWDs	Persons With Disability
RMC	Risk Management Committee
SADC	Southern African Development Community
SCM	Supply Chain Management
SMME	Small, medium, and micro-sized enterprise
TID	Technical indicator description
Tribunal	Competition Tribunal

WTO

World Trade Organisation

PART A: OUR MANDATE

1. Legislative Mandate

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.

The Tribunal's 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, which tends to impede, restrict or distort competition in connection with the supply or acquisition of those goods or services within the Republic.

2. Alignment to Government Policy Outcomes

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 supports the ERRP, 2020, developed by government in response to the COVID-19 pandemic in order to stimulate equitable and inclusive growth in the economy. The Tribunal is also aligned with **the dtic's** three joint indicators which are the implementation plans aligned to the NDP.

These are as follows:

1. **Industrialisation** - opportunities to grow the domestic market through localisation, sector partnerships (Masterplans), Green economy initiatives, investment expansion/promotion, African and Global exports.
2. **Transformation** - opportunities to promote BEE, worker empowerment, addressing economic concentration and SME promotion.
3. **Delivery/Capable State** - initiatives to build entity staff and governance capacity and quick response, participate in the shared services of **the dtic** and undertake internal business process improvements.

The Tribunal's mandate is also aligned with certain of the priority outcomes contained in the NDP. The alignment between the Tribunal's legislated mandate and the NDP outcomes are illustrated in the diagram below. For example, in merger control all decisions taken by a Tribunal panel when adjudicating on matters brought before it must consider, in addition to competition issues (relating to consumer welfare and efficiency), various public interest factors which include the effect of a merger on a particular industrial sector or region, employment, the spread of 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.

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 Tribunal's performance progress with regards to these joint indicators has been reported quarterly to **the dtic** in the 2022/2023 financial year.

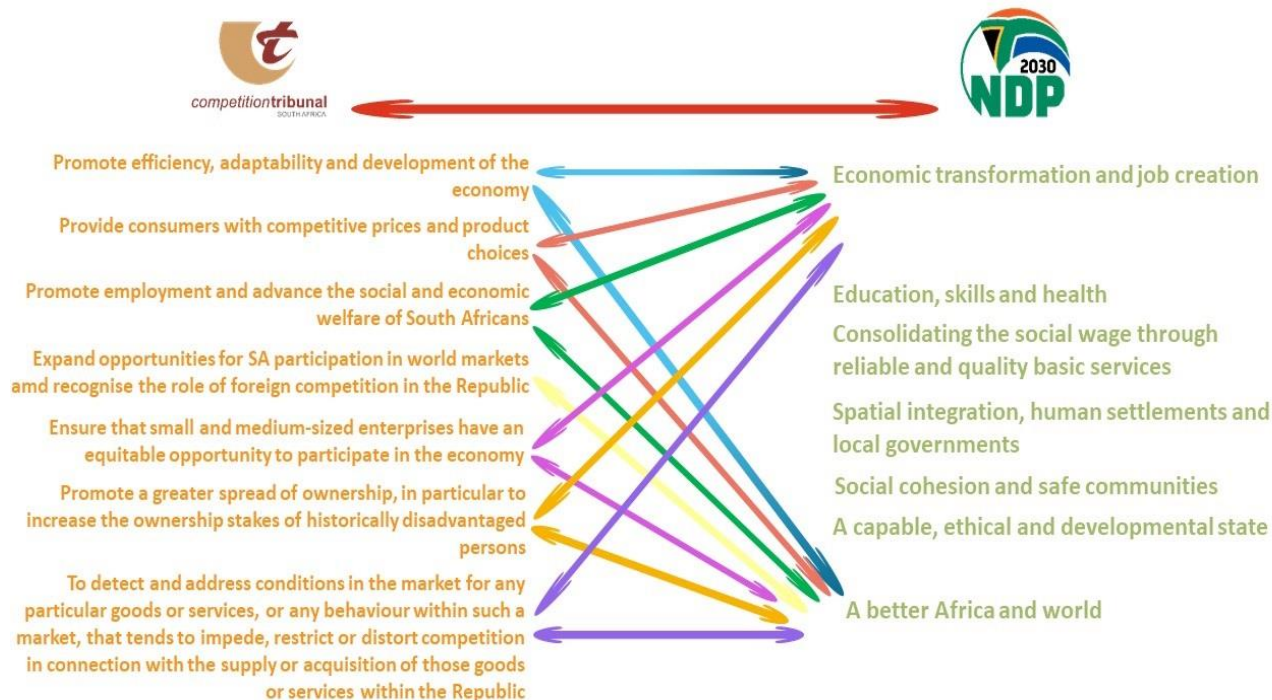


Figure 1 Alignment of the Tribunal's Mandate to the NDP's Outcomes

Output targets within the dtic-group of entities

Table 1. Tables reflecting Output targets within the dtic group of entities.

Investment

Output
R200 billion in investment pledges secured across the state
100 Investor facilitation and unblocking interventions provided
2 new SEZs designated and support work with provinces related to industrial parks

Industrial production

Output
R40 billion in additional local output committed or achieved
R40 billion in Black Industrialist output achieved

Exports and trade

Output
R700 billion in manufacturing exports
R300 billion in manufacturing exports to other African countries
R2.5 billion in exports of Global Business Services (GBS)
1 Implementation of the AFCFTA
10 High impact trade interventions completed
4 Protocols finalised under the AfCFTA

Industrial support

Output
R30 billion in support programmes administered by or in partnership with the dtic group
R15 billion support programmes to enterprises in areas outside the 5 main metros
R8 billion in financial support programmes to SMMEs, and women and youth-empowered businesses
R7.5 billion in financial support programmes to enterprises in labour absorbing sectors

Output
Promotion of a transparent and just adjudication process for incentive applications

Transformation

Output
R800 Million in Equity Equivalent Investment Programme agreements agreed or administered
20 000 additional workers with shares in their companies
10 high-impact outcomes on addressing market concentration, at sector or firm level.

Jobs

Output
1 million jobs supported or covered by Master Plans
100 000 jobs to be created (50 000 social economy fund part-time or temporary job opportunities and 50 000 full-time jobs)
23 000 jobs in Black Industrialists firms

Energy

Output
R1.3 billion in financial support to enterprises including SMMEs to mitigate impact of load shedding through energy resilience fund
1400 Megawatts of energy from projects facilitated
550 Megawatts of energy available for the grid
1 Energy One-stop Shop operational
Expedited regulatory amendments and flexibility, to promote energy efficiency

Green economy targets

Output
1 Strategy and advocacy finalised responding to green non-tariff barriers (Carbon Border Adjustment Mechanism (CBAM)
1 EV Strategy finalised

Output
1 Finalisation of green hydrogen commercialisation framework

Stakeholder engagement and impacts

Output
10 Business Forums hosted aimed at supporting increased FDI, exports and outward investment.
1000 Case studies of firms, workers, entrepreneurs, professionals or communities impacted by the dtic measures: including 12 local films/documentaries telling the SA story
52 Community outreach programmes by the dtic group
5 Conferences, summits, and international forums hosted
10 Successful actions completed on price monitoring and excessive pricing or price gouging

Addressing crime

Output
Grey-listing: Publication of 'Know Your Shareholder' Regulations and Follow Ups
1 Metal trading system developed to identify stolen public infrastructure entering the scrap metal value-chain, export market or legitimate metal production industry

Red tape and state capability targets

Output
4 High-impact measures to improve the efficiency and/or effectiveness, of the dtic's policy or programme interventions.
10 High-impact measures to reduce red tape or improve turnaround times in administration of incentives and work of agencies
6 Impact assessments or enhancements of trade instruments or measures

Improving the capacity and responsiveness of the state and social partnership

Output
4 Pieces of priority legislation amended, tabled or submitted to Executive Authority, Cabinet or Parliament.

Output
7 Master Plans managed and 1 new masterplan to be finalised.
Oversight of IDC, NEF and ECIC to ensure that at least 95% of planned KPIs are achieved
Oversight of other entities to ensure that at least 95% of planned KPIs are achieved
50 Mergers and acquisitions where public interest conditions have been incorporated

The two tables that follow provide an alignment matrix between the three-overarching joint/integrated indicators of **the dtic**, the Tribunal and the NDP respectively.

Table 2 Alignment of Tribunal outcomes with **the dtic's** Joint/Integrated Outputs

dtic's Joint/Integrated outputs ¹	Tribunal Outcomes	Tribunal Outcome Statement
1. Industrialisation- opportunities to grow the domestic market through localisation, sector partnerships (Masterplans), Green economy initiatives, investment expansion/promotion, African and Global exports.	Responsive and Reliable Adjudication	Through responsive and reliable adjudication of matters across key sectors of the economy, the Tribunal contributes to the outcomes of industrialisation and economic transformation (eg. through the assessment of competition and public interest considerations in mergers, as appropriate) of the dtic .
2. Transformation- opportunities to promote BEE, worker empowerment, addressing economic concentration and SME promotion.		
3. Delivery/Capable State- initiatives to build entity staff and governance capacity, participate in the shared services of the dtic and undertake internal business processes improvements.	Transparent, Accountable and Sustainable entity	Through transparent, accountable, and sustainable entity, the Tribunal contributes to a capable state.

¹Linking of **the dtic's** outcomes to the NDP.

Table 3 Alignment of the Tribunal's outcomes with the NDP's outcomes

NDP Outcome Number	NDP Outcomes	Tribunal Outcome	Tribunal Outcome Statement
NDP Outcome 1	Economic transformation and job creation	Responsive and Reliable Adjudication	Through responsive and reliable adjudication of matters across key sectors of the economy, the Tribunal contributes to the outcomes of economic transformation and job creation by the NDP and the dtic .
NDP Outcome 2	Education, skills and health	Responsive and Reliable Adjudication	Through responsive and reliable adjudication of matters in these key sectors, the Tribunal contributes to education, skills and health.
NDP Outcome 6	A capable, ethical, and developmental state	Transparent, Accountable and Sustainable entity	Through being a transparent, accountable and sustainable entity, the Tribunal contributes to a capable, ethical and developmental state.
NDP Outcome 7	A better Africa and World	Responsive and Reliable Adjudication	Through responsive and reliable adjudication, the Tribunal contributes to a better Africa and World.

3. Institutional strategies

The Tribunal is a court of first instance for competition matters. Being a quasi-judicial body, it is a creature of statute and deals only with matters that it is ceased with. The Tribunal has jurisdiction over competition matters across all sectors of the economy and adjudicates each case on its merits.

The Tribunal, however, aligns its outcomes with those of the NDP, ERRP, **the dtic** policy imperatives and the three regrouped overarching joint/integrated **dtic** outputs (Industrialisation, Transformation and a Capable State) in the identified sectors, within the confines of its mandate as set out in the Competition Act.

The two outcomes of the Tribunal are set out below and reflect the strategic requirements of the core and secretariat functions of the Tribunal.

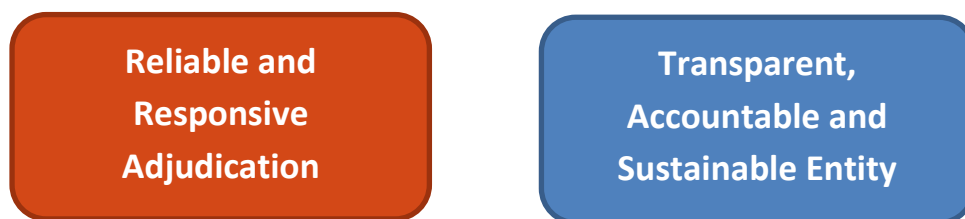


Figure 2 Competition Tribunal Outcomes

The Tribunal has aligned its two strategic outcomes, namely: **Reliable and Responsive Adjudication**; and **Transparent, Accountable and Sustainable Entity**, within the legal mandate of the entity, to government policy outcomes as mentioned above.

4. Recent Court Rulings and their implications

Court judgments continue to influence the Tribunal's operations into the future. The Constitutional Court's emphasis of the competition authorities' obligation to interpret the Competition Act in a manner which upholds the values enshrined in the Bill of Rights of the Constitution of the Republic of South Africa, 1996 in *Competition Commission of South Africa v Mediclinic Southern Africa (Pty) Ltd and Another* means that the Tribunal will continue to apply a transformative, constitutional and context-sensitive approach to its determinations.

The intersection between competition and constitutional law will continue adding to the workflow and complexity of matters considered by the Tribunal.

Another court ruling which is expected to impact on the Tribunal's operations or service delivery obligations is the Constitutional Court's judgment in *Competition Commission of South Africa v Group Five Construction Ltd*. The matter *inter alia* relates to the jurisdiction of the CAC, High Court and the Tribunal to decide a review application brought in terms of the Promotion of Administrative Justice Act 3 of 2000 (PAJA), or the legality principle, against certain decisions taken by the Commission. The Constitutional Court held that in respect of a PAJA or legality review, the CAC has non-exclusive, concurrent jurisdiction with the High Court, to the exclusion of the Tribunal. The Tribunal cannot adjudicate a review based on PAJA or legality. The Constitutional Court's decision will undoubtedly lead to parties framing matters as PAJA or legality reviews. It is likely that parties will engage in forum shopping to avoid appearing before the Tribunal or the CAC. The Tribunal therefore expects that there will be an increase in the number of challenges to its jurisdiction and intends to advocate for legislative amendments in this regard.

PART B: OUR STRATEGIC FOCUS

5. Situational Analysis

5.1. Strategic focus

The Tribunal's 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 Competition Act by determining whether prohibited conduct has occurred, and if so, impose a remedy provided for in the Competition Act;
- c) hear appeals against decisions of the Commission in market inquiries, and in intermediate and small mergers; and
- d) 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 Competition 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 judgments of the High Court and may be taken on appeal to the CAC 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 Competition Act. The members are supported in their decision-making by the Tribunal's secretariat that endeavours to provide efficient and effective administrative, research and organisational assistance.

Whilst the adjudicative process remains the main strategic focus, the Tribunal also places emphasis on other key areas of administration namely:

- Governance, risk, audit and compliance,
- Capacity building, and
- Effective financial management and reporting.

In addition, 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 upcoming 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.

5.2. Performance overview

The demand for the services of the Tribunal over the past 22 years has increased significantly. The table below provides details regarding matters heard over the past five years. It is evident that there is considerable fluctuation from year-to-year.

Table 4 Matters heard for the period 2018/19 to 2021/22

Type of case	2018/2019	2019/2020	2020/2021	2021/2022	2022/2023*
Large merger	101	86	66	86	79
Intermediate/small merger reconsideration	4	1	2	1	1
Complaints from the Commission	18	9	4	6	4
Consent order/settlement agreement	45	27	63	30	16
Complaints from third parties	0	0	0	0	1
Interim relief	1	3	1	2	1
Interlocutory/Procedural matters	46	28	16	34	67
Total	215	154	152	159	169

**The figures for the year 2022/2023 reflect matters heard until the end of January 2023*

In the three-year period 2019 to 2021, there was a decrease in the number of matters before the Tribunal. This is attributed mainly to the slow-down in the economy because of COVID-19. However, despite the decrease in the number of matters, the Tribunal's workload has not reduced concomitantly because of the significant increase in the complexity of issues raised in matters for the Tribunal to adjudicate. This is, *inter alia*, due to the new provisions in the Competition Amendment Act, for which there is no precedent, being tested before the Tribunal.

In the 2022 financial year, there has been an increase in the number of matters post-COVID in merger filings and procedural matters which is expected to increase in the future. There is an invigorated interest in public interest issues as parties contest the scope and interpretation of the public interest with the lens of increasing participation and economic transformation. For instance, in an interim relief application, Makareng Electrical Industries (Pty) Ltd t/a Wilec (Wilec), a private, 100% black-owned firm complained about abuse of dominance by Allbro (Pty) Ltd, an incumbent of over 40 years in the supply of transformer bushings used transmit electrical power into or out of a transformer. Transformer bushings are a necessary component in the manufacture of transformers, and a transformer cannot fulfil its purpose unless fitted with a transformer bushing. The purpose of a transformer (in which transformer bushings are a component) is to transfer electrical power from one circuit to another without any variation in the frequency. In this matter, the Tribunal granted interim relief, concluding that Wilec had *prima facie* established an abuse of dominance. The Tribunal found a real possibility that Wilec would exit the market which would not only deprive the market of some rivalry, competitive prices and choice in an already concentrated market, but would also deprive the market of the only black-owned firm in the market.

The Tribunal has generally performed well in getting merger cases set down and decided within the statutory timelines. The Tribunal's performance in completing reasons in opposed cases needs improvement and the Tribunal is taking steps to improve the turn-around time periods for issuing reasons for its decisions. These include strengthening case management through the appointment of more senior Case Managers who support Tribunal members and the appointment of additional Tribunal members. Getting the appropriate gearing of the ratio between full-time and part-time members who hear cases is in progress. In this financial year, the Minister has appointed 3 acting part-time members, senior advocates Geoff Budlender (for 12 months commencing January – December 2023), Jerome Wilson and Tembeka Ngcukaitobi, who were each appointed for 6 months commencing in February and April respectively. This will bolster and enhance the Tribunal's capacity as demand for the Tribunal's services continues to grow and the Tribunal develops new jurisprudence under the Competition Amendment Act

5.3. Policy Environment

On 9 February 2023, the President declared a national state of disaster to respond to the electricity crisis and its effects. This declaration will affect the Tribunal's work in the energy and related markets.

South Africa is a member of the African Continental Free Trade Area (AfCFTA), which started trading on 1 January 2021. The main objectives of AfCFTA are to create a single continental market for goods and services, with free movement of business, persons and investments. Relevant to the Tribunal is that negotiations are underway to draft an AfCFTA Competition Policy. This may affect the Tribunal's work in the future.

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. If 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 outweighs the negative impact on competition. Similarly, it is possible to prohibit a merger that does not lessen competition if its impact on the public interest, for example employment, is 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 Competition 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 Competition Act prohibits certain practices between firms in a horizontal relationship (that is, competitors) and firms in a vertical relationship (that is, the relationship between a firm and its suppliers, its customers, or both). Dominant firms (as defined by the Competition Act) are also prohibited from engaging in certain practices. While the Competition 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 the number of prohibited practice cases brought to it, as a result of new provisions (buyer power and price discrimination). The Tribunal’s 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 of competitiveness, black economic empowerment and SMME development are most directly advanced. Restrictive practices are prohibited by the Competition 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 Commission for exemption from the provisions of Chapter 2 (the provisions that deal with prohibited practices) of the Competition 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;
4. The economic development, growth, transformation, or stability of industry designated by the Minister, after consulting the Minister responsible for that industry; or
5. Competitiveness and efficiency gains that promote employment or industrial expansion.

iv. **Interlocutory applications**

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

- Exception applications: Respondents frequently bring objections to a complaint referral prior to pleading. The objections include *inter alia* those that contend that the complaint referral makes out no cause of action or is vague and embarrassing.
- Discovery applications: Both parties in a case have a duty to discover documents and applications to compel may follow if requests for further particulars have been ignored, there are disputes over relevance, disputes over whether the document exists or claims of legal privilege.
- Confidentiality applications: Parties are entitled to claim documents containing their trade, business or industrial information of economic value which is not generally available or known to others, as confidential. Procedurally, access to information claims are heard in the same manner, and sometimes at the same time as discovery applications;
- Intervention applications: In terms of the Competition Act and Rules, the Tribunal may admit as a participant in merger proceedings, any party who recognises as having material interest in the merger; and
- Points *in limine*: A respondent can bring an objection based on a question of law prior to pleading such as challenges questioning the Tribunal's jurisdiction to adjudicate a matter.

5.4. Impact of recent amendments to the Competition Act

The Tribunal has already started to see some effect of the July 2019 competition law amendments on its workload, with an increase in the complexity of cases and demand for the Tribunal's services. The expanded merger control considerations, both regarding the competition and public interest aspects of merger control, have expanded the ambit of issues for merger consideration and led to longer hearings.

One of the biggest impacts of the amendments is expected to be in that area of market inquiries. In the medium to long term, the Tribunal anticipates increased activity arising from the Commission's market inquiries, particularly as the Commission's Report on its Online Intermediation Platforms Market Inquiry is expected to be published in the first quarter of 2023 in terms of section 78 of the Competition Act.

Section 43F(1) of the Competition Act, makes provision for a person who is materially and adversely affected by the Commission's determination arising from a market inquiry, to appeal against that determination to the Tribunal. Significantly, the Tribunal will have to hear appeals against the Commission's determinations and decide on appropriate remedies including, where appropriate, divestiture subject to section 60 of the Competition Act. In this regard, the Tribunal has embarked on formulating regulations which prescribe the procedure for hearing appeals from the Commission's determinations, which must be published the Minister.

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 parties to have access to justice and 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 Competition Act also allows for the Minister of Trade, Industry and Competition to make representations on public interest grounds in merger transactions. The amendments grant the Minister the right to appeal the Tribunal's decisions where previously the Minister's right was limited to review.

5.6. Stakeholder Profile

Numerous stakeholders may be impacted by the Competition Act. The Tribunal encourages and maintains effective relationships with key stakeholders with the aim of promoting consumer 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 third 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 the Tribunal's decisions. These include consumers, competitors, customers, and suppliers of firms directly affected by Tribunal decisions.
- c) Sector-specific regulators who enjoy concurrent jurisdiction with the competition authorities, such as the Independent Communications Authority of South Africa (ICASA).
- d) Stakeholders to whom the Tribunal is accountable with respect to its functions. These include **the dtic**, Parliament, the Minister, 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, other competition agencies, the Organisation for Economic Co-operation and Development (OECD), the World Trade Organisation (WTO), Southern African Development Community (SADC), the International Competition Network (ICN) and others.
- f) Government stakeholders that the Tribunal may interact with, for example other government departments, state-owned entities, the Reserve Bank, and Parliament.

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



Figure 3 Tribunal's stakeholders and processes that characterise the Tribunal's relationships with stakeholders

5.7. Strategic Planning Process

The strategic planning process calendar which includes meetings, strategic sessions and consultations that 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), are detailed in the table below:

Table 5 Strategic planning process calendar

Date	Meeting	Participants	Outcome of meeting
26 October 2022	Tribunal's Operations Committee Meeting (OPCOM)	Chief Operating Officer, Head of Registry, Head of Case Management, Head of Finance, IT Administrator, HR Officer, Communications Officer.	Review of the APP for the 2023/2024 financial year.
31 October 2022	Submission of draft APP 2023/2024 to the dtic for comments.		
21 November 2022	Responses received from the dtic on first draft APP.		
05 December 2022	Institution wide planning session	All Tribunal Operational staff	Review of the Strategic Plan and APP for the 2023/2024 financial year.
12 January 2023	Tribunal's OPCOM Meeting	Chief Operating Officer, Head of Registry, Head of Case Management, Head of Finance, IT Administrator, HR Officer, Communications Officer.	Final inputs into the draft APP and First Draft Divisional Operational Plans for the 2023/2024 financial year.
26-27 January 2023	Review of the APP by MANCOM	Chairperson Full-time members Chief Operating Officer OPCOM	Final Draft APP for 2023/24 Financial Year.
31 January 2023	Finalise APP 2023/2024 and submit to the dtic	Tribunal Chairperson Chief Operating Officer	Submit to the dtic for Minister's consideration and approval.

27 February 2023	Minister's Meeting with the dtic entities	Tribunal Chairperson Chief Operating Officer	Minister's input into the APP to consider cross-cutting outcomes.
10 March 2023	Finalise APP 2023/2024 and submit to the dtic	Tribunal Chairperson Chief Operating Officer	Submit to the 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 6 PESTEL Analysis for the Tribunal

FACTOR	ITEM
Political Factors	<ul style="list-style-type: none"> • International <ul style="list-style-type: none"> ○ Russia/Ukraine war ○ 2060 Africa Sustainability goals ○ Trade agreements and the impact on exports and imports, including AfCFTA ○ 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 ○ Coalition governments and its impact on political stability ○ Policy uncertainty ○ 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

FACTOR	ITEM
	<ul style="list-style-type: none"> • Poor economic growth • Failing State Owned Companies • Load shedding/Energy crises • Cost of living crises
Social Factors	<ul style="list-style-type: none"> • Public perception – poor understanding of what we do • Digital divide – it excludes many people, particularly low income and rural areas • Civil unrest
Technological Factors	<ul style="list-style-type: none"> • Cyber security is a growing global risk • Fourth industrial revolution –Technology and data costs
Environmental Factors	<ul style="list-style-type: none"> • Environmental degradation and climate change • Natural disasters e.g., floods • The shift to renewable energy
Legal Factors	<ul style="list-style-type: none"> • Amendments to the Competition Act • Increased regulation and compliance • International developments in competition law • High stakes, litigious behaviour

6. Internal environmental analysis

Two main potential factors affect the Tribunal's ability to deliver on its mandate. The first potential factor is timeous decisions and consistency in the decisions made by the Tribunal and is depicted in the problem tree attached as Annexure A to the Strategic Plan 2020-2025. The Tribunal has identified possible interventions and solutions for delays and inconsistent decision-making (depicted in Annexure B to the Strategic Plan).

The second potential factor relates to inadequate resources (depicted in the problem tree attached as Annexure C to the Strategic Plan of 2020-2025. The interventions and solutions to address and resolve this factor is 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 paragraph 5.7 above.

i. Return to the office

While the Covid pandemic was devastating in its human cost and cost to business, it led to the Tribunal implementing several efficiency related measures, such as remote working and “livestreaming” of Tribunal hearings.

The Tribunal has learned many lessons from the hybrid work model implemented in 2022 whereby some cases continued to be heard virtually. With effect from the beginning of 2023, the Tribunal has fully returned to office. However, some cases will continue to be heard virtually and “livestreaming” of virtual hearings is planned. In this regard an assessment of which cases to hear virtually versus physically is currently being determined and will be adjusted from time to time. Furthermore, during the lockdown period it became apparent that there are activities of the Tribunal that could be efficiently performed remotely. Benefits of returning to the office include improvements in staff development, team building and cohesion across the organisation. Due to security concerns relating to the area in which the Tribunal’s offices are located and the high cost of living and to soften the costs for staff associated with returning to the office, the Tribunal will implement measures including making a pool car available to transport staff to and from the Gautrain station.

ii. Energy Challenges

Given the current electricity challenge (loadshedding), as a result of being back in the office, the Tribunal is by and large benefiting from the power and back-up plans on **the dtic’s** campus. The Tribunal is investigating making invertors available to be used on a rotational basis for staff who need to work outside of office hours or at home, when required.

iii. Tribunal Members

The Competition 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 consequences, and it is therefore necessary (and stipulated in the Competition Act) that they should have qualifications and experience in law, economics, commerce, industry or public affairs.

The Chairperson of the Tribunal is responsible for managing the caseload 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 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 amended Competition Act makes provision for an increased number of Tribunal members from 11 to 15 members (including the Chairperson) in anticipation of the increased workload. The amended Competition Act also gives the Minister the power to appoint acting part-time members and, in this regard, there are currently five acting part-time members appointed by the Minister. Ms Shai'sta Goga and Prof. Liberty Mncube were appointed with effect from 1 January 2022 and reappointed with effect from 1 January 2023, and advocates Geoff Budlender SC, Jerome Wilson SC, and Tembeka Ngcukaitobi SC, were appointed with effect from January, February, and April 2023 respectively. On 1 February 2023, Prof Liberty Mncube was appointed as the Deputy Chairperson and Prof Imraan Valodia re-appointed as a part-time member. As of 10 March 2023, the Tribunal's complement of members is 11 out of 15. Five of the Tribunal's members are lawyers and the other six are economists. Only three members are full-time (including the Chairperson), four are part-time members and the other four are acting part-time members.

The appointment of the acting part-time members has assisted in alleviating the workload and improved the Tribunal's efficiencies. There however, remains a need for more members to be appointed on a full-time basis. This is because of the day-to-day management of cases prior to a hearing which is extensive from case to case. Further, cases of a longer duration (one week and more) are difficult to conduct with part-time members due to their other commitments arising from their full-time employment. The Tribunal anticipates that matters of a longer duration that were on hold during the lockdown will become active. In order to increase the efficiency of the Tribunal, the optimal gearing ratio between full-time members and part-time members requires review. The current ratio of full-time to part-time members is two to five.

Tribunal member vacancies 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 complexity of cases as a result of the recent amendments to the Competition Act for which there is no precedent. Inadequate capacity and financial sustainability are identified, amongst others, as the top strategic risks of the Tribunal. In this regard, steps to increase capacity have been taken through the organisational structure review process. Regarding funding, the Tribunal requested retention of a surplus of R17.555 million to be used for priorities relating mainly to increasing staff capacity. The Tribunal received approval from the National Treasury to retain the accumulated cash surplus in January 2023.

In this APP, we have budgeted for the filling of three full-time member vacancies, including the Deputy Chairperson. The Tribunal has also budgeted for residual processes emanating from the Tribunal's organisational review process completed in the previous financial year and is now in the implementation phase. **Annexure B** provides a detailed list of current serving Tribunal members and their respective qualifications.

iv. Tribunal Secretariat

The Tribunal's secretariat provides administrative and operational support within the Tribunal. The Tribunal undertook an organisational structure review process conducted by an external service provider in 2022/23. The current staff establishment provides for 35 positions of which 27 are filled leaving seven vacant positions. The new structure provides for 59 positions in total. The Tribunal intends to fill these positions in a phased-in manner over a period the MTEF period. In the current financial year, the Tribunal has prioritised 10 positions:

The Tribunal organogram provides for the following five divisions:

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

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 delegated to the Chief Operating Officer and Divisional Heads. The Chairperson retains ultimate accountability in terms of the PFMA.

The organogram in **Annexure A** illustrates the current structure of the organisation following the organisational structure review process. The one of the two vacant full-time member positions on the organisational structure has been temporarily filled with an acting part-time member with effect from 1 January 2022.

Annexure C details the names and positions held by the Tribunal's employees and provides some statistics pertaining to the profile of the secretariat.

v. Personnel

The Tribunal is committed to transformation, especially achieving employment equity at the workplace. The Tribunal values diversity and adheres to the constitutional principles of equality and non-discrimination in all its policies, procedures and activities. These principles are adhered to with respect to the recruitment and selection of staff and human resource development.

As can be seen in the organisational structure attached as **Annexure A**, the Tribunal has a fairly flat structure, with limited 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 Case Managers and progress to a Principal 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 have either a legal or an economics background. It is important that adequate legal as well as economic expertise and experience exists in this division. 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 Head of Case Management's responsibility is 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 Managers, depending on the nature and complexity of the case. Priority is given to cases where there are potential significant

effects on the economy or public interest. Case allocation methods and procedures are continually reviewed to ensure efficiency and staff development.

In general, Case Managers spend on average three to four years in the Tribunal and as their marketability increases, they are attracted by higher salaries and growth opportunities in the legal profession, academia, and economic consultancies. The Tribunal is aware of this trend and as such, is continually exploring retention mechanisms.

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.

vi. 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 two interns via its graduate internship programme in the Case Management division. The interns in this programme will spend on average a year at the Tribunal. The contracts of the two interns who were appointed for an original period of 12 months each, commencing 1 January – December 2022 have been extended until end of December 2023 in order to assist in alleviating current capacity constraints. The Tribunal uses the internship programme to provide short-term employment opportunities to unemployed youth which exposes them to valuable work experience.

vii. Capacity Development

The Tribunal is committed to capacity building and development. Proactive steps are taken to train and develop staff given the significant skills gap in the country. 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. Other areas include fraud prevention awareness, and IT security and risk management training.

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 need to keep abreast of 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 at international conferences. These would include the ICN, the leading network of about 140 competition authorities worldwide of which the Tribunal is a member, the Annual Fordham Antitrust conference, the International Bar Association and the OECD Competition Committee meetings, as well as an annual seminar of the Association of Competition Economists and AfCFTA.

Since 2006 the Tribunal has been an observer member 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 depends on the availability of budget. Full-time Tribunal members will, as far as possible, remain active virtually via video conferencing in international bodies such as the ICN. These meetings provide the Tribunal's members with a forum to review their work and to keep abreast with aspects of competition, economics and law given the focus on increased competition law in the region.

FINAL MTEF SUBMISSION

i. Financial requirements and resources

The Tribunal's expenditure requirements (inclusive of capital expenditure) over the Medium-Term Expenditure Framework (2023/2024 – 2025/2026) is estimated to be **R200.51m**. The Tribunal has budgeted to fund this from the three revenue sources:

- National Treasury and **the dtic** approved grant funding of **R133.94m**;
- Expected filing fee revenue of **R63.57m**; and
- Interest on cash holdings of **R3.00m**.

In recent years the grant allocated has grown at a rate based mainly on inflation as opposed to changes in the Tribunal's operational requirements and in line with the 2019 amendments to the Competition Act.

Following the organisational structure review, the Tribunal is in the process of being strengthened with a new structure. The estimated additional funding that would be required to fund the new structure is R34.15 million in year one, R37.79 million in year two and R65.69 million in year three, which translates to R137.64 million over the MTEF period (168.64% of the current revenue budget). The estimated costs incorporate both the human capital positions and the additional operational requirements (including office space and equipment) that will arise from the new structure.

ii. 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 an average of 7% long-term compound annual growth rate (1999-2019). Filing fees dropped significantly by 25% in 2020/21 due to the impact of the COVID-19 pandemic. They increased by 23% from 2020/21 to 2021/22 due to the increase in merger activity following the impact of the COVID-19 pandemic. The pandemic had created uncertainty in predicting the estimates for future filing fees therefore the filing fees budgeted over the MTEF period is based on the actual filing fees received as at 31 March 2022.

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. National Treasury has approved the retention of cash surpluses accumulated as of 31 March 2022 of R17.55 million. The summary of the MTEF submission is reflected in the table below:

Table 7 Summary of the Budget estimates over the MTEF period

CATEGORY	2022/2023	MTEF PERIOD			
		2023/2024	2024/2025	2025/2026	TOTAL
REVENUE					
GRANT	42,286,000	42,703,000	44,621,000	46,620,000	133,944,000
FILING FEES	16,600,000	19,367,000	21,046,000	23,156,000	63,569,000
INTEREST RECEIVED	800,000	1,000,000	1,000,000	1,000,000	3,000,000
TOTAL REVENUE	59,686,000	63,070,000	66,667,000	70,776,000	200,513,000
LESS: TOTAL EXPENDITURE	77,241,000	63,070,000	66,667,000	70,776,000	200,513,000
DEFICITS FUNDED BY SURPLUSES	(17,555,000)	-	-	-	-

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 July 2022. **Annexure F** contains a summarized version of the Tribunal's budgetary requirements over the three-year planning period (from 2023/2024 to the 2025/2026 budget). **Annexure G** provides the details of the 2023/2024 budget.

iii. Budgeting

The Tribunal adopts a zero-based 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.

The main reason for the underspending over a five-year period is due to the vacancies of full-time Tribunal members. The Tribunal will continue budgeting for these positions in anticipation of filling the vacancies.

Table 8 Expenditure against budget for the period 2017/18 to 2022/23

Year	Actual expenditure incl. of capital expenditure	Budget expenditure incl. of capital	% Budget spent	% Budget underspent/ overspent
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
2020/2021	R46.40m	R51.24m	90.55%	9.45% underspent
2021/2022	R45.26m	R50.65m	89.38%	10.62% underspent
2022/2023 (As of 31 December 2022)	R41.54m	R42.82m	97.07%	2.93% underspent

PART C: MEASURING OUR PERFORMANCE

8. Institutional Programme Performance Information

The Tribunal is aiming to achieve 23 outputs aligned over the 2022/2023 financial year.

8.1. Outcomes, Outputs, Performance Indicators and Targets

In this section we identify the outputs that will assist the Tribunal to achieve its stated outcomes in each of the Tribunal's focus areas, namely Reliable and Responsive Adjudication; and Transparent, Accountable and Sustainable Entity. 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 2023/2024 or was 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, it is also reflected in the matrix (even if it is not an audited outcome).

8.1.1. Adjudication

Table 9 Outcomes / outputs / indicators / targets related to adjudication

OUTCOME	OUTPUT	OUTPUT INDICATOR	AUDITED ACTUAL PERFORMANCE			ESTIMATED PERFOR- MANCE	MTEF PERIOD TARGETS		
			2019/20	2020/21	2021/22		2023/24	2024/25	2025/26
Responsive and Reliable Adjudication	1. Effective case management procedures to ensure hearings are set down within legislated timeframes.	Percentage of mergers scheduled for a hearing or pre-hearing within 10 business days of filing.	88% (large) 0% (intermediate/ small)	97% (large) 0% (intermediate/ small)	92% (large) 100% (intermediate/ small)	80%	85%	85%	85%
Responsive and Reliable Adjudication	2. Effective and timeous issuing of orders and reasons	Percentage of merger <u>orders</u> issued to parties within 10 business	100% (large), 50% (intermediate/ small)	100% (large) 100% (intermediate/ small)	100% (large) 100% (intermediate/ small)	85%	85%	85%	85%

OUTCOME	OUTPUT	OUTPUT INDICATOR	AUDITED ACTUAL PERFORMANCE			ESTIMATED PERFORMANCE	MTEF PERIOD TARGETS		
			2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26
		days following conclusion of the hearing ² .							
		Percentage of <u>reasons</u> for mergers, issued to parties within 20 business days of order being issued. ³	71% (large) 25% (intermediate/ small)	72% (large) 100% (intermediate/ small)	92% (large) 0% (intermediate/ small)	75%	75%	75%	75%

² Output indicators for large, intermediate and small merger orders have been combined. Actual performance (on an uncombined basis) in prior years has been provided. The hearing is considered concluded after information (if any) is submitted, post the hearing.

³ Output indicators for large, intermediate and small merger reasons have been combined. Actual performance (on an uncombined basis) in prior years has been provided.

OUTCOME	OUTPUT	OUTPUT INDICATOR	AUDITED ACTUAL PERFORMANCE			ESTIMATED PERFORMANCE	MTEF PERIOD TARGETS		
			2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26
		Number of reports regarding competition and public interest considerations in mergers.	New Indicator ⁴			4 reports sent to the dtic	4 reports sent to the dtic	4 reports sent to the dtic	4 reports sent to the dtic
		<u>Percentage of Reasons</u> ⁵ for prohibited practice cases issued to parties within	No reasons issued (simple) 33% (complex)	No reasons issued (simple) 0% (complex) 67% (very complex)	No reasons issued (simple) 0% (complex) No reasons issued (very complex)	75%	75%	75%	75%

⁴ New indicator in 2022/23 which has been modified from “INSERT original INDICATOR”.

⁵ 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. Furthermore, the target has been adjusted to accommodate the approximate cases that fall into this category.

⁶ Prohibited practice cases, classified as simple, complex and very complex has been combined.

OUTCOME	OUTPUT	OUTPUT INDICATOR	AUDITED ACTUAL PERFORMANCE			ESTIMATED PERFOR- MANCE	MTEF PERIOD TARGETS		
			2019/20	2020/21	2021/22		2022/23	2023/24	2024/25
		120 business days following the hearing. ⁶	0% (very complex)						
Responsive and Reliable Adjudication	3. Effective and timeous issuing of orders, and reasons	Percentage of procedural matter ⁶ <u>orders</u> issued to parties within 45 business days of following conclusion of a hearing.	55%	90%	84%	65%	65%	65%	65%

⁷ Not all procedural/interlocutory matters require reasons to be issued.

OUTCOME	OUTPUT	OUTPUT INDICATOR	AUDITED ACTUAL PERFORMANCE			ESTIMATED PERFORMANCE	MTEF PERIOD TARGETS		
			2019/20	2020/21	2021/22		2023/24	2024/25	2025/26
		Percentage of <u>orders</u> for consent orders and settlement agreements issued to parties within 10 business days of the last hearing date.	85%	96%	97%	75%	80%	80%	80%
		Percentage of <u>reasons</u> in interim relief matters issued to parties within	No reasons issued	No reasons issued	No reasons issued	65%	65%	65%	65%

OUTCOME	OUTPUT	OUTPUT INDICATOR	AUDITED ACTUAL PERFORMANCE			ESTIMATED PERFORMANCE	MTEF PERIOD TARGETS		
			2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26
		30 business days of the last hearing date.							

Adjudication represents the core business of the Tribunal. The Competition 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. These have been aligned with **the dtic's** joint/integrated outcomes of Delivery/Capable State, Industrialisation and Economic Transformation within the ambit of the Competition Act, which in turn align with the NDP and ERRP.

Table 10 Outcomes / outputs/ Indicators/targets related to adjudications

OUTPUT INDICATOR	Annual Targets	Q1	Q2	Q3	Q4
Percentage of mergers scheduled for a hearing or pre-hearing within 10 business days of filing.	85%	85%	85%	85%	85%
Percentage of merger orders issued to parties within 10 business days following conclusion of the hearing. ⁷	85%	85%	85%	85%	85%
Percentage of reasons for mergers issued to parties within 20 business days of order being issued.	75%	75%	75%	75%	75%
Number of reports regarding competition and public interest considerations in mergers.	4 reports sent to the dtic	1 report	1 report	1 report	1 report
Reasons for prohibited practice cases are issued to parties within 120 business days following conclusion of the hearing	75%	75%	75%	75%	75%
Percentage of procedural matter ⁸ orders issued to parties within 45 business days following conclusion of the hearing.	65%	65%	65%	65%	65%
Percentage orders for consent orders and settlement agreements issued to parties within 10 business days following conclusion of the hearing	80%	80%	80%	80%	80%
Percentage of reasons in interim relief matters issued to parties within 30 business days of last hearing date.	65%	65%	65%	65%	65%

⁷ The hearing is considered concluded after information (if any) is submitted, post the hearing.

⁸ Not all procedural/interlocutory matters require reasons to be issued.

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 10 below.

Table 11 Outcomes / outputs / indicators / targets related to communication

OUTCOME	OUTPUT	OUTPUT INDICATOR	AUDITED ACTUAL PERFORMANCE			ESTIMATED PERFORMANCE	MTEF PERIOD TARGETS		
			2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/2026
Transparent, Accountable and Sustainable Tribunal	Effective communication and information sharing	Percentage of press releases of final merger decisions issued within 3 business days of the order date and after finalisation of confidentiality claims.	97%	90%	77%	90%	90%	90%	90%
		Percentage of press releases of prohibited practice decisions issued within 3 business days of the order date and after	60%	71%	0%	90%	90%	90%	90%

OUTCOME	OUTPUT	OUTPUT INDICATOR	AUDITED ACTUAL PERFORMANCE			ESTIMATED PERFORMANCE	MTEF PERIOD TARGETS		
			2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/2026
		finalisation of confidentiality claims.							
		Bi-annual update and publication of jurisprudence handbook.	New Indicator		1 Handbook updated and published	N/A ⁹	1 Handbook updated and published	N/A	1 Handbook updated and published

OUTPUT INDICATOR	Annual Targets	Q1	Q2	Q3	Q4
Percentage of press releases of final merger decisions issued within 3 business days of the order date and after finalisation of confidentiality claims.	90%	90%	90%	90%	90%
Percentage of press releases of prohibited practice decisions issued within 3 business days of the order date and after finalisation of confidentiality claims.	90%	90%	90%	90%	90%

⁹ Updates to Handbook will be done every two years due to the time it takes for precedent-setting cases to be heard by the competition authorities and the courts.

OUTPUT INDICATOR	Annual Targets	Q1	Q2	Q3	Q4
Bi-annual update and publication of jurisprudence handbook.	Handbook updated and published	N/A	N/A	N/A	Handbook updated and 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 12 Outcome / output / indicator / targets related to business processes

OUTCOME	OUTPUT	OUTPUT INDICATOR	AUDITED ACTUAL PERFORMANCE			ESTIMATED PERFORMANCE	MTEF PERIOD TARGETS		
			2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26
Transparent, Accountable and Sustainable Tribunal	Improvement in client satisfaction using the entities services	Percentage score of client satisfaction with Tribunal systems	New Indicator			N/A	65%	70%	75%

OUTPUT INDICATOR	Annual Targets	Q1	Q2	Q3	Q4
Percentage score of client satisfaction with Tribunal systems	65%	N/A	N/A	65%	N/A

8.1.4. Governance

The main purpose of governance as a 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 13 Outcome / output / indicator / target related to governance

OUTCOME	OUTPUT	OUTPUT INDICATOR	AUDITED ACTUAL PERFORMANCE			ESTIMATED PERFORMANCE	MTEF PERIOD TARGETS		
			2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26
Transparent, Accountable and Sustainable Tribunal	Sound governance	Percentage of prior financial year audit findings (internal and external) resolved in terms of agreed timelines with auditors	New Indicator	100%	100%	100%	100%	100%	100%
		Audit Outcome	Unqualified audit opinion	Unqualified audit opinion	Unqualified audit opinion	Unqualified audit opinion	Unqualified audit opinion	Unqualified audit opinion	Unqualified audit opinion

OUTPUT INDICATOR	Annual Targets	Q1	Q2	Q3	Q4
Percentage of prior financial year audit findings (internal and external) resolved in terms of agreed timelines with the auditors.	100%	100%	100%	100%	100%
Audit Outcome	Unqualified audit opinion	N/A	Unqualified audit opinion	N/A	N/A

8.1.6. 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 with financial reporting requirements.

Table 14 Outcome / output / indicator / targets related to financial management

OUTCOME	OUTPUT	OUTPUT INDICATOR	AUDITED ACTUAL PERFORMANCE			ESTIMATED PERFOR- MANCE	MTEF PERIOD TARGETS		
			2019/20	2020/21	2021/22		2022/23	2023/24	2024/25
Transparent, Accountable and Sustainable Tribunal	1. Effective financial management	Percentage of expenditure against budget	88.4%	91%	90%	90%	90%	90%	90%

OUTCOME	OUTPUT	OUTPUT INDICATOR	AUDITED ACTUAL PERFORMANCE			ESTIMATED PERFORMANCE	MTEF PERIOD TARGETS		
			2019/20	2020/21	2021/22		2023/24	2024/25	2025/26
	2. Transformation in procurement practices	Percentage expenditure on B-BBEE suppliers	New indicator			70% of expenditure spent on suppliers between the B-BBEE levels 1-4 20% of which will be on women, youth or PWDs.	70% of expenditure spent on suppliers between the B-BBEE levels 1-4, 20% of which will be on women, youth or PWDs.	70% of expenditure spent on suppliers between the B-BBEE levels 1-4, 20% of which will be on women, youth or PWDs.	70% of expenditure spent on suppliers between the B-BBEE levels 1-4, 20% of which will be on women, youth or PWDs.
	3. Transformation in procurement practices	Percentage of expenditure on EME suppliers	New Indicator			New Indicator	30% of expenditure on suppliers that are classified as	30% of expenditure on suppliers that are classified as	30% of expenditure on suppliers that are classified as

OUTCOME	OUTPUT	OUTPUT INDICATOR	AUDITED ACTUAL PERFORMANCE			ESTIMATED PERFORMANCE	MTEF PERIOD TARGETS		
			2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26
							EME suppliers	EME suppliers	EME suppliers

OUTPUT INDICATOR	Annual Targets	Q1	Q2	Q3	Q4
Percentage of expenditure against budget	90%	90%	90%	90%	90%
Percentage of expenditure on B-BBEE suppliers	70% of expenditure spent on suppliers between the B-BBEE Levels 1-4, 20% of which will be on women, youth or PWDs	70% of expenditure spent on suppliers between the B-BBEE Levels 1-4, 20% of which will be on women, youth or PWDs	70% of expenditure spent on suppliers between the B-BBEE Levels 1-4, 20% of which will be on women, youth or PWDs	70% of expenditure spent on suppliers between the B-BBEE Levels 1-4, 20% of which will be on women, youth or PWDs	70% of expenditure spent on suppliers between the B-BBEE Levels 1-4, 20% of which will be on women, youth or PWDs
Percentage of expenditure on EME suppliers	30% of expenditure on suppliers that are classified as EME suppliers	30% of expenditure on suppliers that are classified as EME suppliers	30% of expenditure on suppliers that are classified as EME suppliers	30% of expenditure on suppliers that are classified as EME suppliers	30% of expenditure on suppliers that are classified as EME suppliers

8.1.7. Transformation, human capacity development and training

The purpose of 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, in line with **the dtic's** joint/integrated outputs of a Transparent, Accountable and Sustainable Tribunal. The outcome/output/indicators/targets associated with this function/focus area are illustrated in matrix format in table 14 below.

Table 15 Outcomes / outputs / indicators / targets related to human capacity development and training

OUTCOME	OUTPUT	OUTPUT INDICATOR	AUDITED ACTUAL PERFORMANCE			ESTIMATED PERFORM- MANCE	MTEF PERIOD TARGETS		
			2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26
Transparent, Accountable and Sustainable Tribunal	Transformation, Capacity development, retention and training	Percentage of performance assessments conducted annually ¹⁰	3.6	3.7	3.5	85%	100%	100%	100%
		Percentage of staff retention ¹¹	7.69%	19.23%	12%	20%	80%	80%	80%

¹⁰ For the actual audited performance, the indicator measured the actual average performance scores

¹¹ Output indicator of staff turnover has been changed to staff retention

OUTCOME	OUTPUT	OUTPUT INDICATOR	AUDITED ACTUAL PERFORMANCE			ESTIMATED PERFORMANCE	MTEF PERIOD TARGETS		
			2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26
		Minimum percentage of staff training expenditure against total employee costs	New Indicator			New Indicator	2%	2%	2%
		Number of training initiatives implemented for staff and Tribunal members	New Indicator			Four training initiatives	Four training initiatives (To be determined on a needs basis at the appropriate time)	Four training initiatives (To be determined on a needs basis at the appropriate time)	Number of training initiatives implemented for staff and Tribunal members
		Number of capacity building workshops for Case Managers and Tribunal members.	New Indicator				One annual capacity building workshop	One annual capacity building workshop	One annual capacity building workshop

OUTCOME	OUTPUT	OUTPUT INDICATOR	AUDITED ACTUAL PERFORMANCE			ESTIMATED PERFORMANCE	MTEF PERIOD TARGETS		
			2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26
		Number of interns provided with opportunities within the Tribunal	2	2	2	2	2	2	2
		Percentage of employment equity representation of employees from the designated groups	New indicator			75%	75%	75%	75%

OUTPUT INDICATOR	Annual Targets	Q1	Q2	Q3	Q4
Percentage of performance assessments conducted annually	100% of performance assessments conducted	N/A	100% of performance assessments conducted	N/A	100% of performance assessments conducted
Percentage of staff retention	80%	80%	80%	80%	80%
Percentage of staff training expenditure against total employee costs	2%	2%	2%	2%	2%

OUTPUT INDICATOR	Annual Targets	Q1	Q2	Q3	Q4
Number of training initiatives implemented for staff and Tribunal members.	Four training interventions for Tribunal staff and members	One training initiative	One training initiative	One training initiative	One training initiative
Number of capacity building workshops for Case Managers and Tribunal members.	One annual capacity building workshop	N/A	N/A	N/A	One annual capacity building workshop
Number of interns provided with opportunities within the Tribunal	Two Interns	2	2	2	2
Percentage of employment equity representation of employees from the designated groups	75%	75%	75%	75%	75%

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 24 indicators linked to these outputs that are measured quarterly and annually.

The scorecards reflected under paragraph 8.1 above reflect the specific outcomes, the outputs aligned to each outcome, output indicators and targets assigned for the three-year period. Where possible it also reflects performance in the prior periods and the estimated performance for 2022/2023.

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 MTEF period.

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

- Compile regular case updates on significant developments within the Competition Act;
- Conduct bi-weekly case management meetings;
- Maintain a process whereby Case Managers check files regularly;
- Continuous development and improvement of a practice whereby Case Managers play a stronger oversight role in the whole case management process;
- Conduct regular 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 Entity**” and in order to achieve that the following interventions may 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 2023/2024 budget

9.1. Expenditure Estimates

A final detailed one-year budget for the **2023/2024** year is included in **Annexure G**.

As stated in the Strategic Plan, the Tribunal is an adjudicative body and hence is 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 2023/2024 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. 69% of the budget is allocated to personnel expenses (excluding fees payable to part-time Tribunal members).

The main assumptions made in drafting the 2023/2024 budget are as follows:

- i) The budgets included in the ENE were drawn based on the average consumer price index (CPI) of 4%;

- ii) The leasing fee payable to **the dtic** is in line with the 2022/2023 actual costs;
- iii) The Personnel budget includes costs for the full structure prior to the organisational review process. There is a need for more capacity and the outcome of the organisational review will result in higher personnel budget for the year.
- iv) Further capacity in the Case Management division to be secured through the use of approved surplus funds;
- v) Cost of living increase for all Tribunal staff has been based on the average CPI;
- vi) Part-time member expenditure is based on a daily rate of R9 000.00 + CPI for 7 part-time members for hearing days (actual and preparation days) and retainer costs equivalent to 10 days per member, annually.

Table 15 below illustrates the Tribunal's budget allocation across the various expenditure categories for both the current and the next financial year.

Table 16 Percentage budget allocation across category expenditure for 2021/22 and 2022/23 financial years

CATEGORY	2022/2023 Annual Budget	2022/2023 % of Total expenditure	2023/2024 Annual Budget	2023/2024 % of Total expenditure
EXPENDITURE				
PERSONNEL	49,391,409	64%	43,248,851	69%
PT TRIBUNAL MEMBERS	4,276,632	6%	2,815,921	4%
TRAINING	846,768	1%	882,586	1%
CONFERENCE/SEMINARS	372,554	0%	83,384	0%
SHARED SERVICES CCSA	781,725	1%	814,792	1%
FACILITY FEE/LEASE	6,830,486	9%	6,830,486	11%
CONSULTING	1,033,384	1%	86,911	0%
LEGAL FEES	52,115	0%	54,319	0%
TRANSCRIPTION SERVICES	552,683	1%	576,061	1%
AUDIT EXPENSES	2,003,378	3%	2,088,121	3%
RECRUIT COSTS	37,745	0%	39,341	0%
ADMIN EXPENSES	787,276	1%	820,577	1%
DEPRECIATION	530,537	1%	552,979	1%
AMORTISATION	377,944	0%	393,931	1%
IT EXPENSES	2,771,258	4%	2,888,482	5%
REPAIRS/MAINTENANCE	30,046	0%	31,317	0%
APPEALS COURT	350,000	0%	364,805	1%
PROJECT EXPENSES	4,958,526	6%		0%
CAPITAL EXPENDITURE	1,256,535	2%	497,134	1%
TOTAL EXPENDITURE	77,241,000	100%	63,070,000	100%

68.57% of the Tribunal's 2023/2024 budget will be spent on personnel expenses which includes full time member costs. If fees paid to the part-time Tribunal members are included in this category, this increases to **73.04%**.

“Shared service fee” refers to the payments made to the Commission for shared services (in terms of a Memorandum of Understanding), accounting for **1.29%** of the budget.

Costs associated with audits (internal, external audit fees and audit committee expenses) account for **3.31%** of the budget while administrative expenses account for **1.30%** of the budgeted expenditure.

Table 16 below illustrates the Tribunal’s total anticipated expenditure as a result of the organisational review and the additional funding that would be required to fund the revised organisational structure

Table 16 Estimated increase in operational expenditure from the organisational review over the MTEF period

CATEGORY	2023/2024	2024/2025	2025/2026	TOTAL
EXPENDITURE				
PERSONNEL	54,534,806	58,901,806	87,518,028	200,954,640
PT TRIBUNAL MEMBERS	9,008,170	9,330,614	9,725,299	28,064,084
FACILITY FEE/LEASE	22,540,604	24,794,664	27,274,130	74,609,398
IT EXPENSES	4,388,482	4,574,115	4,767,600	13,730,197
TOTAL ESTIMATED EXPENDITURE	97,223,067	104,455,835	136,468,828	338,147,730
ADDITIONAL FUNDING REQUIRED	34,152,847	37,788,127	65,694,229	137,635,203

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 17 below indicates the allocation of the annual budget across the two outcomes. The Tribunal has managed to allocate **74.59%** of the annual budget across the two outcomes.

Table 17 Budget allocation by outcome

Outcome	Budget	% of budget
Responsive and reliable adjudication	31,717	50.29%
Accountable, transparent and sustainable entity	15,328	24.30%
Total	47,045	74.59%

The remaining **25.41%** of the budget is distributed as follows:

- Administrative costs: 24.04%
- Capital expenditure: 0.79%
- Appeal Court costs: 0.58%

9.3. Reconciling targets with the budget and MTEF

As indicated above the Tribunal has allocated 74.59% 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 18 below.

Table 18 Budget allocation by focus areas, output and outcome

FOCUS AREA	OUTPUTS	BUDGET
Responsive and Reliable Adjudication	Effective and timeous issuing of orders and reasons	19,672,182
	Effective case management procedures to ensure hearings are set down within legislated timeframes	12,045,000
Communication	Effective communication and information sharing	1,363,600
Business Process, Governance, Financial Management, Human Resources	Effective record management	4,225,953
	Sound governance	4,526,522
	Effective financial management	3,615,932
	Capacity development, retention and training	2,094,000
Other expenses	Administration (incl. depreciation)	15,165,000
	Capital Expenditure	477,134
	Competition Appeal Court	364,805
	TOTAL BUDGET	63,070,000

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 it 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, the Tribunal will 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 to **the dtic** , National Treasury and to other stakeholders.

9.4. The Competition Appeal Court

The Competition Act set up a triad of institutions (the Commission, the Tribunal and the CAC) with exclusive jurisdiction over competition matters (specifically, chapters 2 and 3 of the Competition 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 administrative aspects of the CAC, excluding 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. All expenditure associated with training or overseas travel has been reduced as some CAC hearings will take place online. The budget is therefore R 364,805.

Table 19 Percentage CAC budget allocation across expenditure categories

CATEGORY	2023/2024 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 mergers scheduled down for a hearing or pre-hearing within 10 business days of filing.
Definition	This performance indicator measures the efficiency of the Tribunal in scheduling a pre-hearing date or hearing date for mergers within the stipulated timeframe.
Source of data	<ul style="list-style-type: none"> ➤ Merger referral documents received by the Tribunal. ➤ Request for consideration received by the Tribunal. ➤ Set down notices 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 calculated as follows:</p> <p>Percentage of mergers set down for the beginning of a hearing or a pre-hearing within 10 business days of the filing of a merger referral = $(a/b) \times 100$, where a = total number of mergers set down for the beginning of a hearing or pre-hearing within 10 business days b = total number of mergers set down.</p> <p>In terms of the Rules of the Tribunal, the time period for scheduling a prehearing may be extended for a period of 10 business days by the Chairperson, and a further extension may be granted subject to agreement with the parties. In those cases where such an extension has been granted, the extended period will be used in the calculation.</p>

Outcome	Responsive and Reliable Adjudication
Means of Verification	<ul style="list-style-type: none"> ➤ Workflows built into CMS either prevents further updating or alerts the user 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 a 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. <p>Same process as above followed annually thus providing further opportunity to review monthly information and quarterly reports.</p> <ul style="list-style-type: none"> ➤ Performance Information reports are reviewed and verified by Registrar and COO and signed off by Registrar as proof of review.
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. ➤ Tribunal has aligned to the dtic's joint/integrated outputs relating to delivery/capable State, industrialisation and transformation in consideration of competition and public interest issues in mergers. ➤ That the Tribunal maintains systems, processes and procedures that facilitate the target being achieved. ➤ That parties and counsel are available. Time periods are subject to availability of the parties and counsel and may be extended depending on the circumstances of each case.
Disaggregation of Beneficiaries (where applicable)	<ul style="list-style-type: none"> • N/A

Outcome	Responsive and Reliable Adjudication			
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 85% 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 <p>Verification of accuracy and completeness of extracted and captured information - First level – Registry Administrator, Second level – Registrar (monthly/quarterly and annually), Third level - COO (quarterly and annually).</p>			
Baseline	2018/19	2019/20	2020/21	2021/22
*Estimated performance	67%/25%	88%/0%	97%/0%	80%/65%
Annual Targets	2022/23	2023/24	2024/25	
	80%	85%	85%	

Outcome	Responsive and Reliable Adjudication
2. Indicator Title	Percentage of merger orders issued to parties within 10 business days following conclusion of a hearing
Definition	This performance indicator measures the efficiency of the Tribunal in issuing of decisions for mergers. Tribunal's decisions are contained in an "order".
Source of data	<ul style="list-style-type: none"> ➤ Orders issued by the Tribunal to merger 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.

Outcome	Responsive and Reliable Adjudication
	<ul style="list-style-type: none"> ➤ 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: Percentage of merger orders issued within ten business days following conclusion of the hearing = $(a/b) \times 100$, Where: a = total number of orders for mergers issued within ten business days of the last hearing date b = total number of orders for mergers issued. Calculated as at the date of the last information received by the Tribunal.</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 the staff member 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 a 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.

Outcome	Responsive and Reliable Adjudication			
	<ul style="list-style-type: none"> ➤ Performance Information reports are reviewed and verified by Registrar and COO and signed off by Registrar as proof of review. 			
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. ➤ The Tribunal has aligned to the dtic's joint/integrated outputs relating to delivery/capable State, industrialisation and transformation in consideration of competition and public interest issues in mergers. ➤ The Tribunal maintains systems, processes and procedures that facilitate the target being achieved. ➤ That all information is received on conclusion of the physical (or virtual) hearings 			
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 85% 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	2018/19	2019/20	2020/21	2021/22

Outcome	Responsive and Reliable Adjudication			
*Estimated performance	97%/100%	100%/50%	100%/100%	95%/70%
Annual Targets	2022/23	2023/24		2024/25
	85%	85%		85%

Outcome	Responsive and Reliable Adjudication			
3. Indicator Title	Percentage of reasons for 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 (through an order) it makes within stipulated time frames			
Source of data	<ul style="list-style-type: none"> ➤ Reasons issued by the Tribunal. ➤ Orders 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 mergers issued to parties within 20 business days = $(a/b) \times 100$,</p> <p>Where:</p> <p>a = total number of reasons for mergers issued to parties within 20 business days of the date the order was issued,</p> <p>b = total number of reasons for 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. 			

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 ➤ 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 are reviewed and verified by Registrar and COO and signed off by Registrar as proof of review ➤
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. ➤ The Tribunal has aligned to the dtic's joint/integrated outputs relating to delivery/capable State, industrialisation and transformation in consideration of competition and public interest issues in mergers. ➤ 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 staff <p>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).</p>			
Baseline	2018/19	2019/20	2020/21	2021/22
*Estimated performance	75%/0%	71%/25%	72%/100%	70%/50%
Annual Targets	2022/23	2023/24		2024/25
	75%	75%		75%

Outcome	Responsive and Reliable Adjudication
4. Indicator Title	Number of reports regarding competition and public interest considerations in mergers.
Definition	This performance indicator measures the efficiency of the Tribunal in evaluating competition and public interest considerations in mergers.
Source of data	<ul style="list-style-type: none"> ➤ Merger orders issued by the Tribunal to the parties. ➤ Official correspondence and notices received and issued by the Tribunal. ➤ CMS reports.

Outcome	Responsive and Reliable Adjudication
	<ul style="list-style-type: none"> ➤ Qlikview reports reflecting the number of reports regarding competition and public interest considerations in mergers. ➤ Hearings calendar. ➤ Press releases issued by the Tribunal referring to merger orders. ➤ Transcriptions.
Method of Calculation / Assessment	Analysis of case reports and reporting of competition and public interest considerations in merger cases on a quarterly basis to the dtic .
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 Senior Case Manager 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. ➤ Senior Case Manager will contact case managers required to input missing data or make corrections on CMS. ➤ Errors and corrections that affect prior period reporting are communicated to Principal Case Manager/COO via email. ➤ File reviewed by Principal Case Manager on monthly basis and signed off as proof of review. ➤ Quarterly Senior Case Manager 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 are reviewed and verified by Principal Case Manager/COO.
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.

Outcome	Responsive and Reliable Adjudication			
	<ul style="list-style-type: none"> ➤ Tribunal has aligned to the dtic's joint/integrated outputs relating to delivery/capable State, industrialisation and transformation. ➤ In respect to public interest conditions in mergers, within the mandate of the Competition Act, the following is considered: localisation, economic concentration, investments, exports, BEE, worker empowerment and SMME promotion. ➤ 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	4 reports sent to the dtic			
Reporting Cycle	Quarterly			
Desired performance	The aim of the Tribunal is to meet the 4 quarterly targets that have been set.			
Indicator Responsibility	<ul style="list-style-type: none"> ➤ Data collection, filing/archiving collected data – Senior Case Manager ➤ Data extraction – Senior Case Manager ➤ Verification of accuracy and completeness of extracted and captured information - First level – Senior Case Manager, Second level – Principal Case Manager (monthly/quarterly and annually), Third level – Case Management to draft report, Fourth level - COO (quarterly review of reports and send to dtic) 			
Baseline	2018/19	2019/20	2020/21	2021/22
*Estimated performance	New indicator	New indicator	New indicator	New indicator
Annual Targets	2022/23		2023/24	2024/25
	Quarterly reports sent to the dtic		Quarterly reports sent to the dtic	Quarterly reports sent to the dtic

Outcome	Responsive and Reliable Adjudication
5. Indicator Title	Reasons ¹³ for prohibited practice cases issued to parties within 140 business days following conclusion of the hearing.
Definition	This performance indicator measures the efficiency of the Tribunal in issuing reasons for prohibited practice cases 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 reflect 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 issued within 140 business days of last hearing date= (a/b) x 100,</p> <p>Where:</p> <p>a = total number of reasons for prohibited practices issued within 140 business days following conclusion of the hearing,</p> <p>b = total number of reasons for prohibited practices issued.</p> <p>In calculating the percentage, public holidays and the period between 15 December and 5 January of the following year is not considered.</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.

¹³ 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.

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 the staff member 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 are reviewed and verified by Registrar and COO and signed off by Registrar as proof of review
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. ➤ The Tribunal has aligned to the dtic's joint/integrated outputs relating to delivery/capable State, industrialisation and transformation in consideration of complaints, where applicable.
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 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	2018/19	2019/20	2020/21	2021/22
*Estimated performance	0%/100%/no reasons issued	No reasons issued/33%/0%	No reasons issued/0%/67%	75%/65%/65%
Annual Targets	2022/23		2023/24	2024/25
	75%		60%	60%

Outcome	Responsive and Reliable Adjudication			
6. Indicator Title	Percentage of orders in procedural matters ^{14 14} issued to parties within 45 business days following conclusion of the hearing.			
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 reflect turnaround times. ➤ Hearings calendar. ➤ Transcriptions. 			

¹⁴While we refer to procedural matters they include interlocutory applications.

Outcome	Responsive and Reliable Adjudication
Method of Calculation / Assessment	<p>The method of calculation used is a percentage and it is calculated as follows: Percentage of procedural matters orders issued to parties within 45 days of the last hearing date = $(a/b) \times 100$, Where a = total number of orders for procedural matters issued within 45 business days following conclusion of the hearing; b = total number of orders for procedural matters issued. In calculating the percentage, public holidays and the period between 15 December and 5 January of the following year is not considered.</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. Same process as above followed annually thus providing further opportunity to review monthly information and quarterly reports. <p>Performance Information reports are reviewed and verified by Registrar and COO and signed off by Registrar as proof of review.</p>
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	2018/19	2019/20	2020/21	2021/22
*Estimated performance	56%	55%	90%	65%
Annual Targets	2022/23	2023/24	2024/25	
	65%	65%	65%	

Outcome	Responsive and Reliable Adjudication
7. Indicator Title	Percentage orders for consent orders and settlement agreements issued to parties within 10 business days following conclusion of the hearing.
Definition	This performance indicator measures the efficiency of the Tribunal in issuing of orders for consent orders and settlement agreements in the stipulated timeframes.

Outcome	Responsive and Reliable Adjudication
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. ➤ Hearings 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 following conclusion of the hearing= $(a/b) \times 100$,</p> <p>Where:</p> <p>a = total number of orders for consent orders and settlement agreements issued within 10 business days following conclusion of the hearing,</p> <p>b = total number of orders for consent orders and settlement agreements issued.</p> <p>In calculating the percentage, public holidays and the period between 15 December and 5 January of the following year is not considered.</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 staff member 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.

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. Same process as above followed annually thus providing further opportunity to review monthly information and quarterly reports. ➤ Performance Information reports are reviewed and verified by Registrar and COO and signed off by Registrar as proof of review. 			
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) 			
Baseline	2018/19	2019/20	2020/21	2021/22
*Estimated performance	85%	96%	92%	75%

Outcome	Responsive and Reliable Adjudication		
Annual Targets	2022/23	2023/24	2024/25
	75%	80%	80%

Outcome	Responsive and Reliable Adjudication		
8. Indicator Title	Percentage of reasons in interim relief matters issued to parties within 30 business days following the conclusion of the hearing.		
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 30 business days following conclusion of the hearing = $(a/b) \times 100$,</p> <p>Where:</p> <p>a = total number of reasons in interim relief issued to parties within 30 business days following conclusion of the hearing,</p> <p>b = total number of reasons for interim relief issued to parties.</p> <p>In calculating the percentage, public holidays and the period between 15 December and 5 January of the following year is not considered.</p>		

Outcome	Responsive and Reliable Adjudication
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 staff member 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. Same process as above followed annually thus providing further opportunity to review monthly information and quarterly reports. ➤ Performance Information reports are reviewed and verified by Registrar and COO and signed off by Registrar as proof of review.
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. ➤ The Tribunal has aligned to the dtic's joint/integrated outputs. ➤ 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

Outcome	Responsive and Reliable Adjudication			
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	2018/19	2019/20	2020/21	2021/22
	No reasons issued	No reasons issued	0%	65%
Annual Targets	2022/23	2023/24	2024/25	
	65%	60%	60%	

10.2 Communication

Outcome	Transparent, Accountable and Sustainable Entity
9. Indicator Title	Percentage press releases of final merger decisions communicated within 3 business days of order date and after finalization of confidentiality.
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 ➤ Information from MailChimp, the electronic database through which press releases are issued ➤ 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 ➤ Tribunal press release lists
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"> ➤ Quarterly Communications Reports ➤ extracts quarterly reports from Qlikview ➤ 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 staff member 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 ➤ Quarterly Communications Reports 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 Quarterly Communications Reports 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	<ul style="list-style-type: none"> ➤ Tribunal has the necessary financial resources and capabilities. ➤ Confidentiality claims by parties have been resolved. 			
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	2018/19	2019/20	2020/21	2021/22
*Estimated performance	97%	97%	90%	90%
Annual Targets	2022/23		2023/24	2024/25

Outcome	Transparent, Accountable and Sustainable Entity		
	90%	90%	90%

Outcome	Transparent, Accountable and Sustainable Entity		
10. Indicator Title	Percentage press releases of prohibited practice decisions communicated within 3 business days of order date and after finalization of confidentiality.		
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 issued by the Communications Officer. ➤ Prohibited practice orders issued by the Tribunal. ➤ Any correspondence between the Communications Officer and stakeholders. ➤ Information from MailChimp, the electronic database through which press releases are issued. ➤ 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 ➤ Tribunal press release lists 		
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>		

Outcome	Transparent, Accountable and Sustainable Entity
Means of Verification	<ul style="list-style-type: none"> ➤ Quarterly Communications Reports ➤ extracts quarterly reports from Qlikview ➤ 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 the staff member 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 ➤ Quarterly Communications Reports 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 Quarterly Communications Reports 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, pending the finalisation of confidentiality claims.
Disaggregation of Beneficiaries (where applicable)	N/A
Spatial Transformation (where applicable)	N/A
Calculation Type	Percentage

Outcome	Transparent, Accountable and Sustainable Entity			
Reporting Cycle	Quarterly and Annually			
Desired performance	The target is met or exceeded			
Indicator Responsibility	Communications Officer			
Baseline	2018/19	2019/20	2020/21	2021/22
*Estimated performance	60%	60%	71%	90%
Annual Targets	2022/23	2023/24		2024/25
	90%	90%		90%

Outcome	Transparent, Accountable and Sustainable Entity
11. Indicator Title	Bi-annual update and publication of jurisprudence handbook.
Definition	A handbook documenting jurisprudence (case law) set by Tribunal decisions will be updated and published every second year. 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
Means of Verification	Date of publication of updated handbook
Assumptions	It is assumed that there would be new information pertaining to case law that would require the handbook to be updated every two years.

Outcome	Transparent, Accountable and Sustainable Entity			
Disaggregation of Beneficiaries (where applicable)	N/A			
Spatial Transformation (where applicable)	N/A			
Calculation Type	Not calculated			
Reporting Cycle	Bi-annually			
Desired performance	Handbook is updated bi-annually			
Indicator Responsibility	Head of Case Management			
Baseline *Estimated performance	2018/19	2019/20	2020/21	2021/22
	New indicator			Handbook updated and published
Annual Targets	2022/23		2023/24	2024/25
	N/A		Handbook updated and published	N/A

10.3 Business processes

Outcome	Transparent, Accountable and Sustainable Entity			
12. Indicator Title	Percentage score of client satisfaction with Tribunal systems			
Source of data	Customer satisfaction survey report			
Method of Calculation / Assessment	Numerical/Percentage			
Means of Verification	Customer satisfaction survey report			
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 or as a Tribunal wide survey focusing on certain client facing systems. ➤ The Tribunal has aligned to the dtic's joint/integrated outputs relating to Delivery/Capable State. 			
Disaggregation of Beneficiaries (where applicable)	N/A			
Spatial Transformation (where applicable)	N/A			
Calculation Type	Numerical/Percentage			
Reporting Cycle	Annually			
Desired performance	65% score on the satisfaction survey			
Indicator Responsibility	Divisional Heads, IT Administrator, HR, EA: COO and COO			
Baseline	2018/19	2019/20	2020/21	2021/22
*Estimated performance	New indicator			
Annual Targets	2022/23	2023/24	2024/25	
		65%	70%	

10.4 Governance

Outcome	Transparent, Accountable and Sustainable Entity
13. 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.
Method of Calculation / Assessment	<p>Percentage of prior financial year audit findings resolved = $(a/b) \times 100$, Where:</p> <p>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.</p>
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

Outcome	Transparent, Accountable and Sustainable Entity			
Reporting Cycle	Annually			
Desired performance	To have 100% resolution of internal and external audit findings.			
Indicator Responsibility	Head of Finance and COO			
Baseline	2018/19	2019/20	2020/21	2021/22
*Estimated performance	New Indicator		100%	100%
Annual Targets	2022/23	2023/24	2024/25	
	100%	100%	100%	

Outcome	Transparent, Accountable and Sustainable Entity			
14. Indicator Title	Obtain an unqualified audit opinion from the AGSA.			
Definition	This performance indicator measures the extent to which the Tribunal has adequate and effective controls in place to avoid material findings.			
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 material findings 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.			
Disaggregation of Beneficiaries (where applicable)	N/A			

Outcome	Transparent, Accountable and Sustainable Entity			
Spatial Transformation (where applicable)	N/A			
Calculation Type	Target not calculated but value of material findings can be determined.			
Reporting Cycle	Annual			
Desired performance	To meet the target			
Indicator Responsibility	Procurement Officer, Head of Finance, CFO and COO			
Baseline	2018/19	2019/20	2020/21	2021/22
*Estimated performance	No findings	No findings	No findings	No findings
Annual Targets	2022/23	2023/24	2024/25	
	Unqualified audit opinion	Unqualified audit opinion	Unqualified audit opinion	

10.5 Financial management

Outcome	Transparent, Accountable and Sustainable Entity
15. Indicator Title	Percentage expenditure against budget.
Definition	Actual expenditure against budget is measured. It may not be possible to spend 100% of the budget (given factors outside the Tribunal's control, e.g. the 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

Outcome	Transparent, Accountable and Sustainable Entity			
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 therefore does not anticipate a 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.			
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	2018/19	2019/20	2020/21	2021/22*
*Estimated performance	-7.5%	-11.6%	-9.0%	-10%
Annual Targets	2022/23	2023/24		2024/25
	-10%	9%		90%

Outcome	Transparent, Accountable and Sustainable Entity			
16. Indicator Title	Monitor the levels of B-BBEE suppliers in in order to promote transformation in procurement practices.			
Definition	70% of expenditure spent on suppliers between the B-BBEE levels 1-4, excluding dtic office rental, 20% of which will be on women, youth or PWDs.			
Source of data	Quarterly reports compiled by the Finance Division			
Method of Calculation / Assessment	Numerical			
Means of Verification	Quarterly reports send to the dtic			
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	Annual			
Desired performance	To meet the target			
Indicator Responsibility	CFO, COO			
Baseline	2018/19	2019/20	2020/21	2021/22
*Estimated performance	New indicator			4 Quarterly reports sent to the dtic
Annual Targets	2022/23		2023/24	2024/25
	70% of expenditure spent on suppliers between the B-BBEE levels 1-4, excluding dtic office rental, 20% of which will be on women, youth or PWDs.			

Outcome	Transparent, Accountable and Sustainable Entity			
17. Indicator Title	Monitor the usage of EME suppliers in in order to promote transformation in procurement practices.			
Definition	30% of expenditure spent on suppliers that are classified as EME enterprises, excluding dtic office rental.			
Source of data	Quarterly reports compiled by the Finance Division			
Method of Calculation / Assessment	Numerical			
Means of Verification	Quarterly reports send to the dtic			
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	Annual			
Desired performance	To meet the target			
Indicator Responsibility	CFO, COO			
Baseline	2018/19	2019/20	2020/21	2021/22
*Estimated performance	New indicator	New indicator	New indicator	New indicator
Annual Targets	2022/23	2023/24	2024/25	
	30% of expenditure spent on suppliers that are classified as EME enterprises, excluding dtic office rental.			

10.6 Transformation, Human capital development and training

Outcome	Transparent, Accountable and Sustainable Entity				
18. Indicator Title	Percentage of performance assessments conducted annually (end March).				
Definition	The indicator measures the overall number of employees whose performance assessments have been conducted.				
Source of data	<div>➤ Consolidated spreadsheets reflecting individual scores of each employee evaluated.</div> <div>➤ Completed and signed performance assessment reports completed by line manager and employee</div>				
Method of Calculation / Assessment	Percentage of performance assessments conducted = (a/b)*100 A = total number of assessments completed B – total number of existing full-time staff				
Means of Verification	Headcount of existing full-time staff vs completed assessments. Summary reports by the HR Officer				
Assumptions	<div>➤ Performance assessment processes are embedded in the Tribunal and that all assessments are performed objectively.</div>				
Disaggregation of Beneficiaries (where applicable)	Not Applicable				
Spatial Transformation (where applicable)	Not Applicable				
Calculation Type	Average calculation number of employees assessed.				
Reporting Cycle	Annual				
Desired performance	85%				
Indicator Responsibility	Line Managers, HR Officers and COO				
Baseline	2019/20	2020/21	2021/22	2022/23	

Outcome Transparent, Accountable and Sustainable Entity				
*Estimated performance	3.6	3.7	3.5	85%
Annual Targets	2023/24	2024/25	2025/26	
	100%	100%	100%	

Outcome	Transparent, Accountable and Sustainable Entity
19. Indicator Title	Percentage staff retention.
Definition	Monitoring that the retention 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
Method of Calculation / Assessment	<p>Percentage of staff = $(a/b) \times 100$</p> <p>Where:</p> <p>a = total headcount of existing full-time staff at start of quarter</p> <p>b = total headcount of full-time staff at end of quarter</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

Outcome	Transparent, Accountable and Sustainable Entity			
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 retention rate			
Indicator Responsibility	HR Officer			
Baseline	2019/20	2020/21	2021/22	2022/23
*Estimated performance	19.23%	12%	20%	81%
Annual Targets	2023/24	2024/25		2025/26
	81%	81%		81%

Outcome	Transparent, Accountable and Sustainable Entity			
20. Indicator Title	Continuous training opportunities to staff and Tribunal members			
Definition	<ul style="list-style-type: none"> ➤ Measures the learning opportunities to keep Tribunal staff and Tribunal members informed through workshops, conferences or seminars with internal and external speakers. ➤ Tribunal members and staff kept up to date in the knowledge of national and international developments in competition law and economics. ➤ This will be conducted according to approved training plans from Case Management and the HR divisions. 			
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 			

Outcome	Transparent, Accountable and Sustainable Entity			
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 training interventions and attendance of seminars, forums/conference attendance ➤ Documentary proof (where applicable) of attendance 			
Assumptions	<ul style="list-style-type: none"> ➤ The field of competition law is wide, complex and constantly evolving. Tribunal members and staff must understand and be aware of economic policies and developments in South Africa and abroad that could have an impact on their work. ➤ The work of the Tribunal is specialized. Providing staff with learning experiences will expand their knowledge and abilities which, in turn, can be beneficial to the Tribunal's Corporate services, Registry and Finance divisions. ➤ Assumption that there is sufficient budget for staff to attending these training, seminars, forums/conferences 			
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 or exceed the target			
Indicator Responsibility	Head of Case Management and HR			
Baseline	2019/20	2020/21	2021/22	2022/23
*Estimated performance	New indicator	New indicator	New indicator	Training on ESOPs; Competition law basic training; Concentration and participation in the South African Economy:

Outcome	Transparent, Accountable and Sustainable Entity			
				levels and trends; Competition for structural transformation in the global South; Writing skills.
Annual Targets	2023/24		2024/25	2025/26
	To be determined on a need basis at the appropriate time.		To be determined on a need basis at the appropriate time.	To be determined on a need basis at the appropriate time.

Outcome	Transparent, Accountable and Sustainable Entity			
21. Indicator Title	Undertake one annual capacity building workshop for Case Managers and Tribunal members.			
Definition	This performance indicates whether one capacity building workshop is held whereby Case Managers and Tribunal members receive the requisite training and focused on international trends in Competition law 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 ➤ Attendance register 			
Assumptions	<ul style="list-style-type: none"> ➤ The field of competition law is wide, complex and constantly evolving. Tribunal members and staff must be kept abreast of national and international developments in competition law and economics. ➤ Assumption that there are skilled and competent facilitators with knowledge of case law 			

Outcome	Transparent, Accountable and Sustainable Entity			
	➤ 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 *Estimated performance	2018/19	2019/20	2020/21	2021/22
	New indicator		Removed due to COVID-19	
Annual Targets	2022/23		2023/24	2024/25
	1 annual capacity building workshop		1 annual capacity building workshop	1 annual capacity building workshop

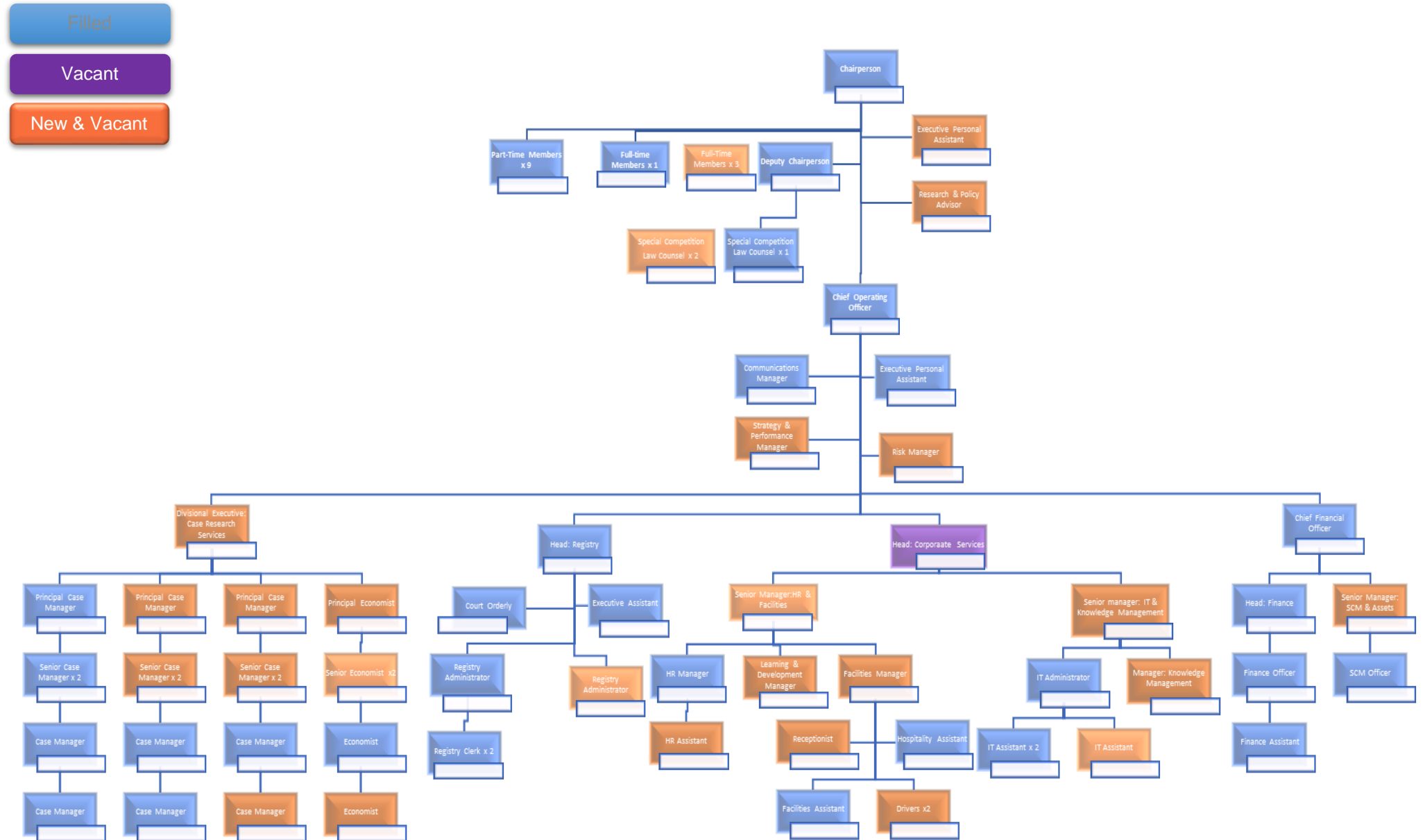
Outcome	Transparent, Accountable and Sustainable Entity
22. Indicator Title	Provide access to job opportunities to Interns within the Tribunal
Definition	This performance indicator measures the extent to which the Tribunal has provided work opportunities to at least two interns in the Case Management division for the financial year.
Source of data	<ul style="list-style-type: none"> ➤ Payroll system ➤ HR summary reports compiled by the HR Officer
Method of Calculation / Assessment	Simple head 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 Annually against target
Desired performance	To meet the required target
Indicator Responsibility	Head of Case Management

Outcome	Transparent, Accountable and Sustainable Entity			
Baseline	2018/19	2019/20	2020/21	2021/22
*Estimated performance	2	2	2	2
Annual Targets	2022/23	2023/24	2024/25	
	2	2	2	

Outcome	Transparent, Accountable and Sustainable Entity			
23. Indicator Title	Transformation in terms of Employment Equity.			
Definition	Maintain 75% of employment equity representation of employees from the designated groups.			
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 report to the dtic but reported on annually.			
Desired performance	To meet the required target			
Indicator Responsibility	HR Officer, COO			

Outcome	Transparent, Accountable and Sustainable Entity			
Baseline	2018/19	2019/20	2020/21	2021/22
*Estimated performance	New indicator			4 Quarterly reports sent to the dtic
Annual Targets	2022/23		2023/24	2024/25
	75%			

Annexure A: Structural Organogram¹⁶



Annexure B: Members of the Competition Tribunal

Chairperson

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

Deputy Chairperson

- Liberty Mncube (M.Sc & PhD in Economics) from 1 February 2023 (first term as Deputy Chairperson)

Full-time Members

- Andreas Wessels (BCom, BCom Hons, MCom (Economics)), from 01 August 2009 (third term as full-time Member)
- Vacant- 3 x Members

Part-time Members

- Andiswa Ndoni (BProc, LLB, Post Graduate Diploma Business Management, Cert-Corporate Governance) from 01 August 2009 (third term)
- Imraan Valodia (BCom Hons, MSc, DEcon) from 01 January 2013 (second term)
- Fiona Tregenna (BA Hons, MA(Economics) and PhD- Economics,) from 01 September 2013 (second term)
- Thando Vilakazi (BSc, MCom, PhD) from 01 August 2019 (first term)
- Sha'ista Goga (BA & Masters in Economics) from 1 January 2022 (acting part-time)
- Geoff Budlender, SC [BA, LLB, LLD (hc)] from 01 January 2023
- Jerome Wilson, SC (BA, BA Hons, BA Law, LLM, HDip-Company Law) from 01 February 2023
- Tembeka Ngukaitobi, SC (B.Proc, LLB, LLM) from 01 April 2023

Annexure C: Competition Tribunal Secretariat

Office of the Chairperson

- 1) Vacant – Research & Policy Advisor (New)
- 2) Vacant - Executive Personal Assistant (New)
- 3) Anisa Kessery – Special Competition Law Counsel
- 4) Vacant - Special Competition Law Counsel (New)

Office of the COO

- 1) Gcinumzi Qotywa- Chief Operating Officer
- 2) Lufuno Ramaru - Executive Administrator (Chairperson, COO)
- 3) Gillian de Gouveia- Communications Officer
- 4) Vacant – Strategy & Performance Officer (New)

Case Management

- 1) Jabulani Ngobeni - Principal Case Manager
- 2) Vacant - Principal Case Manager - Legal (New)
- 3) Vacant – Principal Case Manager – Economist (New)
- 4) Mpumelelo Tshabalala- Senior Case Manager
- 5) Kameel Pancham- Senior Case Manager
- 6) Vacant – Senior Case Manager (New)
- 7) Vacant – Senior Case Manager
- 8) Theodora Michaletos - Case Manager
- 9) Juliana Munyembate - Case Manager
- 10) Baneng Naape - Economist
- 11) Matshidiso Tseki- Case Manager
- 12) Sinethemba Mbeki - Intern
- 13) Leila Rafee - Intern

Registry

- 1) Tebogo Mputle- Head: Registry
- 2) Sibongile Moshoeshe- Registry Administrator
- 3) Themba Chauke- Registry Clerk
- 4) David Tefu- Court Orderly
- 5) Nkuli Mpepuka- Executive Assistant
- 6) Cyriel Mpaketsane- Registry Assistant

Corporate Services

- 1) Vacant – Head: Corporate Services
- 2) Vacant – Senior Manager: IT & Knowledge Management (New)
- 3) Bellah Kekana - Human Resources Officer
- 4) Sabinah Monareng - Facilities and Support Services Assistant
- 5) Maggie Mkhonto - Hospitality Assistant
- 6) Vacant – Driver (New)
- 7) Vacant – Receptionist (New)
- 8) Colin Venter - IT support and Network Administrator
- 9) Rendani Neswiswi - IT Assistant

Finance

- 1) Sherylee Moonsamy – Chief Financial Officer
- 2) Devrani Moonsamy- Head: Finance
- 3) Vacant - Financial Officer
- 4) Ongezwa Dlulane- Financial Assistant
- 5) Patricia Froude- Procurement Officer

The approved organisational structure as reflected in Annexure A above will be phased in over the MTEF, and only ten of the new positions will be filled in 2023/24 financial year as reflected in the divisional staff list above. The rest of the positions will be filled in the outer years in line with the availability of funding.

Gender and Race Composition – full-time staff

Gender	Black	White	Asian	Total	Percentage
Male	7	1	1	9	33%
Female	12	3	3	18	67%
Total	19	4	4	27	100%
Percentage	70%	15%	15%	100%	

Annexure D: Historical Representation of Expenditure and Funding

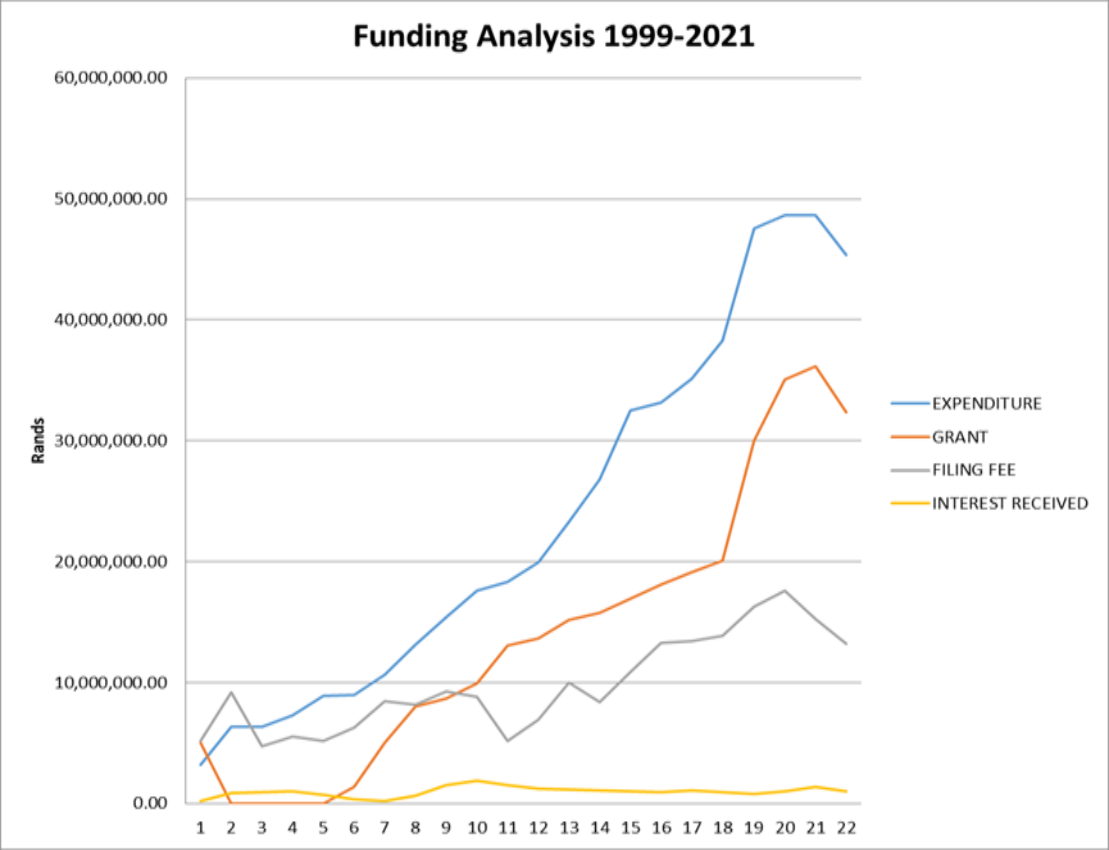


Figure 3 Representation of the Tribunal historical funding and expenditure

Annexure E: Statement of Financial Performance – MTEF July 2022

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	2019/20		2020/21		2021/22		2022/23		2019/20-2022/23			2023/24	2024/25	2025/26	2022/23 - 2025/26	
Revenue																
Tax revenue	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Non-tax revenue	25,484	16,663	10,694	14,218	14,100	17,151	17,400	17,400	96.7%	1.5%	30.7%	20,367	22,047	24,155	11.6%	32.2%
Sale of goods and services other than capital assets	19,499	15,279	9,735	13,208	13,500	16,310	16,600	16,600	103.5%	2.8%	28.8%	19,367	21,047	23,155	11.7%	30.7%
Sales of goods and services produced by entity of which:	19,499	15,279	9,735	13,208	13,500	16,310	16,600	16,600	103.5%	2.8%	28.8%	19,367	21,047	23,155	11.7%	30.7%
Administrative fees	19,499	15,279	9,735	13,208	13,500	16,310	16,600	16,600	103.5%	2.8%	28.8%	19,367	21,047	23,155	11.7%	30.7%
Sales by market establishment	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Other sales	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Sales of scrap, waste, arms and other used current goods	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Other non-tax revenue	5,985	1,384	959	1,010	600	841	800	800	48.4%	-16.7%	1.9%	1,000	1,000	1,000	7.7%	1.5%
Transfers received	36,172	36,172	32,342	32,342	36,970	36,970	42,286	42,286	100.0%	5.3%	69.3%	42,703	44,621	46,620	3.3%	67.8%
Total revenue	61,656	52,835	43,036	46,560	51,070	54,121	59,686	59,686	99.0%	4.1%	100.0%	63,070	66,668	70,775	5.8%	100.0%
Expenses																
Current expenses	59,750	48,687	51,243	45,390	58,678	45,240	59,686	77,241	94.4%	16.6%	100.0%	63,070	66,668	70,775	-2.9%	100.0%
Compensation of employees	35,844	30,514	34,613	30,256	37,008	29,535	38,790	39,010	88.4%	8.5%	61.3%	41,082	43,547	46,160	5.8%	61.5%
Goods and services	22,628	17,241	15,238	14,141	20,752	14,722	19,939	37,274	106.1%	29.3%	36.8%	20,990	22,081	23,531	-14.2%	37.0%
Depreciation	1,278	932	1,392	963	872	972	909	909	84.8%	-0.8%	1.8%	947	987	1,029	4.2%	1.4%
Interest, dividends and rent on land	-	-	-	30	46	11	48	48	94.7%	-	0.0%	50	52	54	4.2%	0.1%
Transfers and subsidies	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total expenses	59,750	48,687	51,243	45,390	58,678	45,240	59,686	77,241	94.4%	16.6%	100.0%	63,070	66,668	70,775	-2.9%	100.0%
Surplus/(Deficit)	1,906	4,148	(8,207)	1,170	(7,608)	8,881	-	(17,555)		-261.8%		-	-	-	-100.0%	

Annexure F: Summarised Three-Year Budget 2023/2024 – 2025/2026

CATEGORY	2023/2024	2024/2025	2025/2026	TOTAL
REVENUE				
FILING FEES	19,367,220	21,046,708	23,154,599	63,568,527
GRANT	42,703,000	44,621,000	46,620,000	133,944,000
INTEREST RECEIVED	1,000,000	1,000,000	1,000,000	3,000,000
TOTAL REVENUE	63,070,220	66,667,708	70,774,599	200,512,527
EXPENDITURE				
PERSONNEL	41,617,198	44,114,230	46,751,042	132,482,471
PT TRIBUNAL MEMBERS	4,300,000	4,423,288	4,610,393	13,333,681
TRAINING	882,586	958,884	1,038,408	2,879,878
CONFERENCE/SEMINARS	83,384	97,190	111,580	292,154
SHARED SERVICES CCSA	814,792	849,258	885,181	2,549,231
FACILITY FEE/LEASE	7,513,535	8,264,888	9,091,377	24,869,799
CONSULTING	86,911	90,587	94,419	271,918
LEGAL FEES	54,319	56,617	59,012	169,949
TRANSCRIPTION SERVICES	576,061	600,429	625,827	1,802,317
AUDIT EXPENSES	1,600,000	1,667,680	1,738,223	5,005,903
RECRUIT COSTS	39,341	41,006	42,740	123,087
ADMIN EXPENSES	820,577	855,288	891,466	2,567,331
DEPRECIATION	552,979	576,370	600,750	1,730,099
AMORTISATION	393,931	410,594	427,962	1,232,488
IT EXPENSES	2,888,482	3,010,665	3,138,016	9,037,163
REPAIRS/MAINTENANCE	31,317	32,641	34,022	97,980
APPEALS COURT	364,805	380,236	396,320	1,141,361
CAPITAL EXPENDITURE	450,000	237,857	237,858	925,715
TOTAL EXPENDITURE	63,070,220	66,667,708	70,774,599	200,512,526

Annexure G: Detailed One Year Budget - 2023/2024

CATEGORY	2023/2024 Annual Budget	2023/2024 % of Total expenditure
REVENUE		
GRANT	42,703,000	67.71%
FILING FEES	19,367,000	30.71%
OTHER INCOME	-	0.00%
INTEREST RECEIVED	1,000,000	1.59%
TOTAL REVENUE	63,070,000	100.00%
EXPENDITURE		
PERSONNEL	43,248,851	68.57%
PT TRIBUNAL MEMBERS	2,815,921	4.46%
TRAINING	882,586	1.40%
CONFERENCE/SEMINARS	83,384	0.13%
SHARED SERVICES CCSA	814,792	1.29%
FACILITY FEE/LEASE	6,830,486	10.83%
CONSULTING	86,911	0.14%
LEGAL FEES	54,319	0.09%
TRANSCRIPTION SERVICES	576,061	0.91%
AUDIT EXPENSES	2,088,121	3.31%
RECRUIT COSTS	39,341	0.06%
ADMIN EXPENSES	820,577	1.30%
DEPRECIATION	552,979	0.88%
AMORTISATION	393,931	0.62%
IT EXPENSES	2,888,482	4.58%
REPAIRS/MAINTENANCE	31,317	0.05%
APPEALS COURT	364,805	0.58%
PROJECT EXPENSES		0.00%
CAPITAL EXPENDITURE	497,134	0.79%
TOTAL EXPENDITURE	63,070,000	100%

**Expected expenditure in year one*