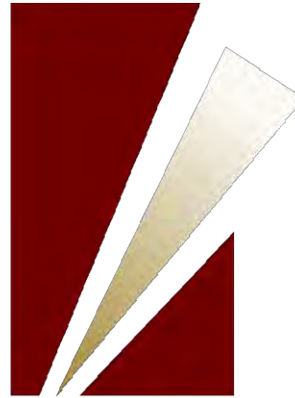


***Briefing on the Quarter 1 to 2 Report – 2022/23 of the
NATIONAL CONSUMER TRIBUNAL to the
Portfolio Committee on Trade, Industry and Competition***

***Presented by
Mr. Trevor Bailey- Executive Chairperson
and
Mr Gijimane Dladla – Chief Operating Officer
8 March 2023***



national consumer tribunal

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1. Measurable Objectives – Pre-populated Scorecard

Measurable objective summary (1 April 2022 – end September 2022)

	Quarter 1	Quarter 2	Year to date	Variance
Percentage of measurable objectives achieved for the specified period	66,66%	60%	63.33%	36,67%

1. Measurable Objectives – Pre-populated Scorecard

No	Output	Performance measure	Annual target	Quarter 1	Quarter 2	1 April 2022 – end Sept 2022	Variance	Corrective action
1.	Responsive timeous service to stakeholders in line with mandate	Average number of days from date of filing of DRA to date of issuing order to filing parties	60 days	23,80 days (based on 6,101 DRA matters)	32,75 days (based on 6,358 DRA matters)	28,37 days (based on 12,459 DRA matters)	Exceeded	None
2.	Responsive timeous service to stakeholders in line with mandate	Average number of days from date of close of pleadings of non-DRA to date of issuing notice of set down to filing parties	15 days	6,48 days (based on 60 matters)	7,51 days (based on 47 matters)	6,93 days (based on 107 matters)	Exceeded	None
3.	Responsive timeous service to stakeholders in line with mandate	Average number of days from date of final adjudication of non-DRA to date of issuing judgement to filing parties	20 days	8,59 days (based on 44 matters)	36,29 days (based on 35 matters)	20,86 days (based on 79 matters)	Not Achieved	The delay in the appointment of the new Chairperson prevented the issuing of judgments during most of Quarter 2. This kpi is being closely monitored and the newly appointed Chair has focused on ensuring that the judgments are issued timeously.

1. Measurable Objectives – Pre-populated Scorecard...

No	Output	Performance measure	Annual target	Quarter 1	Quarter 2	1 April 2022 – end Sept 2022	Variance	Corrective action
4.	High quality adjudication decisions that create consistent jurisprudence in consumer, credit and debt intervention matters	Number of cases overturned on review in Supreme Court	0 cases	0 cases	0 cases	0 cases	None	None
5.	Co-operation & information sharing on permissible matters between regulatory system stakeholders	Number of structured interactions and engagements with external stakeholders including events, structured meetings and joint forums at which presentations were made	20 engagements	16 engagements	17 engagements	31 engagements	Exceeded	None
6.	Talented people available to execute on NCT strategy & mandate across the NCT organisation structure	Percentage of filled positions on approved organisation structure	85%	96.29%	96,29%	96,29%	Exceeded	None

1. Measurable Objectives – Pre-populated Scorecard...

No	Output	Performance measure	Annual target	Quarter 1	Quarter 2	1 April 2022 – end Sept 2022	Variance	Corrective action
7.	Youth with employable skills and knowledge	Number of interns employed through structured opportunities created for youth Development	8	N/A-annual target with no defined milestones iro Q1	N/A-annual target with no defined milestones iro Q2	This is an annual target with no quarterly milestones in respect of Q1 and 2.	None	None
8.	To participate and export knowledge and know how to the African Dialogue On Consumer Protection initiatives.	Number of engagements with stakeholders in Africa around developments in Consumer Protection issues.	4	0	0	0	Not achieved.	Partnering with other Consumer Agencies regarding possible engagements with African partners.



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1. Measurable Objectives – Pre-populated Scorecard...

No	Output	Performance measure	Annual target	Quarter 1	Quarter 2	1 April 2022 – end Sept 2022	Variance	Corrective action
9.	Stable ICT enterprise architecture	% systems availability during business hours	98%	99.84%	99.23%	99.53%	Exceeded	None
10.	Safe and secure ICT enterprise architecture	% of identified CMS mission critical ICT systems and user guide components & functions fully documented	100%	N/A	100%	100%	None	None

1. Measurable Objectives – Pre-populated Scorecard...

No	Output	Performance measure	Annual target	Quarter 1	Quarter 2	1 April 2022 – end Sept 2022	Variance	Corrective action
11.	Safe & secure ICT enterprise architecture	Number of designated security assessments implemented	2 (1 internal and 1 external) penetration tests completed & results reviewed	N/A	N/A	2 (1 internal and 1 external) penetration tests to be conducted in Quarter 3	None	None
12.	Optimal use of financial resources	% of trade debtors over filing fee revenue collected.	Trade debtors to be 1.5% or less of filing fee revenue	0,03 %	0,01%	0.08%	None	None
13.	HRM Maturity level achieved in relation to all elements of the HR Value chain as per the HR Strategy	% achievement of HR Maturity level as per the HR Strategy	Level 3 100%	15%	N/A	Not applicable. It is an annual target with no defined measures for Quarter 1 and 2	None	None



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1. Measurable Objectives – Pre-populated Scorecard...

No	Output	Performance measure	Annual target	Quarter 1	Quarter 2	1 April 2022 – end Sept 2022	Variance	Corrective action
14.	Annual Training Plans developed and implemented	% implementation of Annual Training Plans	80%	6%	8%	Not achieved. There have been poor response rates from service providers in respect of the ToRs	26%	To collaborate with Procurement to identify appropriate service providers.
15.	BBBEE Annual Implementation Plan developed and implemented to address areas such as management control skills development, employment, equity, enterprise development and socio-economic development	% implementation of the annual BBBEE Implementation Plan	80%	40%	20%	In progress. The performance against the BBBEE Implementation should be measured at the end of the financial year and not the end of each quarter.		The NCT has requested various changes to its current APP, including this measure. It is currently awaiting the approval of the proposed changes by the Minister.



1. Measurable Objectives – Pre-populated Scorecard...

No	Output	Performance measure	Annual target	Quarter 1	Quarter 2	1 April 2022 – end Sept 2022	Variance	Corrective action
16.	Communication Strategy and Implementation Plan developed and implemented	% of communication of the annual Communication Plan	100%	99%	94,11%	Not Achieved. There have been technical challenges with regards to the compilation of the YouTube Videos	3,45%	A revised plan has been implemented and good progress have been made against it.
17.	Development of compliance checklist / universe to ensure compliance with applicable laws	% compliance with the core applicable laws (PFMA, NCA, CPA, POPIA)	100%	99%	98,32%	Not achieved. The NCT currently only has the POPIA and PAIA Manuals in one of the official languages instead of two.	1,34%	Measures are being put in place to comply 100% with POPIA
18.	Risk Register reviewed and appropriate	% of agreed risk mitigation plans implemented	100%	100%	100%	100%	None	None

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1. Measurable Objectives – Pre-populated Scorecard...

No	Output	Performance measure	Annual target	Quarter 1	Quarter 2	1 April 2022 – end Sep 2022	Variance	Corrective action
19.	Identified mission-critical ICT components & applications successfully implemented. These quarterly targets assume the NCAA rules and regulations will have been finalised and gazetted by end Q4 FY 2021-22 otherwise it will not be applicable	Identified system components & applications implemented	NCAA DRI systems deployed	Not applicable The dtic has placed the implementation of this project on hold	Not applicable The dtic has placed the implementation of this project on hold	Not applicable. The NCAA rules and regulations have not been gazetted and the dtic has placed implementation of this project on hold for the foreseeable future.		Once the NCAA rules and regulations have been gazetted, timelines needs to be reviewed and amended accordingly.

1. Measurable Objectives – Pre-populated Scorecard...

Summary

- Achieved objectives 19 out of 30 – 63,33%
- Not achieved objectives 11 out of 30 = 36,67%
- Exceeded objectives 11 out of 30, amounting to 36,67 %

2. Key highlights

Item	Type of Matter	1 April 2022 – end September 2022
1	Non-DRA's	79 final judgments had been issued after a hearing had taken place (inclusive of matters settled and confirmed by the Tribunal)
2	DRA's	12,459 adjudicated orders have been issued

3. Case Studies: Case Study 1

ABRAHAM LOURENS ERASMUS v EARN A CAR ASSETS 1 (PTY) LTD & LINDSTRON BOTES - NCT/220739/2022/75(1)(b) issued 26 September 2022

On 22 June 2021, the Applicant purchased a 2012 Ford Fiesta from the Respondent for R70,000.00. The following day the vehicle's battery failed and shortly thereafter suffered engine issues and a blown gasket. The Respondent refused the refund the purchase price or to accept the return of the vehicle. The Applicant approached the NCC with the intention of recovering the purchase price of the vehicle. The NCC issued him with a notice of non-referral.

The Tribunal held that the conduct of the Respondent was prohibited as the CPA requires a refund on products that reveal itself as defective within six months. The Tribunal ordered the refund of the purchase price.

Case Study 2

SWASTHI v MASSORES (PTY) LTD T/A MAKRO SA - NCT/219207/2022/75(1) issued 29 June 2022

The Applicant purchased a fridge for R11,499, from the Respondent that was delivered to her on 5 June 2021. On the same day she contacted the Respondent to notify them that there was a dent on the product. On the next day when she connected the fridge, she found that the light was not working, the door was not sliding properly and a sensor inside the fridge was loose. She requested a refund or a replacement of the fridge from the Respondent. The Respondent inspected the fridge and advised her that she had damaged the fridge or dropped it.

The Tribunal found that Makro delivered a damaged fridge to the Applicant. She could not use the fridge as intended, which constitutes a defect that occurred within the six-month period. The Tribunal ordered that the Applicant is entitled to a full refund of the purchase price of R 11,499.00.

Case Study 3

PAPANI CASSIUS NDLOVU VS TOYOTA RANDBURG, A DIVISION OF MOTUS GROUP LTD - NCT/139033/2019/75(1)(b) issued April 2022

The Applicant purchased a pre-owned 2012 model BMW 320i from the Respondent. He had to return the vehicle the next day for repairs to the brakes. Respondent arranged for the vehicle to be towed to the nearest BMW dealership, Pinnacle Auto, for diagnostics. Pinnacle Auto discovered that the vehicle's engine had ceased to operate and that a new engine had to be fitted. The vehicle had an extended motor plan from BMW. However, the Respondent did not know that the vehicle had an extended motor plan and had failed to transfer the motor plan into the Applicant's name. Consequently, Pinnacle refused to replace the engine. Applicant alleged that the Respondent sold him a defective vehicle and failed to inform him that the vehicle was still under the BMW warranty. The Applicant sought a refund as the defective revealed itself within 6 months.

The Tribunal found that the Respondent supplied a defective vehicle to the Applicant and ordered a refund of R262,172.78, representing the purchase cost of the vehicle, and that the Applicant may approach the Chairperson of the Tribunal for a certificate to claim his damages in the High Court.

Case Study 4

CHANE VAN EYSEN v RACE-TEC MOTORSPORT (PTY) LTD NCT/213193/2021/75(1)(b) issued 18 August 2022

The Applicant approached the Respondent to repair a motor vehicle. The Applicant requested quotations from the Respondent for repairs to the vehicle. The Respondent provided the quotations to the Applicant and the Applicant's warranty company. The Applicant's main complaint is that the Respondent stripped the vehicle without providing the Applicant with a quotation for stripping the vehicle and re-assembling it before they commenced stripping the vehicle. The Tribunal found that the first time the Respondent told the Applicant of labour costs for the vehicle's repair and storage charges was well after the vehicle had been stripped. The Respondent's failure to disclose the price for preparing the quotations is a contravention of section 15(3) of the CPA. The Tribunal ordered the Respondent to return the vehicle to the Applicant fully assembled and in the condition that the Applicant left the vehicle with the Respondent at no cost to the Applicant.

Case Study 5

NATIONAL CREDIT REGULATOR v CHISEVHE TRADING ENTERPRISE (PTY) LTD - NCT/223352/2022/57(1)

The Applicant sought to deregister the Respondent as a credit provider after an investigation initiated through an anonymous tip-off. It was discovered through the investigation that the Respondent, retained consumers' instruments such as identity documents, bank cards and/or South African Social Security Agency cards (SASSA cards) to enforce their credit agreements. It was also discovered that interest exceeded the prescribed maximum interest rate and that no appropriate credit checks were done prior to the granting of credit. The Respondent did not oppose the application.

The Tribunal held that the Respondent's actions constituted prohibited conduct, and therefore declared the Respondent's credit agreements with the consumers in the sampled files reckless. The Respondent's registration as a credit provider was cancelled and an administrative fine of R150 000 (One Hundred and Fifty Thousand) was imposed.

The Respondent, at its own cost, was ordered to appoint an independent Auditor to assess the extent of the Respondent's reckless credit practice. Furthermore, within 30 days of the audit report, the Respondent must refund all amounts due as per the audit.

Case Study 6

NATIONAL CREDIT REGULATOR v WQ PRIME CASH LOANS AND TRADING (PTY) LTD - NCT/214099/2021/57(1)

The Applicant filed an application to de-register the Respondent based on excessive interest rates, failure to conduct affordability assessments, as well as the Respondent's reliance on consumers' support grants. The Respondent did not oppose the application.

The Tribunal in their ruling emphasised that one of the central tenets of the NCA is to promote responsible credit granting and to prohibit reckless credit granting. Consequently, the Tribunal held that the Respondent's contraventions amounted to prohibited conduct.

The Tribunal ordered that the registration of the Respondent be cancelled, ordered an administrative penalty of R1,000,000, 00 and ordered the refunding of monies to consumers based on the outcome of an audit that the Respondent must pay for.

Case Study 7

NCR v MOSADI 19 TRADING ENTERPRISE (PTY) LTD - NCT-223369-2022-57(1)

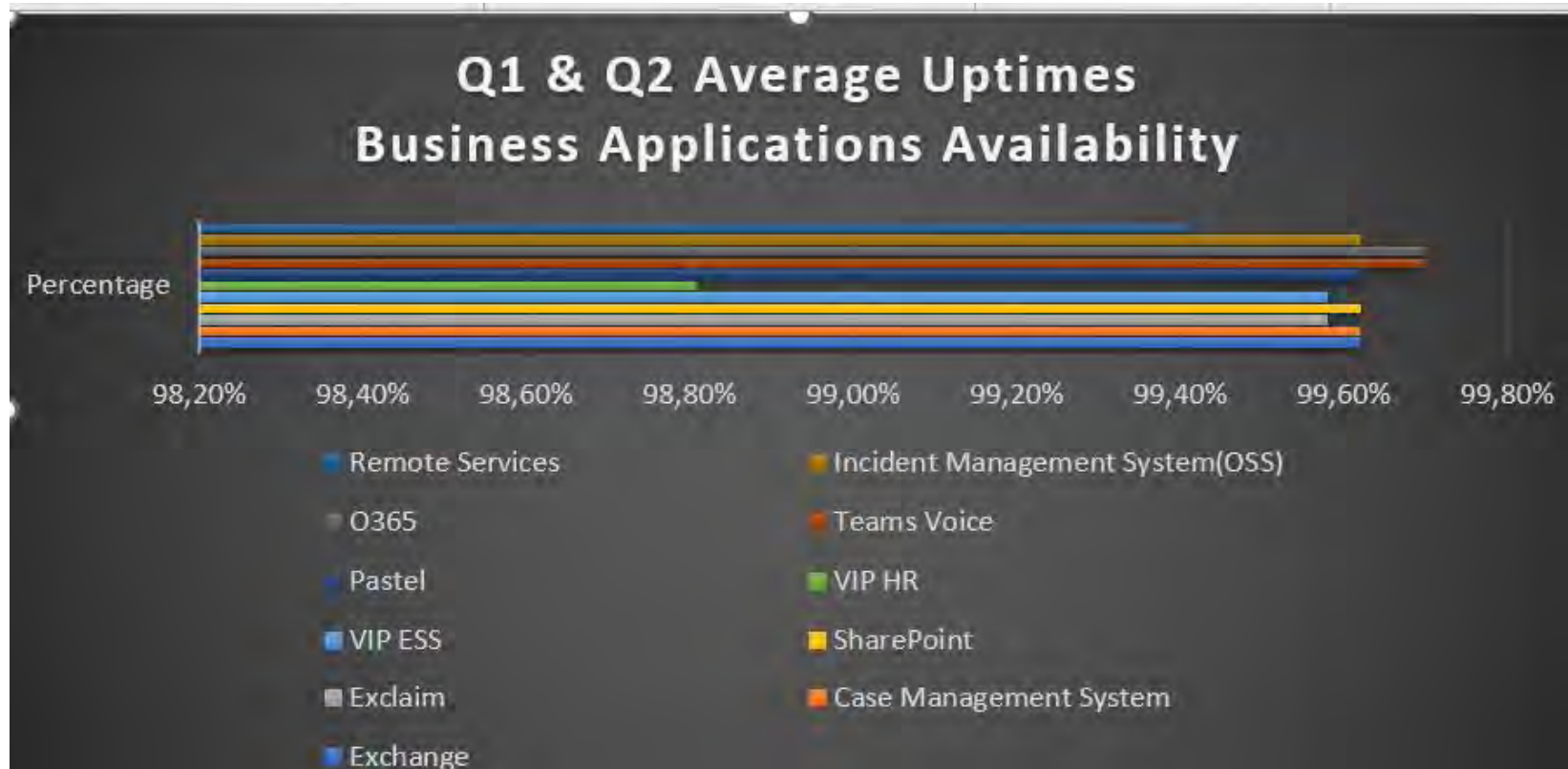
The Applicant sought to de-register the Respondent based on their investigation which suggested that no proper criteria existed to conduct proper affordability assessments, unlawful contracting provisions were included in credit agreements and interest charged exceeded maximum prescribed rates. The Respondent operated in a rural township in the Mpumalanga area. The Respondent did not oppose the application.

The Tribunal found that the contraventions warranted the de-registration of the Respondent and in addition imposed an administrative fine of R100,000,00 due to the relative size of the Respondent. The Tribunal in their ruling highlighted the fact that these contraventions had affected the most vulnerable of consumers.

4. Case Management

- During this period, **13 760** electronic filings were made as filers continued to optimise the NCT's e-filing and web service systems.
- There are 761 registered filers. Management continues to observe a steady growth of filers who register on the system. Over 95% of filers who file with the NCT, file electronically via the NCT Case Management System.
- 11 807 orders were adjudicated on the Online Platform during the reporting period.
- Over 90% of hearings were held virtually with significant savings made for parties and Tribunal members in terms of travel and accommodation.
- Other key developments launched and well underway during this period include:
 - Mobile CMS whereby filers can submit applications and get updates via their mobile phone.
 - E-purse payment gate way which will eliminate filers mistakenly entering the wrong payment reference number when depositing filing fees.

Case Management systems availability 99,53% for the period



5. Audit Outcome

- ❑ The NCT received its 10th successive clean audit.
 - Reasons:
 - **Strict Adherence** to well-developed **Policies** and **Procedures**
 - **Skilled /Motivated staff** that applies the policies & procedures
 - Highly **skilled core management** team that controls the process
- ❑ The clean audit status will be maintained by maintaining and enhancing the current internal control systems.

6. Financial Management

Revenue – Actual YTD vs Budget YTD

Description	Actual as at 31 September 2022	Budget as at September	Variance	Variance %
	R'000	R'000	R'000	R'000
Government Grant	32 854	32 853	1	0,0%
Filing and Service Fees	7 256	7 420	-164	-2.2%
Interest received	773	465	308	66%
Other Income	752	350	402	115%
Total revenue	42 051	41 089	962	2.3%

Revenue - Material variances

- Interest received was more than the budget as we maintained a higher cash balance.
- Other income was more than budget due to the CFO being seconded for a longer period than anticipated. His salary was recovered monthly.

Expenditure – Actual YTD vs Budget YTD

Description	YTD-Actual - Sept	Budget – YTD - Sept	Variance	Variance %
	R'000	R'000	R'000	R'000
Employee Cost	19 961	24 719	-4 755	-19%
Goods and Services	9 480	13 164	-3 683	-28%
Total Operational costs	29 442	37 883	-8 441	-22%
Capital Expenditure	776	830	-54	-6.50%
Total Expenditure	30 218	38 713	-8 495	-22%

Expenditure - Material variances

- Employee cost was under budget due to performance bonuses and increases not yet affected.
- Goods and services were under budget due to savings in Tribunal Member costs due to enhancements in the CMS system resulting in efficiencies. There are also fewer TM's as compared to the prior year.
- In addition, there were savings in consulting and special services due to the implementation of cost-saving mechanisms.

Other

Financial Indicators

1.1	There was no overspending of the approved budget
	Expenditure management
2.1	The creditor payment period is 15,7 days
2.2	Current liabilities as a % of cash and cash equivalents
2.3	There has been no Irregular Expenditure
2.4	There has been no Fruitless and Wasteful expenditure

7. Progress on Ministerial Priorities

During the period under review the Tribunal:

- Continued to demonstrate its commitment towards youth employment and development. It set a target to recruit 8 interns for the financial year. The NCT is currently in recruiting the interns which will be finalised before the end of Quarter 4.
- As part of its commitment and contribution towards the achievement of the broader South African transformation agenda, the NCT has revised its BBBEE strategy and has developed and implemented an updated BBBEE Implementation Plan in alignment with the specialised scorecard.

8. Media Coverage

Media Analysis

During Quarter 1, the NCT was featured in an article by Carmel Rickard in the Financial Mail regarding the NCT's punitive actions against unscrupulous lenders who have taken advantage of poor South Africans. The NCT shows a number of cases resulting in deregistration and fines of up to R1 million.

(This demonstrates the impact the NCT continues to have on the citizens and their livelihoods.)

During Quarter 2, there were no comments about the NCT in the media.

9. Strategic engagements

Engagements

The NCT conducted a total of thirty-one (31) engagement sessions during Quarters 1 and 2.

The engagements were held with Debt Counsellors who were engaged and trained on lodging and filing their applications online (through the NCT's Case Management System). The purpose of the engagements was to increase access to the Tribunal by the respective consumers/stakeholders.

10. Key Challenges

- **Financial Constraints:** The Tribunal continues to experience the challenge of resignations. Based on the data analysis of the exit interviews, key reasons for the resignations are a lack of employee benefits; the remuneration mode (total cost to company); lack of promotion opportunities. The limited and constrained budget further exacerbates this challenge.
- **Human Resources Information System:** Post the due procurement process the successful bidder was appointed. However, the service provider at the initial meeting stated that they had incorrectly priced their proposal. In order to ensure a fair and due procurement process the NCT nullified the first process and had to start the procurement afresh. Human Resources R, under the circumstances, will continue to be predominantly manually operational driven until such time that an automated system has been implemented



11. Collaboration with other entities

- The NCT continues to collaborate with the NCC in the design, development, and implementation of the Opt-Out Register system.

12. Compliance

- ☐ The NCT ensures compliance with the applicable legislation and regulations through its automated compliance monitoring system, known as **Exclaim**;
- ☐ Compliance Checklists are completed via Exclaim which allows for the **generation of quarterly compliance reports** for the Audit and Risk Committee.
- ☐ The NCT has complied with the requirements stipulated in the Shareholder's Compact for the reporting period as well as the Public Finance Management Act No 1 of 1999 (PFMA) Regulations and had no reported instances of non-compliance.

13. NCT Judgments

All NCT judgments are available on our website at

www.thenct.org.za

Or on [SAFFLI](#)

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THANK YOU