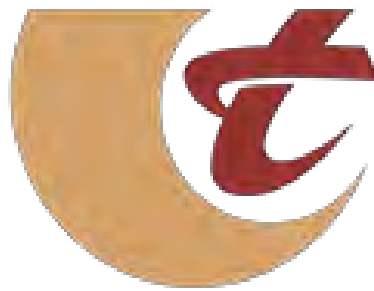


**2022/2023**



***competitiontribunal***  
SOUTH AFRICA

# **ANNUAL PERFORMANCE PLAN 1 APRIL 2022 – 31 MARCH 2023**

## Foreword by Executive Authority

The Annual Performance Plan (APP) identifies the outputs, output indicators and targets that an entity aims to achieve in the new financial year. The Executive Authority is responsible for providing direction on the development and implementation of policies and strategic priorities of entities in line with their respective mandates, and to ensure the APP and Corporate Plan is aligned to government's priorities.

The environment in which the APPs of the Department of Trade, Industry and Competition (**the dtic**) and our entities have been formulated remains challenging, given the impact of the COVID-19 pandemic, the July 2021 unrest and more recently the Russia/Ukraine war. At the same time, determined efforts by the Administration has seen signs of economic recovery and greater investor confidence in economic prospects. In this light, Government's priority focus continues to be the recovery of growth, investment and employment, guided by the Economic Recovery and Reconstruction Plan adopted in 2020, and the tasks outlined by President Ramaphosa in the 2022 State of the Nation Address.

This APP is expected to take forward the strategic shift initiated in 2021/2022 toward strengthened implementation and impact of **dtic's** work, through greater integration of efforts within the department and our entities, guided by shared, crosscutting outcomes and joint performance indicators. In this regard, the work of **the dtic** and the entities will be evaluated in relation to three over-arching Outcomes (which incorporate the previous "Joint-KPIs") namely **Industrialisation; Transformation;** and **Capable State** (Implementation/ Effective Delivery). In this way these Outcomes more deliberately and directly inform respective outputs and KPIs of the department and entities.

In turn, the scope of the outputs collectively still encompass the identified **dtic's** priorities, which include among others, the work of sector masterplans, initiatives to boost levels of investment and localisation in the economy, expanding trade within the continent, enabling better local economic development, supporting the growth of new industries (in the green economy and through beneficiation) and building a capable state, in particular addressing red tape as prioritised by the President in the 2022 State of the Nation Address.


Every entity in the **dtic** has been requested to align their APPs to the three outputs, it being recognised that a particular entity's core business links more clearly and strongly to one or the other of the overarching Outcomes, than to others.

This APP represents the outcome of the work done by the Competition Tribunal. Following the tabling of the APP by the **dtic** itself, each entity of the Department will be expected to consider such additional refinement and additions to be made and following completion of the review, such an addendum to this APP may be submitted in due course after the tabling.

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

I accordingly table the APP for 2022/23 in accordance with the request by the Speaker.

I wish to thank the management and governance structures for the work done and wish them well in executing the APP and aligning their work to government's overall programmes and priorities.

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

## Foreword by Accounting Authority

This Annual Performance Plan is limited to the 2022/2023 financial year and the targets set consider the policy imperatives of government and the dtic within the available budget. The lessons learned from 2021 are that we must be resilient and prudent with public spending in these tough economic times. This APP embeds these principles.

The coronavirus pandemic in 2020 found South African competition law and policy at an inflection point where the Competition Act had recently (in 2019) been amended. The amendments were aimed at addressing the high concentration levels that continue to plague the economy, 20 years after the Competition Act was in force. The amendments have, *inter alia*, strengthened the merger, abuse of dominance and market inquiry provisions in order to reduce barriers to entry in markets, to increase ownership and participation, particularly by SMMEs, and HDIs in the economy. In essence the amendments seek to foster fair, competitive and inclusive markets.

The Covid-19 pandemic slowed down the traction that the amendments sought to achieve. As businesses closed, jobs were lost, the economy plunged further into recession, and the vulnerability of consumers increased. However, the decisions of the Tribunal contributed to sustaining public trust and confidence in markets, by protecting consumers from unjustifiable high prices. Because of the 2019 amendments, competition authorities were able to swiftly deal with the excessive pricing of essential goods such as face masks and sanitisers necessary to combat the spread of the coronavirus and found many firms of the firms involved to have contravened the Act.

Like all other organisations, the Tribunal has had to deal with the challenge of carrying on business subject to the lockdown and social distancing restraints imposed because of the pandemic. However, as a result of the groundwork carried out in previous years regarding the development of the Tribunal's IT system; the rapid and innovative deployment of remote working technologies and the livestreaming of hearings; and the adaptation of procedural rules and practice, the Tribunal has been able to remain fully operational. Consequently, there has been no disruption or undue delay in the conduct of proceedings because of the pandemic.

The Economic Reconstruction and Recovery Plan sets out the framework for rebuilding the economy following the outbreak of the coronavirus pandemic. As the economy recovers, the Tribunal will need to be particularly vigilant against the economy reverting to its anti-competitive past.

Our core action plan is aligned, *inter alia*, with the Economic Reconstruction and Recovery Plan imperatives, and more specifically with the dtic's three joint/integrated outcomes which are: Delivery/A Capable State; Industrialisation and Transformation. It is to adjudicate for fair, competitive and inclusive markets. This outcome is based on two pillars: Reliable and Responsive Adjudication; and Governance (encompassing a Transparent, Accountable and Sustainable Tribunal).

The Tribunal has continued to exercise prudent financial management on the expenditure side. We have addressed areas of cost containment and savings in response to budget cuts necessitated by the reprioritization of funds by National Treasury towards relief packages in 2020/21 and 2021/22. The Tribunal operates a 'lean' budget. Any reduction in expenditure will have a detrimental impact on the

achievement of the Tribunal's strategic objectives which include the administration of the Competition Appeal Court.

In recent years, the grant allocated to the Tribunal has grown at a rate based mainly on inflation as opposed to changes in the Tribunal's operational requirements and in line with the increased breadth in the Tribunal services following the 2019 amendments to the Competition Act. This is putting a strain on the operations of the Tribunal.

The filing fees fluctuate significantly year-on-year, and it is difficult to predict the exact reasons for these fluctuations or to accurately reflect what they will be in the future. The uncertainty with regards to this revenue source is a concern to our budgeting process. The future financing of the Tribunal requires an urgent relook.

We have been in the fortunate position of being able to rely on the use of accumulated funds to cover budget shortfalls in prior years, however, this will no longer be the case in the future.

The Tribunal has approval from the National Treasury to retain the accumulated cash surplus of R 7.61 million for use in the 2021/2022 financial year.

The retention of accumulated surpluses over the MTEF period is contemplated to ensure that the Tribunal is able to fund its operations on a sustainable basis.

We have realigned our key performance indicators to adapt to a zero-based budget. We remain committed to our mandate and giving effect to the National Development Plan, the objectives of the Economic Reconstruction and Recovery Plan, the joint indicators and other **the dtic's** policy imperatives. It is a matter of institutional pride year-on-year- that the Tribunal has received a clean audit.

In the 2020/2021 financial year, the Tribunal heard 152 matters. In the 2021/2022 financial year, as at 31 December 2021, the Tribunal heard 133 matters, this included 70 mergers, 27 consent/settlements agreements (of which 17 related to cartel conduct, 8 were Covid-19 excessive pricing cases, and 2 were failures to notify a merger and), 4 complaint referrals (of which 3 were cartel related and 1 was Covid-19 excessive pricing) and 32 procedural matters. Of the 70 mergers, 21 were approved with conditions related to public interest issues, such as, a greater spread of ownership, enhanced participation of historically disadvantaged persons, facilitation of entry and participation of employees and the transfer of shareholding to B-BEEE shareholders.

This snapshot of case adjudication illustrates the diverse nature of our work, and the increasing complexity in cases. The Tribunal has no control over the demand for its services and this increases the uncertainty in planning resources. It is also difficult to make assumptions about the demands of individual cases which vary between small but often difficult cases and extremely large and highly complex cases that absorb a great deal of resources. Often, cases may be extremely urgent, raising issues of fundamental importance not only to the firms concerned, but to workers, consumers and the wider economy and require the rapid mobilisation of resources to deal with them. All of this takes place in an environment in which the Tribunal has to rely on the availability of part-time Tribunal members whose availability is not always guaranteed and the support for Tribunal members is constrained.

Ensuring that the Tribunal has capacity and is resilient in the face of these challenges is key to rebuilding the South Africa's economy.

We remain committed to adjudicating for fair, competitive and inclusive markets.

## Official sign-off

It is hereby certified that this Annual Performance Plan of the Competition Tribunal for the period 1<sup>st</sup> April 2022 to 31<sup>st</sup> March 2023 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 2022/2023 financial year.

Oliver Josie

**Chief Operating Officer – Competition Tribunal**

Signature: \_\_\_\_\_ *Oliver Josie* \_\_\_\_\_

Date: 1 April 2022

Mondo Mazwai

**Chairperson – Competition Tribunal**

Signature: \_\_\_\_\_ *M. Mazwai* \_\_\_\_\_

Date: 1 April 2022

Ebrahim Patel

**Minister of Trade, Industry and Competition**

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

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## Abbreviations and Acronyms

the Act	Competition Act 89 of 1998
AfCFTA	African Continental Free Trade Area
AG	Auditor-General
APP	Annual performance plan
BBBEE	Broad-based black economic empowerment
Commission	Competition Commission
CAC	Competition Appeal Court
COVID-19	Coronavirus Disease 2019
<b>the dtic</b>	Department of Trade, Industry and Competition
ENE	Estimates of National Expenditure
ESKOM	Electricity Supply Commission, SA's electricity public utility
HR Management	Human Resource Management
ICASA	Independent Communications Authority of South Africa
ICN	International Competition Network
ICT	Information and communications technology
IEAP	Integrated Economic Action Plan
IT	Information technology
MTEF	Medium Term Expenditure Framework
MTSF	Medium Term Strategic Framework
NDP	National Development Plan
NGO	Non-government organisation
OECD	Organisation for Economic Co-operation and Development
PFMA	Public Finance Management Act
PPEs	Personal Protective Equipment
RMC	Risk Management Committee
SADC	Southern African Development Community
SCM	Supply Chain Management
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 derives its legislative mandate from the Competition Act and its purpose is to promote and maintain competition in the Republic in order to:

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

### 2. Policy Mandate

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

The NDP five-year implementation plan has been developed in order to advance and guide planning that is responsive to the attainment of NDP priorities. It allows for the co-ordination and alignment of priorities across spheres of government. The Tribunal will also support the Economic Reconstruction and Recovery Plan, 2020, developed by government in response to the Covid-19 pandemic in order to stimulate equitable and inclusive growth in the economy. We will continue to align with **the dtic's** seven joint indicators which are the implementation plans aligned to the NDP.

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

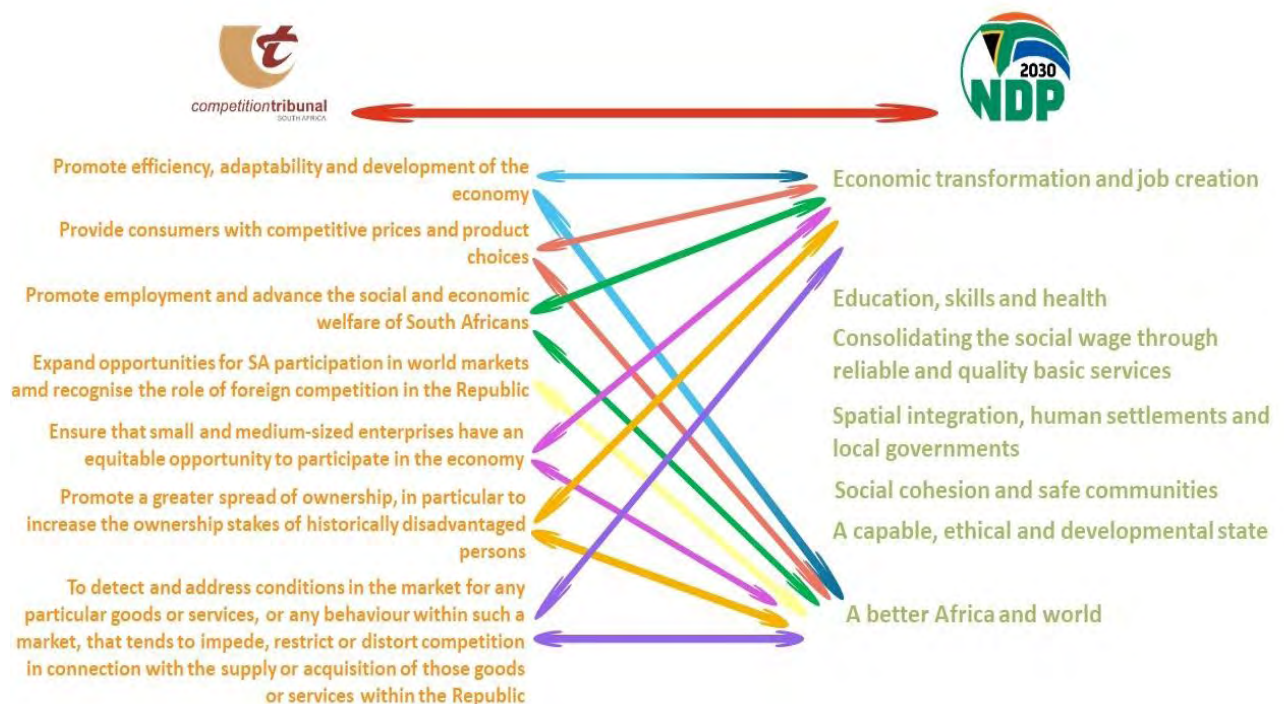
- Joint Indicator 1: Integrated Support to Drive Industrialisation;
- Joint Indicator 2: Contribution to the development of an AfCFTA Export Plan;
- Joint Indicator 3: Investment Facilitation and Growth;
- Joint Indicator 4: Development Model and Spatial Equity;
- Joint Indicator 5: Actions to Promote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

- Joint Indicator 7: Strengthening and Building a Capable State.

The performance progress with regards to the seven joint indicators has been reported quarterly to **the dtic** in the 2021/2022 financial year. In the coming financial year 2022/2023, **the dtic** has regrouped the seven joint indicators into three over-arching joint/integrated outputs that address **the dtic** portfolio contribution to outcomes such as inclusive growth, job creation, combating poverty and dealing with inequality 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 processes improvements.

The Tribunal has aligned its two Strategic outcomes, namely: Reliable and Response Adjudication; and Transparent, Accountable and Sustainable Entity, within the legal mandate of the entity, to the three over-arching joint/integrated outputs as mentioned above. 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.



All decisions taken by a Tribunal panel when adjudicating on matters brought before it must consider, in addition to competition issues, various public interest factors which include the effect of a merger

on a particular industrial sector or region, employment, 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.

Effective competition has the effect of promoting consumer welfare and will therefore have a positive impact on national development goals.

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

**Table 1: Alignment of Tribunal outcomes with the dtic Joint/Integrated Outputs**

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

**Table 2: Alignment of Tribunal outcomes with the NDP Outcomes**

NDP Outcome Number	NDP Outcomes	Tribunal Outcome	Tribunal Outcomes
NDP Outcome 1	Economic transformation and job creations	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 employment creation by the NDP and <b>the dtic</b> .

<sup>1</sup>Linking of the dtic's outcomes to the NDP.

NDP Outcome Number	NDP Outcomes	Tribunal Outcome	Tribunal Outcomes
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 the NDP outcomes.
NDP Outcome 6	A capable, ethical, and developmental state	Transparent, Accountable and Sustainable entity	Through Transparent, Accountable and Sustainable Tribunal contributes to a capable state.
NDP Outcome 7	A better Africa and World	Responsive and Reliable Adjudication	Through Responsive and Reliable Adjudication contributes to a better Africa and World.

### **3. Institutional policies and strategies**

The Tribunal makes a substantial contribution towards the policy driver “competitiveness and competition policy” as its mandate and core functions deals specifically with this area. Its public interest mandate makes contribution to the following drivers: employment, the development of SMMEs and the promotion of B-BBEE. Since the 2019 Competition Amendment Act the public interest mandate of the Tribunal includes an assessment of a greater spread of ownership by workers in mergers, participation by SMEs and HDI’s as well as reducing structural barriers to entry in markets. To the extent that mergers and the market structure in prohibited practice cases may have a negative effect on these factors, the Tribunal may, where appropriate, cases be able to impose conditions or issue orders to alleviate the adverse effects.

The Tribunal has a long history of documented jurisprudence and access to our case archives may provide a valuable resource for research. Part of our engagement with **the dtic** aims to assist with information sharing and the use of these information resources and to alert them to new and useful information.

### **4. Relevant Court Rulings**

There have been numerous Constitutional Court judgements which may impact on operations or service delivery obligations. For example, recently in the Mediclinic judgement of the Constitutional Court, the Constitutional Court upheld the decision of the Competition Tribunal to prohibit a proposed merger between Mediclinic Southern and Matlosana Medical Health Services which the Tribunal found would have a significant effect on healthcare costs of both insured and uninsured patients living in the rural Potchefstroom/Klerksdorp region. In particular, uninsured patients would be deprived of the lower tariffs charged by the Matlosana hospitals.

The Constitutional Court emphasised that section 39(2) of the Constitution of the Republic of South Africa, 1996 requires a court, including those enforcing the Competition Act, to interpret legislation in a manner which promotes the spirit, purport, and objects of the Bill of Rights, and noted that the Tribunal and the Competition Appeal Court have an added responsibility to do so imposed on them by the Preamble to the Act and its purpose. It is expected that the nature, workflow and complexity of matters referred to the Tribunal, intersecting competition and constitutional law will increase.

## **PART B: OUR STRATEGIC FOCUS**

### **5. Situational Analysis**

#### **5.1. Strategic focus**

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

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

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

- a) authorise a merger, with or without conditions, or prohibit a merger;
- b) adjudicate in relation to any conduct prohibited in terms of the Act by determining whether prohibited conduct has occurred, and if so, impose a remedy provided for in the Act;
- c) hear appeals against decisions of the Competition 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 Act and Rules prescribe time frames for the issuing of orders and decisions which must be adhered to by the Tribunal.

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

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

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

Whilst the adjudicative process remains the main strategic focus, we also place 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 Act and the Tribunal's functions and activities.

All upcoming hearings and decisions given by the Tribunal are communicated to the media and all of the Tribunal's decisions can be accessed by the general public from the Tribunal's website or its offices. The Tribunal also publishes an annual handbook of cases which serves as a useful guide for competition law jurisprudence. This handbook is accessible to relevant stakeholders, such as competition practitioners, South African business and labour via the Tribunal's website.



## 5.2. Performance overview

The demand for the services of the Tribunal over the past 21 years have 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 however there has, in the past, been an average annual increase of 3.9% in matters heard over the period but due to the slowing economy and the COVID-19 pandemic, the hearing of cases decreased in the last financial year. While the number of cases has remained relatively constant rate, the complexity of issues has increased significantly. This is, inter alia, due to the new provisions in the Competition Amendment Act being tested before the Tribunal; the impact of Covid-19 on markets generally, including consolidations and failing firms and new ways of doing business (such as online) in markets.

**Table 3: Matters heard 2016/2017 to 2020/2021**

Type of case	2016/2017	2017/2018	2018/2019	2019/2020	2020/2021
Large merger	120	121	101	86	66
Intermediate/small merger reconsideration	8	6	4	1	2
Complaints from the Commission	10	14	18	9	4
Consent order/settlement agreement	27	29	45	27	63
Complaints from third parties	0	1	0	0	0
Interim relief	1	0	1	3	1
Procedural matter	50	42	46	28	16
<b>Total</b>	<b>197</b>	<b>213</b>	<b>215</b>	<b>154</b>	<b>152</b>

The Tribunal has generally performed well in getting merger cases set down and decided within the statutory timelines. Our performance in completing reasons in opposed cases needs improvement and the Tribunal is taking steps to improve turn around periods for reasons including better tracking of cases, appointment of full-time members and reviewing the gearing of the ratio between full-time

and part-time members who hear cases. However, the complexity of cases before the Tribunal has also increased as the system matures and experience in the field evolves thereby increasing the turnaround time to conclude matters. In the 2020/2021 financial year, consent and settlement agreements were significantly higher than in previous years due to the larger number of COVID-19 related excessive pricing cases involving essential goods and services necessary to combat the spread of the coronavirus, such as face masks and sanitisers.

### **5.3. Policy environment**

The policy parameters and objectives of the Act are consistent with the objectives of government's economic policy as articulated in policy documents of **the dtic**, as well as the NDP and the Economic Reconstruction and Recovery Plan. 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 businesspersons and investments. Relevant to the Tribunal is that negotiations are underway to draft an AfCFTA Competition policy. These policy objectives are given effect in the analysis and decision-making of the adjudicative panels, which assess merger transactions, allegations of restrictive practices and abuse of dominance, appeals or reviews of exemption applications refused or granted by the Commission, and market inquiries.

Although the Tribunal's decisions are primarily taken on competition grounds, the Act also requires that it considers specified public interest factors which align with other objectives of the government's economic policy, especially job creation, economic growth, SMMEs development, B-BBEE transformation and a greater spread of ownership.

#### **i. Merger Regulation – Structural Remedies**

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

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

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

1. impact on a particular industrial sector or region;
2. employment;
3. the ability of small and medium businesses, or firms owned by historically disadvantaged persons, to effectively enter into, participate in or expand within the market;

4. the ability of national industries to compete in international markets; and
5. the promotion of a greater spread of ownership, in particular to increase the levels of ownership by historically disadvantaged persons and workers in firms in the market.

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

ii. **Prohibited practices – Behavioural Remedies**

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

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

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

iii. **Exemptions**

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

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

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

iv. **Interlocutory applications**

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

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

#### **5.4. Impact of recent amendments to the Competition Act**

The Tribunal has already started to see some effect of the July 2019 Competition Law amendments on its workload.

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 have led to longer hearings and an increase in appeals in respect of intermediate mergers.

The Act also contains new prohibited practices (buyer power provisions) and reformulated provisions in relation to some of the existing abuse of dominance provisions (excessive pricing, price discrimination, margin squeeze and predatory pricing). The buyer power provisions are likely to lead to an increased case load particularly early on as the jurisprudence develops. In the recovery period from the pandemic, it is expected that complaints of buyer power and price discrimination under the 2019 Amendments will arise. The improved dominance provisions are also likely to lead to renewed enforcement activity by the Commission. For example, prior to these amendments only two cases of excessive pricing complaints (Sasol and Mittal) had been successfully prosecuted by the Commission before the Tribunal, and these were both overturned by the Competition Appeal Court (CAC). However, in 2020 there were a number of cases heard by the Tribunal in terms of the new excessive pricing provisions in relation to COVID-19, which were taken on appeal. The CAC upheld the Tribunal.

In the medium to long term, the Tribunal anticipates increased activity arising from the Commission's market inquiries. Decisions made by the Commission following a market inquiry are appealable to the Tribunal. Since market enquiries have to date taken a long time to conduct, it is likely that the record in such cases will be lengthy and intricate. This means that the panels will have to perform an appellate function, that is, hear cases without any oral evidence and the ability to test the evidence with witnesses.

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

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

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

### **5.6. Stakeholder Profile**

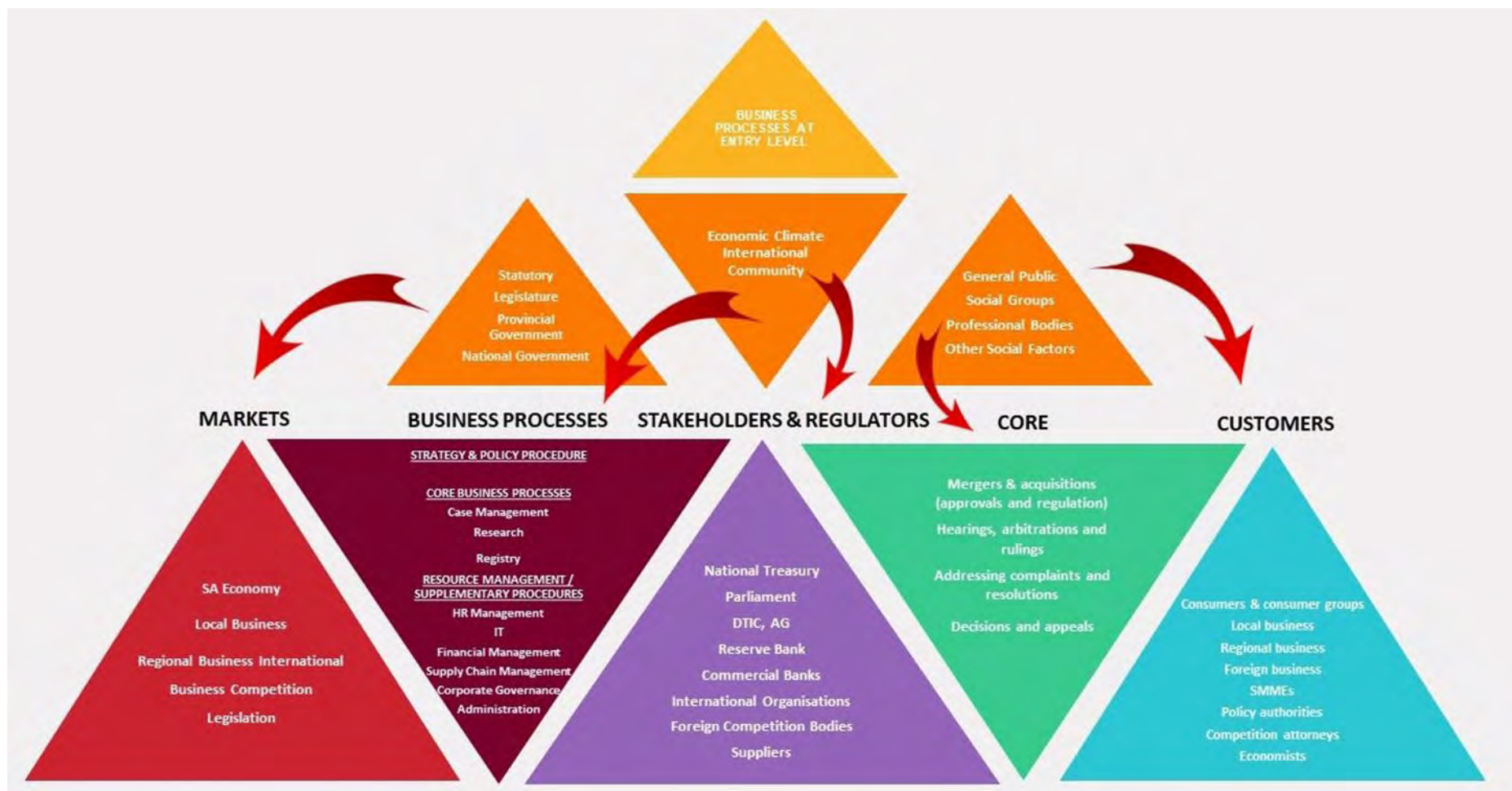
Numerous stakeholders may be impacted by the Act. The Tribunal encourages and maintains effective relationships with key stakeholders with the aim of promoting consumer welfare of all South Africans.

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 Tribunal decisions. These include consumers, competitors, customers, and suppliers of firms directly affected by Tribunal decisions.
- c) Sector-specific regulators such as Independent Communications Authority of South Africa (ICASA) who enjoy concurrent jurisdiction with the Competition authorities.
- d) Stakeholders to whom the Tribunal is accountable with respect to its functions. These include the DTIC, Parliament, the Minister of Trade, Industry and Competition, National Treasury (National Treasury) and the Auditor-General (AG).

- e) Stakeholders who act as reputational agents in providing policy and peer feedback on the standard and quality of work in the Tribunal. These include the media/journalists/editors, the financial press, academics, the judiciary and other competition agencies, the Organisation for Economic Co-operation and Development (OECD), the World Trade Organisation (WTO), Southern African Development Community (SADC), and the International Competition Network (ICN) and others.
- f) Government stakeholders that Tribunal may interact with, for example **the dtic**.

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



## 5.7. Strategic Planning Process

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

**Table 4: Strategic planning process calendar**

Date	Meeting	Participants	Outcome of meeting
13 September 2021	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 2022-2023 financial year.
2 November 2021	Submission of draft APP 2021-2022 to <b>the dtic</b> for comments.		
16 November 2021	Responses received from <b>the dtic</b> on first draft APP.		
11 January 2022	Briefing session, OPCOM and external facilitator, Mr G Qotywa	OPCOM Chief Operating Officer Mr Qotywa	Briefed the external facilitator on the draft APP 2022/2023 in preparation for the 24 January 2022 Strategic planning session.
20 January 2022	Briefing session with Chairperson and external facilitator, Mr Qotywa	Chairperson Mr Qotywa	Chairperson briefed the external facilitator on the draft APP 2022/2023 in preparation for the 24 January 2022 Strategic planning session.
24 January 2022	Strategic planning session held with ManCom to discuss draft APP 2022-2023	Tribunal Chairperson ManCom Opcom Chief Operating Officer Mr Qotywa	Required processes and methodology applied to develop APP that is compliant with National Treasury guidelines and DPME framework on planning. Ensure outputs are aligned to the NDP, Economic Reconstruction and Recovery Plan, joint indicators, other policy objectives of <b>the dtic</b> and the Tribunal's legislative mandate, including AfCFTA.
31 January 2022	Finalise APP 2022-2023 and submit to <b>the dtic</b>	Tribunal Chairperson Chief Operating Officer	Submit to <b>the dtic</b> and for Minister's consideration and approval.
21 February 2022	dtic Entities Meeting	Tribunal Chairperson	Briefing on the dtic joint/integrated outcomes.



28 February 2022	Review and align APP to the dtic joint/integrated outcomes	Tribunal Chairperson Prof Mncube Chief Operating Officer Mr Qotywa	Amendments made to the APP in alignment to the dtic joint/integrated outcomes.
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## 6. External environmental analysis

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

**Table 5: PESTEL analysis for the Tribunal**

FACTOR	ITEM
<b>Political Factors</b>	<ul style="list-style-type: none"> <li>• International <ul style="list-style-type: none"> <li>○ Biden administration to continue to return US to conventional foreign policy</li> <li>○ 2060 Africa Sustainability goals</li> <li>○ Trade agreements and the impact on exports and imports, including AfCFTA</li> <li>○ Global leadership relations</li> <li>○ Growth of the African Union</li> <li>○ Role of international bodies, such as the UN, WHO, etc</li> <li>○ 17 Sustainable Development Goals</li> </ul> </li> <li>• National <ul style="list-style-type: none"> <li>○ Effects of state capture</li> <li>○ Factional battles within the ruling party</li> <li>○ Coalition governments and its impact on political stability</li> <li>○ Policy uncertainty</li> <li>○ Rise in civil unrest</li> <li>○ Growth of racialism</li> <li>○ Lack of social accord e.g., unions vs business</li> </ul> </li> </ul>
<b>Economic Factors</b>	<ul style="list-style-type: none"> <li>• National government at the precipice of a sovereign debt crisis</li> <li>• Merger activity affected by the economic slowdown</li> <li>• Impact of COVID-19</li> <li>• Rising unemployment</li> <li>• Pressure to contain or reduce employment in public sector</li> <li>• Rising inequality</li> <li>• Poor economic growth</li> </ul>

FACTOR	ITEM
	<ul style="list-style-type: none"> <li>• Low investor confidence related to recent civil unrest</li> <li>• Failing State Owned Companies</li> <li>• Land expropriation</li> </ul>
<b>Social Factors</b>	<ul style="list-style-type: none"> <li>• Standard of education and also the impact of COVID-19 affects quality of interns and skill capacity of staff</li> <li>• Public perception – poor understanding of what we do</li> <li>• Digital divide – the Tribunal’s communication does not reach many parts of the population</li> <li>• Government’s plan to provide new social grants to assist the poor</li> </ul>
<b>Technological Factors</b>	<ul style="list-style-type: none"> <li>• Cyber security is a growing global risk-need to ensure security is current.</li> <li>• Fourth industrial revolution – impact on the way we work</li> <li>• Need to bolster and enhance digital processes (e.g., electronic and online filing, virtual hearings)</li> <li>• Need to ensure current technology and software is sustainable.</li> <li>• Demand for Technology and data costs</li> </ul>
<b>Environmental Factors</b>	<ul style="list-style-type: none"> <li>• Environmental degradation and climate change is a rising global concern</li> <li>• Diminished capacity of state to provide basic services (e.g., a stable electricity grid)</li> <li>• Rising public interest issues</li> <li>• Business disruption (e.g., COVID-19)</li> <li>• The shift to renewable energy</li> </ul>
<b>Legal Factors</b>	<ul style="list-style-type: none"> <li>• Amendments to the Act</li> <li>• Increased regulation and compliance</li> <li>• International developments in competition law</li> </ul>

## 7. Internal environmental analysis

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

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

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

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

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

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

#### **i. COVID-19**

During 2021, the Tribunal staff continued to work effectively on a remote basis due to the continuance of COVID-19. This entailed that Tribunal members and staff having worked remotely from home on hearings, panel deliberations and internal meetings were conducted via teleconference. The Tribunal adjusted well to working remotely in the short-term and adhere to timeframes in which the Tribunal was able to make decisions and provide reasons for its decisions.

The Tribunal has learned many lessons from the above working conditions which impacted on our internal environment during the lockdown. Our initial assessment is that some of the Tribunal activities may be more efficiently performed remotely after lockdown and will result in cost savings, for example hearings in so-called "phase 1", uncomplicated mergers. The physical space required by the Tribunal will also be re-evaluated, taking into account the remote working arrangements. Staff development, training, teambuilding and cohesion has been a challenge in the work from home environment. It is envisaged that the Tribunal staff will return to the office in due course, whilst adhering to the dtic COVID-19 protocols.

#### **ii. Tribunal Members**

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

The Tribunal Chairperson is responsible for managing the caseload of the Tribunal and assigns each matter referred to the Tribunal to a panel. The adjudicative panels of the Tribunal that decide

individual matters comprise three Tribunal members of which at least one member of the panel must be a person who has legal training and experience. The panel may consist of any combination of full-time and part-time members.

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

The recently amended Act makes provision for an increased number of Tribunal members. It makes provision for the appointment of 15 members (including the Chairperson) as opposed to 11 members prior to the amendments, in anticipation of the increased workload. The amended Act also gives the Minister the power to appoint acting part-time members. Two acting part-time members (Ms Shaista Goga and Dr Liberty Mncube) have been appointed with effect from 1 January 2022. Mr Enver Daniels, the former Deputy Chairperson whose term of office came to an end on 31 December 2021, has been appointed as an acting part-time member for the period 1 January – 30 June 2022.

As at 31 January 2022, the Tribunal's complement of members is 12 out of fifteen under the amended Act. Five are lawyers and seven are economists. Three are full-time members (including the Chairperson), six are part-time members and three are acting part-time members.

The appointment of the two acting part-time members will assist in alleviating the workload and improve the Tribunal's efficiencies. There however, remains a need for more members to be appointed. In light of the volume and complexity of matter, in this regard, engagements with the Minister are currently under way.

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

Since the part-time Tribunal members have other work commitments, their availability to the Tribunal, especially for hearings of longer duration, remains a challenge.

We anticipate that matters of a longer duration that were on hold during the lockdown will become active. The current ratio of full-time to part-time members is three to nine. We believe in order to increase the efficiency of the Tribunal; the optimal gearing ratio between full-time members requires review. In this APP, we have budgeted for the filling of three full-time member vacancies, including the Deputy Chairperson. We have also budgeted for an organisational review of the Tribunal's structure.

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

### **iii. Tribunal Secretariat**

The Tribunal's secretariat provides administrative and operational support within the Tribunal. It currently consists of 26 funded posts, with 22 full-time staff members. There are four vacancies, being the Head of Corporate Services, an Economist, a Case Manager and a Finance Officer. A review of the Tribunal's organisational structure is underway, and the vacancies will be addressed accordingly. The budget includes the filling of the positions, subject to the organisational review.

The Tribunal staff is allocated to the following five divisions:

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

The Chairperson of the Tribunal is the Accounting Authority and therefore has operational involvement in the day-to-day management of the Tribunal which is consistent with her powers in terms of the Competition Act. Certain responsibilities have been 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. The two Full-time member positions on the organisational structure have been temporarily filled with acting part-time members with effect from 1 January 2022 (for 12 months and six months respectively).

**Annexure C** details the names and positions held by Tribunal employees and provide some statistics pertaining to the profile of the secretariat.

### **iv. 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 "junior" Case Managers and progress to a senior level over a period of three to five years.

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

Case Managers must have either a legal or an economics background. It is important that adequate legal as well as economic expertise and experience exist in this division.

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 manager, depending on the nature and complexity of the case. Priority is given to cases where there are potential significant effects on the economy or the public interest. Case allocation methods and procedures 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 increase, 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. For this reason, a managerial position was created in this department to set the direction of case management activities in the organisation. In addition, a tiered development path (stratification according to the level of experience) has been established so that career and grade growth is feasible to retain experience within the Tribunal.

Finding experienced staff members in the highly specialised field of competition law and economics remains a challenge since the private sector tends to offer more attractive salaries than what the Tribunal can afford. However, the opportunities presented by being able to work closely with Tribunal members and gain valuable knowledge and experience from a regulatory perspective, assist in attracting staff members of a high quality to the Tribunal.

#### **v. Internship**

The Tribunal is a small organisation and is therefore limited in its ability to offer a substantial number of internships. Lack of funding is another impediment. 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. Given the Covid-19 working conditions during 2021/2022, the internships of two persons working in the Case Management Division have been extended by one year to address capacity issues as two case manager positions were not filled due to a moratorium on filling positions, resulting from COVID-19 budget cuts. These two interns' contracts expired on 31 December 2021. Two new interns have been appointed for 12 months each, commencing 1 January – December 2022.

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

#### **vi. Capacity Development**

The Tribunal is committed to capacity building and 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, especially under the COVID-19 conditions has been challenging, however, it will focus on in-house training interventions and on-the-job training. This is undertaken to aid staff with the development of experience and skills in competition law and economics. Other areas include fraud prevention awareness, IT security and risk management training.

In the past external training service providers were utilised for specialised training courses. Recent budget cuts and COVID-19 Restrictions have meant that international conferences could not be attended, unless free of charge and available remotely via teleconference. We have also managed to get international experts to share their valuable knowledge with the Tribunal on a pro bono basis and via teleconference. Depending on whether we receive approval from the National Treasury to retain surpluses and international COVID-19 protocols in place, some staff members may be able to attend international conferences in the 2022/2023 financial year.

In addition, in 2022/23 the Tribunal will continue to provide staff and Tribunal members exposure to international best practice in competition law and policy through virtual attendance at international conferences.

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

The Tribunal facilitates this process by identifying the training needs of the Tribunal members and continues to facilitate the attendance of Tribunal members, currently virtually via video conferencing at international conferences where available. These would include the International Competition Network (ICN), the leading network of competition authorities worldwide of which the Tribunal is a member, the Annual Fordham Antitrust conference and the OECD Competition Committee meetings, as well as an annual seminar of the Association of Competition Economists.

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

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

## **vii. Financial requirements and resources**

The Tribunal's expenditure requirements (inclusive of capital expenditure) over the Medium-Term Expenditure Framework (2022/2023 – 2024/2025) is estimated to be **R182.22m**. We have budgeted to fund this from the three revenue sources:

- National Treasury and Department of Trade, Industry and Competition (**dtic**) approved grant funding of **R129.61m**;
- Expected filing fee revenue of **R50.21m**; and

- Interest on cash holdings of **R2.40m**.

During 2020/21 the Tribunal's budget was cut in order to prioritise COVID-19 relief packages to combat the coronavirus. Consequently, the Tribunal adjusted its budget and could not sufficiently budget for the 2021/2022 financial year and future years during the 2020/2021 as a result of the shortfall in revenue. The Tribunal was also requested to surrender all accumulated surpluses to National Treasury in December 2020.

Through prudent financial management and filing fees received in excess of the budgeted filing fee income for the 2020/2021 financial year, the Tribunal was able to accumulate surpluses of R7.61m as at 31 March 2021. National Treasury has approved the retention of this amount to be spent in the 2021/2022 financial year and this has enabled the Tribunal to adjust the budget to include essential expenditure previously not budgeted for due to budget cuts.

South Africa was in an economic recession at the time that the COVID-19 pandemic reached our shores. This has further constrained merger activity, creating uncertainty to the budget for filing fees over the MTEF period as the filing fees constitute a percentage of the Tribunal income. The Tribunal has engaged with **the dtic** on a more sustainable funding model.

#### **viii. Filing fees**

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

Filing fees have enjoyed an average 7% long-term compound annual growth rate (1999-2019). Filing fees dropped by 25% in 2020/2021 due to the impact of the COVID-19 pandemic. The pandemic had created more uncertainty in predicting the estimates for future filing fees therefore the filing fees initially budgeted over the MTEF period were based on the actual filing fees received as at 31 March 2021 and this was constant at R13.50m per annum. During the ENE process in December 2021, filing fees estimates were adjusted based on the actual filing fees received as at 30 November 2021 projected for the year. The 2021/2022 financial year reflects an increase in merger activity, therefore an increase in filing fees by 23% of the initial budget estimate.

#### **Table 6: Summary of Budget estimates over the MTEF period**

##### **FINAL MTEF SUBMISSION**

Section 53(3) of the PFMA, requires a public entity which must submit a budget in terms of section 53(1) of the PFMA, not to budget for a deficit and not to accumulate surpluses unless the prior written approval of the National Treasury has been obtained. National Treasury has approved the retention of cash surpluses accumulated as at 31 March 2021 of R7.61 million. The summary of the MTEF submission is reflected in the table below.



CATEGORY	2021/2022	MTEF PERIOD			
		2022/2023	2023/2024	2024/2025	TOTAL
REVENUE					
GRANT	36,970,000	42,286,000	42,703,000	44,621,000	129,610,000
FILING FEES	13,500,000	16,600,000	16,750,434	16,861,162	50,211,596
INTEREST RECEIVED	600,000	800,000	800,000	800,000	2,400,000
TOTAL REVENUE	51,070,000	59,686,000	60,253,434	62,282,162	182,221,596
LESS: TOTAL EXPENDITURE	58,678,000	59,686,000	60,253,434	62,282,162	182,221,596
DEFICITS FUNDED BY SURPLUSES	(7,608,000)	0	0	0	0

**Annexure D** provides a graphical representation of the historic funding and expenditure pertaining to the Tribunal's activities. **Annexure E** reflects the Statement of Financial Performance over the MTEF period included in the ENE submitted in August 2021. **Annexure F** contains a summarized version of the Tribunal's budgetary requirements over the three-year planning period (from 2022/2023 to 2024/2025 budget). **Annexure G** provides the detail of the 2022/2023 budget.

#### ix. **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 receiving more filing fees than budgeted for and due to vacancies in Tribunal members. These vacancies were budgeted for and motivated. We continue budgeting for these positions in anticipation of filling the vacancies.

**Table 7: Spend against budget 2016/2017 to 2020/2021**

Year	Actual expenditure incl. of capital expenditure	Budget expenditure incl. of capital	% Budget spent	% Budget not spent/overspent
2016/2017	R38.70m	R42.77m	90.48%	9.52% underspent
2017/2018	R48.29m	R52.22m	92.47%	7.53% underspent
2018/2019	R49.72m	R56.27m	88.36%	11.64% underspent
2019/2020	R49.45m	R61.58m	80.30%	19.70% underspent
2020/2021	R46.40m	R51.24m	90.55%	9.45% underspent

## PART C: MEASURING OUR PERFORMANCE

### 8. Institutional Programme Performance Information

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 can however align its outcomes with those of the NDP, Economic Reconstruction and Recovery Plan, **the dtic** policy imperatives and the three regrouped overarching joint/integrated **dtic** outputs 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.

**Reliable and  
Responsive  
Adjudication**

**Transparent,  
Accountable and  
Sustainable Entity**

The Tribunal is aiming to achieve 23 outputs aligned over the 2022/2023 financial year. As is illustrated in section 9.3 of this document the Tribunal allocates its budget across these two outcomes.

#### 8.1. Outcomes, Outputs, Performance Indicators and Targets

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

Indicators to measure the performance/achievement of the outputs against agreed targets are given. Where applicable annual targets are cascaded down to quarterly targets. If the target is applicable in 2022/2023 or was previously applicable in prior years, performance against these targets is reflected in the matrix. If the indicator is new but there is existing information regarding the prior performance against the indicator is also reflected in the matrix (even if it is not an audited outcome).

### 8.1.1. Adjudication

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

Outcomes, outputs, indicators and targets for this focus area are indicated in matrix format in the tables that follow. These have been aligned with the dtic's joint/integrated outcomes of Delivery/Capable State; Industrialisation and Economic Transformation withing the ambit of the Competition Act.

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

OUTCOME	OUTPUT	OUTPUT INDICATOR	AUDITED ACTUAL PERFORMANCE			ESTIMATED PERFOR-MANCE	MTEF PERIOD TARGETS		
			2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25
Delivery/ Capable State	Effective case management procedures to ensure hearings set down within legislated timeframes	Percentage of mergers <u>set down</u> for a hearing or pre- hearing within 10 business days of filing. <sup>2</sup>	67% (large) 25% (intermediate/ small)	88% (large) 0% (intermediate/ small)	97% (large) 0% (intermediate/ small)	80% (large) 65% (intermediate/ small)	80%	80%	80%
Responsive and Reliable Adjudication									

<sup>2</sup> Output indicators for large, intermediate and small merger set down have been combined for 2022-2025. Actual performance (on an uncombined basis) in prior years has been provided.

OUTCOME	OUTPUT	OUTPUT INDICATOR	AUDITED ACTUAL PERFORMANCE			ESTIMATED PERFOR-MANCE	MTEF PERIOD TARGETS		
			2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25
	Effective and timeous issuing of orders, and reasons	Percentage of merger <u>orders</u> issued to parties within 10 business days of last hearing date <sup>3</sup> .	97% (large) 100% (intermediate/ small)	100% (large) 50% (intermediate/ small)	100% (large) 100% (intermediate/ small)	95% (large) 70% (intermediate/ small)	85%	85%	85%
		Percentage of <u>reasons</u> for mergers issued to parties within 20 business days of order being issued. <sup>4</sup>	75% (large) 0% (intermediate/ small)	71% (large) 25% (intermediate/ small)	72% (large) 100% (intermediate/ small)	70% (large) 50% (intermediate/ small)	75%	75%	75%
		Ongoing evaluation of competition and public interest	New Indicator				Quarterly reports sent to the dtic	Quarterly reports sent to the dtic	Quarterly reports sent to the dtic

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

<sup>4</sup> 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 PERFOR-MANCE	MTEF PERIOD TARGETS		
			2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25
		considerations in mergers in terms of the Act, in line with the dtic three joint/integrated outputs: Delivery/Capable State; economic transformation; industrialisation.							
		Reasons <sup>5</sup> for prohibited practice cases are issued to parties within 140 business days of the last hearing date. <sup>6</sup>	0% (simple) 100% (complex) No reasons issued (very complex)	No reasons issued (simple) 33% (complex) 0% (very complex)	No reasons issued (simple) 0% (complex) 67% (very complex)	75% (simple) 65% (complex) 65% (very complex)	75%	75%	75%
		Percentage of procedural	56%	55%	90%	65%	65%	65%	65%

<sup>5</sup> 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.

<sup>6</sup> 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		
			2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25
Responsive and Reliable Adjudication	Effective and timeous issuing of orders, and reasons	matter <sup>6</sup> orders issued to parties within 45 business days of the last hearing date.							
		Percentage orders for consent orders and settlement agreements issued to parties within 10 business days of the last hearing date.	85%	96%	92%	75%	80%	80%	80%
		Percentage of reasons in interim relief matters issued to parties within 30 business days	No reasons issued	No reasons issued	0%	65%	65%	65%	65%

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

OUTCOME	OUTPUT	OUTPUT INDICATOR	AUDITED ACTUAL PERFORMANCE			ESTIMATED PERFOR-MANCE	MTEF PERIOD TARGETS		
			2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25
		of last hearing date.							

OUTPUT INDICATOR	Annual Targets	Q1	Q2	Q3	Q4
Percentage of mergers set down for a hearing or pre-hearing within 10 business days of filing.	80%	80%	80%	80%	80%
Percentage of merger orders issued to parties within 10 business days of last hearing date.	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%
Ongoing evaluation of competition and public interest considerations in mergers in terms of the Competition Act, in line with the dtic three joint/integrated outputs: Delivery/Capable State; Economic Transformation; Industrialisation.	Quarterly reports sent to the dtic	1 report	1 report	1 report	1 report
Reasons for prohibited practice cases are issued to parties within 140 business days of the last hearing date.	75%	75%	75%	75%	75%
Percentage of procedural matter <sup>7</sup> orders issued to parties within 45 business days of the last hearing date.	65%	65%	65%	65%	65%
Percentage orders for consent orders and settlement agreements issued to parties within 10 business days of last hearing date.	80%	80%	80%	80%	80%

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

OUTPUT INDICATOR	Annual Targets	Q1	Q2	Q3	Q4
Percentage of reasons in interim relief matters issued to parties within 30 business days of last hearing date.	65%	65%	65%	65%	65%

### 8.1.2. Communication

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

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

OUTCOME	OUTPUT	OUTPUT INDICATOR	AUDITED ACTUAL PERFORMANCE			ESTIMATED PERFOR- MANCE	MTEF PERIOD TARGETS		
			2018/19	2019/20	2020/21		2022/23	2023/24	2024/25
<b>Delivery/Capable State</b>	Effective communication and information sharing	Percentage press releases of final merger decisions communicated within 3 business days of order date and after finalisation of confidentiality claims.	97%	97%	90%	90%	90%	90%	90%
<b>Transparent, Accountable and Sustainable Tribunal</b>		Percentage press releases of prohibited practice decisions communicated within 3	60%	60%	71%	90%	90%	90%	90%



OUTCOME	OUTPUT	OUTPUT INDICATOR	AUDITED ACTUAL PERFORMANCE			ESTIMATED PERFOR- MANCE	MTEF PERIOD TARGETS		
			2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25
		business days of order date and after finalisation of confidentiality.							
		Biennial update and publication of jurisprudence handbook.	New Indicator		Handbook updated and published	Handbook updated and published	N/A <sup>8</sup>	Handbook updated and published	N/A

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

<sup>8</sup> 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
Biennial 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 10: Outcome/Output/Indicator/Targets related to business processes**

OUTCOME	OUTPUT	OUTPUT INDICATOR	AUDITED ACTUAL PERFORMANCE			ESTIMATED PERFORMANCE	MTEF PERIOD TARGETS		
			2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25
<b>Delivery/Capable State</b>	Improvement in clients using the entities services	The outcomes of the review of processes, including forms	New Indicator			4 Quarterly reports sent to the dtic	1 process improvement per quarter:	1 process improvement per quarter	1 process improvement per quarter

OUTCOME	OUTPUT	OUTPUT INDICATOR	AUDITED ACTUAL PERFORMANCE			ESTIMATED PERFORMANCE	MTEF PERIOD TARGETS		
			2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25
Transparent, Accountable and Sustainable Tribunal		and procedures for simplicity and necessity					Q1- Improve SCM engagement with SMMEs, Q2- Enhancement to Tribunal website, Q3- Implement case 360 user alerts, Q4- Publish external newsletter.		

OUTPUT INDICATOR	Annual Targets	Q1	Q2	Q3	Q4
The outcomes of the review of processes, including forms and procedures for simplicity and necessity	1 process improvement per quarter	Improve SCM engagement with SMMEs.	Enhancement to Tribunal website.	Implement case 360 user alerts.	Publish external newsletter.

#### 8.1.4. Governance

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

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

OUTCOME	OUTPUT	OUTPUT INDICATOR	AUDITED ACTUAL PERFORMANCE			ESTIMATED PERFORMANCE	MTEF PERIOD TARGETS		
			2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25
<b>Delivery/Capable State</b>	Sound governance	Percentage of prior financial year audit (internal and external) findings resolved in terms of agreed timelines with auditors.	New Indicator		100%	100%	100%	100%	100%
<b>Transparent, Accountable and Sustainable Tribunal</b>		At least one meeting held annually to inform the Tribunal employees of stated APP performance targets.	New Indicator		One meeting	One meeting	One meeting	One meeting	One meeting

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

OUTPUT INDICATOR	Annual Targets	Q1	Q2	Q3	Q4
At least one meeting held annually to inform the Tribunal employees of stated APP performance targets.	One meeting	N/A	N/A	N/A	One meeting

#### 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 to financial reporting requirements.

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

OUTCOME	OUTPUT	OUTPUT INDICATOR	AUDITED ACTUAL PERFORMANCE			ESTIMATED PERFORMANCE	MTEF PERIOD TARGETS		
			2018/19	2019/20	2020/21		2022/23	2023/24	2024/25
<b>Delivery/Capable State</b>	<b>Effective financial management</b>	Percentage variance on expenditure against budget.	-7.5%	-11.6%	-9.0%	-10%	-10%	-10%	-10%

<sup>10</sup> This excludes the spend on the dtic rental as a public entity.

OUTCOME	OUTPUT	OUTPUT INDICATOR	AUDITED ACTUAL PERFORMANCE			ESTIMATED PERFORMANCE	MTEF PERIOD TARGETS		
			2018/19	2019/20	2020/21		2021/22	2022/23	2023/24
Transparent, Accountable and Sustainable Tribunal		Obtain an unqualified audit opinion from the AGSA.	No findings	No findings	No findings	No findings	Unqualified audit opinion	Unqualified audit opinion	Unqualified audit opinion
	Transformation in procurement practices	Monitor the levels of B-BBEE suppliers in order to promote transformation in procurement practices.	New indicator			70% of expenditure spent on suppliers between the B-BBEE levels 1-4 <sup>10</sup> , 20% of which will be on women, youth or PWDs.			

OUTPUT INDICATOR	Annual Targets	Q1	Q2	Q3	Q4
Percentage variance on expenditure against budget.	-10%	-10%	-10%	-10%	-10%
Obtain an unqualified audit opinion from the AGSA.	Unqualified audit opinion	N/A	N/A	N/A	Unqualified audit opinion
Monitor the levels of B-BBEE suppliers in order to promote transformation in procurement practices.	70% of expenditure spent on suppliers between the B-BBEE Levels 1-4, 20% of	N/A	N/A	N/A	70%

OUTPUT INDICATOR	Annual Targets	Q1	Q2	Q3	Q4
	which will be on women, youth or PWDs.				

#### 8.1.7. Transformation, human capacity development and training

The transformation, human capacity development and training function/focus area is to ensure that the Tribunal effectively leverages employee skills by recruiting, retaining and development of high-quality performing people in terms of the Employment Equity plan, in line with the dtic's joint/integrated outputs of Delivery/Capable State.

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

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

OUTCOME	OUTPUT	OUTPUT INDICATOR	AUDITED ACTUAL PERFORMANCE			ESTIMATED PERFORMANCE	MTEF PERIOD TARGETS		
			2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25
<b>Delivery/ Capable State</b>	Transformation, Capacity development, retention and training	85% of performance assessments conducted at least twice a year.	3.4	3.6	3.7	3.5	85% of performance assessments conducted at least twice a year (by end	85% of performance assessments conducted at least twice a	85% of performance assessments conducted at least twice a

OUTCOME	OUTPUT	OUTPUT INDICATOR	AUDITED ACTUAL PERFORMANCE			ESTIMATED PERFORMANCE	MTEF PERIOD TARGETS		
			2018/19	2019/20	2020/21		2021/22	2022/23	2023/24
Transparent, Accountable and Sustainable Tribunal							September & end March)	year (by end September & end March)	year (by end September & end March)
		Percentage staff retention	7.69%	19.23%	12%	20%	80% <sup>11</sup>	80%	80%
		Continuous training opportunities to staff and Tribunal members.	New Indicator				- Training on ESOPs	To be determined on a need basis at the appropriate time.	To be determined on a need basis at the appropriate time.
							- Competition law basic training (Case Managers);		

<sup>11</sup> Output indicator staff turnover has been changed to staff retention.



OUTCOME	OUTPUT	OUTPUT INDICATOR	AUDITED ACTUAL PERFORMANCE			ESTIMATED PERFORMANCE	MTEF PERIOD TARGETS		
			2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25
							<ul style="list-style-type: none"> <li>- Concentration and participation in the South African Economy: levels and trends.</li> <li>- Competition for structural transformation in the global south (Case Managers);</li> <li>- Writing skills (Case Managers &amp; Tribunal Members).</li> </ul>		
		Undertake one annual capacity building workshop for Case Managers and Tribunal Members.	New Indicator		Removed due to COVID-19		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		
			2018/19	2019/20	2020/21		2022/23	2023/24	2024/25
		Provide access to interns in the Case Management division to work opportunities.	2	2	2	2	2	2	2
		Maintain 75% of employment equity representation of employees from the designated groups.	New indicator			4 Quarterly reports sent to the dtic	75%	75%	75%

OUTPUT INDICATOR	Annual Targets	Q1	Q2	Q3	Q4
85% of performance assessments conducted at least twice a year (by end September & end March)	85% of performance assessments conducted	N/A	85% of performance assessments conducted	N/A	85% of performance assessments conducted
Percentage staff retention.	80%	N/A	N/A	N/A	80%
Continuous training opportunities to staff and Tribunal Members.	<ul style="list-style-type: none"> <li>- Training on ESOPs;</li> <li>- Competition law basic training (Case Managers);</li> <li>- Concentration and participation in the South African Economy: levels and trends;</li> <li>- Competition for structural transformation in the global south (Case Managers);</li> <li>- Writing skills (Case Managers &amp; Tribunal Members).</li> </ul>	<ul style="list-style-type: none"> <li>- Competition law basic training.</li> </ul>	<ul style="list-style-type: none"> <li>- Concentration and participation in the South African Economy: levels and trends;</li> <li>- Competition for structural transformation in the global south.</li> </ul>	<ul style="list-style-type: none"> <li>- Writing skills.</li> </ul>	<ul style="list-style-type: none"> <li>- Training on ESOPs.</li> </ul>

OUTPUT INDICATOR	Annual Targets	Q1	Q2	Q3	Q4
Undertake one annual capacity building workshop for Case Managers and Tribunal Members.	One annual capacity building workshop	N/A	N/A	N/A	One annual capacity building workshop
Provide access to interns in the Case Management division to work opportunities	2 interns	2	2	2	2
Maintain 75% of employment equity representation of employees from the designated groups.	75%	N/A	N/A	N/A	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 23 indicators linked to these outputs that are measured quarterly and annually.

The score card reflected in section 8.1 above reflects the specific outcome, the output aligned to each outcome, output indicators and target assigned for the three-year period. Where possible it also reflects prior period performance and estimates performance for 2021/2022.

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

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

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

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

- Compile regular case updates on significant developments within the 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**” 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 2022/2023 budget

### 9.1. Expenditure Estimates

A final detailed one-year budget for the **2022/2023** year is included in **Annexure G**.

As stated in the Strategic Plan, the Tribunal is an adjudicative body and hence reactive in terms of the cases brought before it. It is therefore not possible to accurately predict the number of cases to be heard annually. This means that budgeting accurately becomes difficult as many of the line items are based on an estimated number of cases to be heard in that year. The net result is that variances in actual expenditure, as opposed to budgeted expenditure, do arise.

In drafting the 2022/2023 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. 65% of the budget is allocated to personnel expenses (excluding fees payable to part-time Tribunal members).

The main assumptions made in drafting the 2022/2023 budget are as follows:

- i) The budgets included in the ENE were drawn based on the average consumer price index (CPI) of 4.23% obtained from the National Treasury, respectively for the years 2022/2023, 2023/2024 and 2024/2025.
- ii) The leasing fee payable to **the dtic** is in line with the 2021/2022 actual costs.
- iii) Capacity requirements are such that the Tribunal included the appointment of two full-time Tribunal members which were not filled in 2021/2022, and the filling of the Deputy Chairperson position. There is need for more capacity and an organisational review will be undertaken.
- 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 consumer price index.
- vi) Provision for any promotional adjustments in the salaries of the secretariat staff has been reduced to 0%.
- vii) Provision for performance bonuses have been reduced to 0%.

- viii) The Tribunal will undertake an organisational structure review, including salary benchmarking.
- ix) The Corporate services internship programme will be filled.
- x) Part-time member expenditure is based on a daily rate of R9000 + CPI for 7 part-time members for 222 hearing days (actual and preparation days) and retainer costs equivalent to 10 days per member.

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

**Table 14 – Percentage budget allocation across category of expenditure for the two financial years (2021/2022 and 2022/2023)**

CATEGORY	2021/2022 Annual Budget	2021/2022 % of Total expenditure	2022/2023 Annual Budget	2022/2023 % of Total expenditure
<b>EXPENDITURE</b>				
PERSONNEL	35 508 787	60,51%	38 791 409	64,99%
PT TRIBUNAL MEMBERS	2 592 000	4,42%	4 276 632	7,17%
TRAINING	160 000	0,27%	846 768	1,42%
CONFERENCE/SEMINARS	-	0,00%	80 000	0,13%
SHARED SERVICES CCSA	750 000	1,28%	781 725	1,31%
FACILITY FEE/LEASE	6 830 486	11,64%	6 830 486	11,44%
CONSULTING	80 000	0,14%	83 384	0,14%
LEGAL FEES	50 000	0,09%	52 115	0,09%
TRANSCRIPTION SERVICES	530 253	0,90%	552 683	0,93%
AUDIT EXPENSES	1 922 075	3,28%	2 003 378	3,36%
RECRUIT COSTS	36 213	0,06%	37 745	0,06%
ADMIN EXPENSES	707 354	1,21%	787 276	1,32%
DEPRECIATION	509 006	0,87%	530 537	0,89%
AMORTISATION	362 606	0,62%	377 944	0,63%
IT EXPENSES	2 658 791	4,53%	2 771 258	4,64%
REPAIRS/MAINTENANCE	28 826	0,05%	30 046	0,05%
APPEALS COURT	100 000	0,17%	350 000	0,59%
PROJECT EXPENSES	5 713 456	9,74%	-	0,00%
CAPITAL EXPENDITURE	138 147	0,24%	502 615	0,84%
<b>TOTAL EXPENDITURE</b>	<b>58 678 000</b>	<b>100,00%</b>	<b>59 686 000</b>	<b>100,00%</b>

**64.99%** of the Tribunal's 2022/2023 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 **72.16%**.

"Shared service fee" refers to the payments made to the Competition Commission for shared services (in terms of a Memorandum of Agreement), accounting for **1.31%** of the budget.

Costs associated with audits (internal, external audit fees and audit committee expenses) account for **3.36%** of the budget while administrative expenses account for **1.32%** of the budgeted expenditure.

## 9.2 Relating Expenditure Estimates to Outcomes and Outputs

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

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

Table 15 below indicates the allocation of the annual budget across the two outcomes. We have managed to allocate **76.68%** of the annual budget across the two outcomes.

**Table 15 Budget allocation by outcome**

Outcome	Budget	% of budget
Responsive and reliable adjudication	R30,500,674	51.10%
Accountable, transparent and sustainable entity	R15,264,832	25.58%
<b>Total</b>	<b>R45,119,116</b>	<b>76.68%</b>

The remaining 23.32% of the budget is distributed as follows:

- Administrative costs – 20.37%
- Depreciation/Amortisation - 1.52%
- Capital expenditure - 0.84%
- Appeal Court costs - 0.59%

## 9.3. Reconciling targets with the budget and MTEF

As indicated above the Tribunal has allocated 76.68% of its budget against the stated strategic outcomes.

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

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

FOCUS AREA	OUTPUTS	BUDGET
Responsive and Reliable Adjudication	Effective and timeous issuing of orders, and reasons	R19,833,236
	Effective case management procedures to ensure hearings set down within legislated timeframes	R10,667,438



Communication	Effective communication and information sharing	R1,308,261
Business Process, Governance, Financial Management, Human Resources	Effective records management	R4,054,450
	Sound governance	R4,342,820
	Effective financial management	R3,469,186
	Capacity development, retention and training	R2,090,114
Other expenses	Administration (incl. depreciation)	R13,067,879
	Capital Expenditure	R502,615
	Competition Appeal Court	R350,000
<b>TOTAL BUDGET</b>		<b>R59,686,000</b>

At present, the adjudication and case management costs include the total salaries of the full-time Tribunal members and all case managers/researchers and registry staff despite the fact that they may perform functions that are not specifically case related.

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

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

#### 9.4. The Competition Appeal Court

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

The CAC is a specialised division of the High Court comprising at least 3 Judges, each of whom must be a Judge of the High Court. The CAC may review, or consider an appeal arising from, any Tribunal decision.

CAC Judges are appointed by the President, on the advice of the Judicial Services Commission. The tenure of office, remuneration and terms and conditions of service of a Judge of the High Court is not affected by his/her appointment to the CAC.

The Registrar of the Tribunal (and CAC) liaises with the Judicial Services Commission over the appointment of CAC Judges and is responsible for the training function of the Judges. The Tribunal secretariat provides the registry function for the CAC and the registrar of the Tribunal acts as the Registrar of the CAC.

At present the Tribunal includes the CAC as a line item in its budget and is responsible for the financing of all aspects of the CAC, except for personnel expenses.

As is the case with the Tribunal, it is difficult to predict the number of appeals that may be lodged against Tribunal decisions and as a result budgeting becomes difficult and variances do occur. The budget for 2022/2023 has been revised to address the financial and operational impact of COVID-19.

All expenditure associated with training or overseas travel has been reduced as some physical CAC hearings will take place online. The revised budget is therefore R 350,000.

**Table 17 - % CAC budget allocation across expenditure categories**

<b>CATEGORY</b>	<b>2022/2023 BUDGET</b>
Local travel	63.05%
Administrative expenses	17.60%
Conferences attendance and overseas travel	0.00%
High Court meetings/training	19.35%
<b>Total</b>	<b>100.00%</b>

## 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 set down for a hearing or pre-hearing within 10 business days of filing.
Definition		This performance indicator measures the efficiency of the Tribunal in setting down a pre-hearing date or hearing date for mergers within the stipulated timeframe.
Source of data		<ul style="list-style-type: none"> <li>➤ Merger referral documents received by the Tribunal.</li> <li>➤ Set down notice issued by the Tribunal.</li> <li>➤ Any correspondence and notices received and issued between the Tribunal, the Commission and parties.</li> <li>➤ CMS reports.</li> <li>➤ Qlikview reports (reporting tool placed on top of CMS) that reflect turnaround times.</li> <li>➤ Hearing calendar.</li> <li>➤ Transcriptions.</li> </ul>
Method of Calculation / Assessment		<p>The method of calculation is a percentage is 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 = <math>(a/b) \times 100</math>.</p> <p>where</p> <p>a = total number of mergers set down for the beginning of a hearing or pre-hearing within 10 business days.</p> <p>b = total number of mergers set down</p>
Means of Verification		<ul style="list-style-type: none"> <li>➤ Workflows built into CMS either prevents further updating or alerts the user if case data is missing.</li> <li>➤ The Registry Administrator extracts monthly reports from Qlikview and maintains a file that contains source documents.</li> <li>➤ Data reflected on Qlikview (originally captured on CMS) and source document reviewed to verify data against source document and ensure accuracy.</li> <li>➤ Registry Administrator will contact official required to input missing data or make corrections on CMS.</li> </ul>

Outcome	Responsive and Reliable Adjudication
	<ul style="list-style-type: none"> <li>➤ Errors and corrections that affect prior period reporting are communicated to Registrar/COO via email.</li> <li>➤ File reviewed by Registrar on monthly basis and signed off as proof of review.</li> <li>➤ Registry Administrator completes the performance information report quarterly using Qlikview reports as the basis for data collection. Same process as above followed annually thus providing further opportunity to review monthly information and quarterly reports.</li> <li>➤ Performance Information reports and file reviewed and verified by Registrar and COO and signed off as proof of review.</li> <li>➤ One file maintained for an entire financial year and therefore no risk of duplication of source documents which can lead to inaccuracies in data capturing. In addition, same source documents are used for monthly/quarterly and annual review.</li> <li>➤ Quarterly check of five completed case files to ensure electronic documents mirror hard copy documents and vice versa.</li> </ul>
<b>Assumptions</b>	<ul style="list-style-type: none"> <li>➤ The Tribunal has the financial resources and the capacity to perform its adjudicative function.</li> <li>➤ There will be no substantial changes to the Tribunal's mandate or the Competition Act that will impact on stipulated timeframes and targets.</li> <li>➤ Tribunal has aligned to the dtic joint/integrated outputs relating to industrialisation and transformation in consideration of competition and public interest issues in mergers.</li> <li>➤ That the Tribunal maintains systems, processes and procedures that facilitate the target being achieved.</li> </ul>
<b>Disaggregation of Beneficiaries (where applicable)</b>	<ul style="list-style-type: none"> <li>• N/A</li> </ul>
<b>Spatial Transformation (where applicable)</b>	<ul style="list-style-type: none"> <li>• N/A</li> </ul>
<b>Calculation Type</b>	<ul style="list-style-type: none"> <li>• Percentage</li> </ul>
<b>Reporting Cycle</b>	<ul style="list-style-type: none"> <li>• Quarterly and Annually</li> </ul>
<b>Desired performance</b>	The aim of the Tribunal is to meet or exceed the 85% target that has been set.
<b>Indicator Responsibility</b>	<ul style="list-style-type: none"> <li>➤ Data collection, filing/archiving collected data – Registry Administrator</li> <li>➤ Data extraction – Registry Administrator</li> <li>➤ Verification of accuracy and completeness of extracted and captured information - First level – Registrar Administrator, Second level – Registrar (monthly/quarterly and annually), Third level - COO (quarterly and annually).</li> </ul>

Outcome Responsive and Reliable Adjudication				
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%	80%	80%	

Outcome Responsive and Reliable Adjudication	
<b>2. Indicator Title</b>	Percentage of merger orders issued to parties within 10 business days of last hearing date
<b>Definition</b>	This performance indicator measures the efficiency of the Tribunal in issuing of decisions for mergers. Tribunal's decisions are contained in an "order".
<b>Source of data</b>	<ul style="list-style-type: none"> <li>➤ Merger order issued by the Tribunal to parties</li> <li>➤ Any correspondence and notices received and issued between the Tribunal, the Commission and parties</li> <li>➤ Case Management System (electronic case management system run by the Tribunal hereinafter referred to as CMS) reports</li> <li>➤ Qlikview reports (reporting tool placed on top of CMS) that reflect turnaround times</li> <li>➤ Hearing calendar</li> <li>➤ Press releases referring to decisions made by the Tribunal</li> <li>➤ Transcriptions</li> </ul>
<b>Method of Calculation / Assessment</b>	<p>The method of calculation is a percentage, and it is calculated as follows:</p> <p>Percentage of merger orders issued within ten business days of the last hearing date = <math>(a/b) \times 100</math></p> <p>Where:</p> <p>a = total number of orders for mergers issued within ten business days of the last hearing date.</p> <p>b = total number of orders for mergers issued.</p>
<b>Means of Verification</b>	<ul style="list-style-type: none"> <li>➤ Workflows built into CMS either prevents further updating or sends alerts if case data is missing.</li> <li>➤ The Registry Administrator extracts monthly reports from Qlikview and maintains a file that contains source documents.</li> <li>➤ Data reflected on Qlikview (originally captured on CMS) and source document reviewed to verify data against source document and ensure accuracy.</li> <li>➤ Registry Administrator will contact official required to input missing data or make corrections on CMS.</li> <li>➤ Errors and corrections that affect prior period reporting are communicated to the Registrar/COO via email.</li> <li>➤ File reviewed by Registrar on monthly basis and signed off as proof of review.</li> </ul>

Outcome	Responsive and Reliable Adjudication
	<ul style="list-style-type: none"> <li>➤ Quarterly Registry Administrator completes the performance information report using Qlikview reports as the basis for data collection.</li> <li>➤ The same processes explained above are followed annually thus providing further opportunity to review monthly information and reports.</li> <li>➤ Performance Information reports and file reviewed and verified by Registrar and COO and signed off as proof of review.</li> <li>➤ One file maintained for an entire financial year and therefore no risk of the duplication of source documents which can lead to inaccuracies in data capturing. In addition, same source documents are used for monthly/quarterly and annual review.</li> <li>➤ Quarterly check of five completed case files to ensure electronic documents mirror hard copy documents and vice versa.</li> </ul>
Assumptions	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ The Tribunal has aligned to the dtic joint/integrated outputs relating to industrialisation and transformation in consideration of competition and public interest issues in mergers.</li> <li>➤ That the Tribunal maintains systems, processes and procedures that facilitate the target being achieved.</li> </ul>
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"> <li>➤ Data collection, filing/archiving collected data – Registry Administrator</li> <li>➤ Data extraction – Registry Administrator</li> </ul>

Outcome	Responsive and Reliable Adjudication			
	➤ Verification of accuracy and completeness of extracted and captured information - First level – Registry Administrator, Second level – Registrar (monthly/quarterly and annually), Third level - COO (only quarterly and annually)			
Baseline *Estimated performance	2018/19	2019/20	2020/21	2021/22
	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 (issued through an order) it makes within stipulated time frames	
Source of data	<ul style="list-style-type: none"> <li>➤ Reasons issued by the Tribunal.</li> <li>➤ Order issued by the Tribunal.</li> <li>➤ Official correspondence and notices received and issued by the Tribunal.</li> <li>➤ CMS reports.</li> <li>➤ Qlikview reports (reporting tool placed on top of CMS) that reflects turnaround times.</li> <li>➤ Hearing calendar.</li> <li>➤ Transcriptions.</li> </ul>	
Method of Calculation / Assessment	<p>The method of calculation used is a percentage and the percentage is calculated as follows:  Percentage of reasons for mergers issued to parties within 20 business days = <math>(a/b) \times 100</math>  Where:  a = total number of reasons for mergers issued to parties within 20 business days of the date the order was issued.  b = total number of reasons for mergers issued.</p>	
Means of Verification	<ul style="list-style-type: none"> <li>➤ Workflows built into CMS either prevents further updating or sends alerts if case data is missing.</li> <li>➤ The Registry Administrator extracts monthly reports from Qlikview and maintains a file that contains source documents.</li> <li>➤ Data reflected on Qlikview (originally captured on CMS) and source document reviewed to verify data against source</li> </ul>	

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



Outcome	Responsive and Reliable Adjudication			
Desired performance	The aim of the Tribunal is to meet the target that has been set.			
Indicator Responsibility	<ul style="list-style-type: none"> <li>➤ Data collection, filing/archiving collected data – Registry Administrator</li> <li>➤ Data extraction – Registry staff</li> <li>➤ 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).</li> </ul>			
Baseline *Estimated performance	2018/19	2019/20	2020/21	2021/22
	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	Ongoing evaluation of competition and public interest considerations in mergers, in line with the dtic three joint/integrated outputs: Delivery/Capable State; economic transformation; industrialisation.	
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"> <li>➤ Merger orders issued by the Tribunal to the parties.</li> <li>➤ Official correspondence and notices received and issued by the Tribunal.</li> <li>➤ CMS reports.</li> <li>➤ Qlikview reports (reporting tool placed on top of CMS) that reflect turnaround times.</li> <li>➤ Hearing calendar.</li> <li>➤ Press releases issued by the Tribunal referring to merger orders.</li> <li>➤ Transcriptions.</li> </ul>	
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.	

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

Outcome	Responsive and Reliable Adjudication			
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 has been set.			
Indicator Responsibility	<ul style="list-style-type: none"> <li>➤ Data collection, filing/archiving collected data – Registry Administrator</li> <li>➤ Data extraction – Registry Administrator</li> <li>➤ Verification of accuracy and completeness of extracted and captured information - First level – Registry Administrator, Second level – Registrar (monthly/quarterly and annually), Third level – Case Management/Communications Officer to draft report, Fourth level - COO (quarterly review of reports and send to dtic)</li> </ul>			
Baseline *Estimated performance	<b>2018/19</b>	<b>2019/20</b>	<b>2020/21</b>	<b>2021/22</b>
	new indicator	new indicator	new indicator	new indicator
Annual Targets	<b>2022/23</b>	<b>2023/24</b>	<b>2024/25</b>	
	Quarterly reports sent to the dtic	Quarterly reports sent to the dtic	Quarterly reports sent to the dtic	

Outcome	Responsive and Reliable Adjudication
<b>5. Indicator Title</b>	Reasons <sup>13</sup> for prohibited practice cases issued to parties within 140 business days of the last hearing date.
<b>Definition</b>	This performance indicator measures the efficiency of the Tribunal in issuing reasons for prohibited practice cases categorised as simple in the stipulated timeframes.
<b>Source of data</b>	<ul style="list-style-type: none"> <li>➤ Reasons in prohibited practice cases issued to parties.</li> <li>➤ CMS reports.</li> <li>➤ Qlikview reports (reporting tool placed on top of CMS that reflects turnaround times.</li> <li>➤ Press releases.</li> <li>➤ Hearing calendar.</li> </ul>

<sup>13</sup> 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
		➤ Transcriptions.
<b>Method of Calculation / Assessment</b>	of /	<p>The method of calculation is a percentage and is calculated as follows:</p> <p>Percentage of reasons for prohibited practices issued within 100 business days of last hearing date= <math>(a/b) \times 100</math></p> <p>Where:</p> <p>a = total number of reasons for prohibited practices issued within 100 business days of the last hearing date.</p> <p>b = total number of reasons for prohibited practices issued.</p>
<b>Means Verification</b>	of	<ul style="list-style-type: none"> <li>➤ Workflows built into CMS either prevents further updating or sends alerts if case data is missing.</li> <li>➤ The Registry Administrator extracts monthly reports from Qlikview and maintains a file that contains source documents.</li> <li>➤ Data reflected on Qlikview (originally captured on CMS) and source document reviewed to verify data against source document and ensure accuracy.</li> <li>➤ Registry Administrator will contact official required to input missing data or make corrections on CMS.</li> <li>➤ Errors and corrections that affect prior period reporting are communicated to Registrar/COO via email.</li> <li>➤ File reviewed by Registrar on monthly basis and signed off as proof of review.</li> <li>➤ Quarterly Registry Administrator completes the performance information report using Qlikview reports as the basis for data collection.</li> <li>➤ The processes explained above are followed annually thus providing further opportunity to review monthly information and quarterly reports.</li> <li>➤ Performance Information reports and file reviewed and verified by Registrar and COO and signed off as proof of review</li> <li>➤ One file maintained for an entire financial year and therefore no risk of duplication of source documents which can lead to inaccuracies in data capturing. In addition, same source documents are used for monthly/quarterly and annual review</li> <li>➤ Quarterly check of five completed case files to ensure electronic documents mirror hard copy documents and vice versa</li> </ul>
<b>Assumptions</b>		<ul style="list-style-type: none"> <li>➤ The Tribunal has the financial resources and the capacity to perform its adjudicative function.</li> <li>➤ There will be no substantial changes to the Tribunal's mandate or the Competition Act that will impact on stipulated timeframes and targets.</li> <li>➤ That the Tribunal maintains systems, processes and procedures that facilitate the target being achieved.</li> </ul>
<b>Disaggregation of Beneficiaries (where applicable)</b>		N/A

Outcome	Responsive and Reliable Adjudication			
<b>Spatial Transformation (where applicable)</b>	N/A			
<b>Calculation Type</b>	Percentage			
<b>Reporting Cycle</b>	Quarterly and Annually			
<b>Desired performance</b>	The aim of the Tribunal is to meet the target that has been set.			
<b>Indicator Responsibility</b>	<ul style="list-style-type: none"> <li>➤ Data collection, filing/archiving collected data – Registry Administrator</li> <li>➤ Data extraction – Registry Administrator</li> <li>➤ 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)</li> </ul>			
<b>Baseline *Estimated performance</b>	<b>2018/19</b>	<b>2019/20</b>	<b>2020/21</b>	<b>2021/22</b>
	0%/100%/no reasons issued	No reasons issued/33%/0%	No reasons issued/0%/67%	75%/65%/65%
<b>Annual Targets</b>	<b>2022/23</b>	<b>2023/24</b>	<b>2024/25</b>	
	75%	75%	75%	

Outcome	Responsive and Reliable Adjudication
<b>6. Indicator Title</b>	Percentage of procedural matter <sup>14</sup> orders issued to parties within 45 business days of the last hearing date.
<b>Definition</b>	This performance indicator measures the efficiency of the Tribunal in issuing of orders for procedural matters within the stipulated timeframes.
<b>Source of data</b>	<ul style="list-style-type: none"> <li>➤ Orders in procedural matters issued to parties.</li> <li>➤ CMS reports.</li> </ul>

<sup>14</sup>While we refer to procedural matters they include interlocutory applications.

Outcome	Responsive and Reliable Adjudication
	<ul style="list-style-type: none"> <li>➤ Qlikview reports (reporting tool placed on top of CMS) that reflects turnaround times.</li> <li>➤ Hearing calendar.</li> <li>➤ Transcriptions.</li> </ul>
<b>Method of Calculation / Assessment</b>	<p>The method of calculation used is a percentage and it is calculated as follows:</p> <p>Percentage of procedural matters orders issued to parties within 45 days of the last hearing date = <math>(a/b) \times 100</math></p> <p>Where;</p> <p>a = total number of orders for procedural matters issued within 45 business days of the last hearing date.</p> <p>b = total number of orders for procedural matters issued. .</p>
<b>Means of Verification</b>	<ul style="list-style-type: none"> <li>➤ Workflows built into CMS either prevents further updating or sends alerts if case data is missing.</li> <li>➤ The Registry Administrator extracts monthly reports from Qlikview and maintains a file that contains source documents.</li> <li>➤ Data reflected on Qlikview (originally captured on CMS) and source document reviewed to verify data against source document and ensure accuracy.</li> <li>➤ Registry Administrator will contact official required to input missing data or make corrections on CMS.</li> <li>➤ Errors and corrections that affect prior period reporting are communicated to Registrar/COO via email.</li> <li>➤ File reviewed by Registrar on monthly basis and signed off as proof of review.</li> <li>➤ 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.</li> <li>➤ Performance Information reports and file reviewed and verified by Registrar and COO and signed off as proof of review.</li> <li>➤ One file maintained for an entire financial year and therefore no risk of duplication of source documents which can lead to inaccuracies in data capturing. In addition, same source documents are used for monthly/quarterly and annual review.</li> <li>➤ Quarterly check of five completed case files to ensure electronic documents mirror hard copy documents and vice versa.</li> </ul>
<b>Assumptions</b>	<ul style="list-style-type: none"> <li>➤ The Tribunal has the financial resources and the capacity to perform its adjudicative function.</li> <li>➤ There will be no substantial changes to the Tribunal's mandate or the Competition Act that will impact on stipulated timeframes and targets.</li> <li>➤ That the Tribunal maintains systems, processes and procedures that facilitate the target being achieved.</li> </ul>
<b>Disaggregation of Beneficiaries (where applicable)</b>	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"> <li>➤ Data collection, filing/archiving collected data – Registry Administrator</li> <li>➤ Data extraction – Registry Administrator</li> <li>➤ 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)</li> </ul>			
Baseline *Estimated performance	2018/19	2019/20	2020/21	2021/22
	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 of the last hearing date.
Definition	This performance indicator measures the efficiency of the Tribunal in issuing of orders for consent orders and settlement agreements in the stipulated timeframes.
Source of data	<ul style="list-style-type: none"> <li>➤ Consent order or settlement agreement issued by the Tribunal.</li> <li>➤ Any correspondence and notices received and issued between the Tribunal, the Commission and parties.</li> <li>➤ CMS reports.</li> <li>➤ Qlikview reports (reporting tool placed on top of CMS) that reflect turnaround times.</li> </ul>

Outcome	Responsive and Reliable Adjudication
	<ul style="list-style-type: none"> <li>➤ Hearing calendar.</li> <li>➤ Press releases.</li> <li>➤ Transcriptions.</li> </ul>
<b>Method of Calculation / Assessment</b>	<p>The method of calculation is a percentage and is calculated as follows:</p> <p>Percentage of orders for consent orders and settlement agreements issued to parties within 10 business days of the last hearing date = <math>(a/b) \times 100</math></p> <p>Where:</p> <p>a = total number of orders for consent orders and settlement agreements issued within 10 business days of the last hearing date.</p> <p>b = total number of orders for consent orders and settlement agreements issued.</p>
<b>Means Verification</b>	<ul style="list-style-type: none"> <li>➤ Workflows built into CMS either prevents further updating or sends alerts if case data is missing.</li> <li>➤ The Registry Administrator extracts monthly reports from Qlikview and maintains a file that contains source documents.</li> <li>➤ Data reflected on Qlikview (originally captured on CMS) and source document reviewed to verify data against source document and ensure accuracy.</li> <li>➤ Registry Administrator will contact official required to input missing data or make corrections on CMS.</li> <li>➤ Errors and corrections that affect prior period reporting are communicated to Registrar/COO via email.</li> <li>➤ File reviewed by Registrar on monthly basis and signed off as proof of review.</li> <li>➤ 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.</li> <li>➤ Performance Information reports and file reviewed and verified by Registrar and COO and signed off as proof of review.</li> <li>➤ One file maintained for an entire financial year and therefore no risk of duplication of source documents which can lead to inaccuracies in data capturing. In addition, same source documents are used for monthly/quarterly and annual review.</li> <li>➤ Quarterly check of five completed case files to ensure electronic documents mirror hard copy documents and vice versa.</li> </ul>
<b>Assumptions</b>	<ul style="list-style-type: none"> <li>➤ The Tribunal has the financial resources and the capacity to perform its adjudicative function.</li> <li>➤ There will be no substantial changes to the Tribunal's mandate or the Competition Act that will impact on stipulated timeframes and targets.</li> <li>➤ That the Tribunal maintains systems, processes and procedures that facilitate the target being achieved.</li> </ul>
<b>Disaggregation of Beneficiaries</b>	N/A



<b>Outcome</b>	<b>Responsive and Reliable Adjudication</b>			
<b>(where applicable)</b>				
<b>Spatial Transformation (where applicable)</b>	N/A			
<b>Calculation Type</b>	Percentage			
<b>Reporting Cycle</b>	Quarterly and Annually			
<b>Desired performance</b>	The aim of the Tribunal is to meet or exceed the target that has been set.			
<b>Indicator Responsibility</b>	<ul style="list-style-type: none"> <li>➤ Data collection, filing/archiving collected data – Registry Administrator</li> <li>➤ Data extraction – Registry Administrator</li> <li>➤ 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)</li> </ul>			
<b>Baseline *Estimated performance</b>	<b>2018/19</b>	<b>2019/20</b>	<b>2020/21</b>	<b>2021/22</b>
	85%	96%	92%	75%
<b>Annual Targets</b>	<b>2022/23</b>	<b>2023/24</b>	<b>2024/25</b>	
	80%	80%	80%	

<b>Outcome</b>	<b>Responsive and Reliable Adjudication</b>
<b>8. Indicator Title</b>	Percentage of reasons in interim relief matters issued to parties within 30 business days of last hearing date.
<b>Definition</b>	This performance indicator measures the efficiency of the Tribunal in issuing reasons in interim relief matters to parties within stipulated timeframes.
<b>Source of data</b>	<ul style="list-style-type: none"> <li>➤ Reasons issued for interim relief cases.</li> <li>➤ Any correspondence and notices received and issued between the Tribunal, the Commission and parties.</li> <li>➤ CMS reports.</li> </ul>

Outcome	Responsive and Reliable Adjudication
	<ul style="list-style-type: none"> <li>➤ Qlikview reports (reporting tool placed on top of CMS) that reflect turnaround times.</li> <li>➤ Hearing calendar.</li> <li>➤ Press releases.</li> <li>➤ Transcriptions.</li> </ul>
<b>Method of Calculation / Assessment</b>	<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 of the last hearing date = <math>(a/b) \times 100</math></p> <p>Where:</p> <p>a = total number of reasons in interim relief issued to parties within 30 business days of the last date/last submission.</p> <p>b = total number of reasons for interim relief issued to parties.</p>
<b>Means of Verification</b>	<ul style="list-style-type: none"> <li>➤ Workflows built into CMS either prevents further updating or sends alerts if case data is missing.</li> <li>➤ The Registry Administrator extracts monthly reports from Qlikview and maintains a file that contains source documents.</li> <li>➤ Data reflected on Qlikview (originally captured on CMS) and source document reviewed to verify data against source document and ensure accuracy.</li> <li>➤ Registry Administrator will contact official required to input missing data or make corrections on CMS.</li> <li>➤ Errors and corrections that affect prior period reporting are communicated to Registrar/COO via email.</li> <li>➤ File reviewed by Registrar on monthly basis and signed off as proof of review.</li> <li>➤ 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.</li> <li>➤ Performance Information reports and file reviewed and verified by Registrar and COO and signed off as proof of review.</li> <li>➤ One file maintained for an entire financial year and therefore no risk of duplication of source documents which can lead to inaccuracies in data capturing. In addition, same source documents are used for monthly/quarterly and annual review.</li> <li>➤ Quarterly check of five completed case files to ensure electronic documents mirror hard copy documents and vice versa.</li> </ul>
<b>Assumptions</b>	<ul style="list-style-type: none"> <li>➤ The Tribunal has the financial resources and the capacity to perform its adjudicative function.</li> <li>➤ There will be no substantial changes to the Tribunal's mandate or the Competition Act that will impact on stipulated timeframes and targets.</li> <li>➤ The Tribunal has aligned to the dtic's joint/integrated outputs.</li> <li>➤ That the Tribunal maintains systems, processes and procedures that facilitate the target being achieved.</li> </ul>
<b>Disaggregation of Beneficiaries</b>	N/A

Outcome	Responsive and Reliable Adjudication			
(where applicable)				
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"> <li>➤ Data collection, filing/archiving collected data – Registry Administrator</li> <li>➤ Data extraction – Registry Administrator</li> <li>➤ 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).</li> </ul>			
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%	65%	65%	

## 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

<b>Outcome      Transparent, Accountable and Sustainable Entity</b>	
<b>Source of data</b>	<ul style="list-style-type: none"> <li>➤ Press releases issued by the Communications Officer</li> <li>➤ Large merger orders issued by the Tribunal</li> <li>➤ Any correspondence between the Communications Officer and stakeholders</li> <li>➤ Case Management System (electronic case management system run by the Tribunal hereinafter referred to as CMS) reports</li> <li>➤ Qlikview reports (reporting tool placed on top of CMS) that reflect turnaround times</li> <li>➤ Hearing calendar</li> </ul>
<b>Method of Calculation / Assessment</b>	<p>Percentage final merger decisions in which a press release is issued by the Tribunal = <math>(a/b) \times 100</math></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>
<b>Means of Verification</b>	<ul style="list-style-type: none"> <li>➤ The Communications Officer extracts quarterly reports from Qlikview and maintains a file that contains source documents.</li> <li>➤ Data reflected on Qlikview (originally captured on CMS) and source document reviewed to verify data against source document and ensure accuracy.</li> <li>➤ Registry Administrator will contact official required to input missing data or make corrections on CMS</li> <li>➤ Errors and corrections that affect prior period reporting are communicated to Registrar/COO via email</li> <li>➤ File reviewed by COO on quarterly basis and signed off as proof of review</li> <li>➤ 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.</li> <li>➤ Performance Information reports and file reviewed and verified by COO and signed off as proof of review</li> <li>➤ 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.</li> </ul>
<b>Assumptions</b>	<ul style="list-style-type: none"> <li>➤ Tribunal has the necessary financial resources and capabilities.</li> <li>➤ Confidentiality claims by parties have been resolved.</li> </ul>
<b>Disaggregation of Beneficiaries (where applicable)</b>	N/A
<b>Spatial Transformation</b>	N/A

<b>Outcome</b>	<b>Transparent, Accountable and Sustainable Entity</b>			
<b>(where applicable)</b>				
<b>Calculation Type</b>	Percentage			
<b>Reporting Cycle</b>	Quarterly and Annually			
<b>Desired performance</b>	The target is met or exceeded			
<b>Indicator Responsibility</b>	Communications Officer			
<b>Baseline</b>	<b>2018/19</b>	<b>2019/20</b>	<b>2020/21</b>	<b>2021/22</b>
<b>*Estimated performance</b>	97%	97%	90%	90%
<b>Annual Targets</b>	<b>2022/23</b>	<b>2023/24</b>	<b>2024/25</b>	
	90%	90%	90%	

<b>Outcome</b>	<b>Transparent, Accountable and Sustainable Entity</b>			
<b>10. Indicator Title</b>	Percentage press releases of prohibited practice decisions communicated within 3 business days of order date and after finalization of confidentiality.			
<b>Definition</b>	This indicator measures the percentage of final prohibited practice decisions for which a press release was issued during the financial year.			
<b>Source of data</b>	<ul style="list-style-type: none"> <li>➤ Press releases for prohibited practice decisions issued by the Communications Officer</li> <li>➤ Prohibited practice decisions issued by the Tribunal</li> <li>➤ Any correspondence between the Communications Officer and stakeholders</li> <li>➤ Case Management System (electronic case management system run by the Tribunal hereinafter referred to as CMS) reports</li> <li>➤ Qlikview reports (reporting tool placed on top of CMS) that reflect turnaround times</li> <li>➤ Hearing calendar</li> </ul>			

<b>Outcome</b>		<b>Transparent, Accountable and Sustainable Entity</b>
<b>Method of Calculation / Assessment</b>		Percentage of press releases issued for final prohibited practice decisions issued by the Tribunal = $(a/b) \times 100$ Where: a = total number of final prohibited practice decision press releases issued during the delivery period b = total number of final prohibited practice decisions issued during the delivery period.
<b>Means of Verification</b>		<ul style="list-style-type: none"> <li>➤ The Communications Officer extracts quarterly reports from Qlikview and maintains a file that contains source documents.</li> <li>➤ Data reflected on Qlikview (originally captured on CMS) and source document reviewed to verify data against source document and ensure accuracy.</li> <li>➤ Registry Administrator will contact official required to input missing data or make corrections on CMS</li> <li>➤ Errors and corrections that affect prior period reporting are communicated to Registrar/COO via email</li> <li>➤ File reviewed by COO on quarterly basis and signed off as proof of review</li> <li>➤ 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.</li> <li>➤ Performance Information reports and file reviewed and verified by COO and signed off as proof of review</li> <li>➤ 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.</li> </ul>
<b>Assumptions</b>		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
<b>Disaggregation of Beneficiaries (where applicable)</b>		N/A
<b>Spatial Transformation (where applicable)</b>		N/A
<b>Calculation Type</b>		Percentage
<b>Reporting Cycle</b>		Quarterly and Annually

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

<b>Outcome</b>	<b>Transparent, Accountable and Sustainable Entity</b>	
<b>11. Indicator Title</b>	Biennial update and publication of jurisprudence handbook.	
<b>Definition</b>	A handbook documenting jurisprudence (case law) set by Tribunal decisions will be published and then updated every second year. It is intended that the handbook will be distributed to interested parties and placed on the Tribunal's website.	
<b>Source of data</b>	Printed version of handbook or e-book on website contain version and publication date	
<b>Method of Calculation / Assessment</b>	Not calculation	
<b>Means of Verification</b>	Date of publication of updated handbook	
<b>Assumptions</b>	It is assumed that there would be new information pertaining to case law that would require the handbook to be updated every two years.	
<b>Disaggregation of Beneficiaries (where applicable)</b>	N/A	

Outcome	Transparent, Accountable and Sustainable Entity			
Spatial Transformation (where applicable)	N/A			
Calculation Type	Not calculated			
Reporting Cycle	Biennial			
Desired performance	Handbook is updated Biennial			
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	The outcome of the review of processes, including forms and procedures for simplicity and necessity.			
Source of data	Progress reports compiled by the Divisions.			
Method of Calculation / Assessment	Numerical			
Means of Verification	4 quarterly reports			



Outcome	Transparent, Accountable and Sustainable Entity			
Assumptions	<ul style="list-style-type: none"> <li>➤ An assumption is made that relevant data is collected and analysed from the review process and a progress report is completed on time.</li> <li>➤ The review exercise(s) may take place in different divisions simultaneously.</li> <li>➤ The Tribunal has aligned to the dtic's joint/integrated outputs relating to Delivery/Capable State.</li> </ul>			
Disaggregation of Beneficiaries (where applicable)	N/A			
Spatial Transformation (where applicable)	N/A			
Calculation Type	Numerical			
Reporting Cycle	Quarterly			
Desired performance	4 quarterly reports sent to <b>the dtic</b> .			
Indicator Responsibility	Divisional Heads, IT Administrator, HR, EA: COO and COO			
Baseline *Estimated performance	2018/19	2019/20	2020/21	2021/22
	New indicator			4 Quarterly reports sent to <b>the dtic</b>
Annual Targets	2022/23	2023/24	2024/25	
	1 process improvement per quarter	1 process improvement per quarter	1 process improvement per quarter	

## 10.4 Governance

Outcome	Transparent, Accountable and Sustainable Entity
<b>13. Indicator Title</b>	Percentage of prior financial year audit (internal and external) findings resolved in terms of agreed timelines with auditors.
<b>Definition</b>	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.
<b>Source of data</b>	<ul style="list-style-type: none"> <li>➤ Internal and External audit reports</li> <li>➤ Follow up audits</li> <li>➤ Internal and external audit findings tracker.</li> </ul>
<b>Method of Calculation / Assessment</b>	Percentage of prior financial year audit findings resolved = $(a/b) \times 100$ Where: a = total number of prior year internal and external audit findings in the current financial year b = total number of internal and external audit findings made in the prior financial year.
<b>Means of Verification</b>	<ul style="list-style-type: none"> <li>➤ Audit trackers maintained by the Tribunal verify progress made against audit findings.</li> <li>➤ Follow up audit conducted annually by internal audit tests the documented action and indicates the number of prior period internal audit findings resolved.</li> <li>➤ External audit in management report documents resolution of prior year audit findings</li> </ul>
<b>Assumptions</b>	The Tribunal has required processes in place to evaluate resolution of audit findings and progress is addressed in external/internal audits
<b>Disaggregation of Beneficiaries (where applicable).</b>	N/A.
<b>Spatial Transformation (where applicable)</b>	N/A.
<b>Calculation Type</b>	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 *Estimated performance	2018/19	2019/20	2020/21	2021/22
	New Indicator		100%	100%
Annual Targets	2022/23	2023/24	2024/25	
	100%	100%	100%	

## 10.5 Financial management

Outcome	Transparent, Accountable and Sustainable Entity	
14. Indicator Title	At least one meeting held annually to inform Tribunal employees of stated APP performance targets.	
Definition	At least one meeting held per year for the Tribunal to understand stated targets.	
Source of data	<ul style="list-style-type: none"> <li>➤ Quarterly and annual PI reports</li> <li>➤ Targets set in APP</li> </ul>	
Method of Calculation / Assessment	Not calculated	
Means of Verification	<ul style="list-style-type: none"> <li>➤ Meeting agenda</li> <li>➤ Meeting minutes</li> <li>➤ Attendance register</li> <li>➤ Changes to the APP if applicable</li> </ul>	
Assumptions	The meeting is diarised and proper preparation to achieve the required result	

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	Annual			
Desired performance	Meeting held			
Indicator Responsibility	COO			
Baseline *Estimated performance	2018/19	2019/20	2020/21	2021/22
	New indicator		One meeting	One meeting
Annual Targets	2022/23	2023/24	2024/25	
	One meeting	One meeting	One meeting	
Outcome	Transparent, Accountable and Sustainable Entity			
15. Indicator Title	Percentage variance on expenditure against budget.			
Definition	Actual expenditure against budget is measured. It may not be possible to spend 100% of our budget (given factors outside the Tribunal’s control, eg. our budget is based on an estimate of case load. This however provides guidance for future budget preparation and focus areas.			
Source of data	➤ Approved budget ➤ Expenditure against budget ➤ Pastel accounting system			

Outcome		Transparent, Accountable and Sustainable Entity			
Method of Calculation / Assessment		Actual expenditure for the financial year expressed as a percentage of approved annual budget = (a/b) x 100			
		Where			
		a = actual expenditure incurred for the financial year under review			
		b = approved budget for the financial year under review			
		Can be expressed inclusive of capital expenditure and exclusive of capital expenditure.			
Means of Verification		➤ 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		➤ The Tribunal has, in the past, not spent its entire budget and we therefore do not anticipate 100% spend			
		➤ Accurate calculation is dependent on a system and processes that are accurate and updated regularly			
Disaggregation of Beneficiaries (where applicable)		N/A.			
Spatial Transformation (where applicable)		N/A.			
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 *Estimated performance		2018/19	2019/20	2020/21	2021/22*
		-7.5%	-11.6%	-9.0%	-10%
Annual Targets		2022/23		2023/24	2024/25
		-10%		-10%	-10%

Outcome Transparent, Accountable and Sustainable Entity				
<b>16. Indicator Title</b>	Obtain an unqualified audit opinion from the AGSA.			
<b>Definition</b>	This performance indicator measures the extent to which the Tribunal has adequate and effective controls in place to avoid material findings.			
<b>Source of data</b>	<ul style="list-style-type: none"> <li>➤ Findings reflected in internal and external audit reports</li> <li>➤ Procurement documentation (RFQ's/RFP's)</li> </ul>			
<b>Method of Calculation / Assessment</b>	Target not calculated. Qualitative statement but value of material findings will be reflected			
<b>Means of Verification</b>	<ul style="list-style-type: none"> <li>➤ Value can be verified in GL in Pastel accounting system</li> <li>➤ Final audit report by Auditor-General.</li> </ul>			
<b>Assumptions</b>	All applicable policies and procedures will be followed in order to prevent findings of this nature.			
<b>Disaggregation of Beneficiaries (where applicable)</b>	N/A			
<b>Spatial Transformation (where applicable)</b>	N/A			
<b>Calculation Type</b>	Target not calculated but value of material findings can be determined.			
<b>Reporting Cycle</b>	Annual			
<b>Desired performance</b>	To meet the target			
<b>Indicator Responsibility</b>	Procurement Officer, Head of Finance and COO			
	<b>2018/19</b>	<b>2019/20</b>	<b>2020/21</b>	<b>2021/22</b>

Outcome	Transparent, Accountable and Sustainable Entity			
Baseline *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	

Outcome	Transparent, Accountable and Sustainable Entity			
17. 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			

Outcome	Transparent, Accountable and Sustainable Entity			
Reporting Cycle	Annual			
Desired performance	To meet the target			
Indicator Responsibility	Head of Finance, COO			
Baseline *Estimated performance	2018/19	2019/20	2020/21	2021/22
	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.			

#### 10.6 Transformation, Human capital development and training

<b>Outcome</b>	<b>Transparent, Accountable and Sustainable Entity</b>	
<b>18. Indicator Title</b>	85% of performance assessments conducted at least twice a year (end September & end March).	
<b>Definition</b>	The indicator measures the average of all the scores received by the Tribunal employees (excluding tribunal members) following the annual performance assessment process.	
<b>Source of data</b>	<ul style="list-style-type: none"> <li>➤ Consolidated spreadsheets reflecting individual scores of each employee evaluated.</li> <li>➤ Completed and signed performance assessment reports completed by line manager and employee</li> </ul>	
<b>Method of Calculation / Assessment</b>	<p>The rating scale uses a score of zero (0) to five (5).</p> <p>A score of 3 - 3.4 indicates that an employee is performing as per position requirements.</p> <p>The number of employees assessed in order to arrive at the average performance assessment %.</p>	
<b>Means of Verification</b>	<p>The individual score can be verified on each individual's completed performance assessment report.</p> <p>The average % performance assessment can be verified on the excel spreadsheet maintained by the HR Officer.</p>	
<b>Assumptions</b>	<ul style="list-style-type: none"> <li>➤ Performance assessment processes are embedded in the Tribunal and that all assessments are performed objectively.</li> </ul>	



Outcome	Transparent, Accountable and Sustainable Entity			
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 *Estimated performance	2018/19	2019/20	2020/21	2021/22
	3.4	3.6	3.7	3.5
Annual Targets	2022/23	2023/24	2024/25	
	85%	85%	85%	

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"> <li>➤ Tribunal's payroll system</li> <li>➤ Summary reports compiled by the HR Officer</li> </ul>			

Outcome		Transparent, Accountable and Sustainable Entity			
Method of Calculation / Assessment		Percentage of staff = (a/b) x 100 Where: a = total number of funded secretariat posts vacant in the current financial year b = total number of funded secretariat posts in the Tribunal’s approved structure. <ul style="list-style-type: none"><li>Measured at end of quarter and year to date</li></ul>			
Means Verification	of	<ul style="list-style-type: none"><li>➤ Head count of full-time staff vs funded posts</li><li>➤ Compensation of employee’s budget</li><li>➤ Approved structure</li><li>➤ Summary reports by the HR officer</li></ul>			
Assumptions		<ul style="list-style-type: none"><li>➤ The Tribunal has sufficient budget allocated for the funded secretariat positions</li><li>➤ That optimal capacity exists through a low vacancy rate</li></ul>			
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		2018/19	2019/20	2020/21	2021/2022
*Estimated performance		7.69%	19.23%	12%	20%

Outcome	Transparent, Accountable and Sustainable Entity		
Annual Targets	2022/23	2023/24	2024/25
	81%	81%	81%

Outcome	Transparent, Accountable and Sustainable Entity		
<b>20. Indicator Title</b>	Continuous training opportunities to staff and Tribunal members		
<b>Definition</b>	<ul style="list-style-type: none"> <li>➤ Measures the learning opportunities to keep Tribunal staff and Tribunal members informed through workshops, conferences or seminars with internal and external speakers.</li> <li>➤ Tribunal members and staff kept up to date in the knowledge of national and international developments in competition law and economics.</li> <li>➤ This will be conducted according to approved training plans from Case Management and the HR divisions.</li> </ul>		
<b>Source of data</b>	<ul style="list-style-type: none"> <li>➤ Training reports completed by delegates</li> <li>➤ Summary reports compiled by the HR Officer</li> <li>➤ Employee self-service system</li> </ul>		
<b>Method of Calculation / Assessment</b>	Simple count		
<b>Means of Verification</b>	<ul style="list-style-type: none"> <li>➤ Training reports completed by delegates</li> <li>➤ Tribunal accounting system reflects transactions pertaining to training interventions and attendance of seminars, forums/conference attendance</li> <li>➤ Documentary proof (where applicable) of attendance</li> </ul>		
<b>Assumptions</b>	<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ Assumption that there is sufficient budget for staff to attending these training, seminars, forums/conferences</li> </ul>		
<b>Disaggregation of Beneficiaries (where applicable)</b>	N/A		

<b>Outcome</b>	<b>Transparent, Accountable and Sustainable Entity</b>			
<b>Spatial Transformation (where applicable)</b>	N/A			
<b>Calculation Type</b>	Non-Cumulative (simple count)			
<b>Reporting Cycle</b>	Measured quarterly but report annually against target			
<b>Desired performance</b>	To meet or exceed the target			
<b>Indicator Responsibility</b>	Head of Case Management and HR			
<b>Baseline *Estimated performance</b>	<b>2018/19</b>	<b>2019/20</b>	<b>2020/21</b>	<b>2021/22</b>
	new indicator	new indicator	new indicator	new indicator
<b>Annual Targets</b>	<b>2022/23</b>	<b>2023/24</b>		<b>2024/25</b>
	Training on ESOPs; Competition law basic training; Concentration and participation in the South African Economy: levels and trends; Competition for structural transformation in the global South; Writing skills.	To be determined on a need basis at the appropriate time.		To be determined on a need basis at the appropriate time.

<b>Outcome</b>	<b>Transparent, Accountable and Sustainable Entity</b>
<b>21. Indicator Title</b>	Undertake one annual capacity building workshop for Case Managers and Tribunal Members.

<b>Outcome</b>		<b>Transparent, Accountable and Sustainable Entity</b>
<b>Definition</b>		This performance indicates whether one capacity building workshop <sup>14</sup> 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.
<b>Source of data</b>		<ul style="list-style-type: none"> <li>➤ HR summary report compiled by HR Officer</li> <li>➤ Training report completed by staff attending the workshop</li> </ul>
<b>Method of Calculation / Assessment</b>		Simple count
<b>Means of Verification</b>		<ul style="list-style-type: none"> <li>➤ Training reports completed by delegates</li> <li>➤ Tribunal accounting system reflects transactions pertaining to conference attendance</li> <li>➤ Attendance register</li> </ul>
<b>Assumptions</b>		<ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ Assumption that there are skilled and competent facilitators with knowledge of case law</li> <li>➤ Assumption that there are sufficient financial resources for the Tribunal to host such a workshop and cover all expected costs</li> </ul>
<b>Disaggregation of Beneficiaries (where applicable)</b>		N/A
<b>Spatial Transformation (where applicable)</b>		N/A
<b>Calculation Type</b>		Non-cumulative (simple count)
<b>Reporting Cycle</b>		Measured quarterly but report annually against target
<b>Desired performance</b>		To meet the required target

Outcome	Transparent, Accountable and Sustainable Entity			
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 Interns in the Case Management division to work opportunities.			
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"> <li>➤ Payroll system</li> <li>➤ HR summary reports compiled by the HR Officer</li> </ul>			
Method of Calculation / Assessment	Simple head count			
Means of Verification	<ul style="list-style-type: none"> <li>➤ Actual head count</li> <li>➤ Signed offer and appointment letters</li> <li>➤ Signed contracts</li> <li>➤ Personnel expenditure against budget</li> </ul>			
Assumptions	<ul style="list-style-type: none"> <li>➤ Assumption that the candidates applying for the positions met the internship requirements</li> <li>➤ Assumption that the Tribunal has financial resources to employ these interns</li> <li>➤ Assumption that there is the required space and technological resources required to employ these interns</li> </ul>			
Disaggregation of Beneficiaries (where applicable)	N/A			

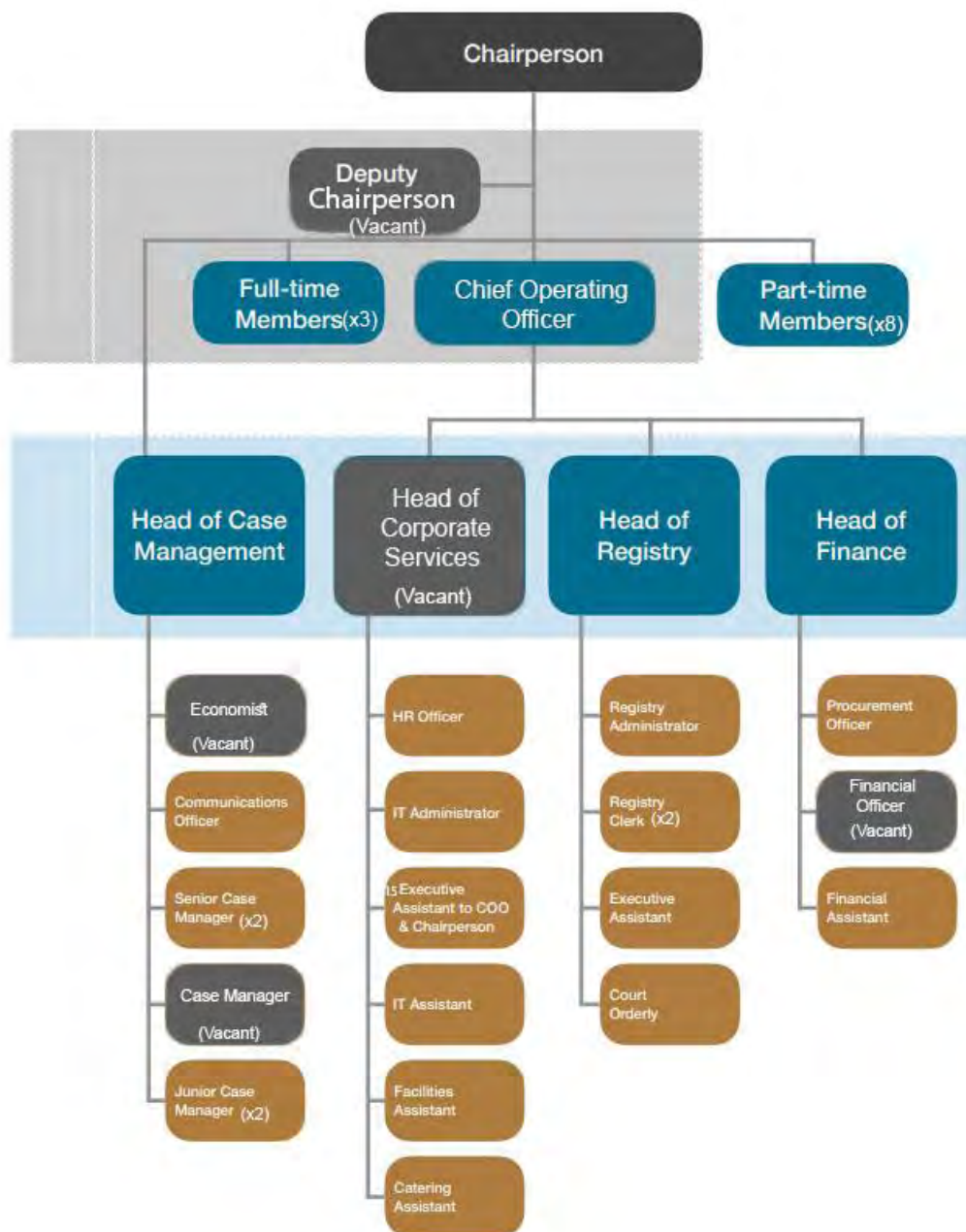
Outcome	Transparent, Accountable and Sustainable Entity			
Spatial Transformation (where applicable)	N/A			
Calculation Type	Non-cumulative (simple count)			
Reporting Cycle	Measured Annually against target			
Desired performance	To meet the required target			
Indicator Responsibility	Head of Case Management			
Baseline *Estimated performance	2018/19	2019/20	2020/21	2021/22
	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	

Outcome	Transparent, Accountable and Sustainable Entity			
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			
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 Organogram<sup>16</sup>



<sup>15</sup> The Executive Assistant reports to the Chairperson and COO.

<sup>16</sup> Total personnel count is 25, excluding vacancies and part-time members.

## **Annexure B: Members of the Competition Tribunal**

### ***Chairperson***

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

### ***Deputy Chairperson***

- Vacant (Enver Daniels (BA(Law), BProc, LLM) – five-year term ended 31 December 2021)

### ***Full-time Members***

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

### ***Part-time Members***

- Andiswa Ndoni (BProc, LLB, Post Graduate Diploma Business Management, Cert- Corporate Governance) from 01 August 2009 (third term)
- Anton Roskam (BA, LLB, HDip-Labour Law, MBA) from 01 January 2013 (second term)
- Imraan Valodia (BCom Hons, MSc, 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)
- Shaista Goga (BA & Masters in Economics) from 1 January 2022 (acting part-time)
- Liberty Mncube (M.Sc & PhD in Economics) from 1 January 2022 (acting part-time)
- Enver Daniels (BA(Law), BProc, LLM) (acting part-time)

## **Annexure C: Competition Tribunal Secretariat**

### ***Office of the COO***

Oliver Josie- Chief Operating Officer

Lufuno Ramaru, Executive Administrator (Chairperson, COO)

### ***Divisional Heads***

Vacant- Corporate Services

Tebogo Mputle- Registry

Jabulani Ngobeni- Case Management

Devrani Moonsamy- Finance

### ***Case Managers***

Mpumelelo Tshabalala- Senior Case Manager

Kameel Pancham- Senior Case Manager

Camilla Mathonsi- Junior Case Manager

Juliana Munyembate- Junior Case Manager

Gillian de Gouveia- Communications Officer

Sinethemba Mbeki - Intern

Leila Rafee- Intern

Vacant- Economist

Vacant- Case Manager

### ***Registry***

Sibongile Moshoeshe- Registry Administrator

Themba Chauke- Registry Clerk

David Tefu- Court Orderly

Nkuli Mpepuka- Executive Assistant

Cyriel Mpaketsane- Registry Assistant

### ***Corporate Services***

Bellah Kekana- HR Generalist

Sabinah Monareng- Facilities and Support Services Assistant

Maggie Mkhonto- Catering and Hospitality

### ***Information Technology***

Colin Venter- IT support and Network Administrator

Rendani Neswiswi- IT Assistant

### ***Finance***

Vacant - Financial Officer

Ongezwa Dlulane- Financial Assistant

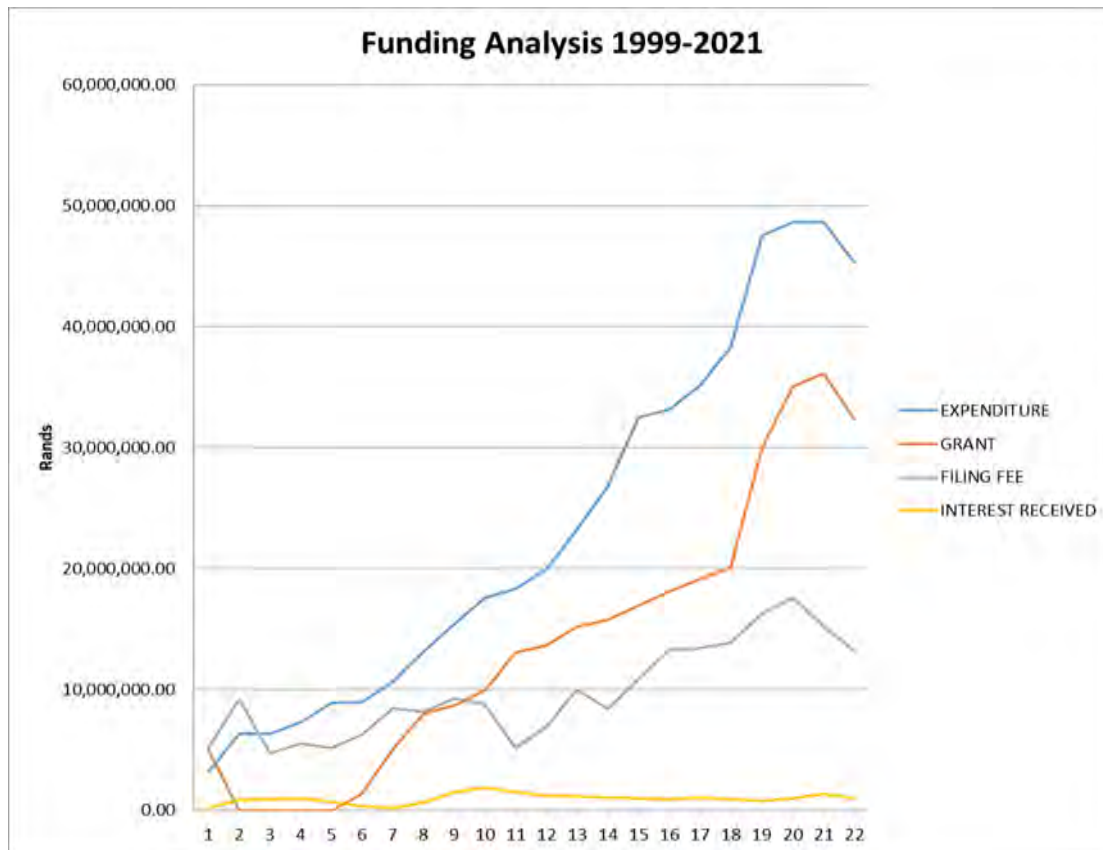
Patricia Froude- Procurement Officer

### Gender and Race Composition – full-time staff

Gender	Black	White	Asian	Total	Percentage
Male	5	1	2	8	36%
Female	11	2	1	14	64%
Total	16	3	3	22	100%
Percentage	72.7%	13.6%	13.6%	100%	

## Annexure D: Historical Representation of Expenditure and Funding

Historical representation of Tribunal expenditure and funding 1999-2021



## Annexure E: Statement of Financial Performance – MTEF December 2021

Statement of financial performance									Outcome/ Budget Average	Average growth rate	Expen- diture/ total: Average	Medium-term estimate			Average growth rate	Expen- diture/ total: Average
R thousand	Budget	Audited outcome	Budget	Audited outcome	Budget	Audited outcome	Budget estimate	Approved budget	%	(%)	(%)	2022/23	2023/24	2024/25	2021/22 - 2024/25	(%)
Revenue																
Tax revenue	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Non-tax revenue	21 183	18 623	25 484	16 663	10 694	14 218	13 680	14 100	89,5%	-8,9%	31,1%	17 400	17 550	17 661	7,8%	28,6%
Sale of goods and services other than capital assets	18 570	17 579	19 499	15 279	9 735	13 208	13 500	13 500	97,2%	-8,4%	29,1%	16 600	16 750	16 861	7,7%	27,3%
Sales of goods and services produced by entity	18 570	17 579	19 499	15 279	9 735	13 208	13 500	13 500	97,2%	-8,4%	29,1%	16 600	16 750	16 861	7,7%	27,3%
of which:																
Administrative fees	18 570	17 579	19 499	15 279	9 735	13 208	13 500	13 500	97,2%	-8,4%	29,1%	16 600	16 750	16 861	7,7%	27,3%
Sales by market establishment	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Other sales	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Sales of scrap, waste, arms and other used current goods	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Other non-tax revenue	2 613	1 044	5 985	1 384	959	1 010	180	600	41,5%	-16,9%	2,0%	800	800	800	10,1%	1,3%
Transfers received	35 086	35 086	36 172	36 172	32 342	32 342	36 970	36 970	100,0%	1,8%	68,9%	42 286	42 703	44 621	6,5%	71,4%
Total revenue	56 269	53 709	61 656	52 835	43 036	46 560	50 650	51 070	96,5%	-1,7%	100,0%	59 686	60 253	62 282	6,8%	100,0%
Expenses																
Current expenses	55 071	48 667	59 750	48 687	51 243	45 390	50 650	58 678	92,9%	6,4%	100,0%	59 686	60 253	62 282	2,0%	100,0%
Compensation of employees	32 185	29 507	35 844	30 514	34 613	30 256	33 615	37 008	93,4%	7,8%	63,3%	38 790	40 431	42 142	4,4%	65,7%
Goods and services	21 820	18 211	22 628	17 241	15 238	14 141	16 117	20 752	92,8%	4,5%	34,8%	19 939	18 824	19 100	-2,7%	32,7%
Depreciation	1 066	949	1 278	932	1 392	963	872	872	80,6%	-2,8%	1,9%	909	947	987	4,2%	1,5%
Interest, dividends and rent on land	-	-	-	-	-	30	46	46	165,2%	-	0,0%	48	50	52	4,2%	0,1%
Transfers and subsidies	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total expenses	55 071	48 667	59 750	48 687	51 243	45 390	50 650	58 678	92,9%	6,4%	100,0%	59 686	60 253	62 282	2,0%	100,0%
Surplus/(Deficit)	1 198	5 042	1 906	4 148	(8 207)	1 170	-	(7 608)		-214,7%		-	-	-	-100,0%	

## Annexure F: Summarised Three-Year Budget 2022/2023 – 2024/2025

CATEGORY	2022/2023	2023/2024	2024/2025	TOTAL
<b>REVENUE</b>				
FILING FEES	16 600 000	16 750 434	16 861 162	50 211 596
GRANT	42 286 000	42 703 000	44 621 000	129 610 000
INTEREST RECEIVED	800 000	800 000	800 000	2 400 000
<b>TOTAL REVENUE</b>	<b>59 686 000</b>	<b>60 253 434</b>	<b>62 282 162</b>	<b>182 221 596</b>
<b>EXPENDITURE</b>				
PERSONNEL	38 791 409	40 432 285	42 142 571	121 366 265
PT TRIBUNAL MEMBERS	4 276 632	2 815 921	2 935 034	10 027 587
TRAINING	846 768	882 586	958 884	2 688 238
CONFERENCE/SEMINARS	80 000	83 384	97 190	260 574
SHARED SERVICES CCSA	781 725	814 792	849 258	2 445 775
FACILITY FEE/LEASE	6 830 486	6 830 486	6 830 486	20 491 458
CONSULTING	83 384	86 911	90 587	260 883
LEGAL FEES	52 115	54 319	56 617	163 052
TRANSCRIPTION SERVICES	552 683	576 061	600 429	1 729 173
AUDIT EXPENSES	2 003 378	2 088 121	2 176 449	6 267 949
RECRUIT COSTS	37 745	39 341	41 006	118 092
ADMIN EXPENSES	787 276	820 577	855 288	2 463 141
DEPRECIATION	530 537	552 979	576 370	1 659 886
AMORTISATION	377 944	393 931	410 594	1 182 469
IT EXPENSES	2 771 258	2 888 482	3 010 665	8 670 405
REPAIRS/MAINTENANCE	30 046	31 317	32 641	94 004
APPEALS COURT	350 000	364 805	380 236	1 095 041
CAPITAL EXPENDITURE	502 615	497 134	237 857	1 237 606
<b>TOTAL EXPENDITURE</b>	<b>59 686 000</b>	<b>60 253 434</b>	<b>62 282 162</b>	<b>182 221 596</b>
<b>SURPLUS/(DEFICIT)</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>

## Annexure G: Detailed One Year Budget - 2022/2023

CATEGORY	ACTIVITY	2022/2023	PERCENTAGE
<b>REVENUE</b>			
	FILING FEES	16 600 000	27,81%
	GRANT	42 286 000	70,85%
	INTEREST RECEIVED	800 000	1,34%
<b>TOTAL REVENUE</b>		<b>59 686 000</b>	<b>100%</b>
<b>EXPENDITURE</b>			
<b>PERSONNEL</b>	SALARIES & ALLOWANCES	16 716 780	28,01%
	FT MEMBERS	14 376 817	24,09%
	FT MEMBERS COMPANY CONTRIBUTIONS	570 687	0,96%
	CFO SALARY	2 089 321	3,50%
	CFO COMPANY CONTRIBUTIONS	90 375	0,15%
	CFO PENSION	159 073	0,27%
	CASUAL LABOUR	27 302	0,05%
	PENSIONABLE BONUS	369 520	0,62%
	PENSION CONTRIBUTION	1 307 604	2,19%
	MEDICAL CONTRIBUTION	987 520	1,65%
	COMPANY CONTRIBUTIONS	936 516	1,57%
	INTERNS	1 096 538	1,84%
	COMPANY CONTRIBUTIONS	66 473	0,11%
<b>PART TIME MEMBERS</b>	PT MEMBERS FEES	4 275 854	7,16%
<b>TRAINING</b>	TRAINING	166 720	0,28%
	TRAINING OVERSEAS	680 000	1,14%
<b>CONFERENCE/SEMINARS</b>	WORKSHOPS	80 000	0,13%
<b>SHARED SERVICES</b>	CCSA SHARED SERVICES	781 500	1,31%
<b>FACILITY FEE</b>	OFFICE RENTAL	6 830 486	11,44%
<b>LEGAL FEES</b>	LEGAL FEES	52 100	0,09%
<b>CONSULTING</b>	PROFESSIONAL	83 360	0,14%
<b>TRANSCRIPTION FEES</b>	RECORDING SERVICES	552 524	0,93%
<b>AUDIT EXPENSES</b>	EXTERNAL AUDIT	1 030 410	1,73%
	EXTERNAL AUDIT COMMITTEE	514 654	0,86%
	INTERNAL AUDIT	420 259	0,70%
	FRAUD PREVENTION COMMITTEE	37 479	0,06%
<b>RECRUITMENT COSTS</b>	RECRUITMENT COSTS	37 734	0,06%
<b>ADMIN EXPENSES</b>	WORKMENS COMPENSATION	86 476	0,14%
	TRAVEL	50 000	0,08%
	PARKING	25 008	0,04%
	BANK CHARGES	26 653	0,04%
	FINANCE CHARGES	47 513	0,08%
	DELIVERY CHARGES	878	0,00%
	OFFICE CONSUMABLES	12 504	0,02%
	PRINTING	36 470	0,06%
	STATIONERY	41 680	0,07%
	PAPER PURCHASES	46 327	0,08%
	TECHINICAL CONSULTING	41 680	0,07%
	ANNUAL REPORT	125 040	0,21%
	GOVERNMENT GAZETTE	14 132	0,02%
	COURIER SERVICES	9 978	0,02%
	POSTAGE AND STAMPS	2 744	0,00%
	TELEPHONES/TELEFAXES	12 504	0,02%
	CLEANING MATERIALS	10 898	0,02%
	OFFSITE STORAGE	75 583	0,13%
	MISCELLANEOUS EQUIPMENT	16 412	0,03%
	INSURANCE	104 584	0,18%
<b>OTHER IT EXPENSES</b>	LEASE- PHOTOCOPIER	194 890	0,33%
	LICENSE RENEWALS	950 286	1,59%
	REPAIRS AND MAINTENANCE	972 424	1,63%
	CMS SUPPORT	157 025	0,26%
	INTERNET SERVICES	210 921	0,35%
	EMAIL ARCHIVING	102 565	0,17%
	WEBSITE SERVICES	182 350	0,31%
<b>REPAIRS/MAINTENANCE</b>	MOTOR VECHILES	26 286	0,04%
	OTHER MAINTENANCE	3 751	0,01%
<b>DEPRECIATION</b>	DEPRECIATION	530 384	0,89%
<b>AMORTISATION</b>	AMORTISATION	377 835	0,63%
<b>APPEAL COURT</b>		350 000	0,59%
<b>TOTAL EXPENDITURE</b>		<b>59 183 385</b>	<b>99%</b>
<b>Add: CAPITAL EXPENDITURE</b>	COMPUTER EQUIPMENT	430 500	0,72%
	INTANGIBLE ASSETS	52 115	0,09%
	FURNITURE AND FITTINGS	20 000	0,03%
<b>TOTAL EXPENDITURE</b>		<b>59 686 000</b>	<b>100%</b>
<b>SURPLUS/DEFICIT after CAPEX</b>		<b>0</b>	