

2025 -2030



STRATEGIC PLAN FOR THE YEARS 2025 – 2030

Abbreviations and Acronyms

the Act	The Competition (Act 89 of 1998), as amended
AfCFTA	African Continental Free Trade Area
AG	Auditor-General of South Africa
APP	Annual Performance Plan
B-BBEE	Broad-based black economic empowerment
Commission	Competition Commission
CAC	Competition Appeal Court
COMESA	Common Market for Eastern and Southern Africa
DTIC	Department of Trade, Industry and Competition
ENE	Estimates of National Expenditure
ESKOM	Electricity Supply Commission, SA's electricity public utility
GNU	Government of National Unity
HR Management	Human Resource Management
ICN	International Competition Network
ICT	Information and communications technology
IT	Information technology
MTEF	Medium Term Expenditure Framework
MTDP	Medium Term Development Plan
MTSF	Medium Term Strategic Framework
NDP	National Development Plan
NGO	Non-government agencies
OECD	Organisation for Economic Co-operation and Development
RMC	Risk Management Committee
SADC	Southern African Development Community
SCM	Supply Chain Management
SMMEs	Small, medium and micro-sized enterprises
TID	Technical indicator description
Tribunal	Competition Tribunal
UNCTAD	UN Trade and Development
WTO	World Trade Organisation

Foreword by Executive Authority

The Public Finance Management Act requires that every public entity prepares a Strategic Plan setting out the overall strategy for the 5-year period covering the state's Medium-term Development Plan (MTDP). Every year, an Annual Performance Plan (APP) is prepared, which converts the overall strategy to key annual targets. These documents are then provided for approval to the Executive Authority and budgets are aligned to these plans.

The **Competition Tribunal** has prepared its **Strategic Plan 2026 - 2031**, which I now submit to Parliament, as required by the legislation.

This is the first **Strategic Plan** prepared in the 7th Administration by the **Tribunal**. I have requested that all entity Strategic Plans and Annual Performance Plans be aligned to the MTDP, which incorporates the work to develop and implement National Sector Masterplans, as well as the trade reforms, investment and transformation work of the Department.



Mr Parks Tau, MP

Minister Trade, Industry and Competition

Date: _____

Foreword by Accounting Authority

The Tribunal stands at a critical juncture as we embark on the implementation of our strategy for the period 2025 to 2030. In a rapidly evolving economic landscape, the Tribunal plays a pivotal role in adjudicating matters of national economic significance, balancing legal and economic expertise to deliver sound, transparent, and timely decisions.

The quasi-judicial nature of the Tribunal precludes it from setting pro-active outcomes or embarking on specific interventions which target particular sectors or emphasise any specific criterion in its decision-making. However, in adjudicating matters that are brought before it on a case-by-case basis, the Tribunal is closely aligned to the preamble of the Act which establishes its purpose of promoting and maintaining competition in the economy to benefit all South Africans. The Tribunal has also aligned its outcomes with those of the NDP and the **dtic**'s MTDP, within the parameters of the Act.

Our previous five-year strategic plan outlined goals that aligned with our broader mandate. However, our trajectory was profoundly impacted by the onset of the COVID-19 pandemic. Two months into the Strategic Plan, South Africa entered a national lockdown, compelling us to adapt swiftly to unprecedented conditions. During this period, the work of the Tribunal became even more imperative, as we considered excessive pricing cases relating to various products and services essential for combating the COVID-19 pandemic. In a landmark ruling in June 2020, upheld by the CAC, the Tribunal found that Babelgi charged excessive prices for face masks. This was the first successful excessive pricing case decided by the Tribunal since the Mittal matter in 2007. The Tribunal received and concluded a record number of 152 cases of excessive pricing in 2020/2021 which related to various products and services essential for combating the COVID-19 pandemic.

The pandemic transformed the operational framework of the Tribunal. In response, we implemented protocols for online hearings to ensure continuity while safeguarding public health. Despite having to pause complaint proceedings in 2020, we revived them in 2022, reaffirming our commitment to the principles set forth in the Competition Act. This adaptive period reshaped the way we approach our work, demonstrating resilience in the face of evolving challenges.

Over the next five years, our focus will be on strengthening adjudicative efficiency, enhancing institutional capacity, and ensuring the effective implementation of the Competition Act. The Tribunal plays a vital role in adjudicating complex competition matters that have far-reaching economic and social implications. The increasing complexity and volume of cases necessitate continuous refinement of our processes, expansion of our expertise, and optimisation of our resources. The amendments to the Competition Act require us to be more agile, responsive, and well-equipped to handle cases that will shape the future of South Africa's economic landscape. Ensuring the Tribunal is adequately resourced—both in terms of human capital and financial sustainability—will be key to achieving these objectives.

With this in mind, it is my pleasure to present the Competition Tribunal's strategic plan over the five-year period 2025/2026 – 2030/2031 which neatly coincides with the commencement of the 7th administration and aligns with the MTDP priorities of inclusive growth, reduced poverty and building a capable state.

The core outcome of the Tribunal is to adjudicate in favour of inclusive participation in markets and competitive conduct by market participants, for a transformed national economy. This outcome stands on two pillars. The first of which is Sound, Efficient and Responsive Adjudication. While the volume and complexity in the cases have increased over time, the Tribunal's resources, particularly our human capital and budgets, have remained relatively the same. For example, in its first full financial year after inception (2000/01), the Tribunal decided 50 cases, with a complement of 10 Tribunal members. In the previous financial year (2023/2024), cases decided by the Tribunal was 171 (242% increase), with a complement of six Tribunal members. Our staff complement in 2015 was 26 and during the current financial year is 30.


The targets set in respect of the first outcome (Sound, Efficient and Responsive Adjudication) are therefore based on inter alia the volume of cases and available resources. Increasing the number of full-time members from two currently to six will significantly improve efficiencies.

The second pillar of our outcomes is governance. The Tribunal strives to be transparent in conducting its affairs, accountable for its actions and sustainable in its operations. Through prudent financial management, procurement and employment practices the Tribunal adheres to sound governance. The ARC provides independent oversight to the Accounting Authority and further ensures compliance inter alia with the Public Finance Management Act. To this end, the Strategic Plan reflects a R350.88 million expenditure budget (including capital) over the three-year period 2025/2026 – 2027/2028, of which the largest spend (72.51%) is on staff. The Tribunal's R350.88 million revenue budget is comprised 64.16% of funding from the dtic and 32.99% from the merger filing fees administered by the Competition Commission. Over the MTEF period, management is committed to continue with the achievement of clean audit outcomes.

Despite financial constraints, the Tribunal continues to prioritise operational excellence and institutional sustainability. The request (which was approved by Treasury) to retain a budget surplus for capacity expansion underscores our strategic focus on enhancing efficiency and ensuring that the Tribunal remains well-positioned to deliver on its mandate. Addressing financial sustainability remains critical to ensuring that the Tribunal is adequately resourced to adjudicate cases effectively and within the prescribed timelines.

These strategic outcomes have been filtered down into the Annual Performance Plans (APPs) over the five-year period. The APP provides for a scorecard of key performance indicators which are linked to staff members' individual performance contracts. The Tribunal's scorecard is reported on quarterly to the dtic and it features prominently in the Tribunal's annual report.

We remain committed to fostering inclusive and competitive markets, through transparent and excellent adjudication.

Signature:  Date: _____
Mondo Mazwai

Accounting Authority – Competition Tribunal

Official Sign Off

It is hereby certified that this Strategic Plan of the Competition Tribunal for the period 2025/2026 – 2030/2031:

- Was developed by the management of the Competition Tribunal under the guidance of the Department of Trade, Industry and Competition (dtic).
- Considers all the relevant policies, legislation and other mandates for which the Competition Tribunal is responsible.
- Accurately reflects the impact and outcomes which the Competition Tribunal will endeavour to achieve over the period 2025/2026 – 2030/2031.

Sherylee Moonsamy

Signature: _____

Chief Financial Officer - Competition Tribunal

Date _____

Ratshi Maphwanya

Signature: _____

Chief Operating Officer - Competition Tribunal

Date _____

Mondo Mazwai

Signature :  _____

Chairperson – Competition Tribunal

Date _____

Approved by:

Mr Parks Tau, MP

Signature: _____

Minister Trade, Industry and Competition

Executive Authority of the Competition Tribunal

Date _____

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PART A: OUR MANDATE

1. Constitutional Mandate

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

In 1999, the Competition Act 89 of 1998 (the Act) was promulgated, thereby establishing a Competition Commission (Commission), the Competition Tribunal (Tribunal), and a Competition Appeal Court (CAC). The Act aimed to promote and maintain competition in the economy for the benefit of all South Africans. It also specifically addressed past economic imbalances by fostering an equitable market system that supports economic growth, employment, and consumer welfare.

In 2019, the amendments to the Act came into force. The amendments ushered in new provisions to strengthen the competition authorities in addressing persistently high levels of economic concentration and lack of inclusivity, to open up access to markets for small businesses to participate equitably in the economy.

2. 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 people; and
- g) to detect and address conditions in the market for any particular goods or services, or any behaviour within such a market, that tends to impede, restrict or distort competition in connection with the supply or acquisition of those goods or services within the Republic.¹

In *Competition Commission of South Africa v Mediclinic Southern Africa (Pty) Ltd and Another*, the Constitutional Court (Concourt) stated that *“institutions created to breathe life into these critical provisions of the Act must therefore never allow what the Act exists to undo and to do, to somehow elude them in their decision-making process.”* The Tribunal in its determination interprets the Act in a manner which upholds the values enshrined in the Bill of Rights of the Constitution of the Republic of South Africa which means applying a transformative, constitutional and context-sensitive approach to its determinations.

¹ Sub-section (g) was introduced with the 2019 amendments to the Act.

3. Policy Mandate and Strategic Priorities

3.1. Broad Policy Alignment

The Tribunal is one of three institutions established in terms of the Act alongside the Commission and the CAC. In the implementation of its mandate, the Tribunal is guided by the priorities set out in the National Development Plan (NDP) 2030 at a broad level. The NDP was adopted in 2012 and 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.

Following the elections in May 2024, a GNU was created which then formed the 7th administration. From the NDP priorities arose the 7th administration's Medium Term Development Plan (MTDP) strategic priorities and focus areas, which are:

- (i) Drive inclusive growth and job creation;
- (ii) Reduce poverty reduction and tackle the high cost of living; and
- (iii) Build a capable, ethical and developmental state

With this, the dtic introduced four core outcomes, setting a unified focus for all programs and entities within the dtic group. The goal was to concentrate efforts on top priorities across the group, enhance internal coordination, direct resources to critical areas, and improve execution efficiency by leveraging all entities within dtic. These core outcomes are:

- (i) **Reindustrialisation** to drive industrial growth, attract investments, enhance local industries, and increase exports, particularly in processed critical minerals.
- (ii) **Job creation** with focus on job creation for youth, women, and disadvantaged groups, and train 500,000 unemployed youth in high-demand sectors.
- (iii) **Transformation** to ensure economic empowerment programs benefit marginalized groups, reducing inequality and improving quality of life.
- (iv) **Capable state** to enhance the impact of public policies.

These four outcomes remain key priorities under the 7th Administration, aligned with the MTDP's vision for (i) inclusive growth and job creation, (ii) poverty reduction and strengthening of the social wage, and (iii) the establishment of a capable, ethical, and developmental state.

In response to the above priorities, the 'Blue Sky' (Growth Path) strategy was developed by dtic focusing on the key challenges/constraints of the South African economy and direct interventions to achieve GDP growth of 3.6% by 2029. These included, but not limited to, reducing administrative costs such as electricity and transport, access to capital, red tape reduction, omnibus regulations, strategic market access, workforce readiness and skills and market concentration and economic inclusion.

The four tables that follow provide an alignment matrix between the Tribunal outcomes and the MTDP priorities, dtic outcomes, NDP priorities and the dtic Blue Sky strategy, respectively.

The Tribunal has aligned its two strategic outcomes, namely: **Sound, Efficient and Responsive Adjudication**; and **Transparent, Accountable and Sustainable Entity**, within the legal mandate of the entity, to MTDP priorities as mentioned in the tables below.

Table 1: Alignment of Tribunal outcomes to MTDP priorities

MTDP Strategic Priorities	MTDP Outcomes	Tribunal Outcomes	Tribunal Outcome Statement
Strategic Priority 1 Drive inclusive growth and job creation.	Increased employment and work opportunities	Sound, Efficient and Responsive Adjudication	Through Sound, Efficient and Responsive Adjudication of matters across key sectors of the economy, the Tribunal contributes to the MTDP priority of inclusive growth and job creation as well as poverty reduction and tackling the high cost of living (e.g. through the assessment of competition and public interest considerations in mergers).
	Enabling environment for investment and improved competitiveness through structural reforms		
	Economic transformation and equitable inclusion of women, youth and persons with disabilities for a just society		
Strategic Priority 2 Reduce poverty reduction and tackle the high cost of living	Reduced poverty and improved livelihoods	Sound, Efficient and Responsive Adjudication	
Strategic Priority 3 Build a capable, ethical and developmental state	Combat priority offenses (economic, organised crime and corruption)	Sound, Efficient and Responsive Adjudication	Through Sound, Efficient and Responsive Adjudication of matters, the Tribunal aligns ethically through open and transparent communication of all case reasons including press releases and aligns capability to sound, consistent and responsive adjudication of all matters.
	Improved governance and performance of public entities	Transparent, Accountable and Sustainable entity	Through Transparent Accountable, and Sustainable Entity, the Tribunal contributes through the ability to attract skilled and competent Tribunal staff, in-depth training practices, sound governance processes and efficient handling of cases.
	An ethical, capable and professional public service		

The Tribunal has aligned its two strategic outcomes, namely: **Sound, Efficient and Responsive Adjudication**; and **Transparent, Accountable and Sustainable Entity**, within the legal mandate of the entity, to dtic outcomes as mentioned in the tables below.

Table 2: Alignment of Tribunal outcomes to dtic outcomes

dtic's Joint/Integrated outputs ²	Tribunal Outcomes	Tribunal Outcome Statement
1. Re-industrialisation – opportunities to grow the domestic market through localisation, sector partnerships (Masterplans), Green economy initiatives, investment expansion/promotion, African and Global exports.	Sound, Efficient and Responsive Adjudication	Through Sound, Efficient and Responsive Adjudication of matters across key sectors of the economy, the Tribunal contributes to the outcomes of industrialisation and economic transformation of the dtic (e.g. through the assessment of competition and public interest considerations in mergers, as appropriate).
2. Job creation – opportunities to expand jobs in key sectors through dtic's industrial development and economic interventions, improved employability and skills of the unemployed youth and marginalised communities, growth of SMMEs and creation of green jobs in sustainable industries.		
3. Transformation - opportunities to promote BBBEE, worker empowerment, addressing economic concentration and SME promotion.		
4. Capable State - initiatives to build entity staff and governance capacity, participate in the shared services of the dtic and undertake internal business processes improvements.	Sound, Efficient and Responsive Adjudication	Through Sound, Efficient and Responsive Adjudication of matters, the Tribunal aligns ethically through open and transparent communication of all case reasons including press releases and aligns capability to sound, consistent and responsive adjudication of all matters.
	Transparent, Accountable and Sustainable entity	Through Transparent Accountable, and Sustainable Entity, the Tribunal contributes through the ability to attract skilled and competent Tribunal staff, in-depth training practices, sound governance processes and efficient handling of cases.

²Linking of **the dtic's** outcomes to the NDP.

The Tribunal has aligned its two strategic outcomes, namely: **Sound, Efficient and Responsive Adjudication**; and **Transparent, Accountable and Sustainable Entity**, within the legal mandate of the entity, to NDP priorities as mentioned in the tables below.

Table 3: Alignment of Tribunal outcomes with the NDP outcomes

NDP Outcome Number	NDP Outcomes	Tribunal Outcome	Tribunal Outcome statement
NDP Outcome 1	Economic transformation and job creation	Sound, Efficient and Responsive Adjudication;	Through Sound, Efficient and Responsive Adjudication of matters across all sectors of the economy, the Tribunal contributes to the outcomes of economic transformation and employment creation by the NDP and the dtic, more specifically in mergers.
NDP Outcome 2	Education, skills and health		Through Sound, Efficient and Responsive Adjudication of matters in these 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 entity, the Tribunal contributes to a capable, ethical and developmental state.
NDP Outcome 7	A better Africa and World	Sound, Efficient and Responsive Adjudication;	Sound, Efficient and Responsive Adjudication and engagements in various forums (international, regional and local) on competition law and policy, as appropriate

The Tribunal has aligned its two strategic outcomes, namely: **Sound, Efficient and Responsive Adjudication**; and **Transparent, Accountable and Sustainable Entity**, within the legal mandate of the entity, to the Blue Sky dtic strategy as mentioned in the table below.

Table 4: Alignment to dtic Blue Sky strategy

Blue Sky Interventions	Blue Sky Outcomes	Tribunal Outcomes	Tribunal Outcome Statement
Process and policy instruments Optimisation, harmonisation, digitisation, and integration to improve service delivery and operational efficiency.	A fully integrated and digitised management system enrolled to track and monitor operations efficiency.	Transparent, Accountable and Sustainable entity	The Tribunal will seek to improve its knowledge management through the modernisation of the Tribunal's systems, focusing on leveraging technology to enhance efficiency, streamline workflows, and improve case management processes. This includes upgrading the Case Management System (CMS) with advanced functionalities such as automation, real-time case tracking, enhanced document management, and improved data security.
	Continuous improvement of business processes to increase productivity and reduce inefficiencies across operations.	Transparent, Accountable and Sustainable entity Sound, Efficient and Responsive Adjudication	Timeous payment of suppliers Reduction of turn-around times and improved efficiencies in completing matters
Mergers Reduction of Turnaround Time for Investment Approval Optimise Regulation Processes	Accelerate the approval process for mergers by reducing delays and enhancing the speed of business integration.		

3.2. Core Activities

The Tribunal is an independent and impartial administrative body with jurisdiction throughout South Africa. We are required to perform our functions without fear, favour or prejudice. As a specialised judicial body established under the Competition Act, its main purpose is the adjudication of mergers and prohibited practice cases brought before it. Consequently, the Tribunal's activities and resources are structured to enable it to fulfil this primary mandate effectively and efficiently.

Through adjudicating for competitive and inclusive markets, the Tribunal plays a critical role in helping to create conditions that contribute towards sustainable growth and, ultimately, a vibrant South African economy. For example, the Tribunal's decisions aim to:

- provide consumers with lower prices and high-quality products.
- promote the participation of SMMEs and HDP firms.
- promote a greater spread of ownership by HDPs and workers; and
- promote innovation, productivity and long-term inclusive growth, among others.

The Tribunal's adjudicative functions fall into two main categories: (i) the adjudication of mergers and (ii) the adjudication of prohibited practices. However, these broad categories encompass various types of matters that come before the Tribunal, which are outlined below.

i. Merger Regulation

Mergers are the lifeblood of an economy and a source of growth and investment. However, mergers can also result in a substantial lessening of competition which can alter the structure of markets. The Act prohibits mergers which are likely to have a net effect of substantially preventing or lessening competition or which cannot be justified on public interest factors.

Mergers are classified into small, intermediate and large by reference to the merging firms' asset or turnover values.

Large mergers

Regarding large mergers, the Commission assesses and recommends an outcome to the Tribunal. The Tribunal then assesses the merger and decides the outcome. It can approve with or without conditions or prohibit the merger following a hearing. The majority of mergers brought before the Tribunal are large mergers. These historically required relatively less consideration as they did not always raise competition concerns. However, since the 2018 amendments, this is no longer the case as the Tribunal is now required to consider both competition and public interest in merger, resulting in most mergers raising several complex issues. In addition, the few large mergers that are contested because the Commission has made a recommendation that is not acceptable to the merging parties, or another affected third party require the Tribunal to allocate additional resources that enables it to make an optimum decision.

Small and intermediate mergers

With all small and intermediate mergers, the Commission assesses and decides the outcome. It can approve outright, approve with conditions or prohibit. The Tribunal hears and decides appeals and

reviews of the Commission's decisions on small or intermediate mergers. These mergers are therefore only referred to the Tribunal when a merger party or an affected third party is dissatisfied with the Commission's decision. As a result, small and intermediate mergers constitute a smaller portion of the cases handled by the Tribunal. However, since these cases are always contested when they reach the Tribunal, they demand a greater allocation of resources.

Assessment of mergers

In the assessment of mergers, the Tribunal must consider the impact of the proposed transaction on competition as well as public interest grounds. These include the effect of the merger on a particular industrial sector or region; employment; the ability of SMMEs and firms owned or controlled by HDPs to effectively enter into, participate in or expand within the market; the ability of national industries to compete in international markets; and the greater spread of ownership by HDP and workers in firms in the market. In weighing up competition and public interest factors, the Tribunal, in practice, conducts a complete competition analysis (which includes balancing competition harm with efficiencies) followed by a public interest analysis, in order to determine the net effect of the transaction.

ii. Prohibited practices

The Tribunal adjudicates and decides prohibited practices (cartels, vertical restrictive practices and abuse of dominance) on referral to it by the Commission or third parties in case of a non-referral by the Commission.

Prohibited practice cases are generally fewer and slower than mergers for various reasons, inter alia, that the proceedings are adversarial in nature, and the stakes are high in that a finding of a contravention could lead to a substantial administrative fine; the parties therefore have less of an incentive to cooperate. To a large extent, the speed at which restrictive practice cases are heard is dependent on the parties' litigation strategies and the ripeness of the matter to be heard. In some instances, interlocutory proceedings (such as discovery disputes, access to the record, confidentiality claims, jurisdiction points) delay the hearing of the matters.

Anticipated increase in prohibited matters

The Tribunal anticipates an increase in prohibited practice cases brought to it. This is largely due to the 2018 amendment to the Competition Act which have seemingly broadened the definition of an exclusionary act in the abuse of dominance provisions of the Act. The Tribunal's decisions on prohibited practice cases potentially have sector-wide and economy-wide implications and are likely to impact significantly on business behaviour. It is in this area that the objectives of competitiveness, black economic empowerment and SMME development are most directly advanced. Restrictive practices are prohibited by the Act precisely to improve the competitiveness of firms, to prevent abuse by dominant firms, to lower barriers to entry and to allow for markets to be contested.

Similar to contested mergers, prohibited practice matters tend to require extensive resources from the Tribunal.

Although prohibited practice matters are generally contested and resource intensive, in certain instances, the Commission and the respondents may enter into settlement agreements as an alternative to litigation. In these instances, the matter is heard by the Tribunal as a consent order,

where the Tribunal is requested to approve the settlement agreement which brings an end to the complaint proceedings.

iii. Interim Relief

According to section 49C of the Act, a complainant before the Commission on an alleged prohibited practice matter may approach the Tribunal and apply for interim relief in respect of the alleged conduct while the Commission is still investigating the complaint. An increase in demand and complexity of interim reliefs in the recent past is expected to impact on the Tribunal's operations or service delivery obligations. This can also be attributed to the 2019 amendments which have, inter alia, broadened the abuse of dominance provisions of the Act by e.g. amending the definition of an exclusionary act as including a dominant firm not only "preventing or impeding a firm from entering into or expanding ...within a market" but also "preventing or impeding a firm from participating in a market." Along with this definition is also the definition of "participate" which means "the ability of or opportunity for firms to sustain themselves in the market."

The amendments have led to an invigorated interest in interim relief which prior to the amendments had been underutilised. Since inception in 1999 to September 2023, the Tribunal has handled 32 interim relief applications. In 2023/24 alone the Tribunal has handled 9 interim relief applications, accounting for nearly a third of the interim relief applications handled over life of the Tribunal.

Anticipated rise in interim relief applications

The Tribunal has also observed a rise in the number of interim relief applications brought before it on an urgent basis, with many complainants seeking relief in time-sensitive matters, such as contracts set to expire within weeks of the application being filed. These cases have necessitated the Tribunal to swiftly consider the issues and deliver its decisions within tight timeframes. Due to the Tribunal's resource constraints, this may result in the Tribunal having to prioritise these urgent matters over other less time-sensitive albeit equally important matters.

iv. Market Inquiry Appeals

Furthermore, the amendments to the Act have led to an expansion of the Tribunal's mandate and functions. Prior to the amendments, market inquiries were conducted by the Commission with its findings and recommendations being non-binding on the parties who were the subject of the market inquiry. Since the amendments, the Commission has extensive powers to make binding decisions, including ordering divestiture of an asset of a business. The recent market inquiry by the Commission into online intermediation platforms is the first market inquiry under the amended Act which has, for the first time, invoked the Tribunal's appellate functions – a new competence for the Tribunal, under the 2019 amendments. Since the Commission's release of its report on the online intermediation platforms market inquiry in June 2023, the Tribunal has received five appeals.

The matters involve complex legal and economic issues for which there is little or no precedent since these are new markets involving global technology companies. It will be necessary for the Tribunal to be adequately skilled (in terms of personnel, including Tribunal members) and financially equipped to deal with these matters expeditiously and diligently. Any delays in hearing and concluding these matters may undermine the objective of market inquiries, especially in digital markets which are

crucial in conducting business in the modern world and where developments in the relevant markets are fast paced, and timely remedies required.

v. Interlocutory applications

The Tribunal also hears interlocutory applications that are necessary or incidental to the performance of its functions in terms of this Act. These arise in both prohibited practice matters as well as mergers and include:

- *Exception applications:* Respondents frequently bring objections to a complaint referral prior to pleading (filing their response). 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 disclose documents in a case and applications to compel disclosure may follow if there are disputes over relevance, whether the document exists or over claims of privilege.
- *Confidentiality applications:* Parties are entitled to claim documents containing certain 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 has an interest in the merger and can assist the Tribunal in the determination of the merger,
- *Variation Applications:* The Commission and/or parties to a merger can approach the Tribunal to request a variation of merger conditions previously imposed by the Tribunal/Commission; and
- *Points in limine:* The Respondents can bring an objection based on a question of pure law prior to pleading for example where the Tribunal's jurisdiction is questioned.

Interlocutory applications often necessitate extensive consideration of legal arguments and evidence. Moreover, these applications frequently extend beyond the Tribunal, as affected parties commonly appeal the Tribunal's decisions to higher courts. This process has, in some cases, resulted in significant delays, with matters taking several years to resolve as they progress through the judicial system, sometimes going all the way to the Constitutional Court.

vi. Exemptions

A firm or a group of firms may apply to the Commission for exemption from the provisions of the Act regulating prohibited practises. However, persons affected by the Commission's decisions may appeal those decisions to the Tribunal.

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

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

5. Competitiveness and efficiency gains that promote employment or industrial expansion.

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

The core work described above is carried out through the Case Management Division, which plays a vital role in facilitating the adjudication process undertaken by Tribunal members.

Case Management

The Case Management Division ensures the efficient and seamless handling of cases, from initial filing to final adjudication. It plays a vital role in promoting the transparent and effective processing of cases, enabling the Tribunal to deliver consistent and timely outcomes. The division works in close collaboration with other divisions to manage workflow and provide crucial support throughout the adjudication process. A Case Manager's primary responsibility is to assist Tribunal Members in preparing for matters and to oversee the effective administration of cases from start to finish. This includes drafting case summaries, coordinating with the Registry to ensure smooth administrative processes, communicating with relevant parties on behalf of Tribunal Members, updating the Registrar on case developments, maintaining accurate and timely updates in the case management system and consulting with presiding Tribunal Members on case-related issues.

As can be seen from the above, the case management role involves substantial project management as well as stakeholder management. The Act provides for hearings which may be conducted informally or in an inquisitorial manner and empowers the presiding member to determine any matter of procedure with due regard to Tribunal's rules of procedure, natural justice, expedition, and transparency. As such, cases require significant communication with parties, which communication most often has substantive legal effect. The practical effect of this means - in ordinary courts, procedural rules dictate a case's progression and the court's registry liaises with the public, while court clerks do not interface with the public at all. In the Tribunal, communication to and from parties to a matter is handled exclusively by the case managers.

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 to ensure the retention of skilled staff and to provide some career progression albeit limited.

Finding experienced staff members in the highly specialised field of competition law and economics remains a challenge as 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, assists in attracting staff members of a high quality to the Tribunal.

Tribunal Members

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

Tribunal Members are responsible for fulfilling the Tribunal's core mandate: adjudicating matters brought before it. They serve on a panel, hearing cases where parties present legal arguments and evidence before reaching a decision. The role requires a deep understanding of complex legal, economic and factual issues, demanding careful analysis of the evidence presented. As such, Tribunal Members must possess the necessary skills and experience to navigate these complexities effectively. In addition to presiding over hearings, they are also tasked with drafting written reasons for panel decisions—an intricate and time-intensive process essential for ensuring transparency and accountability in the Tribunal's rulings.

Tribunal's Secretariat functions

The Tribunal's Secretariat is responsible for providing administrative and operational support to the Tribunal. The Tribunal Secretariat is made up of the Office of the Chief Operating Officer, the Finance and SCM Division, the Case Management Division, Registry and the Corporate Services Division.

3.3. Specific Strategic Priorities

While aligned with the policy priorities outlined in section 3.1, the execution of the Tribunal's mandate encompasses the activities detailed in section 3.2. Ultimately, the Tribunal's strategic priorities focus on carrying out these activities as effectively and efficiently as possible. For the institution to deliver effectively on its mandate, it needs to grow. Although the Tribunal has regularly met a majority of its KPI's, the Tribunal as the institution remains under capacitated. While the volume and complexity in the cases have increased over time, the Tribunal's resources, particularly our human capital, has remained relatively the same. The Tribunal will require capacity to be bolstered on both the adjudicative and governance side. The resourcing has not kept up with the demands for our services and the complexity of matters considered. To this end, the Tribunal has identified specific priorities for the MTDP period, aimed at enhancing the execution of its mandate.

i. Increased Member Capacity

The Tribunal's organisational structure review has revealed significant under-capacity both within the Tribunal's Secretariat as well as Tribunal members. In the Tribunal's first Annual Report of 2000/01³, the Tribunal issued only 14 orders compared to 2023/2024 where the Tribunal issued 171 orders. The Tribunal's staff complement in 2015 when it celebrated its 15-year anniversary was 26, however by the current financial year this has only grown to 30 (excluding two interns). The Tribunal has a highly regarded but limited composition of two full-time members and four part-time members (four full-time members and six part-time members five years ago).

In 2022/2023, the Tribunal concluded an organisational review exercise which sought to assess organisational structure to evaluate the capacity to deliver on the Tribunal's mandate in light the competition amendment act and increased demand for Tribunal services. The organisational review

³ This was for the seven-month period from the inception of the Tribunal and ending 31 March 2000)

exercise benchmarked the Tribunal against the UK Competition Appeal Tribunal, Competition Tribunal Canada, and Australian Competition Tribunal, given the similarities in the structure of the competition regimes. The comparison is indicated in the table below:

Table 5: Member and Caseload Benchmark

	UK Competition Appeal Tribunal	Competition Tribunal Canada	Australian Competition Tribunal	Competition Tribunal South Africa
Membership or number of members	30 Chairmen (Judges) and 23 Ordinary Members	Six judicial members and eight lay members	A President, three Deputy Presidents and five other members	Chairperson and two full-time members.
Activities	30 judgements and 170 orders per year on average over the last 5 years	Average of 10 cases per year	Average of five cases per year	176 cases were heard, 164 orders issued, and 109 reasons issued on average over the last 5 years

At a high-level, the findings indicated that the Tribunal is severely under-capacitated in terms of members and the demand for the Tribunal, or the number of cases heard in a year far exceeds that of any of the other Tribunals. The outcome of the organisational review exercise was a recommendation to increase capacity in order to meet the increased workload. The increase in capacity mainly relates in the appointment of skilled lawyers and economists in the case management division, as well as the appointment of full-time members. This is because case work comprises the bulk of the Tribunal's work.

The amended Competition Act makes provision for an increased number of Tribunal members from 11 to 15 members (including the Chairperson) in anticipation of the increased workload. The amended Competition Act also gives the Minister the power to appoint acting part-time members. The Tribunal's current complement of members is six out of 15. Two members are full-time (including the Chairperson⁴), one of which is a lawyer and the other an economist, and four are part-time members. Among the six, there is an equal split of lawyers and economists. For majority of cases, 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. Only in interlocutory matters can a single member preside over the hearing, however, the increase complexity within these matters makes this an unviable option. This means it is important to improve the gearing of members and specifically the number of full-time lawyers.

There remains a critical need for more members to be appointed on a full-time basis. This is because of the day-to-day management of cases prior to a hearing, which is extensive. Further, for cases of a

⁴ The Chairperson also has executive responsibilities as the Accounting Authority, which further limits her capacity to participate in hearings.

longer duration (one week and more), it is not feasible to conduct hearings with part-time members due to their other commitments arising from their full-time employment. To increase the efficiency of the Tribunal, the optimal gearing ratio between full-time members and part-time members requires review. Based on the current activity of the Tribunal's work as well as the projected increase, the Tribunal would require at least six full-time members to ensure its sustained efficacy.

Tribunal member vacancies impact on the efficiency of the adjudicative process and have caused delays in certain turnaround times, particularly with the issuing of reasons for decisions. This will be further exacerbated by the predicted increased complexity of cases because of the recent amendments to the Competition Act for which there is no precedent.

Finally, a significant shortcoming has been noted in the recruitment process for new Tribunal members. In instances where existing Tribunal members resign and a replacement is required, the recruitment process, which the Tribunal does not control, has tended to take long resulting in extended periods of undercapacity for the Tribunal. It may be necessary for the Tribunal to engage the **Minister** and ultimately the Presidency in order to develop a more streamlined recruitment process such that the Tribunal is not left under capacitated when Tribunal members depart.

ii. Increased Secretariat Capacity

The Tribunal's secretariat is responsible for providing administrative and operational support to the Tribunal. The Tribunal conducted a review of the organisational structure which was completed in April 2023. The intention of the organizational structure review process was to ensure that the Tribunal's structure is fit for purpose and supports the execution of its mandate. The new organisational structure is aimed at aligning with the Tribunal's strategic goals, improving efficiency, ensuring the Tribunal is able to adapt to its ever-changing environment and optimizing resource utilization.

The Tribunal's secretariat is responsible for providing administrative and operational support to the Tribunal. The revised organizational structure increased the Tribunal's approved headcount from 35 positions to a total of 68 positions which the Tribunal planned to be filled over a three-year period. The Tribunal had intended to implement this plan gradually over the MTEF period. During the previous financial year, the Tribunal prioritized filling 10 positions, of which only five have been filled. This is due to cost containment guidelines that were issued by National Treasury, including a moratorium on filling vacant positions. This has delayed the Tribunal's ability to fully implement its organizational structure as originally planned.

During the MTDP period, the Tribunal will prioritise fully implementing its revised organizational structure. Achieving this will require support from the dtic and National Treasury to ensure that the Tribunal's funding model adequately supports the execution of its mandate and the achievement of its strategic objectives.

iii. Office and Court Space

With the planned headcount increases in Tribunal members and the Tribunal Secretariat, the Tribunal requires additional office space for both the employees, members and courtrooms. The current offices of the Tribunal within the dtic campus are not adequate for the envisioned growth of the Tribunal. Particularly, the current office space is at full capacity, with limited space for current part-time members and additional employees.

In addition, in improving efficiencies and turn-around times of cases with additional member capacity, additional courtrooms will be required so that multiple hearings can run simultaneously. Since the pandemic, the Tribunal has made use of virtual hearings however this may not necessarily be ideal for all kinds of matters in the long term. Courtrooms also require to be upgraded to accommodate both physical and virtual hearings.

The dtic has confirmed that the campus does not have sufficient vacant space to accommodate the Tribunal's requirements, which requires the Tribunal to seek additional space outside of the campus.

Additional office space is subject to budget availability. This has been deferred due to the budget reductions that were imposed over the medium-term period. This will nonetheless remain a key priority for the Tribunal over the MTDP period.

iv. Knowledge Management

The Tribunal has recognized knowledge management as a key area for development during the MTDP period. Knowledge management is essential for the Tribunal, as it supports the efficiency, consistency, and quality of judicial processes. By ensuring that Tribunal members and case managers have access to accurate and current case precedents and procedural guidelines, knowledge management facilitates informed, consistent, and well-reasoned decision-making. It also minimizes the time and effort needed to research legal issues, track case progress, or retrieve past judgments. This ensures that the Tribunal's approach remains consistent over time, treating similar cases in a similar and predictable manner. Protecting the Tribunal's institutional memory is especially crucial when there are changes in its members and case management staff. For these reasons, knowledge management is fundamental to the Tribunal's ability to operate efficiently, uphold consistency, and adapt to evolving demands, all while maintaining the principles of national justice.

Over the MTDP period, the Tribunal has prioritised fostering a knowledge management in its strategy and within its employees and process. The Tribunal has identified gaps in its knowledge management processes which it will seek to address over the MTDP period, including appointing a Knowledge Management Officer.

Manager: Knowledge Management

The revised organisational structure identified that need for and introduced the role of Manager: Knowledge Management within the IT Division. The Tribunal will prioritise the recruitment of a knowledge management specialist with the requisite skills and experience for occupy this role. The Manager: Knowledge Management will serve as the knowledge management champion for the Tribunal and will be tasked with driving the required shift in culture.

Case Management System

The Tribunal has initiated the process for considering the feasibility of replacing its case management system, Case 360. The Tribunal has used Case 360 for the better part of two decades. The system has been largely issue-free since its inception and has been customised for the Tribunal's purposes. However, Case 360 also has limitation in terms of what it can achieve from a knowledge management perspective for the Tribunal. For example, the system is old and lacks new technology such as cloud-based services; it is very hardware intensive meaning it is not sustainable; it lacks compatibility with

mainstream applications used by the Tribunal such as Office365; and offers no intelligence reporting functions. It may be the case that the technology landscape has shifted significantly over the past few years and the Tribunal must consider whether the current system is still fit for purpose, particularly as it attempts to improve its knowledge management outcomes over the next few years.

Knowledge Management Culture

In order to drive a knowledge management culture shift, a few initiatives will be required. The Tribunal will introduce knowledge management as one of its core values, ensuring that employees appreciate its importance as part of the institution's culture. The introduction of a new case management system will provide the necessary tools for employees to create, share, and apply knowledge across the organization on issues related to cases as well other operational processes. The new case management system as well as the Manager: Knowledge Management will ensure that knowledge management is embedded into the Tribunal's day-to-day processes. Employees will also be provided with training and capacity-building to ensure they understand the importance of knowledge management and how to use knowledge management tools effectively. Finally, once all the above has been introduced, the adoption and implementation of the Tribunal's knowledge management principles will be monitored through the Tribunal's performance management processes which will include ensuring that knowledge management form's part of employees' performance contracts.

Reasons and orders are made available on the Tribunal's website allowing the public access to the Tribunal's previous decisions. Internally, the Tribunal must ensure that this knowledge base accumulated over 25 years across different legal and economic complexities is preserved and organised in a way that reduces the learning curve in future matters. The preservation and development of this knowledge base is imperative in maintaining the organisations institutional memory and ensure effective succession planning for years to come.

v. Strategic Collaboration

The Tribunal has also recognized strategic collaboration as a key tool to enhance its efficiency and effectiveness during the MTDP period. For regulators, strategic collaboration offers numerous benefits, including the ability to address complex challenges and improve effectiveness. By sharing best practices, exchanging knowledge, and aligning standards, collaboration can lead to more consistent and effective regulatory outcomes. It also provides access to specialized expertise and technical knowledge, which enhances decision-making and overall regulatory performance. Additionally, strategic partnerships can introduce the Tribunal to new technologies, trends, and innovative practices, allowing it to adapt more effectively to evolving industries. This is particularly relevant as the Tribunal seeks to replace its existing case management system.

The Tribunal will focus on building working relationships with other regulatory adjudicators both locally but also in other jurisdictions. In the 2022/2023 financial year, the Tribunal undertook a working visit to the Competition Appeals Tribunal (CAT), which is the Tribunal's counterpart in the United Kingdom. This proved to be an opportunity for the Tribunal to observe how adjudicators in other countries organise their resources and processes. The Tribunal will look to build much more permanent relationships with adjudicators in South Africa and abroad through the signing of Memorandums of Understanding and organising similar working visits for critical staff.

Further, the Tribunal will lead an effort to set up specialised fora for adjudicators within the existing international competition bodies. Bodies such as the International Competition Network (ICN) have proved particularly useful, serving as platforms for competition regulators to advocate for the adoption of superior standards and procedures in competition policy around the world, formulate proposals for procedural and substantive convergence, and seek to facilitate effective international cooperation for the benefit of member agencies, consumers and economies worldwide. The Tribunal was a founding member of the ICN, however the majority of the ICN's activities remain targeted towards regulators as opposed to adjudicators. The Tribunal will therefore seek to introduce discussion on the possible creation of an ICN Adjudicators Forum. This will serve as a platform for adjudicators to share ideas and experiences regarding the issues facing competition adjudicators around the world. Following this, similar bodies can be introduced into the competition workstreams linked to BRICS+, United Nations Trade and Development (Unctad), AfCFTA, COMESA and the Organisation for Economic Co-operation and Development (OECD).

4. Institutional policies and strategies over the five-year planning period

The preamble to the Act establishes its purpose of promoting and maintaining competition in the economy to benefit all South Africans. It acknowledges the country's past economic imbalances and aims to create an equitable market system that fosters economic growth, employment, and consumer welfare. The Act seeks to prevent anti-competitive conduct, enhance the efficiency and adaptability of the economy, and promote small businesses and firms owned by historically disadvantaged individuals. It also aims to ensure broader participation in the economy while maintaining the international competitiveness of South African businesses.

For example, in *Competition Commission of South Africa v Mediclinic Southern Africa (Pty) Ltd and Another*, the Constitutional Court emphasised that the competition authorities are obliged to interpret the Act in a manner which upholds the values enshrined in the Bill of Rights of the Constitution of the Republic of South Africa which means applying a transformative, constitutional and context-sensitive approach to its determinations.

The Tribunal aligns with the preamble of the Act and plays a vital role in advancing dtic priority outcomes of industrialisation, transformation, and building a capable state. By promoting competition, the Tribunal ensures that markets remain dynamic and inclusive, laying the groundwork for industrial growth and equitable economic participation. Through its adjudication of anti-competitive behaviour, such as collusion and abuse of dominance, the Tribunal fosters an environment that supports local industries, enabling them to thrive and contribute to South Africa's industrialisation goals.

Industrialisation requires a competitive market landscape that incentivises innovation and investment. The Tribunal's decisions discourage monopolistic practices that stifle smaller players and allow dominant firms to exploit their market positions. By ensuring access to markets and curbing anti-competitive mergers, the Tribunal helps level the playing field, allowing South African industries to grow and compete both locally and internationally. This contributes to the dtic's broader objective of expanding the country's industrial base and creating sustainable economic growth. This was evident in the *Draslovka Holdings and Sasol SA Ltd* case in which the Tribunal blocked the merger to safeguard

against the negative impact it would have had on the gold mining industry. The merger would have altered market dynamics relating to sodium cyanide, which is a crucial input in the gold mining process.

Transformation is central to the Tribunal's work, as it actively addresses barriers to market entry for historically disadvantaged individuals (HDIs) and small and medium enterprises (SMEs). The Tribunal's commitment to economic inclusivity ensures that competition law enforcement aligns with South Africa's transformation agenda, fostering opportunities for HDIs to participate meaningfully in the economy. By penalising exclusionary practices and promoting diversity in supply chains, the Tribunal directly contributes to reducing inequality and advancing economic empowerment. One such example of this related to the ***Food Lovers Market SA (FLM SA) and Everfresh Market***, in which the Tribunal approved the merger subject to public interest conditions aimed at promoting ownership and procurement from HDPs in the KwaZulu-Natal grocery retail market.

In pursuit of building a capable state, the Tribunal exemplifies institutional integrity, efficiency, and transparency in its operations. Through robust adjudicative processes, the Tribunal ensures that competition law enforcement is impartial, independent, and aligned with constitutional principles. By resolving cases efficiently and building public trust in its decisions, the Tribunal strengthens the regulatory framework, which is essential for a capable and effective state. Furthermore, the Tribunal contributes to this outcome through the track record of eighth consecutive clean audit opinions, which also talks to the Tribunal's integrity and transparency of its operations.

By aligning its activities with the dtic's priority outcomes, the Tribunal not only fulfils its mandate but also acts as a key driver of South Africa's socio-economic transformation. Its role in promoting industrial growth, fostering inclusivity, and upholding the rule of law ensures that its impact extends beyond the courtroom, contributing to a stronger, competitive, and more inclusive economy.

In addition to the alignment of the Tribunal outcomes to the priorities mentioned in Section 3, the Tribunal notes that competition policy is explicitly cited as one of the industrial policy tools available to the state. According to the National Industrial Policy document 2025, Competition policy seeks to reduce economic concentration, foster effective competition to drive industrialisation, nurture dynamic firms, safeguard and create jobs, and advance economic inclusion and transformation. Evidence suggests that highly concentrated markets can stifle innovation and inclusive economic growth.

South Africa's integration of competition policy with industrial policy highlights the commitment to fostering an inclusive, and dynamic economic environment. This approach curbs abuse of dominance, proactively open markets, and drives development to build and grow a truly inclusive economy.

5. Relevant Court Rulings

Court judgments continue to influence the Tribunal's operations into the future. Some relevant rulings are as follows:

Babelegi Workwear and Industrial Supplies CC

In our landmark ruling which was upheld by the Competition Appeal Court (CAC), this was the first successful excessive pricing case in over 20 years involving a complaint brought by the Commission against Babelegi. Babelegi is a small reseller of face masks. As consumers scrambled to procure protective equipment and essential items during the lockdown, they were confronted by instances of suppliers taking advantage of the crisis by hiking prices. Babelegi defended its actions as a simple response to increased demand against limited supply. Babelegi claimed that with a 5% market share it was not a dominant firm as defined in the Act.

We found on the evidence that the disruption to the supply chain internationally and locally conferred market power on Babelegi as it had a stockpile of masks. This allowed Babelegi to charge prices unconstrained by competitive market forces. Babelegi hiked its prices for face masks by 592% in February 2020 and 987% in March 2020. It gave no rational or valid explanation for this, and there was no evidence of corresponding increases in its input costs. We relied on Babelegi's own prevailing prices for masks immediately prior to the market becoming dysfunctional.

Following Babelegi, we also found that Dis-Chem, a national pharmacy retailer, had also charged excessive prices for face masks during March 2020. Dis-Chem's prices were 261% higher than its prevailing prices in December 2019. No rational explanation for the price increase was provided. Dis-Chem appealed our finding to the CAC but subsequently withdrew its appeal. Babelegi and Dis-Chem led to many firms reducing their prices for essential goods to combat COVID-19.

Mediclinic Southern Africa

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

Group Five Construction Ltd

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

Sasol Gas and CCSA

The Tribunal dismissed an application by Sasol, in terms of which Sasol sought an order suspending the legal validity and effect of a summons issued to it by the Commission, during its investigation of a complaint filed by IGUA-SA. The suspension application is related to a review application which Sasol has lodged in the CAC in which it seeks to set aside the Commission's decision to investigate the IGUA-SA complaint and issue summons. The Tribunal declined to grant the suspension application following a Constitutional Court decision in the Group 5 matter, which confirmed that only the CAC and High Court have jurisdiction over the review application in terms of which Sasol is challenging the Commission's power to investigate the complaint and issue summons.

Takata South Africa (Pty) Ltd and CCSA

The Tribunal dismissed 21 exception applications brought by Takata SA in a matter involving 21 complaints referred to the Tribunal by the Commission. In its referral, the Commission alleges that Takata SA and five other respondents, including Takata Corporation, a Japanese incorporated company and holding company of Takata SA contravened section 4(1)(b) of the Act. The Tribunal concluded that the Commission had disclosed a cause of action against Takata SA and that it pleaded various avenues linking Takata SA to the prohibited conduct. Further, that this was the concise pleading required by Tribunal Rule 15. It argued that the Commission had failed to disclose a cause of action because it had not alleged an agreement by Takata SA in the cartel, but rather that Takata Corporation had reached agreement with its competitors globally in Europe and/or Asia in contravention of section 4(1)(b) and consequently has not pleaded facts regarding Takata SA as a party to the alleged agreement. The Tribunal found that the grounds for exception required it to determine whether the Commission's referrals met the requirements of Tribunal Rule 15(2). In doing so, that the Tribunal must be guided by the principle of fairness, which dictates that a respondent is entitled to understand the case against it. The Tribunal's decision was subsequently upheld by the CAC.

Banks foreign exchange cartel matter

In March 2023, the Tribunal announced its decision to assert jurisdiction over the "Forex Cartel case," which involves allegations against local and international banks for colluding to manipulate the Rand-Dollar exchange rate. This case is considered a significant competition law matter due to its potential impact on South Africa's economy, particularly its currency stability, trade, and financial markets.

The Tribunal dismissed objections from various banks, which had challenged the Commission's amended complaint referral (following the Competition Appeal Court order) on grounds such as lack of jurisdiction, time-barred allegations, and insufficient factual details. In its ruling, the Tribunal found to hear the case and ordered all implicated banks to respond to the allegations within 40 business days. Additionally, nine more banks were joined as respondents, bringing the total to 28 of respondent banks.

Key points of contention included jurisdiction over foreign banks, the validity of the Commission's initiation process, and whether the case was time-barred under section 67(1) of the Competition Act. The Tribunal concluded that it has both subject-matter and personal jurisdiction over all respondents and that the Commission had complied with previous Tribunal and Competition Appeal Court orders by sufficiently detailing the alleged conspiracy.

The case alleges that between 2007 and 2013, the banks coordinated to manipulate the USD/ZAR currency pair through information sharing and collusion, thereby distorting market conditions. The manipulation is said to have had broad economic repercussions, affecting imports, exports, investments, and financial assets in South Africa. The Tribunal's ruling allows the case to proceed to the pleading stage, marking a critical step in addressing the alleged anti-competitive conduct.

In addition to the above, some other notable Tribunal decisions are stated in the table below:

Case name	Description
PepsiCo Inc and Pioneer Food Group Limited	The Tribunal approved PepsiCo Inc.'s indirect acquisition of Pioneer Food Group Ltd, through PepsiCo's SA subsidiary, Simba (Pty) Ltd in March 2020, subject to a set of public interest conditions including the promotion of a greater spread of ownership. The conditions provide for an employee share ownership scheme for workers, marking the Tribunal's first decision in this regard following the 2018 amendments.
Pick n Pay Retailers (Pty) Ltd and CCSA	<p>Supermarkets that are privately owned and controlled by historically disadvantaged persons ("HDP Supermarkets") can immediately access letting space in all shopping centres where a Pick n Pay store has exclusivity provisions in its lease agreement.</p> <p>This forms part of the terms of a consent agreement entered into between the Commission and Pick n Pay.</p> <p>In addition to the abovementioned HDP Supermarkets, the following two categories of retail stores will also no longer be restricted from letting space in shopping centres where any Pick n Pay store has exclusivity provisions in its long-term lease agreement:</p> <ul style="list-style-type: none"> • Small or medium-sized businesses (SMMEs) (as defined in the Competition Act); and • Specialty and limited line retail stores - stores within the grocery retail sector that focus on a specific product category such as butcheries, bakeries, delicatessens, liquor stores and greengrocers, or which stock and sell 15 or less product lines. <p>In terms of the consent agreement, Pick n Pay with immediate effect ceased enforcing any exclusivity provisions, or provisions that have a substantially similar effect, in its long-term exclusive lease agreements against the above three categories of retail stores.</p> <p>This was soon followed by consent agreements with both Spar and Shoprite.</p>
CCSA v BlueCollar Occupational Health (Pty) Ltd and Ateltico Investments (Pty) Ltd	The Tribunal found BlueCollar – acting on behalf of and/or within the ambit of its partnership with Ateltico (its funder) – guilty of having charged the SAPS excessive prices for the urgent supply of ten thousand 25L containers of hand sanitiser. Despite Ateltico alleging that it is was merely a funder, the

Case name	Description
	Tribunal found that Ateltico benefited from the prohibited conduct through its partnership and profit sharing with BlueCollar. It was found to be jointly and severally liable with BlueCollar for the payment of a R3 550 000 administrative penalty, the one paying the other to be absolved.

PART B: OUR STRATEGIC FOCUS

6. Vision

To be a world-class, credible institution fostering a competitive and inclusive economy.

7. Mission

The Tribunal's mission is impartial and independent adjudication to promote competitive and inclusive markets with opportunities for all.

8. Values

In pursuing its legislated mandate, the Tribunal strives to:

Values	Description
Ubuntu	<ul style="list-style-type: none">• Embracing values and practices that support and promote a sense of humanity towards each other in the workplace.• Acknowledging our interdependence on and responsibility towards each other as members of a team; and• Recognising, valuing and supporting each other's unique differences and responsibilities within the organisation.
Professionalism	<ul style="list-style-type: none">• Behaving in a manner that brings credibility to the Tribunal and maintaining quality through characteristics such as competence, knowledge, conscientiousness and respect.• Upholding the highest standards in our work, individually and collectively.• Striving for excellence in the work we do.• Displaying the best skills, producing quality work and assisting others in doing the same; and• Ensuring that everyone contributes to the highest level of service to the public and all stakeholders.
Transparency	<ul style="list-style-type: none">• Being open and honest about the Tribunal's operations and processes.• Sharing information relating to the Tribunal's performance, finances, and internal processes as well as non-confidential information on cases we adjudicate; and• Communicating our actions and decisions clearly.
Accountability	<ul style="list-style-type: none">• Accepting responsibility for our conduct towards our stakeholders, including the public, which we ultimately serve.• Providing accurate reports to all Tribunal accounting structures i.e. the dtic, National Treasury, Parliament and the public; and• Maintaining a fair performance management system that encourages growth and accountability.

Values	Description
Integrity	<ul style="list-style-type: none"> • Maintaining the highest levels of ethical behaviour in all our dealings, internally and externally; and • Making all decisions, administrative and adjudicative, in an ethical manner.
Independence	<ul style="list-style-type: none"> • Demonstrating the highest levels of independence and objectivity in the performance of our functions; and • Upholding the freedom to make decisions without improper influence.
Impartiality	<ul style="list-style-type: none"> • Impartial, unbiased and non-discriminatory decision-making across all the facets of the Tribunal's work. • Applying the law equitably to all parties; and • Consistent application of internal organisational policies to support a quality workforce.
Knowledge Management	<ul style="list-style-type: none"> • A commitment to systematically capturing, sharing, and utilizing knowledge to drive efficiency, innovation, and informed decision-making. • Knowledge is recognized as a key asset, ensuring that institutional expertise, best practices, and lessons learned are preserved and leveraged to enhance performance.
Excellence	<ul style="list-style-type: none"> • Consistently aiming for exceptional quality and performance. • Striving to exceed norms, with attention to detail and continuous improvement. • Personal pursuit of skill mastery and growth. • Drives efficient processes, innovation, and a high-performance culture.

9. Situational Analysis

9.1. External Environmental Analysis

Understanding the external environment in strategic planning is essential for anticipating challenges, seizing opportunities, and making informed decisions. The PESTEL analysis is a common strategic tool used by organisations in trying to map out the external environment. The meetings and workshops held regarding the development of the Tribunal's MTDP strategic plan aligned to the recently approved framework and guidelines for strategic planning issued by the Department of Performance Monitoring and Evaluation (DPME). The table below reflects the Tribunal's PESTEL analysis.

Table 6: PESTEL Analysis

FACTOR	ITEMS
Political Factors	<ul style="list-style-type: none"> • International <ul style="list-style-type: none"> ○ Increased nationalism and political polarization ○ Global inflationary increases ○ 2060 Africa Sustainability goals ○ Trade agreements and the impact on exports and imports, including AfCFTA ○ Growth of BRICS

FACTOR	ITEMS
	<ul style="list-style-type: none"> ○ Growth of the African Union ○ Role of international bodies, such as the UN, WHO, etc ○ 17 Sustainable Development Goals • National <ul style="list-style-type: none"> ○ Ongoing effects of state capture ○ Change in department administration ○ Policy uncertainty ○ Lack of social accord e.g., unions vs business
Economic Factors	<ul style="list-style-type: none"> • National government at the precipice of a sovereign debt crisis • Fluctuating merger activity • Rising unemployment • Fiscal constraints • Poor economic growth • Cost of living crises • Energy crisis
Social Factors	<ul style="list-style-type: none"> • Public perception – poor understanding of what we do • Digital divide – it excludes many people, particularly low income and rural areas • Inequality
Technological Factors	<ul style="list-style-type: none"> • Cyber security remains a global risk • Costs of implementing new technology • Impact of Artificial Intelligence on a global scale in all sectors and the economy
Environmental Factors	<ul style="list-style-type: none"> • Environmental degradation and climate change • Natural disasters e.g., floods • The shift to renewable energy
Legal Factors	<ul style="list-style-type: none"> • Amendments to the Competition Act • Increased regulation and compliance • International developments in competition law • High stakes, litigious behaviour • Regulator Prioritisation

A few of the pertinent factors from the Pestel analysis are considered in more detail below:

Global Inflationary Increases

Global inflation has surged in recent years due to various factors, including supply chain disruptions, rising energy prices, and geopolitical tensions. According to data from the International Monetary Fund, global average consumer price index (“CPI”) reached an almost 30-year high in 2022.⁵ The global average CPI increase was 8.6% in 2022, levels not seen since the mid-1990s. The pre-Covid-19 global average CPI increase was below 4% (i.e. 3.6% (2018), 3.5% (2019) and 3.3% (2020)). The trend was

⁵ See data from the IMF available at <https://www.imf.org/external/datamapper/PCPIPCH@WEO/WEOWORLD>

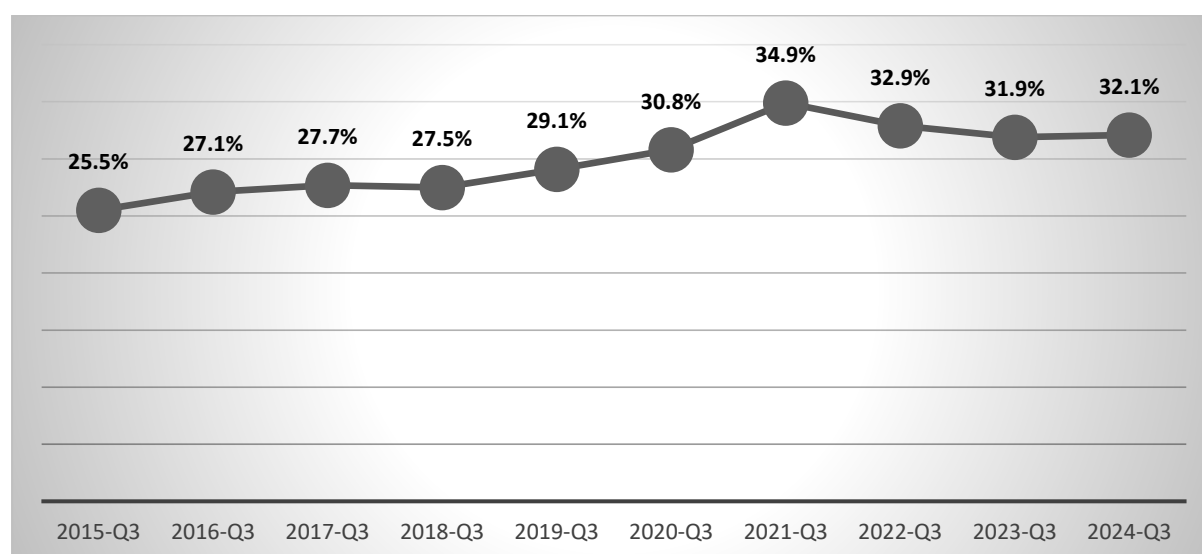
similar in South Africa with the increase in CPI reaching a high of 7.8% in July 2022.⁶ Inflation has subsided somewhat in the past 12 months with a lower reported CPI increase for October 2024 of 2.8%. Food inflation has also increased steadily over the past five years reaching a high point in March 2023 at 14%. Although food price inflation has decreased somewhat over the past 2 years, reaching lows of 2.5% in December 2024, the increase in cost of living for poor South Africans who spend a disproportionate percentage of their income on food is largely irreversible.

For the Tribunal, this inflationary environment affects both consumers and businesses, as costs for goods and services increase, reducing disposable income and heightening sensitivity to pricing and market fairness. The Tribunal may see a rise in cases related to consolidation (through mergers) price-fixing, anti-competitive pricing strategies, and monopolistic behaviour as businesses attempt to offset higher costs, underscoring the need for vigilance in protecting consumers and fostering competitive markets.

Rising Unemployment

According to data from Statistics South Africa, the unemployment rate for the period July – September 2024 was 32.1%.⁷ As shown below, South Africa has experienced extended periods of high unemployment.

Figure 1: Unemployment Rate (Q3 2015 to Q3 2024)



Source: Stats SA

High unemployment in South Africa exacerbates economic hardships, limits consumer spending, and reduces market participation, especially in lower-income demographics. High unemployment rates can lead to market stagnation, as demand decreases and businesses struggle to sustain growth, particularly small and medium enterprises (SMEs). For the Tribunal, there's a growing responsibility to ensure that larger companies do not use their market power to stifle smaller competitors, preserving market diversity and opportunity for economic inclusivity, which is crucial in a country with

⁶ See data from Stats SA available at https://www.statssa.gov.za/?page_id=735&id=3

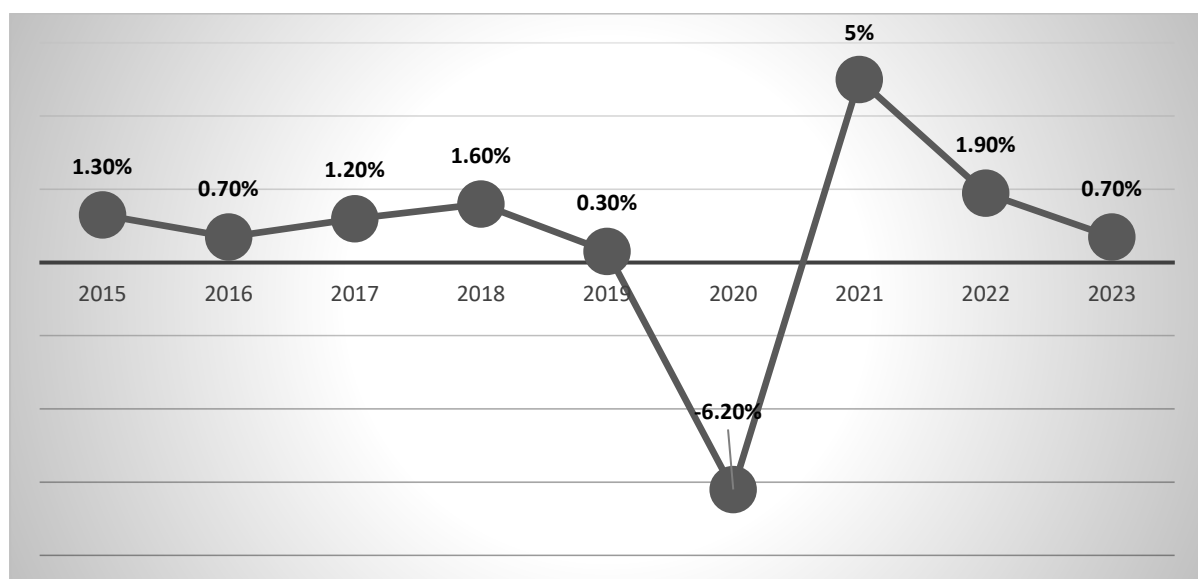
⁷ See Stats SA Quarterly Labour Force Survey Quarter 3: 2024. Available at <https://www.statssa.gov.za/publications/P0211/P02113rdQuarter2024.pdf>

rising joblessness. Further, in periods of high unemployment, it becomes even more important that the Tribunal fully consider the impact of mergers on employment in line with section 12A(3)(b) of the Act on a case-by-case basis

Poor Economic Growth

South Africa's economy does not appear to be on track to achieve its ambitious growth targets set out in the NDP. According to the NDP, one of the country's economic objectives is for real GDP to increase by 2.7 by 2030, which would require an average annual GDP growth of 5.4% over this period. GDP growth over the past decade has largely been sluggish. Between 2015 and 2023, ignoring the unique decline and recovery during and shortly after the Covid-19 pandemic (i.e. 2020 and 2021), South Africa has not achieved GDP growth exceeding 2%.

Figure 2: SA GDP Growth (2014-2023)



Source: World Bank

South Africa's slow economic growth impacts overall productivity, business profitability, and investment attractiveness. This sluggish growth limits business expansion and may lead to market consolidation, where larger firms acquire smaller ones, potentially reducing competition. For the Tribunal, poor economic growth requires a balanced approach to competition law, supporting consolidation that fosters efficiency while preventing market dominance that could stifle innovation and market access for smaller businesses. By promoting competition, the Tribunal can help stimulate economic activity and innovation across sectors.

Impact of Artificial Intelligence (AI) on a Global Scale

Artificial Intelligence (AI) is transforming industries by automating tasks, analysing vast datasets, and optimising operations, bringing both benefits and challenges. In terms of competition, AI has the potential to disrupt traditional business models, shift workforce needs, and create new monopolies in data ownership and technology. Importantly, AI is changing the way markets operate and how business decisions are taken; in certain instances, humans are being almost completely removed from the decision-making process. This means the Tribunal will explore ways to be more efficient in our

processes over the medium-term period. Furthermore, the Tribunal may in the long term have to acquire human capital beyond the skills generally required for competition regulation to adequately address the impact of these technologies on markets.

Climate Change

Climate change is driving businesses and industries worldwide toward sustainability, as governments, investors, and consumers increasingly prioritise environmental responsibility. This shift impacts competition, as companies that adopt sustainable practices may gain a competitive advantage or face increased costs for compliance. The Tribunal may need to consider how green policies affect market structures and competition, particularly regarding the carbon-intensive sectors undergoing transitions. Supporting competition while promoting sustainability aligns with both economic and environmental goals, crucial for a resilient South African economy.

Regulator Prioritisation

Notwithstanding its inability to target specific sectors or workstream, the Tribunal is also cognisant of the fact that its work is largely determined inter alia by the Commission's priorities. The work prioritised by the Commission will eventually culminate in referrals or appeals before the Tribunal. For this reason, the Tribunal pays attention to the Commission's prioritisation framework. These sectors include:

- Agriculture, Food and Agro-processing
- ICT and Digital Markets
- Energy
- Transport and Automotive
- Construction Services, Property and Infrastructure
- Banking and Financial Services
- Manufacturing
- Healthcare

9.2. Internal Environmental Analysis

9.2.1. SWOT 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 and SWOT analysis performed by the Tribunal during its strategic planning process. A SWOT analysis is a strategic tool for evaluating an organisation's internal environment, including its resource capabilities and deficiencies.

The Tribunal's internal strengths and weaknesses, together with the external opportunities and threats referenced earlier, were evaluated to provide a basis for re-aligning, re-prioritising and refining the Tribunal's goals and objectives. Table 6 below highlights the SWOT analysis conducted for the Tribunal.

Table 7: Internal environment - SWOT analysis

Strengths	Weaknesses
<ul style="list-style-type: none"> • Specialised expertise • Legislative backing • Transparency and independence • Contribution to economic growth • Precedent-setting role 	<ul style="list-style-type: none"> • Lack of members • Resource constraints – budget and capacity • Prolonged Adjudication processes – opportunity costs with other matters when members are engaged in long hearings • Knowledge Management • Limited outreach and awareness • Dependence on other institutions • Technology gaps
Opportunities	Threats
<ul style="list-style-type: none"> • Technological integration • Increased collaboration with international bodies • Public education and outreach programs • Policy advocacy and law reforms 	<ul style="list-style-type: none"> • Political and external pressures • Evolving market dynamics • Backlog and case load • Reputation management • Global economic uncertainty

9.2.2. Tribunal Structure

i. Tribunal Chairperson

The Chairperson of the Tribunal is the Accounting Authority of the Competition Tribunal. The Chairperson therefore has “hands on” involvement in the day-to-day management of the Tribunal which is consistent with the Chairperson’s responsibility as accounting authority of the institution and 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 B** illustrates the current structure of the organisation.

Annexure C details the names and positions held by Tribunal employees and provide some statistics pertaining to the profile of the secretariat. 81% of the current employees are black with 66% being female. Currently the Tribunal does not employ any persons with disabilities.

ii. Tribunal members

The Competition Act mandates that Tribunal members collectively represent a broad section of South Africa's population and possess expertise in competition law, economics, commerce, industry, or public affairs. Tribunal members, appointed by the President for five-year terms, adjudicate cases of significant economic and public interest, with panels requiring at least one legally trained member. The amended Act increased the number of Tribunal members from 11 to 15 to manage a growing workload, allowing the Minister to appoint acting part-time members.

iii. Tribunal Secretariat

The Tribunal's secretariat provides administrative and operational support within the Tribunal. The revised structure recommends increasing a Tribunal staff complement from 35 to 68 positions in total, which as previously stated will be filled over a three-year period. The Tribunal had intended to fill these positions in a phased manner over a period the MTEF period. In the prior financial year, the Tribunal prioritised 10 positions, of which five have since been filled. Subsequently, National Treasury issued cost containment guidelines in September 2023, which included a moratorium on the filling of positions and delayed the ability of the Tribunal to fill the prioritised positions

The Tribunal organogram currently provides for the following five divisions as expanded on below:

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

Office of the Chief Operating Officer

The Office of the COO plays a critical role in overseeing the operational strategy of the Competition Tribunal. It ensures that all activities align with the Tribunal's strategic goals and promotes efficiency across the organisation. The COO's office coordinates the functions of various divisions, monitors performance, and drives the implementation of key initiatives to achieve the Tribunal's objectives.

Finance and SCM

The Finance and Supply Chain Management (SCM) division is led by the CFO and is responsible for the Tribunal's financial planning, budgeting, and procurement functions. It ensures compliance with relevant legislation and regulations, manages the allocation of resources efficiently, and oversees transparent and effective procurement processes to support the Tribunal's operational needs.

Case Management

The Case Management Division focuses on the seamless handling of cases, from initial filings to final adjudication. It ensures that cases are processed efficiently and transparently, enabling the Tribunal to deliver consistent and timely outcomes. This division works closely with other departments to manage workflows and provide the necessary support for the adjudication process.

Registry

The Registry serves as the central hub for case-related documentation and communication. It maintains accurate records, facilitates the submission of legal filings, and ensures smooth

communication between the Tribunal and external stakeholders. The Registry's meticulous record-keeping is essential for ensuring transparency and accountability in the Tribunal's processes.

Corporate Services

The Corporate Services Division provides essential administrative and support services to enable the Tribunal to function effectively. This includes managing human resources, IT systems, facilities, and other operational support functions. By ensuring that the necessary infrastructure and resources are in place, Corporate Services plays a vital role in supporting the Tribunal's mission.

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.

v. Internship

The Tribunal is a small organisation and is therefore limited in its ability to offer a substantial number of internships. Despite this, the Tribunal has been able to prioritise the opportunity for two interns via its graduate internship programme in the Case Management division and one intern in Human Resource Management. The Tribunal will continue, subject to the availability of budget, to use the internship programme to provide short-term employment opportunities to unemployed youth which exposes them to valuable work experience.

vi. Capacity Development

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

Training includes in-house and on the job training with respect to the case management system and is undertaken to aid staff with the development of experience and skills in the area of competition law and economics.

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

Tribunal members in particular need to keep abreast of the extensive international case law in the field as well as legal and economic analysis in academic and practitioner journals in order to be able to perform their duties adequately. With the recent recruitment process undertaken by dtic to appoint full-time members, it is even more imperative that a robust training process is initiated.

Inducting new Tribunal members is critical to ensure they understand the Tribunal's processes and the legal-economic principles required for complex case evaluations. Familiarity with these foundations enables members to handle intricate market analyses confidently, ensuring consistent, inclusive, and transparent decision-making. Effective onboarding also allows new members to

contribute meaningfully from the start, reinforcing the Tribunal's role in promoting competitive markets amid local and global economic challenges.

The Tribunal facilitates this process by identifying the training needs of the Tribunal members and continues to facilitate the attendance of Tribunal members at international meetings/conferences (like International Competition Network (ICN) conference/working groups, and the OECD Competition Committee meetings).

These meetings provide the Tribunal members with a forum to benchmark their work and to keep up to date with aspects of competition, economics and law. The budget provides for representation at these conferences and forums.

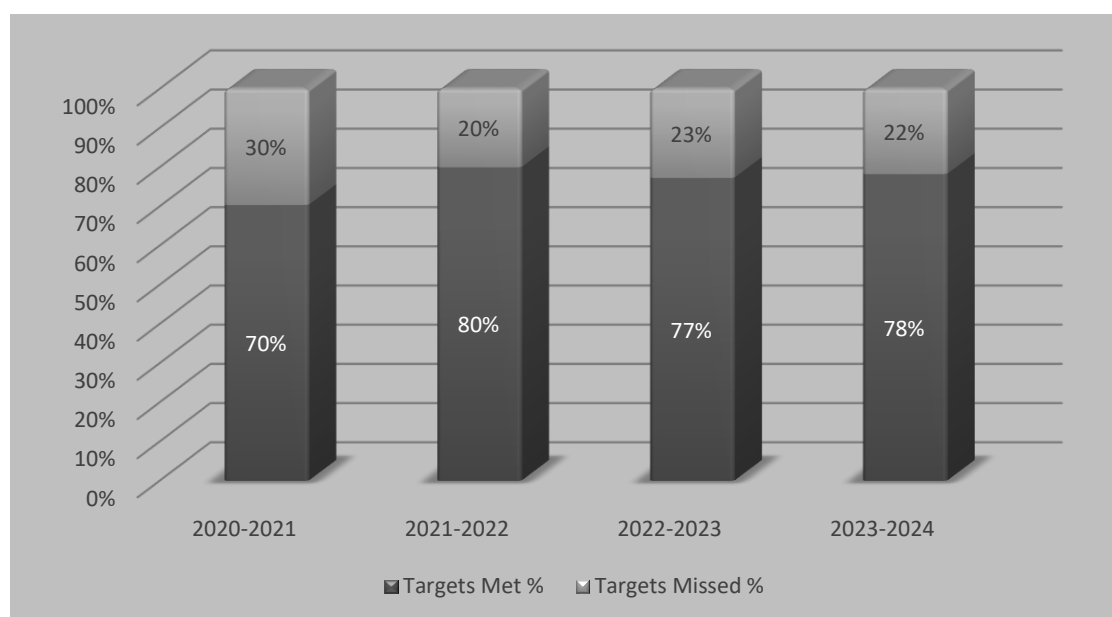
Full time Tribunal members will continue to lecture university students and will remain active in international bodies such as the ICN. The Tribunal co-founded the ICN, a network of competition authorities from across the world, was commissioned to address global antitrust problems in the context of economic globalization and focused on issues such as multi-jurisdictional merger review, the interface between trade and competition, and the future direction for cooperation between antitrust agencies. The network now comprises of over 100 jurisdictions, from 14 at inception. Since 2006 the Tribunal and the Commission have been observer members of the Competition Committee of the OECD, a body at the international cutting edge of new developments in competition law and policy. The budget provides for attendance on an annual basis at two of these meetings.

9.2.3. Performance Overview

The Tribunal has consistently performed at a high level, within its resource constraints. The figure below reflects the Tribunal's performance against applicable targets over the preceding strategic planning period (i.e. 2020-2021 to 2024-2025⁸). Apart from the 2020/2021 (which was heavily influenced by the Covid-19 pandemic), the Tribunal has consistently met more than 75% of its targets.

⁸ The performance data for the 2024/2025 financial years was not yet available at the time of writing

Figure 3: Competition Tribunal Performance Against Applicable Targets (2020/2021-2023/2024)



Source: Competition Tribunal Annual Reports

The Tribunal has generally performed well in getting merger cases set down and decided within the statutory timelines. This is aside from ongoing cases which are yet to be heard. The Tribunal's performance in completing reasons in opposed cases and in hearing prohibited practice cases (cartels, vertical agreements and abuse of dominance) of longer duration (more than two weeks) is an area of improvement and the Tribunal is taking steps to this. These include strengthening case management through the appointment of more senior Case Managers who support Tribunal members and the appointment of additional Tribunal members. Getting the appropriate gearing of the ratio between full-time and part-time members who hear cases will increase efficacy of the Tribunal. The Tribunal is engaging with the dtic on a continuous basis for the appointment of full-time and part-time members.

9.2.4. Tribunal Case Load

Although the demand for the services of the Tribunal over the past 25 years has increased significantly, the number of cases still fluctuate year-on-year. Fewer cases heard overall does not, however, translate into less work. By their nature, small/intermediate merger considerations are contested and therefore more complex. Similarly, interim relief applications are complex and contested as jurisprudence under the amendments evolves. Hearings, on their own, involve scrutinising large volumes of documentation and require intensive preparation, proceeded by lengthy amounts of time in the courtroom. The assessment of the cases cannot be measured quantitatively (in numbers) but require a qualitative assessment.

The table below provides details regarding matters heard over the past five years and the current case load for the Tribunal respectively.

Table 8: Matters heard 2019/2020 to 2024/2025

Type of case	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25 ⁹
Large merger	86	66	86	99	87	93
Intermediate/ small merger	1	2	1	1	5	0
Complaints from the Commission	9	4	6	4	1	0
Consent order/ settlement agreement	27	63	30	19	22	14
Complaints from third parties	0	0	0	1	0	0
Interim relief	3	1	2	2	7	3
Interlocutory/ procedural matters	28	16	34	73	28	28
Total	154	152	159	199	150	138*

* This excludes the matters pending before the Tribunal which is 228 matters as of December 2024 as illustrated in Table 8 below. Of the 228 total, some are not ready for hearing, some are in settlement discussions with the parties, and some are dormant (no activity for more than six months).

The Tribunal is enjoined to conduct its hearings in accordance with the principles of natural justice which means affording all the parties an opportunity to access the record, to request discovery of documents, to file their papers including filing factual witness statements and economic expert witness statements before hearing the matter. These processes take time and are in the nature of legal proceedings. Hearing dates depend, inter alia, on the availability of all parties and their legal representatives and economic experts.

Cases are received by the Tribunal through formal referrals from the Commission, applications from parties, or matters initiated in terms of the Act. Upon receipt, each case undergoes an initial review by Registry to ensure compliance with procedural requirements before being officially registered. Thereafter, the Chairperson assigns the case to a panel of three members, ensuring that at least one legally trained member is included.

For each matter, a timetable is set that makes provision for: interested third parties who wish to intervene, to do so; other interlocutory matters raised by parties and discovery processes; the filing of factual and expert witness statements; and hearing dates. Hearing dates depend, inter alia, on the availability of all parties, including panel member availability and the parties' legal representatives and economic experts.

⁹ For nine months ending 31 December 2024

The Tribunal hears matters as expeditiously as possible in accordance with the principles of natural justice. Mergers that raise very complex competition and public interest issues take longer to adjudicate due inter alia to intervention applications by interested third parties and complexity of cases. The Tribunal must balance the interests of workers, owners and consumers to the benefit all South Africans, as the Competition Act enjoins it to do.

The table below reflects the case roll as of December 2024 by type of case.

Table 9: Current roll of cases as of December 2024 (by type of case)

Case Type	On roll from 01 April 2024	Received	No of matters set down	Number heard	Withdrawn / settled/ abandoned / removed from roll	Orders issued ¹⁰	Reasons issued	On roll at the end of Dec 2024 ¹¹
Mergers	16	78	79	81	2	81	79	12
Complaint Referrals	131	3	0	0	8	0	0	115
Consent orders/ Settlement agreements	6	6	0	7	0	9	0	4
Interim Reliefs	15	8	0	2	7	1	2	12
Interlocutory/ Procedural Matters	133	16	0	17	24	19	6	85
Totals	301	81	58	84	34	86	69	228

Over the past few years, the Tribunal focused its efforts in finalising historic cases while also prioritising newer cases that come in (primarily mergers which are time sensitive). The historic cases are primarily attributable to disruptions caused by the COVID-19 pandemic, during which many cases were put on hold due inter alia to the prioritisation of COVID related cases and mergers. This was further exacerbated by the increase in volume and complexity of new cases. Post-pandemic economic recovery efforts and heightened regulatory scrutiny resulted in a surge of complaint referrals, merger reviews, and interlocutory applications. These cases often involve intricate legal and economic analyses, requiring extensive deliberation and longer time periods to adjudicate.

¹⁰ Cases with orders issued are included in the roll if the reasons are still pending, except for consent orders in which generally no reasons are issued.

¹¹ Including dormant cases.

As indicated in the table above, complaint referrals and interlocutory procedures represents 88% of the total case load.

Prohibited practices constitute the bulk of the pending cases. Prohibited practice matters take longer to prosecute and decide due to, inter alia, the complexity of the legal and economic issues they raise as well as their adversarial nature. These cases require lengthy and time-consuming hearings, that together with the current limited number of panel members, results in no other cases being heard during this period.

The Tribunal hearing calendar for the new financial year (April 2025 to March 2026) is already full with hearings of long duration (more than two weeks) through to December 2025. This includes both mergers (contested) and prohibited practices. As previously indicated, a panel is constituted by three members (one of which must be a lawyer). While part-time members are generally able to assist with shorter hearings, they are often unavailable to sit in matters that require longer hearings, due to obligations in their full-time employment, increasing the number of full-time members from two currently to six will improve the Tribunal's efficiencies.

By addressing these systemic inefficiencies and investing in capacity-building initiatives, the Tribunal aims to reduce the caseload while adapting its processes to manage the anticipated increase in caseload and complexity.

9.3. Financial Analysis

i. Financial requirements and resources

The Tribunal's budgetary requirements (inclusive of capital expenditure) over the five-year period (2025/2026 – 2029/2030) are estimated to be **R356.88m**. It is anticipated that we will receive income from the three sources below:

- The dtic grant funding of **R231.11m** for five years.
- Expected filing fee revenue of **R115.77m**; and
- Use of accumulated cash surpluses of **R9m** as at end of March 2024 for the following three-year period.

The cash surplus has been accumulated over several years as a result of judicious management of resources. It serves as a necessary buffer to the variability of filing fees.

ii. Filing fees

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

As indicated throughout this document there is significant uncertainty regarding both the volume of mergers and the value of the filing fees expected by the Commission. So, while the MTEF budget is drawn, using the Commissions estimates as a basis, it is possible that we may need to reconsider the budget in the next financial year.

Regarding the above, the Tribunal's funding model would need to be revised due to the uncertainty of the filing fees and the increased operational requirements of the Tribunal.

iii. Retention of surpluses

Historically the escalation in the grant allocated by government to the Tribunal has been inadequate to cover expected expenditure year on year as these were inflationary as opposed to the Tribunal's operational requirements. The Tribunal was in a position to balance its budget by making use of accumulated cash surpluses that have been drawn down year on year.

This "drawing down" has been reflected in the MTEF and Estimates of National Expenditure (ENE) submissions and has been communicated in the Tribunal's APP annually since November 2010.

Permission was granted in November 2023 to retain accumulated cash surpluses (approximately R13m) to fund the budgeted shortfall in 2023/2024. The Tribunal has also been granted permission by National Treasury to retain the remaining surplus of R9m.

Majority of the 2023/24 allocation of retention surplus will be towards member appointments. The budget for the appointment of members was mostly impacted by the budget reductions imposed in 2023/24 over the medium-term period and there is currently insufficient budget for the appointment of members. As an interim measure, the surplus retention will be used until additional budget is provided.

Although the Commission and Tribunal budgets vary according to their mandates (i.e. Commission annual budget R550m and Tribunal annual budget R69m), the Tribunal is required to preside over all the cases that come through from the Commission. To this end, the Tribunal is required to be adequately resourced, both human resources and finance, to be able to keep up with this demand.

The Tribunal budget over the three-year MTEF period is reflected in table 5 below.

Table 10: Tribunal budget over the three-year MTEF period

Year	Annual budget increment	Total budget (R'm)	MTEF funding (R'm)	Filing Fees (R'm)	Interest (R'm)	Use of accumulated surplus (R'm)	Additional funding required (R'm)
2025/2026	7.20%	R67.75	R42.60	R23.15	R2.00	R6.00	R0.00
2026/2027	2.14%	R69.20	R44.05	R23.15	R2.00	R2.00	R0.00
2027/2028	2.88%	R71.190	R46.04	R23.15	R2.00	R1.00	R0.00
TOTAL		R208.14	R132.69	R69.45	R6.00	R9.00	R0.00

A summarised three-year budget and the main assumptions made in drafting the 2024/2025 APP and the extrapolated budget over the three-year period are included in **Annexure H** of this document. At least 70.8% of the overall MTREF budget relates to employee costs, as the Tribunals work mostly a human intensive organisation.

iv. Budgeting

As indicated earlier the Tribunal, being an adjudicative body, is reactive as opposed to proactive in terms of the cases brought before it. This in turn means that management is unable to accurately predict the number of cases to be heard on an annual basis.

Budgeting accurately therefore is not possible as many of the line items are based on an estimated number of cases for the financial year. In addition, the Tribunal makes provision for legal fees, as it is possible that particular cases may require the Tribunal to seek legal opinion.

Both these factors mean that, inevitably, variances in actual expenditure as opposed to budgeted expenditure arise. The trend over the last five years has been towards actual expenditure being more closely equated to the budget and resulting in smaller variances (as illustrated in the table 6 below) and the Tribunal strives for this trend to continue.

In the 2023/24 financial year, National Treasury had instructed national departments, and the entities to apply more stringent measures to reduce the government spending, improve spending efficiencies and maintain a sustainable fiscal framework. This had resulted in an immediate reduction of the Tribunal's grant allocation for the 2023/24 to the 2026/27 financial year.

A reduction of the Tribunal's budget by R4.3 million in the 2023/24 financial year coupled with a further reduction in our budget by R15.4 million over the MTEF period translated to a reduction of 10% to 12% overall to the Tribunal's budget. This reduction had a substantial impact on the ability of the Tribunal to deliver on its mandate. 72% of the Tribunal's costs are on personnel. There is a need for more resources and capacity. The nature of the Tribunal's work is human capital intensive.

The reduction in the budget means that the Tribunal will not be able to fill critical vacancies in the Tribunal as planned and budgeted for, but it also means that we will not be able to sustain the costs of those new employees that have already been appointed in line with the proviso as stated above.

Furthermore, the reductions in budget deferred some of the critical initiatives that the Tribunal had identified for this period, such as the capacitation and growth of the organisation as per the organisational review and identifying additional office space.

From a funding perspective, the Tribunal receives about 60% of its funding from government grants and 40% from filing fees. Filing fees generated are not always in direct correlation to the activity levels of the Tribunal and are therefore unpredictable. In the past, other than the budget reductions imposed, the grant allocation has increased based on inflationary rates and not as per our operational requirements.

The above funding constraints together with the budget reductions further impact the ability of the Tribunal to meet its mandate effectively and efficiently at a time when the effects of the amendments to the Act are now manifesting in real cases.

Table 11: Spend against budget 2019/2020 to 2023/2024

Year	Actual expenditure incl. of capital expenditure (in R'm)	Budget (in R'm)	% Budget spent	% Budget underspend/ overspend
2019/2020	R49	R60	82.51%	17.49% underspend
2020/2021	R46	R50	92.34%	8% underspend
2021/2022	R45	R58	78.73%	21% underspend
2022/2023	R62	R60	103.73%	4% overspend
2023/2024	R68	R59	115.43%	15% overspend

9.4. Stakeholder Profile

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

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

- a) Stakeholders with whom the Tribunal has direct contact in the course of fulfilling its functions. These include:
 - The Commission which refers and prosecutes cases before the Tribunal.
 - Complainants, respondents, interested parties, expert witnesses and their legal representatives who participate in or have a direct interest in a case before the Tribunal. These may be local or international businesses, trade unions, the Minister of Trade, Industry and Competition consumers, legal firms, or any other affected individual or organisation.
- b) Stakeholders with whom the Tribunal may not be in direct contact but who are affected by Tribunal decisions. These include consumers, competitors, the Minister of Trade, Industry

and Competition, customers, and suppliers of firms and the 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) etc.
- f) Government stakeholders that the Tribunal may interact with, for example other government departments, state-owned entities, the Reserve Bank, and Parliament.

4PART C: MEASURING OUR PERFORMANCE

10. Institutional Performance Information

The Tribunal is the court of first instance for competition matters, being a quasi – judicial body and creature of statute our activities are driven by matters that are brought before us, it can only do what the statute allows it to do.

The quasi-judicial nature of the Tribunal precludes the Tribunal from setting pro-active outcomes or embarking on specific interventions which target any particular sector or emphasise any specific criterion in its decision-making. However, in adjudicating matters that are brought before it the Tribunal can align its outcomes with those of the NDP and the **dtic**'s MTDP within the confines of the Act.

We have through the process outlined above determined two outcomes that cover the scope of the adjudicative arena and the supporting business environment.

10.1. Impact Statement

IMPACT STATEMENT	Effective and efficient adjudication, to promote a growing and inclusive economy.
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10.2. Outcome Statement

To achieve the desired impact the Competition Tribunal developed the following two outcomes that will contribute towards achieving the envisaged change as described above.

OUTCOMES	OUTCOME STATEMENT
Sound, Efficient and Responsive Adjudication	Respond timeously, pro-actively and judiciously to cases filed with the Tribunal to consistently develop good quality, credible and inclusive decisions in a transparent manner to promote competitive markets.
Transparent, Accountable and Sustainable Tribunal	To ensure effective leadership, transparency and accountability in the Tribunal through capacity building, effective reporting, policy management and financial compliance.

10.3. Measuring Outcomes

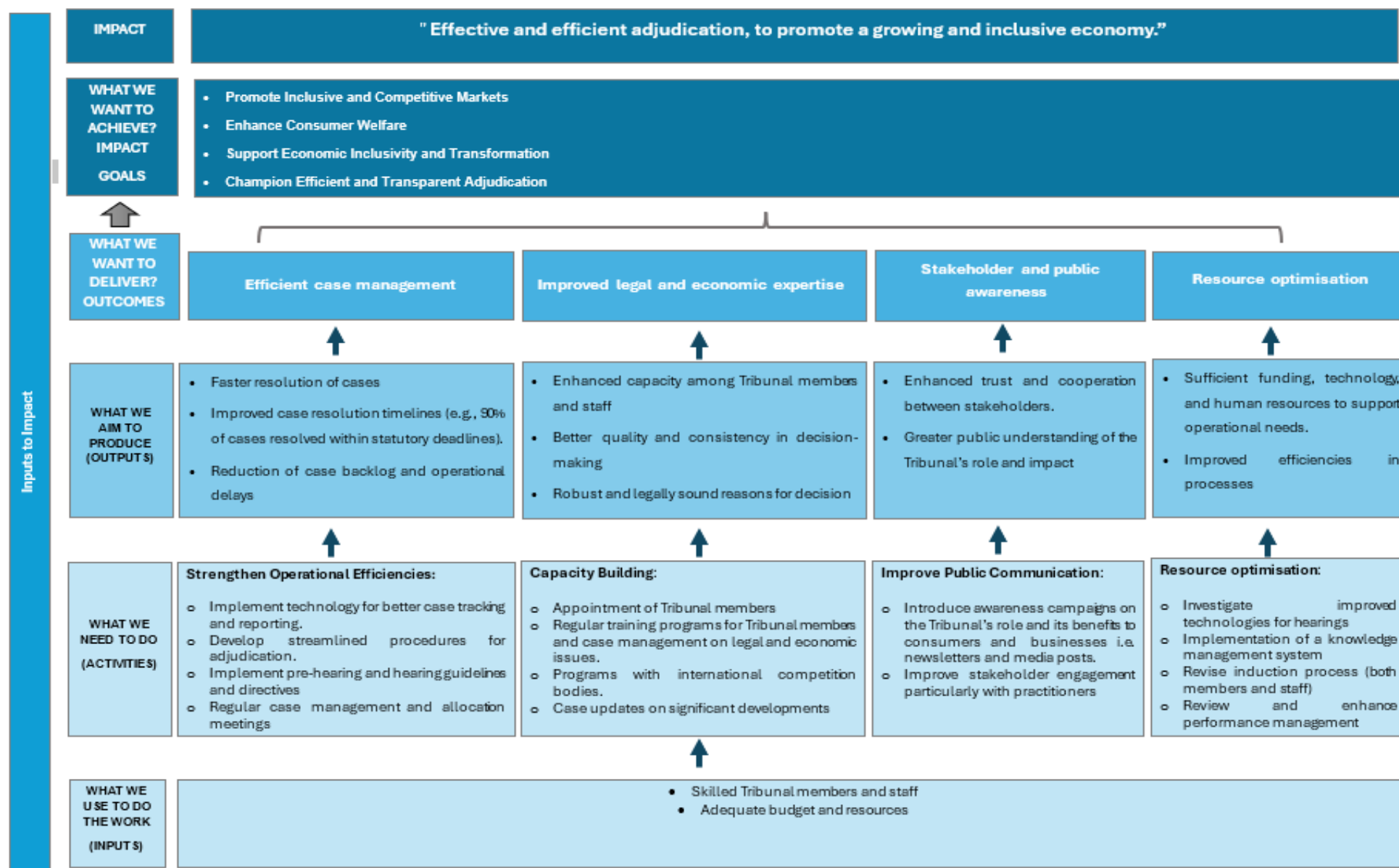
The results-based approach that forms the basis of planning within the government sphere, requires that the outcomes are clearly measured to determine progress on the attainment of long term and five-year specific targets associated with the measuring of the outcomes. The table below provides an indication of identified outcome indicators that can be used to measure progress on the outcomes.

Table 12: Outcome indicators and targets

OUTCOME	OUTCOME INDICATOR	BASELINE	FIVE YEAR TARGET
Sound, Efficient and Responsive Adjudication	Percentage of active cases concluded within the stipulated timeframes	75%	80%
Transparent, Accountable and Sustainable Tribunal	Unqualified audit outcome	Clean audit	Clean audit
	Enhancement of case management system (CMS)	New Indicator	Implementation of an effective and integrated case management system that improves knowledge management within the Tribunal

10.4. Explanation of planned performance over the five-year planning period

The two outcomes identified in section 12.2 above enable the Tribunal to operate within its mandate as a credible institution within the public sector and pursue its commitment to keep the public informed. Notwithstanding its role as an adjudicator, the Tribunal's outcomes contribute indirectly to the NDP outcomes identified within the Medium-Term Development Plan (MTDP) of the 7th Administration. This is reflected in the theory of change diagram below.



11. Key Risks and Risk Mitigation

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

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

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

In terms of this framework, the Risk Management Committee (RMC) meets and reports quarterly to the Tribunal's Audit and Risk Committee (ARC).

The RMC is responsible for ensuring that risk management is integrated into the day-to-day activities of the Tribunal. This committee reviews the risk register, obtains assurance on controls in place to mitigate these risks and monitors action plans identified.

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

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

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

The table below identifies the key risks that would prevent the Tribunal from achieving its intended outcome and it also addresses risk mitigation.

In next review of the Tribunal's risk register would need to consider whether these are included and if not include them. If the required mitigation strategies are not in place action places would need to be addressed to include them as mitigating factors. Their effectiveness in addressing the risk will also need to be evaluated.

Table 13: Key Risks and Risk Mitigation

Outcomes	Key Risks	Risk mitigations
Sound, Efficient and Responsive Adjudication	Lack of expertise of Tribunal members	<ul style="list-style-type: none">• Appointment of suitably qualified and non-conflicted Tribunal members• Provide continuous training to Tribunal members

Outcomes	Key Risks	Risk mitigations
	Lack of capacity	<ul style="list-style-type: none"> • Timely appointment of Tribunal members • Appointment of competent case managers • Provide continuous training to case managers and Tribunal members
	Poor and ineffective case management	<ul style="list-style-type: none"> • Improved alignment between case management and registry • Effective management of hearing logistics • Effective information sharing
	Inability to retain experienced Tribunal members	<ul style="list-style-type: none"> • Competitive value proposition
	Compromised independence	<ul style="list-style-type: none"> • Transparency in conducting proceedings
	Poor knowledge management	<ul style="list-style-type: none"> • Effective information sharing • New case management system
	Lack of funding	<ul style="list-style-type: none"> • Effective budget management
	Inability to retain experienced case managers	<ul style="list-style-type: none"> • Competitive value proposition
Transparent, Accountable and Sustainable Tribunal	Insufficient funding to implement initiatives to improve Tribunal performance	<ul style="list-style-type: none"> • Funding model that is sustainable and provides certainty • Ability to retain and utilise surplus funds over a longer (2 – 3 years) timeframe • Integrated activity-based costing and budgeting processes
	Inadequate information security	<ul style="list-style-type: none"> • Innovative technological development and effective IT

Outcomes	Key Risks	Risk mitigations
		strategy. Budget alignment to implement IT strategy
	Lack of systems and processes	<ul style="list-style-type: none"> Improved alignment across all divisions within the Tribunal
	Lack of information sharing	<ul style="list-style-type: none"> Effective information sharing through establishment of integrated knowledge management systems and processes
	Business interruption	<ul style="list-style-type: none"> Effective ICT infrastructure and business continuity and disaster recovery plans
	Inadequate financial management and reporting	<ul style="list-style-type: none"> Financial systems and processes in place. Sufficient oversight structures functional. Effective financial controls in place
	Poor corporate governance ethics and regulatory compliance	<ul style="list-style-type: none"> Adherence and compliance to governance framework. Effective oversight structures

PART D: Technical Indicator Description (TID)

Outcome 1	Sound, Efficient and Responsive Adjudication
Indicator 1 -Title	Percentage of active cases concluded within the stipulated timeframes.
Definition	This performance indicator measures the efficiency of the Tribunal with regard to the conclusion of active cases brought before it for adjudication within stipulated timeframes.
Source of data	<ul style="list-style-type: none"> ➤ Documents pertaining to all active cases concluded. ➤ Any correspondence and notices received and issued between the Tribunal, the Commission and parties. ➤ Case Management System (electronic case management system run by the Tribunal hereinafter referred to as CMS) reports. ➤ Qlikview reports (reporting tool placed on top of CMS) that reflects turnaround times ➤ Hearing calendar. ➤ Press releases referring to decisions or reasons issued by the Tribunal.
Method of Calculation / Assessment	<p>The method of calculation is a percentage, and it is calculated as follows: Percentage of active cases concluded within the stipulated time frames = $(a/b) \times 100$ Where: a = total number of active cases concluded in the stipulated timeframes. b = total number of active cases concluded.</p>
Means of Verification	<ul style="list-style-type: none"> ➤ Workflows built into CMS either prevents further updating or sends alerts if case data is missing. ➤ Annual reports extracted from Qlikview that reflect turnaround times relevant for conclusion for different types of matters. ➤ Data reflected on Qlikview (originally captured on CMS) and source documents reviewed to verify data against source document and ensure accuracy.

	<ul style="list-style-type: none"> ➤ Registry Administrator will contact official required to input missing data or make corrections on CMS. ➤ Errors and corrections that affect prior period reporting are communicated to the Registrar/COO via email. ➤ File reviewed by Registrar on an annual basis and signed off as proof of review. ➤ Qlikview reports used as the basis for data collection. ➤ Quarterly and annual reports and files that support annual figured available for review and verification by Head of Registry and COO. ➤ Files and reports signed off as proof of review.
Assumptions	<ul style="list-style-type: none"> ➤ Prior to beginning of 2025/2026 financial the Tribunal would have a clear definition of what constitutes an “active” and a “concluded” case ➤ Different types of cases have different conclusion criteria so the final figure will be a global figure ➤ The Tribunal has the financial resources and the capacity to perform its adjudicative function. ➤ There will be no substantial changes to the Tribunal’s mandate or the Competition Act that will impact on stipulated timeframes and targets. ➤ That the Tribunal maintains systems, processes and procedures that facilitate the target being achieved.
Disaggregation of Beneficiaries (where applicable)	N/A
Spatial Transformation (where applicable)	N/A
Calculation Type	Percentage.
Reporting Cycle	Performance reported annually at each year end and cumulatively for numbers of years the target is effective.
Desired performance	The aim of the Tribunal is to meet or exceed the target that has been set.
Indicator Responsibility	Head of Registry, Head of Case Management and COO

Baseline	2021 /22		2022 /23	2023 /24	2024 /25*
*Estimated performance	75%				
Annual Targets	2025/26	2026/27	2027/28	2028/29	2029/30
	80%	80%	80%	80%	80%

Outcome 2	Transparent, Accountable and Sustainable Tribunal
Indicator 1 - Title	Audit outcome
Definition	This indicator refers to the opinion given by the Auditor General (AG) on the Tribunal's Annual Financial Statements and Annual Performance Report annually at financial year end.
Source of data	AG report and management report from AG
Method of Calculation / Assessment	<ul style="list-style-type: none"> ➤ No calculation required ➤ The report received from the AG refers to findings that can result in the audit conclusion being no audit opinion possible, qualified, unqualified or with no findings (clean)
Means of Verification	AG report and Management report
Assumptions	The Tribunal has over the past two years had a clean audit outcome and therefore if all systems, processes and procedures are maintained it is assumed that the same outcome will be achieved over the five-year period
Disaggregation of Beneficiaries (where applicable)	N/A
Spatial Transformation (where applicable)	N/A

Calculation Type	Not calculated				
Reporting Cycle	Annual				
Desired performance	Clean audit – no findings				
Indicator Responsibility	CFO and COO				
Baseline	2021 /22	2022 /23	2023 /24	2024 /25*	
*Estimated performance	Clean	Clean	Clean	Clean	
Annual Targets	2025/26	2026/27	2027/28	2028/29	2029/30
	Clean	Clean	Clean	Clean	Clean

Outcome 2.	Transparent, Accountable and Sustainable Tribunal
Indicator 2 - Title	Enhancement of case management system
Definition	<p>This indicator measures the progress and effectiveness of improvements made to the Tribunal's Case Management System (CMS) to enhance case processing efficiency, data integrity, and user experience.</p> <p>The enhancement of the CMS is crucial for streamlining case management workflows, reducing case turnaround times, improving transparency, and ensuring seamless tracking of cases from initiation to resolution. It supports the Tribunal's broader strategic goals of digital transformation and operational efficiency.</p>
Source of data	System logs, case processing reports, user feedback surveys, and IT audit reports.

Method of Calculation / Assessment	<ul style="list-style-type: none"> • System functionality tests and reports • User acceptance testing (UAT) results • Feedback from internal and external users 				
Means of Verification	Approved implementation of a case management system				
Assumptions	<ul style="list-style-type: none"> ➤ Availability of budget and resources for system upgrades ➤ Successful integration with existing IT infrastructure ➤ Timely stakeholder engagement and training 				
Disaggregation of Beneficiaries (where applicable)	N/A				
Spatial Transformation (where applicable)	N/A				
Calculation Type	Not calculated – assessment based on pre-determined criteria.				
Reporting Cycle	Annual over the five-year period				
Desired performance	To meet the target				
Indicator Responsibility	COO and Head of IT				
Baseline	2021 /22	2022 /23	2023 /24	2024 /25	
*Estimated performance	New indicator	New indicator	New indicator	New indicator	
Annual Targets	2025/26	2026/27	2027/28	2028/29	2029/30
	Feasibility study to be conducted on current CMS	Service provider appointed to	Full implementation of an enhanced	User feedback assessments to	N/A

	system and similar systems in the market	implement the CMS system	CMS with improved automation, real-time case tracking, advanced analytics, and user-friendly interfaces.	be done on system	
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Annexure A: Members of the Competition Tribunal

Chairperson

- Mondo Mazwai (BJuris, LLB), from 2013 to 31 July 2029 (second term as Chairperson)

Deputy Chairperson

- Vacant

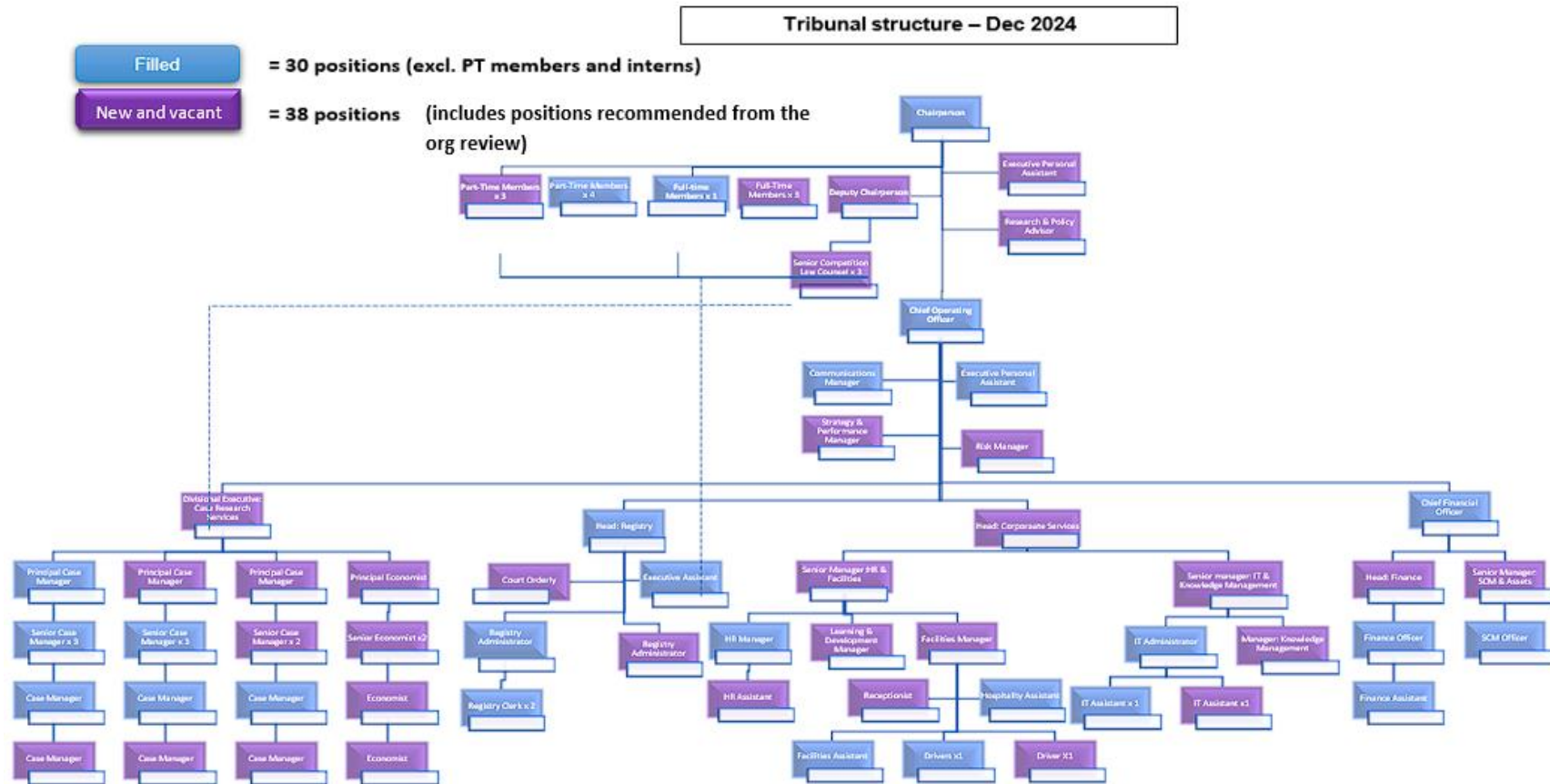
Full-time Members

- Andreas Wessels (BCom, BCom Hons, MCom (Economics)), from 01 August 2014 to 31 July 2029 (fourth term as full-time Member)
- Vacant- 3 x Members

Part-time Members

- Andiswa Ndoni (BProc, LLB, Post Graduate Diploma Business Management, Cert-Corporate Governance) from 01 August 2009 to 31 July 2029 (third term)
- Imraan Valodia (BCom Hons, MSc, DEcon) from 01 January 2013 to 31 January 2028 (second term)
- Thando Vilakazi (BSc, MCom, PhD) from 01 August 2019 to 31 July 2029 (first term)
- Geoff Budlender from 01 January 2023 to 31 March 2025 (second term)

Annexure B: Structural Organogram



Annexure C: Competition Tribunal Secretariat

Office of the Chairperson

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

Office of the COO

- 1) Ratshi Maphwanya - Chief Operating Officer
- 2) Lufuno Ramaru - Executive Administrator (Chairperson, COO)
- 3) Gillian de Gouveia- Communications Manager
- 4) Vacant – Strategy & Performance Officer
- 5) Governance, Compliance and Risk Manager

Case Management

- 1) Jabulani Ngobeni - Head of Case Management
- 2) Vacant - Principal Case Manager
- 3) Vacant – Principal Case Manager – Economist
- 4) Nomakhosi Mthethwa-Motsa - Senior Case Manager
- 5) Princess Ka-Siboto - Senior Case Manager
- 6) Moleboheng Mhlati– Senior Case Manager
- 7) Bobedi Seleke – Senior Case Manager
- 8) Juliana Munyembate – Senior Case Manager
- 9) Matshidiso Tseki – Senior Case Manager
- 10) Ofentse Motshudi – Case Manager
- 11) Sinethemba Mbeki – Case Manager
- 12) Tarryn Simpson-Case Manager
- 13) Vacant - Economist

Registry

- 1) Tebogo Mputle- Head: Registry
- 2) Sibongile Moshoeshoe- Registry Administrator
- 3) Themba Chauke- Registry Clerk

- 4) Nkuli Mpepuka- Executive Assistant
- 5) Cyriel Mpaketsane- Registry Assistant
- 6) Vacant – Court Orderly

Corporate Services

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

Finance

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

Gender and Race Composition – full-time staff (including interns)

Gender	Black	White	Coloured	Asian	Total	Percentage
Male	9	2	0	0	11	34%
Female	17	2	1	1	21	66%
Total	26	4	1	1	32	100%
Percentage	81%	13%	3%	3%	100%	

Annexure D¹²: Three Year Budget

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

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

The budget as per the MTEF for the three - year period 2025/26 to 2027/28 is illustrated below.

We have included the 2024/25 budget for comparative purposes

¹² While our plan reflects targets over five-year, we have only included a three-year budget based on the allocations approved for the MTEF period.

CATEGORY	ADJUSTED 2024/2025	2025/2026	2026/2027	2027/2028	TOTAL
REVENUE					
FILING FEES	21,046,708	23,154,599	23,154,599	23,154,599	69,463,797
GRANT	40,159,000	42,599,000	44,049,000	46,041,000	132,689,000
OTHER INCOME	-				-
INTEREST RECEIVED	2,000,000	2,000,000	2,000,000	2,000,000	6,000,000
TOTAL REVENUE	63,205,708	67,753,599	69,203,599	71,195,599	208,152,797
EXPENDITURE					
PERSONNEL	44,641,090	49,362,435	50,854,519	51,998,747	152,215,700
PT TRIBUNAL MEMBERS	4,000,000	4,000,000	4,000,000	4,000,000	12,000,000
TRAINING	1,000,000	500,000	500,000	500,000	1,500,000
CONFERENCE/SEMINARS	297,190	111,580	126,579	142,212	380,372
SHARED SERVICES CCSA	814,792	849,013	884,927	922,359	2,656,299
FACILITY FEE/LEASE	5,539,532	5,816,509	5,522,454	6,107,334	17,446,296
CONSULTING	90,587	94,419	98,413	102,576	295,409
LEGAL FEES	56,617	59,012	61,508	64,110	184,630
TRANSCRIPTION SERVICES	900,000	940,320	982,446	1,026,460	2,949,226
AUDIT EXPENSES	1,300,000	1,358,370	1,419,361	1,483,090	4,260,821
RECRUIT COSTS	41,006	42,740	44,548	46,432	133,720
ADMIN EXPENSES	855,288	891,466	929,175	968,480	2,789,121
DEPRECIATION	576,370	600,750	626,162	652,649	1,879,561
AMORTISATION	410,594	427,962	446,065	464,934	1,338,961
IT EXPENSES	2,500,000	2,500,000	2,500,000	2,500,001	7,500,001
REPAIRS/MAINTENANCE	32,641	34,022	35,461	36,961	106,445
APPEALS COURT	150,000	165,000	171,980	179,254	516,234
CAPITAL EXPENDITURE	-	-	-	-	-
TOTAL EXPENDITURE	63,205,708	67,753,599	69,203,599	71,195,599	208,152,796
SHORTFALL	0	(0)	0	(0)	-

Annexure E: ENE Summary

Statement of financial performance					Average growth rate (%)	Expenditure/ total: Average (%)	Medium-term estimate			Average growth rate (%)	Expenditure/ total: Average (%)
	Audited outcome	Audited outcome	Audited outcome	Approved budget							
R thousand	2021/22	2022/23	2023/24	2024/25	2021/22-2024/25		2025/26	2026/27	2027/28	2024/25 - 2027/28	
Revenue											
Tax revenue	–	–	–	–	–	–	–	–	–	–	–
Non-tax revenue	17,151	20,358	18,288	23,047	10.4%	33.2%	25,155	25,155	25,155	3.0%	36.3%
Sale of goods and services other than capital assets	16,310	18,472	15,461	21,047	8.9%	30.0%	23,155	23,155	23,155	3.2%	33.4%
Sales of goods and services produced by entity	16,310	18,472	15,461	21,047	8.9%	30.0%	23,155	23,155	23,155	3.2%	33.4%
of which:											
Administrative fees	16,310	18,472	15,461	21,047	8.9%	30.0%	23,155	23,155	23,155	3.2%	33.4%
Sales by market establishment	–	–	–	–	–	–	–	–	–	–	–
Other sales	–	–	–	–	–	–	–	–	–	–	–
Sales of scrap, waste, arms and other used current goods	–	–	–	–	–	–	–	–	–	–	–
Other non-tax revenue	841	1,886	2,827	2,000	33.5%	3.2%	2,000	2,000	2,000	–	3.0%
Transfers received	36,970	42,286	38,433	40,159	2.8%	66.8%	42,599	44,049	46,041	4.7%	63.7%
Total revenue	54,121	62,644	56,721	63,206	5.3%	100.0%	67,754	69,204	71,196	4.0%	100.0%
Expenses											
Current expenses	45,240	61,156	65,978	63,206	11.8%	100.0%	67,754	69,204	71,196	4.0%	100.0%
Compensation of employees	29,535	37,824	41,082	43,456	13.7%	64.5%	49,246	48,840	50,800	5.3%	70.8%
Goods and services	14,722	22,377	23,898	18,711	8.3%	33.7%	17,425	19,232	19,218	0.9%	27.5%
Depreciation	972	907	947	987	0.5%	1.7%	1,029	1,075	1,118	4.2%	1.6%
Interest, dividends and rent on land	11	48	50	52	67.9%	0.1%	54	57	60	4.8%	0.1%
Transfers and subsidies	–	–	–	–	–	–	–	–	–	–	–
Total expenses	45,240	61,156	65,978	63,206	11.8%	100.0%	67,754	69,204	71,196	4.0%	100.0%
Surplus/(Deficit)	8,881	1,488	(9,257)	–	-100.0%		–	–	–	–	

Note: The surplus reflected in the ENE summary is an operating surplus and does not take into account the budget for capital expenditure. When capital expenditure is included the surplus/ (deficit) is zero

Annexure F: Strategic Planning Process

Date	Meeting	Participants	Outcome of meeting
09 October 2024	Tribunal's Operation Committee Meeting	<ul style="list-style-type: none"> • CFO (Acting COO) • Head of Registry • Head of Case Management • Communications officer • HR Officer • IT Officer 	<ul style="list-style-type: none"> • Communication of GNU and dtic priorities • Unpacking problem trees • SWOT Analysis • PESTEL Analysis • Understanding of methodology required in developing the SP/APP
30 October 2024	Strategic review and planning workshops	<ul style="list-style-type: none"> • Century Academy • Tribunal Chairperson • Two Tribunal members (one full-time and one part-time members) • COO • Head of Case Management • Head of Registry • Head of Finance • Human Resources Officer • IT Officer 	<ul style="list-style-type: none"> • Required processes and methodology applied to develop SP/APP that is compliant with National Treasury guidelines and framework on planning • Finalised impact/outcome and outputs that are aligned to the NDP and dtic outcomes and ensure the Tribunal delivers on its required mandate