



ANNUAL
INTEGRATED
REPORT
2018/19

20 years of reporting



competitiontribunal
SOUTH AFRICA

VISION

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

MISSION

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

VALUES

In pursuing its legislated mandate the Competition Tribunal (Tribunal) strives to deliver:

- fairness, objectivity and independence;
- timeous decisions of high calibre;
- effective communication of our work with the public; and
- courteous, efficient, informed interaction with our stakeholders.

CONSTITUTIONAL MANDATE

The mandate of the Tribunal is contained in section 34 of The Constitution of the Republic of South Africa, 1996, which states *"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 or forum"*.

LEGISLATIVE MANDATE

The Tribunal derives its legislative mandate from the Competition Act of 1998 (Act 89 of 1998) (the "Act" or "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;



(e) recognise the role of foreign competition;



(f) ensure that small and medium-sized enterprises have an equitable opportunity to participate in the economy;



(g) promote a greater spread of ownership, in particular to increase the ownership stakes of historically disadvantaged people.



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20 years of reporting

HIGHLIGHTS FOR 2018/2019

Adjudicative Excellence –

to ensure effective and efficient adjudication on matters brought before the Tribunal



Heard
215
matters



2 large mergers
prohibited

53.54% of the
99 large mergers

decided this year were
cleared in **60 days** or less



21.57 of the mergers
% approved -
approved subject
to conditions

Public interest conditions imposed on
eight of the **22 (36.36%)** mergers
approved with conditions

93.71 of the penalties
% imposed were for cartel
cases and **95.96%**
of prohibited
practice cases
involved cartel
behaviour



The highest administrative penalty - Kawasaki Kisen Kaisha, for its role in an international shipping cartel, and amounted to R98.9 million

Stakeholder Relationships –

to build and develop effective stakeholder relationships



99 media releases issued for the **102** final merger decisions released this year



media releases subscribers increased from **3 854 to 4 640**

99 merger decisions and 30 complaint referral notifications were placed in the Government Gazette

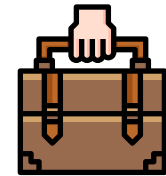
82 801
website visitors



2 865 Tribunal stories were carried in the **media**

THIRTEEN

schools represented during two school visits to the Tribunal this year



Accountable, Transparent and Sustainable Entity –

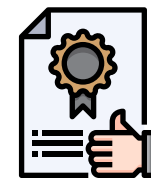
to ensure effective leadership, transparency and accountability in the Tribunal through capacity building, effective reporting, policy management and financial compliance



Trophy awarded by the Auditor-General for a clean audit in 2017/2018

Tribunal won a **merit award** for its **annual integrated report for the third consecutive year** from the Chartered Secretaries Southern Africa

Clean audit –
2017/2018



Merit award for excellence for its 2017/2018 integrated annual report from the South African Publication Forum

116 days – Tribunal members and staff spent in workshops and conferences



Donated used furniture valued at **R29 014.28**

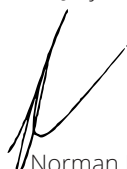
11 interns spent **1426.56 days** in training at the Tribunal



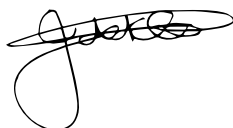
STATEMENT OF RESPONSIBILITY

The chairperson and the chief operating officer (COO) acknowledge their responsibility in terms of ensuring the integrity of this annual integrated report which, in their opinion, addresses all the issues that are material to the Tribunal's ability to create value and presents the integrated performance of the Tribunal fairly.

This report was approved by the chairperson on 31 July 2019.



Norman Manóim
Chairperson



Janeen de Klerk
Chief Operating Officer

BOUNDARY AND SCOPE

This annual integrated report covers the performance of the Tribunal for the year ended 31 March 2019. In this report we focus on our three strategic goals and the extent to which we achieved or did not achieve our planned objectives for the year. Where we have failed to achieve planned objectives, we address reasons for these and, where possible, corrective action.

We provide an overview of governance structures in the Tribunal and provide detail on how we ensure adherence to effective corporate governance. We provide some insight with regard to future targets and plans and provide an explanation on how we have used our financial resources in the period.

Infographics are used extensively as they make for easier reading and a better understanding of our work.

Given that we celebrate 20 years of adjudicating and 20 years of reporting this year we have taken the opportunity to identify interesting facts related to our work over this period.

AT A GLANCE

MINISTER'S FOREWORD

It is my pleasure to present the annual report of the Competition Tribunal (Tribunal) for the 2018/19 financial year. This year the Tribunal celebrates its twentieth anniversary, along with the Competition Commission and the Competition Appeal Court.

The results contained in this report coincide with the beginning of the 6th administration of the democratic South Africa.

The focus of the new administration is to boost economic growth and enable deeper levels of economic inclusion and transformation.

A new Department of Trade, Industry and Competition has been established, through a merger of the dti and Economic Development Department, which will drive the implementation of a more focused, high-impact industrial strategy.

Over the next five years, the focus will be on practical actions and improved governance, to pull our economy onto the higher growth levels we require to create decent work and entrepreneurial opportunities for many more South Africans, particularly young people. There are no quick fixes if we want to build this high-growth, high-employment, high-inclusion economy.



PART 1

Using the resources and mandate of the trade, industry and competition portfolio, we will support efforts to unleash private investment and energise the state to boost economic growth and inclusion. This is an essential part of building confidence and the platform for job-creation.

The Tribunal will have a critical role to play in this new industrial strategy, in ensuring that markets remain competitive, the public interest is protected during mergers, and market structures which impede participation and economic development are remedied.

As priorities for the new Administration we have outlined six focus areas in the trade, industry and competition portfolio, within which the Tribunal falls:

“ I wish them success in the year ahead to help build an economy that creates more jobs and grows faster and more inclusively. ”

First, to support improved industrial performance, dynamism and competitiveness of local companies.

These include developing Master Plans in priority sectors to help create conducive conditions for industries to grow, improve their industrial capacities and sophistication, focus more on export orientation and reclaim domestic market space lost to imports.

The Master Plans will be action-oriented, developed and carried out in partnership with business and labour and implemented in stages, so that we can move expeditiously.

Second, to improve the levels of fixed investment in the economy

Over the five-year period from 2018/2019, Government set a target of R1.4 trillion in new investment in the economy. The vast bulk of this must come from the private sector.

The state's role will be to enable higher levels of fixed investment (both domestic and foreign), through addressing infrastructure and skills gaps; and by partnering with the private sector through a range of incentives and financial packages.

Third, to expand markets for our products and facilitate entry to those markets.

The single biggest initiative is the African Continental Free Trade Area (AfCFTA) which will connect 1.2 billion people into a single bloc where local products will be traded between countries, with minimal tariffs. These agreements lay the basis for increased intra-African trade and can cement the continent's position as the next growth frontier.

The implementation phase was launched on 7 July 2019, at a Special African Union Summit meeting in Niger, with the intention to come into effect on 1 July 2020.

The Agreement will fundamentally change and reshape the South African economy. Already, exports to other African countries support about 250 000 South African jobs and it is the fastest-growing market for our manufactured exports.

Fourth, to promote economic inclusion.

This means opening up and changing our market structure, to bring more young people, women and Black Industrialists into the economy.

During the year, parliament approved significant changes to the Competition Act. The Competition Amendment Act was signed into law by President Ramaphosa in February 2019, and a large number of the new amendments have now come into operation. The amendments in the Act provide both the Commission and the Tribunal with greater tools to address market conduct by dominant firms and the structures of market which lead to the exclusion of small and medium business, and black South Africans.

The changes to the Competition Act are amongst the most significant changes to economic legislation to come out to the Fifth Administration, and is an indication of Government's commitment to address the structures in the economy which impedes growth and job creation.

To enhance the growth of black industrialists, we will combine the efforts of the Department and its agencies into a seamless and coordinated programme. Over the next 5 years, we will support an additional 400 Black Industrialists' projects with financial support of R40 billion, through identifying sustainable businesses and promoting both industrialists, new enterprise formation and worker involvement in the enterprises, using a combination of private and public sector resources.

Fifth, to promote more equitable spatial and industrial development.

A pillar of our industrial policy is to develop new investment clusters through special economic zones, revitalisation of industrial sites and support for business and digital hubs.

Sixth, to improve the capability of the state.

This means being more responsive to the needs of South Africa's entrepreneurs, moving faster in making decisions and carrying out functions, coordinating better between departments and agencies and creating a business-encouraging environment in which more investment and more job creation can take place.

Part of a smart state is partnering with domestic businesses to invest more in innovation and R&D, as new techniques, new products and new distribution platforms can move South Africa up the value-chain and enhance job creation.

All public entities will have to work with a greater sense of urgency to support government in achieving the national development goals. This is what the President has called the spirit of Khawuleza, and it must define our approach both within Government and the SOEs to addressing the structures in the economy which impede growth, economic inclusion and job creation.

This was the last annual report overseen by the Tribunal's chairperson, Mr. Norman Manoim, whose term at the helm of the organisation came to an end in July 2019. I wish to thank him for his leadership of the Tribunal as well as his 20 years of dedication and service, ten years as chairperson.

Ms Mondo Mazwai has been appointed as chairperson, and I wish her every success in what I am confident will be an interesting period in the evolution of competition policy. I also thank the dedicated Tribunal team for the work done in the past year and I wish them success in the year ahead to help build an economy that creates more jobs and grows faster and more inclusively.



Ebrahim Patel
Minister of Trade and Industry

CHAIRPERSON'S REPORT

This is the last time I write a chairperson's report for the Tribunal after ten years in that office and 20 years as a Tribunal member. Sadly, the time has come for me to leave a job I have loved and people I have enjoyed working with. Happily, I leave the institution in capable and experienced hands, both among our Tribunal members and our administrative staff.

The future holds some intriguing challenges for my colleagues who will continue to serve the Tribunal. Foremost amongst these will be to see to the implementation and interpretation of the 2019 Competition Amendment Act. While the Competition Act has been amended before in its 20 years of operation, this is the most far reaching, amending not only substantive provisions in the Act, but also introducing new procedures.

Once the new Act is proclaimed, my colleagues will have some interesting challenges to interpret provisions that are unique to South Africa and for which no obvious precedent applies. They will also face new procedural challenges. The outcomes of market inquiries are now binding and whilst this proceeding is still the domain of the Competition Commission (Commission), its rulings can now be appealed to the Tribunal.



“ Sadly, the time has come for me to leave a job I have loved and people I have enjoyed working with. Happily, I leave the institution in capable and experienced hands, both among our Tribunal members and our administrative staff. ”

Fortunately, the new Act brings with it added resources for the Tribunal. Its membership is expanded from the current 11 to 15. There is also provision for the appointment of acting members and for some procedures to be decided by only one member, instead of as present, a panel of three.

Cumulatively these changes will provide the Tribunal with the necessary resources to meet the new demand for its services as well as deal with the current backlog in case decisions.

The past financial year could be described as 'the year of the merger'. During this period, we prohibited two mergers and imposed conditions on 22 others.

This is not a reflection on any change in attitude amongst members to mergers, but rather a reflection on what comes through the door at any moment in time.

To illustrate this point, since March 2018 we saw the notification of three private hospital mergers. It has been six years since we last had a merger of this sort, so to have three notified within a few months of one another was unusual. The Commission prohibited one (which was an intermediate merger) and recommended the prohibition of two others (which were large mergers). All three came to the Tribunal as opposed cases.

In the end we approved one with behavioural conditions, another with an order of divestiture and behavioural conditions, whilst the third was prohibited. We discuss all three elsewhere in this report.

The second merger that was prohibited involved two firms that manufacture large steel drums, a product widely used by customers in the petroleum and chemical industries. The firms were the two largest in this industry in the country. Although the merging parties offered a divestiture condition, the Tribunal was not satisfied this remedy was adequate to restore competition and thus prohibited the merger.

The public interest loomed large in a merger between two mining houses in the platinum sector. Sibanye Stillwater sought to buy Lonmin Plc, the owner of the troubled Marikana platinum mine. Trade unions and community organisations intervened to object to the merger or to have conditions imposed. The Tribunal approved the merger but subject to a number of conditions to address public interest concerns. These included a six-month moratorium on all retrenchments.

Abuse of dominance cases are rare, but this year saw us deciding a long-running case involving Computicket, the well-known outsourced ticket provider. We found that Computicket's exclusive contracts with its customers in the entertainment industry were exclusionary and prevented rivals from entering the market successfully. Computicket was fined. This decision has since been appealed but at the time of writing has not yet been heard.

As in previous years, most of the prohibited practice cases we hear concern cartels. Decisions in the year related to whether the single economic entity doctrine immunised firms from a count of bid rigging and whether firms in a joint venture, that set their downstream prices, could rely on this to avoid a price fixing allegation. In both cases we held the firms liable, but the bid rigging case is on appeal.

Other cartel cases were decided in favour of the respondents either because of an insufficiency of evidence or the theory of harm was not correct.

The most high-profile cartel case involved 23 financial institutions, both local and foreign, accused of colluding to fix the rand/dollar exchange rate. This is a long-running case which is still not concluded. In August 2018 we heard five days of argument from the Commission and respondents on exceptions to the Commission's complaint referral. The exceptions were wide ranging from objections to the Tribunal's jurisdiction over foreign firms, to whether allegations in the referral were sufficient and whether the case had prescribed.

Although litigated cases are still taking too long to conclude, many cases are fortunately still being settled by way of consent agreements concluded between the Commission and the respondent firms. In the past year the highest penalty was R98.9 million imposed on a Japanese shipping firm that had colluded to fix the shipping costs of transporting vehicles from East Asia to South Africa and from South Africa to Europe, West Africa, and the Mediterranean.

Another consent order entailed a R31.8 million penalty imposed on Omnia Fertilizer Ltd for its involvement in a fertiliser cartel. The case had involved years of litigation over procedural issues since it was referred in 2005.

Some settlements have arisen out of a single investigation, but a number of firms have chosen to settle rather than litigate.

The Commission has alleged that several media companies conspired to exclude rival firms from advertising commissions, preferring their own chosen firms by way of preferential discounts. The remedy imposed in all these settlements was generic. Firms paid a penalty but also agreed to provide bonus advertising space for every rand spent by small firms that are controlled by previously disadvantaged individuals. The firms also agreed to contribute to an economic development fund

which will seek to uplift previously disadvantaged individuals and companies seeking to enter the media and advertising industry. Thus far 17 firms have settled and the total value of the penalties imposed amounts to over R90 million.

The Commission has also been concerned about the high price of school uniforms because many schools have exclusive contracts with a single supplier and do not go out on tender. The Tribunal has approved several consent orders in which the schools undertake to engage in competitive tenders and to observe a code of conduct. Four consent orders were concluded, but because three were with private school groups they will affect over 200 schools. The schools did not have a penalty imposed on them because they made no admission of having contravened the Act. However, the fact that the schools have agreed to change their procurement practices as a result of the consent agreement will hopefully be a way to ensure that uniforms can be secured at more competitive prices in the future and thus reduce the burden on families.

Away from the court room, the Tribunal's staff have been engaged in significant improvements to the way we work. Pride of place goes to our new website which went live in April, but which involved extensive work over the past financial year to get it ready. The new website, about which there is more later in this report, is our window to the world. In its new format it is friendlier, easier to navigate and has more information.

Another source of pride is that the Tribunal itself has proved competitive. Last year we received a merit award for excellence for our 2016/2017 annual integrated report from the South African Publication Forum. The Forum issues a review of the report together with its decision and this will prove very useful in improving future annual integrated reports.

The Tribunal also won a merit award for its annual integrated report for the third year running. These awards are presented by the Chartered Secretaries Southern Africa (CSSA) and aim to encourage excellence in corporate governance and improve the quality of integrated reporting across all sectors.

In addition, we are pleased to report that the Tribunal received an award from the Auditor-General in November 2018 for a clean audit in 2017/2018. The Tribunal

received the same award in the prior financial year and since the inception of these awards six years ago has received four such awards.

Finally, this coming year celebrates the 20th anniversary of the Tribunal and the Commission. A special conference will be held to recognise this milestone in August 2019. A time to look back and to think where we are going for the next 20 years. I am pleased to have been part of the first two decades and I am sure the next will prove as effective to the South African public whom we serve.



Norman Manoim
Chairperson

31 July 2019

CHIEF OPERATING OFFICER'S REPORT

As indicated in the chairperson's report this is the 20th annual report we have produced and the sixth annual integrated report.

Looking back at the very first annual report produced (for the 1999/2000 financial year) it is interesting to reflect on how we have embraced and moved towards producing an integrated report. This has been a challenging project. While there are guidelines for producing an annual integrated report there is no single accepted definition of what such a report is and no specifications as to how a statutory body like the Tribunal should present its report in an integrated way.

Nevertheless, we have recognised the value and relevance of this method of reporting to our stakeholders and the influence it has had on the way in which we evaluate our operations. Most importantly, it has forced us to critically evaluate both our successes and our failures and address corrective action going forward. We



have moved away from detailed narratives and we have made more use of infographics to support the narrative, as well as make the report more relevant, more engaging and easier to read. Our efforts in this regard have been rewarded in the recognition we have received from the CSSA/JSE integrated reporting awards: we have received a merit award three years in a row. In addition, the awards we have received from the SA Publication Forum are also testimony to excellence in writing and communication.

We have retained the basic structure of the report as in prior years, as it provides the reader with a holistic view of our operations. We progress from Part 1, where a broad overview is given by the Minister and the Tribunal chairperson, to Part 2, where we explain who we are and what our role is. Thereafter we present a substantial section (Part 3), dealing with the setting of strategic objectives and performance against these objectives, in particular in respect of our core business – adjudication. In this section we provide detailed commentary on “notable” cases considered by the Tribunal, remedies imposed in mergers conditionally approved and the nature and quantity of penalties imposed for transgressions. We also focus on who our stakeholders are and how we communicate our activities to them – especially regarding the decisions we make and the reasons for these decisions. We provide detail on how we address sustainability in the Tribunal and the various ways in which we remain accountable and transparent to parliament, our governance structures and the general public.

Part 4 deals with our compliance framework, ethical behaviour and fraud and risk management and is particularly important in the current climate where fraud, corruption and poor governance in public institutions are highlighted on a regular basis. It aims at providing the reader with significant assurance that there is ethical and compliant management in the Tribunal and with comfort that our governance structures have effective oversight of our activities. The clean audit we have received for the third year in a row is a “reward” to divisional heads and their staff who have ensured that findings raised in the external and internal audits are effectively addressed.

In Part 5, we provide a comparative analysis of our spend against approved budget. We also look at what it costs us to achieve our objectives and the factors that drive the cost of the adjudicative process.

The report concludes with the full annual financial statements prepared in compliance with GRAP requirements and the detailed full performance information, as submitted to our line department and National Treasury.

I have had the enormous privilege of working in the Tribunal for 20 years under the excellent leadership of two chairpersons who have each served in this capacity for ten years. They have both guided me in my role, as it has evolved within the Tribunal, in different ways.

In the last 10 years, under Norman Manoim's leadership, the Tribunal implemented a major change in the organisational structure that saw the creation of the COO position. This has allowed the COO to have a bird's eye view of the organisation and simultaneously focus on strategic issues. It has also meant that divisional heads have become more independent and more accountable for their functions and the management of their staff. In addition, they have had to operate in an environment where levels of compliance and reporting are ever increasing and evolving. I wish to thank them for their positive response in addressing these challenges.

Given that this report marks 20 years of reporting, we have included an insert that provides highlights of the Tribunal's journey in a 20-year timeline. We have grown from an organisation of 12, that in its first full year of operation spent R6.3m, heard 19 matters and issued 16 orders, to an organisation that in 2018/2019 employs 23 full-time staff members, has spent R48.67m (inclusive of capital expenditure), heard 215 matters and issued 187 orders.

Our workload (in terms of matters heard) has experienced an average annual growth rate of 13.62%, but the average annual growth rate in staff size has been low (3.48%). Despite this, we remain a credible and effective organisation. As this report illustrates, we continue to be mindful of, and where possible address, the challenges we face and will continue to face going forward.

As we look back on the rich history and contribution of the Tribunal over the last 20 years and move forward into the next phase under new leadership, both in my personal capacity and on behalf of the Tribunal, I wish to thank Norman for his dedicated service. You have quietly but surely guided the ship through the waves of change. Your door has always been open, and you have provided wise counsel that has enabled us to weather the storms. You will be missed.

We look forward to building a strong relationship with the new chairperson and ensuring that we continue to build our reputation, deliver on our mandate and thereby contribute to inclusive growth and a competitive economy.



Janeen de Klerk
Chief Operating Officer

31 July 2019

WHO WE ARE

A photograph of a modern building's interior. On the left, a tall, curved wall is covered in light-colored, stacked stone tiles. To the right, there are several balconies with metal railings. The walls behind the balconies are painted a warm, reddish-orange color and are lit with warm, orange-toned spotlights. A large, dark, cylindrical object hangs from the ceiling on the right. In the foreground, a large, dark red circle with a thin gold border is positioned on the left side, containing text.

*The
Act provides
for the Tribunal to
regulate two broad
areas of competition
- mergers and
acquisitions on the one
hand and prohibited
practices on the
other.*

PART 2

OUR ROLE

In 1998 the newly elected democratic government established a new framework of competition regulation in order to address the abuse of economic power by dominant firms and redress past inequalities and increase the access of small businesses and those owned by previously disadvantaged persons to the national economy.

This framework - the Competition Act - provided for the establishment of three institutions, the Commission, the Tribunal and the Competition Appeal Court (CAC).

The Tribunal, an independent adjudicative body, derives its mandate from the Act and has jurisdiction throughout South Africa.

The Act provides for the Tribunal to regulate two broad areas of competition - mergers and acquisitions on the one hand and prohibited practices on the other.

Following extensive investigations, the Commission will make a recommendation to the Tribunal to decide upon large mergers whereas in small and intermediate mergers the Commission makes a decision, but parties can appeal this decision to the Tribunal.

The Tribunal is not bound by the Commission's recommendation and is required to allow merging parties, unions or employee representatives and intervening parties to put their case forward.

Mergers can be approved, prohibited or conditionally approved and are judged by their effects on competition and public interest.

Reasons are issued for Tribunal decisions and by being published on our website are in the public domain. Where reasons contain confidential information, a non-confidential version is issued.

The Act prohibits three types of anti-competitive conduct. These are:

- **restrictive horizontal practices** – these are agreements or practices between competitors that lessen competition, for example agreements to fix prices, to divide markets and collusive tendering.
- **restrictive vertical practices** – these are agreements between entities in a customer-supplier relationship that have the effect of lessening competition, for example exclusive supply agreements of long duration. Another example is referred to as minimum resale price maintenance.
- **abuse of dominance** - refers to behaviour by a dominant single firm that is exploitative, exclusionary or discriminates on the basis of price.

Prohibited practice matters brought before the Tribunal are conducted like a court hearing with pleadings, discovery, witness statements and a trial that includes examination, cross-examination and legal argument.

If settled by consent agreements these cases can be brief, but if contested may be lengthy. The outcomes of these cases can include a remedy for a contravention. A remedy may be in the form of an imposition of a fine or a divestiture order or other appropriate order.

Firms may apply to the Commission for an exemption from the application of the Act. However, the Tribunal will only become involved in an exemption process when the Commission's exemption decision is appealed or objected to.

APPLYING AND ADDING VALUE

In performing its mandate, the Tribunal must perform a balancing act between the opposing values as depicted on the right.



Independence

In terms of our adjudicative function we remain independent of the Commission and the state. Hearing panels consist of three Tribunal members.



Predictability

We strive to offer legal certainty in the adjudicative process and in the substance of the decisions we issue.



Efficiency

The Tribunal invests in processes and systems aimed at improving its efficiency. These include technology that has improved our data analysis, modern adjudication techniques that improve the quality of our decisions and additional human resources to better service our stakeholders' needs.



Transparency

As enjoined by the Act, the Tribunal promotes transparency and accessibility through various means such as: opening our hearings to the media and the public; issuing written reasons for decisions; and accounting to parliament annually about our performance.



Expertise

The panel consists of economists and lawyers with varied industry, academic and professional experience. The majority of the panel members serve in a part-time capacity which enables them to bring their external and ongoing experience to bear on current Tribunal matters.



Accountability

Administratively the Tribunal reports to the EDD and is accountable to parliament through annual briefings and ad hoc parliamentary requests.



Flexibility

In the interest of justice the Tribunal prefers flexibility over rigid legal precedents where circumstances warrant this approach.



Due process

In pursuit of administrative justice, accuracy and completeness, the Tribunal strives to hear all sides of disputes brought before it, even when these ideals may lengthen the adjudicative process. Interlocutory applications help to reduce disputes.



Confidentiality

The Tribunal holds certain sessions during public hearings in camera in order to respect the confidentiality of documents or evidence before it. Moreover, the Act allows parties to file confidentiality claims over documents they submit.




Detachment

The Tribunal ensures that no panel members adjudicate on cases they may have a conflict of interest in. This takes place through allowing objections from stakeholders on the composition of a panel as well as a declaration of no conflict which the panel members sign before each hearing.


We identify a few examples of where, in its operations, the Tribunal adds value by performing one or a combination of a number of the following:




Levelling the playing field –
the Tribunal facilitates entry by ensuring that markets remain open for business and that consumer welfare is protected. One example is found on page 34, under “Adjudicating mergers”. During this reporting period the Tribunal prohibited a proposed merger - between Greif International Holding and Rheem South Africa - that would have led to a monopoly in the steel drums market, raising the risk of increased prices and/or reduced quality for consumers. By prohibiting the deal, the Tribunal protected consumer welfare. Indeed, all the Tribunal’s decisions on cases, whether prohibited or approved, are aimed at protecting consumer welfare.




Innovation –
the Tribunal is mindful of the importance of innovation and one of the considerations when reviewing a merger is whether it is likely to inhibit or encourage innovation. In hearing a prohibited practice complaint, the Tribunal would consider, amongst other things, if the practice discouraged innovation. The transaction between Karan Beef Holdings and Karan Beef and Karan Beef Feedlot was approved with conditions aimed at allowing black cattle farmers to be integrated into mainstream beef production through the Black Emerging Beef Farmers Development Programme. Some of the conditions imposed in this regard offered technical support and increased procurement for the benefit of emerging black farmers.



Creating judicial certainty –
the Tribunal adjudicates on matters where there are disputes, contraventions or mergers, creating certainty for firms and encouraging both local and international investment through legislative fairness and consistency. This creates a well-regulated regime, which includes appeal processes and guides companies on how to interpret jurisprudence as it refers to competition law. One example of the Tribunal’s fairness and consistency in decision making can be found in its adjudication of three separate mergers involving the sale of Chevron South Africa (CSA). Although two firms sought to become the preferred purchaser of CSA, the Tribunal maintained its focus solely on the competition merits of the three transactions and approved, with conditions, all three transactions on competition grounds. It was left up to the parties to determine which of the transactions would ultimately be implemented, depending on their commercial considerations.



Protecting the public interest –
competition authorities are obliged to consider public interest grounds in merger analysis in terms of its effect on small businesses (SMEs) or firms controlled or owned by historically disadvantaged individuals (HDIs) to become competitive, the impact of the merger on employment and the ability of national industries to compete internationally. In the reporting period the Tribunal approved 22 mergers with conditions. Of these, eight were public interest conditions, specifically, employment related conditions. Page 37 contains a full discussion of the cases in which the Tribunal imposed employment conditions in this financial year.



Reparation –
with regard to some prohibited practices where the conduct is considered to have a serious impact on the economy, the Tribunal has approved a remedy requiring firms to contribute to a development fund, over and above the penalty imposed. The chairperson’s report mentions an example of cases in which parties agreed to contribute to an economic development fund which will seek to uplift previously disadvantaged individuals and companies seeking to enter the media and advertising industry. The establishment of the development fund follows an investigation against several media companies which found that these companies had contravened the Act by conspiring to exclude rival firms from earning advertising commissions. See page 42

TRIBUNAL IN OPERATION

All matters brought before the Tribunal are heard by a panel of three members. Members are appointed by the President of South Africa, on the recommendation of the Minister of Economic Development. These members are appointed for five years and can be reappointed. The chairperson may serve a maximum of two consecutive terms.

Given the legal and economic considerations required in competition law it is imperative that the panel has the requisite skills and the current pool of members consists of eight lawyers and three economists.

In terms of the Act, Tribunal members must be South African and must represent a cross section of our population. Currently 54.55% of the members are black and 54.55% of them are female.

The expertise of these members is evident when one notes that collectively they have almost nine decades of working experience in the Tribunal with the average being eight years and nine months. The longest serving period is 19 years and eight months while the shortest period is two years and three months.



Norman Manoim

Chairperson

Lawyer

19 years 8 months



Enver Daniels

Deputy Chairperson

Lawyer

2 years 3 months



Yasmin Carrim

Lawyer

14 years 8 months



Andreas Wessels

Economist

9 years 8 months

Mondo Mazwai

Lawyer

6 years 3 months





Medi Mokuena

Lawyer

14 years 8 months



Andiswa Ndoni

Lawyer

9 years 8 months



Imraan Valodia

Economist

6 years 3 months



Anton Roskam

Lawyer

6 years 3 months



Fiona Tregenna

Economist

5 years



Halton Cheadle

Lawyer

2 years 3 months

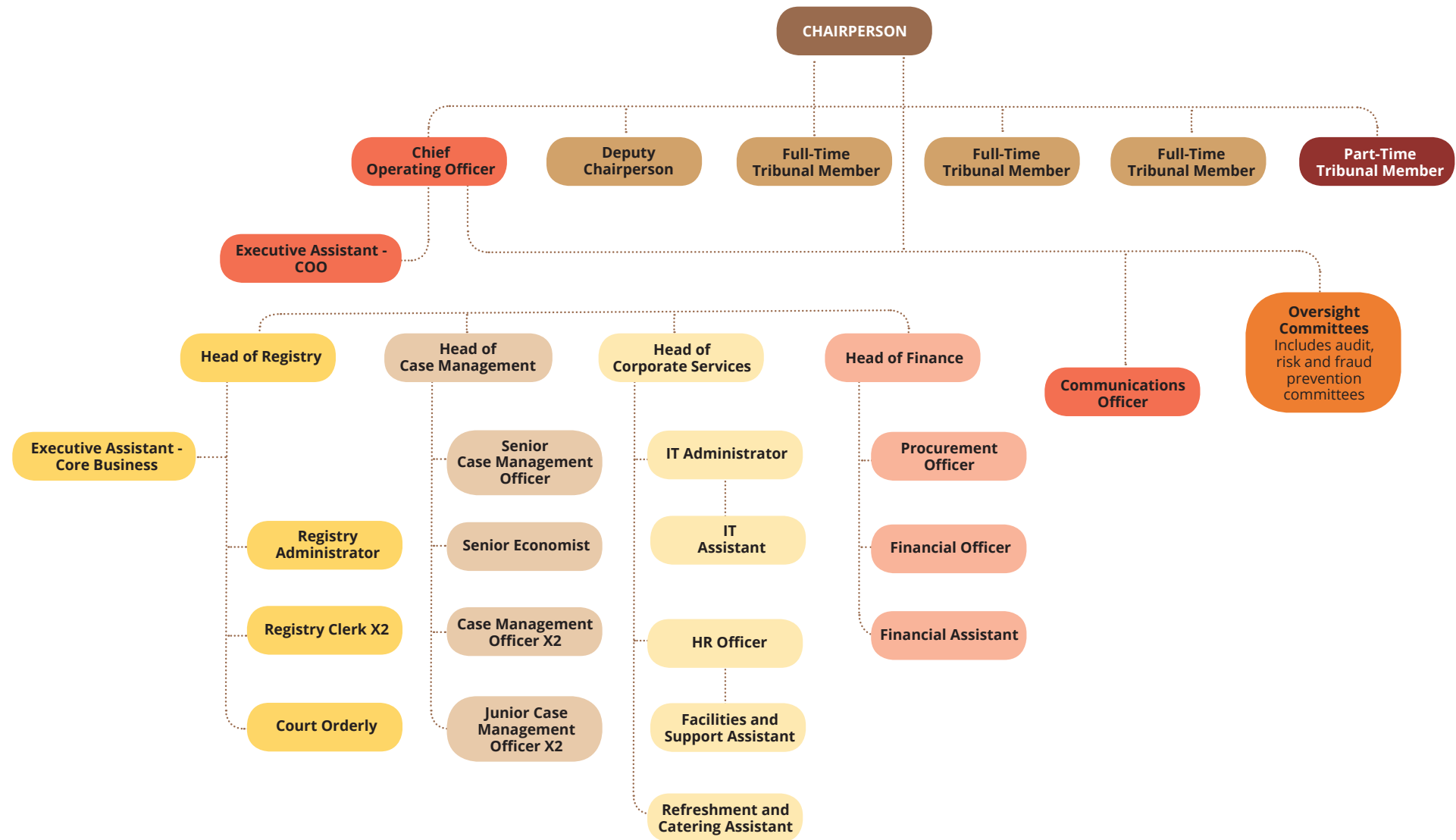
These panel members are supported (logistically and operationally) in their work by a group of employees referred to as the secretariat. The secretariat differs in function from the members as they do not decide cases and are all full-time employees.

The secretariat consists of four divisions (case management, finance, registry and corporate services) and is headed by the office of the COO. The four divisional heads and the COO constitute the Operations Committee (OPCOM) which provides assistance to the chairperson in his role as accounting authority. The OPCOM has oversight responsibilities for all operational functions and is required to ensure that good governance is established and maintained.

The Tribunal's current structure, illustrated on the next page, allows for a complement of 26 full-time employees excluding full-time members. Part-time Tribunal members are not regarded as employees and have no operational or administrative role. While executive members of the Tribunal's governance structures and part-time members do not form part of the organogram, we have included them in order to demonstrate their relationship with the Tribunal chairperson and the COO. As at end of March 2019 no position on the organogram was unfunded.



Diagram 1: Organisational structure of the Tribunal



HOW DID WE PERFORM?

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



PART 3

SETTING STRATEGIC GOALS AND OBJECTIVES

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

The quasi-judicial nature of the Tribunal precludes the Tribunal from setting pro-active objectives or embarking on focused interventions which target any particular sector or emphasise any specific criterion in its decision-making. Setting targets would pre-empt the Tribunal's decisions in a manner that would compromise the natural justice principles underpinning the Tribunal's adjudicative role.

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

Despite this limitation the Tribunal has developed a strategic plan for the five-year planning period (2015/2016 – 2019/2020) that identifies three broad strategic goals. The strategic plan was tabled in parliament in March 2015.

These goals cover the scope of the adjudicative arena and the supporting business environment. They 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.

Strategic objectives have been determined for each goal. Justification is provided for each objective and each objective is linked to one or a number of national strategic outcomes and EDD strategic outcomes. Key performance indicators (KPIs) and targets are assigned to each objective.

Targets are not set at 100% as we cannot always attribute non-performance to the Tribunal. Non-performance may be the result of the complexity of the matter or delays requested by parties.

Targets, and in particular those set against adjudicative processes and stakeholder relationships, generally remain constant over the five-year strategic period as we are a service organisation providing a constant level of service to our stakeholders. In many instances targets are actually stated in the Tribunal rules.

In terms of prescribed legislation, a strategic plan may be changed during the five-year period that it covers but the changes should be limited to revisions related to significant policy shifts or changes in the service delivery environment.

In the Tribunal's case there have not been any significant changes that require a change in our strategic plan. Given that we have recently had an election in South Africa a new planning cycle has begun and we will be required to draft a new five-year strategic plan for the period beginning 1 April 2020.

PRIORTIES FOR THE YEAR

Annually the strategic plan is cascaded down into an annual performance plan (APP) that sets out what the Tribunal intends doing in the upcoming financial year.

The Tribunal's budget is allocated according to each of the three strategic goals and we are therefore able to annually report expenditure against each goal and determine the direct cost of our core business: adjudication.

The three strategic goals reflect our priorities year on year. The first (effective and efficient adjudication) is our raison d'être. This goal requires us to hold hearings and issue orders and reasons within adopted delivery timeframes. In the period under review 15 of the 27 KPIs and targets are aligned to this goal while 53.60% of the budget is allocated to it.

The second priority is stakeholder awareness. We believe that raising awareness of our competition activities helps with compliance with competition law. 2.11% of the

budget is allocated to this goal in the period under review and a communications officer is dedicated to fulfilling this function and achieving the targets assigned to the five (of 27) KPIs aligned to this goal.

The final priority – being an accountable, transparent and sustainable entity accounts for 19.57% of the budget and the remaining seven targets in the period under review.

We provide a detailed narrative of performance against the 27 targets set for the period under review in the section that follows.

We have summarised financial and non-financial information in the diagram below while a detailed performance matrix is attached as Appendix A to this annual integrated report.

There were no significant changes to the Tribunal's structure, operations or legislation that required major changes to the 2018/2019 APP. In finalising this APP, we reassessed targets and adjusted them based on a three-year average baseline performance.

Diagram 2: Strategic focus areas and performance this financial year









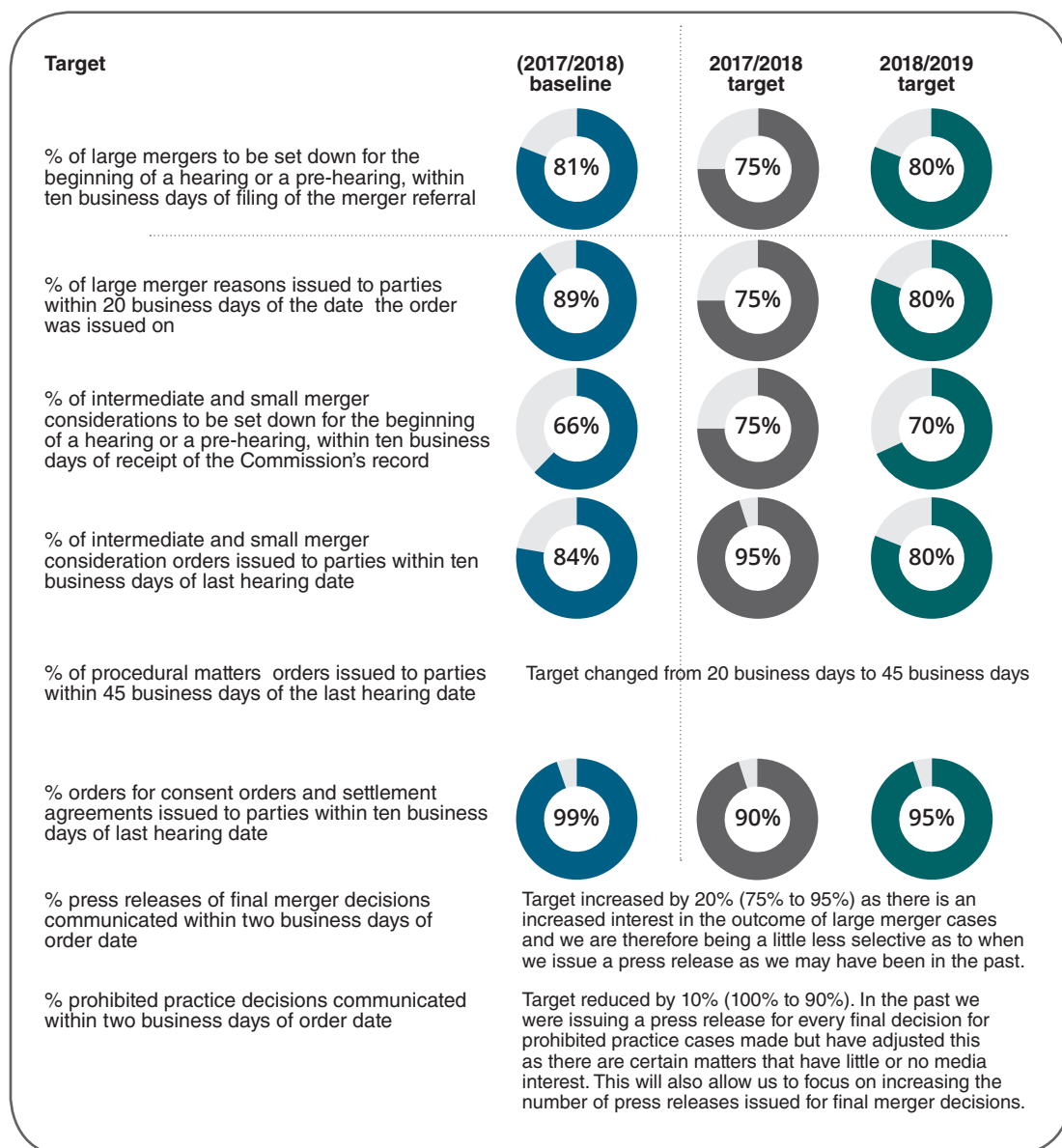
 Strategic orientated outcome goal	 Goal statement	 Budget allocated	 Budget spent	 No. of indicators	 No. achieved or exceeded	 No. partially achieved	 No. that could not be measured
Adjudicative excellence	To ensure effective and efficient adjudication on matters brought before the Tribunal	R 30 160 973.00	R27 061 254.12	15	8	4	3
Stakeholder relationships	To build and develop effective stakeholder relationships	R 1 189 403.38	R1 087 176.69	5	3	2	0
Accountable transparent and sustainable entity	To ensure effective leadership, transparency and accountability in the Tribunal through capacity building, effective reporting, policy management and financial compliance.	R11 010 738.37	R8 347 143.32	7	7	0	0
Other expenses		R12 711 538.25	R12 171 567.97				
TOTAL		R55 072 653.00	R48 667 182.00	27	18	6	3

Diagram 3: Changes in targets made in the 2018/2019 APP



LOOKING FORWARD

In developing the APP for 2019/2020 we reassessed targets as explained in diagram 3 and while there were changes to the three-year average baseline performance no changes were made to any targets or KPIs.

There have been no significant policy shifts or changes in the service delivery environment that warranted amendments to the strategic plan.

The 2019/2020 APP does provide some detail on proposed amendments to the Act. If the Act is proclaimed during the 2019/2020 financial year in its present form, it will substantially increase the mandate of the Tribunal from what it was previously.

The proposed amendments include:

- Commission decisions made after a market inquiry will be appealable to the Tribunal;
- New prohibited practices (buyer power provisions);
- Reformulated and improved provisions in relation to existing abuse of dominance provisions (excessive pricing, margin squeeze and predatory pricing);
- Expanded considerations regarding competition and public interest aspects of merger control; and
- Other residual procedural cases to come before the Tribunal.

It is expected that these amendments may result in an increase in appeals in respect of intermediate mergers and are likely to increase the workload of the Tribunal in terms of time spent in hearings and for prior preparation and thereafter the writing of reasons. The increased case load will have an impact on all costs associated with the adjudicative process.

The amendment bill contains provisions that allow for an increase in the maximum number of members that can be appointed (from 11 to 15 - including the chairperson) and in addition gives the Minister the power to appoint acting part-time members. The additional capacity will greatly improve the efficiency of the Tribunal but at the same time increase expenses as more people will be working more often on Tribunal cases.

Depending on when any or all of these amendments are proclaimed the Tribunal will have to consider whether changes to the 2019/2020 APP are necessary, but they will definitely need to be considered in the 2020/2021 APP.

MEASURING THE ADJUDICATIVE PROCESS

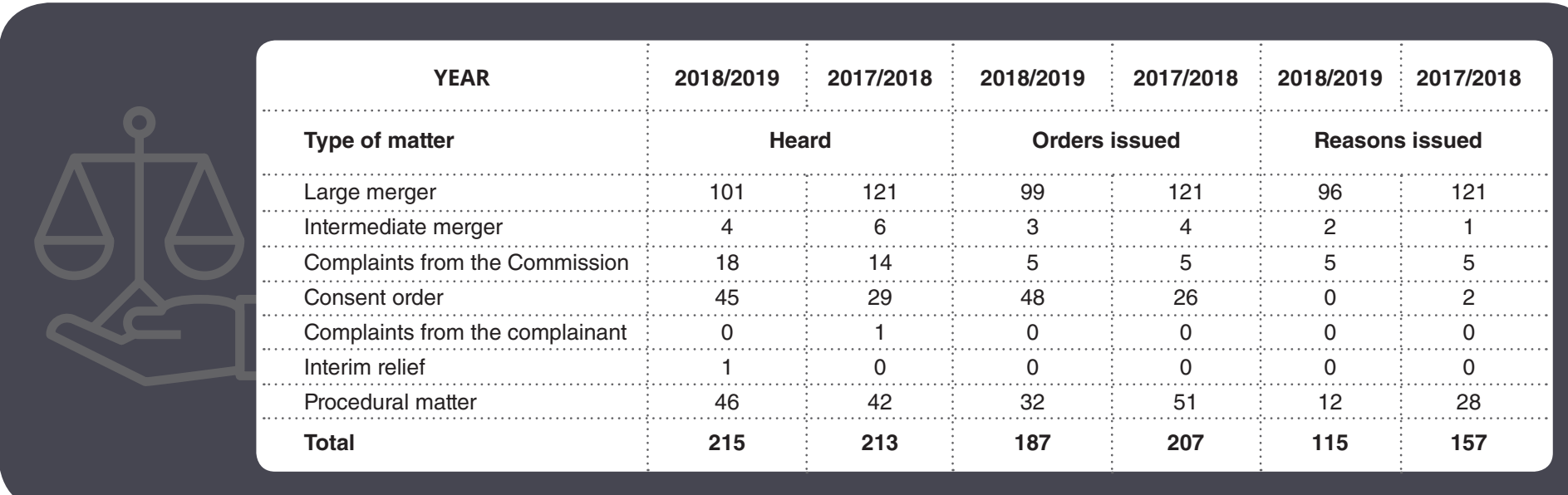
We measure our adjudicative process in order to comply with reporting requirements expected of public entities but, more importantly, in order for us to assess our ability to meet stated objectives and the effectiveness and efficiency of the adjudicative process.

Our electronic case management system (CMS) enables us to monitor the progress of the adjudicative process. In addition, the system and reporting tools we have designed and implemented enable us to extract extensive data relating to our work and therefore provide an accurate picture of our performance as well as interesting statistics pertaining to the entire adjudicative process.

We are able to accurately assess and measure whether we have set down matters and issued judgments in the required timeframe and simultaneously make a comparative analysis of performance over a number of financial years.

The volume of matters heard and decided, as well as the number of reasons issued over the past two financial years are illustrated in the diagram below.

Diagram 4: Matters heard and decided over two years



YEAR	2018/2019	2017/2018	2018/2019	2017/2018	2018/2019	2017/2018
Type of matter	Heard		Orders issued		Reasons issued	
Large merger	101	121	99	121	96	121
Intermediate merger	4	6	3	4	2	1
Complaints from the Commission	18	14	5	5	5	5
Consent order	45	29	48	26	0	2
Complaints from the complainant	0	1	0	0	0	0
Interim relief	1	0	0	0	0	0
Procedural matter	46	42	32	51	12	28
Total	215	213	187	207	115	157

Specific reasons for the fluctuations in the case volume year-on-year are difficult to identify as there are many factors that include, but are not limited to, the state of the economy, filing of interlocutory applications in main cases and appeals from Commission merger decisions that affect volume. As a result of our inability to predict volume or explain fluctuations we cannot rely on historic records with regard to planning and budgeting and can only use them as a guide.

While the total number of matters heard over the two financial years appears constant, fewer orders and reasons were issued this year. This may be partly explained by the complexity of issues being decided.

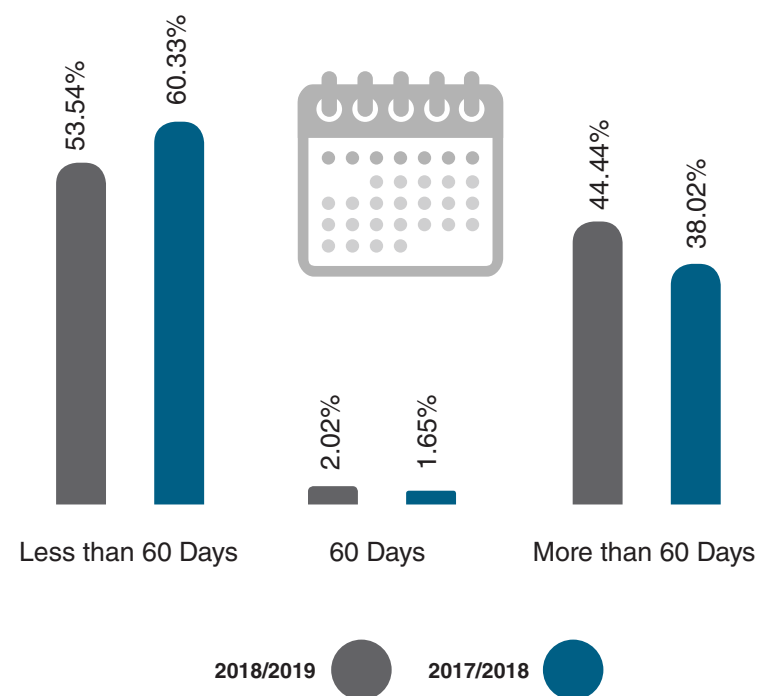
All targets reflected in the five-year strategic plan are re-assessed and revised annually based on an average baseline performance over a three-year period. Performance against predetermined targets is evaluated quarterly and reasons for variance (whether under or over performance) are given and, where possible, action plans are determined.

During the current year three targets could not be measured and we met or exceeded five of the 12 core adjudicative targets (41.67%). We address reasons for non-achievement of the remaining four targets later in this report.

An additional performance measure – merger clearance period - enables us to measure how efficient the competition authorities are in assessing and deciding larger mergers. It measures the time period between when a large merger is notified to the Commission and the time the Tribunal issues an order. The Act stipulates that this period should be 60 business days (40 days for the Commission to investigate; ten days for the Tribunal to hear the matter; and a further ten days for the Tribunal to issue an order).

The graphic illustration of the merger clearance period over the current and prior financial year, at face value indicates a decrease in efficiency with 53.54% (53 out of 99) of the large mergers decided being cleared in 60 days or less as opposed to 60.33% (73 out of 121) in the prior year.

Diagram 5: Merger clearance period



We are not in a position to identify delays or reasons for delays on the Commission's part, but we provide some explanation for delays on the Tribunal's part.

Delays within the Tribunal may be the result of delays in internal processes or the result of requests by the Commission to grant extension applications. Internally we have been able to issue 96.97% of orders within the required timeframe but there have been delays in the setting down and hearing of a matter. Only 67.33% of the mergers set down were set down within the required 10 business days. Possible reasons for these delays and any action planned to address these delays is discussed in more detail later in the report.

As indicated extensions lead to delays in the adjudicative process and are requested by the Commission for various reasons which include but are not limited to:

- more time is required to investigate the merger;
- responses have been requested from competitors or customers; and
- there are outstanding documents from parties.

While the number of extensions granted this period was lower than the prior period (unopposed extension in 58 mergers and opposed extensions in two mergers compared with six) both the minimum and maximum days a merger was extended was higher in this period.

Without extensive research and statistical analysis, it is difficult for the Tribunal to measure the exact economic impact of the decisions it makes with regard to mergers.

However, we are able to use our CMS to extract a wealth of information relating to the nature of the merger, turnover, sector/industry, public interest conditions and other conditions imposed. A synopsis of some of these follow throughout this section.

Companies merge and acquire each other for a wide range of strategic reasons. The three main ways for companies joining forces are as follows:

Horizontal merger – a merger between competitors – companies/firms come together with similar products/services and expand their range through the merger.

Vertical merger – a merger between companies/firms in the same industry, but at different points of the supply chain/production process.

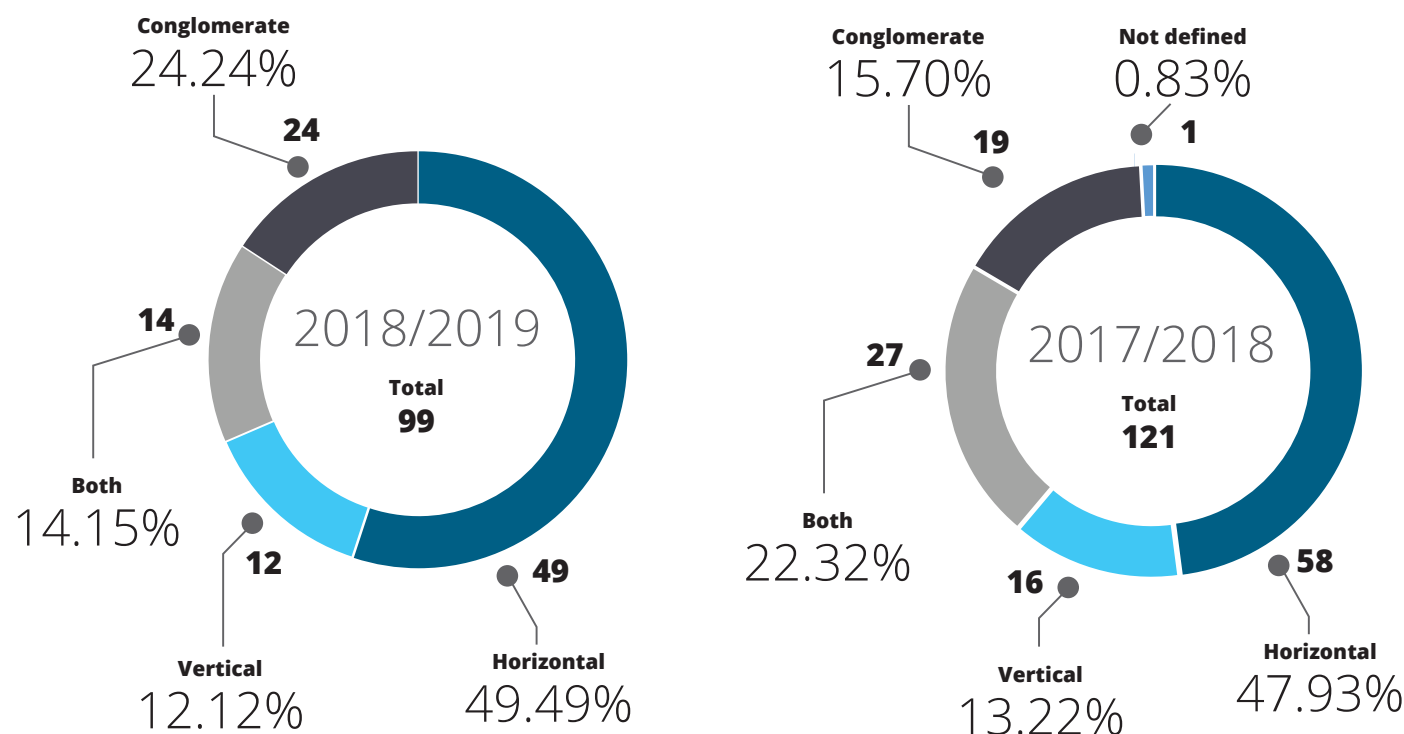
Conglomerate merger – a merger between companies/firms that are involved in totally unrelated business activities. Through the merger they broaden their range of services and products and reduce risk by operating in a range of business activities. We refer to pure conglomerate mergers which involve companies/firms with nothing in common and mixed conglomerate mergers which involve companies/firms looking for product extensions or market extensions.

There are instances where the merger relates to a vertical and horizontal product overlap, for example a motor manufacturer with car dealerships buying another motor manufacturer that also owns car dealerships or a manufacturer of branded clothing with its own store acquiring a separate clothing manufacturer with its own branded stores.

Diagram 6: Period and number of extensions granted for mergers

Min days extended		Median days extended		Max days extended		Average days extended		No. with unopposed extensions		No. with opposed extensions	
2018/2019	2017/2018	2018/2019	2017/2018	2018/2019	2017/2018	2018/2019	2017/2018	2018/2019	2017/2018	2018/2019	2017/2018
5	1	30	25	405	247	47	49	56	63	2	6

Diagram 7: Types of large mergers decided by the Tribunal




In both financial years more than 45% of the large mergers decided were classified as horizontal mergers. While it is not possible to explain the reasons for the change it is interesting to note that the number of conglomerate mergers filed increased from 15.70% to 24.24% while the number of mergers that involved horizontal as well as vertical overlap nearly halved in this financial year.

Horizontal mergers can reduce competition in the market as they eliminate or remove a competitor and can potentially change the competitive landscape whereby coordination amongst the remaining firms is improved. Vertical and conglomerate mergers are considered less harmful in this regard. However, there is a danger that vertical mergers can foreclose competition in the market, whereby the merged

entity could raise rivals' costs and/or reduce rivals' revenues affecting the ability and incentive of rivals to compete in the market which could negatively affect consumers.

The diagram on the next page provides the reader with a comparative overview of the value of the merger transactions being decided by the Tribunal over the last two financial years. There has been a decrease in the reported total transaction value of the mergers decided. The figures reflected in this table are of some interest to the reader in that they provide some measure of the economic value of the large mergers being considered by the Tribunal.

Diagram 8: Value of large merger transactions decided by the Tribunal

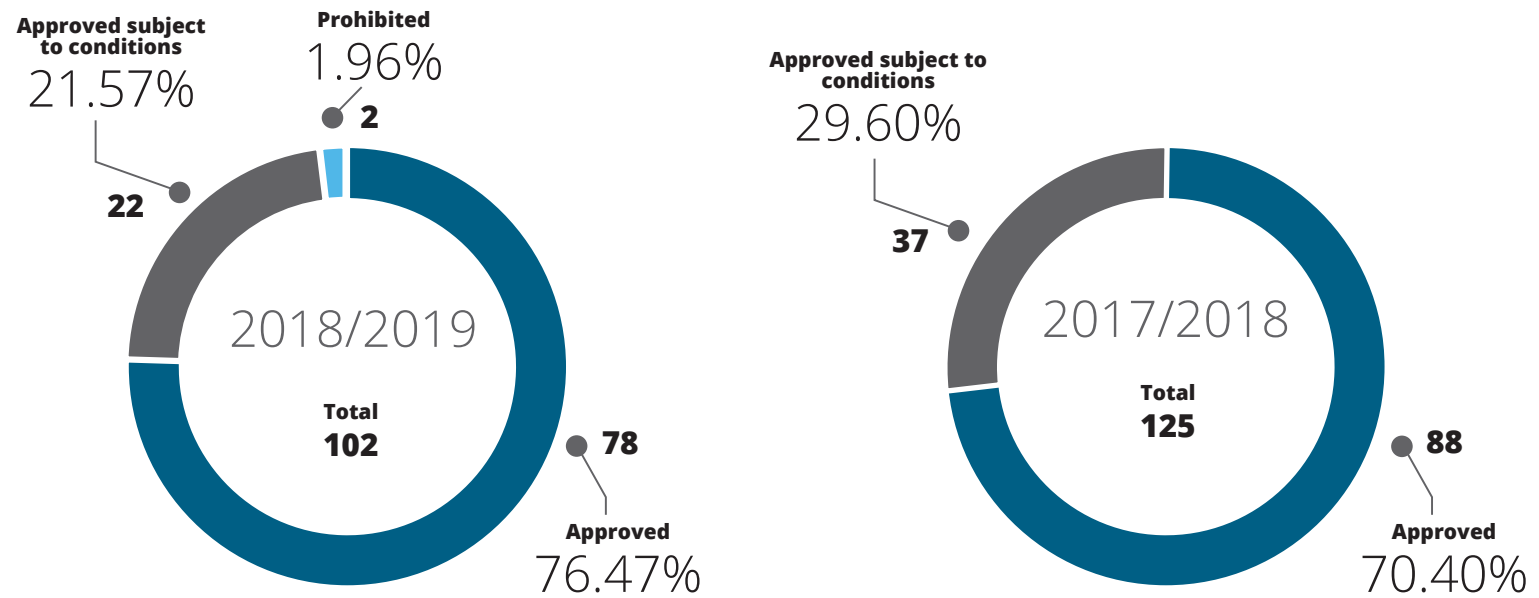


	2018/ 2019	2017/ 2018
Total combined turnover	R2 536 286 094 906	R4 886 307 336 295
Minimum combined turnover	R168 183 542	R59 691 000
Maximum combined turnover	R179 013 652 566	R1 666 123 080 000
Average combined turnover	R25 619 051 464	R40 382 705 259
Number of mergers decided	99	121
Total transaction value	R1 120 517 014 734	R2 312 703 185 496

In considering merger applications the Tribunal can prohibit a merger or it can approve it unconditionally or subject to conditions. Approving a merger subject to conditions means the Tribunal can impose a “remedy” on the parties. These remedies imposed as conditions address public interest concerns, company behaviour and/or market circumstances.

In the current financial year, we approved 76.47% (78), approved 21.57% (22) subject to conditions and prohibited 1.96% (2) as compared with 70.40% (88), 29.60% (37) and 0% (0) respectively for the prior financial year.

Diagram 9: Comparative figures for all mergers decided over two years



In the sections that follow we provide further detail with regard to the public interest conditions applied in 36.36% (8) of the 22 mergers approved conditionally.

ADJUDICATING MERGERS



Tribunal prohibits merger between two largest steel drum manufacturers in South Africa

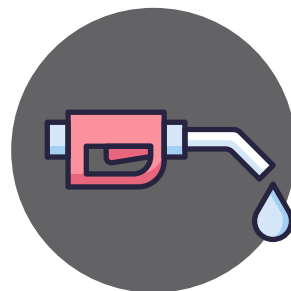
In January 2019 the Tribunal prohibited a merger between Greif International Holding and Rheem South Africa. Both firms supply industrial packaging products including knock-down drums for export, large steel drums and steel pails.

Background

In March 2017, the companies notified their intermediate merger to the Commission. It prohibited the transaction, finding that the merger would constitute a near monopoly. The firms then applied to the Tribunal for a reconsideration of the matter. Greif and Rheem argued that the merger would not lead to substantial lessening of competition. They further argued that any potential competition concern would be cured by proposed behavioural and/or structural remedies. The merger was previously also prohibited in 2004 on a similar basis.

Remedy

The Tribunal found that the firms were close rivals in a duopoly, barriers to entry were high in this market and the merger would result in an effective competitor exiting the market. The merger would also have effectively resulted in the reversal of empowerment by reducing the share of its black shareholders and therefore negatively affect public interest. The Tribunal heard evidence from several witnesses, including experts, and engaged extensively with Greif and Rheem on whether a potential remedy could be found to address the competition concerns. However, no appropriate remedy was tendered which would cure the substantial lessening of competition that would result from the proposed transaction. The Tribunal therefore prohibited the proposed merger.



Tribunal approves second and third major petroleum deal involving Chevron South Africa

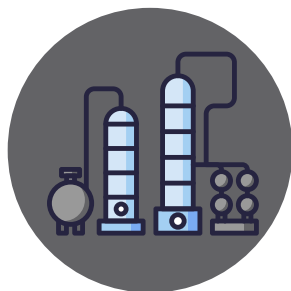
Between March 2018 and March 2019, the Tribunal adjudicated on three separate merger cases involving the sale of Chevron South Africa (CSA).

Background

In the first proposed transaction (in March 2018) the Tribunal approved, with conditions, the merger in which SOIHL Hong Kong (Sinopec) sought to purchase CSA. However, this first transaction was never implemented as Off The Shelf Investments (OTS), a shareholder in CSA, exercised its pre-emptive right to acquire 75% of the issued share capital, held by Chevron Global Energy Inc. This constituted the second transaction which was approved with conditions in September 2018. In March 2019, OTS then sought to on-sell CSA to Glencore SA in what is referred to as the third transaction involving CSA.

Remedy

It is worth noting that the Tribunal did not need to decide which of the transactions should ultimately be implemented. This was the decision of Chevron Global Energy. The Tribunal only needed to consider the effect of the potential transaction on competition in the relevant market and the effect on public interest. Although the transaction would not substantially lessen competition, the parties negotiated with certain government departments and agreed on a set of conditions relating to employment, refinery capacity, local procurement and broad-based black economic empowerment which the Tribunal granted but with certain enhancements.



Competition and public interest concerns raised in ferrochrome market merger

This transaction in the ferrochrome market, between K2018239983 (a wholly owned subsidiary of Samancor Chrome) and Hernic Ferrochrome - a company in business rescue - raised competition and public interest issues. The proposed transaction was approved, with conditions, in December 2018.

Background

Hernic invoked the failing firm defence stating that, but for the merger with Samancor, it would have exited the market. Various market participants were concerned that the transaction would result in the removal of an effective competitor in the supply of ferrochrome market in SA. This concern was also raised by Aperam, a customer of the merging parties, which sought conditions regulating the price of ferrochrome.

Remedy

The Tribunal accepted that the ferrochrome market is international rather than local and as such there are multiple sources that Aperam, as an international organisation, could procure ferrochrome supply from. The Tribunal also noted that saving Hernic would have a positive impact on employment as it would keep Hernic in the market, thereby saving most jobs. However, to mitigate the effect of job losses a moratorium was placed on retrenchments for a period of one year. Finally, the representatives of the Greater Lonmin Community appeared before the Tribunal to raise issues surrounding the social labour plans (SLPs). An undertaking by the parties that they would continue to honour Hernic's SLP's post-merger was also made a condition to the merger.



Concerns raised over IDC's shareholding in two competing firms

In the Ready Right Now (RRN) and Glodina merger the Industrial Development Corporation's (IDC) shareholding in two competing companies (which produce terry towelling products) came under the spotlight.

Background

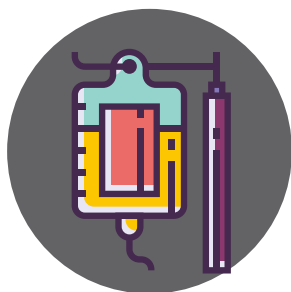
The IDC controls the acquiring company, RRN, and Colibri, a direct competitor of Glodina as well as the only upstream business that supplies cotton yarn for knitting and weaving, Prilla. Competitors of Glodina and customers of Prilla raised issues pertaining to information sharing and customer foreclosure. The three companies are all a single economic entity, controlled by the IDC.

Remedy

The Tribunal imposed a supply condition ensuring that Prilla supplies cotton yarn to all customers on reasonable, non-discriminatory and market-related terms. It is worth noting that by approving the transaction 211 employees of the 564 previously retrenched Glodina workers would be re-employed.

HOSPITAL MERGERS

The chairperson, in his report, refers to three hospital mergers notified by the Commission to the Tribunal as opposed cases. Two of these were approved with conditions – one being the Netcare Akeso transaction (decided in and reported on in the previous financial year) and the Netcare Lakeview transaction. The third transaction, the Mediclinic Matlosana Medical Health transaction, was prohibited.

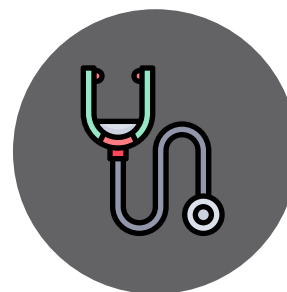


Background

In late 2017 the Commission prohibited a small merger between Netcare Hospitals and Lakeview Hospital. The Commission argued that the merger would result in: an increase in Netcare's bargaining power; the removal of an effective competitor; and tariff increases at Netcare Lakeview. The parties applied to the Tribunal for a reconsideration of the merger.

Remedy

The Tribunal was unable to find any evidence that the merger would lessen competition as suggested by the Commission. In order to address the potential pricing harm raised by the Commission, the merging parties tendered a condition in relation to pricing which the Tribunal accepted and imposed. The merger was approved subject to that pricing condition.



Background

Mediclinic Southern Africa and Matlosana Medical Health Services in the North West notified a large merger to the Commission in September 2016. In June 2017 the Commission recommended a prohibition on grounds that it would likely result in higher healthcare prices in the region; the incentive to improve on non-price factors (i.e. patient experience and quality healthcare) would likely diminish; and it would confer relatively greater bargaining power to Mediclinic vis-à-vis medical schemes. The merging parties denied that competition would be negatively affected.

Remedy

The Tribunal engaged extensively with the merging parties on whether a potential remedy could be found to address the Commission's competition concerns. The merging parties' proposed remedies were canvassed with a number of medical aids. However, despite different remedies being proposed by the merging parties over several months, no appropriate remedy was tendered that would cure the substantial lessening of competition that would arise from the proposed transaction. The Tribunal therefore prohibited the merger.

GIVING EFFECT TO PUBLIC INTEREST CONSIDERATIONS

The Act requires the Tribunal to consider the impact a merger will have on competition but specifically acknowledges that public interest factors must be considered.

The concept of public interest is limited to employment, the effect on a particular industrial sector or region, the ability of small businesses/firms controlled by HDIs to become competitive and the ability of national industries to compete in international markets.

The Tribunal has the ability on one hand to prohibit a merger solely on the basis that it will negatively impact on public interest irrespective of whether it is pro-competitive and on the other hand to approve an anti-competitive merger if it is in the public interest to do so.

During the current financial year two mergers were prohibited but their prohibition was not related to public interest conditions. In eight of the 22 mergers approved conditionally public interest concerns were added as conditions. All eight of these had employment conditions. Three of the mergers approved with public interest conditions are referred to in “Adjudicating mergers” – the other five are set out briefly below;



In Sibanye Gold and Lonmin, third parties raised extensive public interest concerns that included large scale retrenchments at Lonmin, the merging parties' non-compliance with SLPs and the merger's impact on local suppliers and historically disadvantaged persons. A six-month moratorium on retrenchments from the time the merger is implemented was imposed. Sibanye undertook to establish a consultative forum in relation to SLPs, conduct a feasibility study for the implementation of an agri-industrial programme and conduct an economic assessment of further investments and thereby potentially reduce planned operational retrenchments.



A large merger between Pioneer Foods and Heinz Foods South Africa was approved, subject to extensive public interest conditions. Unions had raised concerns that some 27 skilled and semi-skilled employees would be retrenched due to duplication of management and administrative positions. The acquiring firm gave an undertaking that the 27 workers would receive preference, in relation to vacancies at Pioneer Foods, for a 12-month period following retrenchments. This excluded factory workers, as the merging parties agreed to absorb all Kraft Heinz workers should its manufacturing licence with Heinz Ketchup not be renewed in April 2020. Workers affected by the cancellation of the manufacturing contract will remain employed for three years, irrespective of whether the agreement is terminated within two years after the merger. These undertakings were made conditions for the approval of the merger.



The transaction between Karan Beef Holdings (ultimately controlled by the PIC) and Karan Beef and Karan Beef Feedlot did not pose any competition concerns. It was found that the transaction would allow black cattle farmers to be integrated into mainstream beef production through the Black Emerging Beef Farmers Development Programme (Program). In support of the Programme, the merging parties agreed that certain conditions be imposed. These relate to the development of the Program, provision of technical support, increasing procurement of weaners from black farmers and the establishment of a fund to provide working capital for black farmers.



In Robertsons Holdings and Silver 2017, a moratorium on retrenchments was imposed, as a condition to the approval, thereby saving the jobs of 60 workers.



The merger between Robor and Macsteel Services South Africa and the Steel Tube and Pipe businesses of Macsteel Service Centres South Africa did not raise any competition concerns. The merging parties informed the Tribunal that the decline in demand was leading to overcapacity in the tubes and pipes industry and, in order to survive and minimise retrenchments, market players needed to consolidate. Between 2015 and 2018, as a result of financial constraints, the merging parties had retrenched 1 435 employees. The Tribunal was concerned about an additional 311 jobs that would be lost due to duplication and therefore imposed conditions seeking to limit merger specific retrenchments and to ensure that affected employees receive a right of first refusal should there be vacancies in the merging parties' businesses.

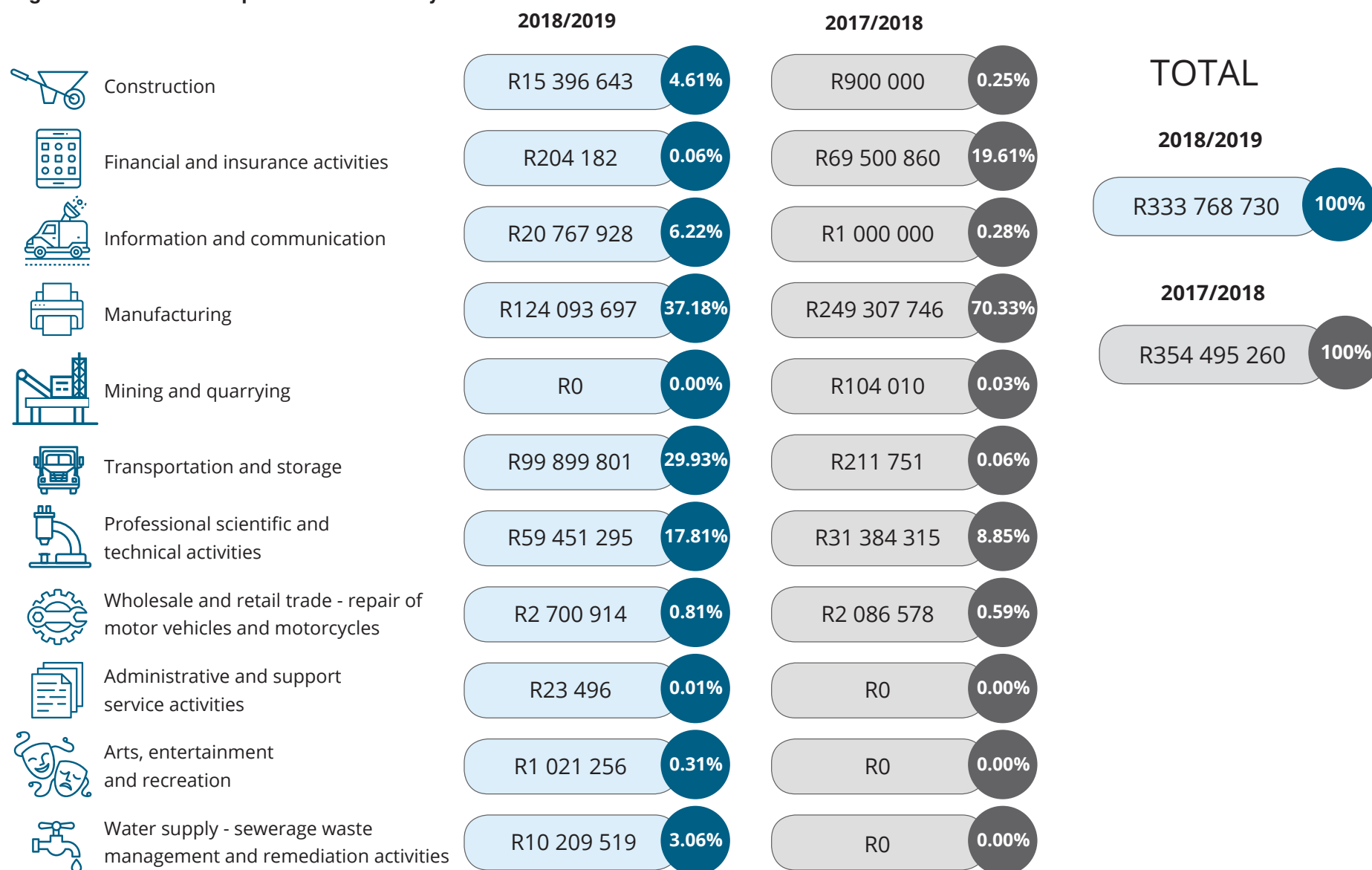
PROHIBITED CONDUCT MATTERS BEFORE THE TRIBUNAL

As explained in Part 2 of this report anti-competitive agreements or practices between competitors, agreements between suppliers and customers as well as abuse of dominance are referred to as prohibited practices. These are all contraventions of the Act and the Tribunal imposes penalties on companies/firms found to have contravened the Act through a prohibited practice.

The highest percentage of penalties (37.18%) was imposed on companies/firms in the manufacturing sector which were found to be in contravention of the Act. In the prior period this sector accounted for 70.33% of the penalties imposed.



Diagram 10: Fines issued per sector over two years



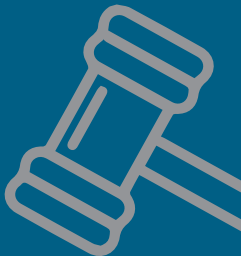
Cartel conduct/collusion is often described as the most egregious violation of competition law. Restrictive horizontal practices involve competitors arranging to restrict competition through, for example, price fixing, dividing markets and collusive tendering.

A large number of these cartel cases are settled with the Commission either before the main complaint is referred to the Tribunal (referred to as consent agreements) or settled after the main complaint was referred to the Tribunal (referred to as a settlement agreement). Diagram 11 below indicates that in both the current and prior year more than 90% of the penalties imposed by the Tribunal were imposed for cartel cases.

In the prior reporting period cartel cases we adjudicated on represented 84.62% (22 out of 26) of the prohibited practice cases we imposed penalties in while the penalties accounted for 98.84%. In the current reporting period the number of cartel cases we adjudicated on increased significantly to 95.56% (43 out of 45) and penalties accounted for 93.71% of the total penalties imposed.

Some interesting cases related to restrictive horizontal practices are discussed briefly on the next page and this discussion is followed by a diagram that lists 22 of 45 consent orders or settlement agreements considered during the reporting period. The 22 listed in the diagram all had penalties imposed on them that exceeded R500 000.00.

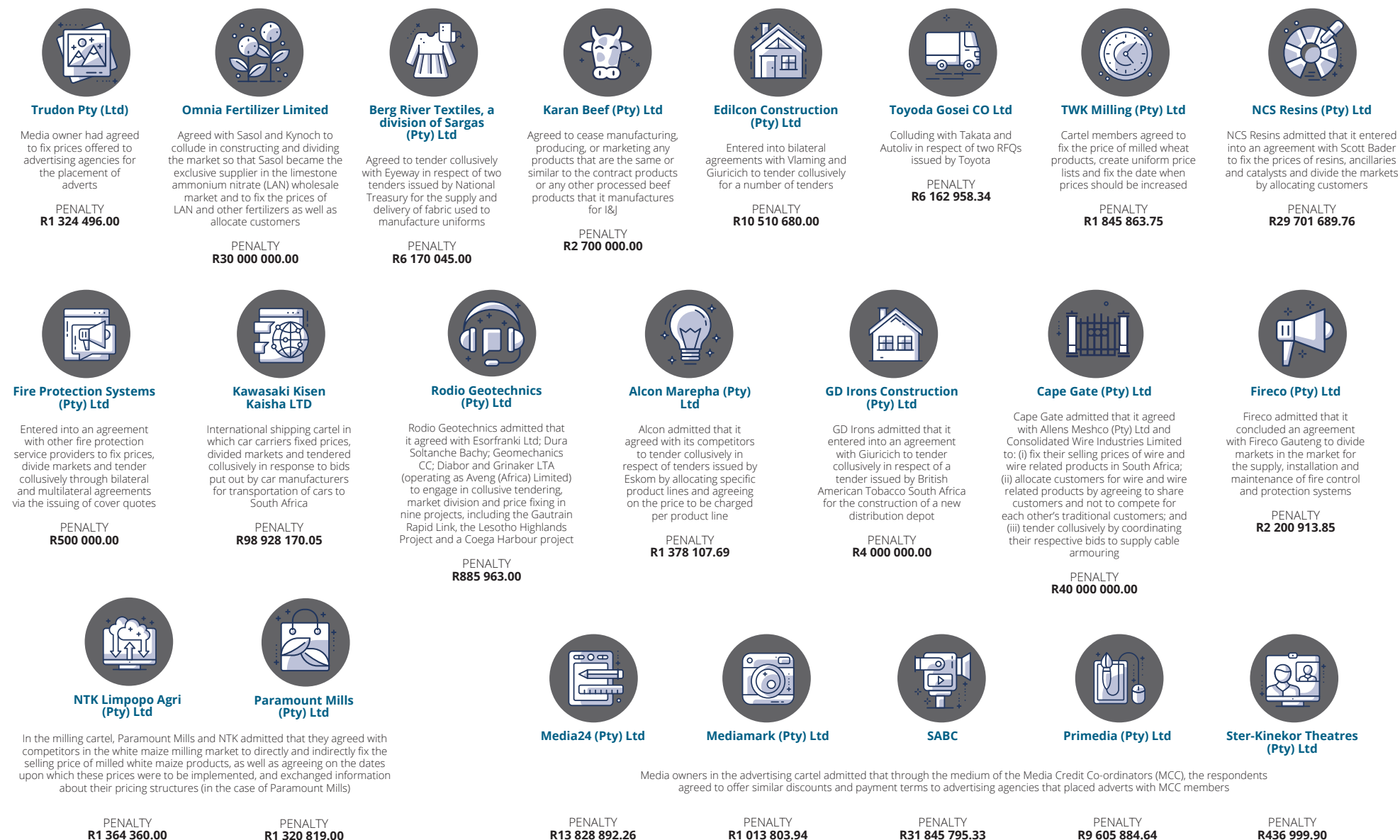
Diagram 11: Penalties imposed, per section of the Act, over two years



SECTIONS OF THE ACT	2018/2019			2017/2018		
	Number	Amount	%	Number	Amount	%
Failure to notify - Section 13A(3)	1	R1 000 000	0.30%	3	R4 000 000	1.13%
Restrictive horizontal practices - Section 4(1)	43	R312 768 730	93.71%	22	R350 395 260	98.84%
Resale price maintenance - Section 5(2)	1	R20 000 000	5.99%	1	R100 000	0.03%
Total	45	R333 768 730	100%	26	R354 495 260	100%

- The largest fine confirmed by the Tribunal was a penalty of R98 928 170.05 imposed on Kawasaki Kisen Kaisha Ltd for its involvement in an international shipping cartel in which car carriers fixed prices, divided markets and tendered collusively in response to bids put out by car manufacturers for the transportation of cars from and into South Africa.
- The Tribunal ordered Computicket to pay a fine of R20 000 000.00 after it found that the local ticketing giant abused its dominance between 2005 and 2010. This decision followed an investigation into the company's use of long-term exclusive agreements to exclude new entrants from the outsourced ticket distribution market. The Tribunal found that Computicket had enjoyed a near monopoly position and there had been limited market entry between 2005 and 2010. This coincided with the introduction of longer-term exclusivity contracts by Computicket and their aggressive enforcement of their rights under these contracts. The origins of the case date back to 2008 when Computicket's competitors laid complaints with the Commission. The hearing in this matter started more than seven years later, in 2017. The long delay is attributed to a lengthy and litigious history between the parties over discovery of documents, followed by an unsuccessful administrative law challenge.
- In late 2018, two firms appeared before the Tribunal for alleged collusion in a fumigation tender issued by the Department of Public Works. The matter originated in 2015, when a swarm of bees invaded the Hertzogville Magistrates' Court. A'Africa Pest Prevention and Mosebetsi Mmoho Professional Services were among those who submitted bids for the tender. The Department stopped the tender process after noticing that A'Africa and Mosebetsi's pricing schedules were almost identical and that both bids had been signed by the same person. The firms said that they were part of a single economic entity as they shared common members and they could, therefore, not be competitors or have contravened the Act. In finding the companies guilty of price fixing and collusive tendering, the Tribunal said, among others: "A'Africa and Mosebetsi were not constituents of a single economic entity as envisaged in section 4(5)(b) but instead two competitors, albeit with common membership, submitting separate bids for the Hertzogville tender. This is because structurally the respondents are not in a wholly owned subsidiary-parent relationship as contemplated in section 4(5)(a)". The matter was taken on appeal and subsequent to year end the Tribunal's decision was overturned by the CAC.
- A penalty of R10 209 519.00 was imposed against Enviroserv Waste Management (waste services company), for price fixing in the period 2008 to 2012. Enviroserv was found to have colluded with Wasteman Holdings to set the downstream price in the market for waste transportation services. Both firms compete in this market. The firms also entered into an agreement with their upstream joint venture, Vissershok (a Western Cape landfill site), to charge them 43% less than the price charged to other third-party waste transportation companies thus disadvantaging these other third-party companies. It was found that when two competing firms (who were shareholders in an upstream joint venture) reached an agreement on pricing in their respective downstream operations, competition is restricted and being shareholders in a joint venture does not absolve them from being found guilty of price fixing. Wasteman was the leniency applicant in this matter.
- The Tribunal, in October 2018, dismissed a complaint by the Commission in a case that raised the interesting issue of whether obtaining competitive quotes after a service provider had already been appointed amounted to collusive tendering. The Commission alleged that two firms (Geometry Global and Vaxiprox) providing brand activation services, rigged the bidding process for a tender issued by South African Tourism (SAT). The firms argued that they were instructed by SAT to form a joint venture and that the alleged cover quote - giving rise to the bid rigging allegations - was provided only after a purchase order had been issued to them by SAT. Although the Tribunal did not conclude on the existence of the joint venture, and SAT's knowledge of it, the Tribunal held that this conduct was instigated by SAT after it had already appointed a service provider without complying with the Public Finance Management Act (PFMA) and the conduct constituted fraudulent conduct as opposed to anti-competitive conduct.

Diagram 12: Consent orders and settlement agreements above R500 000



BALANCING EFFICIENCY AND DUE PROCESS

Earlier in this report we refer to the need for the Tribunal to strike a balance between what may seem to be opposing values. The three cases highlighted below are interesting examples of interlocutory applications where a decision in a main matter is delayed because other parties are seeking clarity or new facts to a matter being considered – where due process is given priority to efficiency.

Prescription under the spotlight

In the Pickfords complaint referral, the Tribunal faced an exception application requiring it to interpret section 67(1) of the Act, which imposes a three-year time limit in which the Commission can initiate a prohibited practice complaint. Two initiation dates (3 November 2010 and 1 June 2011) were contested and could have different outcomes in terms of the Act.

Pickfords allegedly contravened the Act through collusive tendering and was charged with 37 instances of cover pricing. It argued that 20 should be dismissed as 14 were time barred and six were not sufficiently pleaded.

The Commission argued that the Tribunal should interpret section 67(1) to start running from the date that it acquired knowledge of the conduct and not from the date the conduct ended.

The Tribunal found the Commission's arguments did not justify a new reading of this section and that the 2011 initiation was the correct date as it was a self-standing initiation and not an amendment of the 2010 initiation.

The consequences of this finding were yet not decisive of the exception, as the prohibited practice only ends when the last payment is made. The Tribunal found that where a third-party conspirator received the last payment, the Commission must bear the onus and where Pickfords itself won the tender, it should bear the onus.

The Commission was urged to drop the counts falling outside the three-year period contemplated in section 67(1), running from 1 June 2011, as the initiation date.

Is there still a complaint when a complainant withdraws?

In Waco Africa and six others against the Commission, the Tribunal had to decide if a valid complaint initiation had existed.

The seven respondents allegedly tendered collusively and set prices in relation to an Eskom contract put out for tender. The first four respondents were the subject of a complaint filed by Eskom, but it subsequently withdrew its complaint. The Commission had, by then, initiated its own complaint against the fifth to seventh respondents.

The first four respondents claimed there was no valid initiation against them as Eskom withdrew its complaint and the Commission did not initiate its own complaint against them.

In argument, the Commission relied on tacit initiation. The SCA in Yara and the CAC in the Power case both recognised that no formalities are required for a valid complaint initiation and that a "tacit" initiation suffices to give validity.

The Tribunal found that by deciding to pursue the complaint against the first four respondents, the Commission's decision constituted an overt, albeit not formalised, act of initiation, or at the very least, an act of tacit initiation.

Hostile takeover bid

Aton Holdings GmbH and Murray & Roberts Holdings (M&R) were engaged in a hostile takeover bid. By May 2018, Aton acquired about 44.06% of the voting rights in M&R.

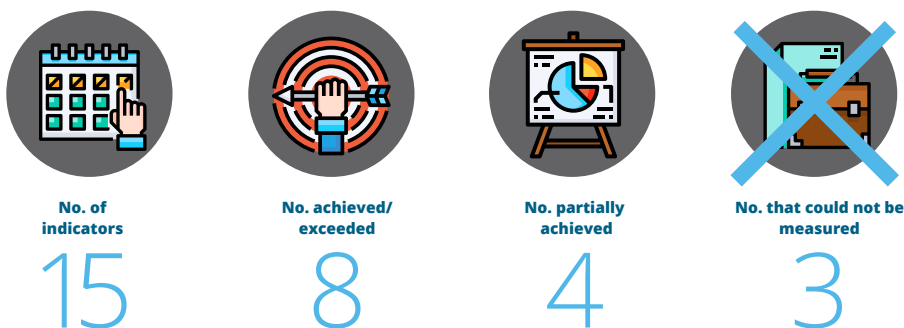
In June 2018 M&R filed an urgent application asking the Tribunal to interdict and restrain Aton from voting in excess of the approximate 29.99%, as held in March 2018, or exercising any rights attached to its shares at a shareholders' meeting.

The Tribunal might have been inclined to dismiss the application as Aton exercising its full voting rights would have been unlikely to veto the resolution if shareholder turnout was as high as 90%. However, since Aton tendered a resolution in relation to exercising its full voting rights, which would resolve the conflict, the Tribunal did not have to consider the issue further.

Aton undertook not to vote more than 50% less one vote of the votes cast at the meeting. The effect being that there will be no prior implementation as envisaged in the Act.

HOW DID WE PERFORM AGAINST OUR PREDETERMINED ADJUDICATION OBJECTIVES?

In our annual performance plan (APP) we have identified 15 targets related to the adjudicative process. Twelve of these are related specifically to effective case management and the timeous issuing of decisions while three relate to effective business applications.



The APP sets out the Tribunal's intentions, in a particular financial year, to give effect to and implement its strategic plan. As indicated earlier the strategic plan sets out the Tribunal's strategic outcome goals and priorities for a five-year period within the scope of resources (financial and other) and as approved by the Minister of EDD.

We review targets annually and where necessary revise them based on a three-year baseline average. They are set to ensure that the Tribunal adjudicates matters brought before it and issues decisions (orders) within time frames that are either stipulated in the Act or determined internally.

In the period under review we met or exceeded eight of the adjudicative process targets, four were not met and three could not be measured as there was no activity.

TO WHAT DEGREE DID WE NOT COMPLY AND WHY?

- The target for setting down large mergers within ten business days of the filing of the merger referral is set at 80%. We failed to set down 33 of the 101 mergers within this time frame. Reasons for delay were either because of the unavailability of part-time members to sit on panels or parties not available on the date proposed by the Tribunal.
- Pre-hearings/hearings for small and intermediate mergers must be set down within ten business days of the receipt of the Commission's record. The target is set at 70%. We received requests to set down four such mergers and three were set down late. The explanation for our failure to meet these targets is similar to those given for large merger set down.
- Reasons for large merger decisions should be issued within 20 business days and the target set at 80%. We failed to meet this target by 5% with 24 of the 96 large merger reasons issued not meeting the target. 50% (12) of these exceeded the target by ten days or less, while the remaining 12 exceeded the target by between ten and 75 days. Reasons may be delayed for many reasons that include but are not limited to the complexity of the matter, a Tribunal member responsible for drafting more than one set of reasons or the Tribunal member sitting on many panels while also being responsible for drafting reasons. We are hoping that more effective monitoring of timeframes and the implementation of recommendations made with regard to increased Tribunal member capacity will see better turnaround times.
- The target set for issuing reasons in small and intermediate merger considerations in 20 days was set at 60%. Reasons were only issued in two such matters, and both were delayed due to the complexity of the matters and the need to consider expert witness statements, discovery applications and points of law.

- Internally we classify prohibited practices as “simple”, “complex” or “very complex matters” based on the complexity of the matter or other technical factors that need to be considered. Reasons in these matters are required to be issued within 100 business days. Reasons were issued in one matter classified as simple but as the reasons required some technical explanations they were delayed by 32 days.
- Reasons issued for prohibited practices that are deemed “complex matters” were issued in two matters. One set was issued within 66 days instead of the target of 125 days and therefore exceeded the target. We failed to meet the target in the other matter where reasons were issued in 283 days. The reasons provided were complex and therefore took longer to draft.
- Reasons were issued in two prohibited practices matters deemed to be “very complex”. In one matter the target was exceeded while in the other we failed to meet the target by 75 days due to the complexity of the reasons and the need for more consultation amongst panel members before finalisation and issuing.

Despite having a full complement of Tribunal members, we have continued to experience difficulty in filling the panels required. This relates particularly to part-time members whose other full-time work commitments affect their availability to sit on panels. In most instances they are able to sit on one-day hearings but are less available to assist with longer hearings or writing of reasons.

The new amendment bill, if brought into operation, makes provision for an additional full-time member as well as the ability to appoint acting Tribunal members (similar to acting judges in other courts). This additional capacity will greatly improve our efficiency – we will however need to give consideration to the extra financial resources required.

We will continue to monitor delays and reasons for delays and in the next strategic planning process will consider adjustments that may need to be made to turnaround times but do not compromise our ability to deliver effectively on our mandate.

We have and will continue to ensure the sustainability of our CMS and with updates it remains supported until 2023. The system remains stable with very few vulnerabilities that impact on its performance as evidenced in the quarterly “health checks” performed by the IT administrator.

We continue to make enhancements to both CMS and Qlikview (the reporting tool on top of CMS) that increases the functionality of the system and enables us to extract and analyse more data from the system. Developments this year include what we refer to as a “useful statistics model” that includes reports on the status of prohibited practice cases and the timeframes regarding writing and issuing of reasons. We are considering upgrades that will enable us to create dashboards of identified statistics and generate validation reports to determine if required data has been captured in our CMS.

OUR RELATIONSHIP WITH STAKEHOLDERS

The Tribunal recognises that its communication activities should provide stakeholders with timely, accurate and objective information. This involves regular, consistent communication and interaction with stakeholders and forms an integral part of our strategy around awareness, advocacy and accountability.

We have throughout the reporting period continued to look at effective ways to understand the needs and interests of stakeholders and effectively communicate the Tribunal’s final decisions and activities.

In addition, we annually review and update our framework in order to enhance the efficacy of our communication with stakeholders including the media, the general public, corporate players, legal advisors, government departments and parliament.

Diagram 13: WHO, WHY, HOW and WHAT we communicate.



REACHING OUR STAKEHOLDERS

During the period under review, the Tribunal has utilised various communication tools – and adopted several new ones – to keep its stakeholders informed. These include media releases and visits, social media, electronic newsletters, the Government Gazette, brochures, the Tribunal website, government communications forum, Parliamentary Portfolio Committee (PPC) briefings as requested, the Tribunal's school programme and the annual integrated report, among others.

Stakeholder databases continue to be maintained and updated either through an automated mailing and distribution system (Mailchimp) or by the communications officer manually. In this way we ensure that we have a comprehensive database of the media reporting on competition matters, relevant government departments and other interested stakeholders including members of the legal fraternity. The electronic mailing system allows stakeholders to subscribe or unsubscribe to media releases, case alerts on specific matters and the electronic newsletter via the Tribunal's website.

As at the end of 31 March 2018 we reported that we had a total of 3 854 subscribers for the four types of media releases – an average of 964 subscribers per media release. As at the end of the current reporting period we have a total of 4 640 subscribers – an average of 1 160 per media release. We are pleased to see this growth and while we do not report on it we are able to determine that user bounce back is minimal and there are very few subscribers unsubscribing.

We use Twitter as our main social media platform and have seen slow but steady growth in our number of followers. As at the end of the current reporting period we had in the region of 2 060 Twitter followers. Live Tweeting from Tribunal hearings (information and photographs) takes place and tweets are also released for decisions and alerts relating to merger and prohibited practice cases.

Twitter analytics show that the Tribunal's audience comprises 60% female and 40% male. While 85% of our followers are from South Africa, people from the following countries represent the next nine top followers: United Kingdom, United States, Zimbabwe, Kenya, Russia, Botswana, India, France and Germany.

A revamped "Trials and the Tribunal" e-newsletter was finalised and distributed during the period under review. The e-newsletter now contains much more content, including the very latest orders/final decisions and updates on the latest cases. We have made it more user friendly and appealing to the eye by using high-resolution photos and a tweaked masthead. It was distributed three times during the reporting period through Mailchimp to 1 131 contacts and is also posted on the Tribunal's website.

We finalised, printed and distributed a revised information brochure which covers topics including "What is the Competition Act?", "What does the Tribunal do?", "What is the difference between the Tribunal and the Commission?" and "How do the Tribunal hearings and decisions work?" The brochure is a useful tool for reporting complicated concepts in relation to the Tribunal's work, structure and relationship with other competition authorities in a simplified manner.

As part of the communication strategy to reach the youth we have hosted learners at two education programmes. The education programme held in prior periods was revised with the assistance of case managers to be entertaining, informative and interactive. This is achieved through role playing exercises. Learners are addressed by case managers and Tribunal members and also sit in hearings to get an understanding of the Tribunal in operation.

In the first quarter 53 Pretoria learners from CBC Mount Edmund took part in the Tribunal's education programme. Our most successful programme to date was held in the fourth quarter, with 21 learners representing 11 public schools across the province (facilitated by the Gauteng Education Department (GED)) and one private school in Pretoria.

The learners attended a Tribunal hearing involving the school uniforms matter as well as two merger cases. They also took part in an interactive session with case managers who focussed on mergers and price fixing. These two topics form part of their business studies curriculum.

Feedback from learners and educators in attendance was very positive with all expressing their keenness to return to the Tribunal. The GED has also indicated that it wishes to form a partnership with the Tribunal in respect of this programme. The communications officer will focus on developing such a partnership in the forthcoming financial year.





ENHANCING OUR REPORTS AND MESSAGES

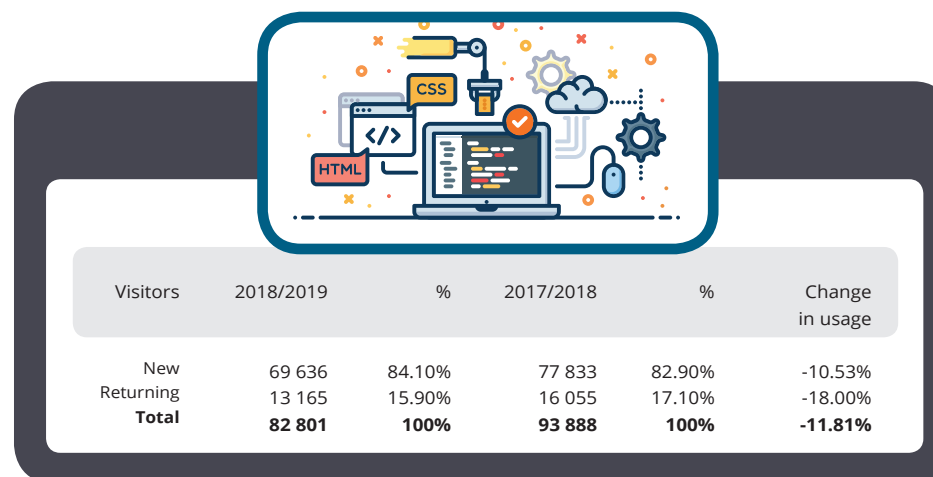
The Tribunal regards its website as its primary method of communicating with the public and other stakeholders, both locally and abroad. In April 2018 we concluded a bid process and appointed a service provider in May 2018 to revamp our website. As a result, much of the reporting period has been spent on re-developing and re-designing the website. The new website was launched during the last week of April 2019, offering users the very latest case information and documentation, breaking news, better search capabilities and easier navigation. An additional innovation was the inclusion of certain information into three other official languages.

The website features an innovative and fresh design. Legal practitioners, journalists, companies and anyone interested in the Tribunal's work can access a treasure trove of documents that are directly sourced from the organisation's primary system for case information.

As the Tribunal heads into its 20th year of existence, it also designed and launched a new and modernised logo during the period under review.

We use GOOGLE analytics to measure the traffic to our website. In the period under review each user viewed an average of 3.79 pages for 3.34 minutes which is comparable to the prior reporting period (3.76 pages for 3.45 minutes). The number of sessions has decreased by 11.81 % from 93 888 to 82 801.

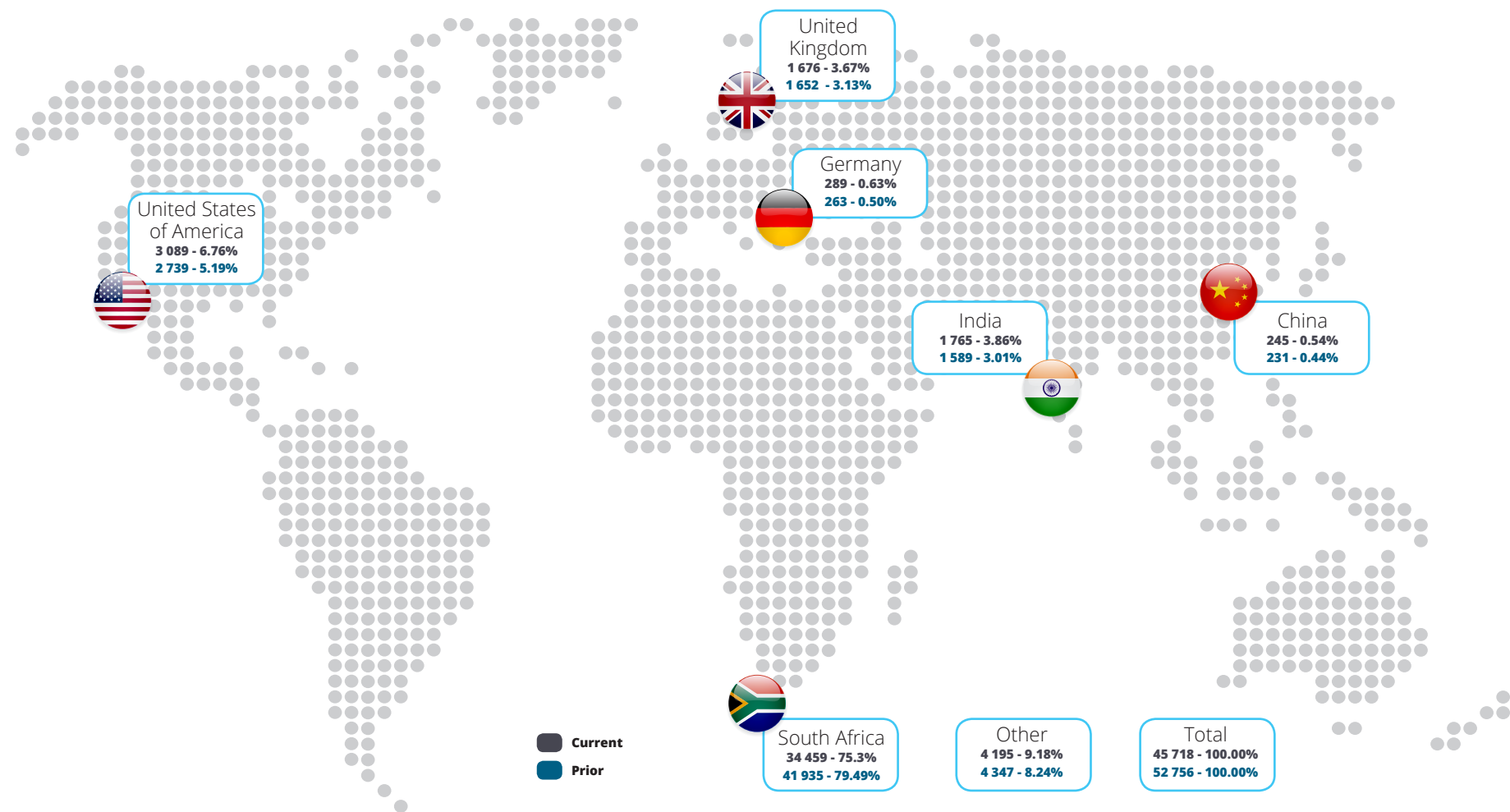
Diagram 14: Visitors to our website



We are pleased to report that the Tribunal received a merit award for excellence for its 2016/2017 annual integrated report from the South African Publication Forum.

In addition, the Tribunal won a merit award for its annual integrated report for the third consecutive year. These awards, presented by the CSSA, seek to encourage excellence in corporate governance and improve the quality of integrated reporting across all sectors.

Diagram 15: Website visitors per country



MEDIA RELATIONSHIPS AND MEDIA MONITORING

Face-to-face media visits and day-to-day interactions with editors and journalists covering competition law have continued during the period under review. These interactions have provided positive feedback but have also enabled the communications officer to make improvements such as media releases that include additional context and background in respect of high profile or interesting cases. In addition, arising from these interactions the communications officer intends to host a media workshop in the coming year to educate journalists on the basics of competition law and how the competition authorities work.

While the public and other interested stakeholders are communicated with primarily through media releases, members of the public or companies participating in Tribunal cases will be communicated with directly through normal case procedures.

Tribunal cases are a regular feature in the media and while, on one hand, they assist the public in understanding the Tribunal's processes and activities, daily media monitoring is useful to the Tribunal as it determines the extent of the coverage. It assists in tracking sentiment and helps the Tribunal in addressing the accuracy or reporting on Tribunal decisions and activities.

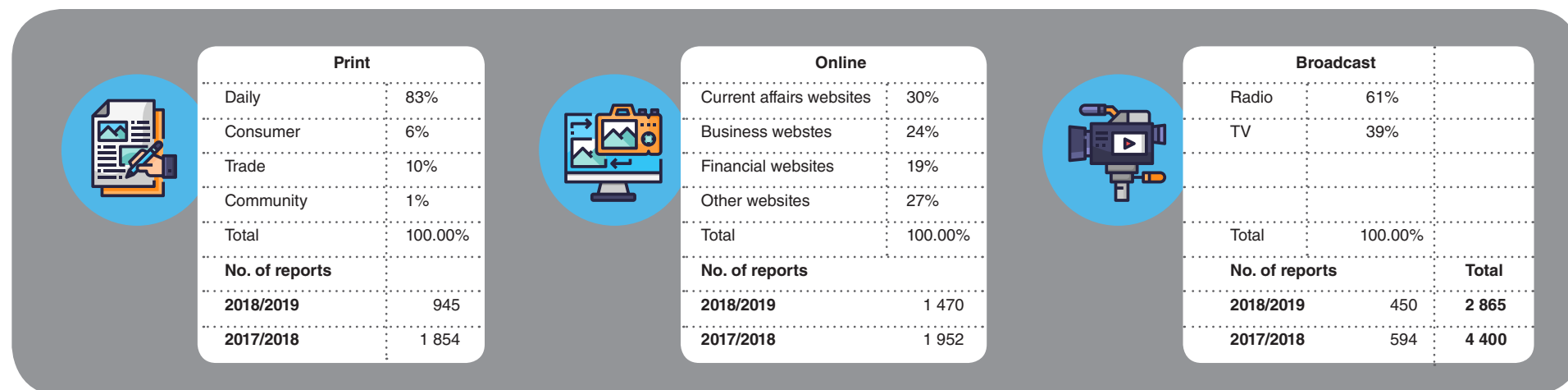
In addition to the daily monitoring, we undertake extensive analysis and report on media coverage quarterly. The main source of this information is Newsclip Media Monitoring which provides daily media alerts relating to the Tribunal (print, broadcast and online) as well as monthly data on the type of media coverage, the value of the coverage and the reach of the coverage, etc.

We draw a distinction between direct media coverage (articles or broadcasts that emanate directly from media releases on cases and/or orders issued) and indirect coverage (in which the Tribunal is mentioned in passing or indirectly).

As indicated earlier, the analysis allows us to assess sentiment (positive, negative or neutral reporting), obtain an indication of how Tribunal decisions are interpreted, and which decisions are of interest to which publications. We are also able to determine the extent to which we are able to reach communities through community media.

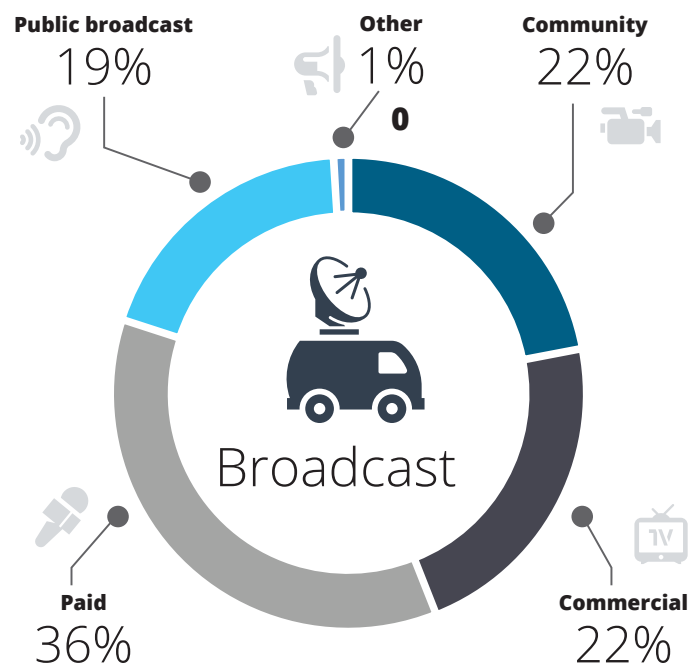
Overall, in the current reporting period, we have seen a decrease in the number of news reports compared to the previous reporting period (2 865 stories as opposed to 4 400 stories). This could be ascribed to a decrease in the number of mergers heard and decided as well as whether cases are regarded as newsworthy or not. Other major news events that dominate news and current affairs coverage also influence coverage of Tribunal cases in the media.

Diagram 16: News coverage by media category



A further analysis of broadcast coverage indicates that 22% of coverage is by community stations, indicating that the Tribunal is reaching the audiences of small broadcasters.

Diagram 17: News coverage by station types

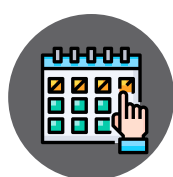


Total Advertising Value Equivalent (AVE) is a common measure used in the public relations industry to measure what the advertising cost would have been in relation to news coverage space and/or time. It is interesting to note that despite the fact that the number of stories decreased by just less than 35%, the AVE remained relatively constant – R204 419 081.00 in this reporting period as opposed to R221 017 411.00 in the prior period.

Some of the cases that received widespread media coverage include:

- the Commission's complaint against 23 local and international banks accused of colluding to fix the rand/dollar exchange rate;
- penalty imposed on Japanese shipping firm, K-Line;
- Omnia Fertilizer consent order and fine;
- the Glencore-Chevron merger;
- the Sibanye-Lonmin merger;
- the Mediclinic merger prohibition;
- the Greif-Rheem merger prohibition;
- Computicket fined for abuse of dominance;
- schools sign consent orders in relation to school uniform contracts; and
- media companies fined in relation to advertising commissions collusion.

HOW DID WE PERFORM AGAINST OUR PREDETERMINED STAKEHOLDER RELATIONSHIP OBJECTIVES?



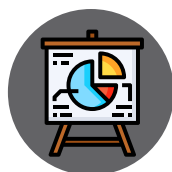
No. of indicators

5



No. achieved/ exceeded

3



No. partially achieved

2



No. that could not be measured

0

A communication framework provides the Tribunal with a structured and focused process through which it creates and enhances awareness of its work and activities. It also equips the communications officer with the necessary guidelines to fulfil the Tribunal's predetermined stakeholder relationship objectives.

Two of the targets require the framework to be reviewed annually and for quarterly communication reports to include progress against strategy and an analysis of media coverage. Both these targets were met fully. The framework was also revised and workshopped with Tribunal staff members. Quarterly reports including progress against strategy and the required analysis are presented to various governance structures within the Tribunal.

A crucial facet of stakeholder awareness is ensuring that final decisions (in mergers and prohibited practice cases) are made public within stipulated timeframes. Targets have therefore been set that require the issuing of media releases on final merger and prohibited practice outcomes within two business days of the order being issued.

In relation to final merger decisions the target is set at 95% as opposed to 100% as not all merger decisions are deemed newsworthy. The target was exceeded by 2% as 96 of the 99 media releases issued were issued within the required two business days. If a merger decision is not deemed newsworthy, a media release is not issued.

A target of 90% is set for issuing media releases on final prohibited practice decisions. Five press releases were issued but two were not issued within the required time frame due to a housekeeping issue that has subsequently been corrected.

We set an objective relating to the development of an e-newsletter on the Tribunals website. This target has been met with the e-newsletter being posted on the Tribunal's website and distributed electronically to over a thousand subscribers, mainly from the legal and media fraternities.

Conducting stakeholder satisfaction surveys has been identified as a way for the Tribunal to identify and address stakeholder needs and expectations. Operational circumstances have been such that a survey was not undertaken during the reporting period. We have, however conducted two surveys internally to determine staff's level of satisfaction with a wellness day held and to solicit feedback on internal communication priorities and processes.

While not a stated objective, the Tribunal has a legislative obligation to publish all merger decisions and complaint referral notifications in the Government Gazette within 20 working days of the order being released. We failed to meet these targets with only 90% of the merger decisions and 83.30% of the complaint referral notifications being placed within the required 20 working days.

The delays are a result of some housekeeping issues which have been resolved but also occur because while the Tribunal offices are closed in December, the system still counts these as business days. We are looking at categorising these dates as "recess dates" which is standard in the legal fraternity. Not excluding them from the count impacts negatively on all our turnaround times.

BEING ACCOUNTABLE, TRANSPARENT AND SUSTAINABLE

The Tribunal's third and final strategic goal is one that requires us to ensure that we have effective oversight structures in place and that the management of and governance within is such that effective financial management and reporting is achieved. Simultaneously there is a focus on developing and building sustainable capacity.

Over the past five years (since 2013/2014) the Tribunal has adopted an integrated approach to its reporting with the final product being the annual integrated report. Integrated reporting is by its very nature a more holistic form of reporting. We continue to focus on making the report more relevant and more engaging, as well as, providing an overview of financial and non-financial activities. In the report we demonstrate the links between strategy, performance, governance and our value add/impact.

We are transparent about the successes and failures and where applicable address corrective action. Through our report we hold ourselves accountable to our various stakeholders. Being a public entity we are a recipient of public funding which places an additional obligation on us to exercise transparency and accountability in our operations and our reporting. Lack of governance, transparency and accountability poses both a financial and a reputational risk.

In this particular section of the report we address our role with regard to capacity building and sustainability and then address our compliance, governance and ethics.

We implemented our internship programme just under ten years ago and have over this period continued to develop and grow this area. The nature and function of the internship differ across the various functions. The vacation and long-term internship programmes provide undergraduates and graduates in commerce, law and economics from different universities an opportunity to experience competition law in operation. Vacation interns spend two to three weeks of their vacation shadowing case managers assisting with case related research and seeing the adjudicative process in operation. Long term interns are appointed for a calendar year and are assigned merger cases, attend hearings related to these cases and under the mentorship of more experienced case managers draft case summaries.

During the period under review three students from three universities participated in the vacation internship programme for a total of 51.5 days while five students from one university, two colleges and one employment accelerator spent 838.50 days in the Tribunal as long-term interns.

Internships in case management are an ideal way of integrating theory with practical experience and assisting in the development of high-calibre players in the field of competition law enforcement.

HELENA GRAHAM



“The practical experience has been essential as theory can only take one so far. I've learnt to manage various tasks simultaneously and to work as part of a team. I've also been taught to think critically, to focus on the most important information amongst hundreds of documents and to work under immense pressure. My exposure to competition law allows me to seriously consider a career in this field.”

“I was given the opportunity to work with a truly dynamic team and to access pre-eminent legal experts which developed my thinking and enhanced my skills. The experience has given me more insight into competition law and its impact on the economy and has enhanced my knowledge of the private sector. I now know how industries work, how they are changing and the challenges they face.”



HLUMELO VAZI



ANDISWA NYATHI

“It's had a profound impact on my understanding of competition regulation. I have particularly enjoyed deliberation on the economics of collusion and merger control. The opportunity to engage Tribunal Members on matters has been invaluable in assisting with the transition from a theoretical background to a point of practical application. I've relished the exposure to multiple markets and industries which I've found quite stimulating.”

In other divisions within the Tribunal we use the programme to provide short-term employment opportunities to unemployed youth. These internships vary in length, but they never exceed a period of 12 months. While we are not in a position to offer long-term employment, we are able to expose them to interview and selection processes and provide them with valuable work experience.

We have partnered with Harambee – an employment accelerator – in this regard but have also engaged with students who have been referred to us by other stakeholders and who require practical experience in order to graduate. For example Mbali Zini completing a Human Resources Management diploma at Damelin College was unable to complete her course without this experience. Mbali spent 151 days in the human resources division.

Charlot Mosia spent 202 days in the procurement division performing various tasks related to procurement including ensuring bidders comply with tender specifications.

In order to perform our required functions effectively it is essential to ensure that Tribunal staff, in particular the case managers and Tribunal members, have the requisite skills and training and remain competent to carry out their required duties.

In line with cost containment requirements, we have rationalised our attendance at various conferences, seminars and workshops but have ensured that sufficient staff/ Tribunal members attend relevant forums in order to stay updated with regard to their knowledge of competition law and stay abreast of international best practice in terms of policy and law.

Our commitment to this is evident in the cost and number of days spent in training in the period under review (R983 621.12 and 117 days).

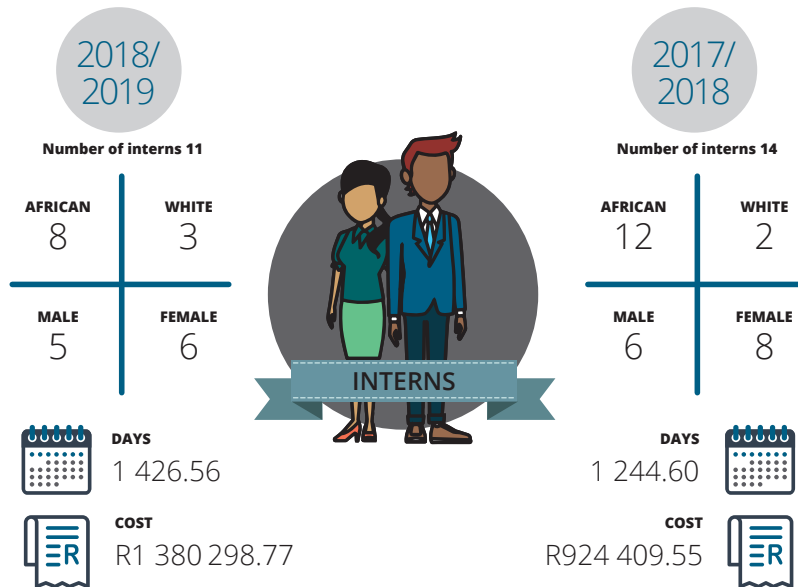
On an international level, six delegates were sent to three international conferences/ workshops. These included the competition committee meetings of the Organisation for Economic Co-operation and Development (OECD), the annual conference for competition economists (ACE), the Fordham Competition Law Institute's annual international antitrust law and policy conference and a conference hosted by the International Bar Association (IBA).

A part-time member and a case manager attended the Competition and Regulatory European Summer School (CRESSE) lawyer's course while a case manager attended the CRESSE advanced economics course. The former is designed for lawyers/judges and enforcers practicing competition law. It covers key concepts facilitating the review and the application of economic principles and methods in their work.

Eight case managers and Tribunal members attended the International Conference Network (ICN) 2018 Unilateral Conduct Workshop held in Stellenbosch in June 2018.

Charlot Mosia

“The experience inspired me in terms of my career aspirations at a time when I only had office administration experience. I have learnt a lot while working at the Tribunal and I've become more confident in myself and my potential. This opportunity, which I view as the greatest stepping-stone in my career to date, has made me realise that I can work both in a team and independently on numerous tasks. I've also learnt how to work effectively and efficiently under pressure.”

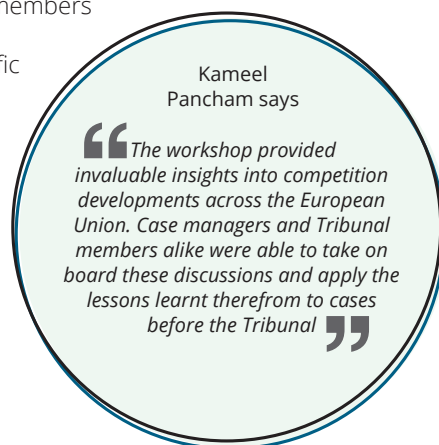


The workshop examined the challenges involved in analysing unilateral conduct of dominant firms and firms with substantial market power with the objective of promoting convergence and sound enforcement of laws governing unilateral conduct.

Three case managers attended a training programme addressing economic and legal principles for economic regulation at the Annual Competition and Economic Regulation (ACER) Week in Johannesburg. ACER is platform facilitating the sharing of knowledge amongst competition authorities and regulators in the African region. It enables them to build networks and keep abreast of key developments.

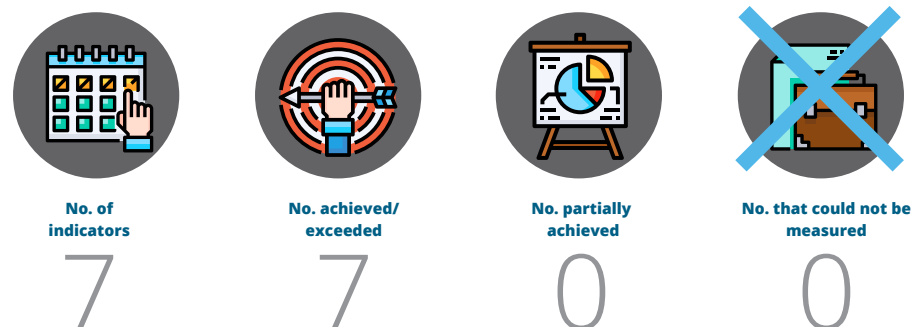
Internally we once again hosted our annual workshop for case managers and Tribunal members. The workshop addressed recent developments in European Union (EU) competition law. The workshop was facilitated by King's College Emeritus Professor Richard Whish and 19 case managers and Tribunal members were present.

We have continued to ensure that staff members not directly involved in the adjudicative process receive training to acquire specific skills required for their job function as well as training that ensures they remain up to date with compliance requirements. To this end 22 staff members spent 25 days attending various computer courses and workshops that addressed tax and payroll compliance, occupational health and safety functions, financial reporting standards, internet and social media risks, data governance, fraud and ethics.



The Tribunal has, since inception, provided financial assistance to staff members submitting and motivating requests for assistance for courses external to the Tribunal and primarily related to their individual career paths. In the current reporting period, we provided financial assistance of R116 533.37 to five staff members in order for them to further their studies

DID WE ACHIEVE OUR OBJECTIVES OF ACCOUNTABILITY, TRANSPARENCY AND SUSTAINABILITY?



Six of these seven predetermined targets address the outcome of the Tribunal's annual audit and compliance with regard to annual financial statements. As the annual audit (performed by the Auditor-General) is only finalised in July performance against these targets will always relate to the prior year audit. The seventh target relates to the Tribunal maintaining and implementing the case management internship programme.

The section addressing sustainability provides evidence that the internship programme is well entrenched in the Tribunal and that annually a number of students benefit from this involvement. We have also addressed the importance of this programme with regard to developing skilled capacity, thus contributing to sustainability in the Tribunal and the broader competition law and policy area.

As referred to by both the chairperson and the COO in their reports, we were awarded a trophy by the Auditor-General for a clean audit for the year ending March 2018 – the second in a row and testimony to the full achievement of the other six targets. It is also testimony to full accountability and transparency in financial and performance reporting as well as effective governance in both these areas, as there were no issues of non-compliance.

Throughout the reporting period staff in corporate services, procurement and finance have focussed on ensuring that policies and processes are well embedded and adhered to. They are responsible for monitoring various controls to ensure compliance with these policies and processes and mitigating risk and the final reward - a clean audit.

ADDRESSING SUSTAINABILITY

Preparing an annual report that can be regarded as integrated requires that we do not report in isolation. We must demonstrate links between strategy, financial and non-financial performance and that we also address economic, environmental and social impacts. We are required to be more transparent about the challenges (risks) and opportunities we face.

While it is not possible for us to give a detailed analysis of the economic impact of the decisions we make in the adjudicative process we do provide highlights of notable cases, particularly those where public interest conditions and remedies are prescribed and where companies/firms have been held accountable for contraventions of the Act.

We also report on performance against predetermined targets and provide explanations on variances and where relevant we address corrective action. We present our financial information and demonstrate the links between budget, expenditure and strategic objectives in graphic or narrative form.

We have prepared our financial statements on the basis of accounting policies applicable to a going concern and to this effect performed a going concern assessment. As is indicated in the financial section of this report, the Tribunal is funded by grant allocations through the National Treasury and the EDD. Funds are committed over the three years associated with the medium-term expenditure framework. Our functions are encompassed in the Act and we therefore have no

reason to believe that there will be the need or the intention on the part of either of these institutions to liquidate or curtail the scale of the Tribunal. In fact, in part 3, we demonstrate that proposed amendments to the Act may increase our mandate. In the ordinary course of our operations assets will be realised, liabilities settled and both commitments and contingent liabilities will occur. We therefore conclude that we remain a going concern and therefore are financially sustainable.

Given the nature of the Tribunal and the fact that we are funded by public funds, we are limited in our ability to use financial and non-financial resources to make a substantial social and/or environmental impact. Nevertheless, we try as much as possible to have some impact in this area and discuss some contributions below.

The Tribunal has an obligation to comply with section 13(G) of the Broad-Based Black Economic Empowerment (B-BBEE) Act. It had been our intention to contract with a service provider in the current reporting period to assist us with assessing our readiness for verification, to guide us to put processes in place to ensure that we are in a position to have our status verified and thereby be compliant. For various reasons, not least of these being lack of financial resources, no progress was made in this regard. We, however, identified it as a priority for the forthcoming financial year.

We have continued to use B-BBEE as a factor in the evaluation of quotes received as required by procurement legislation and have made progress with regard to collecting data on our spend both in terms of B-BBEE level and enterprise size. While the information is not always supplied by service providers and is not maintained for all service providers listed on National Treasury's Central Supplier Database (CSD) we are able to provide a picture of how we as an organisation, in a small way, contribute to government's objective of addressing historical imbalances.

Spend by enterprise and B-BBEE is illustrated graphically on the next page. Expenditure in the category government entities refers to monies for occupation on the Department of Trade and Industry (DTI) campus and monies paid to the Commission for shared services.

Diagram 18: Spend by enterprise and B-BBEE level

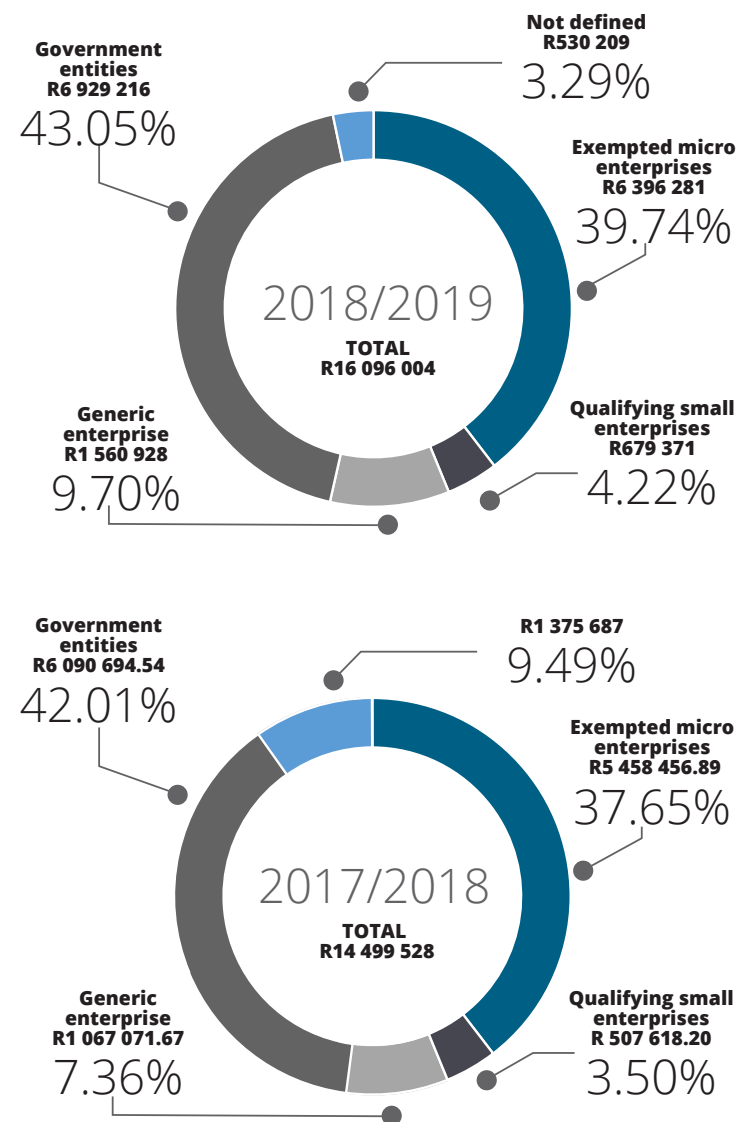








Diagram 19: Spend by enterprise and B-BBEE level

B-BBEE Level	2018/2019		2017/2018	
	Spend	%	Spend	%
Not defined	R487 400	3.03%	R1 216 834	8.39%
Government entities	R6 929 216	43.05%	R6 090 695	42.00%
1	R4 120 671	25.60%	R2 698 333	18.61%
2	R1 471 788	9.14%	R1 447 332	9.98%
3	R66 065	0.41%	R247 354	1.71%
4	R2 753 732	17.11%	R2 685 648	18.52%
5	R97 603	0.61%	R64 576	0.45%
6	R0	0.00%	R0	0.00%
7	R0	0.00%	R0	0.00%
8	R169 529	1.05%	R48 758	0.34%
Total	R16 096 004	100.00%	R14 499 528	100.00%

As part of our efforts to reduce the negative impact we may have on the environment, we continue to use "environmentally friendly paper" – paper that comes from well managed forests, is chlorine free and /or is 100% recycled. We have also continued to encourage and monitor recycling in the office. In most areas, other than paper, our figures have reduced but are more consistent with 2016/2017 figures (plastic – 8kg; tin – 19.5kg; glass -35kg; tetrapak -20.9kg; computer equipment – 24.9kg and paper- 2645.40kg).

Diagram 20: Recycling figures measured in kilograms

						
Year	Plastic	Tin	Glass	Tetrapack	Computer Equipment	Paper
2018/2019	14.00	16.50	22.50	21.50	4.50	4 530.00
2017/2018	32.69	23.30	39.90	30.90	45.80	1 913.60
Difference	-18.69	-6.80	-16.90	-9.40	-41.30	2 616.40
Percentage Change	-57.17%	-29.18%	-42.89%	-30.42%	-90.17%	136.73%

As illustrated below the small quantities we recycle make a difference in saving trees, energy, oil and water. If all government departments made such efforts the contribution could be significant.

**4 530kgs
of paper
recycled,
saved...**



Trees
84.83



Energy
19 960 kilowatts



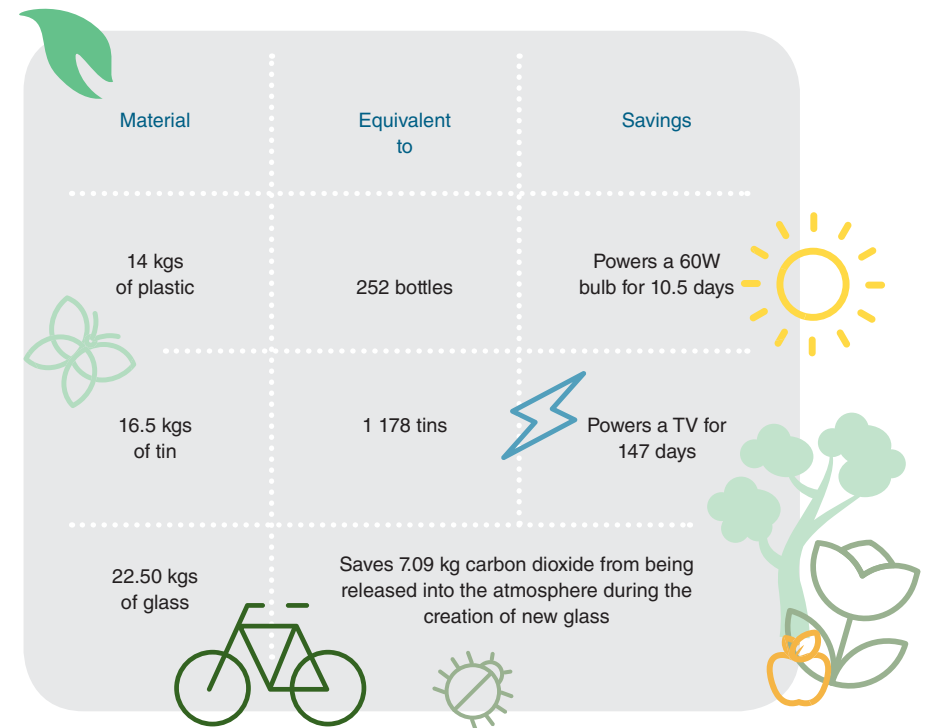
Oil
7.19 kilolitres



Water
132.38 kilolitres



Landfill
12.57 sq metres



Being a government funded entity, we cannot set aside a budget for social responsibility spending, but we do, in a small way, try to contribute to the wider community. This year we donated used furniture to the value of R29 014.28 to the Sunnyside Roman Catholic church, Leratong Hospice in Atteridgeville and to Madhya Kailash Temple in Midrand. In addition, we purchased lanyards and file bags for all staff in the Tribunal from BanaBlankets a community income-generation and empowerment project in Alexandra Township run by unemployed women who are often the primary care-givers of orphaned or vulnerable children.

Our internship programme is another example of our contribution to the broader community we operate in. As illustrated earlier in this report this programme gives students the opportunity to gain experience and develop skills in a structured working environment.

Being socially responsible also requires and implies adherence to ethical business practices as well as using our resources (financial and non-financial) in line with our approved budget and annual performance plan. Our contributions in this regard are discussed in Part 4 and Part 5 of this annual integrated report.



GOVERNANCE IN THE TRIBUNAL

“ ... we address
the importance
of integrity and the
Tribunal's commitment to
ethical behaviour and values
as well as the regulatory
compliance framework
we are required to
operate in.”





PART 4

In a climate where public sector corruption, fraud and non-compliance with required legislation is prevalent in the news, it is increasingly important that the Tribunal is able to demonstrate to its stakeholders and readers of this report that it has effective governance.

Most definitions of governance will identify a number of important principles, that when fully functional and in operation will ensure that an entity is operating within an effective governance framework.

Earlier in this report we discussed and illustrated our adherence to many of these. We have demonstrated our ability to define our stated outcomes, how we ensure that these are sustainable over the long term and we have indicated our process for the review of these outcomes both in terms of our performance/non-performance and where necessary how we have revised them. We have provided an overview of our interaction with our various stakeholders and the nature and purpose of our engagements with them.

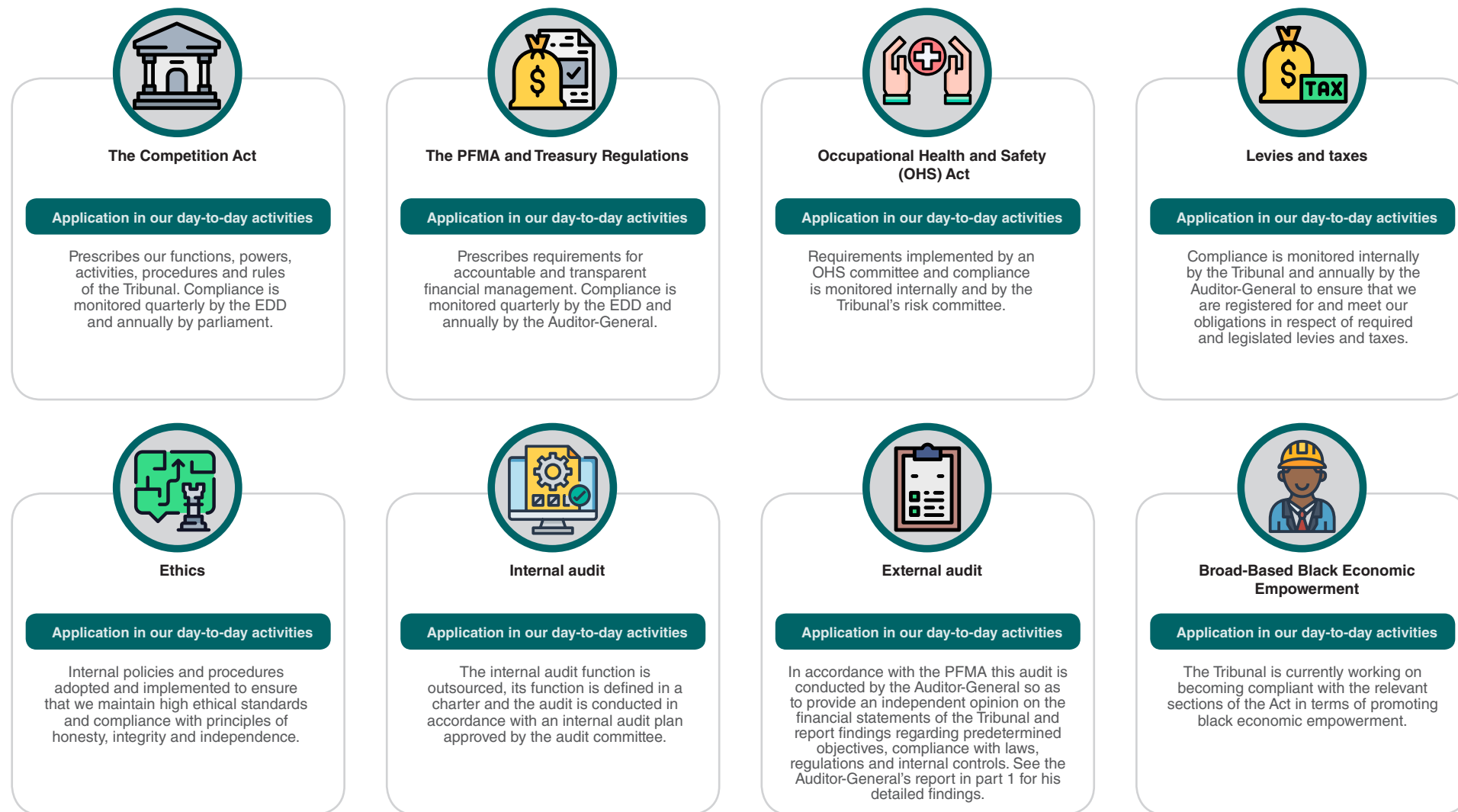
In this part we address the importance of integrity and the Tribunal's commitment to ethical behaviour and values as well as the regulatory compliance framework we are required to operate in.

OUR COMPLIANCE FRAMEWORK

The Tribunal's corporate governance framework, revised to be aligned to the King IV Report on Corporate Governance™ (King IV) principles, outlines the Tribunal's approach with regard to ensuring best practice and legislative compliance.

The areas of compliance and primary legislation that guide our daily operations are illustrated on the next page.

Diagram 21: Legislation and areas of compliance that guide our operations



MANAGING AND MONITORING ETHICAL BEHAVIOUR

As addressed in our corporate governance framework the first two principles of King IV require that the chairperson, as accounting authority, should lead the Tribunal ethically and effectively and should ensure that an ethical culture is established.

Given that we receive public funding there is an additional responsibility to ensure ethical behaviour is applied to the adjudicative process as well as to the various support functions and governance structures. To this end we have implemented various practices and policies that assist with avoiding conflicts of interest and ensure the integrity and good reputation of the Tribunal.

To varying degrees Tribunal governance structures, the COO and managers have implemented processes to monitor, review and report adherence to the various disclosure and declaration requirements.

Diagram 22: Ethical practices and policies

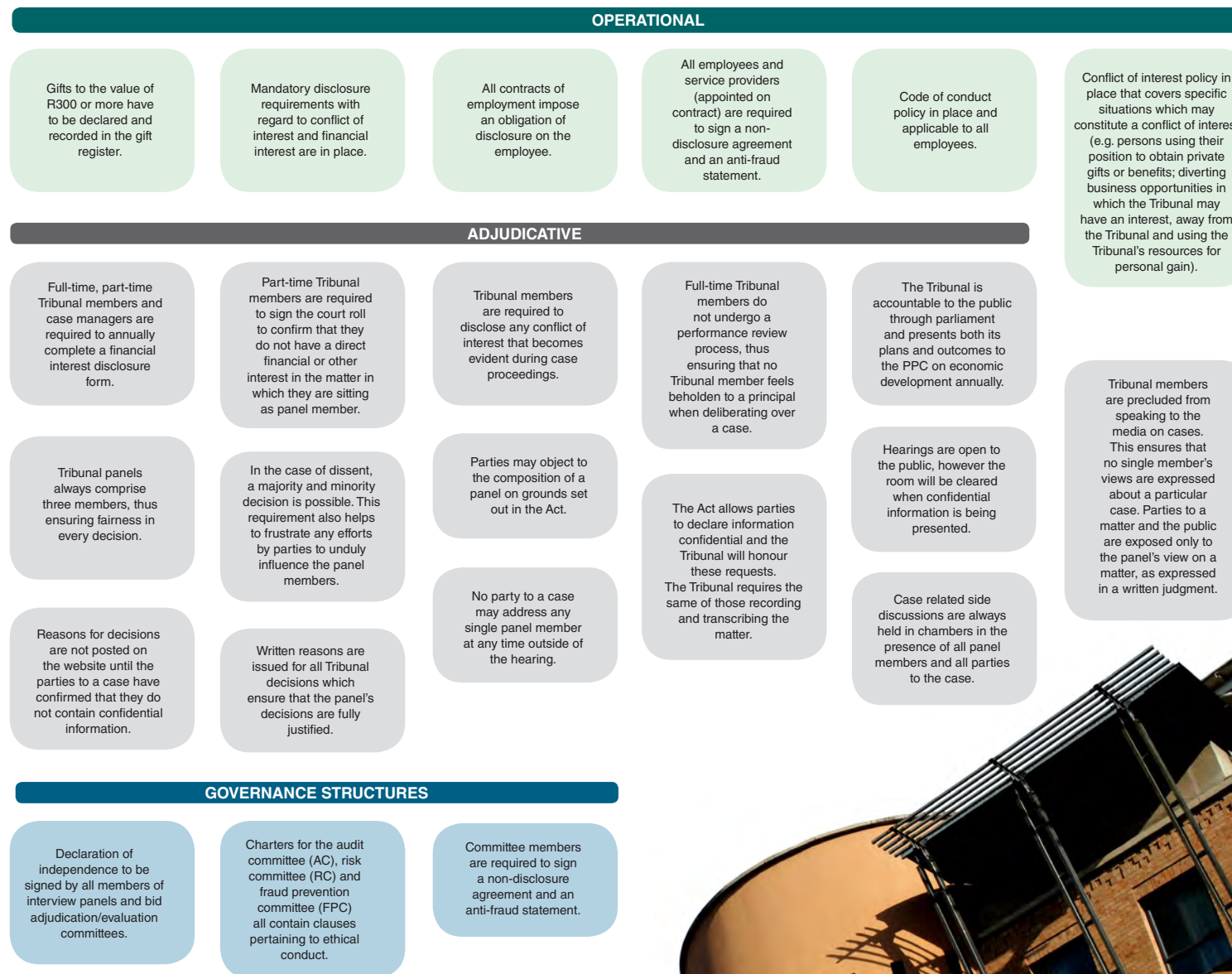
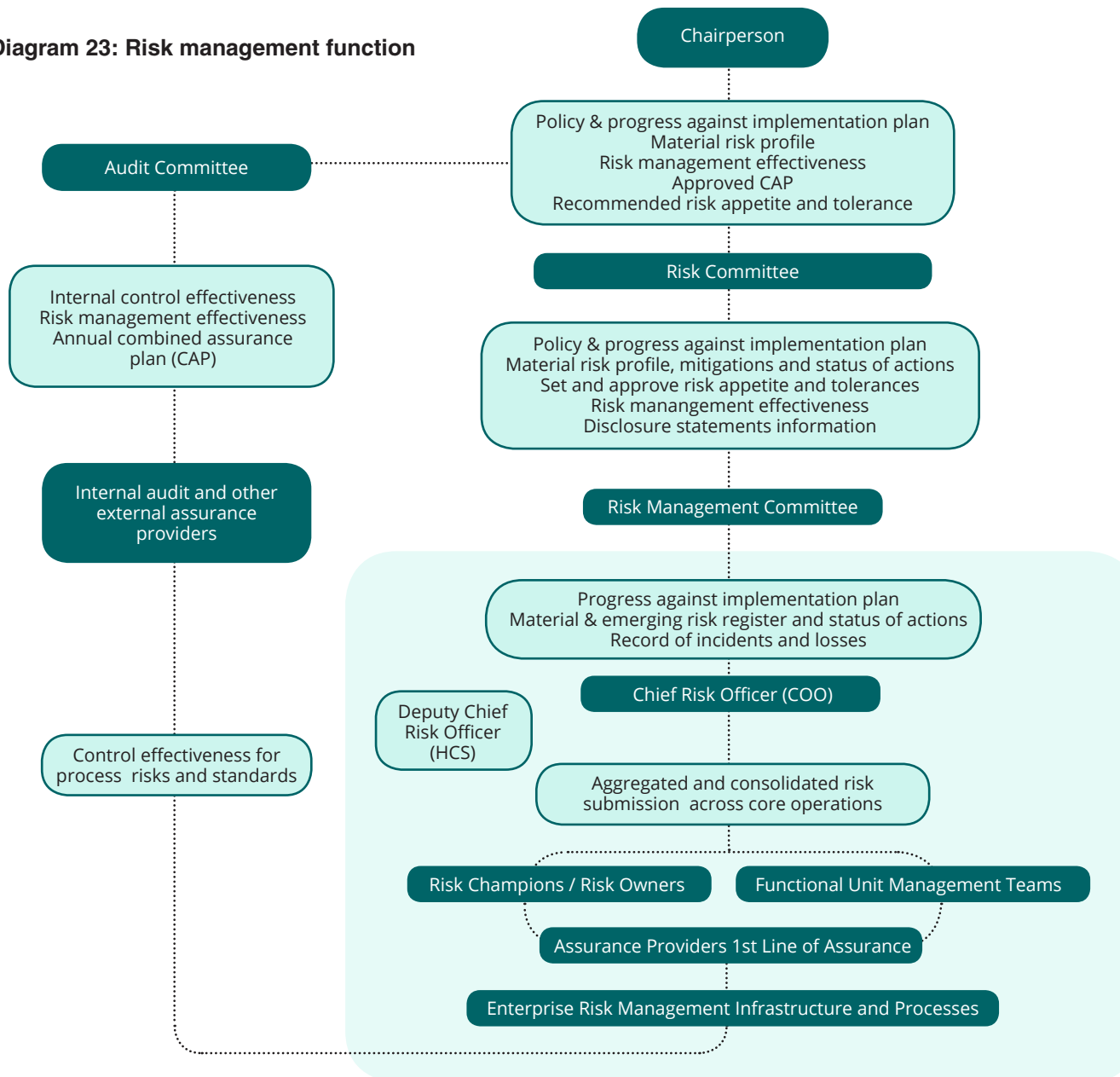


Diagram 23: Risk management function



IDENTIFYING AND MANAGING RISKS

A sound internal control system and effective risk management are integral to ensuring that we can continue to meet our goals/objectives. It is also important that risk management is not seen in isolation but is integrated with all processes (governance, planning, management and reporting) and that it forms part of the Tribunal's values and culture. The Tribunal has worked hard to ensure that risk management is well embedded within the Tribunal with nearly 50% of the full-time staff being directly involved with the risk management process.

Adopting this approach has allowed us to effectively and proactively identify, assess, quantify, and mitigate risks. A risk is defined as any event that may impact on the Tribunal's ability to achieve its objectives.

The structures in place for risk management within the Tribunal are reflected in diagram 23.

In terms of the PFMA the accounting authority is responsible and accountable for the overall process of risk management. However implementation is the responsibility of management and staff.

Diagram 24: Risk dashboard, sorted by residual risk exposure

Risk Name	Category	Origin	Inherent risk exposure	Control effectiveness	Residual risk exposure	Risk management
Shortage of Tribunal members to effectively oversee cases	Human resources	Strategic	Extreme	Unsatisfactory	Extreme	Tolerate
Long term funding sustainability	Financial stability	Strategic	Extreme	Satisfactory	Moderate	Treat
Inadequate Information Security	Information integrity and reliability	IT	Extreme	Satisfactory	Moderate	Treat
Business interruption	Business continuity planning	Strategic	Extreme	Satisfactory	Moderate	Treat
Inadequate operational facilities on Dti campus	Multiple categories	Strategic	Extreme	Satisfactory	Moderate	Tolerate
Inaccurate or inadequate performance reporting	Regulatory / statutory / legal	Strategic	Extreme	Satisfactory	Moderate	Treat
Poor corporate governance / business ethics and regulatory compliance	Regulatory / statutory / legal	Strategic	Extreme	Satisfactory	Moderate	Treat
Poor case management	Reputation	Strategic	Extreme	Good	Moderate	Treat
Ineffective management of OHS within the Tribunal	Safety, security, health and environmental	Strategic	Extreme	Satisfactory	Moderate	Treat
Inadequate procurement management	Fraud and theft	Fraud	Extreme	Good	Within risk tolerance	Treat
Poor management of hearing logistics	Operational	Strategic	Extreme	Good	Within risk tolerance	Treat
Inadequate financial management	Fraud and theft	Fraud	Extreme	Good	Within risk tolerance	Treat
Inadequate record keeping of case documents	Operational	Strategic	Extreme	Good	Within risk tolerance	Treat
Financial non-disclosure and inadequate financial reporting to relevant stakeholders	Regulatory / statutory / legal	Strategic	Extreme	Good	Within risk tolerance	Treat
Inability to attract and retain key critical positions within the organisation	Human resources	Strategic	Moderate	Good	Within risk tolerance	Treat
Inadequate payroll management	Human resources	Fraud	Moderate	Good	Within risk tolerance	Treat
Inadequate physical and financial control over Tribunal assets	Fraud and theft	Strategic	Extreme	Very Good	Within risk tolerance	Treat



The RC is a formal governance committee of the Tribunal responsible for assisting the accounting authority in discharging his responsibilities. At each meeting the RC reviews the risk report presented by the COO (as the chief risk officer) and assesses the extent to which risk management has been implemented in line with the approved implementation plan. The RC, in its report included in this annual integrated report, provides assurance that risks are managed and that the internal audit plan is risk based.

The combined assurance plan implemented in April 2017 is used to optimise assurance coverage from all the lines of defence (management, internal/external auditors and other assurance providers) on the Tribunal's risk profile.

Seventeen risks are identified on the Tribunal's risk register and each risk is categorised by category (e.g. human resources, operational, reputation), origin (strategic, fraud and IT), inherent and residual exposure, the effectiveness of mitigating controls, the risk owner assigned to each risk and whether the risk is to be terminated, treated or tolerated.

On a quarterly basis, assurance providers assess mitigating controls and provide documentary evidence for the conclusions they make on their effectiveness. Early signals of increasing or decreasing risk exposure are obtained from key risk indicators (KRIs) assigned to each risk. Each KRI has a specific tolerance limit or

acceptable level of exposure. Risk owners must measure actual exposure against these limits and in instances where these are exceeded, determine an appropriate risk response and corrective action to be implemented. The RC tracks progress of these actions against set target dates.

Quarterly risk meetings are also used by management to identify any risks to be added or removed from the register as well as identify any emerging risks management needs to consider.

PREVENTING FRAUD

The PFMA and National Treasury regulations require that a fraud prevention plan is included as a component of a risk management strategy. Pursuant to these requirements the Tribunal has adopted a fraud prevention plan (FPP) and appointed a fraud prevention committee (FPC).

The FPP is drafted to ensure that the necessary mechanisms to prevent, detect and deter fraud are in place. In addition, it addresses policy and processes for reporting, investigation and resolution.

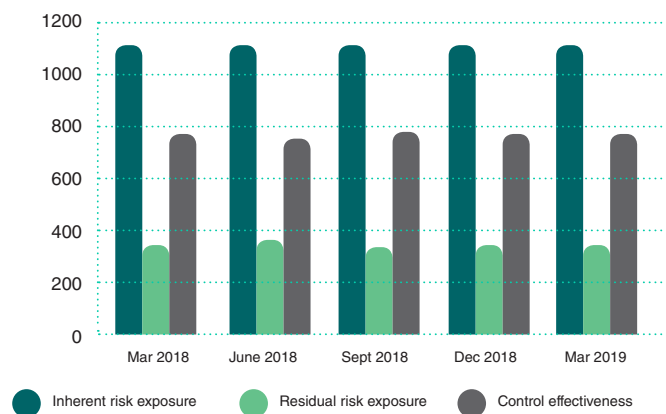
The plan is communicated to all employees and they are required to sign an anti-fraud statement, thus confirming their commitment to the Tribunal's policy of zero tolerance to fraud.

The functions, authority and responsibilities of the FPC are detailed in a fraud committee charter and the report of the FPC is a standard item on the agenda of the AC and RC meetings. The FPC must also ensure that fraud risks are identified, evaluated and assessed as part of the Tribunal's risk management process.

Any member of the FPC reported for or suspected of fraud may not form part of the committee until the matter is resolved.

The FPC has met twice in the current reporting period and there have been no incidents of fraud or potential fraud that have been reported or required investigation.

Diagram 25: Risk exposure and control effectiveness



REPORT OF THE RISK COMMITTEE

The risk committee has regulated its affairs in compliance with its charter that has been formalised to include principles contained in King IV. The charter guides the committee in fulfilling its responsibilities and performing its duties during the year as listed below:

- Review the risk management policy and recommend same to the accounting authority for approval.
- Monitor the implementation of the risk management framework through structured systems and processes designed for that purpose, to ensure that:
 - management disseminates the risk management policy and plan throughout the entity; and
 - management ensures that the risk management plan is integrated into the daily activities of the business.
- Based upon reports by management, and from the internal and external auditors, express formally to the accounting authority its opinion on the effectiveness of risk management systems and processes.
- Review the risk management report at each meeting and have particular regard to:
 - ensure that a process exists for the implementation of a risk management framework and methodology that increases the Tribunal's possibility of anticipating unpredictable risk;
 - ensure that a process exists where risk management assessments are performed on a continuous basis;
 - ensure that management considers and implements appropriate risk responses; and
 - ensure that continuous risk monitoring by management takes place.

In order to fulfil these responsibilities in the current reporting period the committee conducted the following activities:

- Oversaw the implementation of the Tribunal's risk management policy;
- Reviewed procedures to ensure that the Tribunal's risk management framework was properly implemented throughout the entity and that required training was undertaken;

- Reviewed the implementation of the risk management plan and assessed whether the implementation efforts were successful and consistent with desired outcomes; and
- Assisted the accounting authority in determining the material strategic and operational risks, and the concomitant opportunities that could potentially impact/benefit the entity.

The committee is satisfied that it has complied with its charter and further confirms that the Tribunal has continued to rigorously manage its strategic and operational risks in order to achieve its mandate.

The committee met four times during the year under review. The membership of the committee is made up of five independent non-executive members, and two members of executive management. The external auditors as well as the internal auditors have a standing invitation to the meetings and have attended all the scheduled meetings during the year.

The committee wishes to highlight that a major risk to the going concern status of the Tribunal is its dependency on fluctuating filing fees from the Commission and the inadequacy of the grant allocation made to the Tribunal.

In addition, the committee notes the difficulty the Tribunal has with regard to the availability of members to sit on panels and will monitor whether the capacity issue is addressed by the appointment of additional members and part-time members as proposed in the amendment bill.

The committee will also engage with management with regard to the successful on-boarding of a new Tribunal chairperson and any other additional members appointed.

Norman Manoim's term as Chairperson comes to an end after 10 years of exemplary and professional service. The committee wishes to express its sincere thanks to Norman for the sterling work he has done and for the excellent engagement and updates that he presented at each meeting.



Akhter Moosa
Risk Committee Chairperson
31 July 2019

INFORMATION TECHNOLOGY AND GOVERNANCE

Information technology (IT) governance should be seen as part of the Tribunal's overall governance and not just as an IT issue or of interest only to the IT function. It should ensure that IT related risks and constraints are addressed and that its focus is on improving the management and control of IT so as to support the Tribunal in achieving its strategic objectives.

Creating, maintaining and implementing effective IT governance is not a one-time objective but rather an ongoing and evolving responsibility.

MAINTAINING EFFECTIVE IT GOVERNANCE IN THE TRIBUNAL

During the period under review we revised and updated three IT policies. This included a revision of the IT governance framework to ensure that it remains current and compliant with the Corporate Governance of Information and Communications Technology framework (CGICT) prescribed by the Department of Public Service and Administration (DPSA).

The framework defines the ways and methods through which IT governance can be implemented, managed and monitored in the Tribunal and provides guidelines for the effective use of IT resources and processes.

We simulated an IT disaster in order to test our IT Disaster Recovery Policy (DRP). The objective of the test was to determine if there were any gaps that prevent us ensuring that business critical systems are operational in accordance with the timeframes set out in the DRP. A few minor gaps were identified, and these will be addressed in a revised version of the DRP.

A revision of the IT strategic plan, which reflects IT objectives over the next three-year period, will be finalised in the beginning of the next reporting period. The framework links IT objectives to one or more of the Tribunal's strategic objectives and identifies specific IT projects and budget for each objective. Following the revision, progress against this plan will be reported on in the quarterly IT report presented to various governance structures in the Tribunal.

We continue to use various tools to monitor servers, server applications and individual devices for vulnerabilities, unusual user activity, changes to operating systems by the IT administrator, virus detection and removal and security breaches. These tools generate reports that are reviewed by the COO and where applicable the AC/RC.

The IT Administrator is responsible for monitoring two IT risks identified (business interruption and information security) and included on the Tribunal's risk register. Simultaneously he must be alert to any new emerging risks that need to be brought to management's attention.

We have also implemented and maintained performance monitoring with service providers with whom we have contracts, thus ensuring that agreed services are provided within the agreed timeframe. In addition, we have entered into a memorandum of agreement (MOA) with the DTI who provides campus network infrastructure including firewalls, telephone infrastructure and server room services.

BUILDING CAPACITY

In 2009 the Tribunal appointed its first full-time IT administrator. Since then we have seen the introduction of our CMS and many other interventions implemented in order to keep abreast with technology. This has resulted in a need for increased capacity in the IT division.

By way of illustration, in 2009 the IT administrator provided IT support to 17 staff members, three full-time Tribunal members and managed three servers. Today this department provides support to 24 staff members, five full-time Tribunal members, six interns and manages 13 servers.

Capacity requirements were partially addressed through the implementation of an IT internship. However, it became prudent and essential to provide permanent support in this area, thus addressing the capacity issue and reducing the risk of inefficiency in these services. For this reason, we converted a vacant receptionist position on our structure to that of a permanent IT assistant in March 2019. Rendani Neswisi (the previous IT intern) was appointed in this position and started work prior to year-end.

IT DEVELOPMENTS IN THE TRIBUNAL

During the current reporting period we embarked on various developments/projects all having a different impact in our IT environment and on our operations:

- The bandwidth speed of the dedicated internet line was increased (from 20MB to 40MB) in order to allow parties to Tribunal hearings and journalists to log into the guest Wi-Fi while attending hearings and to enhance the speed of daily online back-up transfers.

Rendani says:










“I am thankful to have had the opportunity to serve as an IT intern. I gained valuable insights into the IT industry and, having worked on various projects, I was also able to gain a better insight into different aspects of competition law. I have experienced the workings of the Tribunal's different divisions, attended meetings, and collaborated with staff on policies, learnt about managing content for the website and maintaining the IT infrastructure. I look forward to working in the Tribunal now that I have joined the family and I am most grateful for the opportunity!”

- The Tribunal's mailbox database was migrated to the Office 365 cloud space. A cost-effective decision as it requires an annual subscription with auto updates, and we are not required to purchase a licence every time there is a new release. In addition, a single user licence can be used on multiple devices operated by the user.
- A third-party service provider was appointed to redevelop the Tribunal's website and to provide hosting and support services. The intention was to provide a website which is modern, easy to navigate while providing accurate and up to date information to stakeholders. The content management system (CMS) of the website will be integrated with our onsite electronic case management system to provide almost real-time case information to visitors as this integration is refreshed on a daily basis.
- Further enhancements have been implemented on our electronic CMS in order to improve its functionality and in particular to facilitate the transfer of data/documents from our CMS to the website.
- Upgrade the CMS to a newer version of the product in order to ensure its sustainability for a further five years.
- Various reports generated through the reporting tool (Qlikview) within our CMS were enhanced in order to provide more detailed information on the adjudicative process. Many of these are used throughout this report. This is an ongoing process as the more we are able to extract the more potential we see with regard to data analysis.

The IT budget for the period under review was set at R3.48m. The table below highlights the major line items in the IT budget and reflects expenditure against budget.

While we have overspent on certain line items we have marginally underspent on the entire budget. The major overspend has occurred in the repairs and maintenance line item. This overspend is primarily related to costs associated with increased bandwidth, installation costs associated with upgrading our operating system and a new and significantly improved cloud backup storage facility. The budget for 2019/2020 has been revised taking into account these increased costs.

Diagram 26: IT budget and spend

	Item	Budget	Spent	Total spent %	Variance
	Hardware	R358 691	R347 298	96.82%	R11 393
	Software, services and renewals	R613 200	R582 526	95.00%	R30 674
	Repairs and maintenance	R769 035	R924 307	120.19%	-R155 272
	Internet/IT service provider/3G cards	R192 785	R185 823	96.39%	R6 962
	Website service provider	R189 718	R218 734	115.29%	-R29 016
	Website consulting	R608 000	R601 804	98.98%	R6 196
	Email archiving	R72 122	R72 124	100.00%	-R 2
	Intangible assets	R402 950	R314 022	77.93%	R88 928
	Lease	R277 635	R38 940	14.03%	R238 695
	Total	R3 484 136	R3 285 578	94.30%	R198 558

HOW DO WE MANAGE OUR HUMAN RESOURCES?

In managing human resources, the Tribunal ensures that it influences employee skills by recruiting, retaining and developing high quality people. Our human resources management also focuses on remuneration and benefits, training and development, performance management, employee wellness and occupational health and safety.

HOW DO WE REMUNERATE OUR HUMAN RESOURCES?

With employee costs accounting for 59.35% of our expenditure it is imperative that we implement and maintain effective human resource management. If employees are being supported in the workplace they are more likely to be effective and productive and therefore in a better position to assist us in meeting predetermined objectives.

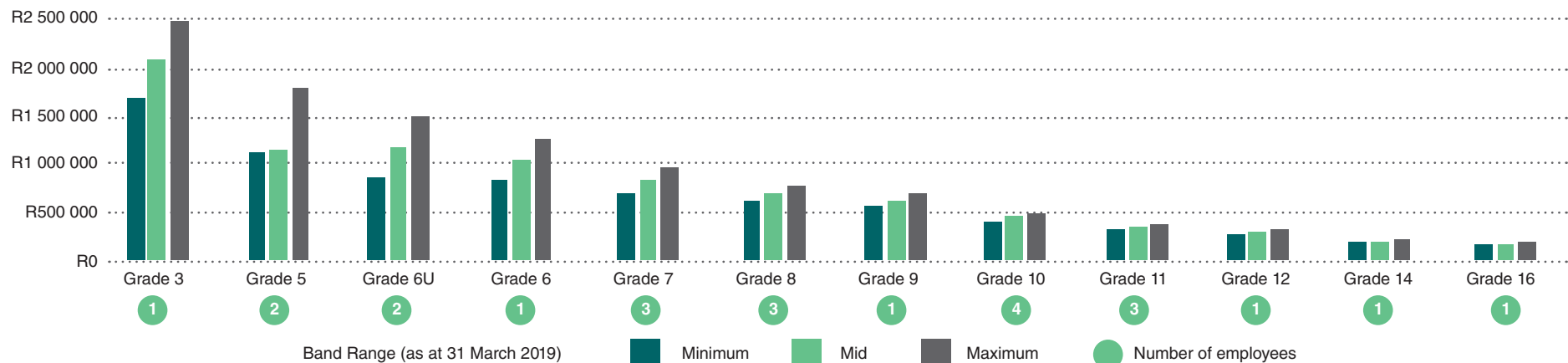
We have applied a total cost to company structure (TCC) that includes compulsory medical and retirement contributions. Additional benefits (reflected as company contributions) include risk cover benefits, parking, contributions to an employee assistance programme (EAP) and where the job function dictates – a communication allowance. All these benefits are subject to perks tax.

Annual cost of living adjustments applicable and implemented in the public sector are used as a basis for annual adjustments in the Tribunal, subject to budget availability. During the current reporting period salary adjustments for non-senior management service (SMS) employees implemented ranged between 6% and 7% (dependent on salary level), while SMS employees and Tribunal member's received adjustments of 6% and 2.5% respectively. Tribunal members salaries are deemed to be equivalent to those of high court judges and therefore adjustments applicable to high court judges are applied to full-time members. In line with GRAP standards the remuneration of the Tribunal's executive is reflected in Note 26 of the annual financial statements and fees paid to members of the Tribunal's oversight structures are reflected on page 76.

The Tribunal applies the Peromnes grading scale and aligns its grades with those on the Equate grading system applicable in the public sector. The structure includes a range of job grades ranging from Grade 18 (junior position) to Grade 3 (senior position). A job grading review was undertaken and very few changes were implemented while a remuneration benchmarking exercise begun in the reporting period will be completed in the next reporting period.

As at end March the Tribunal had five full-time members, 23 full-time employees, two employees on two-year contracts, two on a one-year contract and three interns.

Diagram 27: Distribution of full time employees by grade



MAKING CHANGES TO OUR STAFF

During the period under review the Tribunal accepted six resignations and all these positions were filled before 31 March 2019 with the recruitment period varying depending on the nature of position. Understandably more senior positions take longer to fill, and interim arrangements were made with other senior employees acting in these positions until they were filled.

As detailed in the section of this report addressing IT governance our organogram was revised slightly to make provision for a full-time IT assistant. There have been no other changes to the structure of the Tribunal.

While we do not anticipate any changes in the near future we have made provision in the 2019/2020 budget for the appointment of an additional full-time Tribunal member and for recruiting a senior case manager in order to deal with the expected increase in the volume of our work if the amendments to the Act are promulgated.

We have provided details of the various internship programmes in the Tribunal earlier in the report.

MEETING HEALTH AND WELLBEING NEEDS

The Tribunal is committed to ensuring that employees are provided with a safe working environment. To this end an Occupational Health and Safety (OHS) committee has been established for some time and they perform their duties as per the legislative requirements. Representatives in this committee have all attended the required training for their respective roles, thus ensuring their readiness for an emergency situation and enabling them to perform their required operational duties. These include performing monthly health and quarterly compliance checks in the Tribunal and providing a report to management and the RC that indicates the level of compliance and highlights any potential areas of concern.

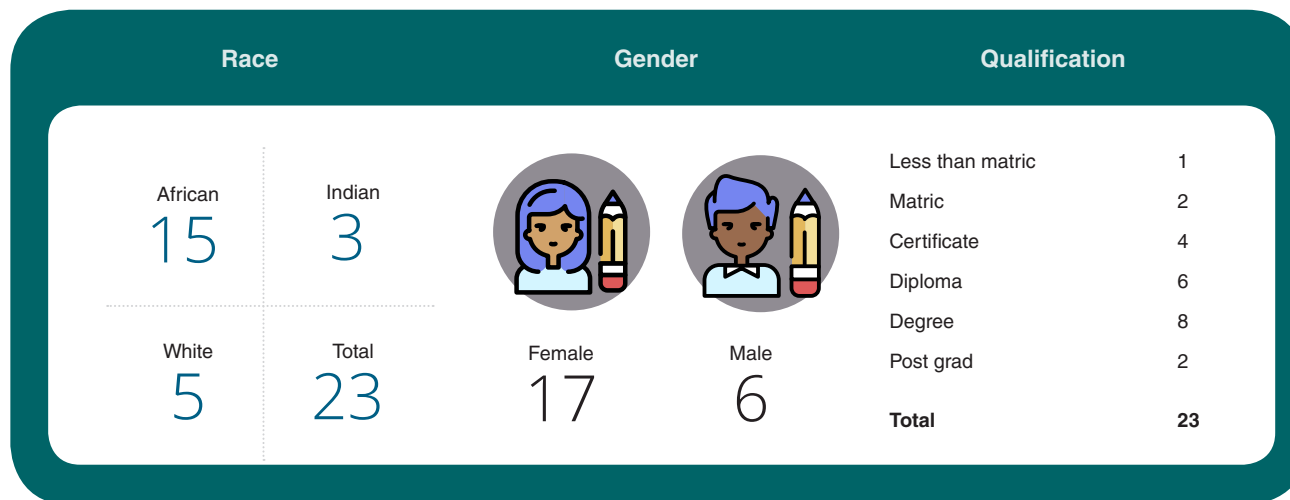
A service provider was appointed to assist the Tribunal with various OHS functions that included a compliance gap analysis, reviewing OHS policies and an OHS risk assessment. The Tribunal received a compliance score of 74.29% in the risk assessment. This was categorised a medium risk. While the risk assessment was completed the Tribunal experienced many difficulties with the services (including the assessment) and in communicating with the service provider and we will therefore be terminating our relationship with them.

We have undertaken a review of both the OHS and the Emergency Response Plan (ERP) and the latter was finalised and approved in January 2019. The former is in progress and will be completed in the next reporting period. It is our intention to test the ERP and the response of the team and staff in a simulated emergency exercise in the forthcoming financial year.

Through the employee assistance programme, we continue to provide an opportunity for employees and their families to seek support and guidance at no additional cost to themselves. The programme provides a range of services that include but are not limited to emotional, psychological, legal and financial counselling/support, thus enabling employees to address personal and work-related challenges. During the period under review overall engagement increased from 16.1% to 61.3% which is above the industry benchmark of 15.4%, thus suggesting that employees and their dependents are aware of the services being offered and are making use of them. The increase in usage is the result of an awareness campaign run within the Tribunal as well as participation by employees in the wellness day. In addition, monthly desk drops creating an awareness of a range of matters including prevention and treatment of medical and other conditions are distributed.

A wellness day was organised for employees in November 2018 and while the attendance was not as high as expected (16 out of 30 employees) for various reasons, those who attended provided both positive feedback and valuable suggestions for future improvement.

The communications officer produces an internal newsletter “Tsele le Tsele” bi-annually which is distributed to all staff internally. The newsletter communicates information relating to campaigns, outcomes of initiatives, Tribunal cases, introduces new staff members and celebrates staff achievements. It has proved to be an effective tool in creating a light-hearted atmosphere in a sometimes stressful and serious environment.



AUDITING OUR WORK, PROCESSES AND PROCEDURES

The Tribunal has an internal and external audit function in place thus ensuring compliance with section 188 of the Constitution, section 4(3)(a) of the Public Audit Act, 2004, section 5(1)(a)(ii) of the PFMA, Treasury Regulation 27.22.2 and section 40(10) of our enabling Act.

The external audit function is a statutory function performed by the Auditor-General and its current focus is on the financial accounts, financial management, regulatory compliance and performance against predetermined objectives. This audit is performed at year end and an opinion is provided by the Auditor-General as to whether the financial statements present a true reflection of the Tribunal's financial position and financial performance.

The respective responsibilities of the accounting authority and the Auditor-General with regard to the annual audit are contained in an engagement letter. An audit steering committee consisting of the COO, the head of finance and representatives of the Auditor-General meet regularly to discuss matters pertaining to the audit and to monitor progress against the plan. The COO and the head of finance are responsible for resolving audit findings reported in the management letter. In the prior period a clean audit was obtained, and the five findings raised (one relating to the audit of predetermined objectives and four relating to disclosure notes and accounting policies as reflected in the annual financial statements) were all addressed by the Tribunal. The audited financial statements, as presented to the accounting authority and audit committee, are presented on pages 92 to 125 while the audit opinion is presented page 81. We are pleased to report that the Tribunal has once again received a clean audit with five housekeeping findings that will be addressed in the forthcoming financial year.

Since inception the Tribunal has had 20 audits performed by the Auditor-General and we are proud to report that we have never received a qualified report. 60% (12) of these audits have been clean audits (no qualifications or emphasis of matter reported) while the other 40% (8) were unqualified.

While the external auditors perform a single audit, internal audits are conducted throughout the year. Given the size of the Tribunal the internal audit is outsourced. During the current reporting period we concluded a tender process for the internal audit function and Nexia SAB&T were awarded the contract in August 2018 to perform the internal audit for the five financial years beginning 1 April 2018, subject to an annual performance review.

The Tribunal has implemented and adheres to a combined assurance process and therefore, where possible, the internal audit functions are co-ordinated with other external and internal assurance providers so as to ensure proper coverage and where possible, reduce duplication.

The audit is risk based and is conducted in accordance with standards of conduct and codes of ethics prescribed by the Institute of Internal Auditors (IIA) while an internal audit charter defines the purpose, authority, terms of reference, objectives, powers, duties and responsibilities of this function.





Following discussions with management, a three-year strategic plan that represents a balance between risk and compliance has been drafted.

In the audits performed in the period under review and summarised below, “adequacy” is defined by the internal audit firm as determining whether the control design is sufficient to mitigate the related risks while “effectiveness” is defined as determining whether the system of internal control is functioning as intended. The following audits were performed:

Audit of performance information: tested the adequacy, effectiveness and efficiency of the process surrounding the collection, document retention, calculation and reporting of performance information. Source data was reviewed to determine that

it was adequate, reliable and sufficient to support the performance. Management committed to address and resolve the three findings raised before year end.

Diagram 28: Internal audit team

				
	Position	Experience	Qualification	Affiliation
Ms. J. Carolus	Director Internal Audit	14 years	CIA, CRMA	IIA
Ms. S. Moyo	Supervisor Internal Auditor	8 years	BCOMPT Accounting Science	IIA
Ms. N. Mhangara	Senior Internal Auditor	4 years	CA(SA)	SAICA
Mr. D. Mundagova	Senior Internal Auditor	4 years	IPC, ITC	SAICA
Ms. K. Masha	Internal Auditor	2 years	BTECH Internal Audit	IIA
Ms. Z. Ramakolo	Internal Auditor	3 years	BTECH Internal Audit	IIA

The names, qualifications and years of service of each member of the team are set out in the diagram above.

Supply chain management review: reviewed the adequacy and effectiveness of the contract management and tender process and determined the adequacy of internal policies and procedures and the level of compliance with these and relevant legislative prescripts. Management committed to addressing the two findings raised by March 2019.

Financial management review: determined the adequacy and effectiveness of processes related to the preparation, compilation and monitoring of the budget including its alignment to strategic objectives. In addition, the adequacy and effectiveness of controls pertaining to the monthly and quarterly reporting process was assessed.

Information technology governance review: determined whether the internal control system around the IT general control environment is adequate and functions effectively and efficiently.

The significance of the audit findings raised is illustrated below.

Diagram 29: The significance of audit findings raised in 2018/2019

Audit Area	Major	Significant	Moderate	Low	House-keeping	Total
Audit of performance information	0	0	1	0	2	3
Supply chain management	0	0	2	0	0	2
Financial management	0	1	1	0	0	2
Information technology control review	3	2	1	2	0	8
Follow up review	Not concluded prior to year end					
Total	3	3	5	2	2	15

The final audit – an assessment as to whether corrective action indicated on prior period findings was addressed by management - was begun in the current reporting period but had not been concluded at year end. Management's view of progress made with regard to these findings is illustrated below.

Diagram 30: Progress on prior year audit findings

Prior year audit area	No. of findings	Fully implemented	Partially addressed	Not addressed
Case management review	10	2	8	0
Performance information review	2	2	0	0
Internal financial control review	7	6	1	0
Follow-up review	19	8	11	0
Total	38	18	20	0

WHAT OVERSIGHT STRUCTURES DO WE HAVE AND WHO ARE THEIR MEMBERS?

The Tribunal has three oversight structures in place. We have referred to two of these structures (RC and FPC) earlier in the report and have discussed their roles and responsibilities.

The third oversight structure, the AC, presents its report on page 78. The AC's main role is to assist the accounting authority in fulfilling his responsibilities of accountability, transparency and good governance but to simultaneously remain independent.

The AC provides objective advice and recommendations as to whether the Tribunal's processes related to governance, risk management, and internal control are suitably designed and working so as to enable the Tribunal to fulfil its mandate and achieve the stated objectives. As with the RC and the FPC, a charter defines the roles and



responsibilities of the AC and also sets out the requirements necessary for the AC to fulfil its function. In order to address a finding raised in a prior period the charter has been revised to include members' responsibilities with regard to ethical conduct.



The RC and the AC consist of a maximum of five independent non-executive members who collectively must have the required skills, experience and qualifications to fulfil their duties. Members' terms are limited to three years and they may serve a second

term subject to a maximum of six consecutive years. A member of the AC may be a member of the RC and the chair of the FPC is an AC member. Details pertaining to the members, their attendance and remuneration is illustrated in diagram 31.

Diagram 31: Governance structures meeting attendance and remuneration

		Independent/Non-Executive Members							Executive Members		
Name		M.Mofokeng	A.Moosa	A.Mlate	O.Josie	K.Peplar	M.Moodley	K.Soni	N. Manoim	J. de Klerk	A. Wessels
 Audit Committee	Required to attend	4	4	3	4	3	1	1	4	4	0
	Attended	4	4	3	4	3	1	0	4	4	0
	Fees	R53 106.00	R51 019.75	R0.00	R44 365.00	R32 690.00	R15 818.00				
 Risk Committee	Required to attend	3	3	3	3	3	0	0	0	3	3
	Attended	3	3	3	3	3	0	0	0	3	1
	Fee	R32 690.00	R46 303.60	R0.00	R32 690.00	R32 690.00	R0.00	R0.00			
	Area of expertise	Financial	Financial	Compliance	Legal	Governance	Financial	Financial	AA	COO	RMC Chair

Fee Refers only to remuneration received for preparation and attendance and excludes travel claims.
M.Mofekeng Chair of AC.
A.Moosa Chair of RC.
A.Mlate Recieves no remuneration as is employed by the state.

EVALUATING OUR OVERSIGHT STRUCTURES

In order to determine whether AC members are performing as required and/or to identify any gaps that require corrective action an annual assessment of the AC and the internal audit is undertaken.

The assessment for the current reporting period was completed by AC members and the COO. Internal audit and external audit were requested to participate but failed to complete an assessment.

Three questionnaires - member self-evaluation, evaluation of the AC chairperson and an evaluation of the AC - as a whole constitute the AC assessment.

The overall conclusion reached was that:

- the AC as a whole is performing its required role and meeting its responsibilities, evidenced in an overall score of 94.09% (prior year 95.48%);
- the AC is more than satisfied (81.47% (prior year 89.30%)) with the outsourced internal audit function and is of the view that IA is meeting its responsibilities and requirements (average score of 3.26/5 (prior year 3.57);
- AC members, as individuals, perceive their overall performance as meeting and partially exceeding defined requirements (average score of 4.04/5) (prior year 4.27); and
- the chairperson's performance is seen as meeting and exceeding defined requirements (average score of 4.13/5) (prior year 4.26).

The scores achieved are all above 75% and while lower than those achieved in the prior year there is no need for concern. The slightly lower scores are explained primarily by the fact that two of the five AC members were appointed during the period as well as the fact that it is the first year of Nexia SAB&T's contract.

The members' self-evaluation indicates that there are two priority areas - the manner in which the members can acquire a better understanding of the regulatory, legislative, business, social and political environment the Tribunal operates in and to identify the ways in which AC members can continue to add value. The evaluation of the chairperson indicated that there was a need for an annual discussion and a more formalised plan with regard to committee development. A way forward with regard to these issues will be addressed at the next AC meeting.

While three areas (performance of the audit, robustness of the audit and quality of delivery) received a score above 75% but lower than 80% there is nothing to be concerned about in terms of their functioning and delivery. They are merely an indication of a new working relationship and some clarity in this regard will need to be given to IA by the AC.

While the Tribunal's intention is to develop a similar assessment process for both the internal risk management committee and the external RC, we have been slow in this regard and will assign a priority to it in the forthcoming period.





REPORT OF THE AUDIT COMMITTEE

We are pleased to present our report for the financial year ended 31 March 2019. The audit committee (the committee) is required, as per the approved charter, to meet at least four times per annum. During the period under review the committee held four meetings.

Audit committee responsibility

The committee reports that it has complied with its responsibilities arising from section 55 (1) of the PFMA and Treasury Regulations 27.1.7 and 27.1.10(b) and (c). The committee also reports that it has adopted appropriate formal terms of reference as approved by the accounting authority. The committee has regulated its affairs in compliance with its charter and has discharged all its responsibilities as contained therein.

The effectiveness of internal control

The system of controls is designed to provide cost effective assurance that assets are safeguarded and that liabilities and working capital are efficiently managed.

In line with PFMA and the King IV report on corporate governance requirements, internal audit provides the committee and management with assurance that the internal controls are appropriate and effective.

This is achieved by means of the risk management process, as well as the identification of corrective actions and suggested enhancements to the controls and processes.

From the various reports of the internal auditors, the audit report on the annual financial statements, any qualification and/or emphasis of matter and the management letter of the auditor general, it was noted that no significant or material non-compliance with prescribed policies and procedures has been reported.

Based on these reports we can conclude that the system of internal control for the period under review operated efficiently and effectively.

The quality of in year management and monthly/quarterly reports submitted in terms of the PFMA

Monthly and quarterly reports on performance information and the Tribunal's finances were presented and reported in committee meetings and monitored throughout the year. The committee is satisfied with the content and quality of the monthly and quarterly reports prepared and issued by the accounting authority of the Tribunal in the year under review.

Evaluation of annual financial statements

The committee has:

- reviewed and discussed the draft annual financial statements to be included in the annual integrated report with the Auditor-General and the accounting authority;
- reviewed and discussed the performance information with management;
- reviewed changes in accounting policies and practices; and
- reviewed the entity's compliance with legal and regulatory provisions.

Risks and challenges in 2019/2020

The committee notes that the top risk on the Tribunal's risk register is "Shortage of Tribunal members to effectively oversee cases". The unavailability of members impacts on the Tribunal's ability to meet predetermined targets is discussed on pages 44 and 45 of this annual integrated report. The amendment bill makes provision for an additional four members to be appointed and provides for the Minister to appoint acting part-time members. The appointment of additional members, following the promulgation of the amendment, should see the Tribunal getting closer to meeting its predetermined targets.

However, these additional appointments will impact on the Tribunal's expenditure. The Tribunal has indicated, based on certain assumptions, that it will require an additional R5 million in the last year of the three-year medium-term expenditure cycle. With regard to this, the committee would like to highlight that the Tribunal is highly dependent on the approval of the retention of its accumulated surplus from

National Treasury, as well as the approval of the annual grants from the Economic Development Department in order to meet its budgetary expectations and maintain its going concern status.

Norman Manoim's term as Chairperson comes to an end after 10 years of exemplary and professional service. The committee wishes to express its sincere thanks to Norman for the sterling work he has done and for the excellent engagement and updates that he presented at each meeting.

Internal audit

We are satisfied that the internal audit function is operating effectively and that it has addressed the risks pertinent to the Tribunal.

Auditor-General of South Africa

We have met with the Auditor-General to ensure that there were no unresolved issues.

Combined Assurance

The Tribunal has implemented a formalised combined assurance plan that encompasses four lines of defence. The committee has received assurance from management as well as internal and external assurance providers that risks are being appropriately managed.



Maggie Mofokeng
Chairperson of the Audit Committee
31 July 2019

HOW
EFFECTIVELY
ARE WE
USING OUR
FINANCIAL
RESOURCES?

“ *In my
opinion, the financial
statements present
fairly, in all material
respects, the financial
position of the
Competition Tribunal
as at 31 March
2019* ”



PART 5

REPORT OF THE AUDITOR-GENERAL TO PARLIAMENT ON THE COMPETITION TRIBUNAL

REPORT ON THE AUDIT OF THE FINANCIAL STATEMENTS

Opinion

I have audited the financial statements of the Competition Tribunal set out on pages 92 to 125, which comprise the statement of financial position as at 31 March 2019, the statement of financial performance, statement of changes in net assets and cash flow statement and the statement of comparison of budget information and actual amounts for the year then ended, as well as the notes to the financial statements, including a summary of significant accounting policies. In my opinion, the financial statements present fairly, in all material respects, the financial position of the Competition Tribunal as at 31 March 2019, and its financial performance and cash flows for the year then ended in accordance with South African Standards of Generally Recognised Accounting Practice (SA Standards of GRAP) and the requirements of the Public Finance Management Act of South Africa, 1999 (Act No. 1 of 1999) (PFMA).

Basis for opinion

I conducted my audit in accordance with the International Standards on Auditing (ISAs). My responsibilities under those standards are further described in the Auditor-General's responsibilities for the audit of the financial statements section of this auditor's report.

I am independent of the public entity in accordance with sections 290 and 291 of the International Ethics Standards Board for Accountants' Code of ethics for professional accountants (IESBA code) and the ethical requirements that are relevant to my audit in South Africa. I have fulfilled my other ethical responsibilities in accordance with these requirements and the IESBA codes.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

Responsibilities of accounting authority for the financial statements

The accounting authority is responsible for the preparation and fair presentation of the financial statements in accordance with SA Standards of GRAP and the requirements of the PFMA, and for such internal control as the accounting authority determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the accounting authority is responsible for assessing the Competition Tribunal's ability to continue as a going concern, disclosing, as applicable, matters relating to going concern and using the going concern basis of accounting unless the appropriate governance structure either intends to liquidate the public entity or to cease operations, or has no realistic alternative but to do so.

Auditor-General's responsibilities for the audit of the financial statements

My objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance but is not a guarantee that an audit conducted in accordance with the ISAs will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered

material if, individually or in aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

A further description of my responsibilities for the audit of the financial statements is included in the annexure to this auditor's report.

REPORT ON THE AUDIT OF THE ANNUAL PERFORMANCE REPORT

Introduction and scope

In accordance with the Public Audit Act of South Africa, 2004 (Act No. 25 of 2004) (PAA) and the general notice issued in terms thereof, I have a responsibility to report material findings on the reported performance information against predetermined objectives for selected objectives presented in the annual performance report. I performed procedures to identify findings but not to gather evidence to express assurance.

My procedures address the reported performance information, which must be based on the approved performance planning documents of the public entity. I have not evaluated the completeness and appropriateness of the performance indicators/measures included in the planning documents. My procedures also did not extend to any disclosures or assertions relating to planned performance strategies and information in respect of future periods that may be included as part of the reported performance information. Accordingly, my findings do not extend to these matters.

I evaluated the usefulness and reliability of the reported performance information in accordance with the criteria developed from the performance management and reporting framework, as defined in the general notice, for the following selected objectives presented in the annual performance report of the public entity for the year ended 31 March 2019:

Strategic focus area	Page in the annual performance report
Strategic focus area 1 – Adjudicative Excellence	128 – 129

I performed procedures to determine whether the reported performance information was properly presented and whether performance was consistent with the approved performance planning documents. I performed further procedures to determine whether the indicators and related targets were measurable and relevant, and assessed the reliability of the reported performance information to determine whether it was valid, accurate and complete.

I did not raise any material findings on the usefulness and reliability of the reported performance information for the selected objective:

Other matter

I draw attention to the matter below.

ACHIEVEMENT OF PLANNED TARGETS

Refer to the annual performance report on pages 128 to 131 for information on the achievement of planned targets for the year and explanations provided for the under/over achievement of a number of targets.

REPORT ON THE AUDIT OF COMPLIANCE WITH LEGISLATION

Introduction and scope

In accordance with the PAA and the general notice issued in terms thereof, I have a responsibility to report material findings on the compliance of the public entity with specific matters in key legislation. I performed procedures to identify findings but not to gather evidence to express assurance.

I did not raise material findings on compliance with the specific matters in key legislation set out in the general notice issued in terms of the PAA.

Other Information

The accounting authority is responsible for the other information. The other information comprises the information included in the annual report. The other information does not include the financial statements, the auditor's report and the selected objective presented in the annual performance report that has been specifically reported in this auditor's report.

My opinion on the financial statements and findings on the reported performance information and compliance with legislation do not cover the other information and I do not express an audit opinion or any form of assurance conclusion thereon.

In connection with my audit, my responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements and the selected objectives presented in the annual performance report, or my knowledge obtained in the audit, or otherwise appears to be materially misstated.

If, based on the work I have performed, I conclude that there is a material misstatement in this other information, I am required to report that fact. I have nothing to report in this regard.

INTERNAL CONTROL DEFICIENCIES

I considered internal control relevant to my audit of the financial statements, reported performance information and compliance with applicable legislation; however, my objective was not to express any form of assurance on it. I did not identify any significant deficiencies in internal control.

Auditor General

Pretoria
31st July 2019



AUDITOR - GENERAL
SOUTH AFRICA

Auditing to build public confidence

MANAGING OUR BUDGET AND FINANCIAL RESOURCES

Effective financial management is an essential component for the Tribunal to deliver on its mandate and to achieve its predetermined objectives. In order to be effective and to achieve efficient service delivery, financial discipline and compliance must be maintained and financial resources should be strategically allocated.

From a financial reporting point of view there is a need for us to be transparent about our use of these resources and to be held accountable for the manner in which they are spent.

In this, the last section of our annual integrated report, we give the reader some insight into the budget process, our spend against the approved budget, providing explanations for over/under spend, and conclude with an evaluation of the costs associated with achieving our strategic goals.

HOW DO WE BUDGET?

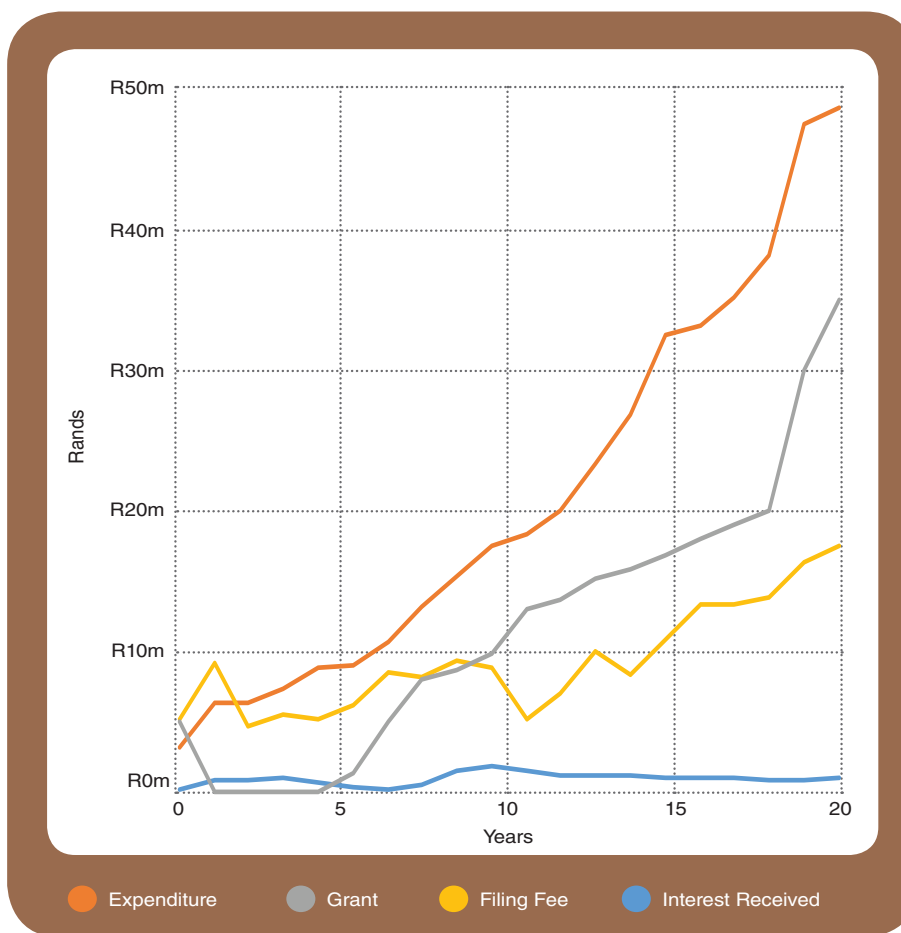
The Tribunal includes its budget in the APP which is approved by the EDD in March annually and tabled in parliament in April.

The approved budget for the period under review reflected expenditure (exclusive of capital expenditure) of R56.27m and revenue (generated from the EDD grant, fees earned and other income) of R54.53m with the expected shortfall of R1.73m being funded from accumulated cash surpluses (R14.58m) as at March 2018.

Since inception, the Tribunal's expenditure has increased at a fairly constant rate. However, the grant allocated to the Tribunal reflects slower and fairly constant growth but at a rate based on inflation as opposed to changes in the Tribunal's requirement. Much of our budget is related to the adjudicative process and, as it is difficult to estimate the volume or length of the cases brought before the Tribunal, budgeting accurately is difficult. In drafting the budget, we use a three-year average in order to estimate the number and length of hearing days.

30% of large merger filing fees and 5% of intermediate merger filing fees received by the Commission on a monthly basis are paid to the Tribunal in terms of a MOA that exists between the two entities. These fees fluctuate significantly year-on-year based on merger activity. It is difficult to explain the reasons for these fluctuations or to accurately reflect what they will be in the future. The uncertainty in the revenue streams adds to our budgeting difficulty. The diagram below illustrates these fluctuations over the last 20 years.

Diagram 32: Funding analysis 1999-2019



We have been in the fortunate position of being able to rely on the use of accumulated funds to cover budget shortfalls. However, based on budget predictions and the financial impact of proposed amendments to the Act, we expect these to be depleted by the end of the 2021/2022 financial year. It will therefore be necessary to look to our reporting department and the National Treasury for larger grant allocations or, where possible, implement cost containment measures. Both of these pose a challenge to the Tribunal given fiscal constraints being imposed and the fact that our budget is already “lean and mean”.

Our budget is allocated by strategic objective across our three strategic goals. In the current year 75.28% of the budget was allocated to these goals with our first goal, adjudication, accounting for 53.60%.

Diagram 33: Budget allocated across strategic objectives

Objective	Budget	% spend by objective
Goal 1: Adjudicative excellence	R30 160 973	53.60%
Goal 2: Stakeholder awareness	R1 189 403	2.11%
Goal 3: Accountable transparent and sustainable entity	R11 010 738	19.57%
Administration	R12 210 735	21.71%
Capital	R1 195 385	2.12%
CAC	R500 803	0.89%
Total	R56 268 038	100.00%

HOW DID WE SPEND THE BUDGET?

Diagram 34: Income by category over the last two years

Revenue	R'M 2018/2019	% 2018/2019	R'M 2017/2018	% 2017/2018
Government grants	R35.09	65.30%	R30.04	63.71%
Filing fees	R17.58	32.72%	R16.30	34.57%
Other income	R1.07	1.98%	R0.81	1.72%
Total revenue	R53.73	100.00%	R47.15	100.00%

The diagram above provides a comparative picture of income received over the last two years. Total income received in the current period is 13.96% higher than in the prior period. This is the combined result of a 16.80% increase in the grant allocated to the Tribunal and a 7.85% increase in the filing fees received from the Commission. In December 2018 the fee payable by parties filing a merger application increased by 10% for intermediate and large mergers and this may, in part, explain the increase in our fee income.

Other income pertains mainly to interest received on deposits (accumulated funds) held with the Corporation of Public Deposits (CPD) and we have seen a marginal increase in this income based primarily on deposits held at the CPD being slightly larger than prior years or held for longer periods.

We have seen a marginal increase in the grant portion of total revenue received (from 63.71% to 65.30%) while the filing fee decreased from 34.57% to 32.72%.

Diagram 35: Expenditure analysis by category over two years

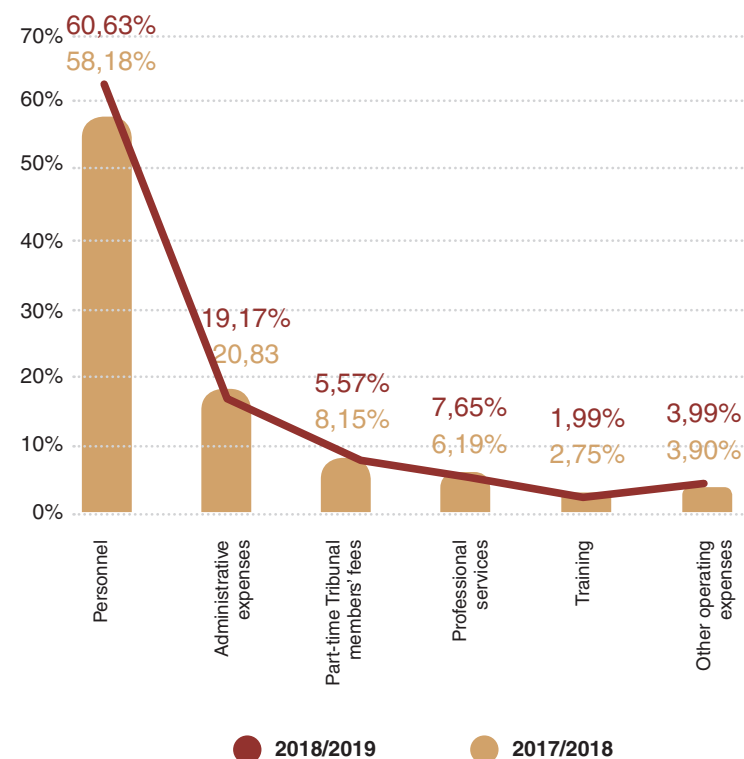
Expenditure	R'm (2018/2019)	%	R'm (2017/2018)	%
Personnel	R29.51	60.63%	R27.58	58.10%
Administrative expenses	R9.33	19.17%	R9.89	20.83%
Part-time Tribunal members' fees	R3.20	6.57%	R3.91	8.24%
Professional services	R3.72	7.65%	R2.94	6.19%
Training	R0.97	1.99%	R1.30	2.75%
Other operating expenses	R1.94	3.99%	R1.85	3.90%
Total expenditure	R48.67	100%	R47.47	100%

The cost of travel, occupation on the DTI campus, software renewals and the running costs of various governance and oversight structures are included in the category 'administrative expenses' while 'operating expenses' include depreciation, finance charges and various IT support services. Professional services include payments to the Commission in terms of the MOA, transcription and recording services, website support and consulting, legal fees and recruitment fees amongst others.

ARE WE OVER OR UNDER SPENDING AND WHY?

In general, expenditure trends reflect consistency between the two years regarding the percentage spend by category as illustrated in the diagram below.

Diagram 36: Percentage spend by expenditure category over the last two years



If we exclude capital expenditure from our analysis, total expenditure (R48.67m) was underspent by 11.63%. We budgeted to spend R1.3m on training but underspent on this line item by 61.63%. This underspend was the result of a combination of factors – the ICN conference normally held in the first three months of the financial year was held earlier (March 2018) and this budget was unspent. Despite this, as illustrated earlier in the report, we have still been able to ensure that skills development has been implemented, thus contributing towards our goal of building sustainable capacity. In addition, we effected cost containment measures by reducing the number of representatives sent to international conferences/workshops and toned down the nature of internal conferences/workshops held.

Implementing cost containment measures also saw a small underspend (4.6%) in operating expenses while the underspend in personnel expenses (8.39%) was a result of five resignations occurring (with some simultaneously) that we took longer than expected to fill.

While cost containment measures contributed towards the 12.56% underspend on administrative expenses, 45.47% of this is related to the late start of the internal audit and that the accepted contract price was substantially lower than the budget provided.

Panels of three members, consisting of full-time and part-time members, are required to adjudicate on matters brought before the Tribunal. In the case of pre-hearings, the panel may only consist of one member and in certain instances two but very seldom three.

We measure hearing and panel days as follows:

If two panels sit on one day we count that as two hearing days and, assuming three panel members per panel, the panel days would be six (2 days x 3 members per panel).

Part-time members sitting on panels receive a daily fee of R9 000.00 for each day a hearing is held and a daily fee for each preparation day allocated to a matter. In the event that part-time members are requested to write decisions, the same daily fee becomes applicable. In some instances, a hearing may be cancelled shortly before it begins or while a case is part-heard. If the notice of cancellation is not sufficient for a part-time member to take up non-Tribunal work, they receive a daily fee.

Diagram 37: Days allocated to the adjudicative process over three years

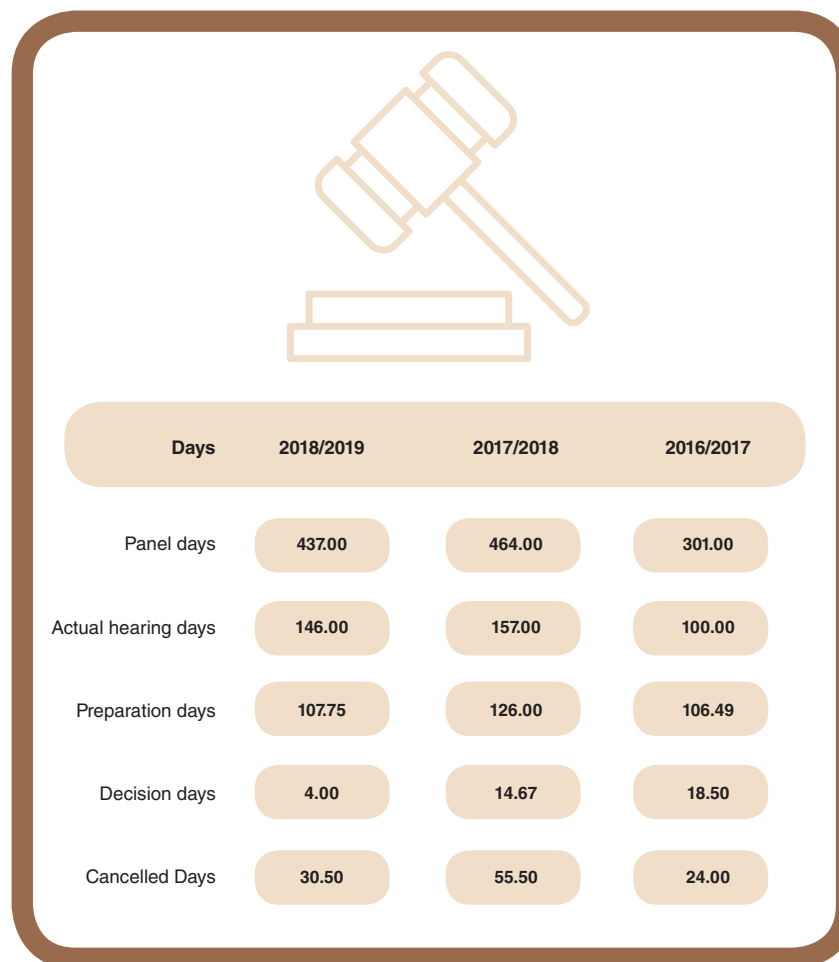
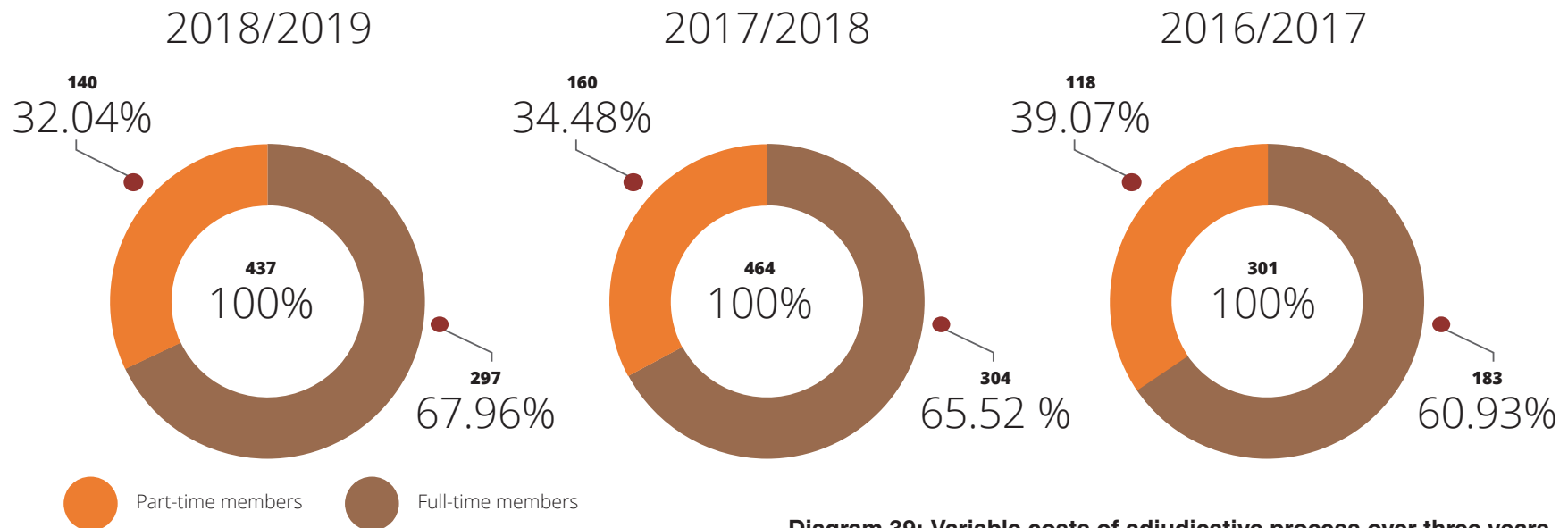


Diagram 38: Allocation of panel days between full-time and part-time members



In 2014/2015 we reported that 55.7% of the panel days were allocated to part-time members and we continue to see a clear trend that the distribution of panel days to part-time members is reducing, with the current distribution being at 32.04%. The decreasing availability of part-time members to sit on panels poses a challenge to the Tribunal and has a negative impact on other turnaround times because if full-time members are required to sit on more panels it becomes increasingly difficult to issue reasons within required timeframes. The proposed amendments to the Act make provision for an additional full-time member and acting part-time members. This will assist significantly if implemented.

With enhancements to the reporting tool (Qlikview) developed on top of our electronic CMS we are able to extract accurate historic and/or current data relating to the hearing and panel days and because we input costs into the system we are able to generate reports that reflect the variable cost of the adjudicative process as illustrated in diagram 39.

While it is difficult to conclude anything specific from these figures it does give us some idea of the average cost of a matter based purely on variable costs. If we were able to allocate more costs directly to a matter we would get a more accurate costing of each matter we hear.

Diagram 39: Variable costs of adjudicative process over three years

Cost type	2018/2019	2017/2018	2016/2017
Disbursement	R1 485 271	R1 585 917	R1 000 907
Panel	R1 336 950	R1 510 560	R1 103 580
Personnel	R1 346 370	R1 895 100	R1 403 010
Total	R4 168 591	R4 991 577	R3 507 497
Matters heard	214	213	191
Cost per matter	R19 479	R23 435	R18 364

WHAT DOES IT COST US TO MEET OUR STRATEGIC GOALS?

We conclude this section with an illustration of budget and expenditure (inclusive of capital) but this time by strategic objective and other broad categories where there is no stated objective. The diagram also illustrates what percentage of the budget allocated to these categories has been spent.

More than 50% of both the budget and expenditure are allocated to the objectives included in strategic goal 1, adjudicative excellence, which is also the core business and legislated mandate of the Tribunal.

Diagram 40: Expenditure and budget by strategic objective

Goal	Budget (R'000)	% Budget by objective	Expenditure (R'000)	% Spend by objective	% Budget spent
Objectives - Goal 1 - Adjudicative Excellence					
Timeous hearing and issuing of judgments	R26 782 863	47.60%	R23 761 163	47.79%	88.72%
Effective business processes	R3 378 110	6.00%	R3 300 101	6.64%	97.69%
Objectives - Goal 2 - Stakeholder Relationships					
Stakeholder awareness	R1 189 403	2.11%	R1 087 177	2.19%	91.41%
Objectives - Goal 3 - Accountable, Transparent and Sustainable Entity					
Effective oversight	R4 205 361	7.47%	R3 163 070	6.36%	75.22%
Effective financial management	R3 075 114	5.47%	R3 045 174	6.13%	99.03%
Sustainable capacity	R3 730 263	6.63%	R2 138 899	4.30%	57.34%
Other Expenses					
Administration	R11 144 363	19.81%	R10 898 260	21.92%	97.79%
Depreciation	R1 066 372	1.90%	R949 228	1.91%	89.01%
Capital	R1 195 385	2.12%	R1 047 958	2.11%	87.67%
Competition Appeal Court	R500 803	0.89%	R324 111	0.65%	64.72%
TOTAL	R56 268 038	100.00%	R49 715 140	100.00%	88.35%

STATEMENT OF RESPONSIBILITY

The accounting authority is responsible for the preparation, integrity and fair presentation of the financial statements of the Competition Tribunal of South Africa for the year ended 31 March 2019.

The financial statements presented on pages 92 to 125 have been prepared in accordance with the South African Standards of Generally Recognised Accounting Practice (GRAP) including any interpretations, guidelines and directives issued by the Accounting Standards Board in accordance with section 55 of the Public Finance Management Act to the extent as indicated in the accounting policies, and include amounts based on judgments and estimates made by management. The accounting authority, in consultation with the executive committee, prepared the other information included in the annual integrated report and is responsible for both its accuracy and its consistency with the financial statements.

The going concern basis has been adopted in preparing the financial statements. The accounting authority has no reason to believe that sufficient funding will not be obtained to continue with the official functions of the Tribunal. These financial statements support the viability of the Competition Tribunal.

The accounting authority initially approved and submitted the financial statements to the Auditor-General of South Africa on 31 May 2019.

ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2019

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STATEMENT OF FINANCIAL POSITION

	Note(s)	2019 R '000	2018 R '000
Assets			
Current Assets			
Cash and cash equivalents	2	20,102	14,509
Inventory		42	18
Receivables from exchange transactions	3	1,864	2,681
Prepayments		122	149
		22,130	17,357
Non-Current Assets			
Property, plant and equipment	4	1,835	1,487
Intangible assets	5	2,955	2,961
		4,790	4,448
Total Assets		26,920	21,805
Liabilities			
Current Liabilities			
Finance lease obligation	6	143	120
Payables from exchange transactions	7	1,770	2,483
Provisions	8	926	909
		2,839	3,512
Non-Current Liabilities			
Finance lease obligation	6	227	24
Operating lease liability	9	1,664	1,122
		1,891	1,146
Total Liabilities		4,730	4,658
Net Assets		22,190	17,147
Accumulated surplus		22,190	17,147

STATEMENT OF FINANCIAL PERFORMANCE

		2019	2018
	Note(s)	R '000	R '000
Revenue			
Revenue from exchange transactions			
Fees earned	10	17,579	16,295
Other income		2	2
Interest income	11	1,023	787
Gain on disposal of assets	12	19	20
Total revenue from exchange transactions		18,623	17,104
Revenue from non-exchange transactions			
Transfer revenue			
Government grants & subsidies	13	35,086	30,041
Total revenue		53,709	47,145
Expenditure			
Personnel costs	14	(29,506)	(27,576)
Depreciation and amortisation	15	(950)	(1,029)
Finance costs	16	(26)	(10)
Administrative expenses	17	(9,328)	(9,889)
Loss on disposal of assets	12	(15)	(16)
Other operating expenses	18	(8,841)	(8,945)
Total expenditure		(48,666)	(47,465)
Surplus (deficit) for the year		5,043	(320)

STATEMENT OF CHANGES IN NET ASSETS

	Accumulated surplus R '000	Total net assets R '000
Balance at 01 April 2017	17,467	17,467
Changes in net assets		
Deficit for the year	(320)	(320)
Total changes	(320)	(320)
Balance at 01 April 2018	17,147	17,147
Changes in net assets		
Surplus for the year	5,043	5,043
Total changes	5,043	5,043
Balance at 31 March 2019	22,190	22,190

CASH FLOW STATEMENT

	Note(s)	2019 R '000	2018 R '000
CASH FLOWS FROM OPERATING ACTIVITIES			
Receipts			
Grants			
Interest income		35,086	30,041
Other income		1,023	787
Fees earned		2	2
		18,397	16,027
		54,508	46,857
Payments			
Employee costs		(29,489)	(27,377)
Suppliers		(18,338)	(17,038)
Finance costs		(26)	(10)
		(47,853)	(44,425)
Net cash flows from operating activities	19	6,655	2,432
CASH FLOWS FROM INVESTING ACTIVITIES			
Purchase of property, plant and equipment	4	(607)	(753)
Proceeds from sale of property, plant and equipment	4	19	20
Purchase of other intangible assets	5	(314)	(198)
Net cash flows from investing activities		(902)	(931)
CASH FLOWS FROM FINANCING ACTIVITIES			
Finance lease payments		(160)	(195)
Net increase/(decrease) in cash and cash equivalents		5,593	1,306
Cash and cash equivalents at the beginning of the year		14,509	13,203
Cash and cash equivalents at the end of the year	2	20,102	14,509

STATEMENT OF COMPARISON OF BUDGET AND ACTUAL AMOUNTS

	Approved budget	Actual amounts on comparable basis	Difference between final budget and actual	Reference
	R '000	R '000	R '000	
Statement of Financial Performance				
REVENUE				
REVENUE FROM EXCHANGE TRANSACTIONS				
Fees earned	18,570	17,579	(991)	Note a
Other income	-	2	2	
Interest income	879	1,023	144	Note b
Total revenue from exchange transactions	19,449	18,604	(845)	
REVENUE FROM NON-EXCHANGE TRANSACTIONS				
Government grants and subsidies	35,086	35,086	-	
Total revenue	54,535	53,690	(845)	
EXPENDITURE				
Personnel	(32,207)	(29,506)	2,701	Note c
Depreciation and amortisation	(1,067)	(950)	117	Note d
Finance costs	(40)	(26)	14	
Administrative expenses	(10,669)	(9,328)	1,341	Note e
Other operating expenses	(11,090)	(8,841)	2,249	Note e
Total expenditure	(55,073)	(48,651)	6,422	
Operating (deficit)/ surplus	(538)	5,039	5,577	
Gain on disposal of assets	-	19	19	
Loss on disposal of asset	-	(15)	(15)	
	-	4	4	
Actual amount on a comparable basis	(538)	5,043	5,581	Note f

STATEMENT OF COMPARISON OF BUDGET AND ACTUAL AMOUNTS

REASONS FOR DIFFERENCES BETWEEN THE COMPARISON OF BUDGET AND ACTUAL AMOUNTS

Note a:

Our budget estimate for filing fees from the Commission is based on their expected merger activity and filing fee budget. Activity was lower this year and therefore the existing variance.

Note b:

The Tribunal held a bigger deposit with the Corporation for Public Deposit than expected and therefore interest earned was higher than budgeted for. Funds are monitored and transferred only when required.

Note c:

The variance on personnel costs is the result of a number of factors which include that while we budgeted a 4% increase for full-time members, the approved increase was 2.5%. This accounts for 50% of the variance. In addition performance bonuses paid were less than budgeted for and there were temporary vacancies in senior posts while recruitment processes were being concluded. This accounted for 17% of the variance. Budget was provided for a senior economist while the appointment was made at a lower level.

Note d:

The depreciation budget is an estimate based on current and expected asset purchases and cannot be predicted accurately, hence the variance.

Note e:

A more detailed explanation of variances is provided in the annual report and various notes in the AFS. The Tribunal has also made a conscious effort to reduce spending in accordance with cost containment measures. The Tribunal took a conscious decision to reduce the budgeted expenditure on conferences and therefore fewer conferences were attended and where possible staff were sent to local, instead of international conferences. In addition, the annual International Competition Network conference scheduled for 2018/2019 was rescheduled for 2019/2020. There is underspending both in internal audit fees and fees paid to part-time Tribunal members. In the former, there was a 75% variance as the tender was awarded later in the year and at a significantly lower cost (approximately 50% lower than what was budgeted for). In the latter, we budgeted a 4% increase in the daily fee paid to part-time members but no adjustments were made. The budget for these fees was based on an estimated 152 hearing days but only 123 hearing days were held.

Note f:

The Tribunal's MTEF submission reflects a roll forward of retained income to cover the budget shortfall and as these accumulated funds are not reflected as revenue it appears as if we budget for a deficit.



ACCOUNTING POLICIES

1. BASIS OF PREPARATION

The annual financial statements have been prepared in accordance with the Standards of Generally Recognised Accounting Practice (GRAP) including any interpretations, guidelines and directives issued by the Accounting Standards Board in accordance with Section 91(1) of the Public Finance Management Act.

These annual financial statements have been prepared on an accrual basis of accounting and are in accordance with historical cost convention.

All figures have been rounded to the nearest thousand rand.

These accounting policies are consistent with the previous period.

1.1 SIGNIFICANT JUDGEMENTS AND SOURCES OF ESTIMATION UNCERTAINTY

In preparing the annual financial statements, management is required to make estimates and assumptions that affect the amounts represented in the annual financial statements and related disclosures. Use of available information and the application of judgement is inherent in the formation of estimates. Actual results in the future could differ from these estimates which may be material to the annual financial statements. Significant judgments include:

Provision for accumulated leave

Management took the number of annual leave days due per employee as at year end and estimated a value for this provision by multiplying the number of days due per employee by the daily wage per employee as reflected in payroll.

Amortisation of internally generated software

The Tribunal developed an electronic document management software system that was officially signed off in February 2013 and became fully operative from this date. All development costs associated with this development (development costs, legal fees, technical support, project management etc.) were capitalised and the entire cost is amortised over 15 years from this "go live date".

Useful lives of property, plant and equipment and other assets

The Tribunal's management determines the estimated useful lives and related depreciation charges for property, plant, equipment and other assets. This estimate is based on the pattern in which the assets future economic benefits or service potential is expected to be consumed by the Tribunal.

1.2 GOING CONCERN ASSUMPTION

These annual financial statements have been prepared based on the expectation that the Tribunal will continue to operate as a going concern for at least the next 12 months.

1.3 PRESENTATION CURRENCY

These financial statements are presented in South African Rands, which is the functional currency of the Tribunal.

1.4 FINANCIAL INSTRUMENTS

A financial instrument is any contract that gives rise to a financial asset of one entity and a financial liability or a residual interest of another entity.

A financial asset is:

- cash or;
- a contractual right to:
 - receive cash or another financial asset from another entity; or
 - exchange financial assets or financial liabilities with another entity under conditions that are potentially favourable to the entity.

A financial liability is any liability that is a contractual obligation to:

- deliver cash or another financial asset to another entity; or
- exchange financial assets or financial liabilities under conditions that are potentially unfavourable to the entity.

Classification

The Tribunal has the following types of financial assets (class and category) as reflected on the face of the statement of financial position or in the notes thereto:

Class	Category
Cash and cash equivalents	Financial asset measured at fair value
Trade receivables	Financial asset measured at fair value

The Tribunal has the following types of financial liabilities (classes and category) as reflected on the face of the statement of financial position or in the notes thereto:

Class	Category
Trade payables	Financial liability measured at fair value

ACCOUNTING POLICIES

1.4 FINANCIAL INSTRUMENTS (continued)

Initial recognition

The Tribunal recognises a financial asset or a financial liability in its statement of financial position when the Tribunal becomes a party to the contractual provisions of the instrument.

The entity recognises financial assets using trade date accounting.

Initial measurement of financial assets and financial liabilities

The Tribunal measures a financial asset and financial liability, other than those subsequently measured at fair value, initially at its fair value plus transaction costs that are directly attributable to the acquisition or issue of the financial asset or financial liability.

Subsequent measurement of financial assets and financial liabilities

The entity measures all financial assets and financial liabilities after initial recognition using the following categories:

- Financial instruments at fair value;
- Financial instruments at amortised cost; and
- Financial instruments at cost.

Fair value measurement considerations

Short-term receivables and payables are not discounted where the initial credit period granted or received is consistent with terms used in the public sector, either through established practices or legislation.

Gains and losses

A gain or loss arising from a change in the fair value of a financial asset or financial liability measured at fair value is recognised in surplus or deficit.

Derecognition

Financial assets

The entity derecognises a financial asset only when the contractual rights to the cash flows from the financial asset expire, are settled or waived.

On derecognition of a financial asset in its entirety, the difference between the carrying amount and the sum of the consideration received is recognised in surplus or deficit.

Financial liabilities

The Tribunal removes a financial liability (or a part of a financial liability) from its statement of financial position when it is extinguished - i.e. when the obligation specified in the contract is discharged, cancelled, expires or is waived.

1.5 INVENTORY

Inventories are initially measured at cost except where inventories are acquired through a non-exchange transaction, then their costs are their fair value as at the date of acquisition.

Subsequently inventories are measured at the lower of cost and net realisable value.

The Tribunal measures its inventories at the lower of cost and current replacement cost as they are held for:

- (a) distribution at no charge or for a nominal charge; or
- (b) consumption in the production process of goods to be distributed at no charge or for a nominal charge.

The costs of purchase of inventories comprise the purchase price, import duties and other taxes (other than those subsequently recoverable by the Tribunal from the taxing authorities), and transport, handling and other costs directly attributable to the acquisition of finished goods, materials and supplies. Trade discounts, rebates and other similar items are deducted in determining the costs of purchase.

Current replacement cost is the cost the entity incurs to acquire the inventory on the reporting date.

The cost of inventory is assigned using the weighted average cost formula. The same cost formula is used for all inventory having a similar nature and use to the entity. Under the weighted average cost formula, the cost of each item is determined from the weighted average of the cost of similar items at the beginning of a period and the cost of similar items purchased or produced during the period. The average is calculated as each delivery is received.

The cost of inventory comprises all costs of purchase, costs of conversion and other costs incurred in bringing the inventory to their present location and condition.

When inventories are donated or issued to other entities for no cost/nominal values, inventories shall be measured at the lower of cost and net realisable value.

ACCOUNTING POLICIES

1.6 PROPERTY, PLANT AND EQUIPMENT

Property, plant and equipment are tangible non-current assets that are held for use in the production or supply of goods or services, rental to others, or for administrative purposes, and are expected to be used during more than one period.

The cost of an item of property, plant and equipment is recognised as an asset when:

- it is probable that future economic benefits or service potential associated with the item will flow to the entity; and
- the cost or fair value can be measured reliably.

Property, plant and equipment is initially measured at cost.

The cost of an item of property, plant and equipment is the purchase price and other costs attributable to bring the asset to the location and condition necessary for it to be capable of operating in the manner intended by management. Trade discounts and rebates are deducted in arriving at the cost.

Where an asset is acquired through a non-exchange transaction, its cost is its fair value as at the date of acquisition.

Property, plant and equipment are carried at cost less accumulated depreciation and any impairment losses.

Property, plant and equipment are depreciated on the straight line basis over their expected useful lives to their estimated residual value.

The useful lives of items of property, plant and equipment have been assessed as indicated in the table below.

Item	Depreciation method	Average useful life
Furniture and fixtures	Straight line	Between 5 and 18 years
Motor vehicles	Straight line	Between 5 and 9 years
Office equipment	Straight line	Between 5 and 18 years
IT equipment	Straight line	Between 3 and 10 years
Other leased assets	Straight line	Period of lease

The depreciable amount of an asset is allocated on a systematic basis over its useful life.

The depreciation method used reflects the pattern in which the asset's future economic benefits or service potential are expected to be consumed by the entity. The depreciation method applied to an asset is reviewed at least at each reporting date and, if there has been a significant change in the expected pattern of consumption of the future economic benefits or service potential embodied in the asset, the method is changed to reflect the changed pattern. Such a change is accounted for as a change in an accounting estimate.

The entity assesses at each reporting date whether there is any indication that the entity expectations about the residual value and the useful life of an asset have changed since the preceding reporting date. If any such indication exists, the entity revises the expected useful life and/or residual value accordingly. The change is accounted for as a change in an accounting estimate.

Items of property, plant and equipment are derecognised when the asset is disposed of or when there are no further economic benefits or service potential expected from the use of the asset.

The gain or loss arising from the derecognition of an item of property, plant and equipment is included in surplus or deficit when the item is derecognised. The gain or loss arising from the derecognition of an item of property, plant and equipment is determined as the difference between the net disposal proceeds, if any, and the carrying amount of the item.

The entity separately discloses expenditure to repair and maintain property, plant and equipment in the notes to the financial statements.

1.7 INTANGIBLE ASSETS

An intangible asset is an identifiable non-monetary asset without physical substance.

An asset is identifiable if it is either:

- separable, i.e. is capable of being separated or divided from an entity and sold, transferred, licensed, rented or exchanged, either individually or together with a related contract, identifiable assets or liability, regardless of whether the entity intends to do so; or
- arises from binding arrangements (including rights from contracts), regardless of whether those rights are transferable or separable from the entity or from other rights and obligations.

A binding arrangement describes an arrangement that confers similar rights and obligations on the parties to it as if it were in the form of a contract.

ACCOUNTING POLICIES

1.7 INTANGIBLE ASSETS (continued)

An intangible asset is recognised when:

- it is probable that the expected future economic benefits or service potential that are attributable to the asset will flow to the entity; and
- the cost or fair value of the asset can be measured reliably.

Where an intangible asset is acquired through a non-exchange transaction, its initial cost at the date of acquisition is measured at its fair value as at that date.

Expenditure on research (or on the research phase of an internal project) is recognised as an expense when it is incurred.

An intangible asset arising from development (or from the development phase of an internal project) is recognised when:

- it is technically feasible to complete the asset so that it will be available for use or sale;
- there is an intention to complete and use or sell it;
- there is an ability to use or sell it;
- it will generate probable future economic benefits or service potential;
- there are available technical, financial and other resources to complete the development and to use or sell the asset; and
- the expenditure attributable to the asset during its development can be measured reliably.

Intangible assets are carried at cost less any accumulated amortisation and any impairment losses.

The amortisation period and the amortisation method for intangible assets are reviewed at each reporting date. Internally generated software refers to our electronic case management system and a customised reporting tool. It has been estimated to have a useful life of 15 years as the system is very sustainable and does not need to be replaced before this time. Any enhancements to the system are reflected as additions to the value of the asset in the period they occur and are amortised over the remaining useful life of the asset.

Amortisation is provided to write down the intangible assets, on a straight line basis, to their residual values as follows:

Item	Useful life
Computer software, internally generated	Between 5 and 15 years
Computer software, other	Between 5 and 15 years

The entity discloses relevant information relating to assets under construction or development, in the notes to the financial statements (see note 5).

Intangible assets are derecognised:

- on disposal; or
- when no future economic benefits or service potential are expected from its use or disposal.

The gain or loss arising from the derecognition of intangible assets is included in surplus or deficit when the asset is derecognised (unless the Standard of GRAP on leases requires otherwise on a sale and leaseback).

1.8 IMPAIRMENT OF NON-CASH GENERATING ASSETS

Non-cash generating assets are assets other than those that are primarily held for service delivery purposes, i.e. assets not generating a commercial return.

Impairment is a loss in the future economic benefits or service potential of an asset, over and above the systematic recognition of the loss of the asset's future economic benefits or service potential through depreciation (amortisation).

Fair value less costs to sell is the amount obtainable from the sale of an asset in an arm's length transaction between knowledgeable, willing parties, less the costs of disposal.

Recoverable service amount is the higher of a non-cash generating asset's fair value less costs to sell and its value in use.

Identification

When the carrying amount of a non-cash generating asset exceeds its recoverable service amount, it is impaired.

The Tribunal assesses at each reporting date whether there is any indication that a non-cash generating asset may be impaired. If any such indication exists, the Tribunal estimates the recoverable service amount of the asset.

Irrespective of whether there is any indication of impairment, the Tribunal also tests a non-cash generating intangible asset with an indefinite useful life or a non-cash generating intangible asset not yet available for use for impairment annually by comparing its carrying amount with its recoverable service amount. This impairment test is performed at the same time every year. If an intangible asset was initially recognised during the current reporting period, that intangible asset was tested for impairment before the end of the current reporting period.

ACCOUNTING POLICIES

1.8 IMPAIRMENT OF NON-CASH GENERATING ASSETS (continued)

Value in use

Value in use of non-cash generating assets is the present value of the non-cash generating assets remaining service potential.

The present value of the remaining service potential of non-cash generating assets is determined using the following approach:

Depreciated replacement cost approach

The present value of the remaining service potential of a non-cash generating asset is determined as the depreciated replacement cost of the asset. The replacement cost of an asset is the cost to replace the asset's gross service potential. This cost is depreciated to reflect the asset in its used condition. An asset may be replaced either through reproduction (replication) of the existing asset or through replacement of its gross service potential. The depreciated replacement cost is measured as the reproduction or replacement cost of the asset, whichever is lower, less accumulated depreciation calculated on the basis of such cost, to reflect the already consumed or expired service potential of the asset.

Recognition and measurement

If the recoverable service amount of a non-cash generating asset is less than its carrying amount, the carrying amount of the asset is reduced to its recoverable service amount. This reduction is an impairment loss. An impairment loss is recognised immediately in surplus or deficit.

After the recognition of an impairment loss, the depreciation (amortisation) charge for the non-cash generating asset is adjusted in future periods to allocate the non-cash generating asset's revised carrying amount, less its residual value (if any), on a systematic basis over its remaining useful life.

Reversal of an impairment loss

The Tribunal assess at each reporting date whether there is any indication that an impairment loss recognised in prior periods for a non-cash generating asset may no longer exist or may have decreased. If any such indication exists, the Tribunal estimates the recoverable service amount of that asset. A reversal of an impairment loss for a non-cash generating asset is recognised immediately in surplus or deficit.

After a reversal of an impairment loss is recognised, the depreciation (amortisation) charge for the non-cash generating asset is adjusted in future periods to allocate the non-cash generating asset's revised carrying amount, less its residual value (if any), on a systematic basis over its remaining useful life.

1.9 ACCUMULATED SURPLUS

The Tribunal's surplus or deficit for the year is accounted for in the accumulated surplus in the statement of changes in net assets.

The accumulated surplus/deficit represents the net difference between total assets and total liabilities of the entity. Any surpluses and deficits realised during a specific financial year are credited/debited against accumulated surplus/deficit. Prior year adjustments relating to income and expenditure are debited/credited against accumulated surplus when retrospective adjustments are made.

1.10 LEASES

A lease is classified as a finance lease if it transfers substantially all the risks and rewards incidental to ownership.

A lease is classified as an operating lease if it does not transfer substantially all the risks and rewards incidental to ownership.

Leased assets

The Tribunal recognises assets acquired under finance leases as assets and the associated lease obligations as liabilities in the statement of financial position. The assets and liabilities shall be recognised at amounts equal to the fair value of the leased asset, or if lower, the present value of the minimum lease payments, each determined at the inception of the lease.

The discount rate to be used in calculating the present value of minimum lease payments is the interest rate implicit in the lease.

Minimum lease payments are apportioned between finance charges and reduction of the outstanding liability. The finance charge shall be allocated to each period so as to achieve a constant periodic rate of interest on the remaining balance of the liability.

Finance charges are charged to surplus or deficit in the statement of financial performance. A finance lease gives rise to a depreciation expense for depreciable assets as well as finance expense for each accounting period. The depreciation policy for depreciable leased assets must be consistent with that for depreciable assets that are owned, and the depreciation recognised shall be calculated in accordance with the Standard of GRAP on Property, Plant and Equipment. Refer to note 6 for detail on finance leases.

ACCOUNTING POLICIES

1.11 LEASES (continued)

Operating leases – lessee

Operating lease payments are recognised as an expense on a straight-line basis over the lease term. The difference between the amounts are recognised as an expense and the contractual payments are recognised as an operating lease liability. This liability is not discounted.

1.11 PROVISIONS AND CONTINGENCIES

Provisions are recognised when:

- the Tribunal has a present obligation as a result of a past event;
- it is probable that an outflow of resources embodying economic benefits will be required to settle the obligation; and
- a reliable estimate can be made of the obligation.

The amount of a provision is the best estimate of the expenditure expected to be required to settle the obligation at the reporting date.

Where the effect of time value of money is material, the amount of the provision is the present value of the expenditures expected to be required to settle the obligation. The discount rate is a pre-tax rate that reflects current market assessments of the time value of money and the risks specific to the liability.

Provisions are reviewed at each reporting date and adjusted to reflect the current best estimate. Provisions are reversed if it is no longer probable that an outflow of resources embodying economic benefits will be required to settle the obligation.

A provision is used only for expenditures for which the provision was originally recognised.

Provisions are not recognised for future operating expenditure.

A contingent liability is:

- a possible obligation that arises from past events and whose existence will be confirmed only by the occurrence; or
- non-occurrence of one or more uncertain future events not wholly within the control of the entity; or
- a present obligation that arises from past events but is not recognised because:
 - *it is not probable that an outflow of resources embodying economic benefits or service potential will be required to settle the obligation; and*
 - *the amount of the obligation cannot be measured with sufficient reliability.*

1.12 EMPLOYEE BENEFITS

Employee benefits are all forms of consideration given by the Tribunal in exchange for services rendered by employees.

Short-term employee benefits

Short-term employee benefits are employee benefits (other than termination benefits) that are due to be settled within twelve months after the end of the period in which the employees render the related service.

Short-term employee benefits include items such as:

- salaries and social security contributions;
- short-term compensated absences (such as paid annual leave and paid sick leave) where the compensation for the absences is due to be settled within twelve months after the end of the reporting period in which the employees render the related employee service; and
- 13th cheque and performance related payments payable within twelve months after the end of the reporting period in which the employees render the related service.

When an employee has rendered service to the Tribunal during a reporting period, the Tribunal recognises the undiscounted amount of short-term employee benefits expected to be paid in exchange for that service:

- as a liability (accrued expense) after deducting any amount already paid. If the amount already paid exceeds the undiscounted amount of the benefits, the Tribunal recognises that excess as an asset (prepaid expense) to the extent that the prepayment will lead to, for example, a reduction in future payments or a cash refund; and
- as an expense, unless another standard requires or permits the inclusion of the benefits in the cost of an asset.

The expected cost of compensated absences is recognised as an expense as the employees render services that increase their entitlement or, in the case of non-accumulating absences, when the absence occurs. The Tribunal measures the expected cost of accumulating compensated absences as the additional amount that the entity expects to pay as a result of the unused entitlement that has accumulated at the reporting date.

The entity recognises the expected cost of bonus, incentive and performance-related payments when the Tribunal has a present legal or constructive obligation to make such payments as a result of past events and a reliable estimate of the obligation can be made. A present obligation exists when the entity has no realistic alternative but to make the payments.

ACCOUNTING POLICIES

1.13 REVENUE FROM EXCHANGE TRANSACTIONS

Revenue is the gross inflow of economic benefits or service potential during the reporting period when those inflows result in an increase in net assets, other than increases relating to contributions from owners.

An exchange transaction is one in which the Tribunal receives assets or services, or has liabilities extinguished, and directly gives approximately equal value (primarily in the form of goods, services or use of assets) to the other party in exchange.

Fair value is the amount for which an asset could be exchanged, or a liability settled, between knowledgeable, willing parties in an arm's length transaction.

When the outcome of a transaction, involving the rendering of services can be estimated reliably, revenue associated with the transaction is recognised by reference to the stage of completion of the transaction at the reporting date. The outcome of a transaction can be estimated reliably when all the following conditions are satisfied:

- the amount of revenue can be measured reliably;
- it is probable that the economic benefits associated with the transaction will flow to the entity;
- the performance obligations are met and at reporting date can be measured reliably; and
- the costs incurred for the transaction and the costs to complete the transaction can be measured reliably.

When the outcome of the transaction involving the rendering of services cannot be estimated reliably, revenue shall be recognised only to the extent of the expenses recognised that are recoverable.

Service revenue is recognised by reference to the stage of completion of the transaction at reporting date. Stage of completion is determined by surveys of work performed.

Revenue is measured at the fair value of the consideration received or receivable and represents the amounts receivable for goods and services provided in the normal course of business.

Filing fees

In terms of a memorandum of agreement between the Commission and the Tribunal, the Tribunal receives a portion of the filing fees paid to the Commission on notification of mergers. Filing fees due to the Tribunal are recognised as receivables by the Tribunal when the papers have been filed with the Commission and the filing fees have been paid to the Commission. Any filing fees paid to the Commission for cases but not filed or those that lapse for the periods stipulated in the Competition Act are refunded by the Commission to

the parties. In the event that the Tribunal had received a portion of these fees they would be reflected as payables or netted off against receivables due from the Commission.

Interest income

Revenue is recognised as interest accrues, using the effective interest rate.

Other income

Other income is recognised on an accrual basis. Other income received by the Tribunal may include monies due/paid for photocopying of documents or insurance refunds.

1.14 REVENUE FROM NON-EXCHANGE TRANSACTIONS

Non-exchange transactions are transactions that are not exchange transactions. In a non-exchange transaction, an entity either receives value from another entity without directly giving approximately equal value in exchange, or gives value to another entity without directly receiving approximately equal value in exchange.

Recognition

An inflow of resources from a non-exchange transaction recognised as an asset is recognised as revenue, except to the extent that a liability is also recognised in respect of the same inflow.

As the Tribunal satisfies a present obligation recognised as a liability in respect of an inflow of resources from a non-exchange transaction recognised as an asset, it reduces the carrying amount of the liability recognised and recognises an amount of revenue equal to that reduction.

Government grants

Government grants are recognised in the year to which they relate, once reasonable assurance has been obtained that all conditions of the grants have been complied with, i.e. the submission of required reports to the parent department, the grant has been received and there is no liability to repay the amount in the event of non-performance.

Measurement

Revenue from a non-exchange transaction is measured at the amount of the increase in net assets recognised by the entity.

ACCOUNTING POLICIES

1.15 COMPARATIVE FIGURES

Where necessary, comparative figures have been reclassified to conform to changes in presentation in the current year.

1.16 FRUITLESS AND WASTEFUL EXPENDITURE

Fruitless and wasteful expenditure means expenditure which was made in vain and would have been avoided had reasonable care been exercised.

All expenditure relating to fruitless and wasteful expenditure is recognised as an expense in the statement of financial performance in the year that the expenditure was incurred. The expenditure is classified in accordance with the nature of the expense, and where recovered, it is subsequently accounted for as revenue in the statement of financial performance.

1.17 IRREGULAR EXPENDITURE

Irregular expenditure as defined in section 1 of the PFMA is expenditure other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including:

- (a) this Act;
- (b) the State Tender Board Act, 1968 (Act No. 86 of 1968), or any regulations made in terms of the Act; or
- (c) any provincial legislation providing for procurement procedures in that provincial government.

National Treasury practice note no. 4 of 2008/2009 which was issued in terms of sections 76(1) to 76(4) of the PFMA requires the following (effective from 1 April 2008).

Irregular expenditure that was incurred and identified during the current financial year and which was condoned before year end and/or before finalisation of the financial statements is recorded appropriately in the irregular expenditure register. In such an instance, no further action is required with the exception of updating the note to the financial statements.

Irregular expenditure that was incurred and identified during the current financial year and for which condonement is being awaited at year end is recorded in the irregular expenditure register. No further action is required with the exception of updating the note to the financial statements.

Where irregular expenditure was incurred in the previous financial year and is only condoned in the following financial year, the register and the disclosure note to the financial statements is updated with the amount condoned.

Irregular expenditure that was incurred and identified during the current financial year and which was not condoned by the National Treasury or the relevant authority is recorded appropriately in the irregular expenditure register. If liability for the irregular expenditure can be attributed to a person, a debt account must be created if such a person is liable in law. Immediate steps are thereafter taken to recover the amount from the person concerned. If recovery is not possible, the Accounting Officer or Accounting Authority may write off the amount as debt impairment and disclose such in the relevant note to the financial statements. The irregular expenditure register is updated accordingly. If the irregular expenditure has not been condoned and no person is liable in law, the expenditure related thereto remains against the relevant programme/expenditure item, is disclosed as such in the note to the financial statements and updated accordingly in the irregular expenditure register.

1.18 BUDGET INFORMATION

The Tribunal is typically subject to budgetary limits in the form of appropriations or budget authorisations (or equivalent), which is given effect through authorising legislation, appropriation or something similar.

The approved budget is prepared on the accrual basis and presented by functional classification linked to performance outcome objectives.

The approved budget covers the fiscal period from 1 April 2018 to 31 March 2019.

The annual financial statements and the budget are on the same basis of accounting therefore a comparison with the budgeted amounts for the reporting period have been included in the statement of comparison of budget and actual amounts.

1.19 COMMITMENTS

Items are classified as commitments when the Tribunal has committed itself to future transactions that will normally result in the outflow of cash.

ACCOUNTING POLICIES

1.20 RELATED PARTIES

The entity operates in an economic sector currently dominated by entities directly or indirectly owned by the South African government. As a consequence of the constitutional independence of the three spheres of government in South Africa, only entities within the national sphere of government are considered to be related parties.

Management are those persons responsible for planning, directing and controlling the activities of the entity, including those charged with the governance of the entity in accordance with legislation, in instances where they are required to perform such functions.

Close members of the family of a person are considered to be those family members who may be expected to influence, or be influenced by, that person in their dealings with the entity.

Only transactions with related parties not at arm's length or not in the ordinary course of business are disclosed.

1.21 EVENTS AFTER REPORTING DATE

Events after reporting date are those events, both favourable and unfavourable, that occur between the reporting date and the date when the financial statements are authorised for issue. Two types of events can be identified:

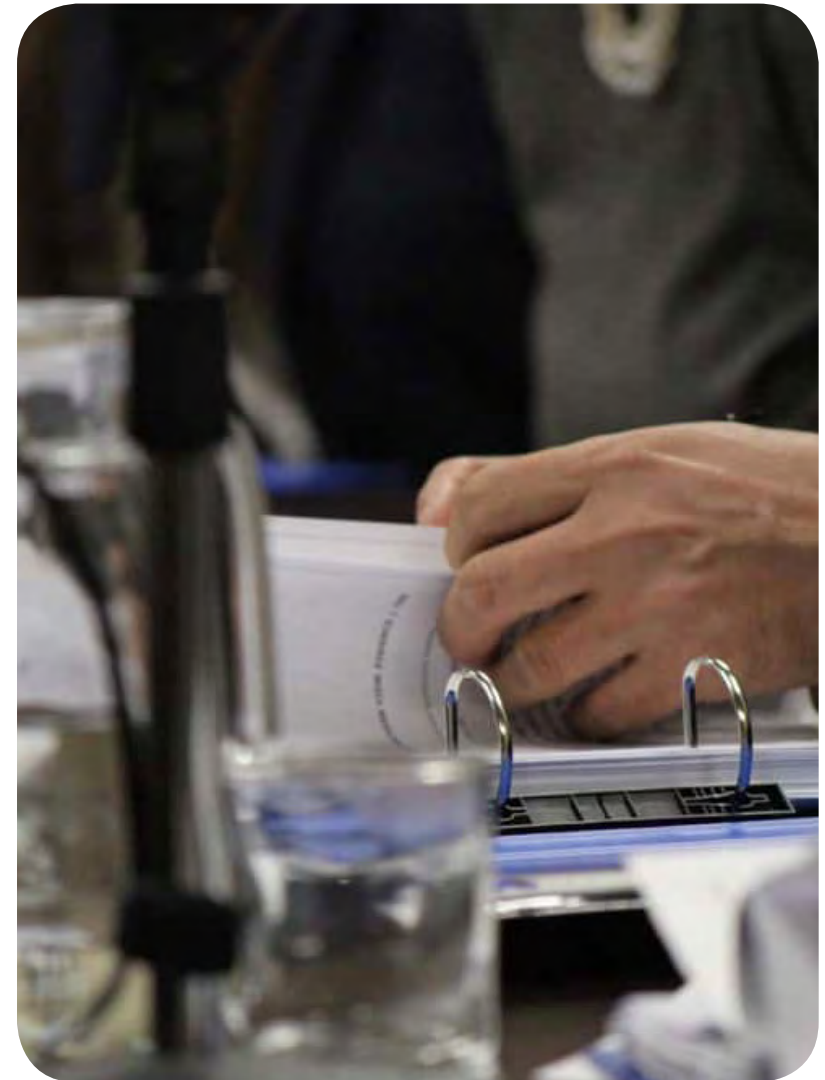
- those that provide evidence of conditions that existed at the reporting date (adjusting events after the reporting date); and
- those that are indicative of conditions that arose after the reporting date (non-adjusting events after the reporting date).

The entity will adjust the amount recognised in the financial statements to reflect adjusting events after the reporting date once the event occurred.

The entity will disclose the nature of the event and an estimate of its financial effect or a statement that such estimate cannot be made in respect of all material non-adjusting events, where non-disclosure could influence the economic decisions of users taken on the basis of the financial statements.

1.22 STANDARD IN ISSUE NOT YET EFFECTIVE

Standards in issue but not yet effective are disclosed in the financial statements as well as the impact on the financial statements in future periods. Refer to note 31.



NOTES TO THE ANNUAL FINANCIAL STATEMENTS

	2019 R '000	2018 R '000
2. CASH AND CASH EQUIVALENTS		
Cash and cash equivalents comprise cash that is held with registered banking institutions. As the interest rate risk at these institutions is deemed to be insignificant, the carrying amount of these assets approximates their fair value.		
There are no restrictions on the use of cash		
Cash on hand	2	4
Cash at bank	20,100	14,505
Total	20,102	14,509
3. RECEIVABLES FROM EXCHANGE TRANSACTIONS		
Receivables	1,855	2,551
Other debtors	9	130
Total	1,864	2,681

Trade receivables are unsecured, bear no interest and are expected to be settled within 30 days of date of invoice. The effect of discounting was considered and found to be immaterial since the carrying value of receivables approximates its fair value.

4. PROPERTY, PLANT AND EQUIPMENT

	2019			2018		
	Cost	Accumulated depreciation and accumulated impairment	Carrying value	Cost	Accumulated depreciation and accumulated impairment	Carrying value
Furniture and fixtures	1,163	(486)	677	1,068	(559)	509
Motor vehicles	210	(106)	104	210	(101)	109
Office equipment	56	(25)	31	46	(17)	29
IT equipment	1,542	(884)	658	1,390	(687)	703
Photocopiers (Leased)	606	(241)	365	480	(343)	137
Total	3,577	(1,742)	1,835	3,194	(1,707)	1,487

NOTES TO THE ANNUAL FINANCIAL STATEMENTS

4. PROPERTY, PLANT AND EQUIPMENT (continued)

Reconciliation of property, plant and equipment - 2019

Furniture and fixtures
Motor vehicles
Office equipment
IT equipment
Photocopiers (Leased)

Opening balance	Additions	Disposals	Depreciation	Total
509	250	(14)	(68)	677
109	-	-	(5)	104
29	10	-	(8)	31
703	347	(2)	(390)	658
137	386	-	(158)	365
1,487	993	(16)	(629)	1,835

Reconciliation of property, plant and equipment - 2018

Furniture and fixtures
Motor vehicles
Office equipment
IT equipment
Photocopiers (Leased)

Opening balance	Additions	Disposals	Depreciation	Total
224	443	(1)	(157)	509
113	-	-	(4)	109
28	10	(4)	(5)	29
747	300	(3)	(341)	703
328	-	-	(191)	137
1,440	753	(8)	(698)	1,487

Pledged as security and contractual commitments

During the financial year, there was no property, plant or equipment pledged as security.
The Tribunal has not entered into any contractual commitments to acquire assets.

Assets subject to finance lease (Net carrying amount)

Leased assets

365

137

NOTES TO THE ANNUAL FINANCIAL STATEMENTS

5. INTANGIBLE ASSETS

	2019			2018		
	Cost	Accumulated depreciation and accumulated impairment	Carrying value	Cost	Accumulated depreciation and accumulated impairment	Carrying value
Computer software, internally generated	4,298	(1,851)	2,447	4,136	(1,601)	2,535
Computer software, acquired	773	(265)	508	621	(195)	426
Total	5,071	(2,116)	2,955	4,757	(1,796)	2,961

Reconciliation of intangible assets - 2019

	Opening balance	Additions	Amortisation	Total
Computer software, internally generated	2,535	162	(250)	2,447
Computer software, acquired	426	152	(70)	508
	2,961	314	(320)	2,955

Reconciliation of intangible assets - 2018

	Opening balance	Additions	Disposals	Amortisation	Total
Computer software, internally generated	2,804	9	-	(278)	2,535
Computer software, acquired	299	189	(9)	(53)	426
	3,103	198	(9)	(331)	2,961

Pledged as security and contractual commitments

During the financial year there were no intangible assets pledged as security. The Tribunal has not entered into any contractual commitments to acquire any intangible assets.

NOTES TO THE ANNUAL FINANCIAL STATEMENTS

	2019 R '000	2018 R '000
6. FINANCE LEASE OBLIGATION		
Minimum lease payments due		
- within one year	173	128
- in second to fifth year inclusive	249	24
	422	152
less: future finance charges	(52)	(8)
Present value of minimum lease payments	370	144
 Present value of minimum lease payments due		
- within one year	143	120
- in second to fifth year inclusive	227	24
	370	144
 Non-current liabilities	227	24
Current liabilities	143	120
	370	144

The Tribunal is leasing photocopiers under three finance leases and there are no restrictions imposed on the Tribunal in terms of the leases. There are no escalation clauses reflected in the lease agreements. The obligation under the finance leases are secured by the lessor's title to the leased assets. The leases can be extended for a further period after the initial period has expired. The average lease period is three years and the average effective borrowing rate is 10.33% per annum.

NOTES TO THE ANNUAL FINANCIAL STATEMENTS

	2019 R '000	2018 R '000
7. PAYABLES FROM EXCHANGE TRANSACTIONS		
Creditors	52	195
Accrued performance bonus	1,128	1,186
Other accruals	590	1,102
	1,770	2,483

Trade payables are unsecured, bear no interest and are expected to be settled within 30 days of date of invoice. The effect of discounting was considered and found to be immaterial since the carrying value of trade and other creditors approximates its fair value.

During the period under review there were no breaches of contracts or agreements held with the Tribunal and it was not necessary to negotiate any new terms with suppliers.

8. PROVISIONS**Reconciliation of provisions - 2019**

	Opening balance	Additions	Utilised during the year	Reversed during the year	Total
Leave provision	909	926	(253)	(656)	926

Reconciliation of provisions - 2018

	Opening balance	Additions	Utilised during the year	Reversed during the year	Total
Leave provision	669	909	(117)	(552)	909

The leave provision is calculated based on the leave due and daily salary paid to an employee as at the end of the financial year. This leave is paid out if and when an employee leaves the entity. The uncertainty with regard to the provision is that we have no indication as to whether an employee will or when they will leave the entity. In addition this leave may be used or may continue to accumulate during the next financial year.

NOTES TO THE ANNUAL FINANCIAL STATEMENTS

	2019 R '000	2018 R '000
9. OPERATING LEASE LIABILITY		
Non-current liabilities	1,664	1,122
The Tribunal entered into a five-year lease agreement for building occupation on the DTI Campus which commenced on 1 April 2017 and terminates on 31 March 2022. The monthly payment escalates by 10% annually.		
Minimum Lease payments due	5,645	5,132
-within one year	13,040	18,685
-in second to fifth year inclusive	18,685	23,817
10. FEES EARNED		
Fees earned	17,579	16,295
11. INTEREST INCOME		
Interest received		
- Bank deposits	1,023	787
12. NET GAIN/(LOSS) ON DISPOSAL OF ASSETS		
Gain on disposal of property, plant and equipment	19	20
Loss on disposal of property, plant and equipment	(15)	(16)
	4	4

NOTES TO THE ANNUAL FINANCIAL STATEMENTS

	2019 R '000	2018 R '000
13. GOVERNMENT GRANT AND SUBSIDIES		
Economic Development Department	35,086	30,041
14. PERSONNEL COSTS		
Basic salaries	16,911	15,085
Performance awards	1,004	1,050
Medical aid - company contributions	807	853
Statutory contributions	230	208
Insurance	263	239
Other salary related costs	222	218
Defined contribution pension plan expense (see Note 20)	1,146	1,087
Executive committee members emoluments	8,923	8,836
	29,506	27,576
15. DEPRECIATION AND AMORTISATION		
Depreciation		
Furniture and fixtures	68	157
Motor vehicles	5	4
Office equipment	8	5
IT Equipment	390	341
Leased assets	158	191
Amortisation		
Computer Software	321	331
	950	1,029

NOTES TO THE ANNUAL FINANCIAL STATEMENTS

	2019 R '000	2018 R '000
16. FINANCE COSTS		
Trade and other payables	26	25
Fair value adjustments on payables	-	(15)
	26	10
17. ADMINISTRATIVE EXPENSES		
Audit committee members' fees	197	276
Risk committee members' fees	144	151
Audit committee training	82	-
Audit committee meeting expenses	23	10
General expenses	1,102	1,108
External audit fees	635	1,062
Internal audit fees	206	491
Travel and subsistence	419	318
Building occupation	5,674	5,674
Fraud prevention committee	6	23
IT expenses	840	776
	9,328	9,889
18. OTHER OPERATING EXPENSES		
Consultants, contractors and special services	3,722	2,936
Staff training and development	969	1,304
Fees paid to part-time Tribunal members	3,199	3,910
Maintenance, repairs and running costs	951	795
	8,841	8,945

NOTES TO THE ANNUAL FINANCIAL STATEMENTS

	2019 R '000	2018 R '000
19. CASH GENERATED FROM OPERATIONS		
Surplus (deficit)	5,043	(320)
Adjustments for:		
Depreciation and amortisation	950	1,029
Gain on disposal of assets	(19)	(20)
Loss on disposal of assets	15	16
Movements in operating lease liability	542	1,122
Movements in provisions	17	240
Changes in working capital:		
Inventory	(24)	41
Receivables from exchange transactions	817	(267)
Prepayments	27	62
Payables from exchange transactions	(713)	529
	6,655	2,432

20. EMPLOYEE BENEFIT OBLIGATIONS**Defined contribution plan**

The Competition Tribunal Pension Fund, which is governed by the Pensions Fund Act of 1956 as amended, is a compulsory defined contribution plan for all employees in the Tribunal. The fund is administered by Sanlam Retirement Fund Administrators. The Competition Tribunal is a participating employer on the Sanlam Umbrella Fund. The scheme offers the members various investment options for their pension fund contributions. As an insured fund, the Sanlam Umbrella Fund and thus the Competition Tribunal as participating employer, complies with regulation 28 of the Pension Fund Act of 1956. (see Note 14).

21. INCOME TAX EXEMPTION

The Tribunal is currently exempt from Income Tax in terms of section 10 (1) (a) of the Income Tax Act, 1962.

NOTES TO THE ANNUAL FINANCIAL STATEMENTS

	2019 R '000	2018 R '000
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22. FINANCIAL RISK MANAGEMENT

The main risks arising from the Tribunal's financial instruments are market risk, liquidity risk and credit risk.

Credit risk

The Tribunal trades only with recognised, creditworthy third parties. It is the Tribunal's policy that all customers who wish to trade on credit terms are subject to credit verification procedures. In addition, receivables balances are monitored on an ongoing basis with the result that the Tribunal's exposure to bad debts is not significant. The maximum exposure is the carrying amounts as disclosed in Note 3. There is no significant concentration of credit risk within the Tribunal.

With respect to credit risk arising from the other financial assets of the Tribunal, which comprise cash equivalents, the Tribunal's exposure to credit risk arises from default of the counter party, with a maximum exposure equal to the carrying amount of these instruments. The Tribunal's cash equivalents are placed with high credit quality financial institutions therefore the credit risk with respect to cash and cash equivalents is limited.

Exposure to credit risk

The maximum exposure to credit risk at the reporting date from financial assets was:

Cash equivalents	20,100	14,505
Receivables	1,855	2,551
Total	21,955	17,056

Concentration of credit risk

The maximum exposure to credit risk for financial assets at the reporting date by credit rating category was as follows:

The Tribunal's cash is either held in an ABSA current account or invested with the Corporation for Public Deposits.

2019	Rated and government R '000	Unrated R '000
Cash equivalents	20,100	-
2018	Rated and government R '000	Unrated R '000
Cash equivalents	14,505	-

NOTES TO THE ANNUAL FINANCIAL STATEMENTS

22. FINANCIAL RISK MANAGEMENT (continued)

The following table provides information regarding the credit quality of assets which may expose the Tribunal to credit risk

2019	Neither past due nor impaired	Past due but not impaired - less than 2 months	Carrying value
	R '000	R '000	R '000
Cash equivalents	20,100	-	20,100
Receivables	1,855	-	1,855
2018			
	Neither past due nor impaired	Past due but not impaired - less than 2 months	Carrying value
	R '000	R '000	R '000
Cash equivalents	14,505	-	14,505
Receivables	2,551	-	2,551

Market risk

Market risk is the risk that changes in market prices, such as the interest rate, will affect the value of the financial assets of the Tribunal.

Interest rate risk

The Tribunal is exposed to interest rate changes in respect of returns on its investments with financial institutions and interest payable on finance leases contracted with outside parties.

The Tribunal's exposure to interest risk is managed by investing surplus funds in the Corporation for Public Deposits as the interest rate is favourable and still allows easy access to funds both in terms of movement from and movement to.

NOTES TO THE ANNUAL FINANCIAL STATEMENTS

22. FINANCIAL RISK MANAGEMENT (continued)

The change in net surplus of a 1% change in interest is based on year end exposure.

Sensitivity analysis

		Increase/(decrease) in net surplus for the year		
		Change in Investments	Upward change	Downward change
2019				
Cash equivalents		1.00%	201	(201)
2018				
Cash equivalents		1.00%	145	(145)

Liquidity risk

Liquidity risk is the risk that the Tribunal would not have sufficient funds available to cover future commitments. The Tribunal regards this risk to be low, taking into consideration the Tribunal's current funding structures and availability of cash resources.

The following table reflects the Tribunal's exposure to liquidity risk from financial liabilities:

		Carrying amount	Total cash flow	Contractual cash flow within 1 year	Contractual cash flow between 1 and 5 years
		R '000	R '000	R '000	R '000
2019					
Finance lease obligation		370	370	143	227
Payable from exchange transactions		1,770	1,770	1,770	-
2018					
Finance lease obligation		144	144	120	24
Payable from exchange transactions		2,483	2,483	2,483	-

NOTES TO THE ANNUAL FINANCIAL STATEMENTS

	2019 R '000	2018 R '000
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22. FINANCIAL RISK MANAGEMENT (continued)**Financial instruments**

The following table shows the classification of the Tribunal's principal instruments together with their carrying value:

Financial Instrument

Cash equivalents	Financial asset measured at fair value	20,100	14,505
Trade debtors	Financial asset measured at fair value	1,855	2,551
Payables from exchange transactions	Financial liabilities measured at fair value	1,770	2,483

The accounting policies for financial instruments have been applied to the items above.

NOTES TO THE ANNUAL FINANCIAL STATEMENTS

	2019 R '000	2018 R '000
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23. COMPARATIVE FIGURES

Comparative figures have been reclassified in the Statement of Financial Performance to conform to changes in presentation in the current year. The reclassification relates to skills development levy and communication allowance expenses for part-time members previously included in personnel costs, reclassified to other operating expenses. As fees paid to part-time members are not reflected as personnel costs but rather as a category "other operating expense", the costs related to skills development levy and communication allowance for part-time members has been re-allocated for the current and prior financial years.

24. FRUITLESS AND WASTEFUL EXPENDITURE

The Tribunal has not incurred fruitless and wasteful expenditure in the current and prior year.

25. IRREGULAR EXPENDITURE

Opening balance

1,061

976

Add: Irregular expenditure - current year

54

85

Less: Amounts not recoverable and not condoned

(1,105)

-

10

1,061

Analysis of expenditure awaiting condonation per age classification

Irregular expenditure awaiting condonation

10

1,061

During the current financial year, the irregular expenditure incurred relates to the amount incurred for cost associated with the extension of the website support services contract for an additional three months that was not approved by the National Treasury and the costs associated with the purchase of books without following the proper procurement process.

NOTES TO THE ANNUAL FINANCIAL STATEMENTS

	2019 R '000	2018 R '000
26. RELATED PARTIES		
Related party		
The Competition Commission		
Industrial Development Corporation		
International Trade Administration Commission		
The Department of Trade and Industry		
Economic Development Department		
Members of key management		
Relationship		
Public entity in the national sphere		
Public entity in the national sphere		
Public entity in the national sphere		
National department in the national sphere		
National department in the national sphere		
Executive committee members		
Related party balances		
Amounts included in trade payables regarding related parties		
The Department of Trade and Industry	3	4
Amounts included in trade receivables regarding related parties		
Refund on administrative expenses due from the Commission	98	70
Filing fees due from the Competition Commission	1,823	2,700
Facility fee due to the Competition Commission	(147)	(305)
Related party transactions		
The Competition Commission		
Filing fees	17,579	16,295
Facility fees	(906)	(827)
Administrative costs	98	30

NOTES TO THE ANNUAL FINANCIAL STATEMENTS

	2019 R '000	2018 R '000
26. RELATED PARTIES (continued)		
The Department of Trade and Industry		
Unitary payments	(5,132)	(4,552)
Administrative costs	(36)	(50)
Economic Development Department		
Government grant	35,086	30,041
Full-time member/Chairperson: N Manoim		
Package	2,438	2,379
Statutory contributions	23	23
Other salary related contributions	60	58
	2,521	2,460
Full-time member/Deputy Chairperson: E Daniels		
Package	2,285	2,204
Statutory contributions	12	21
Other salary related contributions	40	55
	2,337	2,280
Full-time member: Y Carrim		
Package	2,119	2,255
Statutory contributions	21	22
Other salary related contributions	56	55
	2,196	2,332

NOTES TO THE ANNUAL FINANCIAL STATEMENTS

	2019 R '000	2018 R '000
26. RELATED PARTIES (continued)		
Chief Operating Officer: J de Klerk		
Package	1,646	1,564
Performance bonus	156	140
Statutory contributions	18	17
Other salary related contributions	49	43
	1,869	1,764

27. CONTINGENT LIABILITIES

In terms of Section 53(3) of the PFMA, a public entity may not accumulate surplus funds without approval from the National Treasury. Approval will be requested from the National Treasury to retain estimated cash surpluses amounting to R19.01 million. As permission has not yet been granted, this is reflected as a contingent liability.

28. CHANGE IN ESTIMATE**Property, plant and equipment**

In the current period management have revised their estimate of the useful lives of all furniture and fittings from those that were between 5-10 years to 10 years. The effect of this revision has decreased the depreciation charges for the current year by R95 218.72.

NOTES TO THE ANNUAL FINANCIAL STATEMENTS

	2019 R '000	2018 R '000
29. RECONCILIATION BETWEEN BUDGET AND STATEMENT OF FINANCIAL PERFORMANCE		
Reconciliation of budget (deficit)/surplus with the (deficit)/surplus in the statement of financial performance:		
(Deficit)/surplus per the statement of financial performance	5,043	(320)
Adjusted for:		
Fair value adjustments	-	(15)
Other income	(2)	-
Gain on the disposal of assets	(19)	(20)
Loss on disposal of assets	15	-
Printing recoupment and insurance fund	-	(2)
Transfer from retained income	1,734	7,826
Adjustments for items reflected as capital expenditure on budget:		
Leased equipment	(239)	(165)
Capital expenditure	(1,195)	(1,671)
Income under/(in excess of) budget:		
Filing fees from the Commission	991	(2,855)
Interest received	(144)	130
Over/(under) expenditure on budget:		
Personnel	(2,701)	(2,095)
Part-time Tribunal member fees	(967)	(126)
Local training	(392)	(227)
Overseas training	(995)	(584)
Professional fees	(1,137)	601
Recording and transcription services	304	569

NOTES TO THE ANNUAL FINANCIAL STATEMENTS

	2019 R '000	2018 R '000
29. RECONCILIATION BETWEEN BUDGET AND STATEMENT OF FINANCIAL PERFORMANCE (continued)		
Recruitment costs	33	(55)
Administrative expenses	(196)	(329)
Facilities and capital	(96)	(289)
Competition Appeal Court	(177)	(373)
Other IT expenses	140	-
Net (deficit)/surplus per approved budget	-	-

30. COMMITMENTS

The Tribunal procured furniture in March 2019. The assets were not delivered prior to the end of the financial year and the Tribunal has therefore disclosed this as a commitment of R119 116.

31. NEW STANDARDS AND INTERPRETATIONS

31.1 STANDARDS AND INTERPRETATIONS ISSUED, BUT NOT YET EFFECTIVE

The entity has not applied the following standards and interpretations, which have been published and are mandatory for the entity's accounting periods beginning on or after 01 April 2019 or later periods:

Standard/ Interpretation:	Effective date: Years beginning on or after	Expected impact:
• GRAP 20: Related parties	April 1, 2019	Impact is currently being assessed
• GRAP 109: Accounting by Principals and Agents	April 1, 2019	Unlikely to be a material impact
• GRAP 108: Statutory Receivables	April 1, 2019	Unlikely to be a material impact
• GRAP 32: Service Concession Arrangements: Grantor	April 1, 2019	Unlikely to be a material impact



PART 6

APPENDICES



STRATEGIC FOCUS AREA 1 - 1 APRIL 2018 - 31ST MARCH 2019

STRATEGIC FOCUS AREA 1:		ADJUDICATIVE EXCELLENCE				YEAR TO DATE	REASON FOR DEVIATIONS		
						CURRENT BUDGET	R30 160 973.00	R30 160 973.00	
						ACTUAL EXPENDITURE	R27 061 264.02	R27 061 264.02	
GOAL STATEMENT		TO ENSURE EFFECTIVE AND EFFICIENT ADJUDICATION ON MATTERS BROUGHT BEFORE THE TRIBUNAL							
STRATEGIC OUTCOME									
STRATEGIC OBJECTIVE	STRATEGIC OBJECTIVE STATEMENT	OUTCOME	PERFORMANCE INDICATORS	ANNUAL TARGET	PRIOR YEAR ANNUAL PERFORMANCE	ANNUAL PERFORMANCE YEAR TO DATE	EXPLANATIONS FOR DEVIATIONS		
CASE MANAGEMENT EFFICIENCY	Matters brought before the Tribunal are heard within the adopted delivery time frames.	Hearings are set down within required time frames.	% of large mergers to be set down for the beginning of a hearing or a pre-hearing, within ten business days of filing of the merger referral.	80%	71.90%	67%	The target was not met for the year to date. For the year 101 matters were set down, 68 were set within and 33 outside the required target of ten business days. Reasons for delay are either because of the unavailability of part-time members to sit on panels or parties are not available on the date proposed by the Tribunal. No action is planned, as if parties are not ready for a hearing on the proposed date the hearing cannot be held. Once the Competition Amendment Act is proclaimed, the Tribunal's present capacity constraints will be addressed. The relevant section provides for: an increase in the Tribunal's membership from 11 to 15; the appointment of acting members, and for certain matters to be decided by a single member instead of three.		
			% of intermediate and small merger considerations to be set down for the beginning of a hearing or a pre-hearing within ten business days of the receipt of the Commission's record. <i>(A business rule has been established and is reflected in the technical indicator description to use «receipt of the Commission's record» as the point of departure for measurement as opposed to «filing of request for consideration» as indicated in the Act).</i>	70%	70%	25%	The target was not met for the year to date. Four matters were set down and only one was set within the required timeframe. The reasons for delays in set down of large mergers apply to setting down of intermediate mergers. No corrective action is required.		
TIMEOUS ISSUING OF JUDGEMENTS	Improvement in the issuing of judgements/ decisions in line with adopted time frames.	Expeditious conclusion of matters.	% of large merger orders issued to parties within ten business days of last hearing date. <i>(A business rule has been established where "hearing day" can refer for any one of the following: actual hearing, telephonic hearing, paper hearing (date on which required documents are submitted - currently referred to as "last submission date").</i>	95%	100%	97%	The target exceeded for the year to date. Targets are set at less than 100% as there is always a chance that the issuing of orders may be delayed by the complexity of the matter or the need to include conditions. We have exceeded this target with 96 of the 99 orders being issued timeously (one matter exceeded the target by one day, one by six days and the other by 13 days).		
			% of large merger reasons issued to parties within 20 business days of the date the order was issued on.	80%	90.91%	75%	The target was not met for the year to date with 24 of the 96 reasons issued not meeting the target of 20 days. 12 of these exceeded the target by ten days or less, while six exceeded the target by between ten and 20 days while the remaining six ranged between 20 and 75 days over the target of 20 days. We have implemented a process to monitor more timeous conclusion of reasons and the benefit of this has been seen in the last quarter. Reasons may be delayed for many reasons that include but are not limited to the complexity of the matter, a Tribunal member responsible for drafting more than one set of reasons or the Tribunal member sitting on many panels while also being responsible for the reasons. We are hoping that our monitoring and the implementation of recommendations made to increase the number of Tribunal members will see better turnaround times.		
			% of intermediate and small merger consideration orders issued to parties within ten business days of last hearing date. <i>(A business rule has been established where "hearing day" can refer for any one of the following: actual hearing, telephonic hearing, paper hearing (date on which required documents are submitted - currently referred to as "last submission date").</i>	80%	75%	100%	The target was exceeded for the year to date. For the year to date only three orders were issued and they were all less complicated and thus issued within the required timeframe.		
			% of intermediate and small merger considerations reasons issued to parties within 20 business days of the date the order was issued on.	60%	100%	0%	The target was not met for the year. There were two reasons that were issued and both matters were very complex. The issues to be considered included expert witness statements, discovery application and points of law.		

Targets Not met ● Met ● Exceeded ● Not measured ●

STRATEGIC FOCUS AREA 1 - 1 APRIL 2018 - 31ST MARCH 2019

STRATEGIC OBJECTIVE	STRATEGIC OBJECTIVE STATEMENT	OUTCOME	PERFORMANCE INDICATORS	ANNUAL TARGET	PRIOR YEAR ANNUAL PERFORMANCE	ANNUAL PERFORMANCE YEAR TO DATE	EXPLANATIONS FOR DEVIATIONS
TIMEOUS ISSUING OF JUDGEMENTS	Improvement in the issuing of judgements/decisions in line with adopted time frames.	Expeditious conclusion of matters.		A - 100 business days.	50%	0%	The target was not met for the year. Reasons were only issued in one matter classified as SIMPLE but as the reasons required some technical explanations they were delayed. The reasons in this instance were issued within 132 days as opposed to the target of 100 days.
			Reasons for prohibited practices cases issued to parties in accordance with the delivery timeframes per category: A,B or C from last hearing date. <i>(Prohibited practice cases refer to all complaints from the Commission, the complainant and the High Court - A refers to a simple matter, B to a complex matter and C to a very complex matter).</i>	B - 125 business days.	100%	50%	The target was not met for the year. Reasons were issued in two matters and one set was issued within 66 days instead of the target of 125 days and the target was therefore exceeded while the reasons in the other matter where issued in 283 days as opposed to the required 125 days and the target was therefore not met. In this instance the reasons were complex and therefore took longer to draft.
				C - 150 business days.	No reasons issued.	50%	The target was not met for the year. Reasons were issued in two matters and one set was issued within 70 days instead of the target of 150 days and the target was therefore exceeded while the reasons in the other matter where issued in 225 days as opposed to the required 150 days and the target was therefore not met. In this instance the reasons were complex and therefore took longer to draft.
			% of procedural matter (Procedural matters includes interlocutory applications) orders issued to parties within 45 business days of last hearing date. <i>(A business rule has been established where "hearing day" can refer for any one of the following: actual hearing, telephonic hearing, paper hearing (date on which required documents are submitted - currently referred to as "last submission date").</i>	85%	56%	91%	The target was exceeded by 6% for year to date. (Turnaround times increased from 20 business days in the previous period to 45 business days in the current period).
			% of orders for consent orders and settlement agreements issued to parties within ten business days of last hearing date. <i>(A business rule has been established where "hearing day" can refer for any one of the following: actual hearing, telephonic hearing, paper hearing (date on which required documents are submitted - currently referred to as "last submission date").</i>	95%	84.62%	98%	The target was exceeded by 3% for the year to date. Most of the matters were not complicated and the Tribunal was able to issue more reasons within the required ten business days.
			% of interim relief reasons issued to parties within 20 business days of last hearing date. <i>(A business rule has been established where "hearing day" can refer for any one of the following: actual hearing, telephonic hearing, paper hearing (date on which required documents are submitted - currently referred to as "last submission date").</i>	90%	No reasons issued.	No reasons issued in interim cases therefore the target cannot be measured.	The target could not be measured as there were no reasons issued.
EFFECTIVE BUSINESS APPLICATIONS	Enhancing record keeping, performance and case flow management by harnessing facility and functionality of business applications.	Improved management information to inform strategic decision making and access to historical data.	CMS deemed to be sustainable.	Sustainability of CMS system confirmed.	CMS deemed to be sustainable as per report presented by IT Administrator.	Sustainability of the system being determined and measures taken to ensure its sustainability with the implementation of current available updates.	The target was met for the year to date and further investigation continues in order to confirm sustainability by end April.
			Review CMS to determine if any additional enhancements required.	Plan for enhancements approved by ITSC.	New target in 2018/2019.	Enhancements planned have been implemented and new enhancements identified are planned for implementation.	While no plan was formally approved by the ITSC various enhancements were discussed with the ITSC Chair and they either formed part of changes required for the website development or were approved through other internal processes. During the period under review four scopes of work (SOW) and five change requests were implemented. The planned target needs to be revised to more accurately reflect performance against the indicator.
			Models developed and implemented that generate statistics pertaining to the adjudicative process.	Assess models for enhancements and determine if any new models need to be implemented.	New models developed (useful statistics) and models developed further to include statistics relating to turnover of merging parties, timeframes and number of extensions.	Useful statics model developed that contains various reports on case data including status of prohibited practice cases and timeframes regarding writing and issuing of reasons.	Various reporting models were assessed and enhancements were required and have been or are being implemented. In addition new models are being developed. The planned target needs to be revised to more accurately reflect performance against the indicator.

Targets Not met Met Exceeded Not measured

STRATEGIC FOCUS AREA 1 - 1 APRIL 2018 - 31ST MARCH 2019

STRATEGIC FOCUS AREA 2:		STAKEHOLDER RELATIONSHIPS				YEAR TO DATE	REASON FOR DEVIATIONS
				CURRENT BUDGET	R1 189 403.38	R1 189 403.38	
				ACTUAL EXPENDITURE	R1 087176.69	R1 087 176.69	
GOAL STATEMENT		TO BUILD AND DEVELOP EFFECTIVE STAKEHOLDER RELATIONSHIPS					
STRATEGIC OUTCOME							
STRATEGIC OBJECTIVE	STRATEGIC OBJECTIVE STATEMENT	OUTCOME	PERFORMANCE INDICATORS	ANNUAL TARGET	PRIOR YEAR ANNUAL PERFORMANCE	ANNUAL PERFORMANCE	EXPLANATIONS FOR DEVIATIONS
						YEAR TO DATE	
STAKEHOLDER AWARENES	Ensure that an integrated communication plan is developed and implemented.	A structured and focussed process to create and enhance awareness of the work of the Tribunal.	E-newsletter developed and placed on website.	Service provider sourced to develop e-newsletter that is fully implemented and available on website.	New target in 2018/2019.	Service provider appointed, website to go live in April. e-newsletter being distributed.	The target was met for the year to date.
			Communication framework reviewed annually and quarterly communication report on strategy and media coverage presented to EXCO.	Annually review framework and report quarterly on communication strategy and media coverage.	Framework revised and changes were made but still need to be implemented and framework approved.	Progress is being made with regard to finalising framework (being workshopped with staff before final approval). Quarterly reports are in place.	The target was met for the year to date.
	Ensure communication pertaining to final decisions in mergers and prohibited practice cases are made public within adopted delivery timeframes.	Timely and compliant communication of adjudication outcomes.	% of press releases of final merger decisions communicated within two business days of order date.	95%	100%	97%	The target for the year to date was exceeded. Target not set at 100% as not all final merger decisions are deemed newsworthy. 99 press releases for 102 final merger decision were issued in the year under review and 96 of these were issued within the required two business days. If a merger decisions is not deemed newsworthy a press release is not issued.
			% of press releases of final prohibited practice decisions communicated within two business days of order date.	90%	60%	60%	The target was not met for the year to date. Five press releases for five final prohibited practice decisions were issued with two being issued out of time due to a housekeeping issue. This has subsequently been corrected.
	Identify and address stakeholder needs and expectations in order to meet or exceed requirements.	Level of stakeholder satisfaction.	Stakeholder satisfaction survey results.	Satisfaction survey is conducted by March 2019 and satisfaction levels targeted at 75%.	New target in 2018/2019.	No stakeholder survey was undertaken.	The target was not met for the year to date. Operational circumstances have been such that a survey was not undertaken.

Targets Not met ● Met ● Exceeded ● Not measured ●

STRATEGIC FOCUS AREA 3 - 1 APRIL 2018 - 31ST MARCH 2019

STRATEGIC FOCUS AREA 3:		ACCOUNTABLE, TRANSPARENT AND SUSTAINABLE ENTITY				YEAR TO DATE	REASON FOR DEVIATIONS
				CURRENT BUDGET	R11 010 738.37	R11 010 738.37	
				ACTUAL EXPENDITURE	R8 347 143.32	R834 7143.32	
GOAL STATEMENT		TO ENSURE THE TRIBUNAL HAS EFFECTIVE STRATEGIC LEADERSHIP, ADMINISTRATION AND MANAGEMENT THROUGH ADHERENCE TO GOOD GOVERNANCE AND SOUND BUSINESS PRACTICE.					
STRATEGIC OUTCOME							
STRATEGIC OBJECTIVE	STRATEGIC OBJECTIVE STATEMENT	OUTCOME	PERFORMANCE INDICATORS	ANNUAL TARGET	PRIOR YEAR ANNUAL PERFORMANCE	ANNUAL PERFORMANCE	EXPLANATIONS FOR DEVIATIONS
						YEAR TO DATE	
GOOD GOVERNANCE	Increase the level of compliance with the prescripts of good governance.	Accountable and transparent public entity.	Achieve an unqualified audit outcome year on year.	Unqualified audit – no issues of governance raised.	Unqualified audit achieved for 2016/2017 - no issues of governance raised.	Final audit report - clean audit opinion - no governance issues raised.	The target was exceeded for the year to date as our target was an unqualified audit but we received a clean audit.
EFFECTIVE OVERSIGHT STRUCTURES	Maintain effective oversight structures that promote solid business practice.	Sound business practice.	Achieve an unqualified audit outcome year on year.	Unqualified audit – no issues of governance raised.	Unqualified audit achieved for 2016/2017 - no issues of governance raised.	Final audit report - clean audit opinion - no governance issues raised.	The target was exceeded for the year to date as our target was an unqualified audit but we received a clean audit.
EFFECTIVE MANAGEMENT OF THE BUDGET	Ensure financial management that promotes effective and efficient use of resources.	Optimal financial resource allocation and utilisation.	Achieve an unqualified audit outcome year on year.	Unqualified audit-no findings of fruitless / wasteful expenditure.	Unqualified audit achieved for 2016/2017 - no findings of fruitless/wasteful expenditure.	Final audit report - clean audit opinion - no findings on fruitless and wasteful expenditure.	The target was exceeded for the year to date as our target was an unqualified audit but we received a clean audit.
FINANCIAL GOVERNANCE AND REPORTING	Ensure a sound control environment and monitor and maintain compliance and ensure that all reporting requirements are met.	Compliance to requirements as an accountable, transparent institution.	No material misstatements for May submission.	No material misstatement on May submission.	No material misstatements in May submission.	No material misstatements in May submission.	The target was met for the year to date.
			Submission against annual deadline.	Annual reporting submission dates met May and July.	Annual reporting submission dates for May and July met.	May and July 2018 deadlines were met.	The target was met for the year to date.
		Integrated risk management processes and combined assurance.	Achieve an unqualified audit outcome year on year.	Unqualified audit – no issues of risk management raised.	Unqualified audit achieved for 2016/2017 - no issues of risk management raised.	Final audit report - clean audit opinion - no issues on risk.	The target was exceeded for the year to date as our target was an unqualified audit but we received a clean audit.
SUSTAINABLE CAPACITY	Ensure that the Tribunal effectively leverages employee skills by recruiting, retaining and developing high quality people.	Strengthen the Tribunal's organisational capacity and performance to deliver on its legislative mandate.	Implementation of case management graduate internships against plan.	Minimum of two graduate interns (one-year internship) appointed.	Two LT interns appointed for the period 1st January 2017 to 31st December 2017. Four vacation interns in July 2017.	Two LT interns appointed for period. Three vacation interns employed in the Tribunal during the July vacation.	The target was met for the year to date.

Targets Not met ● Met ● Exceeded ● Not measured ●

WHERE ARE THEY NOW?

The Tribunal has, over the years, hosted internships for many young students who demonstrated an insatiable thirst for knowledge and a strong will to succeed in their studies and careers. We recently caught up with a few of these trailblazers who have grown into dynamic and inspirational professionals!

Dalisu Waiyaki Jwara (26) -
Structured Property Finance
Consultant at Investec



“My internship at the Tribunal was extremely valuable. I got to understand what “white collar crime” is which, in the Tribunal’s setting, would be anti-competitive behaviour. In a society like ours, crimes committed by big corporates often go undetected and are harder to fight because of the financial muscle they have. I also learnt that engaging in market manipulation often means that small businesses don’t have a fair opportunity to succeed. After obtaining my qualification my first post was in Strategy and Corporate Development, which entailed analysing merger and acquisition transactions.”

“I came to learn about mergers and acquisitions, which I did. However, I also grasped the bigger picture around competition law and its importance – the impact that it can have on the man on the street. It can and did change the price of bread!

I gained skills that the lecture halls and classrooms couldn’t teach me... also an understanding of the marriage between competition law and economics in ensuring that families in townships can afford bare necessities, whether bread or baby formula, at a fair price and with the freedom to choose whichever brand. Seeing wrongdoers punished also left me with a sense of justice that we don’t see enough of, especially in corporate SA.”



Dumisani Mbatha (27) -
Private Banker at Investec Bank Limited

Deidre Goosen (29) -
Attorney at C de Villiers Attorneys,
Johannesburg



“The Tribunal has such a wonderful working environment. The internships were an enriching experience which taught me to always value teamwork and colleague relationships. I have also been able to reflect my experience at the Tribunal in the legal field as a practising attorney. The experience also provided me with insight into dealing with the ins and outs of competition matters, which has been particularly helpful as a practising attorney.”



Grethe Goosen (29) -
Senior Research Executive at Ipsos

“I assisted the Tribunal with the capturing of data on their new internet and computer-based case management system. I also assisted the Registry with uploading and indexing case files onto this system. It was my first formal working experience and it showed me what a healthy, engaging working environment looks like. The experience also allowed me to understand the often “invisible” rules of shared workspaces. I grew a sense of discipline which has stuck with me through the years and which has helped define me for my strong brand of work ethic.”

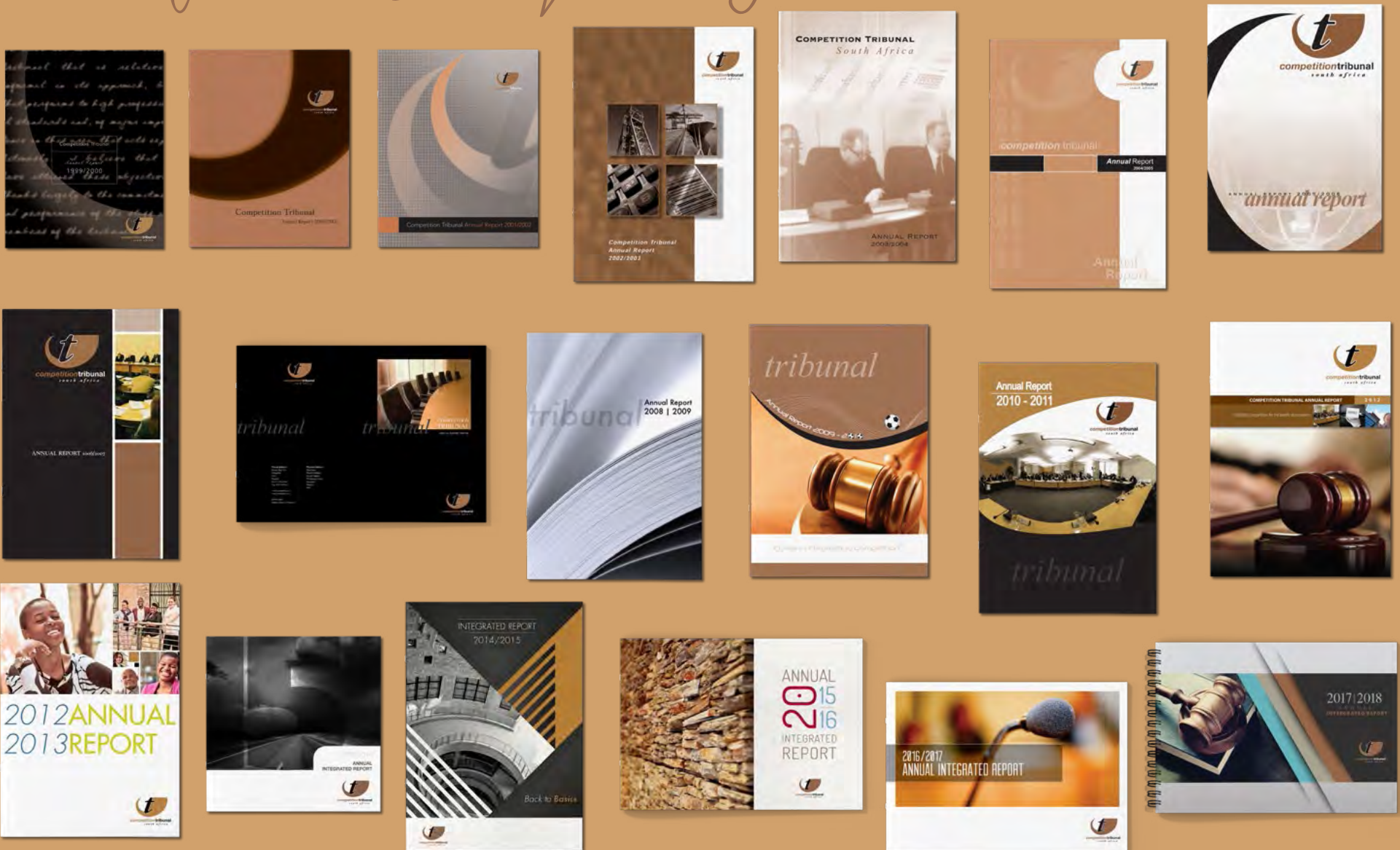


*competition***tribunal**
SOUTH AFRICA

1999 - 2019

TIMELINE

20 years of adjudication



20 years of adjudication

20 years of adjudication



President Nelson Mandela signs Competition Act into law

Competition Appeal Court, the third institution created by the Competition Act, is established September 2000 with Judge Dennis Davis as Judge President



August and Tongaat-Hulett Group Ltd and Transvaal Suiker Bpk in November

The first intermediate merger approved involves Santam Ltd & Guardian National Insurance on 4 April 2000

February 2001 the Competition Second Amendment Act comes into operation. New rules for the Tribunal and thresholds for merger notifications also come into effect

Tribunal receives its first full complaint referral from the Commission

The first two large mergers prohibited involve JD Group Ltd and Ellerin Holdings Ltd in

Tribunal is rated joint fourth out of 24 in a survey of major international competition regulators by Global Competition Review, ahead of UK and US heavyweights

In a landmark decision, (Trident Steel (Pty) Ltd and Baldwins Steel) Tribunal allows the efficiency defence to prevail over an otherwise anti-competitive merger

An OECD peer review report finds merger review at a high level of sophistication and Tribunal is rated as "impressive" and recognised as notably competent and serious

Tribunal approves intermediate merger between Astral Foods Ltd and National Chick Ltd subject to conditions protecting competition in the chicken and animal feed industry

Mondi Ltd and Kohler Tubes merger is prohibited, pre-empting anti-competitive behaviour

Tribunal finds the Distillers Corporation and Stellenbosch Farmer's Winery Group (which formed Distell) transaction qualified as a notifiable merger. It had not been notified

Distell is ordered to relinquish control of two key brands in the local proprietary spirits market (Martell and KVV brands)

Structa Technology (Pty) Ltd and Dorbyl Engineering Management Company and Fastpulse Trading 26 (Pty) Ltd are given a symbolic R1 fine for failing to notify a merger

Commensurate with the Tribunal's increased workload, full-time members increase from two to three

Tribunal relocates from Faerie Glen to new premises at the Dti's Sunnyside campus



A small PE business owner, who buys creosote from Sasol Oil to treat wooden poles sold to Western Cape vineyards, accuses the firm of unlawful price discrimination. The Commission declines to prosecute. The self-represented owner approaches the Tribunal. The Tribunal finds Sasol Oil guilty of price discrimination

Tribunal accepts an invitation to join the Competition Committee of the Organisation for Economic Co-operation and Development, enabling it to participate in meetings which deal with cutting edge competition law issues

Cross directorship comes under the spotlight when Momentum seeks to acquire African Life Health from African Life Assurance Company Ltd

Retrenchments are Ltd in a hostile takeover by Harmony Gold Mining Company of Gold Fields when the Tribunal imposes a condition to address anticipated job losses

A proposed merger between Sasol and Engen is prohibited

July 2005 the largest penalty (up to that date) is imposed on SAA. It's ordered to pay R45 million for abusing its dominance in the domestic airline sector

Total value of administrative penalties imposed in 2007/2008 exceeds R781 million

The transaction between SA's incumbent provider of fixed-line telecommunication services, Telkom SA, and BCX is prohibited



March 2007 Mittal SA is found guilty of charging excessive prices and a R691.8 million penalty is imposed

In 2007 and 2009 the Tribunal confirms settlements and imposes a combined penalty of R143 million on Tiger Brands and Foodcorp for engaging in bread price fixing cartel



David Lewis' 10-year term of office ends 31 July. He is succeeded by Norman Manoim

Pioneer Foods fined R195 million in February for its role in bread price fixing. It's the first time that a firm, alleged to be part of a cartel, is the subject of a full hearing

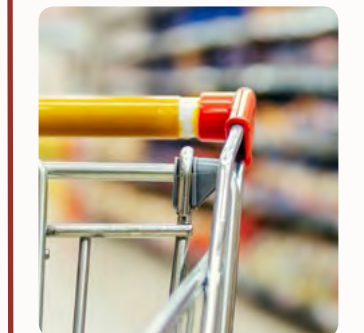
A settlement is approved in November in terms of which Pioneer Foods agrees to pay R500 million as a penalty and towards an agro-processing fund as well as take a price reduction/margin sacrifice on flour and bread for an agreed period

Tribunal and Commission celebrate ten years of existence and stage a joint conference on competition policy and law with Mandela Institute of Law

A ten-year review document, 'Unleashing Rivalry', is published, describing the main patterns and milestones in the competition authorities' development

Tribunal gives guidance on the use of economic modelling and customer survey and statistical data analysis in mergers when approving Masscash Holdings (Pty) Ltd and Finro Enterprises (Pty) Ltd merger without conditions

Settlement confirmed and Keystone Milling and Carolina Rollermeule admit to fixing price of milled white maize. Tribunal imposes penalties of R6 730 349.00 and R4 417 546.00



Largest penalty in 2011/2012 is imposed on Lafarge Industries SA, being R149 million for contravening sections 4(1)(b)(i) and (ii) of the Act

Tribunal approves Wal-Mart / Massmart merger subject to public interest conditions



Tribunal confirms a settlement between the Commission and Telkom, resolving a series of complaints lodged by Internet Service Providers

Settlements in "construction cartel" case are heard July 2013. 15 firms admit to industry-wide collusion and pay penalties totalling R1.46 billion

Three telecoms industry mergers (Vodacom/Neotel, MTN/Telkom and Telkom/BCX) received. The first two are abandoned and the last one approved with conditions



Tribunal approves eight large mergers with employment conditions, including offer by Lewis Stores to buy all viable stores owned by Ellerin's Beares division, as part of African Bank failure, and the BB Investment Company of Adcock Ingram Holdings

It is noted that in the past 15 years the Tribunal has placed employment related conditions on more than 29 mergers and prevented more than 3 803 job losses

13 settlement agreements involving furniture removal cartel are confirmed

R534 million fine is imposed on Sasol Chemical Industries for excessive pricing

Largest penalty yet imposed by Tribunal is in the ArcelorMittal matter. Final settlement includes a R1.5 billion penalty, a price-cap on flat steel products, avoidance of retrenchments and R4.6 billion in new investments in capex to improve competitiveness

Two large beverage mergers involving soft drinks (Coca-Cola) and beer (AB In Bev/SABMiller) are approved with significant public interest conditions

Largest merger ever notified (with a transaction value of R70 billion) is the acquisition by Anheuser-Busch InBev of the entire share capital of SABMiller

Merger of the only two miners of andalusite is prohibited



1998 1999/2000 2000/2001 2001/2002 2002/2003 2003/2004 2004/2005 2005/2006 2006/2007 2007/2008 2008/2009 2009/2010 2010/2011 2011/2012 2012/2013 2013/2014 2014/2015 2015/2016 2016/2017 2017/2018

The President appoints first chairperson, David Lewis and nine other members of the Tribunal, with effect from 1 August 1999

Tribunal becomes operational 1 September 1999

First merger approved without conditions, involving Bidvest Group Ltd and Island View Storage Ltd, approved in December 1999

14 April 2000 the first merger, approved without conditions, involves Bromor Foods Ltd and the "Game" Sports Drink

Interim relief involving SA Raisins vs SAD Holdings granted with respondents ordered to stop requiring/inducing producers of grapes-for-raisins not to deal with SA Raisins

April 2001 Tribunal is listed as a national public entity in schedule 3 A of the Public Finance Management Act

Brand divestiture orders are a feature of the 2002 financial year

In Iscor Ltd and Saldanha Steel (Pty) Ltd the Tribunal tests the parameters of the failing firm defence

In Shell South Africa (Pty) Ltd and Tepco Petroleum (Pty) Ltd issues concerning black economic empowerment come before the Tribunal

In Unilever Plc and Unifoods the scope of trade union participation is tested. Tribunal finds the number

of employees considered for retrenching does not constitute confidential information

In Schumann Sasol and Price's Daelite competition law's relaxed approach to vertical mergers is tested



In Astral Foods Ltd and National Chick Ltd the nature of structural and behavioural conditions is examined

Clicks Group transaction sees the first foray by a corporate into the retail pharmaceutical market, coinciding with legislation allowing corporates to own pharmacies for the first time

Clicks Group acquires four companies that own the retail pharmacy groups of Hyperpharm, Galleria, Guardian, Pharmarama, Remedys, and Medirama

A fertiliser industry merger, involving a buy-out of Senwes Ltd's shareholding in Profert, is approved subject to implementation of a compliance programme

Fluxrab Investments and Seven Eleven Africa (Pty) Ltd is approved subject to conditions that consider concerns of franchisees

Federal Mogul, distributor of car components including Ferodo braking equipment, is found to have engaged in minimum resale price maintenance. A R3 million fine is imposed

Association of Pre toria Attorneys agrees its guidelines, setting tariffs attorneys charge clients, amounts to price-fixing. It withdraws the guidelines and pays a R223 000.00 fine

Two interlocutory decisions in restrictive practice cases broadens the categories of persons who may have access to information over which confidentiality has been claimed



By March 2007 the Tribunal has, since inception, ruled on 460 mergers

Massmart Holdings and Moresport merger is prohibited as it will eliminate rivalry between two largest players in sports/outdoor equipment market

Consent order is confirmed between the Commission and SAA and South African Express Airways for introducing an agreed identical fuel surcharge on tickets for local and global flights. The airlines jointly pay a R20 million penalty

A settlement agreement is confirmed between the Commission and SAA for incentive schemes in respect of travel agents' remuneration. SAA agrees to pay a R15 million fine

In respect of various consent orders, SAA's total liability amounts to R100 million

The case against the association of US soda ash producers is settled on the eve of the conclusion of a lengthy trial. ANSAC agrees to cease operations in SA. By one account the local soda ash market experiences immediate gains following Tribunal's order

Tribunal recognises that margin squeeze constitutes an abuse of dominance

David Lewis appointed as Chairperson of the steering group of the International Competition Network, after serving as Vice-Chairperson



Competition authorities move from the administration of the Dti to the Department of Economic Development with effect from 1 April 2010

Tribunal imposes more than R787 million in administrative penalties for the year

Tsogo Sun Holdings and Gold Reef Resorts merger is unconditionally approved after the Commission argues it should be allowed if they sold Silverstar Casino

Metropolitan Holdings Ltd and Momentum Group Ltd merger is approved on condition that the merged entity, MMI Holdings, ensures no retrenchments for two years

In November 2010 the maximum penalty allowed in the Competition Act (10% of annual turnover) is imposed on a cartel member in the concrete pipes industry



2012/2013 2013/2014 2014/2015 2015/2016 2016/2017 2017/2018

Constitutional Court, in the Senwes matter, interprets the Tribunal's powers broadly, allowing it to become the master of its own proceedings, subject to fairness

Tribunal hears first exemption appeal, issues first fine in opposed abuse of dominance case and manages first assets divestiture flowing from a merger prohibited after implementation

Tribunal hears Glencore Xstrata merger notified in USA, Australia, EU and China

Tribunal imposes a R449 million fine on Telkom, highest ever imposed for abuse of dominance in an opposed case

Tribunal approves, with conditions, SA leg of global merger between Nestlé SA and infant nutrition business of Pfizer Inc

In its first exemption appeal decision, Tribunal dismisses Gas2Liquids' bid to set aside exemption granted by the Commission to the SA Petroleum Industry Assoc

Tribunal adopts new six-step method for calculating penalties



Autoliv, world's largest automotive safety supplier, is fined R149 million for collusion

Significant mergers include Coca-Cola's buyback of its shares from ABInBev, Chevron's sale of its SA assets (involving Sinopec) and Old Mutual's corporate restructuring

Cartel case is brought to Tribunal against 21 banks, involving alleged rigging of the rand-dollar exchange rate

A R69 500 860 penalty is imposed on Citibank in the so-called banks forex cartel case

Draft Competition Amendment Bill is tabled

SA is one of many jurisdictions to consider the merger between international chemical giants Dow Chemical and DuPont to form DowDuPont. Various jurisdictions impose conditions and Tribunal imposes an additional licencing condition

Tribunal approves, with conditions, Netcare Hospital Group and mental health care provider Akeso Group merger. Commission recommended prohibition

TRIBUNAL GENERAL INFORMATION

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