



tribounal Annual Report
2008 | 2009

Annual Report 2008 | 2009



competitiontribunal
south africa

Salient features of the year

- **140 cases heard** and 111 reasons for decisions issued.
- **102 large merger** cases heard and 102 of these decided.
- **79.41 %** of hearings in large merger cases took place within 10 days of receipt of case.
- **100% of decisions** in large merger cases released within 10 days of hearing.
- **126.5 days** spent in hearings.
- **375 media reports** in sources monitored by the Tribunal.
- total value of administrative penalties imposed exceeded **R 303 million**.
- chairperson David Lewis appointed as chairman of the steering group of the **International Competition Network (ICN)**.
- continued **active participation** in the Competition Committee of the Organisation for Economic Co-operation and Development (OECD).
- a new chairperson to be appointed as David Lewis nears end of his **tenth year** in this position.

What we do

- the Tribunal is an independent, specialised institution established by statute.
- the Tribunal regulates corporate mergers and adjudicates allegations of anti-competitive practices.
- in respect of mergers, the Tribunal
 - authorises or prohibits large mergers, and
 - adjudicates appeals from the Competition Commission's decisions regarding intermediate mergers.
- in respect of anti-competitive behaviour, the Tribunal
 - adjudicates complaint referrals,
 - adjudicates interim relief applications, and
 - adjudicates appeals from the Competition Commission's decisions regarding applications for exemption.

tribunal

Contents

Report of the Auditor-General	2
Chairperson's Report	5
Members and Secretariat	12
Corporate Governance	16
Compliance with Legislation	17
Human Resource Development	19
Financial Management	22
Communicating the Work of the Tribunal	24
Performance Indicators	25
Cases before the Competition Tribunal	36
The Competition Appeal Court	43
Annual Financial Statements	45
Report of the Audit Committee	74
Appendix A	76
Appendix B	80
Appendix C	81
Appendix D	83
Appendix E	85
Appendix F	87

Report of the Auditor-General

TO PARLIAMENT ON THE FINANCIAL STATEMENTS AND PERFORMANCE INFORMATION OF THE COMPETITION TRIBUNAL FOR THE YEAR ENDED 31 MARCH 2009

REPORT ON THE FINANCIAL STATEMENTS

Introduction

1. I have audited the accompanying financial statements of the Competition Tribunal which comprise the statement of financial position as at 31 March 2009, and the statement of financial performance, the statement of changes in net assets and the cash flow statement for the year then ended, a summary of significant accounting policies and other explanatory notes as set out on pages 46 to 73.

The accounting authority's responsibility for the financial statements

2. The accounting authority is responsible for the preparation and fair presentation of these financial statements in accordance with the basis of accounting determined by the National Treasury, as set out in accounting policy note 1 to the financial statements and in the manner required by the Public Finance Management Act, 1999 (Act No. 1 of 1999) (PFMA) and the Competition Act, 1998 (Act No. 89 of 1998) 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.

The Auditor-General's responsibility

3. As required by section 188 of the Constitution of the Republic of South Africa, 1996 read with section 4 of the Public Audit Act, 2004 (Act No.

25 of 2004) (PAA) and section 40(10) of the Competition Act, 1998 (Act No. 89 of 1998), my responsibility is to express an opinion on these financial statements based on my audit.

4. I conducted my audit in accordance with the International Standards on Auditing read with *General Notice 616 of 2008*, issued in *Government Gazette No. 31057 of 15 May 2008*. Those standards require that I comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.
5. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.
6. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

7. In my opinion the financial statements present fairly, in all material respects, the financial position of the Competition Tribunal as at 31 March 2009 and its financial performance and its cash flows for the year then ended, in accordance with the basis of accounting determined by the National Treasury as set out in accounting policy note 1 to the financial statements and the PFMA.

Basis of accounting

8. Without qualifying my opinion, I draw attention to note 1 to the financial statements, which prescribes the accounting policy. The public entity is to prepare financial statements on the basis of accounting determined by the National Treasury.

Governance framework

9. The governance principles that impact the auditor's opinion on the financial statements are related to the responsibilities and practices exercised by the accounting authority and executive management and are reflected in the key governance responsibilities addressed below.

Key governance responsibilities

10. The PFMA tasks the accounting authority with a number of responsibilities concerning financial and risk management and internal control. Fundamental to achieving this is the implementation of key governance responsibilities, which I have assessed as follows:

OTHER MATTERS

Without qualifying my opinion, I draw attention to the following matters that relate to my responsibilities in the audit of the financial statements:

	Matter	Y	N
Clear trail of supporting documentation that is easily available and provided in a timely manner			
1.	No significant difficulties were experienced during the audit concerning delays or the availability of requested information.	✓	
Quality of financial statements and related management information			
2.	The financial statements were not subject to any material amendments resulting from the audit.	✓	
3.	The annual report was submitted for consideration prior to the tabling of the auditor's report.	✓	
Timeliness of financial statements and management information			
4.	The annual financial statements were submitted for auditing as per the legislated deadlines (section 55 of the PFMA).	✓	
Availability of key officials during audit			
5.	Key officials were available throughout the audit process.	✓	
Development and compliance with risk management, effective internal control and governance practices			
6.	Audit committee		
	• The public entity had an audit committee in operation throughout the financial year.	✓	
	• The audit committee operates in accordance with approved, written terms of reference.	✓	
	• The audit committee substantially fulfilled its responsibilities for the year, as set out in section 77 of the PFMA and Treasury Regulation 27.1.8.	✓	
7.	Internal audit		
	• The public entity had an internal audit function in operation throughout the financial year.	✓	
	• The internal audit function operates in terms of an approved internal audit plan.	✓	
	• The internal audit function substantially fulfilled its responsibilities for the year, as set out in Treasury Regulation 27.2	✓	
8.	There are no significant deficiencies in the design and implementation of internal control in respect of financial and risk management.	✓	

	Matter	Y	N
9.	There are no significant deficiencies in the design and implementation of internal control in respect of compliance with applicable laws and regulations.	✓	
10.	The information systems were appropriate to facilitate the preparation of the financial statements.	✓	
11.	A risk assessment was conducted on a regular basis and a risk management strategy, which includes a fraud prevention plan, is documented and used as set out in Treasury Regulation 27.2.	✓	
12.	Powers and duties have been assigned, as set out in section 56 of the PFMA	✓	
Follow-up of audit findings			
13.	The prior year audit findings have been substantially addressed.	✓	
Issues relating to the reporting of performance information			
15.	The information systems were appropriate to facilitate the preparation of a performance report that is accurate and complete.	✓	
16.	Adequate control processes and procedures are designed and implemented to ensure the accuracy and completeness of reported performance information.	✓	
17.	A strategic plan was prepared and approved for the financial year under review for purposes of monitoring the performance in relation to the budget and delivery by the Competition Tribunal against its mandate, predetermined objectives, outputs, indicators and targets (Treasury Regulation 30.1).	✓	
18.	There is a functioning performance management system and performance bonuses are only paid after proper assessment and approval by those charged with governance.	✓	

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

Report on performance information

11. I have reviewed the performance information as set out on pages 25 to 35.

The accounting authority's responsibility for the performance information

12. The accounting authority has additional responsibilities as required by section 55(2)(a) of the PFMA to ensure that the annual report and audited financial statements fairly present the performance against predetermined objectives of the public entity.

The Auditor-General's responsibility

13. I conducted my engagement in accordance with section 13 of the PAA read with *General Notice 616 of 2008*, issued in *Government Gazette No. 31057 of 15 May 2008*.

14. In terms of the foregoing my engagement included performing procedures of an audit nature to obtain sufficient appropriate evidence about the

performance information and related systems, processes and procedures. The procedures selected depend on the auditor's judgement.

15. I believe that the evidence I have obtained is sufficient and appropriate to report that no significant findings have been identified as a result of my review.

APPRECIATION

16. The assistance rendered by the staff of the Competition Tribunal during the audit is sincerely appreciated.

Auditor-General

Pretoria

18 August 2009



AUDITOR-GENERAL
SOUTH AFRICA

Auditing to build public confidence

Chairperson's Report

for the year ended 31 March 2009



INTRODUCTION

It is my pleasure to present, as part of the audited financial statements, the tenth annual report of the Competition Tribunal for the year ended 31 March 2009.

The Tribunal has been in existence for nine and a half years, having commenced operations in September 1999. As one of the national antitrust authorities, it plays an essential role in the creation of a national culture of respect for the principles of competitive conduct, which now apply almost worldwide. In doing so it has set out to earn the credibility and confidence of diverse stakeholders. Its role as the principal adjudicative

entity in the national antitrust system is manifest in the development of a credible body of jurisprudence that responds to the country's specific needs and legislation, but is solidly grounded in rich international learning and experience. The transparency and rigour of the Tribunal's proceedings contribute significantly to the increasingly vibrant competition culture that has taken root in South Africa.

The trend referred to in last year's report of an increasing number of restrictive practice cases, particularly cartel cases, has accelerated. Several of these have come before the Tribunal in the form of consent orders. It appears that the Commission's corporate leniency programme has played a highly significant role in the successes of these investigations, and this is further testimony to the growing respect enjoyed by the competition system and the authorities that enforce it. The long-running case against ANSAC, the association of US soda ash producers, was settled on the eve of the conclusion of a lengthy trial, the settlement agreement reflecting closely the terms on which ANSAC had been charged in the first place. ANSAC has agreed to cease operations in South Africa.

As I noted previously, this increase in the number and complexity of restrictive practice cases will undoubtedly continue to characterize the next phase of the Tribunal's life. Restrictive practice cases, by their very nature, are lengthy and consume considerable time and other resources. The Tribunal is fortunate in that it is able to draw on the services of three full-time members, as well as a committed group of part-time members given the increasing demands being placed on it.

This does not, of course, mean that the Tribunal's role in merger regulation has been neglected. Merger regulation continues to constitute the 'bread and butter' work of the Tribunal and, in the year under review, substantial numbers of important merger cases were considered and decided. They included the intermediate merger between Primedia and New Africa, the acquisition of RJ Southey by Investec Bank, the intermediate merger between MTO Forestry and Boskor Saagmeule in the

forestry industry, the acquisition of Verizon by MTN and the Vodafone Group Plc and Vodacom Group transaction.

The table below, sets out the number of cases in various categories heard by the Tribunal in the year under review and their percentage contribution to the total number of cases heard.

Type of case	2009/2008	%age of cases heard	2008/2007	%age of cases heard
Large merger	102	72.86	100	68.03
Procedural	23	16.43	33	22.45
Intermediate merger	2	1.43	2	1.36
Restrictive practice	13	9.28	12	8.16
Total	140	100	147	100

The Tribunal's impact on business activity and the high level of public debate surrounding competition that has developed in consequence is reflected in the extensive media coverage the Tribunal hearings receive. This is making a significant contribution towards the building of a competition culture and is a vindication of the transparent and inclusive approach adopted by the Tribunal.

The Tribunal has again played a leading role in relevant international bodies such as the ICN. Earlier this year I was appointed chairman of the Steering Group of the ICN. This is clear evidence of the increasingly active role played by developing and emerging market economies in a critical field of applied economics that, until little more than a decade ago, was hardly practiced outside of a small handful of highly developed countries.

The Tribunal and the Commission again participated actively in the Competition Committee of the OECD, a body at the international cutting edge of new developments in competition law and policy. We have also participated actively in the competition section of the United Nations Commission on Trade and Development (UNCTAD) and are actively attempting to assist emerging authorities in sub-Saharan Africa.

My current term of office ends at the end of July 2009. The Competition Act imposes a two-term limit on service by chairpersons of the Tribunal, so my tenure will soon come to an end.

I am pleased to say that a good proportion of the staff and members of the Tribunal, have worked with the Tribunal for the full ten years of its existence, and will, I have no doubt, continue to do so for many years to come, providing valuable stability and continuity and adding to its institutional memory.

I would like to take this opportunity to record my gratitude to both the Tribunal's members and its support staff for their contribution to the work of the Tribunal and for the consistently high quality of public service which they have rendered.

STATEMENT OF RESPONSIBILITY

The accounting authority is responsible for the preparation, integrity and fair presentation of the financial statements of the Competition Tribunal for the year ended 31 March 2009. The financial statements presented on page 46 to 73 were prepared in accordance with the South African Statements of Generally Accepted

Accounting Practice, including any interpretations of such statements issued by the Accounting Practices Board and with the effective Standards of Generally Recognised Accounting Practices to the extent indicated in the accounting policies.

The financial statements 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 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 Tribunal.

The financial statements were audited by an independent auditor, the Auditor-General South Africa. The auditor was given unrestricted access to all financial records and related data, including the minutes of all meetings of the executive committee, staff and the case management committee. The accounting authority believes that all representations made to the auditor during the audit are valid and appropriate.

The audit report of the Auditor-General is presented on pages 2 - 4.

The accounting authority initially approved the financial statements on 30 May 2009 and submitted them to the Auditor-General on the same day.

NATURE OF BUSINESS

The Tribunal has been listed as a national public entity in terms of the PFMA since 1 April 1999.

The Tribunal is one of three institutions constituted in 1999 in terms of the Competition Act (Act No. 89 of 1998) to promote and maintain competition in the economy and to ensure compliance with the Act's provisions.

The Tribunal derives its mandate from the Act and has jurisdiction throughout South Africa. The Tribunal functions independently of both government and the Commission, which is the investigative and prosecutorial arm of the competition authorities. The Tribunal's decisions are enforceable on a similar basis to those of the High Court, and are subject to appeal to or review by the Competition Appeal Court.

Details of the Act and of the Tribunal's rules of procedure can be found on the Tribunal website, on which decisions in its cases are also posted.

The Tribunal's main functions are to regulate mergers and to adjudicate cases concerning restrictive practices.

The eleven members appointed by the President are as follows:

D. Lewis - chairperson (full-time)
Adv. M. Moerane - deputy chairperson (part-time)
Y. Carrim (full-time)
N. Manoim (full-time)
U. Bhoola (part-time)
Prof. M. Holden (part-time)
Adv. M. Madlanga (part-time)
M. Mokuena (part-time)
T. Orleyn (part-time)
L. Reyburn (part-time)
Dr. N. Theron (part-time)

Members are appointed either on a full-time or part-time, basis depending on the needs of the Tribunal. Cases are heard by panels comprising three of its members.

Cases are typically brought before the Tribunal by the Commission, but in certain circumstances private parties may engage the Tribunal directly.

In terms of the Act, the Tribunal proceeds to consider a matter within its jurisdiction once that matter has been referred to it. In a merger case its decision will be to approve the merger, with or without conditions, or to prohibit the merger. In a restrictive practice case the Tribunal may, if it finds that the Act has been contravened, impose any of a wide range of remedies, including the imposition of an administrative penalty and, in certain exceptional cases, an order of divestiture.

OBJECTIVES AND TARGETS

The quasi-judicial nature of the Tribunal precludes it from setting pro-active objectives or embarking on focused interventions that target any particular sector or emphasise any specific criterion.

The Tribunal's caseload is determined by the number of complaint referrals and notified mergers received, and it has no control over the number and types of cases brought before it.

Each case is adjudicated on its merits.

The Tribunal has set itself seven strategic objectives that are divided into three major categories in the Tribunal's strategic plan:

- (i) policy and legislation
- (ii) enforcement and compliance
- (iii) education and awareness.

These strategic objectives enable the Tribunal to operate within the context of the Act and to pursue its commitment to contributing to the purposes of the Act.

Specific activities and outputs are identified in each category and performance indicators and targets have been assigned to each output. Performance against these objectives is reported on pages 25 - 37.

FINANCIAL HIGHLIGHTS

	2009 R'000	2008 R'000
Revenue (exclusive of interest received)	18,728	17,970
Interest received	1,869	1,497
Total revenue	20,597	19,467
Total expenditure	(17,593)	(15,427)
Surplus for the year	3,004	4,040
Total assets	21,846	18,383
Total liabilities	2,068	1,609

FINANCIAL PERFORMANCE

Revenue for the year ended 31 March 2009 increased by 5.8%. Filing fee income decreased by 5.06%, while there was a 14.29% increase in the grant received from the Department of Trade and Industry.

In terms of a memorandum of agreement existing between the two institutions, the Commission pays the Tribunal 30% of the filing fees received by the Commission for large mergers and 5% of the filing fees received for intermediate mergers. These fees continue to make up a major portion of the Tribunal's revenue and constituted 42.82% of revenue in the year under review, while 48.10% came from a grant received from the Department of Trade and Industry.

Total expenditure (net of capital expenditure) in the year under review increased by 14.04%. A more detailed discussion of the changes in expenditure follows later in the report.

At the beginning of the financial year the Tribunal had an accumulated surplus of R16,77 million, which increased by R3 million during the current financial year.

In terms of Section 53(3) of the PFMA, entities are not allowed to accumulate surpluses without the approval of the National Treasury. The Tribunal is in the process of requesting approval from Treasury to retain these accumulated surpluses to cover expenditure during 2009/2010 and the next two years of the medium term expenditure framework (MTEF) cycle.

While the Tribunal can and does receive income based on filing fees received by the Commission, it cannot rely on this as its sole source of income and the Tribunal will therefore continue to seek approval from National Treasury to retain its surplus and in addition will continue to seek grant funding from the government to ensure the sustainability of the institution for the foreseeable future.

The reasons for the operating surplus are discussed more fully later in the report, but the main causes were:

- i) under-expenditure of approximately 12% on administrative expenses;
- ii) payment of the full MTEF-allocated grant of R9,91 million by the Department of Trade and Industry to the Tribunal; and
- iii) interest of R1, 87 million received on surplus funds invested at the Corporation for Public Deposits (CPD).

EVENTS SUBSEQUENT TO STATEMENT OF FINANCIAL POSITION DATE

No events took place between the year-end date, 31 March 2009, and the date of signing of the financial statements that were sufficiently material to warrant disclosure to interested parties.

MEMBERS' AND EXECUTIVE MEMBERS' EMOLUMENTS

The table below shows the total annual remuneration (cost to company) received by the full-time members and managers of the Tribunal.

The chairperson, one full-time member and all the managers served on the Tribunal's executive committee at some stage during the year under review.

	2008 (R'000)	2007 (R'000)
Chairperson - D Lewis	1,611	1,287
Package	1,580	1,262
Group life insurance/pension admin fees	31	25
Full-time member - N Manoim	1,392	1,257
Package	1,364	1,233
Group life insurance/pension admin fees	28	24
Full-time member - Y Carrim	1,396	1,256
Package	1,368	1,233
Group life insurance/pension admin fees	28	23
Head of Corporate Services - J de Klerk	760	614
Package	661	536
Performance bonus	84	65
Group life insurance/pension admin fees	15	13
Head of Research - R Badenhorst	486	435
Package	425	382
Performance bonus	51	44
Group life insurance/pension admin fees	10	9
Registrar - L Motaung	473	370
Package	413	326
Performance bonus	51	37
Group life insurance/pension admin fees	9	7

Following the publication of the Moseneke Commission report in 2008, substantial adjustments were made to the salaries paid to judges.

Accordingly, the Department of Trade and Industry approved, and the Tribunal applied, adjustments to the remuneration of full-time Tribunal members in December 2008 and May 2009. These increases were effective from 1 April 2008.

Performance bonuses for staff members are payable for the year ending March 2009. These have been accrued for the period and are reflected separately in the table on page 9. These amounts are included in trade payables and are reflected in the notes to the annual financial statements. Full-time Tribunal members do not receive performance bonuses.

The Tribunal is responsible for its employees' contributions to group life insurance, as well as for the administration costs associated with the pension fund. These figures have been included in the stated total remuneration, as has any back pay received.

INFRASTRUCTURE, PLANT AND EQUIPMENT

The Tribunal has adopted the policy prescribed by International Accounting Standard (IAS) 16 relating to the assessment of the useful life and residual value of infrastructure, plant and equipment. Residual values and useful life are assessed at the end of each financial year. There has been no change in the policy relating to the use of infrastructure, plant and equipment.

EXECUTIVE COMMITTEE

During the period under review, the executive committee was composed as follows:

- David Lewis, chairperson
- Yasmin Carrim, full-time Tribunal member
- Janeen de Klerk, head of corporate services
- Lerato Motaung, registrar
- Rietsie Badenhorst, head of research

The executive committee continues to be responsible for the development and formulation of a strategic policy framework, performance strategies, and goals for the operational management and administration of the Tribunal.

The committee's main finance-related responsibility is to ensure that services are rendered efficiently and economically within the framework of existing operational policies and within the Tribunal's budget, and in accordance with a three-year rolling strategic plan.

The committee met on ten occasions during the year under review.

NUMBER OF EMPLOYEES

At year-end the Tribunal's personnel complement consisted of three full-time members and 14 staff members.

FRUITLESS AND WASTEFUL EXPENDITURE

An amount of R500 is reflected as fruitless and wasteful expenditure in the current financial year. This reflects the amount of a fine received from the Tshwane municipality for the late payment of the Tribunal's annual vehicle licence. After investigation it was concluded that no employee was liable and accordingly no further action was taken. Management undertakes to guard against fruitless expenditure of this nature recurring in the future.

MANAGEMENT FEE PAID TO THE COMPETITION COMMISSION

The Commission and the Tribunal share premises and certain services. In terms of a memorandum of agreement (MOA) signed between the two institutions, the Tribunal pays a monthly management fee to the Commission for services related to the use of these premises.

The management fee for the period under review was R40, 207 per month. The MOA and the management fee are reviewed annually.

No change has occurred in the nature of the billing received from the Commission for the year under review.

MATERIALITY FRAMEWORK

The Tribunal determined a planning materiality figure of R109, 000 for the current period in terms of a materiality framework. A figure of 1% of revenue (exclusive of government grants) and expenditure in the previous financial year was taken to represent the materiality figure.

Any loss or comparable quantifiable fact that exceeds the figure of R109,000 must be disclosed in the annual report and financial statements if the disclosure is required by law and/or if the fact could influence the decisions of the executive authority or the legislature.

Material losses of a quantitative nature must be disclosed if they arose through criminal conduct or through irregular, fruitless or wasteful expenditure.

Material losses of a qualitative nature arising through criminal conduct must also be disclosed.

Disposal of any significant asset must be disclosed if it increases or decreases the operational functions of the Tribunal outside its approved strategic plan.

OFFICE ADDRESS

The Tribunal's registered offices are situated at:

Building C (Mulayo Building)
The dti Campus
77 Meintjies Street
Sunnyside
Pretoria

The Tribunal's postal address is:

Private Bag X24
Sunnyside
0132
Pretoria

Website address: www.comptrib.co.za

Email address: ctsa@comptrib.co.za

Telephone: 012 394 3300

Fax: 012 394 0169



David Lewis (chairperson)

29 May 2009



Members and Secretariat

Members and Secretariat



David Lewis



Marumo Moerane



Urmila Bhoola



Medi Mokuena



Yasmin Carrim



Lawrence Reyburn



Mbuyiseli Madlanga



Merle Holden



Nicola Theron



Thandi Orleyn



Norman Manoim

THE COMPETITION TRIBUNAL'S MEMBERS

In terms of the Competition Act the President, acting on the recommendation of the Minister of Trade and Industry, appoints Tribunal members for a five-year term.

At the end of the financial year the Tribunal consisted of three full-time members (including the chairperson) and eight part-time members.

The chairperson appoints adjudicative panels consisting of three Tribunal members for each hearing.

As stipulated by the Act, the members of the Tribunal are South African citizens representing a broad cross-section of the country's population. All have qualifications and experience in economics, law, commerce, industry or public affairs.

Currently eight members have a legal background and three are economists.

Two of the full-time members serve as executive members of the Tribunal.

Members of the Competition Tribunal

Chairperson

David Lewis (BCom, MA)

Deputy Chairperson (part-time)

Marumo Moerane (BSc, BCom, LLB)

Full-time members

Yasmin Carrim (BSc, LLB)

Norman Manoim (BA, LLB)

Part-time members

Urmila Bhoola (BA Hons, LLB, LLM)

Merle Holden (BCom Hons, MA, PhD)

Mbuyiseli Madlanga (BJuris, LLB, LLM)

Medi Mokuena (Dip Juris, LLB, LLM)

Thandi Orleyn (BJuris, BProc, LLB, honorary PhD)

Lawrence Reyburn (BSc, LLB)

Nicola Theron (BCom Hons, MCom, PhD)

Training of Tribunal members

Every year the Tribunal provides members with opportunities to interact with their international counterparts and share experiences through attendance at international conferences and participation in international competition bodies.

Full-time Tribunal members represented the Tribunal at seven overseas conferences, and three part-time members attended the annual anti-trust conference hosted by the Fordham Institute in New York in September 2008.

An internal workshop for Tribunal members, facilitated by Prof. R. Whish, a competition policy expert from Kings College in London, and Adv. M. Chaskalson, a South African expert in administrative and constitutional law, was held in March 2009.

Prof. Whish led a discussion on the recently published European Commission's (EC's) policy statement on Article 82 and the EC's jurisprudence on dominance. Adv. Chaskalson facilitated a session on how the Tribunal could effectively deal with conduct amounting to abuse of procedure which often delays matters before the Tribunal.

This workshop provided Tribunal members with opportunities to review recent South African decisions in the light of comparable international jurisprudence and to discuss comparable developments in competition law in the United States of America and the European Union.

Full-time members again delivered lectures on a regular basis to the University of the Witwatersrand, including lectures to:

- LLB students
- post-graduate students in competition law,

broadcasting and telecommunications

- students participating in selected certificate courses offered by the business school of the University of the Witwatersrand.

In addition, Tribunal members presented eight papers at various conferences, seminars and workshops.

During the period under review the chairperson, David Lewis, served first as vice-chairman of the ICN, then as chairman of the steering group. The Tribunal further continued to maintain its active participation in international competition matters through membership of the OECD's Competition Committee, involvement in the OECD's global forum on competition law and policy, and contributions to the working groups of the ICN.

The ICN provides developed and developing countries with a platform to address practical competition policy and enforcement issues while the OECD Committee deals with contemporary issues in competition law. Full-time members have represented the Tribunal at this committee's tri-annual meetings.

THE TRIBUNAL SECRETARIAT

The Tribunal's secretariat structure consists of three departments, namely research, registry and corporate services. These departments are headed by managers who report directly to the chairperson and assist him in his role as chief executive officer. The same group of officials is also responsible for certain other managerial and administrative tasks. Certain executive functions have been delegated to the other two full-time members.

The chairperson's active involvement in the day-to-day management of the Tribunal is consistent with his responsibility as the Tribunal's accounting authority and with his powers in terms of the Competition Act.

A secretariat complement of 14 provides the Tribunal with support services in the form of administrative, registry, logistics, research and financial management.

The Tribunal's Rules set out the required registry and administrative functions of the Tribunal.

While the current secretariat is large enough to deal with the Tribunal's administrative functions and case-load, the Tribunal's current information technology requirements and proposed future developments are such that the Tribunal has found it necessary to create an information technology post, to be filled in the next financial year. To date this support has been provided by the Commission's information technology staff.

The following personnel changes took place during the year:

- the vacant case manager position was filled in April 2008.
- the driver/court orderly resigned in July 2008 and the vacant position was filled in January 2009.
- the vacant financial administrator position was filled in May 2008.
- the vacant executive assistant position was filled in May 2008.
- two case managers appointed for a three year contract period accepted full-time positions in September 2008.

Departmental heads

Rietsie Badenhorst (research)

Janeen de Klerk (corporate services)

Lerato Motaung (registry)

Case managers

Romeo Kariga

Jabulani Ngobeni

Londiwe Xaba

Ipeleng Selaledi (appointed April 2008)

Registry

Tebogo Mputle, registry administrator

David Tefu, registry clerk

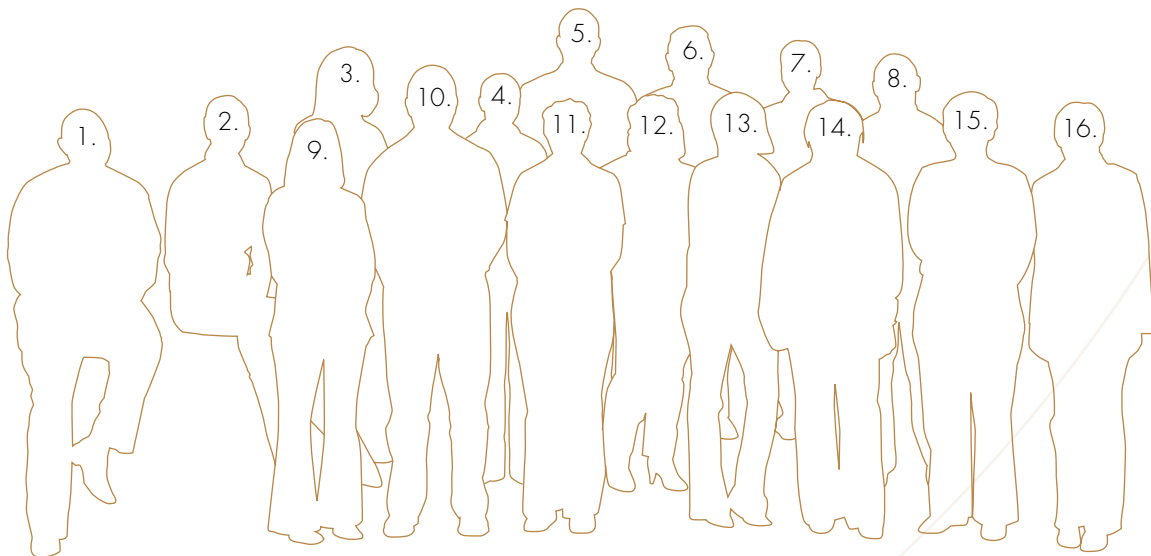
Jerry Ramatlo, court orderly/driver (resigned July 2008)

Abigail Mashigo - driver/registry assistant (appointed January 2009)

Corporate Services

Donald Phiri, finance and human resource assistant
Gladness Moorosi, financial administrator (appointed
May 2008)

Lufuno Ramaru, office manager
Lethabo Monyeki, executive assistant
(appointed May 2008)



1. D. Tefu
2. R. Badenhorst
3. L. Xaba
4. I. Selaledi

5. R. Kariga
6. D. Lewis
7. A. Mashigo
8. J. Ngobeni

9. Y. Carrim
10. N. Manoim
11. T. Mputle
12. G. Moorosi

13. L. Motaung
14. L. Ramaru
15. J. De Klerk
16. L. Monyeki

Corporate Governance

Corporate Governance

In managing its activities the Tribunal applies best practice principles and strives to achieve transparency, accountability, efficient management and optimal use of its resources by applying principles of good corporate governance. Compliance with legislation and with corporate governance principles is monitored by the Tribunal's executive and audit committees. The Tribunal submits quarterly reports on governance issues to the Department of Trade and Industry (the dti).

AUDIT COMMITTEE

The audit committee, established in March 2000, currently consists of two executive members and four non-executive members. At year-end it was constituted as follows:

Executive members:

David Lewis
Janeen de Klerk

Non-executive members:

Nonku Tshombe - chairperson from June 2007 - term expired 21 July 2008
Jeff Rapoo - chairperson from July 2008
Maleshini Naidoo - appointed September 2007
Jocelyn Armstrong - resigned 11 March 2009
Herman de Jager - appointed September 2008
Victor Nondabula - appointed September 2008

The committee met five times in the year under review.

Attendance by and fees paid to audit committee members during the year were as set out in the table below:

Member	Meetings attended	Fees received
N Tshombe	2	-
J Armstrong	1	3016
J Rapoo	5	18 984
M Naidoo	5	15 080
H de Jager	2	6 032
V Nondabula	2	6 032
D Lewis	2	-
J de Klerk	5	-

The committee's functions are specified in an audit committee charter, which was revised and adopted in November 2007, and guidance for the agendas of meetings is provided by a compliance checklist.

The committee has supervisory responsibilities with regard to internal controls, risk management, and compliance with laws and regulations, ethical norms, and good financial management principles.

The audit committee has reviewed the Tribunal's quarterly internal audit reports, internal and external audit plans, and the annual report and financial statements for the year ending 31 March 2009.

EXECUTIVE COMMITTEE

The composition of and objectives of the executive committee and a review of its activities during the year under review are set out on page 10 of this report.

Ten meetings of the committee were held in the year under review and were attended by all the members.

Compliance with Legislation

Compliance with Legislation

THE COMPETITION ACT

The functions, powers, activities and procedures of the Tribunal are prescribed by the Act and the Rules of the Tribunal. Procedures are periodically reviewed to ensure compliance with the requirements of legislation and to ensure that the Tribunal's work proceeds effectively and efficiently.

The Registry provides the dti with quarterly reports which detail turnaround times and targets in terms of set-down and the publication of decisions and orders.

THE PUBLIC FINANCE MANAGEMENT ACT (PFMA)

The Tribunal has been listed as a national public entity in Schedule 3A of the PFMA since 1 April 2001. The PFMA prescribes requirements for accountable and transparent financial management.

In accordance with the PFMA and Treasury regulations, the Tribunal has, during the period under review, submitted the following documents to the dti for approval:

- Memorandum of agreement with the dti (finalized in October 2008)
- Strategic plan for the period 1 April 2008 – 31 March 2011 (submitted on 31 October 2007 and approved 30 June 2008)
- Budget for the period 1 April 2008 – 31 March 2009 (submitted on 31 October 2007 and approved 30 June 2008)
- Business plan for the period 1 April 2008 – 31 March 2009 (submitted on 31 October 2007

and approved 30 June 2008)

- Request for approval to retain surpluses generated as at 31 March 2008 (submitted on 20 May 2008 and approved 19 June 2008)
- Quarterly reports on the Tribunal's expenditure, budget variance, activities and performance against set targets
- Strategic plan for the three-year period 2009 – 2014 (submitted on 30 November 2008 and still awaiting approval)
- Budget for the 2009/2010 financial year and five-year budget to 31 March 2013 (submitted on 30 November 2008 and still awaiting approval)
- Business plan for the period 1 April 2009 – 31 March 2010 (submitted on 30 November 2008 and still awaiting approval).

INTERNAL AUDITS

The firm Osman Moosa and Associates (OMA) was awarded a three-year contract in May 2006 to perform the internal auditing function.

In its internal audit charter OMA defines its mission as being 'to provide an innovative, responsive and effective value-added internal audit function by assisting management in controlling risks, monitoring compliance and improving the efficiency and effectiveness of internal control systems'.

In the year under review, OMA undertook internal audits of the following processes:

- Human resources and payroll - August 2008
- Financial reporting - October 2008
- Cash management - November 2008

- Expenditure management - January 2009
- Information technology - February 2009
- Performance management - February 2009

In addition to these internal audit processes, OMA assisted management with a fraud risk assessment. The following types of fraud risk were assessed:

- intentional manipulation of financial statements
- employee fraud
- corruption and bribery
- other financial fraud.

Residual risk was determined once the anti-fraud controls in place had been identified. Recommendations for improvement in the control environment were made where necessary.

Management subsequently incorporated certain identified fraud risks in the overall risk framework, which is monitored and managed by the risk committee on a quarterly basis.

During internal audits the adequacy and effectiveness of controls relating to the specific audit activity were assessed by audit reviews and testing, thus ensuring that management's control strategies are consistent with the institution's activities and objectives.

The audit procedures are also designed to assess whether implemented controls are adequate in mitigating risk, and effective in mitigating risks.

Overall compliance with policies and procedures is also assessed.

Appropriate line management responsibility and ownership is assigned for each reported deficiency, thus ensuring the timely and effective implementation of corrective action. In each subsequent audit the corrective action taken by management pertaining to internal audit findings is evaluated in terms of adequacy and effectiveness.

An internal audit charter is in place and was revised in September 2008.

EXTERNAL AUDIT

The office of the Auditor-General South Africa has completed the external audit for the period ending 31 March 2009.

STATUTORY REQUIREMENTS

The Tribunal has registered for and met its obligations in respect of the following levies and taxes:

- skills development levy
- workmen's compensation
- unemployment insurance fund (UIF)
- pay-as-you-earn (PAYE)

In terms of Section 24(1) of the Value-Added Tax Act 1991, which governs the levying of value-added tax (VAT), the Tribunal was deregistered as a VAT vendor with effect from 1 April 2005.

In October 2005, the South African Revenue Service exempted the Tribunal from Section 10(1) (cA) (i) of the Income Tax Act, 1962.

STAFF MEETINGS

The Tribunal employee's forum (TEF) comprises non-executive staff members and aims to provide an open, democratic channel through which staff members can raise legitimate concerns on issues affecting them.

Seven TEF meetings were held in the course of the year under review. Issues raised and discussed included performance reviews, annual salary increases, internal policy amendments, the Tribunal's social responsibility programme and employee assistance programmes.

The TEF and representatives of management meet when it is necessary to address specific issues. Two joint meetings of this kind were held in the year under review. The TEF was represented by Mr J Ngobeni and Mr D Tefu, while management was represented by Mr D Lewis and Ms J de Klerk.

Human Resource *Human Resource* Development

STAFF COMPOSITION

At the beginning of the year under review, the Tribunal's staff complement consisted of 11 full-time staff members. The three vacant positions were filled during the period under review and the Tribunal ended the financial year with a full staff complement. Ten of the current staff members are female, 12 are black and two are white. Six staff members have a bachelor's degree or higher qualification.

TRAINING AND DEVELOPMENT

The Tribunal recognises that its employees are its most important resource for ensuring the long-term sustainability of the organisation and is committed to cultivating and nurturing a stable environment that is conducive to attracting, retaining and developing competent professional employees. Employees of the Tribunal have therefore been provided with opportunities for personal development and further education.

Training and development programmes provided in the year under review took the form of in-house training, external courses, workshops and conferences (national and international). During this period, a total of 107, 5 person-days were devoted to the training of members of the secretariat, excluding Tribunal members and Appeal Court judges. This represents an average of 6, 71 training days per person.

Case managers attended the following workshops, conferences and seminars during the year under review:

- ICN cartel workshop held in Portugal in October 2008 (one case manager and the registry administrator attended)
 - Conference on Competition Law, Economics, Policy and Development in South Africa hosted by the Commission, the Tribunal and the Law School of the University of the Witwatersrand in Johannesburg in June 2008 (attended by four case managers and the registry administrator)
 - EC summer school competition law course presented in London in August 2008 (attended by one case manager)
 - Federal Trade Commission workshop held in Washington in March 2009 (attended by one case manager)
 - Competition Amendment Bill workshop hosted by the Law School of the University of the Witwatersrand in June 2008 (attended by two case managers)
 - the Tribunal's internal workshop held in Johannesburg in March 2009 (attended by four case managers)
- Staff members also attended the following:
- fraud awareness workshop presented in May 2008 (14 staff members attended)
 - business writing for professionals, presented in August 2008 (two staff members attended)
 - report writing for senior executives, a workshop held in October 2008 (one staff member attended)
 - public sector finance management symposium held in November 2008 (two staff members attended)
 - PFMA refresher course held in December 2008 (two staff members attended)
 - finance for non-financial managers course presented in December 2008 (two staff members attended)
 - occupational health and safety course presented in November 2008 (two staff members attended)
 - GRAP training workshop hosted by the National Treasury in December 2008 (two staff members attended)

A team-building workshop held in October 2008 was attended by three full-time members and 11 staff members.

Eight staff members attended various computer training courses and three corporate service staff members attended various payroll and pastel courses to enhance their effective use of these software packages as management reporting tools.

Two staff members representing the executive and pension fund members as trustees on the board of management of the Tribunal's pension fund attended two courses dealing with risk management and the interpretation of financial statements.

The head of research and a case manager participated in two ICN working groups on unilateral conduct and mergers.

The Tribunal continues to encourage staff members to undertake further education and training through the Tribunal's bursary and study loan scheme, thus providing them with career advancement opportunities through general educational and vocational training courses.

The maximum study loan granted to staff members is R8, 000 per year. Once confirmation is received that students have passed, their loans are converted into bursaries. By special decision of the executive committee loans in excess of R8, 000 can be granted.

During the year under review, study loans totalling R26, 120.80 were awarded to six staff members, and study loans totalling R26, 078 were converted into bursaries.

PERFORMANCE MANAGEMENT SYSTEM

The aim of the Tribunal's performance management policy is to develop, manage, evaluate, and reward individual performance in order to contribute to the achievement of the Tribunal's overall goals and objectives.

The Tribunal's strategic objectives are aligned with the performance of individuals and performance is managed in a manner designed to facilitate the achievement of these objectives and to ensure that employees are given opportunities for self-development.



The policy provides for bi-annual assessments by the relevant divisional manager and the Tribunal's chairperson.

The system assists the Tribunal to meet its statutory commitments and simultaneously promotes a climate in which staff members are motivated and their commitment to service excellence is enhanced. The development needs of staff members are identified and addressed during this process. In addition, salary increases and any bonuses awarded are linked to the outcome of the appraisals.

THE TRIBUNAL'S SOCIAL RESPONSIBILITY ROLE

The Tribunal's social responsibility programme supports non-profit organisations without regard to race, gender, disability, religion, ethnicity, age or sexual orientation.

In the last financial year the social responsibility committee was involved in several events in and around the Tshwane Municipality area.

In May 2008, the social responsibility committee collected donations from staff and distributed clothes and perishables to the Gift of the Givers. The Gift of the Givers Foundation is the largest disaster relief organisation of African origin on the African continent.

One of the social responsibility committee members discovered Mohau Centre at Kalafong Hospital, a centre for children abandoned or orphaned because they are HIV positive or their parents have died as a result of AIDS. The staff made contributions and donated groceries and clothes to the centre in October 2008. While the tribunal donated redundant computers to the centre for use in their media centre.

In December 2008, the social responsibility committee collected donations and distributed groceries and stationeries to Tshwane Home of Hope. The Tshwane Home of Hope is a shelter for young teenage girls situated in close proximity to the Tribunal's office.



Financial Management

Financial Management

For the 12-month period ending 31 March 2009 the budget reflected expenditure (inclusive of capital expenditure) of R 20, 35 million and revenue (generated from filing fees, interest and a dti grant) of R16, 55 million.

Revenue for the year amounting to R 20, 6 million was made up as follows:

Category	Amount R million	% 2009	% 2008	% 2007
Government grants	9,91	48.10	44.54	47.73
Filing fees	8,82	42.82	47.70	48.62
Other income	1,87	9.08	7.76	3.66
Total income	20,6	100	100	100

The grant received from the dti increased by 14.29% from the previous year and accounted for 48.10% of the Tribunal's revenue for the year under review. Filing fees received in terms of the memorandum of understanding with the Commission decreased by 5.06% from the previous year and accounted for 42.82% of the Tribunal's revenue.

As a result of the implementation of threshold changes (effective 1 April 2009) the Tribunal anticipates that filing fees received will decrease and will form a much smaller component of the Tribunal's revenue. The Tribunal will therefore continue to request Treasury's approval to accumulate surpluses generated and will request larger grants from both the dti and Treasury.

Total expenditure (net of capital expenditure) for the period increased by 14.04% from R15, 43 million to R17, 59 million.

The table below illustrates the nature of expenditure incurred by the Tribunal and the percentage change in each category in the year under review.

Expenditure Category	% 2009	% 2008	% change
Personnel	53.40	50.19	21.33
Administrative	17.99	17.07	20.20
Training	7.42	9.30	-8.93
Professional services	18.99	21.86	-0.93
Other operating expenses	2.20	1.58	57.80
Total expenditure	100	100	14.04

Professional services expenditure includes payments to the Commission in terms of the memorandum of understanding reached with the Tribunal, fees paid to part-time Tribunal members for participation in hearings, transcription services, legal fees, public relations and finance-related consulting services.

The table below sets out the contribution of each category to the 14.04% increase in total expenditure.

Expenditure category	Percentage
Personnel	76.27
Administrative	24.56
Training	-5.91
Professional services	-1.44
Other operating expenses	6.52
Total	100

The increase in the salaries of full-time Tribunal members referred to in the chairperson's report on page 10 accounts for 36.30% of the increase in personnel expenditure.

The total salaries paid to staff members comprising the secretariat increased by 26.69%. This increase is primarily the result of an annual cost of living adjustment applied in July 2008 and adjustments made in April 2008, following a benchmarking exercise.

Personal expenditure increased by 21.33% during the period under review.

The table below illustrates the percentage change in each category of personnel expenditure and also reflects the category's contribution to the total increase.

Category	% change	Contribution to change
Full-time Tribunal members	15.78	36.30
Other staff	26.68	63.70
Total		100

During the period under review there was an insignificant decrease in expenditure on professional services. As indicated earlier this line item includes the fees paid to part-time members sitting on panels convened to hear matters brought before the Tribunal.

Part-time members sitting on a panel are paid a daily fee of R 7 000.00 for the duration of the hearing and

for allocated preparation days. In the period under review part-time members were paid for a total of 194 days, whereas in the previous year this figure was 208. There are eight part-time members who were each paid for an average of 24.25 days.

The Tribunal heard 140 matters over 126.5 days, whereas in the previous year the Tribunal heard 146 cases over 118 days. This represents a decrease of 4.11% in the volume of cases and a 7.20 % increase in the number of hearing days. The average number of days per hearing in the period under review was 1.07 days, compared to 0.81 days in the previous year.

While the adjustment in operating expenses (an increase of 57.80%) appears to be large, the percentage spent on this line item represents only 2.19% of total expenditure and the actual change is therefore insignificant.

The Tribunal's ability to budget accurately is limited by its inability to predict the number of cases that will be heard in any year.

In its initial years of operation the Tribunal experienced large budget variances, but over the past few years actual expenditure has been more closely equated to the budget.

A contingency budget for professional services is necessary as there will always be uncertainty about the need for the Tribunal to employ counsel to defend its decisions should they be taken on review or appeal.

Year	Actual expenditure (in R million)	Budget (in R million)	% of budget spent
2000	4,29	9,12	47.03
2001	6,35	9,08	69.93
2002	6,37	9,13	69.76
2003	7,36	9,33	78.88
2004	9,08	10,44	86.97
2005	9,25	11,54	80.15
2006	10,64	12,41	85.23
2007	13,22	15,81	83.62
2008	15,56	16,60	93.73
2009	17,71	20,35	87.03

Communicating the work of the Tribunal

The 375 reports about the Tribunal, its work, cases heard and decisions published in the media monitored by the Tribunal are testimony to the fact that the public continues to remain informed about the competition system and the Tribunal's functions.

The media coverage includes some informed appraisals of competition policy and the competition system generally.

Further information on the Tribunal's activities and decisions is available on the Tribunal's website (www.comtrib.co.za), where all decisions and statements released by the Tribunal are published.

In the year under review 118 decisions were posted on the website.

Through the website interested parties have access to other competition-related sites, the Act, the rules and official forms.

Full-time members and case managers are frequently asked to present university courses on competition law and policy papers and/or participate in local and international conferences, meetings and seminars. These interactions serve to further communicate the work of the Tribunal.

The Tribunal produces an internal newsletter which includes brief articles on topical issues in competition regulation, and its distribution ensures that Tribunal members and other stakeholders remain informed on matters relating to competition and, in particular, cases heard by the Tribunal. Three volumes were produced during the period under review.



Performance Indicators

Performance Indicators

REPORT ON OUTPUT TARGETS FOR THE PERIOD 1 APRIL 2008 TO 31 MARCH 2009

Output targets in accordance with the approved business plan of the Competition Tribunal for the year ending 31 March 2009.

Mandate: To promote and maintain competition in the economy and to ensure compliance with the provision of the Competition Act (No. 89 of 1998).



Category	Activity	Output	Performance indicator	Target status for the quarter (1 April 2008 to 31 March 2009)	Reasons for deviation & Corrective Action Plan
Policy and legislative development	Propose new regulations or amendments to regulations/ legislations	Amended or new regulations/ legislation	Participate in process when requested by the dti (not a target set by the Tribunal)	<ul style="list-style-type: none"> the chairperson and full-time Tribunal members participated in processes on the Competition Amendment Bill in accordance with the dti's request 	
	Input/conduct research and contribute to various policy-making processes	Position papers	Three papers per annum	<ul style="list-style-type: none"> the chairperson delivered eight papers at conferences/workshops full-time members continue to deliver lectures to Wits law students on competition law the chairperson and full-time Tribunal members participated in the DPRU conference no specific requests for policy recommendations were received by stakeholders apart from addresses to conferences/workshops 	
	International best practice research and contribution	Policy recommendations to be presented on request by other agencies/ stakeholders Participate in ICN conference/ working group/research	Participate in at least two working groups/ conferences per annum Participate in at least three meetings per annum	<ul style="list-style-type: none"> the chairperson attended and participated in two ICN international conferences the chairperson participated in ICN Steering Group committee teleconferences two case managers participated in two ICN working groups by dial-up the chairperson and a Tribunal member attended three OECD international conferences the chairperson participated in OECD Steering Group committee meetings by dial-up 	
		Participate in OECD Competition Committee meetings			

Category	Activity	Output	Performance indicator	Target status for the quarter (1 April 2008 to 31 March 2009)	Reasons for deviation & Corrective Action Plan
Enforcement and Compliance	Large merger referrals (contested and uncontested)	<ul style="list-style-type: none"> • Matters on the roll from a previous period • New matters referred • Matters heard • No. approved • No. prohibited • No. withdrawn • No. pending • No. of orders issued • No of reasons for order issued • No of "dormant" matters 		<ul style="list-style-type: none"> • 13 (five still to be heard, seven awaiting reasons, one awaiting order and reasons) • 104 • 102 (four from a previous period) • 102 (four from a previous period) • nil • two (one after a prehearing) • six (still to be heard) • 12 (awaiting reasons) • 102 (four from a previous period) • 97 (seven from a previous period) • three 	
	Turnaround times		Hearing set down within ten days of referral	<ul style="list-style-type: none"> • 81 of the 102 matters heard 	<ul style="list-style-type: none"> • The Tribunal rules do not specify when matters in which there is no activity should be closed. The Tribunal will need to develop internal rules to deal with "dormant" matters • Hearings are set down in agreement with the merging parties and all other parties concerned • Delays occur when parties, who are not ready for a hearing, request a later date • Delays may also occur as the information provided is not sufficient and requests are made by the panel/parties for further information
			Order issued within ten days of hearing	<ul style="list-style-type: none"> • 102 of the 102 orders issued 	

Category	Activity	Output	Performance indicator	Target status for the quarter (1 April 2008 to 31 March 2009)	Reasons for deviation & Corrective Action Plan
Enforcement and Compliance			Written reasons for decision provided within 20 days of hearing	<ul style="list-style-type: none"> 51 of the 97 matters in which reasons were issued 	<ul style="list-style-type: none"> Many of the mergers received are complicated matters and the writing of a decision is delayed by the nature of the transaction A number of matters have been heard by a panel of three part time members and this has lead to delays as the finalization of reasons has been dependant on the availability of the members Delays also occur because the writing of reasons for contested mergers and uncontested mergers approved conditionally or prohibited are given priority When uncontested mergers are approved with no conditions the need for written reasons within a stipulated timeframe is not urgent and so urgent and complex matters are prioritised
	Intermediate merger	<ul style="list-style-type: none"> Matters on the roll from a previous period New matters received No. heard No. approved No. prohibited No. withdrawn No. pending No. of orders issued No. of reasons for order issued 		<ul style="list-style-type: none"> two (one awaiting order and reasons, one still to be heard) two two (one from a previous period and one pre-hearing) two (both from a previous period) nil nil two (both awaiting hearings) two (both from a previous period) two (both from a previous period) 	

Category	Activity	Output	Performance indicator	Target status for the quarter (1 April 2008 to 31 March 2009)	Reasons for deviation & Corrective Action Plan
		Turnaround times – intermediate mergers	Pre-hearing set down within ten days of notification Order issued within ten days of hearing Written reasons for decision provided within 20 days of hearing	<ul style="list-style-type: none"> • nil of two matters heard • one of two orders issued • two of two matters in which reasons were issued 	<ul style="list-style-type: none"> • Hearings are set down in agreement with the merging parties and all other parties concerned • Delays occur when parties, who are not ready for a hearing, request a later date. • In one matter the parties requested that the order and reasons be issued simultaneously hence the delay in the issuing of the order
Enforcement and Compliance	Restrictive practices – complaint referral	Referred by the Commission <ul style="list-style-type: none"> • Matters on the roll from a previous period • No. new referrals • No. heard • No. of consent orders granted • No. of cases where consent order not granted • No. of decisions where relief was granted • No. of cases dismissed (no relief granted) • No. of cases withdrawn • No. of reasons issued • No. of cases pending • No. of “dormant” matters 		<ul style="list-style-type: none"> • 11 (in two matters hearings are to continue and nine are still to be heard) • 13 (including one matter from previous period split into three) • 12 (six from a previous period) • eight • one • one • nil • two (both from a previous period) • two • 12 (one awaiting a decision, one partly heard, seven new referrals still to be heard and three from a previous period still to be heard) • eight matters 	<ul style="list-style-type: none"> • The Tribunal’s Rules do not specify when matters in which there is no activity should be closed. The Tribunal will need to develop internal rules to deal with “dormant” matters

Category	Activity	Output	Performance indicator	Target status for the quarter (1 April 2008 to 31 March 2009)	Reasons for deviation & Corrective Action Plan
Enforcement and Compliance		Turnaround times – complaint referral from Competition Commission	Prehearing conference set down within 20 days of close of pleadings Order and reasons for decision issued within 60 days of hearing	<ul style="list-style-type: none"> • six of 12 matters heard • nine of ten orders issued (reasons were only issued in two matters and these were issued with the order) 	<ul style="list-style-type: none"> • These targets are set by the Tribunal internally and are not a target set by the rules • Delays occur as restrictive practices cases are of a complex nature and therefore the parties concerned require more time to prepare for hearings • The limited availability of parties also causes delays in setting down a matter • Decisions in complaint referrals often involve reviewing substantial evidence and are thus complicated and the writing and issuing of decisions can therefore be delayed • Reasons are generally not issued in consent orders unless the order is not granted or the parties request reasons
	Restrictive Practices – Complaint referral	Referred by the complainant <ul style="list-style-type: none"> • Matters from a previous period • New matters referred • No. heard • No. of cases withdrawn • No. of cases pending • No. of “dormant” matters 		<ul style="list-style-type: none"> • ten (nine still to be heard and hearings still to continue in one) • eight • one (matter from previous period heard again) • one (from a previous period) • 17 (hearings still to continue in one and 16 still to be heard - eight are from a previous period) • ten 	<ul style="list-style-type: none"> • The Tribunal rules do not specify when matters in which there is no activity should be closed. The Tribunal will need to develop internal rules to deal with “dormant” matters

Category	Activity	Output	Performance indicator	Target status for the quarter (1 April 2008 to 31 March 2009)	Reasons for deviation & Corrective Action Plan
Enforcement and Compliance		Turnaround times – complaint referral from the complainant	Prehearing conference set down within 20 business days of close of pleadings	<ul style="list-style-type: none"> • none of the new matters referred were set down within the stipulated time frame 	<ul style="list-style-type: none"> • These targets are set by the Tribunal internally and are not a target set by the rules • Delays occur as restrictive practices cases are of a complex nature and therefore the parties concerned require more time to prepare for hearings • The limited availability of parties also causes delays in setting down a matter
	Restrictive Practices – Interim relief cases	<ul style="list-style-type: none"> • Matters on the roll from a previous period • No. of new matters received • No. of matters heard • No. of cases pending 	Order and reasons for decision issued within 60 business days of hearing	<ul style="list-style-type: none"> • no orders or reasons were issued during this period 	
		Turnaround times – interim relief	Pre-hearing conference set down within 20 days of close of pleadings	<ul style="list-style-type: none"> • three (still to be heard) • one • nil • four (three from a previous period) 	<ul style="list-style-type: none"> • These targets are set by the Tribunal internally and are not a target set by the rules • Delays occur as restrictive practices cases are of a complex nature and therefore the parties concerned require more time to prepare for hearings • The limited availability of parties also causes delays in setting down a matter
			Order and reasons for decision issued within 40 days of hearing	<ul style="list-style-type: none"> • none of the matters had hearings set down 	<ul style="list-style-type: none"> • no orders or reasons were issued

Enforcement and Compliance

Category	Activity	Output	Performance indicator	Target status for the quarter (1 April 2008 to 31 March 2009)	Reasons for deviation & Corrective Action Plan
	Procedural matters	<ul style="list-style-type: none"> Matters on the roll from a previous period New matters received Type of case No. heard No. pending No. of orders issued No. of reasons for orders issued No. withdrawn No. settled by parties No. of "dormant" matters 		<ul style="list-style-type: none"> ten (five awaiting reasons, one awaiting further hearings and four still to be heard) 29 18 different types of procedural matters 23 (five from a previous period) eight (still to be heard) 22 (five from a previous period) ten (five from a previous period) two (one after a hearing) two four 	<ul style="list-style-type: none"> Reasons in procedural matters are generally only issued if parties request reasons The Tribunal rules do not specify when matters in which there is no activity should be closed The Tribunal will need to determine internal rules to deal with "dormant" matters
		Turnaround times – procedural matters	<p>Hearings set down within 20 days of close of pleadings</p> <p>Order/decision issued within 20 days of hearing</p> <p>Written reasons for order/decision given within 10 days of order/decision being issued.</p>	<ul style="list-style-type: none"> ten of the 23 matters heard were set down within the required framework 19 of the 22 orders issued were issued within the specified framework five of the ten reasons were issued within the specified framework 	<ul style="list-style-type: none"> These targets are set by the Tribunal internally and are not targets set by the rules. Delays are caused by parties not being ready to argue the application Procedural matters are often part of a larger complicated matter and this may have an impact on the setting down of the procedural matter and the main hearing Procedural matters involve complex points of law and often require extensive research time before arriving at a decision If decisions are complicated then more detail is often required when writing reasons thus causing delays

Category	Activity	Output	Performance indicator	Target status for the quarter (1 April 2008 to 31 March 2009)	Reasons for deviation & Corrective Action Plan	
Enforcement and Compliance	Taxation	Taxation of bills No. of bills taxed	Target cannot be set – Tribunal merely reports on bills taxed	<ul style="list-style-type: none"> • eight matters 		
	Fines/Penalties imposed	No. and type of fine/penalty imposed	Target cannot be set – Tribunal merely reports on fines/ penalties levied	<ul style="list-style-type: none"> • nine fines imposed (eight administrative, one failure to notify) • R303,019,545.41 • four • 20 • one • three • four • nil • six 		
	Appeal Hearing by the Competition Appeal Court (CAC)	Value of fine imposed <ul style="list-style-type: none"> • Matters on the roll from a previous period • New matters received • No. of Tribunal decisions set aside • No. of Tribunal decisions upheld • No. of other appeals dismissed • No. of other appeals upheld • No. withdrawn 				
		Turnaround times – CAC hearings	No. control over time- frames			
	Information dissemination	No. of Tribunes produced per annum No. of Tribunes distributed per issue	three per annum 75 copies circulated	<ul style="list-style-type: none"> • three • 180 distributed electronically 	Shortfall of 45 – no record of those hand delivered – need to reset target figure to take this into account	
	Media reports	No. of stories per quarter and monthly average	Targets cannot be set	<ul style="list-style-type: none"> • 375 articles for the year • monthly average of 31.25 		

Education &
Awareness

Education & Awareness

Category	Activity	Output	Performance indicator	Target status for the quarter (1 April 2008 to 31 March 2009)	Reasons for deviation & Corrective Action Plan
	Reasons for decisions posted on website	<ul style="list-style-type: none"> No. of reasons posted on website No. of reasons posted within 72 hours No. of reasons not posted within 72 hours 	Hearing decisions posted within 72 hours of notice	<ul style="list-style-type: none"> 118 (97 large mergers, two intermediate mergers, ten complainant referrals but in two matters the reasons were issued in one document, ten procedural matters) 113 five 	<ul style="list-style-type: none"> Reasons vary from the webmaster being on leave and people missing deadlines
	Training completed	<p>Training needs and service providers identified</p> <p>Number of seminars attended</p>	<p>Within four weeks of performance appraisal process</p> <p>one training course per annum for each staff member</p> <p>Full-time members/ chairperson/ registrar attends at least six overseas conferences.</p> <p>Head of research/ case managers attended at least six overseas conferences</p>	<ul style="list-style-type: none"> training is identified on an ad hoc basis and not only directly after performance appraisals each staff member attended at least one course (local and/or international) during the year (an average of 6.71 training days per person) secretariat staff spent 107.5 person-days in training full time members spent 33 person-days in training the chairperson attended seven overseas conferences. two full-time members attended one overseas conference each two case managers attended one overseas conference each the registry administrator attended one overseas conference one case manager attended a summer school course in the United Kingdom 	

Category	Activity	Output	Performance indicator	Target status for the quarter (1 April 2008 to 31 March 2009)	Reasons for deviation & Corrective Action Plan
Education & Awareness			Part-time members attend at least three overseas conferences Three CAC Judges to attend one overseas conference	<ul style="list-style-type: none"> • three part-time members each attended one overseas conference • four CAC Judges attended one overseas conference each 	
	Conferences and workshops conducted	No. of successful workshops and conferences	one conference / workshop per year for Tribunal members/ CAC judges/ registrar/ head of research and case managers	<ul style="list-style-type: none"> • seven Tribunal members and four case managers attended an internal Tribunal workshop held in March 2008 • three Tribunal members and 11 staff members attended the Tribunal's team-building event held in October 2008 • The Tribunal hosted and presented a workshop for a delegation from Zambia and Swaziland in October 2008 	
	Advice and referrals	No. of advice and referrals made	Queries dealt with on demand	<ul style="list-style-type: none"> • No records kept 	
	Public able to access files and information	No. of files accessed	No target set – respond when required to	<ul style="list-style-type: none"> • 55 	

Cases before the Competition Tribunal

In the year under review the Tribunal heard 140 cases, with written reasons being issued in 111 matters.

Type of case	Number heard	Reasons issued
Large merger	102	97
Procedural	23	10
Intermediate merger	2	2
Complaint referral from the Commission	12	2
Complaint referral from a complainant	1	0
Interim relief	0	0
Total heard	140	111

LARGE MERGERS

The annual turnover and net asset value of merging parties are used to determine whether the mergers should be classified 'large', 'intermediate' or 'small'. The thresholds for these classifications are set by the Minister of Trade and Industry and have statutory force under the Act.

As required by the Act, the Tribunal considers all large mergers that have an economic effect within the Republic of South Africa.

After consideration, the Tribunal can

- approve the merger transaction unconditionally;
- approve the transaction with conditions; or
- prohibit the transaction.

A historic analysis of large merger transactions heard and ruled on by the Tribunal is set out in the table below:

Year	Total decisions	Approved without conditions	Approved with conditions	Prohibited
1999/2000	14	14	0	0
2000/2001	35	29	4	2
2001/2002	42	38	3	1
2002/2003	62	57	4	1
2003/2004	60	51	9	0
2004/2005	62	55	7	0
2005/2006	100	86	12	2
2006/2007	85	79	5	1
2007/2008	98	89	8	1
2008/2009	102	98	4	0
Total	660	596	56	8

Since its inception, the Tribunal has ruled on 660 mergers, of which 90.03% have been approved without conditions. This represents an average of 66 merger decisions per year.

The Tribunal had 117 mergers on its roll in the year under review. Of these, 104 were new matters received during the year and 13 were matters which had been received in the previous period.

Of the 13 matters received in the previous period, five were awaiting hearings, seven were awaiting reasons and one matter was awaiting an order and reason.

A total of 102 matters were heard (four from a previous period) and two were withdrawn (one before it was heard and one following a pre-hearing). Of the mergers heard, 98 were unconditionally approved and four were approved subject to conditions.

A total of 97 reasons were issued. 90 were issued in respect of the 102 matters heard and seven were issued for matters heard in a previous period.

At the end of the period there were 18 matters on the roll. Six were still to be heard and 12 were awaiting the writing of the decisions.

A detailed list of large merger cases is set out in Appendix A.

TURNAROUND TIMES IN LARGE MERGER PROCEEDINGS

Tribunal Rule 35 (1) specifies that the registrar is required to set down a matter within ten business days of the filing of the merger referral, or alternatively a pre-hearing conference must be held within that period.

However, there are instances where set down is delayed. These delays occur if the parties are not ready and request a postponement, or if insufficient information is provided and the panel or parties request additional information.

In the year under review, 81 of the 102 cases heard (79.41%) were given hearings within the ten-day period.

Orders were released in 102 cases, with all of these orders being released within ten days after the hearing.

Written reasons were issued in a total of 97 cases. Tribunal Rule 35 specifies that written reasons must be provided within 20 days of issuing an order. In 51 cases (52.58 % of the total) reasons were issued within this 20-day period. In the remaining 46 cases (47.42% of the total) written reasons were issued after the 20-day period.

A delay in the issuing of reasons can be caused by various factors, the most of which are that priority is given to issuing reasons in the case of mergers that have been conditionally approved or prohibited. Whereas when uncontested mergers are approved unconditionally there is no urgent need for written reasons within a fixed time frame.

SMALL MERGERS

In the period under review the Tribunal did not receive any small merger cases for consideration.

INTERMEDIATE MERGERS

At the start of the year two intermediate merger applications were already on the roll; one was awaiting a decision and the second was still to be heard. In the former case a decision was issued, and in the latter a hearing was held and a decision issued. Both matters were approved.

Two new applications received during the year were still awaiting hearings at year end.

A detailed list of intermediate cases is set out in Appendix B.

ANALYSING THE ACQUISITION OF A NON-CONTROLLING STAKE IN A SECONDARY TRANSACTION IN TERMS OF SECTION 12A

The Competition Appeal Court referred this intermediate merger between Primedia, Capricorn Capital Partners and New Africa Investments back to the Tribunal for reconsideration. The referral followed a review application by the intervenor African Media Entertainment (AME) to the appeal court. AME opposed the Tribunal's approval of the transaction. The Appeal Court in its decision said that:

'Once a merger exists, the Tribunal must focus its enquiry into whether the merger is likely to substantially prevent or lessen competition. Again the nature and scope of control which fourth respondent (Primedia) could exercise over Kaya FM (a radio broadcaster forming the target asset) is an important consideration in this part of the enquiry. But alone it is insufficient. The mandated enquiry had to be undertaken within the broader context of the market and the dynamics within such a market.'

The merger involved the direct acquisition by Capricorn Capital Partners and Primedia of New Africa Investments of an indirect non-controlling stake in Kaya FM. Competitive concerns existed since Primedia already owned other radio broadcasters.

In drawing its conclusions the Tribunal assumed that in its judgement the Appeal Court meant to say that control is not a prerequisite to conducting substantive analysis of secondary transactions, but that it is important as a factor in the analysis, because where it is present, it influences the conduct of the analysis. On this reading, the relevance of control is that it answers 'how', not 'whether'; the Tribunal conducts an enquiry under section 12A.

After reconsidering the matter, the Tribunal again approved the transaction without conditions. The Tribunal remained of the view that Primedia would not be able

to control Kaya FM, but went on to examine whether under a unilateral effects scenario the acquisition of a non-controlling stake in a rival firm may have anti-competitive effects and whether, under a coordinated effects analysis, the acquisition would strengthen existing coordination or increase the likelihood that the firms would coordinate.

The Tribunal found that AME had not presented any evidence to show that Primedia could or had considered a strategy to raise prices at Highveld, thereby benefiting indirectly when revenue was diverted as a result to Kaya, nor had the intervenor shown that there was harm to competition as a result of coordinated effects. The Tribunal pointed out that:

'In order to make the case for co-ordinated effects the evidence needed to be stronger than the mere holding of an interest in a rival and the right to appoint a director to its board. Available information could have been led to build these foundations, but neither the Commission nor AME did so. As a result the theory is dependant on making a number of assumptions all of which are premised on shaky foundations.'

In a postscript to the decision on indirect mergers, the Tribunal expressed the view that, for competition authorities to exercise jurisdiction over a secondary acquisition, it must be shown that the acquiring firm will directly or indirectly acquire control over the subject-matter of the secondary acquisition. In the absence of such a showing, no need exists to proceed to examine the secondary acquisition in terms of section 12A, even though economic theory suggests that there may be instances of anti-competitive effects.



REVIEWING THE COMMISSION'S INTERMEDIATE MERGER DECISIONS

In a review application, the first of its kind before the Tribunal, AC Whitcher, a rival bidder for the target, sought to review a decision by the Commission to approve an intermediate merger between MTO Forestry, Boskor Saagmeule and Boskor Ripplant. The primary acquiring firm, MTO Forestry, is an integrated forest company which operates forests and saw mills in the Eastern and Western or Southern Cape regions of South Africa. The target companies operate saw mills in the Tsitsikamma region in the Eastern Cape. Prior to the merger, the Boskor companies were collectively MTO Forestry's largest customer. AC Whitcher brought the application after having raised objections to the merger during the Commission's investigation into the transaction.

The Tribunal dismissed AC Whitcher's application as it was convinced that the Commission had come to its decision to approve the transaction in a reasoned manner and had taken all reasonable steps to test the theories of harm proposed by AC Whitcher and other objectors in the course of its investigation. It also cautioned that, given the complex nature of merger decisions and the fact that the Commission exercises its discretion through direct engagement with issues of fact, law and economics, 'the Tribunal would be inclined to show a high degree of respect for the decisions of the Commission and would only be inclined to set aside decisions of the Commission in circumstances of a grave or palpable error'.

RESTRICTIVE PRACTICES

Complaint referrals from the Commission

In the year under review, the Tribunal received 13 new complaint referrals from the Commission and had 11 matters on the roll from a previous period. Nine of these were still to be heard while two matters had been heard in part. During the year 12 matters were heard, of which six were from a previous period. Eight consent orders were granted, one consent order was not granted and relief was granted in the remaining matter. At year-end two matters had been withdrawn, one decision was pending, one matter had been partly heard and ten complaint referrals were still to be heard.

Complaint referrals from a complainant

The Tribunal received eight new referrals from complainants in the year under review, and had ten matters on its roll from a previous period. One referral from a previous period was withdrawn, and hearings are still to continue in one referral heard in a previous period. At year-end 16 referrals were still awaiting hearings.

Interim relief

The Tribunal received one new interim relief case and had three on the roll from a previous period. None of these matters was heard in the period under review and they were therefore all awaiting hearings at year-end.

A detailed list of restrictive practice cases is set out in Appendix C.



DECISIONS ON PROCEDURE OR POINTS OF LAW

In the period under review, the Tribunal had 39 matters of this nature on the roll. Of these, 29 were new applications and ten were matters received in a previous period (five pending reasons and five still to be heard).

23 (five from a previous period) were heard. Two matters were withdrawn (one following a hearing), two were settled by the parties before a hearing. Orders were issued in 22 matters (five from a previous period) and reasons were given in ten (five from a previous period).

At the end of the year eight matters were still to be heard and remained on the roll.

The nature of these applications is described in the table below:

Nature of procedural matter	Number of applications
Application to strike out	1
Application to refer back	1
Amendment applications	5
Application for costs order	2
Consolidation application	3
Discovery application	4
Dismissal application	3
Exception notice	2
Extension applications	2
Failure to notify	1
Filing fee refund	3
Intervention application	3
Points in limine	3
Separation of issues	1
Subpoena challenge	1
Review application	1
Stay application	2
Variation order	1
TOTAL	39

HEARINGS

On 9 December 2008, the Tribunal allowed Allied Technologies Ltd limited rights to intervene in a proposed merger between Mobile Telephone Networks Holdings, a wholly owned subsidiary of the MTN Group, and Verizon South Africa. At the time of issuing the order the Tribunal reserved costs as it was of the view that the awarding of costs would be premature:

'until the hearing of the merger, its promise of its utility to the proceedings could not be tested, and hindsight might prove that the merging parties' contention that Altech's intervention was based on "vague and unsubstantiated theories of harm," was correct.'

Then, on 7 January 2009, a day before the date set for hearing and after failing to comply with the timetable agreed to at the pre-hearing for the filing of its witness statements, Altech informed the Tribunal that it was withdrawing its intervention. It provided no tender to pay the merging parties' costs. During the merger hearing, which was not attended by Altech, the merging parties argued that they should be entitled to the costs of the intervention. The Tribunal agreed and awarded costs accordingly.

The Tribunal found that:

'The intervention neither offered the Tribunal what it promised, nor achieved what Altech originally sought... Instead, the intervention has burdened the merging parties with costs, delay and inconvenience.'

Altech appealed the costs decision. Before the appeal could be heard the parties reached a private settlement on this issue and the appeal was withdrawn.

COMPLAINANTS NEED TO KNOW THEIR COMPLAINTS ARE DEALT WITH PROMPTLY

In terms of Section 50(2) the Commission must refer any complaint it receives to the Tribunal within one year, or must issue a non-referral within the same period. An extension of the one-period may be granted if the Commission and the complainant agree to this before the period expires.

In a complaint of price-fixing lodged by Barnes Fencing and others against Allen Meshco, Wireforce Steelbar, Hendok, Independent Galvanising and Associated Wire Industries, the respondents brought an in limine application to dismiss the case, asserting that the complaint had lapsed because the Commission and the complainants had failed to reach agreement on proper extensions.

The Tribunal found that, based on Mr Barnes' evidence, no break in the chain of extensions had occurred throughout the relevant period. It considered that the one-year limitation in section 50(2) had been legislated for the benefit of complainants to ensure that they are speedily attended to by the Commission and that cases are not unduly dragged out. An astute complainant will only consent to an extension on being satisfied by the Commission that there is good reason for it, and has the power to bargain with the Commission over extra time needed by way of extension. Section 50(2) therefore serves the interests of the complainant.

The Tribunal also noted that the case revealed that there were serious shortcomings in the procedures and record-keeping of the Commission regarding extensions.

ABUSE OF DOMINANCE: MARGIN SQUEEZE IS AN EXCLUSIONARY ACT

For the first time, in this case, the Tribunal recognised that a margin squeeze constituted an abuse of dominance under the Competition Act. A margin squeeze occurs when a vertically integrated firm that is dominant in the upstream market tries to exclude its rivals in the downstream market, who are its customers in the upstream market, by squeezing their margins between what they pay the dominant firm for their input and the price that they can realise for their final product in the downstream market in which they compete against their dominant firm supplier.

In this case, brought by the Commission, the dominant firm, Senwes, owned grain silos in the central region of the country. It also competed with its customers in the downstream grain trading market. Rival grain traders required access to Senwes's silos to trade competitively. Senwes decided to change its existing storage tariff in the upstream market, by denying traders access to a long term storage discount they had previously enjoyed. Traders alleged this led to their input costs being raised and thus made them uncompetitive when tendering against Senwes in the downstream market for mill door contracts from millers, a key part of the market. After analysing the manner in which these markets work, the Tribunal came to the conclusion that the new tariffs amounted to a margin squeeze that meant that downstream traders, even if as efficient as Senwes, could not operate effectively in the long term trading market when competing against it. The Tribunal found that this practice amounted to an abuse of dominance. The Tribunal acquitted Senwes on another count of inducing customers not to deal with competitors. Both Senwes and the Commission have appealed the respective findings on the merits and agreed to ask the Tribunal to postpone the imposition of remedies until t

CHALLENGES BROUGHT AGAINST THE COMMISSION IN THE MILK PROCESSORS CASE

Two interlocutory applications were heard in the milk processors complaint, the first on 2 June 2008 and the second on 19 and 20 January 2009.

The first interlocutory application, brought by Clover and Ladismith, concerned a letter by a Mrs Malherbe, dated 10 June 2004, in which she informed the Commission of certain grievances she had concerning the milk industry. The question at issue was whether this letter constituted a complaint for the purposes of the Act or whether it was merely a submission of 'information' to the Commission. Three points in limine were raised.

Firstly, the respondents alleged that the Commission's referral had prescribed as the Commission had not referred the complaint to the Tribunal within the one year-period determined in the Act.

In its decision on this issue the Tribunal stated: 'Our answer to the question "Where does one draw the line between the submission of a 'complaint' and the submission 'of information", is that the articulation of a grievance becomes a complaint for purposes of the Act, when there is some realistic basis for apprehending that the aggrieved person intends, absent a referral by the Commission, to assume the role of the complainant herself.... The best evidence of such a signal would of course be the submission of a completed form CC1. Absent that, such an intention can only be inferred by the content and context of the person's submission as well as the nature of the ongoing interaction between that person and the Commission'.

The second and third points in limine raised related to a corporate leniency agreement signed by Clover and the Commission. Clover contended that certain of the charges made by the Commission in its complaint referral were the subject of leniency extended to Clover by the Commission and so should not have formed part of the complaint. The Tribunal noted that it was clear that, at the time of entering into the corporate leniency

agreement, Clover fully appreciated that it would still face prosecution on the so-called 'complaint three' and that its earlier request for immunity in relation thereto had been turned down by the Commission. However, the Tribunal found that questions of fairness could not be determined at such an early stage before witness statements had been filed, and that the prejudice that Clover might suffer could only be fully ascertained and effectively dealt with at the trial.

The application was therefore dismissed by the Tribunal.

The second interlocutory application, brought by Woodlands Dairy and Milkwood Dairy, concerned alleged procedural irregularities in the Commission's investigation of the applicants. The core of the applicants' case was the allegation that the Commission is obliged by law to have a validly initiated complaint before it when utilising its powers to investigate in terms of section 49A of the Act. (This is the section that empowers the Commissioner to summons persons to produce documents and submit to interrogation.) Woodlands received a summons in March 2005 and Milkwood in August 2005. The question at issue was whether the summons had been issued before or after the Commission initiated its complaint in the light of the Tribunal's above-mentioned decision that Mrs Malherbe could not be regarded as the initiator of the complaint.

The Tribunal found the Woodlands summons to be vague and said that it did not guide the addressee sufficiently to appreciate the boundaries to the request for documentation. With regard to the Milkwood summons it found that, unlike the Woodlands summons, it did give some guideline as to the ambit of the interrogation, but that it was still vague since it was not confined to specified prohibited practices.

In the light of these findings the Tribunal found it unnecessary to decide whether the Commission 'had been clothed with investigative powers' at the time of issuing the summonses.

A detailed list of procedural matters is set out in Appendix D

The Competition Appeal Court



Mr Justice D Davis



Mr Justice P Levinsohn



Ms Justice L Mailula



Mr Justice F Malan



Ms Justice N Mhlantla



Mr Justice C Patel



Ms Justice Z Tshiqi



Ms Justice N.C. Dambuza



Mr Justice D Zondi

The third institution established in terms of the Competition Act is the Competition Appeal Court (the Appeal Court), a specialised body that hears appeals from and reviews of the decisions of the Tribunal.

The President, acting on the advice of the Judicial Services Commission, appoints the Appeal Court judges.

The judges constituting the Appeal Court during the year under review were:

Name	Court	Term of Office
The Honourable Mr Justice D Davis	Cape of Good Hope Provincial Division of the High Court	October 2007 to October 2012
The Honourable Ms Justice LM Mailula	Witwatersrand Local Division of the High Court	October 2007 to October 2012
The Honourable Mr Justice FR Malan	Witwatersrand Local Division of the High Court	October 2007 to October 2012
The Honourable Mr Justice CN Patel	Natal Provincial Division of the High Court	October 2007 to October 2012
The Honourable Ms Justice NZ Mhlanlala	Eastern Cape Division of the High Court	October 2007 to October 2012 Appointed permanently to the SCA from January 2009
The Honourable Mr Justice P Levinsohn	Natal Provincial Division of the High Court	February 2008 to February 2009
The Honourable Ms Justice ZLL Tshiqi	Transvaal Provincial Division of the High Court	February 2008 to February 2009
The Honourable Mr Justice D Zondi	Cape of Good Hope Provincial Division of the High Court	01 November 2008 to 30 November 2009
The Honourable Ms Justice NC Dambuza	Eastern Cape Division of the High Court	01 January 2009 to 31 December 2009

The registry function of the Appeal Court is performed by the Tribunal and the Tribunal's registrar acts as its registrar.

One judge attended a training course hosted by the Fordham University School of Law in June 2008 in New York, and three judges attended the Fordham annual conference on international antitrust and law policy in New York in September 2008.

Funding for the Appeal Court is received from the dti and its budget appears as a line item on the Tribunal's budget. The budget is managed by the Judge President and administered by the Tribunal's secretariat on behalf of the Appeal Court. The table below sets out the expenditure of the Appeal Court over the past six years.

This represents a 2.53% increase in expenditure, which is not significant, and is related to increased court activity.

Year	Total expenditure (R '000's)
2004	284
2005	341
2006	363
2007	337
2008	434
2009	445

CASES BEFORE THE APPEAL COURT

In the period under review the Appeal Court received 20 new cases and heard six cases, two of which dated from a previous period. Five decisions were released (one related to a case heard in a previous period). Six cases were withdrawn (one related to a case received in the previous period). At year-end there were five cases awaiting hearing.

A detailed list of Appeal Court cases is given in Appendix F

financial statements

Contents

The reports and statements set out below comprise the annual financial statements presented to the parliament:

	PAGE
Statement of Financial Performance	46
Statement of Financial Position	47
Statement of Changes in Net Assets	48
Cash Flow Statement	49
Accounting Policies	50 - 57
Notes to the Annual Financial Statements	58 - 73

STATEMENT OF FINANCIAL PERFORMANCE FOR THE YEAR ENDED 31 MARCH 2009

	Note(s)	2009 R '000	2008 R '000
REVENUE			
Government grants	3	9,909	8,670
Other revenue	4	3	14
Fees earned	5	8,816	9,286
Interest received	6	1,869	1,497
Total Revenue		20,597	19,467
EXPENSES			
Personnel	7	9,394	7,739
Administrative expenses	8	3,163	2,633
Depreciation and amortisation of intangible assets	9	303	195
Impairment loss/ Reversal of impairments	30	6	-
Finance charges	10	59	43
General expenses	11	4,668	4,817
Total Expenditure		(17,593)	(15,427)
Net surplus for the year		3,004	4,040

Financial Statements

for the year ended 31 March 2009

STATEMENT OF FINANCIAL POSITION AS AT 31 MARCH 2009

	Note(s)	2009 R '000	2008 R '000
ASSETS			
Current Assets			
Consumables	12	25	21
Receivables	13	77	1,098
Cash and cash equivalents	14	20,839	16,450
		20,941	17,569
Non-Current Assets			
Infrastructure, plant and equipment	15	811	773
Intangible assets	16	94	41
		905	814
Total Assets		21,846	18,383
LIABILITIES			
Current Liabilities			
Finance lease obligation	17	198	107
Payables	18	213	465
Provisions	19	1,528	871
Accrued interest		-	3
		1,939	1,446
Non-Current Liabilities			
Finance lease obligation	17	129	163
		129	163
Total Liabilities		2,068	1,609
Net Assets		19,778	16,774
NET ASSETS			
Accumulated surplus		19,778	16,774

STATEMENT OF CHANGES IN NET ASSETS FOR THE YEAR ENDED 31 MARCH 2009

	Accumulated funds R '000	Total net assets R '000
Opening balance as previously reported	12,957	12,957
Adjustments		
Prior year adjustments	(223)	(223)
Balance at 01 April 2007 restated	12,734	12,734
Changes in net assets		
Surplus for the year	4,078	4,078
Prior period error	(38)	(38)
Total changes	4,040	4,040
Balance at 01 April 2008	16,774	16,774
Changes in net assets		
Surplus for the year	3,004	3,004
Total changes	3,004	3,004
Balance at 31 March 2009	19,778	19,778

Financial Statements

for the year ended 31 March 2009

CASH FLOW STATEMENT FOR THE YEAR ENDED 31 MARCH 2009

	Note(s)	2009 R '000	2008 R '000
CASH FLOWS FROM OPERATING ACTIVITIES			
Cash generated from operations	20	2,921	2,521
Interest income		1,869	1,497
Finance charges		(59)	(43)
Net cash from operating activities		4,731	3,975
CASH FLOWS FROM INVESTING ACTIVITIES			
Purchase of property, plant and equipment	15	(337)	(123)
Purchase of other intangible assets	16	(59)	(43)
Net cash from investing activities	21	(396)	(166)
CASH FLOWS FROM FINANCING ACTIVITIES			
Movement in accrued interest		(3)	-
Movement in short term borrowings		-	(3)
Movement in finance lease payments		57	(96)
Net cash from financing activities	22	54	(99)
Total cash movement for the year		4,389	3,710
Cash and cash equivalents at the beginning of the year		16,450	12,740
Cash and cash equivalents at the end of the year	14	20,839	16,450

ACCOUNTING POLICIES

FOR THE YEAR ENDED 31 MARCH 2009

1. BASIS OF PREPARATION

The annual financial statements have been prepared on the historical cost basis, except for the measurement of certain financial instruments at fair value, and include the following principal accounting policies, which in all material aspects, are consistent with those applied in the previous year, except as otherwise indicated:-

The annual financial statements have been prepared in accordance with the South African Statements of Generally Accepted Accounting Practices (GAAP) including any interpretations of such Statements issued by the Accounting Practices Board, with the effective Standards of Generally Recognised Accounting Practices (GRAP) issued by the Accounting Standards Board replacing the equivalent GAAP Statement as follows:

Standard of GRAP	Replaced Statement of SA GAAP
GRAP 1: Presentation of financial statements	AC 101: Presentation of financial statements
GRAP 2: Cash flow statements	AC 118: Cash flow statements
GRAP 3: Accounting policies, changes in accounting estimates and errors	AC 103: Accounting policies, changes in estimates and errors

Currently the recognition and measurement principles in the above GRAP and GAAP Statements do not differ or result in material difference in items presented and disclosed in the financial statements.

The implementation of GRAP 1, 2 & 3 has resulted in the following changes in the presentation of the financial statements:

a) Terminology differences:

Standard of GRAP	Replaced Statement of SA GAAP
Statement of financial performance	Income statement
Statement of financial position	Balance sheet
Statement of changes in net assets	Statement of changes in equity
Net assets	Equity
Surplus/deficit	Profit/loss
Accumulated surplus/deficit	Retained earnings
Contributions from owners	Share capital
Distributions to owners	Dividends

b) The cash flow statement can only be prepared in accordance with the direct method.

c) Specific information has been presented separately on the statement of financial position such as:

- Receivables from non-exchange transactions, including taxes and transfers;
- Taxes and transfers payable; and
- Trade and other payables from non-exchange transactions.

Financial Statements for the year ended 31 March 2009

d) Amount and nature of any restrictions on cash balances is required.

Paragraph 11 – 15 of GRAP 1 has not been implemented due the fact that the local and international budget reporting standard is not effective for this financial year. Although the inclusion of budget information would enhance the usefulness of the financial statements, non-disclosure will not affect the objective of the annual financial statements.

These accounting policies are consistent with the previous period.

1.1 Presentation currency

These financial statements are presented in South African Rands.

1.2 Revenue

Revenue is recognised to the extent that it is probable that the economic benefits will flow and can be reliably measured. Revenue is measured at fair value of the consideration receivable on an accrual basis. The following specific recognition criteria must also be met before revenue is recognised:

Filing fees

Filing fees in respect of mergers are recognised when the papers have been filed and the filing fees have been paid.

Revenue on filing fees is recognised as economic benefits compulsorily receivable or receivable by entities, in accordance with laws or regulations, established to provide revenue to government, excluding fines or other penalties imposed for breaches or laws or regulations.

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 and the grant has been received.

Interest income

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

Other income

Other income is recognised on an accrual basis.

1.3 Irregular expenditure

Irregular expenditure means expenditure incurred in contravention of, or not in accordance with a requirement of any applicable legislation including the PFMA.

The expenditure portion of any irregular expenditure is charged against income and the capital portion of irregular expenditure is charged against the related liability in the period in which they are determined.

ACCOUNTING POLICIES CONTINUED

1.4 Fruitless and wasteful expenditure

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

The expenditure portion of any fruitless and wasteful expenditure is charged against income and the capital portion of irregular expenditure is charged against the related liability in the period in which they are determined.

1.5 Employee benefits

Pension and post retirement benefits

1. The entity operates a defined contribution plan for all its employees.
2. Contributions to the defined contribution plan are charged to the statement of financial performance in the year to which they relate.

1.6 Property, plant and equipment

Property, plant and equipment are stated at historical cost less depreciation. Depreciation is calculated on a straight-line basis at rates considered appropriate to reduce the cost of the assets less their residual value over the estimated useful life. Useful life, depreciation policy and residual value are reviewed annually.

The period over which various categories of assets are depreciated is detailed below:

Item	Average useful life
Furniture and fittings	15 years
Motor vehicles	5 years
Office equipment	15 years
Computer equipment	
• Computer Equipment	3 years
• Server	10 years
Leased Assets	Period of the lease

The residual value and the useful life of each asset are reviewed at each financial period-end. Each part of an item of property, plant and equipment with a cost that is significant in relation to the total cost of the item shall be depreciated separately.

The depreciation charge for each period is recognised in surplus or deficit unless it is included in the carrying amount of another 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.

Financial Statements for the year ended 31 March 2009

1.7 Intangible assets

An intangible asset is recognised when:

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

Intangible assets are initially recognised at cost.

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.
- there are available technical, financial and other resources to complete the development and to use or sell the asset.
- 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.

An intangible asset is regarded as having an indefinite useful life when, based on all relevant factors, there is no foreseeable limit to the period over which the asset is expected to generate net cash inflows. Amortisation is not provided for these intangible assets. For all other intangible assets amortisation is provided on a straight line basis over their useful life.

The amortisation period and the amortisation method for intangible assets are reviewed every period-end.

Reassessing the useful life of an intangible asset with a definite useful life after it was classified as indefinite is an indicator that the asset may be impaired. As a result the asset is tested for impairment and the remaining carrying amount is amortised over its useful life.

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

Item	Useful life
Server software	10 years
Other Computer Software	5 years

ACCOUNTING POLICIES CONTINUED

1.8 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

Leases of assets are classified as finance leases whenever the terms of the lease transfer substantially all the risks and rewards of ownership to the lessee.

Assets held under finance leases are recognised as assets at their fair value at the inception of the lease or, if lower at the present value of the minimum lease payments. The corresponding liability to the lessor is included in the statement of financial position as a finance lease obligation. Lease payments are apportioned between finance charges and reduction of the lease obligation so as to achieve a constant rate of interest on the remaining balance of the liability. Finance charges are charged to surplus or deficit.

Leases under which the lessor effectively retains the risks and benefits of ownership are classified as operating leases. Obligations incurred under operating leases are charged to the statement of financial performance in equal instalments over the period of the lease.

1.9 Consumables

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

Net realisable value for consumables is assumed to approximate the cost price due to the relatively short period that these assets are held in stock.

Consumables are measured at the lower of cost and net realisable value on the first-in-first-out basis.

Net realisable value is the estimated selling price in the ordinary course of business less the estimated costs of completion and the estimated costs necessary to make the sale.

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

The cost of inventories is based on the first-in-first-out (FIFO) method and includes expenditure incurred in acquiring the consumables and other costs incurred in bringing them to their existing location and condition

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

1.10 Provisions and contingencies

Provisions are recognised when:

- the entity 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.

Financial Statements for the year ended 31 March 2009

The amount of a provision is the present value of the expenditure expected to be required to settle the obligation.

Where some or all of the expenditure required to settle a provision is expected to be reimbursed by another party, the reimbursement shall be recognised when, and only when, it is virtually certain that reimbursement will be received if the entity settles the obligation. The reimbursement shall be treated as a separate asset. The amount recognised for the reimbursement shall not exceed the amount of the provision.

Provisions are not recognised for future operating deficits.

If an entity has a contract that is onerous, the present obligation under the contract shall be recognised and measured as a provision.

1.11 Financial instruments

Classification

The Tribunal's principal financial instruments are receivables, cash and cash equivalents, payables and lease liabilities.

Classification depends on the purpose for which the financial instruments were obtained / incurred and takes place at initial recognition. Classification is re-assessed on an annual basis, except for derivatives and financial assets designated as at fair value through surplus or deficit, which shall not be classified out of the fair value through surplus or deficit category.

Initial recognition and measurement

Financial assets are recognised in the Tribunal's statements of financial position when the Tribunal becomes a party to the contractual provisions of an instrument.

Financial instruments are initially recognised using the trade date accounting method.

Financial assets are classified as financial assets at fair value through surplus or deficit, loans and receivables or held to maturity investment as appropriate. When financial assets are initially recognised they are measured at fair value.

The Tribunal determines the classification of its financial assets on initial recognition and, where allowed and appropriate, re-evaluates this designation at each financial year end.

Impairment of financial assets

At each end of the reporting period the entity assesses all financial assets, other than those at fair value through surplus or deficit, to determine whether there is objective evidence that a financial asset or group of financial assets has been impaired.

Impairment losses are recognised in surplus or deficit.

Impairment losses are reversed when an increase in the financial asset's recoverable amount can be related objectively to an event occurring after the impairment was recognised, subject to the restriction that the carrying amount of the financial asset at the date that the impairment is reversed shall not exceed what the carrying amount would have been had the impairment not been recognised.

ACCOUNTING POLICIES CONTINUED

Reversals of impairment losses are recognised in surplus or deficit except for equity investments classified as available for sale.

Impairment losses are also not subsequently reversed for available-for-sale equity investments which are held at cost because fair value was not determinable.

Asset carried at amortised cost

In relation to receivables a provision for impairment is made when there is objective evidence (such as the probability of insolvency or significant financial difficulties of the debtor) that the Tribunal will not be able to collect all the amounts due under the original terms of the invoice. The carrying amount of the receivable is reduced through use of an allowance account. Impaired debts are derecognised when they are assessed as uncollectible.

Loans and other receivables

Loans and receivables are non-derivative financial assets with fixed or determinable payments that are not quoted in an active market. After initial measurement loans and receivables are carried at amortised cost using the effective interest method less any allowance for impairment. Gains and losses are recognised in surplus or deficit when the receivables are derecognised or impaired, as well as through the amortisation process.

Trade and other receivables are classified as loans and receivables.

Payables

Trade payables are initially measured at fair value, and are subsequently measured at amortised cost, using the effective interest rate method.

After initial recognition, payables are subsequently measured at amortised cost using the effective interest method. Gains and losses are recognised in surplus and deficit when the liabilities are derecognised as well as through the amortisation process.

Cash and cash equivalents

Cash and cash equivalents in the statement of financial position comprise cash at banks and on hand and cash equivalents with an original maturity of three months or less. For the purpose of the cash flow statement, cash and cash equivalents consist of cash and cash equivalents as defined above, net of outstanding bank overdrafts.

Cash and cash equivalents are recognised at cost.

Bank overdraft and borrowings

Bank overdrafts and borrowings are initially measured at fair value, and are subsequently measured at amortised cost, using the effective interest rate method. Any difference between the proceeds (net of transaction costs) and the settlement or redemption of borrowings is recognised over the term of the borrowings in accordance with the entity's accounting policy for borrowing costs.

1.12 Comparative figures

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

Financial Statements for the year ended 31 March 2009

1.13 Impairment of non-cash generating assets

The entity assesses at each statement of financial position date whether there is any indication that an asset may be impaired. If any such indication exists, the entity estimates the recoverable amount of the asset.

The carrying amount of the Tribunal's non-cash generating assets are reviewed at each reporting date to determine whether there is any indication of impairment. If any such indication then the assets recoverable service amount is estimated. The recoverable service amount is the higher of the non-cash generating assets's fair value less the costs to sell and its value in use.

When the recoverable service amount of an asset is less than its carrying amount , the carrying amount is reduced to its recoverable service amount. The reduction is an impairment loss.

An impairment loss of assets carried at cost less any accumulated depreciation or amortisation is recognised immediately in surplus or deficit. Any impairment loss of a revalued asset is treated as a revaluation decrease.

An impairment loss recognised in prior periods for an asset is reversed if there has been a change in the estimates used to determine the assets recoverable service amount since the last impairment loss was recognised. If this is the case, the carrying amount of the asset is increased to its recoverable service amount. The increase is a reversal in impairment loss. The increased carrying amount attributable to a reversal of an impairment loss shall not exceed the carrying amount that would have been determined (net of depreciation or amortisation) had no impairment loss been recognised in prior period.

A reversal of an impairment loss for an asset shall be recognised immediately in surplus or deficit.

An impairment loss is tested using the depreciated replacement cost approach.

1.14 Significant judgements and sources of estimation uncertainty

Residual value and useful life

Management reviewed the residual value and useful life of all categories of assets held by the Tribunal. Office equipment and furniture and fittings costing less than R 2 000.00 previously expensed was determined to have a useful life of 15 years and a residual value of 5% of cost price. These assets will be depreciated over the 15 years. This adjustment resulted in a prior year error and comparative figures have been restated to correct this.

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2009

2. NEW STANDARDS AND INTERPRETATIONS

2.1 Standards and Interpretations early adopted

The entity has chosen to early adopt the following standards and interpretations:

GRAP 9: Revenue from Exchange Transactions

The effective date of the standard is for years beginning on or after 01 April 2009.

The entity has early adopted the standard for the first time in the 2008 annual financial statements.

The adoption of this standard has not had a material impact on the results of the entity, but has resulted in more disclosure than would have previously been provided in the annual financial statements.

GRAP 12: Inventories

The effective date of the standard is for years beginning on or after 01 April 2009.

The entity has early adopted the standard for the first time in the 2008 annual financial statements.

The adoption of this standard has not had a material impact on the results of the entity, but has resulted in more disclosure than would have previously been provided in the annual financial statements.

GRAP 13: Leases

The effective date of the standard is for years beginning on or after 01 April 2009.

The entity has early adopted the standard for the first time in the 2008 annual financial statements.

The adoption of this standard has not had a material impact on the results of the entity, but has resulted in more disclosure than would have previously been provided in the annual financial statements.

GRAP 14: Events after the reporting date

The effective date of the standard is for years beginning on or after 01 April 2009.

The entity has early adopted the standard for the first time in the 2008 annual financial statements.

The adoption of this standard has not had a material impact on the results of the entity, but has resulted in more disclosure than would have previously been provided in the annual financial statements.

GRAP 17: Property, Plant and Equipment

The effective date of the standard is for years beginning on or after 01 April 2009.

The entity has early adopted the standard for the first time in the 2008 annual financial statements.

The adoption of this standard has not had a material impact on the results of the entity, but has resulted in more disclosure than would have previously been provided in the annual financial statements.

Financial Statements for the year ended 31 March 2009

GRAP 19: Provisions, Contingent Liabilities and Contingent Assets

The effective date of the standard is for years beginning on or after 01 April 2009.

The entity has early adopted the standard for the first time in the 2008 annual financial statements.

The adoption of this standard has not had a material impact on the results of the entity, but has resulted in more disclosure than would have previously been provided in the annual financial statements.

GRAP 100: Non-current Assets Held for Sale and Discontinued Operations

The effective date of the standard is for years beginning on or after 01 April 2009.

The entity has early adopted the standard for the first time in the 2008 annual financial statements.

The adoption of this standard has not had a material impact on the results of the entity, but has resulted in more disclosure than would have previously been provided in the annual financial statements.

GRAP 102: Intangible Assets

The effective date of the standard is for years beginning on or after 01 April 2009.

The entity has early adopted the standard for the first time in the 2008 annual financial statements.

The adoption of this standard has not had a material impact on the results of the entity, but has resulted in more disclosure than would have previously been provided in the annual financial statements.

IPSAS 21: Impairment of Non Cash-Generating Assets

The effective date of the standard is for years beginning on or after 01 April 2009.

The entity has early adopted the standard for the first time in the 2008 annual financial statements.

The adoption of this standard has not had a material impact on the results of the entity, but has resulted in more disclosure than would have previously been provided in the annual financial statements.

IPSAS 20: Related Party Disclosure

The effective date of the standard is for years beginning on or after 01 April 2009.

The entity has early adopted the standard for the first time in the 2008 annual financial statements.

The adoption of this standard has not had a material impact on the results of the entity, but has resulted in more disclosure than would have previously been provided in the annual financial statements.

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2009

2.2 Standards and interpretations not yet effective

The entity has chosen not to early adopt the following standards and interpretations, which have been published and are mandatory for the entity's accounting periods beginning on or after 01 April 2009 or later periods:

GRAP 23: Revenue from Non-exchange Transactions

The effective date of the standard is for years beginning on or after 01 April 2010.

The entity expects to adopt the standard for the first time in the 2010 annual financial statements.

The adoption of this standard is not expected to impact on the results of the entity, but may result in more disclosure than is currently provided in the annual financial statements.

GRAP 24: Presentation of Budget Information in the Financial Statements

The effective date of the standard is for years beginning on or after 01 April 2010.

The entity expects to adopt the standard for the first time in the 2010 annual financial statements.

The adoption of this standard is not expected to impact on the results of the entity, but may result in more disclosure than is currently provided in the annual financial statements.

GRAP1: Interpretation of GRAP: Applying the Probability Test on Initial Recognition of Exchange Revenue

The effective date of the interpretation is for years beginning on or after 01 April 2010.

The entity expects to adopt the interpretation for the first time in the 2010 annual financial statements.

Financial Statements

for the year ended 31 March 2009

	2009 R '000	2008 R '000
3. GRANTS AND TRANSFERS		
Government grant	9,909	8,670
4. OTHER REVENUE		
Printing cost recoupment	3	14
5. FEE INCOME		
Fee Income received from the Commission	8,816	9,286
6. INTEREST RECEIVED		
Interest received - Bank deposits	1,869	1,497
7. PERSONNEL		
Basic salaries	2,342	1,801
Performance awards	289	170
Medical	90	77
Statutory Contributions	108	92
Insurance	43	33
Other non-pensionable allowance	177	113
Other salary related costs	26	27
Defined contribution pension plan expense	201	207
Director's emoluments	6,118	5,219
	9,394	7,739
8. ADMINISTRATIVE EXPENSES		
Audit Committee members fees (inclusive of travel)	76	62
General and administrative expenses	820	711
External audit fees	271	202
Internal audit fees	285	245
Travel and subsistence	505	281
Unitary payments for building occupation	1,206	1,132
	3,163	2,633

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2009

	2009 R '000	2008 R '000
9. DEPRECIATION AND AMORTISATION		
Depreciation		
Furniture and fittings	23	8
Motor vehicles	21	21
Office equipment	1	1
Computer equipment	80	60
Leased assets - office equipment	172	104
	297	194
Amortisation		
Computer software	6	1
10. FINANCE CHARGES		
Finance leases	59	43
11. OTHER OPERATING EXPENSES		
Consultants, contractors and special services	3,341	3,376
Fines and penalties	1	-
Staff training and development	1,306	1,433
Legal fees	15	2
Maintenance, repairs and running costs	4	2
Fruitless and wasteful expenditure	1	4
Total	4,668	4,817
12. CONSUMABLES		
Consumable stores (office stationery)	25	21
Total	25	21
	25	21
13. RECEIVABLES		
Receivables	49	992
Prepayments	28	106
Total	77	1,098

Financial Statements

for the year ended 31 March 2009

14. CASH AND CASH EQUIVALENTS

Cash and cash equivalents comprise cash that is held with registered banking institutions and are subject to insignificant interest rate risk. The carrying amount of these assets approximates their fair value.

	2009 R '000	2008 R '000
Cash on hand	2	2
Cash at bank	20,837	16,448
Total	20,839	16,450

15. PROPERTY, PLANT AND EQUIPMENT

	2009			2008		
	Cost	Accumulated depreciation	Carrying value	Cost	Accumulated depreciation	Carrying value
Furniture and fittings	358	(189)	169	371	(177)	194
Motor vehicles	209	(85)	124	209	(64)	145
Office equipment	17	(7)	10	14	(6)	8
Computer equipment	452	(230)	222	451	(261)	190
Leased assets - office equipment	741	(455)	286	519	(283)	236
Total	1,777	(966)	811	1,564	(791)	773

Reconciliation of property, plant and equipment - 2009

	Opening Balance	Additions	Depreciation	Impairment loss	Total
Furniture and fittings	194	-	(20)	(5)	169
Motor vehicles	145	-	(21)	-	124
Office equipment	8	3	(1)	-	10
Computer equipment	190	112	(79)	(1)	222
Leased assets - office equipment	236	222	(172)	-	286
	773	337	(293)	(6)	811

Reconciliation of property, plant and equipment - 2008

	Opening Balance	Additions	Depreciation	Total
Furniture and fittings	177	25	(8)	194
Motor vehicles	166	-	(21)	145
Office equipment	8	-	-	8
Computer equipment	152	98	(60)	190
Leased assets - office equipment	340	-	(104)	236
	843	123	(193)	773

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2009

16. INTANGIBLE ASSETS

	2009			2008		
	Cost	Accumulated amortisation	Carrying value	Cost	Accumulated amortisation	Carrying value
Computer software	101	(7)	94	42	(1)	41

Reconciliation of intangible assets - 2009

	Opening Balance	Additions	Amortisation	Total
Computer software	41	59	(6)	94

Reconciliation of intangible assets - 2008

	Opening Balance	Additions	Amortisation	Total
Computer software	-	43	(1)	42

17. FINANCE LEASE OBLIGATION

	2009 R '000	2008 R '000
Minimum lease payments due		
- within one year	235	141
- in second to fifth year inclusive	138	180
	373	321
less: future finance charges	(46)	(51)
Present value of minimum lease payments	327	270
Present value of minimum lease payments due		
- within one year	198	107
- in second to fifth year inclusive	129	163
	327	270
Non-current liabilities	129	163
Current liabilities	198	107
	327	270

The Tribunal is leasing photocopiers on finance leases and there are no restrictions imposed on the Tribunal in terms of these leases. The obligation under the finance lease is secured by the lessor's title to the leased asset. The lease can be extended for a further period after the initial period has expired.

Financial Statements for the year ended 31 March 2009

18. PAYABLES

	2009 R '000	2008 R '000
Creditors	197	461
Other accruals	16	4
	213	465

19. PROVISIONS

Reconciliation of provisions - 2009

	Opening Balance	Additions	Utilised during the year	Reversed during the year	Total
Performance bonus provision	316	475	(316)	-	475
Accum leave provision	203	428	-	(203)	428
Provision for 13th cheque	95	434	(400)	(24)	105
Other salary provisions	257	520	(257)	-	520
	871	1,857	(973)	(227)	1,528

Reconciliation of provisions - 2008

	Opening Balance	Additions	Utilised during the year	Reversed during the year	Total
Performance bonus provision	271	316	(271)	-	316
Accum leave provision	223	204	(24)	(200)	203
Provision for 13th cheque	75	415	(394)	(1)	95
Other salary provisions	146	257	(146)	-	257
	715	1,192	(835)	(201)	871

20. CASH GENERATED FROM OPERATIONS

Surplus for the year	3,004	4,040
Adjustments for:		
Depreciation and amortisation	303	195
Interest received	(1,869)	(1,497)
Finance charges	59	43
Impairment deficit	6	-
Movements in provisions	657	156
Changes in working capital:		
Consumables	(4)	(5)
Receivables	1,021	(411)
Payables	(256)	-
	2,921	2,521

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2009

21. NET CASH FLOW FROM INVESTING ACTIVITIES

	2009 R '000	2008 R '000
Property, plant and equipment	(337)	(124)
Intangible assets	(59)	(42)
	(396)	(166)

22. NET CASH FLOW FROM FINANCING ACTIVITIES

Proceeds from finance leases	57	(96)
Borrowings	-	(3)
Accrued interest	(3)	-
	54	(99)

23. FUTURE MINIMUM LEASE PAYMENTS

Office rental

The Tribunal currently occupies space on the dti campus in Sunnyside. There is currently no lease agreement in place which specifies the annual unitary fee payable or that specifies any period of occupation. The dti has indicated that the annual unitary payment will increase at a rate equal to the rate of inflation. It is anticipated that this fee will increase by 6.5% in the next financial year (2009/2010). It is therefore accepted that the real value of this payment will remain constant in future years. This amount is paid to the dti through the Competition Commission in terms of an MOA between the Competition Commission and the Tribunal.

24. EMPLOYEE BENEFITS

Defined contribution plan

The Competition Commission Pension Fund, which is governed by the Pensions Fund Act of 1956, is a defined contribution plan for all employees in the Tribunal. The fund is administered by Sanlam Ltd. The scheme is currently invested in investment policies with Metropolitan Life and Sanlam Multi Managers. As an insured fund, the Competition Commission Pension Fund complies with regulation 28 of the Pension Fund Act of 1956.

25. INCOME TAX EXEMPTION

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

Financial Statements for the year ended 31 March 2009

26. 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 13. 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 and cash equivalents, the Tribunal's exposure to credit risk arises from default of the counterparty, with a maximum exposure equal to the carrying amount of these instruments. The Tribunal's cash and 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:

	2009 R'000	2009 R'000
Cash and cash equivalents	20,839	16,450
Other receivables	49	992
Total	20,888	17,442

Concentration of credit risk

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

2009 R'000	AAA and government	Unrated
Cash and cash equivalents	20,839	-
Other receivables	-	49

2008 R'000	AAA and government	Unrated
Cash and cash equivalents	16,450	-
Other receivables	-	992

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2009

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

2009 R'000	Neither past due nor impaired	Past due but not impaired - less than 2 months	Past due but not impaired - more than 2 months	Carrying value
Cash and cash equivalents	20,839	-	-	20,839
Other receivables	28	13	8	49

2008 R'000	Neither past due nor impaired	Past due but not impaired - less than 2 months	Past due but not impaired - more than 2 months	Carrying value
Cash and cash equivalents	16,450	-	-	16,450
Other receivables	962	-	30	992

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, on a short term basis, in current accounts and the Corporation for Public Deposits.

Sensitivity Analysis

2009	Change in Investments	Increase/(decrease) in net surplus for the year	
		Upward change	Downward change
Cash and cash equivalents	1.00%	208	(208)
Finance lease	1.00%	(3)	3
2008			
Cash and cash equivalents	1.00%	164	164
Finance lease	1.00%	(3)	3

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.

Financial Statements

for the year ended 31 March 2009

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

2009 R'000	Carrying amount	Total cash flow	Contractual cash flow within 1 year	Contractual cash flow between 1 and 5 years
Finance lease obligation	327	327	198	129
Payables	213	213	213	-
Provisions	1,528	1,528	1,528	-

2008 R'000	Carrying amount	Total cash flow	Contractual cash flow within 1 year	Contractual cash flow between 1 and 5 years
Finance lease obligation	270	270	107	163
Payables	465	465	465	-
Provisions	871	871	871	-

Financial instruments

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

Financial instrument	Classification	Carrying amount	Carrying amount
Cash and cash equivalents	Loans and receivables	20,839	16,450
Receivables	Loans and receivables	49	992
Payables	Financial liabilities	213	465
Provisions	Financial liabilities	1,528	871
Finance leases	Financial liabilities measured at amortised cost	327	270

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2009

Net gains and losses on financial instruments

The following table presents the total net gains or losses for each category of financial assets and financial liabilities:

2009 R '000	Loans and receivables	Financial liabilities at amortised cost	Total
Interest income	1,869	-	1,869
Finance charges	-	(59)	(59)
Total net gains recognised in the statement of financial performance	1,869	(59)	1,810

2008 R '000	Loans and receivables	Financial liabilities at amortised cost	Total
Interest income	1,497	-	1,497
Finance charges	-	(43)	(43)
Total net gains recognised in the statement of financial performance	1,497	(43)	1,454

Financial Statements

for the year ended 31 March 2009

27. RELATED PARTIES

		2009	2008
		R '000	R '000
Related party	Relationship		
The Competition Commission	Public entity in the National Sphere		
The Department of Trade and Industry	National Department in the National Sphere		
Related party balances			
Amounts included in trade payables regarding related parties			
The Competition Commission		7	134
The Department of Trade and Industry		4	10
Amounts included in trade receivables regarding related parties			
The Competition Commission		18	1,014
Related party transactions			
The Competition Commission			
Filing fees received as at year end		8,807	9,285
Facility fees paid as at year end		1,688	1,602
Employee costs received as at year end		107	318
Administrative costs received as at year end		17	-
The Department of Trade and Industry			
Grants received as at year end		9,909	8,670
Administrative costs paid as at year end		35	51
Key management personnel			
The information as required is reflected on pages 9 and 10 of the Accounting Authority's report		-	-

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2009

28. FRUITLESS AND WASTEFUL EXPENDITURE

	2009 R '000	2008 R '000
Fruitless and wasteful expenditure	1	4

An amount of R 500.00 is reflected as fruitless and wasteful expenditure in the current financial year. The R 500.00 was a traffic fine imposed by the municipality for late payment of a vehicle licence.

29. EXTERNAL AUDIT FEE

	2009 R '000	2008 R '000
Fees	271	202

30. IMPAIRMENT OF ASSETS

	2009 R '000	2008 R '000
Impairments		
Property, plant and equipment	6	-

31. PRIOR PERIOD ERROR

The prior year figures have been adjusted with the correction of an error. The Competition Tribunal had previously not complied in all instances with the requirements of IAS 16 relating to the assessing of useful life and residual values of certain property, plant and equipment at the end of each financial year and has also not complied with the requirements of IAS 37 relating to provisions.

The Tribunal has recognised the expense of performance bonuses in the relevant financial period in which the bonus was paid and did not recognise the bonus in the relevant financial period in which the bonus related to.

The effect of the errors were as follows:

	2008 R '000
Adjustment to surplus for 1 April 2006 - 31 March 2007	(223)
Adjustment to property, plant and equipment	
Decrease in depreciation	(48)
Decrease in accumulated depreciation	48
Adjustment to provisions	
Increase in provision for performance bonus	(271)
Increase in employee expenses	271

Financial Statements for the year ended 31 March 2009

Adjustment to surplus for 1 April 2007 - 31 March 2008	(38)
Adjustment to property, plant and equipment	
Decrease in depreciation	(7)
Decrease in accumulated depreciation	7
Adjustment to provisions	
Increase in provision for performance bonus	(45)
Increase in employee expenses	45
Adjustment to opening retained earnings - 01 April 2008	(261)

32. CONTINGENT LIABILITY

As approval has not yet been received from National Treasury to retain accumulated surpluses as at 31st March 2009 this amount is regarded as a contingent liability.

33. COMPARATIVE FIGURES

In Note 7 the "basic salaries" figure of 2008 was reclassified to exclude fees paid to part-time Tribunal members. These were included in Note 11 under "consultants, contractors and special services".

In addition "other non pensionable allowances" were adjusted to include those paid to key management personal - these were previously included in "basic salaries".

The effects of the reclassification are as follows:

Statement of financial performance	2009 R '000	2008 R '000
Basic salaries previously stated	-	2 936
Decrease due to reclassification of fees paid to part-time members	-	(1 534)
Increase due to reclassification of non-pensionable allowance	-	399
Basic salaries restated	-	1 801

Report of the Audit Committee

The Audit Committee reports that it has complied with its responsibilities arising from section 55 (1)(b) of the PFMA and Treasury Regulations 27.1.7 and 27.1.10(b) and (c).

Audit committee members and attendance

The Audit Committee of the Competition Tribunal (the "Committee") consists of the members listed hereunder and is required to meet four times per annum as per its approved terms of reference. During the year under review five meetings were held.

The Committee's meetings have regularly included the internal auditors and representatives from the Auditor General's Office.

Name of member		Attended	Held
N.Tshombe (Chairperson) (resigned 21 July 2008)	Non executive	2	2
J. Armstrong (resigned 11 March 2009)	Non executive	1	5
J. Rapoo (Chairperson) (appointed 1 May 2007)	Non executive	5	5
M Naidoo (appointed 1 September 2007)	Non executive	5	5
H.de Jager (appointed 30 September 2008)	Non executive	2	3
V. Nondabula (appointed 30 September 2008)	Non executive	2	3
D Lewis (Tribunal Chairperson)	Executive	2	5
J de Klerk (Head of Corporate Services)	Executive	5	5

Audit committee responsibility

The Audit Committee also reports that it has adopted appropriate formal terms of reference as its audit committee charter, has regulated its affairs in compliance with this charter and has discharged all its responsibilities as contained therein.

Accordingly, the Committee operates in accordance with the terms of the said charter and is satisfied that it has discharged its responsibilities in compliance therewith.

The quality of in year management and monthly/quarterly reports submitted in terms of the PFMA and the Division of Revenue Act.

The Audit Committee is satisfied with the content and quality of monthly and quarterly reports prepared and issued by the Accounting Authority of the Tribunal during the year under review.

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 the PFMA and the King II Report on Corporate Governance requirements, Internal Audit provides the Audit 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 both any qualification and/or the 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 have been reported. Accordingly, we can report that the system of internal control for the period under review was efficient and effective.

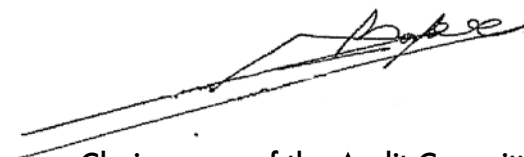
Evaluation of annual financial statements

The Audit Committee has:

- reviewed and discussed the audited annual financial statements to be included in the annual report, with the Auditor-General and the Accounting Officer;
- reviewed the Auditor-General's management letter and management's response thereto;
- reviewed changes in accounting policies and practices; and
- reviewed significant adjustments resulting from the audit.

The Audit Committee would like to highlight that the Competition Tribunal is highly dependent on the approval of the retention of accumulated surplus from National Treasury, as well as the approval of the annual grants from the Department of Trade and Industry in order to maintain its going concern status.

The Audit Committee concurs and accepts the Auditor-General's conclusions on the annual financial statements, and is of the opinion that the audited annual financial statements be accepted and read together with the report of the Auditor-General.



Chairperson of the Audit Committee
Date: 18 August 2009

Appendix A

Appendix A

LARGE MERGERS

Case number	Acquiring firm	Target firm	Decision
11/LM/Jan08	Liberty Star Consumer Holdings (Pty) Ltd	Finlar Foods (Pty) Ltd	Approved in previous period, reasons issued in this period
05/LM/Jan08	Powertech Properties and Investments (Pty) Ltd	ABB Powertech Transformers (Pty) Ltd	Approved in previous period, reasons issued in this period
14/LM/Jan08	Neotel (Pty) Ltd	Transtel Telecoms (a division of Transnet)	Approved in previous period, reasons issued in this period
124/LM/Nov07	Sabido Investments (Pty) Ltd	Sasani Africa (Pty) Ltd	Approved in previous period, reasons issued in this period
07/LM/Jan08	Sherpa Trade and Invest 51 (Pty) Ltd	Tradebush Investments No. 123 (Pty) Ltd	Approved in previous period, reasons issued in this period
08/LM/Jan08	Umlingo Trade and Invest 71 (Pty) Ltd	Mining Capital Equipment Business, a division of Longyear SA (Pty) Ltd	Approved in previous period, reasons issued in this period
12/LM/Jan08	Vodacom Service Provider Company (Pty) Ltd	Global Telematics SA (Pty) Ltd and Glocell Service Provider Company (Pty) Ltd	Approved in previous period, reasons issued in this period
59/LM/May08	Absa Group Limited	Woolworths Financial Services (Pty) Ltd	Approved
33/LM/Apr08	Altron Finance (Pty) Ltd	Aeromaritime International Management Services (Pty) Ltd	Approved
32/LM/Apr08	Aquarius Platinum (SA) Corporate Services (Pty) Ltd	Platinum Mine Resources (Pty) Ltd	Approved
76/LM/Jul08	BAE Systems Land Systems SA (Pty) Ltd	IST Dynamics (Pty) Ltd	Approved
31/LM/Apr08	Barloworld Investments (Pty) Ltd	NMI Durban South Motors (Pty) Ltd	Approved
17/LM/Feb08	Brandco, Currently Heineken (Pty) Ltd and Diageo South Africa (Pty) Ltd	Brandhouse Beverages (Pty) Ltd and the Amstel Licence	Approved
39/LM/Apr08	Brandcorp (Pty) Ltd	Toolquip Business Ellies Putziger	Approved
64/LM/May08	Bytes Technology Group South Africa (Pty) Ltd	Nor Stationery Wholesalers (Pty) Ltd And Nor Paper (Pty) Ltd	Approved
42/LM/Apr08	Chemical Service Limited	Chemfit Industrial Holdings (Pty) Ltd	Approved
26/LM/Mar08	Dairybelle (Pty) Ltd	Dairy World (Pty) Ltd & Dairy World Properties (Pty) Ltd	Approved
41/LM/Apr08	Dubai World Africa Conservation FZE	Business Venture Investments No. 1145 (Pty) Ltd	Approved

Case number	Acquiring firm	Target firm	Decision
67/LM/Jun08	Duferco Investment Partners Inc.	Highveld Steel and Vanadium Corporation Limited in relation to its Vanchem Operation, South Africa Japan Vanadium (Pty) Ltd and Mapochs Mine (Pty) Ltd	Approved
52/LM/May08	Georgia Avenue Investments 109 (Pty) Ltd	Mettle Holdco (Pty) Ltd	Approved
63/LM/May08	Grindrod Limited	Oreport Holdings (Pty) Ltd	Approved
70/LM/Jun08	Hewlett Packard Company	Electronic Data Systems Corporation	Approved
35/LM/Apr08	Investec Bank Limited	Clidet No. 808 (Pty) Ltd	Approved
10/LM/Jan08	M Cubed Life Limited	Alternative Channel Limited	Approved
56/LM/May08	Macsteel Services Centres SA (Pty) Ltd	Harvey Roofing Products	Approved
16/LM/Feb08	Main Street 251 (Pty) Ltd	The House of Busby Limited	Approved
48/LM/Apr08	Main Street 646 (Pty) Ltd	Alstom SA (Pty)Ltd	Approved
28/LM/Mar08	Mvelaphanda Holdings (Pty) Ltd	Queensgate Leisure Holdings (Pty)Ltd	Approved
22/LM/Feb08	Newco	Squires Food (Pty) Ltd	Approved
34/LM/Apr08	Newshelf 926 (Pty) Ltd	Moepi Group (Pty) Ltd	Approved
27/LM/Mar08	Pangbourne Properties Limited	IFour Properties Limited	Approved
72/LM/Jun08	Porche Automobil Holding SE	Volkswagen AG	Approved
66/LM/Jun08	Primetime Trading 6 (Pty) Ltd	Tourism Investments Corporation Limited	Approved
45/LM/Apr08	PSG Financial Services Limited	ZS Rational Holdings (Pty)Ltd Quince Scripfin (Pty)Ltd	Approved
53/LM/May08	Purple Moss 25 (Pty) Ltd and FI Funding	Investments Holdco (Pty) Ltd	Approved
30/LM/Apr08	RCS Investment Holdings (Pty) Ltd	Massdiscounters, a division of Massstores (Pty) Ltd	Approved
65/LM/May08	Resilient Property Income Fund Limited	Diversified Property Fund Limited	Approved
44/LM/Apr08	Reunert Limited	Quince Capital Holdings Limited	Approved
49/LM/Apr08	RTZ Zelpy 4975 (Pty) Ltd	Davita Trading (Pty)Ltd	Approved
29/LM/Apr08	Saudi Telecom Company	Orger Telecom Ltd	Approved
43/LM/Apr08	Stefanutti & Bressan Holdings Limited	Stocks Limited	Approved
19/LM/Feb08	Stocks Building Africa (Pty) Ltd	Housing Africa Development (Pty)Ltd	Approved
46/LM/Apr08	Tata Motors Limited	Jaguar Land Rover	Approved
47/LM/Apr08	Volkswagen Aktiengesellschaft	Scania Aktiebolag	Approved
25/LM/Mar08	Pangbourne Properties Limited	Siyathenga Property Fund Limited	Approved
69/LM/Jun08	Zungu Investments Company (Pty) Ltd	Africa Vanguard Resources (Pty) Ltd	Approved
82/LM/Jul08	Hosken Consolidated Investments Ltd	SeardeI Investment Corporation Limited	Approved
58/LM/May08	Adcorp Staffing Solutions (Pty) Ltd	Staff U Need (Pty) Ltd	Approved
60/LM/May08	Media 24 Limited	Uppercase Media (Pty) Ltd	Approved
68/LM/Jun08	Government Employees Pension Fund	Trevenna Precinct Office Development	Approved
73/LM/Jun08	Masscash Holdings (Pty) Ltd	Franklin George Larkins T/A Top Spot Supermarket	Approved
80/LM/Jul08	Lexshell 99 General trading (Pty) Ltd	Springboklaagte Mining (Pty) Ltd	Approved
78/LM/Jul08	Shock Proof Investments 145 (Pty)Ltd	Intaka Manufactures (Pty)Ltd	Approved
79/LM/Jul08	Acucap Properties Limited	Parkdev (Pty) Ltd	Approved
98/LM/Sep08	Aveng (Africa) Ltd	Keyplan (Pty) Ltd	Approved
83/LM/Jul08	Lexshell 38 General Trading (Pty) Ltd & Clidet No. 832 (Pty) Ltd	Richtrau No. 123 (Pty) Ltd	Approved
84/LM/Aug08	Absa Bank Limited	Ballito Junction Development (Pty) Ltd	Approved

Case number	Acquiring firm	Target firm	Decision
87/LM/Aug08	Absa Bank Limited	Retail Africa Wingspan Investments (Pty) Ltd	Approved
96/LM/Aug08	Toyota Tsusho Corporation	Subaru Southern Africa (Pty) Ltd	Approved
90/LM/Aug08	Attacq Property Fund Limited	Waterfall Property Development	Approved
102/LM/Sep08	Moody Blue Trade and Invest 147 (Pty) Ltd	South African Roll Company (Pty) Ltd	Approved
92/LM/Aug08	RZT Zelpy 5504 (Pty) Ltd	Dynamic Bedding (Pty) Ltd and Dyna Mattress (Pty) Ltd	Approved
99/LM/Sep08	Old Mutual Life Assurance Company SA Limited	Idwala Industrial Holdings (Pty)Ltd	Approved
105/LM/Oct08	Kagiso Media Limited	Urban Brew Studio (Pty) Ltd	Approved
86/LM/Aug08	Pinnacle Point Holdings (Pty) Ltd, New Port Finance Company (Pty) Ltd, Property Promotions and Management (Pty) Ltd, Rakeen Development PJSC , Asset Management Limited	Aco-Ross Holdings Limited	Approved
54/LM/May08	Calulo Petrochemicals (Pty) Ltd	Automated Fuel Systems Group (Pty) Ltd	Approved
112/LM/Oct08	Scarlet Sky Investments 36 (Pty) Ltd	Meletse Big Five Reserve and Golf Estate Development	Approved
110/LM/Oct08	JDG Trading (Pty) Ltd	Blake and Associates Holdings (Pty) Ltd	Approved
118/LM/Nov08	Absa Bank Limited	Abseq Properties (Pty) Ltd and Certain Assets of Equity Estates (Pty) Ltd	Approved
91/LM/Aug08	Masscash Holdings (Pty) Ltd	Brett Four (Pty) Ltd	Approved
104/LM/Sep08	Vmedical Solutions (Pty) Ltd	Neil Harvey & Associates (Pty)Ltd, Unique Payment Services (Pty)Ltd, Careware (Pty)Ltd And Zieto (Pty)Ltd	Approved
117/LM/Oct08	Old Mutual Life Assurance Company SA Ltd	XDV Investments	Approved
119/LM/Nov08	Bank of America Corporation	Merrill Lynch & Co. Inc	Approved
115/LM/Oct08	Optimum Coal Holdings (Pty)Ltd	Aka Resources (Pty)Ltd	Approved
71/LM/Jun08	Old Mutual Investment Group South Africa (Pty) Ltd	Futuregrowth Asset Management (Pty) Ltd	Approved
94/LM/Aug08	Industrial Electronic Investments Limited	CIE Telecommunications (Pty) Ltd	Approved
101/LM/Sep08	Hulamin Operations (Pty) Ltd	Hulett-Hydro Extrusions (Pty) Ltd	Approved
111/LM/Oct08	JDG Trading (Pty) Ltd	Maravedi Group (Pty) Ltd	Approved
124/LM/Nov08	Rustenburg Platinum Mines Limited	Changing Tides 166 (Pty) Ltd	Approved
120/LM/Nov08	The Industrial Development Corporation of South Africa Limited	WM Eachus and Company (Pty) Ltd	Approved
89/LM/Aug08	Channel Life Limited	Rentmeester Assurance Limited	Approved
93/LM/Aug08	Pareto Limited	B&B Eindomme (Pty) Ltd	Approved
106/LM/Oct08	New Clicks South Africa (Pty)Ltd	Sharp Move Trading 107 (Pty)Ltd And Direct Patient Support (Pty) Ltd	Approved
123/LM/Nov08	The Firstrand Bank Limited	Unitrans Motors (Pty) Ltd	Approved
114/LM/Oct08	Capital Property Fund	Monyelta Property Fund Limited	Approved
116/LM/Oct08	The Government Employees Pension Fund	Certain Properties In The Zenprop Portfolio	Approved
133/LM/Dec08	Absa Bank Limited	Culemborg Investment Properties (Pty) Ltd	Approved
122/LM/Nov08	The Commissioners of her Majesty's Treasury	The Royal Bank Of Scotland Group PLC	Approved

Case number	Acquiring firm	Target firm	Decision
107/LM/Oct08	Mobile Telephone Networks Holdings (Pty)Ltd	Italk Cellular (Pty) Ltd	Approved
113/LM/Oct08	Vodacom (Pty)Ltd	Storage Technology Services (Pty)Ltd	Approved
132/LM/Dec08	Ukhamba Holdings (Pty) Ltd	Pragma Africa (Pty) Ltd	Approved
11/LM/Jan09	Clidet no.817 (Pty) Ltd	Amalgamated Beverages Industries	Approved
81/LM/Jul08	Mobile Telephone Network Holdings (Pty) Ltd	Verizon South Africa (Pty) Ltd	Approved
09/LM/Jan09	Investec Bank Limited	Anglo-V3 Crane Hire (Pty) Ltd	Approved
10/LM/Jan09	Old Mutual (South Africa) Limited	Medscheme Life Assurance Limited	Approved
128/LM/Dec08	African Revival Investments Holdings (Pty) Ltd	Siyahamba Engineering (Pty) Ltd	Approved
130/LM/Dec08	Business Venture Investments No. 1311 (Pty) Ltd	Sea Harvest Corporation Limited	Approved
16/LM/Feb09	Premier Motor Holdings a division of Imperial Group	Key Truck & Car (Airport) (Pty) Ltd	Approved
136/LM/Dec08	Basf Handels-Und Exportgesellschaft MBH	CIBA Holdings AG	Approved
126/LM/Dec08	Steinhoff Doors and Building Materials (Pty)Ltd and Steinbuild Properties (Pty)Ltd	Home Centre (Pty)Ltd	Approved
121/LM/Nov08	Shanduka Coal (Pty) Ltd	Springlake Holdings (Pty)Ltd	Approved
135/LM/Dec08	Vodafone Group Plc	Vodacom Group (Pty) Ltd	Approved
05/LM/Jan09	Rio Tinto Plc and Rio Tinto Limited	BHP Billiton SA Holdings BV. And Richards Bay Mining (Pty) Ltd and Richards Bay Titanium (Pty) Ltd	Approved
12/LM/Jan09	MTN Group Limited	Newshelf 664 (Pty) Ltd	Approved
109/LM/Oct08	Lafarge South Africa Holdings (Pty) Ltd	Ash Resources (Pty) Ltd	Approved
108/LM/Oct08	DCD-Dorbyl (Pty) Ltd	Globe Engineering Works (Pty) Ltd	Conditional approval
01/LM/Jan09	Apexhi Properties Limited	Business Venture Investment No. 1232 (Pty) Ltd	Conditional approval
13/LM/Jan08	Scaw South Africa (Pty) Ltd	Ozz Industrial (Pty) Ltd	Conditional approval
128/LM/Nov07	Investec Bank Limited	RJ Southey (Pty) Ltd	Conditional approval
61/LM/May08	Aveng (Africa) Limited	Wire Products (Pty) Ltd and others	Withdrawn 15 Sep 08
62/LM/May08	BHP Billiton Plc and BHP Billiton Limited	Rio Tinto Plc and Rio Tinto Limited	Withdrawn 27 Nov 08
02/LM/Jan09	Clidet no. 851 (Pty) Ltd	Sunshine Cash and Carry CC	Hearing dates still to be set
127/LM/Dec08	Aspen Pharmacare Holdings Limited	Fine Chemicals Corporation (Pty) Ltd	Hearing dates still to be set
17/LM/Feb09	Man AG	Volkswagen Caminhoese E Omnibus Industrial E Comercio De Veiculos Comerciais Ltd A, Rua Volkswagen No.291, 7th 8 & 9	Hearing dates still to be set
25/LM/Feb09	Pahana Investments 93 (Pty) Ltd	Pahana Investments 91 (Pty) Ltd	Hearing dates still to be set
27/LM/Feb09	RZT Zelpy 5506 (Pty)Ltd	Seesa Limited	Hearing dates still to be set
09/LM/Jan08	RZT Zelpy 5260 (Pty)Ltd	Innovative Mining Products (Pty) Ltd	Hearing dates still to be set

Appendix B

INTERMEDIATE MERGERS

Case number	Applicant	Respondent	Decision
39/AM/May06	Primedia Limited	Capricorn Capital Partners (Pty) Ltd and New Africa Investments Limited	Approved
133/AM/Dec07	Yara International ASA and Kemira Growhow OYJ	Competition Commission	Approved
88/AM/Aug08	Cape Gold Holdings (Pty) Ltd and Universal Recycling Company (Pty) Ltd and Universal Metal Shredding (Pty) Ltd	Competition Commission	Still to be heard
13/AM/Jan09	Much Asphalt (Pty) Ltd and Gauteng Asphalt (Pty) Ltd, Road Seal (Pty) Ltd & Roadseal Properties (Pty) Ltd	Competition Commission	One prehearing held

Appendix C

RESTRICTIVE PRACTICES

COMPLAINT REFERRALS FROM COMMISSION

Case Number	Complainant	Respondent	Decision
05/CR/Feb05 55/CR/Jun05	Competition Commission, JT International SA (Pty) Ltd	British American Tobacco SA (Pty) Ltd	Decision pending
17/CR/Mar05	Competition Commission, Tracetec	Netstar (Pty) Ltd and 2 others	Hearings to continue
110/CR/Dec06	Competition Commission	Senwes Ltd	In contravention of sec 8(c) of the Act
94/CR/Nov04	Competition Commission	Nampak Ltd	Withdrawn 27 Feb 09
94/CR/Nov04 42/CR/May05	Competition Commission and Enviroglass Division of the Reclamation Group (Pty) Ltd	Consol (Pty) Ltd , Nampak (Pty) Ltd , Metal Box SA Ltd	Withdrawn 11 & 14 Aug 08
50/CR/May08	Competition Commission	Pioneer Foods (Pty) Ltd	Hearing dates still to be set
74/CR/Jun08	Competition Commission	Astral Operation Limited and Elite Breeding Farms	Hearing dates still to be set
97/CR/Sep08	Competition Commission	BMW South Africa (Pty) Ltd t/a BMW Motorrad and 13 others	Hearing dates still to be set
103/CR/Sep08	Competition Commission	Loungefoam (Pty) Ltd, Vitafoam (Pty) Ltd, Feltex Automotive (Pty) Ltd, Steinhoff International Holdings Ltd and KAP International Holdings Ltd	Hearing dates still to be set
129/CR/Dec08	Competition Commission	Rooibos Ltd, National Brands Ltd, Coffee Tea & Chocolate Company (Pty) Ltd, Unilever SA Foods (Pty) Ltd and Joekels Tea Packers CC	Hearing dates still to be set
23/CR/Feb09	Competition Commission	Rocla (Pty) Ltd and 9 others	Hearing dates still to be set
15/CR/Feb09	Competition Commission	DPI Plastics (Pty) Ltd and others	Hearing dates still to be set
111/CR/Oct07	Competition Commission	Komatiland Forests (Pty) Ltd and 10 others	Hearing dates still to be set
134/CR/Dec07	Competition Commission	SA Breweries Ltd and 12 others	Hearing dates still to be set
80/CR/Jul07	Competition Commission	Mobile Telephone Networks (Pty) Ltd	Hearing dates still to be set

CONSENT ORDERS

Case Number	Complainant	Respondent	Decision
49/CR/Apr00	Competition Commission in re BotAsh and Chemserve	American Natural Soda Ash & CHG Global (Pty) Ltd	Denied
49/CR/Apr00	Competition Commission in re BotAsh and Chemserve	American Natural Soda Ash & CHG Global (Pty) Ltd	Fined R9 696 846.96
37/CR/Apr08	Competition Commission	The New Reclamation Group (Pty) Ltd	Fined R 145 972 065.00
20/CR/Feb08	Competition Commission	Adcock Ingram Critical Care (Pty) Ltd, Tiger Brands Limited	Fined R53 502 800.00

Case Number	Complainant	Respondent	Decision
50/CR/May08	Competition Commission	Foodcorp	Fined R45 406 359.82
103/CR/Dec06	Competition Commission	Lancewood Cheese (Pty) Ltd	Fined R100 000.00
20/CR/Feb08	Competition Commission	Dismed Criticare (Pty) Ltd	Fined R1 277 057.88
20/CR/Feb08	Competition Commission	Thusanong Healthcare (Pty) Ltd	Fined R 287 415.75
24/CR/Feb09	Competition Commission	Aveng (Africa) Ltd	Fined R46 277 000.00

COMPLAINT REFERRALS FROM A COMPLAINANT

Case Number	Complainant	Respondent	Decision
83/CR/Aug04 80/CR/Sep06	Comair Limited, Nationwide Airlines (Pty) Ltd	South African Airways (Pty) Ltd	Hearings to continue
23/CR/Feb08	Chemical Specialities Ltd	VW SA, BMW SA, Daimler Chrysler SA	Withdrawn 24 Apr 08
51/CR/May08	Tony McKeever	SA Rugby (Pty) Ltd	Hearing date still to be set
77/CR/Jul08	Amatole Communication Services (Pty) Ltd	Cell C	Hearing date still to be set
95/CR/Aug08	Five Star World T/A Five Star Tours	South African Airways (Pty) Ltd	Hearing date still to be set
100/CR/Sep08	Joshua Dlamini	Industrial Development Corporation and Competition Commission	Hearing date still to be set
125/CR/Nov08	Entelligence Limited	Google South Africa (Pty) Ltd and Google Ireland Ltd	Hearing date still to be set
07/CR/Jan09	Surgi Sport Technologies CC	New Clicks Holdings Ltd	Hearing date still to be set
26/CR/Feb09	Rukanani Distributors	Coca Cola Fortune (Pty) Ltd	Hearing date still to be set
30/CR/Mar09	André Allers of Electronic Installers Associations of South Africa (trading as EIASA)	Makro Retail Stores, Game Retail Stores, Pick n Pay Retail Stores, Multichoices South Africa Stores	Hearing date still to be set
44/CR/May07	Charter Property Sales	The Saturday Star Property Guide	Hearing date still to be set
49/CR/May07	Frederick Johannes van Zyl	Porsche Centre (SA)	Hearing date still to be set
64/CR/Jun07	Accurate Trading 34 (Pty) Ltd & Others	Nedbank Limited	Hearing date still to be set
68/CR/Jul07	Chris Pearson Properties CC, Brad Pearson Properties CC, C & J Pearson Properties CC & Freefall Trading 211 (Pty) Ltd	Digital Service Centre Pentagraphix CC	Hearing date still to be set
84/CR/Aug07	Ray Leonard & others	Nedbank Ltd & others	Hearing date still to be set
101/CR/Sep07	Egoli Tissue Ltd	Sappi Fine Papers (Pty) Ltd	Hearing date still to be set
106/CR/Oct07	South African Towing & Recovery Association & others	Ekurhuleni Metropolitan Municipality and 5 others	Hearing date still to be set
01/CR/Jan08	Peter Scott, Mr Video (Pty) Ltd	Nu Metro Home Entertainment	Hearing date still to be set

INTERIM RELIEF

Case Number	Applicant	Respondent	Decision
06/IR/Jan09	Dimension Data (Pty) Ltd	Telkom SA Ltd	Withdrawn 20 Jan 09
14/IR/Jan09	Dimension Data (Pty) Ltd	Telkom SA Ltd	Hearing date still to be set
34/IR/Apr07	National Rental Association of South Africa	City Properties and others	Hearing date still to be set
56/IR/Jun07	Multichoice Subscriber Management Services (Pty) Ltd	Telkom SA Ltd	Hearing date still to be set
112/IR/Nov07	Longain 1 Investments (Pty) Ltd t/a Flexicell	Vodacom Group (Pty) Ltd	Hearing date still to be set

Appendix D

PROCEDURAL MATTERS

Case Number	Applicant	Respondent	Type	Decision
09/CR/Jan07	Competition Commission	Allen Meshco (Pty) Ltd and 4 others	Points in limine (Prescription)	Dismissed
69/AM/Jul07	AC Whitcher (Pty) Ltd	The Competition Commission, MTO Forestry (Pty) Ltd, Boskor Saagmeule (Pty) Ltd and Boskor Ripplant (Pty) Ltd	Review application	Dismissed
103/CR/Dec06	Competition Commission	Clover Industries Ltd and 7 others	Points in limine	Dismissed
31/CR/May05 & 45/CR/May06	Competition Commission	Sasol Chemical Industries Ltd, Kynoch Fertilizer (Pty) Ltd and Omnia Fertilizer Ltd	Amendment application	Decided in previous period, reasons issued in this period
31/CR/May05 & 45/CR/May06	Competition Commission	Sasol Chemical Industries Ltd, Kynoch Fertilizer (Pty) Ltd and Omnia Fertilizer Ltd	Application to strike out	Decided in previous period, reasons issued in this period
31/CR/May05 & 45/CR/May06	Competition Commission	Sasol Chemical Industries Ltd, Kynoch Fertilizer (Pty) Ltd and Omnia Fertilizer Ltd	Application for costs	Decided in previous period, reasons issued in this period
31/CR/May05 & 45/CR/May06	Competition Commission	Sasol Chemical Industries Ltd, Kynoch Fertilizer (Pty) Ltd and Omnia Fertilizer Ltd	Dismissal application	Decided in previous period, reasons issued in this period
103/CR/Dec06	Competition Commission	Clover Industries Ltd and 7 others	Separation of issues	Dismissed
84/CR/Aug07	Ray Leonard & others	Nedbank Ltd and others	Stay application	Dismissed
31/CR/May05	Competition Commission	Sasol Chemical Industries Ltd, Kynoch Fertilizer (Pty) Ltd, Omnia Fertilizer Ltd	Amendment application	Granted
38/CR/Apr08	Competition Commission	Bonheur 50 General Trading (Pty) Ltd and Komatiland Forests (Pty) Ltd	Failure to notify	Fined R 500 000
09/CR/Jan07	Competition Commission	Allen Meshco (Pty) Ltd and 4 others	Discovery application	Settled by parties
103/CR/Dec06	Competition Commission	Clover Industries Ltd and 7 others	Discovery	Granted
13/LM/Apr08	Scaw South Africa (Pty) Ltd	Ozz Industrial (Pty) Ltd	Extension Application	Granted
75/X/Jul08	Laritz Investments 190 (Pty) Ltd	Imperial McCarthy (Pty) Ltd	Filing fee refund	Granted
128/LM/Nov07	Competition Commission	Investec Bank Limited and RJ Southey (Pty) Ltd	Extension Application	Settled by parties
77/CR/Jul08	Cell C	Amatole Communication Services (Pty) Ltd	Exception	Hearing date still to be set
74/CR/Jun08	Supreme Poultry (Pty) Ltd, Country Bird (Pty) Ltd	Competition Commission, Astral Operation Limited and Elite Breeding Farms	Intervention application	Withdrawn 28 Nov 08

Case Number	Applicant	Respondent	Type	Decision
62/LM/May08	BHP Billiton Plc and BHP Billiton Limited and Rio Tinto Plc and Rio Tinto Limited	Competition Commission	Subpoena challenge	Withdrawn 29 Aug 08
16/CR/Feb07	Saturday Star Property Guide	Charter Property Sales and East Cape Property Guide	Dismissal application	Dismissed
31/CR/May05 45/CR/May06	Competition Commission	Sasol	Consolidation Application	Dismissed
16/CR/Feb07	East Cape Property Guide	Charter Property Sales and Saturday Star Property Guide	Dismissal application	Dismissed
128/LM/Nov07	Investec Bank Limited	RJ Southey (Pty) Ltd	Variation order	Granted
81/LM/Aug08	Allied Technologies Ltd	MTN, Verizon, Competition Commission	Intervention application (Costs order)	Costs order issued
103/CR/Dec06	Woodlands Dairy (Pty) Ltd and Milkwood Dairy (Pty) Ltd	Competition Commission and others	Point in limine	Dismissed
81/LM/Jul08	Mobile Telephone Network Holdings (Pty) Ltd	Verizon South Africa (Pty) Ltd	Discovery application	Granted
107/LM/Oct08	Huge Group Ltd	Mobile Telephone Networks Holdings (Pty)Ltd And Italk Cellular (Pty)Ltd	Intervention application	Granted
15/CR/Feb07 50/CR/May08	Competition Commission	Pioneer Foods (Pty) Ltd	Consolidation application	Granted
137/X/Dec08	Gemalto SA	Competition Commission	Filing fee refund	Granted
31/CR/May05 45/CR/May06	Competition Commission	Sasol and others	Consolidation application	Hearing date still to be set
16/CR/Feb07	Charter Property Sales	East Cape Property Guide and Saturday Star Property Guide	Application to refer back to Comission	Dismissed
80/AM/Oct04	Londoloza Forestry Consortium (Pty) Limited	Bonheur 50 General Trading (Pty) Limited and others	Costs order	Hearing date still to be set
18/X/Feb09	PPG Coatings South Africa (Pty) Ltd	Competition Commission	Filing fee refund	Granted
125/CR/Nov08	Entelligence Limited	Google South Africa (Pty) Ltd and Google Ireland Ltd	Amendment application	Hearing date still to be set
110/CR/Dec06	Competition Commission	Senwes Limited	Stay application	Granted
15/CR/Feb07 50/CR/Feb07	Pioneer Foods (Pty) Ltd	Competition Commission	Discovery	Hearing date still to be set
97/CR/Sep08	Competition Commission	BMW South Africa (Pty) Ltd t/a BMW Motorrad and 13 others	Amendment application	Hearing date still to be set
103/CR/Sep08	Competition Commission	Loungefoam (Pty) Ltd, Vitafoam (Pty) Ltd, Feltex Automotive (Pty) Ltd, Steinhoff International Holdings Ltd & KAP International Holdings Ltd	Joinder and amendment application	Hearing date still to be set
129/CR/Dec08	Competition Commission	Rooibos Ltd, National Brands Ltd, Coffee Tea & Chocolate Company (Pty) Ltd, Unilever SA Foods (Pty) Ltd and Joekels Tea Packers CC	Exception	Hearing date still to be set

Appendix E

DORMANT CASES

LARGE MERGER

Case Number	Acquiring Firm	Target Firm	Date
84/LM/Sep05	Main Street 301 (Pty) Ltd	National Cereal Holdings (Pty) Ltd	06 Sep 05
60/LM/Jul06	Mila Nutri (Pty) Ltd	Yara (SA) (Pty) Ltd	25 Jul 06
101/LM/Nov06	Paarl Media Holdings (Pty) Ltd	Printability (Pty) Ltd	04 Dec 06

COMPLAINT REFERRALS FROM THE COMPETITION COMMISSION

Case Number	Complainant	Respondent	Date
08/CR/Jul07	Competition Commission	Iscor Ltd & 6 Others	15 Jan 07
31/CR/May05	Competition Commission	Sasol Chemical Industries Ltd, Kynoch Fertilizer (Pty) Ltd, Omnia Fertilizer Ltd	04 May 05
19/CR/Mar05	Competition Commission	Nationwide Airlines (Pty) (Ltd)	18 Mar 05
103/CR/Dec06	Competition Commission	Clover Industries Ltd and 7 others	07 Dec 06
45/CR/May06	Competition Commission	Sasol Chemical Industries (Pty) Ltd, Yara South Africa (Pty) Ltd & African Explosives Chemical Industries Ltd	25 May 06
18/CR/Mar05	Competition Commission	Assa Abloy (SA) (Pty) Ltd and 14 others	16 Mar 05
09/CR/Jan07	Competition Commission	Allen Meshco (Pty) Ltd & and others	15 Jan 07
11/CR/Feb04	Competition Commission	Telkom	27 Feb 04

COMPLAINT REFERRALS FROM A COMPLAINANT

Case Number	Complainant	Respondent	Date
16/CR/Feb07	Charter Property Sales	East Cape Property Guide	19 Feb 07
39/CRMAY05	Comair Ltd	South African Airways (Pty) (Ltd)	13 May 05
64/CR/AUG06	Ebrahim Moosa	Villani Shoes	03 Aug 06
35/CR/APR04	Platinum Holdings (Pty) Ltd, Unitrade 1152 CC, Platinum Clothing Waterfront 267269 CC, Platinum Clothing Waterfront 229 CC	Victoria & Alfred Waterfront (Pty) Ltd, V & A Waterfront Properties (Pty) Ltd, Competition Commission	19 Apr 04
35/CR/APR04	Recyclers Association of SA	Scrap Metal Export Permit Policy Implementation Committee	23 Apr 04
40/CR/MAY04	Orion Cellular (Pty) Ltd	Telkom SA Limited, Standard Bank of SA Limited, Edgars Consolidated Stores Limited	07 May 04
90/CR/NOV04	Teqplate Manufacturing CC	Uniplate Group (Pty) Ltd	11 Nov 04
57/CR/JUN05	Association for Exploited Retirement & Medical Aid Fund Members	South African Short-Term Industry as represented by the South African Insurance Association (SAIA)	22 Jun 05
19/CR/MAR04	Otherchoice (Pty) Ltd and 6 others AND Multichoice SA (Pty) Ltd	UEC Technologies (Pty) Ltd	25 Mar 04
20/CR/MAR04	Cachecorp Procurement (Pty) Ltd	South African Forestry Company Ltd & Komatiland Forest (Pty) Ltd	29 Mar 04

PROCEDURAL MATTERS

Case Number	Applicant	Respondent	Type	Date
31/CR/MAY05	Competition Commission	Sasol Chemical Industries Ltd, Kynoch Fertilizer (Pty) Ltd, Omnia Fertilizer Ltd	Notice of Exception	03 Aug 06
08/CR/JAN07	Competition Commission	Iscor Ltd & 6 others	Condonation application	13 Apr 07
64/CR/JUN07	Accurate Trading 34 (Pty) Ltd & others	Nedbank Limited	Application to strike out	17 Sep 07
106/EA/DEC04	Payment Issues Forum of South African Retailers	Competition Commission	Exemption appeal	20 Dec 04

Appendix F

Appendix F

COMPETITION APPEAL COURT CASES

Appellant / Applicant	Respondent	Date of appeal	Decision
Johnnic Holdings Limited & Mercanto Investments (Pty) Ltd	Competition Tribunal, Competition Commission & Rupert Smith	30 Mar 2007	Reviewed and set aside
Mittal Steel South Africa Limited	Harmony Gold Mining Company Limited, Durban Roodepoort Deep Limited & Macsteel International BV	19 Apr 2007	Pending decision
TWK Agriculture Limited	Competition Commission, NCT Forestry Co-Operative Limited, Shincel (Pty) Ltd & Shield Overall Manufacturers (Pty) Ltd	24 Aug 2007	Withdrawn in November 2008
Mittal Steel South Africa Limited Macsteel International BV	Harmony Gold Mining Company Limited, Durban Roodepoort Deep Limited	21 Feb 2008	Judgment handed down in court , therefore no reasons will be released
Network Healthcare Holdings Ltd, Community Hospital Group (Pty) Ltd	Competition Commission	03 Apr 2008	Tribunal's order reviewed and set aside
Network Healthcare Holdings Ltd, Community Hospital Group (Pty) Ltd	Norman Manoim, Urmila Bhoola, Yasmin Carrim, Competition Tribunal & Competition Commission		
Raymond Leonard, Global Technology Investments (Pty) Ltd, Accurate Trading 34 (Pty) Ltd & Accurate Trading 44 (Pty) Ltd	Nedbank Limited, Standard Bank of South Africa & Gensec NSA Equity Fund Trust	24 Apr 2008 10 Jun 2008	Hearing still to be set down
African Media Entertainment Limited	David Lewis, Norman Manoim, Yasmin Carrim, Primedia Ltd, Capricorn Capital Partners (Pty) Ltd, New Africa Investments Ltd & the Competition Commission	30 May 2008	Application dismissed
Omnia Fertilizer Limited	Competition Commission	11 Jul 2008	Pending a hearing
Clover Industries Ltd & Clover SA (Pty) Ltd	Competition Commission, Parmalat (Pty) Ltd, Ladismith Cheese (Pty) Ltd, Woodlands Dairy (Pty) Ltd, Lancewood (Pty) Ltd, Nestlé SA (Pty) Ltd & Milkwood Dairy (Pty) Ltd	14 Jul 2008	Appeal and review application dismissed with costs
Ladismith Cheese (Pty) Ltd	Competition Commission, Clover Industries Ltd, Clover SA (Pty) Ltd, Parmalat (Pty) Ltd, Woodlands Dairy (Pty) Ltd, Lancewood (Pty) Ltd, Nestlé SA (Pty) Ltd & Milkwood Dairy (Pty) Ltd	15 Jul 2008	Appeal and review application dismissed with costs
Clover Industries Ltd & Clover SA (Pty) Ltd	David Lewis, Norman Manoim, Yasmin Carrim, Competition Tribunal, Competition Commission, Parmalat (Pty) Ltd, Ladismith Cheese (Pty) Ltd, Woodlands Dairy (Pty) Ltd, Lancewood (Pty) Ltd, Nestlé SA (Pty) Ltd & Milkwood Dairy (Pty) Ltd	17 Jul 2008	Appeal and review application dismissed with costs
ANSAC, CHC Global (Pty) Ltd	Competition Commission, BOTASH (Pty) Ltd, Chemserve Technical Products (Pty) Ltd	04 Sep 2008	Withdrawn in November 2008

Appellant / Applicant	Respondent	Date of appeal	Decision
RJ Southey (Pty) Ltd, Barry John Roper Wickins, Christopher Brunt NO, Christopher Kirkwood NO, Peter Ringelmann NO, Christopher Kirkwood & John Grant Carter Donaldson	The Chairperson of the Competition Tribunal & Investec Bank Limited	19 Sep 2008	Withdrawn in October 2008
Clover Industries Ltd & Clover SA (Pty) Ltd	Competition Commission, Parmalat (Pty) Ltd, Ladismith Cheese (Pty) Ltd, Woodlands Dairy (Pty) Ltd, Lancewood (Pty) Ltd, Nestlé SA (Pty) Ltd & Milkwood Dairy (Pty) Ltd	01 Oct 2008	Leave to appeal dismissed with costs
Clover Industries Ltd & Clover SA (Pty) Ltd	David Lewis, Norman Manoim, Yasmin Carrim, Competition Tribunal, Competition Commission, Parmalat (Pty) Ltd, Ladismith Cheese (Pty) Ltd, Woodlands Dairy (Pty) Ltd, Lancewood (Pty) Ltd, Nestlé SA (Pty) Ltd & Milkwood Dairy (Pty) Ltd	01 Oct 2008	Leave to appeal dismissed with costs
Woodlands Dairy (Pty) Ltd & Milkwood Dairy (Pty) Ltd Clover Industries Ltd & Clover SA (Pty) Ltd and Ladismith Cheese (Pty) Ltd	Competition Commission, Parmalat (Pty) Ltd, Woodlands Dairy (Pty) Ltd, Lancewood (Pty) Ltd, Nestlé SA (Pty) Ltd & Milkwood Dairy (Pty) Ltd	02 Oct 2008	Withdrawn in November 2008
Ladismith Cheese (Pty) Ltd	Competition Commission, Clover Industries Ltd, Clover SA (Pty) Ltd, Parmalat (Pty) Ltd, Woodlands Dairy (Pty) Ltd, Lancewood (Pty) Ltd, Nestlé SA (Pty) Ltd & Milkwood Dairy (Pty) Ltd	03 Oct 2008	Leave to appeal dismissed with costs
Parmalat (Pty) Ltd Clover Industries Ltd & Clover SA (Pty) Ltd	David Lewis and Others	03 Oct 2008	Leave to appeal dismissed with costs
Parmalat (Pty) Ltd Ladismith Cheese (Pty) Ltd	Competition Commission and others	03 Oct 2008	Leave to appeal dismissed with costs
AC Whitcher (Pty) Ltd	Competition Commission, MTO Forestry (Pty) Ltd, Boskor Saagmeule (Pty) Ltd & Boskor Ripplant (Pty) Ltd	07 Jan 2009	Pending a hearing
Allied Technologies Limited	Mobile Telephone Networks Holdings (Pty) Ltd, Verizon SA (Pty) Ltd & the Competition Commission	30 Jan 2009	Withdrawn in February 2009
Allied Technologies Limited	Mobile Telephone Networks Holdings (Pty) Ltd, Verizon SA (Pty) Ltd, the Competition Commission, N Manoim N.O., Y Carrim N.O. & U Bhoola N.O.	30 Jan 2009	Withdrawn in February 2009
Senwes Limited	Competition Commission	23 Feb 2009	Hearing still to be set down
Woodlands Dairy (Pty) Ltd & Milkwood Dairy (Pty) Ltd	Competition Commission	27 Mar 2009	Hearing still to be set down

RP196/2009
ISBN: 978-0-621-38827-5