



ANNUAL

2015

2016

INTEGRATED
REPORT



competitiontribunal
south africa



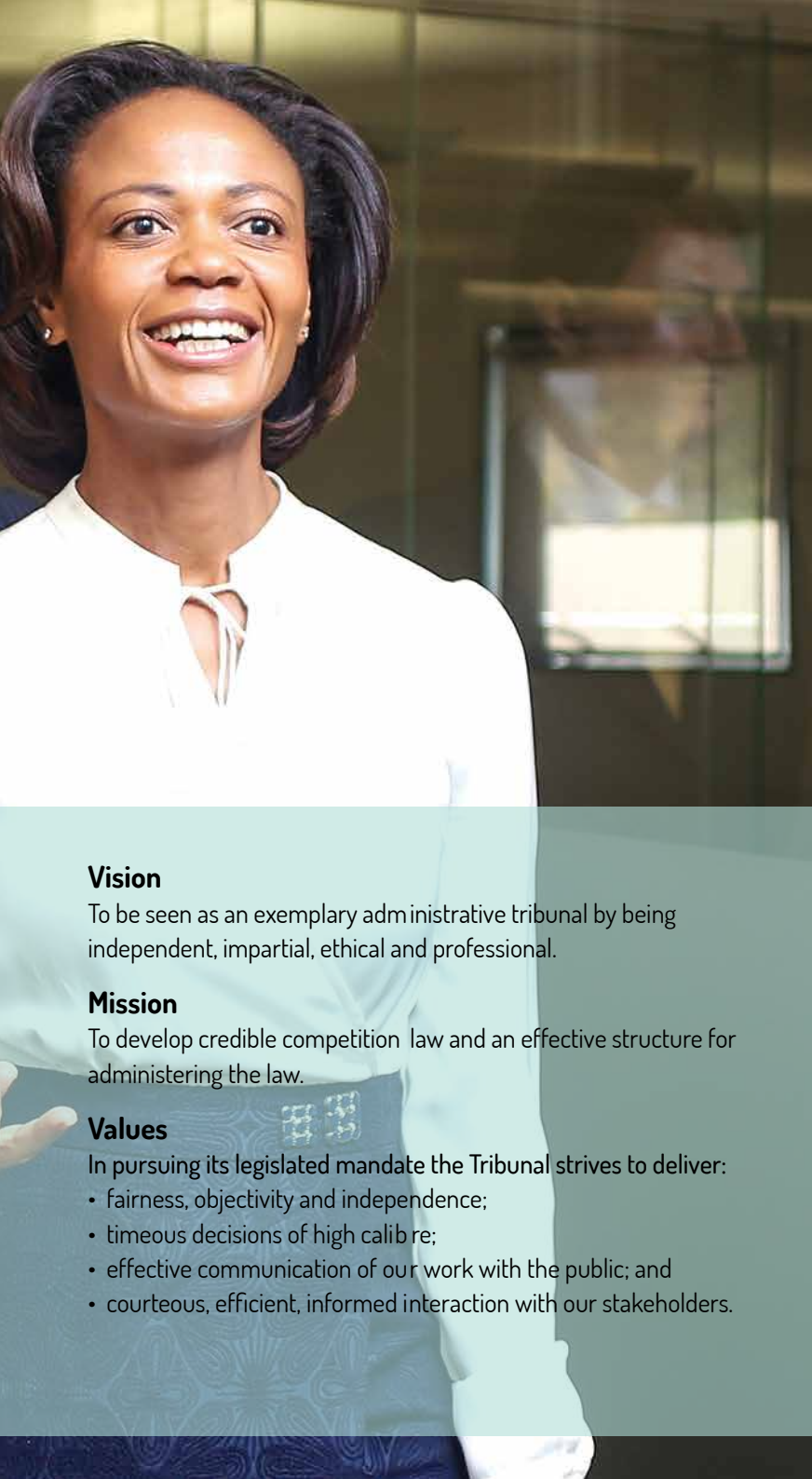
Constitutional mandate

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

Legislative mandate

The Tribunal derives its legislative mandate from the Competition Act of 1998 (Act 89 of 1998) ("the Act") and its purpose is to promote and maintain competition in the Republic in order to:

- (a) promote efficiency, adaptability and development of the economy;
- (b) provide consumers with competitive prices and product choices;
- (c) promote employment and advance the social and economic welfare of all South Africans;
- (d) expand opportunities for South African participation in world markets;
- (e) recognise the role of foreign competition;
- (f) ensure that small and medium-sized enterprises have an equitable opportunity to participate in the economy; and
- (g) promote a greater spread of ownership, in particular to increase the ownership stakes of historically disadvantaged people.



Vision

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

Mission

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

Values

In pursuing its legislated mandate the Tribunal strives to deliver:

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

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Minister of Economic Development

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Ebrahim Patel, Minister of Economic Development

Foreword, Minister of Economic Development

The work of the competition authorities is critical to South Africa's efforts to have robust economic growth, increased jobs, small business opportunities and deeper industrialisation.

This 17th annual report sets out the work of the Tribunal, a key part of the competition regulatory machinery.

In the past year, the Tribunal focused attention on cartels and abuse of market dominance as well as regulation of mergers & acquisitions.

Cartels and abuse of market dominance result in high prices to the disadvantage of ordinary citizens and of economic efficiency, they create quasi-monopoly practices in the economy and they reinforce economic exclusion. They are the twin-side to corruption in the public sector that erodes confidence, saps an economy of its vitality and imposes poor services on citizens and businesses.

Our actions against cartels have begun to have an impact but more needs to be done.

A recent World Bank study on competition in South Africa noted the enormous benefits of a more inclusive economy: "In the case of four cartels in maize, wheat, poultry and pharmaceuticals – products which make up 15.6% of the

consumption basket of the poorest 10 percent – conservative estimates indicate that around 200 000 people stood to be lifted above the poverty line by tackling cartel overcharges".

Because the regulators' work on cartels over the past five years has given clarity in the market on what collusion entails and what kind of acts fall within prohibited practices, government is stepping up the efforts to bring perpetrators to book. From 1 May 2016, we activated sections of the Competition Amendment Act which make it a criminal offence for directors or managers of a firm to collude with their competitors to fix prices, divide markets among themselves or collude in tenders or to acquiesce in collusion and they expose themselves to up to 10 years in jail if convicted.

The measures by government to stimulate investment and drive industrial policy as a means to create jobs and grow the economy must be accompanied by resolute measures against collusion and corruption.

The Tribunal has incorporated employment as a public interest condition in 19 mergers and acquisitions in the past year and in the months subsequent to the end of the period, two large mergers in the beverage sector (soft-drinks and beer) were approved with very significant employment conditions.

These competition interventions are not isolated actions but are part of a broader strategy by government to ensure a better fit between the legitimate interests of shareholders in mergers and acquisitions, and the public interest on jobs, industrialisation, empowerment and small business development.

The Act has been a cornerstone of our efforts to promote a more inclusive economy. Based on our experience with the Act and court rulings, a number of gaps and weaknesses as well as possible solutions have been identified. This may require changes to the legislation to address matters relating to excessive pricing, abuse of market dominance, guidelines for competition leniency applications and procedures for the work of the competition authorities, including on information claimed as confidential.

I commend the Tribunal and its chairperson for the work done in the past year.



Ebrahim Patel
Minister of Economic Development

31 July 2016

PART 01

AT A GLANCE

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Our approach to integrated reporting

Reflections. This is the theme of our 2015/2016 annual report. You'll see it depicted in the images we selected for this report and, more importantly, we hope it comes through in every word we have written. All our past annual reports reflected on a prior financial period but this year we approached the report from the complete meaning of the word. In perfect light mirrors reflect truth without judgement. The good and the bad. The complete and the work in progress. This is the motivation for our more detailed report back on the extent to which we achieved and did not achieve our planned objectives for the year. This is also in keeping with the principles of integrated reporting which require a full account of the material factors influencing the productivity of an entity.

Of course the truth can be a complicated affair but these days people have little time to read a long detailed report. So we chose to not include the pages upon pages of appendices that we have previously used at the end of the annual report. This data is summarised throughout the annual report, is easily accessible on our website and is available on request. We also

condensed our financial management report into graphic illustrations that aim to give you a quick but complete glance at the numbers that matter most so that readers can assess our performance.

In our attempt to make the report more relevant, more engaging, we have moved the statutory reports closer to the content most relevant to them, and started the annual report with the most important case highlights from this past financial year. These you will read in the chairperson's report on page 4 followed by a detailed account of our performance and finances.

It's easy to assume everyone who reads our annual report is familiar with the constitutional framework that established the competition agencies and sustains them. But we have not made that mistake this year. As an introduction we set out our vision, mission, values and legislative mandate in order to contextualise our existence and remind our stakeholders why we do what we do.

In this, our 17th year of operation, we have embraced integrated reporting and its intentions. The process has helped us produce a report that we believe is relevant, timely and complete - to best enable our stakeholders to meaningfully engage with it.



Norman Manoim, Tribunal chairperson.

Chairperson's report

It gives me great pleasure to present my report as part of this 17th annual report of the Tribunal for the period ended 31 March 2016.

Adjudicative process

This last year was the year of the merger for several reasons.

Firstly, we cleared 133 mergers of which 124 were large mergers – more than ever before in our 17-year history. What's more we were able to do so efficiently.

We achieved a 100% record in respect of the large mergers in getting our orders out within the time period set by our rules, namely 10 business days after the last hearing. This despite the fact that we have only nine out of the potential 11 members in office.

We were able to do so because we now ensure that we have a panel available every week of the year (apart from our year-end closure) to clear mergers. In most cases, if the merger poses competition or public interest concerns, contains an appropriate remedy to cure those concerns.

The statute and the rules envisage that a merger gets cleared in 60 days. We call this the clearance period. It measures the number of days from the date when the merger is notified to the Competition Commission (Commission) to the date the Tribunal gives its order to approve the merger. On average, during this year, large mergers were cleared within 50 days which exceeds expectations. Nevertheless, although this is an average figure, the clearance period for a merger varies greatly depending on its complexity. This is best illustrated by comparing the shortest (12 days) and longest (253 days) clearance periods during this year.

There is no clear answer as to why we had so many mergers in the course of the past year. One notable feature was the number of mergers that occurred in the telecommunications sector. The plausible explanation for this is that players react to merger activity by rivals. In the course of this year we received three major mergers in the telecommunications industry; *Vodacom/Neotel*, *MTN/Telkom* and *Telkom/BCX*. In the end only the latter was proceeded with and cleared by the Tribunal after imposing conditions designed to address competition concerns about downstream markets. The *MTN/Telkom* deal was abandoned after the Commission concluded its investigation and recommended prohibition, so the Tribunal process never commenced. The *Vodacom/Neotel* deal was eventually abandoned by the merging parties, but only after the deal had gone through the Tribunal pre-trial process and was ready to be heard. The Tribunal had to hold several pre-hearings to determine issues around intervention, scope, discovery and hearing time. The challenge in this case was to keep the 'show

on the road' whilst, at the same time, allowing parties with concerns about the merger to put them before us. No fewer than eight legal teams, each accompanied by its own economist, participated in the process until it was aborted.

The year of the merger also saw another unusual feature. We had to decide whether certain transactions, which had not been notified as mergers under the Act, constituted mergers and hence should have been notified. In *Caxton and CTP Publishers Ltd v Media24 (Pty) Ltd, Novus Holdings Ltd, Adbait (Pty) Ltd, Lambert Philips Retief, Competition Commission*, decided last year, we determined a transaction was not a merger. This year, however, the Competition Appeal Court (CAC) came to a different conclusion and decided it was. The merger will now have to be notified. In another case that attracted much media attention, an agreement between the public broadcaster, SABC, and a private broadcaster, Multichoice, was challenged by Caxton and a coalition of civil society organisations. In this agreement the SABC licensed part of its archives and gave other rights to broadcast some of its channels to Multichoice. Caxton and the coalition of civil society organisations alleged the agreement was a merger and should have been notified. The Tribunal ruled it was not, but our decision has since been appealed to the CAC and at the time of this report had not yet been heard by that court.

Residents of Welkom might be surprised to learn that their town featured twice in our hearings in two very different prohibited practice cases.

The first case involved a remedies hearing. We had in the previous financial year found that a locksmith firm from Welkom had agreed to divide the market for locksmith services with a rival from a neighbouring town. This financial year we had the remedies hearing. We imposed a novel remedy given that the practice involved a market division that had existed for some time. We required each firm to advertise that it also offers its services in the rival's region. Further, each firm had to give its customer lists to the Commission who had to write to them informing them of the market division finding, and advising them that the firms were now advertising that they could provide services in the other's territories.

The second case concerned competition in the community newspaper market in Welkom. In one of the lengthiest and most complex cases we have heard to date, we found that the owner of two of the papers, Media24, had engaged in a predatory pricing strategy against a smaller rival, driving it out of the market by using one of its titles as a below cost so-called fighting brand. Predatory pricing cases are rare and this case raised a number of complex legal and economic issues which we had to decide. No remedy has been imposed on Media24 yet as this must await a further hearing to be held in the next financial year.

On the cartel front, most cases we dealt with this year have been settled by way of consent orders between the relevant respondents and the Commission. We imposed fines of R337.25m on 19 firms for collusion. Surprisingly, given the number of cartel cases (from the Commission) pending before us at the beginning of the year (41), none of the opposed cases, i.e. those where the Commission and respondent have been unable to reach a settlement, were completed during this financial year. This is partly attributable to the number of cases in which procedural issues have arisen that have to be determined before the case can be heard on the merits. In one of the more significant of these cases we had to rule on whether

a respondent was entitled to early discovery of the Commission's docket prior to pleading its defence. We held it was not, but this decision has since been appealed and at the time of this report had not yet been heard.

Other matters

We were very pleased to co-host the BRICS conference in October 2015 in Durban with our Commission colleagues. The conference provided a useful forum for discussion on other approaches to competition policy from those conventionally discussed at international forums.

We have also increased our outreach programme, hosting a Comesa (Common Market for Eastern and Southern Africa) delegation in April last year. The delegation was interested in understanding our institutions and how they operate.

The South African model is clearly of interest to those in other jurisdictions. In June 2015 one of our full-time members, Mondo Mazwai presented a paper that was well received on our separation of powers model at an OECD competition committee, of which we are observer members.

On an organisational front, we continue to make improvements to our case management system, recruitment of interns and the quality of our performance information. I am also grateful to our staff who run an efficient and low cost operation in cramped quarters without complaint.

Performance overview

The quasi-judicial nature of the Tribunal means that it is precluded from setting pro-active objectives or embarking on focused interventions that target any particular sector or emphasise any specific criterion. The only determinants of the Tribunal's case load are complaint referrals and notified mergers.

The Tribunal has no control over the number and types of cases brought before it and each case is adjudicated on its merits.

Part 3 of this report deals with performance against administrative objectives and legislated turnaround times in more detail.

To summarise: we have met or exceeded 17 of our 28 identified targets. Three of our targets could not be measured, as they pertained to the turnaround time to issue reasons, for which the need as no matters were decided. Reasons for partial achievement of the remaining eight targets is given later in the annual report; however, it would be wrong to assume that all targets are of equal significance and further explanation is required to put this in context.

Twelve of the 28 targets we are required to meet relate to the core function of the Tribunal, which is effective and efficient adjudication of matters brought before us. Three of these targets could not be measured for the reasons given earlier, seven were met and two were partially met. One of those partially achieved relates to the setting down of matters, while the other relates to the issuing of orders. Delays in our turnaround times have occurred for any one of the following reasons:

- i) capacity constraints, as the Tribunal does not have its full complement of members;
- ii) in respect of setting down matters, parties are not ready by the specified date or request that the matter be set down on a later date; or
- iii) matters are complicated and complex points of law need to be considered.

The remaining six targets partially met relate purely to operational issues and do not adversely affect any stakeholders. Despite these

minor shortcomings I am confident that the Tribunal staff are continuously striving to meet and improve on the set targets and make improvements where required.

Financial highlights

Revenue for the year ended 31 March 2016 increased by 9.55%.

Funding from the Economic Development Department (EDD) increased by 15.54%, however R1.81m of the R19.19m received from the EDD was earmarked to partially cover the costs of occupying offices on the Department of Trade and Industry (dti) campus over the two financial years 2015/2016 and 2016/2017.

We have reflected the portion allocated for 2016/2017 as a commitment in the financial statements. Therefore the actual increase in the grant received is 5.54%.

Non-compliance issues

The Tribunal has disclosed fruitless and wasteful expenditure of R518 224.25 that pertains to monies owed to SARS in connection with a Voluntary Disclosure Process (VDP) submitted by the Tribunal to SARS. The VDP relates to the incorrect application of perks tax on cell phone allowances awarded to certain Tribunal employees over the period 1 August 2011 – 29 February 2016.

The Tribunal has determined that this incorrect application of the IRP code was not the result of negligence on the part of a staff member. The code was changed by a payroll consultant in August 2011. It must be noted that this error was only detected during a compliance review of the Tribunal's payroll completed in February 2016 as part of the internal audit plan. Even though a compliance review was completed in the period between August 2011 and February 2016 the error remained undetected.

Given that the error arose on the employer side the PAYE due on these allowances was paid by the Tribunal (estimated at R251 422.50) and as a result the Tribunal is required to pay a tax

on tax benefit (estimated at R173 311.27) to SARS. Penalties were waived by SARS but interest payable is estimated at R93 491.46.

To prevent such an error occurring again the Tribunal has implemented an annual review of IRP codes applied to line items in the Tribunal's payroll. The reasons for any changes to these codes will be documented.

I am of the view that the Tribunal had controls in place and took the required steps to ensure compliance with regard to the application of IRP codes. Despite these controls the error remained undetected for some time.

In addition VAT was paid to a person and the Tribunal subsequently determined that the person concerned was not VAT registered. The VAT paid amounted to R167 090.00. The amount has been raised as an accounts receivable and will be recovered from the person concerned. The Tribunal has instituted a more thorough process with regard to the verification of suppliers indicating they are VAT registered.

In the prior year the Tribunal disclosed irregular expenditure that pertained to services rendered for project management of the Tribunal's electronic case management system software development over three financial years (2012/2013, 2013/2014 and 2014/2015) that totalled R476 805.00. During the current financial year we paid the same service provider R176 130.00 as the contract was still in place. Both these amounts are reflected as irregular expenditure and have been condoned by National Treasury.

In addition the Tribunal has disclosed irregular expenditure pertaining to amounts paid to consultants (R110 786.70 – current year and R851 776.33 for 2013/2014 and 2014/2015) and a travel agent (R9 069.00 – current year and R 4 095.00 for 2014/2015) where there is no evidence that a proper deviation process was followed or the deviation was approved by the appropriate delegated authority. With regard to the expenditure pertaining to consulting services it must be noted that the service provider

contracted was contracted through a proper bid process to complete a specific project.

The project was completed as required and in a manner acceptable by management. Additional services were performed by the service provider however without following a renewed procurement process as management deemed this work to constitute "continuity of supply". It is deemed irregular as management failed to adequately document the deviation and motivation for continued supply. The additional services were delivered to management's satisfaction and value was added.

Management in the Tribunal was fully aware of the need and legal basis for these deviations and no investigation or disciplinary action is required and all irregular expenditure is condoned by the Accounting Authority following the audit.

Conclusion

In conclusion I extend my thanks to both the staff and the Tribunal members for assisting us to once again successfully ensure that the Tribunal performs its adjudicative responsibilities effectively and efficiently despite the large volume of cases and the shortcomings identified earlier. I trust our stakeholders will find that our less detailed and more graphic report allows a more focused and easier read without detracting from the core information.



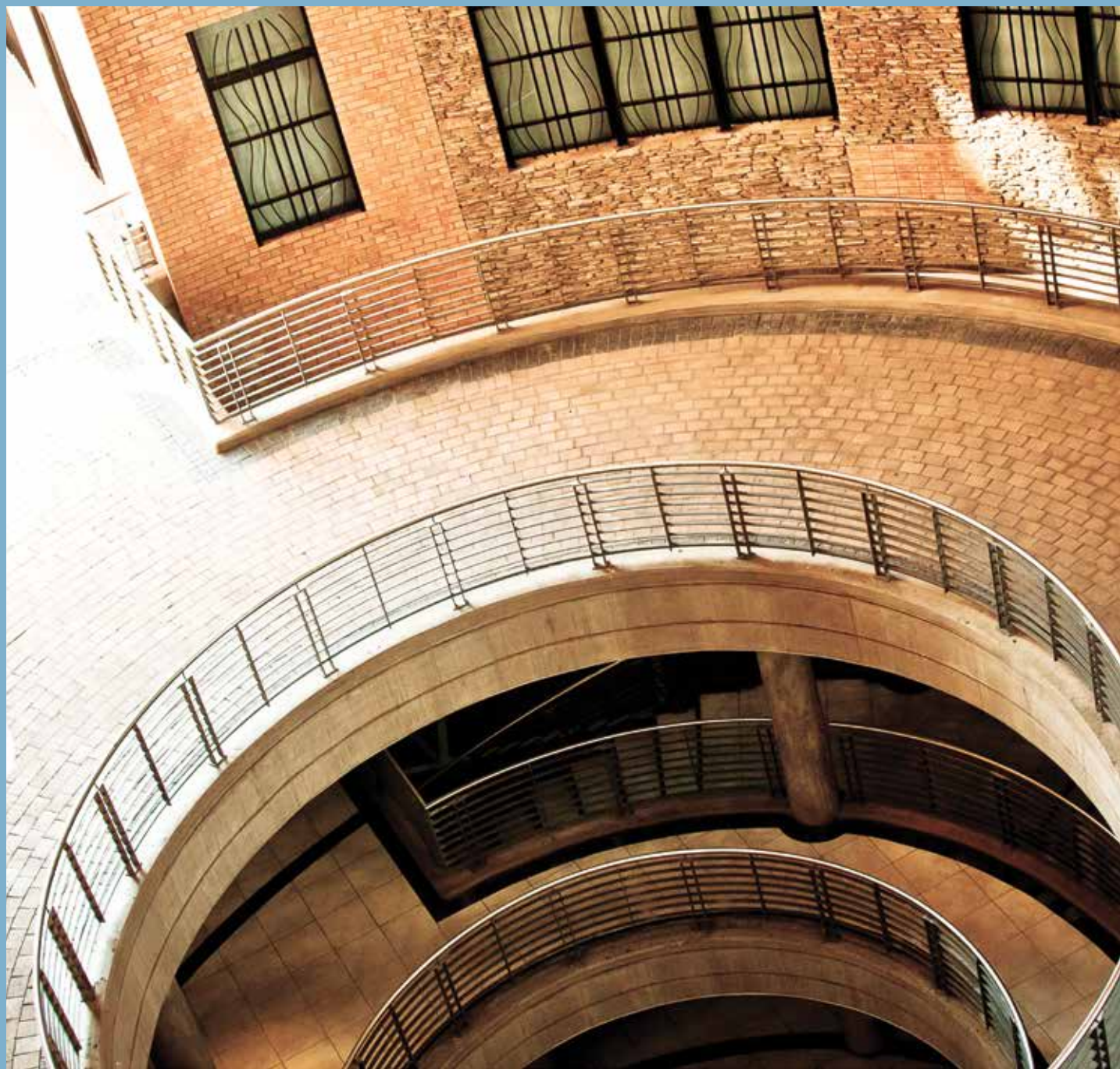
Norman Manoim
Chairperson

31 May 2016

PART 02

WHO WE ARE

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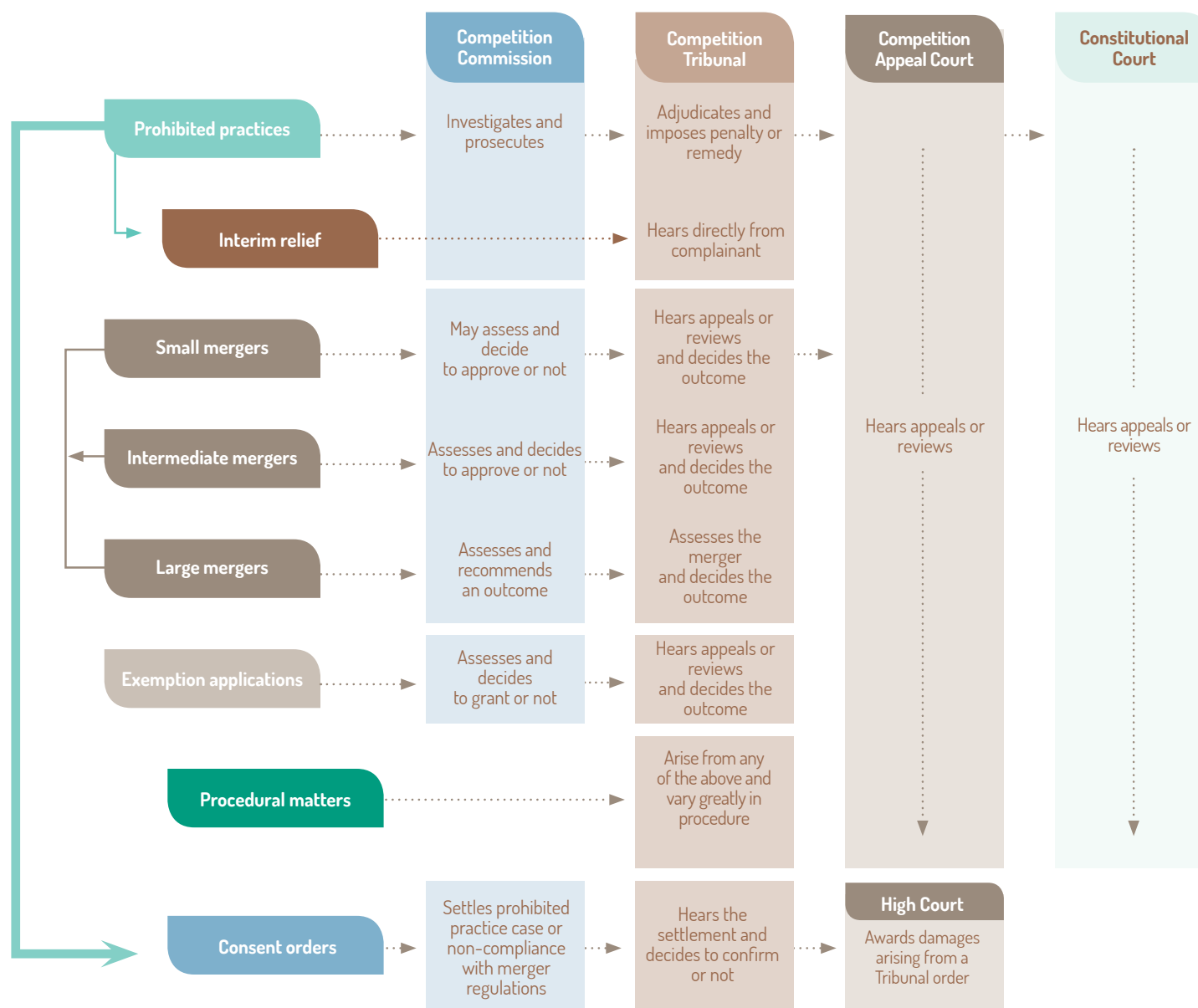
About the Tribunal

The Act provides for the establishment of three institutions constituted to promote and maintain competition in the economy and to ensure compliance with the Act's provisions. These are the Commission, the Tribunal and the Competition Appeal Court (CAC). The Tribunal has jurisdiction throughout South Africa and derives its mandate from the Act. Its main functions are to regulate mergers and to adjudicate on prohibited practices as illustrated in diagram on the right.

The Tribunal consists of Tribunal members who serve as panels of judges on cases allocated to them and a secretariat of staff that provide administrative, research and organisational support to the chairperson and the Tribunal members.

The Tribunal publishes its decisions in cases on its website. The details of the Act and the rules of procedure that govern the adjudicative process are also published on the website.

Diagram 1: Structural and functional overview of the competition agencies



Tribunal panel members

The Act provides for the President, acting on the recommendation of the minister of the EDD, to appoint members to serve on the Tribunal's adjudicative panel for a five-year term.

The Act stipulates that members must be South African citizens representing a broad cross-section of the country's population. In addition members are required to have qualifications, and/or experience in economics, law, commerce, industry or public affairs.

The Act provides for a maximum of 11 members but the Tribunal currently only has nine members. Four are full-time members, including the chairperson, and five are part-time members. We have made requests to the EDD to fill these vacancies. While these vacancies have impacted on our performance we have, as the section on performance information indicates, made every attempt not to let this compromise our delivery.

Below is a list of our Tribunal members, their field of expertise and date of appointment:

- Norman Manoim – Chairperson, legal (full-time – reappointed in August 2014)
- Yasmin Carrim – legal (full-time – reappointed in August 2014)
- Andreas Wessels – economics (full-time – reappointed in August 2014)
- Mondo Mazwai – legal (full-time – appointed in August 2014)
- Andiswa Ndoni – legal (part-time – reappointed in August 2014)
- Fiona Tregenna – economics (part-time – appointed in April 2014)
- Imraan Valodia – economics (part-time – appointed in January 2013)
- Anton Roskam – legal (part-time – appointed in January 2013)
- Medi Mokuena – legal (part-time – reappointed in August 2014)



Full-time Tribunal members Andreas Wessels, Mondo Mazwai, Norman Manoim and Yasmin Carrim.



Imraan Valodia



Fiona Tregenna



Medi Mokuena



Andiswa Ndoni



Anton Roskam

The secretariat

The Act provides for the appointment of staff or secretariat to assist the Tribunal in carrying out its adjudicative function.

The secretariat, headed by the office of the chief operating officer (COO) and three divisions - namely corporate services, case management and the registry, provides the Tribunal with administrative, logistic, research and financial support.

The managers of these three divisions together with the COO form the operations committee (OPCOM). The OPCOM's mandate is detailed in the OPCOM charter. In summary, the OPCOM assists the chairperson to fulfill his responsibilities as accounting authority and has oversight responsibilities for all operational functions. It must also ensure that the principles of good governance are established and maintained.

The Tribunal's current structure illustrated below allows for a staff complement (excluding full-time members) of 26. As at the end of March 2016 four of these were unfunded and therefore vacant, making the staff complement 22.



COO, Janeen De Klerk, heads the operations committee of the Tribunal.

Diagram 2: Organisational structure of the Tribunal

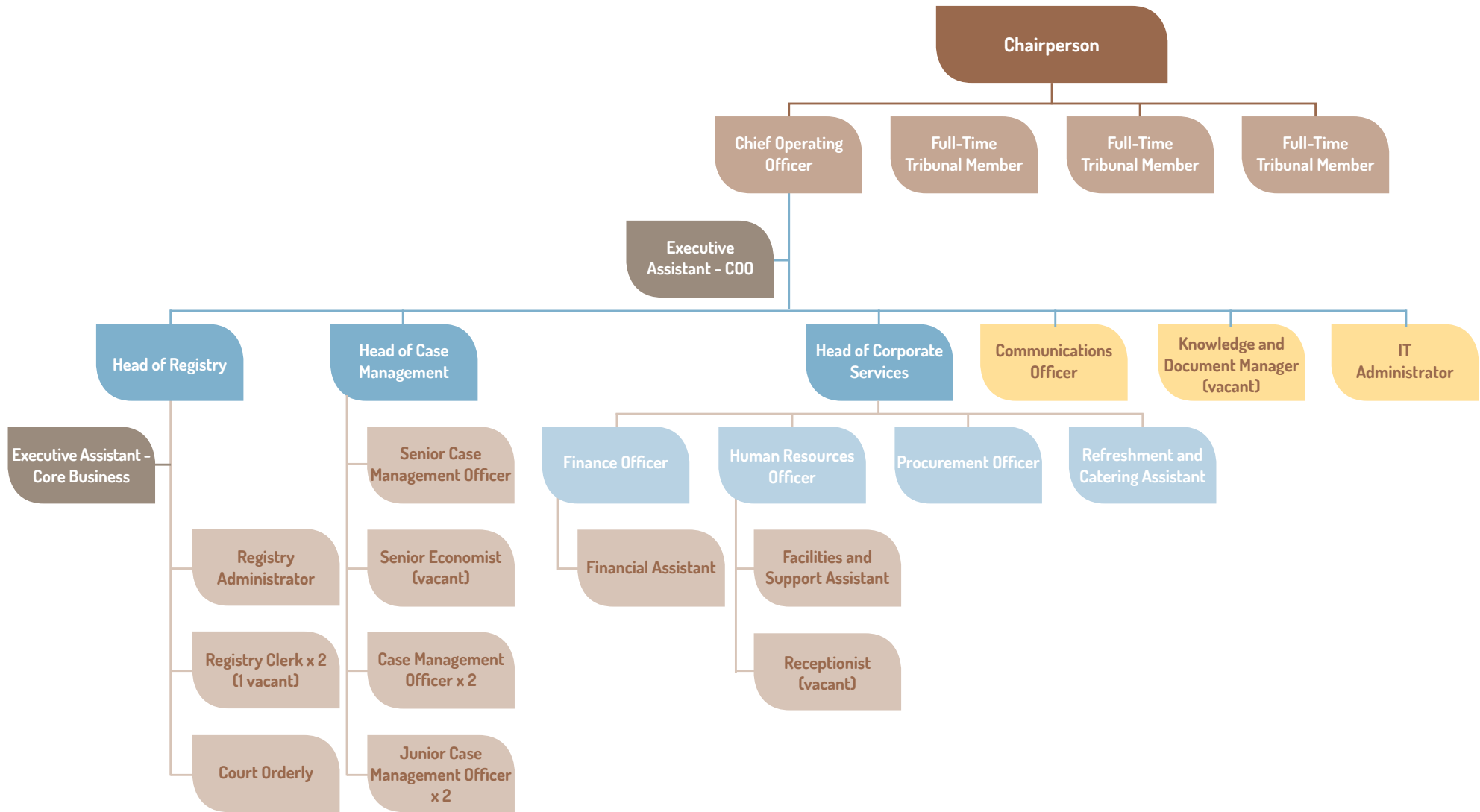
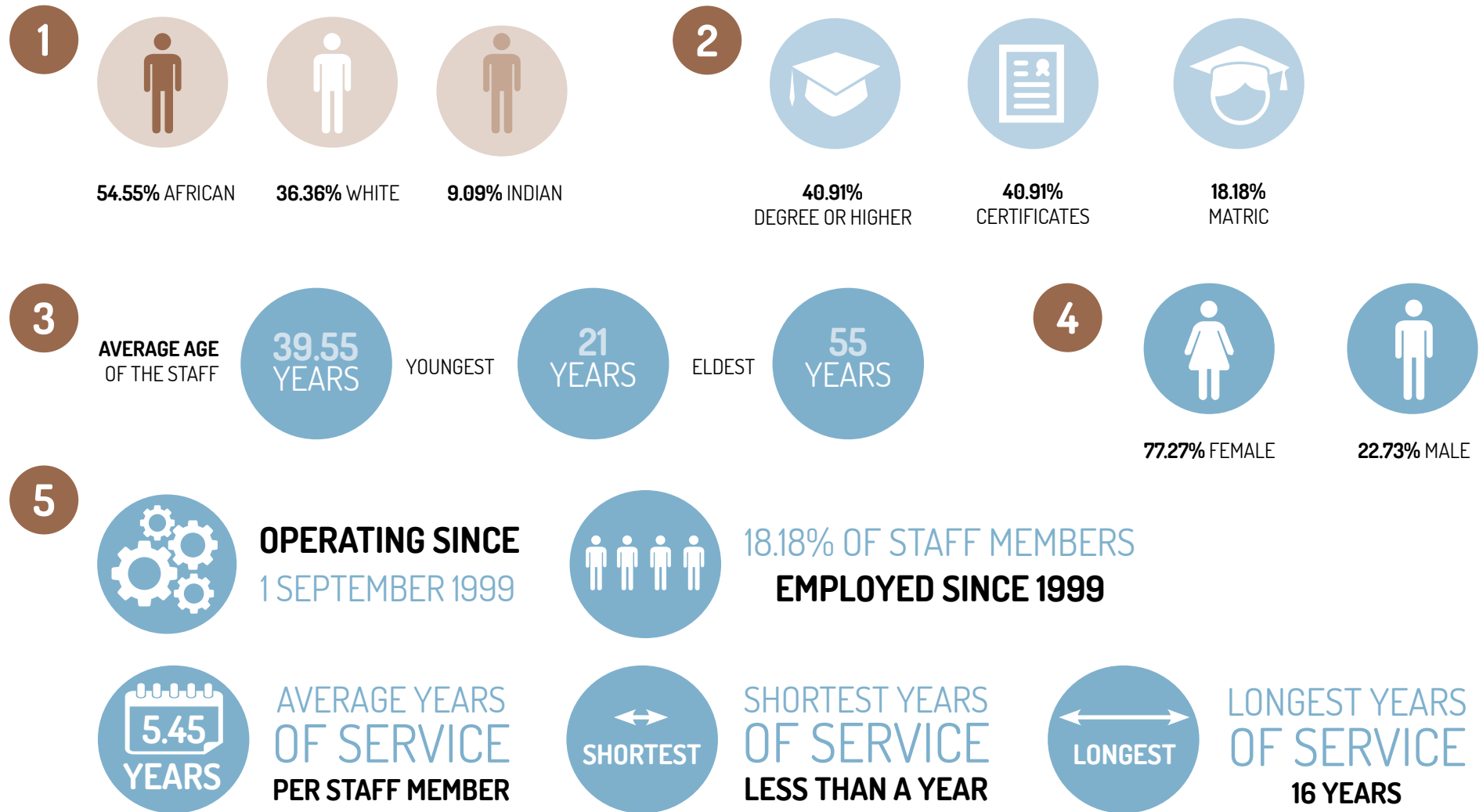


Diagram 3: Tribunal demographics and staff qualifications as at 31 March 2016





Colin Venter, Janeen de Klerk, Chantelle Benjamin and Lufuno Ramaru are members of the office of the COO.

PART 03

HOW WE PERFORMED

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Overview of performance against stated strategic objectives

Our strategic goals and objectives

The Tribunal has determined three strategic goals that cover the scope of the adjudicative arena and the supporting business environment. These strategic goals enable the Tribunal to operate within its mandate as a credible institution within the public sector and pursue its commitment to keeping the public informed.

Strategic objectives have been determined for each of these strategic goals. The adjudicative process targets set by the Tribunal are generally constant over the five year strategic period (2015/2016 – 2019/2020) as the Tribunal is

a service organisation providing a constant level of service to its clients.









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

During the current financial year the Tribunal set 28 performance targets. Twelve of the performance targets relate to our core business, while two relate to business processes. Seven pertain to stakeholder awareness and seven relate to operational effectiveness.

In the following three sections we provide more detail on the reasons for partial or non-achievement of these targets.

Table 1 on the next page provides a summary of the Tribunal's performance (financial and non-financial) for the period under review.

Table 1: Strategic focus areas and performance this financial year

 Strategic orientated outcome goal	 Goal statement	 Budget allocated	 Budget spent	 No. of indicators	 No. achieved or exceeded	 No. partially achieved	 No. that could not be measured
Adjudicative excellence	To ensure effective and efficient adjudication on matters brought before the Tribunal.	R 20 904 294.88	R 20 208 350.86	14	9	2	3
Stakeholder relationships	To build and develop effective stakeholder relationships.	R 864 317.84	R 835 057.93	7	3	4	0
Accountable, transparent and sustainable entity	To ensure effective leadership, transparency and accountability in the Tribunal through capacity building, effective reporting, policy management and financial compliance.	R 5 844 323.07	R 5 304 318.11	7	5	2	0
Other expenses		R 10 541 283.21	R 10 537 971.42				
Total		R 38 154 219.00	R 36 885 698.32	28	17	8	3

Adjudicative excellence

In an attempt to achieve adjudicative excellence we set indicators and targets that would enable us to determine whether we are achieving efficiencies in our case management, setting down matters in the required timeframes and issuing timeous judgments. As information and the dissemination thereof is important to determine our performance we set ourselves an objective of harnessing the facility and functionality of our

business applications and, more specifically, that of our electronic case management system (CMS). We address all these aspects of this strategic objective in the paragraphs that follow.

As indicated in the chairperson's report there has been a significant increase in the volume of work within the Tribunal. The volume of matters decided increased by 6.85%, with orders issued in all merger cases increasing by 30.39%. We issued 17.54% more reasons this period as compared to the prior period and, as with orders, we see a substantial increase (23%) in merger

reasons issued. Alongside this we have seen an increase in the complexity of the cases coming before the Tribunal.

We will demonstrate later in this report that despite this increase in volume and the lack of capacity amongst the part-time members, given that we have two positions vacant since August 2014, we have been able to meet or exceed 75% of the core adjudicative targets we set for 2015/2016. In the prior year we met or exceeded 72.73% of the core adjudicative targets.

Diagram 4 reflects comparative figures for orders and reasons issued over the previous two financial years.

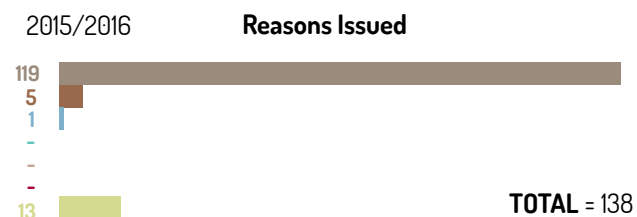
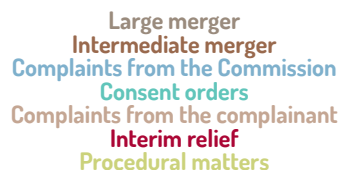
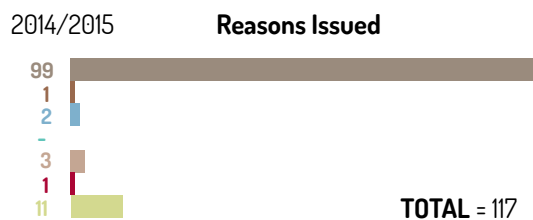
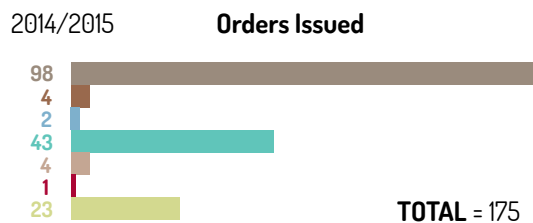
It is encouraging to see that work being done by competition authorities is being recognised as having a notable impact on assisting economic development, as well as improving the lives of the citizens of the countries involved.

A World Bank report released in February 2016 titled *South Africa: Economic Update, Promoting Faster Growth and Poverty Alleviation through Competition* makes reference to the fact that the Act gives the authorities strong powers to foster competition. The report indicates that the South African authorities are amongst the most active in Africa with regard to active detection and deterrence of anti-competitive behaviour. We stand out as being particularly effective given our per capita income framework in South Africa.



Aneesa Ravat, Ipeleng Seleledi, Karissa Moothoo-Padayachie, Caroline Sserufusa and Rietsie Badenhorst make up the case management team of the Tribunal.

Diagram 4: Comparative figures for orders and reasons issued in 2014/2015 and 2015/2016



The World Bank analysis concluded that addressing anti-competitive behaviour can assist with poverty reduction and cites examples where tackling four food cartels led to a 0.4% reduction in the national poverty rate.

While the Tribunal is not in a position to provide a comprehensive statistical analysis of the impact of our decisions, we are able to provide an overview of some of the key statistics with regard to our adjudicative process and highlight cases with a particular point of interest.

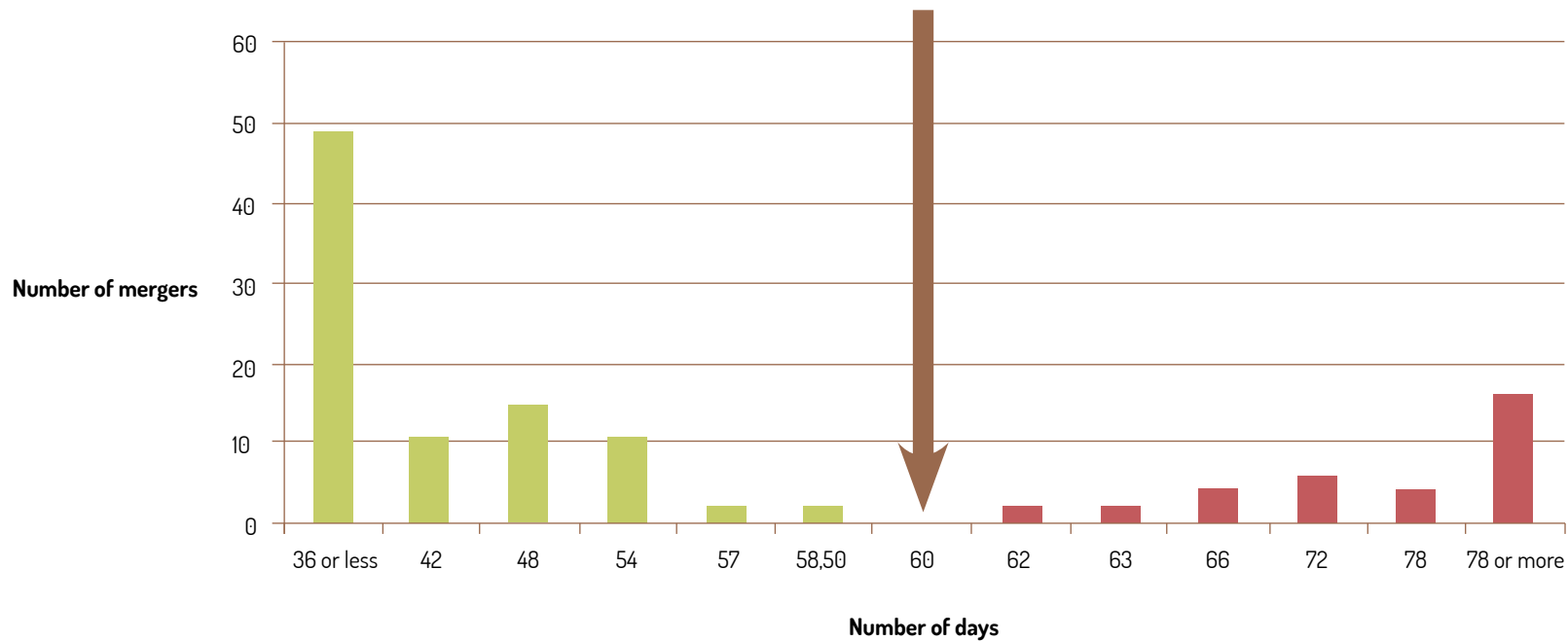
During the period under review the Tribunal reported on a new performance measure that measures the time it takes for the competition authorities to deliberate on a large merger. The measure is referred to as a merger clearance period and tracks the time period between when a large merger is notified to the

Commission and the time the Tribunal issues an order.

In terms of the Act the large merger clearance period should be 60 business days. This comprises 40 business days for the Commission to investigate, 10 business days for the Tribunal to set the matter down and 10 business days for the Tribunal to issue the order.

The diagram below reflects the clearance period for the 124 large mergers decided this year. 72.58% of the mergers were cleared in less than 60 days with the average clearance period being 50 days.

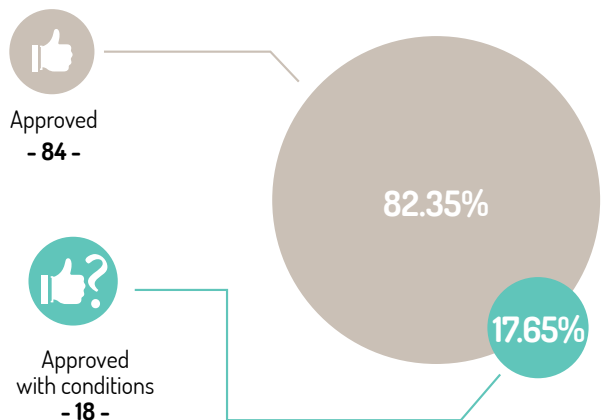
Diagram 5: Clearance period for the 124 large mergers decided this year



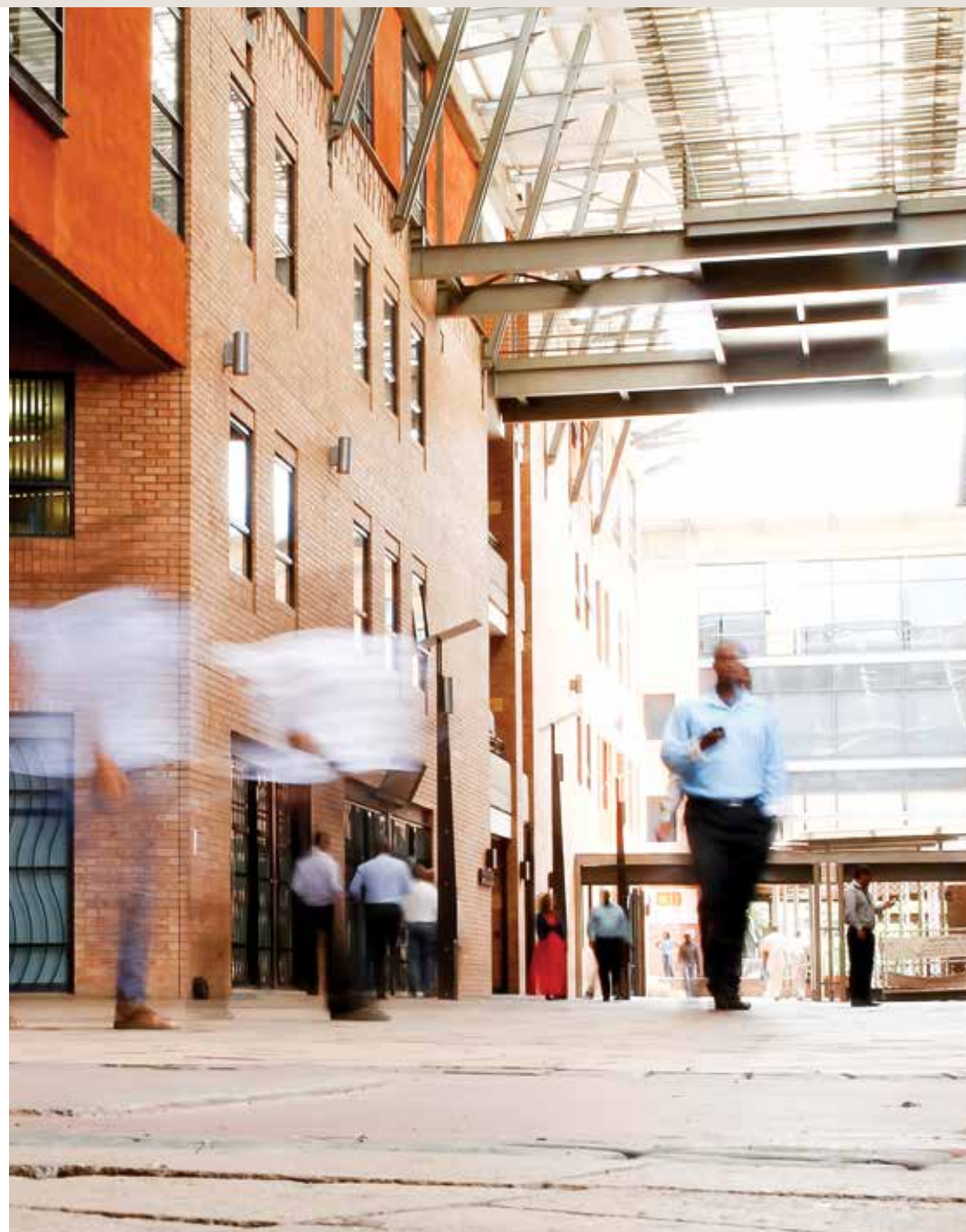
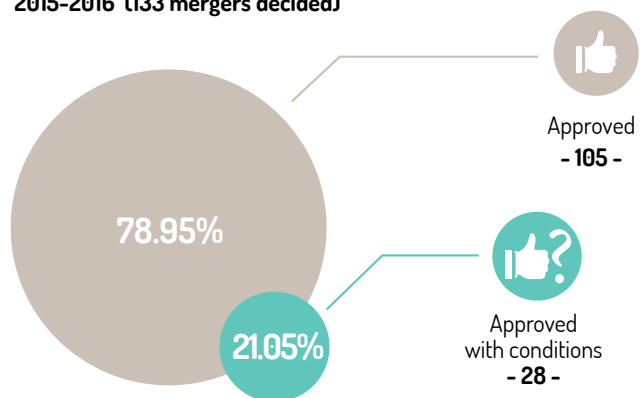
Public interest concerns were added as conditions in 28 mergers. This represents 21.05% of mergers decided as opposed to the 17.65% in the prior year.

Diagram 6: Comparative figures for mergers decided in 2014/2015 and 2015/2016

2014-2015 (102 mergers decided)



2015-2016 (133 mergers decided)



67.86% or 19 of the 28 mergers approved with conditions had employment related conditions imposed on them.

Table 2: Employment conditions imposed in this financial year

Case Name		Condition
RCS Cards and JD Group	Large	JD Group shall not retrench any employees in the employ of JDGI or in the JD Group as a result of the merger
VKB Agriculture and Kromdraai Group	Large	The merged entity may not retrench more than 61 employees
Dimension Data Middle East and Britehouse Holdings	Large	No retrenchments for a period of two years
Diageo SA and Brandhouse Beverages	Large	Brandhouse may not retrench more than 451 employees and DHN must create at least 451 positions within an 18 month period
Cell C and Altech Autopage Cellular	Large	Undertakings were made to ensure that affected employees would be given opportunities to interview for jobs with certain third parties such as Seventy2
MTN and Altech Autopage	Large	Undertakings were made to ensure that affected employees would be given opportunities to interview for jobs with certain third parties such as Seventy2
Vodacom and Altech Autopage	Large	Undertakings were made to ensure that affected employees would be given opportunities to interview for jobs with certain third parties such as Seventy2
Steinhoff Doors and Iliad Africa	Large	Retrenchment limited to 50 employees at head office
Tegeta Exploration and Optimum Coal Mine	Large	An undertaking by the merging parties not to retrench employees for merger specific reasons
Wands Investments and JD Consumer Finance	Large	No merger-specific retrenchments for two years
Telkom and Business Connexion	Large	Retrenchments capped at 60 for three years with no more than 20 per year
RTT Group and Warehouseit	Large	Moratorium on retrenchments for two years
Sibanye Rustenberg and Rustenburg Platinum	Large	Retrenchment will only be limited to the 510 employees identified as being redundant post-merger
Sibanye Platinum Bermuda and Aquarius Platinum	Large	Retrenchment limited to 14 executive management employees and 260 employees
Nokia Corporation and Alcatel Lucent	Large	Retrenchment of employees is limited to 60 employees
SACTWU vs Competition Commission	Intermediate	The one year employment condition imposed by the Commission was changed to three years
Clover SA and Nkunzi Milkyway	Intermediate	No merger-specific retrenchments
Fidelity Security and Protea Coin	Intermediate	No employees may be retrenched for a period of 18 months
CTP and Compact Disc Technologies	Intermediate	Moratorium on merger-specific retrenchments

A notable first for the Tribunal this year was issuing the first predatory pricing case decision for underpricing, which is also referred to as predatory pricing in the Act.

In September, the Tribunal found that Media24 had engaged in a predatory pricing practice to drive a rival Welkom-based community newspaper called Gold-Net News (GNN) out of the market. Media24 was found guilty of abusing its dominant position but as this was a first time contravention for Media24 it was not required to pay a fine. The Tribunal, however, is presently reviewing other remedies that may be imposed on the company.

The Media24 matter is one of the most complicated abuse of dominance cases that the Tribunal has had to consider in its history and its conclusion marks the outcome of a lengthy complaint process that dates back to 2009.

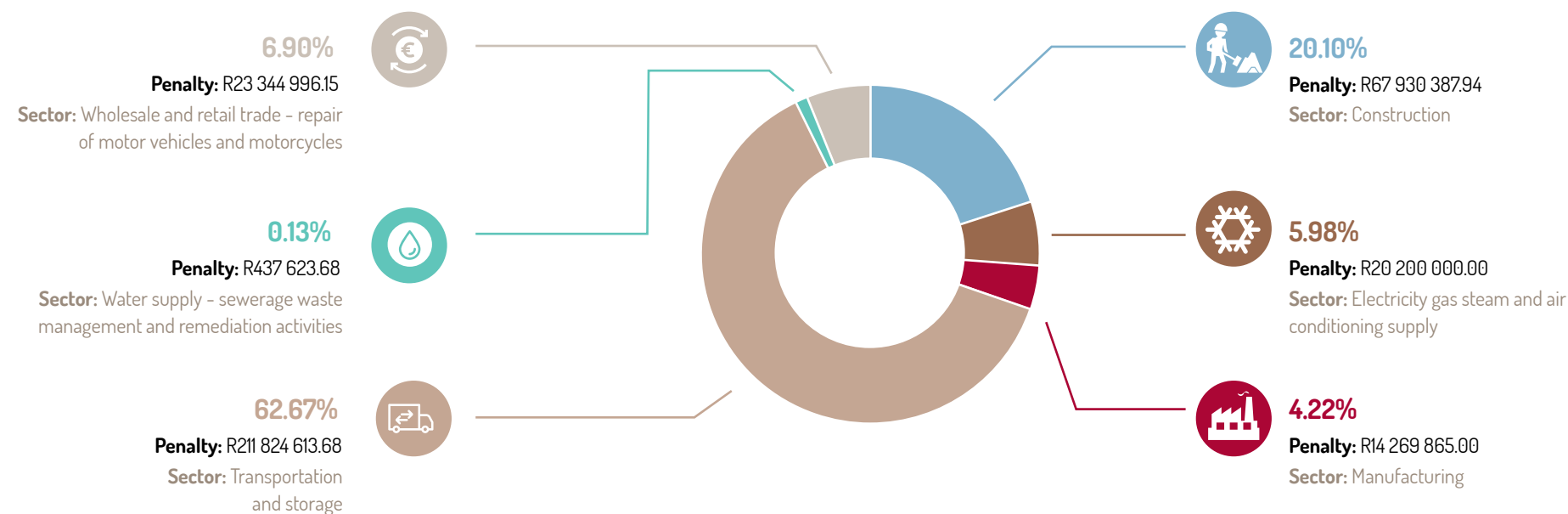
Penalties or fines were imposed in 20 matters and totalled R338.01m over the period under review with the largest penalty this year being R103.98m imposed on Nippon Yusen Kabushiki Kaisha. Nippon Yusen Kabushiki Kaisha and Wallenius Wilhelmsen Logistics AS both, in separate consent orders, admitted that they had colluded on prices and divided markets for the sea transportation

of vehicles, equipment and machinery. The second largest penalty of R95.70m was imposed on Wallenius Wilhelmsen Logistics AS.

In addition, Nippon Yusen Kabushiki Kaisha was fined R0.96m for colluding with another company to divide markets for the supply of logistics services pertaining to the motor vehicle and motor vehicle parts industry.

62.67% of the penalties imposed were on the transportation and storage sector, while 20.10% were imposed on the construction industry.






Diagram 7: Penalties imposed by sector



Eighteen of the 20 matters in which penalties were imposed were consent orders. In 22.22% of these 18 matters the penalties were imposed for transgressing all three cartel prohibitions listed in Section 4 (1) (b) of the Act, namely price fixing, dividing markets and collusive tendering.

Table 3 below summarises the most notable cases we heard in this financial year.

Table 3: Notable cases in 2015/2016

Parties	Type of case	Main issues
 Media24 vs Competition Commission	Complaint referral	This was the first case involving underpricing that had been brought before the Tribunal. Media24 was found to have used its dominant position to drive out rival community newspaper Gold-Net News.
 Clover and Nkunzi	Intermediate merger	The Commission had recommended prohibiting this merger in the market for the manufacture and sale of dairy products and procurement of raw milk. The Tribunal approved the merger subject to certain conditions that included supply agreements with farmers, the continued supply to Nkunzi's existing small customers, employment considerations and restraint of trade.
 Telkom and BCX	Large merger	The Commission recommended that the merger be approved subject to employment and certain behavioural conditions. In August the Tribunal tightened these conditions that were designed to regulate transactions in the provision of network services between Telkom and its wholesale and retail business divisions to ensure that competitors achieve positive margins in the downstream market. In addition employment conditions were applied.
 Pioneer Foods and Futurelife Health Products	Large merger	While the Commission had recommended an unconditional approval of the merger between Pioneer Foods and Futurelife Health Products, the Tribunal approved the transaction subject to conditions. Kellogg South Africa intervened in the Tribunal proceedings after it raised concerns. The Tribunal conditions aim to ensure that the joint venture is managed by the FutureLife CEO and that the flow of information from the joint venture to Pioneer Food employees be prevented. It also ordered that the current level of investment in Pioneer's Pro-Nutro brand be maintained for two years after the merger.
 Caxton vs Multichoice and the SABC	Procedural matter	The Tribunal had to decide whether an agreement entered into by Multichoice and SABC, which gave Multichoice the right to air two of the public broadcaster's channels, constituted a notifiable merger. Caxton alleged that the agreement altered the control structure of the SABC's business and conferred on Multichoice control over SABC's television broadcast strategy. The Tribunal found that, on the facts presented to it, Caxton had failed to make out a case that it constituted a merger.

Did we meet our predetermined adjudicative excellence objectives?

As indicated earlier, 12 of the targets pertain to our core objective of adjudication.

We are unable to measure three of these targets as they relate to activities that did not occur during the period. We can therefore only report on the remaining nine. We met or exceeded seven and partially achieved two of the targets.

We explain more fully below why we did not meet these targets and, where relevant, the degree of non-compliance:

- Five of the nine intermediate mergers set down did not meet the target of 10 business days for set down. One matter was delayed by 28 days as the parties were unavailable on the specified dates. In three matters the parties entered into settlement negotiations with the Commission, which resulted in delays. In the fourth matter the delay was caused by an administrative oversight.
- Decisions or orders in procedural matters should be issued within 20 business days. We issued 26 decisions and seven were delayed due to the complexities of the applications, which required extensive research and deliberation by the panels.

Earlier in this part of the annual report we explained the role that business applications play in the adjudicative process. With the completion of the second phase of the Tribunal's electronic case management system (CMS) we achieved the targets set for the objective of "effective business applications". Further details of these enhancements are set out in Part 4 of this report. The reports developed through the CMS enable us to accurately reflect our performance against predetermined targets and turnaround times related to the adjudicative process. In addition they are the source of much of the statistical information

reflected in this report. We continue to use the system to provide new data and make year on year comparisons.

Cases settled or withdrawn before they were heard

The withdrawal of cases can have significant implications for the Tribunal that are often not taken into account when assessing delivery or performance. In this financial year three large mergers, one complaint and five procedural matters were withdrawn by the parties for various reasons.

One such case was the Vodacom and Neotel merger, which was withdrawn shortly before the hearing was set to begin.

The merger had been conditionally approved by the Commission and was due to be heard by the Tribunal in November. The case had eight respondents – competitors like MTN, Cell C, Telkom, and the ministers of economic development and telecommunication and postal services – who were all making submissions. To avoid being buried in paperwork, clerks of represented law firms worked together over weekends to produce 56 file bundles for each applicant and the panel members. Every member of the Tribunal, no matter how minor or senior their position, became involved to ensure the case proceeded as quickly and smoothly as possible. A venue was rented and furnished to accommodate the legal teams, the case files and members of the public. The venue also had to provide temporary offices for law firms, boxes of water and even a fridge was purchased, while the case managers and registry liaised with parties involved.



Case managers Derrick Bowles and Aneesa Ravat worked on the Vodacom and Neotel merger.

Building and developing effective stakeholder relationships

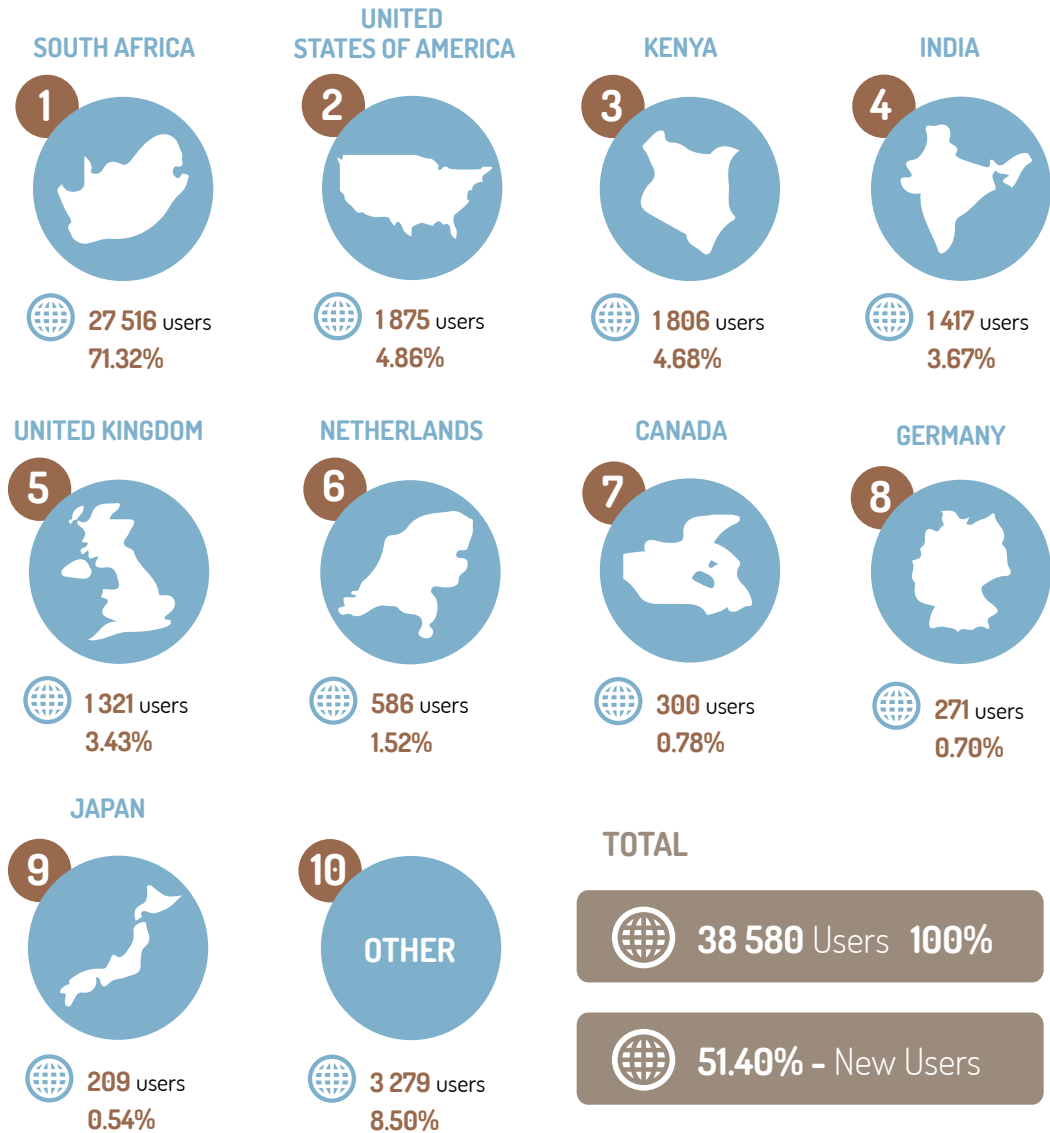
The Tribunal's communication officer is tasked with ensuring that the Tribunal's stakeholders are educated and made aware of the activities and decisions of the Tribunal within the adopted time frames.

The Tribunal continued to focus on keeping the public and media informed of the hearings that take place and the outcome of matters heard by the Tribunal. The Tribunal website remains the primary method for communicating with the general public, with each user viewing, on average 4.16 pages for 3.52 minutes.



Chantelle Benjamin replaced Nandi Mokoena as communications officer in this financial year.

Diagram 8: Top nine country users of the Tribunal's website



We have continued our practice of posting the reasons for decisions on the website. During the period under review we posted the non-confidential version of reasons issued in 136 matters. The vast majority (97%) of these reasons were posted within the required two business days. In the prior year we found that the posting of reasons on the website was delayed because parties wanted to review the reasons to ensure that no confidential information was disclosed. As a result we failed to meet our target and only 88% of the reasons were posted within the required time frame. The target was therefore revised for the period under review to refer to the posting of the non-confidential version of the reasons.

We have also made non-confidential witness statements available on the Tribunal's website and have created a link on the website that takes the user to information on cases that have significant public interest.

During the period under review the Tribunal launched a Tribunal Twitter site that is being used effectively to communicate details pertaining to cases before the Tribunal and decisions or dates of upcoming cases.

Chantelle, since her appointment, has focused on increasing the range of stakeholders that receive information released by the Tribunal and creating a reputation for speedy release of Tribunal decisions and alerts via media releases, email and Twitter.

There has been a notable increase in organisations asking to be added to the contact list, in particular, individual journalists on

foreign wire news services, TV and radio journalists.

Requests have been made to the communications officer to visit organisations to explain various aspects of the adjudicative process – such as pre-hearings, discovery of documents, and why some cases are set down for longer hearings.

The media receive advance warning via email, Twitter, direct phone calls or text messages when cases resume after a long break, or when a new case is to be heard. Where possible the media are also told when key witnesses are likely to attend.

Media statements have been amended to include the ownership details of the companies involved to assist media in understanding the relevance of the merger, particularly when the one party is a specially created shelf company.

With due regard to confidentiality claims the Tribunal has made case documents available to the media when requested.

We issued 124 media statements indicating the outcome for 134 final decisions in all merger and prohibited practice cases.

During the period under review the Tribunal hosted a delegation from the COMESA Competition Commission that wished to learn more about our procedures and the way in which we manage cases and conduct hearings.

The communications officer has represented the Tribunal on the Council of Trade and Industry Institutions (COTII) Communication and Marketing Forum. This Forum is made up of stakeholder relations and marketing managers from the dti, EDD and its agencies, as well as the Department of Small Business Development (DSBD). This forum meets quarterly and focuses on establishing strategic partnerships in various economic programmes and services offered by government to

heighten integrated communication and consequently make a notable impact on the South African economy.

During this period we compiled and sent out two Tribunal Tribunes to certain key stakeholders. The Tribunal Tribune is a newsletter that features articles by case managers analysing some of the Tribunal's significant cases and articles by experts in the field of competition law.

The production and distribution of this publication has been suspended as we focus on a redesign that will widen access to the publication. The intention is to develop an online magazine that is located on the Tribunal's website and provides stakeholders and the public access to this content and other data on work being carried out by the Tribunal.

Did we meet our predetermined stakeholder relationship objectives?

Seven of the performance targets set by the Tribunal relate to stakeholder awareness.

Three of these targets were met or exceeded, while four were partially achieved.

Two of these targets relate to the production and distribution of the Tribunal Tribune. As indicated earlier an executive decision was taken not to publish and distribute the final newsletter for the year while the Tribunal develops an online magazine. The other two – which relate to the finalisation of a communication strategy and planned action against the results of a stakeholder survey – were delayed due to the late appointment of the communication officer.

Since not all final merger decisions are newsworthy, the target for issuing press releases of all final merger decisions within

two business days of issuing the order is set at 75%. The Tribunal exceeded this target by 22%.

The target for issuing press releases for final decisions in prohibited practices was set at 100%. This target was met.

Non-confidential versions of all reasons issued for decisions made by the Tribunal are required to be posted on the website within two days of issue. The target of 75% was exceeded by 22% during this period.

Accountable, transparent and sustainable entity

The Tribunal's third strategic outcome orientated goal focuses on capacity building, effective reporting and compliance to assist the Tribunal to remain accountable, transparent and sustainable.

The annual report in its totality provides the reader with an overview of the Tribunal's financial and non-financial activities for the year, as well as providing feedback on compliance with required legislation and best practice.

This section concentrates on capacity building and performance against predetermined objectives and targets.

The Tribunal is committed to ensuring that its staff receive the required training in order to enable them to carry out their duties in a competent manner, as well as to develop their expertise to ensure efficiency and performance excellence.

During the period under review employees and Tribunal members attended a variety of conferences, seminars and workshops both locally and internationally. Exposure to international best practice in competition law and policy is facilitated through attendance

at international conferences or workshops. These are therefore important to building stakeholder relationships.

In April 2015 the Tribunal chairperson, as a guest of the International Bar Association (IBA) in Sydney, Australia, presented a talk at their seminar that preceded the International Competition Network (ICN) in Sydney. At the latter meeting he chaired a panel discussion with the head of the Australian Competition Tribunal on an adjudicator's perspective on judging competition cases.

The annual Tribunal workshop that took place in May 2015 was facilitated by Prof. Richard Whish, an Emeritus Professor at Kings College in London. Prof. Whish gave an overview of recent developments in competition law in the European Commission (EC), reviewed some of our Tribunal's merger decisions and discussed the approach of the EC and the United Kingdom to abuse of dominance. The workshop was also addressed by the Judge President of Gauteng North and South High Courts on the relationship between the High Court and specialist tribunals. Two other speakers discussed the implications of merger control for business rescue practitioners. The workshop was attended by Tribunal members and case managers.

Mondo Mazwai, a full-time tribunal member, also attended the Organisation for Economic Co-operation and Development (OECD) competition committee meeting in June 2015 where she gave a presentation on the separation of investigative and decision-making functions.

In July 2015 Eleanor Fox, the Walter J. Derenberg Professor of Trade Regulation at New York University School of Law and an expert in antitrust and competition policy, presented a workshop

to Tribunal members and case managers. The workshop looked at the extent to which competition law and policy can help meet the post-millennium development goals, inclusive development, and trade, competition and global issues, including the Tripartite Free Trade Agreement – Southern African Development Community, East African Community and Common Market for Eastern and Southern Africa.

In November 2015 the South African authorities hosted the fourth BRICS International Conference preceded by the ninth Annual Conference on Competition, Law, Economics and Policy. This resulted in a number of resolutions being taken, which included enhanced cooperation and sharing of information and expertise amongst member countries. Six Tribunal members and six staff members attended and participated in one or both of these events.

External training service providers are utilised where necessary for specialised training courses for staff members such as those related to the payroll maintenance, computer skills and various compliance issues.

Study assistance has also been awarded to two staff members who are currently studying for a Chartered Global Management Accounting Qualification issued by the Chartered Institute of Management Accounting (CIMA) and a Bachelor of Law (LLB) respectively.



Sibongile Moshoeshoe and Ann Slavin received study assistance from the Tribunal this financial year.

The number of training days and financial resources allocated across the different Tribunal groupings are reflected in Table 4 below.

Table 4: Number of days and financial resources allocated for training

1	Division: COO Days Percentage: 7.84%	Cost Percentage: 13.01%
2	Division: Tribunal Members Days Percentage: 21.94%	Cost Percentage: 18.20%
3	Division: Case Management Days Percentage: 34.48%	Cost Percentage: 55.69%
4	Division: Registry Days Percentage: 10.97%	Cost Percentage: 3.28%
5	Division: Corporate Service Days Percentage: 19.75%	Cost Percentage: 8.08%
6	Division: Interns Days Percentage: 5.02%	Cost Percentage: 1.74%
TOTAL	Days Percentage: 100%	Cost Percentage: 100%
NUMBER/ COST	159.50 Days	R490 301.08

The Tribunal has continued to develop and focus on its internship programme.

The long-term internship programme in the case management division provides graduates in commerce, law and economics with a one year contract from January to December. During the period under review three long-term interns were assigned to this programme.



Thabo Sengwayo, Kameel Pancham, Busisiwe Masina and Rendani Neswisvi were hired as interns in the Tribunal.

The vacation internship programme offered in case management provides current final-year law, commerce and economic students with an opportunity to experience competition law in practice. The interns are required to shadow case managers and assist with research and learn the practical application of the Act. These students get exposure to a professional working environment through on-the-job training for a period of two to three weeks during the winter or summer breaks of tertiary institutions.

Three students from the University of Pretoria studying law were assigned to this programme for a total of 46 days during the period under review.

A few comments from the interns provide some input on the benefits of the programme as perceived by them:

"I liked that I worked with very influential people in the Tribunal...I learnt that the job of a case manager requires a lot of dedication and it requires passion" – Pamela, November vacation intern

"The most distinguishing thing about the Tribunal and its staff from my point of view is the willingness of every single person in the Tribunal to help me learn and point me in the right direction. It is very unique that everyone I talk to in the Tribunal has advice or information or will tell me to read up on this or that in an effort to help me learn and master different aspects of Competition Law. I

think that this is a great characteristic of the Tribunal and one that I hope it never loses." – Kameel, graduate intern

"Distinguishing moment for me is always working or rather interacting with the panel members ("important people") half of the time I'm star struck (still can't believe they know my name). Where I come from I never thought it would be possible to even work for an institution like the Tribunal. The humility of everyone in this office is admirable." – Busi, graduate intern

"I find the corporate culture at the Tribunal wonderful. The people here have managed to form a coherent and synchronized team which facilitates a calm/friendly/relaxed atmosphere whilst also functioning at a surprisingly efficient speed" – Danielle, July vacation intern

"The most important lesson I learnt was the fact that tasks had to be completed timeously. The reason being that society at large is dependent on decisions that are given at relevant hearings" – Karabo, July vacation intern

Two additional interns were appointed to provide assistance in the registry and to assist the IT administrator in his day-to-day IT activities.

The Tribunal has also made contact with Harambee, a youth employment recruiter, with regard to providing short-term employment opportunities in other divisions within the Tribunal. Harambee connects young potential work seekers to employers looking for entry-level talent. While we are unable to offer these work seekers long-term employment they are exposed to an interview and selection process as well as gaining valuable work experience.

Thabo Sengwayo, who was recruited through Harambee as an intern in the registry, was offered and accepted a long-term internship as a registry clerk from 1 March 2016 to 31 March 2017 and made the following comment:

"It's been a very big experience. I have learnt a lot and everyone in the environment is friendlier than I expected. I have seen a lot of interns come and go and I would love to see more remaining. I like the fact that I have been given a platform to demonstrate some of my other abilities, like graphic design. I like the fact that the Tribunal does not restrict you just to what is in your job description and gives you an opportunity to demonstrate your other skills."

We have used Thabo's experience in graphic design to add some innovative ideas in the presentations we make to the parliamentary portfolio committee.

Diagram 9 below reflects the gender and race of the interns employed in the Tribunal as well as the number of days employed.

Diagram 9: Demographics of interns employed in the Tribunal

Number



African: 5

White: 1

Indian: 2

Days employed



African: 271

White: 15

Indian: 445

Did we meet our predetermined objectives?

Five strategic objectives and seven predetermined targets were identified for the third strategic goal. Six of these targets relate to compliance with the annual submission of the Tribunal's financial statement and the outcome of the annual audit. Given that the audit is only finalised annually in July, the performance will always relate to the audit report received for the prior year.

The Tribunal met five objectives and partially achieved two targets this year. While the Tribunal did not receive an unqualified report we disclosed fruitless and wasteful

expenditure related to penalties paid to SARS and disclosed irregular expenditure due to non-compliance with certain procurement legislation, which resulted in partial achievement of these two targets. These disclosures are addressed in the chairperson's report and the annual financial statements presented in Part 1 and Part 5 of this report respectively. Irregular expenditure of R 0.86m reported for the 2015/2016 financial year has been condoned by National Treasury.

Notwithstanding this the Tribunal is developing processes and implementing controls to minimise the possibility of non-performance occurring in the future. As this was a new objective set for 2015/2016 we are unable to make a comparison to any prior year performance.



Bellah Kekana, Paddy Froude, Ann Slavin, Matome Modiba, Kirsteen Kunneke and Maggie Mkhonto are all members of the corporate services division.

Our social and environmental impact

The increased emphasis on integrated reporting places responsibility on management to report financial information to stakeholders and simultaneously report on the extent to which the entity's operations affect the environment and community it operates in, as well as how it may be affected by the community and environment it operates in.

Sustainability should by definition include environmental, economic and social sustainability. Despite its size and limited funding the Tribunal has continued to contribute to social investment and sustainability in every way it can. These contributions are detailed below.

Environmental sustainability

The Tribunal initiated an office recycling project in 2010 and has continued to encourage recycling within the office. In the period under review we recycled 1 965.53 kilograms of material.

Understandably, paper is the largest contributor to this figure given the environment the Tribunal operates in, accounting for 93.31% of the recycled materials.

The corporate services division through its "green policy" programme has continued to educate and encourage staff to support this project. The increase in the volume of non-paper material is testimony to the impact this has had on the quantity of non-paper material recycled. During the current year the volume of non-paper material recycled increased by 85.10% from 71.06 kilograms to 131.53 kilograms and accounted for 6.69% of the total material recycled as opposed to 3.27% in the prior year. (As illustrated in the Table 5 below.)

We continue to encourage staff to print economically and our entire paper spend of R43 194.03 (500 000 sheets of paper) has been on what the paper industry describes as "environmentally friendly paper" and paper that is certified by The Forest Stewardship Council (FSC) as paper from well-managed forests or totally chlorine free (TCF) paper and/or 100% recycled paper.

Social responsibility

The Tribunal is a public entity and is therefore not in a







position to make any monetary contribution that would qualify as corporate social investment. Nevertheless, we have as an organisation continued to attempt to make some small contribution towards the well-being of the broader community.

To this end the following initiatives were undertaken:

- staff in their personal capacity donated clothes, shoes, groceries and pre-paid electricity to Tshwaraganang Orphanage Centre in Hammanskraal, a registered non-governmental organisation (NGO) that is home to about 64 children ranging in age from under a year to their early 20s;
- the Tribunal distributed used PVC files and donated sewing materials to Gatang Secondary School in Mamelodi, Gauteng; and
- the Tribunal donated four steel tables, two filing cabinets, 10 laptops/netbooks/tablets and other computer accessories to Harambee, a youth employment accelerator connecting employers with high-potential work-seekers currently locked out of the formal economy.

Social responsibility also includes adherence to ethical principles. Part 4 of this report details the manner in which the Tribunal addresses ethics and ethical behaviour.

Table 5: Volume of material recycled this year

							
Date Recycled	Plastic	Tin	Glass	Tetra pack	Computer Equipment	Paper	Total
Weight in kilograms – 2015/2016	13.60	22.73	56.70	7.20	31.30	1 834.00	1 965.53
Weight in kilograms – 2014/2015	17.50	9.70	26.06	0.00	17.80	2 100.00	2 171.06

The Tribunal's internship programme, discussed in detail earlier in Part 3 of this report is another example of the Tribunal's contribution to the broader community it operates in. Through this programme students are given the opportunity to gain experience and develop skills in a structured working environment.

Economic sustainability

The Tribunal's performance against key performance indicators is addressed in Part 3 of this report, while financial results and a commentary on these results are provided in Part 5.

The annual financial statements have been prepared on the basis of accounting policies applicable to a going concern. The basis presumes that funds will be available to finance future operations and that the realisation of assets and settlement of liabilities, contingent liabilities and commitments will occur in the ordinary course of business.

The government, in order to achieve economic growth and development, has prioritised entrepreneurship and the advancement of small, medium and micro-sized enterprises (SMMEs). In addition, the government is using broad-based

black economic empowerment (BBBEE) to address historical imbalances in the country by facilitating the participation of black people in the mainstream economy.

The Tribunal is currently trying to organise data so as to be able to reflect spend by enterprise size and BBBEE level. This is the first year we have started to record this information and there may be some inconsistencies or inaccuracies, nevertheless Diagram 10 and 11 below give some indication of spend over the current and prior period.

Diagram 10: Tribunal spend on service providers ranked by the size of the enterprise

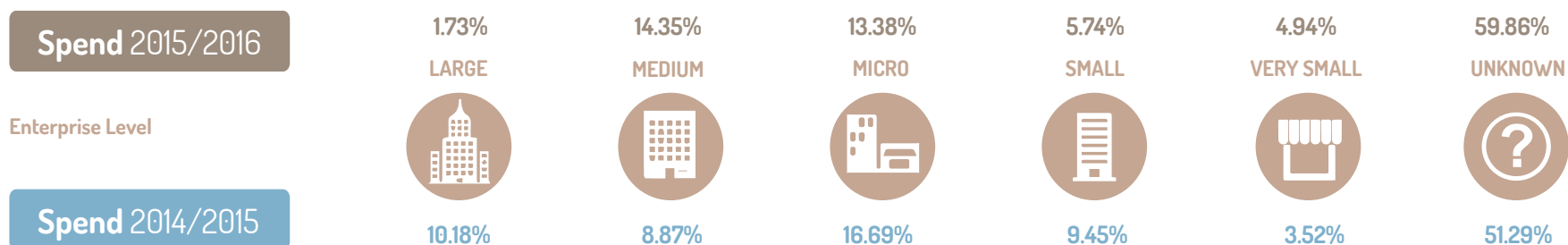
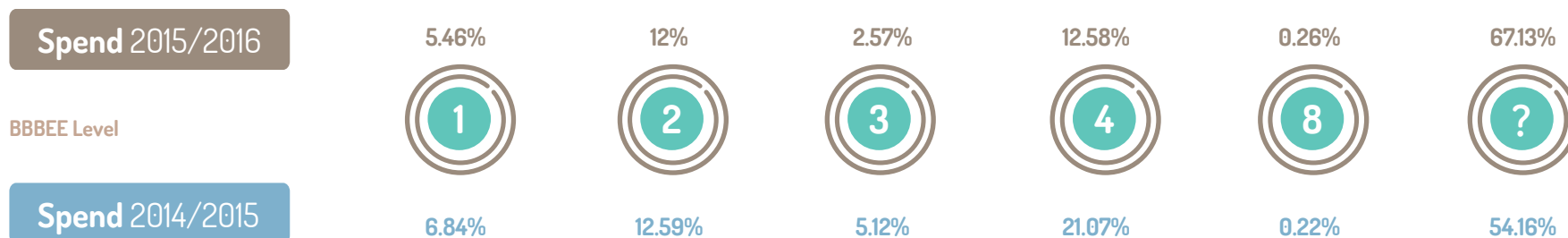


Diagram 11: Tribunal spend on service providers ranked by BBBEE level



PART 04

HOW WE GOVERN THE ENTITY

- 34** Managing ethics
- 35** Risk and fraud management
- 39** Report of the risk committee
- 41** Governance of information technology
- 43** Compliance with laws and standards
- 44** Auditing the Tribunal's work internally and externally
- 47** Report of the audit committee
- 49** Managing our human resources
- 50** Evaluating governance structures





Managing ethics

Responsibility, transparency, accountability and fairness are the four ethical values underpinning good corporate governance. The Tribunal has embraced these four values and has developed an ethics framework that ensures that the Tribunal maintains its commitment to integrity, ethics and compliance to principles of honesty, integrity and independence.

Adherence to ethical behaviour is applied to the Tribunal's core work (hearings and decisions) as well as to the operational environment, providing a support function to the adjudicative process. The principles of ethical behaviour are embodied in our enabling legislation, the Act, a code of conduct that forms part of the Tribunal's human resources manual and our conflict of interest policy. Procedures are in place to ensure regular review and updating of these policies.

Ethics in our core work

Adherence to the practices and policies listed below assists the Tribunal to avoid conflicts of interest:

- None of the full-time Tribunal members undergo a performance assessment or performance review. This helps to ensure that no Tribunal member feels beholden to a principal when deliberating over a case. The Tribunal is, however, accountable to the public through Parliament and presents both its plans and outcomes to Parliament's portfolio committee on economic development annually;
- Tribunal members, management and case managers annually disclose their financial interests;

- Part-time members on the hearing panel must declare that they have no conflict of interest in a specific case on the court record;
- Parties may object to the composition of a panel on grounds set out in the Act;
- Gifts to the value of R300 or more have to be declared to the chairperson and recorded in the gift register maintained by the executive assistant in the office of the chief operating officer.

During the period under review no objections with regard to the composition of panels were received and no gifts were returned; however, we did donate a gift received to a children's home.

The Tribunal has to walk a difficult path to ensure that it is transparent but simultaneously does not breach confidentiality. While hearings are open to the public, the Tribunal will clear the room when confidential information is being presented. In addition, all contracts signed by service providers contain a clause obliging them not to disclose confidential information.

In terms of the Act, parties to a case may request that certain information be kept confidential, as defined in the Act. The Tribunal honours these requests and requires the same of all its service providers. Reasons for decision are not posted on the website until the parties to a case have confirmed that they do not contain confidential information.

Tribunal panels always comprise three members, thus ensuring fairness in every decision. In the case of dissent, a majority and minority decision is possible. This requirement

also helps to frustrate any efforts by parties to unduly influence the panel members. Written reasons are issued for all Tribunal decisions which ensures that the panel's decisions are fully justified.

It is an established rule and practice in Tribunal proceedings that no party to a case may address any single panel member at any time outside the hearing. Case related side discussions take place in chambers in the presence of all three panel members and the parties to a case. In addition, the Tribunal members are precluded from speaking to the media concerning Tribunal cases. This ensures that no single member's views are expressed about a particular case. Parties to a matter and the public are exposed only to the panel's view on a matter, as expressed in a written judgment.

Ethics in support functions

The Tribunal has also adopted a zero tolerance stance on fraud and developed an anti-fraud charter as part of its fraud prevention plan, which is signed by the audit committee, the risk committee, the fraud prevention committee, Tribunal staff, Tribunal members and consultants appointed for more than three months.

Certain of the practices referred to above pertaining to the adjudicative process would also apply to the Tribunal staff.

Monitoring the practice of ethics in the Tribunal

Various governance structures within the Tribunal play a role with regard to monitoring the Tribunal's adherence to ethical behaviour and the management of risks. Some to a lesser degree than others. Many risks identified in the Tribunal's risk register, if not managed effectively, will impact on the credibility

and integrity of the Tribunal and its adjudicative function. The risk management structure, in particular, must ensure that effective processes are in place and that risks are effectively controlled and mitigated.

The internal audit function, which follows a risk-based approach in determining the internal audit plan will audit controls and the Tribunal's compliance to ethical practices and processes.

Risk and fraud management

The Tribunal has adopted an enterprise-wide approach to risk management and has adopted a risk management framework that is reviewed annually.

All identified risks are included in a structured and systematic process of risk management and the framework details the responsibilities and requirements in terms of risk assessment, control and governance.

Having such an approach and a framework in place has ensured that the Tribunal is compliant with the Public Finance Management Act (PFMA), which requires that the chairperson, as the accounting authority, is responsible for ensuring and maintaining effective, efficient and transparent systems of financial and risk management, as well as internal control (operational and financial), thus minimising the risk to which the Tribunal may otherwise be exposed.

The chief risk officer is responsible for the execution of the risk reporting process and is responsible for ensuring that the risk management committee (RMC) prepares a quarterly report to submit to the risk committee (RC) for review and approval. This report contains all identified risks on the risk register, control

improvement action plans, details the effectiveness of the risk responses and any risk incidents and/or losses.

The RC is required to review the manner in which the Tribunal implements and embeds its risk management strategies and practices within the Tribunal. Together with the internal auditors the RC plays an advisory and supporting role to provide assurance that the risks are being managed rigorously and that the internal audit plan is risk-based and is implemented and monitored accordingly.

Risks identified in this year

The Tribunal's risk register contains 19 risks. The extent of the Tribunal's exposure, the effectiveness of controls and the responsible risk owner is assigned to each risk. The risk register also includes an action log in terms of an action owner, target dates and progressed is tracked.

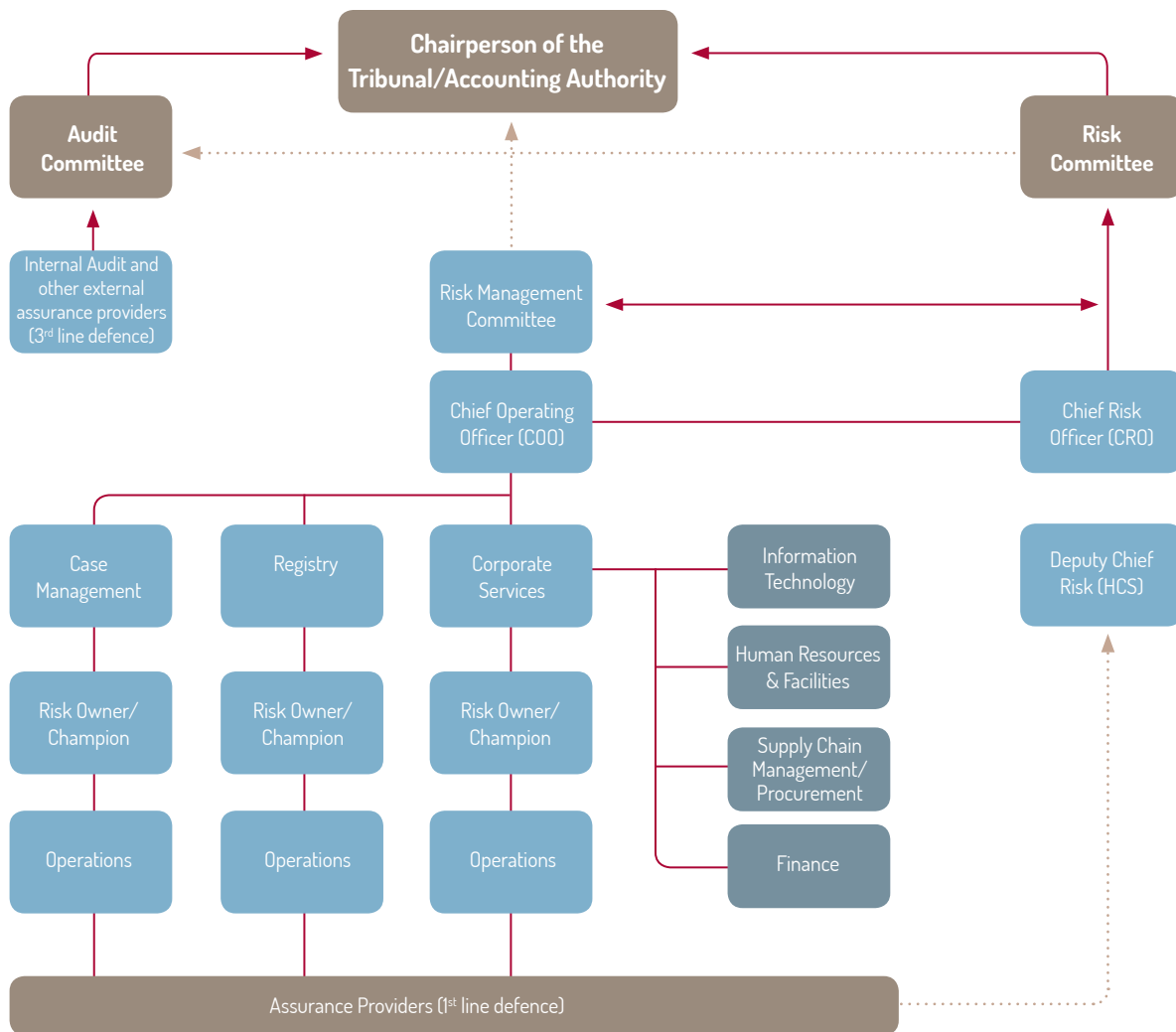
A list of the risks identified in this financial year appears in Table 6 on page 37.



Lufuno Ramaru is the secretary to the risk committee and is responsible for ensuring that the risk structures in the Tribunal fulfill their requirements and responsibilities.

Diagram 12 below details the structures that have been established in terms of the Tribunal's risk management framework.

Diagram 12: Structures responsible for risk management in the Tribunal



Fraud prevention

In terms of the PFMA and Treasury regulations a risk management strategy, which must include a fraud prevention plan, must be used to direct internal auditors' effort and priorities, and to determine the skills required of managers and staff to improve controls and to manage these risks. The strategy must be clearly communicated to all employees to ensure that the risk management strategy is incorporated into the language and culture of the Tribunal.

Pursuant to these requirements the Tribunal has adopted a fraud prevention plan and appointed a fraud prevention committee or FPC.

The FPC functions as a committee of the executive committee (EXCO) in respect of all duties assigned to it as set out in a fraud committee charter. The report of this committee is a standard item on the agenda of the audit committee and risk committee meetings. The Tribunal's fraud prevention plan also details the FPC's responsibilities in terms of investigating and reporting potential fraud in the Tribunal.

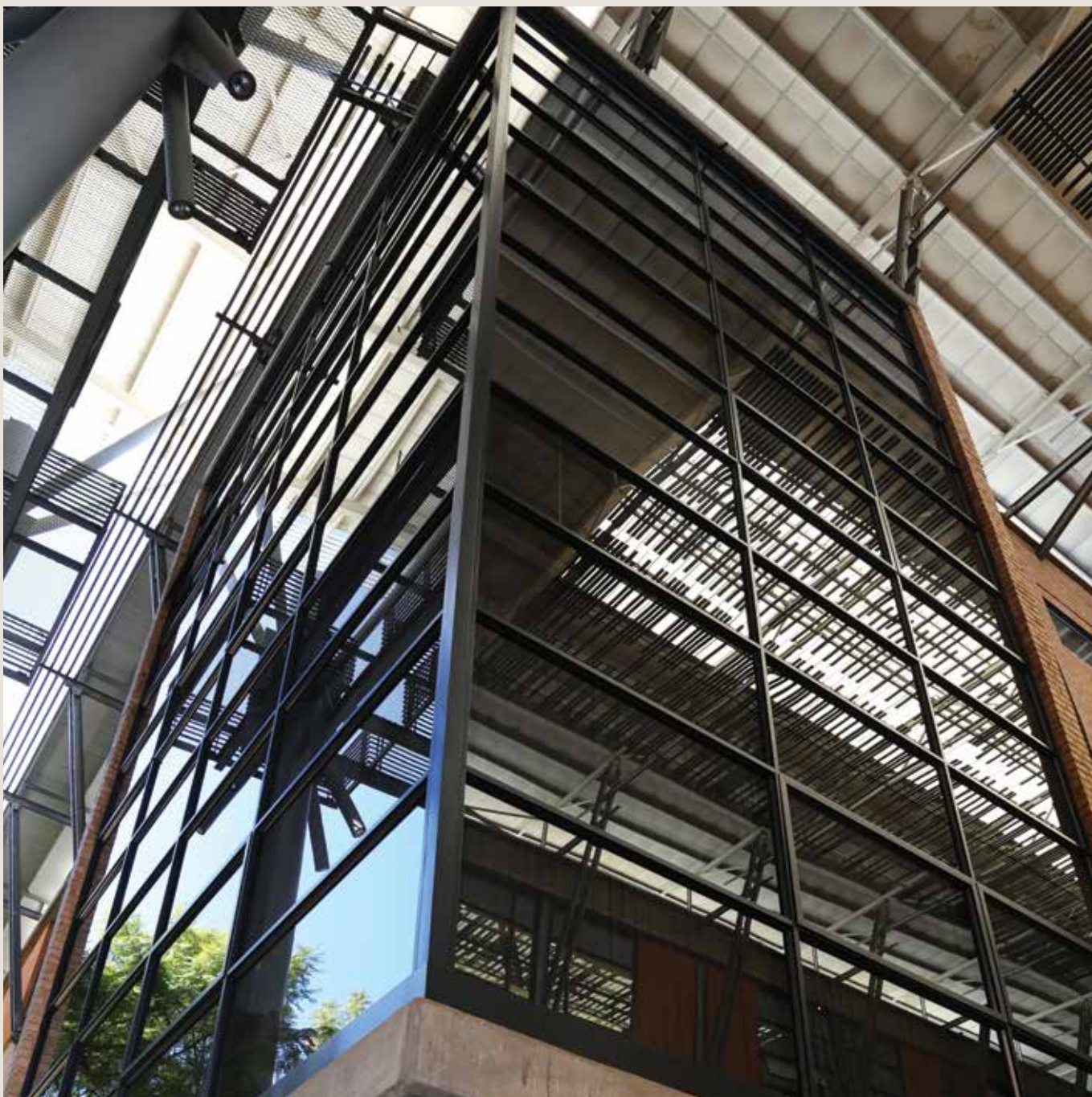
Should a member of the FPC be suspected of fraud or reported on the fraud line service as a suspect, such member may not form part of the committee until the matter is resolved.

The fraud committee charter, referred to above, provides terms of reference to the FPC which deals with its membership, authority, responsibilities and procedural rules. The fraud committee charter is reviewed annually and approved by the EXCO and the FPC.

Table 6: Risks, from highest to lowest, identified by the Tribunal in this year

Risk name	Category	Origin	Inherent exposure	Control effectiveness
Late / non-appointment of Tribunal members by EDD	Human resources	Strategic	Extreme	Unsatisfactory
Limited office space	Safety	Strategic	Extreme	Unsatisfactory
Insufficient funding from EDD	Financial stability	Strategic	Extreme	Satisfactory
Lack of and untimely approval of strategic submission to EDD	Regulatory / Statutory / Legal	Strategic	Extreme	Weak
Business interruption	Business continuity planning	Strategic	Extreme	Satisfactory
Dependence on dti IT infrastructure and service delivery	Information technology	IT	Extreme	Satisfactory
Poor corporate governance / business ethics and regulatory compliance	Regulatory / Statutory / Legal	Fraud	Extreme	Satisfactory
Procurement fraud	Fraud and theft	Fraud	Extreme	Satisfactory
Loss of physical assets	Fraud and theft	Strategic	Extreme	Satisfactory
Inadequate information security	Information integrity and reliability	IT	Extreme	Good
Poor case management	Reputation	Strategic	Extreme	Good
Decision-making compromised	Reputation	Strategic	Extreme	Good
Ineffective and untimely reporting to EDD	Regulatory / Statutory / Legal	Strategic	Extreme	Good
Inadequate financial management	Financial stability	Strategic	Extreme	Good
Financial non-disclosure and inadequate financial reporting	Information integrity and reliability	Fraud	Extreme	Good
Duplicate or fraudulent payments (Finance)	Fraud and theft	Fraud	Extreme	Good
Inadequate performance management	Regulatory / Statutory / Legal	Strategic	Extreme	Very Good
Misappropriation of CT resources	Fraud and theft	Fraud	High	Good
Inability to attract and retain key critical positions within the organisation	Human resources	Strategic	Extreme	Very Good





Report of the risk committee

The risk committee is a formal governance committee of the Tribunal and is responsible for assisting the accounting authority to discharge his responsibilities for the governance of risk through a formal process and a system of risk management.

The risk committee has adopted formal terms of reference as stated in its charter, and has regulated its affairs and discharged its responsibilities in compliance with the charter.

The risk committee charter includes the committee's responsibilities to:

- Assist the accounting authority to review the risk management policy and recommend same to the accounting authority for approval
- Monitor the implementation of the risk management framework, through structured systems and processes designed for that purpose, ensuring that:
 - Management disseminates the risk management policy and plan throughout the entity
 - Management ensures that the risk management plan is integrated into the daily activities of the business
- Based upon the reports of management, and any reviews by internal and external audits, express formally to the accounting authority their opinion on the effectiveness of risk management systems and processes

- Review the risk management report at each meeting and shall have particular regard to:
 - ensuring that a process exists where risk management frameworks and methodologies are implemented to increase the possibility of anticipating unpredictable risk;
 - ensuring that a process exists where risk management assessments are performed on a continuous basis;
 - ensuring that management considers and implements appropriate risk responses;
 - ensuring that continuous risk monitoring by management takes place.

In supporting these objectives, the committee conducted the following activities:

- oversaw the review of the entity's risk management policy;
- reviewed procedures to ensure that the risk management framework was properly implemented throughout the

operations and that the requisite training was undertaken;

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

The committee is satisfied that it has complied with its charter, which has been formalised to include principles contained in King III and guides the committee in performing its duties during the year. The committee further confirms that in the current period the Tribunal has continued to rigorously manage its strategic and operational risks in order to achieve its mandate.

The committee notes with concern that the two highest risks indicated in the Tribunal's risk register – late or non-appointment of Tribunal members by the EDD and limited office space have remained unresolved for an extended period. The committee is of

the view that the EDD needs to address these issues as a matter of urgency.

The membership of the committee is made up of five independent non-executive members, as well as A Wessels – a full-time Tribunal member and J de Klerk – the COO of the Tribunal.

The external auditors as well as internal auditors have a standing invitation to the meetings and have attended all the scheduled meetings during the year.



Maemili Ramataboe
Risk committee chairperson

31 July 2016

In the year under review, the risk committee met four times as reflected in the table below.

Table 7: Meetings of the risk committee and fees received

Name	Status of Member	Number of meetings required attend	Number of meetings attended	Fees received (excluding travel)
M. Moodley	Non-Executive	4	4	R 31 384.00
M. Ramataboe	Non-Executive	4	4	R 36 404.00
S. Gounden	Non-Executive	4	3	R 21 700.00
D. Thayser	Non-Executive	4	4	R 24 955.00
K. Soni	Non-Executive	4	3	R 21 700.00

Governance of information technology

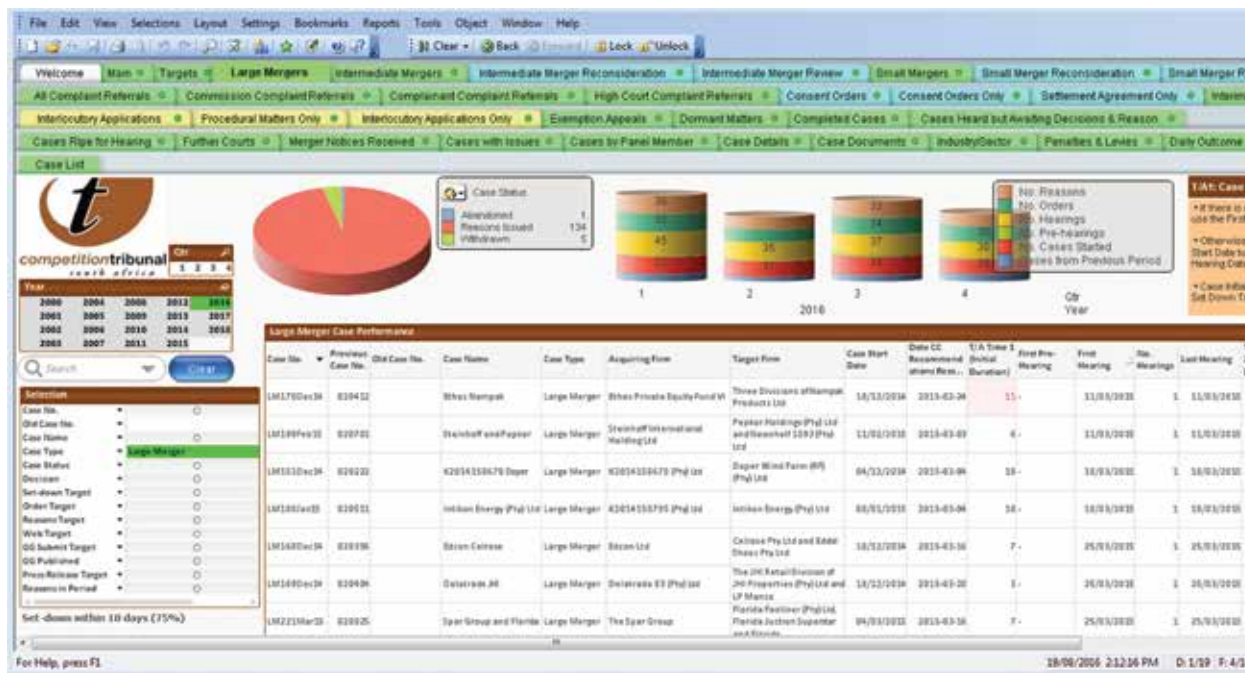
An integral component of effective corporate governance is ensuring that information technology (IT) is efficiently and effectively managed within an organisation. In line with King III, an entity should also ensure that IT-related risks and constraints are managed in a manner that supports the entity's strategic objectives.

During the period under review the Tribunal has continued to ensure that its governance framework is compliant with the corporate governance of information and communication technology framework (CGICT), as prescribed by the Department of Public Service and Administration (DPSA).

The framework covers topics that include, but are not limited to, governance structures, governance processes and an entity governance framework.

We have attempted to simplify the IT policy environment by dividing previous cumbersome policies or manuals into smaller, easy to understand documents. The policies developed provide guidelines, procedures and explanations on various aspects related to IT or IT assets such as internet and email usage, software access, use of IT equipment and IT services within the Tribunal.

All Tribunal staff members and interns have signed an "understanding and consent form", included in the above mentioned policy documents, acknowledging the Tribunal's IT policies and committing to adhere to stipulated IT practices.



Some of the data generated by the business intelligence reporting tool, Qlikview.

A major highlight this year was the installation of a new direct fibre link that the Tribunal is sharing with the Commission. The fibre connection brought an exceptional increase in internet and online service bandwidth across the board.

The Tribunal and Commission have also implemented wireless

connectivity throughout their offices, and it has been made available in the courtrooms. The new wireless connection is available to staff, interns, consultants and visitors to

the Tribunal. In the courtrooms it is also available to parties' members and visitors when matters are being heard. This connection has resulted in considerable improvement and access to internet and online services.

With the increase in managerial tasks and IT governance requirements an IT intern, Rendani Neswiswi, has been assisting the IT administrator for an extended period of time with IT tasks ranging from ad hoc to high level projects in the offices. Rendani has proven to be a capable intern with a bright future in the information technology industry.

According to Rendani *"It's been amazing because of the team and the really friendly environment. It feels like home and that helps settle in very nicely. I love what I am doing and I learn something new every day. It's definitely worthwhile doing the internship - It's a job I could see myself doing permanently if such a position was offered."*

To further enhance IT security the Tribunal has implemented a multi-platform mobile security and threat detection suite for handheld devices such as smart phones and tablets. This security suite allows the IT administrator to manage the security of handheld devices from a central point.

In addition to mobile security, the Tribunal has added a facility that will enable users to encrypt e-mail communication and attachments from Tribunal e-mail accounts to external e-mail recipients. This adds an additional layer of security to e-mail communication.

We are currently developing and improving on our processes for



Colin Venter and intern Rendani Neswiswi.

monitoring the performance and turnaround times of service providers with whom we have a service level agreement (SLA) or memorandum of understanding (MOU). This allows the Tribunal to ensure that effective service delivery takes place and to take the necessary action where required.

The Tribunal makes use of an electronic case management system (CMS) to store, organise and file its case documents. A second phase of development has been successfully tested, implemented and signed off during the period under review. New features as part of this development included changing the convention used for case numbering to reflect and be aligned to the date and type of matter. The ability to track changes made to assigning panel members or case managers and many

other technical changes have increased the functionality and performance of the system. CMS has delivered a number of efficiencies with regard to the management of cases in the Tribunal, whether it be related to case documents, case status, case costs or performance.

The Tribunal makes use of a business intelligence reporting tool named QlikView. Qlikview reads the information provided on the CMS database to generate real-time reports. Three reports currently used have been customised for the Tribunal to look at and review case target measures, case performance according to timeframes set and costs for each case. The image on page 41 is an example of the kind of information we generate from Qlikview.

Compliance with laws and standards

Table 8 below sets out the most important legislation the Tribunal is required to adhere to and other areas of compliance that guide us in our day-to-day activities.

Table 8: Guidelines and their application to our daily work

Legislation or guideline	Application in our day-to-day activities
The Competition Act	The Tribunal's functions, powers, activities and procedures are prescribed by the Act and the rules of the Tribunal. Our compliance is monitored quarterly by the EDD.
The PFMA and Treasury Regulations	These prescribe requirements for accountable and transparent financial management. Our compliance is monitored quarterly by EDD.
Occupational Health and Safety (OHS) Act	An OHS committee is operative in the Tribunal and compliance with required legislation is monitored by the executive committee and the risk committee.
Levies and taxes	The Tribunal ensures that it is registered for and meets its obligations in respect of the required and legislated levies and taxes.
Ethics	The Tribunal embraces the four ethical values underpinning good corporate governance: responsibility, transparency, accountability and fairness. Various policies and procedures have been adopted to ensure that the Tribunal maintains its commitment to high standards of integrity, ethics and compliance to principles of honesty, integrity and independence.
Internal audit	The Tribunal outsources its internal audit function for a period of three years. The internal audit function is defined in an internal audit charter and is conducted in accordance with an internal audit plan that is developed and approved by the audit committee.
External audit	The annual audit of the Tribunal is, in accordance with the PFMA, conducted by the Auditor General. The objective of the audit is to provide an independent opinion on the financial statements of the Tribunal and report findings regarding predetermined objectives, compliance with laws, regulations and internal controls. See the Auditor General's report in Part 5 for his detailed findings.



The registry team, David Tefu, Lerato Motaung, Themba Chauke, Sibongile Moshoeshe and Thabo Sengwayo are important in ensuring the Tribunal adheres to a large set of applicable laws and standards by managing case documents.

Auditing the Tribunal's work internally and externally

Internal audit function

In terms of section 51(1)(a)(ii) of the PFMA, read with Treasury Regulation 2722, the Tribunal has established an internal audit function that is under the control and direction of the audit committee.

Due to our small size, the Tribunal's internal audit function is outsourced. In April 2015, following a tender process, the

contract was awarded to KPMG for a period of three to five years. The names, qualifications and years of service of each member of the Tribunal's internal audit team are set out in Table 9 below.

The internal audit function reports administratively to the accounting authority and functionally to the audit committee. Its purpose is to provide independent, objective assurances on the effectiveness of risk management, control and governance processes in the Tribunal

An internal audit charter defines the purpose, authority, terms of reference, objectives, powers, duties and responsibilities of the internal audit function. The charter provides for the independence of the internal audit function and the powers of the function regarding access to records and personnel.

The internal audit function is risk-based and at all times conducted in accordance with the internal audit standards prescribed by the Institute of Internal Auditors (IIA), and the audit work complies with the professional standards of conduct as provided for in the code of ethics of the institute.

To ensure proper coverage and to minimise duplication of effort, the internal audit function co-ordinates its activities with other internal and external providers of assurance (combined assurance). Internal audit reports are reviewed by the audit committee and are discussed with the Auditor-General where applicable.

The current three year internal audit strategic plan was drafted following discussions with Tribunal management and represents a balance between risk and compliance.

Table 9: Members of the Tribunal's internal audit team

Name	Years of experience	Qualifications	Professional	Role
Granville Smith	20 years	BCom Hons	SAICA; IIA; IRBA	KPMG Sponsor
Paresh Lalla	24 years	CA(SA); CIA; CCSA	SAICA; IIA; IRBA	KPMG Sponsor
Wean Strydom	20 years	CA(SA)	SAICA; IIA; IRBA	Director
Amirrah Masinga	7 years	Postgraduate Diploma in Accounting Sciences (CTAI)	-	Manager
Kutlwano Masebe	4 years	BCom Internal Auditing (Honours); Part 1 CIA	IIA	Audit Supervisor

During the period under review the following audits were completed:

- follow-up review
- payroll review
- performance information
- internal financial controls

The follow-up review focused on the implementation of action plans indicated in previous internal audit reports during 2013/2014 and 2014/2015. During this process, 32 prior audit issues were followed up – up on 72 % were fully implemented or partially addressed while 28% had not yet been addressed.

Table 10 below provides details on the three other audits conducted during the period under review. “Major”, in the table below is defined as a critical control weakness that requires immediate management action. All three of the findings identified as such have been addressed by management.

External audit function

In compliance with section 188 of the Constitution, read with sections 4(3) (a), 15 and 20 of the Public Audit Act, 2004, and section 40(10) of the Act, the books and records of account, financial statements and financial management of the Tribunal are audited by the Auditor-General, in accordance with international standards on auditing.

An audit engagement letter outlines the agreement on the terms of the engagement, the respective responsibilities of the auditor and the accounting authority with regard to the audit as well as the nature and limitations of the annual audit.

Management and those charged with governance are provided with an overview of the planned scope, timing and cost of the audit in the audit strategy.

The chief operating officer, as the CFO, in consultation with the audit steering committee and approval of the Chairperson is responsible for coordinating an action plan for resolving audit findings.

The audit steering committee consists of the chief operating officer, the head of corporate services, the financial officer, representatives from the Auditor-General as well as representatives from the outsourced external auditors.

The purpose of the audit steering committee is to discuss matters pertaining to the external audit being undertaken and to monitor progress against the agreed external audit plan.

The audited annual financial statements are presented to the accounting authority and to the audit committee by the Auditor-General.

Audit findings as reported in the management letter and management responses as provided by EXCO are discussed by the audit committee. Any unresolved and policy matters resulting from the audit inspection are also reported to the audit committee by the Auditor-General.

The audit opinion of the Auditor-General on the financial statements is included in this report on pages 52 to 53.

Table 10: Audits performed during the 2015/2016 financial year

Internal Audit	Number of findings	Major	Significant	Minor	Point of information
Payroll	7	1	4	2	0
Performance Information	3	1	1	0	1
Internal Financial Controls	9	1	2	5	1
Total	19	3	7	7	2
Percentage	100	15.79	36.84	36.84	10.53





Report of the audit committee

We are pleased to present our report for the financial year ended 31 March 2016.

Name	Status of Member	Number of meetings required attend	Number of meetings attended	Fees received (excluding travel)
M. Moodley	Non-Executive	4	4	R 42 752.00
M. Ramataboe	Non-Executive	4	4	R 34 720.00
S. Gounden	Non-Executive	4	3	R 26 040.00
D. Thayser	Non-Executive	4	4	R 30 380.00
K. Soni	Non-Executive	4	3	R 17 360.00

The audit committee of the Tribunal (the committee) consists of the members listed above and is required to meet four times per annum as stated in its approved terms of reference. During the year under review the committee held four meetings.

Audit committee responsibility

The committee reports that it has complied with its responsibilities arising from section 55 (1) of the PFMA and Treasury regulations 271.7 and 271.10 (b) and (c).

The committee also reports that it has adopted appropriate formal terms of reference as approved by the Accounting Authority. The committee has regulated its affairs in compliance with its charter and has discharged all its responsibilities as contained therein.

The effectiveness of internal control

The system of controls is designed to provide cost effective assurance that assets are safeguarded and that liabilities and working capital are efficiently managed. In line with PFMA and the King III report on corporate governance requirements, the internal audit provides the committee and management with assurance that the internal controls are appropriate and effective. This is achieved by means of the risk management process, as well as the identification of corrective actions and suggested enhancements to the controls and processes. From the various reports of the internal auditors, the audit report on the annual financial statements, any qualification and/or emphasis of matter, and the management letter of the Auditor-General, it was noted that no significant or material non-compliance with prescribed policies and procedures has been reported. Accordingly, we can

report that the system of internal control for the period under review was efficient and effective.

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

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

Evaluation of annual financial statements

The committee has:

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

The committee would like to highlight that the 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 Economic Development Department in order to maintain its going concern status.

Internal audit

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

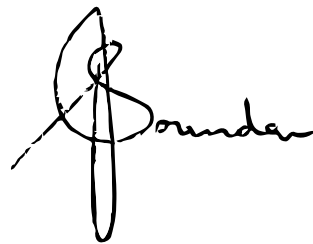
Auditor-General of South Africa

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

Combined assurance

The Tribunal has developed a formalised combined assurance plan. The plan is currently evolving although having been implemented during the 2014/15 year. The committee has received assurance from management as well as internal and external assurance providers that risks are being appropriately managed.

The committee notes the concern raised by the risk committee with regard to the top two risks on the Tribunal's risk register and will monitor progress with regard to resolving these risks in the 2016/2017 financial year.



Sathie Gounden
Chairperson of the audit committee

31 July 2016



Managing our human resources

As indicated earlier in this report the Tribunal has four full-time tribunal members and a staff complement of 22. The Tribunal has also employed interns during the year in various divisions thereby enabling them to gain valuable skills that will enhance their career development. Effective human resource management is therefore essential to ensure that employee performance is maximised and the Tribunal is able to meet its mandate. This simultaneously produces a workplace where the culture and values of the Tribunal are maintained and staff have a positive attitude towards their work.

In this section we address some of the tools used by management to ensure the workplace operates as described above.

The Tribunal has contracted with the Independent Counselling and Advisory Service (ICAS) to provide various services such as emotional/psychological counselling and life management to staff and their immediate family at no cost. Having such services available mitigates the associated risk of employee's stressors. Reports from the service provider indicate that on average about a third of the staff make use of these services at some period during the year. Other initiatives in support of employee wellness included participation with the Commission in a wellness day, the distribution of desk drops/articles dealing with a wide range of topics and financial wellness training.

While the Tribunal currently experiences severe space constraints we continue to ensure that employees are provided with a safe working environment without risk to their health. For this reason we have established an Occupational Health and Safety (OHS)

committee that consists of seven members who have received the required training to fulfill the legislative requirements and ensure their readiness to deal with an emergency situation. This committee undertakes monthly and quarterly reviews to ensure compliance with legislation and to identify any OHS risks or potential safety hazards and together with the risk committee ensures that controls that mitigate these risks are put in place.

The human resources officer has embarked on a project to review key human resources policies to ensure compliance with legislation and best human resource practice. It is anticipated that this project

will be completed by end-December 2016.

The remuneration structure applied in the Tribunal is a total cost to company (TCC) structure that includes contributions to retirement plans and medical aid. Annual salary adjustments are guided by the public service. The Tribunal's salary scale is structured to include a range of job grades ranging from a junior position (Grade 18) to a senior position (Grade 3). Each job grade represent a salary band of pay ranges that are structured to reflect a minimum, midpoint and maximum payment level for each grade. Current distribution across job grades in the Tribunal is as follows:

Table 11: Distribution of employees across job grades and salary bands

Peromnes Grade	Equate Grade	Number of employees	Band range (as at 31 March 2016)	
			Min	Max
3	15	1	R 1 486 935	R 2 188 728
5	13	1	R 1 024 211	R 1 626 929
6U	12	1	R 714 261	R 1 224 570
6	12	2	R 678 354	R 1 041 631
7	11	2	R 572 388	R 793 623
8	10	3	R 495 470	R 655 905
9	9	5	R 468 183	R 563 459
10	8	2	R 333 937	R 394 422
11	7	2	R 268 902	R 316 758
12	6	1	R 217 808	R 256 566
14	5	1	R 151 710	R 178 707
16	3	1	R 128 016	R 150 799

The Tribunal recognises and rewards good performance through its performance management system. For the year under review, a performance bonus of 8.24% was paid to staff performing above a required standard. Effective performance management within the Tribunal will assist it meet its mandate as operations, employees' performance and productivity increase. The system is also used by managers and employees to identify training and development needs and to therefore ensure that every effort is made to improve an employee's skills and knowledge.

The Tribunal has, as required, disclosed the remuneration of its EXCO in the annual financial statements included in this report. In addition, fees paid to external members of the Tribunal's governance structures are reflected in their respective reports.

Evaluating governance structures

During the period under review a 360 review assessment of the audit committee and internal audit was performed.

The member's self-evaluation indicated the need to address how the audit committee members can improve the perception of their role and value added, while the evaluation of the committee chairperson indicated that there was a need for the committee chairperson to look at processes and procedures to enhance committee development. These are both areas of concern that were raised in the prior period assessment.

The results of the audit committee evaluation reiterate the need for training of members to be addressed. In addition there is no need to look at the relationship with the Auditor-General and to determine what is expected from both parties.

The internal audit evaluation indicates the audit committee is satisfied with the internal audit performance.



PART 05

HOW WE USED OUR FINANCIAL RESOURCES

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Report of the Auditor-General to Parliament on the Tribunal

Report on the financial statements

Introduction

1. I have audited the financial statements of Competition Tribunal set out on pages 59 to 92, which comprises statement of financial position as at 31 March 2016, the statement of financial performance, statement of changes in net assets and cash flow statement and statement of comparison of budget and actual amounts for the year then ended, as well as the notes, comprising a summary of significant accounting policies and other explanatory information.

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 South African Standards of Generally Recognised Accounting Practice (SA Standards of GRAP) and the requirements of the Public Finance Management Act of South Africa, 1999 (Act No. 1 of 1999) (PFMA), 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.

Auditor-General's responsibility

3. My responsibility is to express an opinion on these financial statements based on my audit. I conducted my audit in accordance with International Standards on Auditing. 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.
4. 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.

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

Opinion

6. In my opinion, the financial statements present fairly, in all material respects, the financial position of the Competition Tribunal as at 31 March 2016 and its financial performance and cash flows for the year then ended, in accordance with SA Standards of GRAP and the requirements of the PFMA.

Emphasis of matter

7. I draw attention to the matter below. My opinion is not modified in respect of this matter.

Restatement of corresponding figures

8. As disclosed in note 34 to the financial statements, the corresponding figures for 31 March 2015 have been restated as a result of errors discovered during 31 March 2016 in the financial statements of the Competition Tribunal at, and for the year ended, 31 March 2015.

Report on other legal and regulatory requirements

9. In accordance with the Public Audit Act of South Africa, 2004 (Act No. 25 of 2004) (PAA) and the general notice issued in terms thereof, I have a responsibility to report findings on the reported performance information against predetermined objectives of selected objectives presented in the annual performance report, compliance with legislation and internal control. The objective of my tests was to identify reportable findings as described under each subheading but not to gather evidence to express assurance on these matters. Accordingly, I do not express an opinion or conclusion on these matters.

Predetermined objectives

10. I performed procedures to obtain evidence about the usefulness and reliability of the reported performance information of the following selected objective presented in the annual performance report of the entity for the year ended 31 March 2016:
 - Strategic focus area 1: Adjudicative excellence on pages 94 to 95.

11. I evaluated the usefulness of the reported performance information to determine whether it was presented in accordance with the National Treasury's annual reporting principles and whether the reported performance was consistent with the planned objectives. I further performed tests to determine whether indicators and targets were well defined, verifiable, specific, measurable, time bound and relevant, as required by the National Treasury's Framework for managing programme performance information (FMPP).
12. I assessed the reliability of the reported performance information to determine whether it was valid, accurate and complete.
13. I did not identify any material findings on the usefulness and reliability of the reported performance information for the following objective:
 - Strategic focus area 1: Adjudicative excellence on pages 94 and 95.

Additional matter

14. Although we identified no material findings on the usefulness and reliability of the reported performance information for the selected programmes, we draw attention to the following matter:

Achievement of planned targets

15. Refer to the annual performance report pages 94 to 97, for information on the achievement of the planned targets for the year.

Compliance with legislation

16. I performed procedures to obtain evidence that the entity had complied with applicable legislation regarding financial matters, financial management and other related matters. My material findings on compliance with specific matters in key legislation, as set out in the general notice issued in terms of the PAA, are as follows:

Procurement and contract management

17. In some cases goods and services with a transaction value below R500 000 were procured without obtaining the required price quotations, as required by Treasury Regulation 16A6.1.

Expenditure management

18. Steps taken to prevent irregular expenditure, amounting to R976 000 as disclosed in note 29 of the annual financial statement, as required by section 51 (1)(b)(ii) of the Public Finance Management Act and Treasury Regulation 9.1.1, were in certain instances not effective.
19. Steps taken to prevent fruitless and wasteful expenditure, amounting to R695 000 as disclosed in note 28 of the annual financial statements, as required by section 51(1)(b)(ii) of the Public Finance Management Act and Treasury Regulation 9.1.1, were in certain instances not effective.

Internal control

20. I considered internal control relevant to my audit of the financial statements, annual performance report and compliance with legislation. The matter reported below is limited to the significant internal control deficiencies that resulted in the findings on noncompliance with legislation included in this report.

Financial and performance management

21. The review and monitoring of compliance with applicable laws and regulations were ineffective in certain instances.

Auditor-General

Pretoria
31 July 2016

SOUTH AFRICA



AUDITOR - GENERAL
SOUTH AFRICA

Auditing to build public confidence

Financial Information

Diagram 13: Expenditure by category in two financial years

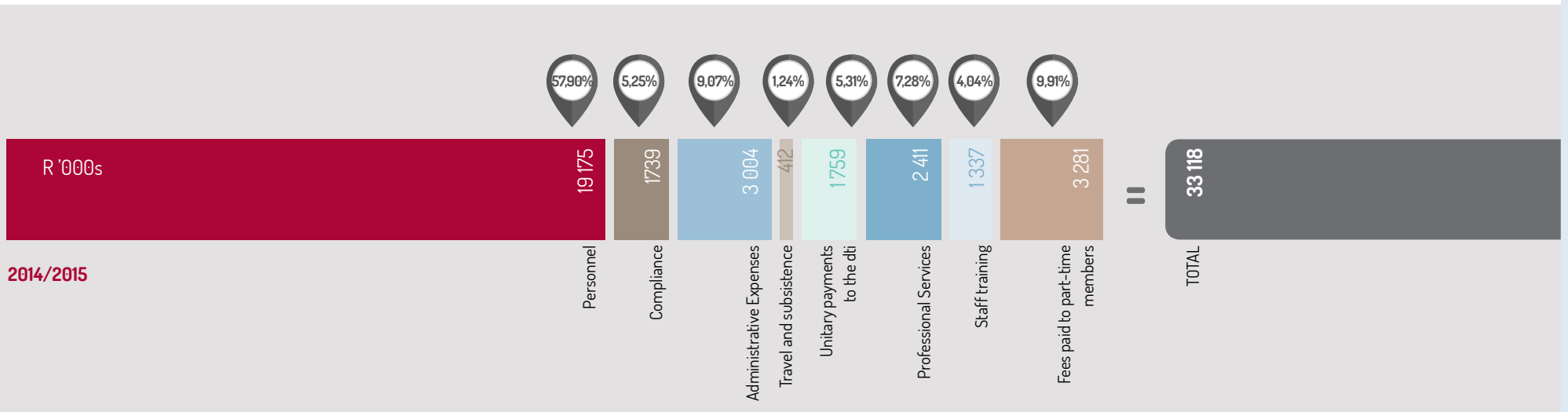
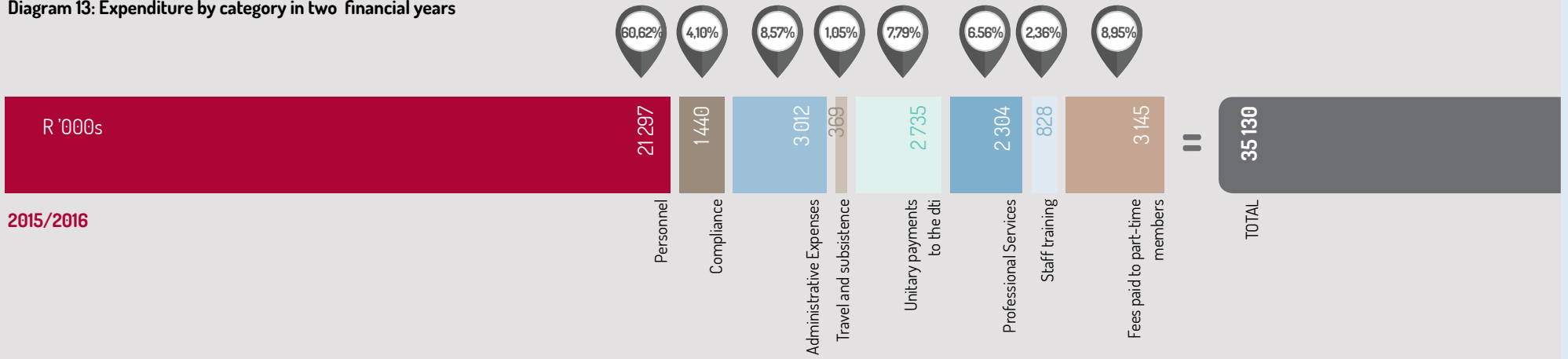
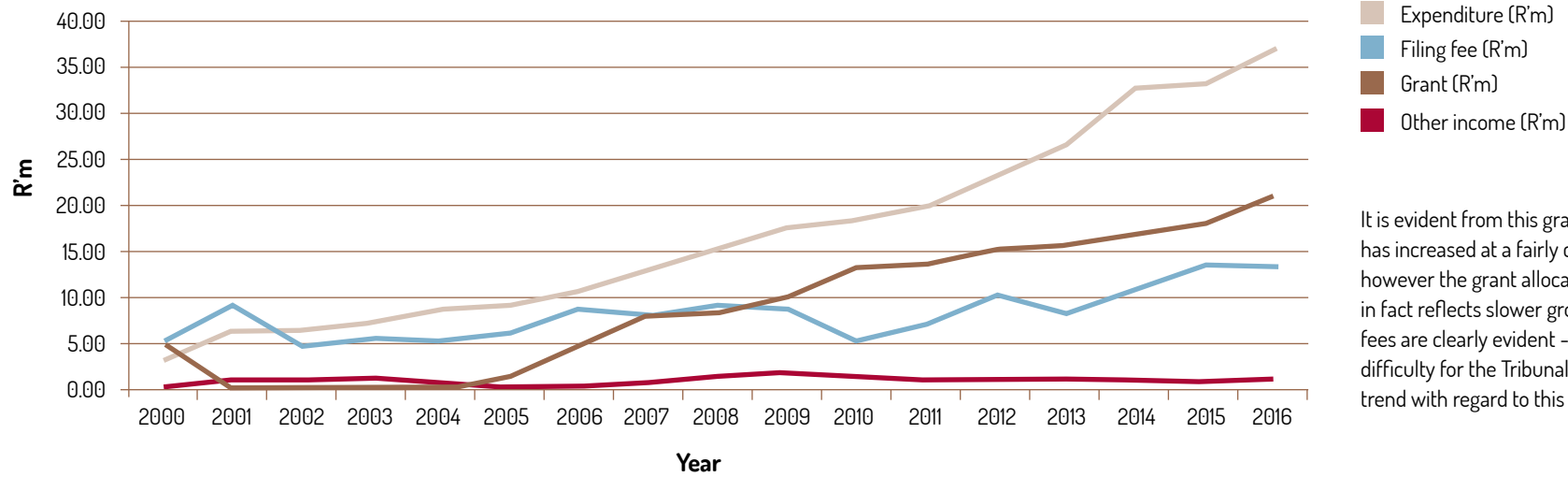
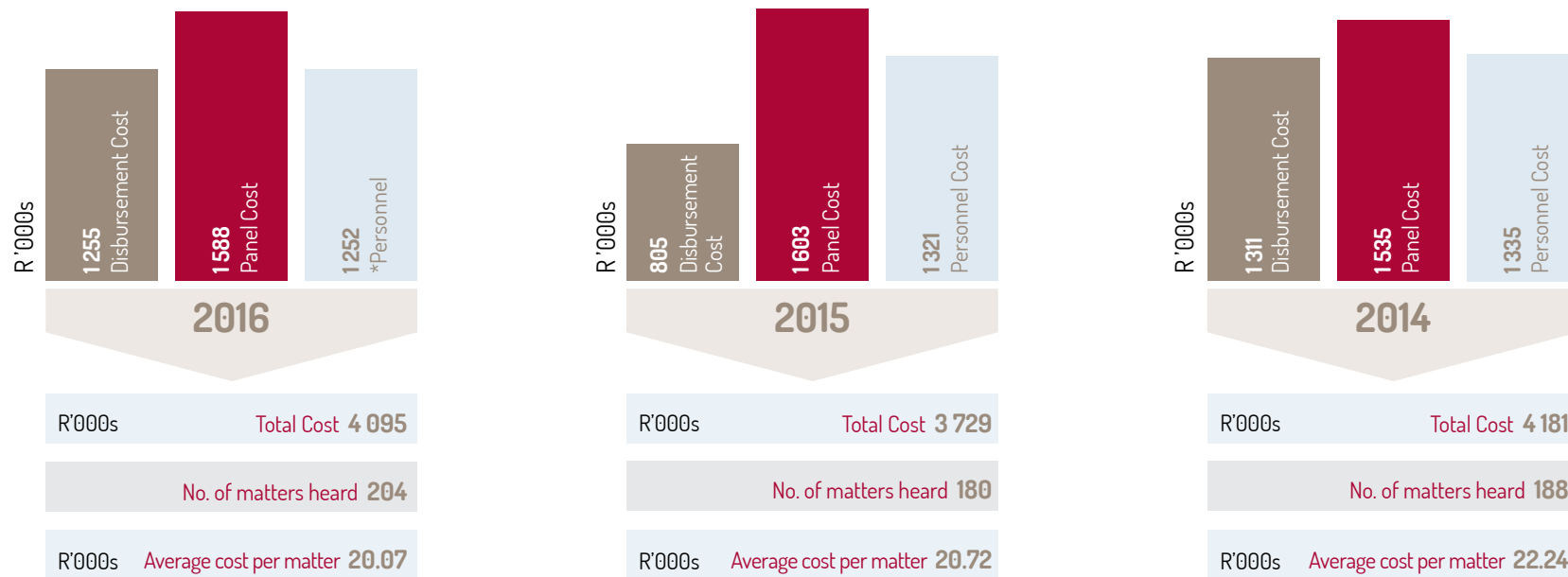


Diagram 14: Income and expenditure - 17 year analysis



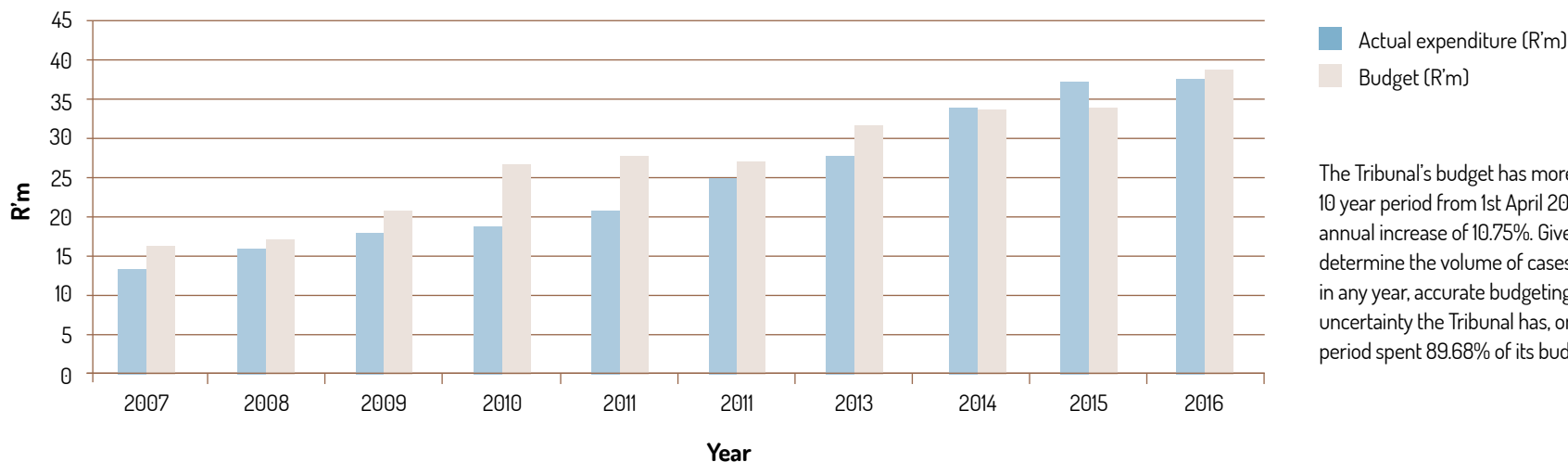
It is evident from this graph that the Tribunal's expenditure has increased at a fairly constant rate since its inception, however the grant allocated to the Tribunal has not and, in fact reflects slower growth. The fluctuations in filing fees are clearly evident - once again posing a budgeting difficulty for the Tribunal as there is no certainty or clear trend with regard to this revenue source.

Diagram 15: Variable cost of the adjudicative process - three year analysis



* Personnel cost refers to preparation days, decision writing days and cancelled days for part-time members.

Diagram 16: Budget vs Actual - 10 year analysis



The Tribunal's budget has more than doubled over the 10 year period from 1st April 2006 to date with an average annual increase of 10.75%. Given that the Tribunal cannot determine the volume of cases to be brought before it in any year, accurate budgeting is difficult. Despite this uncertainty the Tribunal has, on average, over the 10 year period spent 89.68% of its budget.

Diagram 17: Income by category - three year analysis

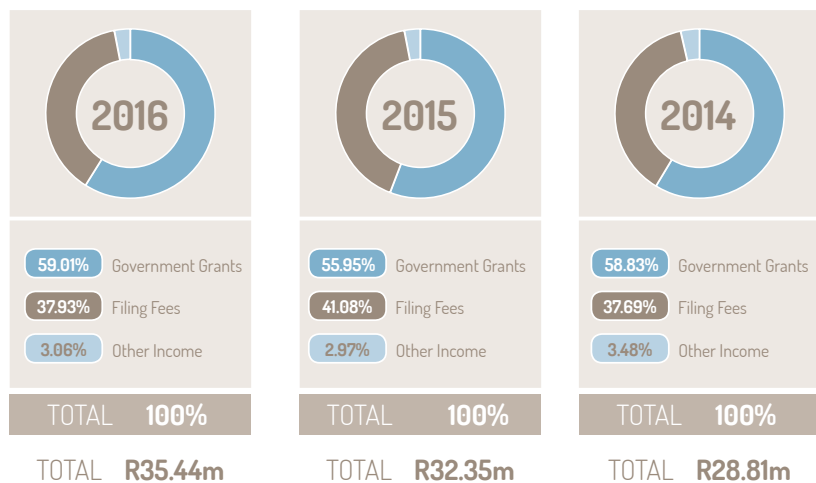


Diagram 18: Allocation of person days between full-time and part-time tribunal members - three year analysis

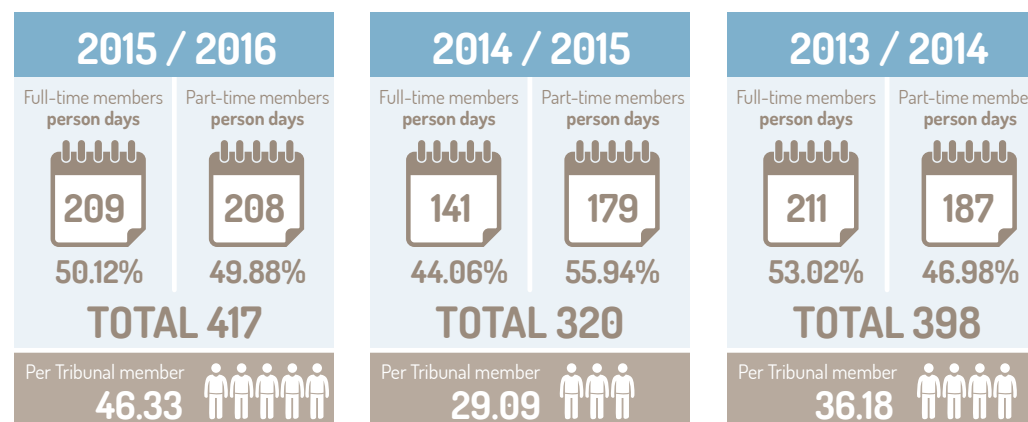
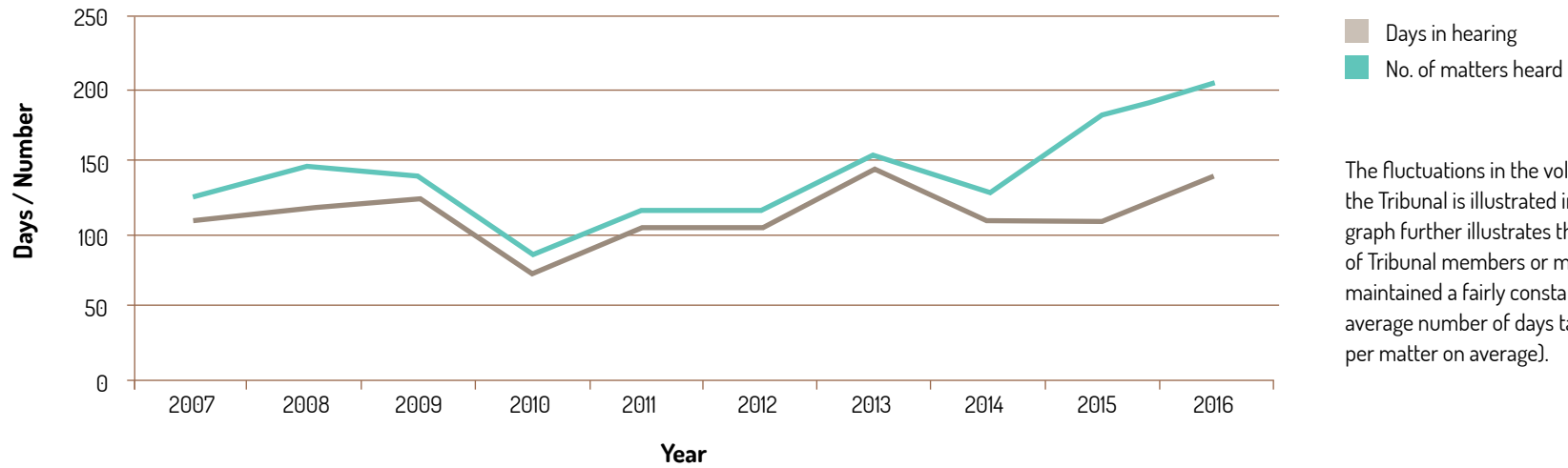
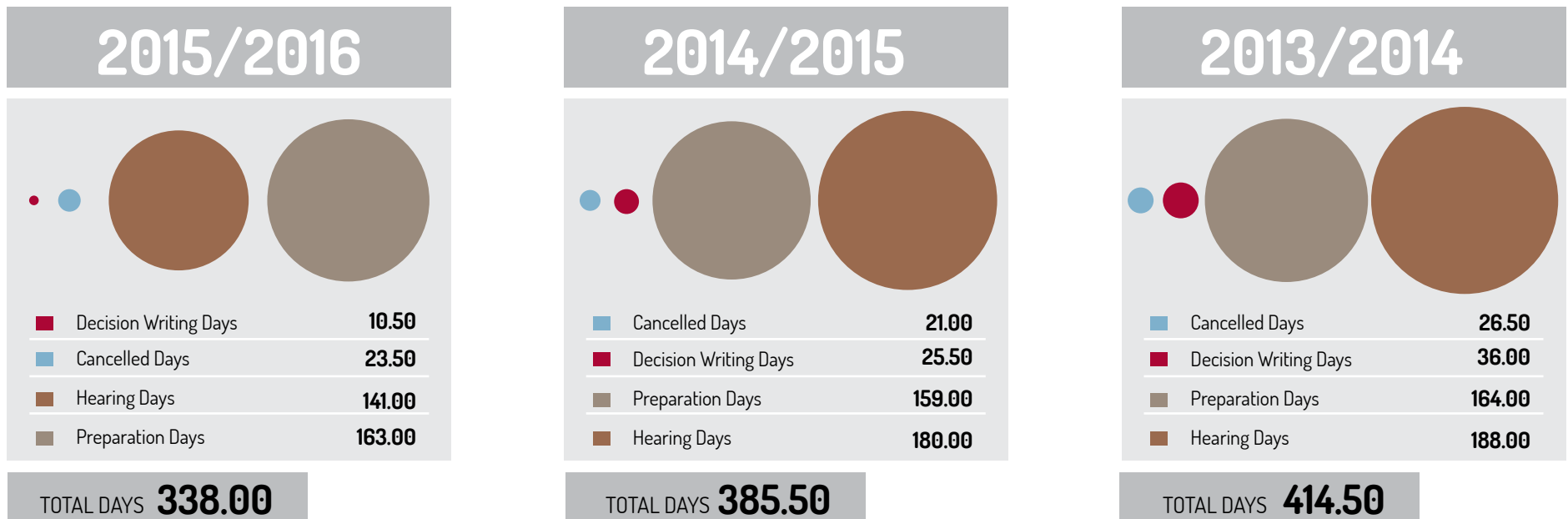


Diagram 19: Matters heard/hearing days - 10 year analysis



The fluctuations in the volume of matters heard by the Tribunal is illustrated in the graph on your left. The graph further illustrates that irrespective of the number of Tribunal members or matters heard the Tribunal has maintained a fairly constant average with regard to the average number of days taken to hear a matter (1.22 days per matter on average).

Diagram 20: Distribution of case days - three year analysis



Statement of responsibility

The accounting authority is responsible for the preparation, integrity and fair presentation of the financial statements of the Tribunal for the year ended 31 March 2016.

The financial statements presented on pages 59 to 92 have been prepared in accordance with the South African Statements of Generally Recognised Accounting Practice (GRAP) including any interpretations, guidelines and directives issued by the Accounting Standards Board in accordance with section 55 of the PFMA to the extent as indicated in the accounting policies, and include amounts based on judgements 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 accounting authority initially approved and submitted the financial statements to the Auditor-General South Africa on 31 May 2016.



ANNUAL FINANCIAL STATEMENTS

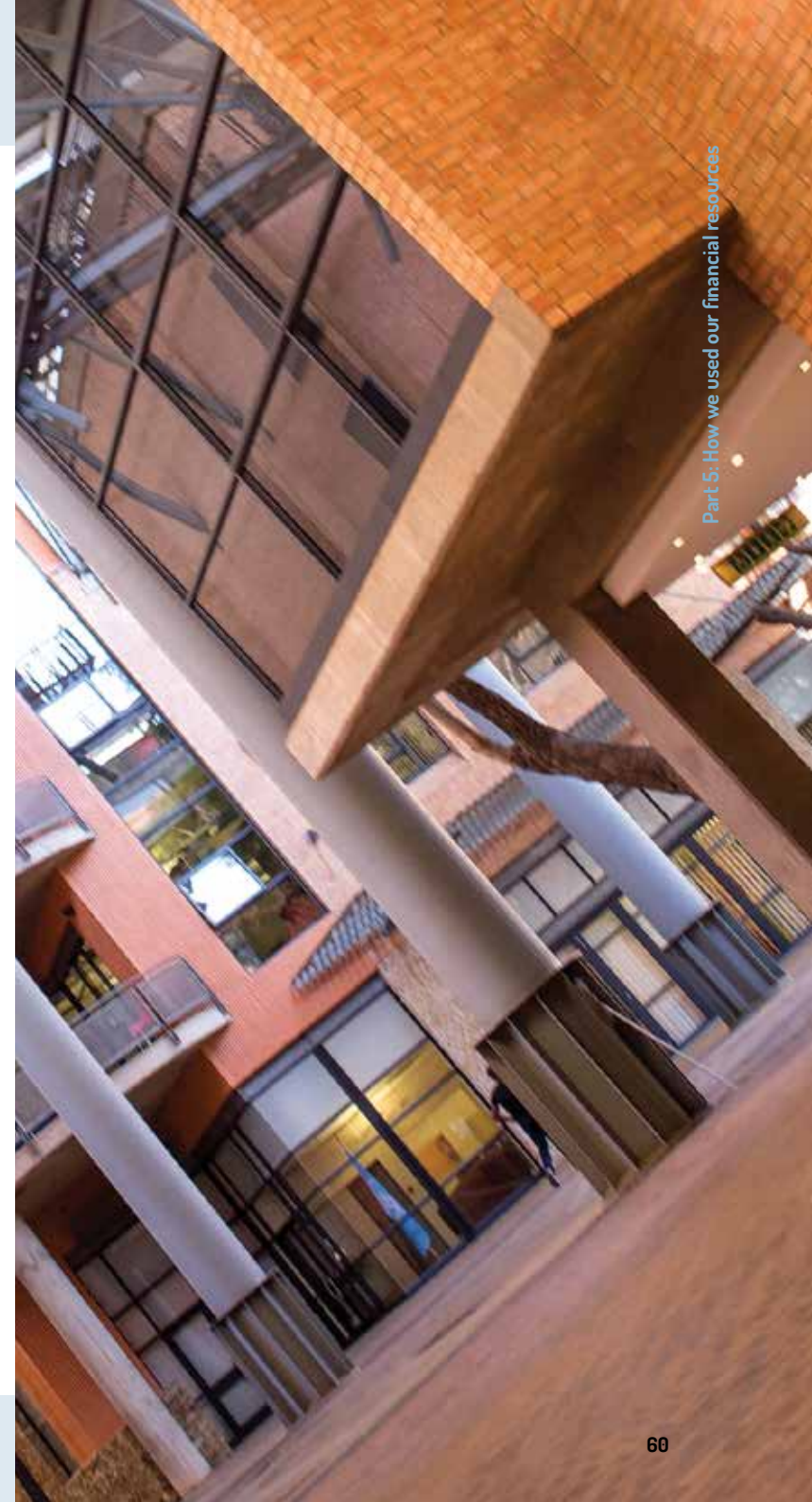
for the year ended 31 March 2016

Statement of financial position

	Notes	2016 R '000	2015 Restated* R '000
ASSETS			
CURRENT ASSETS			
Cash and cash equivalents	2	17 414	17 722
Receivables from exchange transactions	3	1 912	1 312
Prepayments	4	210	126
Inventory	5	61	55
		19 597	19 215
NON-CURRENT ASSETS			
Property, plant and equipment	6	1 479	1 050
Intangible assets	7	3 337	2 765
		4 816	3 815
TOTAL ASSETS		24 413	23 030
LIABILITIES			
CURRENT LIABILITIES			
Payables from exchange transactions	8	3 102	2 313
Finance lease obligation	9	144	75
Provisions	10	537	485
		3 783	2 873
NON-CURRENT LIABILITIES			
Finance lease obligation	9	165	-
		165	-
TOTAL LIABILITIES		3 948	2 873
NET ASSETS		20 465	20 157
NET ASSETS			
Accumulated surplus		20 465	20 157

Statement of financial performance

	Notes	2016 R '000	2015 Restated* R '000
REVENUE			
Revenue from exchange transactions			
Fees earned	11	13 441	13 289
Other income	12	16	2
Interest received – investment	13	1 066	951
Gain on disposal of assets	14	1	6
Total revenue from exchange transactions		14 524	14 248
Revenue from non-exchange transactions			
Transfer revenue			
Government grants & subsidies	15	20 913	18 100
TOTAL REVENUE		35 437	32 348
EXPENDITURE			
Personnel costs	16	(21 297)	(19 175)
Depreciation and amortisation	18	(755)	(742)
Finance costs	19	(34)	(15)
Debt impairment	20	-	(5)
Administrative expenses	17	(5 926)	(5 263)
Loss on disposal of assets	14	(5)	(67)
Other operating expenses	21	(7 113)	(7 851)
TOTAL EXPENDITURE		(35 130)	(33 118)
Surplus (deficit) for the year		307	(770)



Statement of changes in net assets

	Accumulated surplus R '000	Total net assets R '000
Opening balance as previously reported	20 692	20 692
Prior period adjustments	236	236
Balance at 01 April 2014 as restated*	20 928	20 928
Changes in net assets		
Deficit for the year	(770)	(770)
Total changes	(770)	(770)
Restated* Balance at 01 April 2015	20 158	20 158
Changes in net assets		
Surplus for the year	307	307
Total changes	307	307
Balance at 31 March 2016	20 465	20 465

Cash flow statement

	Notes	2016 R '000	2015 Restated* R '000
CASH FLOWS FROM OPERATING ACTIVITIES			
Receipts			
Grants		20 913	18 100
Interest income		1 066	951
Other receipts		16	2
Fees earned		12 758	12 393
		34 753	31 446
Payments			
Employee costs		(21 297)	(19 175)
Suppliers		(12 204)	(13 172)
Finance costs		(34)	(15)
		(33 535)	(32 362)
Net cash flows from operating activities	23	1 218	(916)
CASH FLOWS FROM INVESTING ACTIVITIES			
Purchase of property, plant and equipment	6	(932)	(325)
Proceeds from sale of property, plant and equipment	6	1	6
Purchase of intangible assets	7	(829)	(440)
Net cash flows from investing activities		(1 760)	(759)
CASH FLOWS FROM FINANCING ACTIVITIES			
Increase in/(repayment) of finance leases		234	(189)
Net cash flows from financing activities		234	(189)
Net decrease in cash and cash equivalents		(308)	(1 864)
Cash and cash equivalents at the beginning of the year		17 722	19 586
Cash and cash equivalents at the end of the year	2	17 414	17 722

Statement of comparison of budget and actual amounts

	Approved Budget R '000	Actual amounts on comparable basis R '000	Difference between final budget and actual R '000	Reference
STATEMENT OF FINANCIAL PERFORMANCE				
REVENUE				
Revenue from exchange transactions				
Fees earned	10 670	13 441	2 771	Note a
Other income	-	16	16	
Interest received - investment	1 170	1 066	(104)	Note b
Total revenue from exchange transactions	11 840	14 523	2 683	
Revenue from non-exchange transactions				
Government grants & subsidies	19 964	20 913	949	Note c
TOTAL REVENUE	31 804	35 436	3 632	
EXPENDITURE				
Personnel	(21 657)	(21 297)	360	Note d
Depreciation and amortisation	(1 139)	(755)	384	Note e
Finance costs	-	(34)	(34)	
Administrative expenses	(6 949)	(5 926)	1 023	Note f
Other operating expenses	(7 250)	(7 113)	137	
TOTAL EXPENDITURE	(36 995)	(35 125)	1 870	
Operating surplus	(5 191)	311	5 502	
Gain on disposal of assets	-	1	1	
Loss on disposal of assets	-	(5)	(5)	
	-	(4)	(4)	
Actual amount on comparable basis as presented in the budget and actual comparative statement	(5 191)	307	5 498	Note g

The Competition Tribunal

Annual Financial Statements for the year ended 31 March 2016

Note a: Our budget estimate for filing fees from the Commission is based on their expected merger activity and filing fee budget. Activity was higher this year and therefore the large variance.

Note b: The Tribunal held a smaller deposit with the Corporation for Public Deposit than expected and therefore interest earned was lower than budgeted.

Note c: This variance represents funds received from the EDD to cover accommodation costs on the dti campus in 2016/2017 – and is reflected as a commitment in Note 30.

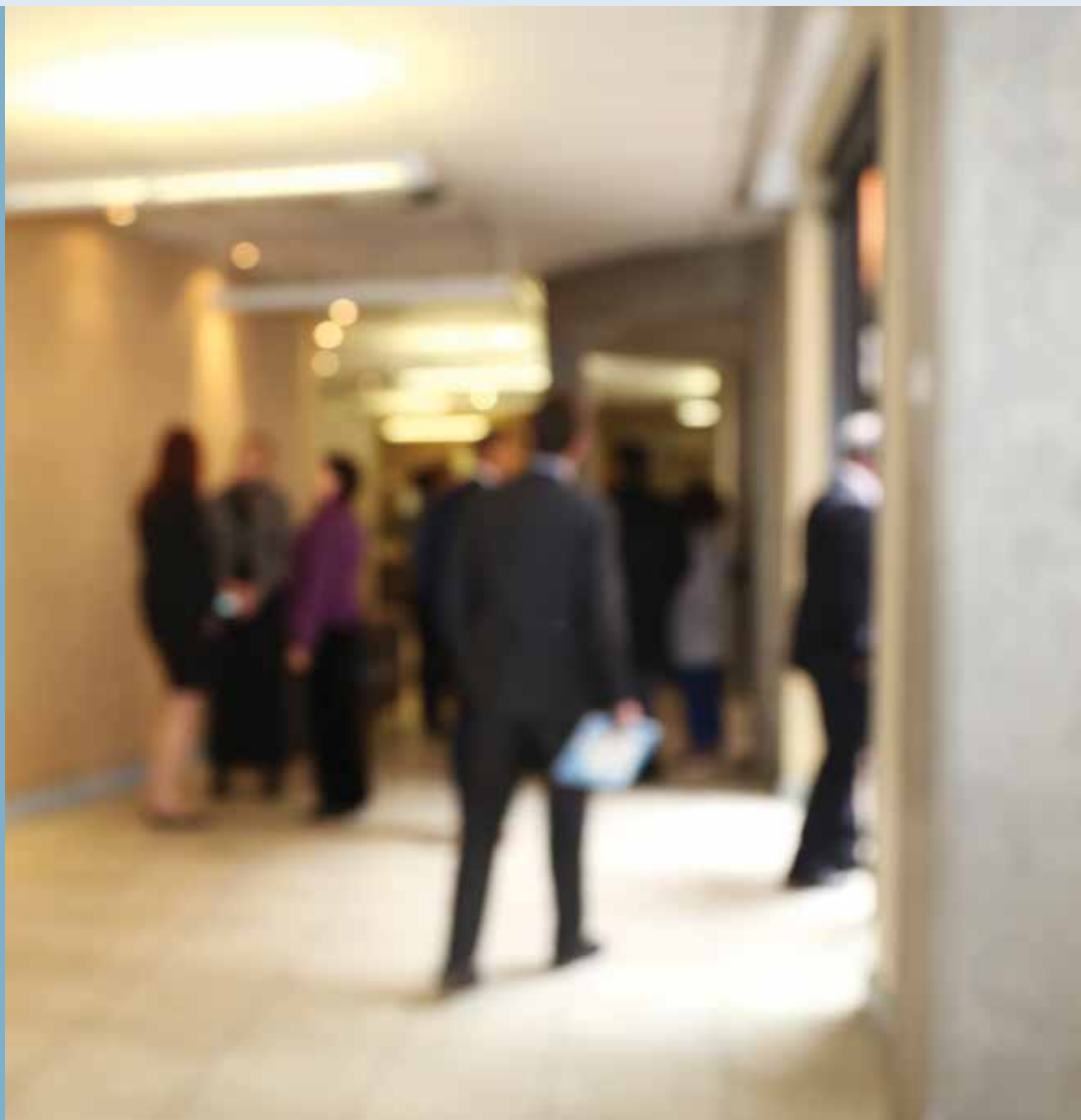
Note d: The variance on personnel costs is a result of lower than budgeted performance bonuses and some underspending when staff resign and a position is vacant for a short period.

Note e: The amortisation budget was drawn on the assumption that internally generated software would reach its useful life in 10 years but we extended its useful life to 15 years after the budget had been finalised and hence the variance in this line item.

Note f: Note 30 provides a breakdown of line items that contributed to general underspending. The Tribunal made a conscious effort to reduce spending this year – particularly with regard to training and travel and other administrative expenses.

Note g: The Tribunal's MTEF submission reflects a roll forward of retained income to cover the budget shortfall and as these accumulated funds are not reflected as revenue it appears as if we budget for a deficit. In addition the budget does not include budgeted capital expenditure.

Refer to Note 30 – Reconciliation between Budget and Statement of Financial Performance to see descriptions of budget variances and the annual report for further explanations of variances.



Accounting policies

1. BASIS OF PREPARATION

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

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

All figures have been rounded to the nearest thousand rand.

These accounting policies are consistent with the previous period.

1.1 Significant judgements and sources of estimation uncertainty

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

Provision for accumulated leave

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

Amortisation of internally generated software

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

Useful lives of property, plant and equipment and other assets

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

Effective interest rate

The Tribunal used the incremental borrowing rate to discount future cash flows.

1.2 Going concern assumption

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

1.3 Presentation currency

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

1.4 Financial instruments

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

Credit risk is the risk that one party to a financial instrument will cause a financial loss for the other party by failing to discharge an obligation.

Derecognition is the removal of a previously recognised financial asset or financial liability from an entity’s statement of financial position.

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

A financial asset is:

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

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

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

Interest rate risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market interest rates.

Liquidity risk is the risk encountered by an entity in the event of difficulty in meeting obligations associated with financial liabilities that are settled by delivering cash or another financial asset.

Market risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market prices. Market risk comprises three types of risk: currency risk, interest rate risk and other price risk.

1.4 Financial instruments (continued)

Other price risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market prices (other than those arising from interest rate risk or currency risk), whether those changes are caused by factors specific to the individual financial instrument or its issuer, or factors affecting all similar financial instruments traded in the market.

A financial asset is past due when a counterparty has failed to make a payment when contractually due.

Transaction costs are incremental costs that are directly attributable to the acquisition, issue or disposal of a financial asset or financial liability. An incremental cost is one that would not have been incurred if the entity had not acquired, issued or disposed of the financial instrument.

Financial instruments at fair value comprise financial assets or financial liabilities that are:

- Instruments held for trading. A financial instrument is held for trading if:
 - it is acquired or incurred principally for the purpose of selling or repurchasing it in the near-term; or
 - on initial recognition it is part of a portfolio of identified financial instruments that are managed together and for which there is evidence of a recent actual pattern of short term profit-taking;
 - non-derivative financial assets or financial liabilities with fixed or determinable payments that are designated at fair value at initial recognition; and
 - financial instruments that do not meet the definition of financial instruments at amortised cost or financial instruments at cost.

Classification

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

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

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

Class	Category
Trade payables	Financial liabilities measured at fair value

Initial recognition

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

Initial measurement of financial assets and financial liabilities

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

The Tribunal measures a financial asset and financial liability initially at its fair value.

Subsequent measurement of financial assets and financial liabilities

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

- Financial instruments at fair value

Fair value measurement considerations

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

Gains and losses

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

Derecognition

Financial assets

The entity derecognises a financial asset only when:

- the contractual rights to the cash flows from the financial asset expire, are settled or waived.

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

Financial liabilities

The Tribunal removes a financial liability (or a part of a financial liability) from its statement of financial position when it is extinguished – i.e. when the obligation

1.4 Financial instruments (continued)

specified in the contract is discharged, cancelled, expires or waived.

An exchange between an existing borrower and lender of debt instruments with substantially different terms is accounted for as having extinguished the original financial liability and a new financial liability is recognised. Similarly, a substantial modification of the terms of an existing financial liability or a part of it is accounted for as having extinguished the original financial liability and having recognised a new financial liability.

The difference between the carrying amount of a financial liability (or part of a financial liability) extinguished or transferred to another party and the consideration paid, including any non-cash assets transferred or liabilities assumed, is recognised in surplus or deficit. Any liabilities that are waived, forgiven or assumed by another entity by way of a non-exchange transaction are accounted for in accordance with the Standard of GRAP on Revenue from Non-exchange Transactions (Taxes and Transfers).

Presentation

Interest relating to a financial instrument or a component that is a financial liability is recognised as revenue or expense in surplus or deficit.

Losses and gains relating to a financial instrument or a component that is a financial liability is recognised as revenue or expense in surplus or deficit.

1.5 Inventory

Inventories shall be recognised as an asset if, and only if, (a) it is probable that future economic benefits or service potential associated with the item will flow to the Tribunal, and (b) the

cost of the inventories can be measured reliably.

Inventories that qualify for recognition as assets shall initially be measured at cost.

Where inventories are acquired through a non-exchange transaction, their cost shall be measured at their fair value as at the date of acquisition.

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

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

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

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

The cost of inventory of items that are not ordinarily interchangeable and goods or services produced and segregated for specific projects is assigned using specific identification of the individual costs.

The cost of inventory is assigned using the weighted average cost formula. The same cost formula is used for all inventory having a similar nature and use to the entity. Under the weighted average cost formula, the cost of each item is determined from the weighted average of the cost of similar

items at the beginning of a period and the cost of similar items purchased or produced during the period. The average is calculated as each delivery is received.

When inventory is distributed, the carrying amounts of the inventory is recognised as an expense in the period in which the related revenue is recognised. If there is no related revenue, the expenses are recognised when the goods are distributed, or related services are rendered. The amount of any write-down of inventory to current replacement cost and all losses of inventory are recognised as an expense in the period the write-down or loss occurs.

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

1.6 Property, plant and equipment

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

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

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

Property, plant and equipment is initially measured at cost.

The cost of an item of property, plant and equipment is the purchase price and other costs attributable to bringing the asset to the location and condition necessary for it to be capable of operating in the manner intended by management.

1.6 Property, plant and equipment (continued)

Trade discounts and rebates are deducted in arriving at the cost.

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

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

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

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

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

The residual value, and the useful life and depreciation method of each asset are reviewed at the end of each reporting date. If the expectations differ from previous estimates, the change is accounted for as a change in accounting estimate.

Reviewing the useful life of an asset on an annual basis does

not require the entity to amend the previous estimate unless expectations differ from the previous estimate.

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 is 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.

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

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

Compensation from third parties for an item of property, plant and equipment that was impaired, lost or given up is recognised in surplus or deficit when the compensation becomes receivable.

1.7 Intangible assets

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

An asset is identifiable if it is either:

- separable, i.e. is capable of being separated or divided from an entity and sold, transferred, licensed, rented or exchanged, either individually or together with a related contract, identifiable assets or liability, regardless of whether the entity intends to do so; or

- arises from binding arrangements (including rights from contracts), regardless of whether those rights are transferable or separable from the entity or from other rights and obligations.

An intangible asset is recognised when:

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

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

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

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

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

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

The amortisation period and the amortisation method for intangible assets are reviewed at each reporting date.

1.7 Intangible assets (continued)

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

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

Intangible assets are derecognised:

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

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

1.8 Impairment of non-cash generating assets

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

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

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

Identification

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

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

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

Value in use

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

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

Depreciated replacement cost approach

The present value of the remaining service potential of a non-cash generating asset is determined as the depreciated replacement cost of the asset. The replacement cost of an asset is the cost to replace the asset's gross service potential.

This cost is depreciated to reflect the asset in its used condition. An asset may be replaced either through reproduction (replication) of the existing asset or through replacement of its gross service potential. The depreciated replacement cost is measured as the reproduction or replacement cost of the asset, whichever is lower, less accumulated depreciation calculated on the basis of such cost, to reflect the already consumed or expired service potential of the asset.

The replacement cost and reproduction cost of an asset is determined on an "optimised" basis. The rationale is that the entity would not replace or reproduce the asset with a like asset if the asset to be replaced or reproduced is an overdesigned or overcapacity asset. Overdesigned assets contain features that are unnecessary for the goods or services the asset provides. Overcapacity assets are assets that have a greater capacity than is necessary to meet the demand for goods or services the asset provides. The determination of the replacement cost or reproduction cost of an asset on an optimised basis thus reflects the service potential required of the asset.

Recognition and measurement

If the recoverable service amount of a non-cash generating asset is less than its carrying amount, the carrying amount of the asset is reduced to its recoverable service amount. This reduction is an impairment loss.

An impairment loss is recognised immediately in surplus or deficit.

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

1.9 Accumulated surplus

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

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

1.10 Leases

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

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

Leased assets

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

The discount rate to be used in calculating the present value of minimum lease payments is the interest rate implicit in the lease, or if impracticable to determine the lessee's incremental borrowing rate shall be used.

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

Contingent rentals are recognised as expenses in the periods in which they are incurred.

Finance charges are charged to surplus or deficit in the statement of financial performance.

A finance lease gives rise to a depreciation expense for depreciable assets as well as finance expense for each accounting period. The depreciation policy for depreciable leased assets must be consistent with that for depreciable assets that are owned, and the depreciation recognised shall be calculated in accordance with the Standard of GRAP on Property, Plant and Equipment.

Operating leases – lessee

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

1.11 Provisions and contingencies

Provisions are recognised when:

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

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

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

economic benefits will be required to settle the obligation.

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

Provisions are not recognised for future operating expenditure.

If an entity has a contract that is onerous, the present obligation (net of recoveries) under the contract is recognised and measured as a provision.

Contingent assets and contingent liabilities are not recognised.

A contingent asset is a possible asset that arises from past events and whose existence will be confirmed only by the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the entity.

A contingent liability is:

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

1.12 Employee benefits

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

Termination benefits are employee benefits payable as a result of either:

- an entity's decision to terminate an employee's employment before the normal retirement date; or

1.12 Employee benefits (continued)

- an employee's decision to accept voluntary redundancy in exchange for those benefits.

Short-term employee benefits

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

Short-term employee benefits include items such as:

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

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

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

The expected cost of compensated absences is recognised as an expense as the employees render services that increase their entitlement or, in the case of non-accumulating absences, when the absence occurs. The Tribunal measures the expected cost of accumulating compensated absences as the additional

amount that the entity expects to pay as a result of the unused entitlement that has accumulated at the reporting date.

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

Post-employment benefits

Post-employment benefits are employee benefits (other than termination benefits) that are payable after the completion of employment.

The entity does not incur a liability for post-employment medical or pension benefits.

1.13 Revenue from Exchange Transactions

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

- the amount of revenue can be measured reliably;
- it is probable that the economic benefits associated with the transaction will flow to the Tribunal;
- the stage of completion of the transaction at the statement of financial position date can be measured reliably; and
- the costs incurred for the transaction and the costs to complete the transaction can be measured reliably.

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

Revenue is measured at the fair value of the consideration received or receivable and represents the amounts receivable for goods and services provided in the normal course of business, net of trade discounts and volume rebates, and value added tax.

Filing fees

In terms of a memorandum of agreement with the Commission and the Tribunal, the Tribunal receives a portion of the filing fees paid to the Commission on notification of mergers.

Filing fees due to the Tribunal are recognised as receivables by the Tribunal when the papers have been filed with the Commission and the filing fees have been paid to the Commission. Any filing fees paid to the Commission for cases but not filed or those that lapse for the periods stipulated in the Competition Act are refunded by the Commission to the parties. In the event that the Tribunal had received a portion of these fees they would be reflected as payables or netted off against receivables due from the Commission.

Interest income

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

Other income

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

1.14 Revenue from non-exchange transactions

Revenue comprises gross inflows of economic benefits or service potential received and receivable by an entity, which represents an increase in net assets, other than increases relating to contributions from owners.

1.14 Revenue from non-exchange transactions (continued)

Exchange transactions are transactions in which one entity receives assets or services, or has liabilities extinguished, and directly gives approximately equal value (primarily in the form of cash, goods, services, or use of assets) to another entity in exchange.

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

Recognition

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

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

Government grants

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

Measurement

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

1.15 Comparative figures

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

Reclassification may arise from a change in accounting policy, correction of a prior period error or a reclassification of expenditure.

1.16 Fruitless and wasteful expenditure

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

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

1.17 Irregular expenditure

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

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

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

- Irregular expenditure that was incurred and identified during the current financial year and which was condoned before year end and/or before finalisation of the financial statements is recorded appropriately in the irregular expenditure register. In such an instance, no further action is required with the exception of updating the note to the financial statements.
- Irregular expenditure that was incurred and identified during the current financial year and for which condonement is being awaited at year end is recorded in the irregular expenditure register. No further action is required with the exception of updating the note to the financial statements.
- Where irregular expenditure was incurred in the previous financial year and is only condoned in the following financial year, the register and the disclosure note to the financial statements is updated with the amount condoned.
- Irregular expenditure that was incurred and identified during the current financial year and which was not condoned by the National Treasury or the relevant authority is recorded appropriately in the irregular expenditure register. If liability for the irregular expenditure can be attributed to a person, a debt account must be created if such a person is liable in law. Immediate steps are thereafter taken to recover the amount from the person concerned. If recovery is not possible, the Accounting Officer or Accounting Authority may write off the amount as debt impairment and disclose such in the relevant note to the financial statements. The irregular expenditure register is updated accordingly. If the irregular expenditure has not been condoned and no person is liable in law, the expenditure related thereto remains against the relevant programme/expenditure item, is disclosed as such in the note to the financial statements and updated accordingly in the irregular expenditure register.

1.18 Budget information

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

The approved budget covers the fiscal period from 01/04/2015 to 31/03/2016.

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

1.19 Commitments

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

1.20 Related parties

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

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

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

1.21 Events after reporting date

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

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

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

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

1.22 Standards in issue not yet effective

Standards in issue but not yet effective, are disclosed in the financial statements as well as the impact on the financial statements in future periods. Refer to note 33.

Notes to the annual financial statements

2. 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. There are no restrictions of the use of cash.

Cash on hand

Cash at bank

Total

	2016 R '000	2015 R '000
	3	2
	17 411	17 720
	17 414	17 722

3. RECEIVABLES FROM EXCHANGE TRANSACTIONS

Receivables

Other debtors

Total

	1 912	1 282
	-	30
	1 912	1 312

Trade receivables are unsecured, bear no interest and are expected to be settled within 30 days of date of invoice and therefore approximate fair value.

4. PREPAYMENTS

Prepayments

	210	126
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5. INVENTORY

Consumable stores (office stationery and office refreshments)

	61	55
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6. PROPERTY, PLANT AND EQUIPMENT

	2016			2015		
	Cost	Accumulated depreciation and accumulated impairment	Carrying value	Cost	Accumulated depreciation and accumulated impairment	Carrying value
Furniture and fixtures	659	(345)	314	649	(251)	398
Motor vehicles	210	(92)	118	210	(88)	122
Office equipment	53	(18)	35	73	(53)	20
IT equipment	1412	(737)	675	1 030	(597)	433
Leased assets	1 543	(1 206)	337	1 160	(1 083)	77
Total	3 877	(2 398)	1 479	3 122	(2 072)	1 050

Reconciliation of property, plant and equipment - 2016

	Opening balance	Additions	Disposals	Depreciation	Impairment loss	Total
Furniture and fixtures	398	10	-	(94)	-	314
Motor vehicles	122	-	-	(4)	-	118
Office equipment	20	29	(3)	(11)	-	35
IT equipment	433	510	(2)	(266)	-	675
Leased assets	77	383	-	(123)	-	337
Total	1 050	932	(5)	(498)	-	1 479

Reconciliation of property, plant and equipment - 2015

	Opening balance	Additions	Disposals	Depreciation	Impairment loss	Total
Furniture and fixtures	266	212	-	(69)	(11)	398
Motor vehicles	128	-	-	(6)	-	122
Office equipment	31	-	(1)	(10)	-	20
IT equipment	604	108	-	(255)	(24)	433
Leased assets	262	5	-	(190)	-	77
Total	1 291	325	(1)	(530)	(35)	1 050

Pledged as security and contractual commitments

In the 2015/2016 financial year the Tribunal received an insurance payment for a laptop that was stolen. The payment net of the excess was R 10 410.50. During the financial year no property, plant or equipment was pledged as security. The Tribunal has not entered into any contractual commitments to acquire assets.

Assets subject to finance lease (Net carrying amount)

Leased assets	337	77
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7. INTANGIBLE ASSETS

	2016			2015		
	Cost	Accumulated depreciation and accumulated impairment	Carrying value	Cost	Accumulated depreciation and accumulated impairment	Carrying value
Computer software, internally generated	4 060	(1 067)	2 993	3 435	(847)	2 588
Computer software	480	(136)	344	277	(100)	177
Total	4 540	(1 203)	3 337	3 712	(947)	2 765

Reconciliation of intangible assets - 2016

	Opening balance	Additions	Amortisation	Impairment loss	Total
Computer software, internally generated	2 588	625	(220)	-	2 993
Computer software	177	204	(37)	-	344
Total	2 765	829	(257)	-	3 337

Reconciliation of intangible assets - 2015

	Opening balance	Additions	Amortisation	Impairment loss	Total
Computer software, internally generated	2 385	387	(184)	-	2 588
Computer software	182	53	(28)	(30)	177
Total	2 567	440	(212)	(30)	2 765

Pledged as security and contractual commitments

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

8. PAYABLES FROM EXCHANGE TRANSACTIONS

Creditors

Accrued performance bonus

Other accruals

2016	2015
R '000	R '000
584	186
787	935
1731	1192
3 102	2 313

Trade payables are unsecured, bear no interest and are expected to be settled within 30 days of date of invoice and therefore approximate fair value. Trade payables (exclusive of accruals) are paid within 30 days of date of invoice. During the period under review there were no breaches of contracts or agreements held with the Tribunal and it was not necessary to negotiate any new terms with suppliers.

9. FINANCE LEASE OBLIGATION

Minimum lease payments due

- within one year

- in second to fifth year inclusive

less: future finance charges

Present value of minimum lease payments

Present value of minimum lease payments due

- within one year

- in second to fifth year inclusive

Non-current liabilities

Current liabilities

170	78
176	-
346	78
(37)	(3)
309	75
144	75
165	-
309	75
165	-
144	75
309	75

The Tribunal is leasing photocopiers and data cards 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.

10. PROVISIONS

Reconciliation of provisions - 2016

	Opening Balance	Additions	Utilised during the year	Reversed during the year	Total
Leave provision	485	537	(79)	(406)	537

Reconciliation of provisions - 2015

	Opening Balance	Additions	Utilised during the year	Reversed during the year	Total
Leave provision	686	485	-	(686)	485

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

11. FEES EARNED

Fees earned

	2016 R '000	2015 R '000
Fees earned	13 441	13 289

These fees relate to filing fees in respect of mergers received from the Commission.

12. OTHER INCOME

Recoupment of printing cost
Discount received
Insurance claim on stolen asset

Recoupment of printing cost	5	2
Discount received	1	-
Insurance claim on stolen asset	10	-
	16	2

13. INVESTMENT INCOME

Interest received
- Bank deposits

Interest received	1 066	951
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14. NET GAIN/(LOSS) ON DISPOSALS

Property, plant and equipment
 Computer software
 Inventories
 Office equipment
 Computer equipment

2016 R '000	2015 R '000
1	(5)
-	(30)
-	(2)
(3)	-
(2)	(24)
(4)	(61)

15. GOVERNMENT GRANT AND SUBSIDIES

Economic Development Department
 EDD funding for dti campus

19 102	18 100
1 811	-
20 913	18 100

16. PERSONNEL

Basic salaries
 Performance awards
 Medical aid - company contributions
 Statutory contributions
 Insurance
 Other salary related costs
 Defined contribution pension plan expense (see Note 24)
 Executive committee members emoluments

12 214	10 185
669	863
651	538
235	227
196	172
203	174
877	801
6 252	6 215
21 297	19 175

17. ADMINISTRATIVE EXPENSES

Audit committee members' fees
 Risk committee members' fees
 Audit committee training
 Audit committee meeting expenses
 General and administrative expenses
 External audit fees
 Internal audit fees
 Travel and subsistence
 Unitary payment for building occupation
 Fraud prevention committee

132	285
159	125
6	33
17	24
1 382	1 353
662	735
443	517
369	412
2 735	1 759
21	20
5 926	5 263

18. DEPRECIATION AND AMORTISATION

Depreciation

Furniture and fittings
Motor vehicles
Office equipment
IT equipment
Leased assets

Amortisation

Computer software

19. FINANCE COSTS

Trade and other payables
Fair value adjustments on payables/receivables

20. DEBT IMPAIRMENT

Bad debts written off

21. OTHER OPERATING EXPENSES

Consultants, contractors and special services
Staff training and development
Fees paid to part-time Tribunal members
Legal fees
Maintenance, repairs and running costs
Penalties and interest

22. EXTERNAL AUDIT FEE

External audit fees

	2016 R '000	2015 R '000
	94	69
	4	6
	11	10
	266	255
	123	190
	498	530
	257	212
	14	17
	20	(2)
	34	15
	-	5
	2 304	2 411
	828	1 337
	3 145	3 281
	-	43
	743	769
	-	-
	7 113	7 851
	662	735

23. CASH GENERATED FROM OPERATIONS

(Deficit) / Surplus for the year

Adjustments for:

Depreciation and amortisation

Gain on disposal of assets

Loss on disposal of assets

Impairment deficit

Debt impairment

Movements in provisions

Changes in working capital:

Inventory

Receivables from exchange transactions

Debt impairment

Prepayments

Payables from exchange transactions

	2016	2015
	R '000	R '000
	307	(770)
	755	742
	(1)	(6)
	5	66
	-	-
	-	5
	52	(201)
	(6)	(25)
	(600)	(998)
	-	(5)
	(84)	102
	790	174
	1 218	(916)

24. EMPLOYEE BENEFIT OBLIGATIONS

Defined contribution plan

The Competition Tribunal Pension Fund, which is governed by the Pensions Fund Act of 1956 as amended, is a compulsory defined contribution plan for all employees in the Tribunal. The fund is administered by Sanlam Retirement Fund Administrators. The Tribunal is a participating employer on the Sanlam Umbrella Fund. The scheme offers the members various investment options for their pension fund contributions. As an insured fund, the Sanlam Umbrella Fund and thus the Tribunal as participating employer, complies with regulation 28 of the Pension Fund Act of 1956. (see Note 16).

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.

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 3. There is no significant concentration of credit risk within the Tribunal.

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

Exposure to credit risk

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

	2016 R '000	2015 R '000
Cash equivalents	17 411	17 720
Receivables	1 912	1 282
Total	19 323	19 002

Concentration of credit risk

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

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

2016	Rated and government R '000	Unrated R '000
	Cash equivalents	17 411
Receivables	-	1 912
2015	Rated and government R '000	Unrated R '000
	Cash equivalents	17 720
Receivables	-	1 282

26. FINANCIAL RISK MANAGEMENT (continued)

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

2016	Neither past due nor impaired	Past due but not impaired less than 2 months	Past due but not impaired more than 12 months	Carrying value
	R '000	R '000	R '000	
Cash equivalents	17 411	-	-	-
Receivables	1 912	-	-	-
2015	Neither past due nor impaired	Past due but not impaired less than 2 months	Past due but not impaired more than 12 months	Carrying value
	R '000	R '000	R '000	
Cash equivalents	17 720	-	-	-
Receivables	1 282	-	-	-

Market risk

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

Interest rate risk

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

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

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

Sensitivity Analysis

2016	Change in Investments	Increase / (decrease) in net surplus for the year	
		Upward change	Downward change
Cash equivalents	1.00%	174	(174)
Finance lease	1.00%	-	-
2015	Change in Investments	Upward change	Downward change
Cash equivalents	1.00%	177	(177)
Finance lease	1.00%	1	(1)

26. FINANCIAL RISK MANAGEMENT (continued)

Liquidity risk

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

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

2016	Carrying amount	Total cash flow	Contractual cash flow within 1 year	Contractual cash flow between 1 and 5 years
	R '000	R '000	R '000	R '000
Payables	3 102	3 102	3 102	-
2015	Carrying amount	Total cash flow	Contractual cash flow within 1 year	Contractual cash flow between 1 and 5 years
	R '000	R '000	R '000	R '000
Payables	2 313	2 306	1 974	332

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 equivalents	Financial assets measured at fair value	17 411	17 720
Trade debtors	Financial assets measured at fair value	1 912	1 282
Payables from exchange transactions	Financial liabilities measured at fair value	3 102	2 313

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

27. COMPARATIVE FIGURES

Comparative figures have been presented and there has been no reclassification of figures.

28. FRUITLESS AND WASTEFUL EXPENDITURE

Payment to South African Revenue Services
 Value added tax paid to non VAT vendor – current year
 Estimated cost for voluntary disclosure programme (SARS) – current year
 Estimated cost for voluntary disclosure programme (SARS) – prior year
 Value added tax paid to non VAT vendor – prior year

Total

2016 R '000	2015 R '000
10	10
83	-
91	-
427	-
84	-
695	10

The Tribunal has disclosed fruitless and wasteful expenditure of R518 224.25 that pertains to the estimated payment due to SARS on a Voluntary Disclosure Process (VDP) submission that the Tribunal is currently preparing. The VDP relates to the incorrect application of perks tax on cell phone allowances awarded to certain Tribunal employees over the period 1 August 2011 – 29 February 2016.

The Tribunal has determined that this incorrect application of the IRP code was not the result of negligence on the part of a staff member. The code was changed by a payroll consultant in August 2011. It must be noted that this error was only detected during a compliance review of the Tribunal’s payroll completed in February 2016 as part of the internal audit plan. The error remained undetected even though a compliance review was completed in the period between August 2011 and February 2016.

Given that the error arose on the employer side, the PAYE due on these allowances was paid by the Tribunal (estimated at R251 422.50) and as a result the Tribunal was required to pay a tax on tax benefit (estimated at R173 311.27) to SARS. Interest is estimated at R93 491.46.

To prevent such an error occurring again the Tribunal will implement an annual review of IRP codes applied to the Tribunal’s payroll and will fully document the reasons for any changes.

In addition VAT was paid to a person that the Tribunal subsequently determined that the person was not VAT registered. The VAT paid amounted to R 167 090.00. The amount has been raised as an accounts receivable and will be recovered from the person concerned.

29. IRREGULAR EXPENDITURE

Opening balance
 Add: Irregular expenditure - current year
 Add: Irregular expenditure - prior year
 Less: Amounts recoverable (not condoned)
 Less: Amounts not recoverable (condoned)

Amounts awaiting condonation

Analysis of expenditure awaiting condonation per age classification

Current year
 Prior years

	2016 R '000	2015 R '000
Opening balance	686	-
Add: Irregular expenditure - current year	296	425
Add: Irregular expenditure - prior year	856	261
Less: Amounts recoverable (not condoned)	-	-
Less: Amounts not recoverable (condoned)	(862)	-
Amounts awaiting condonation	976	686
Analysis of expenditure awaiting condonation per age classification		
Current year	120	-
Prior years	856	-
	976	-

Details of Irregular Expenditure - Current year

	Disciplinary steps taken/criminal proceedings	2015/2016 (R '000)
Procurement of consulting services	None required	111
Service fees paid to travel agencies	None required	9
		120

In the prior year, the Tribunal disclosed irregular expenditure that pertained to project management services of a major software development in the Tribunal over the three financial years (2012/2013, 2013/2014 and 2014/2015) that totalled R476 805.00.

During the current financial year we paid the same service provider R176 130.00 as the contract was still in place. Both these amounts were condoned by National Treasury.

In addition, the Tribunal has disclosed irregular expenditure pertaining to amounts paid to consultants (R110 786.70 - current year and R851 776.33 for 2013/2014 and 2014/2015) and travel agent (R9 069.00 - current year and R4 095.00 for 2014/2015) where there is no evidence that a proper deviation process was followed or the deviation was approved by the appropriate delegated authority. With regard to the expenditure pertaining to consulting services it must be noted that the service provider contracted was done so through a proper bid process to complete a specific project. The project was completed as required and in a manner acceptable by management. Additional services were performed by the service provider however without following a renewed procurement process as management deemed this work to constitute "continuity of supply". It is deemed irregular as management failed to adequately document the deviation and motivation for continued supply. The additional services were delivered to management's satisfaction and value was added.

30. RECONCILIATION BETWEEN BUDGET AND STATEMENT OF FINANCIAL PERFORMANCE

Reconciliation of budget surplus/deficit with the surplus/deficit in the statement of financial performance:

Net deficit per the budget

Adjusted for:

Fair value adjustments

Impairments recognised/reversed

Profit/loss on the sale of assets

Printing recoupment and insurance refund

Transfer from retained income

Adjustments for items reflected as capital expenditure on budget:

Leased equipment

Capital expenditure

Income under/(in excess of) budget:

Filing fees from the Commission

Interest received

EDD grant

Over/(under) expenditure on budget:

Personnel

Part-time Tribunal member fees

Local training

Overseas training

Professional services

Recording and transcription services

Recruitment costs

Administrative expenses

Facilities and capital

Competition Appeal Court

Net surplus per approved budget

	2016 R '000	2015 R '000
Net deficit per the budget	307	(771)
Adjusted for:		
Fair value adjustments	20	(2)
Impairments recognised/reversed	-	67
Profit/loss on the sale of assets	(2)	(6)
Printing recoupment and insurance refund	(17)	(2)
Transfer from retained income	6 350	7 488
Adjustments for items reflected as capital expenditure on budget:		
Leased equipment	(123)	(149)
Capital expenditure	(1 154)	(1 301)
Income under/(in excess of) budget:		
Filing fees from the Commission	(2 771)	(3 409)
Interest received	104	219
EDD grant	(948)	-
Over/(under) expenditure on budget:		
Personnel	(361)	(718)
Part-time Tribunal member fees	(35)	183
Local training	(87)	(57)
Overseas training	(204)	(442)
Professional services	(368)	(707)
Recording and transcription services	235	157
Recruitment costs	43	(33)
Administrative expenses	(475)	23
Facilities and capital	(323)	(321)
Competition Appeal Court	(191)	(219)
Net surplus per approved budget	-	-

31. COMMITMENTS

The balance of an additional grant received from the Department of Economic Development to cover the unitary costs associated with occupation on the campus has been committed to cover a portion of these payments in the 2016/2017 financial year. This commitment amounts to R948 320.26.

While the income and expenditure statement reflects a small operating loss this payment will be made from the Tribunal's accumulated surpluses. The Tribunal had budgeted to use these to cover operating expenses during the period under review. However, given the increase in revenue over budget and the marginal underspending this was not required.

The Tribunal has an agreement with the dti with regard to occupation on the campus for a period of two years with effect 1 April 2015. The agreement is subject to 60 days notice from either party. In terms of this agreement we are required to pay an amount of R2.9m within one year with effect from 1 April 2016.

32. RELATED PARTIES

Related party

The Competition Commission

The Department of Trade and Industry

Economic Development Department

Relationship

Public entity in the National Sphere

National Department in the National Sphere

National Department in the National Sphere

Note: Amounts that were paid to state departments and public entities are disclosed below.

The Competition Tribunal is a public entity that falls within the oversight responsibility of the Economic Development Department and contributes towards the achievement of the objectives of the Economic Development Department and the overall Government strategies. The entities listed below are also part of the Economic Development Department's oversight responsibilities, against which no transaction has occurred:

- Industrial Development Corporation (IDC)
- International Trade Administration Commission (ITAC)

32. RELATED PARTIES (continued)

Related party balances

Amounts included in trade payables regarding related parties
The Department of Trade and Industry

2016
R '000

2015
R '000

3

5

Amounts included in trade receivables regarding related parties

Refund on administrative expenses due from the Commission
Filing fees due from the Competition Commission
Facility fee refund due from the Competition Commission

2

-

1 065

1 175

669

-

Related party transactions

The Competition Commission

Filing fees received as at year end
Facility fees paid as at year end
Employee costs received as at year end
Administrative costs received as at year end
Administrative costs paid as at year end

12 375

12 112

1 324

2 345

54

101

4

-

-

100

The Department of Trade and Industry

Unitary payments paid as at year end
Administrative costs paid as at year end

2 735

-

49

56

Economic Development Department

Grants received as at year end
Funding for dti campus

19 102

18 100

1 811

-

Full-time member/chairperson: N Manoim

Package
Statutory contributions
Other salary related contributions
Leave paid out at end of contract

2 277

2 174

22

22

72

70

-

142

2 371

2 408

32. RELATED PARTIES (continued)

Full-time member: Y Carrim

Package	
Statutory contributions	
Other salary related contributions	
Leave paid out at end of contract	

Chief Operating Officer: J de Klerk (COO)

Package	
Performance bonus	
Statutory contributions	
Other salary related contributions	

2016 R '000	2015 R '000
2 121	2 025
20	20
71	61
-	104
2 212	2 210
1 487	1 409
122	123
16	16
44	49
1 669	1 597

33. NEW STANDARDS AND INTERPRETATIONS

33.1 Standards and interpretations issued, but not yet effective

The entity has not applied the following standards and interpretations, which have been published and are mandatory for the entity's accounting periods beginning on or after 01 April 2015 or later periods:

Standard/ Interpretation:	Effective date: Years beginning on or after	Expected impact:
• GRAP 18: Segment Reporting	01 April 2015	No impact
• GRAP 20: Related parties	01 April 2017	Being used as a basis
• GRAP 32: Service Concession Arrangements: Grantor	01 April 2016	No impact
• GRAP 108: Statutory Receivables	01 April 2016	Impact limited
• IGRAP 17: Service Concession Arrangements where a Grantor Controls a Significant Residual Interest in an Asset	01 April 2016	No impact
• GRAP 17 (as amended 2015): Property, Plant and Equipment	01 April 2016	No impact
• GRAP 109: Accounting by Principals and Agents	01 April 2017	No impact
• GRAP 21 (as amended 2015): Impairment of non-cash generating assets	01 April 2017	No impact
• GRAP 26 (as amended 2015): Impairment of cash generating assets	01 April 2017	No impact

34. PRIOR PERIOD ERRORS AND ADJUSTMENTS

With regard to the PAYE liability due as a result of the incorrect application of IRP codes to cell phone allowances awarded to employees, SARS has indicated that the total liability (excluding interest) due effected the prior period to an extent of R338 683.69 (R258 514.85 pertaining to 2013/2014 and previous years and R80 169.83 pertaining to 2014/2015).

It appears as if VAT has been paid to a service provider in error. The amount has therefore been reflected as an account receivable in the current year and the prior period. The prior period consists of R22 540.00 in 2013/2014 and R61 740.00 in 2014/2015.

In addition, a prior period error of R2 799.13 pertaining to incorrect calculation of depreciation on property, plant and equipment (R401.04) and software (R2 398.09) has been disclosed. During the current financial year it was determined that an amount of R65 995.63 reflected as impairment should be reclassified as a "loss on disposal of assets". As the impairment was already reflected as expenditure in the prior year there was no change in the statement of financial performance as a result of this reclassification.

The correction of the error(s) results in adjustments as follows:

	2016 R '000	2015 R '000
Statement of financial position		
Current liabilities	(339)	-
Current assets	84	-
Non-current assets	3	-

	Balance as previously reported	Prior period adjustment	Restated balance
Statement of financial position			
Property - plant and equipment	1 049	1	1 050
Payables from exchange transactions (VDP)	(1 974)	(339)	(2 313)
Receivables from exchange transactions (VAT)	1 355	84	1 439
Intangible assets	2 763	2	2 765
	3 193	(252)	2 941

	Balance as previously reported	Prior period adjustment	Restated balance
Statement of financial performance			
Personnel costs - 2013/2014 (VDP)	(16 170)	(259)	(16 429)
Personnel costs - 2014/2015 (VDP)	(19 095)	(80)	(19 175)
Other operating expenses 2013/2014 (VAT)	(9 827)	23	(9 804)
Other operating expenses 2014/2015 (VAT)	(7 912)	61	(7 851)
Depreciation and amortisation 2014/2015	(745)	3	(742)
	(53 749)	(252)	(54 001)



PART 06

APPENDIX

94 Appendix A:
Annual performance report



Appendix A: Annual performance report

Strategic focus area 1

STRATEGIC FOCUS AREA 1		ADJUDICATIVE EXCELLENCE						
				CURRENT BUDGET	R 20 904 294.88			
				ACTUAL EXPENDITURE	R 20 208 350.86			
GOAL STATEMENT		TO ENSURE EFFECTIVE AND EFFICIENT ADJUDICATION ON MATTERS BROUGHT BEFORE THE TRIBUNAL						
STRATEGIC OUTCOME								
STRATEGIC OBJECTIVE	STRATEGIC OBJECTIVE STATEMENT	OUTCOME	PERFORMANCE INDICATORS	ANNUAL TARGET	PRIOR YEAR ANNUAL PERFORMANCE	ANNUAL PERFORMANCE	EXPLANATIONS FOR DEVIATIONS	
CASE MANAGEMENT EFFICIENCY	Matters brought before the Tribunal are heard within the adopted delivery time frames	Hearings are set down within required time frames	% of large mergers to be set down for the beginning of a hearing or a pre-hearing within 10 business days of the filing of the merger referral	75%	80%	76%	Target exceeded by 1 % for the year. 97 of 127 large mergers set down within required 10 business days. The target is not set at 100% as parties are not always available on dates we indicate and as our capacity is reduced (two part-time members short) we were of the view that the target needed to be lower. This target will be reconsidered when drafting the 2017/2018 APP.	
			% of intermediate mergers to be set down for the beginning of a hearing or a pre-hearing within 10 business days of the filing of the merger referral	75%	75%	44%	Target not met for five out of nine matters set down. two matters were set down outside the turnaround time due to the unavailability of the parties on the specified dates. In three matters the parties entered into settlement negotiations with the Commission, which delayed setting down. In the remaining matter an administrative oversight caused the Tribunal not to meet the required 10 day period.	
TIMEOUS ISSUING OF JUDGMENTS	Improvement in the issuing of judgments/decisions in line with adopted time frames	Expeditious conclusion of matters	% of large merger orders issued to parties within 10 business days of last hearing date	95%	100%	100%	Target exceeded by 5% for the year. 124 out of 124 orders issued within required 10 business days.	
			% of large merger reasons issued to parties within 20 business days of order being issued	70%	100%	87%	Target exceeded by 17% for the year. 103 out of 119 reasons issued within required 20 business days. The target was set at 70% as the drafting of merger reasons can take longer than expected if the matter is complex. In addition, we anticipated reduced capacity as we are two part-time Tribunal members short. These targets will all be reviewed when the 2017/2018 APP is drafted.	
			% of intermediate merger orders issued to parties within 10 business days of last hearing date	95%	85%	100%	Target exceeded by 5% for the year. Nine out of nine orders issued within the required 10 business days.	
			% of intermediate merger reasons issued to parties within 20 business days of order being issued	60%	0%	60%	Target met for the year.	

Strategic focus area 1 (Continued)


STRATEGIC FOCUS AREA 1		ADJUDICATIVE EXCELLENCE							
				CURRENT BUDGET	R 20 904 294.88				
				ACTUAL EXPENDITURE	R 20 208 350.86				
GOAL STATEMENT		TO ENSURE EFFECTIVE AND EFFICIENT ADJUDICATION ON MATTERS BROUGHT BEFORE THE TRIBUNAL							
STRATEGIC OUTCOME									
STRATEGIC OBJECTIVE	STRATEGIC OBJECTIVE STATEMENT	OUTCOME	PERFORMANCE INDICATORS	ANNUAL TARGET	PRIOR YEAR ANNUAL PERFORMANCE	ANNUAL PERFORMANCE	EXPLANATIONS FOR DEVIATIONS		
TIMEOUS ISSUING OF JUDGMENTS	Improvement in the issuing of judgments/decisions in line with adopted time frames	Expeditious conclusion of matters	Reasons for prohibited practice cases issued to parties in accordance with delivery timeframes per category: A, B or C	A - 100 business days	New target	No reasons issued	No reasons issued as no matters were decided		
				B - 125 business days	New target	No reasons issued	No reasons issued as no matters were decided		
				C - 150 business days	New target	100%	Target met for the year. Reasons were only issued in one matter this year. The decision took long as a result of pressure on the panel members who also had to sit on other matters during the period and the complexity of the matter (the transcript consisted of 3 900 pages and the reasons issued consisted of 150 pages).		
				% of procedural matter orders issued to parties within 20 business days of last hearing date	85%	87%	73%	Target not met. Seven out of 26 decisions were delayed due to the complexities of the applications, which required extensive research and deliberation by the panels.	
				% consent orders issued to parties within 10 business days of last hearing date	90%	100%	96%	Target exceeded by 6% for the year. 26 of 27 consent orders were issued within the required 10 business days.	
			% interim relief reasons issued to parties within 20 business days of last hearing date	100%	100%	No reasons issued	No reasons issued as no matters were decided.		
EFFECTIVE BUSINESS APPLICATIONS	Enhance record keeping, performance and case flow management by harnessing facility and functionality of business applications	Improved management information to inform strategic decision making and access to historical data	Enhancement of case management system facility in line with project plan	User Acceptance Testing of Case 360 Phase II development completed by December	New target	Phase 2 had UAT after various scopes of work (SOW) completed. Project set to end March 2016. Fully implemented and operative before 31 March 2016	Project was 100% achieved and successfully implemented. Original target for UAT was set for December 2015 but as UAT took place after each SOW project plan amended "go live" target date was set for at March 2016.		
				Reduced reliance on manual performance reporting by 2020 according to agreed plan	Plan and process for reporting enhancement established and signed off by December	New target	No formal plan in place but manual reliance being reduced	No formal plan in place but manual reliance is being reduced.	

Strategic focus area 2

STRATEGIC FOCUS AREA 2:		STAKEHOLDER RELATIONSHIPS						
				CURRENT BUDGET	R 864 317.84			
				ACTUAL EXPENDITURE	R 835 057.93			
GOAL STATEMENT		TO BUILD AND DEVELOP EFFECTIVE STAKEHOLDER RELATIONSHIPS						
STRATEGIC OUTCOME								
STRATEGIC OBJECTIVE	STRATEGIC OBJECTIVE STATEMENT	OUTCOME	PERFORMANCE INDICATORS	ANNUAL TARGET	PRIOR YEAR ANNUAL PERFORMANCE	ANNUAL PERFORMANCE	EXPLANATIONS FOR DEVIATIONS	
ENSURE RELEVANT COMMUNICATION TO STAKEHOLDERS	Ensure that an integrated communication plan is developed and implemented	A structured and focussed process to create and enhance awareness of the work of the Tribunal	Communication plan developed and implemented in line with EXCO requirements and agreed timeframes	Communication plan approved by EXCO by September 2015	New target	Implement plan against agreed timeframes	Plan not finally approved but has been submitted to EXCO and OPCOM and the plan has been implemented.	
MAINTAIN AND ENHANCE THE PRESENCE AND PROFILE OF THE TRIBUNAL	Ensure communication pertaining to final decisions in mergers and prohibited practice cases are made public within adopted delivery timeframes	Timely and compliant communication of adjudication outcomes	% press releases of final merger decisions communicated within two business days of order date	75%	100%	92%	Target exceeded by 12% for the year. 123 press releases issued for 133 final merger decisions. Not all final merger decisions are newsworthy and we therefore set this target at 75%. This year saw many mergers decisions of interest, hence more press releases were issued.	
			% press releases of prohibited practice decisions communicated within two business days of order date	100%	90%	100%	Target met for the year. One press release issued for one prohibited practice decision.	
			% of non confidential version (ncv) of reasons posted on website within two business days of issue date of ncv	75%	New target	97%	Target exceeded by 22% for the year. 132 out of 136 ncv of the reasons posted on the website within required two business days. This was a new target in 2015/2016 and was set at 75%. We will consider increasing it in 2017/2018.	
			Number of Tribunal Tribune published annually	3	3	2	Target not met for year to date. An executive decision was taken to terminate the Tribune in its current format and redesign the newsletter for distribution next year.	
			Number of Tribunal Tribune distributed according to agreed distribution list	55	55	Less than 55	Target not met for the year to date. An executive decision was taken to terminate the Tribune in its current format and redesign the newsletter for distribution next year.	
IMPROVE STAKEHOLDER DELIVERY	Identify and address stakeholder needs and expectations in order to meet or exceed requirements	Level of stakeholder satisfaction	Assess actions required and develop plan to implement	Planned and implemented actions against stakeholder satisfaction survey results	New target	Plan delayed due to late appointment of communications officer	Target not met for the year to date. Plan delayed due to late appointment of communications officer.	

Strategic focus area 3

STRATEGIC FOCUS AREA 3:		ACCOUNTABLE, TRANSPARENT AND SUSTAINABLE ENTITY					
		CURRENT BUDGET		R 5 844 323.07			
		ACTUAL EXPENDITURE		R 5 304 318.11			
GOAL STATEMENT		TO ENSURE THE TRIBUNAL HAS EFFECTIVE STRATEGIC LEADERSHIP, ADMINISTRATION AND MANAGEMENT THROUGH ADHERENCE TO GOOD GOVERNANCE AND SOUND BUSINESS PRACTICE					
STRATEGIC OUTCOME							
STRATEGIC OBJECTIVE	STRATEGIC OBJECTIVE STATEMENT	OUTCOME	PERFORMANCE INDICATORS	ANNUAL TARGET	PRIOR YEAR ANNUAL PERFORMANCE	ANNUAL PERFORMANCE	EXPLANATIONS FOR DEVIATIONS
GOOD GOVERNANCE	Increase the level of compliance with the prescripts of good governance	Accountable and transparent public entity	Achieve an unqualified audit outcome year on year	Unqualified audit – no issues of governance raised	New target	Final report not qualified but irregular expenditure disclosed.	Target partially met (as pertaining to the 2014/2015 audit). A finding of irregular expenditure was raised that relates to procurement regulations not being adhered to. The Tribunal has requested condonation for this from National Treasury.
EFFECTIVE OVERSIGHT STRUCTURES	Maintain effective oversight structures that promote solid business practice	Sound business practice	Achieve an unqualified audit outcome year on year	Unqualified audit – no issues of governance raised	New target	Final report – no issues of governance raised	Target met for the year with regard to 2014/2015 audit.
EFFECTIVE MANAGEMENT OF THE BUDGET	Ensure financial management that promotes effective and efficient use of resources	Optimal financial resource allocation and utilisation	Achieve an unqualified audit outcome year on year	Unqualified audit – no findings of fruitless / wasteful expenditure	New target	Final report not qualified, but fruitless and wasteful expenditure disclosed	Target partially met (as pertaining to the 2014/2015 audit). Fruitless and wasteful expenditure pertaining to a penalty payable to SARS for a VDP lodged in 2011/2012 was disclosed.
FINANCIAL GOVERNANCE AND REPORTING	Ensure a sound control environment and monitor	Compliance to requirements as an accountable, transparent institution	No material misstatements for May submission	No material misstatement on May submission	New target	Final report – no material misstatements	Target met for the year with regard to 2014/2015 audit.
			Submission against annual deadline	Annual reporting submission dates met May and July	New target	AR submitted within required timeframes	Target met for the year with regard to 2014/2015 audit.
		Integrated risk management processes and combined assurance	Achieve an unqualified audit outcome year on year	Unqualified audit – no issues of risk management raised	New target	Final report – no risk management issues raised	Target met for the year with regard to 2014/2015 audit.
SUSTAINABLE CAPACITY	Ensure that the Tribunal effectively leverages employee skills by recruiting, retaining and developing high quality people	Strengthen the Tribunal's organisational capacity and performance to deliver on its legislative mandate	Implementation of case management graduate internships against plan	Graduate internship implemented	New target	Policy in final draft and two interns employed	Target met for the year – two case management interns appointed with effect from January 2016. Internship policy document in final review process.



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