



2016/2017
ANNUAL INTEGRATED REPORT



competitiontribunal
south africa

CONSTITUTIONAL MANDATE

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

LEGISLATIVE MANDATE

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

- (a) promote efficiency, adaptability and development of the economy;
- (b) provide consumers with competitive prices and product choices;
- (c) promote employment and advance the social and economic welfare of all South Africans;
- (d) expand opportunities for South African participation in world markets;
- (e) recognise the role of foreign competition;
- (f) ensure that small and medium-sized enterprises have an equitable opportunity to participate in the economy; 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;
- timely decisions of high calibre;
- effective communication of our work with the public; and
- courteous, efficient, informed interaction with our stakeholders.

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PART 01

FOREWORD

02 Coming of age in a young democracy - the Minister of Economic Development, Ebrahim Patel

COMING OF AGE IN A YOUNG DEMOCRACY

The changes in South Africa's political system in 1994 created the foundations of an inclusive democracy but left to law-makers, the Executive and an active citizenry the job of ensuring that economic inclusion was achieved. Economic inclusion refers to access to a decent job and rights to participate fairly in the national economy through access to ownership, entrepreneurial opportunities and participation.

Competition policy has shifted in the past 12 months to the centre of policy discussions about building that inclusive economy.

Our unique history of exclusion required special measures to reverse the deep legacy of the past. In 1998, the legislature set an ambitious vision in the preamble to the Competition Act ("Act"). Over the past nearly decade, the Executive has championed a purposive interpretation of the Act, with greater attention to ensuring that public interest criteria are considered in mergers & acquisitions, cartels are rooted out and abuse of dominance is challenged.

Much progress has been made and some of these are documented in this Report.

This past year saw the largest penalty yet imposed by the Competition Tribunal ("Tribunal") on a firm in the steel industry, for contravening the Act, as well as arguably the most far-reaching public interest conditions attached to mergers in the beverages sectors. In both sets of cases, the public sector institutions – government departments and regulators – played their specific roles to effect these outcomes.

In the matter involving ArcelorMittal, two sets of regulators (trade and competition) and two Ministries were involved in addressing issues related to the company. The complexity of addressing breaches of the Act as well as historical under-investment in the steel-mills, new pressures on the company as a result of the glut of steel on global markets and rising imports of steel particularly from China, required innovative approaches.

The final settlement with the company included a R1.5bn penalty, a price-cap on flat steel products, avoidance of retrenchments and R4.6bn in new investments in capex to improve its dynamic competitiveness. Government liaised with the company and the two sets of regulators (competition and trade) to enable a comprehensive settlement of issues.

In two large beverage mergers involving soft-drinks (Coca-Cola) and beer (AB InBev/SABMiller), significant public interest issues were at stake, ranging from access for smaller players to the retail infrastructure of the dominant firms, to employment, industrial development, empowerment and small business promotion. This required extensive engagement between government and the merger parties as well as representation on these issues to the regulators.

The mergers were approved with conditions that provided inter alia for significant and extensive employment undertakings, provision of support to small businesses particularly black emerging farmers, access to competitor products in fridges and display cooler units owned by the large firms in certain kinds of spaza shops and taverns and commitments to maintain the African headquarters of the companies in South Africa. In the soft-drink transaction, black ownership would be increased in the merger company and a locally-inspired brand, Appletiser, would continue to be produced in South Africa.

I point to these examples because they demonstrate that competition policy and regulators can, should and do respond to the ambition and vision of the preamble of the Act and that competition policy is part of a broader economic policy framework in South Africa.

The Tribunal is a critical part of the regulatory system.

The new challenge for competition law is to respond to excessive levels of economic concentration that in many cases limits the opportunity for citizens, particularly black South Africans, to participate equitably in the national economy.



I have no doubt that all these challenges will keep the competition regulators productively engaged in the period ahead!

I welcome the new deputy chairperson of the Tribunal, Mr Enver Daniels and new member Professor Halton Cheadle, both who joined during the period covered in the report.

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

Ebrahim Patel

Minister of Economic Development

31 July 2017



PART 02

AT A GLANCE

- 04 Chairperson's report
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CHAIRPERSON'S REPORT

It is with pleasure that, as part of the 18th annual report, I present my report for the period ended 31 March 2017.

It was a year of superlatives. It saw the largest penalty imposed on a firm for contravening the Competition Act, the largest merger to be notified in South Africa and the end of two of the most protracted hearings: one a merger and the other a case against the abuse of market dominance.

Of course the fact they all happened in the same year is purely coincidental. However managing them was not a matter of chance and I am pleased to say that the Tribunal proved up to these challenges.

The largest penalty was against ArcelorMittal South Africa Limited ("ArcelorMittal") who entered into a consent order with the Commission to settle a variety of cases. Unique to this settlement, apart from the size of the fine – R1.5bn – was that the firm also settled an excessive pricing case with no admission of liability but agreeing to a pricing remedy for flat steel, for a period of five years. To put the size of the fine in perspective: the largest fine to date has been the R534m imposed on Sasol Chemical Industries Limited in 2014. The second largest fine imposed in this financial year was the R35m imposed on Sime Darby Hudson Knight (Pty) Ltd ("Sime Darby") for collusive conduct in the margarine market.

The largest merger ever notified was the acquisition by Anheuser-Busch InBev SA/NV ("AB InBev") of the entire share capital of SABMiller plc ("SABMiller"). The merger attracted a great deal of attention as SABMiller has been an iconic firm on the South African business scene for well over a century. The merger, which had also been notified in several other jurisdictions, was approved subject to a number of conditions relating both to competition and public interest concerns. Yet despite this complexity the merger process went very smoothly. It serves as an indication that complex merger transactions can get cleared without prolonged litigation when the merging firms offer meaningful solutions, should they anticipate concerns. Encouraging as well was the participation of trade unions and organisations representing small businesses and historically disadvantaged businesses in the process, most of who represented themselves and were comfortable in engaging the process despite its appearance of formality.

However two other cases we completed this year did involve protracted litigation. The Tribunal, after 24 days of hearing, prohibited the merger of the only two miners of andalusite which is a mineral required by foundries to insulate their furnaces. The merger was an intermediate merger and had originally been prohibited by the Commission. The Tribunal hearing afforded both parties an opportunity to lead new evidence and they did. The merging parties had originally argued that this was not a merger-to-monopoly but later conceded, during the Tribunal hearing, that their merger would indeed create a monopoly in the andalusite market. They then argued that if the merger was approved subject to conditions competition



Norman Manoim, Tribunal chairperson.



LARGEST FINE EVER IMPOSED BY THE TRIBUNAL
– R 1.5 BILLION – *THE COMPETITION COMMISSION*
AND ARCELORMITTAL SA LTD



LONGEST RUNNING DOMINANCE CASE
(THE COMPETITION COMMISSION AND MEDIA24)–
INITIATED IN SEPTEMBER 2009 BY COMMISSION,
REFERRED TO THE TRIBUNAL IN OCTOBER 2011 AND
REMEDY OUTCOME CONCLUDED IN SEPTEMBER 2016



LARGEST MERGER NOTIFIED – TRANSACTION VALUE
OF R 70 BILLION – *AB INBEV AND SABMILLER*



MERIT AWARD FOR THE TRIBUNAL'S
2015/2016 ANNUAL INTEGRATED REPORT



CLEAN AUDIT FOR 2016/2017

concerns could be satisfied in the short term because, in the long term, both firms would charge the export price for the product as demand from international customers would by then have outstripped supply. The Tribunal panel did not accept this argument and prohibited the merger. The merging parties appealed to the Competition Appeal Court (“CAC”), which dismissed the appeal in a ground breaking judgment. The CAC held that the Commission did not carry the burden of establishing that conditions proposed by merging parties, in a merger that has anti-competitive effects, were not viable. This position has not been clear in our law until now and will give the Commission added powers in merger enforcement.

In the longest running dominance case to date, the Tribunal imposed an unusual behavioural condition on Media24 (Pty) Ltd (“Media24”) flowing from a finding that it had engaged in predatory pricing in the community newspaper market in the Goldfields region. We reported on the merits decision in this case in last year’s annual report. Since the finding had been made in terms of a provision of the Act for which a penalty was not competent for a first time infringement, the Tribunal opted to impose another remedy. The Naspers group, which owns Media24, was obliged to sponsor new entrants into the Goldfields market for a period of two years by making its printing and distribution companies provide these services to new entrants or existing players at the same price as these services are provided to Media24’s paper in the area. This decision has been taken on appeal but the matter had not been heard at the time of writing.

Cartel cases continue to be a growing area of work for the Tribunal. Each case seems to raise novel issues and this year is no exception. In various cases heard during the course of the year the Tribunal had to decide such questions

as: can several firms controlled by the same controlling parties constitute a firm for the purpose of the enforcement provisions of the Act which refer simply to a firm? The Tribunal held that five firms controlled by the same parties were jointly liable for participation in bid rigging. Since this decision the parties entered into a consent agreement with the Commission which the Tribunal later approved.

Other decisions involved whether passive participation at a meeting of a cartel could contravene the Act; whether a restraint of trade between two firms in the same industry could constitute collusion; and whether a firm could be given leniency in respect of a cartel if it was second through the door.

All these decisions have gone the way of the Commission. One was appealed to the CAC which upheld the Tribunal decision.

A new development has been a Commission policy to more strictly enforce the provisions of the Act against firms that fail to notify mergers as required by the Act. Failure to notify carries with it the consequence of a penalty. In two cases we had to engage with the issue of how such penalties should be calculated. The Commission has since published its own guidelines on how it will approach the calculation of such fines. We welcome this development as it will encourage parties who have infringed to engage in settlement discussions with the Commission and thus obviate time-consuming litigation. Of course, as with all Commission guidelines, the Tribunal is not bound by them and must still exercise its discretion in each case to determine whether a remedy is appropriate.

In the course of this year two of our more pressing challenges have hopefully been resolved. Two new Tribunal

members were appointed with effect from 1 January 2017. Enver Daniels, the former chief state law advisor, joins us as the deputy chairperson on a full time basis. Professor Halton Cheadle, a law professor from Cape Town and practising attorney, joins us as a part time member. We look forward to a good working relationship with both. We now have the full complement of members that the Act provides for, which is 11.

Our cramped office space problem has also been resolved and in April we will move to a lower floor in our building which has expanded our office space by just over 40%. The Commission will occupy our former office space but has also moved some divisions to a building across the road thus freeing up office space for both institutions in the short term.

Due to its quasi-judicial nature the Tribunal is precluded from setting pro-active objectives or embarking on any focused interventions which target a particular sector or emphasise any specific sector. The Tribunal has no control over the number and type of cases brought before it and the only determinants of case load are complaint referrals and notified mergers. Each case brought before the Tribunal is adjudicated on its merits.

A detailed discussion of performance against the 28 identified targets follows in various parts of this report. I however note that we met or exceeded 18 of our 28 targets. Coincidentally this is very close to the prior year. One of the targets could not be measured as it pertained to the issuing of reasons and no reasons were issued. Reasons for partial achievement of the remaining targets are given later in this report, however further explanation is required to put the partial achievement into context as it would be wrong to assume that all targets are of equal significance.

12 of our targets relate to our core function, namely effective and efficient adjudication. As indicated earlier, one could not be met while five were met and exceeded and six (two relating to issuing of orders and four to issuing of reasons) were partially achieved. Delays in turnaround times occur for any one of the following reasons:

- complex cases – court records are lengthy and complex points of law need to be considered;
- capacity constraints – the Tribunal did not have a full complement of Tribunal members until January 2017 and there were resignations in the case management division;
- high case load – as a result of the second point above panel members find it difficult to write decisions as they are sitting on other panels.

The remaining six not met do not adversely affect any stakeholders as they relate purely to operational issues.

I am confident that the Tribunal staff will continue to address non-achievement or partial achievement of our objectives and thereby improve on performance against set targets.

Part 6 of the annual report provides both a graphic and narrative explanation of the Tribunal's finances. I am of the view that the Tribunal continues to manage its finances both effectively and efficiently.

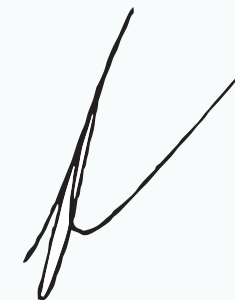
Revenue was 2.13% lower than the prior year and, while it appears as if funding from the Economic Development Department ("EDD") decreased, it must be noted that the prior year grant of R20.91m included an amount of R1.81m that

was specifically awarded to cover the costs of occupying space on the Department of Trade and Industry ("DTI") campus.

I am pleased to report that through the concerted efforts of the chief operating officer ("COO"), the corporate services, finance and procurement divisions, the Tribunal received a clean audit – a remarkable achievement given that non-compliance issues resulted in an unqualified audit in the two preceding years.

In addition the Tribunal's annual report for the 2015/2016 received a merit award at the CSSA/JSE Integrated Reporting Awards 2016 – yet another achievement for the Tribunal on an operational level.

In conclusion I take this opportunity to thank both the staff and the Tribunal members for continuing to strive to deliver on our mandate and for ensuring that we remain a credible, transparent and accountable entity.



Norman Manoim

Chairperson

31 July 2017



Janeen de Klerk, chief operating officer, oversees the production of the annual report.

INTEGRATED REPORT OVERVIEW

For the past three years the Tribunal has focussed on improving the annual report so that it encompasses in all aspects the principles of integrated reporting. In November 2016 the Tribunal received a merit award at the CSSA/JSE integrated report award ceremony. The judges noted a significant improvement in the report and found it to be balanced in that it focussed on both successes and failures. The Tribunal received positive feedback on the infographics included in the report and they indicated this made for easier reading and understanding. It was also suggested that we provide some additional narrative in the financial section as well as a little more discussion on risk mitigation.

In this year's report we have attempted to address these shortcomings as well as compare prior and current results be they financial or performance related.

The following section of the report consists of four parts that focus on who we are and what we do, our performance against stated objectives, how we govern and how we have used our financial resources in the current period.

We are aware that not all readers of our report understand the intricacies and details of competition law and its application with regard to ensuring that competition is promoted and maintained in our economy and therefore give effect to the goals stated in our legislative mandate. The latter includes providing consumers with competitive prices, promoting employment and ensuring that small and

medium-sized enterprises have an equitable opportunity with regard to participation. For this reason in Part 3 we have focussed on explaining our role and function in a manner that can be understood by all. We have also, as we did last year, set out our vision, mission, values and legislative mandate in order to place our existence and role in context for our readers and stakeholders.

It has been an interesting and challenging year and we throughout the report highlight notable aspects of the matters brought before us such as the number and size of penalties imposed and the aspects of anticompetitive behaviour they address.

In Part 4 we address performance against our stated objectives and where we have failed to achieve targets we address reasons for these and where possible detail corrective action. We also provide some insight with regard to future targets or plans. On an annual basis the Tribunal reconsiders its objectives, indicators and targets and where necessary adjusts them upwards or downwards based on past performance (generally based on a three year average) and other situational considerations.

This part also deals with stakeholder interactions and demonstrates how the Tribunal ensures that its work and decisions are made public through regular interaction with the media, the creation and maintenance of a "Twitter" account and regular updating of information on our website. In 2017/2018 we will be embarking on a project to increase the search capabilities of the website,

make it more user friendly and create an electronic newsletter located on the site.

We reflect on the school outreach project – a first for the Tribunal – and the internship programme both ways in which the Tribunal has been able to provide youth with an understanding of our work as well as provide them with work experience.

Through the various training intervention's and the internship programme discussed in Part 4 we have ensured that other capacity requirements are addressed and that staff involved in the adjudicative process are kept abreast of regional/national and international aspects of competition law and economics.

Part 5 addresses the ever changing compliance environment we operate in that requires us to continually be alert to changes in processes/policies/procedures that may need to be implemented to ensure compliance and make the Tribunal both effective and efficient.

We demonstrate how we have continued to ensure that there is effective governance with regard to information technology and that we are keeping abreast with technology so as to limit the risk of breaches of cyber security.

We discuss the interaction with the auditors and oversight structures in the Tribunal that has resulted in the Tribunal working towards creating an effective control environment that reduces audit findings and places us in a better position for further clean audits.

The clean audit we received for the period ending 31st March 2017 is testimony to the fact that divisional heads and their staff have addressed prior audit findings and implemented corrective action as well as testimony to the fulfilment of our strategic objective of being an accountable, transparent and sustainable entity. Preparing and producing an integrated annual report in which we address all aspects of our work – successes and failures, our social, environmental and economic impact enhances our transparency and accountability.

In Part 6 we address in a simple and user friendly approach the budgeting for and use of our financial resources providing explanations for over or under spending as well as identifying trends that can be used to guide budgeting going forward.

The full performance information report as submitted to our line department and National Treasury in compliance with reporting requirements is attached as an Appendix to the report.





PART 03

WHO WE ARE

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12 Tribunal in operation

OUR ROLE

The promulgation of the Competition Act in September 1999 saw three institutions namely, the Commission, the Tribunal and the CAC being constituted to promote and maintain competition in the economy and to ensure compliance with the provisions of the Act.

Explained simply, the Commission is the policeman and prosecutor in the system while the Tribunal is the court, functioning independently both of government and of the Commission. The structure and function of the competition agencies are illustrated in Diagram 1.

The Tribunal mainly hears two types of cases: mergers and prohibited practices.

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

In large mergers we are the deciding body after the Commission has investigated the merger and made a recommendation to the Tribunal with regard to the decision. In small and intermediate mergers the Commission decides but parties can appeal this decision to the Tribunal.

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

The Tribunal must issue reasons for its decisions. Reasons, unless they contain confidential information, are in the public domain and are published on our website.

Prohibited practices can be regarded as the "crimes" of the Act and can be:

- horizontal practices (agreements between competitors) with price-fixing being the most common type. Most of these cases are settled by way of consent orders that include remedies (monetary penalties and cease and desist orders);
- vertical practices (agreements between suppliers and customers). These are described in the Act as 'minimum resale price maintenance' and agreements that have the effect of reducing inter- or intra-brand competition;
- abuse of dominance – conduct by a dominant single firm that is exploitative, exclusionary or that discriminates in terms of price.

The Tribunal's hearings are conducted like a court would with pleadings, discovery, witness statements and a trial that includes examination, cross examination and legal argument.

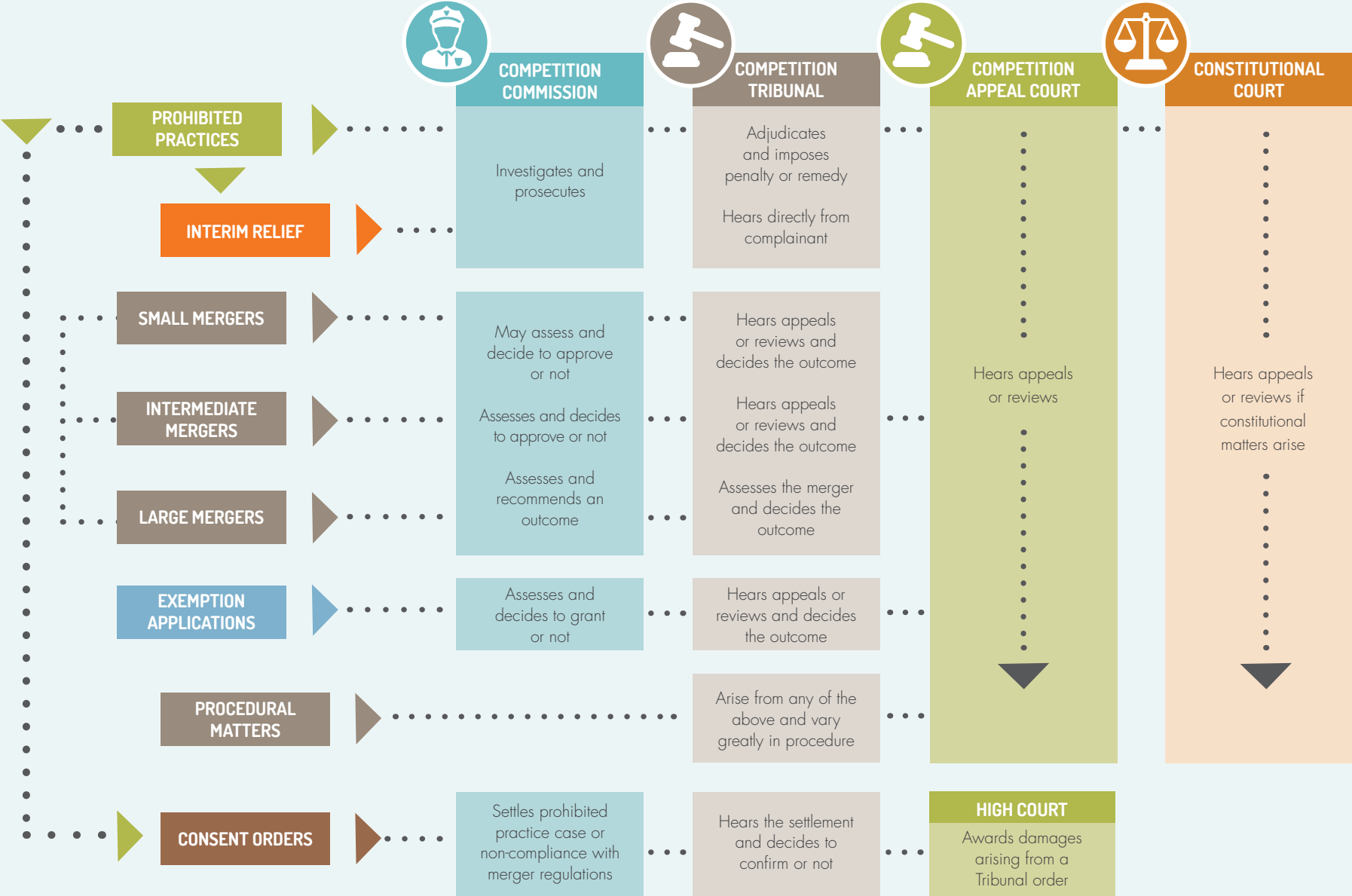
These cases can be brief, if settled by a consent agreement, or long if they are contested. The outcome can include a remedy, acquittal or conviction. The latter may include the imposition of a fine or a divesture order.

The Act allows a firm to apply to the Commission to be exempted from the application of the Act. The Tribunal only becomes involved when the exemption is refused or another party believes the exemption should not be granted.

In hearing cases brought before it the Tribunal must constantly perform a balancing act between the values depicted below.



Diagram 1: Structural and functional overview of the competition agencies



TRIBUNAL IN OPERATION

So we know the Tribunal is a type of court but, in practice, how does it work and who works for it?

The Tribunal hears its cases before a panel of three of its members. We have a pool of 11 members who are appointed for five years but can be reappointed. Five (including the chairperson and the deputy chairperson) are full-time members while six are part-time members

who have other employment.

As required by the Act all members are South African and represent a cross section of our population, with 54.55% of them being black. They provide a mixture of skills: eight lawyers and three economists. Together they have 79 years and three months of working experience in the Tribunal with the shortest term being three months,

the longest being 17 years and eight months and the average for all the members being seven years and two months.

These panel members are supported in their work by a staff of employees who we call our secretariat. They differ in function from members as they do not decide cases and are all full-time employees.



TRIBUNAL MEMBERS – FULL-TIME MEMBERS



1. Norman Manoim (chairperson)
BA, LLB
Lawyer, 1999-current, fourth term

2. Enver Daniels (deputy chairperson)
BA (Law), LLM and B.Proc
Lawyer, 2017-current, first term

3. Yasmin Carrim
BSc, LLB, HDE(PG) Sec
Lawyer, 2004-current, third term

4. Andreas Wessels
BCom Hons, M.Com
Economist, 2009-current, second term

5. Mondo Mazwai
B (Juris), LLB
Lawyer, 2014-current, first term

TRIBUNAL MEMBERS – PART-TIME MEMBERS



6. Medi Mokuena
Dip Juris, LLB, LLM
 Lawyer, 2004-current, third term

7. Andiswa Ndoni
*B.Proc, LLB, Dip Business Management,
 Cert. in Corporate Governance*
 Lawyer, 2009-current, second term

8. Imraan Valodia
BCom (Hons, Msc, PhD (Economics))
 Economist, 2013-current, first term

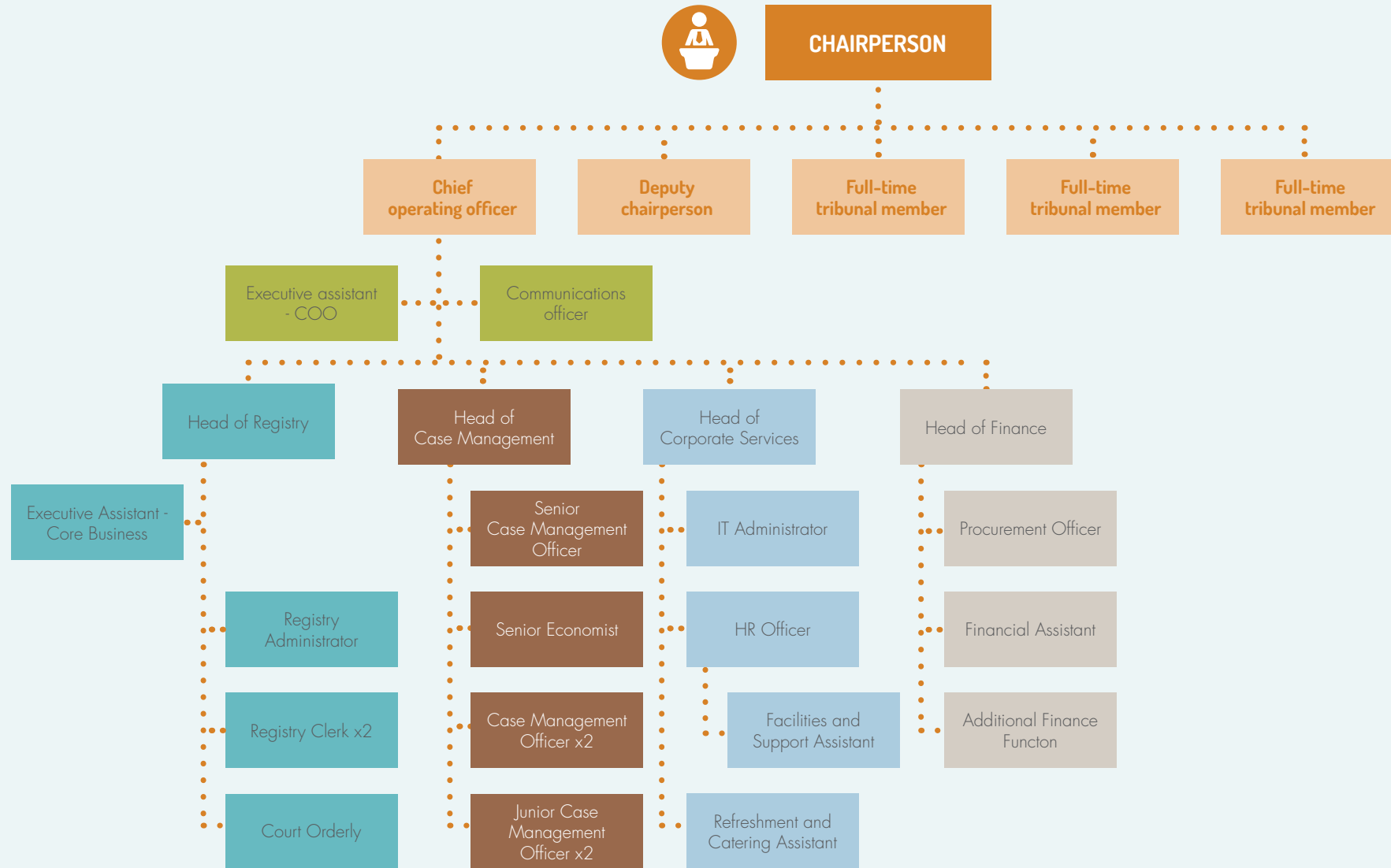
9. Anton Roskam
BA, LLB, HDip - Labour Law, MBA
 Lawyer, 2013-current, first term

10. Fiona Tregenna
BA honours, MA, PhD (Economics)
 Economist, 2014-current, first term

11. Halton Cheadle
BA, B Proc., LLB
 Lawyer, 2017-current, first term



Diagram 2: Organisational structure of the Tribunal



The secretariat consists of four divisions (case management, finance, registry and corporate services) and is headed by the office of the COO. The divisional heads of these divisions, together with the COO, form the operations committee ("OPCOM") whose mandate is detailed in the OPCOM's terms of reference.

The OPCOM assists the chairperson in his role as accounting authority and has oversight responsibilities for all operational functions, ensuring that good governance is established and maintained.

The Tribunal's current structure illustrated on the previous page allows for a staff complement of 24 (not including the full time members).

As at end of March 2017 one of these was unfunded and therefore cannot be filled, making the maximum possible staff complement 23.



The Tribunal secretariat.



PART 04

HOW DID WE PERFORM?

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- 19 Measuring the adjudicative process
- 30 Our relationship with stakeholders
- 35 How do we remain accountable, transparent and sustainable?
- 39 Addressing sustainability

SETTING STRATEGIC GOALS AND OBJECTIVES

The Tribunal is akin to an administrative court and is therefore reactive rather than proactive, a factor that constrains how we approach future plans. Nevertheless we have set the following strategic goals:

- adjudicative excellence – improving how we run our hearings;
- stakeholder relationships – ensuring we make stakeholders aware of what we do;
- accountable, transparent and sustainable entity – maintaining operational effectiveness.

Each of these goals is further unpacked to include at least one strategic objective with key performance indicators (“KPI’s”) and targets being assigned to each objective.

KPI’s relating to the adjudicative process and stakeholder relationships generally remain constant over the five year strategic period and in many instances are stated in the Tribunal rules. Targets for these KPI’s are reassessed annually and are based on average baseline performance over the past three years.

Non-performance is not always attributable to the Tribunal and may be a result of the complexity of a matter or because parties request delays. For this reason targets are not set at 100%.

The Tribunal allocates a budget to each strategic goal and reports expenditure against each goal. In this way

the Tribunal is able to determine the direct cost of our core business: adjudication.

28 targets were set for the period under review with 12 of these relating to our core business, two pertaining to businesses processes, seven each to stakeholder awareness









and operational effectiveness respectively.

Financial and non-financial performance for the period under review is summarised in Diagram 3 while the sections that follow provide a detailed narrative on achievement and non-achievement of the set targets.



Thabo Sengwayo, Themba Chauke, David Tefu and Maggie Mkhonto all provide logistical support to the court.

Diagram 3: Strategic focus areas and performance this financial year

 STRATEGIC ORIENTATED OUTCOME GOAL	 GOAL STATEMENT	 BUDGET ALLOCATED	 BUDGET SPENT	 NO. OF INDICATORS	 NO. ACHIEVED/ EXCEEDED	 NO. PARTIALLY EXCEEDED	 NO. THAT COULD NOT BE MEASURED
Adjudicative excellence	To ensure effective and efficient adjudication on matters brought before the Tribunal.	R23 490 930	R21 379 243	14	8	5	1
Stakeholder relationships	To build and develop effective stakeholder relationships.	R1 024 228	R997 469	7	4	3	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.	R6 883 100	R6 217 630	7	6	1	0
Administration	N/A	R11 371 820	R10 108 345				
TOTAL		R42 770 079	R38 702 699	28	18	9	1
CURRENT YEAR ACHIEVEMENT OF TARGETS				100%	64.29%	32.14%	3.57%
PRIOR YEAR ACHIEVEMENT OF TARGETS				100%	60.72%	28.57%	10.71%

MEASURING THE ADJUDICATIVE PROCESS

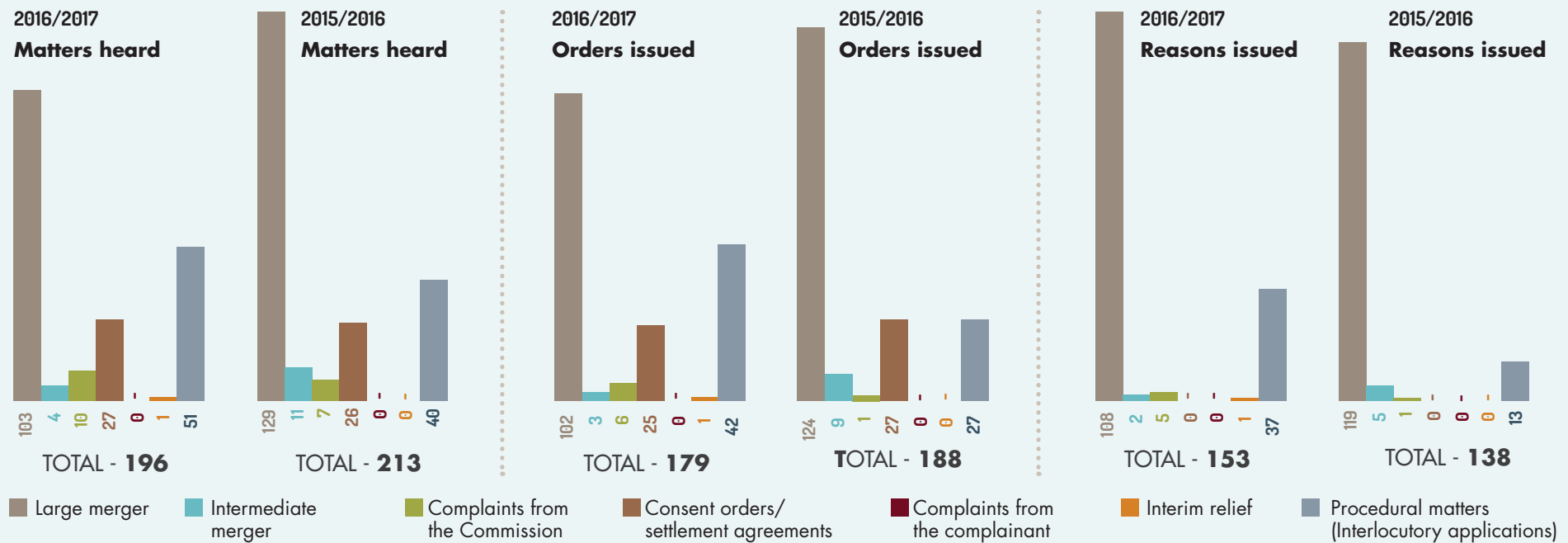
By assessing and measuring whether we have set down hearings and issued judgments within the required timeframes we obtain some measure of the efficiency and effectiveness of the adjudicative process.

We use our electronic case management system ("CMS") to monitor the progress of the adjudicative process and to provide updated and accurate information on performance. The data we are able to extract from the system is extensive and allows us to provide a picture of our performance and

interesting statistics pertaining to the decisions we make on an annual basis.

The diagram on the next page illustrates and compares the volume of matters the Tribunal heard, decided and issued reasons for over the last two financial years.

Diagram 4: Volume of matters over two years



While matters heard and orders issued decreased by 7.98% and 4.78% respectively, there was a 10.86% increase in the number of reasons issued. The Tribunals deliberation of procedural matters heard increased by 27.50% and this partly explains the 184.62% increase in the number of procedural matter reasons issued. Procedural matters brought before us are getting more complex and demand more time of the Tribunal members and therefore impact on our capacity requirements.

The lack of capacity amongst the part-time members for the first ten months of the year had a negative impact on

our performance. In the prior year we met or exceeded 58.33% of the core adjudicative targets however in this year we have only been able to meet or exceed 57.14% of the core adjudicative targets. We expand further on reasons for not achieving these targets later in this report.

In the prior annual report we introduced a new performance measure used to establish how efficient the competition authorities are in assessing and deciding large mergers. It measures the time period between when a large merger is notified to the Commission and the time the Tribunal issues an order. This period is also referred to as the merger clearance period.

The Act stipulates that the merger clearance period for a large merger should be 60 business days. This allows 40 business days for the Commission to investigate, ten business days for the Tribunal to set the matter down and ten business days for the Tribunal to issue the order.

Of the 102 large merger cases decided this year 70.59% were cleared in less than 60 days. The average clearance period was 54 days which is slightly longer than the average clearance period of 50 days in the previous financial year.

105 mergers were decided during the period under review, which is almost 21.05% less volume than the prior year.

One merger was prohibited. This was only the tenth prohibition in our history. We provide further detail on this particular case later in the report.

Diagram 5: Merger clearance period over two years

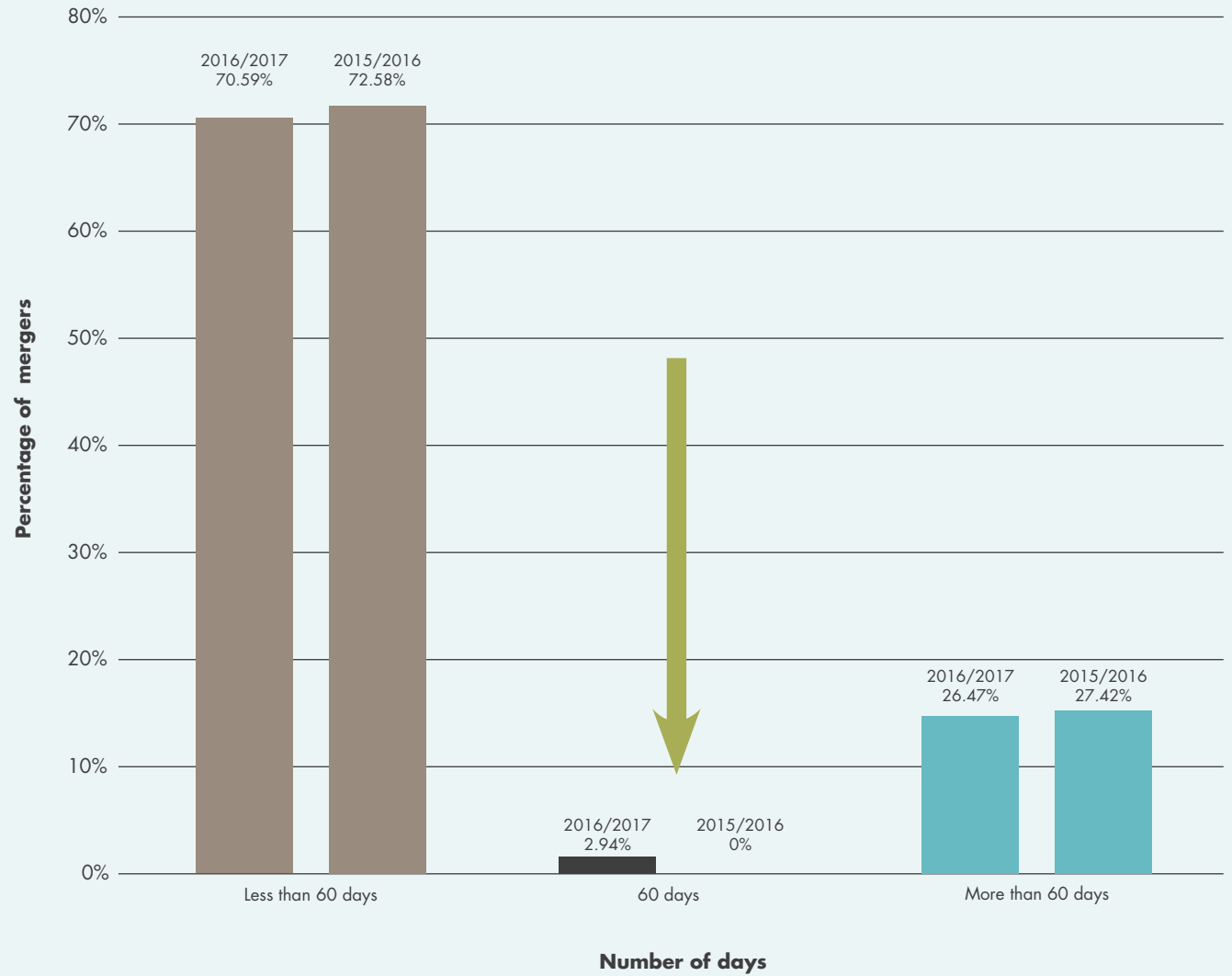
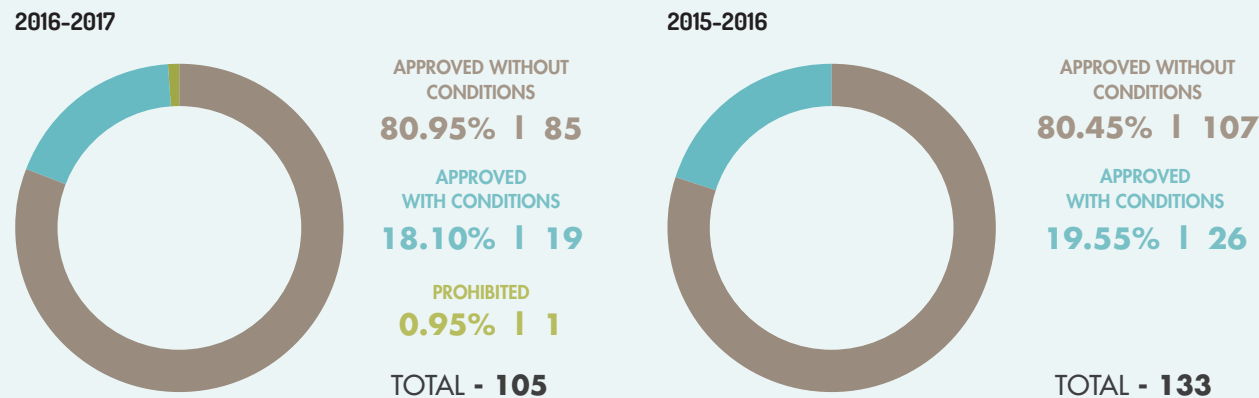


Diagram 6: Comparative figures for mergers decided over two years



The case management team provides support to the Tribunal panel.

232 MATTERS RECEIVED



191 MATTERS HEARD



33

MATTERS SETTLED/
ABANDONED/WITHDRAWN BY
PARTIES BEFORE BEING HEARD
BY THE TRIBUNAL



179 ORDERS ISSUED



REASONS ISSUED IN **153** MATTERS



LEGISLATIVE REQUIREMENT FOR
MERGER CLEARANCE - 60 DAYS



AVERAGE MERGER CLEARANCE
FOR 2016/2017 - 54 DAYS
(10% FASTER THAN REQUIRED)











19 of the 105 mergers decided were approved with conditions. This amounts to 18.10% which is slightly less than the prior year's figure of 19.55%. Approving a merger with conditions means that the Tribunal approves a merger subject to a "remedy" being imposed on the parties. These remedies take the form of conditions that address a defined set of public interest grounds, company behaviour

or market circumstance. Public interest grounds are defined, in the Act, to include the effect of a merger on employment, on an industry, on the ability of small and historically disadvantaged businesses to become competitive and on the ability of national industries to compete internationally. More than one condition can be imposed on the merging parties.

Eight, or 42.10%, of the conditional approvals granted in the period under review imposed employment related conditions on the merging parties. This has come down from the 19 mergers, or 73.07%, in the prior year. These cases, and their specific employment conditions, are highlighted in the following diagram.

Diagram 7: Employment conditions imposed in this financial year

CASE NAME	TYPE OF MERGER	EMPLOYMENT CONDITIONS
 Mpact Ltd and Remade Holdings	Large	<ul style="list-style-type: none"> No more than 23 merger specific retrenchments for a period of 24 months.
 Coca Cola Beverages Africa and Coca Cola Cannery	Large	<ul style="list-style-type: none"> No more than 250 jobs to be lost as a result of the merger, ensure preferential re-employment elsewhere, if possible for a period, of two years.
 AB InBev and SABMiller	Large	<ul style="list-style-type: none"> No retrenchments in South Africa as a result of the merger. For the next five years following the merger retrenchment will be presumed to be merger specific unless proved otherwise. After five years, presumption of merger non-specificity unless employee proves otherwise. Ensure that for a period of five years number of SABMiller employees permanently employed in beer and cider remain unchanged. Will employ DGB (Pty) Ltd ("DGB") employees that may be retrenched. These will not count towards above mentioned tallies. Within a year of closing, requirement to report on DGB employees.
 Santam Limited and ABSA Insurance Company Limited	Large	<ul style="list-style-type: none"> No merger specific retrenchments for a year after implementing the merger.
 ENX Group and Eqstra	Large	<ul style="list-style-type: none"> Conditions in place to limit the number of retrenchment to 15 employees.
 Clicks and Netcare	Large	<ul style="list-style-type: none"> No retrenchments for a period of five years.
 Edcon Limited and PARENTCO	Large	<ul style="list-style-type: none"> No retrenchments. Merging parties undertook to create 2000 new jobs and train current staff.
 Coty Inc. and Procter & Gamble	Intermediate	<ul style="list-style-type: none"> Offer employment to employees of third party service providers.

Penalties and notable cases










Although in its 18th year of operation, the Tribunal still broke some records in this reporting period. At R1.5bn the penalty the Tribunal imposed on ArcelorMittal, for engaging in a range of anti-competitive acts, was the largest the Tribunal has ever imposed. To offer a sense of the significance of this penalty against other fines the Tribunal imposed this year: the total penalties for 28 matters heard amounted to R1.63bn, which means the ArcelorMittal fine accounted for 92% of this figure. The penalty was part of a settlement agreement between

the Commission and ArcelorMittal ending eight years of several investigations by the Commission against the steel giant. ArcelorMittal admitted, in the settlement agreement, that it engaged in collusion with Cape Town Iron and Steel Works (Pty) Ltd ("CISCO"), Scaw South Africa (Pty) Ltd ("Scaw") and Cape Gate (Pty) Ltd ("Cape Gate") by fixing prices and discounts, allocating customers and sharing commercially sensitive information in the market for the manufacture of long steel products. It also admitted that it had fixed the purchase price of scrap metal with Columbus Stainless Steel (Pty) Ltd, Cape Gate and Scaw. In terms of the agreement ArcelorMittal undertook that,

for a period of five years, it would limit its earnings before interest and tax ("EBIT") margin to 10% for flat steel products sold in South Africa. It also committed to R4.64bn capital expenditure over the same period. The Tribunal confirmed this settlement agreement as an order on 16 November 2016.

Of the penalties imposed this year 95.05% were in the manufacturing sector. This was largely attributable to the ArcelorMittal settlement. The following diagram shows the penalties imposed per sector.

Diagram 8: Penalties imposed

									
	Administrative and support service	Agriculture, forestry and fishing	Construction	Financial and insurance activities	Human health and social work activities	Manufacturing	Professional scientific and technical activities	Transportation and storage	Wholesale and retail trade - repair of motor vehicles and motorcycles
% per sector	0.11%	0.05%	1.98%	0.06%	0.61%	95.05%	0.02%	1.01%	1.09%
% excluding ArcelorMittal	1.44%	0.57%	25.20%	0.82%	7.81%	37.11%	0.31%	12.84%	13.89%
Penalty per sector	R1 847 997	R734 761	R32 274 715	R1 050 000	R10 000 000	R1 547 532 071	R393 626	R16 448 049	R17 787 782

TOTAL - R1 628 069 001

Diagram 9: Penalties imposed, per section of the Act

2016/2017		
	TOTAL PENALTIES	%
PROHIBITED PRACTICE	R1 616 718 501 Horizontal conduct - section 4(1)(b)	99.30%
	R300 500 Resale price maintenance - section 5(2)	0.02%
	R11 050 000 Failure to notify a merger - section 13A(3)	0.68%
	R0 Other	0.00%
	R1 628 069 001	100%
2015/2016		
	TOTAL PENALTIES	%
PROHIBITED PRACTICE	R337 092 490 Horizontal conduct - section 4(1)(b)	99.73%
	R0 Resale price maintenance - section 5(2)	0.00%
	R750 000 Failure to notify a merger - section 13A(3)	0.22%
	R164 996 Other	0.05%
	R338 007 486	100%

Out of the 28 matters in which administrative penalties were imposed, 23 were for cartel conduct covering price fixing, dividing markets and collusive tendering or a combination of these contraventions.

In one matter penalties were imposed for minimum resale price maintenance and, in the remaining four, they were imposed for failure to notify a merger.

The number of matters in which the Tribunal imposed penalties for failure to notify a merger more than doubled in the year under review with four such penalties being imposed this year, as opposed to one in the prior period.

It must be noted that while the Tribunal is required to confirm the administrative penalties levied, the payment of these is monitored by the Commission and not the Tribunal. All monies received through these penalties and levies are paid by the Commission to the national revenue fund and neither the Commission nor the Tribunal benefit from these. This helps to ensure that our independence in the process is maintained.

Staying with record developments: on 30 June 2016 the Tribunal approved, with conditions, the largest deal ever notified in South Africa. This was the global acquisition, by AB InBev, of the entire share capital of SABMiller.

Both companies were vertically integrated with their operations spanning the manufacture and distribution of alcoholic beverages, particularly beer products. Owing

to the many competition and public interest concerns the transaction raised, the Tribunal approved the deal with a range of conditions aimed at minimising the possible negative effect of the merger on the South African market. The conditions, which were agreed to by all parties involved, included the disposal of the SABMiller interest in Distell; the rights of rivals to access fridge space supplied to outlets by the merged firm; access of competitors to metal bottle crowns supplied by the SABMiller controlled entity Coleus Packing for an unlimited period, as long as the merged entity continued to control Coleus; supply conditions of input suppliers, particularly in respect of barley farmers; and the evergreen restriction on merger related retrenchments.

The public release of the AB InBev/SABMiller order at the exact time indicated to media was well received by those stakeholders, especially since weekend newspapers were holding back their print deadlines for the final decision and the merger involving a large South African company was of great interest to other stakeholders.

Another deal that attracted significant media attention, was the merger involving SAB Miller and the Coca-Cola Company. During May 2016 the Tribunal heard the large merger involving the amalgamation of the bottling interests of SABMiller, Gutsche Family Investments and the Coca-Cola Company into one entity to be known as Coca-Cola Beverages Africa. This included SABMiller's interests in Appletiser and Lecol being transferred to the Coca-Cola Company. The Tribunal approved the merger subject to conditions which were agreed between the merging parties, the Minister of Economic Development, the Food and Allied Workers Union, the National Union of Food Beverage Wine Spirits and Allied Workers and the Commission. These related to the merged entity's head



Independent drivers for SABMiller protesting the SABMiller/Coca-Cola Company merger.

office remaining in South Africa, no job losses for three years, sourcing inputs locally for Appletiser, committing to a B-BBEE transaction, investing no less than R400m in small, medium and micro enterprises (“SMME’s”) and a further R400m in enterprise development for providing inputs to both Appletiser and Coca-Cola Beverages Africa along the supply chain, agreeing to certain conditions pertaining to owner-driver contracts and investing in local procurement of inputs.

In the merger of Imerys South Africa (Pty) Ltd (“Imerys”) and Andalusite Resources (Pty) Ltd (“Andalusite Resources”) the CAC had to consider a merger previously prohibited by the Commission and the Tribunal. The CAC issued its decision on 2 March 2017 prohibiting the merger on the grounds that the transaction would have a negative impact on competition in the market. This followed the Tribunal’s own prohibition of the deal on 31 October 2016 in which the Tribunal concluded that the merger would adversely affect the entire andalusite supply chain in South Africa, particularly smaller firms that lacked the capacity, resources and bargaining power of their larger competitors to respond to the market conditions the merger would create. Moreover, the Tribunal noted that there were no adequate conditions that could remedy the Tribunal’s concerns that the merger would be anti-competitive. These two firms were the only manufacturers of andalusite in South Africa which meant that a merger between them would have resulted in a monopoly. Andalusite is a mineral from which refractories are made. Refractories are used to line furnaces, kilns and other containers exposed to high temperatures, abrasion and chemical attack in the course of manufacturing iron, steel, cement, ceramics and other products. Locally and internationally andalusite is used by, amongst others, steel producers. The Tribunal heard the merger over



105 MERGERS
DECIDED



19 SUBJECT
TO CONDITIONS



8 APPROVED SUBJECT
TO EMPLOYMENT CONDITIONS



PENALTIES OF R1.63 BILLION
IMPOSED IN 28 MATTERS



99.30%

OF PENALTIES IMPOSED FOR RESTRICTIVE
HORIZONTAL PRACTICES

24 days, making it one of the longest running hearings of the financial year.

Another long running case that the Tribunal finalised in this financial year was the Commission's complaint against Media24 for engaging in predatory pricing, also known as pricing below cost. Media24's conduct was harmful to the market because it eventually led to the exit of a rival community newspaper in the Goldfields area, leaving advertisers and consumers with fewer alternatives. What made this case noteworthy however was not its duration but the Tribunal's imposition of a creative remedy on Media24 in circumstances where the Tribunal was legally precluded from imposing a monetary penalty on the firm. The Tribunal has never had to determine a remedy for predatory pricing behaviour before. In order to restore competition to the Goldfields market the Tribunal imposed what it termed a 'credit guarantee' remedy. This would allow current or new publications within the Goldfields area to approach Media24 for favourable credit terms effectively obliging the Naspers group, which owns Media24, to sponsor new entrants into the Goldfields market for a period of two years. The Tribunal's decision has since been taken on appeal and had not been heard by the end of the reporting period.

Cartel cases continued to pose new questions this year and bring about legal advancements in this area of law.

In April 2016 the Tribunal had to decide what constituted a firm for purposes of the Act in order to decide who should be liable if Delatoy Investments (Pty) Ltd ("Delatoy Investments") was found to have engaged in collusive conduct. This case formed part of the 2013 fast track process that the Commission used to finalise a large number of cartel cases in the construction sector at once. The

participants in this cartel agreed to inflate their tenders by about R2m and the winner, in this case Cycad Pipelines (Pty) Ltd, agreed to pay a loser's fee. In Delatoy Investment's case the loser's fee was paid to ATPD (Pty) Ltd, a company within the Delatoy Group. Although Delatoy Investments admitted that it had engaged in collusive tendering it claimed that it did not have any assets. The Tribunal had to decide whether the other ten respondents in the Delatoy Group, including Delatoy Investments, could be regarded as a 'firm' for purposes of the Act in order to be held liable. The Tribunal followed the EU approach and looked at the "functional approach of the entity" finding that the companies in the Delatoy group worked as a single economic unit and therefore should be considered a firm. The Tribunal considered a number of important factors, namely, the common shareholding within the Delatoy group; structural changes within the group; that the loser's fee was not paid to the perpetrator in the group; and the fact that the companies within the group were ultimately controlled by two common directors. Subsequent to this decision Delatoy Investments settled with the Commission and paid a penalty of R4.14m for contravening the Act.

Another legal development concerning cartel matters was the CAC's clarification, on 19 December 2016, of a passive participant's liability in circumstances where he was part of collusive discussions even though he may not have actively engaged in them. The CAC had to determine if Omnico (Pty) Ltd ("Omnico") and Coolheat Agencies (Pty) Ltd ("Coolheat"), both bicycle wholesalers, contravened the Act when they were present in discussions amongst their competitors to agree on prices for bicycles and cycling accessories. The CAC found that indeed that they did contravene the Act despite their contention that they did not actively engage in these discussions. According to the CAC Coolheat and Omnico were liable because,

amongst other reasons, they did not distance themselves from the agreements reached nor could they prove that they priced differently from what was agreed in the discussions. The CAC’s finding confirmed the Tribunal’s

earlier decision on 30 May 2016. In that case the Tribunal imposed a penalty of R4.63m on Omnico and a penalty of R4.25m on Coolheat. However on appeal the CAC reduced Omnico’s penalty amount to R1.93m due

to mitigating factors.

The following diagram sets out the main issues raised in other notable cases this year.

Diagram 10: Other notable cases

PARTIES	 <p>POWER CONSTRUCTION (PTY) LTD (“POWER CONSTRUCTION”)</p>	 <p>COMPUTICKET (PTY) LTD (“COMPUTICKET”)</p>	 <p>ISIPANI CONSTRUCTION (PTY) LTD (“ISIPANI”)</p>	 <p>DAWN CONSOLIDATED HOLDINGS (“DAWN”)</p>
TYPE OF CASE	Procedural	Procedural	Complaint referral	Complaint referral
MAIN ISSUES	<p>The Tribunal had to decide whether a bid rigging case should be dismissed because the applicant, Power Construction, was not directly named in the original complaint initiation but was later added by the Commission and, secondly, whether the prohibited conduct had prescribed. The Tribunal dismissed these points finding that the Commission was entitled to amend its complaint by adding further particulars as and when it obtained more information. Secondly the Tribunal said the practices “could only be said to cease when the effects have ceased”.</p>	<p>Computicket requested the Tribunal to dismiss a complaint referral against it. The case was novel as Computicket had alleged that the Commission had acted unreasonably and irrationally in referring the complaint. It also alleged that the referral was defective as it had been made by the Commission and not the Commissioner. The Tribunal rejected the dismissal application finding that the reference to ‘Commissioner’ in section 50(2) of the Act was a drafting error and that a referral by the Commission was legally competent, secondly, in reviewing the referral it found that the Commission had acted rationally and had taken into consideration all the elements needed to prove its case.</p>	<p>In this case the Tribunal considered whether cover pricing should carry a maximum penalty of 10%. Whilst admitting that it did engage in bid-rigging, Isipani argued that such conduct should not carry the maximum penalty. The Tribunal found cover pricing as a type of bid-rigging to be a serious contravention. However, in calculating the penalty the Tribunal calculated a single penalty for two different bid-rigging contraventions, but considered the second instance as a seriously aggravating factor. The penalty imposed on Isipani was R21.78m.</p>	<p>A so-called “restraint of trade” clause in a shareholders agreement which prevented a competitor from entering the market for the manufacture of regular HDPE pipes was found to be a contravention of the Competition Act. The Tribunal found that the clause was not a restraint of trade inserted in the ordinary course of commercial necessity nor did it follow on a joint venture. According to the Tribunal the purpose of the agreement was clearly to keep Dawn, a potential competitor, out of the market. A hearing to determine the remedy will follow.</p>

How did we perform against our predetermined adjudication objectives?

We previously mentioned that 12 of our targets pertain to our core objective which is effective and efficient adjudication of matters brought before us.

We set these targets in order to ensure that the Tribunal hears matters and issues judgments within the required time frames. Some of our time frames are stipulated in the Act and others we determine internally.

In determining a target for a particular year we use a three year baseline average based on the performance over the previous three years.

In evaluating our performance against set objectives below we explain our reasons for under or over performance and where possible, propose corrective action. We also provide information on the degree to which we did not meet targets.

In instances where an activity did not happen, we are unable to measure that target. As explained below there was one such instance this year.

Out of the remaining 11 adjudicative targets we met or exceeded six and partially achieved five.

To what degree did we not comply and why?

- Orders were issued in three small or intermediate merger considerations. In one case, due to lack of capacity, we exceeded the ten business day time limit for issuing decisions by 24 days. This matter: the proposed merger between Imerys South Africa and Andalusite Resources,

is only the tenth merger we have prohibited and it required the panel to deliberate extensively while sitting on other panels simultaneously.

- In 11 of the 42 procedural matters we exceeded the 20 business day time limit for the issuing of orders. In procedural matters reasons are generally issued with the order. As a result of the lack of capacity Tribunal members had to sit on many panels and therefore found it difficult to draft reasons timeously.
- Reasons were issued in a total of eight small or intermediate merger considerations, prohibited practice and interim relief matters. In 75% of these reasons were issued late for various reasons that include lack of capacity, the complexity of the case and length of the court record.

We hope that with having a full complement of Tribunal members capacity and non-availability of panel members will be less of an issue. However, we have no real control over delays caused by the complexity of a matter or the length of a court record. Despite this we are monitoring these delays on a regular basis and will, in the next strategic planning process, consider whether there is a need to adjust certain targets.

The Tribunal's CMS plays a very important role with regard to the adjudicative process in that it enables us to track every process

and establish and extract data that enables us to report on performance against predetermined targets. For this reason enhancements of this system and reduction in the reliance on paper based verification is set as a target within the first strategic outcome goal. To this end throughout the year we have focussed on ensuring the sustainability of this system and have spent a significant amount of time updating and testing the system to ensure that its functionality remained. As the updates have been successful we have reduced the need to consider migration to a new platform. Going forward we can concentrate on implementing various enhancements to the system that will both increase the functionality of the system and allow us to extract more data pertaining to the adjudication process.



Sibongile Moshoeshe, Nkuli Mpepuka and Lerato Motaung are responsible for maintaining data related to the adjudicative process.

OUR RELATIONSHIP WITH STAKEHOLDERS

The Tribunal places importance on ensuring that we provide effective and timeous communication to the public and our various stakeholders on the decisions and activities of the Tribunal.

The Tribunal's registry division is required to post all orders released within two working days in the Government Gazette. During the period under review 105 merger decisions were placed in the gazette and all, except one, were placed within the required 20 business days. 28 complaint referral notifications were placed in the gazette and all were within the required 20 business days

An important part of the communication officer's role is to continue to expand the Tribunal's stakeholder reach. The communication officer used the media, Twitter and the Tribunal website to communicate information of upcoming hearings or the outcomes of hearings, such as the issuing of Tribunal decisions or reasons.

The Tribunal website remains the primary method for communicating with the general public, with each user viewing on average 4.57 pages for 4.27 minutes. This is up on last year with users in 2015/2016 viewing on average 4.16 pages for 3.52 minutes.

All press releases of final Tribunal decisions issued are posted on the Tribunal's website. A link on the website takes the user to additional information, such as witness statements and court records, on cases that carry significant public interest. The website also includes the reasons for decisions. 78% of the non-confidential versions of reasons

issued in 119 matters were posted within two business days of the parties confirming the non-confidential status.

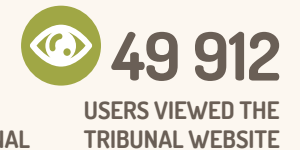
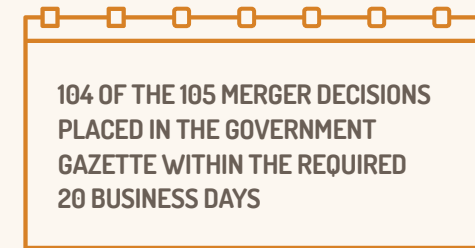
Media organisations continue to make requests to the communication officer to explain aspects of the adjudicative process. Amongst other things they ask for information on pre-hearings, on the discovery of documents and why some cases are set down for longer periods than others. These discussions have proved both useful in terms of increasing the media's knowledge of the functions and relevance of the Tribunal. They have also helped the Tribunal to identify areas of focus in order to improve our service to stakeholders.

The practice implemented last year, of including company ownership details in media statements, has continued. This has enhanced stakeholders understanding of the relevance of matters before the Tribunal.

The communications officer has seen an increase in the number of requests from stakeholders for non-confidential case documents and case transcripts.

This year the Tribunal issued 109 media statements indicating the outcome of 111 final decisions in all merger and prohibited practice cases.

There was no publication of the Tribunal Tribune in the year under review as we have focused on the development of an electronic newsletter. We intend to launch the new publication, titled Trials and the Tribunal, in the forthcoming



financial year. The electronic newsletter will focus on cases considered by the Tribunal to be significant to competition law as well as graphics on statistical data. The newsletter will be placed on the website therefore making it accessible to the public whereas the previous newsletter was only distributed within the Commission, the Tribunal and the EDD.

Developing stakeholder relationships is not only about press releases and publishing reasons on our website. We are periodically requested to host other competition authorities. This year we hosted, on two separate occasions, the Botswana Competition Commission and the Mauritian Competition Authority. We also took part in a programme the Commission held for delegates representing the Zimbabwean Competition Authority.

Programmes are tailored to meet the needs of the visiting authority. In most cases authorities are not only interested in the functioning of the case management division or observing a hearing and how panels operate but also want to understand our administrative functions. There is also much interest in our electronic CMS and how it facilitates electronic filing and makes case information and data easily available.

We embarked on a new and exciting project this year which we refer to as the school stakeholder awareness project. Through this project pupils from less privileged schools are invited to spend a day with the Tribunal to find out more about how it functions and the impact its decision have on the market and the person in the street.

In March grade 10, 11 and 12 pupils from Holy Trinity Secondary School in Atteridgeville, Pretoria, were invited to participate. They were given a worksheet ahead of their visit to facilitate class discussion and at the Tribunal were addressed by the interns, staff in case management, registry and the Commission about cartels and their impact on the economy and the public.

Andre Castelyn, the school's principal reported: *"The pupils had feedback sessions with classmates and I was amazed by the amount of information the students returned with. They showed a real understanding of the competition authorities."*

We hope to extend this project to at least one school annually.



Enver Daniels – deputy chairperson addressing pupils from Holy Trinity Secondary School.

Analysing our media coverage

In the last three months of the year under review the Tribunal introduced a more detailed analysis of the print, online and broadcast media coverage we received.

Through this the Tribunal was able to determine which matters attracted public interest and monitor media coverage, be it positive or negative, in order to obtain a view of how the public perceived the Tribunal.

Cases that dominated the media in this period included: fines issued to the remaining respondents in the bicycle cartel matter and their unsuccessful appeal to the CAC; the Edcon merger; the R1.4bn deal brokered with seven companies found to have colluded with regard to the construction of Fifa stadiums; retrenchments by Sibanye; the complaint by the South African Medical Association and the Council for Medical Schemes for allegedly colluding on pricing and Citibank's R69m settlement agreement for its role in rigging of the Rand, as well as conditional leniency for Absa and Barclays in the same matter.

The information used for the analysis is sourced from News Clip, a service that monitors print, broadcast and online coverage on behalf of the Commission and the Tribunal. We also made use of PressReader and Google to monitor news coverage.

The communications officer provides quarterly feedback to the EXCO with regard to this analysis.

Our analysis indicates that the media covered 2 303 stories about the Tribunal over the last three months of the year. The extensive coverage we received is an indication of the importance placed by the media on the decisions by

the Tribunal. The analysis indicates that, in general, online was the medium most used to communicate Tribunal news. This could be because this medium is immediate and deals largely with breaking news.

It is also an indication that online sites believe the stories are attracting sufficient viewers, or hits, for them to continue to

carry Tribunal decisions. Online media staff monitor and analyse traffic to their sites very carefully so as to increase traffic to the website, and stories used are selected with this in mind. On the other hand print and broadcast mediums tend to provide lengthier and more analytical coverage and are less immediate.



*Chantelle Benjamin,
communications officer at the Tribunal.*

Number of stories by media type



PRINT - 750



BROADCAST - 658



ONLINE - 895

TOTAL - 2 303

We have also started reporting on what is referred to as the Total Advertising Value Equivalent (AVE) – a common measure used by publicity or marketing companies to assess their performance.

AVE is determined by taking the column size (in inches) covered and then calculating the cost of the same amount

of space in advertising value. It takes into account the fact that the cost of advertising space varies from publication to publication. For example advertising space in the Sunday Times will be more expensive than the same space in a smaller regional newspaper. For the three month period the AVE for the Tribunal was R98.73m. In the diagram below, the peak in February is due to the banking foreign exchange cartel case being lodged with the Tribunal.

How did we perform against our predetermined stakeholder relationship objectives?

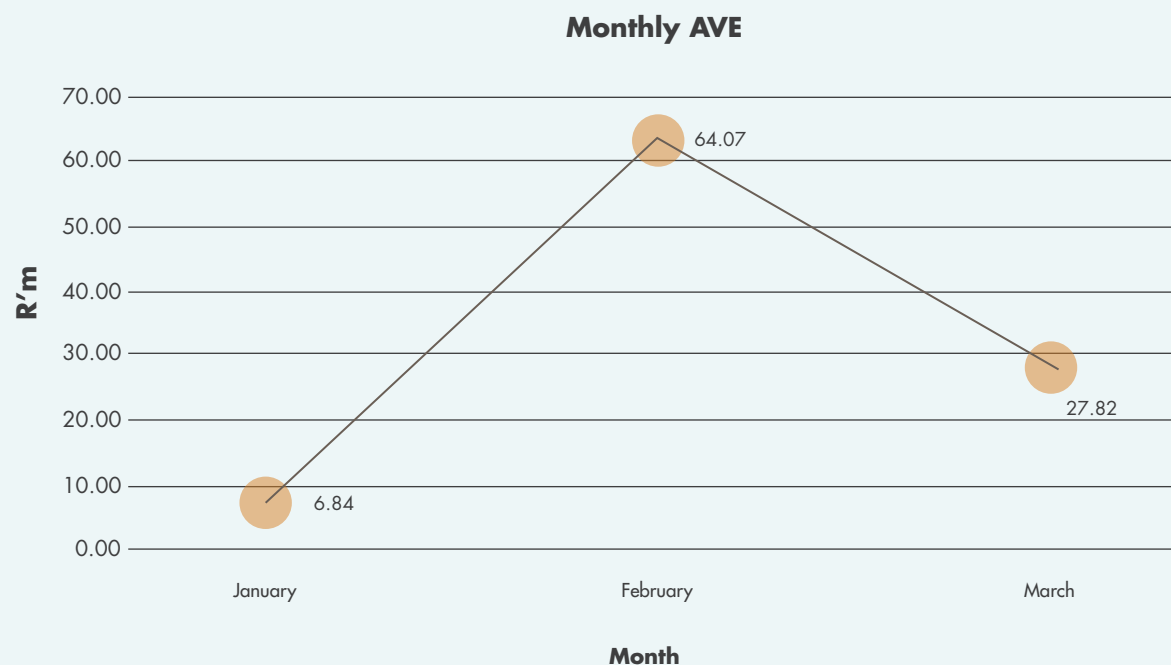
The Tribunal set seven targets related to stakeholder awareness. We met or exceeded four of these and failed to meet the remaining three.

Two of those not met related to the production of the Tribunal Tribune. As indicated earlier, publication did not occur as the Tribunal focused on developing the specifications for an electronic newsletter.

All together the Tribunal issued 109 media statements indicating the outcome of 111 final decisions in all merger and prohibited practice cases. While we exceeded the target for the issuing of press releases for final merger decisions by 24% we failed to meet the target with regard to press releases for final prohibited practice decisions. In this regard five press releases were issued but one was not issued within the required two business days of the order issued due to a housekeeping issue. While the target for communicating prohibited practice decisions is set at 100%, the target for communicating final merger decisions is set at less than 100% as not all merger decisions are of such interest that a press release is required.

Reasons for Tribunal decisions are not posted on the website until the parties have confirmed the non-confidentially status. 78% of the non-confidential versions of reasons issued for 119 matters were posted within two business days of the parties confirming the non-confidential status. We exceeded the 75% target by 3% during the period under review.

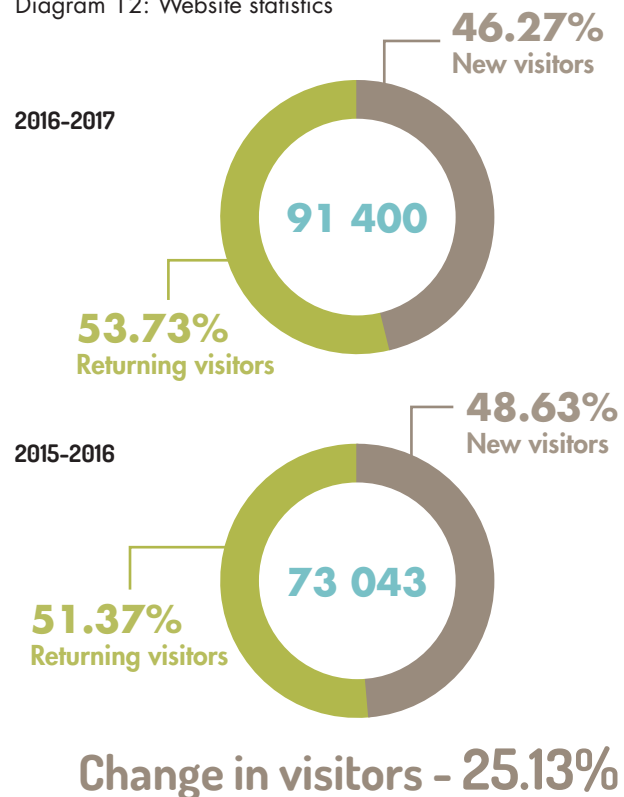
Diagram 11: AVE over three months



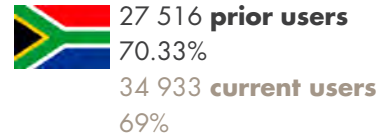
The communication framework, a document that describes why, who, how and what the Tribunal communicates, was finalised and approved by the Tribunal's executive committee. The framework will be reviewed and updated on an annual basis going forward.

For the forthcoming year we have retained the targets pertaining to press releases as it is important to distribute a press release as close to the issue of an order as possible. We have however removed the target pertaining to posting of non-confidential versions of reasons as it is difficult to set timeframes as we have to consult with parties with regard to version control. These reasons are however posted on the website as soon as confirmation is received from parties.

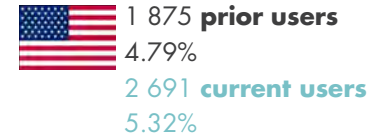
Diagram 12: Website statistics



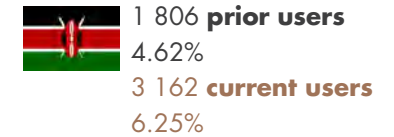
South Africa



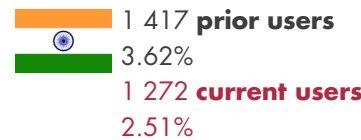
United States of America



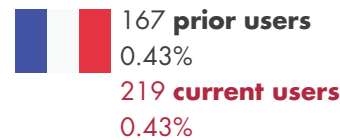
Kenya



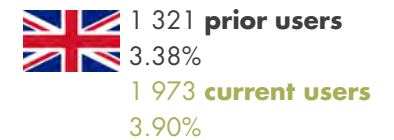
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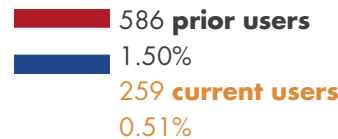
France



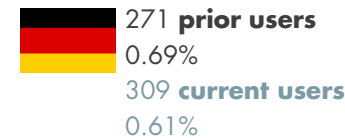
United Kingdom



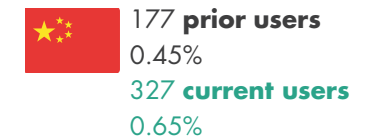
Netherlands



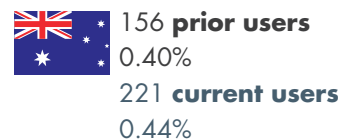
Germany



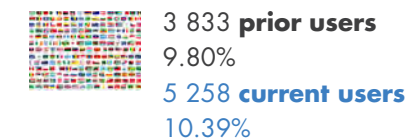
China



Australia



Other



TOTAL



* a user is defined as a unique visitor

HOW DO WE REMAIN ACCOUNTABLE, TRANSPARENT AND SUSTAINABLE?

The Tribunal's third and final strategic goal is one that focuses on ensuring that effective oversight structures are in place and that we govern the entity in a manner that ensures effective financial management and reporting. Simultaneously there is a responsibility to ensure that we sustain the capacity required.

By adopting an integrated approach to annual reporting we have focused on making the report more relevant and more engaging as well as providing an overview of financial

and non-financial activities. Using this approach enables us to be transparent about both our successes and failures and ensures that we are accountable to all our stakeholders. This particular section focuses on capacity building while compliance with legislation and best practice is addressed in the section on governance and ethics.

The Tribunal has continued to implement internships within the Tribunal. The nature and type of internship differs across the various functions. Within case management vacation

internships and long term internships are offered. Vacation internships began as a joint project with the University of Pretoria in 2009. When this collaboration ended the Tribunal continued the programme. These internships provide an opportunity for final year LLB, BCom (Law) or economics degree students from different universities to have a working experience of competition law. These interns spend two to three weeks of their vacation shadowing case managers, assisting with case related research and seeing the Tribunal in operation.



Hayley Lyle, Busi Masina, Alistair Dey-Van Heerden, Ndimiso Ndlovu are current or past case management interns.

During the period under review four students from the Universities of Cape Town ("UCT"), Pretoria and the Witwatersrand ("Wits") were assigned to this programme for a total of 49 days.

Long term interns are appointed for a calendar year, from January to December, as junior case managers in the Tribunal. They are assigned merger cases, they attend hearings related to these cases and, with the guidance of more experienced case managers, draft case summaries.

Hayley Lyle from UCT and Ndumiso Ndlovu from Wits began their long term internship in January 2017 and benefitted from this initiative.

Ndumiso says he has always had an interest in competition law and this internship tied in with his masters' research. *"Rather than working in a law firm I thought it would be nice to work for an adjudicative body. I would learn a lot about different sections of the industry in different merger transactions."*

For Ndumiso the greatest challenge has been the adjustment from student to working life *"trying to put into practice what we learnt academically"*.

Hayley Lyle discovered her interest in competition law when, as an undergraduate majoring in economics, she was exposed to competition policy. *"I found out about the Competition Tribunal internship programme and decided it would be a wonderful opportunity to give me exposure to competition law."*

For Hayley the challenge has been learning to juggle and prioritise tasks and manage expectations. Taking initiative and assuming responsibility is a new skill Hayley is acquiring in the Tribunal.

In the other divisions in the Tribunal the internship programme is used to provide short term work experience for unemployed youth. We continue to maintain a relationship with Harambee, a youth employment accelerator to provide us with a pool of young people we can offer these opportunities to. We are not in a position to offer many young people long term employment. However we are, through these internships, able to expose them to an interview and selection process and valuable work experience.


One Harambee intern, Thabo Sengwayo who was employed as a long term intern in the registry division, has accepted a permanent position as a registry assistant from April 2017 onwards. Of his internship Thabo says *"a personal skill has been learning patience (registry has a constant stream of documents being delivered and people wanting information), emotional management, working under pressure and coping under that pressure"*.

Ongezwa Dzulane, an intern in the finance division, finds working at the Tribunal far better than she expected. *"Everyone is so kind and helpful"* she stated. Ongezwa says Harambee provided them with an overview of some of the challenges one can experience in the workplace and so she *"was surprised to find the Tribunal was not like that at all"*.

Number of interns 
10

7 AFRICAN	
1 INDIAN	
2 WHITE	



COST	R 734 410.34	
TOTAL DAYS	1 044.94	

COLLABORATIVE
VALUABLE
GREAT
FUN SMALL
EDUCATIONAL
AMAZING
CHALLENGING
INTERACTIVE

"I have learnt ... to pay attention to detail so my work is accurate which is of course vital for finance. I have also learnt to communicate with lots of different people who I work with on a daily basis," said Ongezwa who, by her own admission, is inherently very shy.

Brought in to assist corporate services Sabinah Monareng's tasks include creating electronic personnel files, scanning documents into folders, allocating inventory stock, performing asset verification counts and dealing with internal maintenance requests.

Sabinah feels that the computer skills and the confidence she has gained using a computer has been very important. *"It's something you will always use,"* she says and further adds *"The job is challenging but stimulating, it keeps you on your toes, I have learnt to manage my time. You also have to be adaptable in this job because unplanned things crop up all the time."*

It is important to ensure that Tribunal staff, particularly the case managers and Tribunal members, receive training to remain sufficiently skilled and competent to carry out their required duties.

By attending various conferences, seminars and workshops (local and international) staff remain up to date in their knowledge of international best practice in competition law and policy.

The Tribunal's commitment to enhancing the skills of its employees is reflected in the number of days and the cost spent on training: 144 days and R0.86m respectively.

On an international level the Tribunal sent nine delegates to five conferences or workshops. These included ensuring the Tribunal had representation at the competition committee meeting of the Organisation for Economic Co-operation and Development ("OECD") and the annual conference of the International Conference Network ("ICN").

Two case managers also attended the Competition and Regulation European Summer School ("CRESSE") lawyers' course. This course is designed for lawyers/judges/enforcers practicing in competition law and covers key concepts that facilitate the review and application of economic principles and methods in their work.

Together with the Commission we hosted the tenth annual conference on competition law, economics and policy in Cape Town in October. The conference discussed the role of competition policy in economic growth. The conference was addressed by international speakers with expertise in this area but also provided a platform for public discussion on various topics.

Internally the Tribunal hosted its annual workshop for case managers and Tribunal members in May 2016 that was once again facilitated by Richard Whish, an Emeritus Professor at Kings College in London. Prof. Whish provided delegates with an overview of decisions in competition cases in the United Kingdom and the European Union and their possible relevance in South Africa.

In March 2017 Reena Das Nair facilitated a workshop titled "Introducing Economics in Competition Law" for new case managers and Tribunal members. The workshop provided an introduction to economics for those with a legal background.



Professor Richard Whish addressing the Tribunal workshop.

We utilised external service providers to provide specialised training to other staff members which ensured that we remain up to date with regard to compliance. These included courses dealing with the Protection of Personal Information Act of 2013 (“the POPI Act”), occupational health requirements, tax and payroll compliance and IT governance. Several staff members also attended skills related courses in order to address skills gaps identified by their divisional heads as part of performance management. These included

various Microsoft computer courses.

All staff attending courses, workshops or conferences are required to complete reports that provided a short summary of the content covered and the relevance of the content to their work in the Tribunal. Staff were also required to comment on whether they believed the course, workshop or conference would be of value to other staff if repeated.

This year we continued to provide study assistance to staff when requests were motivated and were compliant with the Tribunal’s policy on study assistance. Four staff members received financial assistance from the Tribunal for courses external to the Tribunal which included studying for a learner’s and driver’s licence, a law degree, management accounting and financial accounting.

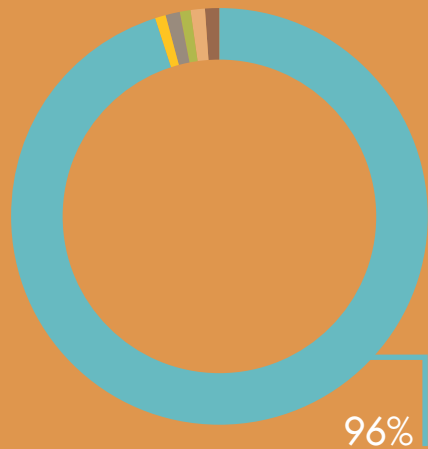
Did we achieve our objectives of accountability, transparency and sustainability?

The third strategic goal contains five strategic objectives and seven predetermined targets. Six of these address the outcome of the annual audit and compliance with regard to submission of the annual financial statements. As the audit is finalised in July performance against these targets always relates to the prior year audit. The seventh target relates to the implementation of the long term graduate internship programme. As indicated earlier this programme is well entrenched in the Tribunal and a number of young students have benefitted from their involvement.

We received an unqualified audit for the year ending 2015/2016 and therefore fully achieved five of the six targets pertaining to the end-year audit and submission of annual statements.

All submissions were made timeously and there were no material misstatements identified and findings relating to poor governance or risk management. Unfortunately we had to disclose payments made to SARS (as part of a voluntary disclosure process (“VDP”) as fruitless and wasteful expenditure. While undertaking a payroll compliance review we detected that an incorrect IRP code had been applied to cell phone allowances awarded to certain staff

WEIGHT IN KG'S <<



Plastic



Tin



Glass



Tetrapack



Computer Equipment



Paper

members. A correction of this error resulted in the Tribunal having to pay tax on this benefit to SARS. In addition we disclosed irregular expenditure for amounts paid to consultants where there was no evidence that a deviation had been approved by the appropriate delegated official or that a proper deviation process had been followed.

There has been an improvement in this area as in 2015/2016 we failed to meet two targets whereas this year we only failed to meet one target. Throughout the current year staff in corporate services, finance and procurement divisions have worked hard in an attempt to embed processes and controls to ensure that we achieved a clean audit.

ADDRESSING SUSTAINABILITY

Integrated reporting requires that we address sustainability which by definition includes financial, social and environmental sustainability. In this section we address these three areas and in doing so take stock of our operations and their effect on the community and environment we operate in as well how the community and environment we operate in affects our operations.

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

As indicated in the financial section of this report the Tribunal is dependent on National Treasury and the EDD for the continued funding of its operations. Given that the

function and activities of the Tribunal are encompassed in the Act we have no reason to believe that the EDD or National Treasury has neither the need nor the intention to liquidate or curtail materially the scale of the Tribunal.

We continue to try to organise our data on suppliers so as to be able to measure our procurement spend by enterprise size and B-BBEE Level. By keeping these statistics we are able to see the contribution – no matter how small – we are making towards the government's objective of addressing historical imbalances and advancement of SMME's.

Currently 33.85% of our spend is on SMME's and we can categorise 32.87% of spend by a stated B-BBEE level.

Much of this integrated annual report focuses on performance against predetermined targets with explanations for variances on all targets being provided. Financial results are presented in graphic or narrative form and we provide commentary on these results as well as expenditure against budget by strategic objective.

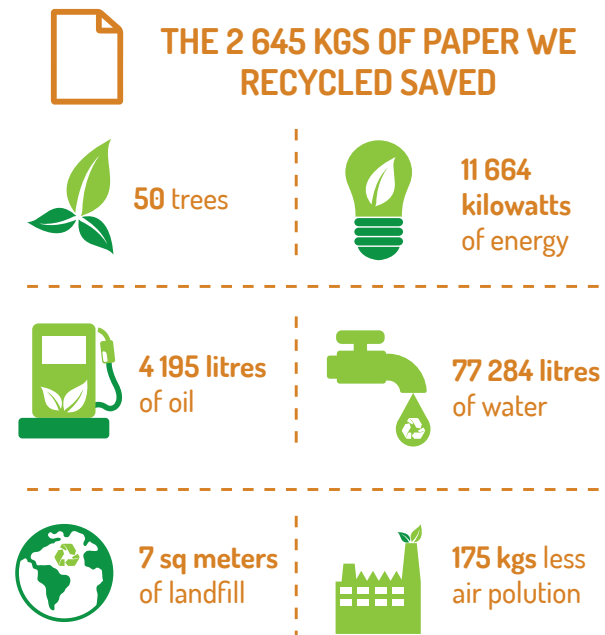
It is not possible for us to give a detailed analysis of the impact of the decisions the Tribunal makes with regard to matters brought before it but we do provide highlights on notable cases, provide detail on the conditions imposed in mergers conditionally approved as well as the nature and size of penalties imposed on transgressors of competition law.

In 2010 the Tribunal initiated an office recycling project and we continue to encourage staff to promote recycling in the office. Periodically short articles are included in the Tribunal's internal newsletter that make employees aware of the need for recycling and give tips either on where to recycle or the innovative usage of recyclable materials.

Given the nature of our work paper represents 95.73% of the 2763.40 kgs we recycled. The volume of material recycled increased by 40.59% from 1965.53 to 2763.40 kgs

We continue to use what the paper industry describes as “environmentally friendly paper”, being paper either from well managed forests or totally chlorine free paper and/ or 100% recycled paper. In this way we make a small yet important contribution towards reducing the negative impact we may otherwise have on the environment.

Using the paper recycling facts published by the University of Southern Indiana on their website we can measure the environmental impact recycling paper in the Tribunal has had this year.



Given that we are a public entity and are funded by government resources our ability to have any substantial impact in the corporate social responsibility sphere is limited. Nevertheless we continue, as an organisation, to make social contributions to the broader community.

Initiatives in the year under review are detailed below:

- In June we distributed stationary and 160 used PVC files to Gatang Secondary School in Mamelodi;
- In the same month we donated six monitors and two servers to Harambee – the employment accelerator referred to earlier in our report;
- In July, and in celebration of Mandela Day, we collected sanitary wear for the young women at the Tshwane Home of Hope. The home situated in Sunnyside near our offices houses poor, destitute or abandoned girls. It has helped nearly 3000 girls since it opened its doors and currently accommodates 22 girls in its hostel at one time. In addition we provided sandwiches and physical labour when we assisted them with the painting of their home;
- In September we donated four desktops, two laptops and a printer to Gatang Secondary School;
- In October staff collected food and other donations for those left homeless as a result of the devastating fire at Plastic View informal settlement in Pretoria; and
- In the months before the festive period we collected non-perishable food, clothing, stationary and toiletries for two young men in Stinkwater who were left without care as both their parents, and subsequently their grandmother who was

caring for them, died. These contributions brought a little cheer to these two over the Christmas season.

The internship programme described earlier in this annual report is another example of the contribution the Tribunal has made towards enabling unemployed youth to gain exposure and experience to the working world and to develop skills that will be of use to them later in their careers.

Being socially responsible also implies adherence to ethical business practices and Part 5 of this report provides some detail on how the Tribunal practically applies good governance and ethical business behaviour.



Tribunal staff painting the walls of Tshwane Home of Hope on Mandela Day.



PART 05

GOVERNANCE IN THE TRIBUNAL

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47 Preventing fraud **48** Report of the risk committee **49** Information technology and governance
51 How do we manage our human resources? **54** Auditing our work, processes and procedures **58** Report of the audit committee

OUR COMPLIANCE FRAMEWORK

Being a public entity the Tribunal is subject to a unique set of risks that includes the risk of procurement fraud and irregular expenditure. In addition, as we receive funding from the state there is an additional responsibility on us to ensure that we operate in a responsible, transparent, accountable and fair manner, both with regard to our core work of

conducting hearings and issuing judgments, and the day-to-day support functions performed by the secretariat.

The Tribunal has developed, implemented and continues to maintain a framework for corporate governance. The framework sets out the Tribunal's approach for ensuring compliance with best practice and required legislation

with a view to optimising performance.

In this section of the report we discuss our approach to some of these and address the main components of the governance framework such as ethical leadership, risk management and the governance of information technology.

Diagram 13: Areas of compliance

LEGISLATION OR GUIDELINE	 THE COMPETITION ACT	 THE PFMA AND TREASURY REGULATIONS	 OCCUPATIONAL HEALTH AND SAFETY ("OHS") ACT	 LEVIES AND TAXES	 ETHICS	 INTERNAL AUDIT	 EXTERNAL AUDIT
APPLICATION IN OUR DAY-TO-DAY ACTIVITIES	<p>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.</p>	<p>These prescribe requirements for accountable and transparent financial management. Our compliance is monitored quarterly by EDD.</p>	<p>An OHS committee is operative in the Tribunal and compliance with required legislation is monitored by the executive committee and the risk committee.</p>	<p>The Tribunal ensures that it is registered for and meets its obligations in respect of the required and legislated levies and taxes. Compliance is monitored by internal and external auditors.</p>	<p>The ethical values underpinning the corporate governance framework are responsibility, transparency, accountability and fairness. Policies and procedures have been developed to ensure that the Tribunal maintains high standards of ethics and compliance to principles of honesty, integrity and independence.</p>	<p>The internal audit function is outsourced and is defined in an internal audit charter. The audit is conducted in accordance with an internal audit plan that is developed and approved by the audit committee.</p>	<p>The audit of the Tribunal is conducted by the Auditor-General. Its objective 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 6 for his detailed findings.</p>

MANAGING AND MONITORING ETHICAL BEHAVIOUR

The Tribunal chairperson as the accounting authority is responsible for leadership, strategic direction and management of the entity. This includes implementing practices and policies to promote standards of behaviour that ensure transparency, integrity and accountability.

One of the greatest risks the Tribunal faces is that the decision-making process could be compromised leading to a loss of integrity and reputation. To reduce this risk the Tribunal has a code of conduct which forms part of the human resources manual and is applicable to all staff. It mandates disclosure requirements with regard to conflict of interest and financial interests.

Practices and policies that assist with avoiding conflicts of interest and enforce the integrity and good reputation of the Tribunal include the following:

- panels always comprise three members thus ensuring fairness in the Tribunal's final decision;
- in cases of dissent a majority and minority decision is possible;
- parties may, in terms of the Act, object to the composition of a panel. No such objections to panels were made in the last two years;

- gifts received in excess of R300 must be declared and recorded in the gift register;
- part-time members forming part of a hearing panel must declare on the court record that they have no conflict of interest in the case. Tribunal members, divisional heads and case managers annually disclose financial interests;
- full-time Tribunal members are not subject to a performance review thus ensuring their independence when deliberating on a case. However, the Tribunal is accountable to the public through parliament and reports at least annually to the parliamentary portfolio committee on plans and outcomes;
- the Act allows parties to declare information confidential and the Tribunal will honour these requests. In practice we clear a hearing room if confidential information is discussed;
- written reasons are issued for all Tribunal judgments;
- reasons for decisions are not posted on the website until parties confirm that they do not contain confidential information;
- no party to a case may address any single panel member at any time outside of the hearing;

- case related side discussions are always held in chambers in the presence of all panel members and all parties to the case; and
- Tribunal members are precluded from speaking to the media on cases.

Adherence to ethical behaviour and the management of risks associated with unethical behaviour is monitored by governance structures in the Tribunal but to varying degrees.

Internal processes have been implemented whereby managers and the COO are required, in most instances on a quarterly basis, to review adherence to disclosure and declaration requirements.

The risk management structure, in particular, must ensure that effective processes are in place and that these risks are effectively controlled and mitigated.

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

IDENTIFYING AND MANAGING RISKS



Ann Slavin, head of corporate services and Tribunal deputy risk officer with Lufuno Ramaru, executive assistant to the COO and risk committee secretary.

The Tribunal is exposed to normal business risk, with risk being defined as an event that may impact on the Tribunal's ability to achieve its objectives.

The challenge is to determine how much uncertainty to accept. Uncertainty can be a risk and opportunity with the potential to erode or enhance value.

The Tribunal has implemented and adopted an enterprise wide approach to risk management that allows it to effectively and proactively identify, assess, quantify, and mitigate risks.

The process also allows for the early warning of emerging or unpredictable risks and ensures compliance with relevant legislation and adherence to sound governance practices.

The Tribunal believes that effective risk management ensures a safer, healthier work environment for employees, the preservation of assets and the effective and efficient management of resources.

The diagram on the next page reflects the structure for risk management within the Tribunal.



CONTROL EFFECTIVENESS

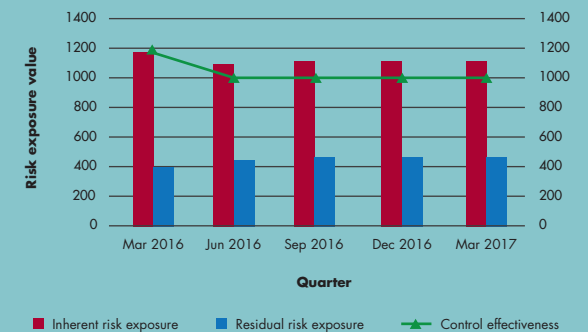
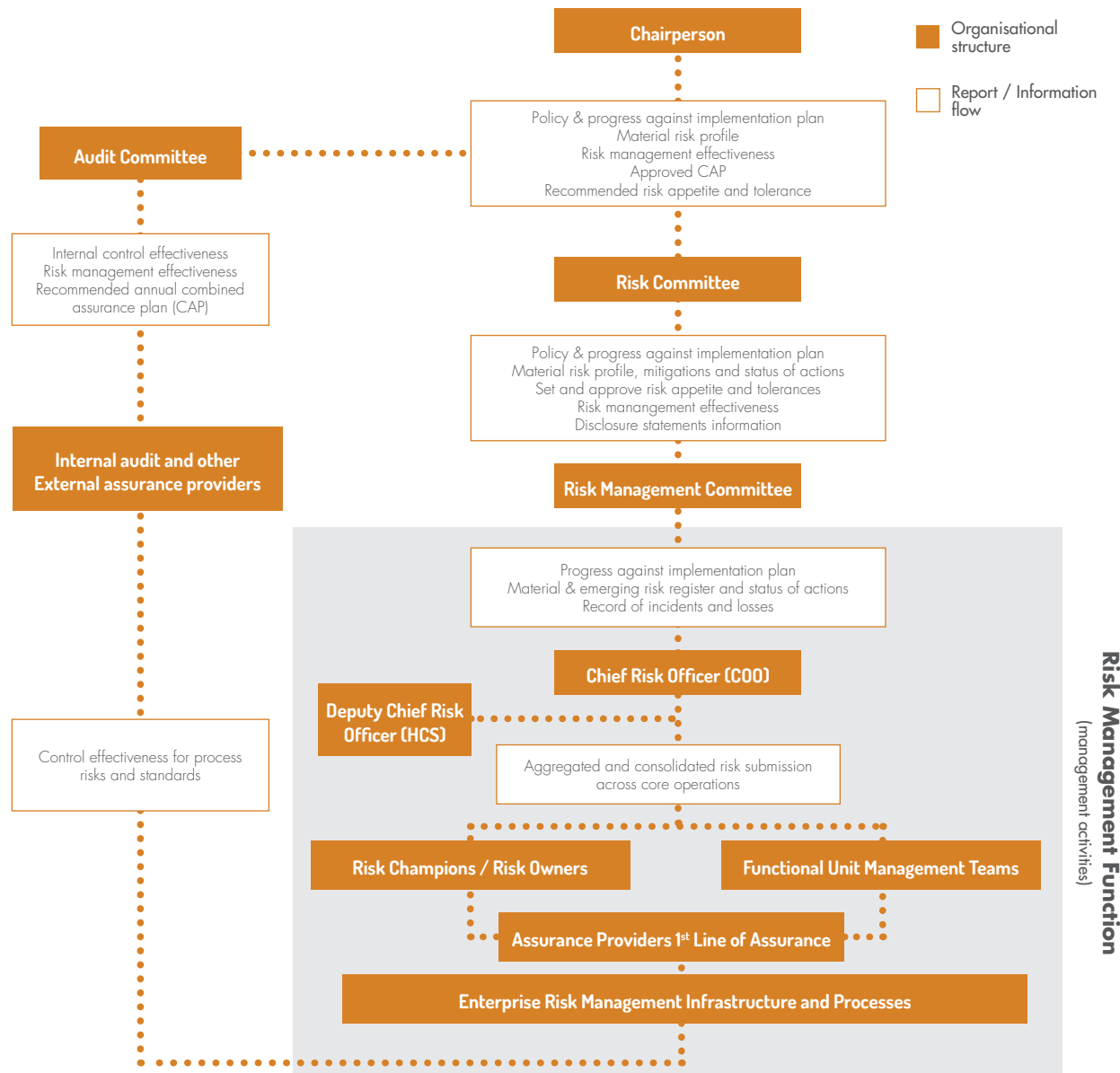


Diagram 14: Risk management function



The responsibility and accountability for implementation of risk management rests with management and staff, while the accounting authority remains, as required by the PFMA, accountable and responsible for the overall process of risk management.

All risk management processes are overseen by the risk committee ("RC").

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

The COO as chief risk officer is responsible for the execution of risk management ensuring that quarterly risk reports are presented to the RC for review and approval.

In addition to reviewing the report the RC is required to review the extent to which the Tribunal has implemented and embedded risk management practices. They, together with internal audit, play an advisory role providing assurance that the risks are managed and that the internal audit plan is risk based. The report of the RC is included in this annual report.

During the current financial year we have developed a combined assurance model that will be implemented with effect from 1 April 2017. This way we optimise the assurance coverage obtained from management, internal and external assurance providers on the Tribunal's risk profile.

The Tribunal's risk register included on the next page contains 17 risks with the category, origin, exposure (inherent and residual), effectiveness of controls and risk response assigned to each.

Diagram 15: Risk dashboard, sorted residually

RANK	RISK NAME	CATEGORY	ORIGIN	INHERENT RISK EXPOSURE	CONTROL EFFECTIVENESS	RESIDUAL RISK EXPOSURE	RISK MANAGEMENT
1	Shortage of Tribunal members to effectively oversee cases	Human resources	Strategic	Extreme	Unsatisfactory	Extreme	Tolerate
2	Inadequate operational facilities on Dti campus	Multiple categories	Strategic	Extreme	Unsatisfactory	Extreme	Tolerate
3	Poor corporate governance / business ethics and regulatory compliance	Regulatory / Statutory / Legal	Strategic	Extreme	Unsatisfactory	Extreme	Treat
4	Business interruption	Business continuity planning	Strategic	Extreme	Weak	High	Treat
5	Ineffective management of OHS within the Tribunal	Safety, security, health and environmental	Strategic	Extreme	Unsatisfactory	High	Treat
6	Inadequate Information Security	Information integrity and reliability	IT	Extreme	Satisfactory	High	Treat
7	Inadequate record keeping of case documents	Operational	Strategic	Extreme	Satisfactory	Moderate	Treat
8	Inadequate physical and financial control over Tribunal assets	Fraud and theft	Strategic	Extreme	Satisfactory	Moderate	Treat
9	Inadequate procurement management	Fraud and theft	Fraud	Extreme	Satisfactory	Moderate	Treat
10	Inadequate financial management	Fraud and theft	Fraud	Extreme	Satisfactory	Moderate	Treat
11	Financial non-disclosure and inadequate financial reporting to relevant stakeholders	Regulatory / Statutory / Legal	Strategic	Extreme	Satisfactory	Moderate	Treat
12	Poor case management	Reputation	Strategic	Extreme	Good	Moderate	Treat
13	Long term funding sustainability	Financial stability	Strategic	Extreme	Good	Moderate	Treat
14	Poor management of hearing logistics	Operational	Strategic	Extreme	Good	Within risk tolerance	Treat
15	Inaccurate or inadequate performance reporting	Regulatory / Statutory / Legal	Strategic	Extreme	Good	Within risk tolerance	Treat
16	Inadequate Payroll management	Human resources	Fraud	High	Satisfactory	Within risk tolerance	Treat
17	Inability to attract and retain key critical positions within the organisation	Human resources	Strategic	High	Good	Within risk tolerance	Tolerate



**R 6.22M SPENT ON ENSURING WE
REMAIN AN ACCOUNTABLE, TRANSPARENT
AND SUSTAINABLE ENTITY**



**8 OBJECTIVES SET PERTAINING TO ENSURING
EFFECTIVE STRATEGIC LEADERSHIP,
ADMINISTRATION AND MANAGEMENT**



**PRACTICE AND POLICIES IN PLACE TO ENSURE
ETHICAL BEHAVIOUR IN THE TRIBUNAL**



**GOVERNANCE AND OVERSIGHT
STRUCTURES OPERATIVE IN TRIBUNAL**



**AC WITH REQUIRED EXPERTISE AND EXPERIENCE
(4 CHARTERED ACCOUNTANTS AND 1 LAWYER)**

Mitigating controls based on the root cause and consequences are identified and their effectiveness is monitored on a quarterly basis.

Key risk indicators (“KRI’s”) are assigned to each risk and are used by the Tribunal to provide early signals of increasing or decreasing risk exposure. These KRI’s and the acceptable level of exposure, or tolerance limit, are measured and reflected in dashboard format in the register. Where residual exposure exceeds the acceptable level of exposure an appropriate risk response is determined and management action plans formulated as required. The risk register includes an action log that enables the RC to track the progress of the action against set target dates.

Risk owners are required to report on any incidences that occur in the Tribunal indicating the impact of this incidence on the Tribunal and any loss (financial or other) associated with this incidence. If the incident occurs because of a lack of control an action plan must be put in place to increase the control’s effectiveness. If there are no controls to mitigate this risk new controls are identified and monitored as part of the risk management process.

PREVENTING FRAUD

A zero tolerance to fraud prevails in the Tribunal.

Pursuant to the requirements of the PFMA and Treasury regulations the Tribunal has included fraud prevention as part of its risk management strategy. A fraud prevention committee (“FPC”) is in place and its oversight role includes

ensuring management has an approved fraud prevention plan (“FPP”) in place and a process for relevant officials to sign an anti-fraud charter.

The FPC meets at least twice annually and it focuses in particular on monitoring fraud risks included in the Tribunal’s risk register. Its report is a standard agenda item of the Tribunal’s audit and risk committee meetings. A charter that provides terms of reference for the FPC and addresses issues of membership, authority and responsibilities is adopted and reviewed annually by the committee. Any member of the FPC reported for or suspected of fraud may not form part of the committee until the matter is resolved.

The FPP, which is communicated to all employees, details the process for reporting potential fraud in the Tribunal and details the FPC’s responsibilities with regard to investigating these reports.

No incidents of fraud have been reported or investigated over the current and prior period and we are confident the language and culture of zero fraud tolerance is well embedded in the Tribunal.

REPORT OF THE RISK COMMITTEE

The risk committee has adopted the appropriate formal terms of reference as stated in its charter, and has regulated its affairs and discharged its responsibilities as contained in 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, and through structured systems and processes designed for that purpose, ensuring that:
 - management disseminates the risk management policy and plan throughout the entity; and
 - management ensures that the risk management plan is integrated into the daily activities of the business.
- Based upon the reports of management, 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; and
- 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 entity 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.

During the year under review, 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 membership of the committee is made up of five independent non-executive members, and A Wessels a full-time Tribunal member and J de Klerk in her capacity as chief risk officer. 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.

In the year under review, this committee met three times.



Maggie Mofokeng

Risk Committee Chairperson

31 July 2017

INFORMATION TECHNOLOGY AND GOVERNANCE

As information technology (“IT”) has become more pervasive in all aspects of the Tribunal’s operations, the scope of IT governance has expanded and more emphasis is being placed on it.

Doing an internet search for the definition of IT governance will yield a number of different definitions but in essence it is management’s oversight of information and technology so as to ensure that:

- there is accountability in decision making and the right decisions are made with regard to IT use and spend;
- IT risks are managed;
- there is compliance with regard to rules and regulations;
- IT adds value and that there is control over work being done;
- there is confidentiality, integrity and availability of data;
- IT supports the achievement of predetermined objectives;
- there is protection of privacy of personal information; and
- the effective management of disruptions.

Maintaining effective IT governance in the Tribunal

Creating, maintaining and implementing effective IT governance is an on-going and evolving responsibility not a one-time objective.

From a policy point of view the Tribunal’s journey towards effective IT governance has included approval of a revised

IT strategic plan and ensuring that we are confident it is compliant with the Corporate Governance of Information and Communications Technology Framework (“CGICT”) prescribed by the Department of Public Service and Administration (“DPSA”).

The framework takes into account all the relevant IT policies, legislation and other mandates for which the Tribunal is responsible and reflects the strategic IT objectives for the three year period 2016/2017 – 2019/2020. Justification for each IT objective and its link to the Tribunal’s strategic objectives are given. Budget is allocated to each IT project identified and required to achieve the stated IT objectives.

We are currently in the process of obtaining approval for the revised IT disaster recovery plan (“DRP”). This plan details the processes, procedures and employees responsible to manage the responses to an IT disaster. We are also in the process of obtaining approval for the information security policy and procedure, a document that provides policy, direction and commitment to information security in the Tribunal. This plan was revised to ensure adherence to best practice and compliance with the CGICT.

A revision of the IT governance framework is being undertaken to ensure its relevance to the Tribunal and compliance with the CGICT. We expect it to be ready for approval in June 2017.

The Tribunal has an IT steering committee in place. This is not a decision-making body but rather a body appointed to assist the accounting authority with his oversight

responsibilities related to IT governance. It deliberates on issues pertaining to IT governance and spend, making recommendations to the EXCO for approval.



*Colin Venter, IT administrator
and Rendani Neswiswi, IT intern.*

IT in operation in the Tribunal

On an operational level, given the increasing risk of cyber threats, we have focused on tightening IT security from end-to-end. Particular attention was given to data and information security as well as protection from external malicious threats such as ransomware, phishing and threats from external universal serial bus (“USB”) media. Understandably we cannot disclose too much further on this work.

During the year we spent time and resources assessing the sustainability of our existing electronic case management system (“CMS”). Our original expectation was that we would need to migrate to a new platform as we were unsure whether the upgrades available on our existing platform –

Case 360, an Open Text product – would be supported going forward. Moreover we were concerned about maintaining the functionality of CMS. However we have now ascertained, through numerous, rigorous and ongoing processes, that the upgrades can be implemented without affecting functionality. Once implemented, these upgrades will enable us to add new features and functionalities and the system can be supported for another five years.

In our IT budget we allocated R0.30m for possible migration and upgrades to a different platform and R0.33m for enhancements to the CMS and the reporting tool, Qlikview. We opted to put a hold on enhancements until testing of the upgrades was complete and we had received confirmation that the existing functionality would not be affected. As the testing process is still underway it has

resulted in underspending on this line item. We discuss this in more detail below. We will complete final testing by end June 2017 and will then be in a position to develop a plan to implement enhancements to CMS.

IT risks continue to be addressed as part of the broader risk management process and action plans are in place where weak controls have resulted in a higher than expected level of exposure. While incidents, such as down time, have been reported on the risk register they have not been of a significant nature.

The total IT budget for the period under review was set at R3.09m and was underspent by 32.53%. The diagram below reflects the underspending by line item and as a percentage of the total underspend.

Diagram 16: Extent of underspending on our IT budget

TOTALS	TOTAL BUDGET	% (OVER)/UNDERSPENT	CONTRIBUTION TO UNDERSPEND
Hardware (capital expenditure)	R374 700	(0.33)%	(0.12)%
Intangible assets (capital expenditure)	R525 000	87.30%	45.57%
Connectivity	R144 719	17.25%	1.90%
IT maintenance	R939 572	10.77%	10.05%
Software (services and renewals)	R912 360	43.45%	39.41%
Lease of equipment	R195 529	16.39%	3.19%
TOTAL	R3 091 880	32.53%	100%

The major underspend occurred with regard to intangible assets. As explained earlier R0.33m was allocated in the budget for development related to CMS and Qlikview that did not occur because we were determining the current sustainability of CMS. We had also budgeted R0.16m for a customised document management system for our non-case documents. However this did not take place as it was also dependent on a possible migration. The budget for software services included R0.3m for the CMS upgrade but, as the upgrades were performed by the CMS consultant as part of the monthly support contract, this budget remained unspent.

We continue to provide an intern, Rendani Neswiswi, an opportunity to apply the skills he is learning while studying for a diploma in IT software development. This is by no means an unbalanced relationship as Rendani adds capacity to the division and over time Rendani has moved from assisting us with basic IT tasks to performing more demanding and challenging work. Of his experience Rendani recounts that his greatest challenge *“is learning to manage demand when Colin (head of IT) is not here”*. He provides the following example of his work experience. *“Time management and juggling tasks has been one thing I have learnt. I will be setting up something downstairs, such as a projector or the WiFi hot spots, and then someone’s machine will crash upstairs in the office. I have also learnt to be patient with people with IT problems, they have their own stress to deal with.”*

In the forthcoming year we plan to test our IT DRP and to implement enhancements to CMS and Qlikview that increase the functionality of the system and allow us to “mine” more data out of the system. The system should also allow us to analyse trends and performance against our mandate.



Bellah Kekana, HR officer with Sabinah Monareng and Ongezwa Dlulane, two of the Tribunals interns.

HOW DO WE MANAGE OUR HUMAN RESOURCES?

Human resource management is the management of an organisation’s most valuable asset, their human capital. It deals with people related issues such as compensation, recruitment, performance management, training and development, safety, wellness, benefits and internal communication.

In a small entity like the Tribunal effective management is vital because many employees perform cross functional duties. If one person leaves there are big gaps to fill and, therefore, an increased risk of non-delivery.

How do we remunerate our human capital?

With personnel costs accounting for 62% of our expenditure effective management of human resources becomes even more important.

As at the end of March 2017 the Tribunal had five full-time members, 21 full-time staff members, two staff on one-year contracts and six interns. The benefit of internships, both to us and to the interns themselves, has been discussed earlier in this report. Various statistics profiling the Tribunal’s staff are presented graphically in this section. They depict the demographics and qualifications of the Tribunal staff.

We have also detailed the various training initiatives undertaken and conferences or workshops attended. These are all very important with regard to improving qualifications, building and developing skills and adding value. Having a focused and effective training programme can improve employee retention and reduce employee turnover.

In general, training and development needs are identified through the performance management system in place. This process allows divisional heads to measure their subordinate's performance, putting in place measures to improve poor performance where necessary, rewarding above average performance and promoting employees where required. In the year under review 19 of the 21 staff in the Tribunal's employ were rated as exceeding requirements, meaning that they performed above expectations. Performance bonuses to the value of R1.04m, ranging from 7.50% of basic salary to 12%, were awarded with the average being 10.05%.

The total cost to company ("TCC") remuneration structure is applied in the Tribunal and it includes compulsory contributions to retirement options and medical aid. Annual salary adjustments are guided by adjustments made in the public sector. Staff falling within the senior management service ("SMS") range were awarded an annual increase of 2.50% while non-SMS staff were awarded 7.3%. All these adjustments were effective on 1 April 2016. Tribunal members were not awarded an increase during the period under review. Their remuneration is equivalent to judges of the high court.

Other company contributions paid to employees that are subject to perks tax include, but are not limited to, group risk cover, parking and communication allowances.

The Tribunal was requested to participate in a benchmarking exercise commissioned by the Companies Tribunal. The survey identified key remuneration and employment trends in similar entities. In general the Tribunal is applying similar practices to other entities in the sector and no substantial differences were identified with five of the 14 positions in the Tribunal being paid at the

50th percentile or above (i.e. 50% of this sample would earn less and 50% earn more than equivalent positions in entities compared in the survey).

The Tribunal applies the Peromnes grading system which is then aligned to an equate grade, the grading system applied in the public sector. The salary scale is structured to include a range of grades ranging from junior (grade 18) to senior (grade 3). Each job grade represents a salary band of pay ranges structured to reflect a minimum,

midpoint and maximum payment level.

The current distribution of the 21 full-time employees employed as at end March by grade is illustrated in the diagram below.

The Tribunal has, as required, disclosed the remuneration of the EXCO in the annual financial statements included in this report. Fees paid to members of the Tribunal's oversight structures are reflected on page 57.

Diagram 17: Salary bands

PEROMNES GRADE	EQUATE GRADE	NUMBER OF EMPLOYEES	BAND RANGE (AS AT 31 MARCH 2017)		
			MIN	MID	MAX
Grade 3	15	1	1,479,901	1,829,138	2,178,374
Grade 5	13	1	1,102,051	1,426,313	1,750,576
Grade 6 U	12	3	768,545	1,043,092	1,317,637
Grade 6	12	1	729,909	925,352	1,120,795
Grade 7	11	1	615,889	734,914	853,938
Grade 8	10	2	533,126	608,680	684,234
Grade 9	9	5	503,765	555,023	606,282
Grade 10	8	2	359,316	391,858	424,398
Grade 11	7	2	289,339	315,085	340,832
Grade 12	6	1	234,361	255,213	276,065
Grade 14	5	1	163,240	177,765	192,289
Grade 16	3	1	137,745	150,003	162,260

Making changes to our staffing

During the year the Tribunal accepted the resignation of two case managers and the financial officer, all of whom were moving on to new employment challenges. The case managers have since been replaced.

The resignation of the financial officer precipitated a need to fully assess the staffing requirements for the finance and procurement function. We recognised that there was a need to increase the skills capacity in our finance division and, to this end, we appointed a person with the requisite skills to head the division.

With this appointment we also changed some reporting line functions. Previously the procurement function reported to the head of corporate services but now reports to the head of finance. In another change, finance previously reported to the head of corporate services but now reports directly to the COO.

The COO's responsibilities with regard to records management and information technology were reassigned to the head of corporate services.

The main reasons behind these changes were (1) to free up the COO to spend more time on strategic management issues rather than on operational issues; (2) the recognition that a senior person was required to head the finance division; and (3) the need to separate the COO and head of finance functions in accordance with best practice.

The 2017/2018 budget has also been provided for an economist or case manager with significant skills. Given the continued increase in the volume of and complexity of the

matters being brought before the Tribunal, skilled capacity is required in this division.

Meeting health and wellbeing needs

The Tribunal is committed to ensuring that the health and wellbeing of its employees is addressed and therefore supports the appointment of a wellness programme service provider to provide emotional and psychological counselling as well as life counselling, at no cost to the employee. This service costs R83.79 per employee, per month. This service includes the distribution of desk drops and articles dealing with a wide range of topics.

A report provided from the service provider for the 12 month period ending December 2016 shows that the overall engagement rate for the service provided increased from 47.10% to 105.60%. The increased usage is a positive sign as it is a mitigating control for the risk of employee stressors.

A financial wellness workshop was presented by Letlalo Employee Services to 19 staff members.




An OHS committee has been established to ensure that employees are provided with a working environment that is safe and without risk to their health. The OHS committee consists of seven members, all of whom have received the required training for their respective roles to ensure their readiness for any emergency situation.

The section 16.2 official is responsible for ensuring compliance with OHS legislation and, to this end, performs monthly and quarterly reviews. OHS risks, or potential




Tribunal demographic and staff qualifications as at 31 March 2017

1 11 **AFRICAN** | 4 **INDIAN** | 6 **WHITE**

2  **10** |  **8** |  **3**
DEGREE OR HIGHER | DIPLOMA | MATRIC OR LESS

3  **40.1** YEARS |  **26** YEARS |  **57** YEARS
AVERAGE AGE OF THE STAFF | YOUNGEST | ELDEST

4  **16** **FEMALE** |  **5** **MALE**

5  **6.27** YEARS
AVERAGE YEARS OF SERVICE PER STAFF MEMBER
 **0.50** YEARS
SHORTEST PERIOD OF SERVICE
 **17.58** YEARS
LONGEST PERIOD OF SERVICE

safety hazards, are assessed for inclusion on the risk register and controls are implemented and monitored so that the risk can be mitigated. A quarterly OHS report is presented to the audit and risk committee for review and discussion. In November 2016 an emergency drill was undertaken with the Commission in Building C. We took four minutes to evacuate as opposed to the planned five minutes. The drill was observed and assessed by an independent assurance provider who recorded it as being successful. They noted that the drill was done with full compliance and recommended the next drill occur within one year.

An internal newsletter "Tsele le Tsele", meaning "this and that", is produced three times a year by the communications officer and is distributed internally to staff. The newsletter is intended to inform staff of campaigns or the outcome of initiatives, introduce new staff members, recognise achievements and celebrate work at the Tribunal.

It has provided an effective tool for creating unity and adding a bit of fun and light heartedness into a sometimes stressful and serious environment.

We have also introduced quarterly meetings where the responsibilities for certain items on the agenda are presented by divisions on a rotational basis. The agenda includes an overview by the chairperson and a representative from each division of their current work focus. These meetings provide an opportunity for staff to mix in a relaxed mood for a few hours and it allows them to learn about other work being done in the Tribunal.

AUDITING OUR WORK, PROCESSES AND PROCEDURES

In order to be compliant with section 188 of the Constitution, the Public Audit Act, 2004 (sections 4(3)(a), 15 and 20), the PFMA (section 5(1)(a)(ii), Treasury Regulation 27.22.2 and our enabling Act (section 40(10)), the Tribunal ensures that there is an external and internal audit function in place.

One may ask why we need these functions and what the difference is between the two?

An assistant professor at the University of Wisconsin Madison described the internal audit function as "the window into a company" – an apt description. In the Tribunal's case replace "company" with "entity". Following a tender process, the view into the window in the Tribunal has been outsourced to KPMG for a period of three years beginning 1 April 2016. The internal audit team assigned to the Tribunal consists of two sponsors, a director and a manager. They together have 81 years of experience, with two of them being chartered accountants, one with an honours degree and one with a diploma.

The internal audit function while operating independently reports administratively to the accounting authority and functionally to the audit committee and management. It performs financial and non-financial audits as agreed in the annual plan and is risk based.

The external audit function, on the other hand, is a statutory audit performed by the Auditor-General and focuses on the financial accounts and financial management within the Tribunal. Over time the external audit has added regulatory compliance and the audit of predetermined objectives as part of its scope. The Auditor-General provides an opinion on whether the financial statements are a true reflection of the Tribunal's financial position and financial performance at year end, which is March in the Tribunal's case.

Internal auditors are hired by the Tribunal while external auditors are appointed by the Auditor-General. Internal audit reports are used by management whereas external audit reports are for the benefit of external stakeholders, in particular the EDD and the parliamentary portfolio committee.

Internal audits are conducted throughout the year whereas the external auditors perform a single annual audit.

The purpose, authority, terms of reference, objectives, powers, duties and responsibilities of the internal audit function is defined in an internal audit charter. The audit is conducted in accordance with standards of conduct and codes of ethics prescribed by the Institute of Internal Auditors.

In the Tribunal the functions of internal audit are coordinated with those of other internal and external assurance providers so as to minimise duplication and ensure proper coverage.

The three year strategic internal audit plan represents a balance between risk and compliance and is approved following discussions with management and the audit committee. In the period under review four audits were completed:





- **Follow up review** – this review assessed the progress made with regard to 36 action plans identified in previous internal audit reports. The report concluded that 69% (25) of these plans had been fully implemented, 25% (9) had been partially addressed while 6% (2) had not been addressed at all. The significance of the unresolved issues is reflected in the diagram below. Management is confident that these will all be resolved in the forthcoming year.

- **King IV readiness** – the objective of this review was to review the Tribunal’s governance framework and practices against the principles of King IV and to determine the current level of compliance and actions required to ensure full compliance. Within the limited scope of the engagement and work performed our governance framework and practices were assessed as good. Seven recommendations to changes in the framework were made. The framework will be revised to address these recommendations.
- **Performance information review** – the adequacy and effectiveness of controls in the technical indicator descriptions (an annexure to the performance plan) were tested to ensure accuracy, validity and completeness

of performance information reported. The auditors determined that improvement was required in both the managerial control environment and the internal control systems. These will all be implemented by end April 2017.

- **Payment of individual service providers review** – during this audit the policy, procedure and processes that the Tribunal applies for determining the tax status of contractors was assessed and was specifically undertaken to address an audit finding in 2015/2016 where VAT was paid to a service provider who was not VAT registered. The managerial control environment and internal control system was assessed as satisfactory and the five findings raised have been addressed.

Diagram 18: The significance of audit findings raised

AUDIT AREA	MAJOR 	SIGNIFICANT 	MINOR 	PERFORMANCE IMPROVED OBSERVATION 	NOT RATED ¹	TOTAL FINDINGS
Payment of individual service providers	-	-	5	-	-	5
Follow up review	-	6	-	1	4	11
Performance information	-	4	-	-	-	4
King IV readiness	-	-	-	7	-	7
TOTAL	0	10	5	8	4	27

1. Findings were originally not rated by previous internal auditors

The audit opinion of the Auditor-General on the external audit is contained on page 60 of this report and the audited financial statements as presented to the accounting authority and audit committee are presented on pages 71 to 104.

The terms of engagement, respective responsibilities of the auditor and the Tribunal as well as the nature and limitations of the audit are all contained in an engagement letter while the scope, timing and cost is contained in the audit strategy.

The COO, in consultation with an audit steering committee (includes divisional heads, representatives of the Auditor-General and the outsourced firm) and with the approval of the Tribunal chairperson, is responsible for coordinating responses to audit findings that are reported in a management letter.

In the 2015/2016 audit report three deficiencies were identified. These were (1) inadequate oversight, in certain instances, over internal controls; (2) inadequate review process of financial and performance information; and (3) inadequate processes to detect non-compliance with supply chain management. All of these were addressed by management in the current year.

Who are the members of our oversight structures?

Throughout the section on governance above we have made reference to the RC and the FPC and how they function. The third oversight structure is the audit committee ("AC") and their report follows on page 58.

The AC's main role is to assist the accounting authority in fulfilling his obligations to demonstrate accountability, transparency and good governance while remaining independent.

Both the AC and RC consist of five independent non-executive members and a member of the AC may also be a member of the RC. The term of members is limited to three years and a maximum of six if consecutive. A member of the AC is also

appointed as chairperson of the FPC.

These members must collectively have sufficient qualifications, skills and experience to fulfil their duties.



Oliver Josie, Kasthuri Soni, Maggie Mofokeng, Mahendrin Moodley and Akhter Moosa are non-executive members of the Tribunal's audit committee.

The diagram below provides details of attendance and remuneration of members of these oversight committees.

Diagram 19: Meeting attendance and remuneration of audit and risk committee meetings

AUDIT COMMITTEE MEETINGS				RISK COMMITTEE MEETINGS		
	REQD. TO ATTEND	ATTENDED	FEES*	REQD. TO ATTEND	ATTENDED	FEES*
NON-EXECUTIVE MEMBERS						
M. Moodley	3	3	R42 429	3	3	R22 780
M. Ramataboe	2	2	R23 749	1	1	R11 220
S. Gounden	1	1	R12 529	0	0	-
D. Thayser	2	2	R21 641	1	1	R9 112
K. Soni	4	2	R39 865	3	1	R9 112
M. Mofokeng	3	3	R50 116	3	3	R36 108
O. Josie	3	3	R45 560	3	3	R27 336
A. Moosa	3	3	R51 938	3	3	R31 163
EXECUTIVE MEMBERS						
N. Manoim	4	4	-	-	-	-
J. de Klerk	4	4	-	3	3	-
A. Wessels	-	-	-	3	-	-

* Fees refer to remuneration received for attendance at pre-committee meetings (for the chairs), committee meetings and induction meetings but exclude reimbursement for travel.

Evaluating our oversight structures

The Tribunal conducts an annual assessment of the performance of the AC and internal audit in order to determine whether they are performing as required and

whether there are any gaps that require corrective action. AC members, EXCO and internal audit completed the assessment forms. External audit was requested to participate in the process but declined.

The AC assessment includes member self-evaluation, an evaluation of the AC chairperson and an evaluation of the AC committee.

The overall conclusion reached was that:

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

The member's self-evaluation indicated there is a need to look at the manner in which the members can acquire the required Tribunal knowledge and add value. The evaluation of the chairperson indicated that there was a need for the chairperson to look at processes and procedures to enhance committee behaviour in meetings and committee development.

Both these areas were raised as areas of concern in the prior period assessment.

The Tribunal is currently developing a similar assessment process that can be applied to the internal risk management committee and the external risk committee. The intention is to implement this before the end of the 2017/2018 financial year.

REPORT OF THE AUDIT COMMITTEE

We are pleased to present our report for the financial year ended 31 March 2017.

The audit committee (the committee) is required, as per its approved terms of reference, to meet at least four times per annum. During the period under review the committee held four meetings.

Audit committee responsibility

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

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

The effectiveness of internal control

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

In line with PFMA and the King III report on corporate governance requirements, internal audit provides the committee and management with assurance that the internal controls are appropriate and effective. This is achieved by means of the risk management process, as well as the identification of corrective actions and suggested enhancements to the controls and processes.

From the various reports of the internal auditors, the audit report on the annual financial statements, any qualification and/or emphasis of matter, and the management letter

of the Auditor-General, it was noted that no significant or material non-compliance with prescribed policies and procedures was 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 on at committee meetings and were monitored throughout the year. The committee is satisfied with the content and quality of the monthly and quarterly reports prepared and issued by the accounting authority of the Tribunal in the year under review.

Evaluation of annual financial statements

The committee has:

- reviewed and discussed the draft annual financial statements to be included in the annual report, with the Auditor-General and the accounting authority;
- reviewed and discussed the performance information with management; and
- reviewed changes in accounting policies and practices; and reviewed the entities 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 is busy refining its combined assurance plan and process, begun in 2014/2015, to encompass further lines of defence. The plan will be implemented in 2017/2018. The committee has received assurance from management as well as internal and external assurance providers that risks are being appropriately managed.

The committee notes that two major risks (Tribunal member vacancies and lack of space) have been fully or partially resolved during the 2016/2017 financial year.



Mahendrin Moodley

Audit Committee Chairperson

31 July 2017

PART 06

HOW WE USED OUR FINANCIAL RESOURCES

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REPORT OF THE AUDITOR-GENERAL TO PARLIAMENT ON THE TRIBUNAL

Report on the audit of the financial statements

Opinion

1. I have audited the financial statements of the Competition Tribunal set out on pages 71 to 104, which comprise the statement of financial position as at 31 March 2017, and the statement of financial performance, statement of changes in net assets, cash flow statement and statement of comparison of budget and actual amounts for the year then ended, as well as the notes to the financial statements, including a summary of significant accounting policies.
2. In my opinion, the financial statements present fairly, in all material respects, the financial position of the Competition Tribunal as at 31 March 2017, and its financial performance and cash flows for the year then ended in accordance with the South African Standards of Generally Recognised Accounting Practice (GRAP) and the requirements of the Public Finance Management Act of South Africa, 1999 (Act No. 1 of 1999) (PFMA).

Basis for opinion

3. I conducted my audit in accordance with the International Standards on Auditing (ISAs). My responsibilities under those standards are further described in the Auditor-General's responsibilities for the audit of the financial statements section of my report.
4. I am independent of the entity in accordance with the International Ethics Standards Board for Accountants' Code of ethics for professional accountants (IESBA code) together with the ethical requirements that are relevant to my audit in South Africa. I have fulfilled my other ethical

responsibilities in accordance with these requirements and the IESBA code.

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

Emphasis of matter

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

Restatement of corresponding figures

7. As disclosed in note 30 to the financial statements, the corresponding figures for 31 March 2016 have been restated as a result of errors in the financial statements of the entity at, and for the year ended 31 March 2017.

Responsibilities of the accounting authority for financial statements

8. The accounting authority, is responsible for the preparation and fair presentation of the financial statements in accordance with GRAP and the requirements of the PFMA and for such internal control as the accounting authority determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.
9. In preparing the financial statements, the accounting authority is responsible for assessing the Competition Tribunal's ability to continue as a going concern, disclosing, as applicable, matters relating to going concern and using the going concern basis of accounting unless there is an intention either to liquidate

the public entity or to cease operations, or has no realistic alternative but to do so.

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

10. My objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISAs will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.
11. A further description of my responsibilities for the audit of the financial statements is included in the annexure to the auditor's report.

Report on the audit of the annual performance report

Introduction and scope

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

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

14. I evaluated the usefulness and reliability of the reported performance information in accordance with the criteria developed from the performance management and reporting framework, as defined in the general notice, for the following selected objective presented in the annual performance report of the entity for the year ended 31 March 2017:

Objective	Pages in the annual performance report
Strategic focus area 1 – Adjudicative excellence	106 - 108

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

16. 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

Other matter

17. I draw attention to the matter below.

Achievement of planned targets

Refer to the annual performance report on pages 106 to 112; for information on the achievement of planned targets for the year and explanations provided for the under/overachievement of a number of targets.

Report on audit of compliance with legislation

Introduction and scope

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

19. I did not identify any instances of material non-compliance with selected specific requirements of applicable legislation, as set out in the general notice issued in terms of the PAA.

Other information

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

21. My opinion on the financial statements and findings on

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

22. In connection with my audit, my responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements and the selected objective presented in the annual performance report, or my knowledge obtained in the audit, or otherwise appears to be materially misstated. If, based on the work I have performed, on the other information obtained prior to the date of this auditor's report, I conclude that there is a material misstatement of this other information, I am required to report that fact.

Internal control deficiencies

23. I considered internal controls relevant to my audit of the financial statements, annual performance report and compliance with legislation, however the objective is not to express any form of assurance thereon. I did not identify any significant deficiencies in internal control.

Auditor-General

Pretoria

31 July 2017



**AUDITOR - GENERAL
SOUTH AFRICA**

Auditing to build public confidence

Annexure – Auditor-General’s responsibility for the audit

1. As part of an audit in accordance with the ISAs, I exercise professional judgement and maintain professional scepticism throughout my audit of the financial statements, and the procedures performed on reported performance information for selected objectives and on the entity’s compliance with respect to the selected subject matters.

Financial statements

2. In addition to my responsibility for the audit of the financial statements as described in the auditor’s report, I also:
 - identify and assess the risk of material misstatement of the financial statements whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal controls.
 - obtain an understanding of internal control relevant to the audit 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 controls.

- evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the accounting authority.
- conclude on the appropriateness of the accounting authority’s use of the going concern basis of accounting in the preparation of the financial statements. I also conclude, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on Competition Tribunal’s ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor’s report to the related disclosures in the financial statements about the material uncertainty or, if such disclosures are inadequate, to modify the opinion on the financial statements. My conclusions are based on the information available to me at the date of the auditor’s report. However, future events or conditions may cause an entity to cease to continue as a going concern.
- evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

Communication with those charged with governance

3. I communicate with the accounting authority regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal controls that I identify during my audit.
4. I also confirm to the accounting authority that I have complied with relevant ethical requirements regarding independence, and communicate all relationships and other matters that may reasonably be thought to have a bearing on my independence and here applicable, related safeguards.

HOW DO WE BUDGET?

The Tribunal's approved budget reflected estimated expenditure (exclusive of capital expenditure) of R41.44m and estimated revenue (generated from the EDD grant, fees earned and other income) of R33.49m. We expected to use R7.94m of our accumulated surpluses (R20.71m) as at March 2016 to fund the 2016/2017 shortfall.

The Tribunal is also responsible for the administrative budget of the CAC and budgeting accurately is difficult as we are unable to predict the number or the length of the cases that will be brought before us or the CAC in any given year.

The Tribunal's expenditure has increased at a fairly constant rate since its inception however the grant allocated to the Tribunal selects slower growth and while fairly constant it is at a rate based on inflation as opposed to changes in the Tribunal's requirement. The filing fees the Tribunal receives from the Commission in terms of a memorandum of agreement - 30% of the large merger filing fee and 5% of the intermediate merger filing fee - fluctuate significantly and add to our budgeting difficulties as there is no certainty with regard to this revenue source. Diagram 20 illustrates the income and expenditure analysis over the last 18 years.

We have relied on the use of current accumulated funds to cover shortfalls but these are expected to be depleted by the end of the 2018/2019 financial year and it is therefore necessary to look to the EDD and the Treasury for larger grant allocations.

Our budget is allocated by strategic objective across our three strategic goals. In the current year 73.41% of the budget was allocated to these goals with our first goal, adjudication, accounting for 56.72%.

Diagram 20: Income and expenditure analysis - 18 years

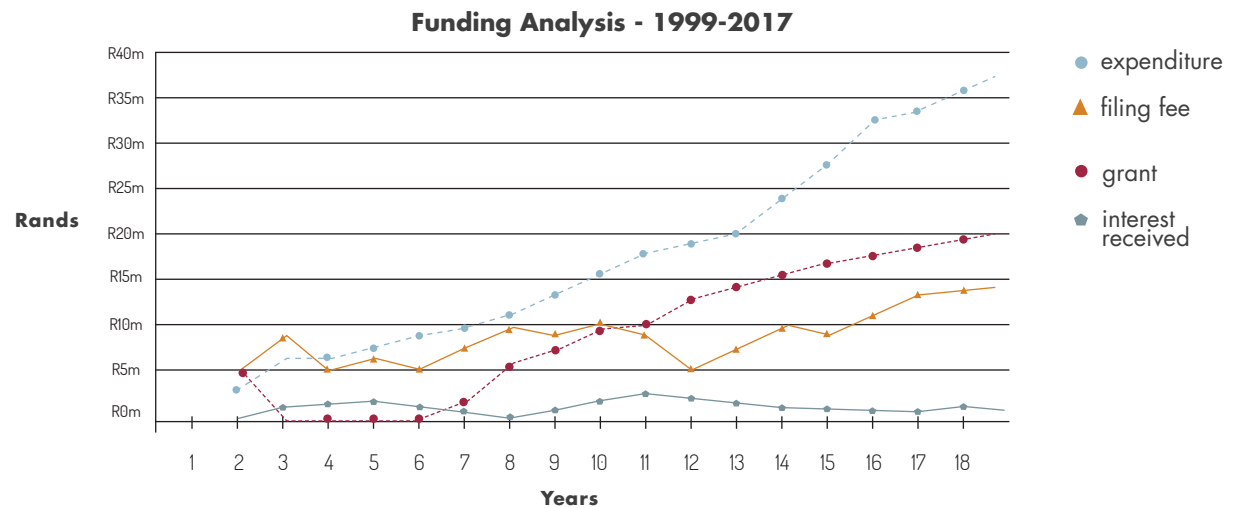
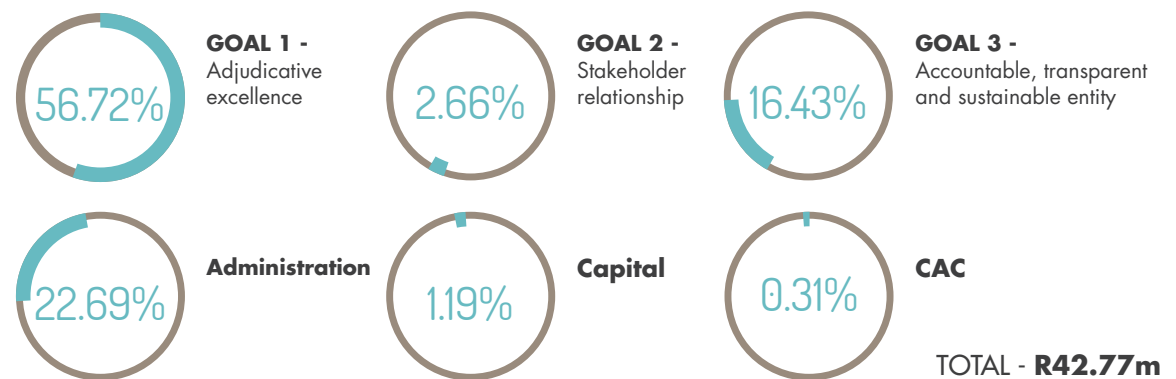


Diagram 21: Percentage of budget allocated to each strategic goal



HOW DID WE SPEND THE BUDGET?

Diagram 22: Income by category over the last two years

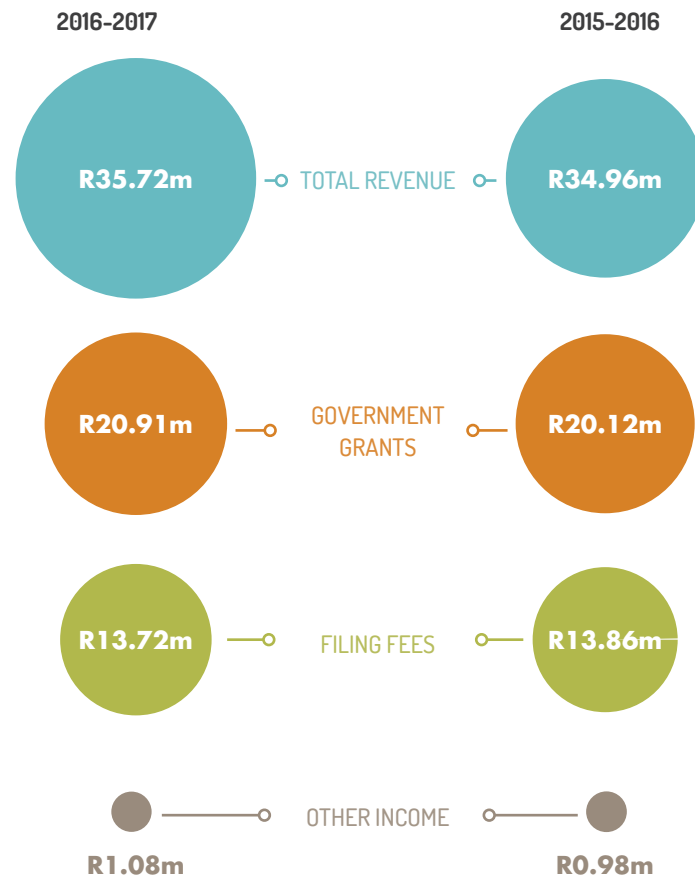


Diagram 22 provides a comparative picture of income received over the two years. While, in general, income is lower than the prior year the differences are not substantial. We addressed the fluctuations in Part 1 of this report.

The grant accounts for 57.54% of revenue received while filing fees account for 39.64%. While it appears as if the grant from the EDD decreased over the period, it must be noted that an additional R1.81m was allocated to the Tribunal in the prior year to cover the costs of increased accommodation on the DTI campus. If this is removed the grant increased by 5.30%.

Filing fee revenue increased marginally by just over 1.01%. Other income pertains mainly to interest received on deposits (accumulated funds) held with the corporation of public deposits ("CPD"). As these are being depleted we expect interest to decrease over time.

Diagram 23 alongside provides a comparative analysis of our expenditure by category over the last two years.

Administrative expenses include the cost of travel, the cost of occupation on the DTI campus and the running cost of various governance and oversight structures.

Other operating expenses include payments to the Commission in terms of the MOA in place, legal fees, training, IT expenses and consulting services.

Are we over or under spending and why?

In general, expenditure trends reflect consistency between the two years regarding the percentage spend by category as illustrated in Diagram 24.

If we exclude capital expenditure from our analysis total expenditure (38.26%) was underspent by 7.69%.

During the period under review the Tribunal put in place measures to contain costs (as per National Treasury guidelines). For this reason we see an underspend of 12% on administrative expenses and a substantial higher underspend on training (48.67%). We effected these reductions by reducing the number of representatives sent to international conferences or workshops and toned down the nature of internal workshops and conferences held.

Despite keeping expenditure on this line item constant with that of last year, we have still been able to ensure that the required training and representation at international meetings is achieved as indicated in the section on building sustainable capacity.

The next most significant underspend (24.87%) is on fees paid to parttime members. The reasons for underspending include the following:

Diagram 23: Expenditure analysis over two years

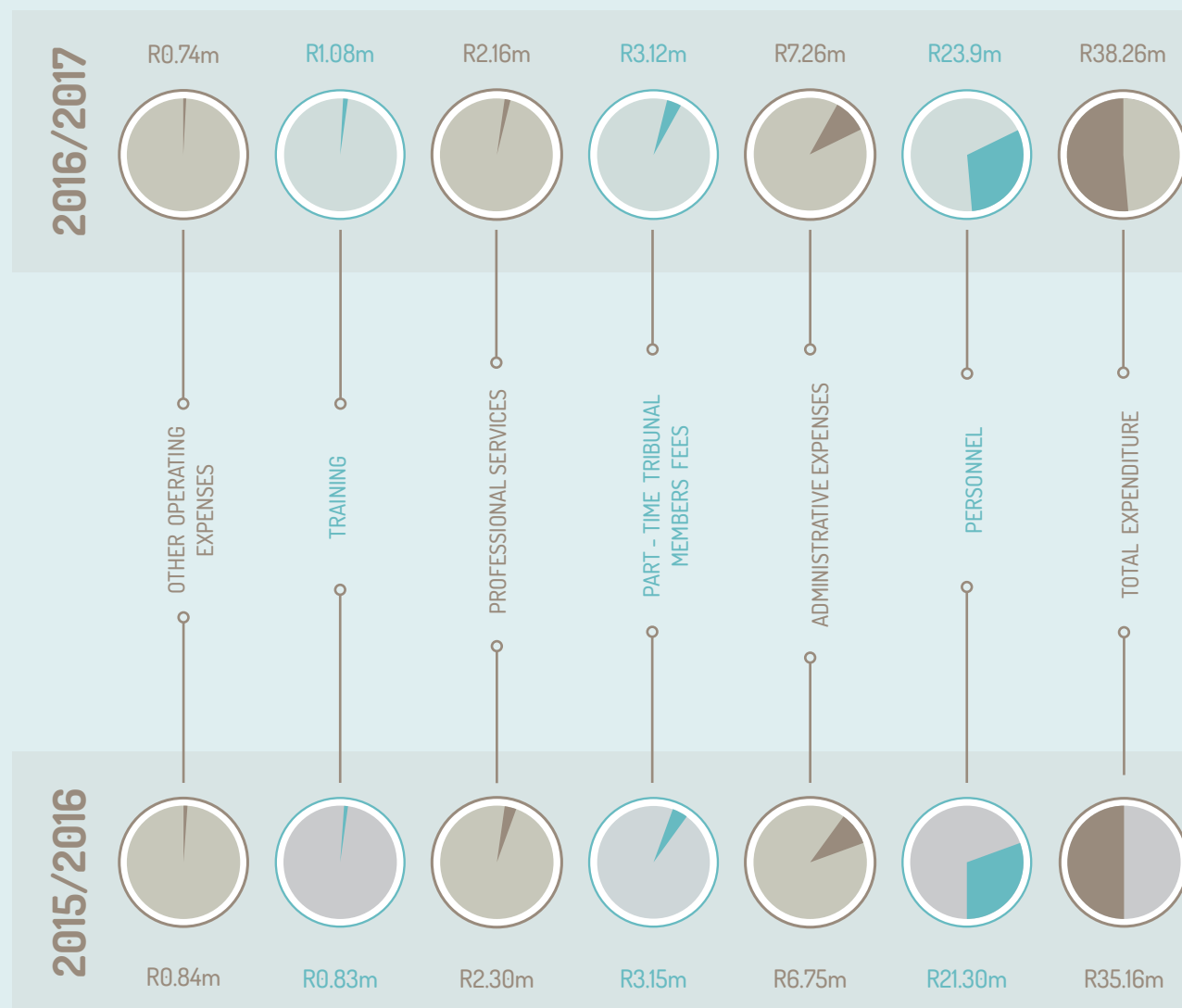
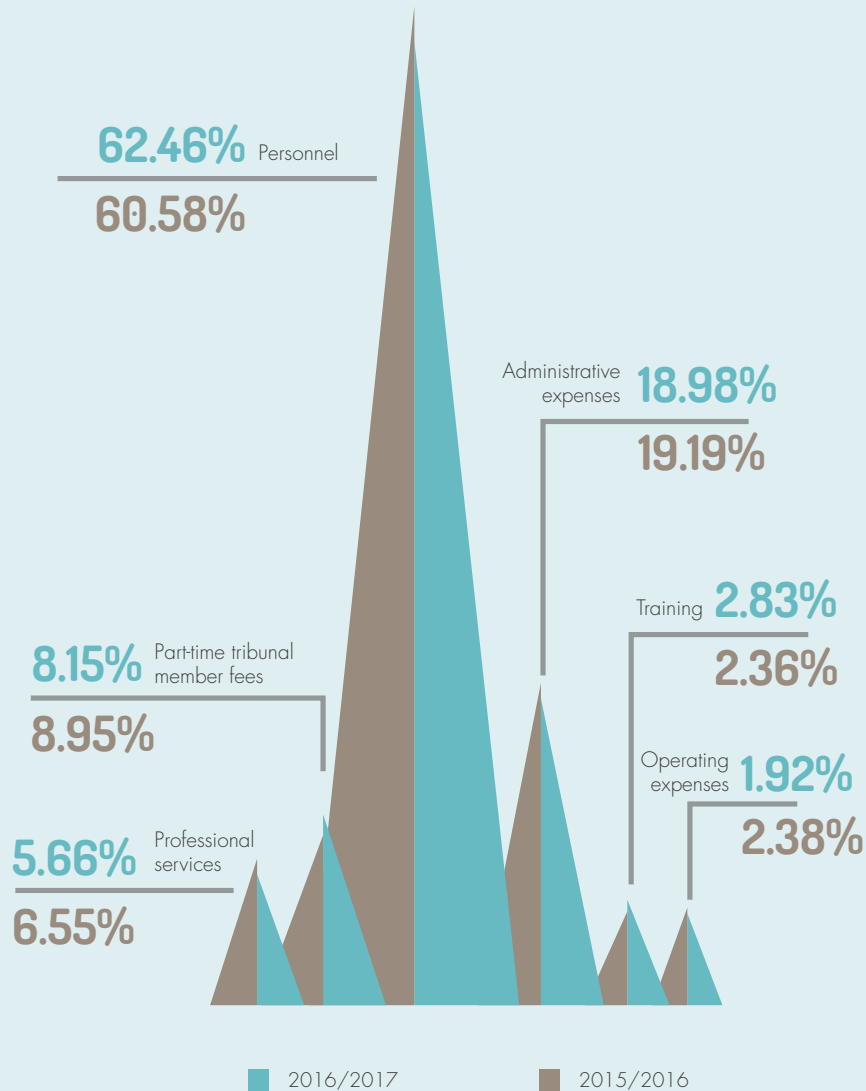


Diagram 24: Percentage spend by expenditure category



i) the budget assumed that the two vacant Tribunal member positions would be filled by an additional two part-time members from 1 April 2016. In the end these appointments were only made effective 1 January 2017 and only one part-time member was appointed;

ii) the budget is based on a three year average baseline of 122 hearing days for the year and a total of 342 panel days per part-time member (hearing, preparation, decision and cancelled days). The actual figures were 100 hearing days and 266 panel days.

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

Below is a detailed example of how we measure hearing and panel days.

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

Part-time members sitting on panels receive a fee for each day a hearing is held and a fee for each preparation day allocated to a matter. The daily fee is currently set at R9000.00. If part-time members are requested to write decisions, the same daily fee becomes applicable. In some instances a hearing may be cancelled shortly before it begins or while a case is parheard. Part-time Tribunal members receive a daily fee if the notice of cancellation given was insufficient for them to take up non-Tribunal work.

Diagram 25: Days allocated to the adjudicative process over three years

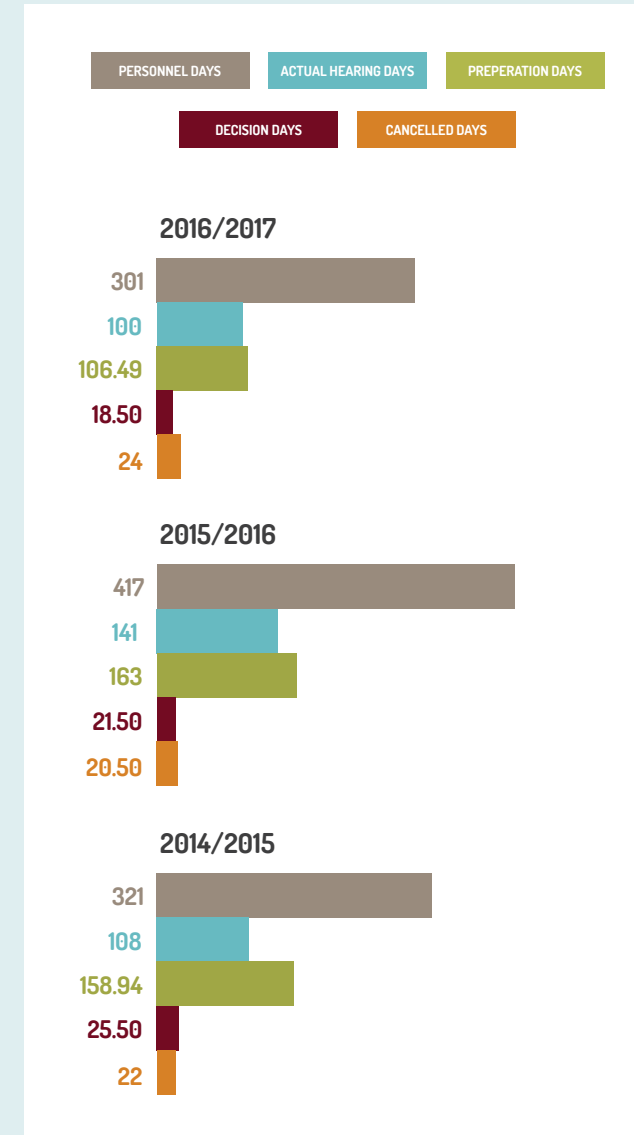
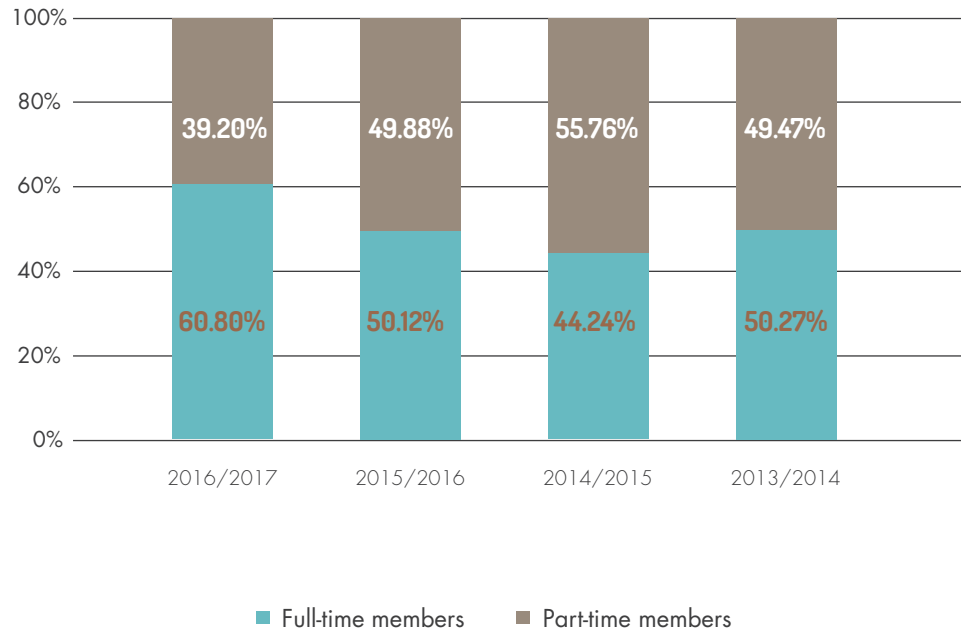


Diagram 26: Allocation of panel days



While it is difficult to depict a clear trend in the above diagram it is one that is worth watching as it indicates an increasingly smaller distribution of panel days to part-time members over a four year period. We expect this is related both to the vacancies only recently filled and a decreasing availability of part-time members to sit on panels.

Our CMS and the reporting tool (Qlikview) developed on top of it enable us to get current and accurate data relating to the days referred to above, and because we input costs into the system we are able to generate reports that reflect the variable cost of the adjudicative process as illustrated in Diagram 27.

Diagram 27: Variable costs of the adjudicative process over three years

COST TYPE	2016/2017	
	R1 000 907 Disbursement	191 Matters heard
	R1 103 580 Panel	R18 364 Av.cost per matter
	R1 403 010 Personnel	
R3 507 497		
COST TYPE	2015/2016	
	R1 254 509 Disbursement	204 Matters heard
	R1 550 020 Panel	R21 402 Av.cost per matter
	R1 561 489 Personnel	
R4 366 018		
COST TYPE	2014/2015	
	R804 955 Disbursement	180 Matters heard
	R1 300 040 Panel	R20 150 Av.cost per matter
	R1 521 940 Personnel	
R3 626 935		

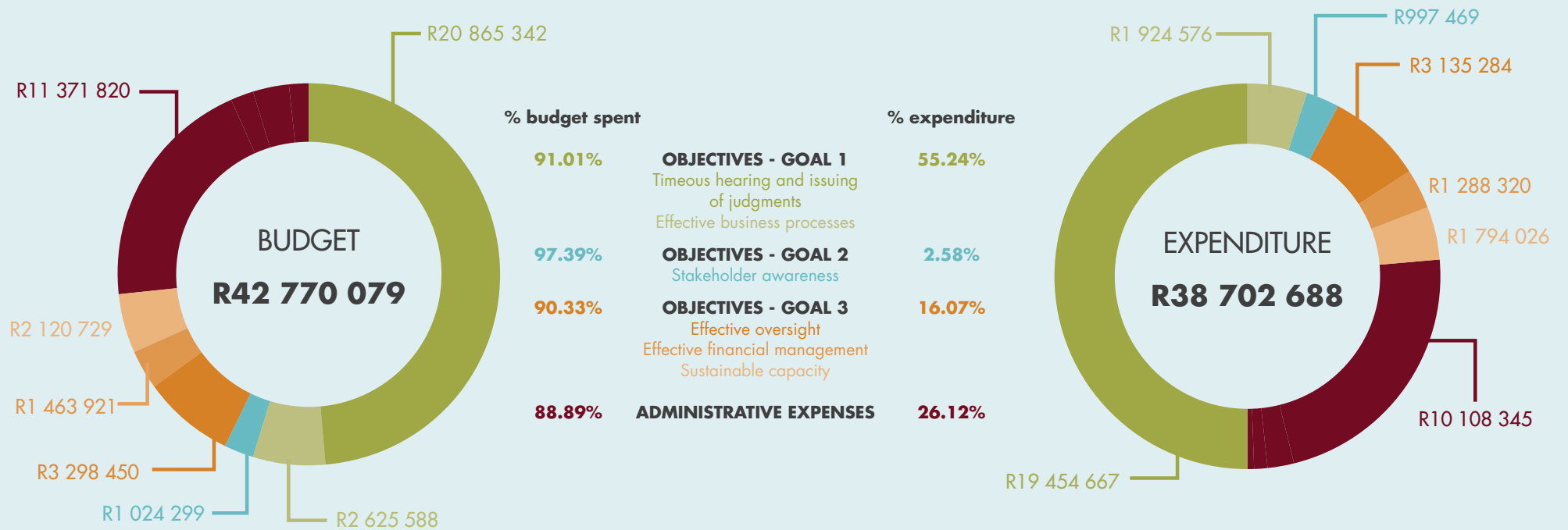
What does it cost us to meet our strategic goals?

We conclude the financial overview with an illustration

of budget and expenditure (inclusive of capital) but this time by strategic objective and other broad categories where there is no stated objective. It also illustrates what percentage of the budget for these categories was spent.

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

Diagram 28: Expenditure and budget by strategic objective



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 2017.

The financial statements presented on pages 71 to 104 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 2017.



ANNUAL FINANCIAL STATEMENTS

for the year ended 31 March 2017

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STATEMENT OF FINANCIAL POSITION

	Note(s)	2017 R '000	2016 Restated* R '000
ASSETS			
Current Assets			
Cash and cash equivalents	2	13,203	17,414
Receivables from exchange transactions	3	2,364	2,192
Prepayments		211	210
Inventory		59	61
		15,837	19,877
Non-Current Assets			
Property, plant and equipment	4	1,440	1,450
Intangible assets	5	3,103	3,337
		4,543	4,787
TOTAL ASSETS		20,380	24,664
LIABILITIES			
Current Liabilities			
Finance lease obligation	6	195	145
Payables from exchange transactions	7	1,955	3,102
Provisions	8	669	537
		2,819	3,784
Non-Current Liabilities			
Finance lease obligation	6	144	165
		144	165
TOTAL LIABILITIES		2,963	3,949
NET ASSETS		17,417	20,715
Accumulated surplus		17,417	20,715

STATEMENT OF FINANCIAL PERFORMANCE

	Note(s)	2017 R '000	2016 Restated* R '000
REVENUE			
Revenue from exchange transactions			
Fees earned	9	13,860	13,721
Other income	10	30	16
Interest received - investment	11	935	1,066
Gain on disposal of assets	12	17	1
Total revenue from exchange transactions		14,842	14,804
Revenue from non-exchange transactions			
Transfer revenue			
Government grants & subsidies	13	20,115	20,913
TOTAL REVENUE		34,957	35,717
EXPENDITURE			
Personnel costs	14	(23,895)	(21,297)
Depreciation and amortisation	15	(899)	(784)
Finance costs	16	(38)	(35)
Administrative expenses	17	(6,308)	(5,926)
Loss on disposal of assets	12	(15)	(5)
Other operating expenses	18	(7,100)	(7,113)
TOTAL EXPENDITURE		(38,255)	(35,160)
(Deficit) surplus for the year		(3,298)	557





STATEMENT OF CHANGES IN NET ASSETS

	Accumulated surplus R '000	Total net assets R '000
Balance at 01 April 2015	20,158	20,158
Changes in net assets		
Surplus for the year	307	307
Prior period adjustments	250	250
Total changes	<u>557</u>	<u>557</u>
Restated* Balance at 01 April 2016	20,715	20,715
Changes in net assets		
Deficit for the year	(3,298)	(3,298)
Total changes	<u>(3,298)</u>	<u>(3,298)</u>
Balance at 31 March 2017	<u>17,417</u>	<u>17,417</u>

* Refer to Note 30

CASH FLOW STATEMENT

	Note(s)	2017 R '000	2016 R '000
CASH FLOW FROM OPERATING ACTIVITIES			
Receipts			
Grants		20,115	20,913
Interest income		935	1,066
Other receipts		30	16
Fees received		11,820	12,758
		32,900	34,753
Payments			
Employee costs		(23,895)	(21,297)
Suppliers		(12,554)	(12,203)
Finance costs		(38)	(35)
		(36,487)	(33,535)
Net cash flows from operating activities	19	(3,587)	1,218
CASH FLOWS FROM INVESTING ACTIVITIES			
Purchase of property, plant and equipment	4	(382)	(549)
Proceeds from sale of property, plant and equipment	4	17	1
Purchase of intangible assets	5	(68)	(829)
Net cash flows from investing activities		(433)	(1,377)
CASH FLOWS FROM FINANCING ACTIVITIES			
Repayment of finance leases		(191)	(148)
Net cash flows from financing activities		(191)	(148)
Net decrease in cash and cash equivalents		(4,211)	(307)
Cash and cash equivalents at the beginning of the year		17,414	17,721
Cash and cash equivalents at the end of the year	2	13,203	17,414



STATEMENT OF COMPARISON OF BUDGET AND ACTUAL AMOUNTS

Budget on Accrual Basis

	Approved budget	Actual amounts on comparable basis	Difference between final budget and actual	Reference
	R '000	R '000	R '000	
STATEMENT OF FINANCIAL PERFORMANCE				
REVENUE				
REVENUE FROM EXCHANGE TRANSACTIONS				
Fees earned	11,524	13,860	2,336	Note a
Other income	-	30	30	
Interest received - investment	780	935	155	Note b
TOTAL REVENUE FROM EXCHANGE TRANSACTIONS	12,304	14,825	2,521	
REVENUE FROM NON-EXCHANGE TRANSACTIONS				
Government grants & subsidies	21,195	20,115	(1,080)	Note c
TOTAL REVENUE	33,499	34,940	1,441	
EXPENDITURE				
Personnel	(23,957)	(23,895)	62	Note d
Depreciation and amortisation	(842)	(899)	(57)	Note e
Finance costs	(196)	(38)	158	Note f
Administrative expenses	(7,220)	(6,308)	912	Note g
Other operating expenses	(9,228)	(7,100)	2,128	Note g
TOTAL EXPENDITURE	(41,443)	(38,240)	3,203	
Operating deficit	(7,944)	(3,300)	4,644	
Gain on disposal of assets and liabilities	-	17	17	
Loss on disposal of assets	-	(15)	(15)	
	-	2	2	
Actual Amount on Comparable Basis as Presented in the Budget and Actual Comparative Statement	(7,944)	(3,298)	4,646	Note h

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 larger deposit with the Corporation for Public Deposit than expected and therefore interest earned was higher than budgeted.

Note c: This variance relates to additional funds given by the EDD in the 2015/2016 financial year that was earmarked to cover the cost of office space for two years.

Note d: The variance on personnel costs occurred as performance bonuses paid were less than budgeted and there was marginal underspending on staff costs when staff resign and the position is vacant for a short period.

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

Note f: The budget included monthly lease expenses for both finance costs and capital payments. At year end the capital payments are transferred to the liability account.

Note g: Note 26 and the annual report provide variances on a breakdown of line items. The Tribunal made a conscious effort to reduce spending this year in accordance with cost containment measures imposed and hence the variance in administrative and other operating expenses.

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



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. Critical accounting estimates and assumptions 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.

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. The Tribunal measures financial instruments at fair value in order to reflect accurate financial information in the financial statements.

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.

1.4 Financial instruments (continued)

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.

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

1.4 Financial instruments (continued)

consistent with terms used in the public sector, either through established practices or legislation.

Gains and losses

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

Derecognition

Financial assets

The entity derecognises a financial asset only when:

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

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

Financial liabilities

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

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

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

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

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

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

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.

Net realisable value is the estimated selling price in the ordinary course of operations less the estimated costs of completion and the estimated costs necessary to make the sale, exchange or distribution.

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

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

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

1.5 Inventory (continued)

replacement cost and all losses of inventory are recognised as an expense in the period the write-down or loss occurs.

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.

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 or fair value can be measured reliably.

Property, plant and equipment is initially measured at cost.

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

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

Property, plant and equipment 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.

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

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

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

The depreciation method used reflects the pattern in which the asset's future economic benefits or service potential are

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

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

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

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

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

1.7 Intangible assets

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

An asset is identifiable if it is either:

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

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

An intangible asset is recognised when:

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

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

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

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

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

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

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

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

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

The entity discloses relevant information relating to assets under construction or development, in the notes to the financial statements (see note 7).

Intangible assets are derecognised:

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

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

1.8 Impairment of non-cash generating assets

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

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

Carrying amount is the amount at which an asset is recognised in the statement of financial position after

1.8 Impairment of non-cash generating assets (continued)

deducting any accumulated depreciation and accumulated impairment losses thereon.

Costs of disposal are incremental costs directly attributable to the disposal of an asset, excluding finance costs and income tax expense.

Depreciation (amortisation) is the systematic allocation of the depreciable amount of an asset over its useful life.

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

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

Useful life is either:

- (a) the period of time over which an asset is expected to be used by the entity; or
- (b) the number of production or similar units expected to be obtained from the asset by the entity.

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 assets remaining service potential.

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

Depreciated replacement cost approach

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

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 oversized or overcapacity asset. Oversized 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.

Reversal of an impairment loss

The Tribunal assesses at each reporting date whether there is any indication that an impairment loss recognised in prior periods for a non-cash-generating asset may no longer

1.8 Impairment of non-cash generating assets (continued)

exist or may have decreased. If any such indication exists, the Tribunal estimates the recoverable service amount of that asset.

An impairment loss recognised in prior periods for a non-cash-generating asset is reversed if there has been a change in the estimates used to determine the asset's recoverable service amount since the last impairment loss was recognised. The carrying amount of the asset is increased to its recoverable service amount. The increase is a reversal of an impairment loss. The increased carrying amount of an asset attributable to a reversal of an impairment loss does not exceed the carrying amount that would have been determined (net of depreciation or amortisation) had no impairment loss been recognised for the asset in prior periods.

A reversal of an impairment loss for a non-cash-generating asset is recognised immediately in surplus or deficit.

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

1.9 Accumulated surplus

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

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

1.10 Leases

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

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

Leased assets

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

The discount rate to be used in calculating the present value of minimum lease payments is the interest rate implicit in the lease 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. Refer to note 6 for details on finance lease.

1.11 Provisions and contingencies

Provisions are recognised when:

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

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

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

1.11 Provisions and contingencies (continued)

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.

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
- 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 12 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 12 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 12 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) which are payable after the completion of employment.

1.12 Employee benefits (continued)

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

1.13 Revenue from exchange transactions

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

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

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

When the outcome of a transaction involving the rendering of services can be estimated reliably, revenue associated with the transaction is recognised by reference to the stage of completion of the transaction at the 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 entity;
- the performance obligations are met and at 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.

Filing fees

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

Interest income

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

Other income

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

1.14 Revenue from non-exchange transactions

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

Recognition

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

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

Government grants

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

Measurement

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

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

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

1.17 Irregular expenditure

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

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

General purpose financial reporting by the Tribunal shall provide information on whether resources were obtained and used in accordance with the legally adopted budget.

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 April 2016 to 31 March 2017.

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.

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

1.21 Events after reporting date

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

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

The Tribunal will adjust the amount recognised in the financial statements to reflect adjusting events after the reporting date once the event has 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 Standard in issue not yet effective

Standards in issue but not yet effective, are disclosed in the financial statements as well as the impact on the financial statements in future periods. Refer to note 29.

NOTES TO THE ANNUAL FINANCIAL STATEMENTS

2. CASH AND CASH EQUIVALENTS

Cash and cash equivalents comprise cash that is held with registered banking institutions. As the interest rate risk at these institutions is deemed to be insignificant, the carrying amount of these assets approximates their fair value.

There are no restrictions of the use of cash.

Cash on hand
Cash at bank

Total

3. RECEIVABLES FROM EXCHANGE TRANSACTIONS

Receivables
Other debtors

Total

	2017 R '000	2016 R '000
	3	3
	13,200	17,411
	13,203	17,414
	2,292	2,192
	72	-
	2,364	2,192

Trade receivables are unsecured, bear no interest and are expected to be settled within 30 days of date of invoice. Fair value adjustments have been made accordingly. Refer to Note 16.

4. PROPERTY, PLANT AND EQUIPMENT

	2017			2016		
	Cost	Accumulated depreciation and accumulated impairment	Carrying value	Cost	Accumulated depreciation and accumulated impairment	Carrying value
Furniture and fixtures	665	(441)	224	659	(345)	314
Motor vehicles	210	(97)	113	210	(92)	118
Office equipment	46	(18)	28	53	(18)	35
IT equipment	1,394	(647)	747	1,412	(737)	675
Photocopiers and 3G contracts (Leased)	604	(276)	328	1,543	(1,235)	308
Total	2,919	(1,479)	1,440	3,877	(2,427)	1,450

The leased assets balance as at 31 March 2016 has been restated due to a prior period error. Refer to note 30 for detail.

Reconciliation of property, plant and equipment - 2017

	Opening balance	Additions	Disposals	Depreciation	Total
Furniture and fixtures	314	6	-	(96)	224
Motor vehicles	118	-	-	(5)	113
Office equipment	35	-	(1)	(6)	28
IT equipment	675	376	(14)	(290)	747
Photocopiers and 3G contracts (Leased)	308	220	-	(200)	328
	1,450	602	(15)	(597)	1,440

Reconciliation of property, plant and equipment - 2016

	Opening balance	Additions	Disposals	Depreciation	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
Photocopiers and 3G contracts (Leased)	76	384	-	(152)	308
	1,049	933	(5)	(527)	1,450

Pledged as security and contractual commitments

In the 2016/2017 financial year the Tribunal received an insurance payment for a laptop that was damaged. The payment net of the excess was R9 442. 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	328	308
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5. INTANGIBLE ASSETS

	2017			2016		
	Cost	Accumulated depreciation and accumulated impairment	Carrying value	Cost	Accumulated depreciation and accumulated impairment	Carrying value
Computer software, internally generated	4,127	(1,323)	2,804	4,060	(1,067)	2,993
Computer software, acquired	481	(182)	299	480	(136)	344
Total	4,608	(1,505)	3,103	4,540	(1,203)	3,337

Reconciliation of intangible assets - 2017

	Opening balance	Additions	Amortisation	Total
Computer software, internally generated	2,993	68	(257)	2,804
Computer software, acquired	344	-	(45)	299
Total	3,337	68	(302)	3,103

Reconciliation of intangible assets - 2016

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

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.

6. 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

	2017 R '000	2016 R '000
	221	171
	152	176
	373	347
	(34)	(37)
	339	310
	195	145
	144	165
	339	310
	144	165
	195	145
	339	310

The Tribunal is leasing photocopiers and data cards for a period on finance leases and there are no restrictions imposed on the Tribunal in terms of these leases. There are no escalation clauses reflected in the lease agreements. 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. The average lease period is 3 years and the average effective borrowing rate is 10.5%.

7. PAYABLES FROM EXCHANGE TRANSACTIONS

- Creditors
- Accrued performance bonus
- Other accruals

	180	584
	1,112	787
	663	1,731
	1,955	3,102

Trade payables are unsecured, bear no interest and are expected to be settled within 30 days of date of invoice. Fair value adjustments have been made accordingly. Refer to Note 16.

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

8. PROVISIONS

Reconciliation of provisions - 2017

	Opening Balance	Additions	Utilised during the year	Reversed during the year	Total
Leave provision	537	669	(44)	(493)	669

Reconciliation of provisions - 2016

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

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.

9. FEES EARNED

Fees Earned		13,860	13,721
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These fees relate to filing fees in respect of merger cases received from the Competition Commission.

10. OTHER INCOME

Recoupment of printing cost	1	5
Discount received	-	1
Insurance claim on stolen asset	9	10
Honorarium received	20	-
	30	16

	2017 R '000	2016 R '000
	1	5
	-	1
	9	10
	20	-
	30	16
	935	1,066

11. INVESTMENT INCOME

Interest received

- Bank deposits		
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12. NET GAIN/(LOSS) ON DISPOSALS

Property, plant and equipment
Office equipment
Computer equipment

13. GOVERNMENT GRANT AND SUBSIDIES

Economic Development Department
EDD funding for dti campus

14. PERSONNEL

Basic salaries
Performance awards
Medical aid - company contributions
Statutory contributions
Insurance
Other salary related costs
Defined contribution pension plan expense (see Note 20)
Executive committee members emoluments

15. DEPRECIATION AND AMORTISATION

Depreciation

Furniture and fittings
Motor vehicles
Office equipment
IT equipment
Leased assets

Amortisation

Computer software

	2017 R '000	2016 R '000
	17	1
	(1)	(3)
	(14)	(2)
	2	(4)
	20,115	19,102
	-	1,811
	20,115	20,913
	14,385	12,214
	983	669
	740	651
	272	235
	224	196
	182	203
	1,049	877
	6,060	6,252
	23,895	21,297
	95	94
	5	5
	6	11
	290	266
	201	151
	597	527
	302	257

16. FINANCE COSTS

Finance cost on leases		
Fair value adjustments on payables/receivables		

17. ADMINISTRATIVE EXPENSES

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

18. OTHER OPERATING EXPENSES

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

	2017 R '000	2016 R '000
	40	15
	(2)	20
	38	35
	288	132
	147	159
	-	6
	15	17
	1,411	1,382
	561	662
	551	443
	321	369
	3,009	2,735
	5	21
	6,308	5,926
	2,164	2,304
	1,083	828
	3,118	3,145
	50	-
	685	743
	-	93
	7,100	7,113

19. CASH GENERATED FROM OPERATIONS

(Deficit) / Surplus for the year

Adjustments for:

Depreciation and amortisation

Gain on disposal of assets

Loss on disposal of assets

Movements in provisions

Changes in working capital:

Inventory

Receivables from exchange transactions

Prepayments

Payables from exchange transactions

2017	2016
R '000	R '000
(3,298)	557
899	784
(17)	(1)
15	5
132	52
2	(6)
(172)	(880)
(1)	(82)
(1,147)	789
(3,587)	1,218

20. EMPLOYEE BENEFIT OBLIGATIONS

Defined contribution plan

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

21. INCOME TAX EXEMPTION

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

22. FINANCIAL RISK MANAGEMENT

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

Credit risk

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

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

22. FINANCIAL RISK MANAGEMENT (continued)

Exposure to credit risk

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

	2017 R '000	2016 R '000
Cash equivalents	13,200	17,411
Receivables	2,292	2,192
Total	15,492	19,603

Concentration of credit risk

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

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

2017	Rated and government R '000	Unrated R '000
Cash equivalents	13,200	-
Receivables	-	2,292
2016	Rated and government R '000	Unrated R '000
Cash equivalents	17,411	-
Receivables	-	2,192

22. FINANCIAL RISK MANAGEMENT (continued)

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

2017	Neither past due nor impaired	Past due but not impaired - less than 2 months	Carrying value
	R '000	R '000	R '000
Cash equivalents	13,200	-	13,200
Receivables	1,620	672	2,292
2016	Neither past due nor impaired	Past due but not impaired - less than 2 months	Carrying value
	R '000	R '000	R '000
Cash equivalents	17,411	-	17,411
Receivables	2,192		2,192

Market risk

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

Interest rate risk

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

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

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

Sensitivity Analysis

2017	Change in Investments	Increase/(decrease) in net surplus for the year	
		Upward change	Downward change
Cash equivalents	1.00%	132	(132)
2016			
Cash equivalents	1.00%	174	(174)

22. 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:

2017	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
Finance lease obligation	339	339	195	144
Payable from exchange transactions	1,995	1,995	1,995	-
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
Finance lease obligation	310	310	145	165
Payable from exchange transactions	3,102	3,102	3,102	-

Financial instruments

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

Financial Instrument	Classification	2017 R' 000	2016 R' 000
Cash equivalents	Financial asset measured at fair value	13,200	17,411
Trade debtors	Financial asset measured at fair value	2,292	2,192
Payables from exchange transactions	Financial liabilities measured at fair value	1,955	3,102

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

23. COMPARATIVE FIGURES

Comparative figures have been presented and there has been no significant adjustments to the prior year figures other than those detailed in note 30.

24. FRUITLESS AND WASTEFUL EXPENDITURE

Payment to South African Revenue Services	-	10
Value added tax paid to non VAT vendor - current year	-	83
Estimated cost for voluntary disclosure programme (SARS - current year)	-	91
Estimated cost for voluntary disclosure programme (SARS - prior year)	-	427
Value added tax paid to non VAT vendor - prior year	-	84
Total	-	695

25. IRREGULAR EXPENDITURE

Opening balance	976	686
Add: Irregular expenditure - current year	-	296
Add: Irregular expenditure - prior year	-	856
Less: Amounts recoverable (not condoned)	-	-
Less: Amounts not recoverable (condoned)	-	(862)
Amounts awaiting condonation	976	976

Analysis of expenditure awaiting condonation per age classification

Current year	-	120
Prior years	976	856
	976	976

	2017 R '000	2016 R '000
	-	10
	-	83
	-	91
	-	427
	-	84
Total	-	695
	976	686
	-	296
	-	856
	-	-
	-	(862)
Amounts awaiting condonation	976	976
	-	120
	976	856
	976	976

26. RECONCILIATION BETWEEN BUDGET AND STATEMENT OF FINANCIAL PERFORMANCE

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

Net (deficit)/surplus per the statement of financial performance

Adjusted for:

Fair value adjustments

Profit/loss on the sale of assets

Printing recoupement 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 (see Note c in the Budget Comparison)

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

	2017 R '000	2016 R '000
Net (deficit)/surplus per the statement of financial performance	(3,298)	557
Fair value adjustments	(2)	20
Profit/loss on the sale of assets	(17)	(2)
Printing recoupement and insurance refund	(30)	(17)
Transfer from retained income	9,271	6,350
Leased equipment	(194)	(123)
Capital expenditure	(1,327)	(1,154)
Filing fees from the Commission	(2,337)	(3,050)
Interest received	(155)	104
EDD grant (see Note c in the Budget Comparison)	1,080	(948)
Personnel	152	(361)
Part-time Tribunal member fees	(1,246)	(35)
Local training	(157)	(87)
Overseas training	(587)	(204)
Professional services	(192)	(368)
Recording and transcription services	187	235
Recruitment costs	67	43
Administrative expenses	213	(446)
Facilities and capital	(491)	(323)
Competition Appeal Court	(511)	(191)
Net surplus per approved budget	-	-

27. COMMITMENTS

The Tribunal procured furniture in March 2017 as the entity was moving offices and required additional furniture. The assets were not delivered prior to the end of the financial year and the Tribunal has therefore disclosed this as a commitment of R200 163.

28. RELATED PARTIES

Related party

The Competition Commission	Public entity in the National Sphere
Industrial Development Corporation	Public entity in the National Sphere
International Trade Administration Commission	Public entity in the National Sphere
The Department of Trade and Industry	National Department in the National Sphere
Economic Development Department	National Department in the National Sphere
Members of key management	Executive committee members

Related party balances

Amounts included in trade payables regarding related parties

The Competition Commission	150	-
The Department of Trade and Industry	5	3

Amounts included in trade receivables regarding related parties

Refund on administrative expenses due from the Commission	97	2
Filing fees due from the Competition Commission	2,320	1,345
Facility fee refund due from the Competition Commission	-	669

Related party transactions

The Competition Commission

Filing fees received as at year end	11,820	12,375
Facility fees paid as at year end	546	1,324
Employee costs received as at year end	-	54
Administrative costs received as at year end	67	4

The Department of Trade and Industry

Unitary payments paid as at year end	3,008	2,735
Administrative costs paid as at year end	53	49

Economic Development Department

Grants received as at year end	20,115	19,102
Funding for dti campus	-	1,811

2017
R '000

2016
R '000

28. RELATED PARTIES (continued)

Full-time member/Chairperson: N Manoim

Package	
Statutory contributions	
Other salary related contributions	

Full-time member: Y Carrim

Package	
Statutory contributions	
Other salary related contributions	

Chief Operating Officer: J de Klerk (COO)

Package	
Performance bonus	
Statutory contributions	
Other salary related contributions	

2017 R '000	2016 R '000
2,271	2,277
23	22
58	72
2,352	2,371
1,928	2,121
19	20
53	71
2,000	2,212
1,516	1,487
140	122
16	16
36	44
1,708	1,669

29. NEW STANDARDS AND INTERPRETATIONS

29.1 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 2017 or later periods:

Standard/Interpretation:

- GRAP 20: Related parties
- GRAP 109: Accounting by Principals and Agents
- GRAP 108: Statutory Receivables
- GRAP 32: Service Concession Arrangements: Grantor
- IGRAP 17: Service Concession Arrangements where a Grantor Controls a Significant Residual Interest in an Asset

Effective date: Years beginning on or after

No effective date as yet
No effective date as yet
No effective date as yet
No effective date as yet

Expected impact:

Not expected to impact result but may result in additional disclosure
Unlikely to be a material impact
Unlikely to be a material impact
Unlikely to be a material impact
Unlikely to be a material impact

30. PRIOR PERIOD ERRORS AND ADJUSTMENTS

There were four areas of adjustment to the prior period figures.

1. Inaccurate calculation of depreciation relating to leased assets amounting to R29 288.
2. Inaccurate calculation of the finance lease charges in the prior year amounting to R563.
3. Filing fees of R280 000 incurred in the prior year but not recognised. The Competition Commission had made an audit adjustment for this amount in their 2015/2016 annual financial statements in July 2016.
4. An adjustment was made to the leased asset cost and accumulated depreciation of R1 159 974 in the prior year relating to derecognition of leased assets where the lease had expired and the asset replaced.

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

	2017 R '000	2016 R '000	
Statement of financial position			
Current Assets	-	280	
Non-current assets	-	(29)	
Current Liabilities	-	(1)	
Statement of financial position			
	Balance as previously reported	Prior period adjustment	Restated balance
Receivables from exchange transactions	1,912	280	2,192
Property, plant and equipment	1,479	(29)	1,450
Finance lease obligation	(144)	(1)	(145)
	3,247	250	3,497

30. PRIOR PERIOD ERRORS AND ADJUSTMENTS (continued)

Statement of financial position


	2017 R '000	2016 R '000
Fees earned	-	280
Depreciation and amortisation	-	(29)
Finance costs	-	(1)

Statement of financial position

	Balance as previously reported	Prior period adjustment	Restated balance
Fees earned	(13,441)	(280)	(13,721)
Depreciation and amortisation	755	29	784
Finance costs	34	1	35
	(12,652)	(250)	(12,902)

31. CONTINGENT LIABILITY

In terms of Section 53(3) of the PFMA, a public entity may not accumulate surplus funds without approval from the National Treasury. Approval has been requested from the National Treasury to retain surpluses amounting to R13.24 million however, the entity is still awaiting approval. As permission has not yet been granted, this is reflected as a contingent liability.

A photograph of a person's hands holding a black pen over a binder of documents. The scene is set in a meeting room with a laptop, a water bottle, and a glass of water visible in the background. The lighting is warm and focused on the hands and the documents.

PART 07

APPENDIX

106 Annual performance report

APPENDIX A: ANNUAL PERFORMANCE REPORT

STRATEGIC FOCUS AREA 1

ADJUDICATIVE EXCELLENCE							REASON FOR BUDGET/EXPENDITURE VARIANCE
			BUDGET	R 23,490,930.03	Budget divided equally across 4 quarters		
			ACTUAL EXPENDITURE	R 21,379,243.33	The budget is based on an estimate of the volume of cases and variances will occur as we cannot predict volume		
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	CURRENT YEAR PERFORMANCE	EXPLANATIONS FOR VARIANCES
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%	76%	87.25%	Target exceeded by 12.25% for the year. 89 of the 102 large mergers setdown within the required 10 business days. The target set is based on the average performance over the last three years and is not set at 100% as parties are not always available on the first dates that we offer them for hearings. During the year under review parties were generally available on the dates offered thus resulting in us exceeding our targets.
			% of intermediate and small merger considerations to be set down for the beginning of a hearing or a pre-hearing within 10 business days of the filing of the request for consideration.	75%	44%	80.00%	Target exceeded by 5% for the year. Four out of five matters were setdown within the required 10 business days. The target set is based on the average performance over the last three years and is not set at 100% as parties are not always available on the first dates that we offer them for hearings. During the year under review parties were generally available on the dates offered thus resulting in us exceeding our targets.
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%	99.02%	Target exceeded by 4% for year. 1 out of 102 orders was out of time. Target not always set at 100% as some case are more complex and require more time to consider.
			% of large merger reasons issued to parties within 20 business days of order being issued.	70%	87%	78.70%	Target exceeded by 9 % for the year. 85 out of 108 reasons issued within the required 10 business days. The target for issuing reasons in large merger cases is not at 100% as some cases are more complex and require more time to consider. In the period under review the matters were not as complex and we were able to exceed the target.
			% of intermediate and small merger consideration orders issued to parties within 10 business days of last hearing date.	95%	100%	66.67%	Target not met for year. Two out of three orders issued were issued within the required 10 business days. In one of three matters decided the order was issued 24 days out of time due to lack of capacity.
			% of intermediate and small merger consideration reasons issued to parties within 20 business days of order being issued.	60%	60%	0.00%	Target not met for year. Two out of two reasons issued late. Reasons were issued late in two of the two matters decided - one was issued eight days out of time as it was a complex case and had an extremely lengthy hearing and large record. In the other matter reasons issued 15 days out of time because the member who was writing attended the ICN conference in Singapore.

STRATEGIC FOCUS AREA 1 (continued)

ADJUDICATIVE EXCELLENCE							REASON FOR BUDGET/EXPENDITURE VARIANCE
			BUDGET	R 23,490,930.03	Budget divided equally across 4 quarters		
			ACTUAL EXPENDITURE	R 21,379,243.33	The budget is based on an estimate of the volume of cases and variances will occur as we cannot predict volume		
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	CURRENT YEAR PERFORMANCE	EXPLANATIONS FOR VARIANCES
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 (simple) - 100 business days	No reasons issued	No reasons issued	No reasons issued in period under review.
				B (complex) - 125 business days	No reasons issued	66.67%	Target not met for the year. Two out of three reasons issued within the required 125 days. In one they were issued 79 days out of time. The resignation of a case manager and the lack of capacity amongst Tribunal members caused this delay.
				C (very complex) - 150 business days	100%	50.00%	Target not met for the year. One out of two reasons issued late. One issued late by 29 days because it was a very complex case and the shortage of Tribunal members meant panel members also had to sit on several other large matters, eg. Imery and Vodacom & Neotel. In addition the annual conference took place during this period and certain Tribunal members delivered papers or chaired working groups.
			% of procedural matter orders issued to parties within 20 business days of last hearing date (procedural matters includes interlocutory applications).	85%	73%	26.19%	Target not met for the year. 11 out of 42 decisions issued within the required 20 business days, 31 were issued late. In 9 matters the decisions were issued 10 days or less out of time. In 15 matters the decisions were issued 30 days or less out of time and in the remaining 7 decisions - 2 were late by 60 days or less while 5 were delayed by 80 days or more. The delays were mainly the result of lack of capacity amongst Tribunal members. Tribunal members find little time to focus on decision writing as they are required to sit on numerous panels.
			% orders for consent orders and settlement agreements issued to parties within 10 business days of last hearing date.	90%	96%	100.00%	Target exceeded by 10% for the year. 25 of 25 orders issued within the required 10 business days. The target set is based on performance over the past three years and is not set at 100% as consent order cases can be complex which will require more time to consider and issue orders/reasons. Some cases are more complex and require more time to consider. In the period under review the matters were less complex and we were able to exceed the target.
			% interim relief reasons issued to parties within 20 business days of last hearing date.	100%	No reasons issued	0.00%	Target not met for the year. Reasons were issued in one matter and late by two days as it was during the school holidays and there was a delay in getting feedback from the members.

STRATEGIC FOCUS AREA 1 (continued)

ADJUDICATIVE EXCELLENCE							REASON FOR BUDGET/EXPENDITURE VARIANCE		
							BUDGET	R 23,490,930.03	Budget divided equally across 4 quarters
							ACTUAL EXPENDITURE	R 21,379,243.33	The budget is based on an estimate of the volume of cases and variances will occur as we cannot predict volume
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	CURRENT YEAR PERFORMANCE	EXPLANATIONS FOR VARIANCES		
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.	Feasibility study of automation opportunities completed by December 2016.	Phase 2 fully implemented and operative by March 2016.	No project plan was developed or feasibility study undertaken with regard to additional automation opportunities as it was necessary to determine whether the system would be upgraded or if there was a need to migrate to another platform.	It was established that updates were possible and as a result no feasibility study was undertaken. We are currently testing the final update and will then be in a position to determine what enhancement is required and can be implemented. This target will therefore be removed or revised in 2017/2018.		
			Reduced reliance on manual performance reporting by 2020 according to agreed plan.	25% of agreed plan implemented by March 2017.	No formal plan in place but manual reliance being reduced.	No formal agreed plan has been drafted however the type of additional reports and enhancement of current reports has been identified. The Tribunal has been focussing on the development/enhancement of these thus allowing us to reduce reliance on manual reports and rely more on those generated through the system. Increased verification of data electronically as opposed to manually.	An informal as opposed to formal agreed plan for electronic reporting was agreed and we have been working on these so as to reduce the reliance on manual systems. Enhancements are implemented as we progress and new reports are being tested. This target will be removed or revised in 2017/2018.		

STRATEGIC FOCUS AREA 2

STAKEHOLDER RELATIONSHIPS						REASON FOR BUDGET/EXPENDITURE VARIANCE		
						BUDGET	R 1,024,228.53	Budget divided equally across 4 quarters
						ACTUAL EXPENDITURE	R 997,469.45	Budget marginally underspent during the period under review - mainly a result of underspending on the website
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	CURRENT YEAR PERFORMANCE	EXPLANATIONS FOR VARIANCES	
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%	92%	99.05%	The target is set at 75% as not all final decisions in merger cases are newsworthy and the timing of a press release would not be as urgent. During the period under review final decisions were deemed to be of interest and therefore issued speedily resulting in us exceeding the target.	
			% press releases of prohibited practice decisions communicated within two business days of order date.	100%	100%	80.00%	Target not met for the year to date Five press releases were issued for final prohibited practice decisions and one press release was issued out of time due to a housekeeping issue.	
			% of non confidential version (ncv) of reasons posted on website within two business days of issue date of ncv.	75%	97%	78.29%	Target exceeded by 3% for the year. 119 of 152 reasons were posted within the required two business days. The target is not set at 100% as there are instances that include human error and network issues that would delay the uploading of reasons. During the period under review there were few instances that caused a delay in uploading.	
			Number of Tribunal Tribune published annually.	Remove by EXCO in order to develop electronic newsletter.	3.00	Publication of newsletter delayed to April and in process of securing service provider to develop it on website.	Publication delayed but progress being made with regard to appointing a new service provider.	
			Number of Tribunal Tribune distributed according to agreed distribution list.	Remove by EXCO in order to develop electronic newsletter.	55			Publication delayed but progress being made with regard to appointing a new service provider.

STRATEGIC FOCUS AREA 2 (continued)

STAKEHOLDER RELATIONSHIPS					REASON FOR BUDGET/EXPENDITURE VARIANCE		
					BUDGET	R 1,024,228.53	Budget divided equally across 4 quarters
					ACTUAL EXPENDITURE	R 997,469.45	Budget marginally underspent during the period under review - mainly a result of underspending on the website
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	CURRENT YEAR PERFORMANCE	EXPLANATIONS FOR VARIANCES
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 reviewed and changes implemented in line with EXCO requirements and agreed timeframes.	Implement plan against agreed timeframes by March 2017	Implement plan against agreed timeframes.	Document referred to as communication framework as opposed to communication plan. Framework was finalised and approved by the EXCO. Communications officer now submits quarterly report and framework will be revised annually.	Target met for quarter and year to date. Will revise this target for 2017/2018 to reflect reporting requirements.
			Monitored performance and implementation against improved plan.	Report on implementation against plan by March 2017	New target in 2016/2017	Document not referred to as a plan but a framework and identifies policy and procedure around communication no implementation plan just projects. Progress on these reported against quarterly. Communication framework finalised and approved by the EXCO.	Target met for quarter and year to date. Will revise this target for 2017/2018 to reflect reporting requirements.
IMPROVE STAKEHOLDER DELIVERY	Identify and address stakeholder needs and expectations in order to meet or exceed requirements.	Level of stakeholder satisfaction.	Planned and implemented actions against stakeholder satisfaction survey results.	No survey scheduled this year	Plan delayed due to late appointment of communications officer.	No survey scheduled this year.	No survey scheduled this year and this target is therefore not required to be measured.

STRATEGIC FOCUS AREA 3

ACCOUNTABLE, TRANSPARENT AND SUSTAINABLE ENTITY							REASON FOR BUDGET/EXPENDITURE VARIANCE
			BUDGET	R 6,883,100.48	Budget divided equally across 4 quarters		
			ACTUAL EXPENDITURE	R 6,217,630.09	Budget marginally underspent and mainly as a result of underspending on external audit fees. This is a result of the timing of the audit and the inability to accrue expenses		
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	CURRENT YEAR PERFORMANCE	EXPLANATIONS FOR VARIANCES
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.	Final report - no issues of governance raised.	Final management report for 2015/2016 - no issues of governance raised.	Target met for year to date.
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.	Final report - no issues of governance raised.	Final management report for 2015/2016 - no issues of governance raised.	Target met for year to date.
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.	Final report - has fruitless and wasteful expenditure.	Fruitless and wasteful expenditure disclosed in final AFS for 2015/2016.	Target not met for quarter and year to date. The Tribunal disclosed fruitless/wasteful and irregular expenditure. A portion was condoned by National Treasury and the balance will be condoned by the Accounting Authority. An action plan has been put in place to prevent these occurring going forward.
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.	Final report - no material misstatements.	Final management report for 2015/2016 - no material misstatements.	Target met for year to date.
			Submission against annual deadline.	Annual reporting submission dates met May and July.	AR submitted within required timeframes.	May date met - July date met.	Target met for year to date.
		Integrated risk management processes and combined assurance.	Achieve an unqualified audit outcome year on year.	Unqualified audit – no issues of risk management raised.	Final report - no risk management issues raised.	Final management report for 2015/2016 - no risk management issues raised.	Target met for year to date.

STRATEGIC FOCUS AREA 3 (continued)

ACCOUNTABLE, TRANSPARENT AND SUSTAINABLE ENTITY						REASON FOR BUDGET/EXPENDITURE VARIANCE	
			BUDGET	R 6,883,100.48	Budget divided equally across 4 quarters		
			ACTUAL EXPENDITURE	R 6,217,630.09	Budget marginally underspent and mainly as a result of underspending on external audit fees. This is a result of the timing of the audit and the inability to accrue expenses		
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	CURRENT YEAR PERFORMANCE	EXPLANATIONS FOR VARIANCES
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.	Policy in final draft and two interns employed.	Implemented and currently two LT interns employed.	Target met for year to date. Likely to remove this target going forward as there is fully implemented graduate internship in place.

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