

2018/2019



***competition*tribunal**  
*south africa*

## **ANNUAL PERFORMANCE PLAN**

## Foreword

It is my pleasure to table the Annual Performance Plan of the Competition Tribunal (Tribunal), a vital part of the country's competition authorities.

Government's central goal, namely to attain higher and more inclusive growth, in order to create more jobs, is encapsulated in the National Development Plan vision and the New Growth Path jobs drivers.

The Economic Development Department's strategic objectives are, inter alia, to

- to coordinate jobs drivers and the implementation of the New Growth Path strategy in support of the National Development Plan
- coordinate infrastructure development and strengthen its positive impact on the economy and citizens
- promote productive investment, industrial financing and entrepreneurship
- promote competition, trade and economic regulation in support of job creation, industrialisation and social inclusion.

All of these objectives benefit from the work of the competition authorities.

These strategic objectives are supported by a well-run Tribunal that promotes the objectives of the Competition Act, a piece of legislation that has unusually strong public-interest elements included in its provisions.

The Tribunal aims to deliver well-reasoned competition decisions within the time frames set out in the Competition Act.

I recognise that, as an adjudicator, the Tribunal's agenda is largely driven by the cases brought to it by the Competition Commission, making both its strategic outlook and annual planning subject to some unpredictable elements.

The decisions of the Tribunal on public interest issues, particularly employment, continue to provide clarity to businesses contemplating a merger or an acquisition on their responsibilities towards employees and the national development goal of growing employment and promoting inclusive growth.

In the years ahead, as the country focuses on greater levels of economic inclusivity, the work of the competition authorities will grow further in importance.

The Tribunal has applied itself with integrity and professionalism, hallmarks that must continue to be at the core of the institution.

I have reviewed the Tribunal's annual performance plan and I am satisfied that the Tribunal is taking adequate steps to increase its institutional capacity to meet its challenges, both in terms of staffing and the administrative systems it is choosing to adopt to improve efficiencies.

I will provide the Tribunal with my support to ensure the implementation of its annual performance plan 2018/2019.




Ebrahim Patel  
Minister of Economic Development  
Executive Authority of the Competition Tribunal

**Official sign-off**

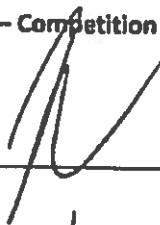
It is hereby certified that this Annual Performance Plan of the Competition Tribunal for the period 2018 – 2019 was:

- i) Developed by the management of the Competition Tribunal under the guidance of the Accounting Authority – Mr. Norman Manoim.
- ii) Prepared in line with the Competition Tribunal's Strategic Plan for the five year period 2015/2016 – 2019/2020.
- iii) Accurately reflects the performance targets the Competition Tribunal will endeavour to achieve over the period 2018/2019.


Janeen de Klerk  
Chief Operating Officer – Competition Tribunal

Signature:   
Date: 12/3/2018

Norman Manoim  
Chairperson – Competition Tribunal

Signature:   
Date: 12/03/2018

Ebrahim Patel  
Executive Authority - Economic Development Department

Signature:   
Date: 11/03/2018

## Contents

Foreword .....	2
Official sign-off .....	4
Part A: Strategic Overview .....	6
1. Updated Situational Analysis .....	6
2. Revisions to legislative and other mandates .....	7
3. Overview of 2018/2019 budget and MTEF estimates .....	7
3.1. MTEF Estimates .....	7
3.2. Expenditure Estimates .....	8
3.3. Relating Expenditure Estimates to Strategic Outcome Goals .....	12
3.4. The Competition Appeal Court .....	13
3.5. Materiality Framework .....	14
Part B: Organisational Plans .....	14
4. Strategic Objectives in the Tribunal .....	14
4.1. Strategic objective annual targets for the MTEF period (2018/2019 to 2020/2021) .....	14
4.2. Performance Indicators, quarterly and annual targets .....	14
4.3. Reconciling targets with the budget and MTEF .....	14
Annexure A: Historical Representation .....	16
Annexure B: Statement of Financial Performance – MTEF submission January 2018 .....	17
Annexure C: Summarised Five Year Budget 2017/2018 – 2020/2021 .....	18
Annexure D: Detailed One Year Budget - 2018/2019 .....	19
Annexure E: Audited Actual, Estimated and Medium Term Targets .....	21
Annexure F: Annual performance indicators, quarterly and annual targets for 2018/2019 .....	29
Annexure G: Materiality Framework .....	36
Annexure H: Technical Indicator Descriptions .....	38

## **Part A: Strategic Overview**

### **1. Updated Situational Analysis**

The Strategic Plan for the five year planning period (2015/2016 – 2019/2020) provides a detailed description of the current situational analysis, including the performance environment and the organisational environment.

The Strategic Plan was tabled in Parliament on 11 March 2015 and no significant policy shifts or changes in the service-delivery environment have occurred that will warrant amendments to the Strategic Plan.

The Competition Tribunal (hereinafter referred to as the Tribunal) is a small organisation with a structure that allows for a staff complement of 26 (excluding the full-time Tribunal members)

Currently the Tribunal employs 25 full-time staff, three graduate interns and one short term and one long term intern. There is one vacant position in the Finance Division which will be filled before end March 2018.

The separation of the finance and procurement functions from the corporate division into a new finance division in October 2016 enabled us to increase our financial skills capacity. The changes in reporting lines have resulted in greater efficiencies in the COO's office thus enabling the COO to focus on strategic as opposed to operational management. Separating the COO and head of finance function is also in line with best practice.

With the appointment on 1 January 2017 of a full-time deputy chairperson and a part-time member we now have a full complement of Tribunal members and we hope to see some improvement in meeting targets. However it is possible that the volume, length and complexity of the matters brought before us can still cause delays in the adjudicative process.

In April 2017 the Tribunal relocated from the third floor to the first floor of Block C on the dti campus. This move resulted in an increase in office space by just under 41%. We look forward to working in the larger office space. The relocation has meant that staff and Tribunal members will no longer be required to share offices and we have more storage facilities for documents, thus reducing the risk of non-compliance with occupational health and safety requirements and the risk of loss of information.

There have been no other major changes to the situational analysis that need to be detailed in the Annual Performance Plan (hereinafter referred to as APP) for the period 1<sup>st</sup> April 2018 – 31<sup>st</sup> March 2019.

## 2. Revisions to legislative and other mandates

In September 2017 an Amendment of the Determination of Merger Thresholds was promulgated. These changes are effective 1<sup>st</sup> October 2017. The change in the determination will affect the filing fee income we receive from the Competition Commission (hereinafter referred to as the Commission) for large and intermediate mergers. The effect of this cannot be fully determined as yet.

We have however based our expected income from filing fees for the MTEF period on the estimates for income made by the Commission that are based on the revised thresholds.

There are no other changes to our mandate or legislation that will impact on our operations

## 3. Overview of 2018/2019 budget and MTEF estimates

### 3.1. MTEF Estimates

The Tribunal's budget (inclusive of capital expenditure) over the MTEF period (2018/2019 – 2020/2021) is estimated to be R180.4m.

The Tribunal anticipates funding its budget over the review period as follows:

- i) Economic Development Department (EDD) grant funding of R111.23m for three years (based on indicative baseline allocation provided by the EDD)
- ii) Expected filing fee revenue of R55.71m (based on Commission's estimations for merger activity and filing fee revenue)
- iii) Expected retained cash surpluses as at March 2018 of R4.72m
- iv) Additional funding from EDD of R1.83m in 2019/2020 and R6.03m in 2020/2021
- v) Interest income of R0.88m in 2018/2019

The Tribunal is a small organisation and given fiscal constraints, it operates on a tight budget adopting a "no frills" approach in managing expenses.

Historically the Tribunal has been able to balance its budget by using retained surpluses. The retained surpluses held by the Tribunal have been drawn down year on year to fund budgeted expenditure. This "drawing down" has been reflected in the MTEF/ENE submissions and communicated in the Tribunal's Strategic Plan and APP annually since November 2010.

The escalation in the grant allocated by government for the MTEF period has been applied using a straight line approach increasing the allocation by roughly 5% annually. This straight line approach was sufficient while the Tribunal was in the position to use retained surpluses.

While the Tribunal has sufficient funding to cover estimated expenditure for 2018/2019, current calculations indicate that we will need to make a submission early next year for additional funding of R7.86m over the two outer years of the MTEF period.

The additional funding required is not the result of an inflated budget but because we can no longer rely on retained surpluses to fund shortfalls in budgeted expenditure as we did in the past.

It must be noted that in drafting the budget two major assumptions are made:

- i) It is dependent on the predictions made by the Commission with regard to the expected filing fees over the MTEF. The Commission has estimated the portion due to the Tribunal to be R55.71m; and
- ii) It assumes we are granted permission to use expected cash surpluses of R4.72m over the MTEF period.

The additional funding of R7.86m is required over the two outer years as follows: we will only need an additional grant of R1.83m in 2019/2020 and R 6.03m in 2020/2021.

However, there is significant uncertainty with regard to both the volume of mergers and the value of the filing fees expected by the Commission for us to be cautious in this regard.

So while the MTEF budget is drawn, using the Commissions estimates, it is possible that we may need to reconsider the budget in the next financial year.

**Annexure A** provides a graphical representation of the historic funding and expenditure pertaining to the Tribunal's activities. From **Figure 1** it is evident that the Tribunal's expenditure has increased at a relatively constant rate since its inception, however the grant allocated to the Tribunal has not and, in fact, reflects slower growth. The fluctuations in filing fees are clearly evident – once again posing budgeting difficulty for the Tribunal as there is no certainty or clear trend with regard to this revenue source.

**Figure 2** indicates that although the number of cases fluctuates annually, there has been a constant increase in the number of matters heard over the period and hence we have had to increase our infrastructure and service provision to meet this demand and thus the steady rise in expenditure.

**Annexure B** reflects the Statement of Financial Performance over the MTEF period included in the ENE submitted in January 2018 while **Annexure C** contains a summarised version of the Tribunal's budgetary requirements over the current financial year and the three-year MTEF period.

The budget has been drawn based on the consumer price index (CPI) of 5.7%, 5.6% and 5.5% respectively for the years 2018/2019, 2019/2020 and 2020/2021 as recommended by National Treasury.

Cost of living (COL) adjustments for non SMS level staff of 6.7%, 6.6% and 6.5% respectively have been applied throughout the MTEF period for the 2018/2019, 2019/2020 and 2020/2021 years respectively while those for SMS level staff is set at 5.5% and that for part-time and full-time Tribunal members are set at 4% consistently throughout the MTEF period.

### **3.2. Expenditure Estimates**

A detailed one-year budget for the 2018/2019 year is included in **Annexure D**.

As stated in the Strategic Plan 2015/2020 the Tribunal is an adjudicative body and hence reactive in terms of the cases brought before it. It is therefore difficult to accurately predict the number of cases to be heard annually. This means that budgeting accurately becomes difficult as many of the line



items are based on an estimated number of cases to be heard in that year. The net result is that variances in actual expenditure, as opposed to budgeted expenditure, do arise.

In drafting the budget over the MTEF the Tribunal has given consideration to the main assumptions listed below for the 2018/2019 budget and has then applied the adjustments indicated in Section 3.1 above.

Prior year expenditure – particularly with regard to operational expenses - is reviewed to determine whether expenditure in the future will follow similar trends.

The Tribunal's budget is an operational budget and is not programme/project driven and 57.24% of the budget is allocated to personnel expenses (excluding fees payable to part-time Tribunal members).

The remainder of the budget is driven by expected adjudicative activity and specific training or IT requirements year on year. As a result, little reprioritisation can take place.

The main assumptions made in drafting the 2018/2019 budget are as follows:

- i) Increased office space (322 square metres extra – an increase of 40.97%).
- ii) An escalation of 10% on the leasing fee charged by the dti from R350.90 per square metre to R385.99 per square metre.
- iii) The appointment of an economist of greater seniority in the 2018/2019 year.
- iv) 6.7% cost of living increase for non-SMS staff, 5.5 % for SMS staff and 4% for Tribunal members.
- v) Provision for promotional adjustments of 0.5% in the salaries of the secretariat staff.
- vi) Provision for performance bonuses at an average 9 % of basic salary for secretariat staff.
- vii) 376.81 person days spent in hearings, preparations and decision writing by part-time Tribunal members for the year (based on a three year average baseline).
- viii) The daily fee payable to part-time Tribunal members for attendance at hearings/preparation and decision writing is budgeted at R 9 495.00 per day.
- ix) All other costs associated with holding hearings are based on the estimate in (vii) above.
- x) Three international conferences/workshops/seminars to be attended over the year by a total of eight people (six Tribunal members and two case managers)<sup>1</sup>.
- xi) All local air travel is on economy class.
- xii) One Tribunal member and one case manager to represent the Tribunal at two Organisation for Economic Cooperation and Development (OECD) meetings.
- xiii) Three case managers to attend one regional workshop<sup>2</sup>.
- xiv) Two executive members and the Head of Registry to attend three parliamentary portfolio committee meetings.
- xv) An annual workshop for Tribunal members and case managers facilitated by an international competition law expert.
- xvi) Annual colloquium held for adjudicators from the Africa region.
- xvii) One case manager to attend five Competition Appeal Court hearings.

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<sup>1</sup> While the budget makes provision for new Tribunal members and case managers to attend certain workshops that focus on competition economics and competition best practice it is possible that we may reduce attendance based on operational requirements

<sup>2</sup> See (1) above

- xviii) Three graduate interns and four vacation interns in the case management division and three interns in the other divisions with two being for a year and one for six months.
- xix) Specific IT requirements year on year – inclusive of hardware and software support.

In drafting the budget we have taken heed of National Treasury's request to curb expenditure and as illustrated in the table below the increment in our budget from 2018/2019 onwards is kept at less than 8% year on year.

CATEGORY	2017/2018 (revised budget)	2018/2019	2019/2020	2020/2021
<b>INCOME</b>	R'm	R'm	R'm	R'm
Filing fees	13.44	18.57	18.57	18.57
Other income	0.91	0.88	0.00	0.00
Use of retained surpluses	7.83	1.73	2.99	0.00
EDD Grant	30.04	35.09	37.05	39.09
<b>TOTAL INCOME</b>	<b>52.22</b>	<b>56.27</b>	<b>58.61</b>	<b>57.66</b>
<b>EXPENDITURE</b>	R'm	R'm	R'm	R'm
Expenditure	50.50	55.07	58.20	61.81
Capital Expenditure	1.72	1.20	2.24	1.88
<b>TOTAL EXPENDITURE</b>	<b>52.22</b>	<b>56.27</b>	<b>60.44</b>	<b>63.69</b>
<b>DEFICIT</b>	<b>0.00</b>	<b>0.00</b>		
<b>ADDITIONAL EDD GRANT REQUIRED</b>	<b>0.00</b>	<b>0.00</b>	<b>1.83</b>	<b>1.03</b>
<b>ANNUAL BUDGET INCREMENT</b>		<b>7.74%</b>	<b>7.42%<sup>3</sup></b>	<b>5.38%</b>

(Note: Estimates by the Tribunal for additional grants are still to be discussed further with the Department)

The table above illustrates that based on the Commission's estimates of filing fee revenue additional funding of R7.86m is required in the two outer years of the MTEF period.

The table on the next page illustrates the Tribunal's budget allocation across the various expenditure categories for both the current and the next financial year.

It must be noted that the 2017/2018 budget reflected in this table is the revised budget approved by the EDD in February 2018 and includes the increased costs associated with the appointment of an additional full-time Tribunal member in January 2017 and the increased office space we now occupy.

<sup>3</sup> The main reason for this increase of 7.42% is that we have budgeted for both a new Tribunal vehicle and the implementation of a document management system in order to manage and store our operational documents more effectively

CATEGORY	2018-2019	2017-2018
PERSONNEL	57.24%	56.89%
PT TRIBUNAL MEMBERS	7.40%	7.65%
TRAINING	3.20%	3.24%
CONFERENCES AND SEMINARS	0.74%	0.49%
SHARED SERVICE FEE	1.53%	1.33%
FACILITY FEE	10.03%	9.76%
CONSULTING	0.59%	0.45%
LEGAL FEES	0.27%	0.29%
TRANSCRIPTION COSTS	1.63%	1.48%
AUDIT EXPENSES	4.07%	3.72%
RECRUITMENT COSTS	0.29%	0.27%
ADMIN EXPENSES	3.21%	3.62%
AMORTISATION	0.64%	0.65%
DEPRECIATION	1.26%	1.51%
OTHER IT EXPENDITURE	4.84%	4.04%
REPAIRS/MAINTENANCE	0.04%	0.06%
CAPITAL EXPENDITURE	2.12%	3.29%
APPEALS COURT BUDGET	0.89%	1.25%
<b>TOTAL PERCENTAGE</b>	<b>100.00%</b>	<b>100.00%</b>
<b>TOTAL EXPENDITURE</b>	<b>56,268,040</b>	<b>52,224,468</b>

57.24 % of the Tribunal's 2018/2019 budget will be spent on personnel expenses. If one includes fees paid to the part-time Tribunal members in this category it increases to 64.64%.

"Shared service fee" refers to the payments made to the Competition Commission for shared services (in terms of a Memorandum of Agreement (MOA)) while "facility fee" refers to the fee the Tribunal is required to pay the dti for occupying space on the campus. These two figures, together, account for 11.56% of the budget.

Costs associated with audits (internal, external audit fees and audit committee expenses) account for 4.07% of the budget while administrative expenses account for 3.21% of the budgeted expenditure.

The Tribunal, in drawing the budget, has attempted to rationalise spending as far as possible, given the limited scope its activities provide for cost cutting exercises. The Tribunal has kept the number of overseas and regional conferences/workshops (including the OECD competition committee meetings) to be attended by Tribunal members and staff members to five for this annum. The Department has indicated that it will raise the need for the Tribunal to reduce the number of international trips as a result of the cost containment measures introduced by the Government. The Department intends to ask the Tribunal to reassess all international travel, this review may positively impact on the budget numbers contained in this APP.

As indicated in the Strategic Plan, the Tribunal receives a portion of the filing fees paid to the Commission for the filing of merger applications. For the 2018/2019 financial year this is estimated by the Commission to be R18.57m.

Given that these fees, together with the MTEF allocation of R35.09m for the 2018/2019 financial year are not sufficient to cover expected expenditure of R56.27m (inclusive of capital expenditure), additional funding is necessary. The Tribunal has estimated that it will need to request permission to use approximately R1.73m of expected retained surpluses to cover the projected shortfall.

### 3.3. Relating Expenditure Estimates to Strategic Outcome Goals

The Tribunal, being an adjudicative body that responds to matters brought before it, is not project or programme driven and for this reason the budget is primarily an operational/administrative budget.

The Tribunal's strategic outcomes and goals relate primarily to its mandate and core business but also include objectives related to oversight and financial management.

The three strategic objective outcome (SOO) goals (focus areas) identified by the Tribunal are detailed in the table below.

In addition, strategic objectives, indicators and targets associated with each SOO are reflected in detail in [Annexure D of the Strategic Plan](#) for the five year period to 2019/2020.

All targets reflected in the Strategic Plan were re-assessed and revised based on the average baseline performance over the last three years (2014/2015, 2015/2016 and 2016/2017). These objectives, indicators and targets are reflected in [Annexure E](#) of this document for the MTEF period to 2020/2021 and in [Annexure F](#) of this document for the 2018/2019 financial year. We have included footnotes provide explanations where the baseline performance resulted in changes in targets

<b>SOO Goal 1</b>	<b>Adjudicative Excellence</b>
<b>Goal Statement</b>	To ensure effective and efficient adjudication on matters brought before the Tribunal.
<b>SOO Goal 2</b>	<b>Stakeholder Relationships</b>
<b>Goal Statement</b>	To build and develop effective stakeholder relationships.
<b>SOO Goal 3</b>	<b>Accountable, Transparent and Sustainable Entity</b>
<b>Goal Statement</b>	To ensure effective leadership, transparency and accountability in the Tribunal through capacity building, effective reporting, policy management and financial compliance.

It is difficult to allocate the Tribunal's entire budget across the three SOO Goals identified in the Tribunal's strategic plan; however, the Tribunal has managed to allocate **74.37%** of the annual budget across the three strategic objective outcomes as illustrated in the table below.

<b>Strategic Outcome Objective Goal</b>	<b>Budget</b>	<b>% of budget</b>
To ensure effective and efficient adjudication on matters brought before the Tribunal	R 29 798 037	52.96%
To build and develop effective stakeholder relationships.	R 1 196 270	2.12%
To ensure effective leadership, transparency and accountability in the Tribunal through capacity building, effective reporting, policy management and financial compliance.	R 10 802 521	19.20%

The remaining 25.72% of the budget is distributed as follows:

- Administrative costs – 20.81%
- Depreciation/Amortisation – 1.90%
- Capital expenditure – 2.12%
- Appeal Court costs – 0.89%

### 3.4. The Competition Appeal Court

The Competition Act, 1998 (Act No. 89 of 1998) (the Act) set up a triad of institutions (the Commission, the Tribunal and the Competition Appeal Court (CAC)) with exclusive jurisdiction over competition matters (that is, chapters 2 and 3 of the Act).

The CAC is a specialised division of the High Court comprising at least 3 Judges, each of whom must be a Judge of the High Court. The CAC may review, or consider an appeal arising from, any Tribunal decision.

CAC Judges are appointed by the President, on the advice of the Judicial Services Commission. The tenure of office, remuneration and terms and conditions of service of a Judge of the High Court is not affected by his/her appointment to the CAC.

The Registrar of the Tribunal (and CAC) liaises with the Judicial Services Commission over the appointment of CAC Judges and is responsible for the training of the Judges. The Tribunal secretariat provides the registry function for the CAC and the registrar of the Tribunal acts as the Registrar of the CAC.

At present the Tribunal includes the CAC as a line item in its budget and is responsible for the financing of all aspects of the CAC, except for personnel expenses.

As is the case with the Tribunal, it is difficult to predict the number of appeals that may be lodged against Tribunal decisions and as a result budgeting becomes difficult and variances do occur. The budget for 1<sup>st</sup> April 2018 - 31<sup>st</sup> March 2019 is estimated at R626 949.12 and is reflected in the table below.

CATEGORY	2018/2019 BUDGET
Local travel	27,12%
Administrative expenses	8.81%
Conferences attendance and overseas travel	50.38% <sup>4</sup>
High Court meetings/training	13.69%
<b>Total</b>	<b>100.00%</b>

<sup>4</sup> The CAC budget provides for two Judges to attend Fordham University's Annual Conference on International Antitrust Law and Policy but it is possible that the delegation may be reduced and therefore some cost savings could be effected

### 3.5. Materiality Framework

**Annexure G** reflects the Tribunal's materiality framework for the period 1<sup>st</sup> April 2018 – 31<sup>st</sup> March 2019.

The Tribunal is not a capital intensive institution and revenue generated from filing fees and total expenses (exclusive of capital expenditure) are identified as being the best reflection of the Tribunal's activities and are therefore used as the basis for the calculation of a materiality figure.

The materiality figure of R521 153.72 is determined by taking the average of 1% of actual revenue and actual expenditure (net of capital expenses) in 2016/2017.

## Part B: Organisational Plans

### 4. Strategic Objectives in the Tribunal

#### 4.1. Strategic objective annual targets for the MTEF period (2018/2019 to 2020/2021)

As indicated earlier in this document and in the Strategic Plan, the Tribunal has identified three SOO Goals. Each of these SOO goals has been further unpacked to reflect one or more strategic objective per SOO goal. Specific outputs, annual performance indicators and annual targets are assigned per objective for each year of the MTEF period. These, together with prior performance against common year on year objectives, are tabulated in **Annexure E**.

#### 4.2. Performance Indicators, quarterly and annual targets

Specific outputs, performance indicators and targets have been assigned for 2018/2019 and are tabulated in **Annexure F**.

#### 4.3. Reconciling targets with the budget and MTEF

As indicated in Section 3.3 of the APP, the Tribunal has been able to allocate 74.28% of its budget against the SOO goals. In doing so the Tribunal has been able to determine the direct costs associated with the core business – hearings - and has also been able to allocate a substantial portion of the budget against other stated strategic objectives.

The entire 2018/2019 budget can therefore be divided against the strategic objectives as illustrated in the table below.

STRATEGIC OBJECTIVE	LINK TO OBJECTIVE	BUDGET (R)
Timeous hearings and issuing of judgements (direct hearing costs)	Objective 1. 1 and 1.2	26 419 929
Effective business processes	Objective 1.3	3 378 108
Stakeholder awareness	Objective 2.1, 2.2 and 2.3	1 196 270

<b>STRATEGIC OBJECTIVE</b>	<b>LINK TO OBJECTIVE</b>	<b>BUDGET (R)</b>
Effective oversight and good governance	Objective 3.1 and 3.2	4 205 361
Effective financial management	Objective 3.3 and 3.4	2 866 896
Sustainable capacity	Objective 3.5	3 730 264
Administration (incl. depreciation)	N/A	12 775 022
Capital Expenditure	N/A	1 195 385
Competition Appeal Court	N/A	500 805
<b>TOTAL BUDGET</b>		<b>56 268 040</b>

At present, direct hearing costs include the total salaries of the full-time Tribunal members and all case managers/researchers and registry staff despite the fact that they may perform functions that are not specifically case related.

The Tribunal's electronic case management system (CMS), currently in operation, enables us to extract data related to the cost of hearings and thereby determine to some extent the ratio between case and non-case related work. Over time we hope to investigate this issue further in order to arrive at a more accurate costing of the Tribunal's core business.

The Tribunal will, on a quarterly basis, report on progress with regard to the achievement of targets and costs associated with pursuing achievement of these targets to the EDD, National Treasury and to other stakeholders.

## Annexure A: Historical Representation

Figure 1: Historical representation of Tribunal expenditure and funding 1999 (Year 1) – 2017 (Year 19)

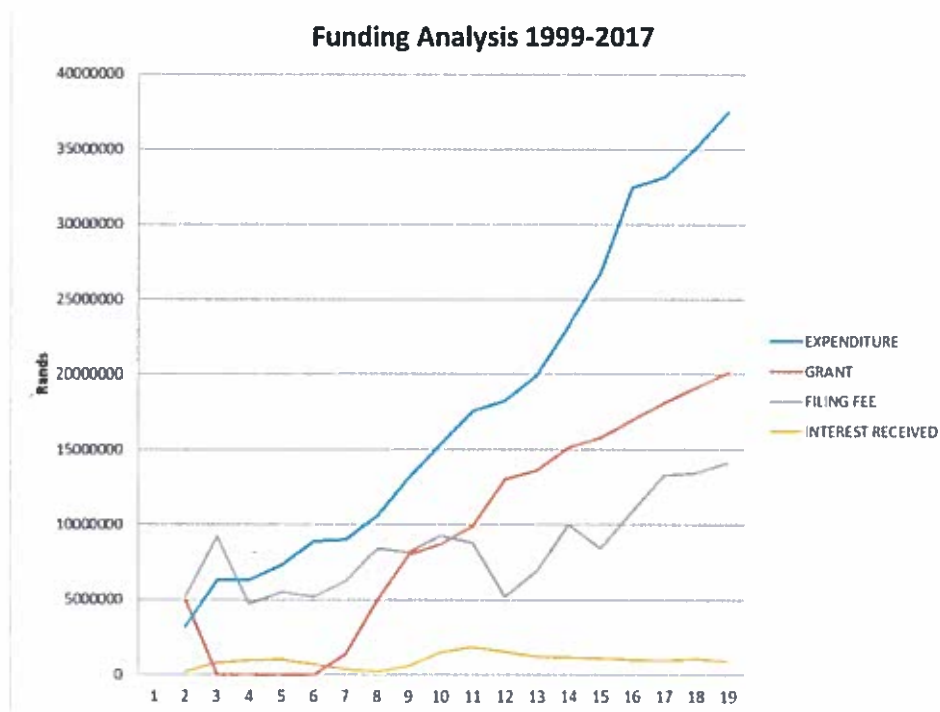
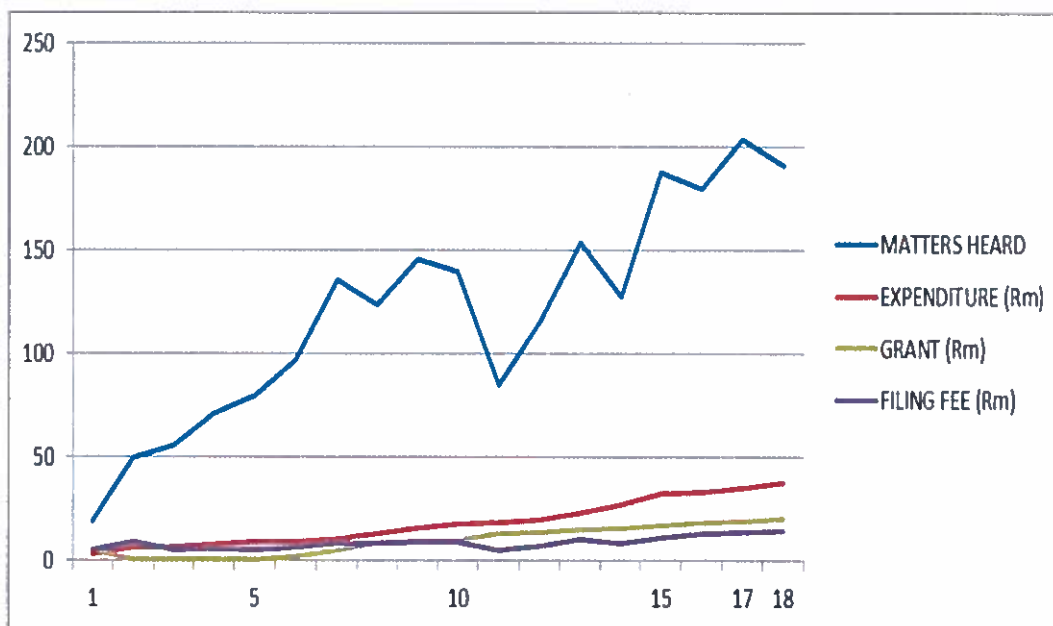


Figure 2: Historical representation of matters heard, expenditure and grant allocation





## Annexure A: Historical Representation

Figure 1: Historical representation of Tribunal expenditure and funding 1999 (Year 1) – 2017 (Year 19)

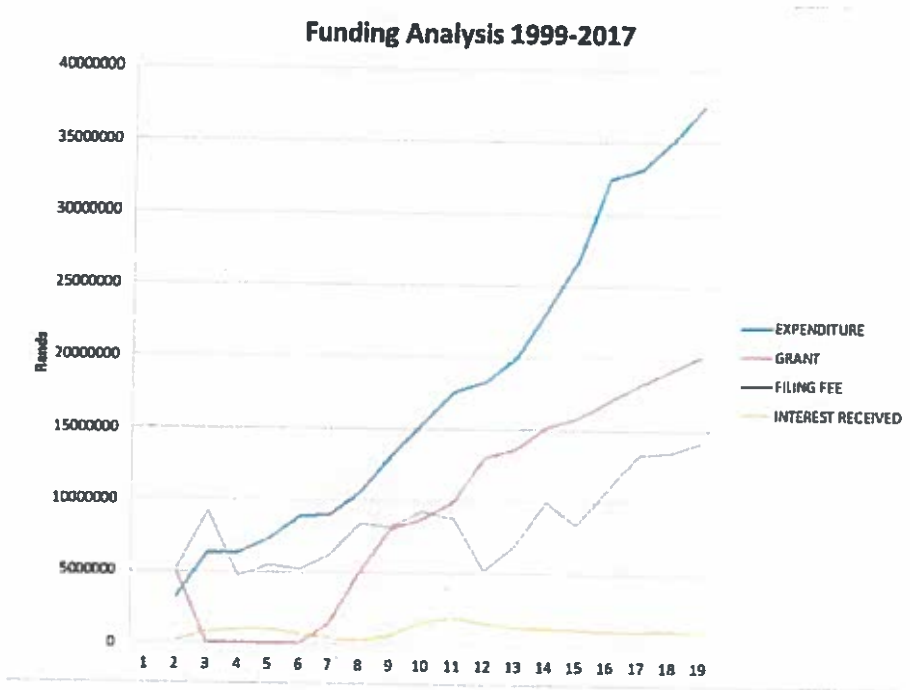
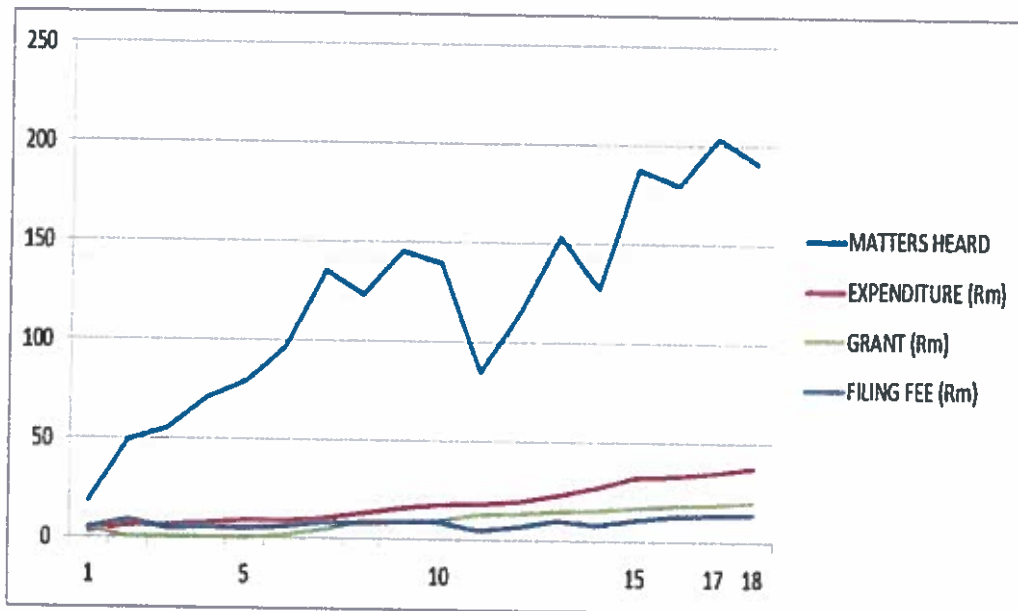


Figure 2: Historical representation of matters heard, expenditure and grant allocation



**Annexure B: Statement of Financial Performance – MTEF submission January 2018**

Statement of financial performance	2016/15		2015/16		2016/17		2017/18		2018/19		2019/20		2020/21		Average growth rate (%)	Average growth rate (%)
	Budget	Audited Outcome	Budget	Audited Outcome	Budget	Audited Outcome	Budget estimate	Revised estimate	Outcome/Budget Average %	Average growth rate (%)	Medium-term estimate	Medium-term estimate	Outcome/Budget Average %	Average growth rate (%)		
<b>R thousand</b>																
Revenue																
Tax revenue	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Non-tax revenue	18 527	14 246	11 848	14 884	14 221	14 842	14 319	15 319	40.1%	2.4%	18 570	18 570	18 570	6.6%	6.6%	33.6%
Sale of goods and services other than capital assets of which:	9 880	13 289	10 670	13 721	13 441	13 650	13 441	14 441	32.2%	2.8%	18 570	18 570	18 570	8.7%	8.7%	32.9%
Administrative fees	9 880	13 289	10 670	13 721	13 441	13 650	13 441	14 441	32.2%	2.8%	18 570	18 570	18 570	8.7%	8.7%	32.9%
Sales by market establishment	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Other sales	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Other non-tax revenue	8 647	959	1 170	1 083	780	982	878	878	7.9%	-2.9%	879	879	879	-100.0%	-100.0%	0.9%
Transfers received	18 100	18 100	19 984	20 913	21 195	20 115	30 841	30 841	59.5%	18.1%	35 086	37 051	39 088	9.2%	9.2%	64.2%
Total revenue	36 627	32 344	31 884	34 717	35 416	34 957	44 380	45 668	100.0%	11.9%	54 535	55 621	57 658	8.3%	8.3%	100.0%
Expenses																
Current expenses	35 325	33 102	36 999	35 168	41 444	38 255	47 022	50 117	100.0%	14.8%	55 075	58 207	61 816	7.2%	7.2%	100.0%
Compensation of employees	19 768	19 096	21 659	21 223	23 853	23 794	27 959	30 255	57.9%	16.8%	32 182	33 994	35 874	5.8%	5.8%	58.8%
Goods and services	14 366	13 259	14 200	13 153	16 749	13 562	18 209	19 018	39.6%	12.8%	21 826	22 981	24 610	9.0%	9.0%	38.2%
Depreciation	1 170	746	1 140	784	842	889	844	844	2.6%	4.2%	1 067	1 242	1 332	16.4%	16.4%	2.0%
Interest, dividends and rent on land	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Transfers and subsidies	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total expenses	35 325	33 102	36 999	35 168	41 444	38 255	47 022	50 117	100.0%	14.1%	55 075	58 207	61 816	7.2%	7.2%	100.0%
Surplus/(Deficit)	1 302	(758)	(5 195)	557	(6 028)	(3 298)	(2 662)	(4 457)	84.8%	84.8%	(548)	(2 586)	(4 158)	-4.4%	-4.4%	-

**Annexure C: Summarised Five Year Budget 2017/2018 – 2020/2021.**

CATEGORY	2017-2018	2018-2019	2019-2020	2020-2021
<b>INCOME</b>				
EDD GRANT REQUIRED	0	0	1,830,012	6,033,269
COMMITTED EDD GRANT	30,041,000	35,086,000	37,061,000	39,089,805
FEES RECEIVED	13,440,700	18,570,000	18,570,000	18,570,000
LEASE FUNDING	0	0	0	0
USE OF SURPLUSES	7,626,366	1,733,538	2,990,124	0
INTEREST RECEIVED	916,402	879,502	0	0
<b>TOTAL INCOME</b>	<b>52,224,468</b>	<b>56,288,040</b>	<b>60,441,137</b>	<b>63,692,074</b>
<b>EXPENDITURE</b>				
PERSONNEL	29,711,998	32,207,002	34,010,946	35,900,645
PT TRIBUNAL MEMBERS	3,984,647	4,106,055	4,332,697	4,506,005
TRAINING	1,093,894	1,952,610	1,956,359	2,063,956
CONFERENCES AND SEMINARS	258,131	369,006	389,670	411,102
SHARED SERVICE	696,343	861,562	909,810	959,649
FACILITY FEE	5,095,068	5,645,030	6,209,533	6,830,486
CONSULTING	237,606	330,259	348,753	367,936
LEGAL FEES	150,000	150,000	158,400	167,112
TRANSCRIPTION FEES	771,161	919,170	970,643	1,024,029
AUDIT EXPENSES	1,941,465	2,292,049	2,420,404	2,553,526
RECRUIT COSTS	142,185	180,518	189,507	178,830
ADMIN EXPENSES	1,889,208	1,805,073	1,906,157	2,010,966
AMORTISATION	340,805	357,502	511,652	676,396
DEPRECIATION	790,598	708,870	730,115	656,228
OTHER IT EXPENDITURE	2,109,840	2,722,496	2,624,917	2,920,539
REPAIRS/MAINTENANCE	31,104	32,149	33,529	34,961
<b>TOTAL EXPENDITURE</b>	<b>49,863,966</b>	<b>54,679,351</b>	<b>57,682,790</b>	<b>61,282,564</b>
APPEALS COURT BUDGET	652,499	800,806	628,850	557,836
<b>TOTAL AS PER MTEF</b>	<b>50,506,463</b>	<b>55,080,155</b>	<b>58,211,640</b>	<b>61,820,531</b>
CAPITAL EXPENDITURE	1,718,015	1,187,885	2,238,487	1,871,544
<b>GRAND TOTAL</b>	<b>52,224,468</b>	<b>56,288,040</b>	<b>60,441,137</b>	<b>63,692,074</b>
ANTICIPATED SURPLUS/ (DEFICIT)	0	0	0	0

The budget for the 2 outer years is calculated by taking the 2018/2019 budget and

Applying 5.6% increase to goods and services in 2019/2020 and then 5.5% for the year thereafter;

Annually inflating SMS staff salaries by 5.5%

Annually inflating full-time Tribunal members salaries and part-time Tribunal fees by 4% annually

Applying 6.6% increase to non-sms staff salaries in 2019/2020 and then 6.5% for the year thereafter

Assuming that the filing fees received from the Commission remains constant over the period

Estimating the annual increase in the facility fee payable to the dfi to be 10%

The Tribunal will make a submission to the EDD in 2018/2019 for the additional funding required for the two outer years of the MTEF

## Annexure D: Detailed One Year Budget - 2018/2019

BUDGET ITEM	ACTMITY	2018/2019 BUDGET	PERCENTAGE
<b>INCOME</b>			
	FEES RECEIVED	18 570 000	33.00%
	EDD GRANT	35 086 000	62.36%
	ADDITIONAL GRANT REQD	0	0.00%
	BAL BFWD	1 733 538	3.08%
	OTHER INCOME	0	0.00%
	INTEREST RECEIVED	878 502	1.56%
<b>TOTAL INCOME</b>		<b>56 268 040</b>	<b>100%</b>
<b>EXPENDITURE</b>			
<b>PERSONNEL</b>	SALARIES & ALLOWANCES	16 299 116	28.97%
	CASUAL LABOUR	24 348	0.04%
	PENSIONABLE BONUS	361 917	0.64%
	PENSION CONTRIBUTION	952 047	1.69%
	MEDICAL CONTRIBUTION	861 363	1.53%
	PERFORMANCE BONUS	1 311 392	2.33%
	COMPANY CONTRIBUTIONS	687 552	1.22%
	FT MEMBERS	11 709 266	20.81%
<b>PT MEMBERS</b>	TRIBUNAL MEMBERS	4 166 055	7.40%
<b>TRAINING</b>	TRAINING LOCAL	240 777	0.43%
	TRAINING OVERSEAS	134 400	0.24%
	AIR TRAVEL OVERSEAS	373 992	0.66%
	HOTEL ACCOMODATION OVERSEAS	181 670	0.32%
	SUBSISTENCE OVERSEAS	138 737	0.25%
	OTHER TRAVEL OVERSEAS	25 516	0.05%
	OECD MEETINGS	657 518	1.17%
	BURSARIES AND SCHOLARSHIPS	50 000	0.09%
	JOINT CONFERENCE WITH CC	50 000	0.09%
	INTERNAL WORKSHOPS	341 086	0.61%
	DIVISIONAL MEETINGS	27 920	0.05%
<b>SHARED SERVICES</b>	PROF FEES - CC MANAGEMENT FEE	861 562	1.53%
<b>FACILITY FEE/LEASE</b>	PROF FEES - dti	5 645 030	10.03%
<b>LEGAL FEES</b>	LEGAL FEES	150 000	0.27%
<b>CONSULTING</b>	OTHER	330 259	0.59%
<b>TRANSCRIPTION</b>	RECORDING SERVICES	919 170	1.63%
<b>AUDIT EXPENSES</b>	EXTERNAL FEE	978 484	1.74%
	EXTERNAL AUDIT COMMITTEE	474 552	0.84%
	INTERNAL FEE	815 841	1.45%
	FPC MEETING	23 172	0.04%
<b>RECRUIT COSTS</b>	RECRUITMENT COSTS	160 518	0.29%
<b>ADMIN EXPENSES</b>	JMF EXPENSES	40 000	0.07%
	WCA	58 389	0.10%
	AIR TRAVEL	149 522	0.27%
	OTHER TRAVEL	22 329	0.04%
	MILEAGE	16 014	0.03%
	HOTEL ACCOMODATION - LOCAL	59 328	0.11%
	CAR RENTAL	10 088	0.02%

BUDGET ITEM	ACTMITY	2018/2019 BUDGET	PERCENTAGE
ADMIN EXPENSES	SUBSISTENCE ALLOWANCE - LOCAL	14 029	0.02%
	PARKING	75 391	0.13%
	BANK CHARGES	29 979	0.05%
	FINANCE CHARGES	40 000	0.07%
	DELIVERY CHARGES	1 189	0.00%
	REFRESHMENTS	124 657	0.22%
	ENTERTAINMENT	7 200	0.01%
	MOVE EXPENSES	0	0.00%
	PRINTING	74 534	0.13%
	STATIONERY	128 342	0.23%
	TECHINICAL/SOFTWARE CONSULTING	397 529	0.71%
	ADVERTISING BROCHURES & PAMPHLETS	193 619	0.34%
	GOVERNMENT GAZETTE	37 681	0.07%
	PUBLIC RELATIONS	0	0.00%
	NEWSPAPER AND MAGAZINE SUBSCRIPTION	15 042	0.03%
	BOOKS AND PUBLICATIONS	21 751	0.04%
	COURIER SERVICES	14 572	0.03%
	POSTAGE AND STAMPS	1 803	0.00%
	TELEPHONES/TELEFAXES	37 435	0.07%
	CELL PHONES	0	0.00%
	WELLNESS/FIRST AID	2 400	0.00%
	GIFTS AND FLOWERS	8 398	0.01%
	GENERAL HOUSEKEEPING	15 600	0.03%
	CLEANING MATERIALS	5 169	0.01%
	OFFSITE STORAGE	79 857	0.14%
	MISCELLANOUS EQUIPMENT	7 500	0.01%
	INSURANCE	115 628	0.21%
OTHER IT EXPENSES	LEASE- PHOTOCOPIER	277 635	0.49%
	COMPUTER SOFTWARE	716 744	1.27%
	R&M COMPUTERS	798 979	1.42%
	ONGOING SUPPORT FOR CMS	143 037	0.25%
	INTERNET SERVICES	173 872	0.31%
	EMAIL ARCHIVING	92 511	0.16%
	WEBSITE CONSULTING	330 000	0.59%
	WEBSITE SERVICE PROVIDER	189 718	0.34%
REPAIRS/MAINTENANCE	FUEL, R&M MOTOR VECHILES	21 649	0.04%
	OTHER MAINTENANCE	3 000	0.01%
DEPRECIATION	DEPRECIATION	708 870	1.26%
	AMORTISATION	357 502	0.64%
CAPITAL EXPENDITURE	COMPUTER EQUIPMENT - COST	358 691	0.64%
	INTANGIBLE ASSETS	402 950	0.72%
	FURNITURE AND FITTINGS - COST	392 744	0.70%
	MOTOR VECHILE - COST	0	0.00%
	ASSETS UNDER 2000	7 500	0.01%
	OFFICE EQUIPMENT	33 500	0.06%
<b>TOTAL</b>		<b>55 767 235</b>	<b>99.11%</b>
APPEAL COURT		500 805	0.89%
<b>TOTAL EXPENDITURE</b>		<b>56 268 040</b>	<b>100.00%</b>
<b>SURPLUS/ (DEFICIT)</b>			

## Annexure E: Audited Actual, Estimated and Medium Term Targets

### Goal Statement 1: To ensure effective and efficient adjudication on matters brought before the Tribunal.

Strategic objective statements	Outcome	KPI	Audited actual Performance				Target		
			2014/2015	2015/2016	2016/2017	Estimated Performance 2017/2018	2018/2019	2019/2020	2020/2021
1.1 Matters brought before the Tribunal are heard within the adopted delivery time frames	Hearings are set down within required timeframes	% of large mergers to be set down for the beginning of a hearing or a pre-hearing, within 10 business days of filing of the merger referral	80%	76%	87%	90%	80% <sup>5</sup>	80%	80%
		% 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 receipt of the Commission's records <sup>6</sup>	75%	44%	80%	70%	70% <sup>7</sup>	70%	70%
1.2 Improvement in the Issuing	Expeditious Conclusion of matters	% of large merger orders issued to parties within 10	100%	100%	99%	95%	95%	95%	95%

<sup>5</sup> Target for large merger set down increased by 5% based on three year average actual performance of 81%

<sup>6</sup> A business rule has been established and is reflected in the technical indicator description to use "receipt of the Commission's record" as the point of departure for measurement as opposed to "filing of request for consideration" as indicated in the Act

<sup>7</sup> Target for intermediate merger set down decreased by 5% based on three year average actual performance of 66%

Strategic objective statements	Outcome	KPI	Audited actual Performance					Target				
			2014/2015	2015/2016	2016/2017	2017/2018	2018/2019	2019/2020	2020/2021			
			Audited actual Performance					Estimated Performance	Medium Term Targets			
of judgements/decisions in line with adopted timeframes	business days of last hearing date <sup>8</sup>											
	% of large merger reasons issued to parties within 20 business days of the date the order was issued on	100%	87%	79%	83%	80% <sup>9</sup>	80%	80%				80%
	% of intermediate and small merger consideration orders issued to parties within 10 business days of last hearing date <sup>10</sup>	85%	100%	67%	75%	80% <sup>11</sup>	80%	80%				80%
	% of intermediate and small merger consideration reasons issued to parties within 20 business days of the date the order was issued on.	0%	60%	0%	60%	60%	60%	60%				60%

<sup>8</sup> A business rule has been established where "hearing day" can refer to any one of the following: actual hearing, telephonic hearing, paper hearing (date on which required documents are submitted – currently referred to as "last submission date").

<sup>9</sup> Target for issuing of large merger reasons increased by 5% based on three year average actual performance of 89%. The target is not set higher at present as the writing of reasons can take a long time depending on the complexity of the matter.

<sup>10</sup> Refer to footnote 6

<sup>11</sup> Target for issuing orders in intermediate and small merger considerations reduced as three year actual average is below prior period target of 84%. In addition these are often complex matters requiring more consideration

Strategic objective statements	Outcome	KPI	Audited actual Performance					Target		
			2014/2015	2015/2016	2016/2017	2017/2018	2018/2019	2019/2020	2020/2021	
			Estimated Performance					Medium Term Targets		
	Reasons for prohibited practices cases <sup>12</sup> issued to parties in accordance with the delivery timeframes per category: A, B or C from last hearing date	New annual target in 2015/2016	A- <sup>13</sup> No reasons issued B- No reasons issued C- 100% issued within 150 days	A- No reasons issued B- 67% issued within 125 days C- 50% issued within 150 business days	A - No estimate as no reasons issued B- 95% issued within 125 days C- No estimate yet as no reasons issued	A - 100 business days B - 125 business days C - 150 business days	A - 100 business days B - 125 business days C - 150 business days	A - 100 business days B - 125 business days C - 150 business days		
	% of procedural matters <sup>14</sup> orders issued to parties within 45 <sup>15</sup> business days of the last hearing date <sup>16</sup>	87%	73%	26%	85%	85%	85%	85%		
	% of orders for consent orders and settlement agreements issued to parties within 10 business days of the last hearing date <sup>17</sup>	100%	96%	100%	95%	95% <sup>18</sup>	95%	95%		
	% of interim relief reasons issued to	100%	No reasons issued	0%	100%	100%	100%	100%		

<sup>12</sup> Prohibited practice cases refer to all complaints from the commission, the complainant and the High Court

<sup>13</sup> A refers to Simple matter, B to Complex matter and C to Very Complex matter

<sup>14</sup> Procedural matters includes interlocutory applications

<sup>15</sup> This target has been changed from 20 business days to 45 business days in 2018/2019 as procedural matters are often complex and therefore much deliberation is needed before orders are issued

<sup>16</sup> Refer to footnote 6

<sup>17</sup> Refer to footnote 6

<sup>18</sup> Target increased by 5% as three year actual average performance shows that the volume of orders being issued within this timeframe is higher than the target set (99% as compared to previous target of 90%)



Strategic objective statements	Outcome	KPI	Audited actual Performance					Target					
			2014/2015		2015/2016		2016/2017		Estimated Performance		Medium Term Targets		
									2017/2018	2018/2019	2019/2020	2020/2021	
1.3 Enhancing record keeping, performance information and case flow management by harnessing facility and functionality of business applications		parties within 20 business days of last hearing date. <sup>19</sup>											
	Improved management information to inform strategic decision making and access to historical data	CMS deemed to be sustainable	New target in 2017/2018					Sustainability of CMS system confirmed	CMS assessed to determine period of sustainability. Action plan implemented if sustainability limited to less than 5 years	CMS assessed to determine period of sustainability. Action plan implemented if sustainability limited to less than 5 years	CMS assessed to determine period of sustainability. Action plan implemented if sustainability limited to less than 5 years		
		Review CMS to determine if any additional enhancements required	New target in 2018/2019						Plan and/or implement enhancements approved by ITSC	Report progress against plan approved in 2018/2019	Report progress against plan approved in 2018/2019		
	Models developed and implemented that generate statistics pertaining to the adjudicative process		New target in 2017/2018					Develop and implement a model that generates reports based on statistics relating to adjudicative process	Assess models for enhancements and determine if any new models need to be implemented	Implement enhancements/new models based on agreed plan and conduct annual assessment to determine further enhancements or new models	Implement enhancements/new models based on agreed plan and conduct annual assessment to determine further enhancements or new models		

<sup>19</sup> Refer to footnote 6

**Goal Statement 2: To build and develop effective stakeholder relationships.**

Strategic objective statements	Outcome	KPI	Audited actual Performance					Target		
			2014/2015	2015/2016	2016/2017	2017/2018	2018-2019	2019-2020	2020-2021	
			Estimated Performance			Medium Term Targets				
2.1 Ensure that an integrated communication plan is developed and implemented	A structured and focussed process to create and enhance awareness of the work of the Tribunal	E-newsletter developed and placed on website	New target in 2018/2019				Service provider sourced to develop e-newsletter that is fully implemented and available on website			
			New annual target in 2017/2018	Implement recommended changes to framework. Communication strategy and media coverage reported quarterly	Annually review framework and report quarterly on communication strategy and media coverage	Annually review framework and report quarterly on communication strategy and media coverage	Annually review framework and report quarterly on communication strategy and media coverage			
2.2 Ensure communication pertaining to Tribunal's adjudicative process is issued to the	Timely and compliant communication of adjudication outcomes	% of press releases of final merger decisions communicated within 2 business days	100%	92%	99%	95%	95% <sup>20</sup>	95%	95%	

<sup>20</sup> The target for the issuing of press releases with regard to final merger decisions has been increased by 20% as we have found that there is an increased interest in the outcome of large merger cases before the Tribunal and we are therefore being a little less selective as to when we issue a press release as we may have been in the past.

Strategic objective statements	Outcome	KPI	Target						
			Audited actual Performance	Estimated Performance	Medium Term Targets				
			2014/2015	2015/2016	2016/2017	2017/2018	2018-2019	2019-2020	2020-2021
Stakeholders within adopted delivery timeframes		of the order date							
		% of press releases of final decisions in prohibited practices cases communicated within 2 business days of the order date	90%	100%	80%	95%	90% <sup>21</sup>	90%	90%
2.3 Identify and address stakeholder needs and expectations in order to meet or exceed requirements	Level of stakeholder satisfaction	Stakeholder satisfaction survey results	New target in 2015/2016	Plan delayed due to late appointment of communications officer	No survey scheduled for these years		Satisfaction survey is conducted by March 2019 and satisfaction levels targeted at 75%		

<sup>21</sup> The target for the issuing of press releases for final decisions in prohibited practices cases has been reduced by 10%. In the past we were issuing a press release for every final decision for prohibited practice cases made but have adjusted this as there are certain matters that have little or no media interest. This will also allow us to focus on increasing the number of press releases issued for final merger decisions

**Goal Statement 3: To ensure the Tribunal has effective strategic leadership, administration and management through adherence to good corporate governance and sound business practices.**

Strategic objective statements	Outcome	KPI	Audited actual Performance					Target					
			Audited actual Performance					Estimated Performance			Medium Term Targets		
			2014/2015	2015/2016	2016/2017	2017/2018	2018/2019	2019/2020	2020/2021				
3.1 Increase the level of compliance with the prescripts of good governance	Accountable and transparent Public Entity	Achieve an unqualified audit outcome year on year	New annual target in 2015/2016	Final report not qualified but irregular expenditure disclosed.	Final management report for 2015/2016- no issues of governance raised	Clean audit – no issues of governance raised	Unqualified audit opinion – no non-compliance with prescripts of governance raised	Unqualified audit opinion – no issues of non-compliance with prescripts of governance raised	Unqualified audit opinion – no issues of non-compliance with prescripts of governance raised	Unqualified audit opinion – no issues of non-compliance with prescripts of governance raised	Unqualified audit opinion – no issues of non-compliance with prescripts of governance raised		
3.2 Maintain effective oversight structures that promote solid business practice	Sound Business Practice	Achieve an unqualified audit outcome year on year	New annual target in 2015/2016	Final report - no issues of governance raised	Final management report for 2015/2016- no issues of governance raised	Clean audit – no issues of governance raised	Unqualified audit opinion – no issues lack of oversight, leadership or governance raised	Unqualified audit opinion – no issues lack of oversight, leadership or governance raised	Unqualified audit opinion – no issues lack of oversight, leadership or governance raised	Unqualified audit opinion – no issues lack of oversight, leadership or governance raised			
3.3 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	New annual target in 2015/2016	Final report not qualified but fruitless and wasteful expenditure disclosed.	Fruitless and wasteful expenditure disclosed in 2015/2016	Clean audit – no findings of fruitless/wasteful expenditure	Unqualified audit opinion – no findings of fruitless/wasteful/unauthorised expenditure	Unqualified audit opinion – no findings of fruitless/wasteful/unauthorised expenditure	Unqualified audit opinion – no findings of fruitless/wasteful/unauthorised expenditure	Unqualified audit opinion – no findings of fruitless/wasteful/unauthorised expenditure			
3.4 Ensure a sound control environment and monitor and maintain	Compliance to requirements as an accountable, an accountable,	Submission against annual deadline and no material misstatements	New annual target in 2015/2016	Final report - no material misstatements	Final management report for 2015/2016 - no material	No material misstatements on May submission	No material misstatements on May submission	No material misstatements on May submission	No material misstatements on May submission	No material misstatements on May submission			

Strategic objective statements	Outcome	KPI	Audited actual Performance					Target				
			2014/2015	2015/2016	2016/2017	2017/2018	2018/2019	2019/2020	2020/2021	Medium Term Targets		
compliance and ensure that all reporting requirements are met	transparent Institution	for May submission	New annual target in 2015/2016	AR submitted within required timeframes	misstatements	Annual reporting submission dates met for May and July	Annual reporting submission dates met for May and July	Annual reporting submission dates met for May and July	Annual reporting submission dates met for May and July	Annual reporting submission dates met for May and July	Annual reporting submission dates met for May and July	Annual reporting submission dates met for May and July
	Integrated risk management processes and combined assurance	Achieve an unqualified audit outcome year on year	New annual target in 2015/2016	Final report - no risk management issues raised	Final report – management report for 2015/2016 - no risk management issues raised	Clean audit – no issues of risk management raised	Unqualified audit opinion – no issues of risk management raised	Unqualified audit opinion – no issues of risk management raised	Unqualified audit opinion – no issues of risk management raised	Unqualified audit opinion – no issues of risk management raised	Unqualified audit opinion – no issues of risk management raised	Unqualified audit opinion – no issues of risk management raised
3.5 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	New annual target in 2015/2016	Policy in final draft and two interns employed	Two interns employed – initial draft of policy presented to COO	Graduate internships targets met – 2 graduate interns. Policy approved	Minimum of two graduate interns (one year internship) appointed	Minimum of two graduate interns (one year internship) appointed	Minimum of two graduate interns (one year internship) appointed	Minimum of two graduate interns (one year internship) appointed	Minimum of two graduate interns (one year internship) appointed	Minimum of two graduate interns (one year internship) appointed

## Annexure F: Annual performance indicators, quarterly and annual targets for 2018/2019

### **Goal Statement 1: To ensure effective and efficient adjudication on matters brought before the Tribunal.**

Strategic objective statements	Outcome	KPI	Base Line	Annual	Target				Budget
					Q.1	Q.2	Q.3	Q.4	
1.1 Matters brought before the Tribunal are heard within the adopted delivery time frames	Hearings are set down within required timeframes	% of large mergers to be set down for the beginning of a hearing or a pre-hearing, within 10 business days of filing of the merger referral	81%	80%	80%	80%	80%	80%	R 26 419 978.82
					70%	70%	70%		
1.2 Improvement in the issuing of judgments/ decisions in line with adopted timeframes	Expeditious Conclusion of matters	% of intermediate and small merger considerations to be set down for a the beginning of a hearing or a pre-hearing, within 10 business days of receipt of the Commission's record <sup>22</sup>	66%	70%	95%	95%	95%	95%	
					80%	80%	80%		
		% of large merger orders issued to parties within 10 business days of last hearing date <sup>23</sup>	99%	95%	95%	95%	95%		
		% of large merger reasons issued to parties within 20	88%	80%	80%	80%	80%		

<sup>22</sup> Refer to footnote 5

<sup>23</sup> Refer to footnote 6

Strategic objective statements	Outcome	KPI	Base Line	Annual	Target				Budget	
					Q 1	Q 2	Q 3	Q 4		
	business days of the date the order was issued on									
	% of intermediate and small merger consideration orders issued to parties within 10 business days of last hearing date <sup>24</sup>		84%	80%	80%	80%	80%	80%	80%	
	% of intermediate and small merger considerations reasons issued to parties within 20 business days of the date the order was issued on		60%	60%	60%	60%	60%	60%	60%	
	Reasons for prohibited practices cases <sup>25</sup> issued to parties in accordance with the delivery timeframes per category: A, B or C from last hearing date		A <sup>26</sup> - no reasons issued B – 67% within 125 business days C – 75% within 150 business days	A - 100 business days B - 125 business days C - 150 business days	A - 100 business days B - 125 business days C - 150 business days	A - 100 business days B - 125 business days C - 150 business days	A - 100 business days B - 125 business days C - 150 business days	A - 100 business days B - 125 business days C - 150 business days	A - 100 business days B - 125 business days C - 150 business days	

<sup>24</sup> Refer to footnote 6

<sup>25</sup> Prohibited practice cases refer to all complaints from the commission, the complainant and the High Court

<sup>26</sup> Refer to footnote 9

Strategic objective statements	Outcome	KPI	Base Line	Annual	Target				Budget
					Q 1	Q 2	Q 3	Q 4	
1.3 Enhancing record keeping, performance information and case flow management by harnessing facility and	Improved management information to inform strategic decision making	% of procedural matter <sup>27</sup> orders issued to parties within 45 business days of last hearing date <sup>28</sup>	62% for within 20 days – prior periods. Turnaround changed to 45 days from 2018/2019	85%	85%	85%	85%	85%	R3 378 108.64
		% of orders for consent order and settlement agreements issued to parties within 10 business days of last hearing date <sup>29</sup>	99%	95%	95%	95%	95%	95%	
		% of interim relief reasons issued to parties within 20 business days of last hearing date <sup>30</sup>	100%	90%	90%	90%	90%	90%	
		CMS deemed to be sustainable	New target in 2017/2018	Sustainability of CMS system confirmed	Annual target but progress to be reported quarterly in IT report				
		Review CMS to determine if any additional enhancements required		Plan for enhancements approved by JTSC	Annual target but progress to be reported quarterly in IT report				

<sup>27</sup> Refer to footnote 10

<sup>28</sup> Refer to footnote 6

<sup>29</sup> Refer to footnote 6

<sup>30</sup> Refer to footnote 6



Strategic objective statements	Outcome	KPI	Base Line	Annual	Target				Budget
					Q 1	Q 2	Q 3	Q 4	
functionality of business applications	and access to historical data	Models developed and implemented that generate statistics pertaining to the adjudicative process	New target in 2017/2018	Assess models for enhancements and determine if any new models needs to be implemented	Annual target but progress to be reported quarterly in IT report				

**Goal Statement 2: To build and develop effective stakeholder relationships.**

Strategic Objective Statement	Outcome	KPI	Base Line	Annual	Target				Budget
					Q.1	Q.2	Q.3	Q.4	
2.1 Ensure that an integrated Communication plan is developed and implemented	A structured and focussed process to create and enhance awareness of the work of the Tribunal	E-newsletter developed and placed on website	New target in 2018/2019	Service provider sourced to develop e-newsletter that is fully implemented and available on website	Annual target but progress reported on quarterly				R1 196 269.86
		Communication framework reviewed annually and quarterly communication report on strategy and media coverage presented to EXCO	New target in 2017/2018	Annually review framework and report quarterly on communication strategy and media coverage	Annual target but communication reports presented quarterly				
2.2 Ensure communication pertaining to the Tribunal's adjudicative process is issued to stakeholders within adopted delivery timeframes	Timely and compliant communication of Adjudication outcomes	% of press releases of final merger decisions and final decisions in prohibited practices cases communicated within two business days of the order date	Mergers 97%	75%	95%	95%	95%	95%	
			Prohibited practices 90%	100%	90%	90%	90%	90%	
2.3 Identify and address stakeholder needs and expectations in order to meet or exceed requirements	Level of stakeholder satisfaction	Stakeholder satisfaction survey results	Adjudicative process - 90% stakeholder satisfaction	Satisfaction survey is conducted by March 2019 and satisfaction levels targeted at 75%	Annual target. Progress reported on quarterly in quarterly report.				

**Goal Statement 3: To ensure the Tribunal has effective strategic leadership, administration and management through adherence to good corporate governance and sound business practices.**

Strategic Objective Statement:	Outcome	KPI	Base Line	Target				Budget
				Q1	Q2	Q3	Q4	
3.1 Increase the level of compliance with the precepts of good governance  3.2 Maintain effective oversight structures that promote solid business practice  3.3 Ensure financial management that promotes effective and efficient use of resources  3.4 Ensure a sound control environment and monitor and maintain compliance and ensure that all reporting requirements are met	Accountable and transparent Public Entity	Achieve an unqualified audit outcome year on year	Final management report for 2015/2016- no issues of governance raised	Unqualified audit – no issues of governance raised	-	-	-	R 4 205 361.53
	Sound Business Practice	Achieve an unqualified audit outcome year on year	Final management report for 2015/2016- no issues of governance raised	Unqualified audit – no issues of governance raised	-	-	-	
	Optimal financial resource allocation and utilisation	Achieve an unqualified audit outcome year on year	Fruitless and wasteful expenditure disclosed in 2015/2016	Unqualified audit- no findings of fruitless /wasteful expenditure	-	-	-	R 2 866 896.19
	Compliance to requirements as an accountable, transparent institution	No material misstatements for May submission	Final management report for 2015/2016 - no material misstatements	No material misstatement on May submission	-	-	-	
		Submission against annual deadline	May date met- July date met	Annual reporting submission dates met May and July				

Strategic Objective Statement	Outcome	KPI	Base Line	Annual	Target			Budget
					Q1	Q2	Q3	
3.5 Ensure that the Tribunal effectively leverages employee skills by recruiting, retaining and developing high quality people	Integrated risk management processes and combined assurance	Achieve an unqualified audit outcome year on year	Final report – management report for 2015/2016 - no risk management issues raised	Unqualified audit – no issues of risk management raised	Unqualified audit – no issues of risk management raised			
	Strengthen the Tribunal's organisational capacity and performance to deliver on its legislative mandate	Implementation of case management graduate internships against plan	Graduate internship programme implemented and interns employed	Minimum of two graduate interns (one year internship) appointed	Annual target to be reported on quarterly			R 3 730 263.77

## Annexure G: Materiality Framework

### Materiality Framework in terms of Treasury Regulation 28.3.1

#### 1 Definitions

Accounting Authority : The Competition Tribunal Chairperson

Executive Authority : Minister of Economic Development

PFMA : The Public Finance Management Act (Act 1 of 1999 as amended by Act 29 of 1999)

Treasury Regulations as issued in terms of section 76 of the Public Finance Management Act, 1999.

#### 2 Introduction

28.3.1 For purposes of material [section 55(2) the Act] and significant [section 54(2) of the Act], the accounting authority must develop and agree a framework of acceptable levels of materiality and significance with the relevant executive authority.

#### 3 Framework

PFMA Section	Quantitative [Amount]	Qualitative [Nature]
	Materiality figure for the year ending March 2019 is R 521 153.72	
<p><b>S55</b>  <b>Annual report and financial statements (PFMA Section 55)</b>                      (2) The annual report and financial statements referred to in subsection (1) (d) must—</p> <p>(a) fairly present the state of affairs of the public entity, its business, its financial results, its performance against predetermined objectives and its financial position as at the end of the financial year concerned;</p> <p>(b) include particulars of—</p>		
<p>(i) <u>any material losses</u> through criminal conduct and any irregular expenditure and fruitless and wasteful expenditure that occurred during the financial year:</p> <p>(ii) any criminal or disciplinary steps taken as a consequence of such losses or irregular expenditure or fruitless and wasteful expenditure;</p> <p>(iii) any losses recovered or written off;</p> <p>(iv) any financial assistance received from the state and commitments made by the state on its behalf; and</p> <p>(v) any other matters that may be prescribed</p>	<p>1. Losses through criminal conduct –any loss identified.</p> <p>2. Losses through irregular / fruitless / wasteful expenditure.</p>	Any identified loss through criminal conduct.

PFMA Section	Quantitative [Amount]	Qualitative [Nature]
<b>S54</b>		
<b>Information to be submitted by accounting authorities (PFMA section 54)</b>		
(2) Before a public entity concludes any of the following transactions, the accounting authority for the public entity must promptly and in writing inform the relevant treasury of the transaction and submit relevant particulars of the transaction to its executive authority for approval of the transaction:	Not applicable	Not Applicable
(a) establishment or participation in the establishment of a company;	Not applicable	Not applicable
(b) participation in a <u>significant</u> partnership, trust, unincorporated joint venture or similar arrangement;	Not applicable	Not applicable
(c) acquisition or disposal of a <u>significant</u> shareholding in a company;	Not applicable	Not applicable
(d) acquisition or disposal of a <u>significant</u> asset;	Not applicable	Any asset that would increase/decrease overall operational functions of the Tribunal, outside of the approved strategic plan and budget
(e) commencement or cessation of a <u>significant</u> business activity; and	Not applicable	Not applicable
(f) a significant change in the nature or extent of its interest in a significant partnership, trust, unincorporated joint venture or similar arrangement.	Not applicable	Not applicable

#### 4 Authorisation

This framework was adopted by the Tribunal in September 2017

##### Determination of Materiality

	% max	2016/2017 (audited)	1%
<b>Materiality bases</b>			
Gross Revenue (excl. EDD grant)	1	R13 860 400.00	R 138 604.00
Total expenses	1	R 38 254 972.39	R 382 549.72
<b>Materiality figure</b>			<b>R 521 153.72</b>

- Due to the nature of the business of the Competition Tribunal (it is not a capital intensive business) the best indicator with regard to business activity is revenue and expenditure. The Tribunal has taken the average of 1% of actual revenue and actual expenditure (net of capital expenses) in 2016/2017 to determine the materiality figure for 2018/2019.

## **Annexure H: Technical Indicator Descriptions**

(The full annexure starts on page 39 and is attached as a separate document)