

2019/2020



**competitiontribunal**  
*south africa*

**ANNUAL PERFORMANCE PLAN  
1 APRIL 2019 – 31 MARCH 2020**

## Official sign-off

It is hereby certified that this Annual Performance Plan of the Competition Tribunal for the period 1<sup>st</sup> April 2019 to 31<sup>st</sup> March 2020 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 2019/2020 financial year.

Janeen de Klerk  
Chief Operating Officer – Competition Tribunal

Signature: \_\_\_\_\_

  
Date: 19/6/19

Norman Manoim  
Chairperson – Competition Tribunal

Signature: \_\_\_\_\_



Date: \_\_\_\_\_

19/6/19

Ebrahim Patel  
Executive Authority – Department of Trade and Industry

Signature: \_\_\_\_\_



Date: \_\_\_\_\_

26/6/2019.



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## Part A: Strategic Overview

### 1. Updated Situational Analysis

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

The Strategic Plan was tabled in Parliament on 11 March 2015 and while there are no significant policy shifts or changes in the service-delivery environment that warrant amendments to the Strategic Plan there are proposed amendments to the Competition Act that are likely to have an impact on our operations.

The possible impact of these changes - in terms of volume of work, capacity requirements and financial resources - are discussed in detail in Section 2 below

The Tribunal is a small organisation with a current structure that allows for a permanent staff complement of 26 (excluding the full-time Tribunal members).

Currently the Tribunal employs 24 full-time staff, two graduate interns in the case management division and two interns in the Finance and Corporate Services divisions. There is one vacant position in Registry and interviews for suitable candidates are scheduled to take place shortly.

In addition, the structure currently provides for a receptionist reporting to the Head of Corporate Services. Given that we occupy a floor on a building on the dti campus and share the premises with the Competition Commission (Commission) a receptionist is currently not a priority. The Tribunal's Executive Committee is therefore considering replacing this position with additional IT support.

In August 2009 the Tribunal appointed a full-time IT Administrator. Up until this time we received IT support from the Commission however as the IT Administrator became ensconced in this position and the Tribunal separated itself from various shared systems, we significantly reduced our reliance on the Commission. This was also required so as to ensure and maintain independence between the institutions.

Growth in the volume of work of the Tribunal (as illustrated in **Figure 2** in **Annexure A**), resulted in the introduction of electronic systems like our case management system (CMS) and generally keeping abreast with technology has resulted in a need for increased capacity in the IT division.

By way of illustration – in August 2009 the IT Administrator provided IT support to 17 staff members, 3 full-time Tribunal members and managed three (3) servers. Today this department provides support to 24 staff members, 5 full-time Tribunal members, six (6) interns and manages 13 servers.

Capacity requirements have been partially addressed through the implementation of an internship in the IT department since October 2015, but it is now both prudent and essential to provide permanent support in this area thus addressing the capacity issue and reducing the risk of inefficiency in these services. The latter could impact on our ability to deliver effectively on our mandate. The personnel

budget has been adjusted to upgrade the current IT internship position to a full-time position. The budget implication of this is just under R 70 000 for the 2019/2020 financial year

Apart from this capacity issue and the impact of the amendments to the Act there are 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 2019 – 31<sup>st</sup> March 2020

The impact of the proposed amendments are discussed in detail in the following section. It must however be noted that we anticipate an increased volume of work and have therefore budgeted for increased capacity by including an additional full-time member with effect from 1<sup>st</sup> August 2019 and a more senior case manager from 1<sup>st</sup> September 2019.

We have also completed an initial calculation of the increased adjudicative costs associated with a larger volume of cases and a detailed costing is included as **Annexure H** to the document. Initial calculations indicate this to be **R8.96m** over the MTEF period and there is therefore a need for extra funding to the Tribunal over this period.

## **2. Revisions to legislative and other mandates**

If the new Competition Amendment Bill is passed and proclaimed during the 2019/2020 financial year in its present form, it will substantially increase the mandate of the Tribunal from what it was previously. This will increase the workload of the Tribunal both in terms of time spent in hearings, but also for prior preparation and thereafter the writing of reasons.

First, decisions that the Competition Commission (Commission) makes after conducting a market enquiry will now be appealable to the Tribunal. Since market enquiries have to date taken a long time to conduct it is likely that the records in such cases will be lengthy and intricate. This means that the panels will have to spend more time on prior preparation time than existing cases require. Writing of reasons is also likely to take longer than is typical for even the most complex of existing cases.

The Act also contains new prohibited practices (buyer power provisions) and reformulated provisions in relation to some of the existing abuse of dominance provisions (excessive pricing, margin squeeze and predatory pricing). The buyer power provisions will also lead to an increased case load particularly early on as the jurisprudence develops. The improved dominance provisions are also likely to lead to renewed enforcement activity by the Commission.

In merger control expanded considerations both regarding the competition and public interest aspects of merger control are likely to expand the ambit of issues for merger consideration and may also lead to prolonged hearings and an increase in appeals in respect of intermediate mergers.

The provisions relating to mergers by foreign acquiring firms may also lead to new types of cases before the Tribunal. The Tribunal may have to consider disputes about whether a firm has failed to notify a foreign merger in terms of section 18A and is also given the power to impose an administrative penalty on firms that fail to comply with their section 18A obligations.

Finally, other residual procedural cases will come before the Tribunal. For instance, the Commission may request information from parties for the purpose of its new power to conduct impact studies. Parties are entitled to object to these requests which must then be determined by the Tribunal. It is unclear how frequently these type of cases will occur. Determinations made by the Commission during the course of a market enquiry that information is confidential can also be brought to the Tribunal to determine.

The Amendment Bill has also provided for an increase in the capacity of the Tribunal which will also have implications for our budget.

The amendment contains provisions that expands the maximum number of members that can be appointed (from 11 to 15 (including the Chairperson)) and also gives the Minister, in addition, the power to appoint acting part time members.

Additional expenses are typically incurred in respect of the training and integration of new members.

It is unclear how many new members may be appointed in the current financial year. Four additional members could be appointed if the Amendment Bill is brought into operation but there could also be new members appointed from amongst the existing complement. This is because the terms of six members expire during current the financial year (by end July 2019). It will be for the Executive Authority to determine how many should be re-appointed.

The additional capacity will greatly improve the efficiency of the Tribunal but at the same time increase expenses as more people will be working more often on Tribunal cases.

The increased case load will have an impact on all costs associated with the adjudicative process. In the 2017/2018 financial year the Tribunal spent 157 days in hearings while this budget provides for 198 hearing days.

As indicated in Section 1 the budget makes provision for an additional full-time Tribunal member with effect from August 2019 and a more senior case manager with effect from September 2019

This is discussed in more detail later in the APP, but initial calculations estimate the effect of this on the adjudicative costs as reflected in the ENE submitted in July 2018 to be **R8.96m over the MTEF period**. This will necessitate additional funding for the Tribunal if we are to deliver on a revised mandate. **Annexure H** to this APP reflects the impact on expected expenditure

### **3. Overview of 2019/2020 budget and MTEF estimates**

#### **3.1. MTEF Estimates**

The Tribunal's budget (inclusive of capital expenditure) over the MTEF period (2019/2020 – 2021/2022) is estimated to be **R198.12m**.

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

- i) Economic Development Department (EDD) grant funding of **R114.60m** for three years (based on indicative baseline allocation provided by the EDD)
- ii) Expected filing fee revenue of **R61.47m** (this is based on Commission's estimation of an annual increase of 5% in filing fee revenue year on year)
- iii) Using **R11.95m** of the retained cash surpluses as at March 2018 of **R13.68m**. (we anticipate using **R1.73m** this financial year)
- iv) Additional funding from EDD of **R0.83m** in 2020/2021 and **R7.91m** in 2021/2022
- v) Interest income of **R0.68m** in 2019/2020 and in 2020/2021

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 since 2018/2019 and over the MTEF period has been applied using a straight-line approach increasing the allocation by roughly 5.5% annually. This straight-line approach was sufficient while the Tribunal was in the position to use retained surpluses.

Calculations indicate that if the Tribunal is granted to retain cash surpluses as indicated there will be sufficient funding to cover estimated expenditure for 2019/2020.

Calculations we have undertaken with regard to the impact of proposed amendments to the Act suggest we will need to make a submission early next year for **additional funding of R8.74m** over the two outer years of the MTEF period.

Two main factors – the proposed amendments to the Act and the inability to continue to rely on retained surpluses – rather than an inflated budget have resulted in this need for additional funding.

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

- i) It is dependent on the predictions made with regard to expected filing fees received from the Commission over the MTEF. We have budgeted to receive **R61.47m** over the MTEF period based on an estimated average annual growth rate of 5%. The Commission has based its growth in filing fee revenue on a 5.5% average annual growth. The Tribunal has budgeted a slightly lower growth rate as we only receive a portion of merger filing fees and no portion of any other fees generated by the Commission.
- ii) It assumes we are granted permission to use expected cash surpluses of **R11.94m** over the MTEF period.

The additional funding of **R8.74m** is required over the **two outer years** as follows: **R0.83m** in 2020/2021 and **R7.91m** in 2021/2022.

However, as indicated earlier 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 as a basis, 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 C** reflects the Statement of Financial Performance over the MTEF period included in the ENE submitted in December 2019 while **Annexure D** 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 5.3%, 5.5% and 5.5% respectively for the years 2019/2020, 2020/2021 and 2021/2022 as recommended by National Treasury.

The Tribunal has implemented a wage freeze on all employees earning over R1m in the 2019/2020 as directed by National Treasury.

In 2019/2020 we have applied an annual cost of living (COL) adjustments of 6.3% for all staff below the R1m threshold.

In the two outer years of the MTEF period a 6.3% COL adjustment has been applied for non-SMS staff while those for SMS level staff is set at 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 **2019/2020** 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 2019/2020 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 58.80% 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 2019/2020 budget are as follows:

- i) An escalation of 10% on the leasing fee charged by the dti from R385.99 per square metre to R424.59 per square metre.
- ii) The appointment of an additional full-time Tribunal member from August 2019
- iii) The appointment of a senior case manager from October 2019  
Both (ii) and (iii) have been included to address expected increases in volume as a result of amendments to the Act and are referred to in section 1 and 2 of this document.
- iv) 6.3% cost of living increase for non-SMS staff.
- v) In line with the wage freeze that needs to be applied in line with National Treasury's instructions - 2.8% for SMS staff or staff earning between R1m and R1.5m and 0% for all staff and Tribunal members earning in excess of R1.5m.
- vi) Upgrading the current IT internship to a full-time IT assistant position (current budget impact is just under R 70 000.00)
- vii) Provision for promotional adjustments of 2% in the salaries of the secretariat staff.
- viii) Provision for performance bonuses at an average 9 % of basic salary for secretariat staff.
- ix) 412.78 person days spent in hearings, preparations and decision writing by part-time Tribunal members for the year (based on a three-year average baseline and an escalation based on proposed changes to the Act).
- x) 198 actual hearing days
- xi) 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. Currently part-time members receive a daily fee of R 9000.00 and have not had an adjustment since March 2016
- xii) All other costs associated with holding hearings are based on the estimate in (ix) and (x) above.
- xiii) Three international conferences/workshops/seminars to be attended over the year by a total of six people (five Tribunal members and one case manager)<sup>1</sup>.
- xiv) All local air travel is on economy class.
- xv) Two Tribunal members to represent the Tribunal at two Organisation for Economic Cooperation and Development (OECD) meetings.
- xvi) Two case managers to attend one regional workshop<sup>2</sup>.
- xvii) Two executive members and the Head of Registry to attend three parliamentary portfolio committee meetings.
- xviii) Two executive members to attend two other meetings held in Parliament in Cape Town (for e.g. tabling of the Department's budget)
- xix) An annual workshop for Tribunal members and case managers facilitated by an international competition law expert.
- xx) Contributing to costs associated with the hosting of a conference by the Commission to celebrate 20 years of the Competition Authorities existence and operation
- xxi) One case manager to attend ten Competition Appeal Court hearings. We have anticipated that the number of appeals to this court will increase over the period from 6 to 10
- xxii) Three graduate interns and four vacation interns in the case management division and two interns in the other divisions for a year.

<sup>1</sup> While the budget makes provision for 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

xxiii) 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.

While the table on the next page reflects increments in the budget ranging from 9.58% in 2019/2020 to 4.32% in 2021/2022 it must be noted that these are the result of the proposed amendments to the Act and the expected case load and therefore increased capacity and operational costs

CATEGORY	2018/2019	2019/2020	2020/2021	2021/2022
<b>INCOME</b>	<b>R'm</b>	<b>R'm</b>	<b>R'm</b>	<b>R'm</b>
Filing fees	18.57	19.50	20.47	21.49
Other income	0.88	0.68	0.68	0.00
Use of retained surpluses	1.73	5.31	6.64	0.00
EDD Grant	35.09	36.17	38.17	40.27
<b>TOTAL INCOME</b>	<b>56.27</b>	<b>61.66</b>	<b>65.96</b>	<b>61.76</b>
<b>EXPENDITURE</b>	<b>R'm</b>	<b>R'm</b>	<b>R'm</b>	<b>R'm</b>
Expenditure	55.07	59.75	65.13	68.93
Capital Expenditure	1.20	1.91	1.67	0.74
<b>TOTAL EXPENDITURE</b>	<b>56.27</b>	<b>61.66</b>	<b>66.79</b>	<b>69.67</b>
<b>DEFICIT</b>	<b>0.00</b>	<b>0.00</b>	<b>0.83</b>	<b>7.91</b>
<b>ADDITIONAL EDD GRANT REQUIRED</b>	<b>0.00</b>	<b>0.00</b>	<b>0.83</b>	<b>7.91</b>
<b>ANNUAL BUDGET INCREMENT</b>	<b>7.74%</b>	<b>9.58%</b>	<b>8.33%</b>	<b>4.32%</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 estimates of filing fee revenue additional funding of R8.74m 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.

CATEGORY	2019-2020	2018-2019
PERSONNEL	58.13%	57.24%
PT TRIBUNAL MEMBERS	7.31%	7.40%
TRAINING	1.98%	3.20%
CONFERENCES AND SEMINARS	0.81%	0.74%
SHARED SERVICE FEE	1.47%	1.53%
FACILITY FEE	10.07%	10.03%
CONSULTING	0.55%	0.59%
LEGAL FEES	0.24%	0.27%
TRANSCRIPTION COSTS	2.77%	1.63%
AUDIT EXPENSES	2.93%	4.07%
RECRUITMENT COSTS	0.29%	0.29%
ADMIN EXPENSES	3.11%	3.22%
AMORTISATION	0.68%	0.64%
DEPRECIATION	1.40%	1.26%
OTHER IT EXPENDITURE	3.93%	4.84%
REPAIRS/MAINTENANCE	0.05%	0.04%
CAPITAL EXPENDITURE	3.09%	2.11%
APPEALS COURT BUDGET	1.18%	0.89%
<b>TOTAL PERCENTAGE</b>	<b>100.00%</b>	<b>100.00%</b>
<b>TOTAL EXPENDITURE</b>	<b>61,656,072</b>	<b>56,268,040</b>

58.13% of the Tribunal's 2019/2020 budget will be spent on personnel expenses. If one includes fees paid to the part-time Tribunal members in this category it increases to 65.44%

"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 11.54% of the budget.

Costs associated with audits (internal, external audit fees and audit committee expenses) account for 2.93% of the budget while administrative expenses account for 3.11% 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 two OECD competition committee meetings) to be attended by Tribunal members and staff members to five for this annum.

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 **2019/2020** financial year this is estimated by the Commission to be **R19.50m**.

Given that these fees, together with the MTEF allocation of **R37.05m** for the 2019/2020 financial year are not sufficient to cover expected expenditure of **R61.66m** (inclusive of capital expenditure), additional funding is necessary.

The Tribunal has estimated that it will need to request permission to use approximately R5.31m 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 following three years 2015/2016, 2016/2017 and 2017/2018. These objectives, indicators and targets are reflected in [Annexure E](#) of this document for the MTEF period to 2021/2022 and in [Annexure F](#) of this document for the 2019/2020 financial year.

We have included footnotes to 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 **72.76%** 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 33 123 518.96	53.72%
To build and develop effective stakeholder relationships.	R 1 223 400.24	1.98%
To ensure effective leadership, transparency and accountability in the Tribunal through capacity building, effective reporting, policy management and financial compliance.	R 10 515 637.92	17.06%
<b>Total</b>	<b>R 44 862 557.12</b>	<b>72.76%</b>

The remaining 27.24% of the budget is distributed as follows:

- Administrative costs – 20.90%
- Depreciation/Amortisation – 2.07%
- Capital expenditure – 3.09%
- Appeal Court costs – 1.18%

### **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 2019 - 31<sup>st</sup> March 2020 is estimated at R726 757.16 and is reflected in the table below.

CATEGORY	2019/2020 BUDGET
Local travel	38.54% <sup>3</sup>
Administrative expenses	5.34%
Conferences attendance and overseas travel	34.71% <sup>4</sup>
High Court meetings/training	21.41%
<b>Total</b>	<b>100.00%</b>

### 3.5. Materiality Framework

**Annexure G** reflects the Tribunal’s materiality framework for the period 1<sup>st</sup> April 2019 – 31<sup>st</sup> March 2020.

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 **R645 685.20** is determined by taking the average of 1% of actual revenue (net of transfers from the EDD) and actual expenditure (net of capital expenses) in 2017/2018.

<sup>3</sup> We have provided for 10 sittings of the appeal court as opposed to 6 sittings budgeted in 2017/2018 as we have seen an increase in the number of matters being referred to the Appeal Court

<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 affected

## **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 F.**

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

Specific outputs, performance indicators and targets have been assigned for 2019/2020 and are tabulated in **Annexure G.**

#### **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 **72.76%** 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 2019/2020 budget can therefore be divided against the strategic objectives as illustrated in the table on the next page

STRATEGIC OBJECTIVE	LINK TO OBJECTIVE	BUDGET
Timeous hearings and issuing of judgements (direct hearing costs)	Objective 1. 1 and 1.2	R29 908 133.44
Effective business processes	Objective 1.3	R3 215 385.52
Stakeholder awareness	Objective 2.1, 2.2 and 2.3	R1 223 400.24
Effective oversight and good governance	Objective 3.1 and 3.2	R3 758 983.09
Effective financial management	Objective 3.3 and 3.4	R3 079 293.86
Sustainable capacity	Objective 3.5	R3 677 360.98
Administration (incl. depreciation)	N/A	R14 160 096.34
Capital Expenditure	N/A	R1 906 661.49
Competition Appeal Court	N/A	R726 757.16
<b>TOTAL BUDGET</b>		<b>R61 656 072.12</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) – 2018 (Year 19)

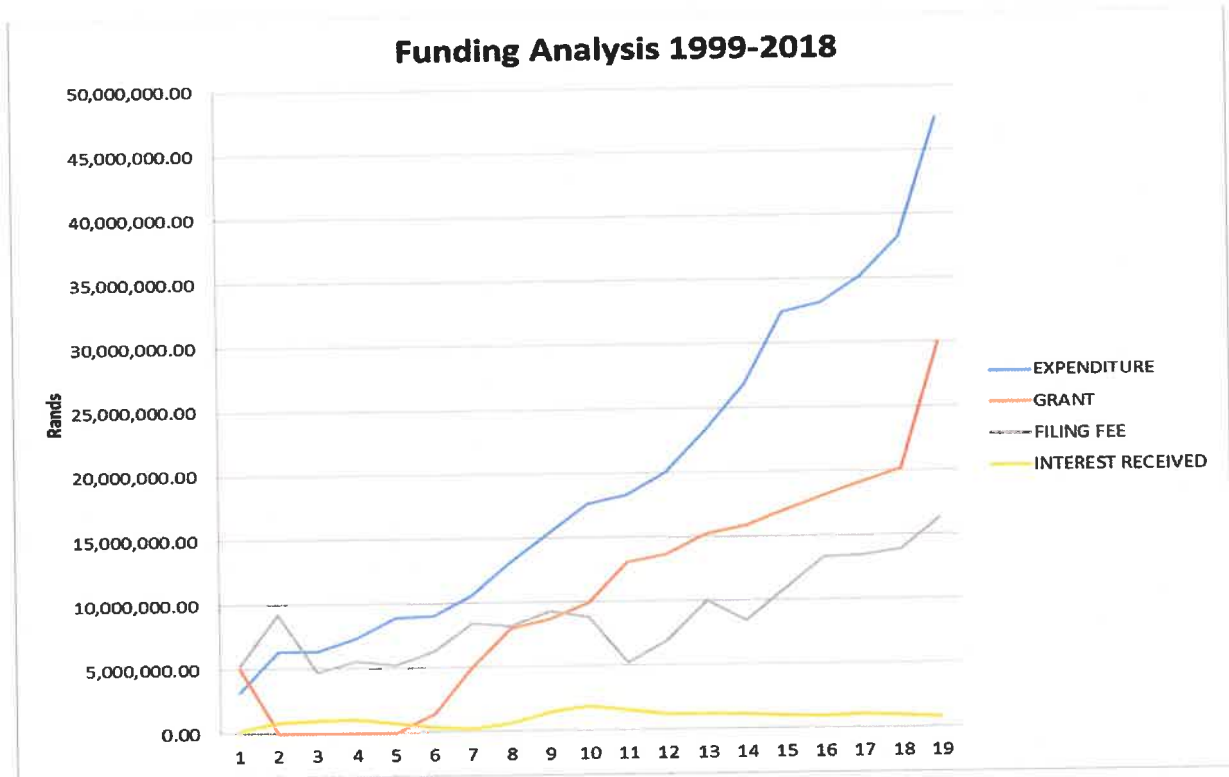
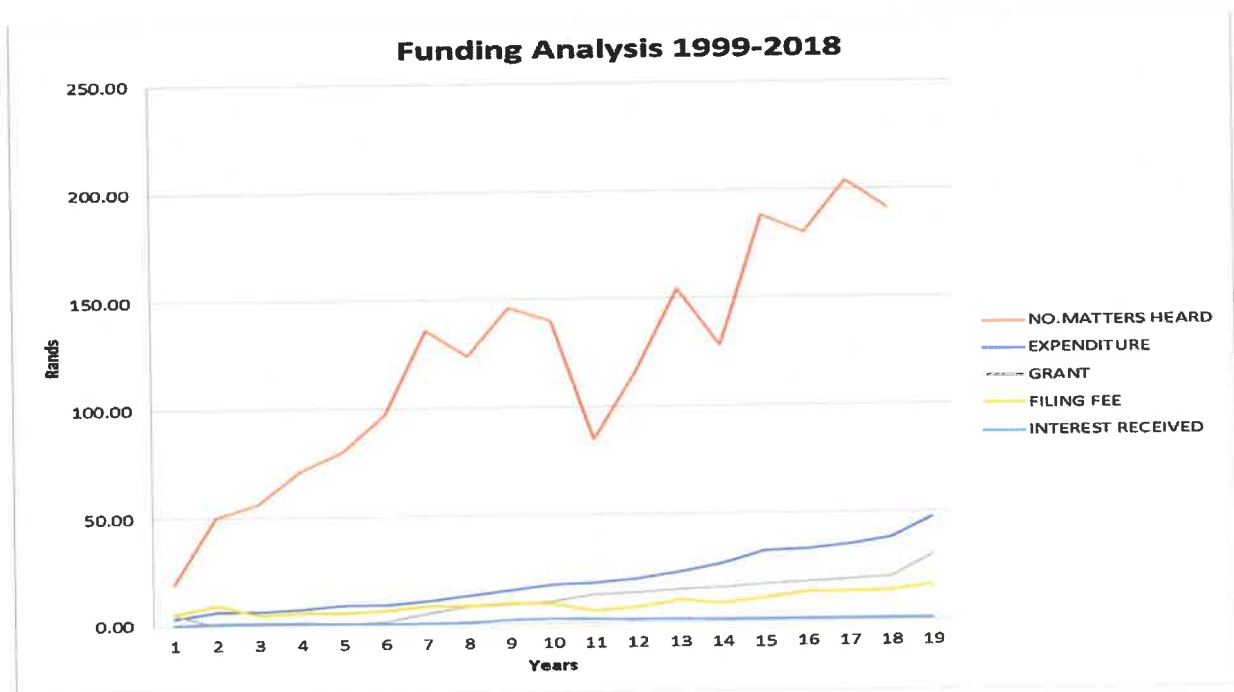


Figure 2: Historical representation of matters heard, expenditure and grant allocation



## Annexure B: Statement of Financial Performance – MTEF submission January 2019<sup>5</sup>

Statement of financial performance	2015/16		2016/17		2017/18		2018/19		2019/20 - 2021/22			2018/19 - 2021/22		
	Budget	Audited Outcome	Budget	Audited Outcome	Budget	Audited Outcome	Budget estimate	Approved budget	Outcome/ Budget Average %	Average growth rate (%)	Expenditure/ total: Average (%)	Medium-term estimate	Average growth rate (%)	Expenditure/ total: Average (%)
R thousand														
Revenue														
Tax revenue	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Non-tax revenue	11 840	14 804	14 221	14 842	15 319	17 104	19 449	21 183	111.7%	12.7%	25 389	27 885	21 498	0.5%
Sale of goods and services other than capital assets of which:	10 670	13 721	13 441	13 860	14 441	16 295	18 570	18 570	109.3%	10.6%	19 469	20 473	21 497	5.0%
Administrative fees	10 670	13 721	13 441	13 860	14 441	16 295	18 570	18 570	109.3%	10.6%	19 469	20 473	21 497	5.0%
Sales by market establishment	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Other sales	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Other non-tax revenue	1 170	1 083	780	982	878	809	879	2 613	148.0%	34.1%	5 880	7 412	1	-92.7%
Transfers received	19 984	20 913	21 195	20 115	30 041	30 041	35 086	35 086	99.9%	18.8%	36 172	38 166	40 265	4.7%
Total revenue	31 804	35 717	35 416	34 957	45 360	47 145	54 535	56 269	104.2%	16.4%	61 561	66 051	61 763	3.2%
Expenses														
Current expenses	36 999	35 160	41 444	38 255	50 117	47 466	55 075	56 071	95.8%	16.1%	59 663	65 038	68 838	7.7%
Compensation of employees	21 659	21 223	23 853	23 794	30 255	27 573	32 182	32 185	97.1%	14.9%	35 844	39 170	41 277	8.6%
Goods and services	14 200	13 153	16 749	13 562	19 018	18 864	21 826	21 820	93.9%	18.4%	22 541	24 426	26 089	6.1%
Depreciation	1 140	784	842	899	844	1 029	1 067	1 066	97.0%	10.8%	1 278	1 442	1 472	11.4%
Interest, dividends and rent on land	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Transfers and subsidies	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total expenses	36 999	35 160	41 444	38 255	50 117	47 466	55 075	55 071	95.8%	16.1%	59 663	65 038	68 838	7.7%
Surplus/(Deficit)	(5 195)	557	(6 028)	(3 298)	(4 757)	(321)	(540)	1 198	28.1%	28.1%	1 898	1 013	(7 075)	-280.8%

<sup>5</sup> It must be noted that there is a difference in the budget presented in this APP and the ENE submitted in January 2019 of R86 000. This is the result of a minor adjustment in administrative expenses and costs associated with the Competition Appeal Court after submission. As a result the APP budget reflects total cost (excluding capital expenditure) of R59.75m as opposed to R59.66m

**Annexure C: Summarised Three-Year Budget 2019/2020 – 2021/2022.**

CATEGORY	2016-2017	2017-2018	2018-2019	2019-2020	2020-2021	2021-2022
<b>INCOME</b>						
EDD GRANT REQUIRED	0	0	0	0	833,552	7,912,431
COMMITTED EDD GRANT	20,115,000	30,041,000	35,086,000	36,172,000	38,166,000	40,265,000
FEES RECEIVED	11,523,752	13,440,700	18,570,000	19,498,500	20,473,425	21,497,096
LEASE FUNDING	1,080,000	0	0	0	0	0
USE OF SURPLUSES	9,271,327	7,826,366	1,733,538	5,306,365	6,637,996	0
INTEREST RECEIVED	780,000	916,402	878,502	679,207	679,207	0
<b>TOTAL INCOME</b>	<b>42,770,079</b>	<b>52,224,468</b>	<b>56,268,040</b>	<b>61,656,072</b>	<b>66,790,180</b>	<b>69,674,527</b>
<b>EXPENDITURE</b>						
PERSONNEL	23,957,419	29,711,998	32,207,002	35,843,655	39,167,959	41,276,899
PT TRIBUNAL MEMBERS	4,149,420	3,994,647	4,166,055	4,504,947	4,955,442	5,450,986
TRAINING	1,346,959	1,693,894	1,852,610	1,373,798	1,449,357	1,529,072
CONFERENCES AND SEMINARS	463,052	258,131	369,006	350,496	369,774	390,111
SHARED SERVICE	621,945	696,343	861,562	903,792	963,501	1,005,943
FACILITY FEE	3,009,038	5,095,068	5,645,030	6,209,533	6,551,057	6,911,365
CONSULTING	369,215	237,506	330,259	339,134	357,786	377,464
LEGAL FEES	0	150,000	150,000	150,000	165,000	181,500
TRANSCRIPTION FEES	612,286	771,161	919,170	1,710,816	1,881,898	2,070,088
AUDIT EXPENSES	1,667,034	1,941,465	2,292,049	1,809,588	1,909,115	2,014,117
RECRUIT COSTS	0	142,185	160,518	178,268	188,072	198,416
ADMIN EXPENSES	1,545,516	1,893,616	1,812,573	1,915,792	2,047,463	2,160,073
AMORTISATION	229,469	340,805	358,691	416,972	536,728	595,538
DEPRECIATION	612,663	790,598	357,502	861,199	904,943	875,619
OTHER IT EXPENDITURE	2,213,493	2,133,537	2,402,391	2,451,663	2,917,100	3,080,633
REPAIRS/MAINTENANCE	3,000	3,000	3,000	3,000	3,165	3,339
<b>TOTAL EXPENDITURE</b>	<b>40,800,526</b>	<b>49,853,955</b>	<b>53,887,418</b>	<b>59,022,653</b>	<b>64,358,360</b>	<b>68,121,163</b>
APPEALS COURT BUDGET	642,491	652,499	500,805	726,757	765,729	808,899
<b>TOTAL AS PER MTEF</b>	<b>41,443,017</b>	<b>50,506,453</b>	<b>54,388,223</b>	<b>59,749,411</b>	<b>65,125,089</b>	<b>69,930,062</b>
CAPITAL EXPENDITURE	1,327,062	1,718,015	1,879,817	1,906,661	1,665,091	744,465
<b>GRAND TOTAL</b>	<b>42,770,079</b>	<b>52,224,468</b>	<b>56,268,040</b>	<b>61,656,072</b>	<b>66,790,180</b>	<b>69,674,527</b>
ANTICIPATED SURPLUS/(DEFICIT)	0	0	0	0	0	0

The budget for the 2 outer years is calculated by taking the 2019/2020 budget and

Applying 5.3% increase to goods and services in 2019/2020 and then 5.5% for the year thereafter

No salary adjustment for Tribunal members and SMS staff salaries in 2019/2020 and then inflated by 4% and 5% respectively over the two outer years  
Annually inflating part-time Tribunal fees by 4% annually

Applying 6.3% increase to non-sms staff salaries in each year of the MTEF

Assuming an average growth rate of 5% in the filing fees received from the Commission over the period

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

The Tribunal will make a submission to the EDD in 2019/2020 for the additional funding required for the two outer years of the MTEF

## Annexure D: Detailed One Year Budget - 2019/2020

BUDGET ITEM	ACTIVITY	2019/2020 Budget	PERCENTAGE
<b>INCOME</b>			
	FEES RECEIVED	19,498,500	31.62%
	EDD GRANT	36,172,000	58.67%
	ADDITIONAL GRANT REQD	0	0.00%
	LEASE FUNDING	0	0.00%
	BAL BFWD	5,306,365	8.61%
	OTHER INCOME	0	0.00%
	INTEREST RECEIVED	679,207	1.10%
<b>TOTAL INCOME</b>		<b>61,656,072</b>	<b>100%</b>
<b>EXPENDITURE</b>			
<b>PERSONNEL</b>	<b>SALARIES &amp; ALLOWANCES</b>	14,690,877	23.83%
	FT MEMBERS	12,531,663	20.33%
	FT MEMBERS COMPANY CONTRIBUTIONS	438,637	0.71%
	CFO SALARY	1,612,246	2.61%
	CFO COMPANY CONTRIBUTIONS	68,862	0.11%
	CFO PERFORMANCE BONUS	142,034	0.23%
	CFO PENSION	126,253	0.20%
	CASUAL LABOUR	54,695	0.09%
	PENSIONABLE BONUS	374,607	0.61%
	PENSION CONTRIBUTION	1,067,250	1.73%
	MEDICAL CONTRIBUTION	810,138	1.31%
	PERFORMANCE BONUS	1,296,110	2.10%
	COMPANY CONTRIBUTIONS	677,217	1.10%
	INTERNS	1,894,234	3.07%
	COMPANY CONTRIBUTIONS	58,832	0.10%
<b>PT MEMBERS</b>	TRIBUNAL MEMBERS	4,504,947	7.31%
<b>TRAINING</b>	TRAINING LOCAL	222,835	0.36%
	TRAINING OVERSEAS	83,300	0.14%
	AIR TRAVEL OVERSEAS	358,728	0.58%
	HOTEL ACCOMODATION OVERSEAS	85,301	0.14%
	SUBSISTENCE OVERSEAS	90,024	0.15%
	OTHER TRAVEL OVERSEAS	34,440	0.06%
	OECD MEETINGS	249,171	0.40%
	BURSARIES AND SCHOLARSHIPS	100,000	0.16%
	JOINT CONFERENCE WITH CC	150,000	0.24%
	INTERNAL WORKSHOPS	317,256	0.51%
	DIVISIONAL WORKSHOPS	33,240	0.05%
<b>SHARED SERVICES</b>	PROF FEES - CC MANAGEMENT FEE	903,792	1.47%
<b>FACILITY FEE/LEASE</b>	PROF FEES - dti	6,209,533	10.07%
<b>LEGAL FEES</b>	LEGAL FEES	150,000	0.24%
<b>CONSULTING</b>	OTHER	339,134	0.55%
<b>TRANSCRIPTION</b>	RECORDING SERVICES	1,710,816	2.77%
<b>AUDIT EXPENSES</b>	EXTERNAL FEE	855,265	1.39%
	EXTERNAL AUDIT COMMITTEE	470,787	0.76%
	INTERNAL FEE	449,148	0.73%
	FPC MEETING	34,388	0.06%
<b>RECRUIT COSTS</b>	RECRUITMENT COSTS	178,268	0.29%
<b>ADMIN EXPENSES</b>	JMF EXPENSES	40,000	0.06%
	WCA	61,478	0.10%
	AIR TRAVEL	132,091	0.21%
	OTHER TRAVEL	50,103	0.08%
	MILEAGE	44,651	0.07%
	HOTEL ACCOMODATION - LOCAL	73,323	0.12%
	CAR RENTAL	3,783	0.01%

BUDGET ITEM	ACTIVITY	PROPOSED 2019/2020 BUDGET	PERCENTAGE
<b>ADMIN EXPENSES</b>	SUBSISTENCE ALLOWANCE - LOCAL	23,956	0.04%
	PARKING	117,652	0.19%
	BANK CHARGES	30,516	0.05%
	FINANCE CHARGES	25,375	0.04%
	DELIVERY CHARGES	1,863	0.00%
	OTHER HEARING COSTS	35,960	0.06%
	REFRESHMENTS	144,463	0.23%
	ENTERTAINMENT	7,200	0.01%
	OFFICE CONSUMABLES	44,663	0.07%
	MOVE EXPENSES	0	0.00%
	PRINTING	74,480	0.12%
	STATIONERY	76,199	0.12%
	PAPER PURCHASES	55,440	0.09%
	TECHINICAL/SOFTWARE CONSULTING	251,237	0.41%
	ADVERTISING BROCHURES & PAMPHLETS	251,235	0.41%
	GOVERNMENT GAZETTE	35,039	0.06%
	PUBLIC RELATIONS	0	0.00%
	NEWSPAPER AND MAGAZINE SUBSCRIPTION	13,864	0.02%
	BOOKS AND PUBLICATIONS	25,162	0.04%
	COURIER SERVICES	10,705	0.02%
	POSTAGE AND STAMPS	2,006	0.00%
	TELEPHONES/TELEFAXES	38,114	0.06%
	CELL PHONES	0	0.00%
	WELLNESS/FIRST AID	27,900	0.05%
	GIFTS AND FLOWERS	5,434	0.01%
	GENERAL HOUSEKEEPING	13,470	0.02%
	CLEANING MATERIALS	11,414	0.02%
	OFFSITE STORAGE	64,198	0.10%
	MISCELLANOUS EQUIPMENT	10,790	0.02%
	LOOSE TOOLS	8,917	0.01%
	LOSS ON DISPOSAL	0	0.00%
	INSURANCE	103,111	0.17%
<b>OTHER IT EXPENSES</b>	LEASE- PHOTOCOPIER	160,511	0.26%
	COMPUTER SOFTWARE	747,703	1.21%
	R&M COMPUTERS	746,985	1.21%
	ONGOING SUPPORT FOR CMS	155,881	0.25%
	INTERNET SERVICES	203,003	0.33%
	EMAIL ARCHIVING	76,004	0.12%
	WEBSITE CONSULTING	105,600	0.17%
	WEBSITE SERVICE PROVIDER	226,161	0.37%
<b>REPAIRS/MAINTENANCE</b>	FUEL, R&M MOTOR VECHILES	29,815	0.05%
	OTHER MAINTENANCE	3,000	0.00%
<b>DEPRECIATION</b>	DEPRECIATION	861,199	1.40%
	AMORTISATION	416,972	0.68%
<b>CAPITAL EXPENDITURE</b>	COMPUTER EQUIPMENT - COST	640,472	1.04%
	INTANGIBLE ASSETS	655,540	1.06%
	FURNITURE AND FITTINGS - COST	233,805	0.38%
	MOTOR VECHILE - COST	350,000	0.57%
	OFFICE EQUIPMENT	26,844	0.04%
<b>TOTAL</b>		<b>60,929,315</b>	<b>98.82%</b>
<b>APPEAL COURT</b>		<b>726,757</b>	<b>1.18%</b>
<b>TOTAL EXPENDITURE</b>		<b>61,656,072</b>	<b>100.00%</b>
<b>SURPLUS/ (DEFICIT)</b>		<b>-</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	Target								
			Audited actual Performance			Estimated Performance <sup>6</sup>	Medium Term Targets				
			2015/2016	2016/2017	2017/2018		2019/2020	2020/2021	2021/2022		
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  % 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 record <sup>8</sup>	76%	87%	71.90%	75%	80% <sup>7</sup>	80%	80%	70%	70%

<sup>6</sup> Estimated figures will be inputted in the February submission – too early to predict

<sup>7</sup> The target for large merger set down was increased by 5% in the 2018/2019 APP based on three-year average actual performance of 81%. While the baseline has reduced to 78.38% the target will not be adjusted

<sup>8</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>9</sup> The target for intermediate merger set down was decreased by 5% in the 2018/2019 APP based on three-year average actual performance of 66%. The revised baseline is 64.67% and no adjustments will be made to the target

	Target						
	Audited actual Performance			Estimated Performance <sup>6</sup>	Medium Term Targets		
	2015/2016	2016/2017	2017/2018	2018/2019	2019/2020	2020/2021	2021/2022
ger o 10 of last	100%	99%	100%	95%	95%	95%	95%
ger l to 20 of the was	87%	79%	90.91%	75%	80% <sup>11</sup>	80%	80%
ate zer orders as ress aring	100%	67%	75%	75%	80% <sup>13</sup>	80%	80%
ate zer to 20 of the	60%	0%	100%	50%	60%	60%	60%

“hearing day” can refer to any one of the following: actual hearing, telephonic hearing, paper hearing (date on which / referred to as “last submission date”).  
 as was increased by 5% in the 2018/2019 APP based on three-year average actual performance of 89%. The target is not set

	Target						
	Audited actual Performance		Estimated Performance <sup>6</sup>	Medium Term Targets			
	2015/2016	2016/2017	2017/2018	2018/2019	2019/2020	2020/2021	2021/2022
was							
ctices to rdance rry r or C ng	A-15 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- 100 business days – 50% B – 125 business days – 100% C – 150 business days – No reasons issued	75% - A  B- 100%  C- 75%	A – 100% within 100 business days B – 100% with 125 business days C – 100% within 150 business days	A – 100% within 100 business days B – 100% with 125 business days C – 100% within 150 business days	A – 100% within 100 business days B – 100% with 125 business days C – 100% within 150 business days
al ars as siness E	73%	26%	56%	90%	85%	85%	85%
and ied to 10	96%	100%	84.62%	97%	95% <sup>20</sup>	95%	95%

ints from the commission, the complainant and the High Court  
tter and C to Very Complex matter  
plications



	Target						
	Audited actual Performance			Estimated Performance <sup>6</sup>	Medium Term Targets		
	2015/2016	2016/2017	2017/2018		2019/2020	2020/2021	2021/2022
of the te <sup>19</sup>							
ilief to 20 of last	No reasons issued	0%	No reasons issued	100%	100%	100%	100%
o be	New target in 2017/2018		Updates were possible and as a result no feasibility study was undertaken. Final update being tested and then able to determine what enhancement is required and can be implemented.	Upgrade implemented to ensure further sustainability of the system.	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
ny	New target in 2018/2019			Enhancements identified and implemented	Report progress against minor enhancements and scopes of work (SOW) approved	Report progress against minor enhancements and scopes of work (SOW) approved	Plan and/or implement enhancements approved by ITSC
ped ted ining itive	New target in 2017/2018		An informal as opposed to formal agreed plan for electronic reporting was agreed. Creation of reports reduces the		Implement enhancements/new models based on agreed plan d	Implement enhancements/new models based on agreed plan and	Implement enhancements/new models based on agreed plan and

Strategic objective statements	Outcome	KPI	Target					
			Audited actual Performance		Estimated Performance <sup>5</sup>	Medium Term Targets		
			2015/2016	2016/2017		2017/2018	2019/2020	2020/2021
				are implemented as we progress, and new reports are being tested.		determine further enhancements or new models	determine further enhancements or new models	determine further enhancements or new models

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

Strategic objective statements	Outcome	KPI	Target						
			Audited actual Performance			Estimated Performance			
			2015/2016	2016/2017	2017/2018	2018/2019	2019/2020	2020/2021	2021/2022
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			E-newsletter distribution properly embedded	Once newsletter implemented and placed on website this target will be removed or revised		
		Communication framework reviewed annually	New annual target in 2017/2018	Framework was reviewed and changes but still need to be implemented and the revised framework still to be approved.	Framework reviewed and approved as required	Annually review framework	Annually review framework	Annually review framework	
2.2 Ensure communication pertaining to Tribunal's adjudicative process is issued to the	Timely and compliant communication of adjudication outcomes	Quarterly communication report on strategy and media coverage presented to	New annual target in 2017/2018	Communication strategy and media coverage reported quarterly	Quarterly reports presented that provide analysis of strategy and coverage	Report quarterly on communication strategy and media coverage	Report quarterly on communication strategy and media coverage	Report quarterly on communication strategy and media coverage	
		% of press releases of final merger decisions communicated within 2 business days	92%	99%	100%	95%	95% <sup>22</sup>	95%	95%

<sup>22</sup> The target for the issuing of press releases with regard to final merger decisions was increased by 20% in the 2018/2019 APP as we 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. The revised baseline is 97.18% and no adjustments have been made to the target

Strategic objective statements	Outcome	KPI	Target									
			Audited actual Performance			Estimated Performance	Medium Term Targets					
			2015/2016	2016/2017	2017/2018	2018/2019	2019/2020	2020/2021	2021/2022			
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	100%	80%	60%	90%	90% <sup>23</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	Plan delayed due to late appointment of communications officer	No survey scheduled for these years	No survey scheduled for these years	Survey developed to be implemented in next financial year				No survey scheduled for these years		

<sup>23</sup> The target for the issuing of press releases for final decisions in prohibited practices cases was reduced by 10% in the 2018/2019 APP. 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. The current baseline is 80% and while below the target has not been adjusted.

**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	Target								
			Audited actual Performance		Estimated Performance	Medium Term Targets					
			2015/2016	2016/2017		2017/2018	2018/2019	2019/2020	2020/2021	2021/2022	
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	Final report not qualified but irregular expenditure disclosed.	Final report no issues of non-compliance raised	Unqualified audit achieved for 2016/2017 - no issues of governance raised	Unqualified audit	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	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 lack of oversight, leadership or governance raised	Unqualified audit achieved for 2016/2017 - no issues of governance raised	Unqualified audit opinion with no findings pertaining to governance, wasteful expenditure	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	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 no findings of wasteful/authorised expenditure	Unqualified audit achieved for 2016/2017 - no findings of wasteful expenditure	Unqualified audit opinion – no findings of wasteful/authorised expenditure	Unqualified audit opinion – no findings of wasteful/authorised expenditure	Unqualified audit opinion – no findings of wasteful/authorised expenditure	Unqualified audit opinion – no findings of wasteful/authorised expenditure	Unqualified audit opinion – no findings of wasteful/authorised expenditure	Unqualified audit opinion – no findings of wasteful/authorised expenditure

Strategic objective statements	Outcome	KPI	Target							
			Audited actual Performance			Estimated Performance	Medium Term Targets			
			2015/2016	2016/2017	2017/2018	2018/2019	2019/2020	2020/2021	2021/2022	
3.4 Ensure a sound control environment and monitor and maintain compliance and ensure that all reporting requirements are met	Compliance to requirements as an accountable, transparent Institution	Submission against annual deadline and no material misstatements for May submission	New annual target in 2015/2016	No material misstatements on May submission	No material misstatements in May submission	No material misstatements identified	No material misstatements on May submission	No material misstatements on May submission	No material misstatements on May submission	No material misstatements on May submission
	Integrated risk management processes and combined assurance	Achieve an unqualified audit outcome year on year	AR submitted within required timeframes	May date met- July date met	Annual reporting submission dates for May and July met	Annual reporting submission dates met	Submission dates met	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
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	Final report - no risk management issues raised		Unqualified audit achieved for 2016/2017 - no issues of risk management raised	Unqualified audit no findings pertaining to risk management	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
			New annual target in 2015/2016		2 LT interns appointed for the period 1st January 2017 to 31st December 2017	At least 2 LT interns appointed and vacation interns during June vacation	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 2019/2020**

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

Strategic objective statements	Outcome	KPI	Base Line <sup>24</sup>	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	78.38%	80%	80%	80%	80%	80%	R29 908 133.44
		% 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 record <sup>25</sup>	64.67%	70%	70%	70%	70%	70%	
1.2 Improvement in the Issuing of judgments/decisions in line with adopted timeframes	Expeditious Conclusion of matters	% of large merger orders issued to parties within 10 business days of last hearing date <sup>26</sup>	99.67%	95%	95%	95%	95%	95%	

<sup>24</sup> Baseline calculated using average of targets achieved over prior 3 years

<sup>25</sup> Refer to footnote 8

<sup>26</sup> Refer to footnote 10

KPI	Base Line <sup>24</sup>	Annual	Target				Budget
			Q 1	Q 2	Q 3	Q 4	
% of large merger reasons issued to parties within 20 business days of the date the order was issued on	85.54%	80%	80%	80%	80%	80%	
% of intermediate and small merger consideration orders issued to parties within 10 business days of last hearing date <sup>27</sup>	80.56%	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	53.33%	60%	60%	60%	60%	60%	



KPI	Base Line <sup>24</sup>	Annual	Target				Budget
			Q.1	Q.2	Q.3	Q.4	
Reasons for prohibited practices cases <sup>28</sup> issued to parties in accordance with the delivery timeframes per category: A, B or C from last hearing date	A <sup>29</sup> - 50% within 100 business days B – 83.33% within 125 business days C – 75% within 150 business days	A – 100% within 100 business days B – 100% within 125 business days C – 100% within 150 business days	A – 100% within 100 business days B – 100% within 125 business days C – 100% within 150 business days	A – 100% within 100 business days B – 100% within 125 business days C – 100% within 150 business days	A – 100% within 100 business days B – 100% within 125 business days C – 100% within 150 business days		
% of procedural matter <sup>31</sup> orders issued to parties within 45 business days of last hearing date <sup>32</sup>	No baseline as the turnaround time was adjusted to 45 business days from 20 days in the 2018/2019 APP	85%	85%	85%	85%	85%	

Strategic objective statements	Outcome	KPI	Base Line <sup>24</sup>	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 functionality of business applications		% of orders for consent order and settlement agreements issued to parties within 10 business days of last hearing date <sup>33</sup>	93.54%	95%	95%	95%	95%	95%	
		% of interim relief reasons issued to parties within 20 business days of last hearing date <sup>34</sup>	0% <sup>35</sup>	90%	90%	90%	90%	90%	
	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	Annual target but progress to be reported quarterly in IT report				R 3 215 385.52
		Review CMS to determine if any additional enhancements required	No baseline applicable	Plan for enhancements minor or major approved	Annual target but progress to be reported quarterly in IT report				
		Models developed and implemented that generate statistics pertaining to the adjudicative process	No baseline applicable	Assess models for enhancements and determine if any new models need to be implemented	Annual target but progress to be reported quarterly in IT report				

<sup>33</sup> Refer to footnote 10

<sup>34</sup> Refer to footnote 10

<sup>35</sup> In the past 3 years reasons were only issued in one matter and this was out of time

**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 1223 400.24			
					Communication framework reviewed annually and quarterly communication report on strategy and media coverage presented to EXCO	No baseline applicable	Annually review framework and report quarterly on communication strategy and media coverage	75%		95%	95%	95%
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	Stakeholder satisfaction survey results	Adjudicative process - 90% stakeholder satisfaction	No target set for this period								
2.3 Identify and address stakeholder needs and expectations in order to meet or exceed requirements	Level of stakeholder satisfaction											

**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	Annual	Target				Budget	
					Q1	Q2	Q3	Q4		
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	Clean audit achieved in 2017/2018	Unqualified audit – no issues of governance raised	-	Unqualified audit – no issues of governance raised	-	-	-	R 3 758 983.09
3.2 Maintain effective oversight structures that promote solid business practice	Sound Business Practice	Achieve an unqualified audit outcome year on year	Clean audit achieved in 2017/2018	Unqualified audit – no issues of governance raised	-	Unqualified audit – no issues of 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	Clean audit achieved in 2017/2018	Unqualified audit-no findings of fruitless /wasteful expenditure	-	Unqualified audit – no findings of fruitless/ wasteful expenditure	-	-	-	R 3 079 293.86
3.4 Ensure a sound control environment and monitor and maintain compliance and ensure that all reporting requirements are met	Compliance to requirements as an accountable, transparent institution	No material misstatements for May submission	No prior findings of material misstatements	No material misstatement on May submission	-	No material Misstatements on May submission	-	-	-	
		Submission against annual deadline	No prior non-compliance with reporting deadlines	Annual reporting submission dates met May and July		Annual reporting submission dates met May and July				

Strategic Objective Statement	Outcome	KPI	Base Line	Annual	Target				Budget
					Q1	Q2	Q3	Q4	
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	Clean audit achieved in 2017/2018	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 3 677 360.98

## 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 2020 is R 645 685.20	
<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) <b>any material losses</b> 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><b>1. Losses through criminal conduct –any loss identified.</b></p> <p><b>2. Losses through irregular / fruitless / wasteful expenditure.</b></p>	Any identified loss through criminal conduct.

PFMA Section	Quantitative [Amount]	Qualitative [Nature]
<p><b>S54</b></p> <p><b>Information to be submitted by accounting authorities (PFMA section 54)</b></p> <p>(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:</p> <p>(a) establishment or participation in the establishment of a company;</p> <p>(b) participation in a <b>significant</b> partnership, trust, unincorporated joint venture or similar arrangement;</p> <p>(c) acquisition or disposal of a <b>significant</b> shareholding in a company;</p> <p>(d) acquisition or disposal of a <b>significant</b> asset;</p> <p>(e) commencement or cessation of a <b>significant</b> business activity; and</p> <p>(f) a significant change in the nature or extent of its interest in a significant partnership, trust, unincorporated joint venture or similar arrangement.</p>	<p>Not applicable</p> <p>Not applicable</p> <p>Not applicable</p> <p>Not applicable</p> <p>Not applicable</p> <p>Not applicable</p>	<p>Not Applicable</p> <p>Not applicable</p> <p>Not applicable</p> <p>Any asset that would increase/decrease overall operational functions of the Tribunal, outside of the approved strategic plan and budget</p> <p>Not applicable</p> <p>Not applicable</p>

#### 4 Authorisation

This framework was adopted by the Tribunal in September 2017

##### Determination of Materiality

	% max	2017/2018 (audited)	1%
<b>Materiality bases</b>			
Gross Revenue (excl. EDD grant)	1	R17 104 058.64	R 171 040.59
Total expenses	1	R47 464 461.45	R 474 644.61
<b>Materiality figure</b>			<b>R 645 685.20</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: Impact of changes in Act on adjudicative costs

### EXPECTED CHANGES IN ADJUDICATIVE COSTS EXPECTED AS A RESULT OF CHANGES IN THE ACT

#### ADJUDICATIVE COSTS REFLECTED IN ENE SUBMITTED IN JULY 2018

	2019/2020	2020/2021	2021/2022
Legal fees	150,000.00	158,250.00	166,953.75
Travel	128,885.68	135,716.62	143,181.04
Transcription and recording costs	1,710,816.21	1,804,911.10	1,904,181.21
Administrative costs (printing/stationary/offsite storage/communication etc)	410,398.34	432,149.46	455,917.68
PT members (salary)	4,425,189.60	4,602,197.18	4,786,285.07
PT members CC	79,757.26	82,947.55	86,265.46
FT members	12,116,021.30	12,600,662.15	13,104,688.64
Adjudicative salaries and CC	9,321,390.44	9,908,638.04	10,532,882.24
<b>ADJUDICATIVE COSTS REFLECTED IN 2019/2020 BUDGET AND APP</b>			
Legal fees	150,000.00	165,000.00	181,500.00
Travel	132,498.67	145,748.53	160,323.39
Transcription and recording costs	1,710,816.21	1,881,897.83	2,070,087.61
Administrative costs (printing/stationary/offsite storage/communication etc)	310,845.24	341,929.77	376,122.75
PT members (salary)	4,425,189.60	4,867,708.56	5,354,479.42
PT members CC	79,757.26	87,732.99	96,506.29
FT members	12,970,299.57	14,436,186.95	15,013,634.43
Adjudicative salaries and CC	10,128,726.89	11,209,571.40	11,915,774.40
<b>NET CHANGE IN COSTS AND BUDGET</b>			
Legal fees	0.00	6,750.00	14,546.25
Travel	3,612.98	10,031.91	17,142.35
Transcription and recording costs	0.00	76,986.73	165,906.40
Administrative costs (printing/stationary/offsite storage/communication etc)	-99,553.10	-90,219.69	-79,794.93
PT members (salary)	0.00	265,511.38	568,194.34
PT members CC	0.00	4,785.44	10,240.83
FT members	854,278.26	1,835,524.80	1,908,945.79 See note below
Adjudicative salaries and CC	807,336.45	1,300,933.36	1,382,892.16 See note below
<b>TOTAL CHANGE IN COSTS</b>	<b>1,565,674.60</b>	<b>3,410,303.92</b>	<b>3,988,073.20</b>
FT members	854,278.26	1,835,524.80	1,908,945.79
Case Managers	702,222.81	1,189,197.56	1,264,117.01
Registry	105,113.64	111,735.80	118,775.15
PT members	0.00	270,296.81	578,435.18
Administrative costs	-95,940.11	3,548.95	117,800.07
<b>TOTAL CHANGE IN COSTS</b>			<b>8,964,051.72</b>

8 months extra capacity in 2019/2020 then 12 months thereafter  
2018/2019 and therefore impact 2019/2020 budget  
CM - 6 months additional capacity in 2019/2020 then 12 months thereafter  
Anticipated 5% adjustment of certain staff in 2018/2019 to impact in next 3 years  
10% adjustment year on year to take account of expected increase in hearing days by 10% because of expected volume increase)  
Some reallocation in 2019/2020 therefore decrease reflected



## **Annexure I: Technical Indicator Descriptions**

(The full annexure starts on page 42 and is attached as a separate document)

**SUBMITTED AS A SEPARATE DOCUMENT**