



*competition*tribunal  
*south africa*

# **Competition Tribunal Annual Performance Plan**

For the Fiscal Year

2014 – 2015

Date: 10 March 2014

## Foreword

The Competition Tribunal plays an important role as one of the institutions responsible for implementing an effective competition policy. Its role is derived from the objectives of the Competition Act and given effect in the analysis and decision making of the adjudicative panels which assess merger transactions, allegations of restrictive practices, and abuse of dominance by companies and exemption applications.

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

Information and accessibility are key features in delivering effective competition regulation to the South African public and for this reason the Competition Tribunal has included stakeholder awareness as a priority in its strategy for the coming five years. The Tribunal will continue to improve stakeholder awareness and educate stakeholders through press releases, social media interaction, a regular newsletter and the maintenance of its website.

Finally, 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.



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 2014 – 2015 was:

- i) Developed by the management of the Competition Tribunal under the guidance of Mr. Norman Manoim (the accounting authority).
- ii) Prepared in line with the Competition Tribunal's Strategic Plan for the five year period 2013/2014 – 2017/2018 tabled in March 2012.
- iii) Accurately reflects the performance targets the Competition Tribunal will endeavour to achieve over the period 2014 – 2015.

Janeen de Klerk  
Chief Operations Officer – Competition Tribunal

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

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

Norman Manoim  
Chairperson – Competition Tribunal

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

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

Approved by:

Ebrahim Patel

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

Minister of Economic Development

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

**COMPETITION TRIBUNAL  
ANNUAL PERFORMANCE PLAN  
1 APRIL 2014 – 31 MARCH 2015**

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# COMPETITION TRIBUNAL ANNUAL PERFORMANCE PLAN 1 APRIL 2014 – 31 MARCH 2015

## Part A: Strategic Overview

### 1. Updated situational analysis

#### 1.1. What the Tribunal offers and for whom?

The core activity of the Competition Tribunal, as defined in the Competition Act, is the adjudication of mergers and prohibited practice cases. The Tribunal is expected to expeditiously decide cases and is committed to making high quality decisions based on criteria stipulated in the Act.

Tribunal hearings are public and written reasons provided for all decisions and orders of the Tribunal. The members are supported in their decision making by the Tribunal secretariat that provides efficient and effective administrative, research and organisational assistance.

Upon a matter being referred to it the Tribunal may:

- authorise a merger, with or without conditions, or prohibit a merger.
- adjudicate in relation to any conduct prohibited in terms of the Act by determining whether prohibited conduct has occurred, and if so, impose a remedy provided for in the Act.
- grant an exemption from a relevant provision of the Act.
- grant an order for costs.

External stakeholders of the Tribunal may be categorised as follows:

- those with whom the Tribunal has direct contact in the course of fulfilling its functions.
- those with whom the Tribunal may not have direct contact but may be affected by its decisions.
- sector specific regulators (e.g. ICASA, NERSA) who enjoy concurrent jurisdiction.
- those to whom the Tribunal is accountable.

- those who act as reputational agents in providing policy and peer feedback.

The Tribunal works through Tribunal processes, which facilitate the analysis of the impact of competition matters on the South African economy. Decisions are formulated within specified time frames and these decisions are equivalent to judgments in the High Court and may be taken on appeal to the Competition Appeal Court or its offices.

## **1.2. Performance delivery environment**

The Competition Tribunal's 2014/2015 is aligned with the Tribunal's 5 year Strategic Plan (2013/2014 – 2017/2018), and remains unchanged since it was originally tabled in March 2012.

In addition the Tribunal in association with the Economic Development Department (EDD) has developed an operational performance dashboard to track the performance of the Tribunal.

This operational performance dashboard is aligned to both the Tribunal's Strategic Plan as well as the Annual Performance Plan.

The template used for the operational performance dashboard is attached as **APPENDIX A** in the APP.

In addition, in order to further enhance the operational effectiveness of the Competition Tribunal, we will continue to focus on the operational priorities detailed below.

### **a. Continuous development and enhancement of the case document management software system**

The Tribunal's electronic case management system (CMS) was officially launched in February 2013 and is now fully operational within the institution, after three years of development.

The implementation of this system has contributed to organisational efficiency as it:

- i) Allows the Tribunal to electronically manage all processes related the case function
- ii) Case documents are stored in such a manner that easy retrieval and safe storage is facilitated
- iii) Provides management with timeous and accurate information relating to the Tribunal's performance as well as costs associated with the Tribunal's core mandate

During 2014/2015 the Tribunal will focus on the following:

- i) A verification process to ensure that all data and documents inputted and stored within the system mirrors the hard copies on file and data collected within the Tribunal thus providing assurance that the system can generate accurate and reliable data
- ii) Enhancing the reporting system so as to provide management with statistics on different aspects of the Tribunal's performance and operations that may not necessarily have been identified as performance targets
- iii) Embark on a project plan for Phase 2 of this software development that will further increase the functionality and performance of the CMS.

The 2014/2015 budget therefore includes an additional R 850 000.00 for CMS development. In addition during Phase 1 of this development no budget was provided for amortization on this intangible asset as we were in the "development phase". With the launch and implementation of Phase 1 we have provided approximately R 580 000.00 for the amortization budget.

#### **b. Capacity building**

Since its inception in 1999 the Tribunal has seen substantial growth in its budget and core function (adjudication). However the administrative and registry staff complement has remained stagnant and this has led to certain inadequacies in our administrative infrastructure. The situation has been exacerbated by other factors (external and internal to our organisation).

In brief these relate to:

- increasing governance and compliance demands placed on the public sector by regulation
- improvements in our internal IT systems to keep pace with growth in volume of work, number of people and the introduction of the electronic case management system referred to earlier while improving our efficiency have implied staffing consequences.
- By way of example: in our earlier history we were largely a paper based organisation so a registry clerk was someone who stamped papers that were served in hard copies. In our new world of electronic case management a registry clerk has to be someone with IT skills capable of working with a software program that runs this system. The skills required of the former are not suitable for the current position.

- administrative demands have not been compensated for by an increase in staff capacity and this has led to serious deficiencies in the organisation. Staff were being overburdened or were performing functions that were a mismatch to their core skills. This aspect or what our consultants euphemistically refer to as “add-ons” – where employees perform a range of functions not part of their core job definition, are a characteristic of several administrative functions at present and lead to inefficiencies.

These factors led the Tribunal to embark on the exercise in 2012/2013 to re-design our structure to address these inefficiencies. The revised structure is reflected in the organogram attached as **APPENDIX B**.

During 2013/2014 the Tribunal began implementing the key recommendations arising out of this study which include the following:

- i) **The creation of a chief operations officer position:** until now the head of corporate services has de facto been performing this function. The position of head of corporate services will remain, but the position will be a less senior one and that person’s responsibility will be to coordinate the activities of the corporate services department thus facilitating greater efficiencies and role separation.
- ii) **The recruitment of procurement officer:** responsible for all functions pertaining to supply chain management and procurement in the Tribunal including purchasing management, the maintenance of the Tribunal supplier database and ensuring the Tribunal is compliant with SCM legislation
- iii) **The creation of a human resources and facilities management and support role within the Tribunal:** To date these functions have been performed by the Head of Corporate Services, the Financial Administrator and the IT administrator.
- iv) **The recruitment of a document and knowledge manager:** Their prime function will be to ensure the integrity of the data and documentation pertaining to the CMS recently developed in the Tribunal. This role would include the verification of actual performance against predetermined targets thus provide assurance on the accuracy of the Tribunal’s performance reporting In addition they would be responsible for ensuring that the Tribunal manages its records so as to be compliant with the National Archives Act and that as a court of record its document management is compliant with best practice document management.



- v) **The inclusion of the previous outsourced public relations function as a position on the Tribunal's organogram:** The incumbent will be responsible for maintaining and enhancing the profile and relevance of the Tribunal. They will perform the function of media liaison during the adjudicative process and will also support the Tribunal with organisational communication strategies and outputs such as the Annual Report, customer surveys and internal publications.

Understandably the management and implementation of these changes and the introduction of new ways of working will provide the Tribunal with new challenges. The implementation of these recommendations will need to be closely monitored to ensure the required efficiencies are achieved.

The 2014/2015 budget provides for the costs associated with a full complement of staff as well as the use of outside resources to facilitate some of the changes required

### **c) Internships**

Given its size the Tribunal has limited opportunity to develop a substantial learnership/internship programme nevertheless we will continue to focus on the manner in which we can provide assistance to students interested in competition law or students looking for exposure to work in the public sector.

The initiatives we have embarked on or wish to give consideration to include:

- i) A partnership with the University of Pretoria's law department whereby a six week internship is offered to one of their law student. The student works with the research department assisting with research on cases heard by the Tribunal. In the 2014/2015 financial year we hope to provide internships for two students.
- ii) Vacation internships to students studying at various Universities or Technikons in South Africa. This programme is not limited to merely providing the students with work related to day to day tasks, but includes attendance at seminars dealing with a wide range of topics, assisting with the drafting of policies and career related workshops.
- iii) The establishment of an internship for a postgraduate economics student

In addition we will consider the feasibility of:

- i) developing an Information Technology internship within the Corporate Services department – thus providing a student with practical experience while simultaneously providing technical assistance to the IT administrator

- ii) the Tribunal offering a graduate trainee programme within the Research department.

#### **d) Improved service to our stakeholders**

In 2012/2013 the Tribunal embarked on its first stakeholder survey. The aim of which was to:

- Determine how the Tribunal is perceived
- Ascertain the extent to which we are or are not meeting our stakeholders needs
- Improve our performance in selected areas in which we interact with stakeholders

The results of the survey revealed that our stakeholders expect a higher level of performance from the Tribunal as opposed to other government departments. While the overall performance rating was good (75%) certain areas requiring improvement were identified.

During 2014/2015 the Tribunal will interrogate the survey results further so as to identify priority areas for improvement and then develop a plan to address these issues.

### **1.3 Organisational Environment**

#### **a. Tribunal members**

In terms of the Competition Act the Tribunal must consist of not less than three nor more than eleven members.

Four new Tribunal members were appointed during the current calendar year, three in January 2013 and one in September 2013. While the Tribunal now has its full complement of Tribunal members the position of Deputy Chairperson remains vacant and we are liaising with the EDD with regard to filling this position.

Given this full complement there no longer exists a need to appoint an additional full-time member and the costs associated with this position have been removed from the budget. The budget now provides for 3 full-time Tribunal members as opposed to 4. The shortage of Tribunal members in the previous two financial years has been addressed.

The term of office of 7 Tribunal members, including that of the Chairperson and 2 full-time members expire in July 2014.

The Tribunal is interacting with the department to ensure that the required appointments are made timeously thus ensuring the Tribunal's ability to continue to operate in terms of its mandate.

#### **b. Tribunal secretariat**

Earlier in this document we referred to the institutional changes being implemented as a result of the organisational assessment conducted in the Tribunal 2012/2013.

The organisations organogram is attached as **APPENDIX B**.

While it appears as if the Tribunal has increased its staff complement by 7 from 18 to 25, it must be pointed out that only 4 of these positions are completely new (these being the COO, Procurement Officer, HR Officer, Document and Knowledge Manager).

The remaining three positions were previously being performed by consultants or learners, but are being converted to full time positions (Communications Officer, Facilities support and kitchen support).

#### **c. Office space**

Office space continues to be a challenge for the Tribunal particularly given the growth of the organisation.

The current office space is insufficient to meet the Tribunal's needs. The Department has been advised of this and they are currently considering a solution to address this issue.

Whether the solution proposed involves a partial relocation on the campus or a move to another building off the campus there will be cost implications but as no decision has been communicated we have NOT included an estimate in the 2014/2015 budget submitted herein. The budget would need to be revisited once we have received clarification from the Department with regard to the way forward.

It is likely that the costs associated with relocation or a move off the campus will be such that the Tribunal will need to request additional funding from the Department and/or National Treasury.

## **2. Revisions to legislative mandate**

There are no proposed revisions to the Tribunal's legislative mandate.

### 3. Overview of 2014-2015 budget and MTEF estimates

#### 3.1 MTEF estimates

The Tribunal submitted its MTEF estimates in June 2013 and December 2013. These estimates (exclusive of capital expenditure) which are published in the ENE narrative are reflected in **APPENDIX C**.

In summary and as reflected in **APPENDIX C**, the Tribunal's budget (inclusive of capital expenditure) over the next 3 years MTEF period (2014/2015 – 2016/2017) is estimated to be R 115.25 m. EDD has committed funding for these three years totalling R 57.32 m and we anticipate additional filing fee revenue of R 34.37 m (assuming continued merger activity).

Based on these figures we are currently looking at a minimum shortfall of R 24.82 m. The Tribunal reflects the drawing down of accumulated cash surpluses (as at March 2013) of approximately R 24.82 m to cover this shortfall and the predicted shortfall for 2013/2014. This "drawing down" of surpluses has been communicated to National Treasury and the EDD.

Despite these surpluses it is evident from the table on the next page that if these accumulated surpluses are expended as predicted the Competition Tribunal will require larger grants from the EDD from 2017/2018 going forward.

The table on the next page reflects the requirements of the Tribunal over the next 5 years (inclusive of the current financial year. The indicative budget for 2015/2016 to 2017/2018 is drawn based on the CPI and cost of living adjustments (COLA) as recommended by National Treasury (CPI 5.4% and COLA 6.4% in 2015/2016 and CPI and COLA both 5.3% in 2016/2017). We have applied a CPI and COLA of 5.3% for 2017/2018.

Year	Total budget requirement	Expected MTEF allocation	Expected filing fees from Commission	Expected interest	Use of accumulated surplus	Additional funding requirements
	(in R'm)	(in R'm)	(in R'm)	(in R'm)	(in R'm)	(in R'm)
2013/2014 <i>(estimates for year-end)</i>	32.00	16.95	9.61	1.25	4.19	0
2014/2015	36.63	18.10	9.88	1.17	7.48	0
2015/2016	38.56	19.10	10.62	0.88	7.96	0
2016/2017	40.06	20.12	13.87	0.88	5.19	0
2017/2018	42.12	0	11.52	0.30	0	30.30
2018/2019	44.34	0	11.52	0.30	0	32.82

The amounts highlighted in yellow indicate the required allocation for 2017/2018 and 2018/2019.

### 3.2 Expenditure Estimates

A detailed one-year budget for the 2014/2015-year is included in **APPENDIX D**.

As stated in the Strategic Plan 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. In addition the Tribunal makes a large provision for legal fees, as it is possible that particular cases may require the Tribunal to seek legal opinion.

Both these factors mean that variances in actual expenditure as opposed to budgeted expenditure do arise.

The major assumptions made in drafting the Tribunal's annual budget include:

- i) The appointment of staff in line with the outcomes of the Tribunal's organisational assessment completed in 2012/2013
- ii) 6.4 % cost of living increase for the Tribunal secretariat
- iii) 6.4 % cost of living increase for the full-time Tribunal members
- iv) 323 days spent in hearings, preparation and decision writing by part-time Tribunal members for the year

- v) The daily fee payable to part-time Tribunal members for attendance at hearings / preparation and decision writing is estimated to be R 7 500.00 per day
- vi) All other costs associated with the holding of hearings are based on the estimate in (iii) above
- vii) 7 international conferences/workshops to be attended by 12 Tribunal members and research staff
- viii) Air ticket prices are based on quotes received off the South African Airways website for the expected period of travel in 2014/2015
- ix) Attendance by full-time Tribunal members at 3 OECD meetings
- x) Attendance by 3 executive members at 3 portfolio committee meetings.

The table below illustrates the Tribunal's budget allocation across the various expenditure categories.

<b>Expenditure Category</b>	<b>2013-2014 (budget)</b>	<b>2014-2015 (budget)</b>
	%	%
Capital	7.06	10.53
Administration	6.17	3.60
Personnel	61.70	62.43
Recruitment	0.25	0.30
Training	4.70	4.46
Professional Services	18.06	17.19
Appeal court	2.06	1.49
<b>Total</b>	<b>100</b>	<b>100</b>

62.43 % of the Tribunal's current budget will be spent on personnel expenses.

In the Tribunal's budget the line item "Professional services" which represents 17.19% of the budget includes payments to the Commission for shared services (in terms of a MOU), hearing transcription services, legal fees, payments to the dti for costs associated with occupation on the campus, costs associated with audits (internal, external audit fees and audit committee expenses) and media and finance related consulting services.

Payments to the Commission and the dti account for 8.88 % and 33.58 % of this line item (professional services) respectively, while audit expenses account for 25.32%.

Administrative expenses account for 3.60% of the budgeted expenditure.

Expenditure on facilities and capital accounts for 10.53% of the budget. 11.69% of this expenditure is on new furniture and equipment, 22.03% is on Phase 2 development of our CMS equipment while another 30.34% relates to depreciation expenses.

As indicated earlier the Tribunal will enter into the second phase of development associated with the recently implemented electronically based case document management system.

The Tribunal, in drawing the budget, has attempted to rationalise spending as far as possible, given the limited scope our activities provide for cost cutting exercises. We have kept the number of overseas trips undertaken by Tribunal members and staff to a maximum of 12 per annum and in addition have budgeted all local travel at economy class as opposed to business class tickets.

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 2014/2015 financial year this is estimated at R 9.88 m.

These fees, together with the MTEF allocation of R 18.10 m for the 2014/2015 financial year, are not sufficient funding to cover the Tribunal's expected expenditure of R 36.63 m (inclusive of capital expenditure). For this reason, the Tribunal will continue to use accumulated surpluses (the drawing down of these surpluses is reflected in the MTEF submitted to Treasury) to cover the budgeted shortfall of R 7.48 m.

### **3.3 Relating expenditure trends 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 our budget is primarily an operational/administrative budget.

It is therefore difficult to allocate the budget across the 3 following strategic outcomes identified in the Tribunal's strategic plan:

- Promote and maintain competition within South Africa through the implementation of the Act
- Educate and create awareness of competition matters to the Tribunal's stakeholders
- Strengthen the Tribunal's organisational capability and performance to deliver on its legislative mandate

We are however able to determine the direct costs associated with our core business – hearings and where possible have been allocated to the performance targets identified in **APPENDIX F** in the APP.

The Tribunal will on a quarterly basis report on these targets and associated costs to the EDD, National Treasury and other stakeholders annually.

In addition these costs will be reported on the dashboard developed in conjunction with the EDD and referred to in Section 1.2.

The entire budget can therefore be divided as follows:

CATEGORY	AMOUNT
Direct adjudication/hearing costs	R 4 300 156
Other adjudication/hearing costs	R 12 383 569
Communicating and creating awareness	R 780 341
Tribunal members/research staff training (local and international)	R 1 458 335
Support services costs	R 13 303 329
Facilities repairs/maintenance and depreciation	R 2 556 769
Adminstrating the Competition Appeal Court	R 543 271
Capital expenditure	R 1 301 100
<b>TOTAL BUDGET</b>	<b>R 36 626 870</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 CMS system currently being developed will enable us to some extent to determine the ratio between case and non case related work but will not be entirely accurate. Over time we hope to investigate this issue further thus arriving at a more accurate costing of the Tribunal's core business

We have managed to allocate 51.66% of the annual budget across the three strategic outcomes as illustrated in the table on the next page:

STRATEGIC OUTCOME	BUDGET	% of BUDGET
Promote and maintain competition within South Africa through the implementation of the Act	R 16 683 725	45.55
Educate and create awareness of competition matters to the Tribunal's stakeholders	R 780 341	2.13
Strengthen the Tribunal's organisational capability and performance to deliver on its legislative mandate	R 1 458 335	3.98



The remainder of the budget is distributed as follows:

- Support services costs – 36.32%
- Facility costs and depreciation – 6.99%
- Capital expenditure – 3.55%
- Appeal Court costs – 1.48%

**APPENDIX G** reflects the allocation of the Tribunal's actual (2011/2012 – 2012/2013), predicted (2013/2014) and budgeted expenditure (2014/2015 – 2016/2017) between the 3 Strategic Outcomes, administrative expenses and the Competition Appeal Court as included in the MTEF.

### 3.4 Competition Appeal Court

The *Competition Act* (1998) set up a triad of institutions (the Commission, the Tribunal and the Competition Appeal Court) with exclusive jurisdiction over competition matters (that is, chapters 2 and 3 of the *Act*).

The Competition Appeal Court 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 Competition Appeal Court may review, or consider an appeal arising from, any Tribunal decision.

Judges of the Appeal Court 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 Competition Appeal Court.

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 Appeal Court as a line item in its budget and is responsible for the financing of all aspects of the Appeal Court 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 2014 - 31<sup>st</sup> March 2015 is estimated at R 543 271.11

The table on the next page reflects the distribution of expenditure by category.

Category	2014/2015 (budget) %
Local Travel	28.80
Administrative costs	15.56
Overseas Travel	43.93
High Court meetings/Training	11.71
<b>Total</b>	<b>100.00</b>

The Superior Courts Act has been promulgated and the Competition Appeal Court has been incorporated into this statute. As a result of this it may be possible going forward that the Tribunal will no longer be responsible for the Appeal Court budget, but until then the Tribunal continues to provide administrative and financial support to the Court.

### 3.5 Materiality Framework

**APPENDIX H** reflects the Tribunal's materiality framework for the period 1<sup>st</sup> April 2014 – 31<sup>st</sup> March 2015.

The Tribunal is not capital intensive 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 R 370 000.00 is determined by taking the average of 1% of actual revenue and actual expenditure in 2012/2013.

## Part B: ORGANISATIONAL PLANS

### 4. Strategic Objectives for 2014/15

#### 4.1 Strategic objective annual targets for 2014/15

As indicated in the Strategic Plan the quasi-judicial nature of the Tribunal makes it difficult to separate the strategic objectives from strategic outcomes and there is some overlap. The Tribunal has therefore categorised the strategic outcomes/objectives into three strategic focus areas

For each focus area and strategic objective specific outputs, performance indicators and targets have been assigned for 2014/15. These objectives, outputs, indicators and targets are tabulated in **APPENDIX E**.

<b>Strategic Focus Area 1:</b>	<b>Tribunal hearings and decisions</b>
<b>Strategic Objective 1.1</b>	To promote and maintain competition within South Africa by holding hearings and adjudicating matters brought before the Tribunal that pertain to large and intermediate mergers, interim relief cases, procedural matters, opposed as well as unopposed prohibited practices within the adopted delivery timeframes.
<b>Strategic Focus Area 2:</b>	<b>Stakeholder awareness</b>
<b>Strategic Objective 2.1</b>	To educate and to create awareness of competition matters to our stakeholders by communicating the activities and decisions of the Competition Tribunal by way of the internet, press releases, the Government Gazette as well as internal publications within the adopted delivery timeframes.
<b>Strategic Focus Area 3:</b>	<b>Operational effectiveness</b>
<b>Strategic Objective 3.1</b>	To enhance the expertise of Tribunal members and staff by sending them on planned International as well as local conferences and training courses.
<b>Strategic Objective 3.2</b>	To improve the Tribunal's service to customers through obtaining positive feedback on the performance of the Tribunal.

**APPENDIX F** reflects achievement against performance indicators for the period 2010/2011 to 2012/2013, expected achievement for 2013/2014 and identified targets for the MTEF period 2014/2015 to 2016/2017 as submitted to National Treasury.

## **APPENDIX A**

### **Template to be used for EDD performance dashboard**



## Economic Development Department Performance Dashboard

### Operational Performance of the Competition Tribunal for the quarter ending 31<sup>st</sup> March 2015

	Key performance Area	Quarter 1	Quarter 2	Quarter 3	Quarter 4	Year to date
<b>Total budget</b>	Total budgeted funds as per the Annual Performance Plan					
	Actual total expenditure					
<b>Hearing budget</b>	Budgeted total direct hearing costs					
	Actual total direct hearing costs					
<b>Adjudication budget</b>	Budgeted total adjudication costs as per the Annual Performance Plan					
	Actual adjudication costs					
<b>Number of staff employed</b>	Total number of staff employed as at the end of the quarter					
	Secretarial Support staff					
	Case Management staff					
<b>Matters on the roll</b>	Total number of active matters as at the end of the quarter					
<b>Number of matters attended to</b>	Number of orders (decisions) issued during the quarter					
	Number of reasons issued during the quarter					
<b>Hearing days</b>	Number of person days spent in hearings by all Tribunal members during the quarter					
	% of person days spent in hearings by PT members during the quarter					
	% of person days spent in hearings by FT members during the quarter					
	Number of days spent in hearings per quarter					
<b>Recordings</b>	Number of transcript pages (court record) produced during the quarter					
	Number of transcript pages (court record) produced per actual hearing day					
<b>Direct hearing cost per matter</b>	Direct hearing cost per order issued during the quarter					
	Direct hearing cost per reason issued during the quarter					
	Direct hearing cost per person day during the quarter					
	Direct hearing Cost per actual hearing day					
	Direct hearing cost per PT member person day					
	Direct hearing cost per transcript page produced during the quarter					
<b>Total adjudication costs per matter</b>	Total adjudication cost per order issued during the quarter					
	Total adjudication cost per reason issued during the quarter					
	Total adjudication cost per person day during the quarter					
	Total adjudication Cost per actual hearing day					
	Total adjudication cost per PT member person day					
	Total adjudication cost per transcript page					

	Key performance Area	Quarter 1	Quarter 2	Quarter 3	Quarter 4	Year to date
	produced during the quarter					
<b>Matters per Case management staff</b>	Average number of active matters per case management staff member as at the end of the quarter					
	Average number of orders issued per case management staff member during the quarter					
	Average number of reasons issued per case management staff member during the quarter					
<b>Turnaround time – large mergers</b>	Total number of new merger cases received during the quarter					
	Number of cases set down within 10 business days of the filed merger					
	Number of orders issued within 10 business days of the last hearing date					
	Number of reasons issued within 20 business days of the order being issued					
<b>Turnaround time – intermediate mergers</b>	Total number of new merger cases received during the quarter					
	Number of cases set down within 10 business days of the filed merger					
	Number of orders issued within 10 business days of the last hearing date					
	Number of reasons issued within 20 business days of the order being issued					
<b>Turnaround time – opposed prohibited practices</b>	Total number of new opposed prohibited practice cases received during the quarter					
	Number of prehearings (with pleadings closed) held					
	Number of pre-hearing invitations sent out within 20 business days of close of pleading					
	Number of orders and reasons for decision issued					
	Number of orders and reasons for decisions issued within 60 business days of the hearing date					
	% of orders and reasons for decisions issued within 60 business days of the hearing					
<b>Turnaround time – consent orders</b>	Number of consent orders issued this quarter					
	Number of consent orders issued within 10 business days of the last hearing date					
	% of matters where consent order issued within 10 business days					
<b>Turnaround time – procedural matters</b>	Total number of new procedural matters heard during the quarter					
	Number of orders issued during the quarter					
	Number of orders issued within 20 business days of last hearing day					
	% of matters where orders issued within 20 business days of last hearing day					
<b>Turnaround time – interim relief matters</b>	Total number of new interim relief matters received during the quarter					
	Number of reasons issued during quarter					
	Number of reasons issued within 20 business days of the last hearing date					
	% of matters where reasons issued within 20 business days of the last hearing date					
<b>Fines generated</b>	Total rand value of administrative penalties imposed during the quarter					
<b>Operational priorities for 2014/15</b>	Implement Phase 2 development of a case management system (CMS)					
	Implementation of recommendations arising out of organisational assessment conducted in					

	Key performance Area	Quarter 1	Quarter 2	Quarter 3	Quarter 4	Year to date
	2012/2013					
	Provision of internships to students					

The information reflected above is a true reflection of the Competition Tribunal's operational performance for the ----- quarter of the 2014/15 financial year.

\_\_\_\_\_

Name

\_\_\_\_\_

Authorised signature

\_\_\_\_\_

Designation who warrants his / her authority to bind the entity

\_\_\_\_\_

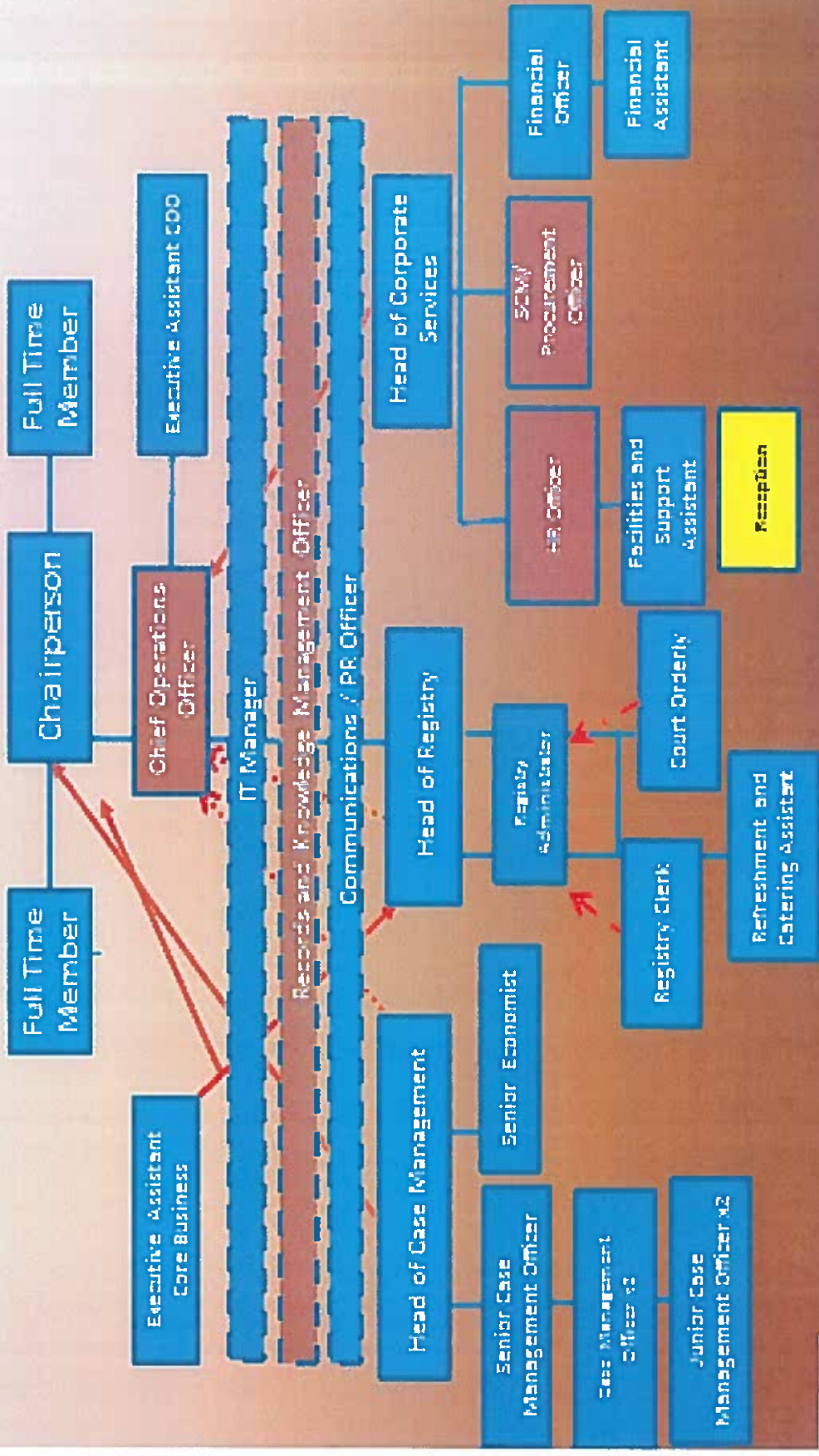
Date

## **APPENDIX B**

### **Competition Tribunal Structure**



# Tribunal Structure



## **APPENDIX C**

**ENE summary as published for the MTEF 2014/2015 –  
2016/2017**

ENE SUMMARY AS PUBLISHED FOR THE MTEF 2014/2015 – 2016/2017

Statement of financial performance	Audited outcome		Revised estimate	Average growth rate (%)		Expenses		Average growth rate (%)		Expenses
	2010/11	2011/12		2012/13	2013/14	2014/15	2015/16	2016/17	2013/14 - 2016/17	
R thousand	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2013/14 - 2016/17	Average growth rate (%)	Expenses
Revenue										
Tax revenue	-	-	-	-	-	-	-	-	-	-
Non-tax revenue	8 188	11 218	9 540	15 056	18 527	19 461	19 948	49.5%	9.8%	49.5%
Sale of goods and services other than capital assets	6 951	10 015	8 417	9 614	9 880	10 620	13 867	33.3%	13.0%	29.8%
of which:										
Administrative fees	6 951	10 015	8 417	9 614	9 880	10 620	13 867	33.3%	13.0%	29.8%
Sales by market establishment	-	-	-	-	-	-	-	-	-	-
Other sales	-	-	-	-	-	-	-	-	-	-
Other non-tax revenue	1 237	1 203	1 123	5 442	8 647	8 841	6 082	7.9%	3.8%	19.7%
Transfers received	13 625	15 175	15 798	16 945	18 100	19 102	20 115	58.8%	5.9%	50.5%
Total revenue	21 813	26 393	25 338	32 001	35 627	38 563	40 063	100.0%	7.8%	100.0%
Expenses										
Current expenses	19 960	23 287	26 789	31 400	35 325	37 418	39 402	100.0%	7.9%	100.0%
Compensation of employees	11 056	12 647	13 710	16 749	19 768	21 355	22 487	53.6%	10.3%	55.9%
Goods and services	8 460	10 197	12 524	13 741	14 386	15 013	15 809	44.2%	4.8%	41.2%
Depreciation	444	444	555	910	1 170	1 051	1 106	2.3%	6.7%	3.0%
Interest, dividends and rent on land	-	-	-	-	-	-	-	-	-	-
Transfers and subsidies	-	-	-	-	-	-	-	-	-	-
Total expenses	19 960	23 287	26 789	31 400	35 325	37 418	39 402	100.0%	7.9%	100.0%
Surplus/(Deficit)	1 853	3 106	(1 452)	601	1 302	1 144	662	-31.3%	3.3%	

Note: The surplus reflected in the statement of financial performance for the medium term estimates reflected in the table from 2014/2015 to 2016/2017 is not an operating surplus but are funds that will be used to fund the budget for asset acquisition as reflected in the financial position

## **APPENDIX D**

### **Competition Tribunal Budget - 2014/2015**

## **BUDGET CONTENTS**

Summarised Budget

Budget Comparison 2013/2014 vs. 2014/2015

Performance plan allocation

Appeal Court Budget April 2014 – March 2015

**APPENDIX E**  
**Performance Targets – 2014/2015**

Strategic Focus Area 1:		TRIBUNAL HEARINGS AND DECISIONS					Budget: R 16 683 725.18			
Goal Statement:		Hold hearings and adjudicating matters brought before the Tribunal.								
Strategic Outcome:		Promote and maintain competition within South Africa through the implementation of the Competition Act.								
STRATEGIC OBJECTIVE	OUTPUT	PERFORMANCE INDICATORS	ANNUAL TARGET	QUARTERLY TARGET						
				Q1	Q2	Q3	Q4			
<b>Large Mergers and reconsidered mergers:</b>										
To promote and maintain competition within South Africa by holding hearings and adjudicating matters brought before the Tribunal that pertain to large and intermediate mergers, interim relief cases, procedural matters, opposed as well as unopposed prohibited practices within the adopted delivery timeframes.	Large/intermediate mergers	Merger heard in accordance with the delivery timeframes	75% of mergers heard within 10 business days of the filed merger	75%	75%	75%	75%	75%	75%	75%
	Orders	Orders issued to parties in accordance with the delivery timeframes	98% of orders issued within 10 business days of the last hearing date	98%	98%	98%	98%	98%	98%	98%
	Reasons for decisions	Reasons for Decisions issued to parties in accordance with the delivery timeframes	56% of "reason for decisions" issued within 20 business days of order being issued	56%	56%	56%	56%	56%	56%	56%
<b>Opposed/Prohibited Practices:</b>										
	Pre-hearing invitations	Pre-hearing invitations sent to parties in accordance with the delivery timeframes	90% of pre-hearing invitations sent to parties within 20 business days of close of pleadings	90%	90%	90%	90%	90%	90%	90%
	Orders and reasons for decision documents	Orders and reasons for decisions issued to parties in accordance with the delivery timeframes	80% of orders and reasons for decisions issued within 60 business days of the hearing date	80%	80%	80%	80%	80%	80%	80%
<b>Consent Orders:</b>										
	Orders	Orders issued to parties in accordance with the delivery timeframes	75% of consent orders issued within 10 business days of the last hearing date	75%	75%	75%	75%	75%	75%	75%

Strategic Focus Area 1:		TRIBUNAL HEARINGS AND DECISIONS				Budget: R 16 683 725.18			
Goal Statement:		Hold hearings and adjudicating matters brought before the Tribunal.							
Strategic Outcome:		Promote and maintain competition within South Africa through the implementation of the Competition Act.							
STRATEGIC OBJECTIVE		OUTPUT	PERFORMANCE INDICATORS	ANNUAL TARGET	QUARTERLY TARGET				
					Q1	Q2	Q3	Q4	
To promote and maintain competition within South Africa by holding hearings and adjudicating matters brought before the Tribunal that pertain to large and intermediate mergers, interim relief cases, procedural matters, opposed as well as unopposed prohibited practices within the adopted delivery timeframes.		<b>Procedural Matters:</b>							
		Orders	Orders issued to parties in accordance with the delivery timeframes	85% of orders issued within 20 business days of the last hearing date	85%	85%	85%	85%	
		<b>Interim Relief cases:</b>							
	Reasons for Decision documents	Reasons for Decisions issued to parties in accordance with the delivery timeframes	85% of reasons for decisions issued within 20 business days of the last hearing date	85%	85%	85%	85%		



Strategic Focus Area 2:		STAKEHOLDER AWARENESS				Budget: R 780 341.14			
Goal Statement:		Communicate the activities and decisions of the Competition Tribunal effectively.							
Strategic Outcome:		Educate and create awareness of Competition Matters to the Tribunal's stakeholders.							
STRATEGIC OBJECTIVE	OUTPUT	PERFORMANCE INDICATORS	ANNUAL TARGET	QUARTERLY TARGET					
				Q1	Q2	Q3	Q4		
To educate and to create awareness of competition matters to our stakeholders by communicating the activities and decisions of the Competition Tribunal by way of the internet, press releases, the Government Gazette as well as internal publications within the adopted delivery timeframes.	"Reasons for Decision" documents	Turnaround time for all the "reasons for decisions" to be posted on the website after release	97% of reasons for decisions posted on the Tribunal website within 24 hours of release	97%	97%	97%	97%		
	Tribunal Tribunes produced	Tribunal Tribunes distributed to Stakeholders	Three Tribunal Tribunes distributed to 50 stakeholders by 31 March 2015	One Tribunal Tribune distributed to 50 stakeholders by 31 July 2014			Two Tribunal Tribunes distributed to 50 stakeholders by 31 March 2015		
	Notice of final merger decisions	Merger decisions published in the Government Gazette	100% of the merger decisions issued sent to the Government Gazette for publishing within 20 days of the final decision	100%	100%	100%	100%		
	Press releases	Press releases of final decisions in merger cases issued to the media	Press releases issued for 75% of the final decisions issued in mergers by the Tribunal by 31 March 2015	75%	75%	75%	75%		
	Press releases	Press releases of final decisions in prohibited practice cases issued to the media	Press releases issued for 100% of the final decisions issued in prohibited practice cases by the Tribunal by 31 March 2015	100%	100%	100%	100%		

Strategic Focus Area 3	OPERATIONAL EFFECTIVENESS					Budget: R 1 458 335.02			
Enhance the expertise of Tribunal staff.									
Improve the service of the Tribunal to our customers.									
Strengthen the Tribunal's organisational capability and performance to deliver on its legislative mandate									
STRATEGIC OBJECTIVE	OUTPUT	PERFORMANCE INDICATORS	ANNUAL TARGET	QUARTERLY TARGET					
To enhance the expertise of Tribunal members and staff by sending them on planned international as well as local conferences and training courses.	Training feedback form	Conferences and training courses attended	Tribunal members and research staff attend 75% of the budgeted international and national conferences/workshops and training courses by 31 March 2015	Q1	Q2	Q3	Q4	Tribunal members and research staff attend 75% of the budgeted international and national conferences/workshops and training courses by 31 March 2014	

## **APPENDIX F**

### **Performance Indicators – MTEF 2010/2011 – 2016/2017**

## Performance indicators - MTEF 2010/11 - 2016/17

Indicator	Programme/Activity/ Objective	Outcome	Past		Current			Projected	
			2010/11		2012/13	2013/14	2014/15	2015/16	2016/17
% of prehearing invitations for prohibited practices set	Promote and maintain competition within South Africa	Entity mandate	50%	100%	90%	90%	90%	90%	90%
% of orders/reasons in prohibited practice cases issued	Promote and maintain competition within South Africa	Entity mandate	-	100%	80%	1	80%	80%	80%
% of consent orders issued within 10 bdays	Promote and maintain competition within South Africa	Entity mandate	-	89%	75%	1	75%	75%	75%
% of orders in procedural matters issued within 20 bdays	Promote and maintain competition within South Africa	Entity mandate	-	74%	85%	85%	85%	85%	85%
% of reasons in interim relief cases issued within 20 bdays	Promote and maintain competition within South Africa	Entity mandate	50%	No reasons issued	85%	85%	85%	85%	85%
% of large mergers set down within 10 bdays	Promote and maintain competition within South Africa	Entity mandate	89%	73%	80%	75%	75%	75%	75%
% of large merger orders issued within 10 bdays	Promote and maintain competition within South Africa	Entity mandate	100%	100%	100%	98%	98%	98%	98%
% of large merger reasons for decisions issued within 10 bdays	Promote and maintain competition within South Africa	Entity mandate	59%	74%	51%	56%	56%	56%	56%
% of reconsidered mergers set down within 10 bdays	Promote and maintain competition within South Africa	Entity mandate	67%	50%	57%	75%	75%	75%	75%
% of reconsidered merger orders issued within 10 bdays	Promote and maintain competition within South Africa	Entity mandate	100%	100%	100%	98%	98%	98%	98%
% of reasons for reconsidered merger decisions issued within 10 bdays	Promote and maintain competition within South Africa	Entity mandate	0%	0%	13%	56%	56%	56%	56%
% of reasons for decisions on website within 24 hours	Educate and create awareness of competition matters	Entity mandate	-	52%	97%	97%	97%	97%	97%
Tribunal Tribune distributed to stakeholders	Educate and create awareness of competition matters	Entity mandate	-	2 to 71	3 to 50	3 to 50	3 to 50	3 to 50	3 to 50
% of merger decisions issued to GG within 20 bdays	Educate and create awareness of competition matters	Entity mandate	-	78%	100%	100%	100%	100%	100%
% of press releases issued for all final decisions	Educate and create awareness of competition matters	Entity mandate	-	87%	0%	0%	0%	0%	0%
% of press releases issued for final merger decisions	Educate and create awareness of competition matters	Entity mandate	-	-	75%	75%	75%	75%	75%
% of press releases issued for final prohibited practice cases	Educate and create awareness of competition matters	Entity mandate	-	0%	100%	100%	100%	100%	100%
Tribunal members/research staff attend budgetted cost	Enhance the expertise of Tribunal staff	Entity mandate	-	0%	75%	75%	75%	75%	75%
Surveyed stakeholders surveyed satisfied with service	Enhance the expertise of Tribunal staff	Entity mandate	-	-	75%	0%	n/a	75%	n/a

## **APPENDIX G**

### **Expenditure by Strategic Outcome as published in the MTEF 2014/2015 – 2016/2017**

EXPENDITURE BY STRATEGIC OUTCOME AS PUBLISHED IN THE MTEF 2014/2015 – 2016/2017 (R'000)

	Audited outcome		Revised estimate	Average growth rate (%)	Expenditure/total: Average	Medium-term estimate			Average growth rate (%)	Expenditure/total: Average
	2010/11	2011/12				2012/13	2013/14	2014/15		
R thousand										
Administration	7 220	8 188	10 295	20.9%	37.6%	15 860	16 534	17 410	10.9%	43.5%
Promote and maintain competition within South Africa	10 831	13 511	14 405	13.6%	54.1%	16 684	18 103	19 063	6.3%	48.6%
Educate and create awareness of competition matters to Trit	605	559	622	3.8%	2.5%	780	822	865	8.5%	2.2%
Enhance the expertise of Tribunal staff	878	628	991	19.1%	3.9%	1 458	1 387	1 461	-0.5%	4.1%
Competition Appeal Court	425	402	476	13.6%	1.9%	543	573	603	-1.1%	1.6%
	-	-	-	-	-	-	-	-	-	-
	-	-	-	-	-	-	-	-	-	-
	-	-	-	-	-	-	-	-	-	-
	-	-	-	-	-	-	-	-	-	-
	-	-	-	-	-	-	-	-	-	-
<b>Total expense</b>	<b>19 960</b>	<b>23 287</b>	<b>26 789</b>	<b>16.3%</b>	<b>100.0%</b>	<b>35 325</b>	<b>37 420</b>	<b>39 401</b>	<b>7.9%</b>	<b>100.0%</b>

Note: Administration and Competition Appeal Court are not defined as Strategic Outcomes in the Tribunal's APP. However they are included as line items in this published table so as to indicate how the Tribunal's budget is allocated across its strategic and operational functions.

## **APPENDIX H**

### **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 2015 is R 370 000	
<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—            (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;            (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; and</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.





- 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. We have taken the average of 1% of actual revenue and actual expenditure in 2012/2013 to determine the materiality figure for 2014/2015
- Using the calculation described above the Tribunal's recommended materiality figure for 2014/2015 is R 370 000.00