

2020/2021



competitiontribunal
SOUTH AFRICA

ANNUAL PERFORMANCE PLAN 1 APRIL 2020 – 31 MARCH 2021

Abbreviations and Acronyms

the Act	The Competition (Act 89 of 1998)
AG	Auditor-General
APP	Annual performance plan
BBBEE	Broad-based black economic empowerment
Commission	Competition Commission
CAC	Competition Appeal Court
DTIC	Department of Trade, Industry and Competition
ENE	Estimates of National Expenditure
ESKOM	Electricity Supply Commission, SA's electricity public utility
HR Management	Human Resource Management
ICASA	Independent Communications Authority of South Africa
ICN	International Competition Network
ICT	Information and communications technology
IEAP	Integrated Economic Action Plan
IT	Information technology
MTEF	Medium Term Expenditure Framework
MTSF	Medium Term Strategic Framework
NDP	National Development Plan
NGO	Non-government agencies
OECD	Organisation for Economic Co-operation and Development
RMC	Risk Management Committee
SADC	Southern African Development Community
SCM	Supply Chain Management
SMMEs	Small, medium and micro-sized enterprises
TID	Technical indicator description
Tribunal	Competition Tribunal
WTO	World Trade Organisation


Foreword by Executive Authority

The Public Finance Management Act requires that every public entity prepares a Strategic Plan setting out the overall strategy for the 5-year period covering the state's Medium-term Strategic Framework (MTSF). Every year, an Annual Performance Plan (APP) is prepared, which converts the overall strategy to key annual targets. These documents are then provided for approval to the Executive Authority and budgets are aligned to these plans.

The **Competition Tribunal** has prepared its **Annual Performance Plan 2020/2021**, which I now submit to Parliament, as required by the legislation.

This is the first **Annual Performance Plan** prepared in the 6th Administration by the **Tribunal**. I have requested that all entity Strategic Plans and Annual Performance Plans be aligned to the MTSF, which incorporates the work to develop and implement National Sector Masterplans, as well as the trade reforms, investment and transformation work of the Department.

Once the revised MTSF has been signed off, we will review the Strategic Plan and Annual Performance Plan of the entity and align it accordingly. The Strategic Plan and Annual Performance Plan may further need to be aligned to Government's response to the COVID-19 pandemic, both during the period of the national disaster declared by President Ramaphosa, and thereafter as we adapt to the new economic reality. Should adjustments be made, a revised Plan will be submitted to Parliament.



Ebrahim Patel

Minister Responsible for Trade, Industry and Competition

Date: _____

Foreword by Accounting Authority

20 years ago, South Africa emerged from a closed economy characterised by high levels of market concentration and anti-competitive practices which mirrored economically the country's segregationist past.

The promulgation of the Competition Act and the establishment of the Competition Authorities was a bold and progressive move to create an economy that would accommodate and realise the aspirations of the people of South Africa as described in the National Development Plan and the Constitution.

It's my pleasure to present the Competition Tribunal's strategic plan over the five-year period 2020/2021 – 2024/2025 which neatly coincides with the adoption of the Amendments to the Competition Act, and which gives the authorities wider anti-competitive practices and public interest grounds over which to adjudicate matters.

The core outcome of the Tribunal is to adjudicate in favour of equitable participation in markets and fair conduct by market participants, for a national economy that must deliver inclusive growth. This outcome stands on two pillars. The first of which is governance. The Tribunal will be transparent in conducting its affairs, accountable for its actions and sustainable in its operations. To this end, the Strategic Plan reflects a R64.24 million expenditure budget (including capital), of which the largest spend (59.34%) is on staff¹. The Tribunal's R58.28 million revenue budget is comprised 58.22% of funding from the DTIC and 31.20% from the filing fees administered by the Competition Commission.

The one-year budget projects a R5.96 million (9.28% of the revenue budget) deficit which will be sustained by an accumulated surplus of R19.00 million. Over the MTEF period management is committed to continue the uninterrupted posting of unqualified audits.

The second pillar is Responsive and Reliable Adjudication. The Tribunal has a highly regarded and diverse composition of four full-time members and six part-time members. I anticipate increased workflow as a consequence of the amendments and have budgeted for the filling of two vacancies in the 2020/2021 Annual Performance Plan , and a further two part-time members over the MTEF period.

The Annual Performance Plan provides for a scorecard of key performance indicators which are linked to staff members' individual performance assessments. The Tribunal's scorecard is reported on quarterly to the Department of Trade Industry and Competition and it features prominently in the Tribunal's annual report.

I look forward to the continued enforcement of the Act for competitive and inclusive markets.

Signature: M. Mazwai Date: 8/4/2020

Mondo Mazwai

Accounting Authority – Competition Tribunal


¹ Staff refers to the Tribunal secretariat and full-time members but excludes part-time members.

Official sign-off


It is hereby certified that this Annual Performance Plan of the Competition Tribunal for the period 1st April 2020 to 31st March 2021 was:

- i) Developed by the management of the Competition Tribunal under the guidance of the Accounting Authority – Ms. Mondo Mazwai
- ii) Prepared in line with the Competition Tribunal’s Strategic Plan for the five-year period 2020/2021 – 2024/2025.
- iii) Accurately reflects the performance targets the Competition Tribunal will endeavour to achieve over the 2020/2021 financial year.

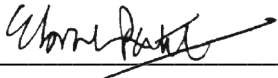
Janeen de Klerk
Chief Operating Officer – Competition Tribunal

Signature: 
Date: 8/4/2020

Mondo Mazwai
Chairperson – Competition Tribunal

Signature: 
Date: 8/4/2020

Ebrahim Patel
Minister responsible for Trade, Industry and Competition

Signature: 
Date: 17. 04. 2020

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PART A: OUR MANDATE

1. Legislative Mandate

The Tribunal derives its legislative mandate from the Competition Act and its purpose is to promote and maintain competition in the Republic in order to:

- a) Promote efficiency, adaptability and development of the economy.
- b) Provide consumers with competitive prices and product choices.
- c) Promote employment and advance the social and economic welfare of all South Africans.
- d) Expand opportunities for South African participation in world markets and recognise the role of foreign competition in the Republic.
- e) Ensure that small and medium-sized enterprises have an equitable opportunity to participate in the economy.
- f) Promote a greater spread of ownership, in particular to increase the ownership stakes of historically disadvantaged people; and
- g) to detect and address conditions in the market for any particular goods or services, or any behaviour within such a market, that tends to impede, restrict or distort competition in connection with the supply or acquisition of those goods or services within the Republic; and
- h) to provide for consistent application of common standards, and policies affecting competition within all markets and sectors of the economy.

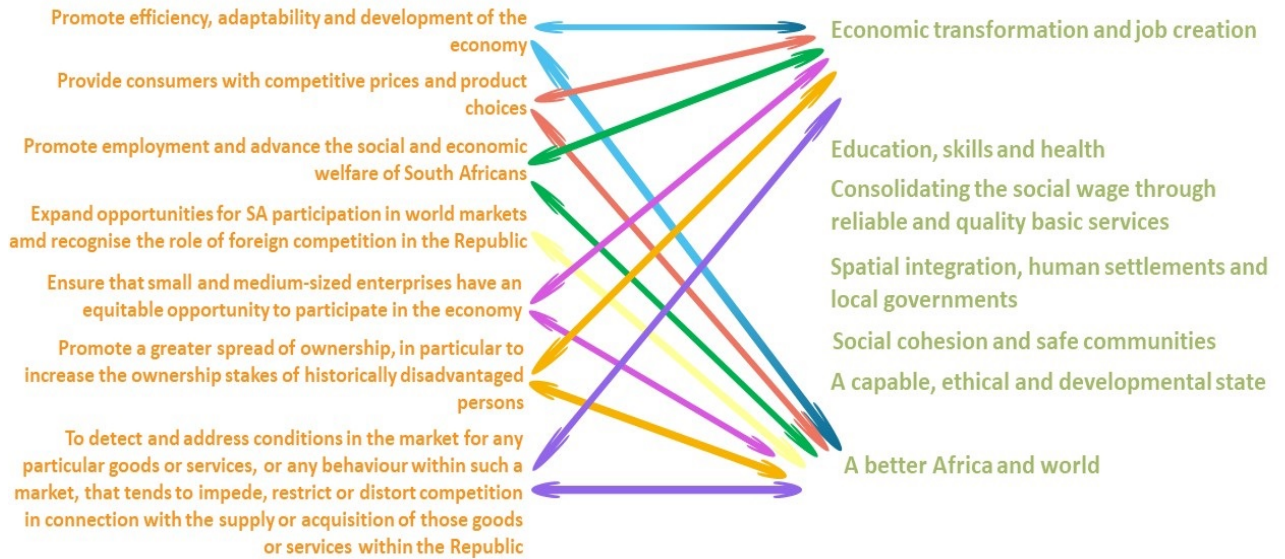
2. Policy Mandate

The National Development Plan (NDP) 2030 was adopted in South Africa in 2012 and it sets out the long-term vision for the country and provides a broad strategic framework to guide government choices and actions required to transform the economy and society.

The NDP five- year implementation plan has been developed in order to advance and guide planning that is responsive to the attainment of NDP priorities. It allows for the co-ordination and alignment of priorities across spheres of government

The Tribunal's objectives are set out in the Competition Act. As an adjudicative body it can determine the outcomes of these objectives by aligning its adjudication to meet the objectives of the NDP and the DTIC.

The Tribunal's mandate is also consistent with certain of the priority outcomes contained in the NDP. The connections between the Tribunal's legislated mandate and the NDP outcomes are illustrated in the diagram below.



All decisions taken by a Tribunal panel when adjudicating on matters brought before it must consider, in addition to competition issues, various public interest factors which include the effect on employment, asset ownership and the promotion of SMMEs.

Improved competition by its very nature will maximise consumer surplus and will therefore have a positive impact on national development goals.

The two tables that follow provides an alignment matrix between the DTIC outcomes and the Tribunal outcomes and the NDP Outcomes and the Tribunal Outcomes respectively.

Table 1: Alignment of Tribunal outcomes with DTIC Outcomes

DTIC Programme/Outcomes ²	Tribunal Outcome number	Tribunal Outcomes
<p>Programme 3: Spatial Industrial Development and Economic Transformation</p> <ul style="list-style-type: none"> • Increased number of Black People that participate in the mainstream economy • Grow the manufacturing sector to promote industrial development, job creation, investment and exports <p>Program 4 : Industrial Competitiveness and Growth</p> <ul style="list-style-type: none"> • Increase economic growth and job creation through a re-invigorated industrial strategy (<i>APP only</i>) <p>Programme 5: Consumer and Corporate Regulation</p> <ul style="list-style-type: none"> • Improved regulatory environment conducive for consumers and companies as well as providing access to redress <p>Program 6: Industrial Financing</p> <ul style="list-style-type: none"> • Increased private sector investment • Employment Creation • Increased access for industrial finance support <p>Programme 7: Export Development, Promotion and Outward Investments</p> <ul style="list-style-type: none"> • Promote export growth. • Diversify the export bundle, by promoting export growth in priority sectors 	<p>Outcome 1</p>	<p>Through responsive and reliable adjudication of matters across all sectors of the economy, the Tribunal contributes to the outcomes of economic transformation and employment creation by the NDP and the DTIC</p>

² At the time the Tribunal drafted this document the DTIC's outcomes had not been linked directly to the NDP's. The above has been prepared on the assumption that the identified DTIC outcomes link to the NDP's outcomes as indicated in the table

DTIC Programme/Outcomes ²	Tribunal Outcome number	Tribunal Outcomes
<p>Programme 9: Economic Research and Coordination</p> <ul style="list-style-type: none"> Economic research and reviews <p>Programme 10: Competition Policy and Economic Planning</p> <ul style="list-style-type: none"> Coherent competition policies Public interest analysis and participation Implementation of competition recommendations and commitments Supported Ministerial technical and statutory responsibilities on competition matters 		
<p>Programme 1: Administration</p> <ul style="list-style-type: none"> Attract, Develop & Retain Skilled Staff & Professional Officials Ensure accountability through effective performance management <p>Programme 10:</p> <ul style="list-style-type: none"> Coherent competition policies 	Outcome 2	Transparent, accountable and sustainable Tribunal
<p>Programme 2: Trade Policy, Negotiations and Cooperation</p> <ul style="list-style-type: none"> Increased intra-Africa trade <p>Programme 7: Export Development, Promotion and Outward Investments</p> <ul style="list-style-type: none"> Promote export growth. Diversify the export bundle, by promoting export growth in priority sectors 	Outcome 1	Through responsive and reliable adjudication of matters in these sectors the Tribunal contributes to the NDP outcomes.

Table 2: Alignment of Tribunal outcomes with the NDP Outcomes

NDP Outcome Number	NDP Outcomes	Tribunal Outcome Number	Tribunal Outcomes
NDP Outcome 1	Economic transformation and job creations	Tribunal Outcome 1	Through responsive and reliable adjudication of matters across all sectors of the economy, the Tribunal contributes to the outcomes of economic transformation and employment creation by the NDP and the DTIC
NDP Outcome 2	Education, skills and health		Through responsive and reliable adjudication of matters in these sectors the Tribunal contributes to the NDP outcomes.
NDP Outcome 6	A capable, ethical and developmental state	Tribunal Outcome 2	Transparent, accountable and sustainable Tribunal
NDP Outcome 7	A better Africa and World	Tribunal Outcome 1	Responsive and reliable adjudication(indirectly through cases)

3. Institutional policies and strategies

The largest contribution the Tribunal can make is the policy driver “competitiveness and competition policy” as its core function deals specifically with this area. Its public interest mandate makes contribution to the following drivers; employment, SMMEs and B-BBEE. , to the extent that mergers and market structure in prohibited practice cases may have a negative effect on these factors, the Tribunal may in appropriate cases be able to impose conditions or issue orders to alleviate the adverse effects.

The Tribunal can provide access to case archives which provide rich resources for research. Part of our interaction with the department will be to encourage researchers linked to the department or its institutions to use these resources and to alert them to new and useful information.

4. Relevant Court Rulings

There are no specific court rulings that have a significant, ongoing impact on operations or service delivery obligations.

PART B: OUR STRATEGIC FOCUS

5. Situational Analysis

5.1. Strategic focus

The Tribunal is an independent and impartial institution with jurisdiction throughout South Africa. It is required to perform its functions without fear, favour or prejudice, subject only to the Constitution, the law and its legislated mandate.

Its core business and therefore its strategic focus is the adjudication of mergers and prohibited practice cases brought before it either by the Commission or directly by aggrieved parties, or in some circumstances by higher courts.

Upon a matter being referred to it, the Tribunal will initiate proceedings to consider the matter in terms of the Competition Act and Rules and may:

- a) authorise a merger, with or without conditions, or prohibit a merger.
- b) 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.
- c) grant an exemption from a relevant provision of the Act.
- d) grant an order for costs.

The Tribunal is required to expeditiously decide on the matters brought before it. All Tribunal hearings are public and written reasons are provided for all decisions and orders of the Tribunal. The

Act and Rules prescribe time frames for the issuing of orders and decisions which must be adhered to by the Tribunal.

The Tribunal decisions have the same legal weight as the judgements of the High Court and may be taken on appeal only to the Competition Appeal Court.

The Tribunal is enjoined to retain its independence and impartiality in the exercise of its powers and in carrying out its duties.

The Tribunal Members are committed to making high quality decisions, based on the criteria stipulated in the Act. The members are supported in their decision making by the Tribunal secretariat that provides efficient and effective administrative, research and organisational assistance.

Whilst the adjudicative process remains the main strategic focus we have also placed emphasis on other key areas of administration namely:

- Governance and compliance
- Capacity Building
- Effective Financial management

In addition, the Tribunal strives to be an accessible institution and to ensure that the public remains informed about the Act and the Tribunal’s functions and activities.

All upcoming hearings and decisions given by the Tribunal are communicated to the media and all of the Tribunal’s decisions can be accessed by the general public from the Tribunal’s website or its offices. The Tribunal also publishes a newsletter – Trials and the Tribunal which is distributed to relevant stakeholders.

5.2. Performance overview

Demands for the services of the Tribunal over the past 20 years have increased significantly. The table on the next page provides details with regard to matters heard over the past five years. It is evident that there is considerable fluctuation from year to year however there has been an average annual increase of 3.9% in matters heard over the period.

Table 3: Matters heard 2014/2015 to 2018/2019

Type of case	2014/2015	2015/2016	2016/2017	2017/2018	2018/2019
Large merger	98	125	102	121	101
Intermediate/small merger reconsideration	4	10	8	6	4
Complaints from the Commission	3	4	10	14	18
Consent order/settlement agreement	46	26	27	29	45

Type of case	2014/2015	2015/2016	2016/2017	2017/2018	2018/2019
Complaints from the complainant	1	0	0	1	0
Interim relief	1	0	1	0	1
Procedural matter	27	39	50	42	46
Total	180	204	197	213	215

The increase in consent orders, most of which result from settlements of cartel cases, is an indication of the success of the Commission’s cartel unit and the leniency policy that underpins it. As procedural issues often piggyback on the number of substantive cases heard it is not surprising that when our case load increases so does the number of procedural matters.

Despite the significant increase in caseload the Tribunal has generally performed well in getting merger cases set down and decided within our targeted time periods. Our performance in completing reasons in opposed cases is less impressive and the Tribunal is taking steps to improve turn around periods for reasons including better tracking of cases and increasing the pool of part-time members who hear cases. That being said, the complexity of cases before the Tribunal has also increased as the system matures and experience in the field evolves thereby increasing the turn-around time to conclude matters.

5.3. Policy environment

The policy parameters and objectives of the Act are consistent with the objectives of government’s economic policy as enunciated in policy documents of the DTIC as well as the NDP and are given effect in the analysis and decision-making of the adjudicative panels, which assess merger transactions, allegations of restrictive practices and abuse of dominance and exemption applications.

Although the Tribunal’s decisions are primarily taken on competition grounds, the Act also requires that it considers specified public interest factors which correlate with other objectives of the government’s economic policy and in particular concerns about job impact, SMMEs and B-BBEE.

i. Merger Regulation - Structural Remedies

Through its merger regulation powers the Tribunal considers the impact of mergers and acquisitions on the structure of a particular market.

In its consideration of mergers or acquisitions, the Tribunal initially determines whether the transaction will substantially prevent or lessen competition in the market in which the transaction occurs. In the event that it does, the Tribunal is then required to evaluate whether any efficiency and technology gains arise from the merger. If it is decided that the merger has generated pro-competitive efficiency gains that outweigh the lessening of the competition then the merger may be approved. Despite its determination above, the Tribunal must always (consider the impact of the transaction on specified public interest criteria. An anti-competitive merger may be approved if it is found that a positive impact on public interest outweighed the negative impact on competition. By

the same token, it is possible to prohibit a merger that did not lessen competition if its impact on public interest, for example employment, was negative.

The following are the public interest criteria that must be considered:

1. impact on a particular industrial sector or region.
2. employment.
3. the ability of small and medium businesses, or firms owned by historically disadvantaged persons, to effectively enter into, participate in or expand within the market; and
4. the ability of national industries to compete in international markets.
5. the promotion of a greater spread of ownership, in particular to increase the levels of ownership by historically disadvantaged persons and workers in firms in the market.

The recent amendments to the Act have also improved merger provisions to include the assessment of creeping mergers, cross-shareholdings by merging firms, and asset ownership by workers.

ii. **Prohibited practices - Behavioural Remedies**

The Tribunal regulates anti-competitive conduct or behaviour by firms in a particular market through its powers to regulate prohibited practices.

The Act prohibits certain practices between competitors and firms in a vertical relationship (that is between supplier and customer). Dominant firms (as defined by the Act) are also prohibited from engaging in certain practices. While the Act specifies certain per se prohibitions in each of these categories, other specified conduct, if found to be anti-competitive, must be weighed against countervailing “technological, efficiency, or other pro-competitive gains” that may arise from the conduct.

The Tribunal anticipates an increase in prohibited practice cases brought to it. Its decisions on prohibited practice cases potentially have sector-wide and economy-wide implications and are likely to impact significantly on business behaviour. It is in this area that objectives on competitiveness, black economic empowerment, SMME development is most directly advanced. Restrictive practices are prohibited by the Act precisely to improve the competitiveness of firms, to prevent abuse by dominant firms, to lower barriers to entry and to allow for markets to be contested.

iii. **Exemptions**

A firm may apply to the Commission for exemption from the provisions of Chapter 2 of the Act. However, persons affected by the Commission’s decisions may appeal those decisions to the Tribunal.

Exemptions may be granted if they contribute to any of the following objectives:

1. Maintenance or promotion of exports.
2. Promotion of the effective entry into, participation in or expansion within the market by small and medium businesses, or firms controlled or owned by historically disadvantaged persons,.
3. Change in productive capacity necessary to stop the decline of an industry.

4. The economic development, growth, transformation or stability of industry designated by the Minister, after consulting the Minister responsible for that industry; or
5. Competitiveness and efficiency gains that promote employment or industrial expansion.

Consideration of the above factors in its adjudication provides for government policy objectives to be considered by the Tribunal.

iv. **Interlocutory applications**

The Tribunal also hears interlocutory applications that are necessary or incidental to the performance of its functions in terms of this Act, such as:

- Exception applications: Respondents frequently bring objections to a complaint referral prior to pleading. The objections range from those that contend that the complaint referral makes out no cause of action, to complaints that are vague and embarrassing or requests for further particulars.
- Discovery applications: Both parties in a case have a duty to discover documents in a case and applications to compel may follow if there are disputes over relevance, whether the document exists or over claims of privilege.
- Confidentiality applications: Parties are entitled to claim documents containing sensitive information as confidential. Procedurally access to information claims are heard in the same way, and sometimes at the same time as discovery applications.
- Intervention applications: In terms of the Act the Tribunal can admit as a participant in merger proceedings any party who it recognises as a participant, and
- Points *in limine*: The Respondents can bring an objection based on a question of pure law prior to pleading for example where the Tribunal's jurisdiction is questioned

5.4. Impact of recent amendments to the Competition Act

It is expected that the recently promulgated will substantially increase the workload of the Tribunal.

First, decisions that the 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 record in such cases will be lengthy and intricate. This means that the panels will have to perform an appellate function i.e. hear cases without any oral evidence and the ability to test the evidence with witnesses.

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 are likely to 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.

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 unknown how frequently these types 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.

5.5. Public policy and participation

The general approach of the Tribunal is to encourage participation of interested parties in its proceedings. This allows for less powerful groupings to articulate their interests and maximizes the information available to the Tribunal. In the cases to date the Tribunal has had representation from competitors, customers, franchisees, trade unions, industry associations, government department/entities and non-government agencies (NGO's).

The Act also allows for the Minister of the Trade and Industry to make representation on public interest grounds, in merger transactions of which the Minister must be notified so as to enable him to intervene if he so decides. The amendments grant the Minister the right to appeal Tribunal decisions where previously the Minister's right was limited to review.

The Commission may also exempt an agreement or practice from prohibitions contained in Chapter 2 of the Act if it contributes to the economic stability of an industry designated by the Minister of Trade and Industry. The Minister has the ability to make direct representation before the Tribunal on any aspect of government policy that is relevant to a case.

5.6. Stakeholder Profile

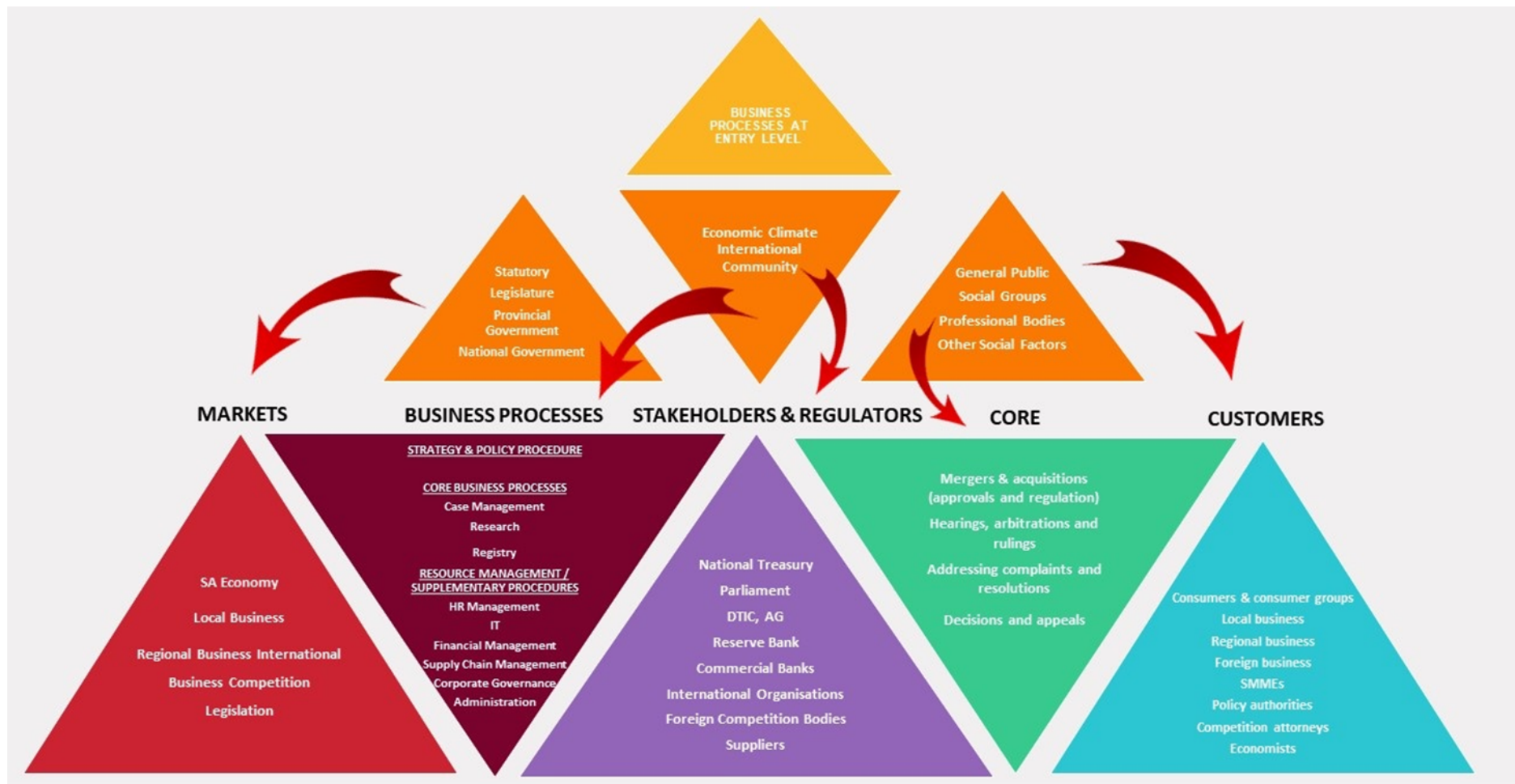
The Act impacts numerous stakeholders. The Tribunal has established and maintains professional and appropriate relationships with key stakeholders with the ultimate objective of contributing to the welfare of all South Africans.

The Tribunal's external stakeholders may be categorized as follows:

- a) Stakeholders with whom the Tribunal has direct contact in the course of fulfilling its functions. These include:
 - The Commission which refers and prosecutes cases before the Tribunal.
 - Complainants, respondents, interested parties, expert witnesses and their legal representatives who participate in or have a direct interest in a case before the Tribunal. These may be local or international businesses, trade unions, consumers, legal firms, or any other affected individual or organization.
- b) Stakeholders with whom the Tribunal may not be in direct contact but who are affected by Tribunal decisions. These include consumers, competitors, customers and suppliers of firms directly affected by Tribunal decisions.
- c) Sector-specific regulators such as Independent Communications Authority of South Africa (ICASA) who enjoy concurrent jurisdiction with the Competition authorities.

- d) Stakeholders to whom the Tribunal is accountable with respect to its functions. These include the DTIC, Parliament, the Minister of Trade and Industry, National Treasury (National Treasury) and the Auditor-General (AG).
- e) Stakeholders who act as reputational agents in providing policy and peer feedback on the standard and quality of work in the Tribunal. These include the media/journalists/editors, the financial press, academics, the judiciary and other competition agencies, the Organisation for Economic Co-operation and Development (OECD), the World Trade Organisation (WTO), Southern African Development Community (SADC), and the International Competition Network (ICN) etc.
- f) Government stakeholders that Tribunal may interact with e.g. the DTIC.

The business model below illustrates the Tribunal's stakeholders and processes that characterize these relationships.



5.7. Strategic Planning Process

The meetings and workshops held with regard to the development of a strategic plan and annual performance plan aligned to the recently approved framework and guidelines for strategic planning issued by the Department of Performance Monitoring and Evaluation (DPME) is detailed in the table below

Table 4: Strategic planning process calendar

Date	Meeting	Participants	Outcome of meeting
18 th -20 th September 2019	National School of Government Workshop on New Strategic Plan and Annual Performance Framework	COO Head of Registry	Understanding of methodology required in developing the SP/APP
18 th October 2019	Tribunal's Operation Committee Meeting	COO Head of Registry Head of Case Management Head of Finance	SWOT Analysis PESTEL Analysis Understanding of methodology required in developing the SP/APP
31 st October 2019	Submission of draft SP/APP based on guidelines but exclusive of impact/outcome/output definitions and descriptions to EDD/DTIC		
9 th January 2020	Responses received from EDD/DTIC on initial drafts		
22 nd January – 24 th January 2020	Strategic review and planning workshops	Institute of Performance Management as facilitators Tribunal Chairperson Three full-time Tribunal members COO Head of Case Management Head of Registry Head of Finance Human Resources Officer	Required processes and methodology applied to develop SP/APP that is compliant with National Treasury guidelines and framework on planning Finalised impact/outcome and outputs that are aligned to the NDP and DTIC outcomes and ensure the Tribunal delivers on its required mandate
29 th January - 31 st January 2020	Workshops to finalise documents for submission	IPM facilitator Tribunal Chairperson COO	Finalisation of SP and APP for submission

6. External environmental analysis

Table 5 provides a broad overview of all the external factors considered that may impact on the

Tribunal’s ability to deliver on its mandate and/or stated outcomes. Both national and international factors were considered and a PESTEL analysis was used to identify these.

Table 5: PESTEL analysis for the Tribunal

FACTOR	ITEM
Political Factors	<ul style="list-style-type: none"> • International <ul style="list-style-type: none"> ○ Rise in populism ○ Rise in nationalism ○ Greater concentration, less intervention ○ Trade wars ○ Brexit • National <ul style="list-style-type: none"> ○ Effects of state capture ○ Factional battles within the ruling party ○ Policy uncertainty ○ Rise in civil unrest ○ Growth of racialism ○ Lack of social accord e.g. unions vs business
Economic Factors	<ul style="list-style-type: none"> • Merger activity affected by economic climate • Pressure to contain or reduce employment in public sector • Rising inequality • Poor economic growth • Trade wars • Low investor confidence • Failing State Owned Companies
Social Factors	<ul style="list-style-type: none"> • Standard of education – affects quality of interns and skill capacity of staff • Public perception - poor understanding of what we do • Digital divide – the Tribunal’s communication does not reach many parts of the population
Technological Factors	<ul style="list-style-type: none"> • Cyber security is a growing global risk • Fourth industrial revolution – impact on the way we work • Need to consider making processes digital (e.g. online filing)
Environmental Factors	<ul style="list-style-type: none"> • Environmental degradation is a rising global concern • Diminished capacity of state to provide basic services (e.g. a stable electricity grid)

FACTOR	ITEM
	<ul style="list-style-type: none"> • Rising public interest issues
Legal Factors	<ul style="list-style-type: none"> • Amendments to the Act • Increased regulation and compliance • International developments in competition law

7. Internal environmental analysis

The narrative provided below provides a description of some of the more important issues that were identified as part of a detailed root cause analysis performed by the Tribunal during its strategic planning process.

The root-cause analysis was chosen as a methodology to drill down into potential threats that might have a negative impact the Tribunal’s ability to provide an efficient and effective service delivery as required by its mandate.

The first potential area is the timeous and consistent decisions made by the Tribunal and is represented in the problem tree attached as Annexure A to the Strategic Plan.

The root cause analysis process also enabled the Tribunal to identify possible interventions and solutions for the causes of delayed and inconsistent decision and solutions thereto are included in Annexure B to the Strategic Plan.

The second potential threat identified related to the ineffective utilisation of resources of which the problem tree is shown in Annexure C to the Strategic Plan. The interventions and solutions to address and resolve these causes are reflected in the solution tree in Annexure D in the Strategic Plan.

Details pertaining to the root cause analysis are contained in the Tribunal’s strategic plan as follows:

The meetings and workshops held with regard to the strategic planning process are detailed in section 5.7 of this document.

i. Tribunal members

The Act specifies that Tribunal members should collectively represent a broad section of the South African population. The duties and responsibilities of the Tribunal members are national significance and require a high level of technical skill and experience. Tribunal members are required to take decisions of major commercial and economic significance and it is therefore necessary (and stipulated in the Act) that they should have qualifications and experience in law, economics, commerce, industry and public affairs. Adjudicative panels of the Tribunal comprise three Tribunal members.

Members are appointed by the President of South Africa, on recommendation of the Minister of the Trade and Industry, for a five-year term of office.

The amended Act makes provision for an increased number of Tribunal members. It makes provision for the appointment of 15 (including the Chairperson) members as opposed to 11 prior to the amendments. It also gives the Minister the power to appoint acting part time members.

As at 1st August 2019 we have four full-time members (including the Chairperson and the Deputy Chairperson) and five part-time members making the Tribunal's complement of members nine out of eleven under the previous Act. The new Act has increased the number of members to 14 in anticipation of the increased workload.

While these vacancies do not affect the running of the organisation on a day to day they impact on the efficiency of the adjudicative process and have caused delays in certain turnaround times – particularly with regard to the issuing of reasons. This will be further exacerbated by the predicted increase in caseload.

Annexure B provides a detailed list of current serving Tribunal members and their respective qualifications.

ii. **Tribunal Secretariat**

The Tribunal's secretariat provides administrative and operational support within the Tribunal currently consists of 24 full-time staff members and two case managers on contract, allocated to four divisions;

- The Office of the Chief Operating Officer
- The Finance Division
- The Case Management Division
- Registry
- The Corporate Services Division

The Chairperson of the Tribunal is the Accounting Authority while other responsibilities have been devolved to divisional heads who report directly to the Chairperson.

The Chairperson therefore has a "hands on" involvement in the day-to-day management of the Tribunal which is consistent with the Chairperson's responsibility as accounting authority of the institution and is consistent with her powers in terms of the Competition Act.

The organogram in **Annexure A** illustrates the current structure of the organization. The Head of Corporate Services and the Financial Officer position on the organisational structure is currently vacant.

Annexure C details the names and positions held by Tribunal employees and provide some statistics pertaining to the profile of the secretariat. 70.37% of the current employees are black while 63% of them are female. Currently the Tribunal does not employ any persons with disabilities.

iii. **Personnel**

The Tribunal is an equal opportunity employer and is committed to achieving employment equity in its workplace. The Tribunal respects diversity and subscribes to the constitutional ethos of equality

and non-discrimination in all its policies, practices and activities. These principles are adhered to with respect to the recruitment of staff and human resource policy development.

As can be seen in the organisational structure attached as **Annexure F**, the Tribunal does not have a hierarchy of positions to which professional staff can aspire. However, some mechanisms have been developed in order to ensure the retention of skilled staff and to provide some career progression albeit limited.

In Registry, it is possible for someone to enter the Tribunal as a Registry Clerk and eventually progress to Registry Administrator or Registrar. In the Case Management division personnel can enter as “junior” case managers and progress to a senior level over a period of three to five years.

In general staff turnover in the Tribunal is not high with perhaps the highest turnover occurring in the case management division where case managers spend on average three to four years in the Tribunal and as their marketability increases they are attracted by higher salaries and more growth opportunities to the legal profession. The Tribunal is aware of this trend and is aware that in many senses this is the intellectual capital of the organisation, for this reason a managerial position was created in this department and a leader appointed to set the direction and pace of case management activities in the organisation. In addition, a tiered development path (stratification according to the level of experience) has been established so that career and grade growth is now feasible and can be experienced within the Tribunal rather than through departure.

iv. Internship

The Tribunal is a small organisation and is therefore limited in its ability to generate significant employment or offer a substantial number of internships. Despite this the Tribunal will continue to focus on providing an opportunity for students to serve vacation internships in the four divisions of the Tribunal as well as embark on the implementation of a graduate internship programme in the case management division. The intern/interns in this programme will spend up to a year at the Tribunal.

In other divisions within the Tribunal we use the internship programme to provide short-term employment opportunities to unemployed youth. These internships vary in length, but they never exceed a period of 12 months. While we are not in a position to offer long-term employment, we are able to expose them to interview and selection processes and provides them with valuable work experience.

We have partnered with Harambee, an employment accelerator, in this regard but have also engaged with students who have been referred to us by other stakeholders and who require practical experience in order to graduate.

v. Capacity Development

The Tribunal is committed to capacity building and recognises that proactive steps need to be taken to train and develop staff given the significant skills gap in South Africa. This is consistent with maximizing the human resource potential of all employees, which is necessary to ensure efficiency and performance excellence.

Training includes in-house and on the job training with respect to the case management system and

is undertaken so as to provide assistance to staff with the development of experience and skills in the area of competition law and economics.

External training service providers are utilized for specialized training courses. Furthermore, exposure to international best practice in competition law and policy is facilitated through attendance at international conferences/workshops, staff exchange programmes and visits by international experts.

Tribunal members in particular need to keep abreast of the extensive international case law in the field as well as legal and economic analysis in academic and practitioner journals in order to be able to perform their duties adequately.

The Tribunal facilitates this process by identifying the training needs of the Tribunal members and continues to facilitate the attendance of Tribunal members at international meetings/conferences (like International Competition Network (ICN) conference/working groups, the Annual Fordham Antitrust conference and the OECD Competition Committee meetings).

These meetings provide the Tribunal members with a forum to review their work and to keep up to date with aspects of competition, economics and law. The budget provides for representation at these conferences and forums.

Tribunal members are appointed for a five-year period and when new members are appointed there is a need to engage them in more intensive training thus familiarising them with competition law. As a result, training expenses will vary year on year depending on the needs of Tribunal members.

Full time Tribunal members will continue to lecture university students and will remain active in international bodies such as the ICN.

Since 2006 the Tribunal and the Commission have been observer members of the Competition Committee of the OECD, a body at the international cutting edge of new developments in competition law and policy. The budget provides for attendance on an annual basis at two of these meetings.

vi. Financial requirements and resources

The Tribunal's budgetary requirements (inclusive of capital expenditure) over the three years of the Medium-Term Expenditure Framework (MTEF) period (2020/2021 – 2022/2023) are estimated to be **R202.17m**. It is anticipated that we will receive income from the three sources below:

- Department of Trade, Industry and Competition (DTIC) grant funding of **R122.79m** for three years;
- Expected filing fee revenue of **R63.82m**; and
- Use of accumulated cash surpluses of **R13.64m** as at end of March 2020 for the three-year period.

The cash surplus has been accumulated over a number of years as a result of judicious management of resources. It serves as a necessary buffer to the variability of filing fees.

In drafting the budget three major points must be noted:

- the Tribunal is dependent on the predictions made with regard to expected filing fees received from the Commission over the MTEF. We have budgeted to receive **R63.82m** over the MTEF period (2020/2021 to 2022/2023) based on a historic average annual growth rate of 6%
- an initial assessment of the financial impact of recent amendments to the Competition Act have been considered
- the budget drafted assumes we are granted permission to retain and use expected cash surpluses of **R13.64m** over the MTEF period.

vii. Filing fees

In terms of a memorandum of understanding between the Commission and the Tribunal, the Tribunal receives 30% of all fees filed with the Commission for large mergers and 5% of the fees filed for intermediate merger considerations.

As indicated throughout this document there is significant uncertainty with regard to both the volume of mergers and the value of the filing fees expected by the Commission. So, while the MTEF budget is drawn, using the Commission's estimates as a basis, it is possible that we may need to reconsider the budget in the next financial year.

viii. Financial impact of amendments

While we cannot predict with certainty the direct financial impact of the amendments to the Act, we anticipate an increase in procedural matters e.g. arising from the market enquiries and monitoring provisions of the Act as firms may challenge the Commission's processes or requests for information under these provisions.

We also anticipate that hearings will be protracted due to the complexity of some of the provisions in the amendments for which there is no precedent.

In the 2017/2018 and the 2018/2019 financial year the Tribunal spent 157 days and 146 days in hearings respectively. This budget provides for 202 hearing days.

The additional capacity required and referred to in (i) above and section 9.2 of this document will improve the efficiency of the Tribunal but at the same time will impact on all costs associated with the adjudicative process.

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

We expect the financial impact to be on expenditure and not revenue. The reason for this expectation is that the amendments to the Act do not make provision for any amendments to the nature of filing fees payable for matters brought before the competition authorities.

ix. Retention of surpluses

Historically the escalation in the grant allocated by government to the Tribunal has been inadequate to cover expected expenditure year on year. The Tribunal was in a position to balance its budget by making use of accumulated cash surpluses that have been drawn down year on year.

This “drawing down” has been reflected in the MTEF and Estimates of National Expenditure (ENE) submissions and has been communicated in the Tribunal’s APP annually since November 2010. Calculations indicate that if the Tribunal is granted permission to retain expected accumulated cash surpluses of R13.64m over the MTEF period there will be sufficient funding to fully cover estimated expenditure to the outer year (2022/2023). Permission was granted in October 2019 to retain surpluses in the amount of R5m to fund the budgeted shortfall in 2019/2020. The Tribunal is now required to obtain National Treasury approval for retention on an annual basis.

The table below reflects the estimation for the receipt of annual filing fees from the Commission and the use of accumulated surpluses to cover the expected shortfall of income over expenditure.

While the table reflects increments of 4.19 %, 4.78% and 4.92% in the respective years of the MTEF budget it must be noted that these increments primarily related to an anticipated increase in the quantity and/or volume of cases associated with the amendments. We are of the view that this increased case load will result in a need for increased capacity (and therefore increased personnel costs) and operational costs related to the adjudicative process.

The Tribunal was awarded an additional allocation of R5m in the outer year of the MTEF. Assuming that permission is granted to retain surpluses of R5.96m, R5.98m and R1.70 in the 2020/2021, 2021/2022 and 2022/2023 financial years respectively the Tribunal will be in a position to fund predicted shortfalls. There is however a need to address the Tribunal’s funding requirements in the next MTEF period as larger grants will have to be allocated to the Tribunal.

In the next financial year, the Tribunal will need to make a submission to the DTIC and National Treasury for additional funding of **R3.83m** for the **2023/2024 financial year**. The Tribunal budget over the three-year MTEF period is reflected in table 6 that follows.

Table 6: Tribunal budget over three-year MTEF period

Year	Annual budget increment	Total budget (R'm)	MTEF funding (R'm)	Filing fees (R'm)	Interest (R'm)	Use of accumulated surplus (R'm)	Additional funding required (R'm)
2020/2021	4.19%	R64.24	R37.40	R20.05	R0.83	R5.96	R0.00
2021/2022	4.78%	R67.31	R39.46	R21.25	R0.62	R5.98	R0.00
2022/2023	4.92%	R70.62	R45.93	R22.52	R0.47	R1.70	R0.00
TOTAL		R202.17	R122.79	R63.82	R1.92	R13.64	R0.00

A summarised three-year budget and the main assumptions made in drafting the 2020/2021 APP and the extrapolated budget over the three-year period is included in **Annexure G** of this document.

x. Budgeting

As indicated earlier the Tribunal, being an adjudicative body, is reactive as opposed to proactive in terms of the cases brought before it. This in turn means that management is unable to accurately predict the number of cases to be heard on an annual basis.

Budgeting accurately therefore is not possible as many of the line items are based on an estimated number of cases for the financial year. In addition, the Tribunal makes provision for legal fees, as it is possible that particular cases may require the Tribunal to seek legal opinion.

Both these factors mean that, inevitably, variances in actual expenditure as opposed to budgeted expenditure arise. The trend over the last five years has been towards actual expenditure being more closely equated to the budget and resulting in smaller variances (as illustrated in the table 7 on the next page) and the Tribunal strives for this trend to continue.

Table 7: Spend against budget 2014/2015 to 2018/2019

Year	Actual expenditure incl. of capital expenditure (in R'm)	Budget (in R'm)	% Budget spent	% Budget not spent/overspent
2014/2015	R36.64	R33.48	109.44%	9.43% overspent
2015/2016	R36.89	R38.15	96.70%	3.31% underspent
2016/2017	R38.70	R42.77	90.48%	9.52% underspent
2017/2018	R48.29	R52.22	92.47%	7.53% underspent
2018/2019	R49.72	R56.27	88.36%	11.65% underspent

PART C: MEASURING OUR PERFORMANCE

8. Institutional Programme Performance Information

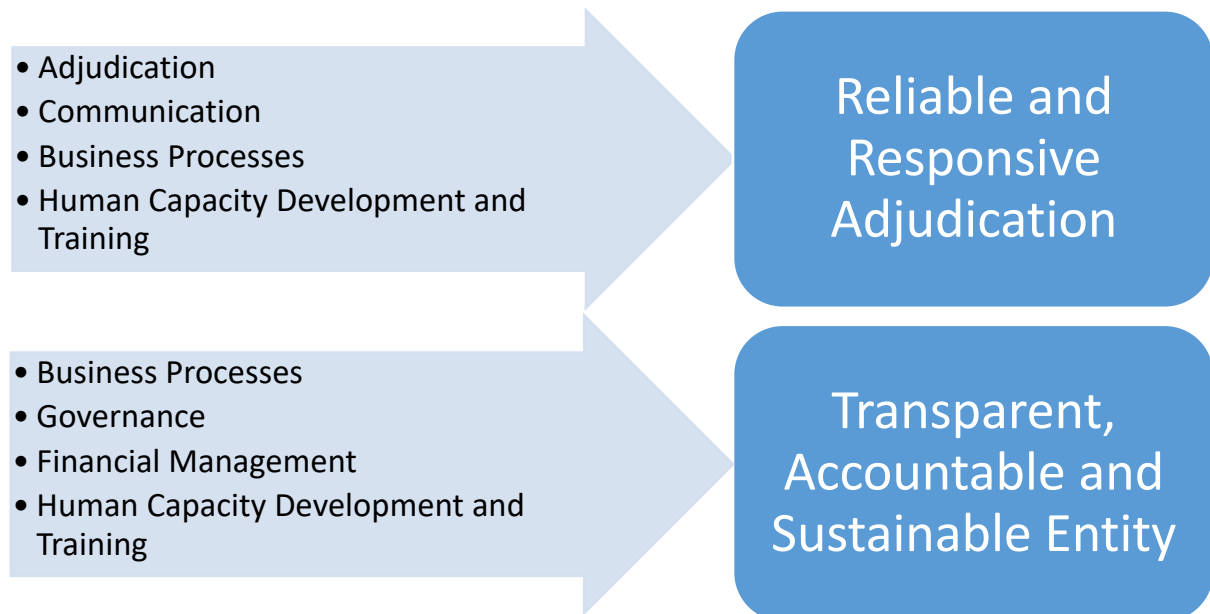
The Tribunal is the court of first instance for competition matters, being a quasi – judicial body and creature of statute can only do what the statute allows it to do.

The quasi-judicial nature of the Tribunal precludes the Tribunal from setting pro-active objectives or embarking on focused interventions which target any particular sector or emphasise any specific criterion in its decision-making. The Tribunal has jurisdiction over competition matters across all sectors of the economy and adjudicates each case on its merits. That being said, the Tribunal can align its outcomes with those of the NDP and DTIC in the sectors identified in the DTIC’s Strategic Plan and the NDP within the confines of its mandate set out in the Act.

The two stated outcomes of the Tribunal reflect the strategic requirements of the core and secretariat functions of the Tribunal, rather than institution driven programmes (as contemplated in the Strategic Plan Framework).

The Tribunal has identified six focus areas that are linked to the two outcomes of the Tribunal.

A focus area may be linked to both of the outcomes. The linkages are illustrated in the diagram below.



In each of these focus areas we have identified outputs which the Tribunal is aiming to achieve over the Medium-Term Expenditure Framework (MTEF) and how these outputs are linked in support of the identified outcomes. As is illustrated in section 9.3 of this document the Tribunal allocates its budget across these six focus areas (although eight focus areas are listed, there is an overlap in respect of business processes and human capacity development and training which are relevant under both outcomes).

8.1. Outcomes, Outputs, Performance Indicators and Targets

In this section we explain the purpose of each of these focus areas. We identify the outputs in each of these focus areas that will assist the Tribunal to achieve its stated outcomes.

Indicators to measure the performance/achievement of the outputs against agreed targets are given. Where applicable annual targets are cascaded down to quarterly targets. If the target is applicable in 2018/2019 or was previously applicable in prior years, performance against these targets is reflected in the matrix. If the indicator is new but there is existing information regarding the prior performance against the indicator is also reflected in the matrix (even if it is not an audited outcome).

8.1.1. Adjudication

Adjudication represents the core business of the Tribunal. The Act provides for the Tribunal to regulate two broad areas of competition - mergers and acquisitions on the one hand and prohibited practices on the other.

Outcomes, outputs, indicators and targets for this focus area are indicated in matrix format in the tables that follow.

Table 8: Outcome/Output/Indicator/Targets related to adjudication

OUTCOME	OUTPUT	OUTPUT INDICATOR	AUDITED ACTUAL PERFORMANCE			ESTIMATED PERFORMANCE	MTEF PERIOD TARGETS		
			2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23
Responsive and Reliable Adjudication	Effective case management procedures to ensure hearings set down within legislated timeframes	Percentage of large mergers set down for the beginning of a hearing or a pre-hearing within 10 business days of filing of the merger referral.	87.25%	71.9%	67%	80%	75%	75%	75%
		Percentage of intermediate and small merger reconsiderations set down for the beginning of a hearing or a pre-hearing within 10 business days of receipt of the Commissions record.	80%	70%	25%	70%	65%	65%	65%
		Percentage of matters classified as complex or very complex where a pre-meeting is held by the panel members and case managers prior to the first scheduled hearing	New Indicator				70%	70%	70%

OUTCOME	OUTPUT	OUTPUT INDICATOR	AUDITED ACTUAL PERFORMANCE			ESTIMATED PERFORMANCE	MTEF PERIOD TARGETS		
			2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23
		date.							
		Percentage of matters classified as complex or very complex where a post-meeting is held by the panel and case managers after the hearing is concluded	New indicator				80%	80%	80%
	Effective and timeous issuing of orders, and reasons	Percentage of large merger orders issued to parties within 10 business days of last hearing date ³	99.02%	100%	97%	95%	95%	95%	95%
		Percentage of reasons for large mergers issued to parties within 20 business days of order being issued	78.7%	90.91%	75%	80%	80%	80%	80%
		Percentage of orders for intermediate and small merger reconsideration issued to parties within 10 business days of last hearing date	66.67%	75%	100%	80%	80%	80%	80%
		Percentage of reasons for intermediate and small merger reconsiderations issued to parties within 20 business days of the	0%	100%	0%	80%	70%	70%	70%

^{3 3} A business rule has been established where “hearing date” can refer to any one of the following: actual hearing, telephonic hearing, paper hearing (date on which required documents are submitted – currently referred to as “last submission date”).

OUTCOME	OUTPUT	OUTPUT INDICATOR	AUDITED ACTUAL PERFORMANCE			ESTIMATED PERFORMANCE	MTEF PERIOD TARGETS		
			2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23
		order being issued.							
		Reasons ⁴ for prohibited practice cases classified as simple ⁵ are issued to parties within 100 business days of the last hearing date	No reasons issued	50%	0%	100%	100% ⁶	100%	100%
		Reasons for prohibited practice cases classified as complex ⁷ are issued to parties within 125 business days of the last hearing date	66.67%	100%	50%	100%	100% ⁸	100%	100%
		Reasons ⁹ for prohibited practice cases classified as very complex ¹⁰	50%	No reasons	50%	100% ¹¹	100%	100%	100%

⁴ In exceptional cases an order may be issued before reasons but in most instances orders and reasons are issued simultaneously and therefore reasons date is taken as the indicator.

⁵ Throughout the document we refer to matters as Simple matter, Complex matter or Very Complex matter. Factors that determine the complexity of a matter include but are not limited to length of case, size of the record and complexity of legal argument. The complexity is determined by the Head of Case Management at the beginning of the hearing.

⁶ The target is binary in that it is either 0% or 100% for e.g. if one out of one set of reasons is not issued within the timeframe then the target is not achieved. The three-year target is set at 100% as stricter monitoring processes are followed.

⁷ See footnote 5 above

⁸ See footnote 6 above

⁹ In exceptional cases an order may be issued before reasons but in most instances orders and reasons are issued simultaneously and therefore reasons date is taken as the indicator.

¹⁰ See footnote 5 above

¹¹ See footnote 6 above

OUTCOME	OUTPUT	OUTPUT INDICATOR	AUDITED ACTUAL PERFORMANCE			ESTIMATED PERFORMANCE	MTEF PERIOD TARGETS		
			2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23
		are issued to parties within 150 business days of the last hearing date		issued					
Responsive and Reliable Adjudication	Effective and timeous issuing of orders, and reasons	Percentage of procedural matter ¹² orders issued to parties within 45 business days of the last hearing date.	26.19%	56%	91%	85%	85%	85%	85%
		Percentage orders for consent orders and settlement agreements issued to parties within 10 business days of the last hearing date.	100%	84.62%	98%	95%	95%	95%	95%
		Percentage of reasons in interim relief matters issued to parties within 20 business days of last hearing date.	0%	No reasons issued	No reasons issued	90%	100%	100%	100%

OUTPUT INDICATOR	Annual Targets	Q1	Q2	Q3	Q4
Percentage 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	75%	75%	75%	75%	75%

¹² While we refer to procedural matters they include interlocutory applications.

OUTPUT INDICATOR	Annual Targets	Q1	Q2	Q3	Q4
Percentage of intermediate and small merger reconsiderations to be set down for the beginning of a hearing or a pre-hearing within 10 business days of the filing of the request for consideration	65%	65%	65%	65%	65%
Percentage of matters set down for a hearing where a pre-meeting is held prior to the first scheduled hearing date	70%	70%	70%	70%	70%
Percentage of matters where a post-meeting is held after the hearing being concluded	80%	80%	80%	80%	80%
Percentage of large merger reasons issued to parties within 20 business days of order being issued	80%	80%	80%	80%	80%
Percentage of intermediate and small merger reconsideration orders issued to parties within 10 business days of last hearing date	80%	80%	80%	80%	80%
Percentage of intermediate and small merger reconsideration reasons issued to parties within 20 business days of order being issued	70%	70%	70%	70%	70%
Reasons for prohibited practice cases classified as simple are issued to parties within 100 business days of the last hearing date	100% ¹³	100%	100%	100%	100%
Reasons for prohibited practice cases classified as complex are issued to parties within 125 business days of the last hearing date	100% ¹⁴	100%	100%	100%	100%
Reasons for prohibited practice cases classified as very complex are issued to parties within 150 business days of the last hearing date	100% ¹⁵	100%	100%	100%	100%
Percentage of procedural matter orders issued to parties within 20 business days of last hearing date (procedural matters includes interlocutory applications)	85%	85%	85%	85%	85%
Percentage orders for consent orders and settlement agreements issued to parties within 10 business days of last hearing date	95%	95%	95%	95%	95%
Percentage interim relief reasons issued to parties within 20 business days of last hearing date	100%	100%	100%	100%	100%

¹³ See footnote 6 above

¹⁴ See footnote 6 above

¹⁵ See footnote 6

8.1.2. Communication

The purpose of this focus area within the Tribunal is to provide a focussed process to create and enhance awareness of the work of the Tribunal. The outcomes, outputs, indicators and targets are detailed in matrix format in table 9 below.

Table 9: Outcome/Output/Indicator/Targets related to communication

OUTCOME	OUTPUT	OUTPUT INDICATOR	AUDITED ACTUAL PERFORMANCE			ESTIMATED PERFORMANCE	MTEF PERIOD TARGETS		
			2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23
Transparent, Accountable and Sustainable Tribunal	Effective communication and information sharing	Percentage press releases of final merger decisions communicated within 2 business days of order date	99.05%	100%	97%	95%	95%	95%	95%
		Percentage press releases of prohibited practice decisions communicated within 2 business days of order date	80%	60%	60%	90%	90%	90%	90%
		Annual publication (update) of Jurisprudence handbook	New Indicator			New Indicator	Handbook updated and published	Handbook updated and published	Handbook updated and published

OUTPUT INDICATOR	Annual Targets	Q1	Q2	Q3	Q4
Percentage press releases of final merger decisions communicated within 2 business days of order date	95%	95%	95%	95%	95%
Percentage press releases of prohibited practice decisions communicated within 2 business days of order date	90%	90%	90%	90%	90%
Annual publication (update) of Juris-prudence handbook	Handbook updated and published	N/A	N/A	N/A	Handbook updated and published

8.1.3. Business processes

The purpose of this function/focus area to improve management information by enhancing record keeping as well as performance management, case flow and document management particularly through innovative technology.

Table 10: Outcome/Output/Indicator/Targets related to business processes

OUTCOME	OUTPUT	OUTPUT INDICATOR	AUDITED ACTUAL PERFORMANCE			ESTIMATED PERFORMANCE	MTEF PERIOD TARGETS		
			2016/17	2017/18	2018/19		2019/20	2020/21	2021/22
	Establishment of integrated knowledge management system	Integrated Knowledge Management Framework developed and implemented	New Indicator			New Indicator	Framework developed and approved. draft project plan developed	Project plan approved and implementation against project milestones	Implementation against project milestones

OUTCOME	OUTPUT	OUTPUT INDICATOR	AUDITED ACTUAL PERFORMANCE			ESTIMATED PERFORMANCE	MTEF PERIOD TARGETS		
			2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23
		against approved project plan milestones.							
Transparent, Accountable and Sustainable Tribunal	Effective records management	Approved electronic records management policy and filing system. Approved file plan and system implemented according to project plan milestones	New Indicator			New Indicator	Policy and file plan approved/ draft project plan implemented	Plan implemented against milestones	Records management/ filing system in place and operative

OUTPUT INDICATOR	Annual Targets	Q1	Q2	Q3	Q4
Integrated Knowledge Management Framework developed and implementation of project plan	Framework approved and draft project plan in place	Feasibility study completed	N/A	Framework approved	Draft project plan developed
Approved electronic records management	Policy and file plan	N/A	File plan submitted	Electronic records	Draft project

OUTPUT INDICATOR	Annual Targets	Q1	Q2	Q3	Q4
policy and filing system. Approved file plan and system implemented according to project plan milestones	approved. Draft project plan implemented		to National Archives for approval	management and filing system policy approved	plan approved

8.1.4. Governance

The main purpose of governance as focus area/function within the Tribunal is to ensure that the entity is managed in a sound, accountable and transparent way. The focus area/function is also responsible for compliance with statutory requirements.

Table 11: Outcome/Output/Indicator/Targets related to governance

OUTCOME	OUTPUT	OUTPUT INDICATOR	AUDITED ACTUAL PERFORMANCE			ESTIMATED PERFORMANCE	MTEF PERIOD TARGETS		
			2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23
Transparent, Accountable and Sustainable Tribunal	Sound governance	Percentage of prior financial year audit (internal and external) findings resolved by the end of the current financial year	New Indicator				100%	100%	100%
		At least one meeting held annually to inform the Tribunal employees of stated APP performance targets and to assess performance against these targets and implement corrective action or revise targets as required.	New Indicator				One meeting	One meeting	One meeting
		Not more than one finding by the Auditor-General at year end that	No findings	No findings	No findings	No findings	No findings	No findings	No findings

OUTCOME	OUTPUT	OUTPUT INDICATOR	AUDITED ACTUAL PERFORMANCE			ESTIMATED PERFORMANCE	MTEF PERIOD TARGETS		
			2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23
		indicates the Tribunal does not have effective oversight structures or corporate governance practices in place.							

OUTPUT INDICATOR	Annual Targets	Q1	Q2	Q3	Q4
Percentage of prior financial year audit (internal and external) findings resolved	100%	N/A	N/A	N/A	100%
At least one meeting held annually to inform the Tribunal employees of stated APP performance targets and to assess performance against these targets and implement corrective action or revise targets as required.	One meeting	N/A	N/A	N/A	One meeting
Not more than one finding by the Auditor-General at year end that indicates the Tribunal does not have effective oversight structures or corporate governance practices in place.	One finding	N/A	N/A	N/A	One finding

8.1.5. Financial management

The purpose of the financial management function/focus area is to ensure the optimal management of financial resource allocation and utilisation. The function is also responsible for ensuring compliance to financial reporting requirements.

Table 12: Outcome/Output/Indicator/Targets related to financial management

OUTCOME	OUTPUT	OUTPUT INDICATOR	AUDITED ACTUAL PERFORMANCE			ESTIMATED PERFORMANCE	MTEF PERIOD TARGETS		
			2016/17	2017/18	2018/19		2019/20	2020/21	2021/22
Transparent, Accountable and Sustainable Tribunal	Effective financial management	Percentage expenditure against budget (annual)	91.01% ¹⁶	92.45%	88.35%	New Indicator	85%	85%	85%
		No findings of fruitless & wasteful expenditure reported on in the final audited financial statements	No findings	No findings	No findings	No findings	No findings	No findings	No findings
		No findings of irregular expenditure reported on in the final audited financial statements	No findings	1 finding	No findings	No findings	No findings	No findings	No findings
		No material misstatements in AFS submitted to National Treasury at 31 May	No material misstatements	No material misstatements	No material misstatements	No material misstatements	No material misstatements	No material misstatements	No material misstatements

OUTPUT INDICATOR	Annual Targets	Q1	Q2	Q3	Q4
Percentage expenditure against budget (annual)	85%	20% of annual	40% of annual	60% of annual	85% of annual budget

¹⁶ While this is a new indicator we do have the information to reflect prior performance and therefore determine a target based on prior performance

OUTPUT INDICATOR	Annual Targets	Q1	Q2	Q3	Q4
		budget	budget	budget	
No findings of fruitless & wasteful expenditure reported on in the final audited financial statements	No findings	N/A	N/A	N/A	No findings
No findings of irregular expenditure reported on in the final audited financial statements	No findings	N/A	N/A	N/A	No findings
No material misstatements in AFS submitted to National Treasury at 31 May	None	N/A	N/A	N/A	None

8.1.6. Human capacity development and training

The human capacity development and training function/focus area is to ensure that the Tribunal effectively leverages employee skills by recruiting, retaining and development of high quality performing people.

The outcome/output/indicators/targets associated with this function/focus area are illustrated in matrix format in table 13 below.

Table 13: Outcome/Output/Indicator/Targets related to human capacity development and training

OUTCOME	OUTPUT	OUTPUT INDICATOR	AUDITED ACTUAL PERFORMANCE			ESTIMATED PERFORMANCE	MTEF PERIOD TARGETS		
			2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23
Transparent,	Capacity development, retention and training	Average employee performance evaluation score	3.8	3.4	3.6	3.5	3.5	3.5	3.5

OUTCOME	OUTPUT	OUTPUT INDICATOR	AUDITED ACTUAL PERFORMANCE			ESTIMATED PERFORMANCE	MTEF PERIOD TARGETS		
			2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23
Accountable and Sustainable Tribunal		Percentage vacancy rate	0% ¹⁷	3.83%	7.69%	3.83%	7% ¹⁸	7%	7%
		Percentage staff turnover	16% ¹⁹	7.69%	19.23%	3.85%	11.5% ²⁰	11.5%	11.5%
		At a minimum send at least one representative annually to an OECD competition forum and at least one representative the annual ICN conference	Achieved	Achieved	Achieved	Achieved	One person per conference/forum/per year		
		Facilitate an annual capacity building workshop for case managers and Tribunal members	New Indicator New Indicator				1	1	1
		Number of long terms case management interns appointed	2	2	2	2	2	2	2

¹⁷ The vacancy figures reflected in the baseline and estimated performance reflect the actual vacancy (2016/2017 to 2018/2019) at year end and expected vacancies as at end 2019/2020.

¹⁸ The targets reflected are based on prior period figures as well as an estimation of how many vacancies the Tribunal can accommodate for a short period of time.

¹⁹ The turnover figures reflected in the baseline and estimated performance reflect the actual turnover (2016/2017 to 2018/2019) at year end and expected turnover as at end 2019/2020.

²⁰ The targets reflected are based on prior period figures as well as an estimation of what level of turnover the Tribunal can accommodate for a short period of time.

OUTPUT INDICATOR	Annual Targets	Q1	Q2	Q3	Q4
Average employee performance evaluation score ²¹	3.5	N/A	N/A	N/A	3.5
Percentage vacancy rate ²²	7%	N/A	N/A	N/A	7%
Percentage staff turnover ²³	11.5%	N/A	N/A	N/A	11.5%
At a minimum at least one representative sent annually to an OECD competition forum and at least one representative to the annual ICN conference	1 per person per forum/conference	N/A	N/A	N/A	1 person per forum/conference
Facilitate an annual capacity building workshop for case manager and Tribunal members	1	N/A	1	N/A	N/A
Number of long-term case management interns appointed	2	2	2	2	2

²¹ These three targets are measured annually and there is therefore no target set for the first three quarters of the year.

²² See footnote 21

²³ See footnote 22

8.2. Explanation of planned performance over the medium-term period

The two outcomes identified in the Strategic Plan enable the Tribunal to operate within its mandate as a credible institution within the public sector and pursue its commitment to keep the public informed.

Eight outputs have been identified that will enable the Tribunal to achieve these two outcomes. In turn we have identified 32 indicators linked to these outputs that are measured quarterly and annually.

The score card reflected in section 8.1 above reflects the specific outcome, the output aligned to each outcome, output indicators and target assigned for the three-year period. Where possible it also reflects prior period performance and estimates performance for 2019/2020 based on the first two quarters performance.

The targets set by the Tribunal against the outcomes and outputs related to the adjudicative process in particular are generally constant over the three-year period as the Tribunal is a service organisation providing a constant level of service to its clients.

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

In attaining the outcomes and the output indicators the Tribunal identified a number of strategic interventions that should be implemented over the MTSF period to ensure that the outcome targets developed will be achieved.

To achieve **“Responsive and Reliable Adjudication”** the following interventions must be implemented:

- Development of pre-hearing internal guideline document
- Compile regular case updates on significant developments within the Act
- Conduct weekly case management meetings
- Institute a process whereby case managers check files regularly
- Develop a practice whereby case managers play a stronger oversight role in the whole case management process
- Conduct monthly training sessions
- Improve the case management system for ease of search and reporting functionality

The Tribunal aims to be a **“Transparent, Accountable and Sustainable”** and in order to achieve that the following interventions must be implemented:

- Review effectiveness of communication with various stakeholders
- Establish mechanisms or processes for knowledge transfer
- Review and enhance the employee performance management system
- Conduct a skills and competency audit that informs the training and capacity development plan

- Development, adherence and regular reporting against an annual institutional procurement plan
- Periodic institutional benchmarking against similar institutions or professions
- Conduct quarterly performance review workshops before finalising and submitting the quarterly reports
- Review and update the employee and Tribunal member induction process
- Investigate and conclude a financial model for the Tribunal with the DTIC and National Treasury
- Development and implement a competency evaluation framework
- Development of skills development and HR retention strategy and plan
- Conduct an internal climate survey

9. Financial considerations and the 2020/2021 budget

9.1. MTEF Estimates

The Tribunal's budget (inclusive of capital expenditure) over the three-year period (2020/2021 – 2022/2023) is estimated to be **R202.17m**.

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

- DTIC grant funding of **R122.7m** for the three years 2020/2021 to 2022/2023 (based on indicative baseline allocation provided by the EDD);
- Expected filing fee revenue of **R63.82m** (this is based on Commission's estimation of an annual increase of 6% in filing fee revenue year on year)
- Using **R5.96m** of the accumulated cash surpluses (**R19.01m** as at March 2019) in 2020/2021, **R5.98m** in 2021/2022 and **R1.70m** in 2022/2023
- Interest income of **R1.92m** over the three years from 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 2022/2023.

The EDD/DTIC increased the allocation to the Tribunal for the outer year of the MTEF period by R5m. Initial calculations we have undertaken indicate that we will need to make a submission for **additional funding of R3.83m** for the **2023/2024 financial year**.

In drafting the budget three major points must be noted:

- the Tribunal is dependent on the predictions made with regard to expected filing fees received from the Commission over the MTEF. We have based our estimates on a historic annual average growth rate of 6%
- an initial assessment of the financial impact of recent amendments to the Competition Act have been considered in 2019/2020 and therefore included in 2020/2021 budget
- the budget drafted assumes we continue to be granted permission to retain expected cash surpluses over the three-year MTEF period.

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 D 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 E reflects the Statement of Financial Performance over the MTEF period included in the ENE submitted in November 2019 while **Annexure F** contains a summarized version of the Tribunal's budgetary requirements over the three - year planning period (including the 2019/2020 budget).

The budget has been drawn based on the consumer price index (CPI) of 5.1%, 5.0% and 4.8% respectively for the years 2020/2021,2021/2022 and 2022/2023 as recommended by National Treasury.

In 2020/2021 we have applied annual cost of living (COL) adjustments of 2.5% for Tribunal members and those applied for all other staff range between 5.1% and 6.1% depending on salary level.

In the remaining two outer years of the planning period the average COL adjustment applied for non-SMS staff is set 5.3% for both years while those for SMS level staff is set at 5% in 2021/2022 and 4.8% in the remaining year. The COL adjustment for full-time Tribunal members is set at 2.5% in all both years (2021/2022 – 2022/2023). We have adjusted the daily fee paid to Tribunal members by 4% from R9 000.00 per day to R9 360.00 per day. Given an expected increase in case load we have, in the outer two years of the MTEF, increased the total fees payable to part-time members by 10%.

9.2. Expenditure Estimates

A detailed one-year budget for the **2020/2021** year is included in **Annexure G**.

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 not possible 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 considered the main assumptions listed below for the 2020/2021 budget and has then applied the adjustments indicated in section 9.1 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 59.30% 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 2020/2021 budget are as follows:

- i) An escalation of 10% on the leasing fee charged by the dti from R424.59 per square metre to R467.04 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 as referred to in this document
Cost of living increase for non-SMS staff ranging between 5.3% and 5.5%
- iv) Provision for promotional adjustments of 2% in the salaries of the secretariat staff
- v) Provision for performance bonuses at an average 5.9% of basic salary for secretariat staff
- vi) 375.19 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 in matters brought before the Tribunal based on current and proposed changes to the Act).
- vii) 202 actual hearing days
- viii) The daily fee payable to part-time Tribunal members for attendance at hearings/preparation and decision writing is budgeted at R 9 360.00 per day. Currently part-time members receive a daily fee of R 9000.00 and have not had an adjustment since March 2016
- ix) All other costs associated with holding hearings are based on the estimate in (ix) and (x) above.

- x) Four international conferences/workshops/seminars to be attended over the year by a total of six people (three Tribunal members and two case managers)²⁴.
- xi) All local air travel is on economy class.
- xii) Three Tribunal members and the Head of Case Management to represent the Tribunal at two Organisation for Economic Cooperation and Development (OECD) meetings (two delegates at each meeting).
- xiii) Two case managers to attend one regional workshop²⁵.
- xiv) Two executive members and the Head of Registry to attend three parliamentary portfolio committee meetings
- xv) Two executive members to attend two other meetings held in Parliament in Cape Town (for e.g. tabling of the Department’s budget)
- xvi) An annual workshop for Tribunal members and case managers facilitated by an international competition law expert
- xvii) One case manager to be present at each of the CAC Court hearings
- xviii) Two graduate interns and four vacation interns in the case management division and two interns in the other divisions for a year
- xix) Specific IT requirements year on year – inclusive of hardware and software support

In drafting the budget, we have taken heed of National Treasury’s request to curb expenditure.

While table 14 that follows reflects increments in the budget ranging from 4.19% in 2020/2021 to 4.92% in 2023/2043 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 associated operational costs.

Table 14: Tribunal budget over three-year MTEF period

Year	Annual budget increment	Total budget (R’m)	MTEF funding (R’m)	Filing Fees (R’m)	Interest (R’m)	Use of accumulated surplus (R’m)	Additional funding required (R’m)
2020/2021	4.19%	R64.24	R37.40	R20.05	R0.83	R5.96	R0.00
2021/2022	4.78%	R67.31	R39.46	R21.25	R0.62	R5.98	R0.00
2022/2023	4.92%	R70.62	R45.93	R22.52	R0.47	R1.70	R0.00
TOTAL		R202.17	R122.79	R63.82	R1.92	R13.64	R0.00

The table above illustrates that based on estimates of filing fee revenue and permission to retain and utilise expected cash surpluses no additional funding is required over the MTEF period

Table 14 below illustrates the Tribunal’s budget allocation across the various expenditure categories for both the current and the next financial year.

²⁴ 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

²⁵ See footnote 15

Table 14 – Percentage budget allocation across category of expenditure for the two years (2019/2020 and 2020/2021)

CATEGORY	2020-2021	2019-2020
PERSONNEL	59.34%	58.13%
PT TRIBUNAL MEMBERS	6.46%	7.31%
TRAINING	1.57%	2.07%
CONFERENCES AND SEMINARS	0.70%	0.73%
SHARED SERVICE FEE	1.56%	1.47%
FACILITY FEE	9.67%	10.07%
CONSULTING	0.56%	0.55%
LEGAL FEES	0.23%	0.24%
TRANSCRIPTION COSTS	3.15%	2.77%
AUDIT EXPENSES	2.87%	2.93%
RECRUITMENT COSTS	0.29%	0.29%
ADMIN EXPENSES	2.97%	3.11%
AMORTISATION	0.62%	0.68%
DEPRECIATION	1.40%	1.40%
OTHER IT EXPENDITURE	4.25%	3.93%
REPAIRS/MAINTENANCE	0.06%	0.05%
CAPITAL EXPENDITURE	3.21%	3.09%
APPEALS COURT BUDGET	1.09%	1.18%
TOTAL PERCENTAGE	100.00%	100.00%
TOTAL EXPENDITURE	64,240,635	61,656,072

59.34% of the Tribunal’s 2020/2021 budget will be spent on personnel expenses. If one includes fees paid to the part-time Tribunal members in this category it increases to 65.80%

“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 10.23% of the budget.

Costs associated with audits (internal, external audit fees and audit committee expenses) account for 2.87% of the budget while administrative expenses account for 2.97% 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 all 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 **2020/2021** financial year this is estimated by the Commission to be **R20.05m**.

Given that these fees, together with the MTEF allocation of **R37.40m** for the 2020/2021 financial year are not sufficient to cover expected expenditure of **R64.24m** (inclusive of capital expenditure), additional funding is necessary.

The Tribunal has estimated that it will need to request permission to use approximately **R5.96m** of expected cash surpluses to cover the projected shortfall.

9.3 Relating Expenditure Estimates to Outcomes and Outputs

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 associated outputs relate primarily to its mandate and core business but also include strategic outcomes and outputs related to oversight and financial management.

Table 15 below indicates the allocation of the annual budget across the two outcomes. We have managed to allocate **73.28%** of the annual budget across the two outcomes.

Table 15 Budget allocation by outcome

Outcome	Budget	% of budget
Responsive and reliable adjudication	R 32 464 173.37	50.54%
Accountable , transparent and sustainable entity	R 14 940 972.62	23.26%
Total	R 47 405 145.99	73.79%

The remaining 26.21% of the budget is distributed as follows:

- Administrative costs – 19.89%
- Depreciation/Amortisation – 2.02%
- Capital expenditure – 3.21%
- Appeal Court costs – 1.09%

9.4. Reconciling targets with the budget and MTEF

As indicated above the Tribunal has been able to allocate **73.28%** of its budget against the stated strategic outcomes.

In addition, the budget is further divided by output with linkages to the six identified focus areas as illustrated in table 16 .

Table 16 – Budget allocation by focus area, output and outcome

FOCUS AREA	OUTPUTS	LINK TO OUTCOME	BUDGET
Adjudication	Effective and timeous issuing of orders, and reasons	Responsive and Reliable Adjudication	R20 797 987.63
	Effective case management procedures to ensure hearings set down within legislated timeframes		R11 666 185.74
Communication	Effective communication and information sharing	Transparent, Accountable and Sustainable Tribunal	R1 382 931.98
Business processes	Establishment of integrated knowledge		

FOCUS AREA	OUTPUTS	LINK TO OUTCOME	BUDGET
	management system		
	Effective records management		R3 832 065.64
Governance	Sound governance		R3 815 261.25
Financial management	Effective financial management		R3 324 570.45
Human capacity development and training	Capacity development, retention and training		R2 586 143.30
	Administration (incl. depreciation)	N/A	R14 079 076.23
	Capital Expenditure	N/A	R2 058 915.12
	Competition Appeal Court	N/A	R697 498.03
	TOTAL BUDGET		R64 240 635.37

At present, the adjudication and case management 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 DTIC, National Treasury and to other stakeholders.

9.5. 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 1st April 2020 - 31st March 2021 is estimated at R697 498.03 and is reflected in the table 17 below.

Table 17 - % CAC budget allocation across expenditure categories

CATEGORY	2020/2021 BUDGET
Local travel	52% ²⁶
Administrative expenses	7.27%
Conferences attendance and overseas travel	14.49% ²⁷
High Court meetings/training	26.24%
Total	100.00%

²⁶ We have provided for 10 sittings of the appeal court as we have seen an increase in the number of matters being referred to the Appeal Court

²⁷ The CAC budget provides for one Judge to attend Fordham University's Annual Conference on International Antitrust Law and Policy.

PART D: TECHNICAL INDICATOR DESCRIPTORS (TID)

10 Technical Indicator descriptors by focus area

10.1 Adjudication

Outcome		Responsive and Reliable Adjudication
1. Indicator Title		Percentage of large mergers set down for the beginning of a hearing or a pre-hearing within 10 business days of filing of the merger referral.
Definition		This performance indicator measures the efficiency of the Tribunal in setting down a pre-hearing date or hearing date for large mergers within the stipulated timeframe.
Source of data		<ul style="list-style-type: none"> ➤ Merger referral documents received by the Tribunal. ➤ Set down notice issued by the Tribunal. ➤ Any correspondence and notices received and issued between the Tribunal, the Commission and parties. ➤ CMS reports. ➤ Qlikview reports (reporting tool placed on top of CMS) that reflect turnaround times. ➤ Hearing calendar. ➤ Transcriptions.
Method of Calculation / Assessment		<p>The method of calculation is a percentage is calculated as follows:</p> <p>Percentage of large mergers set down for the beginning of a hearing or a pre-hearing within 10 business days of the filing of a merger referral = $(a/b) \times 100$.</p> <p>where</p> <p>a = total number of large mergers set down for the beginning of a hearing or pre-hearing within 10 business days.</p> <p>b = total number of large mergers set down²⁸</p>
Means of Verification		<ul style="list-style-type: none"> ➤ Workflows built into CMS either prevents further updating or sends alerts if case data is missing.

²⁸ The indicator uses the number set down as the denominator as opposed to the number received as receiving documentation does not mean that the merger is ready for a hearing and therefore cannot be a measure of our efficiency. Reasons for variances are given thus indicating if the Tribunal has been inefficient in any way with regard to set down

Outcome	Responsive and Reliable Adjudication
	<ul style="list-style-type: none"> ➤ The Registry Administrator extracts monthly reports from Qlikview and maintains a file that contains source documents. ➤ Data reflected on Qlikview (originally captured on CMS) and source document reviewed to verify data against source document and ensure accuracy. ➤ Registry Administrator will contact official required to input missing data or make corrections on CMS. ➤ Errors and corrections that affect prior period reporting are communicated to Registrar/COO via email. ➤ File reviewed by Registrar on monthly basis and signed off as proof of review. ➤ Registry Administrator completes the performance information report quarterly using Qlikview reports as the basis for data collection. Same process as above followed annually thus providing further opportunity to review monthly information and quarterly reports. ➤ Performance Information reports and file reviewed and verified by Registrar and COO and signed off as proof of review. ➤ One file maintained for an entire financial year and therefore no risk of duplication of source documents which can lead to inaccuracies in data capturing. In addition, same source documents are used for monthly/quarterly and annual review. ➤ Quarterly check of five completed case files to ensure electronic documents mirror hard copy documents and vice versa.
Assumptions	<ul style="list-style-type: none"> ➤ The Tribunal has the financial resources and the capacity to perform its adjudicative function. ➤ There will be no substantial changes to the Tribunal’s mandate or the Competition Act that will impact on stipulated timeframes and targets. ➤ That the Tribunal maintains systems, processes and procedures that facilitate the target being achieved.
Disaggregation of Beneficiaries (where applicable)	<ul style="list-style-type: none"> • N/A
Spatial Transformation (where applicable)	<ul style="list-style-type: none"> • N/A
Calculation Type	<ul style="list-style-type: none"> • Percentage
Reporting Cycle	<ul style="list-style-type: none"> • Quarterly and Annually
Desired performance	The aim of the Tribunal is to meet or exceed the 80% target that has been set.
Indicator Responsibility	<ul style="list-style-type: none"> ➤ Data collection, filing/archiving collected data – Registry Administrator ➤ Data extraction – Registry Administrator

Outcome		Responsive and Reliable Adjudication			
		➤ Verification of accuracy and completeness of extracted and captured information - First level – Registrar Administrator, Second level – Registrar (monthly/quarterly and annually), Third level - COO (only quarterly and annually).			
Baseline		2016/17	2017/18	2018/19	2019/20*
*Estimated performance		87.25%	71.9%	67%	80%
Annual Targets		2020 / 21	2021 / 22	2022 / 23	
		75%	75%	75%	

Outcome		Responsive and Reliable Adjudication	
2. Indicator Title		Percentage of intermediate and small merger reconsiderations set down for the beginning of a hearing or a pre-hearing within 10 business days of receipt of the Commissions record.	
Definition		This performance indicator measures the efficiency of the Tribunal in setting down a pre-hearing or hearing date for Intermediate and small merger reconsiderations within stipulated timeframes.	
Source of data		<ul style="list-style-type: none"> ➤ Commission’s record received by the Tribunal ➤ Set down notice issued by the Tribunal ➤ Any correspondence and notices received and issued between the Tribunal, the commission and parties ➤ Case Management System (electronic case management system run by the Tribunal hereinafter referred to as CMS) reports ➤ Qlikview reports (reporting tool placed on top of CMS) that reflect turnaround times ➤ Hearing calendar ➤ Transcriptions 	
Method Calculation Assessment	of /	<p>Method of calculation is a percentage and is calculated as follows:</p> <p>Percentage of Intermediate and small merger reconsiderations set down within 10 business days of receipt of the Commission’s record = (a/b) x 100.</p> <p>Where;</p> <p>a = total number of Intermediate and small merger reconsiderations set down within 10 business days of receipt of the Commissions record.</p> <p>b = total number of Intermediate and small merger considerations set down.</p>	
Means	of	➤ Workflows built into CMS either prevents further updating or sends alerts if case data is missing.	

Outcome	Responsive and Reliable Adjudication
Verification	<ul style="list-style-type: none"> ➤ The Registry Administrator extracts monthly reports from Qlikview and maintains a file that contains source documents. ➤ Data reflected on Qlikview (originally captured on CMS) and source document reviewed to verify data against source document and ensure accuracy. ➤ Registry Administrator will contact official required to input missing data or make corrections on CMS. ➤ Errors and corrections that affect prior period reporting are communicated to Registrar/COO via email. ➤ File reviewed by Registrar on monthly basis and signed off as proof of review. ➤ Quarterly Registry Administrator completes the performance information report using Qlikview reports as the basis for data collection. ➤ The same processes explained above are followed annually thus providing further opportunity to review monthly information and quarterly reports. ➤ Performance Information reports and file reviewed and verified by Registrar and COO and signed off as proof of review. ➤ One file maintained for an entire financial year and therefore no risk of duplication of source documents which can lead to inaccuracies in data capturing. In addition, same source documents are used for monthly/quarterly and annual review. ➤ Quarterly check of five completed case files to ensure electronic documents mirror hard copy documents and vice versa.
Assumptions	<ul style="list-style-type: none"> ➤ The Tribunal has the financial resources and the capacity to perform its adjudicative function. ➤ There will be no substantial changes to the Tribunal’s mandate or the Competition Act that will impact on stipulated timeframes and targets. ➤ That the Tribunal maintains systems, processes and procedures that facilitate the target being achieved.
Disaggregation of Beneficiaries (where applicable)	<ul style="list-style-type: none"> • N/A
Spatial Transformation (where applicable)	<ul style="list-style-type: none"> • N/A
Calculation Type	<ul style="list-style-type: none"> • Percentage
Reporting Cycle	<ul style="list-style-type: none"> • Quarterly and Annually
Desired performance	The aim of the Tribunal is to meet or exceed the 70% target that has been set.
Indicator Responsibility	<ul style="list-style-type: none"> ➤ Data collection, filing/archiving collected data – Registry Administrator ➤ Data extraction – Registry Administrator ➤ Verification of accuracy and completeness of extracted and captured information - First level – Registry Administrator,

Outcome	Responsive and Reliable Adjudication			
	➤ Second level – Registrar (monthly/quarterly and annually), Third level - COO (only quarterly and annually).			
Baseline *Estimated performance	2016/17	2017/18	2018/19	2019/20*
	80%	70%	25%	70%
Annual Targets	2020 / 21		2021 /22	2022 /23
	65%		65%	65%

Outcome	Responsive and Reliable Adjudication	
3. Indicator Title	Percentage of matters classified as complex or very complex where a pre-meeting is held by the panel members and case managers prior to the first scheduled hearing date.	
Definition	This indicator measures whether the required pre-hearing meeting is held for all matters classified as complex or very complex	
Source of data	➤ Excel spreadsheet maintained by lead case manager (or Qlikview report) reflecting complex and very complex matters and date of pre - meeting	
Method Calculation Assessment	of /	Method of calculation is a percentage and is calculated as follows: Percentage of complex or very complex matters where a pre-meeting is held by the panel and case managers prior to the first scheduled hearing date = $(a/b) \times 100$. where a = total number of complex or very complex matters where a pre-meeting was held. b = total number of complex or very complex matters required to have a pre-meeting
Means Verification	of	➤ Pre-meeting spreadsheet (or Qlikview report)maintained by lead case manager ➤ ➤ Pre-meeting notes
Assumptions	➤ An assumption is made that the Tribunal will document guidelines indicating when a pre-meeting is required and a process for monitoring that these meetings take place. ➤ An assumption that the Tribunal will investigate the possibility of recording this data in the electronic CMS in order to generate reliable statistics in this regard.	
Disaggregation of Beneficiaries (where applicable)	N/A	

Outcome		Responsive and Reliable Adjudication			
Spatial Transformation (where applicable)	N/A				
Calculation Type	Percentage				
Reporting Cycle	Quarterly and Annually				
Desired performance	Target is met or exceeded				
Indicator Responsibility	Lead case manager assigned to a case and the Head of Case Management				
Baseline *Estimated performance	2016/17	2017/18	2018/19	2019/20*	
	New indicator				
Annual Targets	2020 / 21	2021 /22	2022 /23		
	70%	70%	70%		

Outcome		Responsive and Reliable Adjudication	
4. Indicator Title	Percentage of complex or very complex matters where a post-meeting is held by the panel and case managers after the hearing is concluded.		
Definition	This indicator measures whether the required pre-hearing meeting is held for all matters classified as complex or very complex		
Source of data	Excel spreadsheet (or Qlikview report) maintained by the lead case manager reflecting matters where post-meeting is required, and date of post-meeting held		
Method of Calculation Assessment	of /	<p>Method of calculation is a percentage and is calculated as follows:</p> <p>Percentage of complex or very complex matters where a post-meeting is held by the panel and case managers after the hearing is concluded = $(a/b) \times 100$.</p> <p>where</p> <p>a = total number of complex or very complex matters where a post-meeting was held.</p> <p>b = total number of complex or very complex matters required to have a post-meeting</p>	
Means	of	➤ Post-meeting spreadsheet (or Qlikview report) maintained by lead case manager	

Outcome	Responsive and Reliable Adjudication			
Verification	➤ Post-meeting notes			
Assumptions	<ul style="list-style-type: none"> ➤ An assumption is made that the Tribunal will document guidelines indicating when a post-meeting is required and a process for monitoring that these meetings take place. ➤ An assumption that the Tribunal will investigate the possibility of recording this data in the electronic CMS in order to generate reliable statistics in this regard. 			
Disaggregation of Beneficiaries (where applicable)	N/A			
Spatial Transformation (where applicable)	N/A			
Calculation Type	Percentage			
Reporting Cycle	Quarterly and Annually			
Desired performance	Target is met or exceeded			
Indicator Responsibility	Lead case manager assigned to a case and the Head of Case Management			
Baseline *Estimated performance	2016/17	2017/18	2018/19	2019/20*
	New indicator			
Annual Targets	2020 / 21	2021 /22	2022 /23	
	80%	80%	80%	

Outcome	Responsive and Reliable Adjudication			
5. Indicator Title	Percentage of large merger orders issued to parties within 10 business days of last hearing date ²⁹			

²⁹ A business rule has been established where “hearing date” can refer to any one of the following: actual hearing, telephonic hearing, paper hearing (date on which required documents are submitted – currently referred to as “last submission date”).

Outcome		Responsive and Reliable Adjudication
Definition		This performance indicator measures the efficiency of the Tribunal in issuing of decisions for large mergers. Tribunal’s decisions are contained in an “order”
Source of data		<ul style="list-style-type: none"> ➤ Large merger order issued by the Tribunal to parties ➤ Any correspondence and notices received and issued between the Tribunal, the Commission and parties ➤ Case Management System (electronic case management system run by the Tribunal hereinafter referred to as CMS) reports ➤ Qlikview reports (reporting tool placed on top of CMS) that reflect turnaround times ➤ Hearing calendar ➤ Press releases referring to decisions made by the Tribunal ➤ Transcriptions
Method of Calculation Assessment	of /	<p>The method of calculation is a percentage and it is calculated as follows:</p> <p>Percentage of large merger orders issued within ten business days of the last hearing date = $(a/b) \times 100$</p> <p>Where;</p> <p>a = total number of orders for large mergers issued within ten business days of the last hearing date.</p> <p>b = total number of orders for large mergers issued.</p>
Means Verification	of	<ul style="list-style-type: none"> ➤ Workflows built into CMS either prevents further updating or sends alerts if case data is missing. ➤ The Registry Administrator extracts monthly reports from Qlikview and maintains a file that contains source documents. ➤ Data reflected on Qlikview (originally captured on CMS) and source document reviewed to verify data against source document and ensure accuracy. ➤ Registry Administrator will contact official required to input missing data or make corrections on CMS. ➤ Errors and corrections that affect prior period reporting are communicated to the Registrar/COO via email. ➤ File reviewed by Registrar on monthly basis and signed off as proof of review. ➤ Quarterly Registry Administrator completes the performance information report using Qlikview reports as the basis for data collection. ➤ The same processes explained above are followed annually thus providing further opportunity to review monthly information and reports. ➤ Performance Information reports and file reviewed and verified by Registrar and COO and signed off as proof of review. ➤ One file maintained for an entire financial year and therefore no risk of the duplication of source documents which can lead to inaccuracies in data capturing. In addition, same source documents are used for monthly/quarterly and annual review. ➤ Quarterly check of five completed case files to ensure electronic documents mirror hard copy documents and vice versa.
Assumptions		<ul style="list-style-type: none"> ➤ The Tribunal has the financial resources and the capacity to perform its adjudicative function.

Outcome		Responsive and Reliable Adjudication			
	<ul style="list-style-type: none"> ➤ There will be no substantial changes to the Tribunal’s mandate or the Competition Act that will impact on stipulated timeframes and targets. ➤ That the Tribunal maintains systems, processes and procedures that facilitate the target being achieved. 				
Disaggregation of Beneficiaries (where applicable)	N/A				
Spatial Transformation (where applicable)	N/A				
Calculation Type	Percentage				
Reporting Cycle	Quarterly and Annually				
Desired performance	The aim of the Tribunal is to meet the 95% target that has been set.				
Indicator Responsibility	<ul style="list-style-type: none"> ➤ Data collection, filing/archiving collected data – Registry Administrator ➤ Data extraction – Registry Administrator ➤ Verification of accuracy and completeness of extracted and captured information - First level – Registry Administrator, Second level – Registrar (monthly/quarterly and annually), Third level - COO (only quarterly and annually) 				
Baseline *Estimated performance	2016/17	2017/18	2018/19	2019/20*	
	99.02%	100%	97%	95%	
Annual Targets	2020 / 21		2021 /22		2022 /23
	95%		95%		95%

Outcome		Responsive and Reliable Adjudication			
6. Indicator Title	Percentage of reasons for large mergers issued to parties within 20 business days of order being issued.				
Definition	This performance indicator measures the efficiency of the Tribunal in issuing reasons for the decisions (issued through an order) it makes within stipulated time frames				

Outcome		Responsive and Reliable Adjudication
Source of data		<ul style="list-style-type: none"> ➤ Reasons issued by the Tribunal. ➤ Order issued by the Tribunal. ➤ Official correspondence and notices received and issued by the Tribunal. ➤ CMS reports. ➤ Qlikview reports (reporting tool placed on top of CMS) that reflects turnaround times. ➤ Hearing calendar. ➤ Transcriptions.
Method Calculation Assessment	of /	<p>The method of calculation used is a percentage and the percentage is calculated as follows: Percentage of reasons for large mergers issued to parties within 20 business days = $(a/b) \times 100$ Where; a = total number of reasons for large mergers issued to parties within 20 business days of the date the order was issued. b = total number of reasons for large mergers issued.</p>
Means Verification	of	<ul style="list-style-type: none"> ➤ Workflows built into CMS either prevents further updating or sends alerts if case data is missing. ➤ The Registry Administrator extracts monthly reports from Qlikview and maintains a file that contains source documents. ➤ Data reflected on Qlikview (originally captured on CMS) and source document reviewed to verify data against source document and ensure accuracy. ➤ Registry Administrator will contact official required to input missing data or make corrections on CMS. ➤ Errors and corrections that affect prior period reporting are communicated to Registrar/COO via email. ➤ File reviewed by Registrar on monthly basis and signed off as proof of review ➤ Quarterly Registry Administrator completes the performance information. report using Qlikview reports as the basis for data collection. ➤ The same processes explained above are followed annually thus providing further opportunity to review monthly information and reports. ➤ Performance Information reports and file reviewed and verified by Registrar and COO and signed off as proof of review ➤ One file maintained for an entire financial year and therefore no risk of duplication of source documents which can lead to inaccuracies in data capturing. In addition, same source documents are used for monthly/quarterly and annual review ➤ Quarterly check of five completed case files to ensure electronic documents mirror hard copy documents and vice versa
Assumptions		<ul style="list-style-type: none"> ➤ The Tribunal has the financial resources and the capacity to perform its adjudicative function. ➤ There will be no substantial changes to the Tribunal’s mandate or the Competition Act that will impact on stipulated timeframes and targets.

Outcome		Responsive and Reliable Adjudication			
	➤ That the Tribunal maintains systems, processes and procedures that facilitate the target being achieved.				
Disaggregation of Beneficiaries (where applicable)	N/A				
Spatial Transformation (where applicable)	N/A				
Calculation Type	Percentage				
Reporting Cycle	Quarterly and Annually				
Desired performance	The aim of the Tribunal is to meet the 80% target that has been set.				
Indicator Responsibility	<ul style="list-style-type: none"> ➤ Data collection, filing/archiving collected data – Registry Administrator ➤ Data extraction – Registry staff ➤ Verification of accuracy and completeness of extracted and captured information - First level – Registry Administrator, Second level – Registrar (monthly/quarterly and annually), Third level - COO (only quarterly and annually). 				
Baseline *Estimated performance	2016/17	2017/18	2018/19	2019/20*	
	78.7%	90.91%	75%	80%	
Annual Targets	2020 / 21		2021 /22		2022 /23
	80%		80%		80%

Outcome		Responsive and Reliable Adjudication			
7. Indicator Title	Percentage of orders for intermediate and small merger reconsideration issued to parties within 10 business days of last hearing date ³⁰ .				
Definition	This performance indicator measures the efficiency of the Tribunal in issuing of decisions in intermediate and small merger				

³⁰ See footnote 1 for the definition of “hearing date”

Outcome		Responsive and Reliable Adjudication
		reconsiderations. Decisions are issued through an “order”.
Source of data		<ul style="list-style-type: none"> ➤ Intermediate and small merger reconsideration orders issued by the Tribunal to the parties. ➤ Set down notice issued by the Tribunal. ➤ Official correspondence and notices received and issued by the Tribunal. ➤ CMS reports. ➤ Qlikview reports (reporting tool placed on top of CMS) that reflect turnaround times. ➤ Hearing calendar. ➤ Press releases issued by the Tribunal referring to intermediate and small merger reconsideration orders. ➤ Transcriptions.
Method Calculation Assessment	of /	<p>The method of calculation is a percentage and is calculated as follows:</p> <p>Percentage of orders for intermediate and small merger reconsiderations issued = $(a/b) \times 100$</p> <p>where</p> <p>a = total number of orders for intermediate and small merger reconsideration issued within 10 business days of the last hearing date.</p> <p>b = total number of orders for intermediate and small merger reconsiderations issued. .</p>
Means Verification	of	<ul style="list-style-type: none"> ➤ Workflows built into CMS either prevents further updating or sends alerts if case data is missing. ➤ The Registry Administrator extracts monthly reports from Qlikview and maintains a file that contains source documents. ➤ Data reflected on Qlikview (originally captured on CMS) and source document reviewed to verify data against source document and ensure accuracy. ➤ Registry Administrator will contact official required to input missing data or make corrections on CMS. ➤ Errors and corrections that affect prior period reporting are communicated to Registrar/COO via email. ➤ File reviewed by Registrar on monthly basis and signed off as proof of review. ➤ Quarterly Registry Administrator completes the performance information report using Qlikview reports as the basis for data collection. ➤ The same processes explained above are followed annually thus providing further opportunity to review monthly information and quarterly reports. ➤ Performance Information reports and file reviewed and verified by Registrar and COO and signed off as proof of review. ➤ One file maintained for an entire financial year and therefore no risk of duplication of source documents which can lead to inaccuracies in data capturing. In addition, same source documents are used for monthly/quarterly and annual review. ➤ Quarterly check of five completed case files to ensure electronic documents mirror hard copy documents and vice versa.
Assumptions		<ul style="list-style-type: none"> ➤ The Tribunal has the financial resources and the capacity to perform its adjudicative function.

Outcome		Responsive and Reliable Adjudication			
	<ul style="list-style-type: none"> ➤ There will be no substantial changes to the Tribunal’s mandate or the Competition Act that will impact on stipulated timeframes and targets. ➤ That the Tribunal maintains systems, processes and procedures that facilitate the target being achieved. 				
Disaggregation of Beneficiaries (where applicable)	N/A				
Spatial Transformation (where applicable)	N/A				
Calculation Type	Percentage				
Reporting Cycle	Quarterly and Annually				
Desired performance	The aim of the Tribunal is to meet the 80% target that has been set.				
Indicator Responsibility	<ul style="list-style-type: none"> ➤ Data collection, filing/archiving collected data – Registry Administrator ➤ Data extraction – Registry Administrator ➤ Verification of accuracy and completeness of extracted and captured information - First level – Registry Administrator, Second level – Registrar (monthly/quarterly and annually), Third level - COO (only quarterly and annually). 				
Baseline *Estimated performance	2016/17	2017/18	2018/19	2019/20*	
	66.67%	75%	100%	80%	
Annual Targets	2020 / 21		2021 /22		2022 /23
	80%		80%		80%

Outcome		Responsive and Reliable Adjudication			
8. Indicator Title	Percentage of reasons for intermediate and small merger reconsiderations issued to parties within 20 business days of the order being issued.				
Definition	This performance indicator measures the efficiency of the Tribunal in issuing reasons for intermediate and small merger reconsiderations within the stipulated timeframes.				

Outcome		Responsive and Reliable Adjudication
Source of data		<ul style="list-style-type: none"> ➤ Intermediate and small merger reconsideration reasons issued by the Tribunal to the parties. ➤ Official correspondence and notices received and issued by the Tribunal. ➤ CMS reports. ➤ Qlikview reports (reporting tool placed on top of CMS) that reflect turnaround times. ➤ Hearing calendar. ➤ Press releases issued by the Tribunal referring to intermediate and small merger reconsideration reasons. ➤ Transcriptions.
Method of Calculation Assessment	of /	<p>Method of calculation is a percentage and is calculated as follows:</p> <p>Percentage of reasons for Intermediate and small merger reconsiderations issued within 20 business days of the order being issued = $(a/b) \times 100$</p> <p>Where</p> <p>a = total number of reasons for Intermediate and small merger reconsiderations issued within 20 business days of the order date.</p> <p>b = total number of reasons for Intermediate and small merger reconsiderations issued.</p>
Means Verification	of	<ul style="list-style-type: none"> ➤ Workflows built into CMS either prevents further updating or sends alerts if case data is missing. ➤ The Registry Administrator extracts monthly reports from Qlikview and maintains a file that contains source documents. ➤ Data reflected on Qlikview (originally captured on CMS) and source document reviewed to verify data against source documents and ensure accuracy. ➤ Registry Administrator will contact official required to input missing data or make corrections on CMS. ➤ Errors and corrections that affect prior period reporting are communicated to Registrar/COO via email. ➤ File reviewed by Registrar on monthly basis and signed off as proof of review ➤ Quarterly Registry Administrator completes the performance information report using Qlikview reports as the basis for data collection. ➤ The same processes explained above are followed annually thus providing further opportunity to review monthly information and quarterly reports. ➤ Performance Information reports and file reviewed and verified by Registrar and COO and signed off as proof of review ➤ One file maintained for an entire financial year and therefore no risk of duplication of source documents which can lead to inaccuracies in data capturing. In addition, same source documents are used for monthly/quarterly and annual review ➤ Quarterly check of five completed case files to ensure electronic documents mirror hard copy documents and vice versa
Assumptions		<ul style="list-style-type: none"> ➤ The Tribunal has the financial resources and the capacity to perform its adjudicative function. ➤ There will be no substantial changes to the Tribunal's mandate or the Competition Act that will impact on stipulated timeframes and targets.

Outcome	Responsive and Reliable Adjudication			
	➤ That the Tribunal maintains systems, processes and procedures that facilitate the target being achieved.			
Disaggregation of Beneficiaries (where applicable)	N/A			
Spatial Transformation (where applicable)	N/A			
Calculation Type	Percentage			
Reporting Cycle	Quarterly and Annually			
Desired performance	The aim of the Tribunal is to meet the 80% target that has been set.			
Indicator Responsibility	<ul style="list-style-type: none"> ➤ Data collection, filing/archiving collected data – Registry Administrator ➤ Data extraction – Registry Administrator ➤ Verification of accuracy and completeness of extracted and captured information - First level – Registry Administrator, Second level – Registrar (monthly/quarterly and annually), Third level - COO (only quarterly and annually). 			
Baseline *Estimated performance	2016/17	2017/18	2018/19	2019/20*
	0%	100%	0%	80%
Annual Targets	2020 / 21	2021 /22		2022 /23
	70%	70%		70%

Outcome	Responsive and Reliable Adjudication
9. Indicator Title	Reasons ³¹ for prohibited practice cases classified as simple ³² issued to parties within 100 business days of the last hearing date

³¹ In exceptional cases an order may be issued before reasons but in most instances orders and reasons are issued simultaneously and therefore reasons date is taken as the indicator.

³² Throughout the document we refer to simple matter, complex matter or very complex. Factors that determine the complexity of a matter include but are not limited to length of case, size of the record and complexity of legal argument. The complexity is determined by the panel Chair at the end of the hearing.

Outcome		Responsive and Reliable Adjudication
Definition		This performance indicator measures the efficiency of the Tribunal in issuing reasons for prohibited practice cases categorised as simple in the stipulated timeframes.
Source of data		<ul style="list-style-type: none"> ➤ Reasons in prohibited practice cases issued to parties. ➤ CMS reports. ➤ Qlikview reports (reporting tool placed on top of CMS that reflects turnaround times. ➤ Press releases. ➤ Hearing calendar. ➤ Transcriptions.
Method of Calculation Assessment	of /	<p>The method of calculation is a percentage and is calculated as follows:</p> <p>Percentage of reasons for prohibited practices classified as “simple” issued within 100 business days of last hearing date= $(a/b) \times 100$</p> <p>Where;</p> <p>a = total number of reasons for prohibited practices classified as “simple” issued within 100 business days of the last hearing date.</p> <p>b = total number of reasons for prohibited practices classified as “simple” issued.</p>
Means Verification	of	<ul style="list-style-type: none"> ➤ Workflows built into CMS either prevents further updating or sends alerts if case data is missing. ➤ The Registry Administrator extracts monthly reports from Qlikview and maintains a file that contains source documents. ➤ Data reflected on Qlikview (originally captured on CMS) and source document reviewed to verify data against source document and ensure accuracy. ➤ Registry Administrator will contact official required to input missing data or make corrections on CMS. ➤ Errors and corrections that affect prior period reporting are communicated to Registrar/COO via email. ➤ File reviewed by Registrar on monthly basis and signed off as proof of review. ➤ Quarterly Registry Administrator completes the performance information report using Qlikview reports as the basis for data collection. ➤ The processes explained above are followed annually thus providing further opportunity to review monthly information and quarterly reports. ➤ Performance Information reports and file reviewed and verified by Registrar and COO and signed off as proof of review ➤ One file maintained for an entire financial year and therefore no risk of duplication of source documents which can lead to inaccuracies in data capturing. In addition, same source documents are used for monthly/quarterly and annual review ➤ Quarterly check of five completed case files to ensure electronic documents mirror hard copy documents and vice versa
Assumptions		<ul style="list-style-type: none"> ➤ The Tribunal has the financial resources and the capacity to perform its adjudicative function.

Outcome		Responsive and Reliable Adjudication			
		<ul style="list-style-type: none"> ➤ There will be no substantial changes to the Tribunal’s mandate or the Competition Act that will impact on stipulated timeframes and targets. ➤ That the Tribunal maintains systems, processes and procedures that facilitate the target being achieved. 			
Disaggregation of Beneficiaries (where applicable)		N/A			
Spatial Transformation (where applicable)		N/A			
Calculation Type		Percentage			
Reporting Cycle		Quarterly and Annually			
Desired performance		The aim of the Tribunal is to meet the 100% target that has been set.			
Indicator Responsibility		<ul style="list-style-type: none"> ➤ Data collection, filing/archiving collected data – Registry Administrator ➤ Data extraction – Registry Administrator ➤ Verification of accuracy and completeness of extracted and captured information - First level – Registry Administrator, Second level – Registrar (monthly/quarterly and annually), Third level - COO (only quarterly and annually) 			
Baseline *Estimated performance		2016/17	2017/18	2018/19	2019/20*
		None issued	50%	0%	100%
Annual Targets		2020 / 21	2021 /22	2022 /23	
		100% ³³	100%	100%	

Outcome		Responsive and Reliable Adjudication			
10. Indicator		Reasons ³⁴ for prohibited practice cases classified as complex ³⁵ issued to parties within 125 business days of the last hearing date			

³³The target is binary in that it is either 0% or 100% for e.g. if one out of one set of reasons is not issued within the timeframe then the target is not achieved. The three-year target is set at 100% as stricter monitoring processes are followed.

³⁴ See footnote 28 above

³⁵ See footnote 29 above

Outcome		Responsive and Reliable Adjudication
Title		
Definition	This performance indicator measures the efficiency of the Tribunal in issuing reasons for prohibited practice cases categorised as complex in the stipulated timeframes.	
Source of data	<ul style="list-style-type: none"> ➤ Reasons in prohibited practice cases issued to parties ➤ CMS reports ➤ Qlikview reports (reporting tool placed on top of CMS that reflects turnaround times) ➤ Press releases ➤ Hearing calendar ➤ Transcriptions 	
Method Calculation Assessment	of /	<p>The method of calculation is a percentage and is calculated as follows:</p> <p>Percentage of reasons for prohibited practices classified as “complex” issued to parties within 125 days of the last hearing date = (a/b) x 100</p> <p>Where;</p> <p>a = total number of reasons for prohibited practices classified as “complex” issued within 125 business days of the last hearing date.</p> <p>b = total number of reasons for prohibited practices classified as “complex” issued.</p>
Means Verification	of	<ul style="list-style-type: none"> ➤ Workflows built into CMS either prevents further updating or sends alerts if case data is missing ➤ The Registry Administrator extracts monthly reports from Qlikview and maintains a file that contains source documents. ➤ Data reflected on Qlikview (originally captured on CMS) and source document reviewed to verify data against source document and ensure accuracy. ➤ Registry Administrator will contact official required to input missing data or make corrections on CMS ➤ Errors and corrections that affect prior period reporting are communicated to Registrar/COO via email ➤ File reviewed by Registrar on monthly basis and signed off as proof of review ➤ Quarterly Registry Administrator completes the performance information report using Qlikview reports as the basis for data collection. ➤ The processes explained above are followed annually thus providing further opportunity to review monthly information and quarterly reports. ➤ Performance Information reports and file reviewed and verified by Registrar and COO and signed off as proof of review ➤ One file maintained for an entire financial year and therefore no risk of duplication of source documents which can lead to inaccuracies in data capturing. In addition, same source documents are used for monthly/quarterly and annual review ➤ Quarterly check of five completed case files to ensure electronic documents mirror hard copy documents and vice versa

Outcome		Responsive and Reliable Adjudication			
Assumptions	<ul style="list-style-type: none"> ➤ The Tribunal has the financial resources and the capacity to perform its adjudicative function. ➤ There will be no substantial changes to the Tribunal’s mandate or the Competition Act that will impact on stipulated timeframes and targets. ➤ That the Tribunal maintains systems, processes and procedures that facilitate the target being achieved. 				
Disaggregation of Beneficiaries (where applicable)	N/A				
Spatial Transformation (where applicable)	N/A				
Calculation Type	Percentage				
Reporting Cycle	Quarterly and Annually				
Desired performance	The aim of the Tribunal is to meet the 100% target that has been set.				
Indicator Responsibility	<ul style="list-style-type: none"> ➤ Data collection, filing/archiving collected data – Registry Administrator ➤ Data extraction – Registry Administrator ➤ Verification of accuracy and completeness of extracted and captured information - First level – Registry Administrator, Second level – Registrar (monthly/quarterly and annually), Third level - COO (only quarterly and annually). 				
Baseline *Estimated performance	2016/17	2017/18	2018/19	2019/20*	
	66.67%	100%	50%	100%	
Annual Targets	2020 / 21		2021 / 22		2022 / 23
	100% ³⁶		100%		100%

Outcome		Responsive and Reliable Adjudication			
11. Indicator	Reasons ³⁷ for prohibited practice cases classified as very complex matter ³⁸ issued to parties within 150 business days of the last hearing date				

³⁶ See footnote 24

³⁷ See footnote 22

Outcome		Responsive and Reliable Adjudication
Title		
Definition		This performance indicator measures the efficiency of the Tribunal in issuing reasons for prohibited practice cases categorised as very complex in the stipulated timeframes.
Source of data		<ul style="list-style-type: none"> ➤ Reasons in prohibited practice cases issued to parties. ➤ CMS reports. ➤ Qlikview reports (reporting tool placed on top of CMS that reflects turnaround times. ➤ Press releases. ➤ Hearing calendar. ➤ Transcriptions.
Method Calculation Assessment	of /	<p>The method of calculation is a percentage and is calculated as follows:</p> <p>Percentage of reasons for prohibited practices classified as “very complex” = (a/b) x 100</p> <p>Where;</p> <p>a = total number of reasons for prohibited practices classified as “very complex” issued within 150 business days of the last hearing date.</p> <p>b = total number of reasons for prohibited practices classified as “very complex” issued.</p>
Means Verification	of	<ul style="list-style-type: none"> ➤ Workflows built into CMS either prevents further updating or sends alerts if case data is missing. ➤ The Registry Administrator extracts monthly reports from Qlikview and maintains a file that contains source documents. ➤ Data reflected on Qlikview (originally captured on CMS) and source document reviewed to verify data against source document and ensure accuracy. ➤ Registry Administrator will contact official required to input missing data or make corrections on CMS. ➤ Errors and corrections that affect prior period reporting are communicated to Registrar/COO via email. ➤ File reviewed by Registrar on monthly basis and signed off as proof of review. ➤ Quarterly Registry Administrator completes the performance information report using Qlikview reports as the basis for data collection. ➤ The processes explained above are followed annually thus providing further opportunity to review monthly information and quarterly reports. ➤ Performance Information reports and file reviewed and verified by Registrar and COO and signed off as proof of review. ➤ One file maintained for an entire financial year and therefore no risk of duplication of source documents which can lead to inaccuracies in data capturing. In addition, same source documents are used for monthly/quarterly and annual review.

³⁸ See footnote 23

Outcome	Responsive and Reliable Adjudication			
	➤ Quarterly check of five completed case files to ensure electronic documents mirror hard copy documents and vice versa.			
Assumptions	<ul style="list-style-type: none"> ➤ The Tribunal has the financial resources and the capacity to perform its adjudicative function. ➤ There will be no substantial changes to the Tribunal’s mandate or the Competition Act that will impact on stipulated timeframes and targets. ➤ That the Tribunal maintains systems, processes and procedures that facilitate the target being achieved. 			
Disaggregation of Beneficiaries (where applicable)	N/A			
Spatial Transformation (where applicable)	N/A			
Calculation Type	Percentage			
Reporting Cycle	Quarterly and Annually			
Desired performance	The aim of the Tribunal is to meet the 100% target that has been set.			
Indicator Responsibility	<ul style="list-style-type: none"> ➤ Data collection, filing/archiving collected data – Registry Administrator ➤ Data extraction – Registry Administrator ➤ Verification of accuracy and completeness of extracted and captured information - First level – Registry Administrator, Second level – Registrar (monthly/quarterly and annually), Third level - COO (only quarterly and annually). 			
Baseline *Estimated performance	2016/17	2017/18	2018/19	2019/20*
	50%	None issued	50%	100%
Annual Targets	2020 / 21		2021 /22	
	100%		100%	
	2022 /23			100%

Outcome	Responsive and Reliable Adjudication
12. Indicator	Percentage of procedural matter ³⁹ orders issued to parties within 45 business days of the last hearing date.

³⁹ While we refer to procedural matters they include interlocutory applications.

Outcome		Responsive and Reliable Adjudication
Title		
Definition		This performance indicator measures the efficiency of the Tribunal in issuing of orders for procedural matters within the stipulated timeframes.
Source of data		<ul style="list-style-type: none"> ➤ Orders in procedural matters issued to parties. ➤ CMS reports. ➤ Qlikview reports (reporting tool placed on top of CMS) that reflects turnaround times. ➤ Hearing calendar. ➤ Transcriptions.
Method Calculation Assessment	of /	<p>The method of calculation used is a percentage and it is calculated as follows:</p> <p>Percentage of procedural matters orders issued to parties within 45 days of the last hearing date = $(a/b) \times 100$</p> <p>Where;</p> <p>a = total number of orders for procedural matters issued within 45 business days of the last hearing date.</p> <p>b = total number of orders for procedural matters issued. .</p>
Means Verification	of	<ul style="list-style-type: none"> ➤ Workflows built into CMS either prevents further updating or sends alerts if case data is missing. ➤ The Registry Administrator extracts monthly reports from Qlikview and maintains a file that contains source documents. ➤ Data reflected on Qlikview (originally captured on CMS) and source document reviewed to verify data against source document and ensure accuracy. ➤ Registry Administrator will contact official required to input missing data or make corrections on CMS. ➤ Errors and corrections that affect prior period reporting are communicated to Registrar/COO via email. ➤ File reviewed by Registrar on monthly basis and signed off as proof of review. ➤ Quarterly Registry Administrator completes the performance information report using Qlikview reports as the basis for data collection. Same process as above followed annually thus providing further opportunity to review monthly information and quarterly reports. ➤ Performance Information reports and file reviewed and verified by Registrar and COO and signed off as proof of review. ➤ One file maintained for an entire financial year and therefore no risk of duplication of source documents which can lead to inaccuracies in data capturing. In addition, same source documents are used for monthly/quarterly and annual review. ➤ Quarterly check of five completed case files to ensure electronic documents mirror hard copy documents and vice versa.
Assumptions		<ul style="list-style-type: none"> ➤ The Tribunal has the financial resources and the capacity to perform its adjudicative function. ➤ There will be no substantial changes to the Tribunal's mandate or the Competition Act that will impact on stipulated timeframes and targets. ➤ That the Tribunal maintains systems, processes and procedures that facilitate the target being achieved.

Outcome	Responsive and Reliable Adjudication			
Disaggregation of Beneficiaries (where applicable)	N/A			
Spatial Transformation (where applicable)	N/A			
Calculation Type	Percentage			
Reporting Cycle	Quarterly and Annually			
Desired performance	The aim of the Tribunal is to meet the 100% target that has been set.			
Indicator Responsibility	<ul style="list-style-type: none"> ➤ Data collection, filing/archiving collected data – Registry Administrator ➤ Data extraction – Registry Administrator ➤ Verification of accuracy and completeness of extracted and captured information - First level – Registry Administrator, Second level – Registrar (monthly/quarterly and annually), Third level - COO (only quarterly and annually) 			
Baseline *Estimated performance	2016/17	2017/18	2018/19	2019/20*
	26.19%	56%	91%	85%
Annual Targets	2020 / 21		2021 / 22	
	85%		85%	

Outcome	Responsive and Reliable Adjudication
13. Indicator Title	Percentage orders for consent orders and settlement agreements issued to parties within 10 business days of the last hearing date.
Definition	This performance indicator measures the efficiency of the Tribunal in issuing of orders for consent orders and settlement agreements in the stipulated timeframes.
Source of data	<ul style="list-style-type: none"> ➤ Consent order or settlement agreement issued by the Tribunal. ➤ Any correspondence and notices received and issued between the Tribunal, the commission and parties. ➤ CMS reports. ➤ Qlikview reports (reporting tool placed on top of CMS) that reflect turnaround times.

Outcome		Responsive and Reliable Adjudication	
			<ul style="list-style-type: none"> ➤ Hearing calendar. ➤ Press releases. ➤ Transcriptions.
Method Calculation Assessment	of /		<p>The method of calculation is a percentage and is calculated as follows:</p> <p>Percentage of orders for consent orders and settlement agreements issued to parties within 10 business days of the last hearing date = (a/b) x 100</p> <p>where</p> <p>a = total number of orders for consent orders and settlement agreements issued within 10 business days of the last hearing date.</p> <p>b = total number of orders for consent orders and settlement agreements issued.</p>
Means Verification	of		<ul style="list-style-type: none"> ➤ Workflows built into CMS either prevents further updating or sends alerts if case data is missing. ➤ The Registry Administrator extracts monthly reports from Qlikview and maintains a file that contains source documents. ➤ Data reflected on Qlikview (originally captured on CMS) and source document reviewed to verify data against source document and ensure accuracy. ➤ Registry Administrator will contact official required to input missing data or make corrections on CMS. ➤ Errors and corrections that affect prior period reporting are communicated to Registrar/COO via email. ➤ File reviewed by Registrar on monthly basis and signed off as proof of review. ➤ Quarterly Registry Administrator completes the performance information report using Qlikview reports as the basis for data collection. Same process as above followed annually thus providing further opportunity to review monthly information and quarterly reports. ➤ Performance Information reports and file reviewed and verified by Registrar and COO and signed off as proof of review. ➤ One file maintained for an entire financial year and therefore no risk of duplication of source documents which can lead to inaccuracies in data capturing. In addition, same source documents are used for monthly/quarterly and annual review. ➤ Quarterly check of five completed case files to ensure electronic documents mirror hard copy documents and vice versa.
Assumptions			<ul style="list-style-type: none"> ➤ The Tribunal has the financial resources and the capacity to perform its adjudicative function. ➤ There will be no substantial changes to the Tribunal’s mandate or the Competition Act that will impact on stipulated timeframes and targets. ➤ That the Tribunal maintains systems, processes and procedures that facilitate the target being achieved.
Disaggregation of Beneficiaries (where applicable)	of		N/A

Outcome		Responsive and Reliable Adjudication			
Spatial Transformation (where applicable)	N/A				
Calculation Type	Percentage				
Reporting Cycle	Quarterly and Annually				
Desired performance	The aim of the Tribunal is to meet or exceed the 95% target that has been set.				
Indicator Responsibility	<ul style="list-style-type: none"> ➤ Data collection, filing/archiving collected data – Registry Administrator ➤ Data extraction – Registry Administrator ➤ Verification of accuracy and completeness of extracted and captured information - First level – Registry Administrator, Second level – Registrar (monthly/quarterly and annually), Third level - COO (only quarterly and annually) 				
Baseline *Estimated performance	2016/17	2017/18	2018/19	2019/20*	
	100%	84.62%	98%	95%	
Annual Targets	2020 / 21		2021 /22		2022 /23
	95%		95%		95%

Outcome		Responsive and Reliable Adjudication	
14. Indicator Title	Percentage of reasons in interim relief matters issued to parties within 20 business days of last hearing date.		
Definition	This performance indicator measures the efficiency of the Tribunal in issuing reasons in interim relief matters to parties within stipulated timeframes.		
Source of data	<ul style="list-style-type: none"> ➤ Reasons issued for interim relief cases. ➤ Any correspondence and notices received and issued between the Tribunal, the Commission and parties. ➤ CMS reports. ➤ Qlikview reports (reporting tool placed on top of CMS) that reflect turnaround times. ➤ Hearing calendar. ➤ Press releases. ➤ Transcriptions. 		

Outcome		Responsive and Reliable Adjudication
Method of Calculation Assessment	of /	<p>The method of calculation is a percentage and is calculated as follows:</p> <p>Percentage of reasons for interim relief issued to parties within 20 business days of the last hearing date = (a/b) x 100</p> <p>Where;</p> <p>a = total number of reasons in interim relief issued to parties within 20 business days of the last date/last submission.</p> <p>b = total number of reasons for interim relief issued to parties.</p>
Means Verification	of	<ul style="list-style-type: none"> ➤ Workflows built into CMS either prevents further updating or sends alerts if case data is missing. ➤ The Registry Administrator extracts monthly reports from Qlikview and maintains a file that contains source documents. ➤ Data reflected on Qlikview (originally captured on CMS) and source document reviewed to verify data against source document and ensure accuracy. ➤ Registry Administrator will contact official required to input missing data or make corrections on CMS. ➤ Errors and corrections that affect prior period reporting are communicated to Registrar/COO via email. ➤ File reviewed by Registrar on monthly basis and signed off as proof of review. ➤ Quarterly Registry Administrator completes the performance information report using Qlikview reports as the basis for data collection. Same process as above followed annually thus providing further opportunity to review monthly information and quarterly reports. ➤ Performance Information reports and file reviewed and verified by Registrar and COO and signed off as proof of review. ➤ One file maintained for an entire financial year and therefore no risk of duplication of source documents which can lead to inaccuracies in data capturing. In addition, same source documents are used for monthly/quarterly and annual review. ➤ Quarterly check of five completed case files to ensure electronic documents mirror hard copy documents and vice versa.
Assumptions		<ul style="list-style-type: none"> ➤ The Tribunal has the financial resources and the capacity to perform its adjudicative function. ➤ There will be no substantial changes to the Tribunal's mandate or the Competition Act that will impact on stipulated timeframes and targets. ➤ That the Tribunal maintains systems, processes and procedures that facilitate the target being achieved.
Disaggregation of Beneficiaries (where applicable)		N/A
Spatial Transformation (where applicable)		N/A
Calculation Type		Percentage

Outcome		Responsive and Reliable Adjudication			
Reporting Cycle	Quarterly and Annually				
Desired performance	The aim of the Tribunal is to meet the 100% target that has been set.				
Indicator Responsibility	<ul style="list-style-type: none"> ➤ Data collection, filing/archiving collected data – Registry Administrator ➤ Data extraction – Registry Administrator ➤ Verification of accuracy and completeness of extracted and captured information - First level – Registry Administrator, Second level – Registrar (monthly/quarterly and annually), Third level - COO (only quarterly and annually). 				
Baseline *Estimated performance	2016/17	2017/18	2018/19	2019/20*	
	0%	No reasons issued	No reasons issued	90%	
Annual Targets	2020 / 21		2021 / 22		2022 / 23
	100%		100%		100%

10.2 Communication

Outcome		Transparent, Accountable and Sustainable Entity	
15. Indicator Title	Percentage press releases of final merger decisions communicated within 2 business days of order date		
Definition	This indicator measures the percentage of final merger decisions for which a press release was issued during the financial year per quarter and cumulatively for the year to date		
Source of data	<ul style="list-style-type: none"> ➤ Press releases issued by the Communications Officer ➤ Large merger orders issued by the Tribunal ➤ Any correspondence between the Communications Officer and stakeholders ➤ Case Management System (electronic case management system run by the Tribunal hereinafter referred to as CMS) reports ➤ Qlikview reports (reporting tool placed on top of CMS) that reflect turnaround times ➤ Hearing calendar 		
Method of Calculation Assessment	Percentage final merger decisions in which a press release is issued by the Tribunal = $(a/b) \times 100$ Where a = total number of final merger decision press releases issued during the delivery period		

Outcome		Transparent, Accountable and Sustainable Entity			
		b = total number of final merger decisions issued during the delivery period.			
Means of Verification		<ul style="list-style-type: none"> ➤ The Communications Officer extracts quarterly reports from Qlikview and maintains a file that contains source documents. ➤ Data reflected on Qlikview (originally captured on CMS) and source document reviewed to verify data against source document and ensure accuracy. ➤ Registry Administrator will contact official required to input missing data or make corrections on CMS ➤ Errors and corrections that affect prior period reporting are communicated to Registrar/COO via email ➤ File reviewed by COO on quarterly basis and signed off as proof of review ➤ Quarterly Communications Officer and Registry Administrator complete the performance information report using Qlikview reports as the basis for data collection. Same process as above followed annually thus providing further opportunity to review quarterly information. ➤ Performance Information reports and file reviewed and verified by COO and signed off as proof of review ➤ One file maintained for an entire financial year and therefore no risk of duplication of source documents which can lead to inaccuracies in data capturing. In addition, same source documents are used for quarterly and annual review. 			
Assumptions		The Tribunal has been issuing press releases for final merger decisions for many years within stipulated timeframes and therefore if all systems, processes and procedures are maintained the outcome will be achieved			
Disaggregation of Beneficiaries (where applicable)		N/A			
Spatial Transformation (where applicable)		N/A			
Calculation Type		Percentage			
Reporting Cycle		Quarterly and annually			
Desired performance		The target is met or exceeded			
Indicator Responsibility		Communications Officer			
Baseline *Estimated performance		2016/17	2017/18	2018/19	2019/20*
		99.05%	100%	97%	95%
Annual Targets		2020 / 21	2021 / 22	2022 / 23	

Outcome	Transparent, Accountable and Sustainable Entity		
	95%	95%	95%

Outcome	Transparent, Accountable and Sustainable Entity		
16. Indicator Title	Percentage press releases of prohibited practice decisions communicated within 2 business days of order date		
Definition	This indicator measures the percentage of final prohibited practice decisions for which a press release was issued during the financial year.		
Source of data	<ul style="list-style-type: none"> ➤ Press releases for prohibited practice decisions issued by the Communications Officer ➤ Prohibited practice decisions issued by the Tribunal ➤ Any correspondence between the Communications Officer and stakeholders ➤ Case Management System (electronic case management system run by the Tribunal hereinafter referred to as CMS) reports ➤ Qlikview reports (reporting tool placed on top of CMS) that reflect turnaround times ➤ Hearing calendar 		
Method Calculation Assessment	of /	<p>Percentage of press releases issued for final prohibited practice decisions issued by the Tribunal = $(a/b) \times 100$</p> <p>Where</p> <p>a = total number of final prohibited practice decision press releases issued during the delivery period</p> <p>b = total number of final prohibited practice decisions issued during the delivery period.</p>	
Means Verification	of	<ul style="list-style-type: none"> ➤ The Communications Officer extracts quarterly reports from Qlikview and maintains a file that contains source documents. ➤ Data reflected on Qlikview (originally captured on CMS) and source document reviewed to verify data against source document and ensure accuracy. ➤ Registry Administrator will contact official required to input missing data or make corrections on CMS ➤ Errors and corrections that affect prior period reporting are communicated to Registrar/COO via email ➤ File reviewed by COO on quarterly basis and signed off as proof of review ➤ Quarterly Communications Officer and Registry Administrator complete the performance information report using Qlikview reports as the basis for data collection. Same process as above followed annually thus providing further opportunity to review quarterly information. ➤ Performance Information reports and file reviewed and verified by COO and signed off as proof of review ➤ One file maintained for an entire financial year and therefore no risk of duplication of source documents which can lead to inaccuracies in data capturing. In addition, same source documents are used for quarterly and annual review. 	

Outcome	Transparent, Accountable and Sustainable Entity			
Assumptions	The Tribunal has been issuing press releases for final merger decisions for many years within stipulated timeframes and therefore if all systems, processes and procedures are maintained the outcome will be achieved			
Disaggregation of Beneficiaries (where applicable)	N/A			
Spatial Transformation (where applicable)	N/A			
Calculation Type	Percentage			
Reporting Cycle	Quarterly and annually			
Desired performance	The target is met or exceeded			
Indicator Responsibility	Communications Officer			
Baseline *Estimated performance	2016/17	2017/18	2018/19	2019/20*
	80%	60%	60%	90%
Annual Targets	2020 / 21	2021 /22	2022 /23	
	90%	90%	90%	

Outcome	Transparent, Accountable and Sustainable Entity	
17. Indicator Title	Annual publication (update) of Juris-prudence handbook	
Definition	A handbook documenting juris-prudence (case law) set by Tribunal decisions will be published and then updated annually. It is intended that the handbook will be distributed to interested parties and placed on the Tribunal's website.	
Source of data	Printed version of handbook or e-book on website contain version and publication date	
Method of Calculation	Not calculation	

Outcome		Transparent, Accountable and Sustainable Entity			
Assessment					
Means of Verification	Date of publication of updated handbook				
Assumptions	It is assumed that annually there would be new information pertaining to case law that would require the handbook to be updated				
Disaggregation of Beneficiaries (where applicable)	N/A				
Spatial Transformation (where applicable)	N/A				
Calculation Type	Not calculated				
Reporting Cycle	Annually				
Desired performance	Handbook is updated annually				
Indicator Responsibility	Head of Case Management				
Baseline *Estimated performance	2016/17	2017/18	2018/19	2019/20*	
	New indicator				
Annual Targets	2020 / 21	2021 /22	2022 /23		
	Handbook updated and published	Handbook updated and published	Handbook updated and published		

10.3 Business processes

Outcome		Transparent, Accountable and Sustainable Entity		
18. Indicator Title	Integrated Knowledge Management Framework developed and implementation of project plan.			

Outcome		Transparent, Accountable and Sustainable Entity			
Definition	An Integrated Knowledge Management Framework (policy) document will be developed that defines the roles and responsibilities with regard to data and information in the Tribunal and the manner in which the data is shared. The sharing of information is critical to reporting on the one hand and decision making on the other. A project plan will be implemented in order to give effect to procedures, processes and systems identified in the framework.				
Source of data	Approved framework, approved project plan and progress against project plan				
Method of Calculation / Assessment	Not calculated				
Means of Verification	Documents that have been developed and approved				
Assumptions	➤ An assumption is made that there will be financial and other resources available to implement any identified systems or technology required to integrate data				
Disaggregation of Beneficiaries (where applicable)	N/A				
Spatial Transformation (where applicable)	N/A				
Calculation Type	Not calculated				
Reporting Cycle	Quarterly and annually				
Desired performance	Framework developed and approved, project plan approved and implementation against project plan				
Indicator Responsibility	Divisional Heads, IT Administrator, Communications Officer and COO				
Baseline *Estimated performance	2016/17	2017/18	2018/19	2019/20*	
	New indicator				
Annual Targets	2020 / 21		2021 /22		2022 /23
	Framework developed and approved.		Project plan approved	and	Implementation against project

Outcome		Transparent, Accountable and Sustainable Entity			
	Draft project plan developed	implementation milestones	against	project	milestones

Outcome		Transparent, Accountable and Sustainable Entity			
19. Indicator Title	Policy for electronic records management and filing system approved. File plan approved and system implemented according to project plan milestones				
Definition	An electronic records management and filing system compliant with the National Archives Act will be developed and implemented.				
Source of data	Policy document on records management that includes an approved file plan. Progress reports against approved project plan				
Method of Calculation / Assessment	Not calculated				
Means of Verification	Approved policy and file plan				
Assumptions	<ul style="list-style-type: none"> ➤ An assumption is made that a service provider will be appointed through a procurement process to assist the Tribunal with this project. ➤ A further assumption is made that there will be financial and other resources available to implement an electronic records management and filing system. 				
Disaggregation of Beneficiaries (where applicable)	N/A				
Spatial Transformation (where applicable)	N/A				
Calculation Type	Not calculated				
Reporting Cycle	Annual				
Desired performance	Policy and file plan developed and approved, project plan approved and implementation against project plan				
Indicator Responsibility	Divisional Heads, IT Administrator, EA:COO and COO				

Outcome		Transparent, Accountable and Sustainable Entity			
Baseline *Estimated performance	2016/17	2017/18	2018/19	2019/20*	
		New indicator			
Annual Targets	2020 / 21		2021 /22		2022 /23
	File plan submitted to National Archives for approval		Electronic records management and filing system policy approved		Draft project plan approved.

10.4 Governance

Outcome		Transparent, Accountable and Sustainable Entity	
20. Indicator Title		Percentage of prior financial year audit (internal and external) findings resolved by the end of the current financial year.	
Definition		The Tribunal will report on the number of audit findings made in the prior year and then report on the number resolved before the end of the current financial year.	
Source of data		<ul style="list-style-type: none"> ➤ Internal and External audit reports ➤ Follow up audits ➤ Internal and external audit findings tracker. 	
Method Calculation Assessment	of /	Percentage of prior financial year audit findings resolved = $(a/b) \times 100$ Where a = total number of prior year internal and external audit findings in the current financial year b = total number of internal and external audit findings made in the prior financial year.	
Means Verification	of	<ul style="list-style-type: none"> ➤ Audit trackers maintained by the Tribunal verify progress made against audit findings. ➤ Follow up audit conducted annually by internal audit tests the documented action and indicates the number of prior period internal audit findings resolved. ➤ External audit in management report documents resolution of prior year audit findings 	
Assumptions		The Tribunal has required processes in place to evaluate resolution of audit findings and progress is addressed in external/internal audits	

Outcome	Transparent, Accountable and Sustainable Entity			
Disaggregation of Beneficiaries (where applicable).	N/A.			
Spatial Transformation (where applicable)	N/A.			
Calculation Type	Percentage.			
Reporting Cycle	Annually			
Desired performance	To have 100% resolution of internal and external audit findings.			
Indicator Responsibility	Head of Finance and COO.			
Baseline *Estimated performance	2016/17	2017/18	2018/19	2019/20*
	New Indicator			
Annual Targets	2020 / 21	2021 /22	2022 /23	
	100%	100%	100%	

Outcome	Transparent, Accountable and Sustainable Entity			
21. Indicator Title	At least one meeting held annually to inform Tribunal employees of stated APP performance targets and to assess the Tribunal's performance against these targets and implement corrective action or revise targets as required.			
Definition	At least one meeting held per year for the Tribunal to understand stated targets and to assess performance against targets and to address corrective action required for targets to be met.			
Source of data	<ul style="list-style-type: none"> ➤ Quarterly and annual PI reports ➤ Targets set in APP 			
Method of Calculation / Assessment	Not calculated			
Means of	➤ Meeting agenda			

Outcome		Transparent, Accountable and Sustainable Entity			
Verification	<ul style="list-style-type: none"> ➤ Meeting minutes ➤ Attendance register ➤ Changes to the APP if applicable 				
Assumptions	The meeting is diarised and proper preparation to achieve the required result				
Disaggregation of Beneficiaries (where applicable)	N/A				
Spatial Transformation (where applicable)	N/A				
Calculation Type	Not calculated				
Reporting Cycle	Annual				
Desired performance	Meeting held				
Indicator Responsibility	COO				
Baseline	2016/17	2017/18	2018/19	2019/20*	
*Estimated performance	New indicator				
Annual Targets	2020 / 21	2021 /22	2022 /23		
	One meeting	One meeting	One meeting		

Outcome		Transparent, Accountable and Sustainable Entity			
22. Indicator Title	At year end, not more than one finding by the Auditor- General that indicates the Tribunal does not have effective oversight structures or corporate governance practices in place.				
Definition	Findings that indicate no-compliance with prescripts of good governance, lack of oversight and leadership, non-submission/late submission, ineffective risk management indicate that the control environment is ineffective, reporting requirements are not met or there is lack of /ineffective governance in the Tribunal.				
Source of data	➤ Proof of submission of required documents				

Outcome		Transparent, Accountable and Sustainable Entity			
		➤ External findings raised in the management report			
Method of Calculation Assessment	of /	Not calculated			
Means Verification	of	➤ External audit report ➤ External audit tracking register			
Assumptions		Given the changing compliance environment adherence/full implementation is often difficult in one year and there may therefore be a non-compliance issue – we have however restricted this to one such finding			
Disaggregation of Beneficiaries (where applicable)		N/A			
Spatial Transformation (where applicable)		N/A			
Calculation Type		Not calculated			
Reporting Cycle		Annually but on prior year findings as the audit is concluded			
Desired performance		Target met or exceeded			
Indicator Responsibility		COO			
Baseline *Estimated performance		2016/17	2017/18	2018/19	2019/20*
		None	None	None	None
Annual Targets		2020 / 21	2021 / 22	2022 / 23	
		One finding	One finding	One finding	

10.5 Financial management

Outcome		Transparent, Accountable and Sustainable Entity
23. Indicator Title		Percentage expenditure against budget (annual).
Definition		Actual expenditure against budget is measured. It may not be possible to spend 100% of our budget (given the fact that our budget is based on an estimate of case load). This however provides guidance for future budget preparation and focus areas.
Source of data		<ul style="list-style-type: none"> ➤ Approved budget ➤ Expenditure against budget ➤ Pastel accounting system
Method of Calculation / Assessment	of	<p>Actual expenditure for the financial year expressed as a percentage of approved annual budget = $(a/b) \times 100$</p> <p>Where</p> <p>a = actual expenditure incurred for the financial year under review</p> <p>b = approved budget for the financial year under review</p> <p>Can be expressed inclusive of capital expenditure and exclusive of capital expenditure.</p>
Means of Verification	of	<ul style="list-style-type: none"> ➤ Monthly, quarterly and annual financial statements that reflect both expenditure and approved budget ➤ Pastel accounting system contains all figures that are captured into the financial system.
Assumptions		<ul style="list-style-type: none"> ➤ The Tribunal has, in the past, not spent its entire budget and we therefore do not anticipate 100% spend ➤ Accurate calculation is dependent on a system and processes that are accurate and updated regularly
Disaggregation of Beneficiaries (where applicable)	of	N/A.
Spatial Transformation (where applicable)		N/A.
Calculation Type		Percentage.
Reporting Cycle		Quarterly and annually
Desired performance		To meet or exceed the target but not to be more than 100% of budget
Indicator Responsibility		Head of Finance and COO

Outcome	Transparent, Accountable and Sustainable Entity			
Baseline ⁴⁰	2016/17	2017/18	2018/19	2019/20*
*Estimated performance	91.01%	92.45%	88.35%	85%
Annual Targets	2020 / 21	2021 / 22	2022 / 23	
	85%	85%	85%	

Outcome	Transparent, Accountable and Sustainable Entity	
24. Indicator Title	No findings of fruitless & wasteful expenditure reported on in the final audited financial statements.	
Definition	This performance indicator measures the extent to which the Tribunal has adequate and effective controls in place to avoid fruitless and wasteful expenditure.	
Source of data	<ul style="list-style-type: none"> ➤ Findings reflected in internal and external audit reports ➤ Procurement documentation (RFQ's/RFP's) 	
Method of Calculation / Assessment	Target not calculated. Qualitative statement but value of fruitless/wasteful will be reflected	
Means of Verification	<ul style="list-style-type: none"> ➤ Value can be verified in GL in Pastel accounting system ➤ Final audit report by Auditor-General. 	
Assumptions	All applicable policies and procedures will be followed in order to prevent findings of this nature.	
Disaggregation of Beneficiaries (where applicable)	N/A	
Spatial Transformation (where applicable)	N/A	
Calculation Type	Target not calculated but value of fruitless and wasteful expenditure can be determined.	

⁴⁰ While this is a new indicator we have baseline figures from prior years that enable us to set targets

Outcome		Transparent, Accountable and Sustainable Entity			
Reporting Cycle	Annual				
Desired performance	To meet the target				
Indicator Responsibility	Procurement Officer, Head of Finance and COO				
Baseline *Estimated performance	2016/17	2017/18	2018/19	2019/20*	
	No findings	No findings	No findings	No findings	
Annual Targets	2020 / 21		2021 /22		
	No findings		No findings		

Outcome		Transparent, Accountable and Sustainable Entity	
25. Indicator Title	No findings of irregular expenditure reported on in the final audited financial statements.		
Definition	This performance indicator measures the extent to which the Tribunal has adequate and effective controls in place to avoid irregular expenditure.		
Source of data	<ul style="list-style-type: none"> ➤ Findings reflected in internal and external audit reports ➤ Procurement documentation (RFQ's/RFP's) ➤ Quarterly reports to NT on irregular expenditure or potential irregular expenditure 		
Method of Calculation / Assessment	<ul style="list-style-type: none"> • Target not calculated. Qualitative statement but value of fruitless/wasteful will be reflected 		
Means of Verification	<ul style="list-style-type: none"> ➤ Value can be verified in the general ledger in the Pastel accounting system ➤ Value can be verified in Caseware financial package ➤ Final audit report by Auditor-General. 		
Assumptions	All applicable policies and procedures will be followed in order to prevent a finding of this nature.		
Disaggregation of Beneficiaries (where applicable)	N/A		
Spatial	N/A		

Outcome	Transparent, Accountable and Sustainable Entity				
Transformation (where applicable)					
Calculation Type	Target not calculated but value of irregular expenditure can be determined				
Reporting Cycle	Annual				
Desired performance	To meet the target				
Indicator Responsibility	Procurement Officer, Head of Finance and COO				
Baseline *Estimated performance	2016/17	2017/18	2018/19	2019/20*	
	No findings	No findings	No findings	No findings	
Annual Targets	2020 / 21	2021 / 22	2022 / 23	2023 / 24	2024 / 25
	No findings		No findings		No findings

Outcome	Transparent, Accountable and Sustainable Entity				
26. Indicator Title	No material misstatements in AFS submitted to National Treasury at 31 May				
Definition	This performance indicator measures the extent to which the Tribunal has adequate and effective controls in place to maintain compliance and ensure that financial statements are prepared accurately at initial submission.				
Source of data	➤ Finding reflected in external audit report				
Method of Calculation / Assessment	Target not calculated. Qualitative statement but value of misstatement will be reflected.				
Means of Verification	<ul style="list-style-type: none"> ➤ Value can be verified in the general ledger in Pastel accounting system ➤ Value can be verified in Caseware financial package ➤ Final audit report by Auditor-General. 				
Assumptions	<ul style="list-style-type: none"> ➤ All applicable policies and procedures will be followed in order to prevent a finding of this nature. ➤ Data and calculations are such that errors in submission do not occur 				
Disaggregation of	N/A				

Outcome		Transparent, Accountable and Sustainable Entity			
Beneficiaries (where applicable)					
Spatial Transformation (where applicable)	N/A				
Calculation Type	Target not calculated but value of irregular expenditure can be determined				
Reporting Cycle	Annual				
Desired performance	To meet the target				
Indicator Responsibility	Head of Finance, COO				
Baseline *Estimated performance	2016/17	2017/18	2018/19	2019/20*	
	No findings	No findings	No findings	No findings	
Annual Targets	2020 / 21	2021 /22		2022 /23	
	No findings	No findings		No findings	

10.6 Human capital development and training

Outcome		Transparent, Accountable and Sustainable Entity	
27. Indicator Title	Average employee performance evaluation score		
Definition	The indicator measures the average of all the scores received by the Tribunal employees (excluding tribunal members) following the annual performance assessment process.		
Source of data	<ul style="list-style-type: none"> ➤ Consolidated spreadsheets reflecting individual scores of each employee evaluated. ➤ Completed and signed performance assessment reports completed by line manager and employee 		
Method of Calculation / Assessment	<p>The rating scale uses a score of zero (0) to five (5).</p> <p>A score of 3 - 3.4 indicates that an employee is performing as per position requirements.</p> <p>The final score of each employee is added and divided by the number of employees assessed in order to arrive at the average</p>		

Outcome		Transparent, Accountable and Sustainable Entity			
		performance rating.			
Means of Verification		The individual score can be verified on each individual's completed performance assessment report. The average score for the Tribunal can be verified on the excel spreadsheet maintained by the HR Officer.			
Assumptions		<ul style="list-style-type: none"> ➤ Performance assessment processes are embedded in the Tribunal and that all assessments are performed objectively. ➤ An average performance score for the Tribunal over the past three years was 3.56 (2018/19 – 3.6; 2017/18 – 3.4; 2016/17 – 3.8) 			
Disaggregation of Beneficiaries (where applicable)		Not Applicable			
Spatial Transformation (where applicable)		Not Applicable			
Calculation Type		Average calculation (total performance score / number of employees assessed and expressed as a score out of 5)			
Reporting Cycle		Annual			
Desired performance		3.5 or above			
Indicator Responsibility		Line Managers, HR Officers and COO			
Baseline		2016/17	2017/18	2018/19	2019/20*
*Estimated performance		3.8	3.4	3.6	3.5
Annual Targets		2020 / 21	2021 /22	2022 /23	
		3.5	3.5	3.5	

Outcome		Transparent, Accountable and Sustainable Entity
28. Indicator Title		Percentage of funded full-time ⁴¹ secretariat posts vacant in the Tribunal per year.
Definition		➤ Monitoring the vacancy rate against an acceptable level (the target) thus ensuring that the Tribunal is adequately capacitated to provide technical and administrative support to the adjudication process.
Source of data		➤ Tribunal's payroll system ➤ Summary reports compiled by the HR Officer
Method of Calculation / Assessment		Percentage of vacant funded full-time secretariat posts = $(a/b) \times 100$ Where a = total number of funded full-time secretariat posts vacant in the current financial year b = total number of funded full-time secretariat posts in the Tribunal's approved structure.
Means of Verification		➤ Head count of full-time secretariat staff vs funded full-time secretariat posts ➤ Compensation of employee's budget ➤ Approved structure ➤ Summary reports by the HR officer
Assumptions		➤ The Tribunal has sufficient budget allocated for the funded full-time secretariat positions ➤ That optimal capacity exists through a low vacancy rate.
Disaggregation of Beneficiaries (where applicable).		N/A
Spatial Transformation (where applicable)		N/A
Calculation Type		Non-cumulative
Reporting Cycle		Measured quarterly but report annually against target.
Desired performance		To meet and not exceed the vacancy rate.
Indicator Responsibility		HR Officer

⁴¹ Funded full-time secretariat posts refer to posts that are on the approved structure of the Tribunal and which are funded in accordance with the compensation of employee's budget. Excludes Tribunal members who are appointed by the President of South Africa on a five-year term

Outcome				
Transparent, Accountable and Sustainable Entity				
Baseline	2016/17	2017/18	2018/19	2019/20*
*Estimated performance	0% ⁴²	3.83%	7.69%	3.83%
Annual Targets	2020 / 21		2021 / 22	2022 / 23
	7% ⁴³		7%	7%

Outcome		Transparent, Accountable and Sustainable Entity	
29. Indicator Title		Percentage annualised turnover for the full-time Tribunal secretariat	
Definition		Monitoring that the turnover rate remains at an acceptable level (the target) and therefore ensures that the Tribunal is adequately capacitated to provide technical and administrative support to the adjudication process.	
Source of data		<ul style="list-style-type: none"> ➤ Tribunal's payroll system ➤ Summary reports compiled by the HR Officer 	
Method of Calculation / Assessment		Percentage of staff = $(a/b) \times 100$ Where a = total number of funded secretariat posts vacant in the current financial year b = total number of funded secretariat posts in the Tribunal's approved structure. <ul style="list-style-type: none"> • Measured at end of quarter and year to date 	
Means of Verification		<ul style="list-style-type: none"> ➤ Head count of full-time staff vs funded posts ➤ Compensation of employee's budget ➤ Approved structure ➤ Summary reports by the HR officer 	
Assumptions		<ul style="list-style-type: none"> ➤ The Tribunal has sufficient budget allocated for the funded secretariat positions ➤ That optimal capacity exists through a low vacancy rate ➤ Currently 26 funded secretariat positions 	
Disaggregation of Beneficiaries		N/A	

⁴² The vacancy figures reflected in the baseline and estimated performance reflect the actual vacancy (2016/2017 to 2018/2019) at year end and expected vacancies as at end 2019/2020.

⁴³ The targets reflected are based on prior period figures as well as an estimation of how many vacancies the Tribunal can accommodate for a short period of time.

Outcome		Transparent, Accountable and Sustainable Entity			
(where applicable)					
Spatial Transformation (where applicable)	N/A				
Calculation Type	Non-Cumulative (simple count)				
Reporting Cycle	Measured quarterly but report annually against target.				
Desired performance	To meet and not exceed the vacancy rate				
Indicator Responsibility	HR Officer				
Baseline	2016/17	2017/18	2018/19	2019/20*	
*Estimated performance	16% ⁴⁴	7.69%	19.23%	3.85%	
Annual Targets	2020 / 21	2021 / 22	2022 / 23		
	11.5% ⁴⁵	11.5%	11.5%		

Outcome		Transparent, Accountable and Sustainable Entity	
30. Indicator Title	Send at least one representative annually to an OECD competition forum and at least one representative the annual ICN conference (2 in total)		
Definition	<ul style="list-style-type: none"> ➤ Measures the attendance of Tribunal representatives at two specifically identified conferences/forums. ➤ Tribunal members and staff remain up to date in the knowledge of international best practice in competition law and policy 		
Source of data	<ul style="list-style-type: none"> ➤ Training reports completed by delegates ➤ Summary reports compiled by the HR Officer ➤ Employee self-service system 		
Method of Calculation	of /	Simple count	

⁴⁴ The turnover figures reflected in the baseline and estimated performance reflect the actual turnover (2016/2017 to 2018/2019) at year end and expected turnover as at end 2019/2020.

⁴⁵ The targets reflected are based on prior period figures as well as an estimation of what level of turnover the Tribunal can accommodate for a short period of time.

Outcome		Transparent, Accountable and Sustainable Entity			
Assessment					
Means of Verification	of	<ul style="list-style-type: none"> ➤ Training reports completed by delegates ➤ Tribunal accounting system reflects transactions pertaining to conference attendance ➤ Documentary proof (where applicable) of attendance 			
Assumptions	<ul style="list-style-type: none"> ➤ The Tribunal assumes that these two identified forums/conferences still remain the most relevant ➤ Assumption that there is sufficient budget for staff to attend these forums/conferences 				
Disaggregation of Beneficiaries (where applicable)	N/A				
Spatial Transformation (where applicable)	N/A				
Calculation Type	Non-Cumulative (simple count)				
Reporting Cycle	Measured quarterly but report annually against target				
Desired performance	To meet or exceed the target				
Indicator Responsibility	Head of Case Management				
Baseline *Estimated performance	2016/17	2017/18	2018/19	2019/20*	
	Achieved	Achieved	Achieved	Achieved	
Annual Targets	2020 / 21		2021 /22		2022 /23
	1 delegate per conference/forum		1 delegate per conference/forum		1 delegate per conference/forum

Outcome		Transparent, Accountable and Sustainable Entity			
31. Indicator Title	Facilitate an annual capacity building workshop for case managers and Tribunal members				
Definition	This performance indicates whether a capacity building workshop is held whereby case managers and Tribunal members receive the requisite training to expand their skills and increase their level of competency in their specific field.				

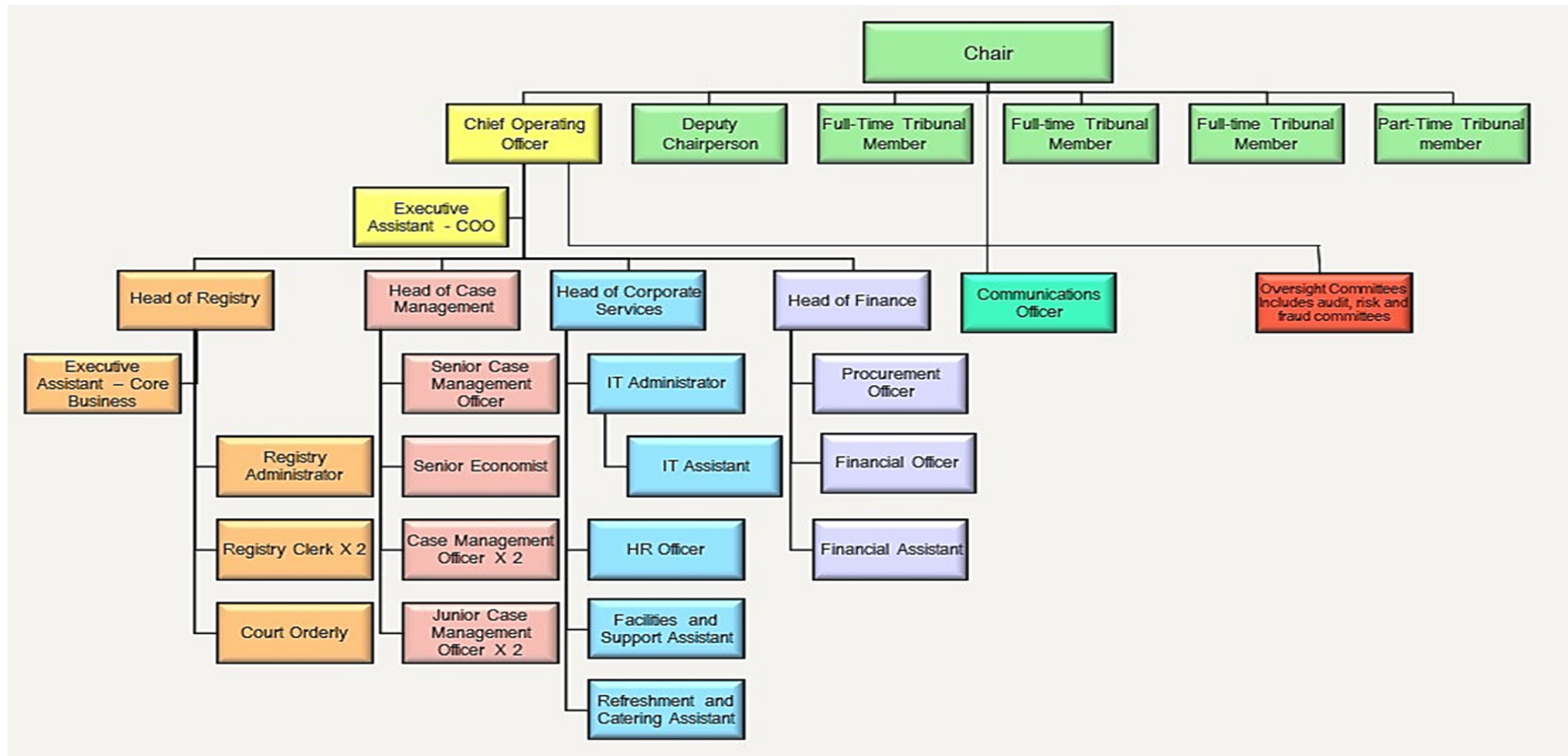
Outcome		Transparent, Accountable and Sustainable Entity			
Source of data		<ul style="list-style-type: none"> ➤ HR summary report compiled by HR Officer ➤ Training report completed by staff attending the workshop 			
Method of Calculation / Assessment		Simple count			
Means of Verification		<ul style="list-style-type: none"> ➤ Training reports completed by delegates ➤ Tribunal accounting system reflects transactions pertaining to conference attendance ➤ Attendance register 			
Assumptions		<ul style="list-style-type: none"> ➤ Assumption that there are skilled and competent facilitators with knowledge of case law ➤ Assumption that there are sufficient financial resources for the Tribunal to host such a workshop and cover all expected costs 			
Disaggregation of Beneficiaries (where applicable)		N/A			
Spatial Transformation (where applicable)		N/A			
Calculation Type		Non-cumulative (simple count)			
Reporting Cycle		Measured quarterly but report annually against target			
Desired performance		To meet the required target			
Indicator Responsibility		Head of Case Management			
Baseline *Estimated performance		2016/17	2017/18	2018/19	2019/20*
		New indicator			
Annual Targets		2020 / 21	2021 / 22	2022 / 23	
		1 workshop held	1 workshop held	1 workshop held	

Outcome		Transparent, Accountable and Sustainable Entity			
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Outcome		Transparent, Accountable and Sustainable Entity			
32. Indicator Title	Number of long terms case management interns appointed in the Tribunal in a calendar year				
Definition	This performance indicator measures the extent to which the Tribunal has appointed case management interns against a predetermined number.				
Source of data	<ul style="list-style-type: none"> ➤ Payroll system ➤ HR summary reports compiled by the HR Officer 				
Method of Calculation / Assessment	Simple count				
Means of Verification	<ul style="list-style-type: none"> ➤ Actual head count ➤ Signed offer and appointment letters ➤ Signed contracts ➤ Personnel expenditure against budget 				
Assumptions	<ul style="list-style-type: none"> ➤ Assumption that the candidates applying for the positions met the internship requirements ➤ Assumption that the Tribunal has financial resources to employ these interns ➤ Assumption that there is the required space and technological resources required to employ these interns 				
Disaggregation of Beneficiaries (where applicable)	N/A				
Spatial Transformation (where applicable)	N/A				
Calculation Type	Non-cumulative (simple count)				
Reporting Cycle	Measured quarterly but report annually against target				
Desired performance	To meet the required target				
Indicator Responsibility	Head of Case Management				
Baseline	2016/17	2017/18	2018/19	2019/20*	

Outcome	Transparent, Accountable and Sustainable Entity		
*Estimated performance	3	2	2
Annual Targets	2020 / 21	2021 /22	2022 /23
	2	2	2

Annexure A: Structural Organogram



Annexure B: Members of the Competition Tribunal

Chairperson

- Mondo Mazwai (BJuris, LLB), from 01 August 2009 (second term)

Deputy Chairperson

- Enver Daniels (BA(Law), BProc, LLM), from 01 January 2017 (first term)

Full-time members

- Yasmin Carrim (BSc, LLB, HDE(PG) Sec), from 01 August 2004 (fourth term)
- Andreas Wessels (BCom Hons, MCom.), from 01 August 2009 (third term)
- Vacant

Part-time members

- Andiswa Ndoni (BProc, LLB, Post Graduate Diploma Business Management, Cert- Corporate Governance) from 01 August 2009 (third term)
- Anton Roskam (BA, LLB, HDip-Labour Law, MBA) from 01 January 2013 (second term)
- Imraan Valodia (BCom Hons, MSc (Lancaster), DEcon) from 01 January 2013 (second term)
- Fiona Tregenna (BA Hons, MA(Economics) and PhD- Economics,) from 01 September 2013 (second term)
- Halton Cheadle (BA (Hons), B Proc, LLB) from 01 January 2017 (first term)
- Thando Vilakazi (BBusSc, MCom, PhD(UJ)) from 01 August 2019 (first term)

Annexure C: Competition Tribunal Secretariat

Office of the COO

Janeen de Klerk – Chief Operating Officer
Lufuno Ramaru, Executive Administrator – COO
Gillian de Gouveia – Communications Officer

Divisional heads

Vacant (Corporate Services)
Tebogo Mputle (Registry)
Rietsie Badenhorst (Case Management)
Devrani Moonsamy (Finance)

Case managers

Mpumelelo Tshabalala
Karissa Moothoo-Padayachie
Ndumiso Ndlovu
Lumkisa Jordaan
Busisiwe Masina (contract)
Alistair Dey Van Heerden (contract)
Kgotatso Kgobe (contract)
Peter Kumbirai - intern

Registry

Sibongile Moshoeshoe - Registry Administrator
Themba Chauke – Registry Clerk
David Tefu - Court Orderly
Nkuli Mpepuka – Executive Assistant – Core
Cyriel Mpaketsane – Registry Assistant

Corporate Services

Bellah Kekana – HR Generalist
Sabinah Monareng – Facilities and Support Services Assistant
Maggie Mkhonto – Catering and Hospitality
Rembuluwani Muelelwa - Intern

Information Technology

Colin Venter - IT support and network administrator
Rendani Neswiswi – IT Assistant

Finance

Vacant since October 2019- Financial officer
Ongezwa Dlulane – Financial assistant
Patricia Froude - Procurement officer

Gender and Race Composition – full-time staff

Gender	Black	White	Asian	Total	Percentage
Male	8	2		10	37%
Female	11	4	2	17	63%
Total	19	6	2	27	100%
Percentage	70.37%	22.22%	7.41%	100%	

Annexure D: Historical Representation of Expenditure and Funding

Figure 1: Historical representation of Tribunal expenditure and funding 1999 (Year 1) – 2019 (Year 20)

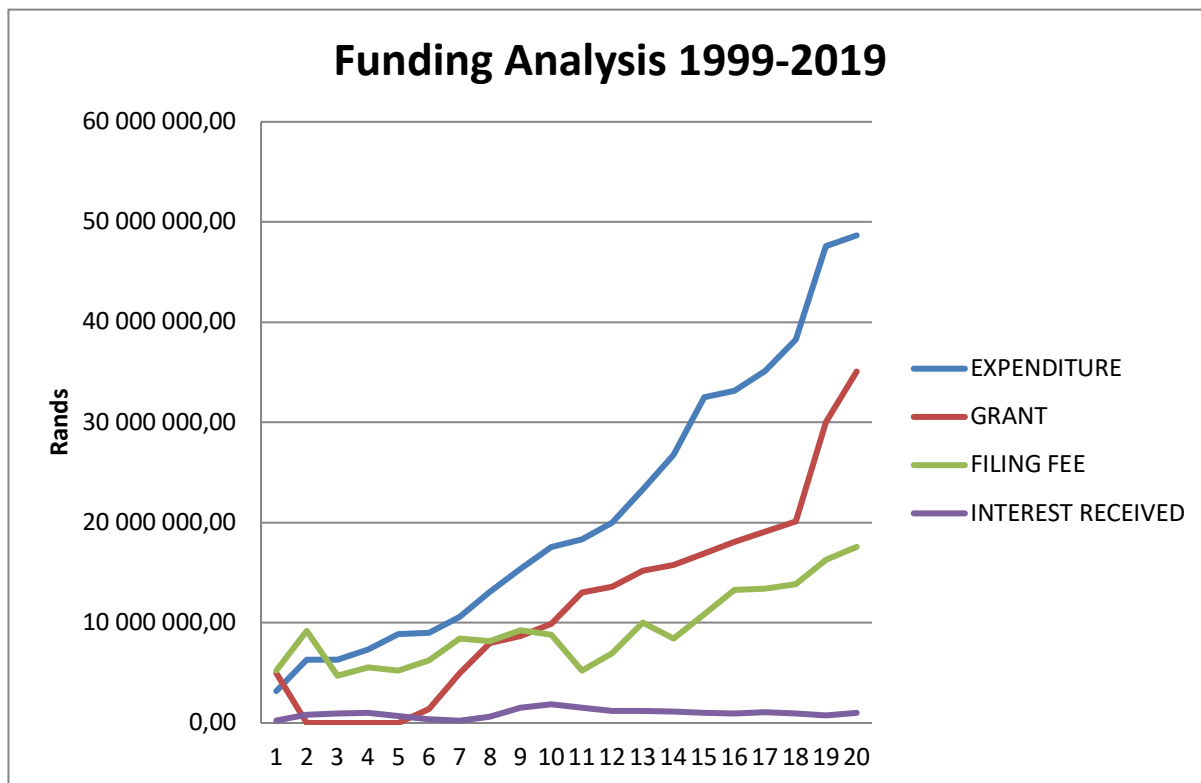
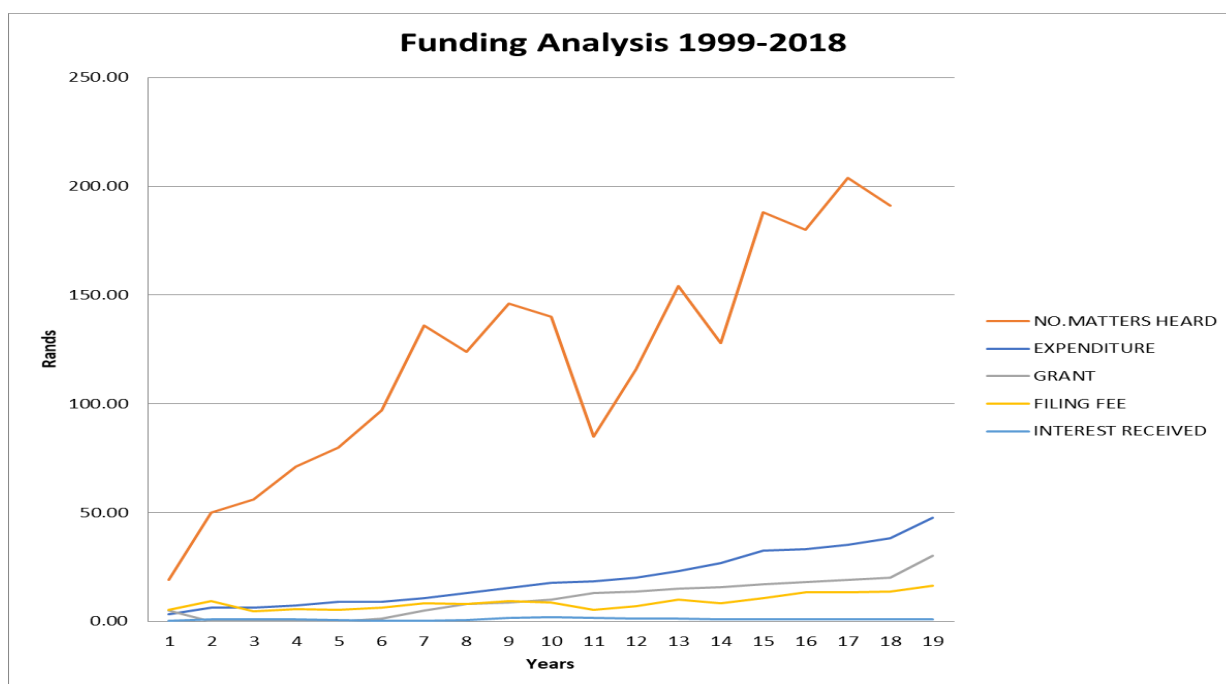


Figure 2: Historical representation of matters heard, expenditure and grant allocation



Annexure E: Statement of Financial Performance – MTEF November 2019

Statement of financial performance	Audited		Audited		Audited		Approved		Outcome/Budget Average %	Average growth rate (%)	Expenditure/total: Average (%)	Medium-term estimate			Average growth rate (%)	Expenditure/total: Average (%)
	Budget	Outcome	Budget	Outcome	Budget	Outcome	Budget estimate	budget				2020/21	2021/22	2022/23		
R thousand	2016/17	2017/18	2017/18	2018/19	2018/19	2019/20	2019/20	2019/20	2016/17-2019/20	2016/17-2019/20	2016/17-2019/20	2020/21	2021/22	2022/23	2019/20 - 2022/23	2019/20 - 2022/23
Revenue																
Tax revenue	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Non-tax revenue	14 221	14 842	15 319	17 104	21 183	18 623	25 389	25 484	99.9%	19.7%	38.7%	26 837	27 849	24 692	-1.0%	39.9%
Sale of goods and services other than capital assets	13 441	13 860	14 441	16 295	18 570	17 579	19 499	19 499	101.9%	12.1%	34.6%	20 045	21 248	22 523	4.9%	31.6%
<i>of which:</i>																
<i>Administrative fees</i>	13 441	13 860	14 441	16 295	18 570	17 579	19 499	19 499	101.9%	12.1%	34.6%	20 045	21 248	22 523	4.9%	31.6%
<i>Sales by market establishment</i>	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
<i>Other sales</i>	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
<i>Other non-tax revenue</i>	780	982	878	809	2 613	1 044	5 890	5 985	86.8%	82.7%	4.0%	6 792	6 601	2 169	-28.7%	8.3%
Transfers received	21 195	20 115	30 041	30 041	35 086	35 086	36 172	36 172	99.1%	21.6%	61.3%	37 403	39 460	45 927	8.3%	60.1%
Total revenue	35 416	34 957	45 360	47 145	56 269	53 709	61 561	61 656	99.4%	20.8%	100.0%	64 240	67 309	70 619	4.6%	100.0%
Expenses																
Current expenses	41 444	38 255	50 117	47 466	55 071	48 667	59 663	59 750	94.1%	16.0%	100.0%	62 180	65 746	69 540	5.2%	100.0%
Compensation of employees	23 853	23 794	30 255	27 573	32 185	29 507	35 844	35 844	95.6%	14.6%	60.2%	38 122	40 138	41 844	5.3%	60.6%
Goods and services	16 749	13 562	19 018	18 864	21 820	18 211	22 541	22 628	91.4%	18.6%	37.6%	22 828	24 229	26 059	4.8%	37.2%
Depreciation	842	899	844	1 029	1 066	949	1 278	1 278	103.1%	12.4%	2.2%	1 230	1 379	1 637	8.6%	2.1%
Interest, dividends and rent on land	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Transfers and subsidies	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total expenses	41 444	38 255	50 117	47 466	55 071	48 667	59 663	59 750	94.1%	16.0%	100.0%	62 180	65 746	69 540	5.2%	100.0%
Surplus/(Deficit)	(6 028)	(3 298)	(4 757)	(321)	1 198	5 042	1 898	1 906		-183.3%		2 060	1 563	1 079	-17.3%	

Note: The surplus reflected in the ENE summary is an operating surplus and does not consider the budget for capital expenditure. When capital expenditure is included the surplus/ (deficit) is zero

Annexure F: Summarised Three-Year Budget 2020/2021 – 2022/2023.

CATEGORY	2019-2020	2020-2021	2021-2022	2022-2023
INCOME				
EDD GRANT REQUIRED	0	0	0	0
COMMITTED EDD GRANT	36,172,000	37,403,000	39,460,000	45,927,000
FEEs RECEIVED	19,498,500	20,045,025	21,247,727	22,522,590
LEASE FUNDING	0	0	0	0
USE OF SURPLUSES	5,306,365	5,962,228	5,978,266	1,701,940
INTEREST RECEIVED	679,207	830,382	622,787	467,090
TOTAL INCOME	61,656,072	64,240,635	67,308,779	70,618,620
EXPENDITURE				
PERSONNEL	35,843,655	38,122,526	40,138,633	41,844,348
PT TRIBUNAL MEMBERS	4,504,947	4,150,822	4,565,904	5,022,494
TRAINING	1,373,798	1,107,016	1,162,367	1,218,161
CONFERENCES AND SEMINARS	350,496	350,856	368,399	386,082
SHARED SERVICE	903,792	1,000,292	1,050,307	1,100,722
FACILITY FEE	6,209,533	6,209,533	6,520,009	6,832,970
CONSULTING	339,134	362,819	380,960	399,246
LEGAL FEES	150,000	150,000	165,000	181,500
TRANSCRIPTION FEES	1,710,816	2,022,863	2,225,149	2,447,664
AUDIT EXPENSES	1,809,588	1,845,219	1,937,480	2,030,479
RECRUIT COSTS	178,268	186,792	196,132	205,546
ADMIN EXPENSES	1,915,792	1,910,043	2,005,546	2,101,812
AMORTISATION	416,972	396,951	513,598	695,491
DEPRECIATION	861,199	902,336	865,238	941,124
OTHER IT EXPENDITURE	2,327,718	2,762,554	2,917,448	3,360,573
REPAIRS/MAINTENANCE	3,000	3,600	3,780	3,961
TOTAL EXPENDITURE	58,898,709	61,484,222	65,015,949	68,772,173
APPEALS COURT BUDGET	726,757	697,498	732,373	768,992
TOTAL AS PER MTEF	59,625,466	62,181,720	65,748,322	69,541,164
CAPITAL EXPENDITURE	2,030,606	2,058,915	1,560,457	1,077,457
GRAND TOTAL	61,656,072	64,240,635	67,308,779	70,618,621
ANTICIPATED SURPLUS/ (DEFICIT)	0	0	0	0

Annexure G: Detailed One Year Budget - 2020/2021

BUDGET ITEM	ACTIVITY	2020/2021 BUDGET	PERCENTAGE
INCOME			
	FEES RECEIVED	20,045,025	31.20%
	EDD GRANT	37,403,000	58.22%
	ADDITIONAL GRANT REQD	0	0.00%
	LEASE FUNDING	0	0.00%
	BAL BFWD	5,962,228	9.28%
	OTHER INCOME	0	0.00%
	INTEREST RECEIVED	830,382	1.29%
TOTAL INCOME		64,240,635	100%
EXPENDITURE			
PERSONNEL	SALARIES & ALLOWANCES	16,303,799	25.38%
	FT MEMBERS	13,900,022	21.64%
	FT MEMBERS COMPANY CONTRIBUTIONS	511,366	0.80%
	CFO SALARY	1,694,471	2.64%
	CFO COMPANY CONTRIBUTIONS	74,876	0.12%
	CFO PERFORMANCE BONUS	68,004	0.11%
	CFO PENSION	132,692	0.21%
	CASUAL LABOUR	68,671	0.11%
	PENSIONABLE BONUS	431,924	0.67%
	PENSION CONTRIBUTION	1,274,729	1.98%
	MEDICAL CONTRIBUTION	854,141	1.33%
	PERFORMANCE BONUS	876,255	1.36%
	COMPANY CONTRIBUTIONS	803,306	1.25%
	INTERNS	1,088,668	1.69%
	COMPANY CONTRIBUTIONS	39,603	0.06%
PT MEMBERS	TRIBUNAL MEMBERS	4,150,822	6.46%
TRAINING	TRAINING LOCAL	186,792	0.29%
	TRAINING OVERSEAS	59,313	0.09%
	AIR TRAVEL OVERSEAS	284,870	0.44%
	HOTEL ACCOMODATION OVERSEAS	59,134	0.09%
	SUBSISTENCE OVERSEAS	82,948	0.13%
	OTHER TRAVEL OVERSEAS	23,783	0.04%
	OECD MEETINGS	210,176	0.33%
	BURSARIES AND SCHOLARSHIPS	100,000	0.16%
	JOINT CONFERENCE WITH CC	100,000	0.16%
	INTERNAL WORKSHOPS	308,706	0.48%
	DIVISIONAL WORKSHOPS	42,150	0.07%
SHARED SERVICES	PROF FEES - CC MANAGEMENT FEE	1,000,292	1.56%
FACILITY FEE/LEASE	PROF FEES - dti	6,209,533	9.67%
LEGAL FEES	LEGAL FEES	150,000	0.23%
CONSULTING	OTHER	362,819	0.56%
TRANSCRIPTION	RECORDING SERVICES	2,022,863	3.15%
AUDIT EXPENSES	EXTERNAL FEE	891,645	1.39%
	EXTERNAL AUDIT COMMITTEE	469,893	0.73%
	INTERNAL FEE	449,358	0.70%
	FPC MEETING	34,322	0.05%
RECRUIT COSTS	RECRUITMENT COSTS	186,792	0.29%
ADMIN EXPENSES	JMF EXPENSES	40,000	0.06%
	WCA	73,297	0.11%
	AIR TRAVEL	156,342	0.24%
	OTHER TRAVEL	38,987	0.06%
	MILEAGE	40,705	0.06%
	HOTEL ACCOMODATION - LOCAL	72,778	0.11%
	CAR RENTAL	3,783	0.01%

BUDGET ITEM	ACTIVITY	PROPOSED 2019/2020 BUDGET	PERCENTAGE
ADMIN EXPENSES	SUBSISTENCE ALLOWANCE - LOCAL	21,756	0.03%
	PARKING	47,744	0.07%
	BANK CHARGES	26,755	0.04%
	FINANCE CHARGES	32,254	0.05%
	DELIVERY CHARGES	3,006	0.00%
	OTHER HEARING COSTS	62,915	0.10%
	REFRESHMENTS	141,042	0.22%
	ENTERTAINMENT	7,200	0.01%
	OFFICE CONSUMABLES	36,974	0.06%
	MOVE EXPENSES	0	0.00%
	PRINTING	105,045	0.16%
	STATIONERY	122,427	0.19%
	PAPER PURCHASES	76,794	0.12%
	TECHINICAL/SOFTWARE CONSULTING	167,227	0.26%
	ADVERTISING BROCHURES & PAMPHLETS	259,293	0.40%
	GOVERNMENT GAZETTE	30,934	0.05%
	PUBLIC RELATIONS	0	0.00%
	NEWSPAPER AND MAGAZINE SUBSCRIPTION	13,837	0.02%
	BOOKS AND PUBLICATIONS	10,775	0.02%
	COURIER SERVICES	1,961	0.00%
	POSTAGE AND STAMPS	2,002	0.00%
	TELEPHONES/TELEFAXES	37,956	0.06%
	CELL PHONES	0	0.00%
	WELLNESS/FIRST AID	26,700	0.04%
	GIFTS AND FLOWERS	5,675	0.01%
	GENERAL HOUSEKEEPING	33,290	0.05%
	CLEANING MATERIALS	10,758	0.02%
	OFFSITE STORAGE	73,747	0.11%
	MISCELLANOUS EQUIPMENT	10,770	0.02%
	LOOSE TOOLS	21,020	0.03%
	LOSS ON DISPOSAL	0	0.00%
	INSURANCE	94,295	0.15%
OTHER IT EXPENSES	LEASE- PHOTOCOPIER	224,655	0.35%
	COMPUTER SOFTWARE	993,641	1.55%
	R&M COMPUTERS	850,661	1.32%
	ONGOING SUPPORT FOR CMS	137,424	0.21%
	INTERNET SERVICES	203,840	0.32%
	EMAIL ARCHIVING	75,859	0.12%
	WEBSITE CONSULTING	96,672	0.15%
	WEBSITE SERVICE PROVIDER	147,899	0.23%
REPAIRS/MAINTENANCE	FUEL, R&M MOTOR VECHILES	31,904	0.05%
	OTHER MAINTENANCE	3,600	0.01%
DEPRECIATION	DEPRECIATION	902,336	1.40%
	AMORTISATION	396,951	0.62%
CAPITAL EXPENDITURE	COMPUTER EQUIPMENT - COST	1,658,197	2.58%
	INTANGIBLE ASSETS	316,497	0.49%
	FURNITURE AND FITTINGS - COST	55,913	0.09%
	MOTOR VECHILE - COST	0	0.00%
	OFFICE EQUIPMENT	28,309	0.04%
TOTAL		63,543,137	98.91%
APPEAL COURT		697,498	1.09%
TOTAL EXPENDITURE		64,240,635	100.00%
SURPLUS/ (DEFICIT)		-	