

**THE COMPETITION TRIBUNAL**  
**PERFORMANCE INFORMATION REPORT**

**Quarter 2**

**1 JULY 2021 – 30 SEPTEMBER 2021**

**Reviewed for submission by :**

Tebogo Mputle (Registrar/Head of Registry)

**Signature:** *Tebogo Mputle* **Date:** 20/10/21

**Reviewed and verified for approval by :**

Oliver Josie(Chief Operating Officer)

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Reason: I approve this document

**Signature:** *Oliver Josie* **Date:** 20/10/21

**Approved by**

Mondo Mazwai (Tribunal Chair)

**Signature:** *M Mondo Mazwai* **Date:** 28/10/2021

| OUTCOME - RESPONSIVE AND RELIABLE ADJUDICATION  |               |                          |             |              |             |        |               |  |
|---|---------------|--------------------------|-------------|--------------|-------------|--------|---------------|--|
|   | ANNUAL        |                          | QUARTER 1   |              | QUARTER 2   |        | YEAR TO DATE  | REASON FOR DEVIATIONS  |
| TOTAL OUTCOME BUDGET  | R 26,627,524  |                          | R 6,656,886 |              | R 6,656,886 |        | R 13,313,772  | The deviation from budget for the quarter is -20% and this is mainly the savings from the 2 tribunal member vacancies still to be filled.                          |
| TOTAL OUTCOME EXPENDITURE   | R 10,662,671  |                          | R 5,430,059 |              | R 5,232,612 |        | R 10,662,671  |  |
| <b>1. Effective Case Management Procedures to Ensure Hearings Set Down Within Legislated Trimeframes</b>  |               |                          |             |              |             |        |               |  |
| Output budget   | R9,494,404    |                          | R2,373,603  |              | R2,373,603  |        | R4,747,206    |  |
| Output expenditure  | R4,452,766    |                          | R2,475,773  |              | R1,976,993  |        | R4,452,766    |  |
| OUTPUT INDICATOR  | ANNUAL TARGET | PRIOR YEAR ANNUAL ACTUAL | TARGET      | ACTUAL       | TARGET      | ACTUAL | ANNUAL ACTUAL | EXPLANATIONS FOR DEVIATIONS  |
|   |               |                          | Q1          | Q1           | Q2          | Q2     | YEAR TO DATE  |  |
| % 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.  | 80%           | 97%                      | 80%         | 100%         | 80%         | 91%    | 96%           | The target has been exceeded for the quarter and for the year. 20 of the 22 matters were set down within 10 business days. <i>No corrective action is required</i> |
| % of intermediate and small merger considerations set down for the beginning of a hearing or a pre-hearing within 10 business days of the receipt of the Request for Consideration. | 65%           | 0%                       | 65%         | no set downs | 80%         | 100%   | 100%          | The target has been exceeded for the quarter and for the year. 1 matter was set down within 10 business days. <i>No corrective action is required</i>              |
| % 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.                    | 70%           | 100%                     | 70%         | 100%         | 70%         | 100%   | 100%          | The target has been exceeded for the quarter. <i>No corrective action is required.</i>   |
| % of matters classified as complex or very complex where a post-meeting is held by the panel members and case managers after the hearing is concluded.                              | 80%           | 100%                     | 80%         | 100%         | 80%         | 100%   | 100%          | The target has been exceeded for the quarter. <i>No corrective action is required.</i>   |

| OUTCOME - RESPONSIVE AND RELIABLE ADJUDICATION   |                           |                          |            |                   |            |                   |                   |   |
|--|---------------------------|--------------------------|------------|-------------------|------------|-------------------|-------------------|---|
| 2. Effective and Timeous Issuing of Orders, and Reasons  |                           |                          |            |                   |            |                   |                   |   |
| Output budget  | R17,133,120               |                          | R4,283,283 |                   | R4,283,283 |                   | R8,566,566        |   |
| Output expenditure   | R6,209,905                |                          | R2,954,286 |                   | R3,255,619 |                   | R6,209,905        |   |
| OUTPUT INDICATOR   | ANNUAL AND QUARTER TARGET | PRIOR YEAR ANNUAL ACTUAL | TARGET     | ACTUAL            | TARGET     | ACTUAL            | ANNUAL ACTUAL     | EXPLANATIONS FOR DEVIATIONS   |
|  |                           |                          | Q1         | Q1                | Q2         | Q2                | YEAR TO DATE      |   |
| % of large merger orders issued to parties within 10 business days of last hearing date <i>(See 1 of Definitions and rules)</i> .  | 95%                       | 100%                     | 95%        | 313%              | 95%        | 100%              | 100%              | The target has been exceeded for the quarter and for the year. All 23 matters decided were decided within 10 business days. <i>No corrective action is required</i>   |
| % of reasons for large mergers issued to parties within 20 business days of order being issued.  | 70%                       | 72%                      | 70%        | 86%               | 70%        | 90%               | 88%               | The target exceeded for the quarter and for the year. 19 of the 21 reasons were issued within 20 business days. <i>No corrective action is required</i>   |
| % of orders for intermediate and small merger reconsideration issued to parties within 10 business days of last hearing date. <i>(See 1 of Definitions and rules)</i> .  | 70%                       | 100%                     | 70%        | No order issued   | 70%        | 100%              | 100%              | The target exceeded for the quarter and for the year. Order issued in one matter was issued within 10 business days. <i>No corrective action is required</i>  |
| % of reasons for intermediate and small merger reconsiderations reasons issued to parties within 20 business days of the order being issued.   | 50%                       | No reasons issued        | 50%        | 0%                | 50%        | No reasons issued | 0%                | Target could not be measured for the quarter because there were no reasons issued. <i>No corrective action is required</i>  |
| Reasons for prohibited practices cases <i>(see 2 of Definitions and rules)</i> classified as simple <i>(see 3 of Definitions and rules)</i> are issued to parties within 100 business days of the last hearing date. | 75%                       | No reasons issued        | 75%        | No reasons issued | 75%        | No reasons issued | No reasons issued | Target cannot be measured for the quarter and the year because there were no reasons issued. <i>No corrective action required</i>   |
| Reasons for prohibited practices cases classified as complex <i>(see 3 of Definitions and rules)</i> are issued to parties within 125 business days of the last hearing date.  | 65%                       | 0%                       | 65%        | No reasons issued | 65%        | 0%                | 0%                | Target not met for the quarter and the year. Reasons were issued in one matter and were out by 338 business days. The delay was because the reasons were complex and required a lot of deliberations on the substance.<br><br><i>Increasing the number of full time members would improve our efficiencies.</i> |
| Reasons for prohibited practices cases classified as very complex <i>(see 3 of Definitions and rules)</i> are issued to parties within 150 business days of the last hearing date.                                   | 65%                       | 67%                      | 65%        | No reasons issued | 65%        | No reasons issued | No reasons issued | Target cannot be measured for the quarter and the year because there were no reasons issued. <i>No corrective action required</i>   |
| % of procedural matter <i>(see 3 of Definitions and rules)</i> orders issued to parties within 45 business days of last hearing date.  | 65%                       | 90%                      | 65%        | 100%              | 65%        | 83%               | 89%               | The target has been exceeded for the quarter and for the year. Five of the six reasons issued were issued within 45 business days. <i>No corrective action required.</i>  |
| % orders for consent orders and settlement agreements issued to parties within 10 business days of the last hearing date.  | 75%                       | 92%                      | 75%        | 83%               | 75%        | 100%              | 89%               | The target has been exceeded for the quarter and for the year. All three orders were issued within 10 business days. <i>No corrective action required.</i>  |
| % of reasons in interim relief matters issued to parties within 20 business days of last hearing date.   | 65%                       | 0%                       | 65%        | No reasons issued | 65%        | No reasons issued | No reasons issued | Target cannot be measured for the quarter and the year because there were no reasons issued. <i>No corrective action required</i>   |

| OUTCOME - TRANSPARENT, ACCOUNTABLE AND SUSTAINABLE TRIBUNAL  |                                       |  |          |                                   |          |  |          |                                |                                |  |  |  |
|--|---------------------------------------|--|----------|-----------------------------------|----------|--|----------|--------------------------------|--------------------------------|--|--|--|
|  |                                       | QUARTER 1  |          | QUARTER 2                         |          | QUARTER 3                                      |          | QUARTER 4                      |                                | YEAR TO DATE                                   | REASON FOR DEVIATIONS                              |  |
| CURRENT BUDGET   |                                       | R 12,663,742                                       |          | R 2,710,443                       |          | R 3,616,526                                    |          | R 0                            |                                | R 0  | R 6,326,969  | The deviation from budget for the quarter is 2% which is not material.   |
| ACTUAL EXPENDITURE   |                                       | R 6,439,469  |          | R 2,751,581                       |          | R 3,687,888                                    |          | R 0                            |                                | R 0  | R 6,439,469  |  |
| <b>3. Effective Communication and Information Sharing</b>  |                                       |  |          |                                   |          |  |          |                                |                                |  |  |  |
| Output budget  |                                       | R1,300,834   |          | R313,023                          |          | R313,023                                       |          | R0                             |                                | R0   | R626,046   |  |
| Output expenditure   |                                       | R600,858   |          | R293,368                          |          | R307,490                                       |          | R0                             |                                | R0   | R600,858   |  |
| OUTPUT INDICATOR   | ANNUAL TARGET                         | PRIOR YEAR ANNUAL ACTUAL                           | TARGET   | ACTUAL                            | TARGET   | ACTUAL   | TARGET   | ACTUAL                         | TARGET                         | ACTUAL   | ANNUAL ACTUAL                                      | EXPLANATIONS FOR DEVIATIONS  |
|  |                                       |  | Q1       | Q1                                | Q2       | Q2   | Q3       | Q3                             | Q4                             | Q4   | YEAR TO DATE                                       |  |
| % press releases of final merger decisions communicated within 3 business days of order date.  | 90%                                   | 90%  | 90%      | 61%                               | 90%      | 54%  | 90%      |                                | 90%                            |  | 57%  | Target not met. Press releases were issued for all 24 final large merger decisions. 13 were issued in three business days. However, 11 were issued outside of three business days due to case management having to finalise confidentiality first. Press releases can only be issued after confidentiality has been finalised. |
| % press releases of prohibited practice decisions communicated within 3 business days of order date.   | 90%                                   | 71%  | 90%      | n/a                               | 90%      | 0%   | 90%      |                                | 90%                            |  | 0%   | Target not met. One press release was issued for one prohibited practice matter. The press release was issued outside of three business days after confidentiality claims had been finalised. Press releases can only be issued after confidentiality is finalised.  |
| Annual publication (update) of juris-prudence handbook   | Handbook updated and published        | Handbook updated and published on Tribunal website | N/A      | Handbook updated and published in | N/A      | Handbook updated and published in Quarter 1 on | N/A      | Handbook updated and published | Handbook updated and published | Handbook updated and published in Quarter 1 on | Handbook updated and published on Tribunal website | Target met.  |
| <b>4 &amp; 5. Effective Business Processes (4. Intergrated Knowledge Management and 5. Effective Records Management)</b>                         |                                       |  |          |                                   |          |  |          |                                |                                |  |  |  |
| Output budget  |                                       | R3,796,420   |          | R963,342                          |          | R988,342                                       |          | R0                             |                                | R0   | R1,951,684   |  |
| Output expenditure   |                                       | R1,761,324   |          | R975,939                          |          | R785,385                                       |          | R0                             |                                | R0   | R1,761,324   |  |
| OUTPUT INDICATOR   | ANNUAL TARGET                         | PRIOR YEAR ANNUAL ACTUAL                           | TARGET   | ACTUAL                            | TARGET   | ACTUAL   | TARGET   | ACTUAL                         | TARGET                         | ACTUAL   | ANNUAL ACTUAL                                      | EXPLANATIONS FOR DEVIATIONS  |
|  |                                       |  | Q1       | Q1                                | Q2       | Q2   | Q3       | Q3                             | Q4                             | Q4   | YEAR TO DATE                                       |  |
| Approved electronic records management policy and filing system. Approved file plan and system implemented according to project plan milestones. | No target set due to lack of funding. | No target set for the year                         | N/A      | No target set for the year        | N/A      | No target set for the year                     | N/A      | No target set for the year     | N/A                            | No target set for the year                     | No target set for the year                         | Target could not be measured. No target set for the year.  |
| The outcomes of the review of processes, including forms and procedures for simplicity and necessity   | Quarterly report sent to dtic         | New indicator                                      | 1 report | 1 report                          | 1 report | 1 report                                       | 1 report |                                | 1 report                       |  | 1 report   | Target met.  |

| OUTCOME - TRANSPARENT, ACCOUNTABLE AND SUSTAINABLE TRIBUNAL   |                                   |                          |          |                            |            |                            |          |                            |                      |        |                           |   |
|---|-----------------------------------|--------------------------|----------|----------------------------|------------|----------------------------|----------|----------------------------|----------------------|--------|---------------------------|---|
| <b>6. Sound Governance</b>  |                                   |                          |          |                            |            |                            |          |                            |                      |        |                           |   |
| Output budget   | R3,791,964                        |                          | R498,987 |                            | R1,362,992 |                            | R0       |                            | R0                   |        | R1,861,979                |   |
| Output expenditure  | R2,126,752                        |                          | R536,815 |                            | R1,589,937 |                            | R0       |                            | R0                   |        | R2,126,752                |   |
| OUTPUT INDICATOR  | ANNUAL TARGET                     | PRIOR YEAR ANNUAL ACTUAL | TARGET   | ACTUAL                     | TARGET     | ACTUAL                     | TARGET   | ACTUAL                     | TARGET               | ACTUAL | ANNUAL ACTUAL             | EXPLANATIONS FOR DEVIATIONS   |
|   |                                   |                          | Q1       | Q1                         | Q2         | Q2                         | Q3       | Q3                         | Q4                   | Q4     | YEAR TO DATE              |   |
| Percentage of prior financial year audit (internal and external) findings resolved in terms of agreed timelines with auditors.  | 100%                              | 100%                     | N/A      | No target set in quarter 1 | N/A        | No target set in quarter 2 | N/A      |                            |                      | 100%   | No target set             | Target could not be measured. No target set for quarter 2.  |
| 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                       | one meeting              | N/A      | No target set in quarter 1 | N/A        | No target set in quarter 2 | N/A      |                            | One meeting          |        | 1 meeting held            | Target met.   |
| No material finding by the Auditor-General at year end.   | No material findings              | No finding               | N/A      | No target set in quarter 1 | N/A        | No target set in quarter 2 | N/A      |                            | No material findings |        | No material findings      | Target met.   |
| <b>7. Effective Financial Management</b>  |                                   |                          |          |                            |            |                            |          |                            |                      |        |                           |   |
| Output budget   | R3,043,700                        |                          | R760,926 |                            | R760,926   |                            | R0       |                            | R0                   |        | R1,521,852                |   |
| Output expenditure  | R1,546,651                        |                          | R775,225 |                            | R771,426   |                            | R0       |                            | R0                   |        | R1,546,651                |   |
| OUTPUT INDICATOR  | ANNUAL TARGET                     | PRIOR YEAR ANNUAL ACTUAL | TARGET   | ACTUAL                     | TARGET     | ACTUAL                     | TARGET   | ACTUAL                     | TARGET               | ACTUAL | ANNUAL ACTUAL             | EXPLANATIONS FOR DEVIATIONS   |
|   |                                   |                          | Q1       | Q1                         | Q2         | Q2                         | Q3       | Q3                         | Q4                   | Q4     | YEAR TO DATE              |   |
| Percentage variance on expenditure against budget   | -10%                              | -9%                      | -10%     | -10%                       | -10%       | -12%                       | -10%     |                            | -10%                 |        | -12%                      | Target not met . This is mainly due to the savings from the 2 Tribunal member vacancies still to be filled. |
| No material findings of fruitless & wasteful expenditure reported on in the final audited financial statements.   | No material findings              | No findings              | N/A      | No target set in quarter 1 | N/A        | No target set in quarter 2 | N/A      | No target set in quarter 3 | No material findings |        | No material findings      | Target met.   |
| No material findings of irregular expenditure reported on in the final audited financial statements.  | No material findings              | 1 finding - not material | N/A      | No target set in quarter 1 | N/A        | No target set in quarter 2 | N/A      | No target set in quarter 3 | No material findings |        | No material findings      | Target met.   |
| No material misstatements in AFS submitted to National Treasury at 31 May.  | No material misstatements         | None                     | N/A      | No target set in quarter 1 | N/A        | No target set in quarter 2 | N/A      | No target set in quarter 3 | None                 |        | No material misstatements | Target met.   |
| Monitor the levels of B-BBEE suppliers in order to promote transformation in procurement practices.   | Quarterly report sent to the dtic | New target               | 1 report | 1 report                   | 1 report   | 1 report                   | 1 report |                            | 1 report             |        | 1 report                  | Target met.   |

| OUTCOME - TRANSPARENT, ACCOUNTABLE AND SUSTAINABLE TRIBUNAL  |  |                            |           |                            |           |                            |           |                            |                      |                            |                            |  |
|--|--|----------------------------|-----------|----------------------------|-----------|----------------------------|-----------|----------------------------|----------------------|----------------------------|----------------------------|--|
| 8. Capacity Development, Retention and Training  |  |                            |           |                            |           |                            |           |                            |                      |                            |                            |  |
| Output budget  | R730,824                                 | R174,165                   | R191,243  | R0                         | R0        | R365,408                   |           |                            |                      |                            |                            |  |
| Output expenditure   | R403,884                                 | R170,234                   | R233,650  | R0                         | R0        | R403,884                   |           |                            |                      |                            |                            |  |
| OUTPUT INDICATOR   | ANNUAL TARGET                            | PRIOR YEAR ANNUAL ACTUAL   | TARGET Q1 | ACTUAL Q1                  | TARGET Q2 | ACTUAL Q2                  | TARGET Q3 | ACTUAL Q3                  | TARGET Q4            | ACTUAL Q4                  | ANNUAL ACTUAL YEAR TO DATE | EXPLANATIONS FOR DEVIATIONS                                |
| Average employee performance evaluation score (see 7 of Definitions and business rules)  | 3.5                                      | 3.7                        | N/A       | No target set in quarter 1 | N/A       | No target set in quarter 2 | N/A       |                            | 3.5                  |                            | No target set              | Target could not be measured. No target set for quarter 2. |
| Percentage vacancy rate (see 8 of Definitions and business rules)  | 7%                                       | 4%                         | N/A       | No target set in quarter 1 | N/A       | No target set in quarter 2 | N/A       |                            | 7%                   |                            | No target set              | Target could not be measured. No target set for quarter 2. |
| Percentage staff turnover (see 9 of Definitions and business rules)  | 20%                                      | 12%                        | N/A       | No target set in quarter 1 | N/A       | No target set in quarter 2 | N/A       |                            | 20.0%                |                            | No target set              | Target could not be measured. No target set for quarter 2. |
| At a minimum send at least one representative annually to an OECD competition forum and at least one representative to the annual ICN conference | One person per conference/forum/per year | Not Achieved               | N/A       | No target set in quarter 1 | N/A       | No target set in quarter 2 | N/A       |                            | One person per forum |                            | No target set              | Target could not be measured. No target set for quarter 2. |
| Facilitate an annual capacity building workshop for case managers and Tribunal members.  | 1  | No target set for the year | N/A       | 1                          | N/A       | No target set in quarter 2 | N/A       |                            | 1                    |                            | 1                          | Annual target met.   |
| Number of long-term case management interns appointed.   | 2  | 2                          | 2         | 2                          | 0         | No target set in quarter 2 | 0         | No target set in quarter 3 | 0                    | No target set in quarter 4 | 2                          | Annual target met.   |
| 4 quarterly reports sent to the dtic on the implementation of the Employment Equity plan   | 4 quarterly reports sent                 | New target                 | 1 report  | 1 report                   | 1 report  | 1 report                   | 1 report  |                            | 1 report             |                            | 1 report                   | Target met.  |

## DEFINITIONS AND BUSINESS RULES

| NOTE | ITEM   | EXPLANATION   |
|------|--|---|
| 1    | <b>Hearing Date</b>                                  | 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”)   |
| 2    | <b>Reasons in prohibited practice cases</b>          | 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  |
| 3    | <b>Simple/Complex/Very Complex Matters</b>           | 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. |
| 4    | <b>Prohibited Practices - 100%</b>                   | The target is binary in that it is either 0% or 100% for example 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.   |
| 5    | <b>Procedural matters</b>                            | While we refer to procedural matters they include interlocutory applications.   |
| 6    | <b>Percentage expenditure against budget</b>         | While this is a new indicator we do have the information to reflect prior performance and therefore determine a target based on prior performance   |
| 7    | <b>Average employee performance evaluation score</b> | These three targets are measured annually and there is therefore no target set for the first three quarters of the year   |
| 8    | <b>Percentage vacancy rate</b>                       | 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  |
| 9    | <b>Percentage staff turnover</b>                     | 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  |