

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

**Quarter 2**

**1st APRIL 2020 – 31st MARCH 2021**

**Reviewed for submission by :**

Tebogo Mputle (Registrar/Head of Registry)

Signature: *Tebogo Mputle* Date: 29/10/20

**Reviewed and verified for approval by :**

Oliver Josie(Chief Operating Officer)

Signature: Signed by: Oliver Josie  
Signed at: 2020-10-29 14:36:51 +02:00  
Reason: Witnessing Oliver Josie  
*Oliver Josie* Date: 29/10/20

**Approved by**

Mondo Mazwai (Tribunal Chair)

Signature: *M. Mazwai* Date: 30/10/2020

OUTCOME - RESPONSIVE AND RELIABLE ADJUDICATION								
		QUARTER 1		QUARTER 2		YEAR TO DATE	REASON FOR DEVIATIONS	
TOTAL OUTCOME BUDGET		R 26,219,821.00		R 5,777,991.00		R 7,331,919.00	R 13,109,910.00	As result of the COVID19 pandemic, the Tribunal staff are working remotely and therefore little or no expenditure incurred on expenditure line items.
TOTAL OUTCOME EXPENDITURE		R 11,460,945.35		R 4,292,702.88		R 7,168,242.47	R 11,460,945.35	
<b>1. Effective Case Management Procedures to Ensure Hearings Set Down Within Legislated Trimeframes</b>								
Output budget		R11,921,579.00		R2,980,395.00		R2,980,395.00	R5,960,790.00	
Output expenditure		R4,260,571.86		R2,146,351.44		R2,114,220.42	R4,260,571.86	
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	75.00%	88.24%	75.00%	100.00%	75.00%	100.00%	100.00%	The target has been exceeded for the quarter. All 13 matters were set down within 10 business days. <i>No corrective action is required</i>
% of intermediate and small merger considerations to be set down for the beginning of a hearing or a pre-hearing within 10 business days of the receipt of the Commission's record.	65.00%	0.00%	65.00%	No matters were set down	65.00%	No matters were set down	No matters were set down	Target cannot be measured for the quarter as there were no matters set down. <i>No corrective action 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	70.00%	New indicator	70.00%	100.00%	70.00%	no hearings	100.00%	Target cannot be measured for the quarter as there were no hearings. <i>No corrective action 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.	80.00%	New indicator	80.00%	100.00%	80.00%	no hearings	100.00%	Target cannot be measured for the quarter as there were no hearings concluded. <i>No corrective action required</i>

**OUTCOME - RESPONSIVE AND RELIABLE ADJUDICATION**

**2. Effective and Timeous Issuing of Orders, and Reasons**

Output budget	R14,298,242.00	R2,797,596.00	R4,351,524.00		R7,149,120.00			
Output expenditure	R7,200,373.49	R2,146,351.44	R5,054,022.05		R7,200,373.49			
OUTPUT INDICATOR	ANNUAL AND QUARTER TARGET	PRIOR YEAR ANNUAL ACTUAL	TARGET	ACTUAL	TARGET	ACTUAL	ANNUAL ACTUAL	EXPLANATIONS FOR DEVIATIONS
			Q1	Q1	Q2	Q2		
% of large merger orders issued to parties within 10 business days of last hearing date <i>(See 1 of Definitions and rules)</i> .	95.00%	100.00%	95.00%	100.00%	95.00%	100.00%	100.00%	The target has been exceeded for the quarter. All 14 matters decided were decided within 10 business days. <i>No corrective action is required</i>
% of large merger reasons issued to parties within 20 business days of order being issued	65.00%	71.26%	65.00%	82.35%	65.00%	60.00%	74.07%	The target was not met for the quarter. 6 of the 10 reasons were issued in time within 20 business days. The 4 were out by 4, 12, 18 and 89 business days. Delays can occur for any one or a combination of the following reasons (i) more complex matters require more time to draft reasons, (ii) lack of Tribunal member capacity - in many instances Tribunal members are sitting on matters and simultaneously are required to draft reasons. The capacity issue is exacerbated by the fact that there is currently a shortage of Tribunal members. <i>The Tribunal is unable to implement an action plan that addresses delays caused by the complexity of a matter. We can however implement action where delays are related to lack of Tribunal member capacity and we have engaged with the DTIC to secure more Tribunal members to address this issue.</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> .	80.00%	50.00%	80.00%	No order issued	80.00%	100.00%	100.00%	Target exceeded for the quarter. 1 matter decided was decided within 10 business days. <i>No corrective action required</i>
% of reasons for intermediate and small merger reconsiderations reasons issued to parties within 20 business days of the order being issued.	65.00%	25.00%	65.00%	No reasons issued	65.00%	No reasons issued	No reasons issued	Target cannot be measured for the quarter or the year to date as there were no reasons issued. <i>No corrective action 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	80.00%	No reasons issued	80.00%	No reasons issued	80.00%	No reasons issued	No reasons issued	Target cannot be measured for the quarter or the year to date as 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	80.00%	33.33%	80.00%	0.00%	80.00%	0.00%	0.00%	Target not met for the quarter. Reasons issued in one matter and it was issued late by 53 days The delay was caused by Tribunal members simultaneously sitting on panels and therefore find it difficult to draft reasons. <i>The Tribunal has engaged the DTIC to secure more Tribunal members to address the issue of Tribunal Members capacity.</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	80.00%	50.00%	80.00%	100.00%	80.00%	100.00%	100.00%	The target has been exceeded for the quarter. Reasons issued in one matter within 150 business days <i>No corrective action is 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.	65.00%	54.55%	65.00%	75.00%	65.00%	100.00%	77.78%	The target was exceeded for the quarter. Reasons were issued in one matter within 45 business days <i>No corrective action is required</i>
% of orders for consent orders and settlement agreements issued to parties within 10 business days of last hearing date .	80.00%	95.83%	80.00%	100.00%	80.00%	96.77%	98.08%	The target has been exceeded for the quarter. 30 of the 31 orders were issued within 10 business days. One matter was out of time by 272 days. <i>No corrective action is required</i>

OUTCOME - RESPONSIVE AND RELIABLE ADJUDICATION								
% of interim relief reasons issued to parties within 20 business days of last hearing date.	65.00%	0.00%	65.00%	0.00%	65.00%	No reasons issued	0.00%	Target cannot be measured for the quarter or the year to date as there were no reasons issued. <i>No corrective action required</i>

OUTCOME - TRANSPARENT, ACCOUNTABLE AND SUSTAINABLE TRIBUNAL												REASON FOR DEVIATIONS
		QUARTER 1		QUARTER 2		QUARTER 3		QUARTER 4		YEAR TO DATE	As result of the COVID19 pandemic, the Tribunal staff are working remotely and therefore not as much expenditure incurred.	
CURRENT BUDGET	R 14,940,971.95	R 3,363,112.29	R 4,601,346.29	R 3,007,296.29	R 3,969,217.08	R 3,363,112.29	R 2,987,499.71	R 2,987,499.71	R 0.00	R 0.00		
ACTUAL EXPENDITURE	R 2,987,499.71	R 2,987,499.71	-R 2,987,499.71	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00		
<b>3. Effective Communication and Information Sharing</b>												
Output budget	R1,382,931.47	R333,548.77	R333,548.77	R333,548.77	R333,548.77	R382,285.16	R333,548.77					
Output expenditure	R298,206.41	R298,206.41	-R298,206.41	R0.00	R0.00	R0.00	R298,206.41					
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	
% of press releases of final merger decisions communicated within two business days of order date	95.00%	96.97%	95.00%	100.00%	95.00%	100.00%	95.00%	#DIV/0!	95.00%	#DIV/0!	100.00%	Target exceeded
% of press releases of final prohibited practice decisions communicated within two business days of order date	90%	60%	90%	100.00%	90%	100%	90%	#DIV/0!	90%	#DIV/0!	100.00%	Target exceeded
Annual publication (update) of jurisprudence handbook	Handbook updated and published	New indicator	Published on Tribunal website						Handbook updated and published	Published on Tribunal website		Target met
<b>Effective Business Processes (4. Intergrated Knowledge Management and 5. Effective Records Management)</b>												
Output budget	R3,832,066.00	R816,118.00	R1,569,229.00	R695,850.00	R750,869.00	R816,118.00						
Output expenditure	R881,226.23	R881,226.23	-R881,226.23	R0.00	R0.00	R881,226.23						
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	
Integrated Knowledge Management Framework developed and implemented against approved draft project plan milestones	Framework approved and draft project plan in place	New indicator	Feasibility study completed	No progress	No target in quarter 2		Framework approved		Draft ptoject plan developed		No progress	This is removed in the adjusted APP.
Approved electronic records management policy and filing system. Approved file plan and system implemented according to project plan milestones	Policy and file plan approved. Draft project plan implemented	New indicator	No target set in quarter 1		File plan submitted to National Archives for approval		Electronic records management and filing system policy approved		Draft project plan approved		No target set in quarter 1	No target set in quarter 1

OUTCOME - TRANSPARENT, ACCOUNTABLE AND SUSTAINABLE TRIBUNAL												
<b>6. Sound Governance</b>												
Output budget	R3,815,260.48	R640,746.52	R1,232,883.52		R713,903.52		R1,227,726.92		R640,746.52			
Output expenditure	R873,436.23	R873,436.23	-R873,436.23		R0.00		R0.00		R873,436.23			
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 by the end of the current financial year	100%	New indicator (see )	No target set in quarter 1	No target set in quarter 2	No target set in quarter 3	100%	#DIV/0!	No target set in quarter 2	No target set in quarter 2			No target set in 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	New indicator	No target set in quarter 1	No target set in quarter 2	No target set in quarter 3	One meeting		No target set in quarter 1	No target set in quarter 1			No target set in quarter 1
Not more than one finding by the Auditor-General at year end that indicates that the Tribunal does not have effective oversight structures or corporate governance structures in place	One finding	No findings	No findings on this matter	No target set in quarter 2	No target set in quarter 3	One meeting		No target set in quarter 1	No target set in quarter 1			No target set in quarter 1
<b>7. Effective Financial Management</b>												
Output budget	R3,324,572.00	R795,483.00	R795,483.00		R795,483.00		R938,123.00		R795,483.00			
Output expenditure	R721,348.82	R721,348.82	-R721,348.82		R0.00		R0.00		R721,348.82			
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 expenditure against budget (annual) (see 6 of Definitions and rules)	85%	New indicator	20% of annual budget	17.01%	40% of annual budget	#DIV/0!	60% of annual budget	#DIV/0!	85% of annual budget	#DIV/0!	17.01%	As result of the COVID19 pandemic, the Tribunal staff are working remotely and therefore not as much expenditure incurred.
No findings of fruitless & wasteful expenditure reported on in the final audited financial statements	No findings	No findings	No target set in quarter 1	No target set in quarter 2	No target set in quarter 3	No findings		No target set in quarter 1	No target set in quarter 1			No target set in quarter 1
No findings of irregular expenditure reported on in the final audited financial statements	No findings	No findings	No target set in quarter 1	No target set in quarter 2	No target set in quarter 3	No findings		No target set in quarter 1	No target set in quarter 1			No target set in quarter 1
No material misstatements in AFS submitted to National Treasury at 31 May	None	No findings	No target set in quarter 1	No target set in quarter 2	No target set in quarter 3	None		No target set in quarter 1	No target set in quarter 1			No target set in quarter 1

OUTCOME - TRANSPARENT, ACCOUNTABLE AND SUSTAINABLE TRIBUNAL												
8. Capacity Development, Retention and Training												
Output budget	R2,586,142.00	R777,216.00	R670,202.00		R468,511.00		R670,213.00		R777,216.00			
Output expenditure	R213,282.02	R213,282.02	-R213,282.02		R0.00		R0.00		R213,282.02			
OUTPUT INDICATOR	ANNUAL TARGET	PRIOR YEAR ANNUAL ACTUAL	TARGET	ACTUAL	TARGET	ACTUAL	TARGET	ACTUAL	TARGET	ACTUAL	ANNUAL ACTUAL YEAR TO DATE	EXPLANATIONS FOR DEVIATIONS
			Q1	Q1	Q2	Q2	Q3	Q3	Q4	Q4		
Average employee performance evaluation score (see 7 of Definitions and business rules)	3.50	3.50	No target set in quarter 1		No target set in quarter 2		No target set in quarter 3		3.5	#DIV/0!	No target set in quarter 1	No target set in quarter 1
Percentage vacancy rate (see 8 of Definitions and business rules)	7%	3.83%	No target set in quarter 1		No target set in quarter 2		No target set in quarter 3		7%	9.09%	No target set in quarter 1	No target set in quarter 1
Percentage staff turnover (see 9 of Definitions and business rules)	11.50%	3.85%	No target set in quarter 1		No target set in quarter 2		No target set in quarter 3		11.5%	0.00%	No target set in quarter 1	No target set in quarter 1
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 person per conference/forum/per year	Achieved	No target set in quarter 1		No target set in quarter 2		No target set in quarter 3		1 person per forum per conference		No target set in quarter 1	No target set in quarter 1
Facilitate an annual capacity building workshop for case manager and Tribunal members	1	New indicator	No target set in quarter 1		100%	No target in quarter 3 and quarter 4					No target set in quarter 1	No target set in quarter 1
Number of long-term case management interns appointed	2	2	2	2	2		2		2		2	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 e.g. if one out of one set of reasons is not issued within the timeframe then the target is not achieved. The threeyear 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