

**THE COMPETITION TRIBUNAL**

**QUARTER 2**

**01 JULY 2022 - 30 SEPTEMBER 2022**

**Reviewed for submission by :**

Tebogo Mputle (Registrar/Head of Registry)

**Signature:**

**Date:**

**Reviewed and verified for approval by :**

Gcinumzi Qotywa (Chief Operating Officer)

**Signature:**

**Date:**

**Approved by**

Mondo Mazwai (Tribunal Chair)

**Signature:**



**Date:** 31/10/2022

OUTCOME - RESPONSIVE AND RELIABLE ADJUDICATION								
	ANNUAL	QUARTER 1		QUARTER 2		YEAR TO DATE	REASON FOR DEVIATIONS	
TOTAL OUTCOME BUDGET	R 30,474,674	R 7,481,379		R 7,468,376		R 14,949,755	The deviation from the budget is -12% and this is due to the cost saving from full time tribunal member vacancies that has not been filled from the start of the year.	
TOTAL OUTCOME EXPENDITURE	R 13,193,731	R 6,241,309		R 6,952,422		R 13,193,731		
<b>1. Effective Case Management Procedures to Ensure Hearings Set Down Within Legislated Trimeframes</b>								
Output budget	R10,641,438	R2,590,327		R2,577,324		R5,167,651		
Output expenditure	R5,633,613	R2,656,267		R2,977,346		R5,633,613		
OUTPUT INDICATOR	ANNUAL TARGET	PRIOR YEAR ANNUAL ACTUAL	TARGET Q1	ACTUAL Q1	TARGET Q2	ACTUAL Q2	ANNUAL ACTUAL YEAR TO DATE	EXPLANATIONS FOR DEVIATIONS
% of mergers set down for a hearing or pre-hearing within 10 business days of filing.	80%	93% (large) 100% (intermediate / small)	80%	95%	80%	87%	90%	The target has been exceeded for the quarter and for the year. <i>No corrective action is required.</i>

**OUTCOME - RESPONSIVE AND RELIABLE ADJUDICATION**

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

Output budget		R19,833,236	R4,891,052		R4,891,052		R9,782,104	
Output expenditure		R7,560,118	R3,585,042		R3,975,076		R7,560,118	
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 merger orders issued to parties within 10 business days of last hearing date. (See 1 of Definitions and rules ).	95%	100% (large) 100% (intermediate / small)	95%	100%	95%	100%	100%	The target has been exceeded for the quarter and for the year. <i>No corrective action is required.</i>
% of reasons for mergers issued to parties within 20 business days of order being issued.	70%	90% (large) 0% (intermediate / small)	70%	83%	70%	97%	92%	The target has been exceeded for the quarter and for the year. <i>No corrective action is required.</i>
Ongoing evaluation of competition and public interest considerations in mergers in terms of the Competition Act, in line with the dtic three joint/integrated outputs: Delivery/Capable State; Economic Transformation; Industrialisation.	Quarterly reports sent to the dtic	New indicator	1 report	1 report	1 report	1 report	2 reports	The target has been met for the quarter and for the year. <i>No corrective action is required.</i>
Reasons for prohibited practice cases (see 2 of Definitions and rules) are issued to parties within 140 business days of the last hearing date.	75%	No reasons issued (simple) 0% (complex) No reasons issued (very complex)	75%	0%	75%	No reasons issued	0%	Target could not be measured for the quarter as there were no reasons issued.  <i>No corrective action is required.</i>
% of procedural matter (see 3 of Definitions and rules) orders issued to parties within 45 business days of last hearing date.	65%	84%	65%	100%	65%	78%	89%	The target has been exceeded for the quarter and for the year. <i>No corrective action is required.</i>
% orders for consent orders and settlement agreements issued to parties within 10 business days of the last hearing date.	80%	97%	80%	100%	80%	100%	100%	The target has been exceeded for the quarter and for the year. <i>No corrective action is required.</i>
% of reasons in interim relief matters issued to parties within 30 business days of last hearing date.	65%	No reasons issued	65%	0%	65%	0%	0%	Target not met for the quarter. Two sets of reasons were overdue because of capacity constraints and complexity of the matters. In the second set of reasons, the decision was materially impacted by a CAC decision which required extensive reworking of the decision.  <i>Increasing the number of Tribunal members would improve efficiencies.</i>

OUTCOME - TRANSPARENT, ACCOUNTABLE AND SUSTAINABLE TRIBUNAL											
		QUARTER 1		QUARTER 2		YEAR TO DATE		REASON FOR DEVIATIONS			
CURRENT BUDGET	R 14,889,531	R 3,199,750		R 3,728,277		R 3,199,750		The deviation from the budget is 2% which is not material.			
ACTUAL EXPENDITURE	R 3,264,439	R 3,264,439		R 3,530,866		R 3,264,439					
<b>3. Effective Communication and Information Sharing</b>											
Output budget	R1,308,261	R312,362		R312,364		R624,726					
Output expenditure	R889,908	R532,544		R357,364		R889,908					
OUTPUT INDICATOR	ANNUAL TARGET	PRIOR YEAR ANNUAL ACTUAL	TARGET Q1	ACTUAL Q1	TARGET Q2	ACTUAL Q2	ANNUAL ACTUAL YEAR TO DATE	EXPLANATIONS FOR DEVIATIONS			
% press releases of final merger decisions communicated within 3 business days of order date and after finalisation of confidentiality claims.	90%	77%	90%	100%	90%	97%	98%	Target exceeded. No corrective action is required.			
% press releases of prohibited practice decisions communicated within 3 business days of order date and after the finalisation of confidentiality.	90%	0%	90%	100%	90%	No prohibited practice decisions	100%	Target could not be measured. No corrective action is required.			
Biennial update and publication of jurisprudence handbook.	Handbook updated and published	Handbook updated and published on Tribunal website	N/A	N/A	N/A	N/A	N/A	This is a biennial target and is not due for measuring. No corrective action is required.			
<b>4. Improvement in clients using the entities services</b>											
Output budget	R3,859,560	R870,237		R853,818		R1,724,055					
Output expenditure	R1,941,717	R950,442		R991,275		R1,941,717					
OUTPUT INDICATOR	ANNUAL TARGET	PRIOR YEAR ANNUAL ACTUAL	TARGET Q1	ACTUAL Q1	TARGET Q2	ACTUAL Q2	ANNUAL ACTUAL YEAR TO DATE	EXPLANATIONS FOR DEVIATIONS			
The outcomes of the review of processes, including forms and procedures for simplicity and necessity	1 process improvement per quarter	1 report	Improve SCM engagement with SMMEs.	1 workshop held with SMMEs.	Enhancement to Tribunal website.	In progress	1 workshop held with SMMEs.	Target not met. Enhancements to website required more detail and planning, the development work will be completed in quarter three.			

OUTCOME - TRANSPARENT, ACCOUNTABLE AND SUSTAINABLE TRIBUNAL								
<b>5. Sound Governance</b>								
Output budget	R4,012,410		R761,102		R1,381,306		R2,142,408	
Output expenditure	R1,762,768		R678,691		R1,084,077		R1,762,768	
OUTPUT INDICATOR	ANNUAL TARGET	PRIOR YEAR ANNUAL ACTUAL	TARGET Q1	ACTUAL Q1	TARGET Q2	ACTUAL Q2	ANNUAL ACTUAL YEAR TO DATE	EXPLANATIONS FOR DEVIATIONS
Percentage of prior financial year audit (internal and external) findings resolved in terms of agreed timelines with auditors.	100%	100%	N/A	N/A	N/A	N/A	N/A	This is an annual target and is not due for measuring. <i>No corrective action is required.</i>
At least one meeting held annually to inform the Tribunal employees of stated APP performance targets.	One meeting	one meeting held	One meeting	One meeting	N/A	N/A	N/A	This is an annual target and is not due for measuring. <i>No corrective action is required.</i>
<b>6. Effective Financial Management</b>								
Output budget	R3,469,186		R792,885		R792,885		R1,585,770	
Output expenditure	R1,508,880		R642,586		R866,294		R1,508,880	
OUTPUT INDICATOR	ANNUAL TARGET	PRIOR YEAR ANNUAL ACTUAL	TARGET Q1	ACTUAL Q1	TARGET Q2	ACTUAL Q2	ANNUAL ACTUAL YEAR TO DATE	EXPLANATIONS FOR DEVIATIONS
Percentage variance on expenditure against budget	-10%	-10%	-10%	-13%	-10%	-10%	-10%	<i>Target met.</i> <i>No corrective action is required.</i>
Obtain an unqualified audit opinion from the AGSA.	Unqualified audit opinion	Unqualified audit opinion	N/A	N/A	N/A	N/A	N/A	This is an annual target and is not due for measuring. <i>No corrective action is required.</i>
Monitor the levels of B-BBEE suppliers in order to promote transformation in procurement practices.	70% of expenditure spent on suppliers between the B-BBEE levels 1-4, 20% of which will be on women, youth or PWDs.	1 report	N/A	N/A	N/A	N/A	N/A	This is an annual target and is not due for measuring. <i>No corrective action is required.</i>

OUTCOME - TRANSPARENT, ACCOUNTABLE AND SUSTAINABLE TRIBUNAL								
7. Transformation, Capacity development, retention and training								
Output budget	R2,240,114		R463,164		R387,904		R851,068	
Output expenditure	R692,032		R460,176		R231,856		R692,032	
OUTPUT INDICATOR	ANNUAL TARGET	PRIOR YEAR ANNUAL ACTUAL	TARGET	ACTUAL	TARGET	ACTUAL	ANNUAL ACTUAL	EXPLANATIONS FOR DEVIATIONS
			Q1	Q1	Q2	Q2	YEAR TO DATE	
85% of performance assessments conducted at least twice a year (by end September & end March)	85% of performance assessments conducted	4.0	N/A	N/A	85% of performance assessments conducted		56%	Target not met Assessments for HOD's still pending
Percentage staff retention. (see 8 of Definitions and business rules)	80%	27%	N/A	N/A	N/A	N/A	N/A	This is an annual target and is not due for measuring. No corrective action is required.
Continuous training opportunities to staff and Tribunal Members.	Training on ESOPs; Competition law basic training (Case Managers); Concentration and participation in the South African Economy: levels and trends; Competition for structural transformation in the global south (Case Managers); Writing skills (Case	5 people attended	Competition law basic training.	Competition law basic training held over two days.	Concentration and participation in the South African Economy: levels and trends; Competition for structural transformation in the global south.	Competition Tribunal Training - Market Concentration	Competition law basic training held over two days.	Target met. Competition law basic training workshop held over two days. No corrective action is required.
Undertake one annual capacity building workshop for Case Managers and Tribunal Members.	One annual capacity building workshop	100%	N/A	N/A	N/A	200%	N/A	Target Met Annual Competition Law Conference with Prof Eleanor Fox.Prof Motta Competition Tribunal Training Session
Provide access to interns in the Case Management division to work opportunities	2	2	2	2	2	200%	2	Target met No corrective action is required.
Maintain 75% of employment equity representation of employees from the designated groups.	75%	1 report	N/A	N/A	N/A	N/A	N/A	This is an annual target and is not due for measuring. No corrective action is required.

## 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