

THE COMPETITION TRIBUNAL
PERFORMANCE INFORMATION REPORT

Quarter 4

1st APRIL 2020 – 31st MARCH 2021

Reviewed for submission by :

Tebogo Mputle (Registrar/Head of Registry)

Signature: *Tebogo Mputle* Date: 28/04/21

Reviewed and verified for approval by :

Oliver Josie(Chief Operating Officer)

Signed by: Oliver Josie
Signed at: 2021-04-28 16:58:54 +02:00
Reason: I approve this document

Signature: *Oliver Josie* Date: 28/04/21

Approved by

Mondo Mazwai (Tribunal Chair)

Signature: *M Mondo Mazwai* Date: 30/04/2021

| OUTCOME - RESPONSIVE AND RELIABLE ADJUDICATION | | | | | | | | | | | | |
|---|---------------|--------------------------|-------------|--------------------------|-------------|--------------------------|---|-------------|-----------|--------------------------|----------------------------|--|
| | ANNUAL | QUARTER 1 | QUARTER 2 | QUARTER 3 | QUARTER 4 | YEAR TO DATE | REASON FOR DEVIATIONS | | | | | |
| TOTAL OUTCOME BUDGET | R 25,385,817 | R 6,554,955 | R 6,554,955 | R 5,932,867 | R 6,343,040 | R 25,385,817 | 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 22,957,215 | R 5,694,929 | R 5,766,016 | R 5,304,785 | R 6,191,485 | R 22,957,215 | | | | | | |
| 1. Effective Case Management Procedures to Ensure Hearings Set Down Within Legislated Trimeframes | | | | | | | | | | | | |
| Output budget | R11,921,579 | R2,980,395 | R2,980,395 | R2,980,395 | R2,980,394 | R11,921,579 | | | | | | |
| Output expenditure | R10,081,379 | R2,146,351 | R2,114,220 | R2,225,729 | R3,595,078 | R10,081,379 | | | | | | |
| 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 |
| % 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% | 88% | 75% | 100% | 75% | 100% | 75% | 100% | 75% | 91% | 97% | The target has been exceeded for the quarter and for the year. 21 of the 23 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% | No matters were set down | 65% | No matters were set down | 65% | No matters were set down | 65% | 0% | 65% | No matters were set down | 0% | Target could not be measured for the quarter and was not met for the year. <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. | 70% | New indicator | 70% | 100% | 70% | no hearings | 70% | no hearings | 70% | 100% | 100% | The target has been exceeded for the quarter and for the year. <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% | New indicator | 80% | 100% | 80% | no hearings | 80% | no hearings | 80% | 100% | 100% | 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 | R13,464,238 | | R3,574,560 | | R3,574,560 | | R2,952,472 | | R3,362,646 | | R13,464,238 | EXPLANATIONS FOR DEVIATIONS |
| Output expenditure | R12,875,836 | | R3,548,578 | | R3,651,796 | | R3,079,055 | | R2,596,407 | | R12,875,836 | |
| OUTPUT INDICATOR | ANNUAL AND QUARTER TARGET | PRIOR YEAR ANNUAL ACTUAL | TARGET | ACTUAL | TARGET | ACTUAL | TARGET | ACTUAL | TARGET | ACTUAL | ANNUAL ACTUAL | |
| | | | Q1 | Q1 | Q2 | Q2 | Q3 | Q3 | Q4 | Q4 | YEAR TO DATE | |
| % of large merger orders issued to parties within 10 business days of last hearing date (see 1 of Definitions and rules). | 95% | 100% | 95% | 100% | 95% | 100% | 95% | 100% | 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. No corrective action is required |
| % of large merger reasons issued to parties within 20 business days of order being issued. | 65% | 71% | 65% | 82% | 65% | 60% | 65% | 59% | 65% | 79% | 72% | The target exceeded for the quarter and for the year. 22 of the 28 reasons were issued within 20 business days. No corrective action is required |
| % of orders for intermediate and small merger reconsideration issued to parties within 10 business days of last hearing date. (See 1 of Definitions and rules). | 80% | 50% | 80% | No order issued | 80% | 100% | 80% | 100% | 80% | No order issued | 100% | The target could not be measured for the quarter and was exceeded for the year. There was no order issued for the quarter. No corrective action required |
| % of reasons for intermediate and small merger reconsiderations reasons issued to parties within 20 business days of the order being issued. | 65% | 25% | 65% | No reasons issued | 65% | No reasons issued | 65% | No reasons issued | 65% | No reasons issued | No reasons issued | Target cannot be measured for the quarter or the year to date as there were no reasons issued. No corrective action required |
| Reasons for prohibited practices cases (see 2 of Definitions and rules) classified as simple (see 3 of Definitions and rules) are issued to parties within 100 business days of the last hearing date. | 80% | No reasons issued | 80% | No reasons issued | 80% | No reasons issued | 80% | No reasons issued | 80% | No reasons issued | No reasons issued | Target cannot be measured for the quarter or the year to date as there were no reasons issued. No corrective action required |
| Reasons for prohibited practices cases classified as complex (see 3 of Definitions and rules) are issued to parties within 125 business days of the last hearing date. | 80% | 33% | 80% | 0% | 80% | 0% | 80% | 0% | 80% | No reasons issued | 0% | Target cannot be measured for the quarter and was not met for the year. There were no reasons issued for the quarter. No corrective action required |
| Reasons for prohibited practices cases classified as very complex (see 3 of Definitions and rules) are issued to parties within 150 business days of the last hearing date. | 80% | 50% | 80% | 100% | 80% | 100% | 80% | No reasons issued | 80% | 0% | 67% | Target not met for the quarter and for the year. One reasons issued was late by 313 days The delay was occasioned by staffing changes and postponements brought on by prioritising of Covid_19 cases. |
| % of procedural matter (see 3 of Definitions and rules) orders issued to parties within 45 business days of last hearing date. | 65% | 55% | 65% | 75% | 65% | 100% | 65% | 100% | 65% | 100% | 90% | The target has been exceeded for the quarter and for the year. All the four reasons issued were issued within 45 business days. No corrective action required. |
| % of orders for consent orders and settlement agreements issued to parties within 10 business days of last hearing date. | 80% | 96% | 80% | 100% | 80% | 97% | 80% | 33% | 80% | 100% | 92% | The target has been exceeded for the quarter and for the year. All the six orders issued were issued within 10 business days. No corrective action required. |
| % of interim relief reasons issued to parties within 20 business days of last hearing date. | 65% | 0% | 65% | No reasons issued | 65% | No reasons issued | 65% | No reasons issued | 65% | 0% | 0% | Target not met for the quarter and for the year. Reasons were issued in one matter and it was out of time because the matter was complex. The reasons were out by 41 days. |

| OUTCOME - TRANSPARENT, ACCOUNTABLE AND SUSTAINABLE TRIBUNAL | | | | | | | | | | | | REASON FOR DEVIATIONS |
|--|---|--------------------------|---|-------------|----------------------------|--------------|----------------------------|-----------|-----------------------------|--------------|--|--|
| | | QUARTER 1 | | QUARTER 2 | | QUARTER 3 | | QUARTER 4 | | YEAR TO DATE | | |
| CURRENT BUDGET | R 12,634,260 | R 3,509,374 | R 3,470,440 | R 2,646,824 | R 3,007,622 | R 12,634,260 | | | | | | |
| ACTUAL EXPENDITURE | R 11,906,863 | R 3,502,057 | R 3,012,465 | R 2,616,866 | R 2,775,474 | R 11,906,863 | | | | | | |
| 3. Effective Communication and Information Sharing | | | | | | | | | | | | |
| Output budget | R1,285,861 | R588,240 | | R54,690 | | R321,465 | | R321,467 | | R1,285,861 | | |
| Output expenditure | R1,140,518 | R543,244 | | R34,853 | | R284,411 | | R278,010 | | R1,140,518 | | |
| 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% | 97% | 95% | 100% | 95% | 100% | 95% | 100% | 95% | 70% | 90% | Press releases were issued for all final merger decisions. However, some were issued outside of two business days due to case management having to finalise confidentiality first. Press releases can only be issued after confidentiality has been finalised. Therefore the target was partially met. |
| % of press releases of final prohibited practice decisions communicated within two business days of order date. | 90% | 60% | 90% | 100% | 90% | 100% | 90% | 0% | 90% | 0% | 67% | Press releases were issued for all final decisions on prohibited practice decisions. However, some were issued outside of two business days due to confidentiality still having to be finalised. This target was therefore partially met. |
| Annual publication (update) of jurisprudence handbook | Handbook updated and published | New indicator | Handbook updated and published in Quarter 1 on Tribunal website | | | | | | | | Handbook updated and published on Tribunal website | Target met. |
| 4 & 5. Effective Business Processes (4. Intergrated Knowledge Management and 5. Effective Records Management) | | | | | | | | | | | | |
| Output budget | R3,734,681 | R805,530 | | R1,278,675 | | R685,265 | | R965,211 | | R3,734,681 | | |
| Output expenditure | R3,341,449 | R881,226 | | R1,164,229 | | R709,200 | | R586,793 | | R3,341,449 | | |
| 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. | Policy and file plan approved. Draft project plan implemented | New indicator | No target set in quarter 1 | | No target set in quarter 2 | | No target set in quarter 3 | n/a | Draft project plan approved | n/a | n/a | no target set for the year |

| OUTCOME - TRANSPARENT, ACCOUNTABLE AND SUSTAINABLE TRIBUNAL | | | | | | | | | | | | |
|---|---------------|--------------------------|----------------------------|--------|----------------------------|--------|----------------------------|--------|-------------|--------------------------|--------------------------|---|
| 6. Sound Governance | | | | | | | | | | | | |
| Output budget | R3,647,926 | R1,164,580 | R1,105,206 | | R689,071 | | R689,069 | | R3,647,926 | | | |
| Output expenditure | R3,377,102 | R1,142,955 | R796,989 | | R668,398 | | R768,759 | | R3,377,102 | | | |
| 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% | 100% | 100% | Target met. |
| 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 | One meeting | One meeting | Target met. |
| 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 finding | No finding | No finding | Target met. |
| 7. Effective Financial Management | | | | | | | | | | | | |
| Output budget | R3,013,100 | R753,273 | R753,273 | | R753,273 | | R753,281 | | R3,013,100 | | | |
| Output expenditure | R3,156,680 | R721,349 | R741,320 | | R758,977 | | R935,034 | | R3,156,680 | | | |
| 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% | New indicator | -40% | -13% | -30% | -10% | -20% | -12% | -10% | -10% | -10% | Target met. |
| 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 findings | No findings | Target met. |
| No findings of irregular expenditure reported on in the final audited financial statements. | No findings | No findngs | No target set in quarter 1 | | No target set in quarter 2 | | No target set in quarter 3 | | No findings | 1 finding - not material | 1 finding - not material | Target not met - Deviation process not followed timeously 2019/2020 audit - immaterial amount |
| 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 | None | None | Target met. |

| OUTCOME - TRANSPARENT, ACCOUNTABLE AND SUSTAINABLE TRIBUNAL | | | | | | | | | | | | |
|--|--|--------------------------|----------------------------|--------|----------------------------|--------|----------------------------|--------|-----------------------------------|--------------|----------------------------|--------------------------------|
| 8. Capacity Development, Retention and Training | | | | | | | | | | | | |
| Output budget | R952,692 | | R197,751 | | R278,596 | | R197,751 | | R278,594 | | R952,692 | |
| Output expenditure | R891,114 | | R213,282 | | R275,074 | | R195,880 | | R206,878 | | R891,114 | |
| 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 | 3.7 | 3.70 | Target met. |
| Percentage vacancy rate (see 8 of Definitions and business rules) | 7% | 4% | No target set in quarter 1 | | No target set in quarter 2 | | No target set in quarter 3 | | 7% | 9.09% | 9% | Target met. |
| Percentage staff turnover (see 9 of Definitions and business rules) | 20% | 4% | No target set in quarter 1 | | No target set in quarter 2 | | No target set in quarter 3 | | 20.0% | 13.64% | 14% | Target met. |
| 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 | Not Achieved | Not Achieved | Target not met due to Covid_19 |
| Facilitate an annual capacity building workshop for case manager and Tribunal members. | No target set for the year as a result of COVID-19 | New indicator | No target set for the year | | No target set for the year | | No target set for the year | | No target set for the year | | No target set for the year | Due to COVID 19 |
| Number of long-term case management interns appointed. | 2 | 2 | 2 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 2 | Target met. |

DEFINITIONS AND BUSINESS RULES

| NOTE | ITEM | EXPLANATION |
|------|--|---|
| 1 | Hearing Date | 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 | Reasons in prohibited practice cases | 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 | Simple/Complex/Very Complex Matters | 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 | Prohibited Practices - 100% | 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 | Procedural matters | While we refer to procedural matters they include interlocutory applications. |
| 6 | Percentage expenditure against budget | 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 | Average employee performance evaluation score | These three targets are measured annually and there is therefore no target set for the first three quarters of the year |
| 8 | Percentage vacancy rate | 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 | Percentage staff turnover | 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 |